

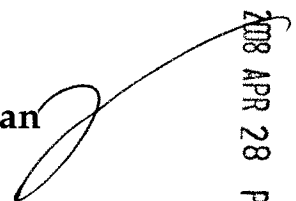
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I MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) REGULAR SESSION

Bill No. 285 (EC)

Introduced by:

v.c. pangelinan


2008 APR 28 PM 3:20 JZ.

AN ACT TO ADD A NEW SECTION TO 7 GCA,
CHAPTER 4, ARTICLE 1 RELATIVE TO GRANTING
AUTHORITY TO THE GOVERNOR AND
LEGISLATURE TO REQUEST A DECLARATORY
JUDGMENT FROM THE SUPREME COURT OF
GUAM.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**
2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds
3 that several states permit the governor, and in some states the Legislature to
4 seek opinions from their respective Supreme Courts on matters respecting the
5 duties of the Governor and Legislature. It has been recognized that such a
6 grant of jurisdiction can solve many serious questions which have arisen, but
7 which have lacked a forum for decision. Under the usual rule, no case may be
8 brought before the Supreme Court until it has ripened into a case or
9 controversy. This authority will permit matters of great public interest to be
10 decided before that time and will avoid the necessity of creating harm to some
11 party in order to have a decision. This Section would also permit a full
12 hearing in such cases and decisions rendered under this Section would be
13 binding.
14 *I Liheslatura* also finds that the language enabling a request for

1 declaratory judgment permits the Governor to request opinions as the
2 operation of the Executive Branch, including questions involving separation
3 of powers, and the Legislature to request opinions on the operation of that
4 Branch, but does not permit one Branch to request opinions as to the
5 operation of the other where that operation does not impinge on the
6 requesting branch's operations. The purpose of this limitation is to avoid one
7 branch trying to regulate the other through the courts.

8 This grant of power to the Supreme Court will return to the Court the
9 jurisdiction contained in its enabling legislation. Since repeal of this provision
10 in 2005, separation of powers issues have continued to arise. Prompt
11 resolution of these issues would greatly increase the efficiency of the entire
12 government of Guam.

13 **Section 2.** A new Section is hereby added to Title 7 Chapter 4, Article 1
14 of the Guam Code Annotated to read:

15 “§____. **Governor and Legislature May Request Declaratory Judgment.** The
16 Governor, in writing, or the Guam Legislature, by resolution, may request
17 declaratory judgments from the Supreme Court as to the interpretation of any
18 law, federal or local, lying within the jurisdiction of the courts of Guam to
19 decide, and upon any question affecting the powers and duties of the
20 Governor and the operation of the Executive Branch, or the Guam Legislature,
21 respectively. The declaratory judgments may be issued only where it is a
22 matter of great public interest and the normal process of law would cause
23 undue delay. Such declaratory judgments shall not be available to private
24 parties. The Supreme Court shall, pursuant to its rules and procedure, permit

1 interested parties to be heard on the questions presented and shall render its
2 written judgment thereon.”

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