



*Territory of Guam*  
*Territorio de Guam*

OFFICE OF THE GOVERNOR  
LIPSINAN I MAGA LAHI  
AGANA, GUAM 96910 U.S.A.

12/30/88  
JH  
7:40 PM

DEC 30 1988

The Honorable Franklin J.A. Quitugua  
Speaker, Nineteenth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 97, which I have signed into law this date as Public  
Law 19-35.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph F. Ada".

JOSEPH F. ADA  
Governor

**190744**

Attachment

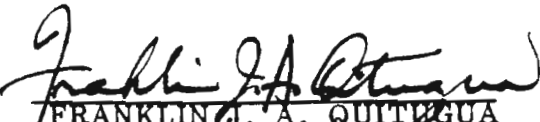
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*12/31/88*  
*10:23 A.M.*  
*KC*

00-141

NINETEENTH GUAM LEGISLATURE  
1988 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 97, "AN ACT TO ADD, AMEND AND REPEAL CERTAIN SECTIONS OF THE GOVERNMENT CODE RELATIVE TO THE WORKER'S COMPENSATION LAW," was on the 19th day of December, 1988, duly and regularly passed.

  
FRANKLIN J. A. QUITAGUA  
Speaker


Attested:

  
A. J. SONNY SHELTON  
Senator and Acting Legislative Secretary

-----  
This Act was received by the Governor this 19 day of Dec, 1988,  
at 10.15 o'clock p.m.

  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

Date: DEC 30 1988

Public Law No. 19-35

NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

Bill No. 97  
as Substituted by the Committee on Youth,  
Human Resources, Senior Citizens & Cultural  
Affairs and further substituted on  
December 19, 1988

Introduced by:

E. P. Arriola  
T. S. Nelson  
H. D. Dierking

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J. G. Bamba  
M. Z. Bordallo  
E. R. Duenas  
E. M. Espaldon  
F. J. Gutierrez  
M. K. Hartsock  
P. C. Lujan  
M. D. A. Manibusan  
J. G. Miles  
T. S. Nelson  
D. Parkinson  
F. J. A. Quitugua  
J. M. Rivera  
M. C. Ruth  
J. T. San Agustin  
F. R. Santos  
A. J. Shelton

AN ACT TO ADD, AMEND AND REPEAL  
CERTAIN SECTIONS OF THE GOVERNMENT  
CODE RELATIVE TO THE WORKER'S  
COMPENSATION LAW.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:  
2 Section 1. Section 37005 of the Government Code is amended to read:  
3 "Section 37005. Exclusiveness of Liability. The liability of an  
4 employer prescribed in Section 37003 shall be exclusive and in place of  
5 all other liability of such employer to the employee, his legal  
6 representative, husband or wife, parents, dependents, next of kin,  
7 any and all third party claimants who may generally possess a claim  
8 for contribution among joint tortfeasors against the employer, or  
9 anyone otherwise entitled to recover damages from such employer at  
10 law or in admiralty on account of such injury or death; provided that,

1 if an employer fails to secure payment of compensation as required by  
2 this Title, an injured employee or his legal representative, in case  
3 death results from the injury, any elect to claim compensation under  
4 this Title, or to maintain an action at law or in admiralty for damages  
5 on account of such injury or death. In such action, the defendant  
6 may not plead as a defense that the injury was caused by the  
7 negligence of a fellow servant, nor that the employee assumed the risk  
8 of his employment, nor that the injury was due to the contributory  
9 negligence of the employee."

10 Section 2. Section 37006 of the Government Code is repealed and  
11 reenacted to read:

12 "Section 37006. Time for Commencement of Compensation:  
13 Maximum and Minimum Compensation.

14 (a) No compensation shall be allowed for the first three (3)  
15 days of the disability, except for the benefits provided for in  
16 Section 37007: provided, however, that in case the injury results  
17 in disability of more than fourteen (14) days, the compensation  
18 shall be allowed from the date of disability.

19 (b) Compensation for disability shall not exceed Two  
20 Hundred Fifty Dollars (\$250.00) per week; provided that if the  
21 employee's average weekly wages, as computed under Section  
22 37010 are less than One Hundred Fifty Dollars (\$150.00) per  
23 week, he shall receive as compensation for permanent total  
24 disability not less than One Hundred Fifty Dollars (\$150.00) per  
25 week."

26 Section 3. Number (20) of Subsection (c) of Section 37008 of the  
27 Government Code is repealed and reenacted to read:

28 "(20) Disfigurement. The Commissioner shall award proper and  
29 equitable compensation for serious disfigurement of the face, head or  
30 other parts of the body that are customarily visible in the course of  
31 employment, not to exceed Ten Thousand Dollars (\$10,000.00)."

32 Section 4. Subsection (g) of Section 37008 of the Government Code is  
33 repealed and reenacted to read:

1           "(g) Maintenance for employees undergoing vocational  
2 rehabilitation. An employee who as a result of injury is or may be  
3 expected to be totally or partially incapacitated for a remunerative  
4 occupation and who under the direction of the Commission, as provided  
5 by Section 37039(c) of this Title, is being rendered fit to engage in  
6 compensation necessary for his maintenance, but such additional  
7 compensation shall not exceed Fifty Dollars (\$50.00) per week."

8           Section 5. Section 37009 of the Government Code is repealed and  
9 reenacted to read:

10           "Section 37009. Compensation for Death. If the injury causes  
11 death, the compensation shall be known as a death benefit and shall be  
12 payable in the amounts and to or for the benefit of the persons  
13 following:

14           (a) Reasonable funeral expenses not exceeding Three  
15 Thousand Six Hundred Dollars (\$3,600.00).

16           (b) If there be a surviving spouse and no surviving  
17 dependent child of the deceased; to the surviving spouse  
18 thirty-five (35) percentum of the average wages of the deceased  
19 until death or remarriage; and if there be a surviving dependent  
20 child or dependent children of the deceased, the additional  
21 amount of fifteen (15) percentum of such wages for each child.  
22 In the case of the death or remarriage of such surviving spouse,  
23 if there be one (1) surviving dependent child of the deceased  
24 employee, such child shall have his compensation increased to  
25 thirty-five (35) percentum of such wages; and if there be more  
26 than one (1) surviving dependent child of the deceased employee,  
27 to such dependent children in equal parts, thirty-five (35)  
28 percentum of such wages, increased by fifteen (15) percentum of  
29 such wages for each dependent child in excess of one (1);  
30 provided that, the total amount payable shall in no case exceed  
31 two-thirds (2/3rds) of such wages. The Commissioner, may, at  
32 his discretion, require the appointment of a guardian for the  
33 purpose of receiving the compensation of a minor child. In the

1 absence of such a requirement, the appointment of a guardian for  
2 such purposes shall not be necessary.

3 (c) If there be one (1) surviving dependent child of the  
4 deceased, but no surviving spouse, then for the support of such  
5 dependent child, thirty-five (35) percentum of the wages of the  
6 deceased. If there be more than one (1) surviving dependent  
7 child of the deceased, but no surviving spouse, then for the  
8 support of such wages for each dependent child in excess of one.  
9 The total amount payable under this Section shall in no case  
10 exceed two-thirds (2/3rds) of such wages.

11 (d) If there be no surviving spouse or dependent children,  
12 or if the amount payable to a surviving spouse or to the  
13 dependent children shall be less in the aggregate than sixty-six  
14 (66) and two-thirds (2/3rds) percentum of the average wages of  
15 the deceased; then for the support of surviving dependent  
16 grandchildren or surviving dependent brothers and sisters, if  
17 they were dependent upon the deceased at the time of the injury,  
18 fifteen (15) percentum of such wages for the support of each  
19 such person; and for the support of each surviving dependent  
20 parent, or grandparent of the deceased if they were dependent  
21 upon him at the time of the injury, twenty-five (25) percentum of  
22 such wages during such dependence. But in no case shall the  
23 aggregate amount payable under this Section exceed the  
24 difference between two-thirds (2/3rds) of such wages and the  
25 amount payable as hereinbefore provided to surviving spouse and  
26 for the support of surviving dependent child or children.

27 (e) In computing death benefits, the average weekly wages  
28 of the deceased shall be considered to have been not more than  
29 Three Hundred Seventy-Five Dollars (\$375.00) per week nor less  
30 than Two Hundred Twenty-Five Dollars (\$225.00) per week.

31 (f) All questions of dependency shall be determined as of  
32 the time of the injury.

1 (g) Aliens. Compensation under this Title to aliens, not  
2 residents (or about to become non-residents) of the United  
3 States, the Territory of Guam, or Canada, shall be the same  
4 amount as provided for residents; provided that, dependents in  
5 any foreign country shall be limited to the surviving spouse and  
6 surviving dependent child or children, or if there be no  
7 surviving spouse or dependent child or children, to surviving  
8 dependent parents whom the employee has supported, either  
9 wholly or in part, for the period of one (1) year prior to the  
10 date of the injury; and provided that, the Commissioner may, at  
11 his option or upon the application of an insurance carrier,  
12 commute all future installments of compensation to be paid to such  
13 aliens by paying or causing to be paid to them one-half (1/2) of  
14 the commuted amounts of such future installments of compensation  
15 as determined by the Commission."

16 Section 6. Government Code Section 37014(m) is repealed and  
17 reenacted to read as follows:

18 "(m). The total compensation, excluding medical services and  
19 supplies, payable under this Title for any injury or death shall in no  
20 event exceed the sum of One Hundred Thousand Dollars (\$100,000.00).  
21 In cases of disability compensable under Paragraph 21 of Subsection  
22 (c) of Section 37008, the total compensation for such disability, and  
23 for any temporary partial disability sustained in addition therein, shall  
24 not exceed in the aggregate the sum of One Hundred Thousand Dollars  
25 (\$100,000.00)."

26 Section 7. Section 37028 of the Government Code is amended to read:  
27 "Section 37028. Fees for Services.

28 (a) No claim for attorney's fees or for any other services  
29 rendered in respect of a claim or award for compensation, to or  
30 on account of any person, shall be valid unless approved by the  
31 Commissioner, whose approval shall not be unreasonably withheld,  
32 or if proceedings for review of the order of the Commissioner in  
33 respect of such claim or award are had before any court, unless  
34 approved by such court. Any claims so approved shall, in the

1 manner and to the extent fixed by the Commissioner or such  
2 court, be a lien upon such compensation."

3 Section 8. Government Code Section 37033 is repealed and reenacted  
4 to read as follows:

5 "Section 37033. Compensation for Injuries where third persons  
6 are liable. When an injury for which compensation is payable under  
7 this Title shall have been sustained under circumstances creating in  
8 some person other than the employer a legal liability to pay damages in  
9 respect thereto, the injured employee may claim compensation under  
10 this Title and, at his option, may also obtain damages from or proceed  
11 at law against the other person in order to recover damages. If  
12 compensation is claimed and awarded under this Title, an employer or  
13 his insurance carrier, having paid the compensation or having become  
14 liable therefor, shall be subrogated to the rights of the injured  
15 employee up to the amount paid by the employer or his insurance  
16 carrier to the employee and shall be entitled to recover against such  
17 third person up to said amounts; provided, if the employer or its  
18 insurance carrier shall recover from said third person damages in  
19 excess of compensation already paid or awarded to the employee under  
20 this Title, then any such excess shall be paid to the injured employee,  
21 or other person entitled thereto, less the employer's expenses and  
22 costs of action. The amount of compensation paid by the employer, or  
23 in the amount of compensation to which the injured employee or his  
24 dependents are entitled, shall not be used in order to diminish the  
25 employer's claim or the employee's claim against said third persons.  
26 The collateral source doctrine is reemphasized and reestablished by  
27 this Code Section."

28 Section 9. A new Section 37033.1 is added to the Government Code to  
29 read:

30 "Section 37003.1. Right to Compensation as Exclusive Remedy.  
31 Nothing contained in Section 37003 of this Title shall be deemed to  
32 create a cause of action by an injured employee against any  
33 co-employee, officer, agent or director of the employer. The right to  
34 compensation for benefits under the Worker's Compensations Law of



1           Guam shall be the exclusive remedy to an employee when he is injured,  
2           or to his eligible survivors or legal representatives if he is killed, by  
3           the negligence of any other person or persons in the same employ;  
4           provided, that this provision shall not affect the liability of a person  
5           other than an officer or employee of the employer."

6           Section 10. Procurement of Data Management System. There is  
7           herewith appropriated from the General Fund of the Territory of Guam, a  
8           sum not to exceed Twenty-Five Thousand Dollars (\$25,000.00) to be used  
9           for the procurement of and training of staff in the use of data processing  
10          equipment and operative software to be used for internal management of the  
11          worker's compensation program, and for data collection, management and  
12          maintenance and for providing reports on program performance and caseload  
13          activity and for other statistical purposes directly related to the worker's  
14          compensation program.

15          Section 11. Effective Date. The amendment to Section 37005 set forth  
16          in Section 1 of this Act shall take effect immediately upon the passage of  
17          this Act. All other sections of this Act shall take effect upon the date of  
18          the Insurance Commissioner's final approval of applicable rates to  
19          accommodate the changes set forth herein or twelve (12) months after the  
20          enactment of this Act, whichever occurs first.

NINETEENTH GUAM LEGISLATURE

19-35

ROLL CALL SHEET

Bill No. 97

DATE: 12/19/88

Res No. \_\_\_\_\_

QUESTION: \_\_\_\_\_

	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
E. P. Arriola	✓			
J. G. Bamba	✓			
M. Z. Bordallo	✓			
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon	✓			
F. J. Gutierrez	✓			
M. K. Hartsock	✓			
P. C. Lujan				✓
M. D. A. Manibusan	✓			
J. G. Miles	✓			
T. S. Nelson	✓			
D. Parkinson	✓			
F. J. A. Quitugua	✓			
J. M. Rivera	✓			
M. C. Ruth	✓			
J. T. San Agustin	✓			
F. R. Santos	✓			
A. J. Shelton	✓			

18

1

TERRITORY OF GUAM )  
 ) ss:  
CITY OF AGANA )

CERTIFICATION  
OF  
RECORDING SECRETARY

Being sworn, JANE A. LIZAMA, deposes and says:

1. She is the Recording Secretary of the Nineteenth Guam Legislature.
2. As Recording Secretary she is the custodian of the Legislature's official documents.
3. Attached hereto as Exhibits "A" and "B" are true and correct copies on file of Bill No. 97, which was introduced on January 15, 1987, and the Substitute version with Section-by-Section Analysis, consisting of ~~fifteen~~ <sup>thirteen (13)</sup> (15) pages, as contained in the Report of the Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources, dated October 26, 1988. Bill No. 97 is presently pending in the Nineteenth Guam Legislature.
4. Further, your affiant sayeth not.

Dated this 6<sup>th</sup> day of December, 1988.

*Jane A. Lizama*  
JANE A. LIZAMA

SUBSCRIBED AND SWORN to before me this 6<sup>th</sup> day of December, 1988.

*Patricia C. Santos*  
Notary Public in and for the  
territory of Guam

My Commission expires: May 6, 1992  
PATRICIA C. SANTOS  
NOTARY PUBLIC  
In and for the Territory of Guam  
My Commission Expires: May 06, 1992

**SENATOR ELIZABETH P. ARRIOLA**

Chairperson  
Committee on Youth, Senior  
Citizens, Cultural Affairs  
and Human Resources



Nineteenth  
Guam Legislature

P.O. BOX CB-1 · AGANA, GUAM 96910  
(671) 472-3441/42

October 26, 1988

The Honorable Franklin J. Quitugua  
Speaker  
Nineteenth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

VIA: Chairman, Committee on Rules

Dear Mr. Speaker:

The Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources to which was referred Bill No.97, "AN ACT TO ADD, AMEND AND REPEAL CERTAIN SECTIONS OF THE GOVERNMENT CODE RELATIVE TO THE WORKER'S COMPENSATION LAW", has had the same under consideration and now wishes to report back the same with its recommendation **TO DO PASS AS SUBSTITUTED BY THE AUTHOR.**

Committee votes received:

<u>TO DO PASS</u>	<u>TO DO NOT PASS</u>	<u>ABSTAIN</u>	<u>REPORT OUT</u>
7	0	0	4

Attached herewith are the Committee Report and other pertinent documents for your perusal.

Sincerely,

ELIZABETH P. ARRIOLA

Attachment:

**SENATOR ELIZABETH P. ARRIOLA**

Chairperson  
Committee on Youth, Senior  
Citizens, Cultural Affairs  
and Human Resources



Nineteenth  
Guam Legislature

P.O. BOX CB-1 · AGANA, GUAM 96910  
(671) 472-3441/42

October 26, 1988

The Honorable Franklin J. Quitugua  
Speaker  
Nineteenth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

VIA: Chairman, Committee on Rules

Dear Mr. Speaker:

The Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources to which was referred Bill No.97, "AN ACT TO ADD, AMEND AND REPEAL CERTAIN SECTIONS OF THE GOVERNMENT CODE RELATIVE TO THE WORKER'S COMPENSATION LAW", has had the same under consideration and now wishes to report back the same with its recommendation **TO DO PASS AS SUBSTITUTED BY THE AUTHOR.**

Committee votes received:

<u>TO DO PASS</u>	<u>TO DO NOT PASS</u>	<u>ABSTAIN</u>	<u>REPORT OUT</u>
7	0	0	4

Attached herewith are the Committee Report and other pertinent documents for your perusal.

Sincerely,

**ELIZABETH P. ARRIOLA**

Attachment:

THE COMMITTEE ON YOUTH, SENIOR CITIZENS,  
CULTURAL AFFAIRS AND HUMAN RESOURCES  
VOTE SHEET

ON BILL NO. 97  
"AN ACT TO ADD, AMEND AND REPEAL CERTAIN SECTIONS  
OF THE GOVERNMENT CODE RELATIVE TO THE WORKER'S  
COMPENSATION LAW."

	To Pass	Not To Pass	Report Out	Inactive File
<u>Elizabeth P. Arriola</u> Elizabeth P. Arriola, Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Frank R. Santos</u> Frank R. Santos, Vice-Chairperson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Members:

<u>Madeliene Bordallo</u> Madeliene Bordallo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<u>Herminia Dierking</u> Herminia Dierking	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<u>Edward Duenas</u> Edward Duenas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<u>Ernesto Espaldon</u> Ernesto Espaldon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<u>Marcia Hartssock</u> Marcia Hartssock	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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<u>Pilar C. Lujan</u> Pilar C. Lujan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<u>Jim Miles</u> Jim Miles	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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<u>Ted Nelson</u> Ted Nelson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<u>Joe T. San Agustin</u> Joe T. San Agustin	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**REPORT OF THE  
COMMITTEE ON YOUTH, SENIOR CITIZENS,  
CULTURAL AFFAIRS, AND HUMAN RESOURCES**

**ON BILL NO. 97**

**"AN ACT TO ADD, AMEND AND REPEAL CERTAIN  
SECTIONS OF THE GOVERNMENT CODE RELATIVE  
TO THE WORKER'S COMPENSATION LAW"**

**P R E F A C E**

The Committee On Youth, Senior Citizens, Cultural Affairs and Human Resources to which was referred Bill No. 97 "AN ACT TO ADD, AMEND AND REPEAL CERTAIN SECTIONS OF THE GOVERNMENT CODE RELATIVE TO THE WORKER'S COMPENSATION LAW" conducted a public hearing on May 22, 1987 and Feb. 24, 1988 at 2:00 pm in the Legislative Session Hall to hear the aforementioned piece of legislation. Committee members present were: Senator Elizabeth P. Arriola, Chairperson; and member Senators Pilar Lujan, Herminia Dierking, Marcia Hartsock, Joe T. San Agustin, Madeliene Bordallo, Eddie Duenas and James Miles.

**T E S T I M O N I E S**

The first to testify from a prepared text was Mr. Edward Guerrero, Commissioner ex-officio member of the Department of Labor's Worker's Compensation Commission. The Commission believes it would be premature to support the Bill and are of the opinion that an advisory council should be established to set solutions to this long-term problem and not accept the Bill as is written.

Mr. Bill Gibson, Executive Director of the Guam Employers Council gave oral testimony (which is based on his letter of 2/2/88) supporting the Bill in that generally worker's compensation benefits should be increased altogether. He notes, however, that an insurance review indicates insurance premiums that will be paid by businesses may increase as much as 40% should the Bill pass as is.

The Executive Director of the Civil Service Commission, Ms. Norma Aflague submitted written testimony and recommends passage. Her basic concern is that worker's benefits should be directly adjusted with the cost of living and that if the awarded compensation is insufficient some legal recourse be available to acquire more.

### COMMITTEE FINDINGS

It was decided by the Committee that while the Bill had considerable merit the concerns brought out in the hearing required further discussion. Several working sessions were held between Committee members and interested groups who testified at the hearing. These meetings included representatives from the Workers Compensation Commission, Insurance Industry, employers groups and government agencies. The result of this unified effort is articulated in a substitute bill, a bill which would address the concerns of all those who testified. Furthermore, the Committee also noted that this provided a good opportunity to entertain the needed changes to the present manner in which compensation will be given. (see section by section analysis attached).

### RECOMMENDATION

The Committee On Youth, Senior Citizens, Cultural Affairs and Human Resources to which was referred Bill No. 97, "AN ACT TO ADD, AMEND AND REPEAL CERTAIN SECTIONS OF THE GOVERNMENT CODE RELATIVE TO THE WORKER'S COMPENSATION LAW"; has had the same under consideration and now wishes to report out its recommendation to do pass as substituted by the author.



Representatives from the Department of Revenue and Taxation gave written testimony describing the insurance industry in general. Mr. Ralph Pangelinan spoke on the statistics in Guam relative to Workrman's Compensation and compared rates and premiums with selected states. They did not take a position on the Bill.

Next to testify was Mr. David Eccles of Atkins Kroll Insurance Division and spokesman for the Guam Casualty and Fire Insurance Association and member of the Guam Insurance Association. He agrees that changes are needed to increase benefits, however, the Bill as written falls short of addressing the purpose of such legislation. Mr. Eccles supports that testified by Mr. Rolf Meier and Attorney Dooley (below) and offers his help in drafting future legislation.

Next to testify was Mr. Rolf Meier, General Manager of National Pacific Insurance. He is of the opinion that there are problems about doctoring workers compensation plan and that unless the insurance industry has direct input in figuring benefits and premiums, it would be unfair to legislate the rate and premium changes. He also states that the Bill offers the employee an opportunity to collect both basic compensation and other damages in a suit against an employer for negligence. The Bill will stifle progress in Guam because employers would have to take extra precautions for negligence and will involve excessive time in courts and related costs.

Last to testify was Attorney David Dooley of the law firm of Carlsmith, Wichman, Case Mukai and Ichiki. Although, he submitted written testimony in letters of February 17 and 23, 1988, he summarized his points on the Bill by offering examples of how the Bill would be executed. Basically, the employee must be injured as a result of employer negligence. No negligence no compensation. If negligence is proven, the employee will be awarded basic compensation and can also sue the business for personal unlimited liability. The Bill will result in expensive litigation. The Bill should be consistent with the general worker's compensation theory that payment is made to the injured employee regardless of fault.

Mr. George W. Baldwin Jr., President of Baldwin Insurance submitted written testimony. He is concerned that employers may have to subsidize the unemployed given the minimum benefit level because it will pay to be unemployed. Also, death benefits should not be the same for all employees because some employees have a greater need than others. He is of the opinion that benefits and premiums should be adjusted.

NINETEENTH GUAM LEGISLATURE  
1988 (SECOND) REGULAR SESSION

Substitute Bill No. 97

Introduced by:

E.P. Arriola



AN ACT TO ADD, AMEND AND REPEAL CERTAIN  
SECTIONS OF THE GOVERNMENT CODE  
RELATIVE TO THE WORKER'S COMPENSATION  
LAW.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Section 37005 of the Government Code is amended to read:

" 37005. Exclusiveness of Liability. The liability of an employer prescribed in Section 37003 shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, any and all third party claimants who may generally possess a claim for contribution among joint tortfeasors against the employer, or anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death; provided that, if an employer fails to secure payment of compensation as required by this Title, an injured employee or his legal representative, in case death results from the injury, may elect to claim compensation under this Title, or to maintain an action at law or in admiralty for

damages on account of such injury or death. In such action, the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee."

Section 2. Section 37006 of the Government Code is repealed and reenacted to read:

" 37006. Time for Commencement of Compensation: Maximum and Minimum Compensation.

(a) No compensation shall be allowed for the first three (3) days of the disability, except for the benefits provided for in Section 37007: provided, however, that in case the injury results in disability of more than fourteen (14) days, the compensation shall be allowed from the date of disability.

(b) Compensation for disability shall not exceed Two Hundred Fifty Dollars (\$250.00) per week; provided that if the employee's average weekly wages, as computed under Section 37010 are less than One Hundred Fifty Dollars (\$150.00) per week, he shall receive as compensation for permanent total disability not less than One Hundred Fifty Dollars (\$150.00) per week."

Section 3. Number (20) of Subsection (c) of Section 37008 of the Government Code is repealed and reenacted to read:

"(20). Disfigurement. The Commissioner shall award proper and equitable compensation for serious disfigurement of the face, head or other parts of the body that are customarily visible in the course of employment, not to exceed Ten Thousand Dollars (\$10,000.00)."

Section 4. Subsection (g) of Section 37008 of the Government Code is repealed and reenacted to read:

"(g). Maintenance for employees undergoing vocational rehabilitation. An employee who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who under the direction of the Commission, as provided by Section 37039(c) of this Title, is being rendered fit to engage in remunerative occupation, shall receive additional compensation necessary for his maintenance, but such additional compensation shall not exceed Fifty Dollars (\$50.00) per week."

Section 5. Section 37009 of the Government Code is repealed and reenacted to read:

" 37009. Compensation for Death. If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amounts and to or for the benefit of the persons following:

(a) Reasonable funeral expenses not exceeding Three Thousand Six Hundred Dollars (\$3,600.00).

(b) If there be a surviving spouse and no surviving dependent child of the deceased; to the surviving spouse, thirty-five (35) percentum of the average wages of the deceased until death or remarriage; and if there be a surviving dependent child or dependent children of the deceased, the additional amount of fifteen (15) percentum of such wages for each child. In the case of the death or remarriage of such surviving spouse, if there be one (1) surviving dependent child of the deceased employee, such child shall have his compensation increased to thirty-five (35) percentum of such wages; and if there be more than one (1) surviving dependent child of the deceased employee, to such dependent children in equal parts, thirty-five (35) percentum of such wages, increased by fifteen (15) percentum of such wages for each dependent child in excess of one (1); provided that, the total amount payable shall in no case exceed two-thirds (2/3rds) of such wages. The Commissioner, may, at his discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such a requirement, the appointment of a guardian for such purposes shall not be necessary.

(c) If there be one (1) surviving dependent child of the deceased, but no surviving spouse, then for the support of such dependent child, thirty-five (35) percentum of the wages of the deceased. If there be more than one (1)

surviving dependent child of the deceased, but no surviving spouse, then for the support of such dependent children, in equal parts fifteen (15) percentum of such wages for each dependent child in excess of one. The total amount payable under this Section shall in no case exceed two-thirds (2/3rds) of such wages.

(d) If there be no surviving spouse or dependent children, or if the amount payable to a surviving spouse or to the dependent children shall be less in the aggregate than sixty-six (66) and two-thirds (2/3rds) percentum of the average wages of the deceased; then for the support of surviving dependent grandchildren or surviving dependent brothers and sisters, if they were dependent upon the deceased at the time of the injury, fifteen (15) percentum of such wages for the support of each such person; and for the support of each surviving dependent parent, or grandparent of the deceased if they were dependent upon him at the time of the injury, twenty-five (25) percentum of such wages during such dependence. But in no case shall the aggregate amount payable under this Section exceed the difference between two-thirds (2/3rds) of such wages and the amount payable as hereinbefore provided to surviving spouse and for the support of surviving dependent child or children.

(e) In computing death benefits, the average weekly wages of the deceased shall be considered to have

been not more than Three Hundred Seventy-Five Dollars (\$375.00) per week nor less than Two Hundred Twenty-Five Dollars (\$225.00) per week.

(f) All questions of dependency shall be determined as of the time of the injury.

(g) Aliens. Compensation under this Title to aliens, not residents (or about to become non-residents) of the United States, the Territory of Guam, or Canada, shall be the same amount as provided for residents; provided that, dependents in any foreign country shall be limited to the surviving spouse and surviving dependent child or children, or if there be no surviving spouse or dependent child or children, to surviving dependent parents whom the employee has supported, either wholly or in part, for the period of one (1) year prior to the date of the injury; and provided that, the Commissioner may, at his option or upon the application of an insurance carrier, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half (1/2) of the commuted amounts of such future installments of compensation as determined by the Commission."

Section 6. Government Code Section 37014(m) is repealed and reenacted to read as follows:

"(m). The total compensation, excluding medical services and supplies, payable under this Title for any injury or death shall in no event exceed the sum of One

Hundred Thousand Dollars (\$100,000.00). In cases of disability compensable under Paragraph 21 of Subsection (c) of Section 37008, the total compensation for such disability, and for any temporary partial disability sustained in addition therein, shall not exceed in the aggregate the sum of One Hundred Thousand Dollars (\$100,000.00)."

Section 7. Section 37028 of the Government Code is amended to read:

" 37028. Fees for Services.

(a) No claim for attorney's fees [legal services] or for any other services rendered in respect of a claim or award for compensation, to or on account of any person, shall be valid unless approved by the Commissioner, whose approval shall not be unreasonably withheld, or if proceedings for review of the order of the Commissioner in respect of such claim or award are had before any court, unless approved by such court. Any claims so approved shall, in the manner and to the extent fixed by the Commissioner or such court, be a lien upon such compensation."

Section 8. Government Code Section 37033 is repealed and reenacted to read as follows:

" 37033. Compensation for Injuries where third persons are liable. When an injury for which compensation is payable under this Title shall have been sustained under



circumstances creating in some person other than the employer a legal liability to pay damages in respect thereto, the injured employee may claim compensation under this Title and, at his option, may also obtain damages from or proceed at law against the other person in order to recover damages. If compensation is claimed and awarded under this Title, an employer or his insurance carrier, having paid the compensation or having become liable therefor, shall be subrogated to the rights of the injured employee up to the amount paid by the employer or his insurance carrier to the employee and shall be entitled to recover against such third person up to said amounts; provided, if the employer or its insurance carrier shall recover from said third person damages in excess of the compensation already paid or awarded to the employee under this Title, then any such excess shall be paid to the injured employee, or other person entitled thereto, less the employer's expenses and costs of action. The amount of compensation paid by the employer, or the amount of compensation to which the injured employee or his dependents are entitled, shall not be used in order to diminish the employer's claim or the employee's claim against said third persons. The collateral source doctrine is reemphasized and reestablished by this Code Section."

Section 9. A new Section 37033.1 is added to the Government Code to read:

" 37003.1. Right to Compensation as Exclusive Remedy. Nothing contained in Section 37003 of this Title shall be deemed to create a cause of action by an injured employee against any co-employee, officer, agent or director of the employer. The right to compensation for benefits under the Worker's Compensation Law of Guam shall be the exclusive remedy to an employee when he is injured, or to his eligible survivors or legal representatives if he is killed, by the negligence of any other person or persons in the same employ: Provided, that this provision shall not affect the liability of a person other than an officer or employee of the employer."

Section 10. Procurement of Data Management System. There is herewith appropriated from the General Fund of the Territory of Guam, a sum not to exceed Twenty-Five Thousand Dollars (\$25,000.00) to be used for the procurement of and training of staff in the use of data processing equipment and operating software to be used for internal management of the worker's compensation program, and for data collection, management and maintenance and for providing reports on program performance and caseload activity and for other statistical purposes directly related to the worker's compensation program.

Section 11. Effective Date. The amendment to Section 37005 set forth in Section 1 of this Act shall take effect immediately upon the passage of this Act. All other

sections of this Act shall take effect upon the date of the Insurance Commissioner's final approval of applicable rates to accommodate the changes set forth herein or twelve (12) months after the enactment of this Act, whichever occurs first.

SECTION BY SECTION ANALYSIS OF SUBSTITUTE BILL NO. 97

Introduced By:

E.P. Arriola

Section 1. Section 1 amends Section 37005 of the Government Code. The section is amended to expand the exclusivity of liability of an employer to include third party claimants who may possess a claim for contribution among joint tortfeasors against the employer. Therefore, the worker's compensation law is not only the exclusive remedy of the employee against the employer but also that of a third party which may have contributed to the injury to the employee against the employer.

Section 2. Section 2 repeals and reenacts Section 37006 of the Government Code as it relates to the time for commencement of compensation and the maximum and minimum amounts of compensation. Under existing law no compensation, other than medical services and supplies, is allowed for the first seven (7) days of disability unless the disability lasts for more than twenty-one (21) days or if the fact and date of disability are supported by a physician's certificate. Section 37006 as repealed and reenacted by substitute Bill 97 would not allow compensation, other than medical services and supplies, for the first three (3) days provided that if the disability

lasts for more than fourteen (14) days, compensation will be allowed from the date of disability.

Under existing law the maximum compensation allowable is ONE HUNDRED FORTY DOLLARS (\$140.00) per week and the minimum allowable for total disability is FIFTY DOLLARS (\$50.00) per week, provided that if an employee's average weekly wages are less than FIFTY DOLLARS (\$50.00) a week, he shall receive his average weekly wages as compensation for total disability. Section 37006 as repealed and reenacted by substitute Bill 97 would increase the maximum amount of compensation from ONE HUNDRED FORTY DOLLARS (\$140.00) to TWO HUNDRED FIFTY DOLLARS (\$250.00) per week for all kinds of disability, provided that if the employee's average weekly wages are less than ONE HUNDRED FIFTY DOLLARS (\$150.00) per week he shall receive as compensation for permanent total disability not less than ONE HUNDRED FIFTY DOLLARS (\$150.00) per week.

Section 3. Section 3 repeals and reenacts number (20) of subsection (c) of Section 37008 of the Government Code. Number (20) makes provision for compensation of disability to an employee who has serious facial or head disfigurement. Existing law provides a maximum of compensation for disfigurement not to exceed THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00). Subsection (c) as amended by substitute Bill 97 increases the maximum allowable compensation for serious facial or head disfigurement to TEN THOUSAND DOLLARS (\$10,000.00).

Section 4. Section 4 repeals and reenacts subsection (g) of Section 37008 of the Government Code as it relates to maintenance for employees undergoing vocational rehabilitation. Existing law provides that employees who as a result of injury must undergo vocational rehabilitation shall receive additional compensation for their maintenance not to exceed TEN DOLLARS (\$10.00) a week. Substitute Bill 97 increases such additional compensation or maintenance of employees undergoing vocational rehabilitation from TEN DOLLARS (\$10.00) per week to FIFTY DOLLARS (\$50.00) per week.

Section 5. Section 5 repeals and reenacts Section 37009 of the Government Code as it relates to compensation for injuries causing death to an employee. Under existing law reasonable funeral expenses not exceeding ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00) are allowed. Substitute Bill 97 increases the allowance for reasonable funeral expenses from ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00) to THREE THOUSAND SIX HUNDRED DOLLARS (\$3,600.00).

In addition to increasing the funeral expense, substitute Bill 97 corrects the sex bias throughout Section 37009. Existing law allows benefits to be paid to a surviving wife or dependent husband during widowhood or dependent widowerhood with two (2) years compensation in one sum upon remarriage in the amount of thirty five percent (35%) of the

average wages of the deceased. Throughout Section 37009 of substitute Bill 97, the sex bias between a surviving wife or surviving dependent husband has been eliminated to include just a surviving spouse. Substitute Bill 97 provides for thirty five percent (35%) of the average wages of the deceased to be paid to a surviving spouse without dependent children until death or remarriage.

The existing subsection (e) of Section 37009 in computing death benefits, limits the average weekly wages of the deceased to no more than TWO HUNDRED TEN DOLLARS (\$210.00) nor less than NINETY DOLLARS (\$90.00) but the total weekly compensation shall not exceed the weekly wages of the deceased. Substitute Bill 97 changes these minimum and maximum amounts in computing death benefits to no more than THREE HUNDRED SEVENTY-FIVE DOLLARS (\$375.00) per week nor less than TWO HUNDRED TWENTY-FIVE DOLLARS (\$225.00) per week without limiting the total weekly compensation to the actual weekly wages of the deceased.

Section 6. Section 6 repeals and reenacts subsection (m) of Section 37014 of the Government Code as it relates to the total compensation payable under worker compensation law for injuries. Under existing law the total compensation payable under the worker compensation law shall not exceed FORTY THOUSAND DOLLARS (\$40,000.00) and the total compensation payable for injuries resulting in death likewise

shall not exceed FORTY THOUSAND DOLLARS (\$40,000.00), plus reasonable funeral expenses payable under Section 37009. Substitute Bill 97 increases the total compensation payable, excluding medical services and supplies, under the worker's compensation law for injury or death to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

Section 7. Section 7 amends Section 37028 of the Government Code as it relates to fees for services. Under existing law no claim for services on behalf of a claimant are valid unless approved by the Commissioner. Substitute Bill 97 amends Section 37028 to clarify the fact that included in services contemplated for reimbursement are attorney's fees and also provides that the Commissioner cannot unreasonably withhold his approval for the payment of such fees.

Section 8. Section 8 repeals and reenacts Section 37033 of the Government Code as it relates to compensation for injuries where third persons are liable. Under existing law, when an employee is injured during the course of his employment under circumstances when a person other than the employer is liable for his damages in respect to the injury, the injured employee has an option to either claim compensation under the worker's compensation law or to proceed against the third person to recover damages: the employee cannot do both. If the employee opts to claim compensation under the worker's



compensation law, the employer, after having paid the compensation is subrogated to the rights of the injured employee and may recover against the third person. If the employer recovers against the third person damages in excess of the amount of compensation paid to the employee, then any such excess must be paid to the injured employee less the employer's expenses and costs of the action.

Substitute Bill 97 repeals and reenacts Section 37033 to provide that when an employee sustains an injury for which compensation is payable under the worker's compensation statute under circumstances in which a third person would be liable for damages, the employee may claim compensation under the worker's compensation statute and may also, should he so choose to do so, obtain damages from or proceed at law against the third person. If the employee claims and is awarded compensation under the worker's compensation statute, the employer or his insurance carrier, after having paid the compensation is subrogated to the rights of the injured employee up to the amount paid by the employer or his insurance carrier and is entitled to recover this amount against such third person and as under existing law if the employer recovers an excess of the compensation already paid than that excess must be paid to the injured employee less the employer's expenses and costs of action.

Section 9. Section 9 adds a new Section 37033.1 to

the Government Code to establish that worker's compensation benefits is the exclusive remedy to an employee when he is injured by the negligence of co-employees, officers, agents or directors of the employer.

Section 10. Section 10 appropriates from the general fund TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) to be used for the procurement of and training of staff in the use of data processing equipment and operating software to be used for internal management of the worker's compensation program and for data collection, management and maintenance and for providing reports on program performance and caseload activity and for other statistical purposes directly related to the worker's compensation program.

Section 11. Section 11 states that the effective date of the amendment to Section 37005, which is set forth in Section 1 of the Act and which relates to the exclusiveness of liability including third party claimants, to be immediate upon the passage of the Act. All other sections of the Act will take effect upon the date of the Insurance Commissioner's final approval of applicable rates to accommodate the various financial changes set forth in the Act or twelve (12) months after the enactment of the Act, whichever occurs first.

JAN 15 '87

NINETEENTH GUAM LEGISLATURE  
1987 ( FIRST ) REGULAR SESSION

Bill No. 97

Introduced by:

E.P. Arriola *EPA*

AN ACT TO ADD, AMEND AND REPEAL CERTAIN  
SECTIONS OF THE GOVERNMENT CODE  
RELATIVE TO THE WORKER'S COMPENSATION  
LAW.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Subsection (j) of Section 37002 of  
the Government Code is repealed and reenacted to read:

"(j) Employer. This term, unless otherwise  
stated, includes any person, body of persons, corporate or  
unincorporate, public or private, with which an employee  
has knowingly entered into an express or implied contract,  
either oral or written, of employment."

Section 2. Subsection (a) of Section 37003 of the Government Code is repealed and reenacted to read:

"(a) Compensation shall be payable under this Title in case of disability or death of an employee, where such disability or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of an employer or by reason of any defect or insufficiency due to an employer's negligence, in its equipment or workplace but only if the disability or death results from an injury sustained while engaged in industrial employment or public employment or both as defined in Section 37002."

Section 3. Section 37005 of the Government Code is repealed and reenacted to read:

"§37005 Employer's Liability. Any employee who shall suffer disability or the legal representative of an employee who suffers death from an injury sustained while engaged in industrial employment or public employment or both as defined in Section 37002 may, at his election, claim compensation under this Title or maintain an action for damages at law or in admiralty against his employer on account of such injury or death. If an employee or his legal representative in the case of death resulting from the injury elects to claim compensation under this Title, the liability of an employer prescribed in Section 37003 shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, or

anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death; provided that, if an employer fails to secure payment of compensation as required by this Title, an injured employee or his legal representative, in case death results from the injury may elect to claim compensation under this Title, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action, the defendant may not plead as a defense that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee."

Section 4. Subsection (b) of Section 37006 of the Government Code is repealed and reenacted to read:

*Presently by  
employer wages  
4/30/78*

\* "(b) Compensation for disability shall not exceed Three Hundred Fifty Dollars (\$350.00) <sup>4140.00</sup> per week; and compensation for total disability shall not be less than One Hundred Fifty Dollars (\$150.00) per week, provided that if the employee's average weekly wages, as computed under Section 37010 are less than One Hundred Fifty Dollars (\$150.00) per week, he shall receive as compensation for total disability his average weekly wages."

Section 5. Subsection (d) of Section 37007 of the Government Code is repealed and reenacted to read:

"(d) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or

negligence of a third party, not in the same employ, unless and until suit has been brought and recovery of damages obtained against such third party. The employer, however, shall have the right to be reimbursed for such medical treatment from the damages recovered as provided in Section 37033 of this Title."

Section 6. Number (20) of Subsection (c) of Section 37008 of the Government Code is amended to read:

"(20) Disfigurement. The Commissioner shall award proper and equitable compensation for serious facial or head disfigurement, not to exceed Ten Thousand [Thirty Five Hundred] Dollars (\$10,000.00) [(\$3,500.00)]."

Section 7. Subsection (g) of Section 37008 of the Government Code is amended to read:

"(g) Maintenance for employees undergoing vocational rehabilitation. An employee who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who under the direction of the Commission, as provided by section 37039(c) of this Title, is being rendered fit to engage in a remunerative occupation, shall receive additional compensation necessary for his maintenance, but such additional compensation shall not exceed Fifty [Ten] Dollars (\$50.00) [(\$10.00)] a week. This expense shall be ~~paid out of the special fund~~ established in Section 37041."

Section 8. Section 37009 of the Government Code is amended to read:

"§37009 Compensation for Death. If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amounts and to or for the benefit of the persons following:

(a) Reasonable funeral expenses not exceeding Three [One] Thousand Six [Two] Hundred Dollars (\$3,600.00) [\$1,200.00].

(b) If there be a surviving wife or [dependent] husband and no child of the deceased to such surviving wife or dependent husband, thirty-five (35) percentum of the average wages of the deceased [during widowhood, or dependent widowerhood, with two (2) years, compensation in one sum upon remarriage;] and if there be a surviving child or children of the deceased, the additional amount of fifteen (15) percentum of such wages for each child. In the case of the death [or remarriage] of such surviving wife or [dependent] husband, if there be one surviving child of the deceased employee, such child shall have his compensation increased to thirty-five (35) percentum of such wages; and if there be more than one (1) surviving child of the deceased employee, to such children, in equal parts, thirty-five (35) percentum of such wages, increased by fifteen (15) percentum of such wages for each child in excess of one; provided that, the total amount payable shall in no case exceed two-thirds (2/3rds) of such wages. The Commissioner, may, in his discretion, require the appointment of a guardian for the purpose of receiving the

compensation of a minor child. In the absence of such a requirement the appointment of a guardian for such purposes shall not be necessary.

(c) If there be one (1) surviving child of the deceased, but no surviving wife or [dependent] husband, then for the support of such child thirty-five (35) percentum of the wages of the deceased. If there be more than one (1) surviving child of the deceased, but no widow or [dependent] husband, then for the support of such children, in equal parts fifteen (15) percentum of such wages for each child in excess of one. The total amount payable under this section shall in no case exceed two-thirds (2/3rds) of such wages.

(d) If there be no surviving wife or [dependent] husband or child or if the amount payable to a surviving wife or [dependent] husband and to children shall be less in the aggregate than sixty-six and two-thirds (66 2/3rds) percentum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, fifteen (15) percentum of such wages for the support of each such person; and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, twenty-five (25) percentum of such wages during such dependence. But in no case shall the aggregate amount payable under this Section exceed the difference between two-thirds (2/3rds) of such wages and



the amount payable as hereinbefore provided to surviving wife or [dependent] husband and for the support of surviving child or children.

(e) In computing death benefits, the average weekly wages of the deceased shall be considered to have been not more than Five [Two] Hundred [Ten] Dollars (\$500.00) [(\$210.00)] nor less than Two Hundred [Ninety] Dollars (\$200.00) [(\$90.00)] but the total weekly compensation shall not exceed the weekly wages of the deceased.

(f) All questions of dependency shall be determined as of the time of the injury.

(g) Aliens. Compensation under this Title to aliens, not residents (or about to become non-residents) of the United States, the Territory of Guam, or Canada, shall be the same amount as provided for residents; provided that, dependents in any foreign country shall be limited to the surviving spouse [wife] and child or children, or if there be no surviving spouse [wife] or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one (1) year prior to the date of the injury; and provided that, the Commissioner may, at his option or upon the application of the insurance carrier, commute all future installments of compensation to be paid to such aliens by

paying or causing to be paid to them one-half (1/2) of the commuted amount of such future installments of compensation as determined by the Commission."

Section 9. Subsection (m) of Section 37014 of the Government Code is amended to read:

"(m) The total compensation excluding medical services and supplies payable under this Title for injuries not resulting in death shall in no event exceed the sum of Two Hundred [Forty] Thousand Dollars (\$200,000.00) [(\$40,000.00)]. In cases of disability compensable under paragraph (21) of subsection (c) of Section 37008, the total compensation for such disability and for any temporary partial disability sustained in addition therein, shall not exceed in the aggregate the sum of Two Hundred [Forty] Thousand Dollars (\$200,000.00) [(\$40,000.00)]. The total compensation excluding medical services and supplies payable under this Title for injuries resulting in death shall in no event exceed the sum of Two Hundred [Forty] Thousand (\$200,000.00) [(\$40,000.00)] plus reasonable funeral expenses payable pursuant to Section 37009(a) of this Title."

Section 10. Section 37028 of the Government Code is amended to read:

"§37028. Fees for services.

(a) No claim for attorney's fees [legal services] or for any other services rendered in respect of a claim or award for compensation, to or on account of any person,

shall be valid unless approved by the Commissioner, whose approval shall not be unreasonably withheld, or if proceedings for review of the order of the Commissioner in respect of such claim or award are had before any court, unless approved by such court. Any claims so approved shall, in the manner and to the extent fixed by the Commissioner or such court, be a lien upon such compensation."

Section 11. Section 37033 of the Government Code is repealed and reenacted to read as follows:

"§37033. Compensation for injuries where third persons are liable. When an injury for which compensation is payable under this Title shall have been sustained under circumstances creating in some person other than the employer a legal liability to pay damages in respect thereto, the injured employee may claim compensation under this Title and at his option also obtain damages from or proceed at law against that other person to recover damages. If compensation is claimed and awarded under this Title and damages are also obtained from a third person, an employer, having paid the compensation or having paid for medical services and supplies shall be reimbursed for all compensation and medical services and supplies paid from the damages obtained in excess of the compensation, medical services and supplies already paid or awarded to be paid under this Title less the employee's expenses, costs and reasonable attorney's fees of the action. If compensation

is claimed and awarded under this Title and the injured employee does not opt to seek damages from or proceed at law against the third person to recover damages, an employer, having paid the compensation or having become liable therefore, shall be subrogated to the rights of the injured employee to recover against such other person; provided, if the employer shall recover from that other person damages in excess of the compensation already paid under this Title, then any such excess shall be paid to the injured employee, or other person entitled thereto, less the employer's expenses, costs and attorney's fees. The amount of compensation paid by the employer, or the amount of compensation to which the injured employee or his dependents are entitled, shall not be admissible in evidence in any action brought to recover damages."

Section 12. A new Section 37044 is added to the Government code to read:

"§37044. Abrogation of Fellow Servant Doctrine. The common-law fellow servant doctrine or rule that the negligence of one employee resulting in injury to another is not to be attributed to their common employer is abrogated under this Title and in all actions at law or in equity in the Superior Court of Guam."

Section 13. This act shall become effective ninety (90) days after its enactment.

SENATOR A.J. SONNY SHELTON  
CHAIRMAN, COMMITTEE ON RULES  
19TH GUAM LEGISLATURE  
P.O. BOX CB-1  
AGANA, GUAM 96910

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February 3, 1987

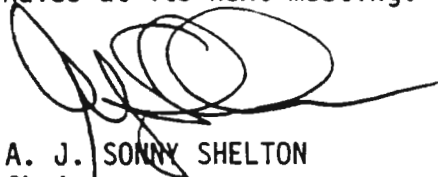
MEMORANDUM

To: Chairperson, Committee on Youth, Human Resources,  
Senior Citizens & Cultural Affairs

From: Chairman, Committee on Rules

Subject: Referral on Bill Nos. 62, 93, 94, 97 and 98

The above captioned matters are referred to your Committee. Please take note that the referrals are subject to ratification by the Committee on Rules at its next meeting.



A. J. SONNY SHELTON  
Chairman

Attachments

## **PACIFIC MANAGEMENT RESOURCE GROUP**

A private, non-profit corporation

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(671) 723-6615

**E.L. Gibson**  
Executive Director

**AUG 18 1988**

Senator Elizabeth P. Arriola  
Nineteenth Guam Legislature  
166 Chalan Santo Papa  
Agana, GU 96910

Dear Senator Arriola,

I am pleased to formally transmit to you, a proposed Substitute Bill 97, an act to add, amend and repeal certain sections of the Government Code relative to the Workers Compensation Law.

The substitute differs from your original Bill 97 in that we have sought to preserve the Workers Compensation Law as an exclusive remedy in cases of workplace injury or death.

We have added language to Section 37006 that will reduce the waiting time for compensation from seven down to three days and from forty-nine to fourteen days.

We suggest the weekly allowance for disability be raised from their current \$140.00 to \$250.00 per week, with a minimum of \$150 a week benefit to protect a part-time employee or entry-level employees earning close to minimum wage.

We agree with the figure you have offered (\$10,000) for disfigurement, but have added language that would cover not only head and face, but other body parts that are customarily visible in the course of a job.

We agree with your provisions on Maintenance for employees undergoing rehabilitation.

We have made extensive revisions in the Section covering death benefits. We have kept your language on \$3,600 for funeral expenses and made detailed provisions for single workers with no surviving dependant spouses or children; for married workers without children; for workers with surviving dependant spouses and children; for children in cases where there may be no surviving spouse.

The basic death benefit is recommended to be increased from \$40,000 to \$100,000.

We have covered benefits for aliens, generally prohibited excessive involvement by attorneys in the claims process and provided for compensation for injuries where third persons are liable.

One of the most important parts of the substitute provides for a modest sum to procure for the Workers Compensation Program some urgently needed data management equipment and training for staff.

The last part of the substitute language would make the amendments to Section 37005 effective upon passage. The other Sections would become effective one year after the Insurance Commissioner has given final approval to the new rates that insurers will have to develop and request if this Bill is enacted by the Legislature. The intervening 12 months should be adequate for rate approval, for employer education and for some needed strengthening of existing enforcement and compliance mechanisms.

A great deal of time, effort and money has been invested in this substitute measure. On behalf of all the parties who have shared their knowledge and experience, I would like to congratulate you for having the vision to see that Guam's workers compensation law needed revision to meet the needs of employees and employers as we approach the 1990s.

I would particularly like to acknowledge the special contributions made to the effort by:

Mr. Chris Delfin, Guam Department of Labor  
Director Edward A. Guerrero, Guam Department of Labor  
Attorney David Dooley, Carlsmith, Wichman, Case, Muraki & Ichiki  
Mr. Rolf Meyer, National Pacific Insurance  
Mr. Gary Crist, CIGNA Insurance  
Mr. Tom Foster, Guam Insurance Adjustors  
Mr. George Baldwin, Baldwin Insurance  
Mr. Vince Leon Guerrero  
Ms. Debbie Pereira

It has been a pleasure for all of us to work with you and your Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources.

Respectfully,

A handwritten signature in dark ink, appearing to be "Zulca" or similar, written in a cursive style.



## Japan writes off \$1.7M Nepal debt

KATMANDU, Nepal — Japan Tuesday wrote off \$1.7 million in debt from Nepal for last year and converted the amount into commodity aid, a Finance Ministry source said Tuesday.

Japan will provide \$1.7 million to import essential goods like cement, steel bars, fertilizers and petroleum products from "countries mutually agreed upon," the source said. Japan is Nepal's largest aid donor.

## General Motors to reopen Framingham plant in May

FRAMINGHAM, Mass. — General Motors Corp. plans to reopen its assembly plant here in May and rehire about 1,800 of the 3,700 workers who lost their jobs when it closed in November, sources said Tuesday. A company spokesman refused to confirm that the plant would reopen but said GM would make an announcement regarding Framingham on Wednesday.

A source familiar with the situation who spoke on condition his name not be used told The Associated Press that GM's initial plans were to bring back about half the laid-off workers and operate one shift.

## NTT solicits projects applications

TOKYO — Nippon Telegraph and Telephone Corp., Japan's giant domestic telecommunications firm, said Wednesday it is soliciting applications from both foreign and domestic manufacturers for participation in six procurement projects and two research and development undertakings.

The company said the decision was made public in an official gazette Wednesday with the closing date for application at April 21 and 25, respectively.

have various enquiring the agreement," Sullivan said. He urged his colleagues to wait until their next meeting in August to take a stand.

But Wisconsin Gov. Tommy Thompson said it would be "a terrible mistake" not to support the treaty now. "We can iron out some of the problems as we go along," he said.

New Mexico Gov. Garrey E. Caruthers offered the amendment that expressed the governors' "significant

# Changes urged for worker benefits bill

By RON IGE  
Daily News Staff

Witnesses supported the intent of a bill to increase workmen's compensation benefits at a legislative hearing yesterday, but urged changes to provisions which could increase employers' premiums and make it more difficult for employees to collect payments.

Attorney David W. Dooley and Bill Gibson, Guam Employers Council executive director, told Youth, Senior Citizens, Cultural Affairs and Human Resources Committee members at yesterday's public hearing on Bill 97 that the intent of the bill is good. It is widely recognized that worker's compensation awards on Guam are inadequate, Gibson said.

"In my opinion, Bill No. 97 fails to serve the interests of employees and, at the same time, is also detrimental to the interests of the employers," said Dooley of the law firm of Carlsmith, Wichman, Case, Mukai and Ichiki.

Dooley opposed passage of the bill as written, citing provisions which he said needed redrafting.

One provision in Bill 97 requires that an employee establish his employer's negligence before he can collect any money, he said.

"This is contrary to the generally accepted theory of worker's compensation," Dooley said.

"Under generally accepted theory, payment is made to all employees

concerns" about unresolved trade issues with Canada.

The Caruthers amendment added, "The administration should enter into additional negotiations to address inequities regarding subsidies." It said "the reality or perception of unequal treatment of certain industries" must be resolved.

There was no tally kept of which 30 governors voted yes.

regardless of fault," he said. "In other words, all employees should be entitled to compensation even if an employer is blameless."

Employers are likely to deny they are at fault in the event an employee is injured or killed, Dooley said.

Thus the employee or his survivors will have to hire an attorney to represent their claims, and that could take years to settle, he said.

Such litigation also would be expensive for employers, according to Dooley, who said the added legal costs would cause large increases in workmen's compensation insurance premiums.

David Eccles of Alkins Kroll's insurance division and Rolf Meier of National Pacific Insurance supported Dooley's testimony. They also said they wanted to see changes made in the bill.

Rafael C. Pangelinan, Revenue and Taxation Department regulatory programs administrator, provided workmen's compensation statistics, but did not take a stand on passage of the bill.

Pangelinan said the department's annual insurance report on worker's compensation premiums and losses reported by all local companies providing similar insurance coverage from 1982-86 shows \$9,615,435 in written premiums; \$9,413,907 in earned premiums; and \$5,109,222 in losses incurred during that period.

but Guam could not send duty-free goods to Canada, he said.

Ada said Guam might want to export Guam products, such as sweaters, to Canada.

"It's not fair," Ada said. "What saddens me is that Guam is part of the United States. We're being treated like a foreign entity."

The governor said he was assured by the U.S. ambassador to Canada that "this won't happen in the future."

## Chamber has ethics code

By PAT COUNSELL  
Daily News Staff

Guam Chamber of Commerce businessmen now have a code of ethics which sets an example for other chambers and businesses.

Fifty chamber members voted on the proposed code at a chamber membership luncheon yesterday and 98 percent favored the new code, said John Thomas Brown, chamber ethics committee chairman. The Guam chamber is the first chamber to adopt a code of ethics, he said.

Chamber officials plan to submit it as a model code of ethics at the upcoming Asia-Pacific Council of American Chambers of Commerce meeting on Guam next month.

The new code is the result of nine months of work by the chamber ethics committee, which will help in determining when a business has violated the code and what sanctions should then be imposed on the business.

The document approved yesterday includes a code of ethics and enforcement guidelines to prevent "unbecoming conduct" by members. For such conduct, the code allows the chamber to impose sanctions, which range from termination or suspension of the member to issuing a private or public reprimand for unbecoming conduct.



DEPARTMENT OF  
**LABOR**

EDWARD A. GUERRERO, Director • FE V. OVALLES, Deputy Director

JOSEPH F. ADA  
Governor

FRANK F. BLAS  
Lieutenant Governor

FEB 24 1988

The Honorable Elizabeth P. Arriola  
Chairperson  
Committee on Youth, Senior Citizens,  
Cultural Affairs & Human Resources  
Nineteenth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Reference: Bill No. 97  
"AN ACT TO ADD, AMEND, AND REPEAL CERTAIN SECTIONS  
OF THE GOVERNMENT CODE RELATIVE TO THE WORKER'S  
COMPENSATION LAW"

Dear Madam Chairperson and Members of the Committee:

The Worker's Compensation Commission is grateful to this Committee for the opportunity to publicly testify on Bill No. 97.

This Commission has read, discussed individual sections of, and deliberated on Bill No. 97's deductionary ramifications upon the worker's compensation ideology. With the limited exposure we have had in the complex field of workers' compensation, we consider Bill No. 97 as an interim solution to a long standing problem, i.e., that of providing equitable compensation to the injured employee without undermining the **quid pro quo** foundation of a modern workers' compensation system.

The Commission is of the opinion that rather than a short term answer, an advisory panel consisting of administrative agencies, public insurers, employers, and other interested persons be impaneled to formulate long term solutions specifically oriented to an island economy.

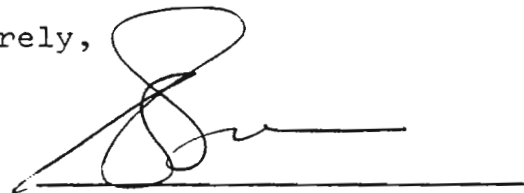
Perhaps this panel could avail itself of the **International Associations of Industrial Accident Boards and Commissions (IAIABC)** nationally recognized **Workers' Compensation College** which will be commencing its **15th Annual Session** during the week of **April 17-22, 1988** at the **University of North Carolina**.

Letter to Senator Elizabeth P. Arriola  
Reference: Bill No. 97  
Page 2

The Commission feels that it would be premature to support or oppose Bill No. 97 without first availing itself of the profferings of the Workers' Compensation College or has had more time to familiarize itself with the intricacies of workers' compensation. The Commission will thereafter submit its position on Bill No. 97.

Sincerely,

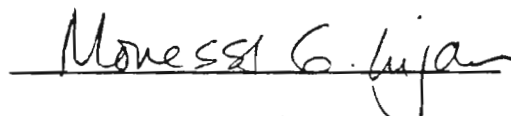
EDWARD A. GUERRERO  
Commissioner ex-officio  
Department of Labor



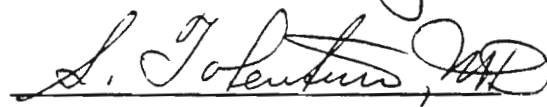
JOE A. RIVERA  
Member, Commissioner's Council



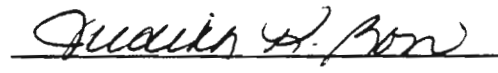
MONESSA G. LUJAN, Esq.  
Member, Guam Bar Association



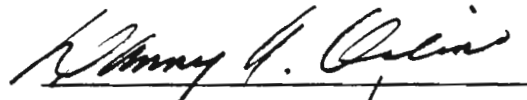
SINFOROSO C. TOLENTINO, M.D.  
Member, Guam Medical Association



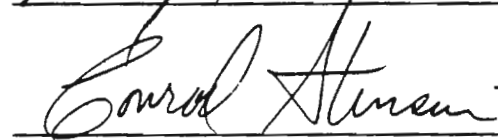
JUDY K. BORJA, CPA  
Member, Guam Society of Certified  
Public Accountants



DANNY A. ORLINO  
Member, Government of Guam Employee



CONRAD G. STINSON  
Member, Labor Union



TESTIMONY

ORIGINAL  
*[Signature]* 2/24

BILL NO. 97

Ms. Chairwoman, Members of the Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources:

My name is RAFAEL C. PANGELINAN, I am the Regulatory Programs Administrator with the Department of Revenue and Taxation. We are here on behalf of Mr. JOAQUIN G. BLAZ, Director. We would like to submit our comments on Bill No. 97,

"AN ACT TO ADD, AMEND AND REPEAL CERTAIN SECTIONS OF THE GOVERNMENT CODE RELATIVE TO THE WORKER'S COMPENSATION LAW"

Should Bill 97 pass, present benefits associated with Worker's Compensation laws will increase in all areas. To put the effect of Bill 97 in its proper perspective, an analysis of current and proposed limits would show the following:

\* 1. Disability Benefits - Section 4(b)

<u>CURRENT LIMITS</u>	<u>PROPOSED LIMITS</u>
Minimum - \$ 50.00 per week	\$150.00 per week
Maximum - \$140.00 per week	\$350.00 per week
PERCENTAGE INCREMENT OF MAXIMUM WEEKLY BENEFITS: <u>150%</u>	

2. Disfigurement - Section 20

<u>CURRENT LIMITS</u>	<u>PROPOSED LIMITS</u>
\$3,500.00	\$10,000.00
PERCENTAGE INCREMENT: <u>185%</u>	

3. Maintenance for employees undergoing vocational rehabilitation - Section 7(q)

\$10.00	\$50.00
PERCENTAGE INCREMENT: <u>400%</u>	

4. Funeral Expenses - Section 37000(a)

\$1,200.00	\$3,600.00
PERCENTAGE INCREMENT: <u>200%</u>	

\* 5. Death Benefits - Section 37000(e)

Minimum - \$ 90.00 per week	\$200.00 per week
Maximum - \$210.00 per week	\$500.00 per week
PERCENTAGE INCREMENT ON MAXIMUM WEEKLY BENEFITS: <u>138%</u>	

6. Total Compensation Excluding Medical Services and Supplies

\$40,000.00

\$200,000.00

PERCENTAGE INCREMENT: 400%

The National Council Compensation Insurance (NCCI), calculated that the overall effect of these changes amounts to 42% increase.

Can employers and small businesses afford these increases? Are present Worker's Compensation Rates adequate enough to cover these increases? At what rate should Worker's Compensation be increased? Please note that current benefit limits were pegged at 100% of 1971 Hawaii rates.

The following statistics were extracted from our annual insurance report on Worker's Compensation premium and losses reported by all companies providing similar insurance coverages on Guam, covering the five-year period from 1982 to 1986 based on the current benefit limits and present rates.

<u>YEAR</u>	<u>WRITTEN PREM.</u>	<u>EARNED PREM.</u>	<u>LOSSES INC.</u>	<u>RATIO</u>
1982	\$1,913,271	\$2,005,242	\$ 965,511	48%
1983	1,629,740	1,629,898	1,011,113	62%
1984	1,928,080	1,822,597	685,414	38%
1985	1,538,674	1,436,492	430,042	30%
1986	<u>2,615,670</u>	<u>2,519,678</u>	<u>2,017,142</u>	<u>80%</u>
TOTAL	<u>\$9,615,435</u>	<u>\$9,413,907</u>	<u>\$5,109,222</u>	<u>54%</u>

The above figures may not contain loss expense figures which may equal 14% of losses.

The 1987 edition of Analysis of Worker's Compensation Laws as published by the United States Chamber of Commerce covering 50 States, U.S. Territories and Canada indicate that about 30% of all Worker's Compensation Benefits are for medical expenses; thus 70% would be for Disability and Death Benefits.

The total incurred losses of \$5,109,222.00 for the five-year period in Guam may therefore be broken down as follows:

Disability and Death Payments	-	\$3,576,455	( 70%)
Medical Benefit Payments	-	1,532,767	( 30%)
Total		<u>\$5,109,222</u>	<u>(100%)</u>

If the proposed benefit limits should pass, the Disability and Death Benefit payments would increase by 42% from \$3,576,455 to \$5,078,566. When added to the Medical Benefit payments of \$1,532,747, the total Incurred Losses would be \$6,611,313 instead of \$5,109,222. As a consequence, the loss ratio will change from 54% to 70%.

The Insurance Industry's break-even loss ratio is 60% of Earned Premiums. The remaining 40% is allocated to commissions, taxes, contingencies, and overall overhead expenses. Thus, the Earned Premium should be increased by 17% (10%/60%) in order to bring the loss ratio to 60%. Since the Written Premium of \$9,615,435 is 2% greater than the Earned Premium, the required rate increase to break-even would be 19%.

The Proposed Guam Benefits may also be compared to those of Hawaii and California.

<u>Disability Benefits (Weekly)</u>	<u>Guam</u>	<u>Hawaii</u>	<u>Calif.</u>
Minimum	\$ 150.00	\$ 79.50	\$ 112.00
Maximum	350.00	318.00	224.00

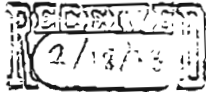
Funeral Expenses

	\$3,600.00	\$4,770.00	\$2,000.00
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<u>Rates of Selected Class.</u>	<u>Guam 1971 Hi-Rates</u>	<u>Calif. 1984</u>	<u>Hawaii 1986</u>
Office Employees	.17	.53	1.08
Carpentry	5.36	20.95	9.69
Restaurants	1.27	4.11	5.70
Hotel	1.51	5.91	7.20
Department Stores	.68	3.21	3.52

The above figures indicate that Guam rates are substantially below the 1984 California rates and the 1986 Hawaii rates. It is expected that the insurance industry in Guam will request for similar rate increases in order to be competitive and to render or provide the necessary protection or service to insured clients.

As can be seen from the preceding analysis, the limitations imposed on benefits associated with worker's compensation laws will increase substantially. Furthermore, in comparison to Hawaii and California rates, statistics show that Guam rates are lower in most major classes of employment. Clearly, a decision must be made on this issue to address and protect the interests of all parties.



**baldwin  
insurance**

PO. Box 8710  
Tamuning, Guam 96911  
Telephone: 646-4445/6/7  
Telex: 7216566 BALDWIN GM

February 16, 1988

Senator Elizabeth P. Arriola, Chairperson  
Committee on Youth, Senior Citizens, etal  
Nineteenth Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

RE: Bill #97

Because of the conflict of interest involved in testifying on the bill, I will not do so. By way of explanation-increased benefits mean increased premiums which my agency will directly benefit from in terms of increased commissions.

Let me just point out several areas of concern, however, that need to be addressed:

1 - Section 4 (b) - by providing a minimum benefit its conceivable that part time employees could make more by being off work than they could working-

Example - Part time employee earning \$4.00 an hour  
- 16 hours x \$4.00 = \$64.00 weekly earning  
- Minimum benefit \$150.00 a week  
- Employees gains \$86.00 a week

I suggest you simply delete the minimum benefit provision so that no one is able to exceed two thirds of weekly pay no matter how small

2 - Section 9 (m) Is it appropriate to make a death benefit the same for all employees? Not everyone has the same



Tamuning, Guam 96911

February 16, 1988  
Senator Arriola  
Page 2

responsibilities, for instance a married worker with a dependent spouse and 3 children probably has a greater need for a \$200,000 death benefit, than a single construction worker. Many states have different benefits relating to the marital/family status of the worker.

I believe this issue will be covered in some detail by the Guam Employers Council.

I appreciate your willingness to discuss this matter with various groups and to make progress slowly. A general overhaul of benefits is greatly needed, but to rush into a benefit scheme without weighing its economic cost could prove counter productive. The current premium/loss figures of all insurance companies is so small its very difficult to evaluate what the increase might be.

I have communicated with the National Commission on Compensation Insurance who has agreed to tentatively price the benefit changes - my previous letters discuss this. However they are not able to provide input into changes in the law because of the nature of their charter. We have been contacted by an independent consulting group, Profesional Insurance Consulting Service Inc. of Colorado (currently working in Samoa and Hawaii), they are interested in doing some work in this area for us. Of course their services come with a price tag, but that would be part of the business communities investment in this process and money well spent, in my opinion.

Please accept my apology for the lateness of this letter.

Sincerely,

  
George W. Baldwin, Jr.  
President

CC: Guam Employers Council

GWB/jae





12270 EAST BATES CIRCLE  
AURORA, COLORADO 80014  
(303) 337-7799

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January 14, 1988

Mr. George Baldwin, Jr.  
Baldwin Insurance  
P.O. Box 8710  
Tamuning, Guam 96911

Dear Mr. Baldwin:

I hope that by the time my letter reaches you, the problems surrounding the recent typhoon will have subsided. I appreciate the opportunity of visiting with you regarding Guam workers compensation issues and hope that we will have an opportunity to work together in the future.

At your request, I am enclosing a "portfolio" entitled "Profiles of Principals of Professional Insurance Consulting Services, Inc.". PICS is a network of professionals organized to provide insurance regulatory and technical expertise on a "one-stop shopping" basis. These individuals have specialized backgrounds and training for the purpose of providing assistance in researching and resolving major insurance issues.

The profiles as submitted are somewhat incomplete, in that I have not had an opportunity to update with bios of some more recent professional affiliations.

I believe you will find our organization somewhat unique, in that as a group we possess extensive regulatory background along with an unusual amount of workers compensation expertise. Certainly, as an organization, we feature professionals who can provide insightful guidance to the workers compensation marketplace. Also, we bring to our clients specialized actuarial assistance with extensive training in the workers compensation field.

As importantly, we are a comparatively small organization, which enables us to provide individualized professional and technical assistance responsive to our clients' specific needs. Also, we are able to do so in an efficient and relatively inexpensive manner.

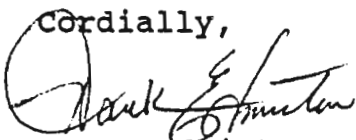
Mr. George Baldwin, Jr.  
January 14, 1988  
Page - 2

Accordingly, we are attempting to provide a broad spectrum of expertise to a small number of clients on an ongoing basis. Many times clients advise that the cost is less per month than the cost of good clerical support. Certainly, far less than it would cost to have any one of these professionals on staff. Clients also appreciate the opportunity to select both the amount of time and type of assistance they desire.

After reviewing our portfolio, if you find that we possess the expertise required to assist you with your project, we would be pleased to work with you. At that time, we would suggest an extensive review of the issues, followed by preparation of an appropriate proposal.

Again, my sincere appreciation for the interest you have shown. Look forward to hearing from you shortly.

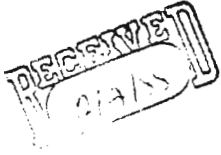
Cordially,



H. W. Edmiston

HWE:cb

Enc.



## PACIFIC MANAGEMENT RESOURCE GROUP

A private, non-profit corporation

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Northern Mariana Islands  
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**E.L. Gibson**  
Executive Director

Senator Elizabeth P. Arriola  
Guam Legislature  
POB CB-1  
Agana, GU 96910

FEB 2 1988

Dear Senator Arriola,

This will acknowledge your letter of January 27, 1988 regarding the public hearing on Bill 97, your measure to amend Guam's Workers Compensation Law.

As you know, we have been holding continuous meetings on Bill 97 with a variety of concerned groups and businesses. I believe Mr. George Baldwin communicated with you in December about the findings of an actuarial team from CIGNA.

We have asked the firm of Johnson and Higgins, acknowledged experts in the field to perform some further analysis of an array of benefits and report to us on the recommended coverage and suggested rate data for consideration by Guam's Insurance Commissioner.

I want to assure you, members of your Committee and everyone in the Legislature that the business community fully agrees with your position that Guam's Workers Compensation Insurance benefits are definitely inadequate and need revision. We are working diligently on the a series of proposals we hope to present to you that, when enacted, will represent legislation that will more fully protect injured workers; contain premium costs that employers can afford -- and be the kind of statute in which you and your colleagues can take pride.

Since we are dealing with off-island experts who have been gracious enough to devote a lot of resources to this project at no cost, I must ask your forbearance a while longer. As you know, there is insufficient data available to assist in the "experience-rating" process.

In addition to the technical details of ratings, premiums and benefits, we hope to be able to suggest additions to Bill 97 that will strengthen the whole concept of just compensation for work-related injuries, the role of the Workers Compensation Commission and new technical resources for the Labor Department staff who oversee enforcement of this important law.

Respectfully,

A handwritten signature in cursive script, appearing to read "Bill Coen", with a long horizontal flourish extending to the right.

CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI  
ATTORNEYS AT LAW

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A PARTNERSHIP INCLUDING LAW CORPORATIONS  
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WAILUKU, MAUI, HAWAII  
LOS ANGELES, CALIFORNIA  
SAIPAN, CM

February 23, 1988

HAND DELIVER

The Honorable Elizabeth P. Arriola  
Senator  
Nineteenth Guam Legislature  
Post Office Box 373  
Agana, Guam 96910

Re: Bill No. 97

Dear Senator Arriola:

Thank you for asking me to provide written testimony concerning proposed Bill No. 97. I am glad to provide the following thoughts for your consideration.

I believe that nearly everyone who is involved in the Workers Compensation system on Guam agrees that the limit of benefits provided to injured employees by our current Workers Compensation statutes is inadequate. I believe that employees, employers, insurance companies and the Guam Bar Association are nearly unanimous in recognizing that the limit of benefits provided to injured employees must be increased. I personally concur that the benefits must be increased.

However, I also lack sufficient information so as to be able to make any recommendations concerning the precise benefit limits which should be enacted by the Guam Legislature. As you are no doubt aware, should the benefits available under our statutes be increased, the insurance industry will necessarily have to increase the premiums which it charges to businesses in order to pay its obligations to injured employees. I suggest that the Legislature should obtain a study which would quantify the

The Honorable Elizabeth P. Arriola  
February 23, 1988  
Page 2

expected increase in insurance premiums which can be attributed to any increase in benefits under the Workers Compensation law. The Legislature would then be in a much better position so as to be able to decide the appropriate level of benefits which should be made available to injured employees. As I am sure you can understand, if the cost of insurance increases too precipitously, then Workers Compensation insurance may be so expensive that many of Guam's smaller businesses may not be able to obtain insurance. I suggest that you should consult with the insurance industry concerning the extent to which premiums must be increased in order to cover the increased benefits which you propose in Bill No. 97.

In addition to the problem as to the appropriate level to which benefits should be extended, I have identified a number of additional problems which can be found in proposed Bill No. 97. I would like to take this opportunity to address many of the more glaring problems.

Workers Compensation laws necessarily involve a compromise between competing interests. On the one hand, legislatures have sought to insure that employees who are injured on the job should obtain reasonable medical and financial benefits. On the other hand, legislatures are also justly concerned with encouraging new business and new economic enterprises. This economic development would certainly be curtailed by excessive liability to injured employees. Consequently, the various legislatures of the United States have uniformly arrived at a compromise between these competing interests.

The generally accepted compromise is that all employees shall be entitled to receive benefits for all work-related injuries. However, the amount of recovery is limited by statute. Consequently, employees' interests are served by insuring that they receive automatic payment of benefits and, at the same time, employers' interests are served by limiting their potential exposure. This compromise has been accepted almost world-wide.

Proposed Bill No. 97, however, does not accept this compromise. In my opinion, Bill No. 97 fails to serve the interests of employees and, at the same time, is also

The Honorable Elizabeth P. Arriola  
February 23, 1988  
Page 3

detrimental to the interests of employers. I make this statement for the following reasons:

1. Employees' Interests Are Not Served. Bill No. 97 amends Government Code Section 37003(a) so as to require that an employee must establish his employer's "negligence" before recovery can be obtained. This is contrary to the generally accepted theory of Workers Compensation. Under generally accepted theory, payment is made to all employees regardless of fault. In other words, all employees should be entitled to compensation even if an employer is blameless.

Bill No. 97 is directly contrary to this theory. By requiring an employee to prove the negligence of an employer, as a prerequisite to recovery, Bill No. 97 effectively will preclude compensation for many employees who suffer injuries. Many employees' injuries are not attributable to an employer's negligence. If the injury was not caused by the employer's negligence, the employee will receive absolutely nothing pursuant to this Bill. I suggest that the underlying theory of Workers Compensation is that all employees shall receive compensation regardless of fault. I would also suggest that Bill No. 97 violates this premise.

In addition to precluding recovery by many employees, proposed Section 37003(a) will also impose numerous obstacles and hurdles which must be overcome by an employee who seeks recovery. As you can probably imagine, employers, like most people, will not freely admit that they were ever at fault for the injuries suffered by any other person. Consequently, I anticipate that many, if not all, claims by employees will be denied and resisted by employers. Instead, employers will deny that they were at fault and shall insist upon strict proof of fault by employees. This will cause two significant problems for employees. First, employees will necessarily have to hire attorneys to represent their claims. This can be quite expensive. Second, attempts to prove fault and the resulting litigation are necessarily extremely time-consuming. Thus, even if successful, employees cannot expect to receive payment under the Workers Compensation Law until the issue of fault has been determined. These fault determinations will, in my best estimate, take up to

The Honorable Elizabeth P. Arriola  
February 23, 1988  
Page 4

two years of litigation. In the meantime, employees will not be receiving the benefits provided by the Workers Compensation Law which could be used to support themselves and their families while they are injured. I believe that Bill No. 97 is seriously flawed in this respect.

2. Bill No. 97 Does Not Protect Employers. As pointed out previously, litigation concerning fault is expensive for employees. It is also expensive for employers. Consequently, I anticipate that employers and their insurance carriers will also incur significant expenses in defending negligence claims. These expenses will cause large increases in insurance premiums which must be paid by employers and the public.

In addition, part of the goal of Workers Compensation is to limit potential exposure of employers so as to encourage the expansion of industry. However, proposed Section 3 of Bill No. 97 does away with this limitation. Specifically, Section 3 of Bill No. 97 gives the employee the right to maintain an action for damages against his employer. These damages apparently would be unlimited. If we assume a serious injury by an employee, I anticipate that many of Guam's employers could be bankrupted by a court judgment based on these injuries. Thus, Bill No. 97 could clearly discourage new businesses and employment in Guam.

In addition, there are a number of other less serious problems with the Bill. These problems include:

1. May an employee's award be reduced based on his comparative fault pursuant to Civil Code Section 1714?

2. May third parties file claims for contribution and/or indemnity against employers who have paid Workers Compensation benefits?

Based on the above, I would recommend against passage of Bill No. 97 as it is currently enacted. I do not believe that the Bill protects employees as they would now be required to prove fault in order to receive their benefits. In addition, the Bill provides no protection to employers who will necessarily be exposed to potentially



The Honorable Elizabeth P. Arriola  
February 23, 1988  
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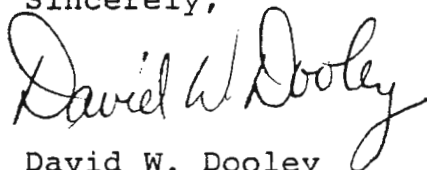
huge judgments for injuries suffered by their employees. In addition, I anticipate that insurance premiums will become almost unaffordable for many employers on Guam. This may leave many employees without any coverage under the Workers Compensation Act.

Finally, I can identify only one group within the Territory of Guam who can be expected to benefit from proposed Bill No. 97. This group is the lawyers in the Territory of Guam. As I pointed out previously, employees will have to hire lawyers to prosecute their Workers Compensation claims and to prosecute their personal injury claims against employers. In addition, employers and their insurance carriers will have to hire lawyers to defend these lawsuits. I anticipate that the greatest benefit to be derived from Bill No. 97 is to insure that the legal profession continues to thrive at the expense of employees and employers. I am sure that the Legislature does not want this result.

I also enclose for your review a copy of a letter which I prepared in February, 1987, which analyzed many of the items in Bill No. 97. I believe that this letter was delivered to you at the Guam Employers Council. However, I have taken the liberty of enclosing another copy for your records.

Should you wish any further information or assistance, please do not hesitate to call on me. I would be most willing to work with you and your Committee on any attempts to revise and redraft Bill No. 97 so as to alleviate many of the problems which I have identified in my written testimony.

Sincerely,



David W. Dooley

DWD:mac  
DD28:056  
Enclosure

CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI  
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

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BANK OF HAWAII BUILDING, SUITE 401  
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TELEX  
721-6445 CWCMIGU

February 17, 1987

Mr. Stan Waki  
Tokio Marine and Fire Insurance  
Company, Ltd.  
Post Office Box 2980  
Agana, Guam 96910

Re: Bill No. 97

Dear Stan:

I have reviewed Bill No. 97 in order to determine the validity of the proposed amendments to Guam's Workers Compensation Law. In addition, I have reviewed the statute in order to analyze the changes the insurance industry and private employers may expect should Bill 97 become law.

The bill seems to be a valid exercise of the legislature's powers. Consequently, I believe that the bill will withstand judicial review.

However, the bill presents numerous problems for the insurance industry and for the employers. In addition, the bill fails to address one of the major problems which has been encountered under the current workers compensation law. These problems with the bill will be addressed below.

Section 2 of the bill amends existing Section 37003(a) of the Government Code. The existing Government Code provides that an employee is entitled to receive workers compensation benefits for any disability or death which results from an injury which is sustained during his employment. The existing provisions award benefits to the employee in all cases. Fault is unimportant. Provided that the injury occurs on the job, an employee is entitled to compensation. The existing Section 37003(a) is in accord with workers compensation laws of all other states in the United States.

Mr. Stan Waki  
February 17, 1987  
Page 2

One of the purposes of these compensation laws is to guarantee payment to a worker who is injured on the job site. The theory behind these payments was to guarantee payment regardless of fault by the employer. Thus, even if the injury was the result of the employee's own negligence, he is still entitled to compensation.

Contrary to existing Section 37003(a) and contrary to the theory underlying all workers compensation statutes in the United States, proposed amended Section 37003(a) drastically changes and alters the employees' right to seek compensation. Under proposed Bill 97, the employee will be entitled to compensation only if the employer is at fault. Proposed Section 2 provides:

Compensation shall be payable under this title in case of disability or death of an employee, where such disability or death resulting in full or in part from the negligence of any of the officers, agents, or employees of an employer or by reason of any defect or insufficiency due to an employer's negligence, in its equipment or work place. . . .  
[Emphasis added.]

Thus, under Bill 97, the employee's right to recovery is limited. The employee must show that the employer was at fault. This is directly contrary to the entire theory of workers compensation.

~~I anticipate that the enactment of this law would greatly increase litigation expenses.~~ Under the existing system, the employer and his insurance carrier automatically pay benefits regardless of fault. Under proposed Bill 97, the employee must show that the employer was at fault. I anticipate that, in many instances, the employee will be unable to show such fault. In addition, in many other instances, a fault determination would be hard to make. Thus, I anticipate employers and their workers compensation carriers refusing to make payments and, instead, they shall require the employee to prove negligence at a hearing before the Worker's Compensation Commission. These hearings would necessarily require

Mr. Stan Waki  
February 17, 1987  
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evidentiary determinations. These hearings would be quite costly and expensive.

In addition, Civil Code Section 1714 provides that a plaintiff who is somewhat negligent himself, will face a reduction in his award against a defendant based on a determination of the relative percentages of negligence. In other words, if an award of \$100,000 is made to a plaintiff, but, the fact finder determines that the plaintiff was 50% at fault, then, his award is reduced by 50%. He would be entitled to receive only \$50,000.

Bill 97 is unclear as to whether comparative negligence would be applied to Worker's Compensation claims. This issue should be addressed somewhere in Bill 97.

Section 3 of Bill 97 amends Section 37005 of the Government Code. Existing Section 37005 provides that the employee's exclusive remedy against the employer is to claim workers compensation. However, Bill 97 gives the employee the option of either claiming workers compensation benefits or maintaining a lawsuit against his employer seeking damages.

The amended Section 37005 also does not comport with generally accepted practice in all other jurisdictions in the United States. Generally, the theory behind workers compensation benefits is to provide a definite right for the employee to claim compensation as a result of a work related injury. However, the amended Section 37005 no longer provides this guarantee of payment. Instead, the employee may waive the benefits of the workers compensation scheme and proceed in an action at law. Such an action at law would generally require the hiring of an attorney and filing of a complaint. The benefits obtainable by a lawsuit could take anywhere from several months to two years before the employee finally receives the benefits. Again, this is contrary to the general rationale behind establishing workers compensation benefits.

In addition, it seems that the workers compensation insurance could become somewhat meaningless. If the employer is facing direct liability, there would

Mr. Stan Waki  
February 17, 1987  
Page 4

often be no benefit to the employer to obtain workers compensation insurance. In many cases, the employee would rather directly sue the employer. Consequently, there may never be any claims against the workers compensation insurance policy. The insurance may be ignored by the employee and a direct lawsuit can be maintained against the employer. Consequently, under this system, the employer quite often would be wasting his money by paying premiums for workers compensation insurance. Instead, the employer would be better served by obtaining general liability insurance to guard against the direct legal action which could be filed by the employee.

In addition, if we assume that an employee suffers a catastrophic injury, workers compensation statutes will not protect the employer. Instead, the employer would be faced with a direct lawsuit which may wipe out all of its assets. Thus, rather than providing protection for an employer, the proposed workers compensation statute merely provides for open liability to an employer for injuries suffered by an employee as a result of the employer's negligence.

One of the main issues currently before the courts of Guam concerning workers compensation is the right of a third party tortfeasor to seek contribution against an employer who has obtained workers compensation coverage. The District Court of Guam has ruled that an employer is subject to a suit for contribution by third party tortfeasors despite the fact that the employer has obtained workers compensation coverage. Guam and New York appear to be the only jurisdictions in the United States which follow this rule. The issue is currently before the Ninth Circuit Court of Appeals and the result may be reversed in the near future. However, the law currently provides that a third party tortfeasor can sue the employer for contribution for injuries suffered by the employee. I do not believe that this was the intent of the workers compensation statutes. The statute proposed by Senator Arriola does not address this problem. I suggest that a recommendation should be made that the bill be amended to insure that contribution cannot be obtained by a third party tortfeasor against an employer who has obtained workers compensation insurance and who has paid the benefits thereunder.

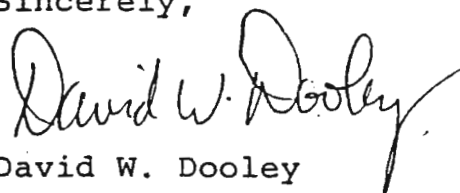
Mr. Stan Waki  
February 17, 1987  
Page 5

In summary, I believe the bill is not well thought out. First, the bill probably increases litigation costs and decreases the chances of an employee of ever obtaining benefits for a work-related injury because the employee must now prove "fault." Second, the bill virtually negates the workers compensation coverage by allowing the employee to directly sue the employer for all damages incurred. Assuming the employee can prove fault, the employer's liability would be unlimited. Under Bill 97, Workers Compensation would no longer protect the employer from this potential unlimited liability. Third, the bill does not address issues of comparative fault. Fourth, the bill fails to address the liability to third parties of an employer who has paid workers compensation benefits to employees.

I believe that the workers compensation statute should be redrafted and recodified. However, the piecemeal approach taken under Bill 97 is not the answer. Instead, a comprehensive recodification of the workers compensation statutes is in order. I suggest that the insurance industry and employers may wish to propose such comprehensive legislation.

I hope that this letter answers your questions concerning Bill No. 97. Should you have any questions concerning this letter or concerning Bill 97, please feel free to call me at any time.

Sincerely,



David W. Dooley

DWD:mac  
DWDL4:039



# MERIT

Government of Guam



FEB 23 1988

CSC NO. 88-402

Senator Elizabeth P. Arriola  
Chairperson  
Committee on Youth, Senior Citizens  
& Human Resources  
Nineteenth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

RE: Comments on Bill No. 97, Worker and Compensation Law

Dear Senator Arriola:

Thank you for giving us this opportunity to comment on Bill No. 97.

Bill No. 97 is an act to add, amend, and repeal certain sections of the government code relative to worker's compensation.

The Civil Service Commission does not normally deal with the workmen's compensation law; however, we have a few observations on the Bill which may perhaps be of some use.

The purpose of workmen's compensation laws is to provide compensation to workers for loss resulting from injury, disability, or death through employment-related accidents, casualties, or disease. It is a moral and equitable obligation that employers must bear.

Section 2 makes it clear that compensation is available to an employee for injuries or death sustained as a result of negligence on the part of an employer or its agents.

Section 3 merges all causes of actions at law in the employee's claim for workmen's compensation and bars further recovery at law. This may operate unjustly in wrongful death situations when an employer would only be required to pay meager sums to the surviving spouse and children, particularly in cases of gross negligence. Survivors should be allowed to maintain a tort action to recover damages for wrongful death. The employee

Cont'd.  
CSC No. 88-402  
Page 2

or representative should at least have the option to reject the designated benefits within thirty (30) days after the claim is decided, and be allowed to maintain an action at law. Section 3 also makes the defenses of contributory negligence and assumption of risk unavailable to an employer and underscores the principle that workmen's compensation is a moral and equitable obligation of the employer.

Section 4 provides for disability payments not to exceed \$350.00 per week, and for total disability not less than \$150.00 per week. These amounts may be reasonable if they were to be tax-free and made applicable to wage earners with average incomes. Workers with higher incomes who, because of an employer's negligence, become incapacitated would be penalized under this provision, particularly in cases of total disability.

Section 7 providing for survivor's benefit is perhaps mere tokenism. The amounts are an extremely small price to pay for the wrongful death and deprivation of a family member and wage earner.

The main thrust of a progressive workmen's compensation law is keeping abreast of economic conditions and the cost of living and enlarging the benefits to be as equitable as possible. Section 4 and 7 fails in this regard.

We would also recommend that a provision allowing for punitive damages be included in cases of gross negligence or where there is a glaring disregard for the health and safety of an employee resulting in an employee's death or disability.

We support the passage of Bill No. 97 with the above considerations.

Sincerely,

  
NORMA J. AFLAGUE  
Executive Director



10/19/87



**baldwin  
insurance**

P.O. Box 8710  
Tamuning, Guam 96911  
Telephone 646-4445, 6/7  
Telex: 7216566 BALDWIN GM

October 15, 1987

Senator Elizabeth P. Arriola, Chairperson  
Committee in Youth, Senior Citizens,  
Cultural Affairs and Human Resources  
Nineteenth Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

Re: Bill 97

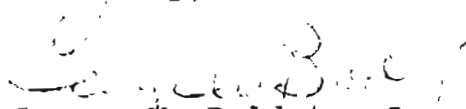
Dear Senator:

I have this date recieved the attached information from NCCI, however I'm not sure exactly what it means and have written asking for clarification. It does appear that rates would have to be increased 42% on the assumption that current rates are neither excessive nor inadequate.

I suggest you forward copies of this material to the other participants in your Ad Hoc Committee for their review and comment. Perhaps any questions could be directed to me for referral to NCCI.

As usual I am available for discussion of this at your convenience.

Sincerely,

  
George W. Baldwin, Jr.  
President

GWB/vka



National  
Council  
on Compensation  
Insurance

1 Penn Plaza  
New York, New York 10119  
Tel. (212) 560-1000

October 6, 1987

Mr. George Baldwin, Jr.  
President  
Baldwin Insurance  
P.O. Box 8710  
Tamuning, Guam 96911

Dear Mr. Baldwin,

The National Council on Compensation Insurance has completed its' review of Bill 97. From Mr. Podhorzer of our Legal Department I offer the following comments:

1. 37003(a) - This section is standard and indicates that only injuries which arise out of and in the course of industrial employment (as defined in 37002(l)) and public employment (as defined in 37002(p)) are compensable.
2. 37005 - This "exclusivity of liability" section is also standard and states that workers compensation is the only means by which an injured worker may seek recourse for job related injuries unless the employer has not secured compensation insurance. In such case, the employee may elect to claim compensation or sue his employer in tort or admiralty. In the event of the latter, the employer may avail itself of defenses (e.g. negligence of co-employee, assumption of risk, contributory negligence) that it may not plead in workers compensation claims.

Both 37003(a) and 37005 are, as I have said, standard and there should be no problem with their verbatim enactment.

3. Death Benefits - The general rule throughout the country is that funeral benefits and benefits received under the second injury fund are a flat dollar amount. The rate of compensation for benefits to survivors

depends on their number and type (i.e. widow; widow with one child, etc.). Generally, death benefits are a percentage of the deceased worker's weekly wage with a fixed maximum and minimum amount. If the surviving spouse remarries she will continue receiving benefits until the age of 18 or longer if in school.

4. Funding of W.C. Losses - NCCI maintains that workers compensation may be funded by a government agency or the private sector (i.e. self insurance or insurance carrier), without preference. The main test should be that all reserves be established on an actuarially sound basis.

From our Law Evaluations staff I have attached a copy of their detailed pricing review. It is important to note that these pricings/percentages are based on the limited data available for Guam. We are not well acquainted with the particular intricacies of either the administration or regulation of the workers compensation statute. Furthermore, these pricings do not take into effect current rate level adequacy or inadequacy.

Should you have any questions concerning the attached pricing you can direct them to Mr. Mark Mulvaney, Actuary in our Western Region - 7535 E. Hampden Avenue, Suite 607, Denver, Colorado 80231 or to me. (I will forward any questions to Mark and our Law Evaluations department).

I hope this has been helpful.

Sincerely yours,



Maureen Ramert  
Assistant Director  
National Affairs

MR:cg

Enc.

cc: Mark Mulvaney - NCCI - Denver  
Robert Smith - VP - Baldwin  
Mike Camilleri - NCCI - New York  
Elliot Podhorzer - NCCI - New York

GUAM LAW MEMO

Changes Resulting From the Bill NO, 97

**EFFECTIVE** proposed

Increase in the Maximum Benefit For:

Fatal

From \$9000/\$200.00 to \$200.00/\$500.00

Survival Allowance

From \$1,200.00 to \$3,600.00

Increase in the Maximum Aggregate Payable for:

Fatal

From \$40,000.00 to \$200,000.00

Permanent Total

From \$40,000.00 to \$200,000.00

Temporary Total

From \$40,000.00 to \$200,000.00

Permanent Partial

From \$40,000.00 to \$200,000.00

Total Effect: +42.0%

GUAM LAW MEMO

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Exhibit <del>X</del> XI	-	1973 Standard Wage Distribution

GUAM LAW MEMO

EXHIBIT I

Summary of Principal Benefit Changes due to the Increase in the  
Maximum Weekly Benefit, Effective *proposed*

<u>Fatal:</u>	<u>1-1-87</u>	<u>proposed</u>
Maximum Aggregate % Rate of Compensation		66 2/3%
Widow		35%
Widow & Children		35% + 15% per child
One Orphan		35%
Two or More Orphans		35% + 15% for each addl
Parent (s)		25% for each
Other Dependents		15% for each
Min./Max. Weekly Benefit	\$ 90.00 / \$ 210.00 *	\$ 200.00 / \$ 500.00
Duration: Widows		Life or Remarriage
Children		Until age 18 or 25 if a Student
Other Dependents		During Dependancy
Remarriage Award:		2 years Lump Sum
Burial Allowance:	\$ 1,200.00	\$ 3,600.00
Maximum Aggregate Payable	\$ 40,000.00	\$ 200,000.00
Total Disability:		66 2/3%
% Rate of Compensation		\$ 150.00 / \$ 350.00
Minimum/Maximum Weekly Benefit:		Duration of Dis-
Maximum Duration		ability
Maximum Aggregate Payable	\$ 40,000.00	\$ 200,000.00
Waiting Period/Retroactive After Days		7/21
<u>Permanent Partial Disability</u>		
<u>Schedule Injuries:</u>		
% Rate of Compensation:		66 2/3%
Maximum Weekly Benefit		\$ 140.00 **
Duration		as per schedule
Maximum Aggregate Payable:	\$ 40,000.00	\$ 200,000.00
<u>Non-Schedule Injuries:</u>		
% Rate of Compensation:		66 2/3% x % dis-
Maximum Weekly Benefit		ability
Maximum Duration		\$ 140.00 **
Maximum Aggregate Payable:	\$ 40,000.00	415 wks.- includ-
		ing healing period
		\$ 200,000.00
<u>Healing Period:</u>		
Duration: Schedule		Duration of Disability
Weekly Benefit		Same as Temporary
		Total

Guam LAW MEMO

EXHIBIT I (CONTD.)

	<u>1-1-87</u>	<u>Proposed</u>
Rehabilitation: -		
Weekly Benefit		same as Temporary
Maximum Duration		Total Duration of Disability

\* SAWW = Guam Average Weekly Wage = \$209.99 (Actual for 1-1-87)  
rounded to the nearest dollar = \$210.00

\*\* \$14000 = 66 2/3 % of (AWW)

Guam LAW MEMO

EXHIBIT II

Impact by Type of Injury due to the Change in the  
Maximum Weekly Benefit, Effective proposed

<u>Type of Injury</u>	<u>Percentage of Losses</u>	<u>Effect(%)</u>
Fatal	3.6%	+55.0
Permanent Total	4.7%	+283.7
Major Permanent Partial	32.7%	+81.6
Minor Permanent Partial	8.7%	0.0
Temporary Total	12.4%	0.0
Indemnity	62.1%	+67.6 **
Medical	37.9%	0.0
Total	100.0%	+42.0 **
Serious:	41.0%	+102.4 **
Non-Serious:	21.1%	0.0 **

\*\*Weighted Average.



GUAM LAW MEMO

EXHIBIT III

Calculation of the Effect of the Increase in the Maximum  
Weekly Benefit on Fatal Benefit Costs, Effective *Proposed*

	<u>1-1-87</u>	<u>Proposed</u>
1. Cost of Dependency (Exhibit III-A, B)	95,715.708	145,560.952
2. Burial Cost (\$1,200 x 1,000 cases)	1,200,000	3,600,000
3. Remarriage Award* ( \$3,600 x 1,000 cases)	607,092	1,953,689
5. Total Fatal Cost (1)+(2)+(3)	<u>97,522,800</u>	<u>151,114,641</u>
6. Effect		1.550

\* Cost of Remarriage:

Widow Alone (Exh. III-C, E)	118,905	302,155
Widow and Child & Children (Exh. III-D, F)	488,187	1,651,534
Total	<u>607,092</u>	<u>1,953,689</u>

GUAM LAW MEMO

EXHIBIT III-A

Valuation Of Fatal Benefits, Effective 1-1-87

(1) No. of Cases	(2) Person Receiving Compensation	(3) No. of Depen- dents	(4) Average Age Arith.	(5) Annuity Symbol	(6) Annuity Value	(7) Average Weekly Benefit**	(8) Monet Cos (1)x(6) xx
147	None	None	xxx	xxx	xxx	xxx	xx
356	Widow Alone	1	51	$\bar{a}'_{28: \overline{\text{life}}}$	811.32	123.97	35,806
136	Widow with child	1 1	36 10	$8/\bar{a}'_{29: \overline{\text{life}}}$ $a_{416}$	519.97 363.80	123.97 157.14	8,766.1 7,774,
129	Widow with children	1 2	36 10	$8/\bar{a}'_{29: \overline{\text{life}}}$ $a_{416}$	519.97 363.80	123.97 179.94	8,315.4 8,444.1
82	Widow with Children	1 3	36 10	$8/\bar{a}'_{29: \overline{\text{life}}}$ $a_{416}$	519.97 363.80	123.97 181.76	5,285.7 5,422.19
42	Widow with Children	1 4	36 10	$8/\bar{a}'_{29: \overline{\text{life}}}$ $a_{416}$	519.97 363.80	123.97 181.76	5,707.3 2,777.22
22	Widow with Children	1 5	36 10	$8/\bar{a}'_{29: \overline{\text{life}}}$ $a_{416}$	519.97 363.80	123.97 181.76	1,418.13 1,454.73
16	Widow with Children (>5)	1 7*	36 10	$8/\bar{a}'_{29: \overline{\text{life}}}$ $a_{416}$	519.97 363.80	123.97 181.76	1,031.3 1,057.98
16	orphan	1	11	$\bar{a}_{11: \overline{7.0000}}$	323.11	123.97	640.29
10	orphans	2	11	$a_{364}$	323.59	157.14	508.48
7	orphans	3	11	$a_{364}$	323.59	179.94	407.58
3	orphans	4	11	$a_{364}$	323.59	181.76	176.44
1	orphans (>4)	5*	11	$a_{364}$	323.59	181.76	58,816
13	parent	1	61	$\bar{a}_{61: \overline{\text{life}}}$	689.33	102.60	919,428
17	parents	2	49	$\bar{a}_{49: \overline{\text{life}}}$	900.13	157.14	2,404,589
1	Brother or sister	1	23	$\bar{a}_{23: \overline{\text{life}}}$	1,226.15	90.82	111,359
2	other dependents	1*	21	$\bar{a}_{23: \overline{\text{life}}}$	1,242.03	90.82	225,602

1000

\* Average

95,715,70.

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EXHIBIT III-B

Valuation Of Fatal Benefits, Effective proposed

(1) No. of Cases 147	(2) Person Receiving Compensation None	(3) No. of Depen- dents None	(4) Average Age Arith. xxx	(5) Annuity Symbol xxx	(6) Annuity Value xxx	(7) Average Weekly Benefit*+ xxx	(8) Monet Cos (1)x(6) xx
356	Widow Alone	1	51	$\bar{a}'_{28: \overline{\text{Life}}}$	811.32	197.35	57,000
136	Widow with child	1 1	36 10	$8/\bar{a}'_{29: \overline{\text{Life}}}$ $a_{4167}$	519.97 363.80	197.35 213.36	13,955, 10,556,
129	Widow with children	1 2	36 10	$8/\bar{a}'_{29: \overline{\text{Life}}}$ $a_{4167}$	519.97 363.80	197.35 242.57	13,237, 11,383,8
82	Widow with Children	1 3	36 10	$8/\bar{a}'_{29: \overline{\text{Life}}}$ $a_{4167}$	519.97 363.80	197.35 246.17	8,414, 5, 7,343, 6
42	Widow with Children	1 4	36 10	$8/\bar{a}'_{29: \overline{\text{Life}}}$ $a_{4167}$	519.97 363.80	197.35 246.17	4,309, 8 3,761, 3
22	Widow with Children	1 5	36 10	$8/\bar{a}'_{29: \overline{\text{Life}}}$ $a_{4167}$	519.97 363.80	197.35 246.17	2,257, 5, 1,970, 24
16	Widow with Children (>5)	1 7*	36 10	$8/\bar{a}'_{29: \overline{\text{Life}}}$ $a_{4167}$	519.97 363.80	197.35 246.17	1,641, 85 1,432, 90
16	Orphan	1	11	$\bar{a}_{11: \overline{7.0000}}$	323.11	197.35	1,020, 25
10	Orphans	2	11	$a_{3647}$	323.59	213.36	690, 41
7	Orphans	3	11	$a_{3647}$	323.59	242.57	549, 45
3	Orphans	4	11	$a_{3647}$	323.59	246.17	238, 979
1	Orphans (>4)	5*	11	$a_{3647}$	323.59	246.17	79, 650
13	Parent	1	61	$\bar{a}_{61: \overline{\text{Life}}}$	689.33	193.62	1,735, 08
17	Parents	2	49	$\bar{a}_{49: \overline{\text{Life}}}$	900.13	213.36	3,264, 88
1	Brother or sister	1	23	$\bar{a}_{23: \overline{\text{Life}}}$	1,226.15	193.03	236, 680
2	Other dependents	1*	21	$\bar{a}_{23: \overline{\text{Life}}}$	1,242.03	193.03	479, 490

1000

\* Average

145,560.95

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EXHIBIT III-C

Calculation of Remarriage Award for 356 Cases of Widow Alone, Age 51, 1-1-87

<u>n</u>	(1) <u>Age At Remarriage</u>	(2) <u>Remarriage Factor++</u>	(3) <u>Lump Sum 1-1-87**</u>	(4) <u>1-1-87 Cost (2)x(3)</u>
0	51.5	0.720	12,893	9,283
1	52.5	2.013	12,893	25,954
2	53.5	2.279	12,893	29,383
3	54.5	2.134	12,893	27,514
4	55.5	1.901	10,991 +	20,894
5	56.5	1.293	4,545 +	5,877
6	57.5	1.128	-	-
7	58.5	0.986	-	-
8	59.5	0.862	-	-
9	60.5	0.751	-	-
10	61.5	0.655	-	-
				118,905

\*\* Remarriage Award 1-1-87 = 104 weeks x 123.97 = 12,893

+ Award Limited by Aggregate: Min (12,893 ; 40,000 - ((n+0.5) x 123.97 x 52)).

++ (2) At 51 + n+0.5 =  $\frac{((R(51) + n) - (R(51) + n + 1)) \times 356}{D51}$

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EXHIBIT III-D

Calculation of Remarriage Award for 427 Cases of Widow Age 36  
and Child or Children, 1-87

<u>n</u>	<u>(1) Age At Remarriage</u>	<u>(2) Remarriage Factor++</u>	<u>(3) Lump Sum 1-87**</u>	<u>(4) 1-87 Cost (2)x(3)</u>
0	36.5	3.824	18,903	72,285
1	37.5	9.725	18,903	183,832
2	38.5	10.330	16,371+	169,112
3	39.5	9.098	6,920+	62,958
4	40.5	7.666	-	-
5	41.5	5.517	-	-
6	42.5	4.775	-	-
7	43.5	4.138	-	-
8	44.5	3.593	-	-
9	45.5	3.123	-	-
10	46.5	2.719	-	-
				<u>488,187</u>

\*\* Remarriage Award 1-1-87 = 104 weeks x 181.76 = 18,903

+ Award Limited by Aggregate: Min (18,903 ; 40,000 - ((n+0.5)x 181.76 x 52)).

++ (2) At 36 + n+0.5 =  $\frac{((R(36) + n) - (R(36) + n + 1)) \times 427}{D36}$

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EXHIBIT III-E

Calculation of Remarriage Award for 356 Cases of Widow Alone, Age 51, Proposed

<u>n</u>	<u>(1) Age At Remarriage</u>	<u>(2) Remarriage Factor++</u>	<u>(3) Lump Sum Proposed **</u>	<u>(4) Proposed Cost (2)x(3)</u>
0	51.5	0.720	20,524	14,777
1	52.5	2.013	20,524	41,315
2	53.5	2.279	20,524	46,774
3	54.5	2.134	20,524	43,798
4	55.5	1.901	20,524	39,016
5	56.5	1.293	20,524	26,538
6	57.5	1.128	20,524	23,151
7	58.5	0.986	20,524	20,237
8	59.5	0.862	20,524	17,692
9	60.5	0.751	20,524	15,414
10	61.5	0.655	20,524	13,443
				302,155

\*\* Remarriage Award Proposed = 104 weeks x 197.35 = 20,524

+ Award Limited by Aggregate: Min (20,524 ; 200,000 - ((n+0.5)x197.35 x52)).

++ (2) At 51 + n+0.5 =  $\frac{((R(51) + n) - (R(51) + n + 1))}{2} \times 356$

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EXHIBIT III- F

Calculation of Remarriage Award for 427 Cases of Widow Age 36,  
and Child or Children, Proposed

<u>n</u>	<u>(1) Age At Remarriage</u>	<u>(2) Remarriage Factor++</u>	<u>(3) Lump Sum Proposed **</u>	<u>(4) Proposed Cost (2)x(3)</u>
0	36.5	3.824	25,602	97,902
1	37.5	9.725	25,602	248,979
2	38.5	10.330	25,602	264,469
3	39.5	9.098	25,602	232,927
4	40.5	7.666	25,602	196,265
5	41.5	5.517	25,602	141,246
6	42.5	4.775	25,602	122,250
7	43.5	4.138	25,602	105,941
8	44.5	3.593	25,602	91,988
9	45.5	3.123	25,602	79,955
10	46.5	2.719	25,602	69,612
				<u>1,651,534</u>

\*\* Remarriage Award Proposed = 104 weeks x 246.17 = 25,602

+ Award Limited by Aggregate: Min ( 25,602 ; 200,000 - ((n+0.5)x 246.17 x 52) ) .

++ (2) At 36 + n+0.5 =  $\frac{((R(36) + n) - (R(36) + n + 1))}{427}$

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EXHIBIT IV

Determination of the Effect of Increasing the Maximum Weekly  
Benefit on Permanent Total Costs, Effective Proposed

	<u>1-1-87</u>	<u>Proposed</u>
1. Annuity Symbol	$\bar{a}_{46} = 3.4281 i^*$	$\bar{a}_{46} = 17.1405 i^+$
2. Annuity Value	166.74	639.80
3. Average Weekly Benefit (Exh. VII, VIII)	224.39	224.39
4. Average Cost per Case (2) x (3)	37,614.79	143,564.72
5. Effect		3.837

\*  $\frac{40,000}{224.39 \times 52} = 3.4281$

+  $\frac{200,000}{224.39 \times 52} = 17.1405$



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EXHIBIT V

Determination of Monetary Cost and Effect of  
Amendments on Permanent Partial Benefits

	<u>Major Perm. Partial Law Effective</u>		<u>Minor Perm. Part. Law Effective</u>	
	<u>H-87</u>	<u>Proposed</u>	<u>H-87</u>	<u>Propo</u>
<b>A. <u>Permanent Partial Schedule Injuries</u></b>				
1. Cost in Units of Wks. Wages (Exh. V-A,B,C)	61,782	61,782	45,030	45,1
2. Average Wkly. Benefit (Exh. VII, VIII)	134.27	134.27	134.27	134
3. Cost of Schedule Injuries (1)x(2)	8,295,469	8,295,469	6,046,178	6,046
<b>B. <u>Permanent Partial Non-Schedule Injuries</u></b>				
4. Cost in Units of Wks. Wages (Exh. V-C)	XX	XX	406,605	406,
5. Avg. Wkly. Benefit (Exh. IX)	XX	XX	23.17	23
6. Cost of Non-Schedule Injuries (4)x(5)	18,709,046 <sup>+</sup>	41,326,184*	9,421,038	9,421,
<b>C. <u>Permanent Partial Healing Period</u></b>				
7. Cost in Units of Wks. Wages (Exh. V-A,B,C)	4,862	4,862	4,121	4,
8. Average Wkly. Benefit (Exh. VII, VIII)	134.42	134.42	134.42	134
9. Cost of Healing Period (7)x(8)	653,550	653,550	553,945	553,
10. Rehabilitation (Exhibit V-D)	49,101	49,101	-	-
<b>D. <u>Disfigurement Award</u></b>				
11. Cost of Disfigurement	3,500	10,000	-	-
<b>E. <u>Total Monetary Cost and Effect</u></b>				
12. Total Cost of P.P. Benefits (3) + (6) + (9) + (10) + (11)	27,710,666	52,354,304 1.816	16,021,161	16,021 10a

+ 8,713 (Exh. V-A) x 221.10 (Ex. VII) + 97,235 (Exh. V-A) x 127.07 (Exh. VII)

\* 174,985 (Exh. V-B) x 221.10 (Exh. VII) + 5,274 (Exh. V-B) x 500.00 (Exh. VII)

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EXHIBIT V-A

Valuation of Major Permanent Partial

(1) LAW EFFECTIVE 1-1-87	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Type of Benefit	Case Freq.	Avg. % Loss	Sched. At 100%	Payable (3)x(4)	Com- muted** (2)x(6)	Weeks Payable For Sched. (2)x(6)	Avg. Heal. Per. (Wks.) (2)x(8)	Weeks Payable For H.P. (2)x(8)
<b>A. SCHEDULE INJURIES</b>								
<b>Arm:</b>								
Dism. above elbow	4	100%	280.00	280.00	255.66	1,023	15.00	60
Dism. below elbow	3	100%	212.00	212.00	197.84	594	15.00	45
Loss of use	81	53%	280.00	148.40	141.37	11,451	11.13	902
<b>Hand:</b>								
Dismemberment	5	100%	212.00	212.00	197.84	989	15.00	75
Loss of use	139	56%	212.00	118.72	114.19	15,872	8.40	1,168
<b>Leg:</b>								
Dism. above knee	6	100%	248.00	248.00	228.77	1,373	15.00	90
Dism. below knee	3	100%	173.00	173.00	163.49	490	15.00	45
Loss of use	145	53%	248.00	131.44	125.90	18,256	10.60	1,537
<b>Foot:</b>								
Dismemberment	3	100%	173.00	173.00	163.49	490	12.50	38
Loss of use	69	51%	173.00	88.23	85.71	5,914	6.38	440
<b>Eye:</b>								
Enucleation	3	100%	140.00	140.00	133.73	401	12.00	36
Loss of use	38	88%	140.00	123.20	118.33	4,497	10.56	401
Hearing both ears	4	56%	200.00	112.00	107.96	432	6.16	25
<b>Total Sch. Inj.</b>	<b>503</b>	<b>XX</b>	<b>XX</b>	<b>XX</b>	<b>XX</b>	<b>61,782</b>	<b>XX</b>	<b>4,862</b>
<b>B. OTHER MAJOR INJURIES</b>								
	24+	XX	415	XX	363.04	8,713	XX	XX
	473+	XX	220.91*	XX	205.57	97,235	XX	XX
	<u>1,000</u>							

+  $497 \times 0.047328 = 24$ .       $497 \times 0.952672 = 473$       (See Exhibit VI).

++  $\frac{\$40,000.00}{\$181.07 \text{ (Exh. VI)}} = 220.91 \text{ Weeks.}$

\*\* Computed if over 52 weeks.

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EXHIBIT V-B

Valuation of Major Permanent Partial

(1) LAW EFFECTIVE <u>Proposed</u>	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Type of Benefit	Case Freq.	Avg. % Loss	Sched. At 100%	Payable (3)x(4)	Com-muted** (2)x(4)	Weeks Payable For Sched. (2)x(6)	Avg. Heal. Per. (Wks.) (2)x(8)	Weeks Payable For H.P. (2)x(8)
<b>A. SCHEDULE INJURIES</b>								
<b>Arm:</b>								
Dism. above elbow	4	100%	280.00	280.00	255.66	1,023	15.00	60
Dism. below elbow	3	100%	212.00	212.00	197.84	594	15.00	45
Loss of use	81	53%	280.00	148.40	141.37	11,451	11.13	902
<b>Hand:</b>								
Dismemberment	5	100%	212.00	212.00	197.84	989	15.00	75
Loss of use	139	56%	212.00	118.72	114.19	15,872	8.40	1,168
<b>Leg:</b>								
Dism. above knee	6	100%	248.00	248.00	228.77	1,373	15.00	90
Dism. below knee	3	100%	173.00	173.00	163.49	490	15.00	45
Loss of use	145	53%	248.00	131.44	125.90	18,256	10.60	1,537
<b>Foot:</b>								
Dismemberment	3	100%	173.00	173.00	163.49	490	12.50	38
Loss of use	69	51%	173.00	88.23	85.71	5,914	6.38	440
<b>Eye:</b>								
Enucleation	3	100%	140.00	140.00	133.73	401	12.00	36
Loss of use	38	88%	140.00	123.20	118.33	4,497	10.56	401
Hearing both ears	4	56%	200.00	112.00	107.96	432	6.16	25
<b>Total Sch. Inj.</b>	<b>503</b>	<b>xx</b>	<b>xx</b>	<b>xx</b>	<b>xx</b>	<b>61,782</b>	<b>xx</b>	<b>4,862</b>

<b>B. OTHER MAJOR INJURIES</b>	482 <sup>+</sup>	xx	415	xx	363.04	174,985	xx	xx
	15 <sup>+</sup>	xx	400 <sup>+</sup>	xx	351.57	5,274	xx	xx
	1,000							

+  $497 \times 0.971239 = 482$        $497 \times 0.029761 = 15$       (Exh. VI)

++  $\frac{\$200,000}{\$500 \text{ (Exh. VI)}} = 400 \text{ weeks.}$

\*\* Commuted if over 52 weeks.

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EXHIBIT V-C

Valuation of Minor Permanent Partial

(1) LAW EFFECTIVE 1-1-87 AND PROPOSED	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Type of Benefit	Case Freq.	Avg. % Loss	Schd. At 100%	Weeks Duration Payable Com- (3)x(4)	muted**	Weeks Payable For Sched. (2)x(6)	Avg. Heal. Per. (Wks.)	Weeks Payable For H.P. (2)x(8)
<b>A. SCHEDULE INJURIES</b>								
<b>Thumb:</b>								
Dism. 1 phalange	23	100%	25.50	25.50	25.50	587	3.00	69
Dism. 2 or more	5	100%	51.00	51.00	51.00	255	6.00	30
Loss of use	164	25%	51.00	12.75	12.75	2,091	1.50	246
<b>Index Finger:</b>								
Dism. 1 phalange	48	100%	14.00	14.00	14.00	672	1.85	.89
Dism. 2 or more	18	100%	28.00	28.00	28.00	504	3.70	67
Loss of use	216	32%	28.00	8.96	8.96	1,935	1.18	255
<b>Middle Finger:</b>								
Dism. 1 phalange	32	100%	9.00	9.00	9.00	288	1.50	48
Dism. 2 or more	11	100%	18.00	18.00	18.00	198	3.00	33
Loss of use	152	29%	18.00	5.22	5.22	793	0.87	132
<b>Ring Finger:</b>								
Dism. 1 phalange	19	100%	8.50	8.50	8.50	162	1.00	19
Dism. 2 or more	8	100%	17.00	17.00	17.00	136	2.00	16
Loss of use	98	31%	17.00	5.27	5.27	516	0.62	61
<b>Little Finger:</b>								
Dism. 1 phalange	15	100%	3.50	3.50	3.50	53	0.75	11
Dism. 2 or more	8	100%	7.00	7.00	7.00	56	1.50	12
Loss of use	95	36%	7.00	2.52	2.52	239	0.54	51
<b>Great Toe:</b>								
Dism. 1 phalange	2	100%	13.00	13.00	13.00	26	1.50	3
Dism. 2 or more	1	100%	26.00	26.00	26.00	26	3.00	3
Loss of use	50	26%	26.00	6.76	6.76	338	0.78	39
<b>Other Toes:</b>								
Dismemberment	4	100%	8.00	8.00	8.00	32	1.00	4
Loss of Use	21	29%	8.00	2.32	2.32	49	0.29	6
Hearing: One Ear	10	37%	52.00	19.24	19.24	192	1.11	11

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EXHIBIT V-C (Cont.)

Valuation of Minor Permanent Partial

(1) LAW EFFECTIVE 1-1-87 AND PROPOSED	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Type of Benefit	Case Freq.	Avg. % Loss At	Sched. 100%	Payable (3)x(4)	Com- muted**	Weeks Payable For Sched.	Avg. Heal. Per. (Wks.)	Weeks Payable For H.P. (2)x(8)
Arm	259	13%	280.00	36.40	36.40	9,428	2.73	707
Hand	308	13%	212.00	27.56	27.56	8,488	2.60	801
Leg	386	13%	248.00	32.24	32.24	12,445	2.60	1,004
Foot	202	13%	173.00	22.49	22.49	4,543	1.63	329
Eye	32	15%	140.00	21.00	21.00	672	1.80	58
Hearing (2 ears)	9	17%	200.00	34.00	34.00	306	1.87	17
<b>Total Schedule Injuries</b>	<b>2,196</b>	<b>xx</b>	<b>xx</b>	<b>xx</b>	<b>xx</b>	<b>45,030</b>	<b>xx</b>	<b>4,121</b>
<b>B. OTHER MINOR INJURIES</b>	<b>1,120</b>	<b>xx</b>	<b>415.00</b>	<b>xx</b>	<b>363.04</b>	<b>406,605</b>	<b>xx</b>	<b>xx</b>
	<b>3,316</b>							

\*\* Commuted if over 52 weeks.

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EXHIBIT V-D

Calculation of Monetary Cost of Rehabilitation

	<u>1-1-87</u>	<u>Proposed</u>
1. Number of Major Dismemberment Cases	24	24
2. Average Rehabilitation Duration, Weeks	15.22**	15.22**
3. Average Weekly Benefit (Exh. VII, VIII)	134.42	134.42
4. Average Cost Per Case (2)x(3)	2,045.87	2,045.87
5. Total Cost of Rehabilitation (1)x(4)	49,101	49,101

\*\* Based Upon Countrywide Detailed Claim Data.

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EXHIBIT VI

Calculation of the Effect of the Increase in the Maximum Weekly Benefit on Temporary Total Disability Costs, Effective *Proposed*

1. Effective Date	<u>1-1-87</u>	<u>proposed</u>
2. Waiting Period (days)	7	7
3. Retroactive After (days)	21	21
4. Days Disability Based on (2)	2,495,765	2,495,765
5. Total Cases Based on (3)	28,879	28,879
6. Additional Days Based on (3) (5) x (2)	202,153	202,153
7. Cost in Days ((4) + (6))	2,697,918	2,697,918
8. Cost in Weeks	385,417	385,417
9. Average Weekly Benefit (Exh. VII, <u>II</u> )	224.39	224.39
10. Monetary Cost (8) x (9)	86,483,720.63	86,483,720.63
11. Effect		1,000

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EXHIBIT VI-A

SPECIAL CALL FOR ACCIDENT STATISTICS DISTRIBUTION OF DURATIONS

Temporary Total Accident Distribution According  
to Duration of Disability

(1) Disability Period (Days)	(2) Total Cases	(3) Summation of Col. 2 Upward	(4) Days Disability Lasting Col. 1 and Over
1	8,973	103,371	3,060,329
2	8,198	94,398	2,956,958
3	6,236	86,200	2,862,560
4	7,077	79,964	2,776,360
5	6,437	72,887	2,696,396
6	5,156	66,450	2,623,509
7	4,854	61,294	2,557,059
8	2,351	56,440	2,495,765
9	2,407	54,089	2,439,325
10	2,865	51,682	2,385,236
11	2,665	48,817	2,333,554
12	2,156	46,152	2,284,737
13	1,891	43,996	2,238,585
14	2,860	42,105	2,194,589
15	1,563	39,245	2,152,484
16	1,621	37,682	2,113,239
17	1,703	36,061	2,075,557
18	1,486	34,358	2,039,496
19	1,096	32,872	2,005,138
20	888	31,776	1,972,266
21	2,009	30,888	1,940,490
22	854	28,879	1,909,602
23	910	28,025	1,880,723
24	961	27,115	1,852,698
25	762	26,154	1,825,583
26	590	25,392	1,799,429
27	467	24,802	1,774,037
28	1,480	24,335	1,749,235
29	532	22,855	1,724,900
30	604	22,323	1,702,045
31	655	21,719	1,679,722
32	603	21,064	1,658,003
33	437	20,461	1,636,939
34	376	20,024	1,616,478
35	894	19,648	1,596,454
36	389	18,754	1,576,806
37	390	18,365	1,558,052
38	442	17,975	1,539,687
39	424	17,533	1,521,712
40	287	17,109	1,504,179
41	274	16,822	1,487,070
42	1,160	16,548	1,470,248
43 - 49	2,692	15,388	1,453,700 - 1,366,629



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EXHIBIT VI-A (Cont.)

SPECIAL CALL FOR ACCIDENT STATISTICS DISTRIBUTION OF DURATIONS

Temporary Total Accident Distribution According  
to Duration of Disability

(1) Disability Period (Days)	(2) Total Cases	(3) Summation of Col. 2 Upward	(4) Days Disability Lasting Col. 1 and Over
50 - 56	2,155	12,696	1,353,205 - 1,281,192
57 - 63	1,725	10,541	1,270,007 - 1,210,298
64 - 70	1,258	8,816	1,201,053 - 1,150,461
71 - 77	987	7,558	1,142,491 - 1,099,160
78 - 84	807	6,571	1,092,325 - 1,054,427
85 - 91	626	5,764	1,048,409 - 1,015,082
92 - 98	544	5,138	1,009,770 - 979,894
99 - 105	423	4,594	975,102 - 948,240
106 - 112	342	4,171	943,909 - 919,548
113 - 119	273	3,829	915,620 - 893,144
120 - 126	271	3,556	889,496 - 868,653
127 - 133	231	3,285	865,275 - 846,026
134 - 140	217	3,054	842,900 - 824,849
141 - 147	196	2,837	821,900 - 805,306
148 - 154	167	2,641	802,615 - 787,062
155 - 161	137	2,474	784,524 - 769,952
162 - 168	130	2,337	767,578 - 753,784
169 - 175	116	2,207	751,530 - 738,480
176 - 182	129	2,091	736,343 - 723,948
183 - 189	86	1,962	721,921 - 710,316
190 - 196	92	1,876	708,412 - 697,317
197 - 203	62	1,784	695,503 - 684,914
204 - 210	74	1,722	683,169 - 672,957
211 - 217	73	1,648	671,280 - 661,521
218 - 224	55	1,575	659,919 - 650,588
225 - 231	63	1,520	649,050 - 640,049
232 - 266	220	1,457	638,570 - 592,396
267 - 301	203	1,237	591,139 - 552,653
302 - 336	95	1,034	551,611 - 518,088
337 - 371	104	939	517,143 - 486,802
372 - 406	80	835	485,961 - 458,672
407 - 441	67	755	457,909 - 433,213
442 - 476	64	688	432,519 - 410,069
477 - 511	58	624	409,434 - 389,141
547 - 581	80	566	388,570 - 352,003
582 - 651	65	486	351,514 - 320,191
652 & Over	-	421	319,770 - xxx

EXHIBIT VII

CALCULATION OF AVERAGE WEEKLY BENEFITS, EFFECTIVE 01/01/87

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE WAGE (\$347.53*)	PERCENT IN WAGE BRACKET	WORKERS WAGES	AVERAGE WEEKLY WAGE (\$347.53*)	AVERAGE BENEFIT IN INTERVAL	
ONE PARENT (NOMINAL RATE OF COMPENSATION = 0.2500)						
0.00 - 90.00	0.00 - 0.25	2.1432	0.3483	56.48	56.48**	
90.00 - 360.00	0.25 - 1.05	60.8211	45.2976	258.83	90.00**	
360.00 - 840.00	1.05 - 2.40	35.8605	50.8532	492.83	123.21**	
840.00 & OVER	2.40 & OVER	1.1752	3.5009	1035.29	210.00**	
THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 =						102.60

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE WAGE (\$347.53*)	PERCENT IN WAGE BRACKET	WORKERS WAGES	AVERAGE WEEKLY WAGE (\$347.53*)	AVERAGE BENEFIT IN INTERVAL	
OTHER DEPENDENT (NOMINAL RATE OF COMPENSATION = 0.1500)						
0.00 - 90.00	0.00 - 0.25	2.1432	0.3483	56.48	56.48**	
90.00 - 600.00	0.25 - 1.75	91.1016	84.8777	323.79	90.00**	
600.00 - 1400.00	1.75 - 4.05	6.6387	14.1479	740.63	111.09**	
1400.00 & OVER	4.05 & OVER	0.1165	0.6261	1867.71	210.00**	
THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 =						90.82

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE WAGE (\$347.53*)	PERCENT IN WAGE BRACKET	WORKERS WAGES	AVERAGE WEEKLY WAGE (\$347.53*)	AVERAGE BENEFIT IN INTERVAL	
PERMANENT PARTIAL DISABILITY (NOMINAL RATE OF COMPENSATION = 0.6667)						
0.00 - 0.00	0.00 - 0.00	0.0000	0.0000	0.00	0.00**	
0.00 - 0.00	0.00 - 0.00	0.0000	0.0000	0.00	0.00**	
0.00 - 209.99	0.00 - 0.60	15.3290	6.7892	153.92	102.62**	
209.99 & OVER	0.60 & OVER	84.6710	93.2108	382.58	140.00**	
THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 =						134.27

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE WAGE (\$347.53*)	PERCENT IN WAGE BRACKET	WORKERS WAGES	AVERAGE WEEKLY WAGE (\$347.53*)	AVERAGE BENEFIT IN INTERVAL	
PERMANENT PARTIAL DISABILITY (NOMINAL RATE OF COMPENSATION = 0.0667)						
0.00 - 0.00	0.00 - 0.00	0.0000	0.0000	0.00	0.00**	
0.00 - 0.00	0.00 - 0.00	0.0000	0.0000	0.00	0.00**	
0.00 - 2098.95	0.00 - 6.05	99.9712	99.8069	346.96	23.14**	
2098.95 & OVER	6.05 & OVER	0.0288	0.1931	2330.14	140.00**	
THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 =						23.17

\* \$347.53 IS THE AVERAGE WORKERS WAGE FOR THE 12 MONTHS ENDING 12/31/86  
 \*\* AVERAGE WAGE WITHIN INTERVAL  
 \*\* MINIMUM WEEKLY BENEFIT  
 \*# AVERAGE WAGE WITHIN INTERVAL X NOMINAL RATE OF COMPENSATION  
 \*\* MAXIMUM WEEKLY BENEFIT

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EXHIBIT VII

CALCULATION OF AVERAGE WEEKLY BENEFITS, EFFECTIVE 01/01/87

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE WAGE (A) / \$347.53*	PERCENT IN WAGE BRACKET	WORKERS	WAGES	AVERAGE WEEKLY WAGE	AVERAGE BENEFIT IN INTERVAL

TOTAL DISABILITY (NOMINAL RATE OF COMPENSATION = 0.6667)

0.00 - 150.00	0.00 - 0.43	6.1073	1.8188	103.05	103.50**
150.00 - 224.99	0.43 - 0.65	14.4579	8.3102	199.73	150.00**
224.99 - 347.53	0.65 - 1.00	67.3654	66.5257	343.20	258.81**
347.53 & over	1.00 & over	12.0674	23.3453	672.32	350.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM (D) X (F)) / 100 = 224.39

WIDOW W/CHILD, TWO ORPHANS, PARENTS (NOMINAL RATE OF COMPENSATION = 0.5000)

0.00 - 90.00	0.00 - 0.25	2.1432	0.3483	56.48	56.48**
90.00 - 180.00	0.25 - 0.50	6.0769	2.5054	143.28	90.00**
180.00 - 420.00	0.50 - 1.20	65.8788	55.2861	291.65	145.83**
420.00 & over	1.20 & over	25.9011	41.8602	561.66	210.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 157.14

WIDOW W/2 CHILDREN, THREE ORPHANS (NOMINAL RATE OF COMPENSATION = 0.6500)

0.00 - 90.00	0.00 - 0.25	2.1432	0.3483	56.48	56.48**
90.00 - 138.46	0.25 - 0.40	2.5896	0.8690	116.62	90.00**
138.46 - 323.08	0.40 - 0.95	48.3781	34.4976	247.82	161.08**
323.08 & over	0.95 & over	46.8891	64.2851	476.46	210.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 179.94

WIDOW W/3 CHILDREN, 4 MORE ORPHAN (NOMINAL RATE OF COMPENSATION = 0.6667)

0.00 - 90.00	0.00 - 0.25	2.1432	0.3483	56.48	56.48**
90.00 - 134.99	0.25 - 0.40	2.5896	0.8690	116.62	90.00**
134.99 - 314.98	0.40 - 0.90	43.4993	29.9971	239.66	159.78**
314.98 & over	0.90 & over	51.7679	68.7856	461.77	210.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 181.76

\* \$347.53 IS THE AVERAGE WORKERS WAGE FOR THE 12 MONTHS ENDING 12/31/86  
 \*\* AVERAGE WAGE WITHIN INTERVAL  
 \*\*\* MINIMUM WEEKLY BENEFIT  
 \*\*\*\* AVERAGE WAGE WITHIN INTERVAL X NOMINAL RATE OF COMPENSATION  
 \*\*\*\*\* MAXIMUM WEEKLY BENEFIT

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EXHIBIT VII

CALCULATION OF AVERAGE WEEKLY BENEFITS, EFFECTIVE 01/01/87

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE (A) / \$347.53*	IN WAGE BRACKET WORKERS	PERCENT WAGES	(E) X \$347.53*	AVERAGE WEEKLY WAGE	AVERAGE BENEFIT IN INTERVAL
0.00 - 90.00	0.00 - 0.25	2.1432	0.3483	56.48	56.48**	
90.00 - 257.14	0.25 - 0.75	30.1657	17.9385	206.66	90.00**	
257.14 - 600.00	0.75 - 1.75	60.9359	66.9392	381.77	133.62**	
600.00 & OVER	1.75 & OVER	6.7552	14.7740	760.07	210.00**	
WIDOW, ONE ORPHAN (NOMINAL RATE OF COMPENSATION = 0.3500)						
					56.48	56.48**
					206.66	90.00**
					381.77	133.62**
					760.07	210.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 123.97

- \* \$347.53 IS THE AVERAGE WORKERS WAGE FOR THE 12 MONTHS ENDING 12/31/86
- \*\* AVERAGE WAGE WITHIN INTERVAL
- \*\* MINIMUM WEEKLY BENEFIT
- \*\* AVERAGE WAGE WITHIN INTERVAL X NOMINAL RATE OF COMPENSATION
- \*\* MAXIMUM WEEKLY BENEFIT

EXHIBIT VIII

CALCULATION OF AVERAGE WEEKLY BENEFITS, EFFECTIVE ~~03/01/07~~ *proposed*

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE (\$347.53* / (A))	PERCENT IN WAGE BRACKET WORKERS	WAGES	(E) X \$347.53* / (D)	AVERAGE WEEKLY WAGE	AVERAGE BENEFIT IN INTERVAL

WIDOW W/CHILD, TWO ORPHANS, PARENTS (NOMINAL RATE OF COMPENSATION = 0.5000)

0.00 - 200.00	0.00 - 0.60	15.3290	6.7892	153.92	153.92**	153.92**
200.00 - 400.00	0.60 - 1.15	55.3477	47.3093	297.06	200.00**	200.00**
400.00 - 1000.00	1.15 - 2.90	28.9473	44.4241	533.34	266.67**	266.67**
1000.00 & OVER	2.90 & OVER	0.3760	1.4774	1365.53	500.00**	500.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 213.36

WIDOW W/2 CHILDREN, THREE ORPHANS (NOMINAL RATE OF COMPENSATION = 0.6500)

0.00 - 200.00	0.00 - 0.60	15.3290	6.7892	153.92	153.92**	153.92**
200.00 - 307.69	0.60 - 0.90	32.9031	24.4252	257.98	200.00**	200.00**
307.69 - 769.23	0.90 - 2.20	49.6103	63.0281	441.52	286.99**	286.99**
769.23 & OVER	2.20 & OVER	2.1576	5.7575	927.37	500.00**	500.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 242.57

WIDOW W/3 CHILDREN, 4 MORE ORPHANS (NOMINAL RATE OF COMPENSATION = 0.6667)

0.00 - 200.00	0.00 - 0.60	15.3290	6.7892	153.92	153.92**	153.92**
200.00 - 299.99	0.60 - 0.85	27.6419	19.8992	250.18	200.00**	200.00**
299.99 - 749.96	0.85 - 2.15	54.5211	66.7883	425.72	283.83**	283.83**
749.96 & OVER	2.15 & OVER	2.5080	6.5233	903.92	500.00**	500.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 246.17

WIDOW, ONE ORPHAN (NOMINAL RATE OF COMPENSATION = 0.3500)

0.00 - 200.00	0.00 - 0.60	15.3290	6.7892	153.92	153.92**	153.92**
200.00 - 571.43	0.60 - 1.65	76.3080	75.6846	344.69	200.00**	200.00**
571.43 - 1428.57	1.65 - 4.10	8.2501	16.9148	712.52	249.38**	249.38**
1428.57 & OVER	4.10 & OVER	0.1129	0.6114	1882.02	500.00**	500.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 197.35

\* \$347.53 IS THE AVERAGE WORKERS WAGE FOR THE 12 MONTHS ENDING 12/31/86  
 \*\* AVERAGE WAGE WITHIN INTERVAL  
 \*\* MINIMUM WEEKLY BENEFIT  
 \*g AVERAGE WAGE WITHIN INTERVAL X NOMINAL RATE OF COMPENSATION  
 \*\* MAXIMUM WEEKLY BENEFIT

EXHIBIT VIII

*Proposed*

CALCULATION OF AVERAGE WEEKLY BENEFITS, EFFECTIVE ~~12/31/87~~

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE WAGE (\$347.53*)	PERCENT IN WAGE BRACKET	WORKERS	WAGES	AVERAGE WEEKLY WAGE (E) X \$347.53* (D)	AVERAGE BENEFIT IN INTERVAL

ONE PARENT (NOMINAL RATE OF COMPENSATION = 0.2500)

0.00 - 200.00	0.00 - 0.60	15.3290	6.7892	153.92	153.92**
200.00 - 800.00	0.60 - 2.30	83.0433	88.6508	371.00	200.00**
800.00 - 2000.00	2.30 - 5.75	1.5884	4.3047	941.84	235.46**
2000.00 & OVER	5.75 & OVER	0.0393	0.2553	2257.62	500.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 193.62

OTHER DEPENDENT (NOMINAL RATE OF COMPENSATION = 0.1500)

0.00 - 200.00	0.00 - 0.60	15.3290	6.7892	153.92	153.92**
200.00 - 1333.33	0.60 - 3.85	84.5367	92.5137	380.32	200.00**
1333.33 - 3333.33	3.85 - 9.60	0.1343	0.6971	1803.90	270.59**
3333.33 & OVER	9.60 & OVER	0.0000	0.0000	0.00	500.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 193.03

PERMANENT PARTIAL DISABILITY (NOMINAL RATE OF COMPENSATION = 0.6667)

0.00 - 0.00	0.00 - 0.00	0.0000	0.0000	0.00	0.00**
0.00 - 0.00	0.00 - 0.00	0.0000	0.0000	0.00	0.00**
0.00 - 209.99	0.00 - 0.60	15.3290	6.7892	153.92	102.62**
209.99 & OVER	0.60 & OVER	84.6710	93.2108	382.58	140.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 134.27

TOTAL DISABILITY (NOMINAL RATE OF COMPENSATION = 0.6667)

0.00 - 150.00	0.00 - 0.45	6.1073	1.8168	103.05	103.50**
150.00 - 224.99	0.45 - 0.65	14.4599	8.3102	199.73	150.00**
224.99 - 524.97	0.65 - 1.50	67.3654	66.5257	343.20	228.81**
524.97 & OVER	1.50 & OVER	12.0674	23.3453	672.32	350.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 224.39

\* \$347.53 IS THE AVERAGE WORKERS WAGE FOR THE 12 MONTHS ENDING 12/31/86  
 \*\* AVERAGE WAGE WITHIN INTERVAL  
 \*\*\* MINIMUM WEEKLY BENEFIT  
 \*\*\*\* AVERAGE WAGE WITHIN INTERVAL X NOMINAL RATE OF COMPENSATION  
 \*\*\*\*\* MAXIMUM WEEKLY BENEFIT

EXHIBIT VIII

CALCULATION OF AVERAGE WEEKLY BENEFITS, EFFECTIVE ~~03/01/87~~ *proposed*

(A)	(B)	(C)	(D)	(E)	(F)	(G)
WAGE INTERVAL	RATIO TO AVERAGE (A) / \$347.53*	PERCENT IN WAGE BRACKET WORKERS WAGES	PERCENT IN WAGE BRACKET WORKERS WAGES	AVERAGE WEEKLY WAGE	AVERAGE WEEKLY WAGE	AVERAGE BENEFIT IN INTERVAL
PERMANENT PARTIAL DISABILITY (NOMINAL RATE OF COMPENSATION = 0.0667)						
0.00 - 0.00	0.00 - 0.00	0.0000	0.0000	0.00	0.00	0.00**
0.00 - 0.00	0.00 - 0.00	0.0000	0.0000	0.00	0.00	0.00**
0.00 - 2098.95	0.00 - 6.05	99.9712	99.8069	346.96	23.14**	23.14**
2098.95 & OVER	6.05 & OVER	0.0288	0.1931	2330.14	140.00**	140.00**

THE AVERAGE WEEKLY BENEFIT IS: (SUM OF (D) X (G)) / 100 = 23.17

\* \$347.53 IS THE AVERAGE WORKERS WAGE FOR THE 12 MONTHS ENDING 12/31/86  
 \*\* AVERAGE WAGE WITHIN INTERVAL  
 \*\* MINIMUM WEEKLY BENEFIT  
 \*\* AVERAGE WAGE WITHIN INTERVAL X NOMINAL RATE OF COMPENSATION  
 \*\* MAXIMUM WEEKLY BENEFIT

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EXHIBIT IX

Calculation of Average Weekly Benefits, Major Non-Schedule Retirement Plan

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Effective Date	Wage Interval	Ratio to Average** (2) ÷ \$ 347.53 *	Percent In Wage Bracket** Workers	Wages	Average Wage \$ 347.53 * x (5) / (4)	Nominal Rate of Comp. +	Average Benefit	Average Benefit Weighted By % of Workers (4) x (8)	Average Weekly Benefit Sum (9) x (10)
1-1-87	0.00 - 144.58	0.00 - 0.40	4.7328	1.173	89.39	0.6667	59.60	282.07	\$ 8.6
and proposed	0.00 - 722.86	0.00 - 2.10	97.1239	92.6803	331.63	0.4447	331.10	26,473.87	221.1
1-1-87	144.58 - 314.98	0.40 - 0.90	43.4993	29.9971	239.66	0.6667	159.78	6,950.32	117.
	314.98 and over	0.90 and over	51.9679	68.9856	461.77	Maximum	210.00	10,871.26	
			95.2672	98.78280				17,821.48	
Proposed	722.86 and over	2.10 and over	2.9761	7.3197	854.75	Maximum	500.00	14,890.5	510.1
			292.1	73197				1088.05	

\*\* Rounded to the nearest 0.05

\*\* Exhibit XI.

\* 347.53 = Average Weekly Wage based on 12 months ending 12-31-86

++  $\frac{\$40,000}{415} = \$96.39$       $\$96.39 \div 0.6667 = 144.58$

††  $\frac{\$200,000}{415} = \$481.93$       $\$481.93 \div 0.6667 = 722.86$



EXHIBIT X  
1973 Standard Wage Distribution Table

R = Ratio to Average Wage  
A = Percentage of workers receiving not more than the percentage of the average wage indicated by column R  
B = Percentage of wages received by the percentage of workers in column A

R	A	B	R	A	B	R	A	B
.05	.1068	.0030	2.40	98.8248	96.4991	4.75	99.9210	99.530
.10	.3511	.0222	2.45	98.9702	96.8502	4.80	99.9245	99.550
.15	.8384	.0845	2.50	99.1283	97.2237	4.85	99.9277	99.570
.20	1.4357	.1903	2.55	99.2172	97.4447	4.90	99.9290	99.570
.25	2.1432	.3483	2.60	99.3278	97.7304	4.95	99.9316	99.580
.30	2.9058	.5629	2.65	99.3962	97.9051	5.00	99.9337	99.590
.35	3.7375	.8393	2.70	99.4464	98.0372	5.05	99.9357	99.600
.40	4.7328	1.2173	2.75	99.5127	98.2151	5.10	99.9390	99.620
.45	6.1073	1.8188	2.80	99.5551	98.3291	5.15	99.9415	99.630
.50	8.2201	2.8537	2.85	99.5867	98.4178	5.20	99.9438	99.650
.55	11.6032	4.6692	2.90	99.6240	98.5226	5.25	99.9453	99.650
.60	15.3290	6.7892	2.95	99.6515	98.6021	5.30	99.9483	99.670
.65	20.5672	10.1290	3.00	99.6742	98.6709	5.35	99.9488	99.670
.70	25.9600	13.7452	3.05	99.6888	98.7150	5.40	99.9498	99.680
.75	32.3089	18.2868	3.10	99.7116	98.7817	5.45	99.9508	99.680
.80	37.5110	22.2523	3.15	99.7288	98.8358	5.50	99.9539	99.700
.85	42.9709	26.6884	3.20	99.7427	98.8809	5.55	99.9552	99.710
.90	48.2321	31.2144	3.25	99.7614	98.9448	5.60	99.9559	99.710
.95	53.1109	35.7149	3.30	99.7825	99.0090	5.65	99.9569	99.720
1.00	58.4036	40.9066	3.35	99.7922	99.0422	5.70	99.9584	99.730
1.05	62.9643	45.6459	3.40	99.7995	99.0666	5.75	99.9607	99.740
1.10	67.1858	50.1850	3.45	99.8141	99.1161	5.80	99.9623	99.750
1.15	70.6767	54.0985	3.50	99.8211	99.1404	5.85	99.9656	99.770
1.20	74.0989	58.1398	3.55	99.8308	99.1747	5.90	99.9674	99.780
1.25	77.0678	61.7560	3.60	99.8403	99.2088	5.95	99.9684	99.790
1.30	79.9516	65.5218	3.65	99.8457	99.2272	6.00	99.9701	99.800
1.35	82.2534	68.5701	3.70	99.8511	99.2463	6.05	99.9712	99.800
1.40	84.5435	71.7325	3.75	99.8575	99.2701	6.10	99.9722	99.810
1.45	86.3620	74.3294	3.80	99.8616	99.2854	6.15	99.9727	99.810
1.50	87.9326	76.6547	3.85	99.8657	99.3029	6.20	99.9734	99.820
1.55	89.1240	78.4667	3.90	99.8731	99.3315	6.25	99.9753	99.830
1.60	90.4193	80.4994	3.95	99.8774	99.3499	6.30	99.9758	99.830
1.65	91.6370	82.4738	4.00	99.8800	99.3594	6.35	99.9763	99.830
1.70	92.4497	83.8454	4.05	99.8835	99.3739	6.40	99.9775	99.840
1.75	93.2448	85.2260	4.10	99.8871	99.3886	6.45	99.9780	99.850
1.80	93.9290	86.4398	4.15	99.8949	99.4207	6.50	99.9816	99.870
1.85	94.5674	87.5957	4.20	99.8970	99.4295	6.55	99.9831	99.880
1.90	95.1329	88.6605	4.25	99.9000	99.4429	6.60	99.9848	99.890
1.95	95.7436	89.8715	4.30	99.9033	99.4574	6.65	99.9851	99.890
2.00	96.2339	90.8451	4.35	99.9058	99.4689	6.70	99.9861	99.900
2.05	96.6383	91.6662	4.40	99.9086	99.4807	6.75	99.9871	99.910
2.10	97.1239	92.6803	4.45	99.9091	99.4831	6.80	99.9877	99.910
2.15	97.4920	93.4767	4.50	99.9122	99.4965	6.85	99.9892	99.920
2.20	97.8424	94.2425	4.55	99.9142	99.5052	6.90	99.9897	99.920
2.25	98.1208	94.8736	4.60	99.9155	99.5113	6.95	99.9902	99.930
2.30	98.3723	95.4400	4.65	99.9173	99.5197	7.00	99.9917	99.940
2.35	98.6285	96.0369	4.70	99.9197	99.5309			

9/22/87

ca

*Guam Fire, Casualty And Marine Insurance Association*

G.C.I.C. ARCADE • ROOM #14  
404 WEST SOLEDAD AVENUE • AGANA, GUAM 96910  
TELEPHONE 477-1567

September 18, 1987

Senator Elizabeth P. Arriola  
Chairperson  
Committee on Youth, Senior  
Citizens, Cultural Affairs  
and Human Resources  
Nineteenth Guam Legislature  
P. O. Box CB-1  
Agana, Guam 96910

RE: BILL 97

Dear Senator:

Our Association is still very much interested in working closely with your office on Bill 97. It is our sincere desire that we continue this dialogue with you.

In this respect, our Association has appointed Mr. Robert Smith and Mr. George W. Baldwin, Jr., to work with your office regarding this legislation. They may be contacted directly at the following address:

Baldwin Insurance  
P. O. Box 8710  
Tamuning, Guam 96911  
Telephone: 646-4445/6/7

Again, I am grateful for the opportunity given the Association to assist your office on Bill 97. If I can be of further help to you on this or any other matter, please feel free to call me.

Sincerely,

  
E. L. G. WAKI  
Chairman

EW:nr

9/15/87



**baldwin  
insurance**



P.O. Box 8710  
Tamuning, Guam 96911  
Telephone: 646-4445/6/7  
Telex: 7216566 BALDWIN GM

August 28, 1987

Senator Elizabeth P. Arriola, Chairperson  
Committee on Youth, Senior Citizens,  
Cultural Affairs and Human Resources  
Nineteenth Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

Re: Bill 97

Dear Senator:

Just this week I received a letter from NCCI indicating their attorneys and actuaries were in the process of providing a detailed analysis for us, specific comments on amended sections 37003 (a) and 37005 and a general comparison of Guam benefits versus selected states. I imagine this review will take several weeks, hopefully we'll have their recommendations by the end of September.

The governmental concern those of us in the private sector have relates to the methodology GovGuam uses to provide benefits to its' employees. In our various discussions it has been pointed out that the majority of GovGuam workers injured on the job continue to receive their full salaries, rather than have the time loss paid by a separate funding mechanism. Obviously, this skews the experience so that GovGuam comp results appear different from what they really are. Perhaps your committee should consider evaluating this situation and provide for Workers Compensation coverage through some sort of segregated fund. Rates could be promulgated for the various job types and departments could budget for that similar to the premium methods used by insurance companies on the private sector side.

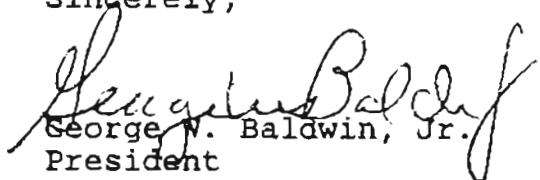


Tamuning, Guam 96911

Page 2  
Senator Elizabeth Arriola  
August 28, 1987

I will contact you if I receive anything further from NCCI prior to the end of September.

Sincerely,

  
George V. Baldwin, Jr.  
President

cc: Guam Employer Council  
Guam Chamber of Commerce  
Guam Fire, Casualty & Marine Insurance Association

GWB/cr

*Guam Fire, Casualty And Marine Insurance Association*

G.C.I.C. ARCADE • ROOM #14  
404 WEST SOLEDAD AVENUE • AGANA, GUAM 96910  
TELEPHONE 477-1567

April 28, 1987

Senator E. Arriola  
19th Guam Legislature  
P. O. BOX CB-1  
Agana, Guam 96910

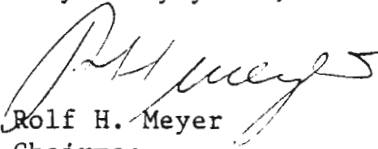
Dear Senator:

Re: Bill 97

Further to previous correspondence, please find enclosed a communication forwarded to the Senior Vice-President of the National Council on Worker's Compensation Insurance.

They are in the process of evaluating and developing our proposal, and as soon as we receive the relevant details we shall contact you.

Very truly yours,

  
Rolf H. Meyer  
Chairman  
Legislation & Programs

*Guam Fire, Casualty And Marine Insurance Association*

G.C.I.C. ARCADE • ROOM #14  
404 WEST SOLEDAD AVENUE • AGANA, GUAM 96910  
TELEPHONE 477-1567

April 28, 1987

Mr. Michael Camilleri  
Senior Vice President  
General Counsel  
National Council on Workers  
Compensation Insurance  
1 Penn Plaza New York, New York 10119

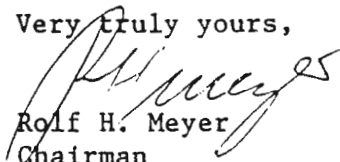
Dear Mr. Camilleri:

Re: GUAM WORKER'S COMPENSATION

On behalf of Mr. S.Waki, Chairman, Guam Fire Casualty and Marine Insurance Association, we would like to thank you most sincerely for your assistance in this matter and the offer of the NCCI to review our case.

Should you need further details from our Association please do not hesitate and contact us.

Very truly yours,

  
Rolf H. Meyer  
Chairman  
Legislation & Programs

Rec'd  
4/21/87  
[Signature]



replied to [unclear]  
4/23  
[Signature]

The baldwin corporation  
insurance

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April 16, 1987

Senator P. Arriola  
19th Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

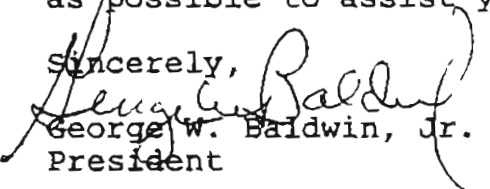
RE: Bill 97

Dear Senator:

We have received the attached letter from the National Council on Compensation Insurance. As you can see they have agreed to support the effort to revise Guams Compensation law without charge.

Together, the Guam Employers Council, the Guam Chamber of Commerce, the members of the Guam Fire, Casualty and Marine Association and your office should be able to come up with a realistic increase in employee benefits at a reasonable cost to the employer.

I personally applaud your efforts and will devote an much energy as possible to assist you in this matter.

Sincerely,  
  
George W. Baldwin, Jr.  
President

GWB/jw

cc: Guam Employer Council  
Guam Chamber of Commerce  
Guam Fire, Casualty & Marine Association





National  
Council  
on Compensation  
Insurance

1 Penn Plaza  
New York, New York 10119  
Tel. (212) 560-1000

Michael Camilleri  
Senior Vice President  
General Counsel

March 25, 1987

Mr. Robert Smith  
Vice President  
The Baldwin Corporation Insurance  
P.O. Box 8710  
Tamuning, Guam 96911

Dear Mr. Smith:

Re: Guam Worker's Compensation

I've received copies of the current and proposed Guam Worker's Compensation Law. The National Council on Compensation Insurance is a service organization made up of all major writers of workers compensation insurance throughout the United States. Accordingly, we would be happy to review the proposal and assist in developing rating programs as a benefit to the industry without cost.

I will circulate your proposal among the proper parties and have asked Maureen Ramert of NCCI's National Affairs division to coordinate all comments and get them to you.

Please feel free to contact me if you have any questions.

Very truly yours,

Michael Camilleri  
Senior Vice President  
General Counsel

MC:dja

cc: R. Fein  
A. Grippa  
M. Mulvaney  
M. Ramert



Introduced

JAN 15 '87

NINETEENTH GUAM LEGISLATURE  
1987 ( FIRST ) REGULAR SESSION

Bill No. 97

Introduced by:

E.P. Arriola *EPA*

AN ACT TO ADD, AMEND AND REPEAL CERTAIN  
SECTIONS OF THE GOVERNMENT CODE  
RELATIVE TO THE WORKER'S COMPENSATION  
LAW.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Subsection (j) of Section 37002 of  
the Government Code is repealed and reenacted to read:

"(j) Employer. This term, unless otherwise  
stated, includes any person, body of persons, corporate or  
unincorporate, public or private, with which an employee  
has knowingly entered into an express or implied contract,  
either oral or written, of employment."

Section 2. Subsection (a) of Section 37003 of the Government Code is repealed and reenacted to read:

"(a) Compensation shall be payable under this Title in case of disability or death of an employee, where such disability or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of an employer or by reason of any defect or insufficiency due to an employer's negligence, in its equipment or workplace but only if the disability or death results from an injury sustained while engaged in industrial employment or public employment or both as defined in Section 37002."

Section 3. Section 37005 of the Government Code is repealed and reenacted to read:

"§37005 Employer's Liability. Any employee who shall suffer disability or the legal representative of an employee who suffers death from an injury sustained while engaged in industrial employment or public employment or both as defined in Section 37002 may, at his election, claim compensation under this Title or maintain an action for damages at law or in admiralty against his employer on account of such injury or death. If an employee or his legal representative in the case of death resulting from the injury elects to claim compensation under this Title, the liability of an employer prescribed in Section 37003 shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, or

anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death; provided that, if an employer fails to secure payment of compensation as required by this Title, an injured employee or his legal representative, in case death results from the injury may elect to claim compensation under this Title, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action, the defendant may not plead as a defense that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee."

Section 4. Subsection (b) of Section 37006 of the Government Code is repealed and reenacted to read:

"(b) Compensation for disability shall not exceed Three Hundred Fifty Dollars (\$350.00) per week; and compensation for total disability shall not be less than One Hundred Fifty Dollars (\$150.00) per week, provided that if the employee's average weekly wages, as computed under Section 37010 are less than One Hundred Fifty Dollars (\$150.00) per week, he shall receive as compensation for total disability his average weekly wages."

Section 5. Subsection (d) of Section 37007 of the Government Code is repealed and reenacted to read:

"(d) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or

negligence of a third party, not in the same employ, unless and until suit has been brought and recovery of damages obtained against such third party. The employer, however, shall have the right to be reimbursed for such medical treatment from the damages recovered as provided in Section 37033 of this Title."

Section 6. Number (20) of Subsection (c) of Section 37008 of the Government Code is amended to read:

"(20) Disfigurement. The Commissioner shall award proper and equitable compensation for serious facial or head disfigurement, not to exceed Ten Thousand [Thirty Five Hundred] Dollars (\$10,000.00) [(\$3,500.00)]."

Section 7. Subsection (g) of Section 37008 of the Government Code is amended to read:

"(g) Maintenance for employees undergoing vocational rehabilitation. An employee who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who under the direction of the Commission, as provided by section 37039(c) of this Title, is being rendered fit to engage in a remunerative occupation, shall receive additional compensation necessary for his maintenance, but such additional compensation shall not exceed Fifty [Ten] Dollars (\$50.00) [(\$10.00)] a week. This expense shall be ~~paid out of the special fund~~ established in Section 37041."

Section 8. Section 37009 of the Government Code is amended to read:

"§37009 Compensation for Death. If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amounts and to or for the benefit of the persons following:

(a) Reasonable funeral expenses not exceeding Three [One] Thousand Six [Two] Hundred Dollars (\$3,600.00) [\$1,200.00].

(b) If there be a surviving wife or [dependent] husband and no child of the deceased to such surviving wife or dependent husband, thirty-five (35) percentum of the average wages of the deceased [during widowhood, or dependent widowerhood, with two (2) years, compensation in one sum upon remarriage;] and if there be a surviving child or children of the deceased, the additional amount of fifteen (15) percentum of such wages for each child. In the case of the death [or remarriage] of such surviving wife or [dependent] husband, if there be one surviving child of the deceased employee, such child shall have his compensation increased to thirty-five (35) percentum of such wages; and if there be more than one (1) surviving child of the deceased employee, to such children, in equal parts, thirty-five (35) percentum of such wages, increased by fifteen (15) percentum of such wages for each child in excess of one; provided that, the total amount payable shall in no case exceed two-thirds (2/3rds) of such wages. The Commissioner, may, in his discretion, require the appointment of a guardian for the purpose of receiving the

compensation of a minor child. In the absence of such a requirement the appointment of a guardian for such purposes shall not be necessary.

(c) If there be one (1) surviving child of the deceased, but no surviving wife or [dependent] husband, then for the support of such child thirty-five (35) percentum of the wages of the deceased. If there be more than one (1) surviving child of the deceased, but no widow or [dependent] husband, then for the support of such children, in equal parts fifteen (15) percentum of such wages for each child in excess of one. The total amount payable under this section shall in no case exceed two-thirds (2/3rds) of such wages.

(d) If there be no surviving wife or [dependent] husband or child or if the amount payable to a surviving wife or [dependent] husband and to children shall be less in the aggregate than sixty-six and two-thirds (66 2/3rds) percentum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, fifteen (15) percentum of such wages for the support of each such person; and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, twenty-five (25) percentum of such wages during such dependence. But in no case shall the aggregate amount payable under this Section exceed the difference between two-thirds (2/3rds) of such wages and

the amount payable as hereinbefore provided to surviving wife or [dependent] husband and for the support of surviving child or children.

(e) In computing death benefits, the average weekly wages of the deceased shall be considered to have been not more than Five [Two] Hundred [Ten] Dollars (\$500.00) [(\$210.00)] nor less than Two Hundred [Ninety] Dollars (\$200.00) [(\$90.00)] but the total weekly compensation shall not exceed the weekly wages of the deceased.

(f) All questions of dependency shall be determined as of the time of the injury.

(g) Aliens. Compensation under this Title to aliens, not residents (or about to become non-residents) of the United States, the Territory of Guam, or Canada, shall be the same amount as provided for residents; provided that, dependents in any foreign country shall be limited to the surviving spouse [wife] and child or children, or if there be no surviving spouse [wife] or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one (1) year prior to the date of the injury; and provided that, the Commissioner may, at his option or upon the application of the insurance carrier, commute all future installments of compensation to be paid to such aliens by

paying or causing to be paid to them one-half (1/2) of the commuted amount of such future installments of compensation as determined by the Commission."

Section 9. Subsection (m) of Section 37014 of the Government Code is amended to read:

"(m) The total compensation excluding medical services and supplies payable under this Title for injuries not resulting in death shall in no event exceed the sum of Two Hundred [Forty] Thousand Dollars (\$200,000.00) [(\$40,000.00)]. In cases of disability compensable under paragraph (21) of subsection (c) of Section 37008, the total compensation for such disability and for any temporary partial disability sustained in addition therein, shall not exceed in the aggregate the sum of Two Hundred [Forty] Thousand Dollars (\$200,000.00) [(\$40,000.00)]. The total compensation excluding medical services and supplies payable under this Title for injuries resulting in death shall in no event exceed the sum of Two Hundred [Forty] Thousand (\$200,000.00) [(\$40,000.00)] plus reasonable funeral expenses payable pursuant to Section 37009(a) of this Title."

Section 10. Section 37028 of the Government Code is amended to read:

"§37028. Fees for services.

(a) No claim for attorney's fees [legal services] or for any other services rendered in respect of a claim or award for compensation, to or on account of any person,



shall be valid unless approved by the Commissioner, whose approval shall not be unreasonably withheld, or if proceedings for review of the order of the Commissioner in respect of such claim or award are had before any court, unless approved by such court. Any claims so approved shall, in the manner and to the extent fixed by the Commissioner or such court, be a lien upon such compensation."

Section 11. Section 37033 of the Government Code is repealed and reenacted to read as follows:

"§37033. Compensation for injuries where third persons are liable. When an injury for which compensation is payable under this Title shall have been sustained under circumstances creating in some person other than the employer a legal liability to pay damages in respect thereto, the injured employee may claim compensation under this Title and at his option also obtain damages from or proceed at law against that other person to recover damages. If compensation is claimed and awarded under this Title and damages are also obtained from a third person, an employer, having paid the compensation or having paid for medical services and supplies shall be reimbursed for all compensation and medical services and supplies paid from the damages obtained in excess of the compensation, medical services and supplies already paid or awarded to be paid under this Title less the employee's expenses, costs and reasonable attorney's fees of the action. If compensation

is claimed and awarded under this Title and the injured employee does not opt to seek damages from or proceed at law against the third person to recover damages, an employer, having paid the compensation or having become liable therefore, shall be subrogated to the rights of the injured employee to recover against such other person; provided, if the employer shall recover from that other person damages in excess of the compensation already paid under this Title, then any such excess shall be paid to the injured employee, or other person entitled thereto, less the employer's expenses, costs and attorney's fees. The amount of compensation paid by the employer, or the amount of compensation to which the injured employee or his dependents are entitled, shall not be admissible in evidence in any action brought to recover damages."

Section 12. A new Section 37044 is added to the Government code to read:

"§37044. Abrogation of Fellow Servant Doctrine. The common-law fellow servant doctrine or rule that the negligence of one employee resulting in injury to another is not to be attributed to their common employer is abrogated under this Title and in all actions at law or in equity in the Superior Court of Guam."

Section 13. This act shall become effective ninety (90) days after its enactment.