



2011 NOV 22 11 8: 59 - *all*

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

November 21, 2011

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

31-11-1124
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 11/21/11
Time 4:49 PM
Received by *[Signature]*

Dear Madame Speaker:

Transmitted herewith is Bill No. 210-31 (COR) "AN ACT TO ADD A NEW CHAPTER 71, AND A NEW §161102 OF CHAPTER 161, ALL OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING THE DEPARTMENT OF REVENUE AND TAXATION WITH THE NECESSARY RESOURCES AND TOOLS TO TARGET HIGH RISK, CASH-BASED BUSINESSES, AND NON-LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS; AND TO BE KNOWN AS 'THE CASH ECONOMY ENFORCEMENT ACT OF 2011'", which I signed into law on November 17, 2011 as Public Law 31-135.

Senseramente,

EDDIE BAZA CALVO

Attachment: copy of Bill

#1124

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 210-31 (COR), "AN ACT TO ADD A NEW CHAPTER 71, AND A NEW §161102 OF CHAPTER 161, ALL OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING THE DEPARTMENT OF REVENUE AND TAXATION WITH THE NECESSARY RESOURCES AND TOOLS TO TARGET HIGH RISK, CASH-BASED BUSINESSES, AND NON-LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS; AND TO BE KNOWN AS "THE CASH ECONOMY ENFORCEMENT ACT OF 2011", was on the 8th day of November, 2011, duly and regularly passed.



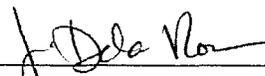
Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 8th day of Nov., 2011, at 4:25 o'clock P.M.



Assistant Staff Officer
Maga'laha's Office

APPROVED:


EDWARD J.B. CALVO
I Maga'lahaen Guåhan

NOV 17 2011

Date: _____

Public Law No. 31-135

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 210-31 (COR)

As substituted by the Committee on Appropriations,
Taxation, Public Debt, Banking, Insurance, Retirement,
and Land; and amended on the Floor.

Introduced by:

Judith T. Won Pat, Ed.D.
v. c. pangelinan
T. C. Ada

V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A. Yamashita, Ph.D.

AN ACT TO *ADD* A NEW CHAPTER 71, AND A NEW §161102 OF CHAPTER 161, ALL OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING THE DEPARTMENT OF REVENUE AND TAXATION WITH THE NECESSARY RESOURCES AND TOOLS TO TARGET HIGH RISK, CASH-BASED BUSINESSES, AND NON-LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS; AND TO BE KNOWN AS “THE CASH ECONOMY ENFORCEMENT ACT OF 2011”.

1 tax that is required to be reported and timely paid and the amount of tax that
2 is actually reported and paid, is estimated to be almost Four Hundred Billion
3 Dollars (\$400,000,000,000) per year. Of this tax gap, it is further estimated
4 that about Two Hundred Billion Dollars (\$200,000,000,000), or half of the
5 tax gap, is composed of what is known as the “cash economy”.

6 Cash-based transactions are a fundamental part of any economy. As
7 the oldest form of payment, cash continues to dominate many facets of the
8 local economy. Cash is inherently private, efficient, and predictable for both
9 purchaser and seller. However, cash transactions are also the simplest
10 means of underreporting or non-reporting for tax purposes, because *no* bank,
11 *no* means of electronic oversight, and *no* intermediary maintains records of
12 the movement of funds from one pocket to another.

13 The purpose of this Act is to provide the Department of Revenue and
14 Taxation (DRT) with the necessary resources and tools to target high-risk,
15 cash-based transactions to shore up confidence in Guam's tax system for
16 those that do comply. More importantly, *I Liheslaturan Guåhan* intends that
17 the enforcement resources provide focus on the civil collection and
18 enforcement nature of Guam's business license laws. In an effort to
19 demonstrate the targets of this undertaking, this Act defines “cash-based
20 business” for enforcement purposes, and DRT is directed to focus on such
21 businesses. At the same time, education is equally important as
22 enforcement. Therefore, this Act requires the DRT to reach out to industry
23 groups, specific demographics in the economy, and practitioners to educate
24 taxpayers on their tax responsibilities.

25 **§ 71102. Regulatory Division; Additional Special Functions,**
26 **Powers and Duties.** Notwithstanding any other provision of law, there is
27 provided within the Department of Revenue and Taxation, Regulatory

1 Division, additional special functions, powers and duties to carry out civil
2 enforcement efforts of this Act as directed by DRT. The Director of DRT
3 (Director) may staff the Division as the exigencies of the public service may
4 require.

5 In addition to the existing powers and duties already provided by law,
6 the Regulatory Division *shall* also have the following additional powers
7 pursuant to this Chapter:

8 (a) investigate reported or suspected violations of business
9 license laws for civil enforcement purposes, including through covert
10 means allowable pursuant to the Internal Revenue Manual of the
11 Internal Revenue Service, with a stated priority of investigating cash-
12 based businesses as defined in this Chapter. Any criminal
13 investigations originating as a result of information reported by a
14 member of the general public *shall* require that the Department obtain
15 the identity of the person providing the information;

16 (b) enforce the business license laws by issuing, enforcing,
17 or executing citations, fines, infractions and assessments;

18 (c) serve as fraud referral specialists to assist in the
19 development and review of fraud cases for appropriate disposition of
20 potentially fraudulent activities, including referral to criminal
21 investigators and assessment of civil fraud penalties; *provided*, that
22 personnel assigned to the Regulatory Division may *not* participate in
23 any criminal investigation;

24 (d) organize and hold public informational meetings on
25 issues of business license laws, including compliance deficiencies in
26 segments of the economy, and undertake any other activities to

1 encourage taxpayers, practitioners, and others to maintain
2 responsibility and compliance with their tax obligations;

3 (e) coordinate with other sections or divisions within DRT,
4 other departments or branches of the government of Guam, or the
5 federal government on matters relating to civil enforcement of the tax
6 laws, including joint investigations, information-sharing
7 arrangements, or concurrent collection efforts; *provided*, that
8 personnel assigned to the Regulatory Division may *not* participate in
9 any criminal investigation;

10 (f) compile information received by third parties, including
11 taxpayers, competitors, government agencies, confidential sources, or
12 public sources, and delegate this information within the Department
13 for proper handling. Proper handling may include referral internally
14 to other civil or criminal enforcement divisions;

15 (g) conduct investigations, research, and studies of matters
16 relevant to the complex or sensitive civil enforcement of the business
17 license laws; and

18 (h) perform such other acts as may be incidental to the
19 exercise of the functions, powers, and duties set forth in this Section
20 and existing law, *or* as otherwise directed by the Director of the DRT.

21 **§ 71103. Identification of Cash-Economy Cases; Retention of**
22 **Funds.** Notwithstanding any law to the contrary, each fiscal year the
23 Regulatory Division may identify any taxpayer, assessment, investigation, or
24 collection matter as a matter of the Regulatory Division. All revenues
25 collected from Regulatory Division matters *shall* be deposited into the Better
26 Public Service Fund.

27 **§ 71104. Citations for Violations; Deposits.**

1 (a) The Regulatory Division may issue cease and desist citations to
2 any person if the Regulatory Division has cause to believe the person has
3 violated, is violating, or evidences present intent to violate any provision of
4 this Chapter or administrative rule adopted thereunder. Any person who
5 violates this Chapter *shall* be subject to a fine *not* to exceed One Thousand
6 Dollars (\$1,000) unless otherwise specified; *provided*, that if the person is a
7 cash-based business, the fine *shall not* exceed Two Thousand Dollars
8 (\$2,000).

9 (b) The Department may recommend legislation defining the
10 circumstances and the civil monetary fines citable for unlawful actions under
11 this Chapter.

12 (c) Any fines assessed under this Section *shall* be a matter of the
13 Regulatory Division under this Chapter, and *shall* be retained and deposited
14 into the Better Public Service Fund.

15 (d) Any fines assessed *shall* be due and payable thirty (30) days
16 after issuance, subject to appeal rights provided under Subsection (e);
17 *provided*, that if payment of the fine is determined to be in jeopardy, such
18 fine *shall* be payable immediately, and *shall* be immediately collected. A
19 finding of jeopardy *shall* be made in writing, setting forth the specific
20 reasons for the finding. The finding of jeopardy *shall* be subject to
21 immediate appeal under Subsection (e), and at the taxpayer's request the
22 appeal *shall* be expedited and heard as soon as reasonably practicable. Any
23 amount of fine collected under jeopardy *shall only* be returned upon a
24 finding by the Director of DRT or the Superior Court of Guam that there
25 was no violation under this Chapter.

1 (e) Cease and desist citations may be appealed to the Director or
2 the Director's designee, and the determination of the Director may be
3 appealed to the Superior Court of Guam under this Chapter.

4 § 71105. **Cash-Based Businesses; Injunction.** The Regulatory
5 Division, with the Director's approval, may bring civil actions in the
6 Superior Court of Guam to enjoin any unlawful act under this Chapter,
7 including any administrative rule adopted thereunder, by a cash-based
8 business. To the extent provided by statute, the Regulatory Division may
9 include in any action an assessment of a monetary fine.

10 § 71106. **Cash-Based Businesses; Defined.** For the purposes of
11 this Chapter, *cash-based business* means any person who operates a
12 business, including for-profit or not-for-profit, where transactions in goods
13 or services are exchanged substantially for cash and where the business is
14 found, based upon reasonable cause including observation or evidence, to
15 have met one (1) of the following factors:

16 (a) is found to have substantially underreported or
17 misrepresented the proper amount of tax liability on any return or
18 other submission to the Department. For purposes of this Section, an
19 amount has been substantially underreported if the amount properly
20 includible on the return or submission is in excess of twenty-five
21 percent (25%) of the amount stated on the return or submission;

22 (b) is required to be licensed, registered, or permitted under
23 Title 11, Guam Code Annotated, and is in fact *not* so licensed,
24 registered, or permitted;

25 (c) has a past pattern of noncompliance of obligations under
26 Title 11, Guam Code Annotated;

1 (d) does *not* have a fixed and permanent principal place of
2 business;

3 (e) has *not* obtained any required tax clearance;

4 (f) has failed to maintain adequate books and records, or
5 those records required to be maintained by law or administrative rule;

6 (g) does *not* accept checks or electronic payment devices for
7 business transactions; *provided*, that a business may establish
8 reasonable criteria for accepting personal checks;

9 (h) offers price differentials or otherwise deviates from usual
10 business practices when the business transaction substantially
11 involves payment of cash, *except* where there is a *bona-fide* business
12 reason for a price differential, such as the avoidance of merchant fees
13 imposed by credit card companies; or

14 (i) any other factor relevant to describing a cash-based
15 business capable of noncompliance, as determined by the Director of
16 Revenue and Taxation, and issued pursuant to a tax information
17 release; *provided*, that a business *shall not* be deemed to have met any
18 of these factors while a genuine dispute as to that factor is pending in
19 a contested case before any administrative agency or in any court.

20 **§ 71107. Failure to Produce License Upon Demand.** Every
21 person required to be licensed or permitted under Title 11, Guam Code
22 Annotated, whether or *not* so licensed or permitted, *shall* be required to
23 publically display, and *shall* produce the license or permit upon demand by
24 the Regulatory Division. Failure to produce the license or permit upon
25 demand *shall* be unlawful. Any person who violates this Section *shall* be
26 subject to a fine *not* to exceed Five Hundred Dollars (\$500); *provided*, that if
27 the person is a cash-based business, the fine *shall not* exceed One Thousand

1 Dollars (\$1,000). It *shall* be an absolute defense to this Section if the person
2 produces a license or permit number on file with the Department, and the
3 Department confirms that the person associated with the number is true and
4 accurate.

5 **§ 71108. Failure to Keep Adequate Books and Records.** It *shall*
6 be unlawful for any person required under Title 11, Guam Code Annotated,
7 to keep books or records to fail to produce the books or records upon
8 demand by the Regulatory Division, or as soon thereafter as is reasonable
9 under the circumstances. Any person who violates this Section *shall* be
10 subject to a fine *not* to exceed One Thousand Dollars (\$1,000); *provided*,
11 that if the person is a cash-based business, the fine *shall not* exceed Two
12 Thousand Dollars (\$2,000).

13 **§ 71109. Failure to Record Transaction by Receipt.** It *shall* be
14 unlawful to conduct more than ten (10) taxable business transactions per day
15 in cash, and fail to provide a receipt or other record of the transaction when
16 the means for issuing a receipt or recording the transaction are available.
17 Each day a person is in violation of this Section *shall* be treated as a separate
18 violation. Any person who violates this Section *shall* be subject to a fine *not*
19 to exceed One Thousand Dollars (\$1,000); *provided*, that if the person is a
20 cash-based business, the fine *shall not* exceed Two Thousand Dollars
21 (\$2,000).

22 **§ 71110. Failure to Record Transaction by Register.** It *shall* be
23 unlawful to conduct more than ten (10) taxable business transactions per day
24 in cash, and fail to record the transaction in a cash register when the means
25 for recording the transaction in a cash register are available. Each day a
26 person is in violation of this Section *shall* be treated as a separate violation.
27 Any person who violates this Section *shall* be subject to a fine *not* to exceed

1 One Thousand Dollars (\$1,000); *provided*, that if the person is a cash-based
2 business, the fine *shall not* exceed Two Thousand Dollars (\$2,000).

3 **§ 71111. Tax Avoidance Price Fixing.** It *shall* be unlawful for
4 any person to sell, offer to sell, or otherwise convey *more than* one (1) price
5 for any business to be transacted when the lower price is offered if the
6 transaction is paid for in cash. It *shall not* be an offense under this Section if
7 a business charges a higher price for legitimate business purposes, such as
8 for the purpose of recovering any charges assessed the business, including
9 for facilitating electronic payment. Any person who violates this Section
10 *shall* be subject to a fine *not* to exceed Two Thousand Dollars (\$2,000);
11 *provided*, that if the person is a cash-based business, the fine *shall not*
12 exceed Three Thousand Dollars (\$3,000).

13 **§ 71112. Interference with a Tax Official.** It *shall* be unlawful
14 for any person to intentionally interfere with, hinder, obstruct, prevent, or
15 impede any investigator, auditor, collector, or other employee of the
16 Department from obtaining license information, books, records, articles, or
17 items of business transacted, or other information or property rightfully
18 entitled the Department. Any person who violates this Section *shall* be
19 subject to a fine of *not* more than Two Thousand Dollars (\$2,000). It *shall*
20 be an absolute defense to the fine under this Section that the person acted
21 with good cause.

22 **§ 71113. Reporting Requirement for Contractors on Federal**
23 **Construction Projects.** All persons who do *not* possess a valid Guam
24 business license under Title 11, Guam Code Annotated, at the time of a
25 contract award, and who contract with the federal government for any
26 construction project located in Guam, *shall* report to DRT, on forms
27 prescribed by the Department, its estimated gross receipts from the

1 construction project, or any other information requested by DRT on the
2 prescribed form, within thirty (30) days of the contract being awarded.
3 Failure to report as provided in this Section *shall* result in a penalty of One
4 Thousand Dollars (\$1,000) per month, or fraction thereof, for each month
5 that a failure to report exists; *provided*, that the maximum penalty allowed
6 under this Section in the aggregate *shall not* be more than Six Thousand
7 Dollars (\$6,000).”

8 **Section 3. Better Public Service Fund; Use of Funds Defined.** A new
9 §161102 is hereby *added* to Chapter 161 of Title 11, Guam Code Annotated, to
10 read:

11 “§ 161102. **Use of Funds Defined.** The moneys in the Fund *shall* be
12 used for the following purposes:

13 (a) administering the operations of the Regulatory Division
14 pursuant to Chapter 71 of Title 11, Guam Code Annotated;

15 (b) improving and modernizing systems that are used to provide
16 Department services to the public, including on-line filing of all taxes, on-
17 line renewal of licenses and permits, upgrades of computer hardware and
18 software to improve record retrieval by members of the public, and the
19 training of Department staff in technical skills and customer service.

20 (c) issuing comfort letters, letter rulings, written opinions,
21 educational materials and guidance to taxpayers pursuant to Chapter 71 of
22 Title 11, Guam Code Annotated; and

23 (d) funding additional positions, including investigators,
24 investigator assistants, and licensed attorneys, pursuant to Chapter 71 of
25 Title 11, Guam Code Annotated.

1 (e) This Act does *not* affect rights and duties that matured,
2 penalties that were incurred, and proceedings that were begun, before its
3 effective date.

4 (f) No moneys shall be expended from the Fund without legislative
5 appropriation. The Fund *shall not* be subject to the transfer authority of *I*
6 *Maga'lahaen Guåhan*.”

7 **Section 4. Report to *I Liheslaturan Guåhan*.**

8 (a) The Director of Revenue & Taxation *shall* submit an
9 implementation plan for the Cash Economy Enforcement Act of 2011 to the
10 Speaker of *I Liheslatura* within forty-five (45) days upon enactment.

11 (b) The implementation plan submitted under this Section *shall* be
12 adopted by *I Liheslatura* after public hearing(s). The plan *shall*:

13 (1) include administrative rules for the Cash Economy
14 Enforcement Act of 2011;

15 (2) include five (5) years of benchmark statistics of business
16 licenses by industry by employee size by reported income;

17 (3) include estimated tax losses by categories outlined in (2);

18 (4) create a priority plan of enforcement by industry that
19 yields highest estimated revenue return; and

20 (5) document an educational outreach campaign for all
21 industries identified in (4).

22 (c) *No later than* thirty (30) days after approval of the
23 implementation plan required under this Section the Director of Revenue
24 and Taxation *shall* assess full-time employee (FTE) vacancies and any
25 additional positions that may be needed, such as investigators, investigator
26 assistants, licensed attorneys, or other support staff required to carry out the

1 duties in this Act, and *shall* submit to *I Liheslaturan Guåhan* a staffing
2 pattern request as the exigencies of the public service may require.

3 (d) *No later than* thirty (30) days after approval of the
4 implementation plan required under this Section, the Director of Revenue
5 and Taxation *shall* submit a report to *I Maga'lahaen Guåhan* and the Speaker
6 of *I Liheslaturan Guåhan*, estimating the resources required for enforcing
7 this Act, and *shall* submit a regular quarterly report to *I Maga'lahaen*
8 *Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and the Office of Public
9 Accountability of additional revenues less additional expenses raised
10 thereof.

11 **Section 5. Enforcement Activity Effective Date.** Newly enacted
12 enforcement laws, rules and regulations allowable pursuant to Chapter 71 of Title
13 11, Guam Code Annotated, *shall not* be effective until the Department of Revenue
14 and Taxation develops and implements a program consistent with the objectives
15 outlined in §71102 of Chapter 71, Title 11, Guam Code Annotated, for one
16 hundred eighty (180) consecutive days. After approval of the implementation plan
17 required under Section 4 (a) of this Act.

18 **Section 6. Severability.** *If* any provision of this Law or its application to
19 any person or circumstance is found to be invalid or contrary to law, such
20 invalidity shall *not* affect other provisions or applications of this Law which can be
21 given effect without the invalid provisions or applications, and to this end the
22 provisions of this Law are severable.

I MINA' TRENTAI UNU NA LIHESLATURAN GUAHAN

2011 (FIRST) Regular Session

Date: 11/07/11⁸

VOTING SHEET

SBill No. 210-31 (COR)

Resolution No. _____

Question: _____

NAME	<u>YEAS</u>	<u>NAYS</u>	NOT VOTING/ <u>ABSTAINED</u>	OUT DURING ROLL CALL	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.	✓				
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				

TOTAL 15 _____

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Office of

the People

I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

OCT 27 2011

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

Chairman
Committee on Appropriations,
Taxation, Public Debt, Banking,
Insurance, Retirement, and
Land

Vice Chairman
Committee on Education

Member
Committee on Rules,
Federal, Foreign &
Micronesian Affairs and
Human & Natural
Resources

Member
Committee on
Municipal Affairs,
Tourism, Housing, and
Recreation

Member
Committee on the Guam
Military Buildup and
Homeland Security

Member
Committee on Health and
Human Services, Senior
Citizens, Economic
Development, and Election
Reform

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

[Handwritten signature: Rory J. Respicio]

RE: Committee Report on Bill No. 210-31 (COR), As Substituted

2011 OCT 27 PM 9:39
[Handwritten initials]

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 210-31(COR):
"AN ACT TO ADD A NEW CHAPTER 71 TO TITLE 11, OF THE
GUAM CODE ANNOTATED, TO PROVIDE THE DEPARTMENT OF
REVENUE AND TAXATION ENFORCEMENT AND COLLECTION
RESOURCES TO TARGET HIGH RISK, CASH-BASED BUSINESSES
AND FOR NON LICENSED BUSINESSES ENGAGED IN MILITARY
CONSTRUCTION PROJECTS. THIS ACT SHALL BE KNOWN AS
"THE CASH ECONOMY ENFORCEMENT ACT OF 2011"" which was
referred to the Committee on Appropriations, Taxation, Public Debt,
Banking, Insurance, Retirement, and Land.

Committee votes are as follows:

- 5 TO PASS
0 TO NOT PASS
0 TO REPORT OUT ONLY
0 TO ABSTAIN
0 TO PLACE IN INACTIVE FILE

Si Yu'os Ma'åse'

Vicente (ben) Cabrera Pangelinan
Chairman

**COMMITTEE REPORT
ON**

Bill No. 210-31(COR), As Substituted:

**AN ACT TO ADD A NEW CHAPTER 71 TO TITLE
11, OF THE GUAM CODE ANNOTATED, TO
PROVIDE THE DEPARTMENT OF REVENUE AND
TAXATION ENFORCEMENT AND COLLECTION
RESOURCES TO TARGET HIGH RISK, CASH-
BASED BUSINESSES AND FOR NON LICENSED
BUSINESSES ENGAGED IN MILITARY
CONSTRUCTION PROJECTS. THIS ACT SHALL
BE KNOWN AS “THE CASH ECONOMY
ENFORCEMENT ACT OF 2011”**



I Mina'trentai Unu Na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

OCT 27 2011

MEMORANDUM

To: All Members
Committee on Appropriations, Taxation, Public Debt, Banking,
Insurance, Retirement, and Land

From: Senator Vicente (ben) Cabrera Pangelinan
Committee Chairperson

Subject: Committee Report on Bill No. 210-31 (COR), As Substituted

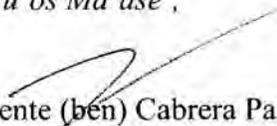
Transmitted herewith for your consideration is the Committee Report on Bill No. 210-31(COR), As Substituted: "AN ACT TO ADD A NEW CHAPTER 71 TO TITLE II, OF THE GUAM CODE ANNOTATED, TO PROVIDE THE DEPARTMENT OF REVENUE AND TAXATION ENFORCEMENT AND COLLECTION RESOURCES TO TARGET HIGH RISK, CASH-BASED BUSINESSES AND FOR NON LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS. THIS ACT SHALL BE KNOWN AS "THE CASH ECONOMY ENFORCEMENT ACT OF 2011" sponsored by Speaker Judi Won-Pat.

This report includes the following:

1. Committee Voting Sheet
2. Committee Report Narrative
3. Copy of Bill No. 210-31 (COR)
4. Copy of Substituted Bill No. 210-31 (COR)
5. Public Hearing Sign-in Sheet
6. Copies of Submitted Testimony & Supporting Documents
7. Copy of COR Referral of Bill No. 210-31 (COR)
8. Notices of Public Hearing
9. Copy of the Public Hearing Agenda
10. Fiscal Notes

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact my office.

Si Yu'os Ma'ase',


Vicente (ben) Cabrera Pangelinan
Chairman

324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910

Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Website: <http://senbenp.com>

Chairman
Committee on Appropriations,
Taxation, Public Debt, Banking,
Insurance, Retirement, and
Land

Vice Chairman
Committee on Education

Member
Committee on Rules,
Federal, Foreign &
Micronesian Affairs and
Human & Natural
Resources

Member
Committee on
Municipal Affairs,
Tourism, Housing, and
Recreation

Member
Committee on the Guam
Military Buildup and
Homeland Security

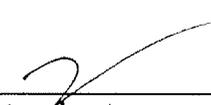
Member
Committee on Health and
Human Services, Senior
Citizens, Economic
Development, and Election
Reform

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

Committee Voting Sheet

Committee on Appropriations, Taxation, Public Debt, Banking, Insurance,
Retirement, and Land

Bill 210-31 (COR), As Substituted: "AN ACT TO ADD A NEW CHAPTER 71 TO TITLE 11, OF THE GUAM CODE ANNOTATED, TO PROVIDE THE DEPARTMENT OF REVENUE AND TAXATION ENFORCEMENT AND COLLECTION RESOURCES TO TARGET HIGH RISK, CASH-BASED BUSINESSES AND FOR NON-LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS. THIS ACT SHALL BE KNOWN AS "THE CASH ECONOMY ENFORCEMENT ACT OF 2011."

Committee Members	To Pass	To Not Pass	Report Out	Abstain	Inactive Files
 Senator Vicente C. Pangelinan Chairperson	✓				
Speaker Judith T. Won Pat, Ed.D Vice Chairperson					
 Vice Speaker Benjamin J.F. Cruz Member	10/27/11 ✓				
Senator Tina Rose Muña-Barnes Member					
 Senator Judith P. Guthertz Member	✓				
Senator Dennis Rodriguez, Jr. Member					
 Senator V. Anthony Ada Member	10/27/11				
 Senator Christopher M. Dueñas Member	✓				
Senator Mana Silva Taijeron Member					



the People

Chairman
Committee on Appropriations,
Taxation, Public Debt, Banking,
Insurance, Retirement, and
Land

Vice Chairman
Committee on Education

Member
Committee on Rules,
Federal, Foreign &
Micronesian Affairs and
Human & Natural
Resources

Member
Committee on
Municipal Affairs,
Tourism, Housing, and
Recreation

Member
Committee on the Guam
Military Buildup and
Homeland Security

Member
Committee on Health and
Human Services, Senior
Citizens, Economic
Development, and Election
Reform

I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

Committee Report

Bill No. 210-31(COR): An act to add a new Chapter 53 to Title 11, of the Guam Code Annotated, to provide the Department of Revenue and Taxation Enforcement and Collection Resources to target high risk, cash-based businesses and for non licensed businesses engaged in military construction projects. This act shall be known as "The Cash Economy Enforcement Act of 2011"

I. OVERVIEW

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land convened a public hearing on June 20, 2011 at 9:00 am in *I Liheslatura's* Public Hearing Room.

Public Notice Requirements

Notices were disseminated via hand-delivery and e-mail to all senators and all main media broadcasting outlets on June 13, 2011 (5-Day Notice), and again on June 18, 2011 (48 Hour Notice).

(a) Committee Members and Senators Present

Senator Vicente (ben) Cabrera Pangelinan, Chairman
Senator Dennis Rodriguez, Member
Senator V. Anthony Ada, Member
Senator Chris Duneas, Member
Senator Mana Silva Taijeron, Member
Senator Aline A. Yamashita, P.h.D.
Senator Sam Mabini, P.h.D.

(b) Appearing before the Committee

John Camacho, Department of Revenue & Taxation, Director

(c) Written Testimonies Submitted

John Camacho, Department of Revenue & Taxation

II. COMMITTEE PROCEEDINGS

(a) Bill Sponsor Summary

Chairman Pangelinan: Bill 210 is an act to add a new Chapter 53 to Title 11, of the Guam Code Annotated, to provide the Department of Revenue and Taxation Enforcement and Collection Resources to target high risk, cash-based businesses and for non-licensed businesses engaged in military construction projects. This act shall be known as "The Cash Economy Enforcement Act of 2011". Unfortunately Speaker is unavailable to join us as the sponsor of the bill but basically, the bill will provide for some enforcement authority to the Department of Revenue & Taxation (DRT) to deal with these cash based for profit and not for profit business who are substantially under reporting or misreporting any tax liabilities or tax returns. Failure to have a license to do business as required by Guam law, having no fixed or permanent principal place of business, failure to maintain adequate books or records, failure to report transactions by receipt, failure to report transactions from a cash register, and not accepting checks or electronic payment device for payment transactions. These are the issues that Speaker Won Pat, in the drafting of this bill, and providing additional enforcement authority to DRT would be able to hopefully resolve.

(b) Testimony

1. Mr. John Camacho

Mr. Camacho: I would like to thank you for the opportunity to present testimony on Bill 210. DRT submits written testimony in support of the proposed legislation but would recommend changes to its present form for the following reasons. If we look at the tax enforcement division we have three branches, the Examination branch where we go out and audit, the Collection branch where we collect and the Criminal Investigation branch which does all the criminal investigation on Guam. When this bill was actually drafted, we were looking at it and a lot of the provisions of the bill are already in the internal revenue code and regulations and also some of the local legislation and in the end it is giving additional responsibility to the Tax Enforcement Division. Upon discussions with our staff under the enforcement division we look at it as an additional responsibility for that particular division. After further review it also looks as if it will give more power to our Regulatory section, which is the licensing authority and the regulatory on other businesses. On our proposal we are looking at recommending transferring some of this responsibility to Licensing law, which is Chapter 70, and part of it would deal with tax enforcement. We were contemplating how this would work and if our Regulatory were to go out and ask for Business license and ask for receipts and all these things then they would initiate, under this particular bill, and then they would refer these cases to the enforcement division which would follow up to see if these businesses are actually reporting their share of taxes. At this present time we are looking at that and we are happy that the Better Service Public Fund has been increased 15% although we'd probably like more. As it stands, that is where we are at now.

Chairman Pangelinan: Any other questions?

Senator Mabini: One quick question. Would this help the cases in regards to the side street vendors, the ones that pop up tents like we see in Yigo, whom I'm assuming are cash based companies as well.

Mr. Camacho: Most definitely. Given our Regulatory division of our department, going out there and actually seeing if there is a license and if they are really giving out receipts. These are things we want to look at to develop and they can get their facts together from these particular vendors to see if they have the license and if they don't then have them to give them a letter to follow the proper procedures.

Chairman Pangelinan: Thank you very much. There being no further questions, Bill No. 210-31 has hereby been publicly heard.

III. FINDINGS & RECOMMENDATIONS

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land hereby reports out Bill No. 210-31 (COR), As Substituted, by the committee with the recommendation to pass.

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
2011 (FIRST) Regular Session

2011 MAY 27 11:31
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Bill No. 210.31 (Cor)

Introduced by:

J.T. Won Pat, Ed. 

**AN ACT TO ADD A NEW CHAPTER 53 TO
TITLE 11, OF THE GUAM CODE ANNOTATED,
TO PROVIDE THE DEPARTMENT OF REVENUE
AND TAXATION ENFORCEMENT AND
COLLECTION RESOURCES TO TARGET HIGH
RISK, CASH-BASED BUSINESSES AND FOR
NON LICENSED BUSINESSES ENGAGED IN
MILITARY CONSTRUCTION PROJECTS. THIS
ACT SHALL BE KNOWN AS “THE CASH
ECONOMY ENFORCEMENT ACT OF 2011”**

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

2 **SECTION 1. Short Title.** This Act may be cited as the “Cash Economy
3 Enforcement Act of 2011”.

4 **SECTION 2.** A new Chapter 53 of Title 11, Guam Code Annotated is hereby
5 *added* to read:

6 **“CHAPTER 53”**

7 **“The Cash Economy Enforcement Act”**

8 **§53101. Statement and Legislative Purpose**

9 **§53102. Tax Enforcement Division; additional functions, powers and**

1 **duties.**

2 **§53103. Identification of cash-economy cases; retention of funds.**

3 **§53104. Citations for violations; deposits.**

4 **§53105. Cash-based businesses; injunction.**

5 **§53106. Cash-based businesses; defined**

6 **§53107. Failure to produce license upon demand.**

7 **§53108. Failure to keep adequate books and records.**

8 **§53109. Failure to record transaction by receipt.**

9 **§53110. Failure to record transaction by register.**

10 **§53111. Tax avoidance price fixing.**

11 **§53112. Possession of currency for tax avoidance purposes.**

12 **§53113. Interference with a tax official.**

13 **§53114. Reporting requirement for contractors on federal construction**

14 **projects.**

15 **§53101. Statement and Legislative Purpose.** *I Liheslaturan Guðhan* finds that in
16 all tax systems, government administrators are continually working to reduce tax
17 noncompliance known as the "tax gap." In the United States, the tax gap, which is the
18 difference between the amount of tax that is required to be reported and timely paid and
19 the amount of tax that is actually reported and paid, is estimated to be almost Four
20 Hundred Billion Dollars (\$400,000,000,000) per year. Of this tax gap, it is further
21 estimated that about Two Hundred Billion Dollars (\$200,000,000,000), or half of the

1 tax gap, is composed of what is known as the "cash economy."

2 Cash-based transactions are a fundamental part of any economy. As the oldest form
3 of payment, cash continues to dominate many facets of the local economy. Cash is
4 inherently private, efficient, and predictable for both purchaser and seller. However,
5 cash transactions are also the simplest means of underreporting or non-reporting for tax
6 purposes, because no bank, no means of electronic oversight, and no intermediary
7 maintains records of the movement of funds from one pocket to another.

8 The purpose of this Act is to provide the Department of Revenue and Taxation
9 (DRT) with the necessary resources and tools to target high-risk, cash-based
10 transactions to shore up confidence in Guam's tax system for those that do comply.

11 Importantly, *I Liheslaturan Guåhan* intends that the enforcement resources provided
12 focus on the civil collection and enforcement nature of Guam's tax laws. In an effort to
13 demonstrate the targets of this undertaking, this Act defines "cash-based business" for
14 enforcement purposes and DRT is directed to focus on such businesses. At the same
15 time, education is equally important as enforcement. Therefore, this Act requires the
16 DRT to reach out to industry groups, specific demographics in the economy, and
17 practitioners to educate taxpayers on their tax responsibilities.

18 **§53102. Tax Enforcement Division (TED) ; Special functions, powers and**
19 **duties.** Notwithstanding any other provision of law, there is provided within the
20 Department of Revenue and Taxation, Tax Enforcement Division (TED), additional
21 special functions, powers and duties to carry out civil enforcement efforts of this Act as

1 directed by DRT. The Director of DRT (Director) may staff the division as the
2 exigencies of the public service may require.

3 In addition to existing powers and duties already provided by law, the TED shall also
4 have the following additional powers pursuant to this Act:

5 (1) Investigate reported or suspected violations of tax laws for civil enforcement
6 purposes, including through covert means, with a stated priority of
7 investigating cash-based businesses as defined in this chapter;

8 (2) Enforce the tax laws by issuing, enforcing, or executing citations, fines,
9 infractions, assessments, liens, levies, writs, warrants, injunctions, or other
10 process;

11 (3) Serve as fraud referral specialists to assist in the development and review of
12 fraud cases for appropriate disposition of potentially fraudulent activities,
13 including referral to criminal investigators and assessment of civil fraud
14 penalties; provided that personnel assigned to the tax enforcement division
15 may not participate in any criminal investigation;

16 (4) Organize and hold public informational meetings on issues of tax laws,
17 including compliance deficiencies in segments of the economy, and
18 undertake any other activities to encourage taxpayers, practitioners, or
19 others to maintain responsibility and compliance with their tax obligations;

20 (5) Coordinate with other sections or divisions within DRT, other departments or
21 branches of the government or the federal government on matters relating

1 to civil enforcement of the tax laws, including joint investigations,
2 information-sharing arrangements, or concurrent collection efforts;
3 provided that personnel assigned to the tax enforcement division may not
4 participate in any criminal investigation;

5 (6) Compile information received by third parties, including taxpayers, competitors,
6 government agencies, confidential sources, or public sources and delegate
7 this information within the department for proper handling. Proper
8 handling may include referral internally to other civil or criminal
9 enforcement divisions;

10 (7) Conduct investigations, research, and studies of matters relevant to the complex
11 or sensitive civil enforcement of the tax laws; and

12 (8) Perform such other acts as may be incidental to the exercise of the functions,
13 powers, and duties set forth in this section and existing law or as otherwise
14 directed by the Director of the DRT.

15 **§53103. Identification of cash-economy cases; retention of funds.**

16 Notwithstanding any law to the contrary, each fiscal year, the TED may identify any
17 taxpayer, assessment, investigation, or collection matter as a matter of the tax
18 enforcement division. All revenues collected from tax enforcement division matters
19 shall be deposited into the Better Public Service Fund.

20 **CASH ECONOMY ENFORCEMENT; CITATIONS**

21 **§53104. Citations for violations; deposits.**

1 (a) The TED may issue cease and desist citations to any person if the TED has
2 cause to believe the person has violated, is violating, or is about to violate any provision
3 of this chapter or administrative rule adopted thereunder. Any person who violates this
4 section shall be subject to a fine not to exceed one-thousand (\$1,000) dollars; provided
5 that if the person is a cash-based business, the fine shall not exceed two-thousand
6 (\$2,000) dollars.

7 (b) The department may recommend legislation defining the circumstances and the
8 civil monetary fines citable for unlawful actions under this chapter.

9 (c) Any fine assessed under this section shall be a matter of the TED under this
10 chapter and shall be retained and deposited into the Better Public Service Fund.

11 (d) Any fine assessed shall be due and payable thirty (30) days after issuance,
12 subject to appeal rights provided under subsection (e); provided that if payment of the
13 fine is determined to be in jeopardy, such fine shall be payable immediately and shall be
14 immediately collected. A finding of jeopardy shall be made in writing, setting forth the
15 specific reasons for the finding. The finding of jeopardy shall be subject to immediate
16 appeal under subsection (e), and at the taxpayer's request the appeal shall be expedited
17 and heard as soon as reasonably practicable. Any amount of fine collected under
18 jeopardy shall only be returned upon a finding by the Director of DRT or the Superior
19 Court of Guam that there was no violation under this chapter.

20 (e) Cease and desist citations may be appealed to the Director or the Director's
21 designee, and the determination of the Director may be appealed to the Superior Court

1 of Guam under this chapter.

2 **§53105. Cash-based businesses; injunction.** The TED, with the Director's
3 approval, may bring civil actions in the Superior Court of Guam to enjoin any unlawful
4 act under this chapter, including any administrative rule adopted thereunder, by a cash-
5 based business. To the extent provided by statute, the TED may include in any action
6 an assessment of a monetary fine.

7 **§53106. Cash-based businesses; defined.** For purposes of this chapter, "cash-
8 based business" means any person who operates a business, including for-profit or not-
9 for-profit, where transactions in goods or services are exchanged substantially for cash
10 and where the business is found, based upon reasonable cause including observation or
11 evidence, to have met one of the following factors:

12 (1) Is found to have substantially underreported or misrepresented the proper
13 amount of tax liability on any return or other submission to the
14 department. For purposes of this section, an amount has been substantially
15 underreported if the amount properly includible on the return or
16 submission is in excess of twenty-five per cent (25%) of the amount stated
17 on the return or submission;

18 (2) Is required to be licensed, registered, or permitted under Title 11, Guam Code
19 Annotated and is in fact not so licensed, registered, or permitted;

20 (3) Has a past pattern of noncompliance of obligations under Title 11, Guam Code
21 Annotated;

1 (4) Does not have a fixed and permanent principal place of business;

2 (5) Has not obtained any required tax clearance;

3 (6) Has failed to maintain adequate books and records, or those records required to
4 be maintained by law or administrative rule;

5 (7) Does not accept checks or electronic payment devices for business transactions;
6 provided that a business may establish reasonable criteria for accepting
7 personal checks;

8 (8) Offers price differentials or otherwise deviates from usual business practices
9 when the business transaction substantially involves payment of cash,
10 except where there is a bona-fide business reason for a price differential,
11 such as the avoidance of merchant fees imposed by credit card companies;
12 or

13 (9) Any other factor relevant to describing a cash-based business capable of
14 noncompliance as determined by the Director of the Department of
15 Revenue and Taxation and issued pursuant to a tax information release;
16 provided that a business shall not be deemed to have met any of these
17 factors while a genuine dispute as to that factor is pending in a contested
18 case before any administrative agency or in any court.

19 **§53107. Failure to produce license upon demand.** Every person required to be
20 licensed or permitted under Title 11, Guam Code Annotated, whether or not so licensed
21 or permitted, shall be required to produce the license or permit upon demand by the

1 TED. Failure to produce the license or permit upon demand shall be unlawful. Any
2 person who violates this section shall be subject to a fine not to exceed five-hundred
3 (\$500) dollars; provided that if the person is a cash-based business, the fine shall not
4 exceed one-thousand (\$1,000) dollars. It shall be an absolute defense to this section if
5 the person produces a license or permit number on file with the department and the
6 department confirms that the person associated with the number is true and accurate.

7 **§53108. Failure to keep adequate books and records.** It shall be unlawful for any
8 person required under Title 11, Guam Code Annotated to keep books or records to fail
9 to produce the books or records upon demand by the TED, or as soon thereafter as is
10 reasonable under the circumstances. Any person who violates this section shall be
11 subject to a fine not to exceed one-thousand (\$1,000) dollars; provided that if the person
12 is a cash-based business, the fine shall not exceed two-thousand (\$2,000) dollars.

13 **§53109. Failure to record transaction by receipt.** It shall be unlawful to conduct
14 more than ten (10) taxable business transactions per day in cash and fail to provide a
15 receipt or other record of the transaction when the means for issuing a receipt or
16 recording the transaction are available. Each day a person is in violation of this section
17 shall be treated as a separate violation. Any person who violates this section shall be
18 subject to a fine not to exceed one-thousand (\$1,000) dollars; provided that if the person
19 is a cash-based business, the fine shall not exceed two-thousand (\$2,000) dollars.

20 **§53110. Failure to record transaction by register.** It shall be unlawful to conduct
21 more than ten (10) taxable business transactions per day in cash and fail to record the

1 transaction in a cash register when the means for recording the transaction in a cash
2 register are available. Each day a person is in violation of this section shall be treated
3 as a separate violation. Any person who violates this section shall be subject to a fine
4 not to exceed one-thousand (\$1,000) dollars; provided that if the person is a cash-based
5 business, the fine shall not exceed two-thousand (\$2,000) dollars.

6 **§53111. Tax avoidance price fixing.** It shall be unlawful for any person to sell,
7 offer to sell, or otherwise convey more than one price for any business to be transacted
8 when the lower price is offered if the transaction is paid for in cash. It shall not be an
9 offense under this section if a business charges a higher price for legitimate business
10 purposes, such as for the purpose of recovering any charges assessed the business,
11 including for facilitating electronic payment. Any person who violates this section shall
12 be subject to a fine not to exceed two-thousand (\$2,000) dollars; provided that if the
13 person is a cash-based business, the fine shall not exceed three-thousand (\$3,000)
14 dollars.

15 **§53112. Possession of currency for tax avoidance purposes.** It shall be unlawful
16 for any person engaged in business in Guam to possess currency in the form of coin or
17 note, where the possession is for tax avoidance purposes. It shall be the department's
18 burden to establish that currency is possessed for tax avoidance purposes; provided that
19 circumstantial evidence may be used by the department in any proceeding. Any person
20 who violates this section shall be subject to a fine not to exceed two-thousand (\$2,000)
21 dollars; provided that if the person is a cash-based business, the fine shall not exceed

1 three-thousand (\$3,000) dollars.

2 **§53113. Interference with a tax official.** It is unlawful for any person to
3 intentionally interfere with, hinder, obstruct, prevent, or impede any investigator,
4 auditor, collector, or other employee of the department from obtaining license
5 information, books, records, articles, or items of business transacted, or other
6 information or property rightfully entitled the department. Any person who violates this
7 section shall be subject to a fine of not more than two-thousand (\$2,000) dollars. It
8 shall be an absolute defense to the fine under this section that the person acted with
9 good cause.

10 **§53114. Reporting requirement for contractors on federal construction.**
11 **projects.** All persons who do not possess a valid Guam Business License under Title
12 11, Guam Code Annotated at the time of a contract award and who contract with the
13 federal government for any construction project located in Guam shall report to DRT,
14 on forms prescribed by the department, its estimated gross receipts or any other
15 information requested by DRT on the prescribed form, from the construction project
16 within thirty days of the contract being awarded. Failure to report as provided in this
17 section shall result in a penalty of one-thousand (\$1,000) dollars per month, or fraction
18 thereof, for each month that a failure to report exists; provided that the maximum
19 penalty allowed under this section in the aggregate shall not be more than six-thousand
20 (\$6,000) dollars."

21 **SECTION 3. Better Public Service Fund; Amended.** §161101, Chapter 161

1 of Title 11, Guam Code Annotated is hereby amended to read:

2 **“§ 161101. Better Public Service Fund.**

3 (a) There is hereby established, separate and apart from the General Fund, the
4 “Better Public Service Fund.”

5 (b) ~~Ten percent (10%)~~ Fifteen percent (15%) of all fees and license revenues
6 received by the Department of Revenue and Taxation shall be deposited into said Fund.

7 ~~(c) The Director of Revenue and Taxation shall use the Fund to improve and
8 modernize systems that are used to provide Department services to the public, including
9 on-line filing of all taxes, on-line renewal of licenses and permits, upgrades of computer
10 hardware and software to improve record retrieval by members of the public, and the
11 training of Department staff in technical skills and customer service.~~

12 (c) One hundred percent (100%) of all penalties and fines collected by the
13 Department of Revenue and Taxation’s Tax Enforcement Division pursuant to Chapter
14 53 of Title 11, §53104 through §53114, Guam Code Annotated; shall be deposited into
15 said fund.

16 ~~(d) No moneys shall be expended from the Fund without legislative
17 appropriation. The Fund shall not be subject to the transfer authority of I Maga’lahi.”~~

18 **SECTION 4. Better Public Service Fund; Use of Funds Defined.** §161102,
19 Chapter 161 of Title 11, Guam Code Annotated is hereby *added* to read:

20 **“§ 161102. Use of Funds Defined.** The moneys in the fund shall be used for the
21 following purposes:

22 (a) Administering the operations of the Tax Enforcement Division
23 pursuant to Chapter 53 of Title 11, Guam Code Annotated;

24 (b) Improving and modernizing systems that are used to provide
25 Department services to the public, including on-line filing of all taxes, on-line renewal
26 of licenses and permits, upgrades of computer hardware and software to improve record
27 retrieval by members of the public, and the training of Department staff in technical

1 skills and customer service.

2 (c) Issuing comfort letters, letter rulings, written opinions, educational
3 materials and guidance to taxpayers pursuant to Chapter 53 of Title 11, Guam Code
4 Annotated;

5 (d) Funding additional positions, investigators, investigator assistants,
6 licensed attorneys pursuant to Chapter 53 of Title 11, Guam Code Annotated;

7 (e) This Act does not affect rights and duties that matured, penalties that
8 were incurred, and proceedings that were begun, before its effective date.

9 (f) No moneys shall be expended from the Fund without legislative
10 appropriation. The Fund shall not be subject to the transfer authority of *I Maga'laha*
11 *Guåhan*.”

12 **SECTION 5. Report to *I Liheslaturan Guåhan*.**

13 (a) The Director of the Department of Revenue and Taxation shall assess
14 Full Time Employee (FTE) vacancies and any additional positions that may be needed
15 such as investigators, investigator assistants, licensed attorneys, or other support staff
16 required to carry out the duties in this Act and shall submit to *I Liheslaturan Guåhan*
17 no later than thirty (30) days a staffing pattern request as the exigencies of the public
18 service may require.

19 (b) The Director of the Department of Revenue and Taxation shall submit a
20 report to *I Maga'laha Guåhan* and to the Speaker of *I Liheslaturan Guåhan* no later
21 than thirty (30) days after the implementation of this Act, the resources committed to
22 implementing this Act, and shall submit a regular quarterly report to *I Maga'laha*
23 *Guåhan*, the Speaker of *I Liheslaturan Guåhan* and the *Office of Public Accountability*
24 of additional revenues raised thereof.”

25 **SECTION 6. Codification.** In codifying the new sections Chapter 53 of Title
26 11, and §161101, Chapter 161 of Title 11, Guam Code Annotated, the Compiler of
27 Laws shall substitute the appropriate section numbers and or letters used in designating

1 and referring to the new sections in these Acts.

2 **SECTION 6. Severability.** *If* any provision of this Law or its application to any
3 person or circumstance is found to be invalid or contrary to law, such invalidity shall
4 *not* affect other provisions or applications of this Law which can be given effect without
5 the invalid provisions or applications, and to this end the provisions of this Law are
6 severable.

- 1 **§71102. Regulatory Division; additional functions, powers and duties.**
- 2 **§71103. Identification of cash-economy cases; retention of funds.**
- 3 **§71104. Citations for violations; deposits.**
- 4 **§71105. Cash-based businesses; injunction.**
- 5 **§71106. Cash-based businesses; defined**
- 6 **§71107. Failure to produce license upon demand.**
- 7 **§71108. Failure to keep adequate books and records.**
- 8 **§71109. Failure to record transaction by receipt.**
- 9 **§71110. Failure to record transaction by register.**
- 10 **§71111. Tax avoidance price fixing.**
- 11 **§71112. Interference with a tax official.**
- 12 **§71113. Reporting requirement for contractors on federal construction**
- 13 **projects.**

14 **§71101. Statement and Legislative Purpose.** *I Liheslaturan Guåhan* finds that

15 in all tax systems, government administrators are continually working to reduce tax

16 noncompliance known as the "tax gap." In the United States, the tax gap, which is the

17 difference between the amount of tax that is required to be reported and timely paid and

18 the amount of tax that is actually reported and paid, is estimated to be almost Four

19 Hundred Billion Dollars (\$400,000,000,000) per year. Of this tax gap, it is further

20 estimated that about Two Hundred Billion Dollars (\$200,000,000,000), or half of the

21 tax gap, is composed of what is known as the "cash economy."

1 Cash-based transactions are a fundamental part of any economy. As the oldest
2 form of payment, cash continues to dominate many facets of the local economy. Cash
3 is inherently private, efficient, and predictable for both purchaser and seller. However,
4 cash transactions are also the simplest means of underreporting or non-reporting for tax
5 purposes, because no bank, no means of electronic oversight, and no intermediary
6 maintains records of the movement of funds from one pocket to another.

7 The purpose of this Act is to provide the Department of Revenue and Taxation
8 (DRT) with the necessary resources and tools to target high-risk, cash-based
9 transactions to shore up confidence in Guam's tax system for those that do comply.
10 Importantly, *I Liheslaturan Guåhan* intends that the enforcement resources provided
11 focus on the civil collection and enforcement nature of Guam's Business License laws.
12 In an effort to demonstrate the targets of this undertaking, this Act defines "cash-based
13 business" for enforcement purposes and DRT is directed to focus on such businesses.
14 At the same time, education is equally important as enforcement. Therefore, this Act
15 requires the DRT to reach out to industry groups, specific demographics in the
16 economy, and practitioners to educate taxpayers on their tax responsibilities.

17 **§71102. Regulatory Division; Special functions, powers and duties.**

18 Notwithstanding any other provision of law, there is provided within the Department of
19 Revenue and Taxation, Regulatory Division , additional special functions, powers and
20 duties to carry out civil enforcement efforts of this Act as directed by DRT. The
21 Director of DRT (Director) may staff the division as the exigencies of the public service

1 may require.

2 In addition to existing powers and duties already provided by law, the Regulatory

3 Division shall also have the following additional powers pursuant to this Act: (1)

4 Investigate reported or suspected violations of Business License laws for civil
5 enforcement purposes, including through covert means allowable pursuant to the

6 Internal Revenue Manual of the Internal Revenue Service, with a stated priority of
7 investigating cash-based businesses as defined in this chapter. Any criminal

8 investigations originating as a result of information reported by a member of the general
9 public shall require that the Department obtain the identity of the person providing the

10 information;

11 (2) Enforce the Business License laws by issuing, enforcing, or executing
12 citations, fines, infractions and assessments;

13 (3) Serve as fraud referral specialists to assist in the development and review of
14 fraud cases for appropriate disposition of potentially fraudulent activities, including

15 referral to criminal investigators and assessment of civil fraud penalties; provided that
16 personnel assigned to the regulatory division may not participate in any criminal

17 investigation;

18 (4) Organize and hold public informational meetings on issues of Business
19 License laws, including compliance deficiencies in segments of the economy, and

20 undertake any other activities to encourage taxpayers, practitioners, or others to
21 maintain responsibility and compliance with their tax obligations;

1 (5) Coordinate with other sections or divisions within DRT, other departments or
2 branches of the government or the federal government on matters relating to civil
3 enforcement of the tax laws, including joint investigations, information-sharing
4 arrangements, or concurrent collection efforts; provided that personnel assigned to the
5 regulatory division may not participate in any criminal investigation;

6 (6) Compile information received by third parties, including taxpayers,
7 competitors, government agencies, confidential sources, or public sources and delegate
8 this information within the department for proper handling. Proper handling may
9 include referral internally to other civil or criminal enforcement divisions;

10 (7) Conduct investigations, research, and studies of matters relevant to the
11 complex or sensitive civil enforcement of the business license laws; and

12 (8) Perform such other acts as may be incidental to the exercise of the functions,
13 powers, and duties set forth in this section and existing law or as otherwise directed by
14 the Director of the DRT.

15 **§71103. Identification of cash-economy cases; retention of funds.**

16 Notwithstanding any law to the contrary, each fiscal year, the Regulatory Division may
17 identify any taxpayer, assessment, investigation, or collection matter as a matter of the
18 regulatory division. All revenues collected from regulatory division matters shall be
19 deposited into the Better Public Service Fund.

20 **CASH ECONOMY ENFORCEMENT; CITATIONS**

21 **§71104. Citations for violations; deposits.**

1 (1) The Regulatory Division may issue cease and desist citations to any person if
2 the Regulatory Division has cause to believe the person has violated, is violating, or
3 evidence present of intent to violate any provision of this chapter or administrative rule
4 adopted thereunder. Any person who violates this section shall be subject to a fine not
5 to exceed one-thousand (\$1,000) dollars; provided that if the person is a cash-based
6 business, the fine shall not exceed two-thousand (\$2,000) dollars.

7 (2) The department may recommend legislation defining the circumstances and
8 the civil monetary fines citable for unlawful actions under this chapter.

9 (3) Any fine assessed under this section shall be a matter of the Regulatory
10 Division under this chapter and shall be retained and deposited into the Better Public
11 Service Fund.

12 (4) Any fine assessed shall be due and payable thirty (30) days after issuance,
13 subject to appeal rights provided under subsection (5); provided that if payment of the
14 fine is determined to be in jeopardy, such fine shall be payable immediately and shall be
15 immediately collected. A finding of jeopardy shall be made in writing, setting forth the
16 specific reasons for the finding. The finding of jeopardy shall be subject to immediate
17 appeal under subsection (5), and at the taxpayer's request the appeal shall be expedited
18 and heard as soon as reasonably practicable. Any amount of fine collected under
19 jeopardy shall only be returned upon a finding by the Director of DRT or the Superior
20 Court of Guam that there was no violation under this chapter.

21 (5) Cease and desist citations may be appealed to the Director or the Director's

1 designee, and the determination of the Director may be appealed to the Superior Court
2 of Guam under this chapter.

3 **§71105. Cash-based businesses; injunction.** The Regulatory Division, with the
4 Director's approval, may bring civil actions in the Superior Court of Guam to enjoin
5 any unlawful act under this chapter, including any administrative rule adopted
6 thereunder, by a cash-based business. To the extent provided by statute, the Regulatory
7 Division may include in any action an assessment of a monetary fine.

8 **§71106. Cash-based businesses; defined.** For purposes of this chapter, "cash-
9 based business" means any person who operates a business, including for-profit or not-
10 for-profit, where transactions in goods or services are exchanged substantially for cash
11 and where the business is found, based upon reasonable cause including observation or
12 evidence, to have met one of the following factors:

13 (1) Is found to have substantially underreported or misrepresented the
14 proper amount of tax liability on any return or other submission to the
15 department. For purposes of this section, an amount has been substantially
16 underreported if the amount properly includible on the return or submission is in
17 excess of twenty-five per cent (25%) of the amount stated on the return or
18 submission;

19 (2) Is required to be licensed, registered, or permitted under Title 11,
20 Guam Code Annotated and is in fact not so licensed, registered, or permitted;

21 (3) Has a past pattern of noncompliance of obligations under Title 11,

1 Guam Code Annotated;

2 (4) Does not have a fixed and permanent principal place of business;

3 (5) Has not obtained any required tax clearance;

4 (6) Has failed to maintain adequate books and records, or those records
5 required to be maintained by law or administrative rule;

6 (7) Does not accept checks or electronic payment devices for business
7 transactions; provided that a business may establish reasonable criteria for
8 accepting personal checks;

9 (8) Offers price differentials or otherwise deviates from usual business
10 practices when the business transaction substantially involves payment of cash,
11 except where there is a bona-fide business reason for a price differential, such as
12 the avoidance of merchant fees imposed by credit card companies; or

13 (9) Any other factor relevant to describing a cash-based business capable
14 of noncompliance as determined by the Director of the Department of Revenue
15 and Taxation and issued pursuant to a tax information release provided that a
16 business shall not be deemed to have met any of these factors while a genuine
17 dispute as to that factor is pending in a contested case before any administrative
18 agency or in any court.

19 **§71107. Failure to produce license upon demand.** Every person required to be
20 licensed or permitted under Title 11, Guam Code Annotated, whether or not so licensed
21 or permitted, shall be required to publically display and shall produce the license or

1 permit upon demand by the Regulatory Division. Failure to produce the license or
2 permit upon demand shall be unlawful. Any person who violates this section shall be
3 subject to a fine not to exceed five-hundred (\$500) dollars; provided that if the person is
4 a cash-based business, the fine shall not exceed one-thousand (\$1,000) dollars. It shall
5 be an absolute defense to this section if the person produces a license or permit number
6 on file with the department and the department confirms that the person associated with
7 the number is true and accurate.

8 **§71108. Failure to keep adequate books and records.** It shall be unlawful for
9 any person required under Title 11, Guam Code Annotated to keep books or records to
10 fail to produce the books or records upon demand by the Regulatory Division, or as
11 soon thereafter as is reasonable under the circumstances. Any person who violates this
12 section shall be subject to a fine not to exceed one-thousand (\$1,000) dollars; provided
13 that if the person is a cash-based business, the fine shall not exceed two-thousand
14 (\$2,000) dollars.

15 **§71109. Failure to record transaction by receipt.** It shall be unlawful to
16 conduct more than ten (10) taxable business transactions per day in cash and fail to
17 provide a receipt or other record of the transaction when the means for issuing a receipt
18 or recording the transaction are available. Each day a person is in violation of this
19 section shall be treated as a separate violation. Any person who violates this section
20 shall be subject to a fine not to exceed one-thousand (\$1,000) dollars; provided that if
21 the person is a cash-based business, the fine shall not exceed two-thousand (\$2,000)

1 dollars.

2 **§71110. Failure to record transaction by register.** It shall be unlawful to
3 conduct more than ten (10) taxable business transactions per day in cash and fail to
4 record the transaction in a cash register when the means for recording the transaction in
5 a cash register are available. Each day a person is in violation of this section shall be
6 treated as a separate violation. Any person who violates this section shall be subject to
7 a fine not to exceed one-thousand (\$1,000) dollars; provided that if the person is a cash-
8 based business, the fine shall not exceed two-thousand (\$2,000) dollars.

9 **§71111. Tax avoidance price fixing.** It shall be unlawful for any person to sell,
10 offer to sell, or otherwise convey more than one price for any business to be transacted
11 when the lower price is offered if the transaction is paid for in cash. It shall not be an
12 offense under this section if a business charges a higher price for legitimate business
13 purposes, such as for the purpose of recovering any charges assessed the business,
14 including for facilitating electronic payment. Any person who violates this section shall
15 be subject to a fine not to exceed two-thousand (\$2,000) dollars; provided that if the
16 person is a cash-based business, the fine shall not exceed three-thousand (\$3,000)
17 dollars.

18 **§71112. Interference with a tax official.** It is unlawful for any person to
19 intentionally interfere with, hinder, obstruct, prevent, or impede any investigator,
20 auditor, collector, or other employee of the department from obtaining license
21 information, books, records, articles, or items of business transacted, or other

1 information or property rightfully entitled the department. Any person who violates this
2 section shall be subject to a fine of not more than two-thousand (\$2,000) dollars. It
3 shall be an absolute defense to the fine under this section that the person acted with
4 good cause.

5 **§71113. Reporting requirement for contractors on federal construction**
6 **projects.** All persons who do not possess a valid Guam Business License under Title
7 11, Guam Code Annotated at the time of a contract award and who contract with the
8 federal government for any construction project located in Guam shall report to DRT,
9 on forms prescribed by the department, its estimated gross receipts or any other
10 information requested by DRT on the prescribed form, from the construction project
11 within thirty days of the contract being awarded. Failure to report as provided in this
12 section shall result in a penalty of one-thousand (\$1,000) dollars per month, or fraction
13 thereof, for each month that a failure to report exists; provided that the maximum
14 penalty allowed under this section in the aggregate shall not be more than six-thousand
15 (\$6,000) dollars.”

16 **SECTION 4. Better Public Service Fund; Use of Funds Defined.** §161102,
17 Chapter 161 of Title 11, Guam Code Annotated is hereby *amended* to read:

18 **“§ 161102. Use of Funds Defined.** The moneys in the fund shall be used for the
19 following purposes:

20 (a) Administering the operations of the ~~Tax Enforcement~~ Regulatory
21 Division pursuant to Chapter ~~53~~ 71 of Title 11, Guam Code Annotated;

22 (b) Improving and modernizing systems that are used to provide

1 Department services to the public, including on-line filing of all taxes, on-line
2 renewal of licenses and permits, upgrades of computer hardware and software to
3 improve record retrieval by members of the public, and the training of
4 Department staff in technical skills and customer service.

5 (c) Issuing comfort letters, letter rulings, written opinions, educational
6 materials and guidance to taxpayers pursuant to Chapter 53 71 of Title 11, Guam
7 Code Annotated;

8 (d) Funding additional positions, investigators, investigator assistants,
9 licensed attorneys pursuant to Chapter 53 71 of Title 11, Guam Code Annotated;

10 (e) This Act does not affect rights and duties that matured, penalties that
11 were incurred, and proceedings that were begun, before its effective date.

12 (f) No moneys shall be expended from the Fund without legislative
13 appropriation. The Fund shall not be subject to the transfer authority of *I*
14 *Maga'lahaen Guåhan*.”

15 **SECTION 5. Report to *I Liheslaturan Guåhan*.**

16 (a) The Director of the Department of Revenue & Taxation shall submit
17 an implementation plan for the Cash Economy Enforcement Act of 2011 to the
18 Speaker of the Legislature.

19 (b) The implementation plan submitted under this section shall be adopted
20 by the Legislature after public hearing(s). The plan shall

21 (1) include administrative rules for the Cash Economy Enforcement
22 Act of 2011;

23 (2) include five years of benchmark statistics of business licenses by
24 industry by employee size by reported income;

25 (3) include estimated tax losses by categories outlined in (2);

26 (4) create a priority plan of enforcement by industry that yields
27 highest estimated revenue return;

1 (5) document an educational outreach campaign for all industries
2 identified in (4);

3 (c) No later than one hundred eighty (180) days after approval of the
4 implementation plan required in Section 5(a), the Director of the Department of
5 Revenue and Taxation shall assess Full Time Employee (FTE) vacancies and any
6 additional positions that may be needed such as investigators, investigator
7 assistants, licensed attorneys, or other support staff required to carry out the
8 duties in this Act and shall submit to *I Liheslaturan Guåhan* a staffing pattern
9 request as the exigencies of the public service may require.

10 (d) No later than one hundred eighty (180) days after approval of the
11 implementation plan required in Section 5(a), the Director of the Department of
12 Revenue and Taxation shall submit a report to *I Maga'lahren Guåhan* and to the
13 Speaker of *I Liheslaturan Guåhan*, estimating the resources required for
14 enforcing this Act, and shall submit a regular quarterly report to *I Maga'lahren*
15 *Guåhan*, the Speaker of *I Liheslaturan Guåhan* and the *Office of Public*
16 *Accountability* of additional revenues less additional expenses raised thereof.”

17 **SECTION 6. Enforcement Activity Effective Date.** Newly enacted
18 enforcement laws, rules and regulations allowable pursuant to 11GCA, Chapter 71 shall
19 not be effective until the Department of Revenue and Taxation develops and implement
20 a program consistent with the objectives outlined in §71102 of 11GCA, Chapter 71 for
21 365 consecutive days after approval of the implementation plan required in Section 5(a)
22 of this Act.

23 **SECTION 7. Codification.** In codifying the new sections Chapter 71 of Title
24 11, and §161101, Chapter 161 of Title 11, Guam Code Annotated, the Compiler of
25 Laws shall substitute the appropriate section numbers and or letters used in designating
26 and referring to the new sections in these Acts.

27 **SECTION 8. Severability.** *If* any provision of this Law or its application to any

1 person or circumstance is found to be invalid or contrary to law, such invalidity shall
2 *not* affect other provisions or applications of this Law which can be given effect without
3 the invalid provisions or applications, and to this end the provisions of this Law are
4 severable.



Mina'trentai Unu Na Liheslaturan Guahan
THIRTY-FIRST GUAM LEGISLATURE
Senator Vicente "ben" Cabrera Pangelinan

**COMMITTEE ON APPROPRIATIONS, TAXATION, PUBLIC DEBT, BANKING,
INSURANCE, RETIREMENT AND LAND**
Monday, June 20, 2011
Bill No. 210
SIGN UP SHEET

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
<i>John Casel</i>				<i>✓</i>	<i>✓</i>	<i>Yes</i>	



Dipattamenton Kontribusion yan Adu'ána

DEPARTMENT OF

REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

EDDIE BAZA CALVO, Governor Maga'láhi
RAY TENORIO, Lt. Governor Tifente Gubetnadot

JOHN P. CAMACHO, Director
Direktot
MARIE M. BENITO, Deputy Director
Segundo Direktot

June 16, 2011

The Honorable Senator Vicente C. Pangelinan
Chairman of the Committee on Appropriations,
Taxation, Public Debt, Banking, Insurance,
Retirement and Land
31st Guam Legislature

RE: BILL NO. 210-31 (COR) AN ACT TO ADD A NEW CHAPTER 53 TO TITLE 11, OF THE GUAM CODE ANNOTATED, TO PROVIDE THE DEPARTMENT OF REVENUE AND TAXATION ENFORCEMENT AND COLLECTION RESOURCES TO TARGET HIGH RISK, CASH-BASED BUSINESSES AND FOR NON LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS. THIS ACT SHALL BE KNOWN AS "THE CASH ECONOMY ENFORCEMENT ACT OF 2011"

The Department of Revenue & Taxation (DRT) hereby submits written testimony regarding the aforementioned proposed legislation. At this time, DRT supports the intent of the author of this legislation, but would recommend changes to its present form for the following reasons:

There are three branches within the Department of Revenue and Taxation's (DRT) Tax Enforcement Division (TED), namely 1) the Examination Branch, 2) the Collection Branch, and 3) the Criminal Investigation Branch. Each Branch has separate functions and all administer the tax laws and regulations of the **Guam Territorial Income Tax Code (GTITC)** for Income Tax purposes and the **Guam Code Annotated (GCA)** for local taxes purposes, such as the Gross Receipts tax. In its present form, this proposed legislation gives the appearance that the duties and responsibilities of the DRT's **Regulatory Division** are to be relegated to the TED. The proposed legislation should be incorporated into the Business License Laws, but should exclude the language as it applies to the TED. Accordingly, we would like to recommend the following:

The Act as referenced above should be substituting Chapter 53 for Chapter 70 of the Business License Law. Enforcement and Collection should be substituted for Regulatory. And, Cash Economy Enforcement Act should be substituted for Cash Economy Regulatory Act.

§53102 of the Act provides for the special functions powers and duties of the TED. Any reference to the TED should be substituted for the Regulatory Division and any reference to tax law should be substituted with the Business License law. Subsection (2) should be limited to citations and fines.

§53103 should substitute Regulatory Division for TED. Assessment, investigation or collection matter should be deleted.

§53104 of the Act provides for the imposition of citations for violations. This section should be incorporated into the Business License Law.

§53105 should be incorporated into the Business License Law.

§53106 as it defines Cash-Based Businesses should be incorporated in the Business License Law.

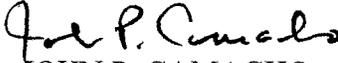
§§53107, 53108, 53109, 53110, 53111, 53112, 53113, and 53114 of the Act as it relates to the imposition of fines should be incorporated in the Business License Law.

§161101(c) of the Act should substitute Tax Enforcement Division for Regulatory Division.

§161102(a) of the Act should Tax Enforcement Division for the Department of Revenue and Taxation.

This legislation originally intended for the TED would impose additional duties and responsibilities to the existing TED staff in its duties and responsibilities to make assessments and collection of taxes and to pursue criminal prosecution for tax violators. The legislation has more of a regulatory nature as it references licensing requirements. This legislation would certainly add “teeth” to the existing Business Licensing Laws. We recognize the need to strengthen the Business License Laws of the GCA and would support it as such.

Sincerely,


JOHN P. CAMACHO

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 210-31 (COR)**

AN ACT TO ADD A NEW CHAPTER 53 TO TITLE 11, OF THE GUAM CODE ANNOTATED, TO PROVIDE THE DEPARTMENT OF REVENUE AND TAXATION ENFORCEMENT AND COLLECTION RESOURCES TO TARGET HIGH RISK, CASH-BASED BUSINESSES AND FOR NON LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS. This ACT SHALL BE KNOWN AS "THE CASH ECONOMY ENFORCEMENT ACT OF 2011"

Department/Agency Appropriation Information	
Dept./Agency Affected: Department of Revenue & Taxation (DRT)	Dept./Agency Head: John P. Camacho
Department's General Fund (GF) appropriation(s) to date:	9,320,658
Department's Other Fund (Specify) appropriation(s) to date: Tax Collection Enhancement Fund (TCEF) - \$818,249 / Better Public Service Fund (BPSF) - \$1,585,109	2,403,358
Total Department/Agency Appropriation(s) to date:	511,724,016

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2010 Unreserved Fund Balance ¹		\$0	\$0
FY 2011 Adopted Revenues	\$0	\$0	\$0
FY 2011 Appro. (P.L. 30-196)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2011 (if applicable)	FY 2012	FY 2013	FY 2014	FY 2015
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / x / Yes / / No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? / x / N/A / / Yes / / No
If no, what is the additional amount required? \$ _____ / x / N/A
- Does the Bill establish a new program/agency? / / Yes / x / No
If yes, will the program duplicate existing programs/agencies? / x / N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? / / Yes / x / No
- Will the enactment of this Bill require new physical facilities? / / Yes / x / No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / x / Yes / / No
/ x / Requested agency comments not received by due date / / Other: _____

Analyst: Michael M. Aflague, B&M Analyst Date: 6/8/11 Director: Benita A. Manglona, Director Date: 6/16/11

Footnotes: Bill 210-31 amends §161101, Ch. 161 of 11 GCA increasing the percentage of fees and licenses collected by DRT to 15%. The anticipates impact is a 5% increase in revenues to the Better Public Service Fund (BPSF). The Bill also establishes fines and penalties as set forth in Ch. 53 of Title 11 GCA; however, the impact cannot be determined at this time. DRT was contacted to provide fiscal comments; however, information was not received.

**Bureau of Budget & Management Research
Attachment to Fiscal Note No. 210-31 (COR)
(for revenue generating provisions)**

Projected Multi-Year Revenues					
	Year 1	Year 2	Year 3	Year 4	Year 5
General Fund	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0

Comments:

The Bureau anticipates a positive impact given the established fines and penalties set forth in Ch. 53 of Title 11 GCA; however, the impact cannot be determined at this time.



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

2011 MAY 26 PM 2:25
Will

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
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LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
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Senator
Thomas C. Ada

Senator
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Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

May 25, 2011

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio *[Signature]*
Chairperson, Committee on Rules

Subject: Referral of Bill No. 210-31 (COR)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 210-31(COR).

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os ma'åse!

(1) Attachments

I Mina'Trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

May 24, 2011

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
210-31 (COR)	J. T. Won Pat, Ed.D.	AN ACT TO ADD A NEW CHAPTER 53 TO TITLE 11, OF THE GUAM CODE ANNOTATED, TO PROVIDE THE DEPARTMENT OF REVENUE AND TAXATION ENFORCEMENT AND COLLECTION RESOURCES TO TARGET HIGH RISK, CASH-BASED BUSINESSES AND FOR NON LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS. THIS ACT SHALL BE KNOWN AS "THE CASH ECONOMY ENFORCEMENT ACT OF 2011"	5/24/11 11:31 a.m.	5/25/11		Committee on Appropriation s, Taxation, Public Debt, Banking, Insurance, Retirement and Land.			



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- Democrat Speech
- Dos Amantes
- Farmer's Coop
- Faxes
- Faxes 31GL
- Fundraiser 2010
- FY11 Comm Rpts
- GEDA
- Grants (242)
- Messages Comm
- Messages Comm 3
- Military Buildup (2)
- NCSL Fall Seminar
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- Stephanie Mendiola

Engadget - Inhabitat's Week in Green: solar train tunnels, refillable battery goop, and the world's first...

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Public Hearing - First Notice

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Hafa Adai,
 The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land will hold a public hearing on Monday, June 20, 2011 in the Guam Legislature Public Hearing Room. The following is on the agenda:

INEKUNGOK PUPBLEKO (PUBLIC HEARING)

gi Lunes, gi diha 20 gi Huño, 2011 (Monday, June 20, 2011)

Kuåtton Inekungok Pupbleko gi I Liheslaturan Guåhan (Guam Legislature Public Hearing Room)

Alas nuebi gi egga'an despu (9:00 AM)

TAREHA (AGENDA)

Komfitmasion Siha: (Confirmation hearings)

- Confirmation of Mr. Artemio B. Ilagari, Guam Banking and Insurance Commissioner
- Confirmation of Mr. Mark Fish, Member Guam Banking & Insurance Board
- Confirmation of Mr. William West Cassidy, Member Guam Banking & Insurance Board
- Confirmation of Mr. Danilo M. Rapadas, Member Guam Banking and Insurance Board
- Confirmation of Mr. Craig R. Thompson, Member, Alcoholic Beverage Control Board

Priniponi Siha (Bills)

- Bill No. 43-31 (COR): An Act to Add a New Chapter 81 to Title 21, Guam Code Annotated relative to the Deployment of Broad band and Telecommunications Infrastructure on Public Rights of Way.
- Bill No. 144-31 (COR): An Act to repeal and amend Chapter 28, Title 11 of the Guam Code Annotated relative to "Use Tax Law" Exemptions.
- Bill No. 146-31 (COR): An Act to place limitations on the importation of cigarettes and smokeless tobacco products by amending §6602 of Article 6, and by adding a New §6603 to Article 6 of Chapter 6 of Title 11 of the Guam Code Annotated.
- Bill No. 162-31 (COR): An Act to amend §70132 of Title 11 of the Guam Code Annotated Relative to clearances required to obtain, renew or cancel a business license or any other license issued by a regulating agency or board.
- Bill No. 174-31 (COR): An Act to repeal and re-enact §61214 of Title 12, Guam Code Annotated, Relative to authorizing "Split-Zone Elections".
- Bill No. 181-31 (COR): An Act to amend Title 16 Guam Code Annotated, Chapter 5 Relative to the creation of truck weigh stations on Guam.
- Bill No. 200-31 (COR): An Act to approve the Commercial Lease Agreement by and between the Department of Land Management and the Macheche Plaza Development
- Bill No. 207-31 (COR): An Act to authorize the Department of Land Management to exchange a portion of Government of Guam land and deed Lot No. 1NEW-6, within Block No. 24, Municipality of Hagatna to Adrian L. Cristobal and Concepcion F. Cristobal pursuant to Civil Case No. CV230-88 recorded under Document No. 478218.
- Bill No. 208-31 (COR): An Act to amend §60900 and add a new §60909 and §60910 of Article 9, Chapter 60, Title 21 Guam Code Annotated

relative to the construction of a new Department of Land Management Building in Hagatna.

Bill No. 210-31 (COR): An Act to add a new Chapter 53 to Title 11 of the Guam Code Annotated to provide the Department of Revenue and Taxation Enforcement and Collection Resources to target high risk, cash-based businesses and for non-licensed businesses engaged in military construction projects. This Act shall be known as "The Cash Economy Enforcement Act of 2011".

Bill No. 219-31 (COR): An Act to Amend Section 33106, Chapter 33, Title 7 Guam Code Annotated relative to Mechanics Lien.

Yanggen un nisisita espesiát na setbisio put fabot ágang i lfinan Senadot ben pangelinan gi 473-4236/7, i-mel si senbenp@guam.net patsino hálom gi i uepsait gi <http://www.senbenp.com> Este na nutisiu inapási nu i fendon gubetnamento.

If you require any special accommodations, please contact the Office of Senator ben pangelinan at 473-4236 , email at senbenp@guam.net or log onto <http://www.senbenp.com>

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Lisa Cipollone
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Office of Senator ben c. pangelinan
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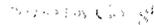
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Public Hearing - First Notice

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Public Hearing - First Notice
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Hafa Adai,
The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land will hold a public hearing on Monday, June 20, 2011 in the Guam Legislature Public Hearing Room. The following is on the agenda:

INEKUNGOK PUPBLEKO (PUBLIC HEARING)

gi Lunes, gi diha 20 gi Huño, 2011 (Monday, June 20, 2011)

Kuåtton Inekungok Pupbleko gi Lihestaturan Guåhan (Guam Legislature Public Hearing Room)

Alas nuebi gi egga'an despu (9:00 AM)

TAREHA (AGENDA)

Komfirmasion Siha: (Confirmation hearings)

- Confirmation of Mr. Artemio B. Illagan, Guam Banking and Insurance Commissioner
Confirmation of Mr. Mark Fish, Member Guam Banking & Insurance Board
Confirmation of Mr. William West Cassidy, Member Guam Banking & Insurance Board
Confirmation of Mr. Danilo M. Rapadas, Member Guam Banking and Insurance Board
Confirmation of Mr. Craig R. Thompson, Member, Alcoholic Beverage Control Board

Priniponi Siha (Bills)

Bill No. 43-31 (COR): An Act to Add a New Chapter 81 to Title 21, Guam Code Annotated relative to the Deployment of Broad band and Telecommunications Infrastructure on Public Rights of Way

Chat

- Lisa Cipollone
olivia
Scott Mendiola
Selina Onedera-Salas
Elaine Tajalle
Anjelica Kulani Okada
Artemio Hernandez
Chris Budasi
Edison Manalolo
Stephanie Mendiola

Bill No. 144-31 (COR): An Act to repeal and amend Chapter 28, Title 11 of the Guam Code Annotated relative to "Use Tax Law" Exemptions.

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Bill No. 174-31 (COR): An Act to repeal and re-enact §61214 of Title 12, Guam Code Annotated, Relative to authorizing "Split-Zone Elections".

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Bill No. 219-31 (COR): An Act to Amend Section 33106, Chapter 33, Title 7 Guam Code Annotated relative to Mechanics Lien.

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I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 18, 2011

Memorandum

To: Media

From: Senator Vicente (ben) Cabrera Pangelinan

Re: Public Hearing Notice – SECOND NOTICE

Chairman
Committee on Appropriations,
Taxation, Public Debt, Banking,
Insurance, Retirement, and
Land

Vice Chairman
Committee on Education

Member
Committee on Rules,
Federal, Foreign &
Micronesia Affairs and
Human & Natural
Resources

Member
Committee on
Municipal Affairs,
Tourism, Housing, and
Recreation

Member
Committee on the Guam
Military Buildup and
Homeland Security

Member
Committee on Health and
Human Services, Senior
Citizens, Economic
Development, and Election
Reform

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00am, Monday, June 20, 2011** at the Guam Legislature's Public Hearing Room. The following is on the agenda:

Confirmation of Mr. Artemio B. Illagan, Guam Banking and Insurance Commissioner

Confirmation of Mr. Mark Fish, Member Guam Banking & Insurance Board

Confirmation of Mr. William West Cassidy, Member Guam Banking & Insurance Board

Confirmation of Mr. Danilo M. Rapadas, Member Guam Banking and Insurance Board

Confirmation of Mr. Craig R. Thompson, Member, Alcoholic Beverage Control Board

Bill No. 43-31 (COR): An Act to Add a New Chapter 81 to Title 21, Guam Code Annotated relative to the Deployment of Broad band and Telecommunications Infrastructure on Public Rights of Way.

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Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Website: <http://senbenp.com>

Bill No. 174-31 (COR): An Act to repeal and re-enact §61214 of Title 12, Guam Code Annotated, Relative to authorizing “Split-Zone Elections”.

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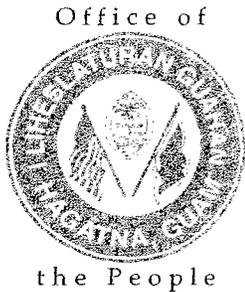
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Bill No. 219-31 (COR): An Act to Amend Section 33106, Chapter 33, Title 7 Guam Code Annotated relative to Mechanics Lien.



I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 18, 2011

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan

Re: Public Hearing Notice – SECOND NOTICE

Chairman
Committee on Appropriations,
Taxation, Public Debt, Banking,
Insurance, Retirement, and
Land

Vice Chairman
Committee on Education

Member
Committee on Rules,
Federal, Foreign &
Micronesian Affairs and
Human & Natural
Resources

Member
Committee on
Municipal Affairs,
Tourism, Housing, and
Recreation

Member
Committee on the Guam
Military Buildup and
Homeland Security

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Committee on Health and
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INEKUNGOK PUPBLEKO (PUBLIC HEARING)
gi Lunes, gi diha 20 gi Huño, 2011 (Monday, June 20, 2011)
Kuáttion inekungok Pubbleko gi i Liheslaturan Guáhan
(Guam Legislature Public Hearing Room)
Alas nuebi gi egga'an despu (9:00 AM)
TAREHA (AGENDA)

Konfirmasion Siha (Confirmation hearings):

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Confirmation of Mr. William West Cassidy, Member Guam Banking & Insurance Board
Confirmation of Mr. Danilo M. Rapadas, Member Guam Banking and Insurance Board
Confirmation of Mr. Craig R. Thompson, Member, Alcoholic Beverage Control Board

Priniponi Siha (Bills):

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I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 13, 2011

Ms. Benita Manglona
Director
Bureau of Budget Management & Research
Hagåtña, Guam

Re: Public Hearing Notice

Hafa Adai Ms. Manglona,

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00 am, Monday, June 20, 2011** at the Guam Legislature's Public Hearing Room. The following is the agenda:

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This letter invites you to provide written and/or oral testimony. Please do not hesitate to contact me should you have any questions or comments.

For copies of the bills, you can log onto www.guamlegislature.com or contact our office at 473-4236.

Si Yu'os Ma'ase,

Vicente (ben) Cabrera Pangelinan
Senator

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Taxation, Public Debt, Banking,
Insurance, Retirement, and
Land

Vice Chairman
Committee on Education

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Homeland Security

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Development, and Election
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Development, and Election
Reform

I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 14, 2011

Mr. James A. Martinez
Executive Director
Guam Contractors Association
718 N. Marine Corps Drive, Suite 203
East West Business Center
Upper Tumon, GU 96913

Re: Public Hearing Notice

Hafa Adai Mr. Martinez,

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00 am, Monday, June 20, 2011** at the Guam Legislature's Public Hearing Room. The following is the agenda:

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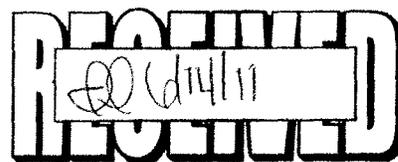
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Si Yu'os Ma'ase,

Vicente (ben) Cabrera Pangelinan
Senator

Cc: GCA Board of Directors



Guam Contractors Association



Office of

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Committee on Appropriations,
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Reform

I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 13, 2011

Ms. Doris Flores Brooks
Public Auditor
Office Public Accountability
Hagatna, Guam

Re: Public Hearing Notice

Hafa Adai Ms. Brooks,

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Bills:

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Letter to Ms. Doris Brooks
June 13, 2011
Page 2

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This letter invites you to provide written and/or oral testimony. Please do not hesitate to contact me should you have any questions or comments.

For copies of the bills, you can log onto www.guamlegislature.com or contact our office at 473-4236.

Si Yu'os Ma'ase,

Vicente (ben) Cabrera Pangelinan
Senator



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the People

Chairman
Committee on Appropriations,
Taxation, Public Debt, Banking,
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Human Services, Senior
Citizens, Economic
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Reform

I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 13, 2011

Mr. David Leddy
President
Guam Chamber of Commerce
Hagatna, Guam

Re: Public Hearing Notice

Hafa Adai Mr. Leddy,

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00 am, Monday, June 20, 2011** at the Guam Legislature's Public Hearing Room. The following is the agenda:

Confirmation:

Confirmation of Mr. Artemio B. Illagan, Guam Banking and Insurance Commissioner

Confirmation of Mr. Mark Fish, Member Guam Banking & Insurance Board

Confirmation of Mr. William West Cassidy, Member Guam Banking & Insurance Board

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*Rec. by: Charlie O.
Cabrera
6/14/11*

324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910

Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Website: <http://senbenp.com>

Letter to Mr. David Leddy
June 13, 2011
Page 2

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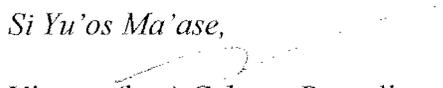
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Bill No. 219-31 (COR): An Act to Amend Section 33106, Chapter 33, Title 7 Guam Code Annotated relative to Mechanics Lien.

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For copies of the bills, you can log onto www.guamlegislature.com or contact our office at 473-4236.

Si Yu'os Ma'ase,


Vicente (ben) Cabrera Pangelinan
Senator



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Committee on Appropriations,
Taxation, Public Debt, Banking,
Insurance, Retirement, and
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Vice Chairman
Committee on Education

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Committee on Rules,
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Military Buildup and
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Human Services, Senior
Citizens, Economic
Development, and Election
Reform

I Mina'trentai Unu Na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 13, 2011

Leonardo Rapadas, Esq.
Attorney General of Guam
Office of the Attorney General
Hagatna, Guam

Re: Public Hearing Notice

Hafa Adai General Rapadas,

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00 am, Monday, June 20, 2011** at the Guam Legislature's Public Hearing Room. The following is the agenda:

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Letter to Attorney General Leonardo Rapadas
June 13, 2011
Page 2

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Si Yu'os Ma'ase,

Vicente (ben) Cabrera Pangelinan
Senator



I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 13, 2011

Governor Edward Calvo
Office of the Governor
Adelup, Guam

Re: Public Hearing Notice

Hafa Adai Governor Calvo,

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00 am, Monday, June 20, 2011** at the Guam Legislature's Public Hearing Room. The following is the agenda:

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Chairman
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Reform

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Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Website: <http://senbenp.com>

Letter to Governor Edward Calvo
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Si Yu'os Ma'ase,

Vicente (ben) Cabrera Pangelinan
Senator



Office of

the People

I Mina'trentai Unu Na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

June 13, 2011

Mr. John Camacho
Director
Department of Revenue & Taxation
Barrigada, Guam

Re: Public Hearing Notice

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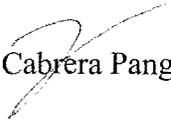
Letter to Mr. John Camacho
June 13, 2011
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Si Yu'os Ma'ase,

Vicente (ben) Cabrera Pangelinan
Senator





**I Mina'Trentai Unu Na
Lihselaturan Guahan
THIRTY-FIRST GUAM LEGISLATURE**

**Senator Vicente "ben" Cabrera Pangelinan
Office of the People
Website: www.senbenp.com**

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

***gi Lunes, gi diha 20 gi Huño, 2011
(Monday, June 20, 2011)***

***Kuátton Inekungok Pubbleko gi I Lihselaturan Guahan
(Guam Legislature Public Hearing Room)***

***Alas nuebi gi egga'an despu
(9:00 AM)***

**TAREHA
(AGENDA)**

***Komfitmasion Siha:
(Confirmation hearings)***

**Confirmation of Mr. Artemio B. Illagan, Guam Banking and Insurance Commissioner
Confirmation of Mr. Mark Fish, Member Guam Banking & Insurance Board
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***Priniponi Siha
(Bills)***

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*Yanggen un nisisita espesiât na setbisio put fabot âgang i Ifisinin Senadot ben pangelinan gi 473-4236/7, i-mel si senbenp@guam.net , patsino hâlom gi i uepsait gi <http://www.senbenp.com>
Este na nutisiu inapâsi nu i fendon gubetnamento.*

If you require any special accommodations, please contact the Office of Senator ben pangelinan at 473-4236 , email at senbenp@guam.net or log onto <http://www.senbenp.com>

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OFFICE OF THE SPEAKER

JUDITH T. WON PAT, Ed.D.

CHAIRPERSON OF THE COMMITTEE ON EDUCATION AND PUBLIC LIBRARIES

News Release

May 24, 2011

WON PAT'S BILL LOOKS TO BOOST GOVERNMENT REVENUES

Hagåtña – Speaker Judi Won Pat, Ed.D. today introduced legislation that will provide the Department of Revenue and Taxation (DRT) the additional tools and resources it needs to boost government revenues by targeting high-risk, cash based transaction businesses and to shore up confidence in Guam's tax system by assessing penalties for those who do not comply.

Bill 210, also known as the "Cash Economy Enforcement Act of 2011," can potentially generate millions of dollars in both direct and indirect revenues for our island. Similar legislation passed in Hawaii several years ago has assisted the State in enforcement and collection of millions of dollars in un-reported and under-reported taxes.

“This legislation is not meant to deter or regulate our local entrepreneurs from doing business on Guam, it simply levels the playing field for the thousands of businesses that are in compliance and ensuring that those high-risk cash-based businesses that continually underreport or do not report these taxes are in fact living up to their responsibilities,” said Won Pat.

These cash-based (both for-profit and not-for-profit) businesses are those where goods, services, and other transactions are paid for substantially in cash and where the business is found to have met one or more of a number of factors, including:

- Substantially underreporting or misreporting the proper amount of tax liability on any tax return.
- Failure to have a license to do business as required by law.
- Having no fixed and permanent principal place of business.
- Failure to maintain adequate books and records.
- Failure to record transaction by receipt.
- Failure to record the transaction in a cash register.
- Not accepting checks or electronic payment devices for business transactions.

The Cash Economy Enforcement Act of 2011 also establishes additional powers, functions and duties to Tax Enforcement Division which will civilly investigate reported or suspected violations of tax laws, with a special emphasis on cash-based businesses and issue cease and desist citations to any person if there is cause to believe the person has violated any provision of the Act. Additionally, the Act will provide a funding for an educational awareness campaign to educate tax payers on their responsibilities and provide funding for critical enforcement officers and investigators.

#####

For more information, contact: Steven Dierking, Office of Speaker Judith T. Won Pat, Ed.D. Phone: 472-3586/7

Additional info on Bill 210

- "Cash Economy Enforcement Act of 2011," can potentially generate millions of dollars in both direct and indirect revenues for our island. Similar legislation passed in Hawaii several years ago has assisted the State in enforcement and collection of millions of dollars in un-reported and under-reported taxes.
- Legislation is not meant to deter or regulate our local entrepreneurs from doing business on Guam, it simply levels the playing field for the thousands of businesses that are in compliance and ensuring that those high-risk cash-based businesses that continually underreport or do not report these taxes are in fact living up to their responsibilities.
- Tax Enforcement Division already has enforcement abilities, Bill 210 will implement penalties and fines for those not compliant with the law.
- Will look into providing a provision that during the initial outreach efforts no citations will be issued. The Goal is to advise and educate taxpayers of their tax responsibilities.
- The Act also creates a new filing requirement for contractors on federal construction projects who do not possess a valid Guam business license at the time the contract is awarded. A report must be filed with the Department of Revenue and Taxation with an estimate of the gross receipts or any other information requested by the department within 30 days of the contract award date.
- The Bill would greatly discourage businesses or individuals from generating income through illegal or unauthorized means. It would encourage legitimate businesses and individuals to comply with the law to report income.
- It will provide Rev and Tax with more enforcement abilities and adds "teeth" to existing enforcement laws to assess fines and penalties for those businesses who under-report or not report taxes.
- The expected outcome is that additional taxable revenues both direct and indirect revenues may be collected to sustain if not improve upon the delivery of government goods and services.
- *Anecdotal evidence suggests that the "underground economy" is roughly 10% of a country's GDP; in this case, Guam's estimated GDP (2005 future) is at **\$2.5 billion which translates to approximately \$250 million in unreported or underreported income, Of which half or \$125 million can be attributed to Guam's cash economy.
- The Bill provides an operation funding source for the Division amending the existing "*Better Public Service Fund*" and raising the existing 10% allotment to 15% of all fees and license revenues received and 100% of all fines and penalties collected by the Department.

*Reference: "Untaxed Cash Work: Feeding Mouths, Lining Wallets" Monika Reinhart, Jenny Job & Valerie Braithwaite
Regulatory Institutions Network Australian National University 2004

**Reference: CIA Fact Book. Online. (2005 est.)

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
2011 (FIRST) Regular Session

2011 MAY 24 10:11:31
RWR

Bill No. 210.31(Cor)

Introduced by:

J.T. Won Pat, Ed.D. 

AN ACT TO ADD A NEW CHAPTER 53 TO TITLE 11, OF THE GUAM CODE ANNOTATED, TO PROVIDE THE DEPARTMENT OF REVENUE AND TAXATION ENFORCEMENT AND COLLECTION RESOURCES TO TARGET HIGH RISK, CASH-BASED BUSINESSES AND FOR NON LICENSED BUSINESSES ENGAGED IN MILITARY CONSTRUCTION PROJECTS. THIS ACT SHALL BE KNOWN AS "THE CASH ECONOMY ENFORCEMENT ACT OF 2011"

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

2 **SECTION 1. Short Title.** This Act may be cited as the "Cash Economy
3 Enforcement Act of 2011".

4 **SECTION 2.** A new Chapter 53 of Title 11, Guam Code Annotated is hereby
5 *added* to read:

6 **"CHAPTER 53"**

7 **"The Cash Economy Enforcement Act"**

8 **§53101. Statement and Legislative Purpose**

9 **§53102. Tax Enforcement Division; additional functions, powers and**

1 **duties.**

2 **§53103. Identification of cash-economy cases; retention of funds.**

3 **§53104. Citations for violations; deposits.**

4 **§53105. Cash-based businesses; injunction.**

5 **§53106. Cash-based businesses; defined**

6 **§53107. Failure to produce license upon demand.**

7 **§53108. Failure to keep adequate books and records.**

8 **§53109. Failure to record transaction by receipt.**

9 **§53110. Failure to record transaction by register.**

10 **§53111. Tax avoidance price fixing.**

11 **§53112. Possession of currency for tax avoidance purposes.**

12 **§53113. Interference with a tax official.**

13 **§53114. Reporting requirement for contractors on federal construction**
14 **projects.**

15 **§53101. Statement and Legislative Purpose.** *I Liheslaturan Guåhan* finds that in
16 all tax systems, government administrators are continually working to reduce tax
17 noncompliance known as the "tax gap." In the United States, the tax gap, which is the
18 difference between the amount of tax that is required to be reported and timely paid and
19 the amount of tax that is actually reported and paid, is estimated to be almost Four
20 Hundred Billion Dollars (\$400,000,000,000) per year. Of this tax gap, it is further
21 estimated that about Two Hundred Billion Dollars (\$200,000,000,000), or half of the

1 tax gap, is composed of what is known as the "cash economy."

2 Cash-based transactions are a fundamental part of any economy. As the oldest form
3 of payment, cash continues to dominate many facets of the local economy. Cash is
4 inherently private, efficient, and predictable for both purchaser and seller. However,
5 cash transactions are also the simplest means of underreporting or non-reporting for tax
6 purposes, because no bank, no means of electronic oversight, and no intermediary
7 maintains records of the movement of funds from one pocket to another.

8 The purpose of this Act is to provide the Department of Revenue and Taxation
9 (DRT) with the necessary resources and tools to target high-risk, cash-based
10 transactions to shore up confidence in Guam's tax system for those that do comply.
11 Importantly, *I Liheslaturan Guåhan* intends that the enforcement resources provided
12 focus on the civil collection and enforcement nature of Guam's tax laws. In an effort to
13 demonstrate the targets of this undertaking, this Act defines "cash-based business" for
14 enforcement purposes and DRT is directed to focus on such businesses. At the same
15 time, education is equally important as enforcement. Therefore, this Act requires the
16 DRT to reach out to industry groups, specific demographics in the economy, and
17 practitioners to educate taxpayers on their tax responsibilities.

18 **§53102. Tax Enforcement Division (TED) ; Special functions, powers and**
19 **duties.** Notwithstanding any other provision of law, there is provided within the
20 Department of Revenue and Taxation, Tax Enforcement Division (TED), additional
21 special functions, powers and duties to carry out civil enforcement efforts of this Act as

1 directed by DRT. The Director of DRT (Director) may staff the division as the
2 exigencies of the public service may require.

3 In addition to existing powers and duties already provided by law, the TED shall also
4 have the following additional powers pursuant to this Act:

5 (1) Investigate reported or suspected violations of tax laws for civil enforcement
6 purposes, including through covert means, with a stated priority of
7 investigating cash-based businesses as defined in this chapter;

8 (2) Enforce the tax laws by issuing, enforcing, or executing citations, fines,
9 infractions, assessments, liens, levies, writs, warrants, injunctions, or other
10 process;

11 (3) Serve as fraud referral specialists to assist in the development and review of
12 fraud cases for appropriate disposition of potentially fraudulent activities,
13 including referral to criminal investigators and assessment of civil fraud
14 penalties; provided that personnel assigned to the tax enforcement division
15 may not participate in any criminal investigation;

16 (4) Organize and hold public informational meetings on issues of tax laws,
17 including compliance deficiencies in segments of the economy, and
18 undertake any other activities to encourage taxpayers, practitioners, or
19 others to maintain responsibility and compliance with their tax obligations;

20 (5) Coordinate with other sections or divisions within DRT, other departments or
21 branches of the government or the federal government on matters relating

1 to civil enforcement of the tax laws, including joint investigations,
2 information-sharing arrangements, or concurrent collection efforts;
3 provided that personnel assigned to the tax enforcement division may not
4 participate in any criminal investigation;

5 (6) Compile information received by third parties, including taxpayers, competitors,
6 government agencies, confidential sources, or public sources and delegate
7 this information within the department for proper handling. Proper
8 handling may include referral internally to other civil or criminal
9 enforcement divisions;

10 (7) Conduct investigations, research, and studies of matters relevant to the complex
11 or sensitive civil enforcement of the tax laws; and

12 (8) Perform such other acts as may be incidental to the exercise of the functions,
13 powers, and duties set forth in this section and existing law or as otherwise
14 directed by the Director of the DRT.

15 **§53103. Identification of cash-economy cases; retention of funds.**

16 Notwithstanding any law to the contrary, each fiscal year, the TED may identify any
17 taxpayer, assessment, investigation, or collection matter as a matter of the tax
18 enforcement division. All revenues collected from tax enforcement division matters
19 shall be deposited into the Better Public Service Fund.

20 **CASH ECONOMY ENFORCEMENT; CITATIONS**

21 **§53104. Citations for violations; deposits.**

1 (a) The TED may issue cease and desist citations to any person if the TED has
2 cause to believe the person has violated, is violating, or is about to violate any provision
3 of this chapter or administrative rule adopted thereunder. Any person who violates this
4 section shall be subject to a fine not to exceed one-thousand (\$1,000) dollars; provided
5 that if the person is a cash-based business, the fine shall not exceed two-thousand
6 (\$2,000) dollars.

7 (b) The department may recommend legislation defining the circumstances and the
8 civil monetary fines citable for unlawful actions under this chapter.

9 (c) Any fine assessed under this section shall be a matter of the TED under this
10 chapter and shall be retained and deposited into the Better Public Service Fund.

11 (d) Any fine assessed shall be due and payable thirty (30) days after issuance,
12 subject to appeal rights provided under subsection (e); provided that if payment of the
13 fine is determined to be in jeopardy, such fine shall be payable immediately and shall be
14 immediately collected. A finding of jeopardy shall be made in writing, setting forth the
15 specific reasons for the finding. The finding of jeopardy shall be subject to immediate
16 appeal under subsection (e), and at the taxpayer's request the appeal shall be expedited
17 and heard as soon as reasonably practicable. Any amount of fine collected under
18 jeopardy shall only be returned upon a finding by the Director of DRT or the Superior
19 Court of Guam that there was no violation under this chapter.

20 (e) Cease and desist citations may be appealed to the Director or the Director's
21 designee, and the determination of the Director may be appealed to the Superior Court

1 of Guam under this chapter.

2 **§53105. Cash-based businesses; injunction.** The TED, with the Director's
3 approval, may bring civil actions in the Superior Court of Guam to enjoin any unlawful
4 act under this chapter, including any administrative rule adopted thereunder, by a cash-
5 based business. To the extent provided by statute, the TED may include in any action
6 an assessment of a monetary fine.

7 **§53106. Cash-based businesses; defined.** For purposes of this chapter, "cash-
8 based business" means any person who operates a business, including for-profit or not-
9 for-profit, where transactions in goods or services are exchanged substantially for cash
10 and where the business is found, based upon reasonable cause including observation or
11 evidence, to have met one of the following factors:

12 (1) Is found to have substantially underreported or misrepresented the proper
13 amount of tax liability on any return or other submission to the
14 department. For purposes of this section, an amount has been substantially
15 underreported if the amount properly includible on the return or
16 submission is in excess of twenty-five per cent (25%) of the amount stated
17 on the return or submission;

18 (2) Is required to be licensed, registered, or permitted under Title 11, Guam Code
19 Annotated and is in fact not so licensed, registered, or permitted;

20 (3) Has a past pattern of noncompliance of obligations under Title 11, Guam Code
21 Annotated;

- 1 (4) Does not have a fixed and permanent principal place of business;
- 2 (5) Has not obtained any required tax clearance;
- 3 (6) Has failed to maintain adequate books and records, or those records required to
4 be maintained by law or administrative rule;
- 5 (7) Does not accept checks or electronic payment devices for business transactions;
6 provided that a business may establish reasonable criteria for accepting
7 personal checks;
- 8 (8) Offers price differentials or otherwise deviates from usual business practices
9 when the business transaction substantially involves payment of cash,
10 except where there is a bona-fide business reason for a price differential,
11 such as the avoidance of merchant fees imposed by credit card companies;
12 or
- 13 (9) Any other factor relevant to describing a cash-based business capable of
14 noncompliance as determined by the Director of the Department of
15 Revenue and Taxation and issued pursuant to a tax information release;
16 provided that a business shall not be deemed to have met any of these
17 factors while a genuine dispute as to that factor is pending in a contested
18 case before any administrative agency or in any court.

19 **§53107. Failure to produce license upon demand.** Every person required to be
20 licensed or permitted under Title 11, Guam Code Annotated, whether or not so licensed
21 or permitted, shall be required to produce the license or permit upon demand by the

1 TED. Failure to produce the license or permit upon demand shall be unlawful. Any
2 person who violates this section shall be subject to a fine not to exceed five-hundred
3 (\$500) dollars; provided that if the person is a cash-based business, the fine shall not
4 exceed one-thousand (\$1,000) dollars. It shall be an absolute defense to this section if
5 the person produces a license or permit number on file with the department and the
6 department confirms that the person associated with the number is true and accurate.

7 **§53108. Failure to keep adequate books and records.** It shall be unlawful for any
8 person required under Title 11, Guam Code Annotated to keep books or records to fail
9 to produce the books or records upon demand by the TED, or as soon thereafter as is
10 reasonable under the circumstances. Any person who violates this section shall be
11 subject to a fine not to exceed one-thousand (\$1,000) dollars; provided that if the person
12 is a cash-based business, the fine shall not exceed two-thousand (\$2,000) dollars.

13 **§53109. Failure to record transaction by receipt.** It shall be unlawful to conduct
14 more than ten (10) taxable business transactions per day in cash and fail to provide a
15 receipt or other record of the transaction when the means for issuing a receipt or
16 recording the transaction are available. Each day a person is in violation of this section
17 shall be treated as a separate violation. Any person who violates this section shall be
18 subject to a fine not to exceed one-thousand (\$1,000) dollars; provided that if the person
19 is a cash-based business, the fine shall not exceed two-thousand (\$2,000) dollars.

20 **§53110. Failure to record transaction by register.** It shall be unlawful to conduct
21 more than ten (10) taxable business transactions per day in cash and fail to record the

1 transaction in a cash register when the means for recording the transaction in a cash
2 register are available. Each day a person is in violation of this section shall be treated
3 as a separate violation. Any person who violates this section shall be subject to a fine
4 not to exceed one-thousand (\$1,000) dollars; provided that if the person is a cash-based
5 business, the fine shall not exceed two-thousand (\$2,000) dollars.

6 **§53111. Tax avoidance price fixing.** It shall be unlawful for any person to sell,
7 offer to sell, or otherwise convey more than one price for any business to be transacted
8 when the lower price is offered if the transaction is paid for in cash. It shall not be an
9 offense under this section if a business charges a higher price for legitimate business
10 purposes, such as for the purpose of recovering any charges assessed the business,
11 including for facilitating electronic payment. Any person who violates this section shall
12 be subject to a fine not to exceed two-thousand (\$2,000) dollars; provided that if the
13 person is a cash-based business, the fine shall not exceed three-thousand (\$3,000)
14 dollars.

15 **§53112. Possession of currency for tax avoidance purposes.** It shall be unlawful
16 for any person engaged in business in Guam to possess currency in the form of coin or
17 note, where the possession is for tax avoidance purposes. It shall be the department's
18 burden to establish that currency is possessed for tax avoidance purposes; provided that
19 circumstantial evidence may be used by the department in any proceeding. Any person
20 who violates this section shall be subject to a fine not to exceed two-thousand (\$2,000)
21 dollars; provided that if the person is a cash-based business, the fine shall not exceed

1 three-thousand (\$3,000) dollars.

2 **§53113. Interference with a tax official.** It is unlawful for any person to
3 intentionally interfere with, hinder, obstruct, prevent, or impede any investigator,
4 auditor, collector, or other employee of the department from obtaining license
5 information, books, records, articles, or items of business transacted, or other
6 information or property rightfully entitled the department. Any person who violates this
7 section shall be subject to a fine of not more than two-thousand (\$2,000) dollars. It
8 shall be an absolute defense to the fine under this section that the person acted with
9 good cause.

10 **§53114. Reporting requirement for contractors on federal construction.**
11 **projects.** All persons who do not possess a valid Guam Business License under Title
12 11, Guam Code Annotated at the time of a contract award and who contract with the
13 federal government for any construction project located in Guam shall report to DRT,
14 on forms prescribed by the department, its estimated gross receipts or any other
15 information requested by DRT on the prescribed form, from the construction project
16 within thirty days of the contract being awarded. Failure to report as provided in this
17 section shall result in a penalty of one-thousand (\$1,000) dollars per month, or fraction
18 thereof, for each month that a failure to report exists; provided that the maximum
19 penalty allowed under this section in the aggregate shall not be more than six-thousand
20 (\$6,000) dollars."

21 **SECTION 3. Better Public Service Fund; Amended.** §161101, Chapter 161

1 of Title 11, Guam Code Annotated is hereby amended to read:

2 **“§ 161101. Better Public Service Fund.**

3 (a) There is hereby established, separate and apart from the General Fund, the
4 “Better Public Service Fund.”

5 (b) ~~Ten percent (10%)~~ Fifteen percent (15%) of all fees and license revenues
6 received by the Department of Revenue and Taxation shall be deposited into said Fund.

7 ~~(c) The Director of Revenue and Taxation shall use the Fund to improve and
8 modernize systems that are used to provide Department services to the public, including
9 on-line filing of all taxes, on-line renewal of licenses and permits, upgrades of computer
10 hardware and software to improve record retrieval by members of the public, and the
11 training of Department staff in technical skills and customer service.~~

12 (c) One hundred percent (100%) of all penalties and fines collected by the
13 Department of Revenue and Taxation’s Tax Enforcement Division pursuant to Chapter
14 53 of Title 11, §53104 through §53114, Guam Code Annotated; shall be deposited into
15 said fund.

16 ~~(d) No moneys shall be expended from the Fund without legislative
17 appropriation. The Fund shall not be subject to the transfer authority of I Maga’lahi.”~~

18 **SECTION 4. Better Public Service Fund; Use of Funds Defined.** §161102,
19 Chapter 161 of Title 11, Guam Code Annotated is hereby *added* to read:

20 **“§ 161102. Use of Funds Defined.** The moneys in the fund shall be used for the
21 following purposes:

22 (a) Administering the operations of the Tax Enforcement Division
23 pursuant to Chapter 53 of Title 11, Guam Code Annotated;

24 (b) Improving and modernizing systems that are used to provide
25 Department services to the public, including on-line filing of all taxes, on-line renewal
26 of licenses and permits, upgrades of computer hardware and software to improve record
27 retrieval by members of the public, and the training of Department staff in technical

1 skills and customer service.

2 (c) Issuing comfort letters, letter rulings, written opinions, educational
3 materials and guidance to taxpayers pursuant to Chapter 53 of Title 11, Guam Code
4 Annotated;

5 (d) Funding additional positions, investigators, investigator assistants,
6 licensed attorneys pursuant to Chapter 53 of Title 11, Guam Code Annotated;

7 (e) This Act does not affect rights and duties that matured, penalties that
8 were incurred, and proceedings that were begun, before its effective date.

9 (f) No moneys shall be expended from the Fund without legislative
10 appropriation. The Fund shall not be subject to the transfer authority of *I Maga'lahen*
11 *Guåhan.*”

12 **SECTION 5. Report to *I Liheslaturan Guåhan.***

13 (a) The Director of the Department of Revenue and Taxation shall assess
14 Full Time Employee (FTE) vacancies and any additional positions that may be needed
15 such as investigators, investigator assistants, licensed attorneys, or other support staff
16 required to carry out the duties in this Act and shall submit to *I Liheslaturan Guåhan*
17 no later than thirty (30) days a staffing pattern request as the exigencies of the public
18 service may require.

19 (b) The Director of the Department of Revenue and Taxation shall submit a
20 report to *I Maga'lahen Guåhan* and to the Speaker of *I Liheslaturan Guåhan* no later
21 than thirty (30) days after the implementation of this Act, the resources committed to
22 implementing this Act, and shall submit a regular quarterly report to *I Maga'lahen*
23 *Guåhan*, the Speaker of *I Liheslaturan Guåhan* and the *Office of Public Accountability*
24 of additional revenues raised thereof.”

25 **SECTION 6. Codification.** In codifying the new sections Chapter 53 of Title
26 11, and §161101, Chapter 161 of Title 11, Guam Code Annotated, the Compiler of
27 Laws shall substitute the appropriate section numbers and or letters used in designating

1 and referring to the new sections in these Acts.

2 **SECTION 6. Severability.** *If* any provision of this Law or its application to any
3 person or circumstance is found to be invalid or contrary to law, such invalidity shall
4 *not* affect other provisions or applications of this Law which can be given effect without
5 the invalid provisions or applications, and to this end the provisions of this Law are
6 severable.