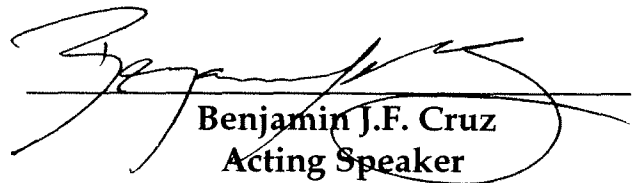


FILE COPY


I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 135-30 (COR), "AN ACT TO ADD A NEW CHAPTER 26A TO DIVISION 2 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPHSS) TO HIRE ENVIRONMENTAL HEALTH SPECIALISTS AND TO CONTRACT AN INDEPENDENT ENVIRONMENTAL HEALTH INSPECTION COMPANY(S) TO CONDUCT INSPECTIONS ON BEHALF OF DPHSS; AND TO FUND INSPECTION SERVICES FROM FEES AUTHORIZED TO BE COLLECTED, BY AMENDING §7119 OF CHAPTER 7, TITLE 22, GUAM CODE ANNOTATED," was on the 13th day of November, 2009, duly and regularly passed.

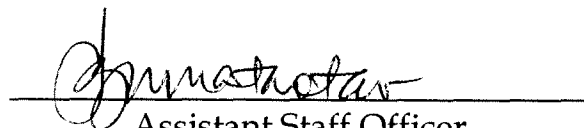

Benjamin J.F. Cruz
Acting Speaker

Attested:



Rory J. Respicio
Acting Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 17 day of Nov.,
2009, at
4:25 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 135-30 (COR)

As substituted by the Committee on Economic Development,
Health & Human Services, and Judiciary, and amended on the Floor.

Introduced by:

T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
M. J. Rector
R. J. Respicio
Ray Tenorio
Telo Taitague
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW CHAPTER 26A TO DIVISION
2 OF TITLE 10, GUAM CODE ANNOTATED,
RELATIVE TO AUTHORIZING THE DEPARTMENT
OF PUBLIC HEALTH AND SOCIAL SERVICES
(DPHSS) TO HIRE ENVIRONMENTAL HEALTH
SPECIALISTS AND TO CONTRACT AN
INDEPENDENT ENVIRONMENTAL HEALTH
INSPECTION COMPANY(S) TO CONDUCT
INSPECTIONS ON BEHALF OF DPHSS; AND TO FUND
INSPECTION SERVICES FROM FEES AUTHORIZED
TO BE COLLECTED, BY *AMENDING* §7119 OF
CHAPTER 7, TITLE 22, GUAM CODE ANNOTATED.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that building contractors on Guam will be bringing in as many as 17,000 temporary
4 workers, primarily H-2 laborers, as a result of the forthcoming military buildup. A
5 majority of these workers will live in temporary workforce housing, and as such be
6 susceptible to the environmental health hazards inherent to any large-scale
7 communal living arrangement. In anticipation of this growth, and to protect the
8 health of the entire Guam community – long-term residents and temporary workers
9 alike – it is imperative that the DPHSS be provided the necessary resources to
10 protect the public health through proper and consistent inspections of these
11 temporary workforce housing.

12 *I Liheslaturan Guåhan* finds that an important component of the DPHSS is
13 the regulation and enforcement conducted through the DPHSS, Division of
14 Environmental Health (DEH). DEH is entrusted to reduce the risk of
15 communicable diseases among workers and the public by establishing
16 comprehensive, uniform procedures for permitting and inspecting temporary
17 workforce housing.

18 The projected proliferation of temporary workforce housing, and the
19 resulting increase in required site inspections, will add a substantial amount of
20 workload upon an already understaffed Division of Environmental Health. In
21 order to ensure the DEH will be able to effectively inspect temporary workforce
22 housing and sustain its current inspection workload, *I Liheslaturan Guåhan* intends
23 to authorize the DPHSS to: (1) hire up to fifteen (15) personnel, including,
24 environmental health specialists, environmental health engineers, an administrative
25 assistant and a customer service representative; and (2) contract an independent
26 environmental health inspection company(s) to perform inspections of temporary

1 workforce housing and other required inspections related to temporary workforce
2 housing as deemed necessary by the DPHSS.

3 It is further the intent of *I Liheslaturan Guåhan* to establish the general
4 parameters by which the DPHSS will certify and contract an independent
5 environmental health inspection company(s), and to direct DPHSS to develop and
6 implement rules and regulations regarding sanitary inspections that will minimize
7 or eliminate environmental health risks in the temporary workforce housing. This
8 authorization affirms that DPHSS has the exclusive power to regulate and enforce
9 temporary workforce housing inspections, to ensure that the inspections required to
10 prevent public health emergencies are effectively accomplished, and to determine
11 if environmental health specialists need to be hired, or if an independent
12 environmental health inspection company(s) needs to be contracted to augment its
13 inspection capacity.

14 **Section 2. Temporary Workforce Housing.** A new Chapter 26A of
15 Division 2 of Title 10, Guam Code Annotated, is hereby *added* to read:

16 **“Chapter 26A**

17 **Temporary Workforce Housing**

18 **§26301. Definitions.**

19 (a) *Temporary worker* means:

- 20 (1) a worker from a point of origin outside of Guam who is
21 sponsored by an employer, or has come to Guam on his own
22 to seek employment for a specific project; and
23 (2) is on Guam for the purpose of being employed for a specific
24 work project expected to be completed in a specific period
25 of time; and
26 (3) will exit Guam upon completion of their work contract on
27 this specific project.

1 (b) *Temporary workforce housing* means any enclosures of living
2 spaces, reasonably contiguous, together with the land appertaining
3 thereto, established, operated or used as living quarters and, at a
4 minimum, fifty-one percent (51%) of the residents are temporary
5 workers, including, but *not* limited to, facilities known by varying
6 nomenclatures or designations as dormitories, hotels, motels, travel
7 lodges, or tourist homes.

8 (c) *Change of Temporary Workforce Housing Status* means any
9 significant variances to temporary workforce housing in relation to the
10 most recent prior inspection. Such variances *shall* be determined or
11 defined by the Department of Public Health and Social Services
12 (DPHSS) and include, but *not* be limited to, significant change in the
13 number of occupants, structural change, or change of ownership.

14 (d) *Sanitary Permit* means the official document issued by the DPHSS
15 authorizing the establishment to operate its business.

16 (e) *Workers' Dormitory Permit* means the official sanitary permit
17 issued by the DPHSS for temporary workforce housing.

18 (f) *Environmental Health Specialist* means an individual who has
19 been hired to perform inspections in accordance with established
20 DPHSS environmental health inspection procedures.

21 (g) *Independent Environmental Health Inspection Company* means an
22 association, a corporation, individual, other legal entity or agency that
23 is duly licensed to do business on Guam and has been certified by the
24 DPHSS as being competent and capable to conduct sanitary
25 inspections in accordance with established DPHSS environmental
26 health inspection procedures.

1 (h) *Temporary Workforce Housing Operator* means a person, or
2 business entity, who owns, leases or manages, or proposes to own,
3 lease or manage, a temporary workforce housing, and herein *shall* be
4 referred to as an *operator*.

5 **§26302. Powers and Duties.** The Department of Public Health
6 and Social Services (DPHSS) is hereby authorized to establish and hire *up to*
7 a total of fifteen (15) personnel to fill positions in the DPHSS Division of
8 Environmental Health (DEH) to include: one (1) Environmental Health
9 Supervisor, ten (10) Environmental Health Specialists, two (2)
10 Environmental Health Engineers, one (1) Administrative Assistant, and one
11 (1) Customer Service Representative, and to certify and contract an
12 independent environmental health inspection company(s) to conduct sanitary
13 inspections at temporary workforce housing, and other required inspections
14 related to temporary workforce housing, as deemed necessary by DPHSS.

15 **§26302.1.** The recruitment and hiring of personnel to fill positions
16 in the DPHSS Division of Environmental Health (DEH), to include: one (1)
17 Environmental Health Supervisor, ten (10) Environmental Health
18 Specialists, two (2) Environmental Health Engineers, one (1) Administrative
19 Assistant, and one (1) Customer Service Representative, *shall* be in
20 accordance with established Government of Guam Personnel regulations.

21 **§26302.2.** Contracting for the services of an independent
22 environmental health inspection company(s) *shall* be in accordance with
23 Government of Guam Procurement procedures, and in accordance with duly
24 approved Rules and Regulations that establish the certification and operating
25 parameters of a contracted independent environmental health inspection
26 company. Said parameters *shall* include, but *not* be limited to, the
27 following:

1 (a) The DPHSS *shall* determine certification requirements for the
2 independent environmental health inspection company(s) and *shall*
3 periodically review and evaluate the performance and eligibility of the
4 company.

5 (b) Independent environmental health inspection company(s) under
6 certification by DPHSS *shall* conduct sanitary inspections *only* on
7 behalf of and at the direction of DPHSS.

8 (c) The company *does not* perform work for an operator of a
9 temporary workforce housing or related company, which may require
10 the sanitary inspection that may come under its inspection review,

11 (d) The company has *no* conflict of interest as determined by the
12 DPHSS.

13 (e) The DPHSS reserves the right to terminate its contract with the
14 company in the event that the company conducts negligent work.

15 (f) The DPHSS *shall* retain *sole* authority to grant sanitary permits.

16 (g) independent environmental health inspection company(s)
17 certified by DPHSS *may* act as agents of DPHSS, provided that they
18 meet the following criteria:

19 (1) The inspection company, or the organization of which it
20 forms a part, *shall* be legally identifiable.

21 (2) An inspection body that is part of an organization involved
22 in functions other than inspection *shall* be identifiable
23 within that organization.

24 (h) The Director of DPHSS *shall* contract with an independent
25 environmental health inspection company *only* as a last resort, after
26 attempting to hire environmental health personnel pursuant to the
27 merit system, and *only* if unable to fill the positions after utilizing all

1 local potential sources of recruitment, including GCC, UOG and other
2 entities.

3 **§26303. Sanitary and Workers' Dormitory Permit for**
4 **Temporary Workforce Housing, Required:**

5 (a) The operator of a temporary workforce housing must possess a
6 valid sanitary and workers' dormitory permit issued by DPHSS,
7 and be made available for inspection by DPHSS or its agent(s).

8 (b) The operator *shall* be responsible for applying for a sanitary
9 and workers' dormitory permit with DPHSS and maintaining
10 such valid sanitary and workers' dormitory permit as a
11 condition for operating a temporary workforce housing.

12 (c) The operator *shall* apply for renewal of its workers' dormitory
13 permit from DPHSS prior to the June 30 expiration date and the
14 payment thereof *shall* be deposited into the Environmental
15 Health Fund.

16 (d) The operator *shall* apply for the renewal of a sanitary permit
17 from DPHSS in accordance with §26304 and the payment
18 thereof *shall* be deposited into the Environmental Health Fund.

19 **§26304. Sanitary Inspections, Phases:** For the purposes of
20 sanitary regulation, permitting of temporary workforce housing *shall* be
21 required during each of the following phases:

22 (a) Primary Inspection Phase:

23 (1) During the Primary Inspection Phase, sanitary
24 inspections *shall* be conducted quarterly following the
25 issuance of the initial sanitary permit.

26 (2) The Primary Inspection Phase *shall* apply to all
27 temporary workforce housing, new or currently existing,

1 and *shall* endure until four (4) consecutive quarters of
2 satisfactory inspections have been achieved.

- 3 (3) Inspection during the Primary Inspection Phase *shall* be
4 performed no sooner than forty-five (45) days of the
5 previous inspection conducted. *If* an inspection occurs
6 sooner than forty-five (45) days of the previous
7 inspection conducted, the inspection shall *not* qualify as
8 one of the quarterly inspections required.

9 (b) Secondary Inspection Phase:

- 10 (1) Secondary Inspection Phase *shall* be applied following
11 successful completion of the Primary Inspection Phase,
12 as defined in §26304(a).

- 13 (2) During the Secondary Inspection Phase, inspections *shall*
14 be conducted on a semiannual basis.

- 15 (3) Inspection during the Secondary Inspection Phase *shall*
16 be performed no sooner than ninety (90) days from the
17 previous inspection conducted. *If* an inspection occurs
18 sooner than ninety (90) days of the previous inspection
19 conducted, the inspection shall *not* qualify as one of the
20 semiannual inspections required.

- 21 (4) Successful completion of the Secondary Inspection Phase
22 *shall* consist of two (2) consecutive semiannual
23 inspections that were rated satisfactory.

- 24 (5) Following a failed inspection or Change of Temporary
25 Workforce Housing Status, the temporary workforce
26 housing in question *shall* return to the Primary Inspection
27 Phase.

1 (c) Tertiary Inspection Phase:

- 2 (1) During the Tertiary Inspection Phase, inspections will be
3 conducted on an annual basis.
- 4 (2) Inspection during the Tertiary Phase *shall* be performed
5 no sooner than one hundred eighty (180) days from the
6 previous inspection conducted. If an inspection occurs
7 sooner than one hundred eighty (180) days of the
8 previous inspection conducted, the inspection will *not*
9 qualify as one of the annual inspections required.
- 10 (3) Following a failed inspection or Change of Temporary
11 Workforce Housing Status, the temporary workforce
12 housing in question *shall* return to the Primary Inspection
13 Phase.

14 **§26305. Fees.**

15 (a) When any re-inspection is required pursuant to §26304 of this
16 Chapter, the operator *shall* pay a fee, established by rules and regulations
17 promulgated by DPHSS, for each re-inspection.

18 (b) All fees due must be paid before a valid sanitary and workers'
19 dormitory permit will be issued or renewed.

20 (c) Permit is *not* transferable.

21 (d) There will be *no* charges for the following types of inspections,
22 provided a current permit has been issued:

- 23 (1) Validation inspections; and
24 (2) Complaint verification inspections.

25 (e) All sanitary and workers' dormitory permit fees collected under
26 this Chapter *shall* be deposited in the Environmental Health Fund created
27 in 10 GCA Chapter 22, §22107.

1 **§26306. DPHSS Sanitary Inspection Revolving Fund.**

2 (a) There is hereby created the DPHSS Sanitary Inspection
3 Revolving Fund, which *shall* be accounted for separately from the
4 General Fund and shall *not* lapse at the end of a fiscal year but *shall* roll-
5 over until used by the DPHSS for the overall cost of conducting sanitary
6 inspections of temporary workforce housing and other required
7 inspections that it deems necessary, including, but *not* limited to, hiring
8 employees authorized to be hired under this Act, the purchase of
9 vehicles, conducting or attending training, or the purchase of related
10 equipment.

11 (b) Payment to contracted independent environmental health
12 inspection company(s) for services rendered *shall* be paid from the
13 DPHSS Sanitary Inspection Revolving Fund.

14 (c) Notwithstanding the Central Accounting Act, fees
15 collected and deposited into a special fund known as the DPHSS Sanitary
16 Inspection Revolving Fund *shall* be kept in a bank licensed to do
17 business on Guam and funds *shall* be paid out only upon a request for
18 payment or requisition submitted by the Director of DPHSS. All monies
19 in this Fund *shall* be subject to legislative appropriation, and are hereby
20 specifically appropriated *only* for the use of the Division of
21 Environmental Health in the pursuit of its authority.

22 **§26307. Receiving and Giving Bribes.** The sanitary inspection
23 agent from DEH, or the independent environmental health inspection
24 company(s), *shall* be guilty of a felony if he or she solicits, accepts or agrees
25 to accept any benefit from another person as consideration for his or her
26 performance of an official function. A person is guilty of a felony if he or
27 she offers, or agrees to offer, any benefit to the sanitary inspection agent as

1 consideration for such sanitary inspection agent’s performance of an official
2 function.

3 **§26308. Effective Date.**

4 (a) Upon passage of this Act, the DPHSS *shall* develop rules and
5 regulations and *shall* submit same to *I Liheslatura no later than* ninety (90)
6 days following the passage of this Act.

7 (b) The rules and regulations *shall* become effective upon adoption
8 by *I Liheslaturan Guåhan.*”

9 **Section 3.** §7119 of Chapter 7, Title 22, Guam Code Annotated, is hereby
10 *amended* to read:

11 **“§7119. Registration Fee.**

12 (a) The Guam Department of Labor is authorized to collect a
13 registration fee of One Thousand Ninety-one Dollars (\$1,091.00) annually
14 per non-immigrant temporary worker for each calendar year or a fraction
15 thereof from the employer of each non-immigrant temporary worker,
16 payable at the time of registration by the non-immigrant worker.

17 (b) Funds collected pursuant hereto *shall* be subject to legislative
18 appropriation, and *shall* be used solely to support §7120, Chapter 7, Title 22,
19 GCA, the Manpower Development Fund (MDF), and the Skills Training
20 Programs for Guam residents in order to eliminate the need to bring non-
21 immigrant temporary workers on Guam; and Chapter 26A Division 2 of
22 Title 10, GCA, the DPHSS Sanitary Inspection Revolving Fund, which is
23 used to ensure that the sanitary conditions of the workers’ dormitories is in
24 compliance with DPHSS Rules and Regulations, and also to provide
25 protection for both the general public and the non-immigrant temporary
26 workers as related to environmental health concerns.

1 (c) One Thousand Dollars (\$1000.00) of funds collected *shall* go to
2 the MDF and appropriated pursuant to §7120, Chapter 7, Title 22 GCA; the
3 remaining Ninety-One Dollars (\$91.00) *shall* go to the DPHSS Sanitary
4 Inspection Revolving Fund.”

5 **Section 4. Effective Date.** This Act *shall* be effective sixty (60) days
6 from date of enactment.

7 **Section 5. Severability.** *If* any provision of this law or its application to
8 any person or circumstance is found to be invalid or contrary to law, such
9 invalidity *shall not* affect other provisions or applications of this law which can be
10 given effect without the invalid provisions or applications, and to this end the
11 provisions of this law are severable.