

pe

FILED

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
2010 (SECOND) Regular Session**

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

This is to certify that **Bill No. 288-30 (COR), "AN ACT TO AMEND §8154 OF ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING INVESTMENTS IN FIXED INCOME SECURITIES COVERED IN THE U.S. AGGREGATE BOND INDEX,"** was on the 19<sup>th</sup> day of March, 2010, duly and regularly passed.



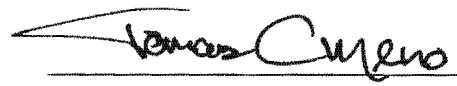
Judith T. Won Pat, Ed. D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 22<sup>nd</sup> day of March, 2010, at 2:15 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'TRENTA NA LIHESLATURAN GUÅHAN***  
**2009 (FIRST) Regular Session**

**Bill No. 288-30 (COR)**

As amended.

Introduced by:

v. c. pangelinan  
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.  
R. J. Respicio  
Telo Taitague  
Ray Tenorio  
Judith T. Won Pat, Ed.D.

**AN ACT TO *AMEND* §8154 OF ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING INVESTMENTS IN FIXED INCOME SECURITIES COVERED IN THE U.S. AGGREGATE BOND INDEX.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the statutory restrictions governing the investment of funds held in trust for the  
4 benefit of the Defined Benefit Plan members and beneficiaries effectively limit  
5 investments in fixed income securities, as the statute currently *does not* permit  
6 investments in the full range of fixed income securities covered by the Barclays

1 Capital U.S. Aggregate Bond Index (the “Index”, created in 1986, and formerly  
2 known as the Lehman Aggregate Bond Index). The Index provides a benchmark  
3 debt index for U.S. investment-grade fixed income securities. It covers the U.S.  
4 dollar-denominated, investment-grade, taxable bond market for securities  
5 registered with the Securities and Exchange Commission. The Index covers bonds  
6 from the Treasury, Government-Related, and fixed-rate mortgage-backed securities  
7 (agency fixed-rate and hybrid adjustable rate mortgage pass-through). Non-  
8 government related bonds eligible to be listed on the Index include, corporate  
9 bonds and derivative bonds such as mortgage-backed securities, asset-backed  
10 securities and commercial mortgage-backed securities.

11 *I Liheslaturan Guåhan* finds that the permitted fixed income investments in  
12 domestic (U.S.) Government Bonds (under §§8150, 8152, and 8153 of Article 1,  
13 Chapter 8, Title 4 of the Guam Code Annotated), comprise roughly half of the  
14 fixed income investments currently covered by the Index. For example, §8150  
15 permits investments in bonds issued by the United States of America, its agencies  
16 and instrumentalities. §8152 permits investments in bonds issues by States *or*  
17 Territories of the United States. §8153 permits investments in bonds which are  
18 payable from revenues *or* earnings specifically pledged by a public utility, state,  
19 municipality, *or* territory.

20 *I Liheslaturan Guåhan* finds that of the other half of fixed income  
21 investments covered by the Index (the non-government bonds), only a small  
22 portion is permitted under the Defined Benefit Plan statute. For example, §8154(a)  
23 permits investments in certain corporate bonds issued by domestic (U.S.)  
24 corporations, but *does not* permit investments in other non-governmental domestic  
25 (U.S.) fixed income investments covered by the Index.

26 *I Liheslaturan Guåhan* finds that legislative action is needed to allow the  
27 Board of Trustees of the Defined Benefit Plan to invest in additional non-

1 government bonds that could reasonably be expected to produce, on average over  
2 time, additional returns net of fees, without increasing investment risk.

3 *I Liheslaturan Guåhan* further finds that the quality standards governing the  
4 rules for inclusion in the Index are consistent with the investment risks required  
5 under the existing Defined Benefit Plan statute applicable to fixed income  
6 investments.

7 *I Liheslaturan Guåhan* finds that the limitation on maximum percentage  
8 investments in §8154(c) is appropriate for domestic (U.S.) and foreign corporate  
9 bonds, but *not* for other types of non-governmental bonds that may be covered by  
10 the Index.

11 *I Liheslaturan Guåhan*, therefore, intends to permit investments of Defined  
12 Benefit Plan assets in the fixed income securities that are covered by the Index.  
13 This amendment to §8154 would permit the Board of Trustees to invest not only in  
14 domestic (U.S.) governmental bonds under §§8150, 8152, and 8153, and in  
15 corporate domestic (U.S.) bonds under §8154(a), but also in the type of U.S. dollar  
16 denominated, investment-grade, fixed rate, taxable bond market of SEC-registered  
17 securities covered by the Index. *I Liheslaturan Guåhan* further intends that the  
18 limitation on maximum percentage investments in §8154(c) will *only* apply to  
19 corporate bonds described in §§ 8154(a) and 8154(b).

20 **Section 2.** §8154 of Article 1, Chapter 8, Title 4, Guam Code Annotated,  
21 is hereby *amended* to read as follows:

22 **“§8154. Same: Bonds of Domestic and Foreign Corporations;**  
23 **Index-Eligible Securities.**

24 (a) Bonds of Domestic Corporations. Bonds, debentures, notes and  
25 other evidences of indebtedness of any corporation *or* corporations created  
26 *or* existing under the laws of the United States, *or* of any of the states *or*  
27 territories of the United States *or* the District of Columbia which are *not* in

1 default either as to principal *or* interest, provided that:

2 (1) Such bonds *or* other evidence of indebtedness are rated  
3 within the four (4) highest categories of two (2) nationally recognized  
4 and published rating services which have been approved by the Board  
5 and the Investment Agent; *or*

6 (2) In case such bonds *or* other evidence of indebtedness are  
7 not so rated by two (2) such services, the net earnings available for  
8 fixed charges over a prior period of five (5) fiscal years next  
9 preceding the date of investment have averaged per year and during  
10 either of the last two (2) years have been, after depreciation and after  
11 taxes, *not less than:*

12 (A) two (2) times its average annual fixed charges over the  
13 same period, in the case of any public utility company;

14 (B) one and one-half (1-1/2) times its average annual fixed  
15 charges over the same period, in the case of any finance  
16 company; *or*

17 (C) three (3) times its average annual fixed charges over the  
18 same period, in the case of any other company.

19 (3) *No more than* two percent (2%) of the Fund at cost *shall*  
20 be invested in the obligations of any one (1) domestic corporation *or*  
21 other single domestic issuing entity described in this Subsection.

22 (b) Bonds of Foreign Corporations. Bonds, debentures, notes and  
23 other evidences of indebtedness of any corporation or corporations created  
24 *or* existing under the laws of nations other than the United States which are  
25 *not* in default either as to principal *or* interest, provided that the Investment  
26 Agent in its informed opinion, determines that such an investment would be  
27 employed by a prudent man acting in a like capacity and familiar with such

1 matters would use in the investment of a fund of like character and with like  
2 aims. *No more than* one and one-half percent (1-1/2%) of the Fund at cost  
3 *shall* be invested in the obligations of any one (1) foreign corporation *or*  
4 other single issuing foreign entity described in this Subsection.

5 (c) *No* investment *shall* be made in any one (1) issue described in  
6 Subsections (a) and (b) of this Section in an amount in excess of ten percent  
7 (10%) of such issues.

8 (d) Other Securities in the U.S. Aggregate Bond Index. Bonds,  
9 debentures, notes and other evidences of indebtedness which are  
10 denominated in U.S. Dollars, investment-grade, fixed-rate and of the quality  
11 of fixed income securities covered by the U.S. Aggregate Bond Index.”

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

14 **Section 4. Severability.** *If* any provision of this Act or its application to  
15 any person or circumstances is held invalid, the invalidity shall *not* affect any other  
16 provision or applications of this Act which can be given effect without the invalid  
17 provision or application, and to this end the provisions of this Act are severable.