










**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2005 (FIRST) Regular Session**

Bill No. 15 <sup>CG</sup> (COR)

Introduced by:

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**AN ACT TO ADD A NEW CHAPTER 16 TO 18 GCA; TO  
ADD A NEW ITEM (q) TO 4 GCA §8104; TO ADD A NEW  
SECTION (r) TO 4 GCA; TO REPEAL AND REENACT  
§8113 OF 4 GCA; TO AMEND §8130 OF 4 GCA; TO  
ENABLE GOVERNMENT EMPLOYEES TO BECOME  
FULL PARTICIPANTS IN THE FREE ENTERPRISE  
SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED  
COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-  
OWNED COMPANY LAW AND FOR OTHER PURPOSES**

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

**Legislative Intent**

Hard economic times dictated that certain government functions be outsourced. Workers ought to be empowered to seize the opportunities presented by outsourcing to improve their economic lot.

When government functions are outsourced, government employees ought to have the opportunity to share in the profits created by their labor, to become their own bosses and otherwise share in the benefits of capitalism and free enterprise. When government functions are outsourced, government of Guam employees should be encouraged to form companies and bid on the outsourcing contracts.

1 To that end, the legislature has created a new business designation, Employee-Owned  
2 Companies (EOC), for companies organized by employees whose jobs will be subject to  
3 outsourcing. The legislature declares that it is the policy of the law that government employees  
4 be encouraged to form these companies and bid on outsourcing contracts. In order to facilitate  
5 EOC's bidding on outsourcing contracts, the legislature has made certain parts of the  
6 Procurement Law inapplicable to EOC's.

7  
8 The retirement law is an important fringe benefit that must be revised to comport with the new  
9 realities of government employment but not at the expense of the actuarial soundness of the fund.  
10 It is the intent that EOC employees may under certain circumstances remain members of the  
11 Government of Guam Retirement Fund. As an alternative, former employees should have  
12 immediate access to their contributions to the fund.

### 13 **Table of Contents**

14 Section 1. Adds new Chapter 16 to 18 GCA, Employee-Owned Company.

15 Section 2. Adds new item (q) to 4 GCA §8104, definition of displaced employee.

16 Section 3. Adds new section (r) to 4 GCA §8104, definition of subsequent nongovernmental  
17 service.

18 Section 4. Repeals and reenacts 4 GCA §8113, Subsequent Nongovernmental Service.

19 Section 5. Amends §8130 of 4 GCA, refund on separation.

20  
21 **Section 1. Employee-Owned Company. A new chapter 16 is added to 18 GCA to**  
22 **read:**

#### 23 Chapter 16 Employee-owned Companies

24 Section 16000. Citation. This Chapter may be cited as the Employee-Owned Company  
25 Law.

26 Section 16001. Policy of the law. It is the policy of the law that government employees  
27 must have the opportunity to put their hard work, dedication and enterprise to work so that they  
28 may take full advantage of their hard work. When government functions are outsourced,  
29 government employees ought to have the opportunity to share in the profits created by their  
30 labor, to become their own bosses and otherwise share in the benefits of capitalism and free

1 enterprise. When government functions are outsourced, government of Guam employees should  
2 be encouraged to form companies and bid on the outsourcing contracts.

3  
4 Section 16002. Employee-owned companies. In this Chapter *Employee-Owned Company*  
5 (EOC) means any form of business organization described in this title that is formed and  
6 organized by government of Guam employees whose jobs may be *privatized* or *outsourced*.

7  
8 Section 16003. Same: name. The name of an *employee-owned company* shall contain the  
9 letters EOC.

10  
11 Section 16003. Same: ownership. Regardless of the business form of an EOC the  
12 majority of the ownership and control of an EOC must, at the time of its formation and for five  
13 years thereafter, be held by *displaced employees*.

14  
15 Section 16004. Same: conflict of interest. The provisions of 5 GCA §§5626, 5628, 5632  
16 and 5633 shall not apply to an EOC or its owners when the EOC is attempting to acquire or  
17 participate in a contract with the government to provide services that have been or will be  
18 *privatized* or *outsourced*.

19  
20 Section 16005. Small Business Development Center. The Small Business Development  
21 Center of the University of Guam shall develop a program to assist employees in the formation  
22 EOC's.

23 **Section 2. Definition of displaced employee. A new item (q) is added to 4 GCA §8104**  
24 **to read:**

25 **(q)** *Displaced employee* means an employee who had been employed by an entity of the  
26 government that was outsourced or privatized and the employment was terminated as a result of  
27 the *outsourcing* or *privatization*.

1           **Section 3. Definition of subsequent nongovernmental service. A new section (r) is**  
2 **added to 4 GCA §8104 to read:**

3           **(r)** *Subsequent Nongovernmental Service* shall mean paid employment with the employer  
4 that, by-means-of outsourcing or privatizing, assumed the function or functions that a *displaced*  
5 *employee* was employed by the government of Guam to accomplish.

6  
7           **Section 4. Subsequent nongovernmental service. 4 GCA §8113 is repealed and**  
8 **reenacted to read:**

9           § 8113. Same: Subsequent Nongovernmental Service.

10           Any employee who shall have been employed by the government of Guam for a period of  
11 ten (10) years or more and who is a member of the Fund, who is about to become a *displaced*  
12 *employee*, as that term is defined in 4 GCA §8104(q), who has not terminated his membership in  
13 the Fund may be allowed credit for up to five years *Subsequent Nongovernmental Service*  
14 provided that he pays to the Fund, during the time he is earning that credit, the member's and  
15 employer's contributions in biweekly payments in the amounts that would have been paid had  
16 this employment been with the government of Guam. Contributions shall be made at such times  
17 and in such manner as the Board by rule directs. An employee must elect, in such manner as  
18 required by the Board, *Subsequent Nongovernmental Service* prior to his last day of employment  
19 with the government of Guam.

20  
21           **Section 5. Refund on separation. §8130 of 4GCA (a) is amended to read:**

22           § 8130. Refund on Separation.

23           **(a)** Upon complete separation from service before a member shall have completed at least  
24 twenty (20) years of total service, the member shall be entitled to receive a refund of his total  
25 contributions, including regular interest, but no payment of interest shall be  
26 made in any case in which total service is less than one (1) year. Total contributions shall include  
27 all contributions made by a member to obtain various types of credit authorized by this Chapter.

28           Any member who withdraws after having completed at least five (5) years total service  
29 shall have the option of leaving his contributions in the Fund and receiving a service retirement

1 annuity upon attainment of the age of sixty (60) years without choice of any of the optional  
2 survivors" benefits herein under described.

3 If such member has less than twenty (20) years of total service, he may elect to receive  
4 his contributions, with regular interest, as herein above provided, in lieu of the service retirement  
5 annuity. If his total service is twenty (20) years or more, the acceptance of such deferred  
6 retirement annuity payment beginning at the age of sixty (60) years, shall be mandatory as to  
7 such member-, provided, however, that a *displaced employee* may elect to receive his  
8 contributions, with regular interest, as herein above provided notwithstanding that his total  
9 service is twenty (20) years or more.

10 Any member receiving a refund of contributions shall thereby forfeit, waive and  
11 relinquish all accrued rights and benefits in the system, including all credited and creditable  
12 service. The Board may, in its discretion regardless of cause, withhold payment of a refund for a  
13 period not to exceed one (1) year after receipt of an application from a member- provided,  
14 however, that the Board shall pay a refund to a *displaced employee* upon receipt of his  
15 application.