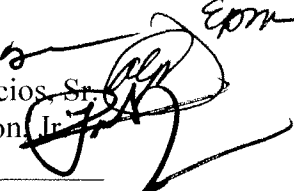


I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

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Bill No. 135(COR)

Introduced by:

T.C. Ada
A.B. Palacios, Sr.
F.B. Aguon, Jr.

**AN ACT TO ADD A NEW CHAPTER 55 TO DIVISION 2 OF TITLE
10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING
THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL
SERVICES (DPHSS) TO CONTRACT AN INDEPENDENT
ENVIRONMENTAL HEALTH INSPECTION COMPANY(S) TO
CONDUCT SANITARY INSPECTIONS ON BEHALF OF DPHSS
AND TO FUND INSPECTION SERVICES FROM FEES
AUTHORIZED TO BE COLLECTED UNDER §7119 OF CHAPTER
7, TITLE 22 OF GUAM CODE ANNOTATED**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that Guam will
3 experience an influx of approximately 17,000 temporary non-immigrant and U.S.
4 workers as a result of the upcoming military buildup. A majority of these workers will
5 live in temporary workforce housing, which is frequently susceptible to the
6 environmental health hazards inherent to any large-scale communal living arrangement.

7 *I Liheslaturan Guåhan* finds that an important component of the DPHSS is the
8 regulation and enforcement conducted through its Division of Environmental Health
9 (DEH). DEH is entrusted to reduce the risk of communicable diseases among workers

1 and the public by establishing comprehensive, uniform procedures for inspecting and
2 permitting temporary workforce housing.

3 The projected proliferation of temporary workforce housing, and the resulting
4 increase in required site inspections, will add a substantial amount of workload upon an
5 already understaffed Division of Environmental Health. In order to ensure the DEH will
6 be able to effectively inspect temporary workforce housing and sustain its current
7 inspection workload, *I Liheslaturan Guåhan* intends to authorize the DPHSS to contract
8 independent environmental health inspection company(s) to perform inspections of
9 temporary workforce housing on behalf of the DPHSS.

10 It is further the intent of *I Liheslaturan Guåhan* to establish the general
11 parameters by which the DPHSS will certify and contract independent environmental
12 health inspection company(s) and to direct DPHSS to develop and implement rules and
13 regulations regarding sanitary inspections that will minimize or eliminate environmental
14 health risks in temporary workforce housing.

15 **Section 2. Temporary Workforce Housing.** A new chapter 55 of Division 2 of
16 Title 10, Guam Code Annotated, is hereby *added* to read:

17 **“ Chapter 55**

18 **Temporary Workforce Housing**

19 **§55101. Definitions.**

20 (a) *Temporary worker* means:

- 21 (1) A worker from a point origin outside of Guam, who is sponsored
22 by an employer or has come to Guam on his own to seek
23 employment for a specific project, and;

1 (2) Will exit Guam upon completion of their work contract on this
2 specific project.

3 (b) *Temporary workforce housing* means any enclosures of living spaces,
4 reasonably contiguous, together with the land appertaining thereto,
5 established, operated or used as living quarters and at minimum Fifty-one
6 percent (51%) of the residents are temporary workers, excluding, but not
7 limited to facilities known by varying nomenclatures or designations as
8 dormitories, hotels, motels, travel lodges, or tourist homes.

9 (c) *Change of Temporary Workforce Housing Status* means any significant
10 variances to temporary workforce housing in relation to the most recent
11 prior inspection. Such variances shall be determined or defined by the
12 Department of Public Health and Social Services (DPHSS) and include,
13 but not be limited to, significant change in the number of occupants,
14 structural change, or change of ownership.

15 (d) *Workers' Dormitory Permit* means the official sanitary permit issued
16 by the DPHSS for temporary workforce housing.

17 (e) *Independent Environmental Health Inspection Company* means an
18 association, a corporation, individual, other legal entity or agency that is
19 duly licensed to do business on Guam and has been certified by the
20 DPHSS as being competent and capable to conduct sanitary inspections as
21 directed by the DPHSS.

22 (f) *Temporary Workforce Housing Operator* means a person or business
23 entity, who owns, leases or manages or proposes to own, lease or

1 manage a temporary workforce housing and from this point forward
2 shall be referred to as an “operator”.

3 **§55102. Powers and Duties.** The Department of Public Health and Social
4 Services (DPHSS) is hereby authorized to certify and contract Independent
5 Environmental Health Inspection Company(s) to conduct sanitary inspections at
6 temporary workforce housing, and other required inspections that it deems necessary.

7 Additionally:

8 (a) The DPHSS shall determine the criteria for certifying independent
9 environmental health inspection company(s) to act as authorized
10 inspection agents, and shall periodically review and evaluate the
11 performance and eligibility of these agents; and,

12 (b) The DPHSS shall retain sole authority to grant workers’ dormitory
13 permits; and,

14 (c) Independent environmental health inspection company(s) under
15 certification by DPHSS shall conduct sanitary inspections only on
16 behalf of and at the direction of DPHSS; and,

17 (d) Independent environmental health inspection company(s) may act as
18 agents of DPHSS provided that they meet the following criteria:

19 (1) The company does not perform work for an operator of a
20 temporary workforce housing or related company which may
21 require the sanitary inspection that may come under its
22 inspection review;

1 (2) The company has no conflict of interest as determined by the
2 DPHSS.

3 (e) Inspections necessary for the initial granting of workers' dormitory
4 permit shall be conducted by the DPHSS; and,

5 (f) The DPHSS shall regulate temporary workforce housing in the manner
6 described in §55104 of this Chapter; and,

7 (g) The DPHSS may require additional sanitary inspections that it deems
8 necessary; and,

9 (h) The DPHSS shall provide the results of its inspections to other
10 regulatory Government of Guam agencies, if requested.

11 **§55103. Sanitary Permit for Temporary Workforce Housing, Required:**

12 (a) The operator of a temporary workforce housing must possess a current
13 and valid sanitary permit issued by the DPHSS, and make available for
14 inspection by DPHSS or its agent(s).

15 (b) The operator shall be responsible for applying directly to the DPHSS
16 for a sanitary permit and maintaining a valid sanitary permit as a
17 condition for operating a temporary workforce housing.

18 (c) The operator shall apply for renewal of its workers' dormitory permit
19 and the payment thereof in accordance with §55104.

20 (d) Sanitary permits for temporary workforce housing shall be provided
21 and regulated by the DPHSS.

1 **§55104. Sanitary Inspections, Phases:** For the purposes of sanitary regulation,
2 permitting of temporary workforce housing shall be required during each of the
3 following phases:

4 (a) Primary Inspection Phase:

- 5 1. During the Primary Inspection Phase, sanitary inspections shall be
6 conducted quarterly following the issuance of an initial workers’
7 dormitory permit; and,
8 2. For all quarterly inspections within the Primary Inspection Phase,
9 one (1) of the four (4) quarterly inspections must be conducted by
10 the DPHSS, the other three (3) of the four (4) quarterly
11 inspections, may be conducted by the certified and contracted
12 Independent environmental health inspection company(s); and,
13 3. The Primary Inspection Phase shall apply to all temporary
14 workforce housing, new or currently existing and shall endure until
15 four consecutive quarters of satisfactory inspections have been
16 achieved.

17 (b) Secondary Inspection Phase:

- 18 1. Secondary Inspection Phase shall be applied following successful
19 completion of the Primary Inspection Phase, as defined in §55104;
20 and,
21 2. During the Secondary Inspection Phase, inspections shall take
22 place every six (6) months; and,

- 1 3. Successful completion of the Secondary Inspection Phase shall
- 2 consist of two consecutive semiannual inspections that were rated
- 3 satisfactory; and,
- 4 4. Following a failed inspection or Change of Temporary Workforce
- 5 Housing Status, the temporary workforce housing in question shall
- 6 return to the Primary Inspection Phase.

7 (c) Tertiary Inspection Phase:

- 8 1. During the Tertiary Inspection Phase, inspections will be
- 9 conducted on an annual basis; and,
- 10 2. Following a failed inspection or Change of Temporary Workforce
- 11 Housing Status, the temporary workforce housing in question shall
- 12 return to the Primary Inspection Phase.

13 **§55105. Permit Fees.**

- 14 (a) Every inspection as defined in §55104 and regardless of the findings,
- 15 will be accompanied by a permit fee established by the rules and
- 16 regulations promulgated by DPHSS and the Board.
- 17 (b) When any reinspection is required pursuant to §55104 of this chapter,
- 18 the operator shall pay a fee for each reinspection.
- 19 (c) All permit fees must be paid before additional inspections will be
- 20 performed.
- 21 (d) Permit is not transferable.
- 22 (e) There will be no charges for the following types of inspections
- 23 provided a current permit has been issued:

- 1 (1) Validation inspections; and,
- 2 (2) Complaint verification inspections.

3 **§55106 DPHSS Temporary Workforce Housing Sanitary Inspection**
4 **Revolving Fund**

5 (a) There is hereby created the DPHSS Temporary Workforce
6 Housing Sanitary Inspection Revolving Fund, which shall be
7 accounted for separately from the General Fund. Monies in the
8 revolving fund shall not lapse at the end of a fiscal year but
9 shall roll-over until used by the DPHSS for the overall cost of
10 conducting sanitary inspections of temporary workforce
11 housing. Monies in the revolving fund shall not be used to pay
12 any personnel expenses.

13 (b) Payment to contracted independent environmental health
14 inspection company(s) for services rendered shall be paid from
15 the DPHSS Temporary Workforce Housing Sanitary Inspection
16 Revolving Fund.

17 (c) Notwithstanding the Central Accounting Act, fees collected and
18 deposited into a special fund known as the DPHSS Temporary
19 Workforce Housing Sanitary Inspection Revolving Fund shall
20 be kept in a bank licensed to do business on Guam and funds
21 shall be paid out only upon a request for payment or requisition
22 submitted by the Director of DPHSS. All monies in this fund
23 shall be subject to legislative appropriation, and are hereby

1 specifically appropriated only for the use of the Division of
2 Environmental Health in the pursuit of its authority.

3 **§55107. Receiving and Giving Bribes.** The sanitary inspector from DEH or the
4 Independent Environmental Health Inspection Company(s), shall be guilty of a felony if
5 he solicits, accepts or agrees to accept any benefit from another person as consideration
6 for his performance of an official function. A person is guilty of a felony if he offers or
7 agrees to offer any benefit to the sanitary inspector as consideration for such sanitary
8 inspector's performance of an official function."

9 **§55108. Effective Date**

10 (a) Upon passage of this Act, the DPHSS shall develop Rules and
11 Regulations and shall submit same to the Legislature no later than 90
12 days following the passage of this act.

13 (b) The Rules and Regulations shall become effective upon the adoption
14 of the Rules and Regulations by *I Liheslaturan Guåhan*.

15 (c) This Act shall expire on June 30, 2015 unless extended by legislative
16 action and executive approval.

17 **Section 3. Amendments of Section 7119 of Chapter 7, Title 22 of Guam**
18 **Code Annotated.**

19 Section 7119 of Chapter 7, Title 22 of Guam Code Annotated is hereby
20 amended to read:

21

22 **“§7119. Registration Fee.**

1 (a) The Guam Department of Labor is authorized to collect a registration
2 fee of One Thousand Two Hundred Forty-three Dollars (\$1,0243.00)
3 annually per non-immigrant temporary worker for each calendar year
4 or a fraction thereof from the employer of each non-immigrant
5 temporary worker, payable at the time of registration by the non-
6 immigrant worker.

7 (b) Funds collected pursuant hereto shall be subject to legislative
8 appropriation, and shall be used solely to support §7120, Chapter 7,
9 Title 22 GCA (Manpower Development Fund), ~~and~~ the Skills Training
10 Programs and §55106, Chapter 55 Title 10 GCA (DPHSS Temporary
11 Workforce Housing Sanitary Inspection Revolving Fund). Eighty
12 point Forty-five percent (80.45%) of funds collected shall go to the
13 MDF and appropriated pursuant to §7120, Chapter 7, Title 22 GCA;
14 the remaining Nineteen point Fifty-five percent (19.55%) shall go to
15 the DPHSS Temporary Workforce Housing Sanitary Inspection
16 Revolving Fund. Funds allocated for the Manpower Development and
17 Skills Training Programs are used for Guam residents in order to
18 eliminate the need to bring non-immigrant temporary workers on
19 Guam. DPHSS Temporary Workforce Housing Sanitary Inspection
20 Revolving Fund is used to ensure that the sanitary conditions of the
21 workers' dormitories is in compliance with DPHSS Rules and
22 Regulations and also to provide protection for both the general public

1 and the non-immigrant temporary workers as related to environmental
2 health concerns.