



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

January 5, 2012

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

31-11-1225  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 1/5/12  
Time 3:40 PM  
Received by [Signature]

Dear Madame Speaker:

Transmitted herewith is Bill No. 366-31 (LS), "AN ACT TO AMEND SUBSECTION (c), AND TO ADD A NEW SUBSECTION (d) OF §4401 OF ARTICLE 4, CHAPTER 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE AUTHORITY OF MAGISTRATE JUDGES", which I signed into law on January 4, 2012 as Public Law 31-163.

*Senseramente,*

EDDIE BAZA CALVO

Attachment: copy of Bill

2012 JAN -5 PM 4:27:30

1225

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

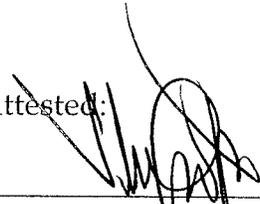
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 366-31 (LS), "AN ACT TO AMEND SUBSECTION (c), AND TO ADD A NEW SUBSECTION (d) OF §4401 OF ARTICLE 4, CHAPTER 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE AUTHORITY OF MAGISTRATE JUDGES", was on the 22<sup>nd</sup> day of December, 2011, duly and regularly passed.



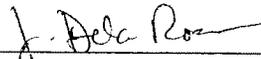
Judith T. Won Pat, Ed.D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 23<sup>rd</sup> day of Dec., 2011, at 10:35 o'clock A.M.



Assistant Staff Officer  
*Maga'laha*'s Office

APPROVED:



EDWARD J.B. CALVO  
*I Maga'lahaen Guåhan*

Date:

JAN 04 2012

Public Law No. 31-163

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

**Bill No. 366-31 (LS)**

As amended by the Committee on Public Safety,  
Law Enforcement and Judiciary.

Introduced by:

Adolpho B. Palacios, Sr.  
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  
v. c. pangelinan  
R. J. Respicio  
Dennis G. Rodriguez, Jr.  
M. Silva Taijeron  
Aline A. Yamashita, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO *AMEND* SUBSECTION (c), AND TO ADD A  
NEW SUBSECTION (d) OF §4401 OF ARTICLE 4,  
CHAPTER 4, DIVISION 1, TITLE 7, GUAM CODE  
ANNOTATED, RELATIVE TO THE AUTHORITY OF  
MAGISTRATE JUDGES.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that Public Law 29-109, which was enacted in August 2008, authorized the  
4 Judiciary of Guam to employ magistrates and judicial hearing officers through

1 appointments rendered by the Chief Justice of the Supreme Court of Guam. This  
2 law further authorized the establishment of a Northern Court Satellite facility.

3 *I Liheslaturan Guåhan* finds that the creation of magistrates and judicial  
4 hearing officers is a critical part of the Judiciary of Guam’s ongoing efforts to  
5 deliver effective and efficient services to the people of Guam. These additional  
6 officers of the court are essential to ensuring that legal services are available to  
7 Guam’s growing population.

8 Therefore, it is the intent of *I Liheslaturan Guåhan* to amend Subsection (c)  
9 and to add a new Subsection (d) to §4401 of Article 4, Chapter 4, Division 1, Title  
10 7, Guam Code Annotated. The amended Subsection (c) broadens the functions of  
11 magistrates relative to the cases assigned by the Presiding Judge of the Superior  
12 Court of Guam and the Chief Justice of the Supreme Court of Guam, and the new  
13 Subsection (d) recognizes the important role magistrates have within Guam’s  
14 judicial system by authorizing the Chief Justice to re-appoint qualified incumbents  
15 for one (1) additional term of four (4) years.

16 **Section 2. Appointment and Duties of Magistrate Judges.** Subsection  
17 (c) of §4401 of Article 4, Chapter 4, Division 1, Title 7, Guam Code Annotated, is  
18 hereby *amended*, and a new Subsection (d) is *added*, to read:

19 “(c) As assigned by the Chief Justice, a magistrate *shall*:

20 (1) preside over and render decisions and judgments in small  
21 claims cases, traffic cases, change of name petitions, and collection  
22 cases, and may grant uncontested divorces in cases where there is a  
23 notarized consent on file;

24 (2) enter judgment upon confession of judgment or default  
25 judgment in a civil case when a party alleges a sum certain is due;

1 (3) preside over post-judgment collection proceedings in  
2 civil cases and restitution judgments in criminal cases, and issue writs  
3 of execution and other orders in such proceedings;

4 (4) preside over first appearances of criminal defendants and  
5 arraignments in criminal cases, set bail and order pre-trial release  
6 conditions, take pleas, including accepting guilty pleas in  
7 misdemeanor cases, sentencing misdemeanants and entering  
8 judgments accordingly;

9 (5) issue summons, issue bench warrants, and hear return of  
10 warrants in all cases to which assigned;

11 (6) preside over any matters which may be heard by a  
12 Referee of the Superior Court of Guam;

13 (7) serve as a Special Master upon appointment by the  
14 Presiding Judge;

15 (8) serve as Judge *Pro Tempore* upon appointment by the  
16 Chief Justice; and

17 (9) serve as a settlement judge in a civil or domestic case  
18 upon appointment by the Presiding Judge.

19 (d) The Chief Justice may reappoint a sitting magistrate without  
20 confirmation by *I Liheslaturan Guåhan* upon a unanimous recommendation  
21 of the Judicial Council:

22 (1) for one (1) additional term of four (4) years; *or*

23 (2) until a new magistrate is appointed and duly confirmed,  
24 but *not to exceed* ninety (90) days.”

6

# I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: 12/22/11

## VOTING SHEET

ABill No. 366-31(LS)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<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      0      0      0      0

CERTIFIED TRUE AND CORRECT:

  
 Clerk of the Legislature

\* 3 Passes = No vote  
 EA = Excused Absence



Thirty-First  
Guam Legislature

*Committee Members:*

- Senator Thomas C. Ada  
Vice Chairman
- Speaker Judith T. Won Pat, Ph.D.  
Member
- Senator Tina R. Muna-Barnes  
Member
- Senator Judith P. Guthertz, DPA  
Member
- Senator Rory J. Respicio  
Member
- Senator Dennis G. Rodriguez, Jr.  
Member
- Senator V. Anthony Ada  
Member
- Senator Christopher M. Duenas  
Member
- Senator Mana Silva-Tajeron  
Member
- Senator Aline A. Yamashita, Ph.D.  
Member

*Other Committee  
Membership:*

- Vice Chairman, Committee on  
Utilities, Transportation, Public  
Works and Veterans Affairs
- Vice Chairman, Committee on  
Health and Human Services,  
Senior Citizens, Economic  
Development and Election  
Reform
- Member, Committee on Rules,  
Federal, Foreign & Micronesian  
Affairs and Human & Natural  
Resources
- Member, Committee on  
Education and Public Libraries
- Member, Committee on Guam  
Military Buildup and Homeland  
Security
- Member, Committee on  
Municipal Affairs, Tourism,  
Housing and Recreation

**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY**  
*I Mina'Trentai Uno Na Liheslaturan Guåhan*

**SENATOR ADOLPHO B. PALACIOS, SR.**  
*Chairman*

*2011 Dec 16 10:51*

December 16, 2011

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

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

**RE: Committee Report – Bill No. 366-31 (LS) as Amended.**

The Committee on Public Safety, Law Enforcement and Judiciary, to which was referred, **Bill No. 366-31 (LS) – "AN ACT TO AMEND §4401 OF ARTICLE 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT AND AUTHORITY OF MAGISTRATE JUDGES,"** hereby reports out with the recommendation **TO PASS.**

Committee Votes are as follows:

<u>5</u>	TO PASS
<u>0</u>	NOT TO PASS
<u>3</u>	TO REPORT OUT ONLY
<u>0</u>	ABSTAIN
<u>0</u>	INACTIVE FILE

Sincerely,

**ADOLPHO B. PALACIOS, MPA, BS/CJA**  
Chairman

Attachments



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
*I Mina'Trentai Uno Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.  
*Chairman*

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**COMMITTEE REPORT ON  
BILL NO. 366-31 (LS)**

**As Amended by the Committee on Public Safety,  
Law Enforcement and Judiciary**

**AN ACT TO AMEND §4401 OF ARTICLE 4,  
CHAPTER 4, DIVISION 1, TITLE 7, GUAM  
CODE ANNOTATED, RELATIVE TO THE  
APPOINTMENT AND AUTHORITY OF  
MAGISTRATE JUDGES.**



Thirty-First  
Guam Legislature

*Committee Members:*

Senator Thomas C. Ada  
Vice Chairman

Speaker Judith T. Won Pat, Ph.D.  
Member

Senator Tina R. Muna-Barnes  
Member

Senator Judith P. Guthertz, DPA  
Member

Senator Rory J. Respicio  
Member

Senator Dennis G. Rodriguez, Jr.  
Member

Senator V. Anthony Ada  
Member

Senator Christopher M. Duenas  
Member

Senator Mana Silva-Fajeron  
Member

Senator Aline A. Yamashita, Ph.D.  
Member

*Other Committee  
Membership:*

Vice Chairman, Committee on  
Utilities, Transportation, Public  
Works and Veterans Affairs

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

Member, Committee on  
Education and Public Libraries

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

Member, Committee on Guam  
Military Buildup and Homeland  
Security

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

**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY**

*I Mina'Trentai Uno Na Liheslaturan Guåhan*

**SENATOR ADOLPHO B. PALACIOS, SR.**

*Chairman*

December 16, 2011

**MEMORANDUM**

**TO: ALL MEMBERS**  
Committee on Public Safety, Law Enforcement, & Judiciary

**FROM: Senator Adolpho B. Palacios, Sr.**   
Committee Chairman

**SUBJECT: Committee Report on Bill No. 366-31 (LS) as Amended.**

Transmitted herewith for your consideration is the Committee Report on **Bill No. 366-31 (LS) as Amended – “An act to amend §4401 of Article 4, Division 1, Title 7, Guam Code Annotated, relative to the appointment and authority of Magistrate Judges.”** — sponsored by **Senator Adolpho B. Palacios, Sr.**

This report includes the following:

- Committee Voting Sheet
- Committee Report Digest
- Copy of Bill No. **366-31 (LS) as Amended**
- Copy of Bill No. **366-31 (LS) as Introduced**
- Public Hearing Sign-in Sheet
- Copies of testimony submitted and supporting documents
- Copy of COR Referral of Bill No. **366-31 (LS)**
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Miscellaneous documents

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 contact this office.

*Si Yu'os ma'åse!*



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY**  
*I Mina'Trentai Uno Na Liheslaturan Guahan*

**SENATOR ADOLPHO B. PALACIOS, SR.**  
*Chairman*

**COMMITTEE VOTING SHEET:**

**BILL NO. 366-31 (LS) – An ACT TO AMEND §4401 OF ARTICLE 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT AND AUTHORITY OF MAGISTRATE JUDGES.” — sponsored by Senator Adolpho B. Palacios, Sr..**

SENATOR	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Adolpho B. Palacios, Sr. Chairman		12/16/11 ✓				
Thomas C. Ada Vice Chairman		✓		12/16/11 ✓		
Tina R. Muña-Barnes Member		✓				
Judith P. Guthertz, DPA Member				12/16/11		
Rory J. Respicio Member						
Dennis G. Rodriguez, Jr. Member		12/16/11 ✓				
Judith T. Won Pat, Ed.D. Member						
V. Anthony Ada Member						
Christopher M. Duenas Member				12/16/11 ✓		
Mana Silva Taijeron Member		12/16/11 ✓				
Aline A. Yamashita, Ph.D. Member		12/16/11 ✓				



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY**  
*I Mina'Trentai Uno Na Liheslaturan Guáhan*

**SENATOR ADOLPHO B. PALACIOS, SR.**  
*Chairman*

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**COMMITTEE REPORT DIGEST**

**Bill No. 366-31 (LS) – “An act to amend §4401 of Article 4, Division 1, Title 7, Guam Code Annotated, relative to the appointment and authority of Magistrate Judges.” – sponsored by Senator Adolpho B. Palacios, Sr.**

**I. OVERVIEW**

The Committee on Public Safety, Law Enforcement & Judiciary convened the public hearing on **November 30, 2011** at **9:05 a.m.** in *I Liheslatura's* Public Hearing Room. Among the items on the agenda was the consideration of Bill No. 366-31 (LS) - “An act to amend §4401 of Article 4, Division 1, Title 7, Guam Code Annotated, relative to the appointment and authority of Magistrate Judges,” sponsored by Senator Adolpho B. Palacios, Sr.

**Public Hearing Requirements:**

Notices of the hearing were disseminated via facsimile and email to all senators and all main media broadcasting outlets on November 18 and 21, 2011 (5-day Notice) and on November 28, 2011 (48-Hour notice), pursuant to meeting the requirements of the Open Government Law. Notice of the hearing was also posted on the Guam Legislature's website.

**Senators Present:**

Senator Adolpho B. Palacios, Sr., Chairman  
Senator Aline A. Yamashita, Ph.D., Member  
Senator V. Anthony Ada, Member  
Senator Mana Silva Taijeron, Member  
Senator Frank F. Blas, Jr.

**Individual(s) Registered for oral or written testimony:**

Seaton Woodley, Esq., provided oral and written testimony in support of the Bill.  
Phillip Carbullido, Chief Justice, Unified Judiciary of Guam, provided oral and written testimony in support of the Bill.  
Albert Lamorena, III, Presiding Judge, Superior Court of Guam, provided oral testimony in support of the Bill.  
Phillip Tydingco, Chief Deputy Attorney General, Office of the Attorney General, provided oral testimony on the Bill.

## II. SUMMARY OF TESTIMONIES

Chairman Adolpho B. Palacios, Sr., convened the public hearing at 9:05 a.m., read the agenda, recognized the Senators in attendance, explained the procedures of the public hearing, called Seaton Woodley, Chief Justice Carbullido, Presiding Judge Lamorena and Chief Deputy Attorney General Tydingco to the panel.

Chairman Palacios said that the Bill might have a mark-up meeting to follow, if it is necessary. The Chairman said that magistrate judges relieve the workload of the Superior Court Judges. He points out that such judges serve only four (4) years and the Bill would allow the Chief Justice, with the unanimous consent of the Judicial Council, to extend the appointment of a sitting magistrate of up to one (1) more term. Chairman Palacios asked Mr. Woodley to provide his testimony.

Mr. Seaton Woodley, Esq., stated that he is a member of the Guam Bar Association. He suggested that the powers of the magistrate could be extended to include uncontested divorces. He said that it would keep the magistrate busy and would relieve the burdens of the Superior Court Judges.

Chief Justice Phillip Carbullido supports the Bill. He thanked the Chairman for introducing the Bill. He said that the Bill modifies the process to reappoint the magistrate judge. He stated that the reappointment would have to go through the appointment process, including the confirmation of the magistrate judge. He said that it can sometimes take six (6) to eight (8) months to fill the position of magistrate judge. Chief Justice Carbullido said that if the magistrate receives unanimous consent to reappoint them, their term would be extended by a term. He pointed out that after the one (1) extension, the reappointment would be the same process as is currently practiced. He said that the magistrate judge expedites the legal process for cases which are uncontested, as where a guilty plea for a misdemeanor offense is entered. Chief Justice Carbullido said that sometimes the judges recuse themselves and that if a magistrate judge may serve as a pro-tem judge it can speed up those cases. Chief Justice Carbullido agrees that allowing a magistrate judge to preside over uncontested divorces is also appropriate.

Presiding Judge Albert Lamorena supports the Bill. He said that magistrates should be allowed to issue bench warrants and agreed with Mr. Woodley about uncontested divorces. He stated that the intention of the language in the bill is to allow collection cases to be addressed by the magistrate.

Chief Deputy Attorney General Phil Tydingco supports any amendments which improve the efficiency of the justice system. He said it is preferred if the magistrate judge be allowed to preside over all misdemeanor cases. He stated that the Attorney General's Office files two to three thousand (2,000-3,000) cases and it would be more efficient to allow magistrates to preside over misdemeanor cases. Phillip Tydingco suggested that there be a clear delineation of what a magistrate judge is. He said that it makes sense to allow the magistrate judge to issue a bench warrant. Phil Tydingco agreed that the Judicial Council should be allowed to reappoint a magistrate judge. He suggested that perhaps the Chief Justice could appoint the magistrate judge with majority support of the Judicial Council.

Chairman Palacios asked Mr. Phil Tydingco to submit the recommended amendments to the Bill and reiterated his intent to collaborate for an amended version of the Bill. The Chairman pointed out that the current duties are not deleted, but reorganized with additional duties. Chief Justice Carbullido stated that it is reorganized with additional duties.

Senator Aline A. Yamashita asked how many magistrate judges there have been since 2008. Chief Justice Carbullido stated that there has been one (1) magistrate judge. Senator Yamashita asked whether the magistrate supports the Bill. Chief Justice Carbullido stated that the magistrate has reviewed the Bill and supports it. Senator Yamashita asked what would happen at the end of the extension and Chief Justice Carbullido said that at the end of the magistrate judge's extension, the magistrate would have to be reappointed under the current process.

Phil Tydingco said that a judge is appointed by the Governor of Guam and confirmed by the Legislature. He explained the process of appointing a magistrate in accordance with the existing law.

Chief Justice Carbullido said that the shortcomings of the current process are that upon the expiration of the term, there could be a lag where no magistrate judge would serve until another magistrate can be appointed. He said that it would be a burden on the Judiciary when the sitting magistrate is not allowed to continue to act while a magistrate is reappointed. Presiding Judge Lamorena said that the Bill primarily allows for an expedited reappointment of an incumbent magistrate judge.

Chairman Palacios discussed the process of the appointment of the magistrate and said that it would be replaced by the reappointment to a single term with the unanimous

consent of the Judicial Council. He pointed out that the initial appointment would still go through the confirmation process.

Presiding Judge said that they are not infringing upon the constitutional rights of defendants. He said that they should be careful about granting authority which may infringe upon constitutional rights.

Phil Tydingco said that magistrate judges are capable of handling uncontested divorces and it is in practice in Hawaii's judicial system.

Chairman Palacios stated his intent to allow for review of the Bill and any amended version. The Chairman asked about when the magistrate judge's term would expire and ascertained that the current magistrate's term will not expire imminently.

Chairman Palacios declared that Bill No. 366-31 (LS) has been duly heard. The Chairman concluded the hearing and requested that written testimony be submitted. He adjourned the hearing at 10:50 a.m.

### **III. WRITTEN TESTIMONIES**

**Seaton M. Woodley, III.** *(Summary follows.)*

**Phillip Carbullido, Chief Justice, Unified Judiciary of Guam.** *(Summary follows.)*

**Seaton M. Woodley, III.** Mr. Woodley, Esq., suggested that magistrates be given authority to grant uncontested divorces. He believes it would relieve other judges from spending court time on these proceedings. *(See written testimony.)*

Phillip Carbullido, Chief Justice, Unified Judiciary of Guam. Chief Justice Carbullido supports the Bill. He said that the bill provides the next step in the evolution of the role and the appointment of the magistrate judge. The Bill adds to the duties which the magistrate is able to address, including accepting guilty pleas in misdemeanor cases, sentencing misdemeanants and issuing summonses and bench warrants. *(See written testimony.)*

*No further written testimony was received in the ten (10) days following the public hearing.*

### **IV. FINDINGS AND RECOMMENDATIONS**

The Committee on Public Safety, Law Enforcement and Judiciary hereby reports out **Bill No. 366-31 (LS), as Amended**, with the recommendation **TO PASS**.

2011 FEB -11 11 9:58  
WJJA

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

Bill No. 366-31(LS)

Introduced by:

Adolpho B. Palacios, Sr. 

**AN ACT TO AMEND §4401 OF ARTICLE 4,  
DIVISION 1, TITLE 7, GUAM CODE ANNOTATED,  
RELATIVE TO THE APPOINTMENT AND  
AUTHORITY OF MAGISTRATE JUDGES.**

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

2       **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that P.L. 29-109, which was enacted in August 2008, authorized the  
4 Judiciary of Guam to employ magistrates and judicial hearing officers  
5 through appointments rendered by the Chief Justice of the Supreme Court of  
6 Guam. This law further authorized the establishment of a Northern Court  
7 Satellite facility.

8       *I Liheslaturan Guåhan* finds that the creation of magistrates and  
9 judicial hearing officers is a critical part of the Judiciary of Guam's ongoing  
10 efforts to deliver effective and efficient services to the people of Guam.  
11 These additional officers of the court are essential to ensuring that legal  
12 services are available to Guam's growing population.

13       Therefore, it is the intent of *I Liheslaturan Guåhan* to amend Section  
14 4401 of Article 4, Division 1, Title 7, Guam Code Annotated, and recognize  
15 the important role magistrates have within Guam's judicial system by  
16 authorizing the Chief Justice to re-appoint qualified incumbents for one (1)  
17 additional term of four (4) years. The re-appointment of incumbent

1 magistrates will provide among other benefits the continuity of timely  
2 judicial services benefiting Guam’s citizens. Incumbents, however, must  
3 have satisfactorily performed their duties, as evidenced by a unanimous  
4 recommendation of the Judicial Council, prior to their appointment by the  
5 Chief Justice to serve an additional term.

6 *I Liheslaturan Guåhan* further intends to amend Subsection (c) of the  
7 Section 4401, as described above, to allow magistrates to preside over and  
8 render decisions and judgments for cases assigned by the Presiding Judge of  
9 the Superior Court of Guam and the Chief Justice of the Supreme Court of  
10 Guam.

11 **Section 2. Appointment and Duties of Magistrate Judges.** Section  
12 4401 of Article 4, Division 1, Title 7, Guam Code Annotated, is hereby  
13 *amended* to read:

14 “(a) The Chief Justice of the Supreme Court of Guam may  
15 appoint such magistrates as are necessary for the proper  
16 administration of justice. The Chief Justice may re-appoint a sitting  
17 magistrate for one (1) additional term of four (4) years without  
18 confirmation by *I Liheslaturan Guåhan*, upon a unanimous  
19 recommendation by the Judicial Council. A magistrate *shall* be  
20 appointed as follows:

- 21 (1) Upon request by the Chief Justice, the Guam Bar  
22 Association will solicit interest for the position of  
23 magistrate;
- 24 (2) The Guam Bar Association will then submit the  
25 names of three (3) candidates to the Chief Justice;
- 26 (3) The Chief Justice must appoint the magistrate from  
27 the list provided by the Guam Bar Association.

1 (4) The appointment by the Chief Justice is subject to the  
2 approval of *I Liheslaturan Guåhan*.

3 (b) A magistrate *shall*:

4 (1) serve a four (4) year term, removable for cause;

5 (2) be at least thirty (30) years of age;

6 (3) meet the qualifications required of Superior Court  
7 Judge as articulated by §3019(c), (d) & (e), Title 7, GCA;

8 (4) be a member in good standing of the Guam Bar  
9 Association;

10 (5) not have been convicted of any felony or any  
11 misdemeanor involving moral turpitude;

12 (6) not be related by blood within the third degree of  
13 consanguinity *or* marriage to a judge or justice of the courts of  
14 Guam at the time of his *or* her initial appointment;

15 (7) be subject to the same ethical standards as a Superior  
16 Court Judge or Justice, to include the Guam Rules for Judicial  
17 Disciplinary Enforcement; and

18 (8) receive a salary *no greater than* ninety percent (90%)  
19 of a Judge who is *not* the Presiding Judge.

20 (c) A magistrate shall ~~be empowered to hear the following~~, as  
21 assigned by the Chief Justice:

22 (1) ~~small claims matters, and to issue and hear returns of~~  
23 ~~warrants of arrest in such cases~~ preside over and render  
24 decisions and judgments in small claims cases, traffic cases,  
25 change of name petitions, and collection cases;

26 (2) ~~traffic matters, and to issue and hear returns of~~  
27 ~~warrants of arrest in such cases~~ enter judgment upon confession

1 of judgment or default judgment in a civil case when a party  
2 alleges a sum certain is due;

3 (3) ~~changes of name~~ preside over post-judgment  
4 collection proceedings in civil cases and restitution judgments  
5 in criminal cases and issue writs of execution and other orders  
6 in such proceedings;

7 (4) ~~post judgment civil matters, relative to execution of~~  
8 ~~judgments such as debtor exams, garnishment matters, and~~  
9 ~~writs of execution, and to issue warrants of arrest and hear~~  
10 ~~returns of warrants of arrest in such cases~~ preside over first  
11 appearances of criminal defendants and arraignments in  
12 criminal cases, set bail and order pre-trial release conditions,  
13 take pleas including accepting guilty pleas in misdemeanor  
14 cases, sentencing misdemeanants and entering judgments  
15 accordingly;

16 (5) ~~first appearances of criminal defendants within the~~  
17 ~~context of §45.10, Title 8 of the Guam Code Annotated and~~  
18 ~~which are commonly referred to in practice within our local~~  
19 ~~criminal court as “magistrate hearings”, as well as appearances~~  
20 ~~pursuant to Chapter 15 (summons), Title 8, GCA, and §25.20~~  
21 ~~(notice to appear), although no authority exists to issue or hear~~  
22 ~~returns of warrants of arrest in such cases~~ issue summons, issue  
23 bench warrants, and hear return of warrants in all cases to  
24 which assigned;

25 (6) ~~set or change bail and conditions of release in~~  
26 ~~criminal cases~~ preside over any matter which may be heard by a  
27 Referee;

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(7) ~~eriminal arraignments, although no authority exists to issue or hear returns of warrants of arrest in such cases~~ serve as a Special Master upon appointment of the Presiding Judge; and  
(8) ~~any matters which may be heard by a referee of the Superior Court of Guam~~ serve as Judge Pro Tempore upon appointment by the Chief Justice; and  
(9) serve as a settlement judge in a civil or domestic case upon appointment by the Presiding Judge.”

**Section 3. Effective Date.** This Act shall be effective upon enactment.

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

**Bill No. 366-31 (LS)**

As Amended by the Committee on Public Safety,  
Law Enforcement and Judiciary

**Introduced by:**

**Adolpho B. Palacios, Sr.**

**AN ACT TO AMEND §4401 OF ARTICLE 4,  
CHAPTER 4, DIVISION 1, TITLE 7, GUAM CODE  
**ANNOTATED, RELATIVE TO THE APPOINTMENT  
AND AUTHORITY OF MAGISTRATE JUDGES.****

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that P.L. 29-109, which was enacted in August 2008, authorized the  
4 Judiciary of Guam to employ magistrates and judicial hearing officers  
5 through appointments rendered by the Chief Justice of the Supreme Court of  
6 Guam. This law further authorized the establishment of a Northern Court  
7 Satellite facility.

8           *I Liheslaturan Guåhan* finds that the creation of magistrates and  
9 judicial hearing officers is a critical part of the Judiciary of Guam's ongoing  
10 efforts to deliver effective and efficient services to the people of Guam.  
11 These additional officers of the court are essential to ensuring that legal  
12 services are available to Guam's growing population.

13           Therefore, it is the intent of *I Liheslaturan Guåhan* to amend  
14 Subsection (c) of and to add a new Subsection (d) to 4401 of Article 4,  
15 Chapter 4, Division 1, Title 7, Guam Code Annotated. The amended  
16 Subsection (c) broadens the functions of magistrates relative to the cases

1 assigned by the Presiding Judge of the Superior Court of Guam and the  
2 Chief Justice of the Supreme Court of Guam, and the new Subsection (d)  
3 recognizes the important role magistrates have within Guam’s judicial  
4 system by authorizing the Chief Justice to re-appoint qualified incumbents  
5 for one (1) additional term of four (4) years. The re-appointment of  
6 incumbent magistrates will provide for, among other benefits, the continuity  
7 of timely judicial services benefiting Guam’s citizens. Incumbents,  
8 however, must have satisfactorily performed their duties, as evidenced by a  
9 unanimous recommendation of the Judicial Council, prior to their  
10 appointment by the Chief Justice to serve an additional term.

11 ~~*I Liheslaturan Guåhan* further intends to *amend* Subsection (c) of the~~  
12 ~~Section 4401, as described above, to allow magistrates to preside over and~~  
13 ~~render decisions and judgments for cases assigned by the Presiding Judge of~~  
14 ~~the Superior Court of Guam and the Chief Justice of the Supreme Court of~~  
15 ~~Guam.~~

16 **Section 2. Appointment and Duties of Magistrate Judges.** Section  
17 4401 of Article 4, Chapter 4, Division 1, Title 7, Guam Code Annotated, is  
18 hereby *amended* and a new subsection (d) is added, to read:

19 “§4401. Magistrates.

20 (a) The Chief Justice of the Supreme Court of Guam may  
21 appoint such magistrates as are necessary for the proper  
22 administration of justice. ~~The Chief Justice may re-appoint a sitting~~  
23 ~~magistrate for one (1) additional term of four (4) years without~~  
24 ~~confirmation by *I Liheslaturan Guåhan*, upon a unanimous~~  
25 ~~recommendation by the Judicial Council.~~ A magistrate *shall* be  
26 appointed as follows:

1 (1) Upon request by the Chief Justice, the Guam Bar  
2 Association will solicit interest for the position of  
3 magistrate;

4 (2) The Guam Bar Association will then submit the  
5 names of three (3) candidates to the Chief Justice;

6 (3) The Chief Justice must appoint the magistrate from  
7 the list provided by the Guam Bar Association.

8 (4) The appointment by the Chief Justice is subject to the  
9 approval of *I Liheslaturan Guåhan*.

10 (b) A magistrate *shall*:

11 (1) serve a four (4) year term, removable for cause;

12 (2) be at least thirty (30) years of age;

13 (3) meet the qualifications required of Superior Court  
14 Judge as articulated by §3019(c), (d) & (e), Title 7, GCA;

15 (4) be a member in good standing of the Guam Bar  
16 Association;

17 (5) not have been convicted of any felony or any  
18 misdemeanor involving moral turpitude;

19 (6) not be related by blood within the third degree of  
20 consanguinity *or* marriage to a judge or justice of the courts of  
21 Guam at the time of his *or* her initial appointment;

22 (7) be subject to the same ethical standards as a Superior  
23 Court Judge or Justice, to include the Guam Rules for Judicial  
24 Disciplinary Enforcement; and

25 (8) receive a salary *no greater than* ninety percent (90%)  
26 of a Judge who is *not* the Presiding Judge.

1 (c) A magistrate shall ~~be empowered to hear the following~~, as  
2 assigned by the Chief Justice:

3 (1) ~~small claims matters, and to issue and hear returns of~~  
4 ~~warrants of arrest in such cases~~ preside over and render  
5 decisions and judgments in small claims cases, traffic cases,  
6 change of name petitions, and collection cases and may grant  
7 uncontested divorces in cases where there is a notarized consent  
8 on file;

9 (2) ~~traffic matters, and to issue and hear returns of~~  
10 ~~warrants of arrest in such cases~~ enter judgment upon confession  
11 of judgment or default judgment in a civil case when a party  
12 alleges a sum certain is due;

13 (3) ~~changes of name~~ preside over post-judgment  
14 collection proceedings in civil cases and restitution judgments  
15 in criminal cases and issue writs of execution and other orders  
16 in such proceedings;

17 (4) ~~post-judgment civil matters, relative to execution of~~  
18 ~~judgments such as debtor exams, garnishment matters, and~~  
19 ~~writs of execution, and to issue warrants of arrest and hear~~  
20 ~~returns of warrants of arrest in such cases~~ preside over first  
21 appearances of criminal defendants and arraignments in  
22 criminal cases, set bail and order pre-trial release conditions,  
23 take pleas including accepting guilty pleas in misdemeanor  
24 cases, sentencing misdemeanants and entering judgments  
25 accordingly;

26 (5) ~~first appearances of criminal defendants within the~~  
27 ~~context of §45.10, Title 8 of the Guam Code Annotated and~~

1           ~~which are commonly referred to in practice within our local~~  
2           ~~criminal court as “magistrate hearings”, as well as appearances~~  
3           ~~pursuant to Chapter 15 (summons), Title 8, GCA, and §25.20~~  
4           ~~(notice to appear), although no authority exists to issue or hear~~  
5           ~~returns of warrants of arrest in such cases~~ issue summons, issue  
6           bench warrants, and hear return of warrants in all cases to  
7           which assigned;

8           (6) ~~set or change bail and conditions of release in~~  
9           ~~criminal cases~~ preside over any matter which may be heard by a  
10          Referee;

11          (7) ~~criminal arraignments, although no authority exists to~~  
12          ~~issue or hear returns of warrants of arrest in such cases~~ serve as  
13          a Special Master upon appointment of the Presiding Judge; and

14          (8) ~~any matters which may be heard by a referee of the~~  
15          ~~Superior Court of Guam~~ serve as Judge Pro Tempore upon  
16          appointment by the Chief Justice; and

17          (9) serve as a settlement judge in a civil or domestic case  
18          upon appointment by the Presiding Judge.

19          (d) The Chief Justice may reappoint a sitting magistrate without  
20          confirmation by I Liheslaturan Guåhan upon a unanimous recommendation  
21          of the Judicial Council:

22                  (1) for one (1) additional term of four (4) years; or

23                  (2) until a new magistrate is appointed and duly  
24          confirmed, but not to exceed ninety (90) days.”

25          **Section 3. Effective Date.** This Act shall be effective upon  
26          enactment.







# Supreme Court of Guam

SUITE 300 GUAM JUDICIAL CENTER  
120 WEST O'BRIEN DRIVE, HAGĀTÑA, GUAM 96910-5174  
www.guamsupremecourt.com



**F. PHILIP CARBULLIDO**

Chief Justice

November 30, 2011

The Honorable Adolpho B. Palacios, Sr.  
Chairman  
Committee on Public Safety, Law Enforcement, and Judiciary  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
155 Hesler Place  
Hagåtña, Guam 96910

**Re: Bill No. 366-31(LS)**

Dear Chairman Palacios:

Hafa Adai! Thank you for providing me with the opportunity to comment on the impact Bill No. 366-31(LS), *An Act to amend § 4401 of Article 4, Division 1, Title 7, Guam Code Annotated, relative to the appointment and authority of Magistrate Judges*, would have on the Judiciary if passed into law.

The proposed legislative finding that *"the creation of magistrates and judicial hearing officers is a critical part of the Judiciary of Guam's ongoing efforts to deliver effective and efficient services to the people of Guam"* as contained in Bill 366-31(LS) is accurate. Since the establishment of the Court Magistrate pursuant to Public Law 29-109, the Judiciary has been able to improve the administration of justice and continue to address the backlog of cases assigned to the Trial Court Judges in a timelier manner.

The statutory authority for the Court Magistrate and Court Referees has provided the Judiciary of Guam with the capacity to establish and maintain divisions of the Court that address the various law enforcement priorities established by *I Liheslaturan Guåhan* and enforced by the Executive Branch through the Office of the Attorney General and the Guam Police Department. These include matters assigned to the Adult Drug Court, the Juvenile Drug Court, the Mental Health Court, the Family Court and now the DWI (Driving While Intoxicated) Court.

Bill No. 366-31(LS) provides the next evolution of the role and appointment of the Court Magistrate. It provides an opportunity for the Chief Justice of Guam to reappoint a Court Magistrate for an additional term of 4 years without reconfirmation by *I Liheslaturan Guåhan* but only upon the unanimous recommendation by the Judicial Council, which is comprised of all three Justices of the Supreme Court, the Presiding Judge of the Superior Court and one other Superior Court Judge.

In contrast to the Justices and Judges of Guam, who are appointed by *I Maga'lahren Guåhan* and confirmed by *I Liheslaturan Guåhan* after recommendation by the Guam Bar Association, the Magistrates do not receive life-time appointments subject to retention votes. Enactment of

Letter to Senator Adolpho B. Palacios, Sr.  
Re: Bill No. 366-31(LS)  
November 30, 2011  
Page 2 of 2

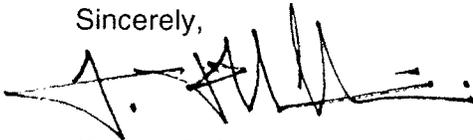
Bill No. 366-31(LS) would eliminate the possibility of the Court Magistrate position being vacant for an indefinite amount of time pending reappointment and confirmation of an exceptional incumbent endorsed unanimously by the Judicial Council.

The current matters assigned to the Magistrate include small claims matters, traffic matters, changes of name, post judgment of civil matters (i.e. debtor exams, garnishment matters, writs of execution), the first appearance of criminal defendants (magistrate hearings), criminal arraignments, setting and changing bail, and all matters handled by the Referees. However, there are other matters that can be handled by the Magistrate to improve the flow of cases. Bill No. 366-31(LS) adequately identifies those matters as the taking of pleas including accepting guilty pleas in misdemeanor cases, the sentencing of misdemeanants and the issuance of summonses and bench warrants.

Both the Presiding Judge and I agree that the Magistrate should be eligible to be appointed to handle matters as proposed by this legislation. If the bill is enacted, the Presiding Judge would be able to appoint the Magistrate to be a Special Master in complex matters to develop the court record and as a Settlement Judge in civil or domestic cases. The Chief Justice would be able to appoint the Magistrate to serve in a *Pro Tempore* capacity and expand the pool of judicial officers able to handle cases in which other judicial officers are recused or have been disqualified.

In closing, I want to express my appreciation to you for your leadership and legislative oversight of the Judiciary of Guam. I share the same concerns that you and other members of the legislature have expressed over the timely and efficient administration of justice to the people of Guam. Bill No. 366-31(LS) will facilitate these concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Philip Carbullido', with a stylized flourish extending to the right.

F. PHILIP CARBULLIDO  
Chief Justice of Guam

Law Offices of Seaton M. WOODLEY, III  
Ste. 102, Tanaka Bldg., Rte. 4  
Agana, Guam 96910 472-1612

November 28, 2011

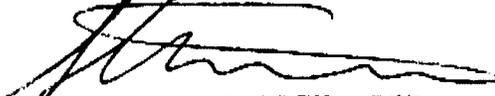
Senator Adolpho B. PALACIOS, Sr.  
Committee on PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
155 Hesler Place  
Hagatna, Guam 96910

RE: Public Hearing on Wednesday, November 30, 2011  
Discussing amending 7 GCA relative to appointment  
and authority of Magistrate Judges.

Dear Senator PALACIOS:

I have read Bill No. 366-31 (LS) regarding the appointment and authority of Magistrate Judges. I note that the Bill provides the authority to grant change of name petitions and serve as a settlement judge in a civil or domestic case upon appointment. I would suggest that the Magistrates also be given the authority to grant uncontested divorces in cases where there is a notarized consent on file. Hearing these cases, say once a week on an expedited calendar, does not take a lot of time and would relieve the other seven judges from spending court time on them. The more things that a Magistrate Judge can do makes him more valuable to the judiciary.

Sincerely,



Seaton M. WOODLEY, III  
Member, Guam Bar Association



## **BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

**EDDIE BAZA CALVO**  
GOVERNOR

**RAY TENORIO**  
LIEUTENANT GOVERNOR

**JOHN A. RIOS**  
DIRECTOR

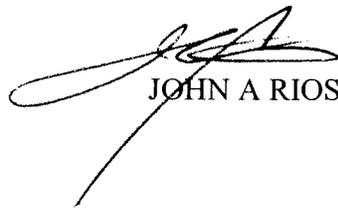
**STEPHEN J. GUERRERO**  
DEPUTY DIRECTOR

NOV 15 2011

The Bureau requests that Bill No(s) 366-31(LS) be granted a waiver pursuant to Public Law 12-229 as amended for the following reason(s):

Bill No. 366-31(LS) is an Act to amend §4401 of Article 4, Division 1, Title 7, Guam Code Annotated, relative to the appointment and authority of Magistrate Judges.

The intent of the Bill is administrative in nature and poses no fiscal impact upon any funds of the Government of Guam.



JOHN A RIOS



# COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [ronyforguam@gmail.com](mailto:ronyforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

**MAJORITY MEMBERS:**

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ASST. MAJORITY WHIP

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

**MINORITY MEMBERS:**

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

November 4, 2011

**MEMORANDUM**

**To:** Pat Santos  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

**From:** Senator Judith P. Guthertz *JPG*  
*Acting Committee on Rules*

**Subject:** Referral of Bill No. 366-31(LS)

As the Acting Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 366-31 (LS).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members 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) Attachment*

366-31 (LS) - 11-04-11  
EROM

*I Mina'Trentai Unu Na Liheslaturan Guåhan*

**Bill Log Sheet**

**November 4, 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?
366 -31 (LS)	Adolpho B. Palacios, Sr.	AN ACT TO AMEND §4401 OF ARTICLE 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT AND AUTHORITY OF MAGISTRATE JUDGES.	11/04/11 9:58 a.m.	11/4/11		Committee on Public Safety, Law Enforcement & Judiciary			



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
*I Mina'Trentai Unu Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.   
*Chairman*

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**PRESS RELEASE**

**FIRST NOTICE OF PUBLIC HEARING  
WEDNESDAY, NOVEMBER 30, 2011 – 9:00 A.M.**

**FOR IMMEDIATE RELEASE**  
***(Hagatna, Guam – November 18, 2011)***

In accordance with the Open Government Law, Public Law No. 24-109, relative to notice for public meetings, please be advised that the Committee on Public Safety, Law Enforcement and Judiciary will be conducting a public hearing starting at **9:00 a.m., Wednesday, November 30, 2011** at ***I Liheslaturan Guåhan's Public Hearing Room*** in *Hagåtña*, based on the following schedule:

- **Bill No. 366-31 (LS)** – AN ACT TO AMEND §4401 OF ARTICLE 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT AND AUTHORITY OF MAGISTRATE JUDGES. – sponsored by Senator Adolpho B. Palacios, Sr.
- **Bill No. 362-31 (COR)** – AN ACT TO ADD CHAPTER 27 TO TITLE 18 OF THE GUAM CODE ANNOTATED RELATIVE TO BICYCLE SAFETY, AND TO CITE THE ACT AS THE "*BICYCLE SAFETY ACT OF 2011.*" – sponsored by Senator Frank F. Blas, Jr.

Copies of the aforementioned Bills may be obtained thru Senator Palacios' website at [www.senatorpalacios.com](http://www.senatorpalacios.com). Testimonies should be addressed to Senator Adolpho B. Palacios, Sr., Chairperson, and will be accepted via hand delivery to our office, our mailbox at the main Legislature Building at 155 Hesler Place, Hagatna, Guam 96910, or via email to [senator@senatorpalacios.com](mailto:senator@senatorpalacios.com), or via facsimile to (671) 472-5022. Individuals requiring special accommodations or services, or for more information, please contact Julian Janssen or Jennifer Dulla at (671) 472-5047/5048.

###

Office/Mailing Address: 155 Hesler Place, Hagatña, Guam 96910  
Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022  
Email: [SenABPalacios@gmail.com](mailto:SenABPalacios@gmail.com) • Website: [www.senatorpalacios.com](http://www.senatorpalacios.com)



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
*I Mina'Trentai Unu Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.  
*Chairman*

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**PRESS RELEASE**

**FIRST NOTICE OF PUBLIC HEARING  
WEDNESDAY, NOVEMBER 30, 2011 – 9:00 A.M.**

**FOR IMMEDIATE RELEASE**  
**(Hagatna, Guam – November 21, 2011)**

In accordance with the Open Government Law, Public Law No. 24-109, relative to notice for public meetings, please be advised that the Committee on Public Safety, Law Enforcement and Judiciary will be conducting a public hearing starting at **9:00 a.m., Wednesday, November 30, 2011** at ***I Liheslaturan Guåhan's Public Hearing Room*** in ***Hagåtña***, based on the following schedule:

- **Bill No. 366-31 (LS)** – AN ACT TO AMEND §4401 OF ARTICLE 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT AND AUTHORITY OF MAGISTRATE JUDGES. – sponsored by Senator Adolpho B. Palacios, Sr.
- **Bill No. 362-31 (COR)** – AN ACT TO ADD CHAPTER 27 TO TITLE 18 OF THE GUAM CODE ANNOTATED RELATIVE TO BICYCLE SAFETY, AND TO CITE THE ACT AS THE "**BICYCLE SAFETY ACT OF 2011.**" – sponsored by Senator Frank F. Blas, Jr.

Copies of the aforementioned Bills may be obtained thru Senator Palacios' website at [www.senatorpalacios.com](http://www.senatorpalacios.com). Testimonies should be addressed to Senator Adolpho B. Palacios, Sr., Chairperson, and will be accepted via hand delivery to our office, our mailbox at the main Legislature Building at 155 Hesler Place, Hagatna, Guam 96910, or via email to [senator@senatorpalacios.com](mailto:senator@senatorpalacios.com), or via facsimile to (671) 472-5022. Individuals requiring special accommodations or services, or for more information, please contact Julian Janssen or Jennifer Dulla at (671) 472-5047/5048.

###

Office/Mailing Address: 155 Hesler Place, Hagatña, Guam 96910  
Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022  
Email: SenABPalacios@gmail.com • Website: [www.senatorpalacios.com](http://www.senatorpalacios.com)

**First Notice of Public Hearing on November 30, 2011** 1

Hide Details

**FROM:** Julian Janssen

Monday, November 21, 2011 8:40 AM

**TO:** phnotice@guamlegislature.org | telo.taitague@guam.gov

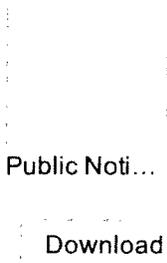
**CC:** amier@mvguam.com | clynt@spbguam.com | dcrisost@guampdn.com  
 dmgeorge@guampdn.com | editor@mvguam.com | egthompson@guampdn.com  
 jason@kuam.com | jtyquiengco@spbguam.com | kstokish@gmail.com  
 kstone@ite.net | life@guampdn.com | mabuhaynews@yahoo.com  
 mindy@kuam.com | mpieper@guampdn.com | PDN Newsroom  
 news@spbguam.com | nick.delgado@kuam.com | officemanager@hitradio100.com  
 ricknauta@hitradio100.com | rlimtiaco@guampdn.com | sabrina@kuam.com  
 slimtiaco@guampdn.com | therese.hart.writer@gmail.com | zita@mvguam.com

Hafa adai! Please see attached press release regarding a public hearing scheduled for 9:00 a.m. on Wednesday, November 30, 2011. Thank you for your kind attention.

Sincerely,

Julian Janssen  
 Policy Analyst  
 Office of Senator Adolpho B. Palacios, Sr.  
 Chairman, Committee on Public Safety, Law Enforcement and Judiciary  
 The Thirty-First Guam Legislature  
 I Mina' Trentai Unu Na Liheslaturan Guåhan  
 Phone: 472-5047/8 Fax: 472-5022

1 Attached files | 410KB



**Listserv: [phnotice@guamlegislature.org](mailto:phnotice@guamlegislature.org)**

As of Nov. 23, 2011

aguon4guam@gmail.com  
alerta.jermaine@gmail.com  
aline4families@gmail.com  
ataylor.senatordrodriguez@gmail.com  
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baza.matthew@gmail.com  
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carlo@tinamunabarnes.com  
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cipo@guamlegisalature.org  
clerks@guamlegisalature.org  
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COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
*I Mina'Trentai Unu Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.  
*Chairman*

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**PRESS RELEASE**

**SECOND NOTICE OF PUBLIC HEARING  
WEDNESDAY, NOVEMBER 30, 2011 – 9:00 A.M.**

**FOR IMMEDIATE RELEASE**  
***(Hagatna, Guam – November 28, 2011)***

In accordance with the Open Government Law, Public Law No. 24-109, relative to notice for public meetings, please be advised that the Committee on Public Safety, Law Enforcement and Judiciary will be conducting a public hearing starting at **9:00 a.m., Wednesday, November 30, 2011** at ***I Liheslaturan Guåhan's Public Hearing Room*** in *Hagåtña*, based on the following schedule:

- **Bill No. 366-31 (LS)** – AN ACT TO AMEND §4401 OF ARTICLE 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT AND AUTHORITY OF MAGISTRATE JUDGES. – sponsored by Senator Adolpho B. Palacios, Sr.
- **Bill No. 362-31 (COR)** – AN ACT TO ADD CHAPTER 27 TO TITLE 18 OF THE GUAM CODE ANNOTATED RELATIVE TO BICYCLE SAFETY, AND TO CITE THE ACT AS THE "*BICYCLE SAFETY ACT OF 2011.*" – sponsored by Senator Frank F. Blas, Jr.

Copies of the aforementioned Bills may be obtained thru Senator Palacios' website at [www.senatorpalacios.com](http://www.senatorpalacios.com). Testimonies should be addressed to Senator Adolpho B. Palacios, Sr., Chairperson, and will be accepted via hand delivery to our office, our mailbox at the main Legislature Building at 155 Hesler Place, Hagatna, Guam 96910, or via email to [senator@senatorpalacios.com](mailto:senator@senatorpalacios.com), or via facsimile to (671) 472-5022. Individuals requiring special accommodations or services, or for more information, please contact Julian Janssen or Jennifer Dulla at (671) 472-5047/5048.

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Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022  
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Destination	Start Time	Time	Prints	Result	Note
SPEAKER JUDI WON PAT	11-28 08:35	00:00:21	001/001	OK	
VICE SPRAKER BJ CRUZ	11-28 08:36	00:00:20	001/001	OK	
SENATOR TINA MUNA-BA	11-28 08:37	00:00:19	001/001	OK	
SENATOR RORY RESPICI	11-28 08:37	00:00:22	001/001	OK	
SENATOR JUDI GUTHERT	11-28 08:38	00:00:23	001/001	OK	
SENATOR THOMAS ADA	11-28 08:38	00:00:17	001/001	OK	
SENATOR BEN PANGELIN	11-28 08:39	00:00:18	001/001	OK	
SENATOR FRANK BLAS J	11-28 08:39	00:00:20	001/001	OK	
SENATOR V ANTHONY AD	11-28 08:40	00:01:08	001/001	OK	
SENATOR RODRIGUEZ	11-28 08:42	00:00:19	001/001	OK	
SENATOR CHRIS DUENAS	11-28 08:46	00:00:56	000/001	No Ans	

Note TMR: Timer TX, POL: Polling, ORG: Original Size Setting, FME: Frame Erase TX, MIX: Mixed Original TX, CALL: Manual TX, CSRC: CSRC, FWD: Forward, PC: PC-Fax, BND: Double-Sided Binding Direction, SP: Special original, FCODE: F-code, RTX: Re-TX, RLY: Relay, MBX: Confidential, BUL: Bulletin, SIP: SIP Fax, IPADR: IP Address Fax, I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF, TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer, Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full, LOVR: Receiving length Over, POVER: Receiving page Over, FIL: File Error, DC: Decode Error, MDN: MDN Response Error, DSN: DSN Response Error.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
*I Minn' Trental Unu Na Liheslaturan Guåhan*

SENATOR ADOLPHO B. PALACIOS, SR.  
*Chairman*

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COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY  
*I Mina'Trentai Uno Na Liheslaturan Guåhan*

**SENATOR ADOLPHO B. PALACIOS, SR.**  
*Chairman*

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**PUBLIC HEARING**

**WEDNESDAY, NOVEMBER 30, 2011**

*I Liheslaturan Guåhan's Public Hearing Room, Hagåtña*

**AGENDA**

- I. **Call to Order**
- II. **Opening Remarks/Announcements**
- III. **Items for Discussion:**
  - **Bill No. 366-31 (LS)** – AN ACT TO AMEND §4401 OF ARTICLE 4, DIVISION 1, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT AND AUTHORITY OF MAGISTRATE JUDGES.  
– sponsored by Senator Adolpho B. Palacios, Sr.
  - **Bill No. 362-31 (COR)** – AN ACT TO ADD CHAPTER 27 TO TITLE 18 OF THE GUAM CODE ANNOTATED RELATIVE TO BICYCLE SAFETY, AND TO CITE THE ACT AS THE "BICYCLE SAFETY ACT OF 2011." – sponsored by Senator Frank F. Blas, Jr.
- IV. **Closing Remarks**
- V. **Adjournment**

2011 NOV -11 AM 9:58  
WJW

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

Bill No. 366-31/LS

Introduced by:

Adolpho B. Palacios, Sr. 

**AN ACT TO AMEND §4401 OF ARTICLE 4,  
DIVISION 1, TITLE 7, GUAM CODE ANNOTATED,  
RELATIVE TO THE APPOINTMENT AND  
AUTHORITY OF MAGISTRATE JUDGES.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that P.L. 29-109, which was enacted in August 2008, authorized the  
4 Judiciary of Guam to employ magistrates and judicial hearing officers  
5 through appointments rendered by the Chief Justice of the Supreme Court of  
6 Guam. This law further authorized the establishment of a Northern Court  
7 Satellite facility.

8           *I Liheslaturan Guåhan* finds that the creation of magistrates and  
9 judicial hearing officers is a critical part of the Judiciary of Guam's ongoing  
10 efforts to deliver effective and efficient services to the people of Guam.  
11 These additional officers of the court are essential to ensuring that legal  
12 services are available to Guam's growing population.

13           Therefore, it is the intent of *I Liheslaturan Guåhan* to amend Section  
14 4401 of Article 4, Division 1, Title 7, Guam Code Annotated, and recognize  
15 the important role magistrates have within Guam's judicial system by  
16 authorizing the Chief Justice to re-appoint qualified incumbents for one (1)  
17 additional term of four (4) years. The re-appointment of incumbent

1 magistrates will provide among other benefits the continuity of timely  
2 judicial services benefiting Guam’s citizens. Incumbents, however, must  
3 have satisfactorily performed their duties, as evidenced by a unanimous  
4 recommendation of the Judicial Council, prior to their appointment by the  
5 Chief Justice to serve an additional term.

6 *I Liheslaturan Guåhan* further intends to amend Subsection (c) of the  
7 Section 4401, as described above, to allow magistrates to preside over and  
8 render decisions and judgments for cases assigned by the Presiding Judge of  
9 the Superior Court of Guam and the Chief Justice of the Supreme Court of  
10 Guam.

11 **Section 2. Appointment and Duties of Magistrate Judges.** Section  
12 4401 of Article 4, Division 1, Title 7, Guam Code Annotated, is hereby  
13 *amended* to read:

14 “(a) The Chief Justice of the Supreme Court of Guam may  
15 appoint such magistrates as are necessary for the proper  
16 administration of justice. The Chief Justice may re-appoint a sitting  
17 magistrate for one (1) additional term of four (4) years without  
18 confirmation by *I Liheslaturan Guåhan*, upon a unanimous  
19 recommendation by the Judicial Council. A magistrate *shall* be  
20 appointed as follows:

- 21 (1) Upon request by the Chief Justice, the Guam Bar  
22 Association will solicit interest for the position of  
23 magistrate;
- 24 (2) The Guam Bar Association will then submit the  
25 names of three (3) candidates to the Chief Justice;
- 26 (3) The Chief Justice must appoint the magistrate from  
27 the list provided by the Guam Bar Association.

1 (4) The appointment by the Chief Justice is subject to the  
2 approval of *I Liheslaturan Guåhan*.

3 (b) A magistrate *shall*:

4 (1) serve a four (4) year term, removable for cause;

5 (2) be at least thirty (30) years of age;

6 (3) meet the qualifications required of Superior Court  
7 Judge as articulated by §3019(c), (d) & (e), Title 7, GCA;

8 (4) be a member in good standing of the Guam Bar  
9 Association;

10 (5) not have been convicted of any felony or any  
11 misdemeanor involving moral turpitude;

12 (6) not be related by blood within the third degree of  
13 consanguinity *or* marriage to a judge or justice of the courts of  
14 Guam at the time of his *or* her initial appointment;

15 (7) be subject to the same ethical standards as a Superior  
16 Court Judge or Justice, to include the Guam Rules for Judicial  
17 Disciplinary Enforcement; and

18 (8) receive a salary *no greater than* ninety percent (90%)  
19 of a Judge who is *not* the Presiding Judge.

20 (c) A magistrate shall ~~be empowered to hear the following~~, as  
21 assigned by the Chief Justice:

22 (1) ~~small claims matters, and to issue and hear returns of~~  
23 ~~warrants of arrest in such cases~~ preside over and render  
24 decisions and judgments in small claims cases, traffic cases,  
25 change of name petitions, and collection cases;

26 (2) ~~traffic matters, and to issue and hear returns of~~  
27 ~~warrants of arrest in such cases~~ enter judgment upon confession

1 of judgment or default judgment in a civil case when a party  
2 alleges a sum certain is due;

3 (3) ~~changes of name~~ preside over post-judgment  
4 collection proceedings in civil cases and restitution judgments  
5 in criminal cases and issue writs of execution and other orders  
6 in such proceedings;

7 (4) ~~post judgment civil matters, relative to execution of~~  
8 ~~judgments such as debtor exams, garnishment matters, and~~  
9 ~~writs of execution, and to issue warrants of arrest and hear~~  
10 ~~returns of warrants of arrest in such cases~~ preside over first  
11 appearances of criminal defendants and arraignments in  
12 criminal cases, set bail and order pre-trial release conditions,  
13 take pleas including accepting guilty pleas in misdemeanor  
14 cases, sentencing misdemeanants and entering judgments  
15 accordingly;

16 (5) ~~first appearances of criminal defendants within the~~  
17 ~~context of §45.10, Title 8 of the Guam Code Annotated and~~  
18 ~~which are commonly referred to in practice within our local~~  
19 ~~criminal court as “magistrate hearings”, as well as appearances~~  
20 ~~pursuant to Chapter 15 (summons), Title 8, GCA, and §25.20~~  
21 ~~(notice to appear), although no authority exists to issue or hear~~  
22 ~~returns of warrants of arrest in such cases~~ issue summons, issue  
23 bench warrants, and hear return of warrants in all cases to  
24 which assigned;

25 (6) ~~set or change bail and conditions of release in~~  
26 ~~criminal cases~~ preside over any matter which may be heard by a  
27 Referee;

1                   (7) ~~criminal arraignments, although no authority exists to~~  
2 ~~issue or hear returns of warrants of arrest in such cases~~ serve as  
3 a Special Master upon appointment of the Presiding Judge; and

4                   (8) ~~any matters which may be heard by a referee of the~~  
5 ~~Superior Court of Guam~~ serve as Judge Pro Tempore upon  
6 appointment by the Chief Justice; and

7                   (9) serve as a settlement judge in a civil or domestic case  
8 upon appointment by the Presiding Judge.”

9           **Section 3. Effective Date.** This Act shall be effective upon  
10 enactment.