



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

August 10, 2012

**The Honorable Judith T. Won Pat, Ed.D.**

Speaker

I Mina'trentai Unu Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

**VIA: The Honorable Rory J. Respicio**  
Chairperson, Committee on Rules

**RE: Committee Report on Bill No. 425-31 (COR) As Substituted**

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on **Bill No. 425-31 (COR), As Substituted – “An act to amend §53101 and §53108 of 5GCA, relative to encroachment violations.”**

Committee votes are as follows:

5 TO DO PASS  
       TO NOT PASS  
3 TO REPORT OUT ONLY  
       TO ABSTAIN  
       TO PLACE IN INACTIVE FILE

*Si Yu'os ma'åse',*

Thomas C. Ada

2012 AUG 13 PM 2:55



**Senator Thomas C. Ada**

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

**COMMITTEE REPORT  
ON**

**BILL No. 425-31 (COR), As Substituted**

**AN ACT TO AMEND §53101 AND §53108  
OF 5GCA, RELATIVE TO  
ENCROACHMENT VIOLATIONS**

**As Substituted by the  
Committee on Public Works,  
Utilities, Transportation and  
Veterans Affairs**




## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

July 26, 2012

### MEMORANDUM

To: **All Members**  
Committee on Public Works, Utilities, Transportation and Veterans Affairs

From: **Senator Thomas C. Ada**   
Committee Chairperson

Subject: **Committee Report on Bill No. 425-31 (COR) As Substituted**

Transmitted herewith for your consideration is the **Committee Report on Bill No. 425-31 (COR), As Substituted – “An act to amend §53101 and §53108 of 5GCA, relative to encroachment violations.”**

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 425-31 (COR), As Introduced
- Copy of Bill No. 425-31 (COR), As Substituted
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- COR Referral of Bill No. 425-31 (COR)
- Notices of Public Hearing
- Public Hearing Agenda

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os ma'åse'!*



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
 31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

### COMMITTEE VOTE SHEET

**Bill 425-31 (COR), As Substituted** – A. B. Palacios, Sr. – An act to amend §53101 and §53108 of 5GCA, relative to encroachment violations.

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
<b>SENATOR THOMAS C. ADA</b> Chairperson		✓				
<b>SENATOR ADOLPHO B. PALACIOS, SR.</b> Vice Chairperson		8/13 ✓				
<b>VICE SPEAKER BENJAMIN J.F. CRUZ</b> Member		✓				
<b>SENATOR RORY J. RESPICIO</b> Member		8/13/12 ✓ 8/13/12 ✓				
<b>SENATOR TINA ROSE MUÑA BARNES</b> Member		✓				
<b>SENATOR DENNIS G. RODRIGUEZ, JR.</b> Member						
<b>SENATOR V. ANTHONY ADA</b> Minority Member				8/13		
<b>SENATOR ALINE A. YAMASHITA, PH.D.</b> Minority Member				8/13/12		
<b>SENATOR MANA SILVA TAIJERON</b> Minority Member				8/13/12		
<b>SENATOR CHRISTOPHER M. DUEÑAS</b> Minority Member						

## COMMITTEE REPORT DIGEST

### I. OVERVIEW

Bill 425-31 (COR) was introduced on February 17, 2012 by Senator Adolpho B. Palacios, Sr., and was subsequently referred by the Committee on Rules to the Committee on Public Works, Transportation, Utilities and Veterans Affairs on February 22, 2012.

The Committee on Public Works, Transportation, Utilities and Veterans Affairs convened a public hearing on Bill 425-31 (COR) on March 29, 2012 at 9:05 am in *I Liheslatura's* Public Hearing Room to receive public testimony on the measure.

### Public Notice Requirements

Public Hearing notices were disseminated via email to all senators and all main media broadcasting outlets on March 22, 2012 (5-Day Notice), and again on March 27, 2012 (48-Hour Notice).

### Senators Present

Senator Thomas C. Ada	Committee Chairperson
Senator Adolpho B. Palacios, Sr.	Committee Vice-Chairperson
Senator V. Anthony Ada	Committee Member
Senator Aline Yamashita, Ph.D.	Committee Member
Senator Mana Silva Taijeron	Committee Member
Vice-Speaker Benjamin J.F. Cruz	Committee Member
Senator vicente (ben) pangelinan	

### Individuals Present

Mr. Carl Dominguez, Deputy Director, Department of Public Works (*oral and written testimony*)  
Atty. Fred Horecky, Guam Association of Realtors (*oral testimony*)  
Ms. Joanne Brown, Director, Department of Public Works

The public hearing was Called-to-Order at 9:05 am.

## II. SUMMARY OF TESTIMONY AND DISCUSSION

**Chair Ada:** Offers Senator Palacios opportunity to provide overview of bill.

**Senator Palacios:** Provides overview of bill, stating that Bill 425 came about after a recommendation and meeting with the Director of the Department of Public Works (DPW). The common occurrence of non-structured encroachment of containers or abandoned vehicles left on the easement or government property was raised. An amendment was proposed to address fines but also to amend the definition of "encroachment." As it is now, "encroachment" refers only to a structure. States that the law is forty-three (43) years old, and that the daily fine is \$10. A layer of fines is proposed in this bill, and Public Works is present to describe what it is they experience with regard to encroachment.

**Mr. Carl Dominguez:** Mr. Dominguez is the Deputy Director of DPW. States that DPW is in support of bill. Provides examples of encroachments on Government rights-of-way—private and commercial trash bins, abandoned vehicles, metal/junk. Believes that \$10/day fine after a five-day notice is a weak incentive to get violator to comply. States that finding the violation, issuing notice of violation, following up with violator, and so forth is costly. The law allows for DPW to remove the encroachment and charge the violator for the cost of removal. The cost is so minimal, stating that for some it might even be worth it to continue paying \$10/day, or even \$300/month.

Offers changes in language of bill: 1) The language “not to exceed” be deleted from the section on fines, Section 53108. States that the fines should not vary for second or third offense; 2) Monies collected be deposited to a DPW Highway Encroachment Fund, to be used for purchasing equipment and supplies, as well as, in some cases, to contract land surveyors to mark rights-of-way areas. DPW depends on Department of Land Management 100% to assist in land surveying and relocation of points to establish rights-of-way boundaries. Equipment and supplies would include cameras, measuring equipment, safety vests, and possibly another vehicle, since DPW has only vehicle (10-year old pick-up truck) for inspectors; and, 3) Definition of “encroachment” be revised to include, “refuse, trash, vehicles” or any “other item or” structure or utility infrastructure not particularly mentioned, which is placed in, under or over any portion of a highway. Thanks the Senators. And states that Director Brown has joined them.

**Atty. Fred Horecky:** Atty. Horecky states that the Guam Association of Realtors (GAR) is in support of legislation. Acknowledges that it is time to revise fines and penalties. Notes similar recommended changes including the definition of encroachment, whether what is included needs to be further revised. States that initially, GAR had concerns with the penalty section, but agrees that removing the “not to exceed” language does make it clearer, and less burdensome administratively. States GAR’s support of the bill with the changes already recommended.

**Joanne Brown,** Director, Department of Public Works (*written testimony attached*)  
DPW agrees with the intent and spirit of Bill 425-31, and outlines the following concerns: 1) The language “not to exceed” be stricken from Section 53108 so as to ensure that fine for the second and third offense is not at the discretion of DPW, and that the same fine be applicable to all persons; 2) Broaden the definition of encroachment to include non-structures that have become encroachments, including “refuse, trash, vehicles” or any “other item or” structure or utility infrastructure not particularly mentioned, which is placed in, under or over any portion of a highway.

**Monte Mafnas,** Director, Department of Land Management (*written testimony attached*)  
DOLM supports intent of Bill 425-31. Recommends that bill should contain direction and intent regarding the use & deposit of encroachment violation fines. Includes language, “Any funds collected under §53108 shall be deposited in the Highway Territorial Fund as specified in §53105.”

#### Question & Answer

**Senator Palacios:** Agrees with the recommendation to remove language “not to exceed.” Asks if amount is reasonable, however, at \$100/day for first offense, and so forth.

**Mr. Dominguez:** Responds that the increase from \$10/day to \$100/day is an incentive for the violator to comply. Agrees.

**Senator Palacios:** Regarding recommendation to broaden definition of encroachment, asks for clarification of DPW's authority to remove non-structures as encroachments, if indeed this is the only section of law that allows DPW to remove such non-structures.

**Mr. Dominguez:** States that he is unaware.

**Senator Palacios:** Agrees that broadening definition is a way to ensure that non-structures are also included as encroachment. Asks if there is a simpler way to issue citations, for first offenses, and so forth, and to collect fines.

**Mr. Dominguez:** States that a Notice of Violation (NOV) is issued, and then fines accrue five days after NOV is issued and encroachment has not been moved. States that since he has been at DPW, they have not collected fines for such encroachments. States however that NOV would be issued, then possibly DPW would go through the Small Claims Court process.

**Director Brown:** Provides example of encroachments in the road in Dededo, wherein school buses are unable to pick up students from bus shelters because roads are blocked. DPW has limited ability to address encroachments, thus recommends that language be amended to allow DPW the ability to issue written citations directly, rather than going through the lengthy process of Small Claims Court. Provides another example of shipping containers that are adjacent to people's property, oftentimes becoming a road hazard and blocking off access to roads. Reiterates Mr. Dominguez's earlier point of fines being deposited back into encroachment division to support operations, rather than into the General Fund.

**Senator Palacios:** Asks DPW to submit language regarding citation process.

**Director Brown:** Responds that they will provide language.

**Senator Palacios:** Requests for a mark-up after public hearing.

**Senator pangelinan:** Asks if encroachment can refer to government property more generally and not just on highways.

**Director Brown:** States that that could be possible, but DPW has not had the ability to do this or effectively enforce. Agrees that if encroachment is clearly on public easement then they will need mechanisms in place to carry out citations.

**Senator Yamashita:** Asks about encroachments on sidewalks, for example, poles, that obstruct the way for walkers, bikers, and people on wheelchairs.

**Director Brown:** Responds that she doesn't disagree with comment. Acknowledges that this is a much bigger issue that has to do with accessibility, and how this will be funded. Refers to big

power poles on sidewalks near the Micronesia Mall, stating that this is a significant issue to deal with. But in the meantime, DPW hopes to address those things that can be moved.

**Chair Ada:** There are no further questions. Bill 425-31 has been duly heard.

The public hearing was adjourned at 10:35 am.

### **III. FINDINGS AND RECOMMENDATIONS**

The Committee on Public Works, Utilities, Transportation, and Veterans Affairs has substituted Bill 425-31 (COR) with the following significant changes:

- On page 1, lines 15 and 16, “per day” was added after the amounts of the fines. This addition does not change the intent of the original language, as it was already implied by an earlier portion of the same sentence; nevertheless, the new language was added in order to ensure that there is no misinterpretation of the fine amount in the future.
- On page 2, line 9, the section of GCA being amended was clarified as §53101(d) of Title 5.
- Expands definition of Encroachment to include refuse, trash and vehicles
- Deletes language regarding limits on the amount violators are fined per offense
- Requires all encroachment fines be deposited into the Territorial Highway Fund
- Authorizes the DPW Director to use collected revenues to purchase equipment and supplies, and to procure the services required to enforce public compliance with applicable highway care and maintenance laws.


The Committee on Public Works, Utilities, Transportation and Veterans Affairs hereby reports out Bill 425-31 (COR), As Substituted by the Committee, with the recommendation  
TO PASS.



**I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN**  
**2012 (SECOND) Regular Session**

Bill No. 425-31 (COR)

Introduced by:

Adolpho B. Palacios, Sr. 

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**AN ACT TO AMEND §53108 OF 5GCA, RELATIVE TO  
DAILY FINES FOR ENCROACHMENT VIOLATIONS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that Public Law 10-40 was signed into law on March 22, 1969 by  
4 Governor Manuel F.L. Guerrero. Public Law 10-40 set the daily fine for  
5 unlawful encroachment at Ten Dollars (\$10.00) per day and no subsequent  
6 law has amended the daily fine in the intervening forty-three (43) years  
7 since its enactment.

8 *I Liheslaturan Guåhan* finds that this fine does not serve the same  
9 deterrent effect that it did in 1969 and that its effectiveness would be  
10 greatly enhanced if the fine is updated appropriately to reflect current  
11 conditions.

12 Therefore, it is the intent of *I Liheslaturan Guåhan* to adjust the daily  
13 fine for unlawful encroachment from Ten Dollars (\$10.00) to One Hundred  
14 Dollars (\$100.00) per day for the first (1<sup>st</sup>) offense, not to exceed Five  
15 Hundred Dollars (\$500.00) for the second (2<sup>nd</sup>) offense, and not to exceed

2012 FEB 17 AM 11:30 AM

1 One Thousand Dollars (\$1,000.00) for the third (3<sup>rd</sup>) and subsequent  
2 offenses, by amending §53108 of 5GCA.

3 **Section 2. Removal by Department.** §53108 of 5GCA is hereby  
4 *amended*, to read:

5 **“§ 53108. Removal by Department.**

6 The Department may remove any encroachment on the failure  
7 of the owner to comply with the notice provided for in this Chapter.  
8 The owner shall be liable for all expenses of such removal and, in  
9 addition thereto, ~~the sum of~~ shall pay a fine of One Hundred Ten  
10 Dollars (\$100.00) for the first (1<sup>st</sup>) offense, not to exceed Five Hundred  
11 Dollars (\$500.00) for the second (2<sup>nd</sup>) offense, and not to exceed One  
12 Thousand Dollars (\$1,000.00) for the third (3<sup>rd</sup>) and subsequent  
13 offenses for each day such encroachment remains after the expiration  
14 of five (5) days from the service of the notice.”

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

**I MINA 'TRENTAI UNU NA LIHESLATURAN GUÅHAN**  
**2012 (SECOND) Regular Session**

**Bill No. 425-31 (COR)**

As Substituted by the Committee on Public Works, Utilities,  
Transportation and Veterans Affairs

**Introduced by:**

**Adolpho B. Palacios, Sr.**

---

**AN ACT TO AMEND §53101 AND §53108 OF 5GCA,  
RELATIVE TO ENCROACHMENT VIOLATIONS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that Public Law 10-40 was signed into law on March 22, 1969 by  
4 Governor Manuel F.L. Guerrero. Public Law 10-40 set the daily fine for  
5 unlawful encroachment at Ten Dollars (\$10.00) per day and no subsequent  
6 law has amended the daily fine in the intervening forty-three (43) years  
7 since its enactment.

8 *I Liheslaturan Guåhan* finds that this fine does not serve the same  
9 deterrent effect that it did in 1969 and that its effectiveness would be  
10 greatly enhanced if the fine is updated appropriately to reflect current  
11 conditions.

12 Therefore, it is the intent of *I Liheslaturan Guåhan* to adjust the daily  
13 fine for unlawful encroachment from Ten Dollars (\$10.00) to One Hundred  
14 Dollars (\$100.00) per day for the first (1<sup>st</sup>) offense, Five Hundred Dollars  
15 (\$500.00) per day for the second (2<sup>nd</sup>) offense, and One Thousand Dollars  
16 (\$1,000.00) per day for the third (3<sup>rd</sup>) and subsequent offenses, by amending  
17 §53108 of 5GCA.

1            *I Liheslaturan Guåhan* intends for the fines collected from  
2 encroachment violations to be deposited into the Territorial Highway Fund  
3 for use by the Director of the Department of Public Works to fund  
4 equipment and supplies, and to procure the services of licensed surveyors,  
5 required to effectively enforce Guam’s highway care and maintenance  
6 laws.

7            *I Liheslaturan Guåhan* further intends to expand the definition of  
8 *Encroachment* to include refuse, trash and vehicles.

9            **Section 2. Definition of Encroachment.** §53101.(d) of 5GCA is  
10 hereby *amended*, to read:

11            **“53101. Definitions.**

12            (d) *Encroachment* means any refuse, trash, vehicles, tower, pole,  
13 poleline, pipe, pipeline, fence, billboard, stand or building, or any  
14 structure or utility infrastructure *not* particularly mentioned, which is  
15 placed in, under or over any portion of a highway.”

16            **Section 3. Removal by Department.** §53108 of 5GCA is hereby  
17 *amended*, to read:

18            **“§ 53108. Removal by Department.**

19            The Department may remove any encroachment on the failure  
20 of the owner to comply with the notice provided for in this Chapter.  
21 The owner shall be liable for all expenses of such removal and, in  
22 addition thereto, ~~the sum of~~ shall pay a fine of One Hundred Ten  
23 Dollars (\$100.00) for the first (1<sup>st</sup>) offense, Five Hundred Dollars  
24 (\$500.00) for the second (2<sup>nd</sup>) offense, and One Thousand Dollars  
25 (\$1,000.00) for the third (3<sup>rd</sup>) and subsequent offenses for each day  
26 such encroachment remains after the expiration of five (5) days from  
27 the service of the notice.

1           All fines shall be deposited into the Territorial Highway Fund,  
2           and interest derived therefrom shall remain in the Fund. The  
3           Director is authorized to use revenues collected from encroachment  
4           fines to purchase equipment and supplies, and to procure the  
5           services of licensed surveyors, required by the Department to  
6           effectively enforce the public's compliance with applicable highway  
7           care and maintenance laws."

8           **Section 4. Effective Date.** This Act shall be effective upon  
9           enactment.

Committee on Public Works, Utilities, Transportation and Veterans Affairs

March 29, 2012

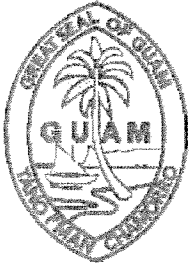
9:00 am

*I Liheslaturan Guåhan, Hagåtña*

**Bill No. 425-31 (COR)** - A.B. Palacios, Sr.

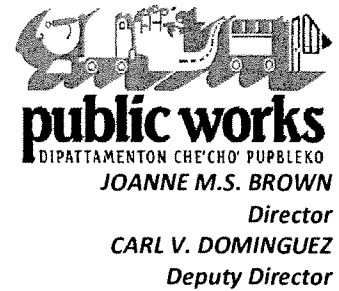
An act to amend §53108 of 5GCA, relative to daily fines for encroachment violations.

NAME (please print)	AGENCY/ ORGANIZATION	CONTACT NUMBER
CARLO DOMINGUEZ	DPW	646-3131
F Horecky	Guam Assoc. Realtors	646-8275



*The Honorable*  
**Eddie Baza Calvo**  
*Governor*

*The Honorable*  
**Ray Tenorio**  
*Lieutenant Governor*



March 29, 2012

Hon. Adolpho B. Palacios, Sr.  
Chairperson, Committee on Public Safety,  
Law Enforcement and Judiciary  
*I Mina'Trentai Unu Na Liheslaturan Guåhan*  
155 Hessler Place  
Hagåtña, Guam 96910

**Subject: Testimony Concerning Bill No. 425-31, An Act to Amend §53108 of 5 GCA, Relative to Daily Fines for Encroachment Violations**

Hafa Adai Sen. Palacios:

Thank you for giving the Department of Public Works (DPW) an opportunity to review and submit this testimony on Bill No. 425-31, *An Act to Amend to §53108 of 5 GCA, Relative to Daily Fines for Encroachment Violations*.

DPW agrees with the intent and spirit of Bill 425-31 to amend 5 G.C.A. Section 53108 so as to update and increase the amount of the daily fine for highway encroachments. Much has changed in the 43 years since the original enactment of Section 53108, including the standards for constructing and maintaining today's roads and highways. The importance of being able to travel safely on Guam's roads cannot be overstressed.

In order to clarify the good intent of Bill 425-31, DPW respectfully suggests that the language of the amendment to Section 53108 be modified so as to make the various amounts of the fine clearer. Specifically, the use of the phrase "*not to exceed*" in the proposed language appears to grant DPW the discretion to vary the amount of the fine for a second or third offense. In honest fairness, however, the same amount of fine should be applicable to all persons. For example, as written, it is possible that a second offense violator could receive a \$100 fine, while another might receive a \$500 fine for the same type of encroachment violation.

In order to remedy this, DPW suggests that the "*not to exceed*" language contained in Section 53108 be stricken out as indicated below:

**§ 53108. Removal by Department.** The Department may remove any encroachment on the failure of the owner to comply with the notice provided for in this Chapter. The owner shall be liable for all expenses of such removal and, in addition thereto, ~~the sum of~~ shall pay a fine of One Hundred Ten Dollars (\$100.00) for the first (1st) offense, and not to exceed Five Hundred Dollars (\$500.00) for the second (2nd) offense, and not to exceed One Thousand Dollars (\$1,000.00) for the third (3rd) and subsequent offenses for each day such encroachment remains after the expiration of five (5) days from the service of the notice.

The bill is silent on where the monies collected from the fines are deposited. The DPW recommends verbiage be added to this bill which creates a DPW Highway Encroachment Fund which will be used by DPW to purchase equipment and supplies that will be used by its Highway Encroachment section to continually improve the care and protection of our highways.

Finally, DPW also suggests that the opportunity be taken at this time to broaden the definition of encroachment as stated in 5 G.C.A. Section 53101(d) to include anything that does not belong in the right-of-way. As Section 53101(d) is presently written, a highway "encroachment" only includes structures such as poles, fences, buildings, etcetera. However, there have been many instances where non-structures can and have become encroachments. Some examples of non-structures that DPW has found encroaching in the right-of-way include items such as trash, scrap metals, and abandoned vehicles.

In order to correct this, DPW requests that *i Liheslaturan* consider amending the definition of Section 53101(d) to add non-structures as encroachments. A suggested amendment is as follows:

**§ 53101. Definitions.**

(d) *Encroachment* means any tower, pole, poleline, pipe, pipeline, fence, billboard, stand or building, refuse, trash, vehicles, or any other item or structure or utility infrastructure *not* particularly mentioned, which is placed in, under or over any portion of a highway.

Thank you again for permitting DPW an opportunity to submit this testimony.

  
JOANNE M.S. BROWN





**DIPĀTTAMENTON MINANEHAN TĀNO'**  
 (Department of Land Management)  
**GUBETNAMENTON GUĀHAN**  
 (Government of Guam)



EDDIE BAZA CALVO  
 Governor

MONTE MAFNAS  
 Director

RAY TENORIO  
 Lieutenant Governor

Street Address:  
 590 S. Marine Corps Drive  
 Suite 733 ITC Building  
 Tamuning, GU 96913

March 30, 2012

Mailing Address:  
 P.O. Box 2950  
 Hagåtña, GU 96932

Senator Thomas C. Ada  
 Chairman – Committee on Utilities, Transportation,  
 Public Works, and Veterans Affairs  
 31<sup>st</sup> Guam Legislature  
 Ada Plaza Center, Ste. 207  
 173 Aspinall Ave  
 Hagatna, Guam 96910

4/7 4/03/12  
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 Office of Senator 3:20 PM  
 Thomas C. Ada

Website:  
<http://dlm.guam.gov>

SUBJECT: Comments on Bill Number 425-31 (COR)

*Bueñas Yan Hafa Adai:*

E-mail Address:  
[dldir@dlm.guam.gov](mailto:dldir@dlm.guam.gov)

The Department has reviewed Bill 425-31 (COR) – An amendment to the Care & Protection of Highways on Guam – Chapter 53, 5 GCA (Government Operations). The Bill amends "...§53108 of 5 GCA, relative to daily fines for encroachment violations."

Telephone:  
 671-649-LAND (5263)

The Department lauds the sponsor of Bill 425-31 (COR) and wholeheartedly supports Bill 425-31's intent. In addition, the Department further recommends that the Bill should contain direction and intent regarding the use & deposit of such encroachment violation fines, such as "Any funds collected under §53108 shall be deposited in the Highway Territorial Fund as specified in §53105.

In the event of passage, the Department of Land Management does not anticipate any adverse impact to its directives, programs, or fiscal mandates.

Facsimile:  
 671-649-5383

Thank you for the opportunity to comment.

Senseramente,

Monte Mafnas  
 Director, Department of  
 Land Management

Cc: Senator Adolpho B. Palacios, Sr.





**COMMITTEE ON RULES**

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

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D

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

April 12, 2012

**Memorandum**

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

**To:** Pat C. Santos  
*Clerk of the Legislature*

**MAJORITY MEMBERS:**

**From:** Senator Rory J. Respicio  
*Majority Leader & Rules Chair*

Speaker  
Judith T. Won Pat

**Subject:** Fiscal Notes

Vice Speaker  
Benjamin J. F. Cruz

*Hafa Adai!*

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Senator  
Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

Bill No.: 425-31 (COR) 441-31 (COR)  
436-31 (COR) 443-31 (COR)  
438-31 (LS)

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Senator  
vicente c. pangelinan

**MINORITY MEMBERS:**

*Si Yu'os ma'åse'!*

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas



# BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

**EDDIE BAZA CALVO**  
GOVERNOR

**JOHN A. RIOS**  
DIRECTOR

**RAY TENORIO**  
LIEUTENANT GOVERNOR

**STEPHEN J. GUERRERO**  
DEPUTY DIRECTOR

## FACSIMILE INFORMATION PAGE

PLEASE DELIVER TO: Sen. Respicio's Ote.

FACSIMILE NUMBER: 472-3547

FROM: BBMR

Total Pages including this page: 4

If you do not receive legible copies of all the pages, please call back as soon

as possible. Phone numbers (671) 475-9412/9106. Fax number (671) 472-2825

RE: Fiscal Notes

COMMENTS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

**EDDIE BAZA CALVO**  
GOVERNOR

**RAY TENORIO**  
LIEUTENANT GOVERNOR

**JOHN A. RIOS**  
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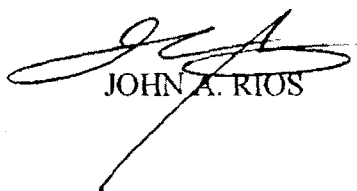
APR 12 2012

Senator Rory J. Respicio  
Chairperson, Committee on Rules  
I Mina'trentai Unu na Liheslaturan Guåhan  
The 31<sup>st</sup> Guam Legislature  
155 Hesler Place  
Hagåtña, Guam 96932

*Hafa Adai* Senator Respicio:

Transmitted herewith are Fiscal Notes on the following Bill Nos.: 425-31(COR), 436-31(COR), 438-31(LS), 441-31(COR), 443-31(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

  
JOHN A. RIOS

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 425-31 (COR)**

**AN ACT TO AMEND §53108 OF 5 GCA, RELATIVE TO DAILY FINES FOR ENCROACHMENT VIOLATIONS.**

Department/Agency Appropriation Information	
Dept./Agency Affected: <b>Public Works</b>	Dept./Agency Head: <b>Joanne M.S. Brown</b>
Department's General Fund (GF) appropriation(s) to date: Base Operations \$8,456,304; Health Cost Account \$221,084; GWA Reimbursement Medical/Dental/Life Insurance \$345,428	9,022,816
Department's Other Fund (Specify) appropriation(s) to date: Department's Other Fund (Specify) appropriation(s) to date: Base Operations - DPW Building & Design Fund (DPWBDF) \$497,806, Guam Highway Fund (GHF) \$8,484,373, Solid Waste Operations Fund (SWOF) \$6,246,626; Health Cost Account - GHF \$205,611, DPWBDF \$6,906; Utilities Cost Account - GHF \$1,306,215, SWOF \$200,000 (not including public streetlights appropriations under DOA-Street Light Fund \$3,473,531, Tourist Attraction Fund \$212,482, GHF \$2,323,190)	16,947,537
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$25,970,353</b>

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2011 Unreserved Fund Balance <sup>1</sup>		\$0	\$0
FY 2012 Adopted Revenues	\$0	\$0	\$0
FY 2012 Appro. (P.L. 31-75 & 31-77)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2012 (if applicable)	FY 2013	FY 2014	FY 2015	FY 2016
General Fund	1/	1/	1/	1/	1/	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	1/	1/	1/	1/	1/	1/

- Does the bill contain "revenue generating" provisions? /X/ Yes      // No  
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A      // Yes      // No  
If no, what is the additional amount required? \$ \_\_\_\_\_ /X/ N/A
- Does the Bill establish a new program/agency? // Yes      /X/ No  
If yes, will the program duplicate existing programs/agencies? // N/A      // Yes      /X/ No  
Is there a federal mandate to establish the program/agency? // Yes      /X/ No
- Will the enactment of this Bill require new physical facilities? // Yes      /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes      /X/ No  
// Requested agency comments not received by due date      /X/ Other: Time constraints

Analyst: <u>Angela Flores</u>	Date: <u>3/20/12</u>	Director: <u>JOHN V. RIOS</u>	APR 12 2012 Date: _____
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**Footnotes:**  
1/ There is potential for additional revenues to the Government of Guam as a result of updated fines for unlawful encroachment, as specified in the proposed legislation. See Attachment.

**Bureau of Budget & Management Research**  
**Attachment to Fiscal Note No. 425-31 (COR)**  
**(for revenue generating provisions)**

Projected Multi-Year Revenues					
	Year 1	Year 2	Year 3	Year 4	Year 5
General Fund	1/	1/	1/	1/	1/
Other Fund:	\$0	\$0	\$0	\$0	\$0
Total	1/	1/	1/	1/	1/

**Comments:**

1/ Currently, highway encroachment fees are at \$10 for each day in which such encroachment remains after the expiration of five days from the initial service of notice, per §53109, Chapter 53 of 5 GCA. The AS400 record reflects a collection of \$17,955 (at 1,795.5 days) for Highway Encroachment Fees; \$850,556.28 (at 85,055.63 days) for Bond Highway Encroachment; and \$18,300 (at 1,830 days) for Bond Political Signs; or a combined total of \$886,811.28 for the period ending September 30, 2011. This represents about 88,681 days at \$10 per day. Should the proposed increase in fines go into effect, just based on \$100 per day for the first (1st) offense, an estimated \$179,550 for Highway Encroachment Fees; \$8,505,563 for Bond Highway Encroachment; and \$183,000 for Bond Political Signs, or a combined total of \$8,868,113 would be collected. Information on the number served notice for second (2nd) offense, third (3rd) offense, or higher are not available at this time, for which specified fines are included the proposed legislation (i.e. not to exceed \$500 per day for 2nd offense, and not to exceed \$1,000 per day for 3rd offense and subsequent offenses).



# COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

**MAJORITY MEMBERS:**

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Judith T. Won Pat

Vice Speaker  
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Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

**MINORITY MEMBERS:**

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

February 22, 2012

**MEMORANDUM**

**To:** Pat Santos  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

**From:** Senator Rory J. Respicio 

**Subject:** Referral of Bill Nos. 424-31(COR) thru 426-31 (COR),  
427-31 (LS) & 428-31 (LS)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 424-31 (COR) through 428-31 (COR), 427-31 (LS) and 428-31 (LS).

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

*Si Yu'os Ma'åse!*

(5) Attachment

*I Mina'Trentai Unu Na Liheslaturan Guahan*  
**Bill Log Sheet**

BILL NOS.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
425-31 (COR)	Adolpho B. Palacios, Sr.	AN ACT TO AMEND §53108 OF 5GCA, RELATIVE TO DAILY FINES FOR ENCROACHMENT VIOLATIONS.	2/17/12 11:30p.m.	2/22/2012		Committee on Utilities, Transportation, Public Works and Veterans Affairs			





Cyrus Luhr &lt;cyrus@senatorada.org&gt;

---

**Public Hearing - 1st Notice - March 29, 9:00 am**

---

Cyrus Luhr <cyrus@senatorada.org>  
To: phnotice@guamlegislature.org

Thu, Mar 22, 2012 at 11:31 AM

Hafa Adai,

Please be advised that the Committee on Transportation, Utilities, Public Works and Veterans Affairs is holding a public hearing on Thursday, March 29, 2012, at 9:00 am. This meeting will take place in the Public Hearing Room of *I Liheslatura*.

The agenda is as follows:

**Bill No. 383-31 (COR) - B.J.F. Cruz / T.R. Muña Barnes**

An act to amend § 12015.5(b) of Chapter 12, Title 12 of the Guam Code Annotated; relative to requiring a public notice for the Amortized System Development Charge program. (pdf of bill)

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Additional information can be found on the attached memo (which is provided as both a pdf and word document). Please let me know if you have any questions or concerns.

Thank you,  
Cyrus

---

Cyrus Lotfi Luhr  
Senior Policy Analyst  
Office of Senator Thomas C. Ada  
*I Mina'trentai Unu na Liheslaturan Guåhan* - 31st Guam Legislature  
671-473-3301

---

**2 attachments****Public Hearing - Mar 29, 2012 - all Senators - first notice.docx**  
264K**Public Hearing - Mar 29, 2012 - all Senators - first notice.pdf**  
27K




## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

March 22, 2012

### MEMORANDUM

To: All Senators

From: Senator Thomas C. Ada 

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Cyrus Luhr &lt;cyrus@senatorada.org&gt;

---

**Public Hearing - 1st Notice - March 29, 9:00 am**

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Thu, Mar 22, 2012 at 11:31 AM

To: media@senatorada.org

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Cyrus


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Cyrus Lotfi Luhr  
Senior Policy Analyst  
Office of Senator Thomas C. Ada  
*I Mina'trentai Unu na Liheslaturan Guåhan* - 31st Guam Legislature  
671-473-3301

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**2 attachments**

 **Public Hearing - Mar 29, 2012 - all Media - first notice.docx**  
263K

 **Public Hearing - Mar 29, 2012 - all Media - first notice.pdf**  
27K



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

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Senator Tom Ada

Cyrus Luhr &lt;cyrus@senatorada.org&gt;

---

**Public Hearing - 1st Notice - March 29, 9:00 am**

---

Cyrus Luhr <cyrus@senatorada.org>  
To: phnotice@guamlegislature.org

Tue, Mar 27, 2012 at 9:03 AM

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## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guahan

March 27, 2012

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*I Mina'trentai Unu na Liheslaturan Guåhan* - 31st Guam Legislature  
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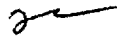
## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guahan

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**Listserv: phnotice@guamlegislature.org**

**As of Apr. 11, 2012**

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phillipsguam@gmail.com  
pris@senatorpalacios.com  
qduenas\_8@yahoo.com  
regine@tinamunabarnes.com  
rfteehan@yahoo.com  
rob.tupaz@gmail.com  
roryforguam@gmail.com  
santos.duenas@gmail.com  
sem@guamlegislature.org  
senator@senatorbjcruz.com  
senator@senatorpalacios.com  
senator@tinamunabarnes.com  
senatordrodriguez@gmail.com  
senatormabini@senatormabini.com  
senatormana@gmail.com  
senatorsam@senatormabini.com  
senatortonyada@guamlegislature.org  
senbenp@guam.net  
sgrarmes@guamlegislature.org  
speaker@judiwonpat.com  
tanya4families@gmail.com  
tcastro@guam.net  
telo.taitague@guam.gov  
tinaokada@gmail.com  
tom@senatorada.org  
tterlaje@guam.net  
uriah@tinamunabarnes.com  
val.g@senatormabini.com  
vinson.calvo@gmail.com  
vkomiyama.senatordrodriguez@gmail.com  
wilcastro671@gmail.com

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## Media [media@senatorada.org](#)

Email addresses of all media contacts (for press releases)

[Members](#) [Roles and permissions](#)

[+ Add new members](#) You can add new users and other groups.

Type names, keywords, email addresses

as

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<input type="checkbox"/>	Name	Email address	Role
<input type="checkbox"/>	<a href="#">All users within Office of Senator Tom Ada</a>		Owner
<input type="checkbox"/>	<a href="#">bmkelman@guampdn.com</a>	<a href="#">bmkelman@guampdn.com</a>	Member
<input type="checkbox"/>	<a href="#">breakfastshowk57@gmail.com</a>	<a href="#">breakfastshowk57@gmail.com</a>	Member
<input type="checkbox"/>	<a href="#">clynt@spbguam.com</a>	<a href="#">clynt@spbguam.com</a>	Member
<input type="checkbox"/>	<a href="#">dmgeorge@guampdn.com</a>	<a href="#">dmgeorge@guampdn.com</a>	Member
<input type="checkbox"/>	<a href="#">dtamondong@guampdn.com</a>	<a href="#">dtamondong@guampdn.com</a>	Member
<input type="checkbox"/>	<a href="#">editor@mvguam.com</a>	<a href="#">editor@mvguam.com</a>	Member
<input type="checkbox"/>	<a href="#">gdumat-ol@guampdn.com</a>	<a href="#">gdumat-ol@guampdn.com</a>	Member
<input type="checkbox"/>	<a href="#">hottips@kuam.com</a>	<a href="#">hottips@kuam.com</a>	Member
<input type="checkbox"/>	<a href="#">jac.cherry@gmail.com</a>	<a href="#">jac.cherry@gmail.com</a>	Member
<input type="checkbox"/>	<a href="#">janela@mvguam.com</a>	<a href="#">janela@mvguam.com</a>	Member
<input type="checkbox"/>	<a href="#">kevin@spbguam.com</a>	<a href="#">kevin@spbguam.com</a>	Member
<input type="checkbox"/>	<a href="#">llmatthews@guampdn.com</a>	<a href="#">llmatthews@guampdn.com</a>	Member
<input type="checkbox"/>	<a href="#">michele@kuam.com</a>	<a href="#">michele@kuam.com</a>	Member
<input type="checkbox"/>	<a href="#">mindy@kuam.com</a>	<a href="#">mindy@kuam.com</a>	Member

<input type="checkbox"/>	<a href="#">news@guampdn.com</a>	<a href="#">news@guampdn.com</a>	Member
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<input type="checkbox"/>	<a href="#">news@k57.com</a>	<a href="#">news@k57.com</a>	Member
<input type="checkbox"/>	<a href="#">nick.delgado@kuam.com</a>	<a href="#">nick.delgado@kuam.com</a>	Member
<input type="checkbox"/>	<a href="#">rgibson@k57.com</a>	<a href="#">rgibson@k57.com</a>	Member
<input type="checkbox"/>	<a href="#">sabrina@kuam.com</a>	<a href="#">sabrina@kuam.com</a>	Member
<input type="checkbox"/>	<a href="#">scoop@guamnewswatch.com</a>	<a href="#">scoop@guamnewswatch.com</a>	Member
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<input type="checkbox"/>	<a href="#">thebigshow@spbguam.com</a>	<a href="#">thebigshow@spbguam.com</a>	Member
<input type="checkbox"/>	<a href="#">therese.hart.writer@gmail.com</a>	<a href="#">therese.hart.writer@gmail.com</a>	Member
<input type="checkbox"/>	<a href="#">therese@mvguam.com</a>	<a href="#">therese@mvguam.com</a>	Member
<input type="checkbox"/>	<a href="#">tina@marianasmedia.com</a>	<a href="#">tina@marianasmedia.com</a>	Member
<input type="checkbox"/>	<a href="#">zita@mvguam.com</a>	<a href="#">zita@mvguam.com</a>	Member

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## **Senator Thomas C. Ada**

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

### **AGENDA**

#### **PUBLIC HEARING**

**Thursday, March 29, 2012, at 9:00 am**  
**Public Hearing Room, I Liheslaturan Guåhan**

The agenda is as follows:

**Bill No. 383-31 (COR) - B.J.F. Cruz / T.R. Muña Barnes**

An act to amend § 12015.5(b) of Chapter 12, Title 12 of the Guam Code Annotated; relative to requiring a public notice for the Amortized System Development Charge program.

**Bill No. 418-31 (COR) - v.c. pangelinan**

An act to add §§ 61314, 61316, 61317, 61318, 61319 and 61320 to Chapter 61 Article 3 of 21 Guam Code Annotated relative to the Administrative Enforcement of zoning laws.

**Bill No. 425-31 (COR) - A.B. Palacios, Sr.**

An act to amend §53108 of 5GCA, relative to daily fines for encroachment violations.

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until April 4, 2012, 5:00 pm. Please feel free to contact our office at 473-3301 should you have any questions or concerns.