



I MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

Bill No. 209(LS)

Introduced by:

Ray Tenorio
R. J. Respicio



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AN ACT TO AMEND TO SECTIONS 71101, 71103, 71104, 71105, 71106, 71107 AND 71108 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE SCOPE OF AND UPDATING GUAM'S UNDERGROUND UTILITY DAMAGE PREVENTION LAW.

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

2 **Section 1. Legislative Findings.** It is the goal of *I Liheslaturan Guåhan* to
3 promote the protection of property, workers, and citizens in the immediate vicinity of
4 underground utilities from damage, death, or injury and to promote the health and well-
5 being of the community by preventing the interruption of utility services which may
6 result from the destruction of, or damage to, underground utilities during excavation.

7 *I Liheslaturan Guåhan* finds that the scope of Guam's Underground Utility
8 Damage Prevention Law is currently limited to only a few underground utilities and
9 does not protect all telecommunications and internet lines or any cable lines. After the
10 privatization of the Guam Telephone Authority, *I Liheslaturan Guåhan* expanded
11 Guam's Underground Utility Damage Prevention Law to require that any person
12 planning excavation or demolition first provide notice to the New Guam Telephone
13 Authority, in addition to the Guam Power Authority and the Guam Waterworks
14 Authority, to avoid damage to each operator's underground utility lines. However, the

1 Underground Utility Damage Prevention Law does not protect utilities provided by
2 other operators.

3 *I Liheslaturan Guåhan* finds that it is important to further broaden the scope of
4 Guam’s Underground Utility Damage Prevention Law to include protection of all
5 underground utilities available to Guam residents. Such action will minimize the
6 interruption of utility services to Guam residents that may otherwise occur from damage
7 to or destruction of underground utility lines during excavation or demolition.

8 *I Liheslaturan Guåhan* also finds that certain sections of Guam’s Underground
9 Utility Damage Prevention Law contain incorrect statutory references that were
10 apparently misnumbered when the Guam Code Annotated was enacted from the old
11 Guam Code. It is the intent of *I Liheslaturan Guåhan* to update Guam’s Underground
12 Utility Damage Prevention Law to correct the internal statutory references contained
13 therein.

14 **Section 2.** Subsection (6) of § 71101 of Title 21, Guam Code Annotated, is
15 hereby amended to read as follows:

16 **“(6)** ~~Utility means any means any line, system or facility used for producing,~~
17 ~~storing, conveying, transmitting or distributing communication, electricity, water or~~
18 ~~sewage pipe, conduit, duct, wire, cable, valve, line, fiber optic equipment, system,~~
19 facility, or other structure which is buried or placed below ground or submerged for use
20 in connection with production, storage, conveyance, transmission, distribution or
21 protection of any electronic communication system, telecommunications system, or
22 fiber optic, electricity, oil, natural gas, gases, steam, mixture of gases, petroleum,
23 petroleum products, flammable fluids, or other substances of like nature or water or
24 water systems, sewer systems or traffic, drainage control systems, or other items of like
25 nature.”

26

1 **Section 3.** Subsection (7) of § 71101 of Title 21, Guam Code Annotated, is
2 hereby amended to read as follows:

3 “~~(7) Operator means the agencies responsible for operating the public utilities of~~
4 ~~Guam specifically Guam Power Authority, Guam Telephone Authority and the Public~~
5 ~~Utility Agency of Guam~~ any person, individual, governmental agency or their agents,
6 joint venture, firm, partnership, association, or corporation who owns or operates, a
7 public or private underground facility or utility which furnishes a service or material or
8 stores, transports, or transmits an electronic communication system,
9 telecommunications system, or fiber optic, electricity, oil, natural gas, gases, steam,
10 mixture of gases, petroleum, petroleum products, flammable fluids, or other substances
11 of like nature or water or water systems, sewer systems or traffic, drainage control
12 systems, or other items of like nature.”

13
14 **Section 4.** Section 71103 of Title 21, Guam Code Annotated, is hereby amended
15 to read as follows:

16 “**§71103. Prohibition.** Except as provided in ~~§71155~~ §71106 of this
17 Chapter, no person may excavate in a street, highway, public space, a private
18 easement of an operator, or near the location of a utility installed on the premises
19 of a customer served by such utility, or demolish a building without having first
20 ascertained the location of all underground utilities that would be affected by the
21 proposed excavation or demolition.”

22
23 **Section 5.** Section 71104 of Title 21, Guam Code Annotated, is hereby
24 amended to read as follows:

25 “**§71104. Notice of Intent to Excavate or Demolish.** Except as provided in
26 ~~§71155~~ §71106 of this Chapter, before commencing any excavation or demolition
27 operation designated in ~~§71152~~ §71103 of this Chapter, each person responsible for

1 that excavation or demolition shall serve written notice or intent to excavate or
2 demolish at least three (3) but not more than ten (10) full working days on ~~Guam Power~~
3 ~~Authority, New Guam Telephone Authority as defined in '12101, Guam Waterworks~~
4 ~~Authority and the village Mayors of the project site, if such operator has underground~~
5 ~~utilities located in each operator having underground utilities located in the proposed~~
6 area of excavation or demolition and the village mayor of the proposed area of
7 excavation or demolition. The written notice shall contain the name, address and
8 telephone number of the person filing the notice of intent and, if different, the person
9 responsible for excavation or demolition, the starting date, anticipated duration, and
10 type of excavation or demolition operation to be conducted, the location of the
11 proposed excavation or demolition, and whether or not explosives are to be used.”

12

13 **Section 6.** Section 71105 of Title 21, Guam Code Annotated, is hereby
14 amended to read as follows:

15 **“§71105. Response to Notice of Intent to Excavate or Demolish.**

16 (a) Each operator notified in accordance with ~~§71153~~ §71104 of this Chapter,
17 shall, not less than five (5) working days in advance of the proposed excavation
18 or demolition (unless a shorter period is provided by agreement between the
19 person responsible for the excavation or demolition and the operation), supply,
20 by use of maps when appropriate, the following information to the person
21 responsible for the excavation or demolition:

22 (1) The approximate location and description of all of its underground
23 utilities which may be damaged as a result of the excavation or demolition.

24 (2) The location and description of all utility markers indicating the
25 approximate location of the underground utilities.

26 (3) Any other information that would assist that person in locating and
27 thereby avoiding damage to the underground utilities including, the provision of

1 adequate temporary markings indicating the approximate location of the
2 underground utility in locations where permanent utility markers do not exist.

3 (b) For purposes of this Section, the approximate location of underground
4 utilities is defined as a strip of land at least three (3) feet wide but not wider than
5 the width of the utility plus 1.5 feet on either side of the utility.”
6

7 **Section 7.** Section 71106 of Title 21, Guam Code Annotated, is hereby amended
8 to read as follows:

9 **“§ 71106. Emergency Excavation or Demolition.** Compliance with the
10 notice requirements of ~~§71153~~ §71104 of this Chapter is not required of persons
11 responsible for emergency excavation or demolition to ameliorate an imminent
12 danger to life, health or property, provided, however, that those persons give, as
13 soon as practicable, oral notice of the emergency excavation or demolition to
14 each operator having underground utilities located in the area where that
15 excavation or demolition is to be performed and requests emergency assistance
16 from each operator so identified in locating and providing immediate protection
17 to its underground utilities. An “imminent danger to life, health or property”
18 means whenever there is a substantial likelihood that loss of life, health or
19 property will result before the procedures under this Chapter can be fully
20 complied with.”
21

22 **Section 8.** Section 71107 of Title 21, Guam Code Annotated, is hereby amended
23 to read as follows:

24 **“§71107. Precautions to Avoid Damage.** In addition to the notification
25 requirements of ~~§71153~~ §71104 of this Chapter, each person responsible for any
26 excavation or demolition operation designated in ~~§71152~~ §71103 of this Chapter
27 shall:

1 (1) Plan the excavation or demolition to avoid damage to or minimize
2 interference with underground utilities in and near the construction area.

3 (2) Maintain a clearance between an underground utility and the cutting
4 edge or point of any mechanized equipment, taking into account the known limit
5 of control of such cutting edge or point, as may be reasonably necessary to avoid
6 damage to such utility.

7 (3) Provide such support for underground utilities in and near the
8 construction area, including during backfill operations, as may be reasonable for
9 the protection of such utilities.”

10
11 **Section 9.** Section 71108 of Title 21, Guam Code Annotated, is hereby amended
12 to read as follows:

13 **“§71108. Excavation or Demolition Damage.** Each person responsible
14 for any excavation or demolition operation designated in ~~§71152~~ §71103 of this
15 Chapter that results in any damage to an underground utility shall, immediately
16 upon discovery of that damage, notify the operator of such utility of the location
17 and nature of the damage and shall allow the operator reasonable time to
18 accomplish necessary repairs before completing the excavation or demolition in
19 the immediate area of such utility.”

20
21 **Section 10. Effective Date.** The amendments herein shall be effective upon
22 enactment.