

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
2011 (FIRST) Regular Session

Bill No. 67-31(COR)

Introduced by:

ADOLPHO B. PALACIOS, SR. 

AN ACT RELATIVE TO FURTHER ENSURING THE SAFETY OF GUAM'S PUBLIC ROADS AND HIGHWAYS THROUGH REQUIRING THAT CONTRACTORS, WHO OPEN AND EXCAVATE THESE ROADS, ADEQUATELY REPAIR AND RESTORE THEM TO THEIR ORIGINAL CONDITION, BY PROVIDING FOR A DEPOSIT FEE PRIOR TO BEING GRANTED A PERMIT, AND ASSESSING A PENALTY FOR INSUFFICIENT REPAIR OF SUCH ROADWAYS; THROUGH AMENDING §53105 OF CHAPTER 53, TITLE 5, GUAM CODE ANNOTATED.

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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 I Liheslaturan Guahan finds that many of Guam's residents
4 have expressed concerns about the opening or excavating of public
5 roads or highways by contractors, who eventually repair the road
6 following the completion of their work; but at times such repairs are
7 inadequate. The roads and highways that are not properly restored
8 to their original condition as a result of temporary excavations or
9 openings eventually become a safety hazard to Guam's drivers and
10 further cause damage to vehicles. Thus, it is essential that the

1 government of Guam have a system in place whereby these private
2 contractors are required to place a deposit fee, and are penalized if
3 the repair work does not restore the road or highway back to its
4 original condition. The dangerous road condition these situations
5 present can be minimized or prevented if the government of Guam
6 works collectively with these contractors to ensure repairs are
7 completed, and if an appropriate system is established which would
8 further encourage proper compliance.

9 Therefore, it is the intent of *I Liheslaturan Guahan* to require that
10 private contractors who must encroach into Guam's roads or
11 highways for their respective projects provide an initial deposit,
12 which will be returned upon the complete repair and restoration of
13 the road or highway to Department of Public Works standards; or if
14 such repair is inadequate, the deposit fee shall then serve as a
15 penalty, in addition to the requirement to re-do the repair work on
16 the designated site.

17 **Section 2. Requirement for Deposit Fee and Bond Insurance**
18 **for Repair of Highways and Roadways by Private Contractors.**

19 §53105 of Chapter 53, Title 5, Guam Code Annotated, relative
20 to bond and deposit fee requirements for care and protection of
21 highways, is hereby amended to read as follows:

1 **“§53105. Condition for Deposit Fees and/or Bond for**
2 **Construction Projects that Require an Opening or Excavation of**
3 **Guam’s Roads or Highways.**

4 Any project by a private contractor which would require an
5 opening or excavation for any purpose in a highway or public
6 roadway shall be required to provide a deposit fee of no less than
7 \$500.00 or no less than 5% of the total cost of the project impacting
8 the roadway, whichever is greater. No permit shall be granted to a
9 private contractor unless the deposit fee is paid in full. The
10 prerequisite for a deposit fee shall not be applicable to government
11 funded projects that necessitate bond insurance coverage as a
12 stipulation of the project. This requirement for a deposit fee shall
13 not preclude the Department’s condition for a bond, as may be
14 imposed herein.

15 The deposit fee highlighted herein shall be retained by the
16 Department until such time that the Department conducts a site
17 visit of the road or highway project area in which the opening or
18 excavation had occurred, and can ascertain that the repairs were
19 conducted and completed properly. If the road or highway area
20 were identified to be insufficiently repaired, then the deposit fee
21 shall be assessed as a penalty, exclusive of the requirement for the
22 private contractor to return and ensure that proper repair is

1 conducted. Should the area repaired meet the Department's
2 standards set forth for the repair of the road or highway to its
3 original condition prior to the project, the Department shall return
4 the deposit fee in full.

5 Before granting a permit under any provision of this Chapter,
6 the Department may require the applicant to file with the
7 Department a satisfactory bond, payable to the government of
8 Guam in such amount and term as the Department deems
9 sufficient, conditioned on the proper compliance by the permittee
10 with the provisions of this Chapter. In the event of forfeiture of the
11 Bond, the proceeds shall go to the affected agency."

12 **Section 3. Effective Date and Public Notification.**

13 The provisions contained in this Act shall be effective thirty (30)
14 days following the date of enactment. The Department of Public
15 Works, upon enactment, shall provide immediate notification to the
16 general public and to the Guam Contractors' Association on the
17 implementation and effective date of the provisions contained in this
18 Act.