

2011 NOV -11 AM 9:58
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I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 366-31/LS

Introduced by:

Adolpho B. Palacios, Sr. 

**AN ACT TO AMEND §4401 OF ARTICLE 4,
DIVISION 1, TITLE 7, GUAM CODE ANNOTATED,
RELATIVE TO THE APPOINTMENT AND
AUTHORITY OF MAGISTRATE JUDGES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that P.L. 29-109, which was enacted in August 2008, authorized the
4 Judiciary of Guam to employ magistrates and judicial hearing officers
5 through appointments rendered by the Chief Justice of the Supreme Court of
6 Guam. This law further authorized the establishment of a Northern Court
7 Satellite facility.

8 *I Liheslaturan Guåhan* finds that the creation of magistrates and
9 judicial hearing officers is a critical part of the Judiciary of Guam's ongoing
10 efforts to deliver effective and efficient services to the people of Guam.
11 These additional officers of the court are essential to ensuring that legal
12 services are available to Guam's growing population.

13 Therefore, it is the intent of *I Liheslaturan Guåhan* to amend Section
14 4401 of Article 4, Division 1, Title 7, Guam Code Annotated, and recognize
15 the important role magistrates have within Guam's judicial system by
16 authorizing the Chief Justice to re-appoint qualified incumbents for one (1)
17 additional term of four (4) years. The re-appointment of incumbent

1 magistrates will provide among other benefits the continuity of timely
2 judicial services benefiting Guam’s citizens. Incumbents, however, must
3 have satisfactorily performed their duties, as evidenced by a unanimous
4 recommendation of the Judicial Council, prior to their appointment by the
5 Chief Justice to serve an additional term.

6 *I Liheslaturan Guåhan* further intends to amend Subsection (c) of the
7 Section 4401, as described above, to allow magistrates to preside over and
8 render decisions and judgments for cases assigned by the Presiding Judge of
9 the Superior Court of Guam and the Chief Justice of the Supreme Court of
10 Guam.

11 **Section 2. Appointment and Duties of Magistrate Judges.** Section
12 4401 of Article 4, Division 1, Title 7, Guam Code Annotated, is hereby
13 *amended* to read:

14 “(a) The Chief Justice of the Supreme Court of Guam may
15 appoint such magistrates as are necessary for the proper
16 administration of justice. The Chief Justice may re-appoint a sitting
17 magistrate for one (1) additional term of four (4) years without
18 confirmation by *I Liheslaturan Guåhan*, upon a unanimous
19 recommendation by the Judicial Council. A magistrate *shall* be
20 appointed as follows:

- 21 (1) Upon request by the Chief Justice, the Guam Bar
22 Association will solicit interest for the position of
23 magistrate;
- 24 (2) The Guam Bar Association will then submit the
25 names of three (3) candidates to the Chief Justice;
- 26 (3) The Chief Justice must appoint the magistrate from
27 the list provided by the Guam Bar Association.

1 (4) The appointment by the Chief Justice is subject to the
2 approval of *I Liheslaturan Guåhan*.

3 (b) A magistrate *shall*:

4 (1) serve a four (4) year term, removable for cause;

5 (2) be at least thirty (30) years of age;

6 (3) meet the qualifications required of Superior Court
7 Judge as articulated by §3019(c), (d) & (e), Title 7, GCA;

8 (4) be a member in good standing of the Guam Bar
9 Association;

10 (5) not have been convicted of any felony or any
11 misdemeanor involving moral turpitude;

12 (6) not be related by blood within the third degree of
13 consanguinity *or* marriage to a judge or justice of the courts of
14 Guam at the time of his *or* her initial appointment;

15 (7) be subject to the same ethical standards as a Superior
16 Court Judge or Justice, to include the Guam Rules for Judicial
17 Disciplinary Enforcement; and

18 (8) receive a salary *no greater than* ninety percent (90%)
19 of a Judge who is *not* the Presiding Judge.

20 (c) A magistrate shall ~~be empowered to hear the following~~, as
21 assigned by the Chief Justice:

22 (1) ~~small claims matters, and to issue and hear returns of~~
23 ~~warrants of arrest in such cases~~ preside over and render
24 decisions and judgments in small claims cases, traffic cases,
25 change of name petitions, and collection cases;

26 (2) ~~traffic matters, and to issue and hear returns of~~
27 ~~warrants of arrest in such cases~~ enter judgment upon confession

1 of judgment or default judgment in a civil case when a party
2 alleges a sum certain is due;

3 (3) ~~changes of name~~ preside over post-judgment
4 collection proceedings in civil cases and restitution judgments
5 in criminal cases and issue writs of execution and other orders
6 in such proceedings;

7 (4) ~~post-judgment civil matters, relative to execution of~~
8 ~~judgments such as debtor exams, garnishment matters, and~~
9 ~~writs of execution, and to issue warrants of arrest and hear~~
10 ~~returns of warrants of arrest in such cases~~ preside over first
11 appearances of criminal defendants and arraignments in
12 criminal cases, set bail and order pre-trial release conditions,
13 take pleas including accepting guilty pleas in misdemeanor
14 cases, sentencing misdemeanants and entering judgments
15 accordingly;

16 (5) ~~first appearances of criminal defendants within the~~
17 ~~context of §45.10, Title 8 of the Guam Code Annotated and~~
18 ~~which are commonly referred to in practice within our local~~
19 ~~criminal court as “magistrate hearings”, as well as appearances~~
20 ~~pursuant to Chapter 15 (summons), Title 8, GCA, and §25.20~~
21 ~~(notice to appear), although no authority exists to issue or hear~~
22 ~~returns of warrants of arrest in such cases~~ issue summons, issue
23 bench warrants, and hear return of warrants in all cases to
24 which assigned;

25 (6) ~~set or change bail and conditions of release in~~
26 ~~criminal cases~~ preside over any matter which may be heard by a
27 Referee;

1 (7) ~~eriminal arraignments, although no authority exists to~~
2 ~~issue or hear returns of warrants of arrest in such cases~~ serve as
3 a Special Master upon appointment of the Presiding Judge; and

4 (8) ~~any matters which may be heard by a referee of the~~
5 ~~Superior Court of Guam~~ serve as Judge Pro Tempore upon
6 appointment by the Chief Justice; and

7 (9) serve as a settlement judge in a civil or domestic case
8 upon appointment by the Presiding Judge.”

9 **Section 3. Effective Date.** This Act shall be effective upon
10 enactment.