

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
2007 (FIRST) Regular Session

Bill No. R165)

Introduced by:

A. B. Palacios, Sr.



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AN ACT TO PROVIDE FOR REMEDIES TO GUAM WATERWORKS AUTHORITY CUSTOMERS WHO MAY HAVE BEEN FORCED TO INCUR COSTS AND ENDURED SUFFERINGS PURSUANT TO A MANDATE BY GUAM WATERWORKS AUTHORITY IN THE INSTALLATION OF A "CUTOFF" VALVE WHEN SUCH MANDATE LACKS AUTHORITY, AND INCONSISTENT WITH THE PROVISION OF 28 GAR SECTION 2105(a)(4).

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative findings and intent.** Guam Waterworks Authority (GWA)
2 has embarked on a project to upgrade and improve its water service delivery systems to
3 enable it to provide improved and efficient service to the people of Guam. Included in the
4 project is a component that would replace old water meters with a modern one that is
5 tampered-proof, and would also enable GWA employees to use a device to read the meter
6 remotely. *I Liheslaturan Guåhan* finds that in installing the new meters, GWA requires
7 customers to have installed on the customer's side of the meter, a "shut-off" valve within
8 eighteen (18) inches from the meter. GWA mailed to its customers a flyer advising them to
9 be ready with their shut-off valve when the GWA contractor comes to change over the

1 meter. The flyer or its substance is also posted on the GWA website. Central to this
2 advisory from GWA is a threat that water service would not be reconnected to the new
3 meter without the shut-off valve on the customer's side.

4 *I Liheslaturan Guåhan* finds that GWA relies on 28 GAR Section 2105(a)(4) as the
5 authority to require the customer to have installed a shut-off valve within eighteen (18)
6 inches of the meter on the customer's side. 28 GAR Section 2105 pertains to "Installation of
7 Water and Sewer Service Connections." 28 GAR Section 2105(a)(4) reads as follows:

8 "(4) Where water service is provided customers should provide and
9 maintain a private cutoff valve within eighteen (18) inches of the meter on the
10 customer's side of the meter, and GWA shall provide like valve on GWA's
11 side of the meter."

12 *I Liheslaturan Guåhan* finds that 28 GAR Section 2105(a) has seven (7) individual
13 instructions pertaining to installation of water service, one instruction of which is #4. *I*
14 *Liheslaturan Guåhan* finds that in all of the seven instructions, the use of the word "should"
15 was used only once, and only in item #4. In the same sentence on item #4, the word
16 "should" was used where it pertains to the customer, and the word "shall" was used where
17 it pertains to GWA. *I Liheslaturan Guåhan* is convinced that the policymakers, in adopting
18 28 GAR Section 2105(a), consciously chose the word "should" where it pertains to the
19 customer, thus consciously leaving it up to the customer the option to install a cutoff valve
20 on the customer's side. *I Liheslaturan Guåhan* is convinced that GWA reliance on 28 GAR

1 Section 2105(a)(4) as the authority to mandate its customers to have installed a cutoff valve
2 on the customer's side, **under threat that water service will be discontinued**, is faulty. *I*
3 *Liheslaturan Guåhan* finds that customers who have installed a cutoff valve as a result of a
4 mandate by GWA, and for fear of losing water service, have done so under coercion of
5 GWA. *I Liheslaturan Guåhan* finds that this is not proper. It is therefore the intent of *I*
6 *Liheslaturan Guåhan* to provide for a remedy to customers who have spent personal funds
7 and who were subjected to hardships in the process of installing a cutoff valve under threat
8 of loss of water service as a result of the GWA mandate.

9 **Section 2. Rebate and Remedy to GWA Customers.** (a) Guam Waterworks
10 Authority (GWA) customers who have installed a cutoff valve on their side of the meter,
11 and who used personal funds to do so, and such installation is per a directive from GWA in
12 reliance on 28 GAR Section 2105(a)(4) coupled with a threat of loss of service if such
13 installation is not in place by the advised date, shall be rebated their costs incurred, in the
14 form of credit to future charges.

15 (b) GWA customers who have incurred other losses and/or sufferings associated
16 with the process of installing the cutoff valve as mandate by GWA in reliance on 28 GAR
17 Section 2105(a)(4) shall be reasonably compensated for their losses and sufferings by
18 mutual arrangement between the customer and GWA. The value of such losses and
19 sufferings may be rebated to the customer in the form of credit to future charges.

1 (c) GWA customers who are entitled to subsection (a) and (b) under this Section
2 and who become no longer customers of GWA at the enactment of this Act, may transfer
3 such entitlements to a GWA customer of their choice. GWA shall process such transfer
4 agreeable to both GWA and the customer who is transferring such entitlements.

5 (d) Any customer who has installed a cutoff valve per GWA directive cited
6 herein, and who is not able to produce a receipt for costs incurred shall be entitled to the
7 rebate and compensation provided for in subsection (a) and (b) of this Section at a value
8 that is reasonable, as mutually determined between the customer and GWA.

9 **Section 3. Limitation.** Cutoff valves installed by customers per GWA mandate in
10 reliance on 28 GAR Section 2105(a)(4), during the period between GWA's first official
11 announcement in writing or by posting on its website of the requirement, shall be covered
12 by this Act. This Act does not cover installations made prior to GWA's first official
13 announcement of the requirement.

14 **Section 4. Effective Date.** The provisions of Section 2 and Section 3 shall be
15 effective upon the enactment of this Act.