

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

Bill No. 213-33 (COR)

Introduced by:

Michael F.Q. San Nicolas 

**AN ACT TO AMEND §2 OF PUBLIC LAW 32-114,
RELATIVE TO AUTHORIZING THE UNIVERSITY OF
GUAM TO ASSIGN EMPLOYEES TO RCUOG FOR UP
TO FIVE (5) YEARS WITH THE RETENTION OF
UNIVERSITY OF GUAM EMPLOYEE BENEFITS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Amendment of Public Law 32-114. Section 2 of Public Law 32-114 is hereby *amended*, to read:

“Section 2. A *new* Chapter 2928 is hereby *added* to Division 3 of Title 17, Guam Code Annotated, to read as follows:

‘CHAPTER 2928

**RESEARCH CORPORATION OF THE UNIVERSITY OF
GUAM (RCUOG)**

§ 2912801. Establishment of the Research Corporation.

§ 2912802. Purpose.

§ 2912803. Administration.

§ 2912804. Officers and Employees of the Research Corporation.

§ 2912805. Authorized Activities.

§ 2912806. Procurement.

§ 2912807. Annual Report.

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1 § ~~29128~~08. Dissolution.

2 § ~~29128~~09. Special Account.

3 § ~~29128~~10. RCUOG Excepted From Certain Guam Laws.

4 § ~~29128~~11. Severability.

5
6 **§ ~~29128~~01. Establishment of the Research Corporation.**

7 The University of Guam is authorized to establish a body
8 corporate, the Research Corporation of the University of Guam
9 (RCUOG, Corporation). The Corporation *shall* be a public
10 corporation incorporated on Guam, and *shall* operate as an integral
11 part of the University of Guam (University, UOG) and may apply for
12 a 501(c)(3) designation.

13 **§ ~~29128~~02. Purpose.**

14 The purposes of the Corporation *shall* include, but *not* be
15 limited to, the promotion of assigned educational, scientific, and
16 literary pursuits of the University of Guam's grants and contracts by:

17 (a) encouraging, initiating, aiding, developing, and
18 conducting training, research, and study in the physical, biological,
19 and social sciences, humanities, and all other branches of learning;

20 (b) encouraging and aiding in the education and training of
21 persons for the conduct of the training, investigations, research, and
22 study;

23 (c) furnishing the means, methods, and agencies by which
24 the training, investigation, research, and study may be conducted, in
25 support of the mission and best practices of the University of Guam;

1 (d) assisting in the dissemination of knowledge by
2 establishing, aiding, and maintaining professorships or other staff
3 positions, fellowships, scholarships, publications, and lectures;

4 (e) engaging in other means of making the benefits of
5 training, investigations, research, and study available to the public;
6 and

7 (f) taking any and all other actions reasonably designed to
8 promote these purposes in the interest of promoting the general
9 welfare of the people of Guam.

10 **§ 2912803. Administration.**

11 The affairs of the Corporation *shall* be under the general
12 management and control of the RCUOG Board of Directors.

13 (a) Composition of Board of Directors. The Board of
14 Directors *shall* consist of up to ten members, as follows:

15 (1) Ex-officio Chief Executive Officer – University of
16 Guam President;

17 (2) Ex-officio Member – Senior Vice President of
18 Academic and Student Affairs;

19 (3) Ex-officio Member – Vice President of
20 Administration and Finance;

21 (4) UOG President appointee of up to four (4)
22 members (minimum of two representing the community at
23 large);

24 (5) UOG Research Council appointee of one Member;

25 (6) UOG Faculty Senate appointee of one member;

26 and

1 (7) UOG Board of Regents appointees of two UOG
2 Board of Regents members.

3 (b) All members of the Board of Directors *shall* serve
4 without pay, but *shall* be entitled to reimbursement for necessary
5 expenses while attending meetings and while in the discharge of
6 duties and responsibilities.

7 (c) The Chairperson of the Board of Directors *shall* be the
8 President of the University of Guam. The Senior Vice President and
9 Vice President for Administration and Finance *shall* serve as ex-
10 officio members of the Board.

11 **§ ~~2912~~804. Officers and Employees of the Research Corporation.**

12 (a) RCUOG will follow all the requirements applicable to
13 each major grant program and maintain internal control over
14 compliance in accordance with OMB Circulars A-133 and A-21, and
15 appropriate Federal Acquisition Requirements.

16 (b) RCUOG employees *shall* be governed by the RCUOG
17 Board of Directors. Rules and regulations governing the selection,
18 compensation, promotion, performance evaluation, disciplinary
19 action, and other terms and conditions of employment, affecting
20 RCUOG personnel *shall* be adopted by the Board. The Board may
21 establish or abolish positions as necessary for the purposes herein.

22 (c) The Board of Directors *shall* appoint the Executive
23 Director of RCUOG.

24 (d) The RCUOG Board of Directors *shall* establish an
25 employment policy for the Research Corporation, as necessary, in
26 administering the affairs of the RCUOG.

1 (e) Notwithstanding any other provision of law, rule, or
2 regulation, employees of the Research Corporation *shall* be
3 unclassified public employees. The Board of Directors *shall* set the
4 employees' duties, responsibilities, salaries, holidays, leaves, hours of
5 work, and working conditions. The Board of Directors may grant
6 such other benefits to its employees as it deems necessary, and in
7 accordance with RCUOG's employment policy and federal
8 employment laws. The University of Guam may assign University
9 employees to the RCUOG, with the approval of the RCUOG Board of
10 Directors, for a maximum start-up period of five (5) years. These
11 employees shall retain their status as University employees during this
12 assignment period and shall continue to receive all University benefits
13 available to them as University employees.

14 (f) The RCUOG Board of Directors *shall* promulgate rules
15 and regulations for hiring, employment, procurement and property set
16 forth by RCUOG Policy, and the requirements applicable to each
17 major grant program and on internal control over compliance in
18 accordance with OMB Circulars A-133 and A-21, and Federal
19 Acquisition Requirements.

20 (g) Employees of the Research Corporation *shall not* be
21 entitled to any benefits conferred under Title 4, GCA - Public Officers
22 and Employees: Chapter 4 - Personnel Policy and the Civil Service
23 Commission, relating to civil service and public service; and Chapter
24 8 - Retirement of Public Employees, relating to pension and
25 retirement systems, and the appropriate collective bargaining
26 agreement, executive order, executive directive, or rule.

27 **§ 2912805. Authorized Activities.**

1 Notwithstanding any other provision of law, rule, or regulation,
2 the RCUOG is authorized to conduct the following activities:

3 (a) to create, adopt, amend, and repeal by-laws governing the
4 conduct of its business and the exercise of the powers and
5 performance of duties granted to it or imposed upon it by law;

6 (b) to enter into and perform such contracts, leases,
7 cooperative agreements, grants or other transactions on behalf of the
8 University, as may be necessary to facilitate the conduct of the
9 authorized activities described herein;

10 (c) to buy, sell, lease, rent, hold, maintain, use, and operate
11 any property, real, personal, or mixed, tangible or intangible, in
12 accordance with the conditions under which it was received and under
13 the purposes of the RCUOG;

14 (d) to submit each year for the approval of the Board of
15 Directors an annual budget; such budget will include projected
16 income, including indirect/facilities and administrative revenue, and a
17 cost of operating expenses of the Corporation, as well as the
18 distribution plan of the net proceeds for the University's use, which
19 *shall* include a reasonable corporate reserve; the allocation of
20 indirect/facilities and administrative cost will be determined by the
21 Board of Directors, and following UOG-BOR Resolution 08-40;

22 (e) to receive through University policies and procedures, by
23 gifts, grants, devises, bequests, or otherwise from private or public
24 sources, any property, real, personal, or mixed, intangible or tangible,
25 absolutely or in trust, to be used and disposed of, either the principal
26 or the income therefrom, in accordance with the conditions under
27 which it was received; *except*, that no gift to the Corporation shall be

1 accepted *unless* approved or confirmed by the RCUOG Board of
2 Directors;

3 (f) to facilitate multi-year contracts;

4 (g) to have a corporate seal;

5 (h) to sue and to be sued in its own name and to indemnify
6 the University against losses incurred specific to that activity;

7 (i) to serve as trustee or beneficiary under terms of any gift,
8 indenture, or will;

9 (j) to apply for, take out, receive by purchase or gift, hold,
10 administer, and dispose of copyrights, patent rights, licenses,
11 assignments of inventions, discoveries, processes, and other property,
12 rights or interests therein, the income thereof, absolutely or subject to
13 such conditions or trusts as may be attached thereto or be imposed
14 thereon, and to obligate itself to perform and execute any and all such
15 conditions or trusts in coordination with UOG's Intellectual Property
16 Policy;

17 (k) to conduct research, studies, experiments, investigations,
18 and tests in all fields of knowledge; to promote and develop the
19 scientific and commercial value of inventions, discoveries, and
20 processes; and to make published, and distribute the results thereof;

21 (l) to do any and all other acts reasonably necessary to carry
22 out the objectives and purposes of the Corporation and the University,
23 as approved by the University and the RCUOG Board of Directors;

24 (m) to coordinate and correlate activities and projects of the
25 Corporation with the work of government of Guam agencies for the
26 purpose of relating research work to the economic development of
27 Guam whenever practical or desirable;

1 (n) to stimulate and promote cooperative research projects
2 and activities;

3 (o) to establish and maintain, or to assist in establishing and
4 maintaining, scholarships, fellowships, and professorships, and other
5 staff positions for the purpose of aiding in the acquisition and
6 dissemination of knowledge; and to enter into agreements or contracts
7 with other corporations, organizations, institutions, or persons for this
8 purpose and to pay the necessary and appropriate expenses therefor;

9 (p) to prepare, print, or publish any manuscript, research
10 article, report, study, discussion, reference, collection, or any pictorial
11 or schematic representation or group or collection thereof, whether it
12 belongs to or is the work of any government of Guam agency or its
13 employees, or the University or one of its faculty members or
14 employees, or the Corporation or its employees, or a contractor of
15 RCUOG. The printing or publication may be accomplished through
16 whatever person, company, or agency is deemed most appropriate by
17 the Board of Directors.

18 **§ 2912806. Procurement.**

19 RCUOG *shall* adopt a procurement policy approved by the
20 RCUOG Board that is aligned with sound business practices and
21 consistent with federal program rules and regulations as applicable to
22 grants, and contracts, such as, but *not* limited to, OMB Circular A-21.

23 **§ 2912807. Annual Report.**

24 The Corporation *shall* submit an annual report to the University
25 of Guam Board of Regents, *I Maga'lahaen Guåhan* (the Governor of
26 Guam), and *I Liheslaturan Guåhan* (the Guam Legislature).

1 The report *shall* include, but *not* be limited to, the
2 Corporation's audited financial statements, including its balance
3 sheet, statement of income and expenses, a synopsis of all ongoing
4 research projects and a summary of funding for each such project by
5 the source of such funding, whether local government, federal
6 government or other sources, and statement of cash flows; and
7 progress and accomplishments during the year.

8 **§ 2912808. Dissolution.**

9 In the event of the dissolution of the Corporation, all of its
10 property, real, personal, and mixed, and wheresoever situated, *shall*
11 vest immediately and absolutely in the University of Guam.

12 **§ 2912809. Special Account.**

13 The Corporation *shall* be authorized to set up a special account
14 for depositing moneys received from either public or private contracts,
15 or from private or public grants, awards, or gifts. All disbursements
16 *shall* be drawn on the special account upon checks prepared and
17 signed, as approved by the Executive Director of the RCUOG and *at*
18 *least* one other RCUOG officer or employee authorized by the
19 RCUOG Board of Directors.

20 **§ 2912810. RCUOG Excepted From Certain Guam Laws.**

21 Unless otherwise specifically stated in law, RCUOG is
22 excepted from the following Guam laws:

23 (a) Title 5 GCA - Government Operations: Chapter 22 -
24 General Fiscal Policies and Controls, relating to the management and
25 regulation of expenditures with the use of public funds;

1 (b) Title 4 GCA - Public Officers and Employees: Chapter 4
2 - Personnel Policy and the Civil Service Commission, relating to
3 public employment and the Civil Service Commission;

4 (c) Title 4 GCA - Public Officers and Employees: Chapter 8
5 - Retirement of Public Employees, relating to pension and retirement
6 systems;

7 (d) Title 5 GCA - Government Operations: Chapter 5 -
8 Guam Procurement Law, relating to the procurement of goods and
9 services with public funds.

10 **§ 2912811. Severability.**

11 *If any provision of this Act, or the application thereof to any*
12 *person or circumstances is held invalid, the invalidity does not affect*
13 *other provisions or applications of the Act that can be given effect*
14 *without the invalid provisions or application, and to this end the*
15 *provisions of this Act are severable.”*

16 **Section 2. References to Provisions of Public Law 32-114 Amended by**
17 **this Act.** Any reference to provisions enacted by Public Law 32-114 and amended
18 by this Act in any rule, regulation, procedure, agreement, or other legal document
19 *shall* be construed to refer to the amended provisions of this Act, as appropriate.