EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

APR 1 9 2016

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

Dear Madame Speaker:

Transmitted herewith is Bill No. 160-33 (COR), **"AN ACT TO *ADD* A NEW ARTICLE 9 TO CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM OCEAN AND FISHERIES CONSERVATION ACT OF 2015,"** which I signed into law on April 15, 2016, as **Public Law 33-144**.

Senseramente,

EDDIE BAZA CALVO

33-16-1537

Office of the Speaker
Judith T. Won Pat, Ed.D
Date: 4/19/16
Time: 8:25pm
Received By: CARL G

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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Substitute Bill No. 160-33 (COR), "AN ACT TO *ADD* A NEW ARTICLE 9 TO CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM OCEAN AND FISHERIES CONSERVATION ACT OF 2015,"** was on the 2nd day of April 2016, 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'låhen Guåhan* this 04 day of APRIL, 2016, at 12:24 o'clock P.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: APR 15 2016

Public Law No. 33-144

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 160-33 (COR)
As substituted by the Committee on Municipal Affairs, Tourism, Housing and Historic Preservation; and amended on the Floor.

Introduced by:

Brant T. McCreadie
R. J. Respicio
Frank F. Blas, Jr.
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
James V. Espaldon
Tommy Morrison
T. R. Muña Barnes
Dennis G. Rodriguez, Jr.
Mary Camacho Torres
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW ARTICLE 9 TO CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM OCEAN AND FISHERIES CONSERVATION ACT OF 2015.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 9 is hereby *added* to Chapter 63 of Title 5, Guam Code Annotated, to read as follows:

"ARTICLE 9

GUAM OCEAN AND FISHERIES CONSERVATION ACT OF 2015

§ 63901. Title.

Doc No. 33GL-16-1537.

§ 63902. Establishment of the Guam Ocean and Fisheries Management Council.
§ 63903. Council Duties.
§ 63904. Qualifications and Terms of Council Members.
§ 63905. Vacancies.
§ 63906. Election of Officers; Sub-committees.
§ 63907. Council Meetings.
§ 63908. Advisory, Non-Voting Members.
§ 63909. Rules and Regulations; Schedule of Fees.
§ 63910. Guam Ocean and Fisheries Conservation and Development Fund Established.

§ 63901. Title. This Article may be cited as the *Guam Ocean and Fisheries Conservation Act of 2015.*

§ 63902. Establishment of the Guam Ocean and Fisheries Management Council.

There is hereby established within the government of Guam the *Guam Ocean and Fisheries Management Council* composed of nine (9) voting members who *shall* be appointed by *I Maga'låhen Guåhan* with the advice and consent of *I Liheslaturan Guåhan.*

§ 63903. Council Duties.

Notwithstanding any other provision of law, the duties of the Council *shall* include the following:

(a) to prepare and coordinate the implementation of the indigenous fishing rights pursuant to Public Law 29-127;

(b) to coordinate and promote activities in connection with the conservation and development of Guam's ocean, fisheries, and marine resources;

(c) to develop and establish permit requirements and a schedule of fees in connection therewith, relative to the conduct of fishing vessel operations and the harvesting of fish and other marine life in the waters of Guam;

(d) to oversee the expenditure and management of funds in the Guam Ocean and Fisheries Conservation and Development Fund established pursuant to § 63911 of this Article;

(e) to provide advice and information to *I Maga'låhen Guåhan* and to *I Liheslaturan Guåhan,* including the legislative committee on natural resources, on matters pertaining, but not limited to, the use and harvesting of freshwater and marine resources and their management;

(f) to review and provide advice on the impact of laws affecting the sustainable use of the marine and freshwater resources;

(g) to develop programs to enhance and promote the sustainable use of Guam's marine and freshwater resources;

(h) to provide guidance and assist the Department of Agriculture in the expenditure of funds derived from marine activities, or federal grants, and other ocean, fisheries, and marine-related funding;

(i) to provide guidance to and assist the Department of Agriculture in the administration of Article 1 (Game & Fish) of this Chapter, and rules and regulations adopted pursuant thereto, with the exception of provisions, rules and regulations relative to non-aquatic animal life. The Council is authorized to provide guidance to and assist the Department of Agriculture under Article 1 of this Chapter, as may be provided for through cooperative agreements or other arrangements

memorialized in writing and agreed to by the Council and the Director of Agriculture;

(j) to coordinate and promote the sustainable use of Guam's oceans, fisheries, marine and freshwater resources within various communities on Guam; and

(k) to provide a report to *I Maga'låhen Guåhan* and to *I Liheslaturan Guåhan* within ninety (90) days after the end of each fiscal year summarizing the activities and accomplishments of the Council over the past fiscal year.

§ 63904. Qualifications and Terms of Council Members.

(a) Qualifications. With the advice and consent of *I Liheslaturan Guåhan, I Maga'lahen Guåhan* shall appoint eight (8) voting members to the Council in the following categories:

(1) Four (4) Council members shall be appointed from the community-at-large, two (2) individuals of which shall be appointed to represent Chamorro grassroots organizations;

(2) One (1) Council member shall be an active member in good standing of the Marianas Underwater Fishing Federation;

(3) One (1) Council member shall be an active member in good standing of the Guam Organization of Saltwater Anglers;

(4) One (1) Council member shall be an active member in good standing of the Guam Fishermen's Cooperative Association; and

(5) One (1) Council member shall be a faculty member of the University of Guam.

(6) The Director of the Department of Agriculture *shall* serve as a full voting member, and *shall* participate fully in Council meetings and activities of the Council.

(7) The President of the Department of Chamorro Affairs shall serve as an *ex-officio* member, without voting rights in the meetings of the Council, although he or she may otherwise participate fully in Council meetings and activities of the Council.

(8) All eight (8) voting members of the Council appointed by *I Maga'lahen Guåhan* shall be residents of Guam for a period of at least five (5) consecutive years immediately preceding their appointment, and shall continue to maintain their residency during their terms on the Council.

(9) In making appointments to the Council, if no qualified person is available from the specific organization or entity identified in items (2) through (5) of this Subsection (a), *supra,* to serve as a Council member, *I Maga'låhen Guåhan* may substitute a suitable appointee from the community-at-large.

(10) If a Council member is appointed pursuant to the categories in items (2) through (5) of this Subsection (a), *supra,* and ceases to be affiliated or employed in the designated capacity, then that member *shall* be considered to have vacated his or her seat effective on the date that such employment or affiliation was terminated. The Chairperson of the Council *shall* forthwith notify *I Maga'låhen Guåhan* that the vacancy exists.

(b) Terms. *I Maga'låhen Guåhan,* when making initial appointments, *shall* designate four (4) members to serve initial four (4)-

year terms, and three (3) members to serve initial two (2)-year terms. All subsequent appointments *shall* be for terms of four (4) years, except appointments to fill a vacancy. When a vacancy occurs, it *shall* be filled by appointment of *I Maga'låhen Guåhan* with the advice and consent of *I Liheslaturan Guåhan* for the remainder of the vacating member's term. Initial appointments to the Council *shall* be made by *I Maga'låhen Guåhan* within ninety (90) days after the effective date of this Act.

§ 63905. Vacancies.

When a vacancy occurs other than by expiration of a member's term, *I Maga'låhen Guåhan shall* fill the vacancy in accordance with §§ 63902 and 63904 of this Article if the remaining term of the vacancy exceeds six (6) months. Appointments to fill a vacancy *shall* be for the remainder of the vacating member's term and in the same category in items (1) through (5) of § 63904(a) pursuant to which the vacating member was appointed.

§ 63906. Election of Officers; Sub-committees.

The Council *shall* elect a Chairperson and a Vice Chairperson from among its members, both to serve in those capacities no longer than for their terms of office as Council members. The Chairperson *shall* preside at all meetings of the Council, *shall* act as the spokesperson of the Council, and *shall* perform such other duties as the Council shall direct. The Vice Chairperson *shall* succeed to the duties of the Chairperson in the absence or inability of the Chairperson. From among its members, the Council *shall* select a Secretary of the Council and any other officers which the Council may deem necessary.

The Council may form sub-committees from among its membership as it deems necessary in order to carry out projects, research, and other activities outside of the Council's meetings.

§ 63907. Council Meetings.

The Council *shall* meet regularly at least every other month, and at such times and in such places in Guam as the Council establishes (or by the Chairperson when the Council does not act), to transact such business as the Council determines. The Director of the Department of Agriculture *shall* assist the Council with the conduct and transaction of its business and the holding of Council meetings, and *shall* make available within the Department of Agriculture a venue for meetings of the Council. The Director of Agriculture *shall* also assist the Council by providing technical and staff support as needed. A quorum of the Council *shall* consist of a majority of the members duly appointed and qualified. The Chairperson *shall* be counted for a quorum, but *shall* vote only in case of a tie. Any action taken by the Council *shall* be by a majority of the voting members. Special meetings of the Council may be called by the Chairperson or by a majority of the Council members in office. All notices and meetings of the Council *shall* comply with the Open Government Law, Chapter 8, Title 5 Guam Code Annotated.

§ 63908. Advisory, Non-Voting Members.

The Council by majority vote of its members may invite additional public and private sector members to serve on a voluntary basis without compensation as advisers in the Council's sub-committees, and may prescribe special procedures for their participation; provided, that no such advisory members may vote at any meetings of the Council.

§ 63909. Rules and Regulations; Schedule of Fees.

(a) Rules and Regulations. The Council, which *shall* be assisted by the Department of Agriculture and the Attorney General's Office, *shall* from time to time promulgate rules and regulations, in accordance with the Administrative Adjudication Act, Title 5, Guam Code Annotated, Chapter 9, Article 3, to carry out the provisions of this Act.

(b) Permits and Fee Schedules. In order to preserve Guam's marine and freshwater resources, the Council, which *shall* be assisted by the Department of Agriculture and the Attorney General's Office, *shall* propose a schedule of various permits, and recommended fees to be charged for such permits, which *shall* be required for the conduct of fishing vessels and the harvesting of fish and other marine life in the waters of Guam. Such schedules, if approved by Council, *shall* be established in accordance with the procedures set forth in Article 3, Chapter 9, Title 5 Guam Code Annotated, the Administrative Adjudication Act, and *shall* include criteria and guidelines governing the application, issuance, exemptions, and enforcement of such permits and fees.

The initial schedule of permits and fees recommended under this Section *shall* be submitted to *I Liheslaturan Guåhan* pursuant to the Administrative Adjudication Act no later than one hundred eighty (180) days after the effective date of this Act. The Council *shall* review the schedule at least once every five (5) years thereafter to determine if any fee increases, decreases, the establishment of new fees, or any other modifications, are warranted; and such recommendation *shall* be adopted pursuant to the Administration Adjudication Act.

(c) Maintenance of Required Permits. Unless otherwise expressly authorized by this Act or by any other provision of law, a person or entity *shall not* engage in activities requiring a permit by virtue of the rules and

regulations promulgated under Subsections (a) and (b) of this Section, without having in his or its immediate possession such permit or a copy thereof.

(d) Penalty. Any person or entity that violates the provisions of Subsection (c) of this Section is guilty of or liable for a civil violation punishable by a fine not to exceed Five Hundred Dollars ($500.00) for each violation. Any fines recovered by the government of Guam for such civil violations *shall* be paid into the Wildlife Conservation Fund established pursuant to § 63130 of Article 1 of this Chapter.

(e) Enforcement. Except as otherwise provided by law, the provisions of this § 63910 and all rules and regulations, permit and fee schedules promulgated thereunder, *shall* be enforced by the Director of Agriculture, as ex officio Chief Conservation Officer, and suitable employees of the Department of Agriculture whom the Director may appoint as Deputy Conservation Officers, as well as by peace officers, as defined in § 5.55 of Title 8 GCA, all with the same powers set forth under § 63103 Of Article 1 of this Chapter. The Civilian Volunteer Conservation Officer Reserve established by § 63103.1 of Article 1 of this Chapter may also assist with enforcement hereunder under the same conditions specified under § 63103.1.

(f) Collection of Fees. All proceeds from fees collected pursuant to the permit and fee schedule promulgated under § 63910 (a) and (b), *supra*, fines imposed under § 63910(d), and other amounts as may be authorized by law, *shall* be deposited in the Wildlife Conservation Fund established pursuant to § 63103 of Article 1 of this Chapter.

§ 63910. Guam Ocean and Fisheries Conservation and Development Fund Established.

(a) Establishment. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the *Guam Ocean*

and Fisheries Conservation and Development Fund (hereinafter GOF Conservation and Development Fund). The GOF Conservation and Development Fund *shall not* be commingled with the General Fund and *shall* be kept in a separate bank account. Monies from donations, grants, and other amounts as may be authorized by law *shall* be deposited in the GOF Conservation and Development Fund and *shall* be expended by *I Liheslaturan Guåhan* exclusively for purposes authorized in Subsection (b) of this Section.

(b) Uses. The GOF Conservation and Development Fund *shall* be used to fund the following:

(1) the development and construction of boat ramps in northern and southern Guam. The Council *shall* formulate plans for the development, construction, maintenance, and operation of a boat ramp in northern Guam in the village of *Yigo*, and a boat ramp in southern Guam in the village of *Talofofo*, for use by first responders and emergency personnel and the general public. Such plans *shall* include, but not be limited to, site identification, costs, engineering, and design. No later than April 1, 2017, the Council *shall* submit its preliminary plans and recommendations for the development and construction of the northern and southern boat ramps to *I Maga'låhen Guåhan* and *I Liheslaturan Guåhan*;

(2) research and development related to the conservation of ocean resources, coral reefs, freshwater rivers, lakes, and ponds in Guam;

(3) research and development related to the regulation and conservation of fish and other wildlife in Guam's marine and fresh waters;

(4) marina improvement, moorings, maintenance, and related projects;

(5) the creation, improvement or beautification of access paths to shore-side resources;

(6) funding for mitigation of surface and storm water runoff and erosion in compliance with applicable laws;

(7) funding of public activities in support of marine activities;

(8) funding assistance for community-related marine facilities;

(9) funding assistance for activities related to the preservation and perpetuation of Guam's indigenous *Chamorro* culture and heritage as it relates to ocean, fisheries, and other marine-related aspects;

(10) funding for staffing, office expenses, and other activities in support of the mission of the Council; and

(11) other similar funding priorities as identified by *I Liheslaturan Guåhan.*

(c) Expenditures. All expenditures of the GOF Conservation and Development Fund *shall* be made exclusively by appropriation of *I Liheslaturan Guåhan.* The GOF Conservation and Development Fund *shall not* be used for any purposes other than those enumerated or reasonably inferred hereunder, or for purposes other than those relating to ocean, fisheries, and other marine and freshwater related matters. The GOF Conservation and Development Fund *shall not* be used as a pledge of security or as collateral for government loans without prior authorization by *I Liheslaturan Guåhan.*"

Section 2. Effective Date. This Act *shall* be effective upon enactment.

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