

*I Mina'Trentai Dos Na Liheslaturan Guahan*  
**Bill Log Sheet**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
<b>130-32 (COR)</b> <b>P.L. 32-110</b>	T. C. Ada	AN ACT TO AMEND §1106.(k) OF CHAPTER 1 TITLE 22 GUAM CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS	5/31/13 4:21 p.m.	05/31/13	Committee on Rules, Federal, Foreign & Micronesia Affairs, Human & Natural Resources, and Election Reform	7/9/13 9a.m.	1/23/14 5:05 p.m.	Fiscal Note Requested 06/03/13 Fiscal Note Received 06/24/13
	<b>DATE PASSED</b>	<b>TITLE</b>	<b>TRANSMITTED</b>		<b>DUE DATE</b>	<small>DATE SIGNED BY I MAGA'LAHEN GUAHAN</small>	<b>PUBLIC LAW NO.</b>	<b>NOTES</b>
	2/1/2014	AN ACT TO AMEND §1106(k) OF ARTICLE 1, CHAPTER 1 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO IMPOSING LICENSING SANCTIONS FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS	2/1/14	10:50 p.m.	2/13/14	2/10/2014	32-110	As substituted by the Author

EDDIE BAZA CALVO  
Governor



RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

FEB 13 2014

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

32-14-1291

Office of the speaker  
Judith T. Won Pat, Ed. D.

Date: 2/14/14  
Time: 3:57 PM  
Received by:

Dear Madame Speaker:

Transmitted herewith is Bill No. 130-32 (COR) "AN ACT TO AMEND §1106(k) OF ARTICLE 1, CHAPTER 1 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO IMPOSING LICENSING SANCTIONS FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS" which I signed into law on February 10, 2014 as Public Law 32-110.

2014 FEB 14 PM 4:48 W

*Senseramente,*

EDDIE BAZA CALVO

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2014 (SECOND) Regular Session

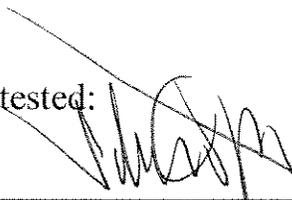
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 130-32 (COR), "AN ACT TO AMEND §1106(k) OF ARTICLE 1, CHAPTER 1 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO IMPOSING LICENSING SANCTIONS FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS," was on the 1<sup>st</sup> day of February, 2014, 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'lahen Guåhan* this 1<sup>st</sup> day of FEB,  
2014, at  
10:50 o'clock P.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



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

Date:

FEB 10 2014

Public Law No. \_\_\_\_\_

32-110

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2013 (FIRST) Regular Session

**Bill No. 130-32 (COR)**

As substituted by the Author.

Introduced by:

T. C. Ada  
V. Anthony Ada  
FRANK B. AGUON, JR.  
B. J.F. Cruz  
Chris M. Dueñas  
Michael T. Limtiaco  
Brant T. McCreadie  
Tommy Morrison  
T. R. Muña Barnes  
Vicente (ben) C. Pangelinan  
R. J. Respicio  
Dennis G. Rodriguez, Jr.  
Michael F. Q. San Nicolas  
Aline A. Yamashita, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO AMEND §1106(k) OF ARTICLE 1,  
CHAPTER 1 OF TITLE 22, GUAM CODE ANNOTATED,  
RELATIVE TO IMPOSING LICENSING SANCTIONS  
FOR EMPLOYING ALIENS WITHOUT LAWFUL  
WORK STATUS.**

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

2       **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Guam Department of Labor (GDOL), pursuant to §1106(k) of Article 1,  
4 Chapter 1, Title 22, Guam Code Annotated, has the power to investigate “*the*  
5 *condition of aliens relative to their employment.*” GDOL’s investigative power is  
6 limited to the verification of work status of aliens; however, should any indication

1 of improper or unauthorized employment without lawful status be discovered, the  
2 Department has no enforcement power.

3 *I Liheslatura* further finds that the authority to arrest and prosecute aliens  
4 who do not possess lawful work status is vested with the U.S. Department of  
5 Immigration and Customs Enforcement (ICE), a Division of the U.S. Department  
6 of Homeland Security (USDHS), and the Federal Immigration Court. Subsequent  
7 to an arrest, the alien is either detained or released on bail pending scheduling of  
8 adjudication (for deportation) in Federal Immigration Court. Oftentimes, the wait  
9 time for adjudication is lengthy, lasting months, and in many cases years.

10 *I Liheslatura* further finds that it is during this period of limbo that a  
11 conditionally released worker would seek employment often at exceptionally low  
12 wages, or in many cases below minimum wage standards. As a consequence, local  
13 workers are often edged out of the local job market by these aliens without lawful  
14 work status. It is this negative impact to the local workforce that the government of  
15 Guam wants to prevent.

16 *I Liheslatura* further finds that Title 8 §§1324(h)(2) of the United States  
17 Code explicitly states, “*the provisions of this section preempt any state or local*  
18 *law from imposing civil or criminal sanctions (other than through licensing and*  
19 *similar laws) upon those who employ, or recruit or refer for a fee for employment,*  
20 *unauthorized aliens.*” Therefore, because of this specific preemption, *I Liheslatura*  
21 intends to protect the limited number of jobs on Guam for those who are legally  
22 eligible by imposing licensing sanctions, as allowed by Title 8 USC §§1324(h)(2)  
23 on those who employ aliens without lawful work status.

24 **Section 2.** §1106(k) of Article 1, Chapter 1, Title 22, Guam Code  
25 Annotated, is hereby *amended* to read:

1           “(k) *May* investigate the condition or status of aliens relative to their  
2 employment, and *shall* ensure compliance with all applicable Guam and  
3 federal laws regarding the employment of aliens.

4           (1) To facilitate the investigation, employers *shall* ensure  
5 that all alien workers at a worksite possess some form of valid,  
6 government issued picture identification to include, but *not* limited to:  
7 a passport, a Guam or state-issued driver’s license, or an employment  
8 authorization card; and the Director or his authorized representative  
9 *may* request such identification documents from any alien worker at a  
10 place of work on Guam. If a worker’s immigration status is in  
11 question, the Department *may* temporarily detain such individual on  
12 site so that the Department can verify the worker’s status with federal  
13 immigration officials.

14           (2) Should an inspection of a worksite determine that an  
15 alien(s) who *does not* possess lawful work status is being employed at  
16 a place of work on Guam, the employer *shall* be served a notice of  
17 violation (or citation) which details the violation, and *shall* be subject  
18 to licensing sanctions including: suspension or revocation of their  
19 business license, and/or license sanction fees. The respondent  
20 (employer) *may* request an administrative hearing. Said request for a  
21 hearing must be received in writing by the Department within fifteen  
22 (15) calendar days from the date of receipt of a notice of violation (or  
23 citation). Notwithstanding §9220 of Title 5 GCA, Article 2, Chapter 9,  
24 the hearing *shall* be conducted by the Director, who *shall* be the  
25 hearing officer. The hearing process *shall* be subject to the procedures  
26 of Chapter 9 Title 5 of the Guam Code Annotated; and any notice of  
27 violation (or citation) served pursuant to this Section *shall* fulfill the

1 requirements of §9202 of the same. The Office of the Attorney  
2 General *shall* assist in providing advice to the Director/hearing officer  
3 when matters of law arise. In the event that the Director/hearing  
4 officer affirms that the notice of violation (or citation) is valid, or if no  
5 hearing is requested in writing within fifteen (15) days from the date  
6 on the notice of violation the respondent *shall* be subject to the  
7 following:

8 (A) First Offense: For the first offense, the employer  
9 *shall* be subject to a license sanction fee of One Thousand  
10 Dollars (\$1,000.00) per worker without lawful status found to  
11 be employed at the worksite inspected, and suspension of the  
12 employer's license to do business on Guam *may* be  
13 recommended. The Director *may* refer the matter to the  
14 appropriate licensing entity with the recommendation to  
15 suspend the employer's license to do business on Guam for a  
16 period of *up to* thirty (30) days, or until the employer pays all  
17 license sanction fees levied for a first offense of this Section.

18 (B) Second Offense: In the instance of a second  
19 offense, defined as any violation of this Section *not* on the same  
20 day as the date noted on the first notice of violation (or citation),  
21 but within one year of the date noted on the first notice of  
22 violation (or citation), the employer *shall* be subject to a license  
23 sanction fee of Two Thousand Dollars (\$2,000.00) per worker  
24 without lawful status found to be employed at the worksite  
25 inspected, and suspension of the employer's license to do  
26 business on Guam *may* be recommended. The Director *may*  
27 refer the matter to the appropriate licensing entity with the

1 recommendation to suspend the employer's license to do  
2 business on Guam for a period of *up to* sixty (60) days, or until  
3 the employer pays all license sanction fees levied for a second  
4 offense of this Section.

5 (C) Third Offense: In the instance of a third offense,  
6 defined as any violation of this Section *not* on the same day as  
7 the date noted on the second notice of violation (or citation),  
8 but within one year of the date noted on the second notice of  
9 violation (or citation), the employer's license to do business on  
10 Guam *shall* be revoked by the appropriate licensing authority  
11 immediately upon the receipt of findings of the Director.

12 (D) During the appeal, the respondent (employer) who  
13 is served the notice of violation *may* establish an affirmative  
14 defense against the licensing sanctions imposed pursuant to this  
15 Section, *if* the employer has complied in good faith with the  
16 federal I-9 process to determine an alien's lawful work status  
17 prior to hire.

18 (3) In the event of a violation of this Section, if the employer  
19 of an alien worker without lawful work status is *not* readily  
20 identifiable, the prime contractor at a job site whose name appears on  
21 the building permit, or the owner named on the business license of the  
22 establishment inspected *shall* be liable for the licensing sanctions  
23 administered pursuant to this Section.

24 (4) The Department's Alien Labor Processing and  
25 Certification Division *shall* have all necessary enforcement and  
26 investigative powers needed to enforce the provisions in this Section.

1 (5) Funds generated from §1106(k)(2) *shall* be deposited in  
2 the GDOL Manpower Development Fund, and expended in  
3 accordance with the provisions of Title 22 GCA §7118(1)(e).”

4 **Section 3. Authorization to Adopt Rules and Regulations.** The  
5 Department of Labor *may* adopt rules and regulations consistent with the Guam  
6 Administrative Adjudication Law, and the laws of the United States and Guam as  
7 *may* be necessary to ensure the effectiveness of the provisions of this Act.

8 **Section 4. Severability.** *If* any provision of this Law or its application to  
9 any person or circumstance is found to be invalid or contrary to law, such  
10 invalidity *shall not* affect other provisions or applications of this Law which can be  
11 given effect without the invalid provisions or application, and to this end the  
12 provisions of this Law are severable.

13 **Section 5. Effective Date.** This Act *shall* be effective thirty (30) days  
14 after its enactment.



FILE COPY

***I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN***  
THIRTY-SECOND GUAM LEGISLATURE  
155 Hesler Place, Hagåtña, Guam 96910

February 1, 2014

The Honorable Edward J.B. Calvo  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 61-32(COR), 70-32(COR), 71-32(COR), 130-32(COR), 146-32(COR), 169-32(COR), 179-32(COR), 180-32(COR), 190-32(COR), 192-32(COR), 197-32(COR), 201-32(COR), 202-32(COR), 204-32(COR), 206-32(COR), 214-32(COR), 221-32(COR), 225-32(COR), 226-32(COR), 231-32(COR), 232-32(COR), 235-32(COR), 236-32(COR), 237-32(COR), 242-32(COR), 245-32(COR), 247-32(COR), 248-32(COR) and 268-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on February 1, 2014.

Sincerely,

TINA ROSE MUÑA BARNES  
Legislative Secretary

*FEB 1, 2014*  
*10:50 p.m.*  
*T.R. Muña*

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN*  
2014 (SECOND) Regular Session

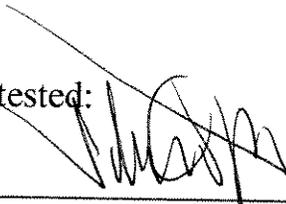
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÁHAN*

This is to certify that Substitute Bill No. 130-32 (COR), "AN ACT TO AMEND §1106(k) OF ARTICLE 1, CHAPTER 1 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO IMPOSING LICENSING SANCTIONS FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS," was on the 1<sup>st</sup> day of February, 2014, duly and regularly passed.



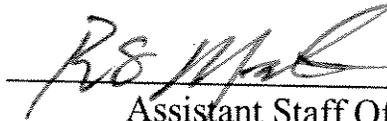
Judith T. Won Pat, Ed.D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guáhan* this 1<sup>st</sup> day of FEB,  
2014, at  
10:50 o'clock P. .M.



Assistant Staff Officer  
*Maga'lahaen's* Office

APPROVED:

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

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2013 (FIRST) Regular Session

**Bill No. 130-32 (COR)**

As substituted by the Author.

Introduced by:

T. C. Ada  
V. Anthony Ada  
FRANK B. AGUON, JR.  
B. J.F. Cruz  
Chris M. Dueñas  
Michael T. Limtiaco  
Brant T. McCreadie  
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Dennis G. Rodriguez, Jr.  
Michael F. Q. San Nicolas  
Aline A. Yamashita, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO AMEND §1106(k) OF ARTICLE 1,  
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1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Guam Department of Labor (GDOL), pursuant to §1106(k) of Article 1,  
4 Chapter 1, Title 22, Guam Code Annotated, has the power to investigate “*the*  
5 *condition of aliens relative to their employment.*” GDOL’s investigative power is  
6 limited to the verification of work status of aliens; however, should any indication

1 of improper or unauthorized employment without lawful status be discovered, the  
2 Department has no enforcement power.

3 *I Liheslatura* further finds that the authority to arrest and prosecute aliens  
4 who do not possess lawful work status is vested with the U.S. Department of  
5 Immigration and Customs Enforcement (ICE), a Division of the U.S. Department  
6 of Homeland Security (USDHS), and the Federal Immigration Court. Subsequent  
7 to an arrest, the alien is either detained or released on bail pending scheduling of  
8 adjudication (for deportation) in Federal Immigration Court. Oftentimes, the wait  
9 time for adjudication is lengthy, lasting months, and in many cases years.

10 *I Liheslatura* further finds that it is during this period of limbo that a  
11 conditionally released worker would seek employment often at exceptionally low  
12 wages, or in many cases below minimum wage standards. As a consequence, local  
13 workers are often edged out of the local job market by these aliens without lawful  
14 work status. It is this negative impact to the local workforce that the government of  
15 Guam wants to prevent.

16 *I Liheslatura* further finds that Title 8 §§1324(h)(2) of the United States  
17 Code explicitly states, “*the provisions of this section preempt any state or local*  
18 *law from imposing civil or criminal sanctions (other than through licensing and*  
19 *similar laws) upon those who employ, or recruit or refer for a fee for employment,*  
20 *unauthorized aliens.*” Therefore, because of this specific preemption, *I Liheslatura*  
21 intends to protect the limited number of jobs on Guam for those who are legally  
22 eligible by imposing licensing sanctions, as allowed by Title 8 USC §§1324(h)(2)  
23 on those who employ aliens without lawful work status.

24 **Section 2.** §1106(k) of Article 1, Chapter 1, Title 22, Guam Code  
25 Annotated, is hereby *amended* to read:

1           “(k) *May* investigate the condition or status of aliens relative to their  
2 employment, and *shall* ensure compliance with all applicable Guam and  
3 federal laws regarding the employment of aliens.

4           (1) To facilitate the investigation, employers *shall* ensure  
5 that all alien workers at a worksite possess some form of valid,  
6 government issued picture identification to include, but *not* limited to:  
7 a passport, a Guam or state-issued driver’s license, or an employment  
8 authorization card; and the Director or his authorized representative  
9 *may* request such identification documents from any alien worker at a  
10 place of work on Guam. If a worker’s immigration status is in  
11 question, the Department *may* temporarily detain such individual on  
12 site so that the Department can verify the worker’s status with federal  
13 immigration officials.

14           (2) Should an inspection of a worksite determine that an  
15 alien(s) who *does not* possess lawful work status is being employed at  
16 a place of work on Guam, the employer *shall* be served a notice of  
17 violation (or citation) which details the violation, and *shall* be subject  
18 to licensing sanctions including: suspension or revocation of their  
19 business license, and/or license sanction fees. The respondent  
20 (employer) *may* request an administrative hearing. Said request for a  
21 hearing must be received in writing by the Department within fifteen  
22 (15) calendar days from the date of receipt of a notice of violation (or  
23 citation). Notwithstanding §9220 of Title 5 GCA, Article 2, Chapter 9,  
24 the hearing *shall* be conducted by the Director, who *shall* be the  
25 hearing officer. The hearing process *shall* be subject to the procedures  
26 of Chapter 9 Title 5 of the Guam Code Annotated; and any notice of  
27 violation (or citation) served pursuant to this Section *shall* fulfill the

1 requirements of §9202 of the same. The Office of the Attorney  
2 General *shall* assist in providing advice to the Director/hearing officer  
3 when matters of law arise. In the event that the Director/hearing  
4 officer affirms that the notice of violation (or citation) is valid, or if no  
5 hearing is requested in writing within fifteen (15) days from the date  
6 on the notice of violation the respondent *shall* be subject to the  
7 following:

8 (A) First Offense: For the first offense, the employer  
9 *shall* be subject to a license sanction fee of One Thousand  
10 Dollars (\$1,000.00) per worker without lawful status found to  
11 be employed at the worksite inspected, and suspension of the  
12 employer's license to do business on Guam *may* be  
13 recommended. The Director *may* refer the matter to the  
14 appropriate licensing entity with the recommendation to  
15 suspend the employer's license to do business on Guam for a  
16 period of *up to* thirty (30) days, or until the employer pays all  
17 license sanction fees levied for a first offense of this Section.

18 (B) Second Offense: In the instance of a second  
19 offense, defined as any violation of this Section *not* on the same  
20 day as the date noted on the first notice of violation (or citation),  
21 but within one year of the date noted on the first notice of  
22 violation (or citation), the employer *shall* be subject to a license  
23 sanction fee of Two Thousand Dollars (\$2,000.00) per worker  
24 without lawful status found to be employed at the worksite  
25 inspected, and suspension of the employer's license to do  
26 business on Guam *may* be recommended. The Director *may*  
27 refer the matter to the appropriate licensing entity with the

1 recommendation to suspend the employer's license to do  
2 business on Guam for a period of *up to* sixty (60) days, or until  
3 the employer pays all license sanction fees levied for a second  
4 offense of this Section.

5 (C) Third Offense: In the instance of a third offense,  
6 defined as any violation of this Section *not* on the same day as  
7 the date noted on the second notice of violation (or citation),  
8 but within one year of the date noted on the second notice of  
9 violation (or citation), the employer's license to do business on  
10 Guam *shall* be revoked by the appropriate licensing authority  
11 immediately upon the receipt of findings of the Director.

12 (D) During the appeal, the respondent (employer) who  
13 is served the notice of violation *may* establish an affirmative  
14 defense against the licensing sanctions imposed pursuant to this  
15 Section, *if* the employer has complied in good faith with the  
16 federal I-9 process to determine an alien's lawful work status  
17 prior to hire.

18 (3) In the event of a violation of this Section, if the employer  
19 of an alien worker without lawful work status is *not* readily  
20 identifiable, the prime contractor at a job site whose name appears on  
21 the building permit, or the owner named on the business license of the  
22 establishment inspected *shall* be liable for the licensing sanctions  
23 administered pursuant to this Section.

24 (4) The Department's Alien Labor Processing and  
25 Certification Division *shall* have all necessary enforcement and  
26 investigative powers needed to enforce the provisions in this Section.

1                   (5) Funds generated from §1106(k)(2) *shall* be deposited in  
2                   the GDOL Manpower Development Fund, and expended in  
3                   accordance with the provisions of Title 22 GCA §7118(1)(e).”

4                   **Section 3. Authorization to Adopt Rules and Regulations.** The  
5 Department of Labor *may* adopt rules and regulations consistent with the Guam  
6 Administrative Adjudication Law, and the laws of the United States and Guam as  
7 *may* be necessary to ensure the effectiveness of the provisions of this Act.

8                   **Section 4. Severability.** *If* any provision of this Law or its application to  
9 any person or circumstance is found to be invalid or contrary to law, such  
10 invalidity *shall not* affect other provisions or applications of this Law which can be  
11 given effect without the invalid provisions or application, and to this end the  
12 provisions of this Law are severable.

13                   **Section 5. Effective Date.** This Act *shall* be effective thirty (30) days  
14 after its enactment.

# LEGISLATIVE SESSION

## I MINA'TRENTAI DOS NA LIHESLATURAN

### 2014 (SECOND) Regular Session

### Voting Sheet

Speaker Antonio R. Unipingco Legislative Session Hall  
February 1, 2014

Bill No. 130-32 (COR)

NAME	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent
Senator Thomas "Tom" C. ADA	✓				
Senator V. Anthony "Tony" ADA	✓				
Senator Frank Blas AGUON Jr.	✓				
Vice-Speaker Benjamin J.F. CRUZ	✓				
Senator Christopher M. DUENAS	✓				
Senator Michael LIMTIACO	✓				
Senator Brant McCREADIE	✓				
Senator Thomas "Tommy" MORRISON	✓				
Senator Tina Rose MUÑA BARNES	✓				
Senator Vicente (ben) Cabrera PANGELINAN	✓				
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS	✓				
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				

TOTAL

15

Yea

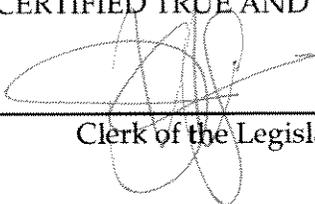
Nay

Not Voting/  
Abstained

Out During  
Roll Call

Absent

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

I = Pass

SENATOR RORY J. RESPICIO  
MAJORITY LEADER

CHAIRPERSON  
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Liheslaturan Guahan*  
THIRTY-SECOND GUAM LEGISLATURE

JAN 23 2014

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

**RE: Committee Report on Bill No. 130-32 (COR) As substituted by the Author**

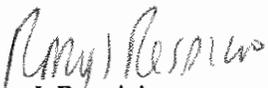
*Hafa Adai* Speaker Won Pat:

The Committee on Rules, Federal, Foreign & Micronesian Affairs, Human & Natural Resources, and Election Reform hereby reports out its findings and recommendations on **Bill No. 130-32 (COR) As substituted by the Author** - "An Act To Amend §1106.(K) Of Chapter 1 Title 22 Guam Code Annotated Relative To Imposing Fines For Employing Aliens Without Lawful Work Status." **sponsored by T.C. Ada**

Committee votes are as follows:

<u>6</u>	TO PASS
<u>0</u>	NOT TO PASS
<u>2</u>	TO REPORT OUT ONLY
<u>0</u>	TO ABSTAIN
<u>0</u>	TO PLACE IN INACTIVE FILE

Very Truly Yours,

  
Rory J. Respicio

2014 JAN 23 PM 5:05 M

SENATOR RORY J. RESPICIO

MAJORITY LEADER

CHAIRPERSON  
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Libeslaturan Guáhan*  
THIRTY-SECOND GUAM LEGISLATURE

**COMMITTEE REPORT ON  
BILL NO. 130-32 (COR)  
As substituted by the Author**

**“AN ACT TO AMEND §1106.(k)  
OF CHAPTER 1 TITLE 22 GUAM  
CODE ANNOTATED RELATIVE  
TO IMPOSING FINES FOR  
EMPLOYING ALIENS WITHOUT  
LAWFUL WORK STATUS.”**

**Sponsored by T.C. Ada**

**SENATOR RORY J. RESPICIO**  
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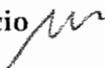


*I Mina'trentai Dos na Liheslaturan Guåhan*  
**THIRTY-SECOND GUAM LEGISLATURE**

**JAN 23 2014**

**MEMORANDUM**

**To:** **All Members**  
*Committee on Rules, Federal, Foreign & Micronesian Affairs, and Human & Natural Resources; and Election Reform*

**From:** **Senator Rory J. Respicio** 

**Subject:** **Committee Report on Bill No. 130-32 (COR) As substituted by the Author**

Transmitted herewith for your review and consideration is the **Committee Report on Bill No. 130-32 (COR) As substituted by the Author** – "AN ACT TO AMEND §1106.(k) OF CHAPTER 1 TITLE 22 GUAM CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS." - **Sponsored by T.C. Ada**

This report includes the following supporting documents:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 130-32(COR)
- Copy of Bill No. 130-32(COR) As substituted by the Author
- Public Hearing Sign-in Sheet
- Copy of Submitted Testimony
- Referral of Bill No. 130-32 (COR)
- Fiscal Note for Bill No. 130-32(COR)
- Public Hearing Notices
- Public Hearing Agenda

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 me.

*Si Yu'os Ma'åse!*

**SENATOR RORY J. RESPICIO**  
**MAJORITY LEADER**

**CHAIRPERSON**  
 COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
 HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Libeslaturan Guáhan*  
**THIRTY-SECOND GUAM LEGISLATURE**

**COMMITTEE VOTING SHEET**

**BILL NO. 130-32 (COR) As substituted by the Author - "AN ACT TO AMEND §1106.(k) OF CHAPTER 1 TITLE 22 GUAM CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS" sponsored by T.C. Ada**

	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Senator Rory J. Respicio Chairperson		ms 1-22-14				
Senator Thomas C. Ada Vice-Chairperson		✓				
Speaker Judith T. Won Pat, Ed.D. Member		1-23-14 ✓				
Vice-Speaker Benjamin J.F. Cruz Member		✓				
Legislative Secretary Tina Rose Muña Barnes Member						
Senator vicente c. pangelinan Member						
Senator Dennis G. Rodriguez, JR. Member				✓		
Senator Frank Blas Aguon Jr. Member	 22 Jan 14	✓				
Senator Michael F.Q. San Nicolas Member	 Ksanoy 13					
Minority Leader Senator V. Anthony Ada Member		✓ 1/23/14				
Senator Aline Yamashita Member				✓		

**SENATOR RORY J. RESPICIO**  
**MAJORITY LEADER**

**CHAIRPERSON**  
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Libeslaturan Guåhan*  
**THIRTY-SECOND GUAM LEGISLATURE**

**COMMITTEE REPORT DIGEST**

**I. OVERVIEW**

**BILL NO. 130-32 (COR)** - "An act to amend §1106.(k) of Chapter 1 Title 22 Guam Code Annotated relative to imposing fines for employing aliens without lawful work status," was introduced by **Senator Thomas C. Ada** on May 31, 2013; and was subsequently referred to the Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources; and Election Reform on May 31, 2013.

Senator Rory J. Respicio, Chairperson of the Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources; and Election Reform convened a public hearing on **Bill No. 130-32 (COR)** on Tuesday, July 9, 2013 at 9:00 A.M. in the Legislature's Public Hearing Room to receive public testimony on the measure.

**Public Notice Requirements**

In accordance with the Open Government Law, notices were disseminated to all senators and to all main media broadcasting outlets, first on Monday, July 1, 2013, and again on Wednesday, July 3, 2013.

**Senators Present**

Senator Rory J. Respicio, Chairperson  
Senator Thomas C. Ada, Vice-Chairperson  
Senator V. Anthony Ada, Committee Member  
Senator Christopher M. Duenas

**II. SUMMARY OF TESTIMONY & DISCUSSION**

1. **Mr. Manny Cruz, Acting Director of the Guam Department of Labor, In Support of the Bill, Provided Oral and Written Testimony.**
2. **Mr. Greg Massey, Department of Labor, In Support of the Bill, Provided Oral Testimony.**
3. **Mr. Mike Ady, M 80 Systems, Inc., In Support of the Bill, Provided Oral Testimony.**
4. **Ms. Scholastica Rivera, Department of Labor, In Support of the Bill.**

Senator Rory J. Respicio called the public hearing to order at 9:00 A.M. and deferred to Senator Thomas C. Ada as main sponsor of **Bill No. 130-32 (COR)**, to provide opening remarks.

Senator Thomas C. Ada: Thank you Senator Respicio for holding a hearing for Bill No. 130-32 (COR) through your committee. Bill 130-32 (COR) seeks to address the issue of foreign workers who are still on the island and are out there occupying jobs that are otherwise taken up by local workers. What happens when we have these foreign workers who do not have the legal status to work is that it is actually the federal agency that has the authority to arrest them. They take them in and go through the adjudication process and they either get deported immediately or there maybe circumstances that allows them to be detained until they get their fair day in court. What happens is that when they get detained, is that someone in the community can choose to bail them out and the period of time they get bailed out to the time they come before a judge to be adjudicated, could be months or years. In the mean time, while they are out there, then free on bail, normally what happens is that they go back out into the community and take up jobs that could have been filled by a local worker. Since they cannot be re-arrested and bailed out repeatedly, the bill goes to the heart of the problem and that is to provide a disincentive to the enablers, the employers out there that would hire foreign workers who are here legally and human traffic them to the job market. By passing Bill 130-32 (COR), it will then penalize those employers and gives that disincentive from hiring these illegal foreign workers. Until we can dry up that market, then all this effort to develop the skills of our local workers is really not going to

have an effect because the demand for those local workers is not going to be there if employers out there can get workers for a nickel and a dollar. That is what Bill 130 does and will fine employers on the first offense, \$1,000; for the second offense, \$2,500; and the third offense, \$5,000 per worker.

Senator Respicio called on individuals to testify on **Bill No. 130-32 (COR)**.

Mr. Manny Cruz, Acting Director of the Guam Department of Labor, In Support of the Bill, Provided Oral Testimony (*Please see attached for written testimony*).

Mr. Greg Massey, Department of Labor, In Support of the Bill, was present at the hearing to answer any questions that the Committee may have.

Mr. Michael Ady: I am the owner of MA80 Systems, a local business on Guam for about twenty (20) years doing general construction work. I strongly support the bill. I've worked on the Guam Contractors Association Board. One of the major problems with the construction companies and laborers is that it is very slow right now and we still see H2 workers and illegal aliens coming into the construction projects and taking jobs from locals. I support anything the Legislature can do to restrict this because it is taking away jobs from our people and giving money away from them. I commend the author of the bill for introducing this.

Senator Thomas C. Ada: I certainly appreciate the Department's support for the bill. The additional points which you bring up certainly are very valid. As a sponsor of the bill, will work closely with the Committee to see how we can address some of the concerns you have: liability issues, duplication of effort, funding sources and what not. There are many laws that we have that are also covered under federal laws. When the feds decide to enforce their laws, it may not coincide when we feel it needs to be enforced. So I don't think there is a duplication of effort. As I understand it, your Department works hand in hand with the federal immigration folks there and so I don't think we will be getting into each others way. The part about funding sources to do the work right now here as I understand it, the alien labor folks, the group that is headed by Mr. Massey, are already doing this sort of work. The bill does not envision that we are going to ramp up 100%. The bill recognizes that we are sending out Mr. Massey's group with one or both hands tied behind their backs. They can go into a job site and if they ask the guy can I see your work permit or some kind of ID, the guy can tell him, "Go take a hike!" He will turn around and walk away and there is nothing he can do about it. With this bill, it gives them the authority to say, "Take a seat here. I need to make a phone call to the federal (officials) and see if we can get some kind of identification that is verified here." They are doing that now. You got two guys that do it and probably do it two days out of the week.

Senator Respicio: Mr. Cruz, does Senator Ada's explanation of the bill make you feel better?

Mr. Manny Cruz: Yes. Because of the dwindling resources in the department. When they go out, there is no one in the office and there is still a lot of work in the office. We need more people.

Mr. Greg Massy: The director does make a point. We do sacrifice to go out and have that commitment that we are going to go out at least once a week. There's tons of paperwork in the office and that paperwork stops when we go out. In fact, it increases because we have more data. I will never turn down funding and if you want to give us people, we can take people. As Senator Ada said, we are doing it now. We don't want to say we don't need funding because we do. It takes about a year to train up staff, especially in these inspector positions. Because we are unique in the United States, its not like our staff in Region 6 can get training there. We have our own program here so the training comes from me or my long term staff that have been here for years so the training curve is a long time. The buildup is going to come slow but it is going to come. When that does come, we will be in need of staff maybe not this fiscal cycle, but in the future definitely.

Senator Thomas C. Ada: Can you quantify? We are at a low and there is not that much demand for foreign workers now. When the buildup begins, we are going to get a lot of foreign workers. I imagine the number of overstays will increase. Can you describe the pervasiveness of this problem?

Mr. Greg Massy: The bill is timely because we wouldn't want to put the hole in the dike in the middle of the buildup. It is good that we are getting this done now on having these systems in place. For when the buildup comes, the more workers that come the more overstay you will have. It is not only overstay, we have people coming in boats from Saipan, off the shores. That happened recently. We have people coming in as crewmen, they would transit in as fishermen from their countries and end up not leaving. There are a whole lot of different ways which aliens will come. Some people will come in to file for political asylum, lose their asylum case and never leave. We did get some stats together. For the past three (3) fiscal years, for 2011, 2012, and 2013, we have seen an increase of about six percent (6%). Keeping in mind that the universe of these statistics are just the number of workers that we encounter once a week for about four (4) hours so that is a really small sampling. In those three (3) fiscal years, we encountered four hundred sixty (460) people, and out of that number, we are looking at eighty-two (82) of them who didn't have work authorization, 26 are in the construction industry and were arrested by ICE and out again and 8 of them that were from other industries and were floating around there. It is pervasive. About twenty-three (23) or twenty-four percent (24%) of the workers that we encounter out there are illegal. They don't have authorization to work. This is what prompted the interest in this bill. There is one requirement in the law that says that we are requiring in the bill that all employers make sure all foreign workers have ID on them. Right now in the Micronesian section of work population that we are seeing, maybe 1% of them have ID on them. Every Micronesian worker that we encounter and are under the Compact of Free Association, we leave them alone because we know they are work-authorized. My source which I will keep nameless, one of the ICE officers who regularly goes out said that they can ask for their name but the worker can easily make up a name without any ID. So what they are saying on ICE's side is that they can start checking their lists and it might be able to affect these populations that are deportable. So that was one of the parts of the bill that we really liked.

Senator Rory J. Respicio: As a follow-up to that, Senator McCreadie's Three Stikes Bill became law recently, and we are going to have a roundtable with the Attorney General's Office, together with US Immigration and we would like Department of Labor to be part of that, possibly the FBI, and other federal entities that we can motivate the tenants of the compact to require deportation on the deportable offenses. In that law, there is a requirement for the AG to report a list of names and crimes so that US Immigration can move to deport them. We are also involving members of the Consular Corps.

Mr. Greg Massy: If they are really interested in deporting anyone that is deportable, I will work with them. When they are released, they get the docket. Once they are released and get back into the community, there is really no way to detect them because as police law enforcement, they have to have probable cause. Luckily with Labor, we have the right to inspect the worksites. So really, we are the eyes and ears out there. If we can detect these people, we can definitely refer them to ICE for immediate action if they are able to get their hands on it.

Senator Rory J. Respicio: Could we do something to Senator Ada's bill to require all workers to have their identification?

Mr. Greg Massy: It is in there. Some people say, "I don't have ID." We did not put any penalties for instance aside from H2 workers, the penalties are in there already, if they are non-H2, we didn't put anything in the bill that says employers shall make sure their workers have ID but we say there is a fine if they don't. That's up to you guys if you want to amend the bill. I didn't really envision going out and fining employers for that. I think by just having it in the law, people will do it. If we find out later on that they aren't doing it, we can come back in and attach a penalty. I don't think its necessary at this time.

Senator Respicio: The penalties and fines are going to be deposited into the Manpower Development Fund. As we know, there is a split between DOL and GCC.

Mr. Massy: No, it specifically cites the section in the same place where the H2 fines.

Senator Respicio: That 22 GCA? So one hundred percent (100%) of this will go into Labor?

Mr. Massy: Right. That is supporting the program.

Senator Ada: I just wanted to say for the record that I meet with Mr. Martinez, a few folks from the Guam Contractors Association who have stated they would transmit their testimony in support of the bill as stated by Mr. Ady.

Senator Respicio thanked the panel for testifying and the senators present at the hearing.

Senator Respicio opened the floor to senators for follow-up questions.

No further testimony being offered, Senator Respicio then declared that **Bill No. 130-32 (COR)** was duly heard.

### **III. WRITTEN TESTIMONY**

#### **Mr. Manny Cruz, Acting Director of the Guam Department of Labor, In Support of the Bill, Provided Oral and Written Testimony (See attached for Written Testimony).**

Mr. Cruz stated that since 2006, the Alien Labor Processing & Certification Division (ALPCD) has increased its enforcement efforts with non-immigrant alien laborers, primarily in the H-2B program, with a focus on the construction industry. The Division also conducts inspections and enforcement activities in other non-agricultural industries in which H-2B workers may be found. With those increased levels of enforcement activities, the Division has been finding that there is a pool of alien laborers in the island who are providing services daily and do not have authorization to work in Guam. The majority of the encounters have been in the construction industry and is noted that these workers normally work on a short term basis per jobsite, but actually are working regularly. From speaking to these workers, it was found that they typically are not reported as employees and are being paid on a cash basis. They pay no income taxes nor Social Security taxes; they do not file income tax returns with the Guam Department of Revenue and Taxation; and are not covered by Workers Compensation Insurance, and if injured or sick, will utilize the Guam Memorial Hospital under the indigent payment program.

He noted that the process is assessing and issuing the penalties, appealing any citation and collecting the fines is all a process that is already in place within the existing H-2B enforcement structure and Bill No. 130-32 mirrors that tried and true process. Also, he stated that the DOL supports the authorization to promulgate further rules via the Administrative Adjudication Law Rulemaking process. Bill No. 130-32 provides the framework and it will then be up to the Department to fine-tune the process in the implementation of the administrative rules with the Legislature's concurrence later, after the Department had an opportunity to develop and implement a pilot program.

Mr. Cruz stated that the Department fully supports Bill No. 130-32.

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

The author's amendment summary includes:

- Section 1(pg 1-2) (*Legislative Findings and Intent*) was amended to better outline the current issues the Department of Labor faces with regard to those on Guam currently employing aliens without lawful work status.
- In addition, Section 1 (pg 2) was also amended to include the Federal Statute (Title 8 USC 1324(h) (2)) that preempts local and state laws, except through "*licensing and similar laws*," which was cited in order to give a proper frame to the bill and show the spirit of the law is working within the allowable "*licensing and similar laws*" language.
- Section 2, Lines 4 and 5 (pg 2) were amended to include language that gives the Director of the Department of Labor the authority to ensure compliance with Guam and Federal Law related to the employment of aliens.
- Section 2, Lines 14-17(pg 2) were amended to reflect a licensing and administrative process as opposed to the originally proposed regulation and fines process, which is preempted by Federal Law. The administrative process creates license sanction fees and empowers the Director to act as the hearing officer and hold hearings to consider the merits of Citations or Notices of Violation made pursuant to the Code Section.

- Section 2, Lines 18(pg 2) through Line 17(pg 3) were amended to reflect the new administrative process wherein the Director is empowered to recommend that the appropriate licensing entity suspend an employer's license to do business on Guam should the employer be found to be employing aliens without lawful work status.
- Section 2, Lines 11-17 (pg 3) was amended to clarify the process in the case of an unidentified employer. Some repetitive language was also deleted.
- Section 2, Lines 18-24 (pg 3) were removed as the appeals process is outlined in the amended version earlier in the administrative process.
- Section 2, Lines 1-3 (pg 3) was removed.
- Section 3 of the law was amended to reflect the rules and regulations authorized shall also be consistent with Guam's Administrative Adjudication Law.
- Among the above noted amendments, several stylistic, format and grammar corrections were made throughout the bill.

The Committee on Rules, Federal, Foreign & Micronesian Affairs, and Human & Natural Resources; and Election Reform hereby reports out **Bill No. 130-32 (COR)** with the recommendation to PASS.

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN*  
2013 (FIRST) Session

Bill No. 130.37 (WR)

Introduced by:

T.C. Ada 

2013 FEB 21 11 41 21  


**AN ACT TO AMEND §1106.(k) OF CHAPTER 1 TITLE 22 GUAM  
CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR  
EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS**

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

1           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that  
2 the Guam Department of Labor (DOL), pursuant to §1106.(k) of Chapter 1, Title 22,  
3 Guam Code Annotated, has the power to investigate “*the condition of aliens relative to*  
4 *their employment.*” However the authority to arrest and prosecute aliens who do not  
5 possess lawful work status is vested with the U.S. Department of Immigration and  
6 Customs Enforcement (ICE), a Division of the U.S. Department of Homeland Security  
7 (USDHS).

8           *I Liheslatura* finds that, while ICE has the authority to arrest and prosecute aliens,  
9 the Guam DOL, as authorized by Guam law, has regulatory authority for the enforcement  
10 of Guam’s labor laws.

11           *I Liheslatura* finds that under current law, aliens without lawful work status are  
12 subject to legal consequences if discovered employed on Guam. The DOL has the power  
13 to investigate, but the law does not provide authority to penalize employers hiring aliens  
14 who do not possess lawful work status. Thus, there is no disincentive to discourage  
15 employers from hiring aliens who do not possess lawful work status.

1            *I Liheslatura therefore intends to protect the limited number of jobs on Guam for*  
2 *those who are legally eligible and qualified for the jobs available.*

3 **Section 2. §1106.(k) of Chapter 1, Title 22 GCA is hereby amended to read:**

4            (k) May investigate the condition or status of aliens relative to their employment.

5            “(1) To facilitate the investigation, employers shall ensure that all alien  
6 workers on a work site or at a place of business possess some form of valid,  
7 government issued picture identification to include, but not limited to: a passport,  
8 a Guam Driver’s License, or an employment authorization card; and the Director  
9 or his authorized representative may request such identification documents from  
10 any alien worker at a place of work in Guam. If a worker’s immigration status is  
11 in question the Department may temporarily detain such individual on site so that  
12 the Department can verify the worker’s status with immigration officials.

13            (2) Should an alien who does not possess lawful work status be found to  
14 be employed at a place of work in Guam, the employer shall be subject to civil  
15 penalties of One Thousand Dollars (\$1,000) per worker for the first offense, Two  
16 Thousand Five Hundred Dollars (\$2,500) per worker for the second offense and  
17 Five Thousand Dollars (\$5,000) per worker for the third offense.

18            (i) A second offense is defined as any violation of this section not  
19 on the same day of the date noted on the First (1<sup>st</sup>) Notice of Violation (or  
20 citation), but within 12 (twelve) months of the date noted on the First (1<sup>st</sup>)  
21 Notice of Violation (or citation). A third offense is defined as any  
22 violation of this section not on the same day noted on the Second (2<sup>nd</sup>)  
23 Notice of Violation (citation), but within 12 (twelve) months of the date  
24 noted on Second (2<sup>nd</sup>) Notice of Violation (or citation).

1                   (ii) For employers who have committed a third offense, the  
2                   Director shall, within thirty (30) days, also refer the matter to the  
3                   appropriate licensing entity, including but not limited to: the Guam  
4                   Contractors License Board (GCLB) or the Department of Revenue &  
5                   Taxation who shall, within ninety (90) days, conduct an investigation to  
6                   determine if a suspension of the employer's contractor license, business  
7                   license, or operating license is justified, and if so, suspension for a period  
8                   of not less than one year and not more than 3 years is hereby authorized.  
9                   In the event of a timely appeal to the Director, referral to licensing  
10                  authorities shall be deferred until the completion of the appeal process.

11                  (3) In the event of a violation, if the employer of an alien worker without  
12                  lawful work status is not readily identifiable, the prime contractor at a job site or  
13                  the owner of the business establishment inspected shall be liable for the assessed  
14                  civil penalty. In cases where work has been contracted or subcontracted and the  
15                  direct employer is not readily identifiable, the prime contractor or the contractor  
16                  named on the building permit shall be liable for any fines levied pursuant to this  
17                  section.

18                  (4) In the event of a violation of this section, the offender shall be served  
19                  with a Notice of Violation, commonly referred to as a citation, which details the  
20                  violation and the amount of fine to be imposed. The offender shall have the right  
21                  to an administrative hearing conducted by the Director of Labor as the hearing  
22                  officer. The offender may appeal in writing within fifteen (15) calendar days from  
23                  the receipt of the Notice of Violation, to the Director of Labor, requesting a  
24                  hearing to present facts and law in defense of the offender.

1           (5) Failure to pay an assessed fine within 120 days from the issuance of a  
2       Notice of Violation, or by a due date set in a DOL Administrative Order shall be a  
3       felony.

4           (6) Fines generated from section §1106.(k)(2) shall be deposited into the  
5       DOL Manpower Development Fund and expended in accordance with provisions  
6       at 22 GCA § 7118.1(e).”

7       **Section 3. Promulgation of Rules and Regulations.** The Department of Labor  
8       may promulgate rules and regulations consistent with the laws of the United States and  
9       Guam as may be necessary to insure program effectiveness.

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

14       **Section 6. Effective Date.** This Act shall become effective 30 days after its  
15       enactment.

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2013 (FIRST) Session

**Bill No. 130-32**

**\*As substituted by the Author**

**Introduced by:**

**T.C. Ada**

**AN ACT TO AMEND §1106(k) OF CHAPTER 1 TITLE 22 GUAM  
CODE ANNOTATED RELATIVE TO IMPOSING LICENSING  
SANCTIONS FOR EMPLOYING ALIENS WITHOUT LAWFUL  
WORK STATUS**

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

1           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that  
2 the Guam Department of Labor (DOL), pursuant to §1106(k) of Chapter 1, Title 22,  
3 Guam Code Annotated, has the power to investigate “*the condition of aliens relative to*  
4 *their employment.*” GDOL’s investigative power is limited to the verification of work  
5 status of aliens, however should any indication of improper or unauthorized employment  
6 without lawful status be discovered, the Department has no enforcement power.

7           *I Liheslatura* further finds that the authority to arrest and prosecute aliens who do  
8 not possess lawful work status is vested with the U.S. Department of Immigration and  
9 Customs Enforcement (ICE), a Division of the U.S. Department of Homeland Security  
10 (USDHS), and the Federal Immigration Court. Subsequent to an arrest, the alien is either  
11 detained or released on bail pending scheduling of adjudication (for deportation) in  
12 Federal Immigration Court. Oftentimes, the wait time for adjudication is lengthy, lasting  
13 months, and in many cases years.

14           *I Liheslatura* further finds that it is during this period of limbo that a conditionally  
15 released worker would seek employment often at exceptionally low wages or in many

1 cases below minimum wage standards. As a consequence, local workers are often edged  
2 out of the local job market by these aliens without lawful work status. It is this negative  
3 impact to the local workforce that the Government of Guam wants to prevent.

4 *I Liheslatura* further finds that Title 8 §§1324(h)(2) of the United States Code  
5 explicitly states “*the provisions of this section preempt any state or local law from*  
6 *imposing civil or criminal sanctions (other than through licensing and similar laws) upon*  
7 *those who employ, or recruit or refer for a fee for employment, unauthorized aliens.*”

8 Therefore, because of this specific preemption, *I Liheslatura* intends to protect the limited  
9 number of jobs on Guam for those who are legally eligible by imposing licensing  
10 sanctions, as allowed by Title 8 USC §§1324(h)(2) on those who employ aliens without  
11 lawful work status.

12 **Section 2. §1106(k) of Chapter 1, Title 22 GCA is hereby *amended* to read:**

13 (k) *May* investigate the condition or status of aliens relative to their employment,  
14 and shall ensure compliance with all applicable Guam and Federal Laws regarding the  
15 employment of aliens.

16 “(1) To facilitate the investigation, employers shall ensure that all alien  
17 workers at a work site possess some form of valid, government issued picture  
18 identification to include, but not limited to: a passport, a Guam or state-issued  
19 Driver’s License, or an employment authorization card; and the Director or his  
20 authorized representative may request such identification documents from any  
21 alien worker at a place of work in Guam. If a worker’s immigration status is in  
22 question the Department may temporarily detain such individual on site so that the  
23 Department can verify the worker’s status with Federal Immigration Officials.

1           (2) Should an inspection of a worksite determine that an alien(s) who does  
2           not possess lawful work status is being employed at a place of work in Guam, the  
3           employer shall be served a notice of violation (or Citation) which details the  
4           violation and shall be subject to licensing sanctions including: suspension or  
5           revocation of their business license, and/or license sanction fees. The respondent  
6           (employer) may request an administrative hearing. Said request for a hearing must  
7           be received in writing by the Department within fifteen (15) calendar days from  
8           the date of receipt of a Notice of Violation (or Citation). Notwithstanding §9220  
9           of 5 GCA Article 2 Chapter 9, the hearing shall be conducted by the Director who  
10           shall be the hearing officer. The hearing process shall be subject to the procedures  
11           of Chapter 9 Title 5 of the Guam Code Annotated and any Notice of Violation (or  
12           Citation) served pursuant to this section shall fulfill the requirements of §9202 of  
13           the same. The Office of the Attorney General shall assist in providing advice to  
14           the Director/hearing officer when matters of law arise. In the event that the  
15           Director/hearing officer affirms that the Notice of Violation (or Citation) is valid,  
16           or if no hearing is requested in writing within fifteen (15) days from the date on  
17           the Notice of Violation the respondent shall be subject to the following:

18                   (i) First Offense: For the first offense, the employer shall be  
19                   subject to a license sanction fee of one thousand dollars (\$1,000.00) per  
20                   worker without lawful status found to be employed at the worksite  
21                   inspected and suspension of the employer's license to do business on  
22                   Guam may be recommended. The Director may refer the matter to the  
23                   appropriate licensing entity with the recommendation to suspend the  
24                   employer's license to do business on Guam for a period of up to thirty (30)

1 days or until the employer pays all license sanction fees levied for a first  
2 offense of this Section.

3 (ii) Second Offense: In the instance of a second offense, defined as  
4 any violation of this section not on the same day as the date noted on the  
5 First Notice of Violation (or Citation), but within one year of the date  
6 noted on the First Notice of Violation (or Citation), the employer shall be  
7 subject to a license sanction fee of two thousand dollars (\$2,000.00) per  
8 worker without lawful status found to be employed at the worksite  
9 inspected and suspension of the employer's license to do business on  
10 Guam may be recommended. The Director may refer the matter to the  
11 appropriate licensing entity with the recommendation to suspend the  
12 employer's license to do business on Guam for a period of up to sixty (60)  
13 days or until the employer pays all license sanction fees levied for a  
14 second offense of this Section.

15 (iii) Third Offense: In the instance of a third offense, defined as  
16 any violation of this section not on the same day as the date noted on the  
17 Second Notice of Violation (or Citation), but within one year of the date  
18 noted on the Second Notice of Violation (or Citation), the employer's  
19 license to do business on Guam shall be revoked by the appropriate  
20 licensing authority immediately upon the receipt of findings of the  
21 Director.

22 (iv) During the appeal, the respondent (Employer) served the  
23 Notice of Violation may establish an affirmative defense against licensing  
24 sanctions imposed pursuant to this section if the employer has complied in

1 good faith with the Federal I-9 process to determine an alien's lawful work  
2 status prior to hire.

3 (3) In the event of a violation of this section, if the employer of an alien  
4 worker without lawful work status is not readily identifiable, the prime contractor  
5 at a job site whose name appears on the building permit, or the owner named on  
6 the business license of the establishment inspected shall be liable for the licensing  
7 sanctions administered pursuant to this section.

8 (4) The Department's Alien Labor Processing and Certification Division  
9 shall have all necessary enforcement and investigative powers needed to enforce  
10 provisions in this section.

11 (5) Funds generated from section §1106(k)(2) shall be deposited into the  
12 GDOL Manpower Development Fund and expended in accordance with the  
13 provisions of 22 GCA §7118(1)(e)."

14 **Section 3. Authorization to Adopt Rules and Regulations.** The Department of  
15 Labor may adopt rules and regulations consistent with the Guam Administrative  
16 Adjudication Law and the laws of the United States and Guam as may be necessary to  
17 ensure the effectiveness of the provisions of this Act.

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

22 **Section 5. Effective Date.** This Act shall go into effect thirty (30) days after its  
23 enactment.

**SENATOR RORY J. RESPICIO**  
**MAJORITY LEADER**

CHAIRPERSON  
 COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
 HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Libeslaturan Guåhan*  
**THIRTY-SECOND GUAM LEGISLATURE**

**PUBLIC HEARING SIGN-IN SHEET**  
 Tuesday, July 9, 2013--9:00 AM  
*I Liheslatura* • Public Hearing Room • Hagåtña, Guam

Bill No. 130-32 (COR) – Senator T.C. Ada “An act to amend §1106.(k) of Chapter 1 Title 22 Guam Code Annotated relative to imposing fines for employing aliens without lawful work status.”

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
<i>Manny Coz</i>	<i>La So-</i>	<i>Support</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<i>475-7093</i>	<i>manny.coz@del.gov.gu</i>
<i>Greg Massey</i>	<i>BoL</i>	<i>Support</i>		<input checked="" type="checkbox"/>		<i>greg.massey@del.gov.gu</i>

**SENATOR RORY J. RESPICIO**  
**MAJORITY LEADER**

**CHAIRPERSON**  
 COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
 HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Liheslaturan Guåhan*  
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NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
MIKE (Mike Ady) Ady	M80 SJS	Yes	<input checked="" type="checkbox"/>	Yes	734-1681	

**SENATOR RORY J. RESPICIO**  
**MAJORITY LEADER**

**CHAIRPERSON**  
 COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
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NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
<i>Schlastica Rivera</i>	<i>DEL</i>	<i>Support</i>			<i>800-4545</i>	

COPY



Eddie Baza Calvo  
Governor

Ray Tenorio  
Lieutenant Governor

GOVERNMENT OF GUAM  
(GUBETNOMENTON GUAHAN)  
DEPARTMENT OF LABOR  
(DIPATTMENTON HUMOTNAT)  
DIRECTOR'S OFFICE  
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Mamel Q. Cruz  
Acting Director

June 10, 2013

Honorable Rory J. Respicio, Chairman  
Committee on Rules, Federal, Foreign & Micronesian Affairs,  
Human & Natural Resources, and Election Reform  
Suite 302  
155 Hesler St.  
Hagátña, Guam 96910



Dear Mr. Chairman:

My name is Manny Cruz and I am currently serving as the Acting Director of the Guam Department of Labor. I am pleased to submit to the Committee this written testimony on Bill No. 130-32. I will like to thank Senator Tom Ada for his assistance in consulting with the Department on this important piece of legislation, which will give the Department the ability to investigate and to penalize Guam employers who are utilizing foreign workers but do not possess authorization to work in Guam.

Since 2006, the Alien Labor Processing & Certification Division (ALPCD) has increased its enforcement efforts with non-immigrant alien laborers, primarily in the H-2B program, with a focus on the construction industry. However, the Division also conducts inspections and enforcement activities in other non-agricultural industries in which H-2B workers may be working. With those increased levels of enforcement activities, the Division has been finding that there is a pool of alien laborers in the island who are providing services daily and do not have authorization to work in Guam. The majority of the encounters have been in the construction industry and it is noted that these workers normally work on a short term basis per jobsite, but actually are working regularly. From speaking to these workers, it was found that they typically are not reported as employees and are being paid on a cash basis. They pay no income taxes nor Social Security taxes; they do not file income tax returns with the Guam Department of Revenue and Taxation; and they are not covered by Workers Compensation Insurance and, if injured or sick, will utilize the Guam Memorial Hospital under the indigent payment program. They use our roads, parks, natural resources and other local services without paying any form of income taxes. Additionally, these workers are vulnerable to exploitation as they will not complain to the local government when abused, underpaid or injured to avoid being readily identified/captured and possibly draw the attention of U.S. Immigration and Naturalization Service officials. Many of these workers have been residing on Guam illegally for years and it is not uncommon

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Manny Cruz  
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that the Division will find some of these workers who had fallen out of legal status more than a decade ago. Many have false documentation and they know how to lie about their status or have unusual immigration situations which lead employers to think that they are, in fact, legal. And, in the long run, these workers will remain illegal and will continue to work on the island because they know that there is a great demand for their services from unscrupulous employers or employers who are not aware of the law nor the regulations.

Federal law requires that an employer verify that an individual is able to work in the United States by completing the Department of Homeland Security (DHS) Form 1-9 which requires a person to produce certain documents prior to working, which would only be in the possession of someone who is authorized to work. These include U.S. Citizens, Permanent Resident Aliens (PRA), Non-immigrant Aliens with Work Authorization, and all other foreign workers with work authorization under various visa categories (i.e. religious workers, foreign investors and dependents of certain visa holders). The enforcement of the Form 1-9 process has just begun in the past few years by auditors from the U.S. Department of Immigration and Customs Enforcement (USICE) Homeland Security Investigations Office. But, unfortunately, these audits are not able to curtail the flow of illegal workers, since these workers are almost never reported as workers of the employer and are being paid on a cash basis. USICE has the authority to fine or prosecute an employer who uses illegal workers, but it has been found, through years of experience, that unless there is a bigger criminal case involving human trafficking, smuggling or evidence of egregious abuse, USICE will normally not take any action against the employer. USICE will arrest any nonimmigrant worker who does not possess a valid status in the U.S. and will start legal proceedings to remove him from the U.S. But, again, in many cases, that process takes time. In a large number of the cases, the workers who were arrested by USICE are allowed to bail out and are back to the job site, within days, working illegally again. These illegal workers will earn as much as they can while awaiting the immigration court system, many times dragging those proceedings out with appeals to the Board of Immigration Appeals and, then, subsequent appeals to the 9th Circuit Court of Appeals in San Francisco. ALPCD has found that the process will sometime take 3 months to a year, in some cases, during which time the worker continues to work illegally on-island.

Many of these illegal workers enter the U.S. and Guam legally through commonly known valid work visas, such as the H-1B and H-2B, or through visa waiver programs for business visitors or tourists. Some enter the island through more obscure ways like crew visas or jumping off fishing vessels, while in port or while approaching Guam. Some come by boat from neighboring islands, as seen in a recent news story of a Chinese family who were caught off Ritidian Point.

Under current regulations, the Guam Department of Labor only issues fines to employers utilizing the H-2B program, but a large number of the illegal workers the

Division had encountered are no longer connected to any H-2B employer and may possibly fall outside of the Department's authority to issue civil penalties.

The Department's main concern is the protection of the legal worker. Each of these jobs, in which an illegal worker was caught, is a job that should have been done by a U.S. citizen or an alien who is authorized to work in the U.S. These workers are reported on company payroll records and pay their income taxes and Social Security taxes. They are protected by Worker's Compensation Insurance and other regulatory protections, and are legal, contributing members of our community. Since some employers know that they can find cheap illegal labor, they are not required to develop local workers or to follow the legal process to bring in foreign workers, which have U.S. worker protections and local government oversight.

These unscrupulous employers also enjoy an unfair business advantage when bidding on jobs. Compliance with local labor rules and regulations costs money. Employers have to have accountants, human resource professionals and clerical staff to meet regulatory requirements. Recruiting semi-skilled and skilled local workers is expensive because there is a lack of these workers on Guam and employers have to pay higher competitive wages to draw and retain these types of workers. All of these definitely affects the employer's labor and administrative costs when bidding a job or providing a service. These unscrupulous employers commonly cut so many corners and do not comply with most regulations in an effort to save money or bid lower to get jobs or contracts. It is important to the legitimate business community that all businesses compete fairly and on a level playing field.

The Department understands that the reason for **Bill No. 130-32** is to create a strong disincentive for employers who choose to use workers who are not authorized to work in Guam. It gives the Department the ability to levy significant civil penalties with a fine progression that leads to disbarment in cases where the employer is persistently or willfully continuing to violate the rules. It allows for the Department to have questionable workers remain on the site until an immigration investigation can be made.

Part of the bill requires that employers ensure that all their workers have valid worker identification. This is to facilitate the investigation for illegal workers, but also addresses another problem that has been seen with citizens from the Compact of Free Association island countries. It has been noticed that about 95% of all Micronesian workers do not have any identification when encountered on a project site. Many of these workers may be able to speak English. But, many of them do not speak English and more often the staff of the Alien Labor Processing & Certification Division (ALPCD) will leave the job site without knowing who they had just spoken to. Of special concern in recent years is the presence of deportable criminal migrants from Micronesia. ALPCD inspectors commonly do joint inspections with officers from the USICE Enforcement and Removal Office. Their office monitors and does the removal of these Freely Associated States (FAS) citizens who should not be on Guam. The Department can assist in identifying and referring the

names and locations of these deportable migrants, if we have a way to identify them on the job sites. The Department feels that this provision of the bill gives the Department the tools needed in order to help in this particular area of concern.

The process of assessing and issuing the penalties, appealing any citations and collecting the fines is all a process that is already in place within the existing H-2B enforcement structure and **Bill No. 130-32** mirrors that tried and true process. The Department does not expect the money generated from the fines to be substantial in the long term as employers find ways to curtail the usage of illegal workers once the word gets out and some of the major violators either close up shop or comply. We support the fines being deposited into the Department's Manpower Development Fund (MDF), so that the program is supported by a funding source, albeit a small one that will provide some supplies and equipment needed to support the enforcement program. We also support the authorization to promulgate further rules via the Administrative Adjudication Law Rulemaking process. **Bill No. 130-32** provides the framework and it will then be up to the Department to fine-tune the process in the implementation of the administrative rules with the Legislature's concurrence later, after the Department had an opportunity to develop and implement a pilot program.

In closing, the Department fully supports **Bill No. 130-32**, as written. Again, the Department expresses its sincere thanks to the Chairman and Members of the Committee for the opportunity to comment in support of **Bill No. 130-32**. I and my staff will attend the Public Hearing on the bill, when scheduled, and we will stand ready to answer any questions that you and the other Committee Members may have. Si Yu'os Ma'ase.

Respectfully,



**MANNY CRUZ**  
Director of Labor, Acting

cc: Greg Massey, Administrator  
Frank Arriola, Chief of Staff  
Telo Taitague, Governor's Office



Eddie Baza Calvo  
Governor  
Ray Tenorio  
Lieutenant Governor

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Manuel Q. Cruz  
Director

TESTIMONY

Before The

Committee on Rules, Federal & Micronesian Affairs;  
Human & Natural Resources; and Election Reform  
32<sup>nd</sup> Guam Legislature  
Tuesday, July 9, 2013  
Legislature's Hearing Room

Good Morning and Hafa Adai, Mr. Chairman and Committee Members:

My name is Manuel Quitugua Cruz, better known as "Manny Cruz". I am currently serving as the Acting Director of Labor. I come before you to testify on **Bill No. 130-32 (COR)**, "an Act to Amend Section 1106 (k) of Chapter 1, Title 22, Guam Code Annotated, relative to Imposing Fines for Employing Aliens without Lawful Work Status."

As stated in my letter, dated June 10, 2013, the Guam Department of Labor fully supports the intent and purpose of **Bill No. 132-32 (COR)**, as written. We want to thank Senator Tom Ada for his assistance in consulting with the Department on this important piece of legislation, which will give the Department the ability to investigate and to penalize Guam employers who are utilizing foreign workers, but do not possess authorization to work in Guam.

In the interest of time, I do not want to belabor you and the other Committee members in going over the whole history of the issue of illegal foreign workers that the Department finds problematic on the island. I want to leave that to you to read that in the letter on your spare time. What we want to point out for the record is the real reason behind **Bill No. 130-32 (COR)** and that is the creation of a strong disincentive for employers who choose to use foreign workers who are not authorized to work in Guam. The Department needs to have the ability to levy significant civil penalties, with a fine progression, that will ultimately lead to disbarment in cases where the employer persistently or willfully continues to violate the provisions of law. The legislation will also allow the Department to have questionable workers to remain on site until an immigration investigation can be made.

The Department also wants to point out that the process of assessing and issuing penalties, appealing any citations and collecting the fines, is a process that is already in place within the existing H-2B federal enforcement structure. **Bill No. 130-32 (COR)** simply mirrors that tried and true process.

The Department supports the provision of the bill that the fines be deposited into the Department's Manpower Development Fund (MDF), so that the program will have a funding source that will provide for the acquisition

of supplies and equipment that will support the enforcement program. We also support the authorization to promulgate further rules and regulations via the Administrative Adjudication Act process. The bill provides the framework and it will be up to the Department to fine-tune the process in the development and implementation of the administrative rules and regulations with the Legislature's final concurrence, of course.

Despite the Department's support of **Bill No. 130-32 (COR)**, the Department also has some concerns that the Committee can hopefully address.

1. The bill appears to be duplicating an effort that is already in place, i.e., the enforcement of illegal workers. The U. S. Homeland Security's Immigration and Customs Enforcement Division (ICE) has jurisdiction over illegal aliens in the U.S. and ICE currently arrests and prosecutes foreign workers who do not have lawful status to work in Guam. The only difference is that the businesses found employing these foreign workers face no consequences under Guam law.
2. A foreign worker without a valid work permit is protected by most labor and employment laws. Will the Department be liable for detaining an illegal foreign worker in a business establishment that does not hire H-2B alien workers?
3. With the passage and implementation of the provisions of **Bill No. 130-32 (COR)**, the Department may be faced with another federal redundant mandate. Pursuant to **Title 20, Part 655, Subpart A, Section 655.2(b), Authority of the Wage and Hour Division (WHD)**, it is specifically stipulated that, "Pursuant to its authority under the INA, 8 U.S.C. 1184(c)(14)(B), DHS has delegated the Secretary certain investigatory and law enforcement functions with respect to terms and conditions of employment in the H-2B program. The Secretary has, in turn, delegated that authority to the Governor of Guam, which was later sub-delegated to the Director of Labor/Wage and Hour Division ...." The Wage and Hour Division is also vested with the authority to enforce Guam labor laws, pursuant to the Fair Labor Standards Act (FLSA), Title 22, Guam Code Annotated.
4. Finally, **Bill No. 130-32 (COR)** needs a funding source to support after-hours and week-end work, as well as to hire additional staff to implement the provisions of the legislation. Current financial and staff resources are not available nor sufficient to support any additional work in the Department.

In closing, I want to thank you and the Members of the Committee for allowing me to testify today on **Bill No. 130-32 (COR)**. Thank you and Si Yu'os Ma'ase!



MANUEL Q. CRUZ

# Foreign Worker's Guide to Labor and Employment Laws

in the United States

If you are a foreign worker in the United States, you may find that some of the laws and practices are different from those in your home country. This guide will alert you to some important differences in the United States you may not have been aware of.

## What are my rights as a worker in the United States?

Workers in the United States have many of the same rights that workers around the world have. These rights include the right to form and join unions, the right to compensation if you are hurt on the job, the right to a safe workplace, the right to be free from forced labor, and the right to be free from discrimination in the workplace.

### Know the law of the state where you are working!

In the United States, there are several federal labor and employment laws. There are also state labor and employment laws in all 50 states, the District of Columbia and the U.S. territories, including Puerto Rico, the Virgin Islands, the Mariana Islands and Guam. Native American tribes often have separate labor and employment laws.

### What is the most important thing I should know about U.S. labor and employment law?

The most important thing you should know about U.S. labor and employment law is that there are different agencies for filing different kinds of labor and employment disputes.



### Know your rights!

Even if you are a foreign worker without a valid work permit you are protected by most U.S. labor and employment laws. The only exception is that workers without valid working permits cannot receive unemployment insurance.

**Where do I go if I believe my employer has treated me unfairly because of my sex or race or other qualities I have that make me different?**

You can file a complaint with the federal Equal Employment Opportunity Commission (EEOC), with the state fair employment practices (human rights) agency, and sometimes with a city or county human rights agency.

For more information, see *Guide to Employment Discrimination Laws in the United States* and *Women's Guide to Pregnancy on the Job in the United States*.

You can file a discrimination complaint even if you do not have a valid work permit.

**Will I be deported if I complain about the way my employer treats me or if I seek compensation for an on-the-job injury?**

- Employers sometimes threaten to deport you if you complain about work conditions or try to join a union.
- It is illegal for employers to threaten to deport you if you complain about work conditions. This is called "retaliation."
- You can get protection from being deported if you complain about work conditions.

**This is true even if you do not have a valid work permit.**

**Is there a human rights commission in the United States?**

- There is no national human rights commission in the United States. There are federal civil rights laws that protect people, however.
- Most state, county and city human rights offices accept employment discrimination complaints.
- Many state, county and city human rights offices also accept complaints about housing discrimination and civil rights violations.

**Beware of traffickers**

- It is illegal for a person to tell you that you will get a good job in the United States and then make you sell sex instead.
- It is illegal for a person to take out so much money from your paycheck that you do not receive minimum wage.
- It is illegal for a person to take away your passport to make you work.
- It is illegal for a person to threaten you with violence to make you work.
- A person who does this to you can be sent to federal prison.

If any of these things happens to you in the United States, you should call 1-888-428-7581.

**What do I do if my employer does not pay me the minimum wage or overtime?**

You can file a complaint with the Wage and Hour Division of the Department of Labor. This federal office has an office in most states. You can also file a complaint with the state department of labor.



For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation in the United States*

You must be paid the minimum wage even if you do not have a valid work permit.

**What can I do if my employer does not pay me for all of my work or does not pay me at all?**

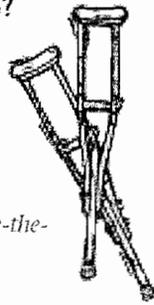
You can file a complaint with the Wage and Hour Division of the Department of Labor. This federal office has an office in most states. You can also file a complaint with the state department of labor.

Your employer must pay you. You can complain even if you do not have a valid work permit.

For more information, see *Guide to Laws Prohibiting Forced Labor in the United States*.

### What can I do if I am hurt on the job?

You must notify your employer and seek medical attention if you are hurt on the job. You can file a claim with the workers' compensation agency in the state where you are working.



For more information, see *Guide to On-the-Job Injuries in the United States*.

#### Health insurance in the United States

- In the United States, the law does not require employers to provide medical insurance for workers. Some employers do offer health insurance, however.
- You are entitled to medical treatment and compensation for an on-the-job injury even if your employer doesn't provide health insurance.

### Where do I go if my workplace is unsafe and I want to report it to someone?

You can report an unsafe workplace to the federal or state Occupational Safety and Health Administration. For more information and a number to call, see *Guide to On-the-Job Safety and Health in the United States*.

You have the right to a safe working environment even if you do not have a valid work permit.

### What can I do if my employer fires me?

If your employer fires you for a reason other than misconduct, you can file a claim for unemployment compensation with the state Department of Labor.

- The basic law in the United States is that you can be fired "for a good reason, for a bad reason or for no reason at all." It does not matter how long you have worked for your employer.
- There are exceptions if you have been treated unfairly because of illegal discrimination or because you tried to join or start a union.

If you do not have a valid work permit, you cannot collect unemployment compensation.

For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation in the United States* and *Guide to Labor Relations Law in the United States*.

### Where do I go if I want someone to explain the law to me and help me with my case?

There are "legal aid" offices in every state, which provide legal services to low-income people. If lawyers and staff in the legal aid office cannot help you, they can refer you to someone else who can.

Sometimes the consulate of your country can help you. If you do not feel comfortable contacting your country's consulate, community groups can often give you advice on where to seek help.

Some legal aid offices cannot help you if you do not have a valid work permit, but they can tell you where you can get help. Don't be afraid to ask.

#### Housing

- The law does not require employers to provide housing for workers in the United States.
- The exception is if you are a temporary farm worker with an H-2A visa. Employers in this visa program must provide you with housing.
- If you work as a farm worker and your employer provides housing, your employer must make sure the housing is safe, clean and obeys federal, state and local housing laws.

#### Farm worker rights

- Farm workers have different rights from other workers in the United States.
- For more information, see *Guide to the Law Protecting Migrant and Seasonal Farm Workers in the United States*.
- Farm workers have the right to file discrimination complaints in the United States.



Commission for Labor Cooperation



# COMMITTEE ON RULES

*I Mina'trentai Dos na Liheslaturan Guåhan* • The 32nd Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER

Senator  
Vicente (Ben) C. Pangelinan  
Member

Speaker  
Judith T.P. Won Pat, Ed.D.  
Member

Senator  
Dennis G. Rodriguez, Jr.  
Member

Vice-Speaker  
Benjamin J.F. Cruz  
Member

Legislative Secretary  
Tina Rose Muña Barnes  
Member

Senator  
Frank Blas Aguon, Jr.  
Member

Senator  
Michael F.Q. San Nicolas  
Member

Senator  
V. Anthony Ada  
Member  
MINORITY LEADER

Senator  
Aline Yamashita  
Member

June 24, 2013

## Memorandum

**To:** **Rennae Meno**  
*Clerk of the Legislature*

**From:** **Senator Rory J. Respicio**  
*Majority Leader & Rules Chair*

**Subject:** **Fiscal Notes**

*Hafa Adai!*

Attached please find the waiver for the bill numbers listed below.  
Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

### FISCAL NOTES:

- Bill No. 120-32(LS)
- Bill No. 122-32(LS)
- Bill No. 127-32 (LS)
- Bill No. 130-32 (COR)

### WAIVER:

- Bill No. 142-32(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

*Si Yu'os ma'åse'!*

2013 JUN 24 PM 2:42  
*RJR*

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 130-32**

**AN ACT TO AMEND 1106.(K) OF CHAPTER 1 TITLE 22, GUAM CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS**

Department/Agency Appropriation Information	
Dept./Agency Affected: <b>Manual Buenas</b>	Dept./Agency Head: <b>Acting Director</b>
Department's General Fund (GF) appropriation(s) to date:	1,736,405
Department's Other Fund (Specify) appropriation(s) to date: <b>Manpower Development Fund</b>	423,176
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$2,159,581</b>

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance <sup>1</sup>		\$0	\$0
FY 2013 Adopted Revenues	\$0	\$0	\$0
FY 2013 Appro. (P.L. 31-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- 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? // N/A    // Yes    /x/ No  
Is there a federal mandate to establish the program/agency? /x/ Yes    // 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  
// Requested agency comments not received as of the due date    // Other:

**JUN 24 2013**

Analyst: Dina P. Rivera      Date: 6-19-13      Director: John A. Rios      Date: \_\_\_\_\_  
Dina P. Rivera
John A. Rios, Director

**Footnotes:**  
See attached comments.

*JP 6/21/13*

**COMMENTS TO BILL 130-32(COR)****BILL NO. 130-32 IS AN ACT TO AMEND §1106(k) OF CHAPTER 1,  
TITLE 22, GUAM CODE ANNOTATED RELATIVE TO IMPOSING  
FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS**

According to the Bill, "*I Liheslatura* finds that under current law, aliens without lawful work status are subject to legal consequences if discovered employed on Guam. The Department of Labor (DOL) has the power to investigate, but the law does not provide authority to penalize employers hiring aliens who do not possess lawful work status. Thus, there is no disincentive to discourage employers from hiring aliens who do not possess lawful work status. Therefore, the proposed amendment now imposes penalties to employers who are found hiring aliens who do not possess lawful work status. The penalties are as follows: The employer *shall* be subject to civil penalties of One Thousand Dollars (\$1,000) per worker for the first offense, Two Thousand Five Hundred Dollars (\$2,500) per worker for the second offense and Five Thousand Dollars (\$5,000) per worker for the third offense. It is proposed that the fines be deposited into the Manpower Development Fund and expended in accordance with provisions on 22GCA §7118.1 (e).

Per written testimony signed by the Acting Director of Labor on Bill No. 130-32, DOL fully supports the Bill. It mentions that the Department does not expect the money generated from the fines to be substantial in the long term as employers find ways to curtail the usage of illegal workers once precedent has been set, resulting in compliance or shop closure. However, DOL supports any fines collected to be deposited into the Department's Manpower Development Fund (MDF) to cover cost for supplies and equipment needed for its "enforcement" program under the Alien Labor Processing Certification Division (ALPCD).

Per verbal information from the ALPCD Employment Program Administrator, in FY12, 85 individuals (alien workers) did not have the required "work authorization". Had this Bill been enacted then, the MDF could have received revenues of \$85,000 (85 workers x \$1,000) for a 1<sup>st</sup> offense. However, as pointed out by the Administrator, the expectation would be considerably less as employers start to become knowledgeable about the penalties as proposed in the Bill, possibly less than half of the FY12 number. This is supported in the official written testimony by the DOL Director.



## COMMITTEE ON RULES

*I Mina'trentai Dos na Liheslaturan Guåhan* • The 32nd Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
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Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

June 3, 2013

Senator  
Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER

VIA E-MAIL  
[john.rios@bbmr.guam.gov](mailto:john.rios@bbmr.guam.gov)

Senator  
Vicente (Ben) C. Pangelinan  
Member

John A. Rios  
Director  
Bureau of Budget & Management Research  
P.O. Box 2950  
Hagåtña, Guam 96910

Speaker  
Judith T.P. Won Pat, Ed.D.  
Member

RE: Request for Fiscal Notes-- Bill Nos. 128 - 130 (COR)

Senator  
Dennis G. Rodriguez, Jr.  
Member

*Hafa Adai* Mr. Rios:

Vice-Speaker  
Benjamin J.F. Cruz  
Member

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Legislative Secretary  
Tina Rose Muña Barnes  
Member

*Si Yu'os ma'åse'* for your attention to this matter.

Senator  
Frank Blas Aguon, Jr.  
Member

Very Truly Yours,

Senator  
Michael F.Q. San Nicolas  
Member

Senator Rory J. Respicio  
*Chairperson, Committee on Rules*

Senator  
V. Anthony Ada  
Member  
MINORITY LEADER

Attachments (1)

Senator  
Aline Yamashita  
Member

Cc: Clerk of the Legislature

*MB*  
2013 JUN - 3 PM 1:38

Bill Nos.	Sponsor	Title
128-32(COR)	Frank B. Aguon, Jr.	THE CUSTOMS AND QUARANTINE AGENCY ENACTS THE FOLLOWING RULES AND REGULATIONS TO AMEND TITLE 4, GOVERNMENT ADMINISTRATIVE RULES AND REGULATIONS, CHAPTER 2, ARTICLE 5, §2505(a)(2) OF THE CUSTOMS, AGRICULTURE, AND QUARANTINE INSPECTION SERVICE CHARGE PURSUANT TO 5GCA73, §73151.
129-32(COR)	T.R. Muña Barnes, Chris M. Dueñas	AN ACT TO AUTHORIZE THE A.B. WON PAT GUAM INTERNATIONAL AIRPORT AUTHORITY TO ISSUE REVENUE BONDS FOR THE PURPOSE OF REFUNDING THE GENERAL REVENUE BONDS, 2003 SERIES A, B, C AND D, REFINANCE THE ENERGY EFFICIENCY LOAN, TO FINANCE NEW PROJECTS.
130-32(COR)	T. C. Ada	AN ACT TO AMEND §1106.(k) OF CHAPTER 1 TITLE 22 GUAM CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS.



## COMMITTEE ON RULES

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Senator  
Frank Blas Aguon, Jr.  
Member

Senator  
Michael F.Q. San Nicolas  
Member

Senator  
V. Anthony Ada  
Member  
MINORITY LEADER

Senator  
Aline Yamashita  
Member

May 31, 2013

### MEMORANDUM

**To: Rennae Meno**  
*Clerk of the Legislature*

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

**From: Senator Rory J. Respicio**  
*Majority Leader & Rules Chair*

**Subject: Referral of Bill No. 130-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 130-32(COR)**.

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 Dos na Liheslaturan Guåhan*.

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

*Si Yu'os Ma'åse!*

Attachment

*I Mina'Trentai Dos Na Liheslaturan Guahan*

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
130-32 (COR)	T. C. Ada	AN ACT TO AMEND §1106.(k) OF CHAPTER 1 TITLE 22 GUAM CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS	5/31/13 4:21 p.m.	5/31/13	Committee on Rules, Federal, Foreign & Micronesian Affairs, Human & Natural Resources, and Election Reform			



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## First Notice of Public Hearing – Tuesday, July 9, 2013

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Senator Rory J. Respicio <cor@guamlegislature.org>

Mon, Jul 1, 2013 at 4:32 PM

To: "Aline A. Yamashita, Ph.D" <aline4families@gmail.com>, "Christopher M. Duenas" <duenasenator@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, "Thomas C. Ada" <tom@senatorada.org>, Tommy Morrison <tommy@senatormorrison.com>, vicente 'ben' pangelinan <senbenp@guam.net>, "Benjamin JF Cruz" <senator@senatorbjcruz.com>, "Brant McCreadie" <brantforguam@gmail.com>, "Michael F. Q. San Nicolas" <responsibleguam@gmail.com>, "Michael T. Limtiaco" <mike@mikelimtiaco.com>, Tina Muna Barnes <senator@tinamunabarnes.com>, Office of Senator Tony Ada <senatortonyada@guamlegislature.org>

Cc: mis <mis@guamlegislature.org>, Guam Legislature Clerks <clerks@guamlegislature.org>, Therese Terlaje <tterlaje@guam.net>, Tom Unsiog <sgtarms@guamlegislature.org>, joesa@guamlegislature.org

Bcc: Bernadette Meno <guam.avon@gmail.com>, bill phillips <phillipsguam@gmail.com>, Elaine Tajalle <etajalle@guamlegislature.org>, Jennifer Louise Dulla <jennifer.lj.dulla@gmail.com>, mary louise wheeler <mlwheeler2000@yahoo.com>, Mary Maravilla <marymaravilla19@gmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>, Tyrone Taitano <tjtaitano@cs.com>, "Vince P. Amiola" <vparriola1@gmail.com>

July 1, 2013

### MEMORANDUM

**To:** All Members

**From:** Majority Leader Rory J. Respicio

**Subject:** First Notice of Public Hearing – Tuesday, July 9, 2013

*Håfa Adai!* Please be advised that the Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources will be conducting a **Public Hearing on Tuesday, July 9, 2013 beginning at 9:00 A.M.**, in the Legislature's Public Hearing Room on the following:

**9:00 A.M.**

1. **Bill No. 130-32 (COR)** – "An act to amend §1106.(k) of Chapter 1 Title 22 Guam Code Annotated

relative to imposing fines for employing aliens without lawful work status.” **Sponsor – Senator T.C. Ada**

2. Appointment of **Manuel Q. Cruz**, Director, Department of Labor

Length of Term: To Serve at the Pleasure of the Governor

3. Appointment of **Florida Sanchez**, Member, Guam Environmental Protection Agency Board

Length of Term: Three (3) Years

4. Appointment of **Robert Perron**, Member, Guam Environmental Protection Agency Board

Length of Term: Three (3) Years

Written testimony should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources, & Election Reform, and may be submitted via email to [cor@guamlegislature.org](mailto:cor@guamlegislature.org); fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, *Hågatña*, Guam 96910. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at [etajalle@guamlegislature.org](mailto:etajalle@guamlegislature.org). *Si Yu'os ma'åse'!*

cc: All Senators

Clerk of the Legislature

Legal Counsel

Sergeant-at-Arms/AV

MIS

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**Majority Leader Rory J. Respicio**

Chairperson, Committee on Rules;

Federal, Foreign & Micronesian Affairs;

Human & Natural Resources; and Election Reform

*I Mina Trentai Dos na Liheslaturan Guåhan*

155 Hesler Place, Ste. 302

Hagåtña, Guam 96910

Phone: (671) 472-7679

Fax: (671) 472-3547

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 **PH 2013.07.09\_First Notice\_2013.07.01\_All Members.pdf**  
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SENATOR RORY J. RESPICIO  
MAJORITY LEADER

CHAIRPERSON  
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Libeslaturan Guåhan*  
THIRTY-SECOND GUAM LEGISLATURE

July 1, 2013

MEMORANDUM

To: All Members

From: Majority Leader Rory J. Respicio 

Subject: First Notice of Public Hearing – Tuesday, July 9, 2013

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cc: All Senators  
Clerk of the Legislature  
Legal Counsel  
Sergeant-at-Arms/AV  
MIS



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## First Notice of Public Hearing – Tuesday, July 9, 2013

---

Senator Rory J. Respicio <cor@guamlegislature.org>

Mon, Jul 1, 2013 at 4:36 PM

Bcc: phnotice <phnotice@guamlegislature.org>, campwitek4ever@yahoo.com, Robert Perron <rperron@ite.net>, fsanchez.mpgsagua@gmail.com, "hottips@kuam.com" <hottips@kuam.com>, "mvariety@pticom.com" <mvariety@pticom.com>, "news@guampdn.com" <news@guampdn.com>, "news@k57.com" <news@k57.com>, Franklin Ariola <franklin.ariola@guam.gov>

July 1, 2013

### MEMORANDUM

**To:** All Media

**From:** Majority Leader Rory J. Respicio

**Subject:** First Notice of Public Hearing – Tuesday, July 9, 2013

*Håfa Adai!* Please be advised that the Committee on Rules; Federal, Foreign & Micronesia Affairs; and Human & Natural Resources; & Election Reform will be conducting a **Public Hearing on Tuesday, July 9, 2013 beginning at 9:00 A.M.**, in the Legislature's Public Hearing Room on the following:

#### 9:00 A.M.

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Length of Term: Three (3) Years

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###

—

**Majority Leader Rory J. Respicio**

Chairperson, Committee on Rules;  
Federal, Foreign & Micronesian Affairs;  
Human & Natural Resources; and Election Reform  
*I Mina'Trentai Dos na Liheslaturan Guåhan*  
155 Hesler Place, Ste. 302  
Hågatña, Guam 96910  
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SENATOR RORY J. RESPICIO  
MAJORITY LEADER

CHAIRPERSON  
COMMITTEE ON RULES; FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Libeslaturan Guåhan*  
THIRTY-SECOND GUAM LEGISLATURE

July 1, 2013

MEMORANDUM

To: All Media

From: Majority Leader Rory J. Respicio 

Subject: First Notice of Public Hearing – Tuesday, July 9, 2013

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Length of Term: To Serve at the Pleasure of the Governor
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Length of Term: Three (3) Years

Written testimony should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources, & Election Reform, and may be submitted via email to [cor@guamlegislature.org](mailto:cor@guamlegislature.org); fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, *Hågatña*, Guam 96910. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at [etajalle@guamlegislature.org](mailto:etajalle@guamlegislature.org). *Si Yu'os ma'åse'!*

###



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## Second Notice of Public Hearing – Tuesday, July 9, 2013

---

Senator Rory J. Respicio <cor@guamlegislature.org>

Wed, Jul 3, 2013 at 4:06 PM

To: "Aline A. Yamashita, Ph.D" <aline4families@gmail.com>, "Christopher M. Duenas" <duenasenator@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, "Thomas C. Ada" <tom@senatorada.org>, Tommy Morrison <tommy@senatormorrison.com>, vicente 'ben' pangelinan <senbenp@guam.net>, "Benjamin JF Cruz" <senator@senatorbjcruz.com>, "Brant McCreadie" <brantforguam@gmail.com>, ""Michael F. Q. San Nicolas"" <responsibleguam@gmail.com>, ""Michael T. Limtiaco"" <mike@mikelimtiaco.com>, "Rory J. Respicio" <roryforguam@gmail.com>, Tina Muna Bames <senator@tinamunabames.com>, Office of Senator Tony Ada <senatortonyada@guamlegislature.org>  
Cc: Guam Legislature Clerks <clerks@guamlegislature.org>, Therese Terlaje <tterlaje@guam.net>, Tom Unsiog <sgtarms@guamlegislature.org>, mis <mis@guamlegislature.org>  
Bcc: Bemadette Meno <guam.avon@gmail.com>, bill phillips <phillipsguam@gmail.com>, Elaine Tajalle <etajalle@guamlegislature.org>, Jennifer Louise Dulla <jennifer.lj.dulla@gmail.com>, mary louise wheeler <mlwheeler2000@yahoo.com>, Mary Maravilla <marymaravilla19@gmail.com>, "Vince P. Arriola" <vparriola1@gmail.com>

July 3, 2013

### MEMORANDUM

**To:** All Members

**From:** Majority Leader Rory J. Respicio

**Subject:** Second Notice of Public Hearing – Tuesday, July 9, 2013

*Håfa Adai!* Please be advised that the Committee on Rules; Federal, Foreign & Micronesia Affairs; and Human & Natural Resources will be conducting a **Public Hearing on Tuesday, July 9, 2013 beginning at 9:00 A.M.**, in the Legislature's Public Hearing Room on the following:

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Written testimony should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources, & Election Reform, and may be submitted via email to [cor@guamlegislature.org](mailto:cor@guamlegislature.org); fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, *Hågatña*, Guam 96910. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at [etajalle@guamlegislature.org](mailto:etajalle@guamlegislature.org). *Si Yu'os ma'åse'!*

cc: All Senators  
Clerk of the Legislature  
Legal Counsel  
Sergeant-at-Arms/AV  
MIS

—  
**Majority Leader Rory J. Respicio**  
Chairperson, Committee on Rules;  
Federal, Foreign & Micronesian Affairs;  
Human & Natural Resources; and Election Reform  
*/ Mina'Trentai Dos na Liheslaturan Guåhan*  
155 Hesler Place, Ste. 302  
Hagåtña, Guam 96910  
Phone: (671) 472-7679

Fax: (671) 472-3547



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166K

**SENATOR RORY J. RESPICIO**  
**MAJORITY LEADER**

**CHAIRPERSON**  
COMMITTEE ON RULES, FEDERAL, FOREIGN & MICRONESIAN AFFAIRS;  
HUMAN & NATURAL RESOURCES, AND ELECTION REFORM



*I Mina'trentai Dos na Libeslaturan Guåhan*  
**THIRTY-SECOND GUAM LEGISLATURE**

July 3, 2013

**MEMORANDUM**

**To:** All Members  
**From:** Majority Leader Rory J. Respicio  
**Subject:** Second Notice of Public Hearing – Tuesday, July 9, 2013

*Håfa Adai!* Please be advised that the Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources will be conducting a **Public Hearing on Tuesday, July 9, 2013 beginning at 9:00 A.M.**, in the Legislature's Public Hearing Room on the following:

**9:00 A.M.**

1. **Bill No. 130-32 (COR)** – "An act to amend §1106.(k) of Chapter 1 Title 22 Guam Code Annotated relative to imposing fines for employing aliens without lawful work status."  
**Sponsor – Senator T.C. Ada**
2. Appointment of **Manuel Q. Cruz**, Director, Department of Labor  
Length of Term: To Serve at the Pleasure of the Governor
3. Appointment of **Florida Sanchez**, Member, Guam Environmental Protection Agency Board  
Length of Term: Three (3) Years
4. Appointment of **Robert Perron**, Member, Guam Environmental Protection Agency Board  
Length of Term: Three (3) Years

Written testimony should be addressed to Senator Rory J. Respicio, Chairperson, Committee on Rules; Federal, Foreign & Micronesian Affairs, Human & Natural Resources, & Election Reform, and may be submitted via email to [cor@guamlegislature.org](mailto:cor@guamlegislature.org); fax to (671) 472-3547; or hand-delivery/mail to 155 Hesler Place, *Hågatña*, Guam 96910. Should special assistance or accommodations be required, please contact Elaine Tajalle at my office at (671) 472-7679 or by e-mail at [etajalle@guamlegislature.org](mailto:etajalle@guamlegislature.org). *Si Yu'os ma'åse'!*

cc: All Senators  
Clerk of the Legislature  
Legal Counsel  
Sergeant-at-Arms/AV  
MIS



Length of Term: To Serve at the Pleasure of the Governor

3. Appointment of **Florida Sanchez**, Member, Guam Environmental Protection Agency Board

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###

—  
**Majority Leader Rory J. Respicio**

Chairperson, Committee on Rules;  
Federal, Foreign & Micronesian Affairs;  
Human & Natural Resources; and Election Reform  
*/ Mina Trentai Dos na Liheslaturan Guåhan*  
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SENATOR RORY J. RESPICIO  
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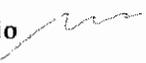


*I Mina'trentai Dos na Libeslaturan Guåban*  
THIRTY-SECOND GUAM LEGISLATURE

July 3, 2013

MEMORANDUM

To: All Media

From: Majority Leader Rory J. Respicio 

Subject: Second Notice of Public Hearing – Tuesday, July 9, 2013

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###

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**SENATOR RORY J. RESPICIO**  
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**CHAIRPERSON**  
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HUMAN & NATURAL RESOURCES; AND ELECTION REFORM



*I Mina'trentai Dos na Libeslaturan Guahan*  
**THIRTY-SECOND GUAM LEGISLATURE**

**PUBLIC HEARING**

**Tuesday, July 9, 2013 • 9:00 AM**

**Legislature's Public Hearing Room • Hagåtña, Guam**

**AGENDA**

- I. Call to Order**
- II. Announcements**
- III. Items for Public Consideration**
  - 1. Bill No. 130-32 (COR) – “An act to amend §1106.(k) of Chapter 1 Title 22 Guam Code Annotated relative to imposing fines for employing aliens without lawful work status.” Sponsor – Senator T.C. Ada**
  - 2. Appointment of Manuel Q. Cruz, Director, Department of Labor**  
Length of Term: To Serve at the Pleasure of the Governor
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Length of Term: Three (3) Years
  - 4. Appointment of Robert Perron, Member, Guam Environmental Protection Agency Board**  
Length of Term: Three (3) Years
- IV. Closing Remarks**
- V. Adjournment**

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For copies of the above mentioned bills, please visit the Guam Legislature's website at [www.guamlegislature.com](http://www.guamlegislature.com). Testimony should be addressed to Senator Rory J. Respicio, Chairperson, and may be submitted via hand-delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagatna, Guam 96910, via e-mail to [cor@guamlegislature.com](mailto:cor@guamlegislature.com), or via facsimile to (671) 472-3547. Individuals requiring special accommodations, auxiliary aids, or services shall contact and submit their request to Elaine Tajalle at our office. For more information, please call 472-7679. We look forward to your attendance and participation. *Si Yu'os ma'ase'!*



# COMMITTEE ON RULES

*I Mina'trentai Dos na Liheslaturan Guåhan* • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

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V. Anthony Ada  
Member  
MINORITY LEADER

Senator  
Aline Yamashita  
Member

June 24, 2013

## Memorandum

**To:** **Rennae Meno**  
*Clerk of the Legislature*

**From:** **Senator Rory J. Respicio**  
*Majority Leader & Rules Chair*

**Subject:** **Fiscal Notes**

*Hafa Adai!*

Attached please find the waiver for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

### FISCAL NOTES:

- Bill No. 120-32(LS)
- Bill No. 122-32(LS)
- Bill No. 127-32 (LS)
- Bill No. 130-32 (COR)

### WAIVER:

- Bill No. 142-32(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

*Si Yu'os ma'åse'!*

2013 JUN 24 PM 2:42

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 130-32**

**AN ACT TO AMEND 1106.(K) OF CHAPTER I TITLE 22, GUAM CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS**

Department/Agency Appropriation Information	
Dept./Agency Affected: Manual Duenas	Dept./Agency Head: Acting Director
Department's General Fund (GF) appropriation(s) to date:	1,736,405
Department's Other Fund (Specify) appropriation(s) to date: Manpower Development Fund	423,176
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$2,159,581</b>

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance <sup>1</sup>		\$0	\$0
FY 2013 Adopted Revenues	\$0	\$0	\$0
FY 2013 Appro. (P.L. 31-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- 1. Does the bill contain "revenue generating" provisions? /x/ Yes    // No  
If Yes, see attachment
- 2. 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
- 3. Does the Bill establish a new program/agency? // Yes    /x/ No  
If yes, will the program duplicate existing programs/agencies? // N/A    // Yes    /x/ No  
Is there a federal mandate to establish the program/agency? /x/ Yes    // No
- 4. Will the enactment of this Bill require new physical facilities? // Yes    /x/ No
- 5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /x/ Yes    // No  
// Requested agency comments not received as of the due date // Other:

*JPR* 6/21/13

JUN 24 2013

Analyst: Dina P. Rivera      Date: 6-19-13      Director: John A. Rios      Date: \_\_\_\_\_  
Dina P. Rivera John A. Rios, Director

**Footnotes:**  
See attached comments.

**COMMENTS TO BILL 130-32(COR)****BILL NO. 130-32 IS AN ACT TO AMEND §1106(k) OF CHAPTER 1,  
TITLE 22, GUAM CODE ANNOTATED RELATIVE TO IMPOSING  
FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS**

According to the Bill, "*Liheslatura* finds that under current law, aliens without lawful work status are subject to legal consequences if discovered employed on Guam. The Department of Labor (DOL) has the power to investigate, but the law does not provide authority to penalize employers hiring aliens who do not possess lawful work status. Thus, there is no disincentive to discourage employers from hiring aliens who do not possess lawful work status. Therefore, the proposed amendment now imposes penalties to employers who are found hiring aliens who do not possess lawful work status. The penalties are as follows: The employer *shall* be subject to civil penalties of One Thousand Dollars (\$1,000) per worker for the first offense, Two Thousand Five Hundred Dollars (\$2,500) per worker for the second offense and Five Thousand Dollars (\$5,000) per worker for the third offense. It is proposed that the fines be deposited into the Manpower Development Fund and expended in accordance with provisions on 22GCA §7118.1 (e).

Per written testimony signed by the Acting Director of Labor on Bill No. 130-32, DOL fully supports the Bill. It mentions that the Department does not expect the money generated from the fines to be substantial in the long term as employers find ways to curtail the usage of illegal workers once precedent has been set, resulting in compliance or shop closure. However, DOL supports any fines collected to be deposited into the Department's Manpower Development Fund (MDF) to cover cost for supplies and equipment needed for its "enforcement" program under the Alien Labor Processing Certification Division (ALPCD).

Per verbal information from the ALPCD Employment Program Administrator, in FY12, 85 individuals (alien workers) did not have the required "work authorization". Had this Bill been enacted then, the MDF could have received revenues of \$85,000 (85 workers x \$1,000) for a 1<sup>st</sup> offense. However, as pointed out by the Administrator, the expectation would be considerably less as employers start to become knowledgeable about the penalties as proposed in the Bill, possibly less than half of the FY12 number. This is supported in the official written testimony by the DOL Director.



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June 3, 2013

VIA E-MAIL  
[john.rios@bbmr.guam.gov](mailto:john.rios@bbmr.guam.gov)

**John A. Rios**  
Director  
Bureau of Budget & Management Research  
P.O. Box 2950  
Hagåtña, Guam 96910

**RE: Request for Fiscal Notes– Bill Nos. 128 – 130 (COR)**

*Hafa Adai* Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

*Si Yu'os ma'åse'* for your attention to this matter.

Very Truly Yours,

**Senator Rory J. Respicio**  
*Chairperson, Committee on Rules*

Attachments (1)

Cc: Clerk of the Legislature

2013 JUN - 3 PM 1:38

Bill Nos.	Sponsor	Title
128-32(COR)	Frank B. Aguon, Jr.	THE CUSTOMS AND QUARANTINE AGENCY ENACTS THE FOLLOWING RULES AND REGULATIONS TO AMEND TITLE 4, GOVERNMENT ADMINISTRATIVE RULES AND REGULATIONS, CHAPTER 2, ARTICLE 5, §2505(a)(2) OF THE CUSTOMS, AGRICULTURE, AND QUARANTINE INSPECTION SERVICE CHARGE PURSUANT TO 5GCA73, §73151.
129-32(COR)	T.R. Muña Barnes, Chris M. Dueñas	AN ACT TO AUTHORIZE THE A.B. WON PAT GUAM INTERNATIONAL AIRPORT AUTHORITY TO ISSUE REVENUE BONDS FOR THE PURPOSE OF REFUNDING THE GENERAL REVENUE BONDS, 2003 SERIES A, B, C AND D, REFINANCE THE ENERGY EFFICIENCY LOAN, TO FINANCE NEW PROJECTS.
130-32(COR)	T. C. Ada	AN ACT TO AMEND §1106.(k) OF CHAPTER 1 TITLE 22 GUAM CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS.



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MINORITY LEADER

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Aline Yamashita  
Member

May 31, 2013

### MEMORANDUM

**To: Rennae Meno**  
*Clerk of the Legislature*

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

**From: Senator Rory J. Respicio**  
*Majority Leader & Rules Chair*

**Subject: Referral of Bill No. 130-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 130-32(COR)**.

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 Dos na Liheslaturan Guåhan*.

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

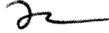
*Si Yu'os Ma'åse!*

Attachment

**I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN**  
**2013 (FIRST) Session**

Bill No. 130-37 (WR)

Introduced by:

T.C. Ada 

2013 MAY 31 PM 4: 21



**AN ACT TO AMEND §1106.(k) OF CHAPTER 1 TITLE 22 GUAM  
CODE ANNOTATED RELATIVE TO IMPOSING FINES FOR  
EMPLOYING ALIENS WITHOUT LAWFUL WORK STATUS**

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

1           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that  
2 the Guam Department of Labor (DOL), pursuant to §1106.(k) of Chapter 1, Title 22,  
3 Guam Code Annotated, has the power to investigate “*the condition of aliens relative to*  
4 *their employment.*” However the authority to arrest and prosecute aliens who do not  
5 possess lawful work status is vested with the U.S. Department of Immigration and  
6 Customs Enforcement (ICE), a Division of the U.S. Department of Homeland Security  
7 (USDHS).

8           *I Liheslatura* finds that, while ICE has the authority to arrest and prosecute aliens,  
9 the Guam DOL, as authorized by Guam law, has regulatory authority for the enforcement  
10 of Guam’s labor laws.

11           *I Liheslatura* finds that under current law, aliens without lawful work status are  
12 subject to legal consequences if discovered employed on Guam. The DOL has the power  
13 to investigate, but the law does not provide authority to penalize employers hiring aliens  
14 who do not possess lawful work status. Thus, there is no disincentive to discourage  
15 employers from hiring aliens who do not possess lawful work status.

1            *I Liheslatura therefore intends to protect the limited number of jobs on Guam for*  
2 *those who are legally eligible and qualified for the jobs available.*

3 **Section 2. §1106.(k) of Chapter 1, Title 22 GCA is hereby *amended* to read:**

4            (k) May investigate the condition or status of aliens relative to their employment.

5            “(1) To facilitate the investigation, employers shall ensure that all alien  
6 workers on a work site or at a place of business possess some form of valid,  
7 government issued picture identification to include, but not limited to: a passport,  
8 a Guam Driver’s License, or an employment authorization card; and the Director  
9 or his authorized representative may request such identification documents from  
10 any alien worker at a place of work in Guam. If a worker’s immigration status is  
11 in question the Department may temporarily detain such individual on site so that  
12 the Department can verify the worker’s status with immigration officials.

13            (2) Should an alien who does not possess lawful work status be found to  
14 be employed at a place of work in Guam, the employer shall be subject to civil  
15 penalties of One Thousand Dollars (\$1,000) per worker for the first offense, Two  
16 Thousand Five Hundred Dollars (\$2,500) per worker for the second offense and  
17 Five Thousand Dollars (\$5,000) per worker for the third offense.

18            (i) A second offense is defined as any violation of this section not  
19 on the same day of the date noted on the First (1<sup>st</sup>) Notice of Violation (or  
20 citation), but within 12 (twelve) months of the date noted on the First (1<sup>st</sup>)  
21 Notice of Violation (or citation). A third offense is defined as any  
22 violation of this section not on the same day noted on the Second (2<sup>nd</sup>)  
23 Notice of Violation (citation), but within 12 (twelve) months of the date  
24 noted on Second (2<sup>nd</sup>) Notice of Violation (or citation).

1                   (ii) For employers who have committed a third offense, the  
2                   Director shall, within thirty (30) days, also refer the matter to the  
3                   appropriate licensing entity, including but not limited to: the Guam  
4                   Contractors License Board (GCLB) or the Department of Revenue &  
5                   Taxation who shall, within ninety (90) days, conduct an investigation to  
6                   determine if a suspension of the employer's contractor license, business  
7                   license, or operating license is justified, and if so, suspension for a period  
8                   of not less than one year and not more than 3 years is hereby authorized.  
9                   In the event of a timely appeal to the Director, referral to licensing  
10                  authorities shall be deferred until the completion of the appeal process.

11                  (3) In the event of a violation, if the employer of an alien worker without  
12                  lawful work status is not readily identifiable, the prime contractor at a job site or  
13                  the owner of the business establishment inspected shall be liable for the assessed  
14                  civil penalty. In cases where work has been contracted or subcontracted and the  
15                  direct employer is not readily identifiable, the prime contractor or the contractor  
16                  named on the building permit shall be liable for any fines levied pursuant to this  
17                  section.

18                  (4) In the event of a violation of this section, the offender shall be served  
19                  with a Notice of Violation, commonly referred to as a citation, which details the  
20                  violation and the amount of fine to be imposed. The offender shall have the right  
21                  to an administrative hearing conducted by the Director of Labor as the hearing  
22                  officer. The offender may appeal in writing within fifteen (15) calendar days from  
23                  the receipt of the Notice of Violation, to the Director of Labor, requesting a  
24                  hearing to present facts and law in defense of the offender.

1                   (5) Failure to pay an assessed fine within 120 days from the issuance of a  
2                   Notice of Violation, or by a due date set in a DOL Administrative Order shall be a  
3                   felony.

4                   (6) Fines generated from section §1106.(k)(2) shall be deposited into the  
5                   DOL Manpower Development Fund and expended in accordance with provisions  
6                   at 22 GCA § 7118.1(e).”

7                   **Section 3. Promulgation of Rules and Regulations.** The Department of Labor  
8                   *may* promulgate rules and regulations consistent with the laws of the United States and  
9                   Guam as *may* be necessary to insure program effectiveness.

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

14                  **Section 6. Effective Date.** This Act shall become effective 30 days after its  
15                  enactment.