

I Mina'Trentai Tres Na Liheslaturan Received
Bill Log Sheet

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES |
|-------------------------|--------------------------|--|------------------------|----------------------|---|----------------------------|------------------------------------|---------------------|
| 127-33 (COR) | Michael F.Q. San Nicolas | AN ACT TO ADD A NEW §58106.1 TO 12 GCA; RELATIVE TO ESTABLISHING QUALIFYING CERTIFICATE CERTIFICATION REQUIREMENTS TO ENSURE THAT NO VENDOR PAYABLES OR CLASSIFIED EMPLOYEE COMPENSATION ARE OVER THIRTY (30) DAYS PAST DUE. | 06/10/15 2:02 p.m. | 06/11/15 | Committee on Health, Economic Development, Homeland Security, and Senior Citizens | | | |



COMMITTEE ON RULES

I Mina'trentai Tres na Liheslaturan Guåhan • The 33rd Guam Legislature

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June 11, 2015

MEMORANDUM

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

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Dennis G. Rodriguez, Jr.** 
Acting Chairperson of the Committee on Rules

Subject: **Referral of Bill No. 127-33(COR)**

As the Acting Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 127-33(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 Tres 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 TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 127-33 (COV)

Introduced by:

Michael F.Q. San Nicolas 

AN ACT TO ADD A NEW §58106.1 TO 12 GCA;
RELATIVE TO ESTABLISHING QUALIFYING
CERTIFICATE CERTIFICATION REQUIREMENTS
TO ENSURE THAT NO VENDOR PAYABLES OR
CLASSIFIED EMPLOYEE COMPENSATION ARE
OVER THIRTY (30) DAYS PAST DUE.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Short Title. This Act *shall* be cited as the "Responsible
3 Vendor Payment Act."

4 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*
5 finds that the government of Guam has historically faced serious issues
6 with past due payables to vendors. In the private sector, individuals and
7 businesses which have not paid their bills for over thirty (30) days begin to
8 face significant negative consequences, including fees and penalties, a
9 reduced credit rating, less ability to borrow, and other issues. The
10 government also faces negative consequences when it pays vendors late.
11 For example, some vendors will be unwilling to bid for government
12 contracts for goods and services, others may raise prices to offset
13 repayment risk, and others may charge interest on late payments. Simply

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1 put, many small businesses cannot wait for months before they get paid for
2 the goods and services they provide. Those that continue to offer goods
3 and services to the government will require an additional mark-up because
4 of the expected delay in payments. The government of Guam should pay
5 all vendors within (30) days, consistent with industry standards, and the
6 same standard should apply to employee compensation, in the interest of
7 fairness.

8 *I Liheslatura* further finds that part of ensuring that the QC Program is
9 being operated responsibly is to make sure that the government can afford
10 the benefits it provides a new QC beneficiary. If government agencies are
11 behind on vendor payables and/or employee compensation, then catching
12 up on such expenses should take precedence over the provision of
13 additional QC benefits.

14 *I Liheslatura* finds that three (3) of the abatements authorized in the
15 Qualifying Certificate law affect the General Fund, GMHA Pharmaceutical
16 Fund, and the Guam Territorial Educational Facilities Fund respectively.
17 The Business Privilege Tax, abated by 12 GCA §§ 58127.3, 58127.4 58127.5,
18 and 58127.6, provides resources to the General Fund and the GMHA
19 Pharmaceutical Fund, and the Real Property Tax, abated by 12 GCA
20 §58127.1, provides resources for the Guam Territorial Educational Facilities
21 Fund. These funds are used to fund health, education, and public safety
22 agencies and programs. A shortfall of either of these funds would result in

1 fewer resources for education and public health, which are important
2 priorities for the people of Guam.

3 It is therefore the intent of *I Liheslaturan Guåhan* to assure that
4 executive branch agencies and instrumentalities provide timely payments
5 to vendors which provide goods and services to the government of Guam
6 and remain current on compensation owed to classified employees of the
7 government of Guam, by adding a new §58106.1 to 12 GCA, requiring that
8 the Director of Administration certify that such payments are not more
9 than thirty (30) days past due before a QC can be issued, reissued, or
10 reinstated. If such certifications are not made, then such QC beneficiaries
11 may not receive abatements against the Business Privilege Tax or the Real
12 Property Tax.

13 **Section 2. Certifications Required for the Issuance of New,**
14 **Reissuance of Existing and/or Expiring, or Reinstatement of Suspended,**
15 **Rescinded, or Revoked Qualifying Certificates.** A *new* §58106.1 is hereby
16 *added* to 12 GCA, to read:

17 **“§58106.1. Certifications Required for the Issuance of New,**
18 **Reissuance of Existing and/or Expiring, or Reinstatement of**
19 **Suspended, Rescinded, or Revoked Qualifying Certificates.**

20 (a) Definitions. For the purposes of this Section, unless context
21 otherwise requires, the following definitions *shall* apply:

22 (1) ‘Account payable’ or ‘accounts payable’ *means* an
23 account reflecting a balance owed to a vendor;

1 (2) 'Certification' *means* a statement which authoritatively
2 attests that the information provided is true, signed by the
3 Director of Administration under penalty of perjury and
4 attested to by the Certifying Officer of the Department of
5 Administration pursuant to their responsibilities under 4 GCA
6 Chapter 14.

7 (3) 'Classified employee compensation' *means* an
8 uncontested adjustment in employment compensation for
9 classified employees of an executive branch agency or
10 instrumentality owed by the provision of law or an employee
11 compensation policy;

12 (4) 'Due' *means* owing or payable, with respect to
13 accounts payable or classified employee compensation;

14 (5) 'Payee' *means* one to whom money is paid or payable;
15 and

16 (6) 'Vendor' *means* a seller with which an executive
17 branch agency of the government of Guam has entered into a
18 contract to provide goods and services in exchange for
19 remuneration.

20 (b) Certifications required. Before the Guam Economic
21 Development Authority Board recommends the issuance of a new,
22 the reissuance of an existing and/or expiring, or the reinstatement of
23 a suspended, rescinded, or revoked, under 12 GCA §58111,

1 Qualifying Certificate, the Board *shall* be in receipt of a Certification
2 of Vendor Accounts Payable as provided in Subsection (c) of this
3 Section and a Certification of Classified Employee Compensation as
4 provided in Subsection (d) of this Section, both of which *shall* have
5 been issued within the ten (10) working days preceding the Board's
6 recommendation to issue, reissue, or reinstate such Qualifying
7 Certificate. The Board *may* recommend the issue, reissue, or
8 reinstatement of such Qualifying Certificates without the
9 certifications as specified in this section, however, no abatements as
10 provided in 12 GCA § 58127.1 [Real Property Tax], and/or 12 GCA §§
11 58127.3, 58127.4 58127.5, and/or 58127.6 [Gross Receipts Tax] *may* be
12 included as recommended benefits conferred by such Qualifying
13 Certificate unless the Board is in receipt of such certifications. Before *I*
14 *Maga'lahaen Guåhan* issues a new, reissues of an existing and/or
15 expiring, or the reinstates a suspended, rescinded, or revoked, under
16 12 GCA §58111, Qualifying Certificate, *I Maga'lahaen Guåhan* *shall* be in
17 receipt of a Certification of Vendor Accounts Payable as provided in
18 Subsection (c) of this Section and a Certification of Classified
19 Employee Compensation as provided in Subsection (d) of this
20 Section, both of which *shall* have been issued within the ten (10)
21 working days preceding the Governor's issuance, reissuance, or
22 reinstatement such Qualifying Certificate. Such Qualifying
23 Certificates *may* be issued without the certifications as specified in

1 this section, however, no abatements as provided in 12 GCA §
2 58127.1 [Real Property Tax], and/or 12 GCA §§ 58127.3, 58127.4
3 58127.5, and/or 58127.6 [Gross Receipts Tax] *may* be included as
4 benefits conferred by such Qualifying Certificate unless the Governor
5 is in receipt of such certifications. Failure to fulfill the requirement for
6 certifications provided under this Subsection *shall* render void
7 abatements authorized in 12 GCA § 58127.1 [Real Property Tax],
8 and/or 12 GCA §§ 58127.3, 58127.4 58127.5, and/or 58127.6 [Gross
9 Receipts Tax] of any such Qualifying Certificate issued, reissued, or
10 reinstated.

11 (c) Certification of Vendor Accounts Payable. *Only if* all
12 agencies and instrumentalities of the government of Guam have *no*
13 vendor accounts payable that are thirty (30) days or more past due as
14 of the date of certification, *then* the Director of Administration *may*
15 issue a Certification of Vendor Accounts Payable. Such Certification
16 of Vendor Accounts Payable *shall* be signed by the Director of
17 Administration under penalty of perjury, and further attested by the
18 Certifying Officer for the Department of Administration, and *shall*
19 state that all agencies and instrumentalities of the government of
20 Guam have *no* vendor accounts payable that are thirty (30) days or
21 more past due as of the date of certification. For the purposes of such
22 certification, items that are contested or unable to be paid by reason

1 of an inability of the government of Guam to locate a payee *shall* not
2 be included in vendor accounts payable.

3 (d) Certification of Classified Employee Compensation. *Only if*
4 all agencies and instrumentalities of the government of Guam have
5 *no* classified employee compensation that are thirty (30) days or more
6 past due as of the date of certification, *then* the Director of
7 Administration *may* issue a Certification of Classified Employee
8 Compensation. Such Certification of Classified Employee
9 Compensation *shall* be signed by the Director of Administration
10 under penalty of perjury, and further attested by the Certifying
11 Officer for the Department of Administration, and *shall* state that all
12 agencies and instrumentalities of the government of Guam have *no*
13 classified employee compensation that are thirty (30) days or more
14 past due as of the date of certification. For the purposes of such
15 certification, compensation that are contested or unable to be paid by
16 reason of an inability of the government of Guam to locate a payee
17 *shall* not be included in classified employee compensation.”

18 **Section 3. Effect upon Enactment.** The provisions of this Act *shall*
19 apply prospectively upon the date of enactment of this Act.

20 **Section 4. Severability.** *If* any provision of this Act or its application
21 to any person or circumstance is found to be invalid or contrary to law,
22 such invalidity *shall* not affect other provisions or applications of this Act

- 1 which can be given effect without the invalid provisions or application,
- 2 and to this end the provisions of this Act are severable.