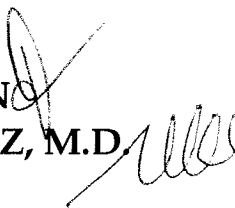


MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 110 (EC)

Introduced by:

J. A. LUJANO
MIKE CRUZ, M.D. 

AN ACT TO ADD A NEW SUBSECTION (b) TO
SECTION 8120, ARTICLE 1 OF TITLE 12 GUAM CODE
ANNOTATED, RELATIVE TO LIABILITY OF THE
GUAM POWER AUTHORITY FOR FAILURE TO
MITIGATE OR ELIMINATE KNOWN HAZARDOUS
FACILITIES IN THE PUBLIC RIGHT OF WAY

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Findings.** As the government of Guam responds to
3 increased demand for comfortable and safe transportation routes, roadways
4 have been widened without the taking of additional land for separation of
5 various uses of the public rights-of-way. This has resulted in multi-million
6 dollar renovations that cast heavily traveled roadway lanes within several feet
7 of typhoon-proof utility poles, separated by no more than a curb. This now
8 common, unmitigated roadway design hazard has materially contributed to
9 an increase in serious injuries and deaths in automobile collisions with
10 concrete and metal utility poles.

11 While the Department of Public Works bears the overall responsibility
12 for approving road construction design and specifications, as well as

1 exemptions thereto, the Guam Power Authority benefits materially by
2 avoiding responsibility for mitigating hazards posed by its installations
3 maintained within the public right of way. Such benefits include cost
4 avoidance for guardrails or other approved crash barriers, deferred
5 replacement schedule for placing overhead lines underground, and
6 continuing revenues for pole-mounted cable television carriers and automated
7 wireless telecommunications antennas. The Legislature finds that the Guam
8 Power Authority has heretofore not been compelled to compensate private
9 persons and firms for direct losses and other attendant costs incurred in tragic
10 encounters with its unmitigated hazards within the right-of-way.

11 It is therefore the intent of the Legislature to restore direct responsibility
12 for loss and suffering caused to members of the traveling public as a result of
13 unmitigated hazards presented by power poles in the right-of-way, to
14 encourage the Guam Power Authority to prioritize mitigation of known
15 roadside hazards, and thereby reduce injuries and deaths.

16 **Section 2.** The text of Title 12 Guam Code Annotated, Article 1 Section
17 8120, as added by Public Law 22-21, is hereby redesignated Subsection (a) of
18 the same Section.

19 **Section 3.** A. new Subsection (b) is added to Section 8120, Title 12
20 Guam Code Annotated to read as follows,

21 “(b) The Authority shall be liable for injuries suffered or death caused
22 to persons using the public right-of-way, to the extent to which the permanent
23 installation of its power poles, guy wires, transformers and other related
24 installations increased the severity of injury or ultimately caused death, where

1 such installations presented an unmitigated hazard to persons in moving
2 vehicles, according to right-of-way design guidelines published by the
3 American Association of State Highway Officials and the U.S. Department of
4 Transportation. The limitations of the Government of Guam Claims Act shall
5 apply to claims brought against the Authority. Claimants under this
6 subsection shall not be eligible for punitive damages. Limitation on the
7 Authority's liability contained in 16 GCA §15102, on speed or acceleration
8 contests, shall apply.

9 **Section 4. Effective Date.** To give the Guam Power Authority the
10 opportunity to identify and mitigate hazards presented by its installations and
11 facilities in the public right-of-way in order of priority, this Act is effective one
12 year after enactment.

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