

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2011 (SECOND) Regular Session

Bill No. 345-31 (Cor)

Introduced by:

V.C. Pangelinan

2011 OCT 14  
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**AN ACT TO ADD A CHAPTER 11A TO DIVISION 1 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE “GOVERNMENT OF GUAM REORGANIZATION ACCOUNTABILITY AND TRANSPARENCY ACT” AND TO ESTABLISH A REORGANIZATION ACCOUNTABILITY AND TRANSPARENCY FUND.**

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

1       **Section 1. Legislative Statement and Intent.**    *I Liheslaturan Guåhan*  
2 finds that the Organic Act of Guam, 48 United States Code §1422c(c) states that  
3 “[t]he Governor shall, from time to time, examine the organization of the executive  
4 branch of the government of Guam, and shall determine and carry out such  
5 changes therein as are necessary for the purposes of this chapter and the laws of  
6 Guam.”

7       *I Liheslaturan Guåhan* further finds that §11103 of Chapter 11 of Title 5 of  
8 the Guam Code Annotated states that, “[a]ny proposed reorganization plan for a  
9 department, agency or instrumentality of the government of Guam (collectively  
10 ‘agency’) shall require the approval of the Legislature prior to its  
11 implementation...”

12       *I Liheslaturan Guåhan* further finds that *I Maga'låhen Guåhan's* intent to  
13 reorganize the executive branch of the government of Guam through his issuance  
14 of multiple Reorganization Advisories began in August of 2011. *I Maga'låhen*

1 *Guåhan's* Reorganization Advisory No. 1 was issued on August 10, 2011, which  
2 indicated a “special Displacement & Re-engineering Program...to assist workers  
3 who may be displaced by a government layoff, which is part of the reorganization  
4 of the Executive Branch.” *I Maga'låhen Guåhan* then issued Reorganization  
5 Advisory No. 2 on August 12, 2011, which included a “notice of employment  
6 termination [that] was transmitted to seventeen government of Guam  
7 employees...”

8 *I Liheslaturan Guåhan* further finds that Reorganization Advisory No. 2  
9 stated that those seventeen terminations “are in addition to the 112 unclassified  
10 employees already separated from the government since the Calvo Tenorio  
11 administration begin in January.” *I Liheslaturan Guåhan* understands that there is  
12 normal attrition in the number of unclassified employees within the executive  
13 branch when a new Governor takes office and that there is question as to the actual  
14 savings gained from such a statement as the salary expenditures related to the  
15 unclassified employees that were terminated due to the change in administration  
16 were offset by the new unclassified employees that were newly hired and the  
17 higher salaries that were paid to these employees by the new Governor.

18 *I Liheslaturan Guåhan* further finds that Reorganization Advisory No. 3 was  
19 also issued on August 12, 2011 stating that “[a]gency heads...are releasing general  
20 notices of proposed layoff[s] to their employees” and that “[a]ll employees of  
21 respective agencies will receive this notice.” *I Maga'låhen Guåhan* then issued  
22 Reorganization Advisory No. 4 on August 17, 2011, which ordered a ten percent  
23 (10%) reduction in salaries for *I Maga'låhen Guåhan*, *I Segundu na Maga'låhen*  
24 *Guåhan*, and their senior staff.

25 *I Liheslaturan Guåhan* further finds that Reorganization Advisory No. 5 was  
26 issued on September 21, 2011, which merges the Chamorro Land Trust  
27 Commission and the Ancestral Lands Commission into the Department of Land

1 Management and Reorganization. Advisory No. 6 was issued on October 6, 2011,  
2 which merges the Hagatna Restoration and Redevelopment Authority, Guam  
3 Council on the Arts and Humanities Agency, Guam Public Library System, and  
4 Guam Education Telecommunication Corporation dba PBS Guam into the  
5 Department of Chamorro Affairs.

6 *I Liheslaturan Guåhan* cites that in all Reorganization Advisories issued by *I*  
7 *Maga'låhen Guåhan*, there is no mention of a specific dollar amount of *real*  
8 savings that would be realized by the government of Guam as a result of his  
9 reorganization plans, via the reduction in the payroll costs. *I Liheslaturan Guåhan*  
10 denounces the threat of government-wide layoffs through *I Maga'låhen Guåhan's*  
11 reorganization plans without accountable and transparent indication or calculation  
12 of the real and actual savings, net of any related expenditures as a result of the  
13 reorganization efforts, via reduction of personnel who were previously drawing a  
14 salary.

15 Furthermore, *I Liheslaturan Guåhan* believes that *I Maga'låhen Guåhan* has  
16 been inconsistent with regard to the financial and cash position of the government  
17 of Guam in his letter dated June 3, 2011, "To All Members of the GovGuam  
18 Family," in which he states, "I need [the government of Guam employees'] support  
19 in my efforts to prevent a shutdown of government services" in regard to needing  
20 support for the passage of the Supplemental Budget Act of FY 2011. Additionally,  
21 the letter from *I Maga'låhen Guåhan* stated that "[c]ash isn't necessarily the  
22 problem for the rest of Fiscal Year 2011. We've managed the cash well enough."

23 *I Liheslaturan Guåhan* further finds that the Supplemental Budget Act of FY  
24 2011 was passed by *I Liheslaturan Guåhan* and was signed into law as Public Law  
25 31-74 by *I Maga'låhen Guåhan*, which provided the spending authority *I*  
26 *Maga'låhen Guåhan* requested in order to prevent a government-wide layoff and  
27 shutdown of services. *I Liheslaturan Guåhan* further finds that although Public

1 Law 31-74 provided *I Maga'låhen Guåhan* with such spending authority, only two  
2 months after the enactment of Public Law 31-74, his Reorganization Advisories  
3 were issued threatening impending government-wide layoffs, despite his earlier  
4 statements that “[c]ash [wa]sn’t necessarily the problem for the rest of Fiscal Year  
5 2011. We’ve managed the cash well enough.”

6 *I Liheslaturan Guåhan* further finds that in April 2011, even prior to the  
7 legislative session that led to the passage of Public Law 31-74, there was strong  
8 opposition and lobbying efforts by *I Maga'låhen Guåhan* against Bill 140-31, the  
9 *Pay Income Tax Refunds First Act of 2011*, wherein sentiments from *I Maga'låhen*  
10 *Guåhan*’s office stated of having to choose between paying income tax refunds or  
11 paying for government operations, which is unacceptable to *I Liheslaturan*  
12 *Guåhan*. *I Liheslaturan Guåhan* further finds that the practice of not setting aside  
13 and depositing the required amount into the Income Tax Refund Efficient Payment  
14 Trust Fund in accordance with §51102 of Chapter 51 of Title 11 of the Guam Code  
15 Annotated is unconscionable, illegal and in the Governor’s own words, “stealing  
16 from the people.”

17 *I Liheslaturan Guåhan* further finds that these inconsistencies represent the  
18 need for accountability and transparency regarding any and all reorganization  
19 initiatives and action taken by *I Maga'låhen Guåhan*. It is *I Liheslaturan Guåhan*’s  
20 intent to establish the Reorganization Accountability and Transparency Act and the  
21 Reorganization Accountability and Transparency Fund, which will keep the  
22 people, employees, and government of Guam apprised of the real and actual  
23 savings identified by *I Maga'låhen Guåhan* as a result of *I Maga'låhen Guåhan*’s  
24 reorganization efforts that the government of Guam could realize as a result of  
25 such efforts. *I Liheslaturan Guåhan* accordingly and explicitly states its intent that  
26 taxpayers that are owed income tax refunds should be the sole beneficiaries of any  
27 and all savings that come as a result of *I Maga'låhen Guåhan*’s reorganization

1 plans due to the chronic under-depositing into the Income Tax Refund Efficient  
2 Payment Trust Fund in accordance with existing Guam law.

3 **Section 2.** A new Chapter 11A is hereby *added* to Division 1 of Title 5 of  
4 the Guam Code Annotated, to read as follows:

5 **“Chapter 11A**

6 **Government of Guam Reorganization Accountability and Transparency**

7 **Act.**

8 **§11A101. Title.**

9 **§11A102. Definitions.**

10 **§11A103. Reorganization Accountability and Transparency Fund.**

11 **§11A104. Identification of Savings Associated with *I Maga’låhen Guåhan’s***  
12 **Use of Organic Act Reorganization Powers.**

13 **§11A105. Reporting Requirements**

14 **§11A101. Title.** This Act *shall* be known as the Government of Guam  
15 Reorganization Accountability and Transparency Act (RAT Act).

16 **§11A102. Definitions.** For the purposes of this Chapter, *reorganization*  
17 means the same definition identified in §11103 of Chapter 11 of Title 5 of the  
18 Guam Code Annotated.

19 **§11A103. Reorganization Accountability and Transparency Fund.**

20 (a) **Creation.** There is hereby created, separate and apart from all other  
21 funds of the government of Guam, a fund known as the  
22 Reorganization Accountability and Transparency Fund (RAT Fund).

23 (b) **Separate Fund and Bank Account.** The RAT Fund *shall not* be  
24 commingled with the General Fund or any other funds of the  
25 government of Guam and *shall* be maintained in a separate bank  
26 account, administered by the Director of the Department of  
27 Administration in accordance with this Section.

1 (c) **Purpose.** The RAT Fund *shall* act as a clearinghouse account for *all*  
2 savings that are identified in accordance with §11A104 of this  
3 Chapter.

4 (d) **Administration of RAT Fund.** *All* savings identified in accordance  
5 with §11A104 of this Chapter *shall* be automatically transferred to the  
6 RAT Fund. *All* savings transferred to the RAT Fund *shall* be de-  
7 appropriated from the identified department, agency, or other  
8 instrumentality of the government of Guam from which said savings  
9 are identified in accordance with §11A104 of this Chapter and *shall*  
10 be subject to legislative appropriation. The revenues, General Fund or  
11 otherwise, from which the identified savings would have been  
12 expended by *I Maga'låhen Guåhan* *shall* be automatically transferred  
13 to the RAT Fund. *All* the interest and investment earnings in the RAT  
14 Fund *shall* be subject to legislative appropriation.

15 (e) **No Transfer Authority.** The RAT Fund *shall not* be subject to *I*  
16 *Maga'låhen Guåhan's* transfer authority *or* any other law allowing  
17 use or transfer of special funds. Expenditures from the RAT Fund are  
18 restricted to only those authorized by *I Liheslaturan Guåhan* in this or  
19 subsequent Acts.

20 **§11A104. Identification of Savings Associated with *I Maga'låhen***  
21 ***Guåhan's* Use of Organic Act Reorganization Powers.** In the case of *I*  
22 *Maga'låhen Guåhan's* use of reorganization powers pursuant to the Organic Act of  
23 Guam, 48 United States Code §1422c(c) that aims to decrease the number of  
24 employees in the government of Guam or reduce the operational expenditures of  
25 the government of Guam, *I Maga'låhen Guåhan shall* identify the amount of  
26 savings, the revenue source from which the identified savings would have been  
27 expended, and from what department, agency, or instrumentality of the

1 government of Guam, that is expected to be realized through the implementation  
2 each individual or aggregate reorganization initiative.

3 **§11A105. Reporting Requirements.** The identification requirements of  
4 the amount of savings, the revenue source from which the identified savings would  
5 have been expended, and from what department, agency, or instrumentality of the  
6 government of Guam, that is expected to be realized through the implementation  
7 each individual or aggregate reorganization initiative pursuant to §11A104 of  
8 Chapter 11 of Title 5 of the Guam Code Annotated *shall* be reported to the Speaker  
9 of *I Liheslaturan Guåhan* and the head of the department, agency, or  
10 instrumentality of the government of Guam being affected by such reorganization  
11 initiative, within fifteen (15) days *after* the reorganization initiative is directed, or  
12 is caused to be directed, by *I Maga'låhen Guåhan*.

13 **Section 3. Reorganization Initiatives Issued.** All current or outstanding  
14 reorganization initiatives issued by *I Maga'låhen Guåhan* up to the date of the  
15 enactment of this Act *shall* conform to the identification requirements mandated in  
16 §11A104 of Chapter 11 of Title 5 of the Guam Code Annotated. Notwithstanding  
17 the reporting requirements in §11A105 of Chapter 11 of Title 5 of the Guam Code  
18 Annotated, *I Maga'låhen Guåhan shall* report the amount of savings, the revenue  
19 source from which the identified savings would have been expended, and from  
20 what department, agency, or instrumentality of the government of Guam, that is  
21 expected to be realized through the implementation each individual or aggregate  
22 reorganization initiative within fifteen (15) days after the enactment of this Act.

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