

EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam.*

JUL 08 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. 282-33 (COR), "AN ACT TO ADD A NEW § 71114 TO CHAPTER 71 OF DIVISION 3, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A WITHHOLDING ASSESSMENT FEE FOR A NON-RESIDENT PERSON TO CAPTURE THE FOUR PERCENT (4%) EQUIVALENT OF THE BUSINESS PRIVILEGE TAX ON CONTRACTS AWARDED BY THE GOVERNMENT OF GUAM FOR PROFESSIONAL SERVICES," which was signed into law on June 30, 2016, as **Public Law 33-166**.

2016 JUN 12 AM 10:49 ~~OK~~

*Senseramente,*

  
EDDIE BAZA CALVO

33-16-1780  
Office of the Speaker  
Judith T. Won Pat, Ed.D

Date: 7-11-16  
Time: 12:11 pm  
Received By: [Signature]

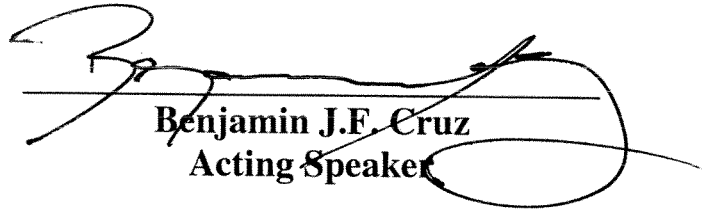
1780

P.O. Box 2950 • Hagatna, Guam 96932  
Tel: (671) 472-8931 • Fax: (671) 477-4826 • [governor.guam.gov](http://governor.guam.gov) • [calendar.guam.gov](http://calendar.guam.gov)

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

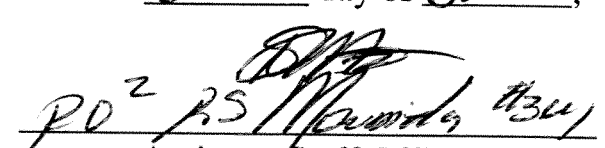
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LÅHEN GUÅHAN


This is to certify that Bill No. 282-33 (COR), "AN ACT TO ADD A NEW § 71114 TO CHAPTER 71 OF DIVISION 3, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A WITHHOLDING ASSESSMENT FEE FOR A NON-RESIDENT PERSON TO CAPTURE THE FOUR PERCENT (4%) EQUIVALENT OF THE BUSINESS PRIVILEGE TAX ON CONTRACTS AWARDED BY THE GOVERNMENT OF GUAM FOR PROFESSIONAL SERVICES," was on the 17<sup>th</sup> day of June 2016, duly and regularly passed.

  
Benjamin J.F. Cruz  
Acting Speaker

Attested:  
  
Tina Rose Muña Barnes  
Legislative Secretary

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This Act was received by *I Maga'låhen Guåhan* this 20<sup>th</sup> day of JUNE,  
2016, at 5:35 o'clock P.M.

  
Assistant Staff Officer  
*Maga'låhi's Office*

APPROVED:  
  
EDWARD J.B. CALVO  
*I Maga'låhen Guåhan*

Date: JUN 30 2016

Public Law No. 33-166

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

**Bill No. 282-33 (COR)**

As amended on the Floor.

Introduced by:

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

**AN ACT TO ADD A NEW § 71114 TO CHAPTER 71 OF DIVISION 3, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A WITHHOLDING ASSESSMENT FEE FOR A NON-RESIDENT PERSON TO CAPTURE THE FOUR PERCENT (4%) EQUIVALENT OF THE BUSINESS PRIVILEGE TAX ON CONTRACTS AWARDED BY THE GOVERNMENT OF GUAM FOR PROFESSIONAL SERVICES.**

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

2 **Section 1. Legislative Findings and Intent.** Tens of millions of dollars in  
3 government of Guam contracts are annually awarded to persons without a valid  
4 Guam business license for professional services to be provided by a non-resident

1 person residing outside of Guam. *I Liheslaturan Guåhan* finds that these off-island  
2 offerors competing for the contract award have a four percent (4%) competitive  
3 advantage over Guam businesses in that they are not subject to the four percent (4%)  
4 business privilege tax as are Guam-based domestic businesses.

5 *I Liheslaturan Guåhan* finds it to be in the public interest to level the playing  
6 field for the highly capable domestic Guam businesses desiring to have a fair feasible  
7 opportunity to compete for these professional services contracts.

8 It is the intent of *I Liheslaturan Guåhan* to assess the equivalent of the Guam  
9 business privilege tax by providing for a withholding assessment fee for a non-  
10 resident person without a valid Guam business license residing outside of Guam,  
11 which *shall* be equal to four percent (4%) of the total dollar value of a contract  
12 awarded for all government of Guam contracts for professional services as a cost of  
13 doing business with the government of Guam.

14 **Section 2.** A new § 71114 is *added* to Chapter 71 of Division 3, Title 11,  
15 Guam Code Annotated, to read:

16 **“§ 71114. Withholding Assessment Fee Requirement for**  
17 **Government Contracts; Off-Island Businesses Without Guam Business**  
18 **License.**

19 (a) For the purposes of this Section, the following *shall* mean:

20 (1) *Non-resident person* means a person or body who is not a  
21 permanent resident of Guam, or a business that does not possess a valid  
22 Guam business license under Title 11, Guam Code Annotated, and does  
23 not pay Business Privilege Taxes under Chapter 26 of Title 11, Guam  
24 Code Annotated, and includes any individual, firm, co-partnership,  
25 joint venture, association, corporation, estate, trust, limited liability  
26 company, limited partnership, limited liability partnership, or any other

1 group or combination, as a foreign entity outside of Guam, acting as a  
2 unit.

3 (2) *Professional services* or *services* means any kind of  
4 services rendered by a non-resident person and includes, but is not  
5 limited to, legal, promotional, advertising, public awareness,  
6 architectural and engineering services, or other services deemed  
7 applicable in the opinion of the Director of the Department of Revenue  
8 and Taxation.

9 (b) There is established a withholding assessment fee for a non-  
10 resident person without a valid Guam business license, which *shall* be equal  
11 to four percent (4%) of the total dollar value of a contract awarded for all  
12 government of Guam contracts for professional services provided by a non-  
13 resident person residing outside of Guam, as a cost of doing business with the  
14 government of Guam.

15 This Section *shall* apply as a mandatory requirement of a government  
16 of Guam contract being awarded to provide professional services required by  
17 any government of Guam agency, to include all autonomous agencies.

18 All agencies, to include autonomous agencies, of the government of  
19 Guam *shall* ensure that all Requests for Proposals (RFP), Invitation for Bid  
20 (IFB), or any other form of solicitation for professional services, include the  
21 notification to potential offerors that the award and issuance of a contract to  
22 provide the professional services is subject to the withholding assessment fee  
23 for contracts awarded to persons without a valid Guam business license.

24 The agency awarding the contract or the agency's representative  
25 awarding the contract *shall*, at the time of a contract award, in the instance of  
26 a contract for professional services to a person who does not possess a valid  
27 Guam business license under Title 11, Guam Code Annotated, and who is not

1 a resident of Guam, deduct from funds allocated for the contract an amount  
2 equal to four percent (4%) of the total dollar value of a contract awarded, and  
3 *shall* transmit the funds to the Treasurer of Guam for deposit in the General  
4 Fund. The amount of the withholding assessment fee withheld pursuant to this  
5 Section *shall* be duly noted in the payment statements to the contractor. The  
6 agency *shall* report to the Department of Revenue and Taxation (DRT), on  
7 forms prescribed by the Department, the amount of the withholding  
8 assessment fee withheld, or any other information requested by DRT on the  
9 prescribed form, from the awarded professional services contract within thirty  
10 (30) days of the contract being awarded.

11 (c) Prospective Applicability. The withholding assessment fee  
12 pursuant to this Section for a non-resident person without a valid Guam  
13 business license *shall not* be applicable to any contract for professional  
14 services entered into with the government of Guam prior to the effective date  
15 of this Act; provided, however, that it *shall* be applicable for the award of a  
16 new contract or contract renewal for the contractual provision of the same or  
17 similar services.

18 (d) Withholding Assessment Fee Collected Declared Government of  
19 Guam Funds. The withholding assessment fee levied, assessed and collected  
20 under this Chapter *shall* become funds of the government of Guam from the  
21 moment of collection and *shall* be subject to all laws, rules and regulations  
22 pertaining thereto, and unless specifically provided by law, all such  
23 withholding assessment fees collected *shall* be deposited into the Treasury of  
24 Guam as part of the General Fund.”

25 **Section 3. Severability.** If any provision of this Act or its application to  
26 any person or circumstance is found to be invalid or contrary to law, such invalidity  
27 *shall not* affect other provisions or applications of this Act which can be given effect

1 without the invalid provisions or application, and to this end the provisions of this  
2 Act are severable.

3 **Section 4. Effective Date.** This Act *shall* be effective upon enactment.