

**I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN**  
**2015 (FIRST) Regular Session**

Bill No. 172.33 (COR)

Introduced by:

M.F.Q. San Nicolas 

**AN ACT TO AMEND § 65102 OF AND TO ADD A NEW  
SUBSECTION § 65103(e) AND A NEW § 65103.1 TO  
CHAPTER 65, TITLE 10, GUAM CODE ANNOTATED;  
RELATIVE TO THE ESTABLISHMENT OF  
OPERATIONAL CONTINUITY PLANS FOR EACH  
AGENCY OF THE GOVERNMENT OF GUAM.**

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1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2       **Section 1. Short Title.** This Act *shall* be cited as the “Responsible  
3 Operational Continuity Plans Act.”

4       **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
5 finds that the Office of Civil Defense is given authority to prepare for,  
6 direct, and control government emergency functions in the event of  
7 emergency conditions. The main function of Civil Defense is related to the  
8 continuation of government emergency functions for public health, safety,  
9 transportation and utilities.

10       *I Liheslatura* finds that the continuity of operations for the  
11 government of Guam in the event of any emergency resulting from a  
12 natural or other disaster or hostile action is necessary for the security of  
13 individuals and property in Guam. Additionally, some circumstances may

1 adversely impact operational continuity for agencies which do not arise  
2 from emergency conditions, such as loss of personnel by attrition,  
3 breakdown of equipment or the loss of records due to a systems failure.

4 *I Liheslaturan Guåhan* finds that in October 2013, the Department of  
5 Public Health and Social Services' Office of Vital Statistics suffered a  
6 system failure which resulted in the loss of thousands of vital records. The  
7 establishment of an operational continuity plan could address establishing  
8 protocols to minimize the loss of electronic records from such failures,  
9 should they occur in the future.

10 *I Liheslatura* finds that on Monday, August 31, 2015, a fire broke out  
11 in the Cabras 3 and 4 power stations. The temporary loss of the Cabras 3  
12 and 4 power stations, respectively, have posed significant challenges for  
13 Guam Power Authority. The Guam Power Authority's workers,  
14 management, and the Consolidated Commission on Utilities have done a  
15 commendable job in responding to the loss of Cabras 3 and 4. However, the  
16 establishment of operational continuity plans for the loss of generating  
17 capacity under a number of alternative plausible scenarios should  
18 ultimately translate to better preparation of personnel and capital  
19 equipment in such events.

20 *I Liheslaturan Guåhan* finds that, as Governor Edward J.B. Calvo wrote  
21 in a letter dated November 27, 2013, to Speaker Judith T.P. Won Pat, Ed.D.  
22 on this issue, "Public health and safety is a priority for this Administration  
23 and the Government of Guam." In that spirit, *I Liheslatura* intends that the

1 policy framework be established to ensure the health and safety of our  
2 community during and after disasters, natural or otherwise.

3 *I Liheslatura* further finds that such agency operational continuity  
4 plans as outlined in this Act may become elements in an overall plan to  
5 assure the continuity of operations in government.

6 *I Liheslaturan Guåhan* finds that operational continuity is a basic  
7 function of any agency of the government. Disasters occur, whether there  
8 are operational continuity plans in place or not. When a disaster occurs, a  
9 government which plans in advance is in a better position to respond than  
10 a government which is not guided by an established plan.

11 It is therefore the intent of *I Liheslaturan Guåhan* that each agency of  
12 the government of Guam should establish and maintain an up-to-date  
13 operational continuity plan to achieve maximum operational continuity  
14 during events which would disrupt the ability of the agency to operate,  
15 including emergencies resulting from a natural or other disaster or hostile  
16 action.

17 **Section 3. Definition and Scope of Activity.** § 65102, Chapter 65,  
18 Title 10, Guam Code Annotated, is hereby *amended*, to read:

19 **“§ 65102. Definition and Scope of Activity.**

20 As used in this Chapter the term ‘Civil Defense’ *shall* mean the  
21 preparation for the carrying out of all emergency functions, other  
22 than functions for which United States military forces or other  
23 Federal agencies are primarily responsible, to prevent, minimize and

1 repair injury and damage resulting from disaster caused by enemy  
2 attack, sabotage or other hostile action or by fire, flood, typhoon or  
3 other causes. These functions include, without limitation, fire-  
4 fighting services, police services, medical and health services, rescue,  
5 engineering, air raid warning services, communications, radiological,  
6 chemical and other special weapons of defense, evacuation of  
7 persons from stricken areas, emergency welfare services (civilian war  
8 aid), emergency transportation, plant protection, the maintenance of  
9 a separate record of operational continuity plans for agencies of the  
10 government of Guam, temporary restoration of public utility services  
11 and other functions related to civilian protection, together with all  
12 other activities necessary or incidental to the preparation for the  
13 carrying out of the foregoing functions.”

14 **Section 4. Office of Civil Defense: Creation; Administrator;**  
15 **Personnel.** A *new* subsection (e) is hereby *added* to § 65103, Chapter 65, Title  
16 10, Guam Code Annotated, to read:

17 “(e) The Administrator shall maintain a separate record for each  
18 adopted operational continuity plan submitted to the Office of Civil  
19 Defense.”

20 **Section 5. Agency Operational Continuity Plans.** A *new* § 65103.1 is  
21 hereby *added* to Chapter 65, Title 10, Guam Code Annotated, to read:

22 **“§65103.1. Agency Operational Continuity Plans.**

1           The Director or equivalent officer of each agency and  
2 instrumentality of the government of Guam *shall* establish an  
3 operational continuity plan. Each such plan *shall* be reviewed  
4 annually for adequacy and completed by the governing board or, in  
5 the absence of a governing board, *I Maga'lahaen Guåhan*, on or before  
6 October 1<sup>st</sup> with amendments, as necessary, and provided to the  
7 Administrator of the Office of Civil Defense pursuant to §65103(e) of  
8 this Chapter. Copies of each plan, to include those annually  
9 reviewed, *shall* be furnished to *I Maga'lahaen Guåhan* and *I Liheslaturan*  
10 *Guåhan* not later than October 1<sup>st</sup> of each year. The Director or  
11 equivalent officer of such agency *shall*, as needed, submit an itemized  
12 list, in order of priority, of resources necessary to ensure the  
13 continuity of operations for the agency consistent with its operational  
14 continuity plan with estimated costs for such resources to *I*  
15 *Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* and, if applicable, the  
16 agency's governing board for funding consideration. Such plan *shall*  
17 include but not be limited to provisions for:

18           (a) events which would disrupt the ability of the agency to  
19 operate, such as:

20                   (1) loss of personnel by retirement, whether known or  
21 unknown in advance, national guard deployment, military  
22 reserve deployment, sickness, death or other contingencies,

1           (2) loss, malfunction or breakdown of equipment  
2 necessary for the efficient provision of services,

3           (3) loss of physical or electronic records necessary for the  
4 efficient provision of services,

5           (4) unavailability of a facility which is necessary for the  
6 efficient provision of services, or

7           (5) any combination of the above through reasonably  
8 foreseeable instances, as natural or other disaster or act or  
9 omission of the agency or other entities, including hostile acts;

10          (b) maintenance of maximum operational continuity in the  
11 event of any situation which would disrupt the ability of the agency  
12 to operate pursuant to subsection (a) of this section; and

13          (c) a statement of actions to be taken to prevent or mitigate any  
14 vulnerabilities, pursuant to subsection (a) of this section, which pose  
15 a significant risk to the continuity of operations of the agency.”