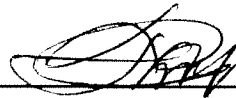


I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

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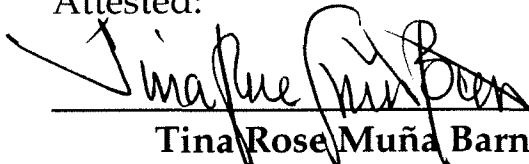
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 209(LS), "AN ACT TO AMEND §§ 71101, 71103, 71104, 71105, 71106, 71107 AND 71108 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE SCOPE OF AND UPDATING GUAM'S UNDERGROUND UTILITY DAMAGE PREVENTION LAW"**, was on the 3rd day of July, 2008, duly and regularly passed.



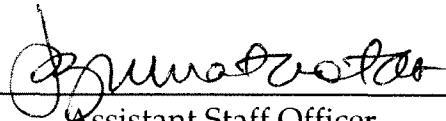
Judith T. Won Pat, Ed. D.
Speaker

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. 209(LS)

As substituted by the Committee on
Judiciary, Natural Resources,
Infrastructure and Cultural Affairs, and amended.

Introduced by:

Ray Tenorio
R. J. Respicio
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
Dr. David L.G. Shimizu
J. T. Won Pat, Ed.D.

**AN ACT TO AMEND §§ 71101, 71103, 71104, 71105, 71106,
71107 AND 71108 OF TITLE 21 OF THE GUAM CODE
ANNOTATED, RELATIVE TO EXPANDING THE SCOPE
OF AND UPDATING GUAM'S UNDERGROUND
UTILITY DAMAGE PREVENTION LAW.**

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

2 **Section 1. Legislative Findings.** It is the goal of *I Liheslaturan Guåhan* to
3 promote the protection of property, workers, and citizens in the immediate vicinity of
4 underground utilities from damage, death, or injury and to promote the health and well-

1 being of the community by preventing the interruption of utility services which may
2 result from the destruction of, or damage to, underground utilities during excavation.

3 *I Liheslaturan Guåhan* finds that the scope of Guam’s Underground Utility
4 Damage Prevention Law is currently limited to only a few underground utilities and
5 does not protect all telecommunications and internet lines or any cable lines. After the
6 privatization of the Guam Telephone Authority, *I Liheslaturan Guåhan* expanded
7 Guam’s Underground Utility Damage Prevention Law to require that any person
8 planning excavation or demolition first provide notice to the New Guam Telephone
9 Authority, in addition to the Guam Power Authority and the Guam Waterworks
10 Authority, to avoid damage to each operator’s underground utility lines. However, the
11 Underground Utility Damage Prevention Law does not protect utilities provided by
12 other operators.

13 *I Liheslaturan Guåhan* finds that it is important to further broaden the scope of
14 Guam’s Underground Utility Damage Prevention Law to include protection of all
15 underground utilities available to Guam residents. Such action will minimize the
16 interruption of utility services to Guam residents that may otherwise occur from damage
17 to or destruction of underground utility lines during excavation or demolition.

18 *I Liheslaturan Guåhan* also finds that certain sections of Guam’s Underground
19 Utility Damage Prevention Law contain incorrect statutory references that were
20 apparently misnumbered when the Guam Code Annotated was enacted from the old
21 Guam Code. It is the intent of *I Liheslaturan Guåhan* to update Guam’s Underground
22 Utility Damage Prevention Law to correct the internal statutory references contained
23 therein.

24 **Section 2.** Subsection (6) of § 71101 of Title 21, Guam Code Annotated, is
25 hereby *amended* to read as follows:

26 “(6) *Utility* means any means any pipe, conduit, duct, wire, cable, valve,
27 line, fiber optic equipment, system, facility, or other structure which is buried or

1 placed below ground or submerged for use in connection with production,
2 storage, conveyance, transmission, distribution or protection of any electronic
3 communication system, telecommunications system, or fiber optic, electricity,
4 oil, natural gas, gases, steam, mixture of gases, petroleum, petroleum products,
5 flammable fluids, or other substances of like nature or water or water systems,
6 sewer systems or traffic, drainage control systems, or other items of like nature.”

7 **Section 3.** Subsection (7) of § 71101 of Title 21, Guam Code Annotated, is
8 hereby *amended* to read as follows:

9 “(7) *Operator* means any person, individual, governmental agency or their
10 agents, joint venture, firm, partnership, association, or corporation who owns or
11 operates, a public or private underground facility or utility which furnishes a
12 service or material or stores, transports, or transmits an electronic communication
13 system, telecommunications system, or fiber optic, electricity, oil, natural gas,
14 gases, steam, mixture of gases, petroleum, petroleum products, flammable fluids,
15 or other substances of like nature or water or water systems, sewer systems or
16 traffic, drainage control systems, or other items of like nature.”

17 **Section 4.** §71103 of Title 21, Guam Code Annotated, is hereby *amended* to read
18 as follows:

19 “**§71103. Prohibition.** Except as provided in §71106 of this Chapter, no
20 person may excavate in a street, highway, public space, a private easement of an
21 operator, or near the location of a utility installed on the premises of a customer
22 served by such utility, or demolish a building without having first ascertained the
23 location of all underground utilities that would be affected by the proposed
24 excavation or demolition.”

25 **Section 5.** §71104 of Title 21, Guam Code Annotated, is hereby *amended* to
26 read as follows:

1 **“§71104. Notice of Intent to Excavate or Demolish.** Except as provided
2 in §71106 of this Chapter, before commencing any excavation or demolition
3 operation designated in §71103 of this Chapter, each person responsible for that
4 excavation or demolition shall serve written notice or intent to excavate or
5 demolish at least three (3) but not more than ten (10) full working days on each
6 operator having underground utilities located in the proposed area of excavation
7 or demolition, the Department of Public Works and the village mayor of the
8 proposed area of excavation or demolition. The written notice shall contain the
9 name, address and telephone number of the person filing the notice of intent and,
10 if different, the person responsible for excavation or demolition, the starting date,
11 anticipated duration, and type of excavation or demolition operation to be
12 conducted, the location of the proposed excavation or demolition, and whether or
13 not explosives are to be used.”

14 **Section 6.** §71105 of Title 21, Guam Code Annotated, is hereby *amended* to
15 read as follows:

16 **“§71105. Response to Notice of Intent to Excavate or Demolish.**

17 (a) Each operator notified in accordance with §71104 of this Chapter shall, not
18 less than five (5) working days in advance of the proposed excavation or
19 demolition (unless a shorter period is provided by agreement between the person
20 responsible for the excavation or demolition and the operation), supply, by use of
21 maps when appropriate, the following information to the person responsible for
22 the excavation or demolition:

23 (1) The approximate location and description of all of its underground
24 utilities which may be damaged as a result of the excavation or demolition.

25 (2) The location and description of all utility markers indicating the
26 approximate location of the underground utilities.

1 (3) Any other information that would assist that person in locating and
2 thereby avoiding damage to the underground utilities including, the provision of
3 adequate temporary markings indicating the approximate location of the
4 underground utility in locations where permanent utility markers do not exist.

5 (b) For purposes of this Section, the approximate location of underground
6 utilities is defined as a strip of land at least three (3) feet wide but not wider than
7 the width of the utility plus 1.5 feet on either side of the utility.”

8 **Section 7.** §71106 of Title 21, Guam Code Annotated, is hereby *amended* to read
9 as follows:

10 **“§71106. Emergency Excavation or Demolition.** Compliance with the
11 notice requirements of §71104 of this Chapter is not required of persons
12 responsible for emergency excavation or demolition to ameliorate an imminent
13 danger to life, health or property, provided, however, that those persons give, as
14 soon as practicable, oral notice of the emergency excavation or demolition to
15 each operator having underground utilities located in the area where that
16 excavation or demolition is to be performed and the Department of Public Works
17 and requests emergency assistance from each operator so identified in locating
18 and providing immediate protection to its underground utilities. An “imminent
19 danger to life, health or property” means whenever there is a substantial
20 likelihood that loss of life, health or property will result before the procedures
21 under this Chapter can be fully complied with.”

22 **Section 8.** §71107 of Title 21, Guam Code Annotated, is hereby *amended* to
23 read as follows:

24 **“§71107. Precautions to Avoid Damage.** In addition to the notification
25 requirements of §71104 of this Chapter, each person responsible for any
26 excavation or demolition operation designated in §71103 of this Chapter shall:

1 (1) Plan the excavation or demolition to avoid damage to or minimize
2 interference with underground utilities in and near the construction area.

3 (2) Maintain a clearance between an underground utility and the cutting
4 edge or point of any mechanized equipment, taking into account the known limit
5 of control of such cutting edge or point, as may be reasonably necessary to avoid
6 damage to such utility.

7 (3) Provide such support for underground utilities in and near the
8 construction area, including during backfill operations, as may be reasonable for
9 the protection of such utilities.”

10 **Section 9.** §71108 of Title 21, Guam Code Annotated, is hereby *amended* to
11 read as follows:

12 **“§71108. Excavation or Demolition Damage.** Each person responsible
13 for any excavation or demolition operation designated in §71103 of this Chapter
14 that results in any damage to an underground utility shall, immediately upon
15 discovery of that damage, notify the operator of such utility of the location and
16 nature of the damage and shall allow the operator reasonable time to accomplish
17 necessary repairs before completing the excavation or demolition in the
18 immediate area of such utility.”

19 **Section 10. Effective Date.** The amendments herein shall be effective upon
20 enactment.