

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN

2008 (SECOND) Regular Session

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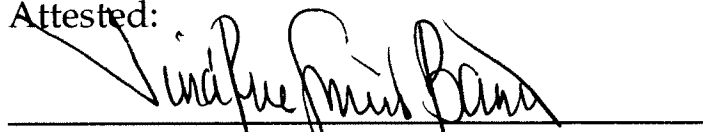
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 283(EC)**, "AN ACT TO *ADD* A NEW §8158.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM RETIREMENT FUND BOARD OF TRUSTEES TO INVEST RETIREMENT FUND ASSETS AT COST IN EXCHANGE TRADED FUNDS", was on the 3rd day of July, 2008, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

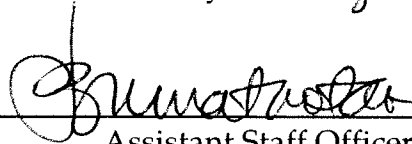
Attested:



Tina Rose Muña Barnes
Senator and Secretary of the Legislature

.....

This Act was received by *I Maga'lahaen Guåhan* this 7 day of July, 2008, at 3:25 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

Bill No. 283 (EC)

As amended.

Introduced by:

J. T. Won Pat, Ed. D.
Edward J.B. Calvo
Frank F. Blas, Jr.

B. J.F. Cruz
James V. Espaldon
Mark Forbes
Judith P. Guthertz, DPA
Frank T. Ishizaki
J. A. Lujan
Tina Rose Muña Barnes
A. B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Dr. David L.G. Shimizu
Ray Tenorio

AN ACT TO *ADD* A NEW §8158.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM RETIREMENT FUND BOARD OF TRUSTEES TO INVEST RETIREMENT FUND ASSETS AT COST IN EXCHANGE TRADED FUNDS.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that prior to the enactment of Public Law 28-135, the statutory restrictions
4 governing investment of funds held in trust for the benefit of Defined Benefit Plan
5 members and beneficiaries had effectively excluded investments in certain
6 common trust funds and commingled funds that often have lower costs than

1 investments in mutual fund vehicles, with lower *or* little added risk. The intention
2 of Public Law 28-135, which authorized the investments in common trust funds
3 and commingled funds, was to provide the opportunity to improve the overall
4 return of the investment portfolio for the benefit of the Retirement Fund as a
5 whole.

6 To expand the opportunity to improve the overall return of the investment
7 portfolio and to better facilitate the implementation of the portfolio's asset
8 allocation in a more economical and effective manner, *I Liheslaturan Guåhan*
9 further intends to authorize investments in certain open end investment
10 management companies and unit investment trusts that are registered with the
11 Securities and Exchange Commission under the Investment Company Act of 1940,
12 as amended, but are not the investment funds described in §8158 of Chapter 8,
13 Article 1, Title 4 of the Guam Code Annotated. The investments are known as
14 exchange traded funds and they trade on the American Stock Exchange, the New
15 York Stock Exchange and the NASDAQ.

16 *I Liheslaturan Guåhan* finds that institutional investments in exchange
17 traded funds may, in some cases, have lower costs than investments in mutual fund
18 vehicles, with comparable levels of risk. *I Liheslaturan Guåhan*, therefore, intends
19 to authorize the Trustees of the Defined Benefit Plan to consider the circumstances
20 under which investments in exchange traded funds may be appropriate for the
21 Defined Benefit Plan and to exercise its discretion to invest Retirement Fund assets
22 in exchange traded funds, thus expanding the opportunity to improve the overall
23 risk/return of the investment portfolio for the benefit of the Retirement Fund as a
24 whole.

25 *I Liheslaturan Guåhan* further intends that §8158.1 *shall* be applicable only
26 to investment in exchange traded funds, and *shall not* affect, *or* be affected by,
27 other Sections of the Defined Benefit Plan statute pertaining to investments in

1 specific asset classes such as common *or* capital stock, preferred stock, bonds, *or*
2 to other investment vehicles such as the investment funds described in §8158. For
3 example, none of the quantitative limitations (e.g., maximum percentage
4 investments) *or* qualitative requirements (e.g., dividend payout *or* net asset value
5 requirements) expressly applicable to: (a) direct investments in common *or* capital
6 stock, preferred stock, *or* bonds; or (b) indirect investments in investment funds,
7 are intended to apply to, *or* impose further limits on, the investments made in
8 exchange traded funds described in §8158.1.

9 **Section 2.** A new §8158.1 of Article 1, Chapter 8, Title 4 of the Guam Code
10 Annotated, is hereby *added* to read:

11 **“§8158.1. Exchange Traded Funds.** (a) Units *or* shares of any
12 exchange traded fund (ETF) established as an open-end investment management
13 company *or* a unit investment trust registered with the Securities and Exchange
14 Commission under the Investment Company Act of 1940, as from time to time
15 amended. Although ETFs may trade at prices established throughout the trading
16 day, like any other listed equity security trading in the secondary market on an
17 exchange, the units *or* shares described in this subsection *shall not* be subject to the
18 provisions of §8157. Although ETFs are unit investment trusts, the units *or* shares
19 described in this subsection *shall not* be subject to the provisions of §8158. The
20 investment in units *or* shares of any one exchange traded fund *shall not exceed*
21 twenty percent (20%) of the Fund at cost.”

22 **Section 3. Effective Date.** This Act *shall* become effective upon enactment.