

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
2008 (SECOND) REGULAR SESSION

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BILL NO. 265 (EE)
INTRODUCED BY:

A. B. PALACIOS, SR.



AN ACT RELATIVE TO UPDATING AND ENHANCING THE PROVISION ON THE FORFEITURE OF ASSETS BY LOCAL GOVERNMENT OF GUAM LAW ENFORCEMENT AGENCIES THROUGH PROVIDING THE GUAM POLICE DEPARTMENT WITH A MORE TIMELY RECORDING, DISPOSITION AND USE OF ASSETS SEIZED IN ACCORDANCE WITH THE ASSETS FORFEITURE LAWS OF GUAM; THROUGH AMENDING §79102 OF CHAPTER 79, TITLE 10, GUAM CODE ANNOTATED.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.**

2 *I Liheslaturan Guåhan* finds existing provisions pertaining to the
3 forfeiture of assets, equipment or vehicles by local law enforcement entities at
4 times do not provide for an expeditious disposition or official transfer of
5 forfeited assets to local government entities for their use. Due to the nature of
6 the law enforcement seizure process, there are times in which assets seized by
7 local law enforcement officials are retained and stored as evidence until the
8 completion of the case by the Courts of Guam, or for other reasons. In a few
9 circumstances, the timeframe in which items are stored and are unnecessarily

1 occupying office or work space have taken years prior to the disposition of the
2 evidence or assets confiscated.

3 In addition, I Liheslaturan Guahan finds that the existing process for the
4 disposition of seized assets, equipment or vehicles of alleged criminals has in
5 the past resulted in these items being stored indefinitely. The asset forfeiture
6 or disposition process has been quite lengthy, in numerous circumstances,
7 whereby the assets or confiscated items are stored for even up to a year's time
8 or in a few cases for many years. It has been observed further that the lengthy
9 storage of these items unnecessarily has resulted in their deterioration to a
10 point in which they no longer become usable and are of little to no value.
11 Thus, it is essential that the existing mandates pertinent to the disposition of
12 assets forfeited as a result of law enforcement activities be updated and reflect
13 a more expeditious process in which the Guam Police Department and other
14 law enforcement entities can properly dispose of these assets through judicial
15 consideration, through empowering the law enforcement agency to use said
16 assets, or through the timely return of these items to their previous owners.

17 Therefore, this provision would enable local law enforcement agencies
18 to properly record items, equipment, assets or vehicles for evidentiary
19 purposes, and then to subsequently dispose of such items through established
20 government procedures or to transfer such items legally, with the assistance
21 and direction of the Courts of Guam, to such law enforcement entity for its
22 use in carrying out its duties and responsibilities. This provision would no
23 longer require that such assets confiscated by our local law enforcement
24 agencies be unnecessarily stored for extended periods of time, thus freeing up

1 usable government office or storage space and allowing the possible use of
2 such assets by the government.

3 Section 2. §79102 of Chapter 79, Title 10, Guam Code Annotated,
4 relative to the forfeiture of assets, is hereby amended to read as follows:

5 “§79102. Assets Forfeiture Forfeited-Provision.

6 The forfeiture of equipment, supplies, materials, vehicles, or other
7 assets by the Guam Police Department (hereinafter referred to as the
8 “Department”) in compliance with Guam laws, shall comply with the
9 following provisions in the final disposition or use of such items:

10 a. Every officer of the Department who seizes equipment, supplies,
11 materials, vehicles, or other assets in accordance with Guam laws and as a
12 result of local law enforcement forfeiture activities shall seize such items
13 and properly record and report such seizures to the Chief of Police.

14 The Guam Police Department shall, upon the seizure of assets,
15 immediately
16 record and photograph the seized items and retain such information and
17 records in a secured location. To the greatest extent possible, With the
18 regular enhancements in technological imagery and other forms of properly
19 recording criminal evidence, the Department shall continuously update its
20 recording of evidence capabilities through the application and use of the
21 most current and nationally recognized methods, procedures and
22 equipment. Such recording methods must be coordinated with the Courts
23 of Guam and the Attorney General’s Office to ensure their acceptable usage
24 in the presentation of evidence before the judicial system.

1 The Department or agency shall then commence proceedings in the
2 Superior Court of Guam by petitioning the court for a judgment forfeiting
3 the items seized. Upon the filing of such petition, the clerk of court shall
4 fix a time for a hearing and cause notices to be posted for fourteen (14) days
5 in at least two (2) public places in the place where the court is held and in
6 the Mayor's Office of the village wherein the person from whom the items
7 were seized resides, setting forth the substance of the petition and the time
8 and place fixed for its hearing. Upon proof that the items seized were used
9 in violation of this Article, the court shall order such items forfeited. Any
10 article so forfeited shall be sold, used or destroyed by the Guam Police
11 Department. The proceeds from all such sales shall be paid into the Local
12 Assets Forfeiture Account.

13 Whenever property is forfeited under any local law enforced or
14 administered by the Guam Police Department, the Department may:

- 15 i. retain the property for official use;
- 16 ii. subject to any other applicable laws, sell any forfeited property
17 which is not required to be destroyed by law and which is not
18 harmful to the public; or
- 19 iii. require the property to be taken into custody and removed for
20 disposition in accordance with law.

21 **b.) The provisions of law contained in Article 1, Chapter 1, Title 19,**
22 **Guam Code Annotated, pertaining to Criminal Forfeiture Proceedings,**
23 **specifically mitigation and remission of forfeiture items by petitioner shall**
24 **be also be applicable to the provisions contained herein."**

1 **Section 3. Severability Clause.**

2 If any of the provisions of this Act or the application thereof to any
3 person or circumstance is held invalid, such invalidity shall not affect any
4 other provision or application of this Act which can be given effect without
5 the invalid provision or application, and to this end the provisions of this Act
6 are severable.