

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
239-32 (COR)	Dennis G. Rodriguez, Jr., Michael F.Q. San Nicolas	AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL PROCESS TO ADDRESS CLAIMS RELATIVE TO PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY THE GOVERNMENT OF GUAM WITHOUT JUST COMPENSATION.	12/13/13 2:28 p.m.	12/16/13	Committee on General Governmental Operations and Cultural Affairs	12/26/13 10:30 a.m.	1/27/14 10:52 a.m.	Fiscal Note Requested 12/16/13 Fiscal Note Received 1/13/14

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
and Cultural Affairs
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I MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
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JAN 23 2014

The Honorable Judith T. Won Pat
Speaker
I Mina' Trentai Dos Na Liheslaturan Guahan
32nd Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

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

RE: **Committee Report on Bill No. 239-32 (COR)**

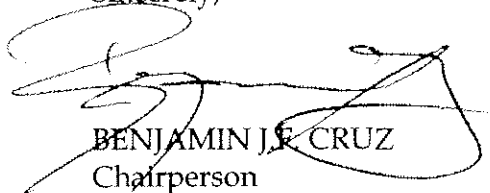
Dear Speaker Won Pat:

Transmitted herewith is the Report of the Committee on General Government Operations and Cultural Affairs on Bill No. 239-32 (COR) - D.G. Rodriguez, Jr. / M.F.Q. San Nicolas - An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

Committee votes are as follows:

<u>4</u>	TO DO PASS
<u> </u>	TO NOT PASS
<u>3</u>	TO REPORT OUT ONLY
<u> </u>	TO ABSTAIN
<u> </u>	TO PLACE IN INACTIVE FILE

Sincerely,


BENJAMIN J.F. CRUZ
Chairperson

2014 JAN 27 AM 10:52 N



COMMITTEE REPORT

Bill No. 239-32 (COR)

An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.



JAN 24 2014

MEMORANDUM

TO: All Members

FROM: Vice Speaker Benjamin J.F. Cruz
Committee on General Government Operations and Cultural Affairs

SUBJECT: Committee Report on Bill No. 239-32 (COR)

Transmitted herewith for your consideration is the Committee Report on Bill No. 239-32 (COR)-D.G. Rodriguez, Jr. / M.F.Q. San Nicolas- An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Bill No. 239-32 (COR), as Introduced
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- COR Referral of Bill No. 239-32 (COR)
- Fiscal Note Requirement
- Notices of Public Hearing
- Public Hearing Agenda
- Related News Reports

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

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin J.F. Cruz", written over a printed name and title.

BENJAMIN J.F. CRUZ
Chairperson



COMMITTEE VOTING SHEET

Bill No. 239-32 (COR) - D.G. Rodriguez, Jr. / M.F.Q. San Nicolas - An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
CRUZ, BENJAMIN J.F. Chairperson		✓				
MUÑA BARNES, TINA ROSE Vice-Chairperson		✓				
WON PAT, JUDITH T. Speaker and Ex-Officio Member				✓		
ADA, THOMAS C. Member						
PANGELINAN, C. VICENTE Member						
RESPICIO, RORY J. Member		<i>nr</i> 1-23-14				
RODRIGUEZ, DENNIS G. JR. Member		✓ 1/23				
SAN NICOLAS, MICHAEL, F.Q. Member	<i>1-23-14</i> 			✓		
AGUON, Jr., FRANK B. Member	<i>1/23/14</i> 			✓		
ADA, V. ANTHONY Member						
Morrison, Thomas Member						
McCreadie, Brant Member						
YAMASHITA, ALINE Member						



COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill No. 239-32 (COR) was introduced by D.G. Rodriguez, Jr. / M.F.Q. San Nicolas on December 13, 2013, and subsequently referred to the Committee on General Government Operations and Cultural Affairs on December 16, 2013.

The **Committee on General Government Operations and Cultural Affairs** convened a public hearing on Thursday, December 26, 2013, at 10:30AM in the Public Hearing Room of *I Liheslatura*. Among the items on the agenda was Bill No. 239-32 (COR) – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

The public hearing for Bill No. 239-32 (COR) began at 10:57AM and ended at 11:12AM.

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all media and all Senators on December 18, 2013, and December 24, 2013, via email. Copies of the hearing notices are appended to the report.

Senators Present

Senator Tina R. Muña Barnes, *Acting Chairperson*
Senator Tommy Morrison, *Member*
Senator Rory J. Respicio, *Member*
Senator Frank A. Aguon, Jr., *Member*
Senator Thomas C. Ada, *Member*
Senator Michael F.Q. San Nicolas, *Member*
Senator V. Anthony Ada, *Member*
Senator Aline Y. Yamashita, Ed.D., *Member*
Senator Dennis G. Rodriguez, *Member*
Senator Michael Limtiaco, *Member*

Oral Testimony

Phil Tydingo, Chief Deputy Attorney General, Office of the Attorney General

Written Testimony

David V. Camacho, Acting Director, Department of Land Management

II. TESTIMONY & DISCUSSION

Acting Chairwoman Tina R. Muña Barnes announced Bill No. 239-32 (COR) and acknowledged the presence of Chief Deputy Attorney General Phil Tydingco who signed up to provide oral testimony on behalf of the Office of the Attorney General.

Senator Dennis G. Rodriguez gave his sponsor statement:

“Thank you, Madame Chair. Bill No. 239-32 (COR) is an act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation. Landowner rights and land-taking issues remain among our most contentious and unresolved issues. The history in practice of land taking by the Federal Government has resulted in the mindset within the Chamorro culture wherein the past practices are deemed important. Notwithstanding years of court actions, inadequate compensations, and unilateral efforts by the Government of Guam to mitigate the cultural impact, we nonetheless still find ourselves seeking to address it. Land takings by the Government of Guam are resulting in another inequitable, unattainable situation also deserving of fair mitigation. The Government of Guam is now the entity expropriating the property for public use but does so without timely, just compensation. The Government of Guam has failed to fulfill the mandates of PL 22-73 as enacted almost 20 years ago in February of 1994. The government has neither adequately addressed the land takings prior to July 1, 1994, nor has it properly and consistently assessed all takings since in a timely manner as provided pursuant to law. Even the mandate of compiling a report and all inverse condemnations, so as to properly identify, categorize, and quantify the actual number of takings has been ignored. The government has exacerbated the situation through inaction or insufficient action, significantly increasing its liability. These ineffective actions and failures have resulted in a system directly tilted against Guam’s landowners. It is for these primary reasons that I have introduced Bill No. 239-32 (COR). As we consider [this bill], we must carefully keep in mind [that] the specific intent and focus of this legislation solely pertains to remedy past unresolved land takings initiated by our government directly pursuant to which the public has collectively benefited. By no means is Bill 239 intended to include easements granted and/or established pursuant to Guam’s Subdivision Law. Bill No. 239-32 (COR) is primarily intended to: 1) Move forward the date for the filing of a claim for compensation for five years or until 2017, whichever is later, which numerous outstanding claims for land takings would be precluded. 2.) Establish an expedited judicial process for claims for government taking and condemnation within Superior Court of Guam to address such matters and make determinations as to claims and determine adequate compensation. It tightens up timelines within, which the agency or instrumentality should act upon receipt of the filing of a claim. And it provides for a court of record administered by hearing officers who shall be appointed by the Chief Justice and who are subject to regulatory conditions regarding magistrates to address such matters, which shall be filed as government taking proceedings. 3) Place a reasonable portion of

the burden of validating or confirming a claim upon the agency or instrumentality that is alleged to have taken land without just compensation and to pay the cost for investigating and confirming such claims. This has been an otherwise unduly, onerous, and expensive burden to be performed by the landowner seeking compensation for an action initiated by the government. With the confirmation of the claim, the landowner and government facilitated by the expedited judicial process can more readily move forward with the process of determining true market value and appropriate compensation. And should the claimant choose to reject the decision of the hearing officer and to appeal to the Superior Court of Guam, the new 21 GCA Chapter 81 provides for that opportunity for an additional two years. Certainly there is a significant cost involved in addressing this issue, just as with any other legitimate public debt we have accrued and ultimately paid upwards of hundreds of millions of dollars to extinguish. And I understand that you know just because this initiative that we are trying to move forward now can be very expensive and I certainly agree with that, and I've got some individuals who have approached me on that. It shouldn't stop us from addressing this issue. It has been 20 years or even longer that we have been trying to address this, and if you think back, if we have started to address that 20 years ago, we would have been able to slowly resolve the situation, but that's not the case and so we're hoping that we're able to put something together this time and to seriously have everyone come to the table and resolve this issue. Thank you very much, Madam Chair."

Chairwoman Barnes thanked Senator Rodriguez and read a testimony from David V. Camacho, acting director of Department of Land Management (*appended to this report*).

Attorney Phil Tydingco greeted the Committee, introduced himself, and provided his testimony:

"We support legislation that would expedite the process for handling inverse condemnation issues. What we would like to request is that there would be at least one round table or two to discuss, we've always recognized the inverse condemnation statutes, especially the underlying one has had problems in the way that it was drafted. We believe that there are other models out there in which many jurisdictions use it in formal process. In fact, having looked at the process that you're suggesting here, even that's sort of another layer by putting it into the claims process and having a hearing officer and all that, so we may want to explore that. There are informal processes for handling inverse condemnation situations. As you know, these are sort of what they call public takings for easements and that sort. Which many jurisdictions expedite really quickly at an administrative and informal level, and maybe we might want to use those models, and this is a good step to go towards that, but I know that we are weaving in the claims act into it and adding a hearing officer issue, and I am not certain whether there has been any input from the judiciary about whether this is the way they go, like for example you may want to still not just restrict it to a hearing officer, but maybe the judges also could still hear it too. [...] Remember

the procurement law is handled by the agency, and then you could appeal it to the [Office of the Public Auditor], and then you appeal it to the Superior Court, and then you appeal it to the Supreme Court, so that's like four levels. But you could have something a bit more informal or similar without a hearing officer in that respect. Because it looks like the claims act is weaved in to the hearing part, so if that's kind of separate then maybe that will legally work out. And so I think, Assistant Attorney General [Cathy Folkos] who is our main land expert in our office, who's going off to attend some training in February a national one on land takings and inverse condemnations. We do believe there needs to be a change and there should be an informal process. Part of the problem is that our law only allows for a formal judicial process, which does take up attorney time, attorney's fees, and it is cumbersome, and there should be a way to do this informally. I mean whether at the agency level, we could just simply say, 'Hey that's good, good to go. Somebody come up with the money.' So anyway, we support the concept; we respectfully request for a round table so we can bring all the experts to the table, including [Department of Revenue and Taxation] and perhaps as you shared, anybody that has relevant input into it. Thank you very much."

Senator Rodriguez provided additional comments:

"Thank you, Madame Chair, and thank you very much Mr. Tydingco for the testimony. And we'll work with the committee to ensure that we have this markup, but also to ensure that we have other stakeholders, you know I'm surprised I don't have anyone else here, especially from the judiciary as well. But, however I want to make sure we include our mayors when we move this forward, but you know the goal here is to once and for all resolve this issue and work on a way to getting there. So thank you very much again."

Senator Frank A. Aguon, Jr. thanked Attorney Tydingco for his comments and expressed concurrence:

"I think you are absolutely right in terms of at least allowing an informal process from the agencies, the AG's participation and then come up with a recommendation. Because I think that at the forefront, you want to make sure that the properties is identified. And then allow the different agencies to be able to provide comments, and then the judicial participation would be signing off on any perceived agreement or acknowledgment in terms of the cost of the land taking. So I envision that by virtue of the concept here that certainly the judicial branch has to be a participant, but it should be a participant towards the tail end in terms of the agreement between the government agencies, as well as the landowner. Also in conjunction with that, I'll give you an extra example. There's going to be some cost assumed as a result of this entire process by the families that have had their land takings. And the reason being is I know of a family member where the road had encroached directly abutting the edge of their property line. Now that property owner would have to go out and have an appraisal done or have a remarking of all of their properties and then present

that map as an official documentation that the government has stepped in and, I don't want to say arbitrarily, but has stepped in and intentionally acquired that property for public easement purposes. So that's a cost that will be assumed by the property owner, so the question that will come in as a result of the land taking, would any additional cost assumed by the family members be a part of the consideration in terms of the compensation? Because certainly there are a number of cases that I'll give you, one additional example is Route 4 from the intersection of Route 17 next to Togcha Cemetery, down towards the landfill in Malojloj. I know that one of the challenges that DPW has in terms of expanding that roadway and resurfacing that entire roadway is that some of that property is still recognized as privately owned. And that's where federal funds utilizing it for either repaving or expanding that highway is going to be extremely difficult until such time that the government is able to acquire it in title. In fee simple, title it so that federal funds can be utilized, otherwise local funds will have to be used. So that's another example, where in fact inverse compensation may have to take place with the property owners but then the government would have to step in and perhaps assume some of the cost. So there are a number of issues that do arise as a part of this, but I think that the good senator that sponsored the legislation certainly has excellent intentions in terms of making sure that once and for all that the property owners have the opportunity to be able to contest the land taking or to allow the government to properly compensate the landowner, so at the end of the day, it's within the ownership by title, fee simple by the Government of Guam. So I think that those are certainly concerns and if we have the government agencies take ownership working in conjunction with the family members, and then come up with their recommendations, the AG's office signs off and the government agencies sign off that in fact this property was taken for public benefit, then there's an (inaudible) and then the judicial system will be more or less signing off on a consent of all parties involved, otherwise it would have to go through direct judicial process. So this is, I think going to bring up a lot of issues affecting private land owners who have otherwise lost their property for public benefit in terms of roadways or public easements or whatnot, but I think it's moving in the right direction in terms of finally recognizing the obligation of the Government of Guam. And that is, if you're going to acquire property, then you should acquire by virtue of going through the process and properly compensating the landowners. So I appreciate your perspective and I certainly hope the sponsor of this legislation will look at it from establishing that informal process so that hopefully the judicial branch, their participation in signing off on any acknowledgement or any perceived agreement between the parties inclusive of the family members. So thank you very much Mr. [Tydingco]."

Attorney Tydingco added:

"I think the bill contemplates shifting the burden and the cost on to the government, so I think it kind of addresses that already."

Chairwoman Barnes noted that the Committee Record would be held open for ten days, and, on the account that there was no one else present to provide oral testimony, adjourned the public hearing for Bill No. 239-32 (COR).

III. FINDINGS AND RECOMMENDATIONS

The Committee on General Government Operations and Cultural Affairs to which was referred "Bill No. 239-32 (COR) - D.G. Rodriguez, Jr. / M.F.Q. San Nicolas - An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation" hereby submits these findings to *I Mina' Trentai Dos na Liheslaturan Guåhan* and reports out Bill No. 239-32 (COR) with a recommendation TO PASS.

**I MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (FIRST) Regular Session**

Bill No. 239 -32 (*cor*)

Introduced by:

Dennis G. Rodriguez, Jr. ✓
Michael F.Q. San Nicolas (P)

**AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL
PROCESS TO ADDRESS CLAIMS RELATIVE TO
PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY
THE GOVERNMENT OF GUAM WITHOUT JUST
COMPENSATION**

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

2 **Section 1. Short Title.** This Act shall be cited as the "Government
3 Takings Compensation Act."

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
5 that the manner and method of taking land for public easements must be in
6 accordance with the Organic Act of Guam and the laws of Guam. However, when
7 establishing easements, government agencies and instrumentalities have placed
8 utility infrastructure on private property without the proper exercise of eminent
9 domain or negotiated transfer. These encroachments have placed an unfair burden
10 upon citizens seeking redress, and only those who can afford attorney's fees and
11 professional surveying services have the capacity to confirm that these
12 encroachments have violated the law.

13 It is the intent of *I Liheslatura* to place the burden of proof on the
14 government entity alleged to have established the easement or placed the utility
15 infrastructure on the private property in question. If it is found that government

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1 encroachment is proven, claimants should be allowed just compensation from the
2 time of the encroachment determination. Market value should be calculated from
3 time of the taking pro-rated to the value at the time period and claimant should be
4 entitled to receive interest on the fair market amount due accruing from time of
5 taking.

6 It is therefore the intent of *Liheslatura* to establish an expedited judicial
7 process within the courts to address such matters and make determinations as to
8 claims and determine adequate compensation.

9 **Section 3.**Section 11311.1 of Article 3 of Chapter 11 of Title 7 of the Guam
10 Code Annotated is *amended* to read as follows:

11 **“§ 11311.1. Inverse Condemnation.** Any person whose land was
12 expropriated for public purposes by the government of Guam between
13 August 1, 1950, and July 1, 1994, and who has not been compensated by the
14 government of Guam for such taking may institute an action for inverse
15 condemnation. In any taking by the government of Guam after July 1, 1994,
16 in which the government fails to follow the eminent domain provisions of
17 Title 21, Guam Code Annotated, the person whose land is taken shall have
18 five (5) ~~four (4)~~ years from the time of such taking, or by December 31,
19 2017, whichever is later, to institute an action for inverse condemnation
20 pursuant to 21 GCA Chapter 16. For purposes of this section, the current
21 owner of the land subject to the claim may seek compensation dating back to
22 the time of the taking. An action shall lie for the taking of a person’s fee or
23 for lesser compensable interest in the property which has been expropriated
24 by the government of Guam without according the person due process. In
25 any action for inverse condemnation in which an award is made to a person
26 for a taking, the court shall also award reasonable attorney’s fees and costs.”

1 **Section 4.**A new Chapter 81 is hereby *added* to Division 2 of Title 21,
2 Guam Code Annotated, to read:

3 **“Chapter 16**

4 **Claims for Government Land Taking & Condemnation Actions**

5 **§16101. Filing A Claim.** Any person whose land was expropriated by
6 the government of Guam who has not been compensated by the government
7 of Guam for such taking may file a claim for inverse condemnation with the
8 agency or instrumentality which expropriated such land. In any taking by the
9 government of Guam after July 1, 1994, in which the government failed to
10 follow the eminent domain provisions of 21 GCA, a claim may be filed for
11 inverse condemnation within five (5) years from the time of such taking, or
12 by December 31, 2017, whichever is later. Such claim shall precede the
13 filing of any action pursuant to §11311.1 of 7 GCA. All claims shall include
14 documentation that the claimant has real interest in the property.

15 **§16102. Administrative Adjudication.** Upon receipt of a claim, the
16 head of any agency or instrumentality to which a claim was filed shall have
17 60 days to act.

18 **§16103. Expedited Judicial Process for Claims for Government**
19 **Land Taking and Condemnation.** The Judiciary of Guam shall establish
20 an expedited judicial process within the Superior Court of Guam to address
21 claims for government land taking and condemnation actions, which shall be
22 a court of record administered by one (1) or more Hearing Officers who
23 shall be appointed by the Chief Justice of the Supreme Court of Guam and
24 who shall be subject to the conditions articulated in §4401(b) of Title 7,
25 Guam Code Annotated, regarding magistrates. Such matters shall be filed as
26 Government Takings Proceedings.

1 **§16104. Purpose.** The purpose of this expedited process is to provide
2 a speedy and efficient legal process for government land takings and inverse
3 condemnation cases which will assist the Superior Court judges in
4 adjudicating such.

5 **§16105. Functions and Duties of Hearing Officers.** Under the
6 authority of the Superior Court, a hearing officer shall have the following
7 duties in relation to government land takings and inverse condemnation
8 matters only:

9 (a) To take testimony and receive evidence for the record;
10 (b) To hear and decide motions and matters, unless the same are
11 appealed by any party, including but not limited to the following
12 matters:

- 13 1. Orders to show cause for contempt;
- 14 2. Motions of joinder;
- 15 3. Motions to amend pleadings or to dismiss;
- 16 4. Pretrial settlement conferences;
- 17 5. Motions to withdraw;
- 18 6. Mediation to compel discovery;
- 19 7. To conduct informal office conferences with the parties to
20 discuss and resolve problems or questions about any matters
21 relating to claims of government land takings or inverse
22 condemnation;
- 23 8. To refer appropriate cases to mediation;
- 24 9. To adjudicate the claim.

25 (c) Subpoena powers. A hearing officer or the clerk of court may issue
26 subpoenas and subpoenas duces tecum at the request of any party

1 in accordance with the provisions of §7201, et seq., of Title 6,
2 Guam Code Annotated.

3 **§16106. Cost of Investigation and Confirmation.** The agency or
4 instrumentality which is alleged to have taken land without just
5 compensation pursuant to this Chapter shall pay for the cost of investigating
6 and confirming claims. In the event that a claim is determined to be
7 frivolous and/or fraudulent, the claimant shall be held liable for any amounts
8 expended to investigate or confirm the claim.”

9 **§16107. Decisions Final Unless Timely Appealed.** All decisions of
10 the hearing officer shall be final unless, within thirty (30) days of the filing
11 of the decision adjudicating the claim, the claimant notifies the hearing
12 officer of the intent to appeal the decision to the Superior Court of Guam.
13 The claimant shall have two (2) years to file an appeal.

14 **Section 5. Severability.** If any provision of this Act or its application to any
15 person or circumstance is found to be invalid or contrary to law, such invalidity
16 shall not affect other provisions or applications of this Act which can be given
17 effect without the invalid provisions or application, and to this end the provisions
18 of this Act are severable.

19

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
 Chairman, Committee on General Government Operations
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PUBLIC HEARING SIGN-IN SHEET
 Thursday, December 26, 2013 – 10:30AM
 I Liheslatura Public Hearing Room • Hagatna, Guam

Bill No. 239-32 (COR) – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

NAME	AGENCY OR ORGANIZATION	POSITION		TESTIMONY		PHONE NO.	EMAIL ADDRESS
		SUPPORT	OPPOSE	WRITTEN	ORAL		
Pli Tydingco	AGU	<input checked="" type="checkbox"/> Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	477-5324	
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DIPATTAMENTON MINANEHAN TÁNO'
(Department of Land Management)
GUBETNAMENTON GUAHAN
(Government of Guam)



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December 24, 2013

The Honorable
Dennis G. Rodriguez, Jr.
Majority Whip
32nd Guam Legislature,
Suite 107, 176 Serenu Avenue
Tamuning, GU 96931

Buenas yan Hafa Adai Senator Rodriguez:

Thank you for the opportunity to provide testimony on Bill 239. Bill 239 was introduced on Dec. 13, 2013 and considering the complexity of this legislation, we are still researching data and information needed to address this legislation.

Upon cursory review, this bill, if passed, may cost taxpayers hundreds of millions of dollars in new debt. We must verify this and further analyze the depth and consequences of this bill's passage.

We humbly request additional time to provide this committee with our testimony.

Senseremente,

David V. Camacho,
Acting Director,
Department of Land Management





COMMITTEE ON RULES

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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member


Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

January 13, 2014

Memorandum

To: Rennae Meno
Clerk of the Legislature

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

Subject: Fiscal Notes /Waivers

Hafa Adai!

Attached please find the fiscal notes, or waivers for the bill numbers listed below.

Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTES:

Bill Nos. 235-32 (COR), 236-32 (COR), 237-32 (COR); 239-32 (COR), 240-32 (COR), 241-32 (COR), and 242-32 (COR)

WAIVER:

Bill No. 245-32 (COR)

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

Si Yu'os ma'åse'!

2014 JAN 13 PM 2:38

**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

JOSE S. CALVO
DEPUTY DIRECTOR

FACSIMILE INFORMATION PAGE

PLEASE DELIVER TO: Senator Rory Respicio

FACSIMILE NUMBER: 472-3547

FROM: BBMR

Total Pages including this page: 15

If you do not receive legible copies of all the pages, please call back as soon as possible. Phone numbers (671) 475-9412/9450. Fax number (671) 472-2825

RE: Fiscal Note on the following Bill Nos.: 235-32(COR), 236-32(COR), 237-32(COR), 239-32(COR), 240-32(COR), 241-32(COR), 242-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 245-32(COR).

COMMENTS: Fiscal Notes to be picked up via Central Files.

Thank You!

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORJOHN A. RIOS
DIRECTORRAY TENORIO
LIEUTENANT GOVERNORJOSE S. CALVO
DEPUTY DIRECTOR

JAN 10 2014

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

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 235-32(COR), 236-32(COR), 237-32(COR), 239-32(COR), 240-32(COR), 241-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 245-32(COR), ^{242-32(LOR)}

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



JOHN A. RIOS
Director

Enclosures
cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 239-32 (COR)**

AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL PROCESS TO ADDRESS CLAIMS RELATIVE TO PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY THE GOVERNMENT OF GUAM WITHOUT JUST COMPENSATION.

Department/Agency Appropriation Information	
Dept./Agency Affected: Department of Land Management	Dept./Agency Head: David Camacho, Acting Director
Department's General Fund (GF) appropriation(s) to date:	358,375
Department's Other Fund (Specify) appropriation(s) to date: Land Survey Revolving Fund	<u>\$3,145,845</u>
Total Department/Agency Appropriation(s) to date:	\$3,504,220

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2013 Unreserved Fund Balance ¹		\$0	\$0
FY 2014 Adopted Revenues	\$0	\$0	\$0
FY 2014 Appro. (P.L. 31-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2014 (if applicable)	FY 2015	FY 2016	FY 2017	FY 2018
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Special Fund	1/	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

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

Analyst: Jason Baza Date: 1/3/14 Director: John A. Rios Date: JAN 10 2014
 Jason W. Baza, BMA I John A. Rios, Director

Footnotes:
1/ See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH
COMMENTS ON BILL NO. 239-32 (COR)

The proposed legislation is aimed at creating a new chapter to be added to Division 2 of Title 21, Guam Code Annotated to reflect the legal process for filing claims in regards to Government land taking and condemnation actions. This new chapter, Chapter 81 of Division 2, Title 21 GCA, outlines the necessary steps for private property owners to receive proper compensation if they have been victims of improper exercise of eminent domain or negotiated transfer of their properties for public use sanctioned by the Government of Guam. The new chapter allows any person whose land was expropriated by the Government of Guam to file a claim for inverse condemnation, in which the agency or instrumentality that receives receipt of such claim has 60 days to act. According to §11311.1 of Chapter 11 GCA, "an action shall lie for the taking of a person's fee or for lesser compensable interest in the property which has been expropriated by the government of Guam without according the person due process."

The proposed legislation states that the cost of investigation and confirmation shall be paid by the agency/instrumentality that had allegedly taken land without just compensation if said agency/instrumentality is found guilty of unjust compensation by an appointed hearing officer. However, if the claim is found to be fraudulent, then the claimant is held responsible for the cost of investigation and confirmation.

Due to the fact that different claims can vary from property square footage and years owed compensation, the Bureau is unable to determine an approximate cost impact of this proposed legislation. Another factor deterring the Bureau from estimating an approximate cost impact is the variable factor of fraudulent claims that may arise in the claim filing process. However, assuming that a claim is legitimate and upheld in court, the Government of Guam is responsible for paying compensation to the property owner and covering the cost of the investigation and confirmation of claim.



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

December 16, 2013

VIA E-MAIL

john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 236-32 (COR), 237-32(COR), 238-32 (COR), 239-32 (COR) and 240-32 (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (1)

Cc: Clerk of the Legislature

Bill Nos.	Sponsor	Title
236-32 (COR)	Aline A. Yamashita, Ph.D. T.C. Ada	AN ACT TO ADD NEW SECTION 3102.5 AND SECTION 3102.6 THROUGH SECTION 3102.8 TO CHAPTER 3 OF TITLE 16, GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE DEPARTMENT OF REVENUE AND TAXATION TO OUTSOURCE THE DRIVER TESTING REQUIREMENT FOR CERTAIN COMMERCIAL DRIVER'S LICENSES, AND TO THE RECIPROCATION OF COMMERCIAL DRIVER'S LICENSES.
237-32 (COR)	Judith T. Won Pat, Ed.D. Aline A. Yamashita, Ph.D.	AN ACT TO AMEND SUBSECTION 12107(c)(4), SUBSECTION 12107(f) AND SUBSECTION 12107(g) OF CHAPTER 12, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM ACADEMY CHARTER SCHOOL ACT OF 2009.
238-32 (COR)	T.A. Morrison V. Anthony Ada Chris Duenas	AN ACT TO AMEND §1001 OF 1GCA RELATIVE TO REESTABLISHING GUAM DISCOVERY DAY AS A LEGAL HOLIDAY OF THE GOVERNMENT OF GUAM.
239-32 (COR)	Dennis G. Rodriguez, Jr. Michael F.Q. San Nicolas	AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL PROCESS TO ADDRESS CLAIMS RELATIVE TO PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY THE GOVERNMENT OF GUAM WITHOUT JUST COMPENSATION.
240-32 (COR)	T.R. MUÑA BARNES	AN ACT TO REZONE LOT NO. 54NEW-R1, BLOCK NO. 3, MUNICIPALITY OF TAMUNING, GUAM FROM SINGLE-FAMILY DWELLING ZONE (R-1) TO COMMERCIAL ZONE (C).



COMMITTEE ON RULES

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Michael F.Q. San Nicolas
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Senator
V. Anthony Ada
Member
MINORITY LEADER


Senator
Aline Yamashita
Member

December 16, 2013

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio 
Chairperson of the Committee on Rules

Subject: Referral of Bill Nos. 236-32(COR) through 240-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill Nos. 236-32(COR) through 240-32(COR)**.

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 Dos na Liheslaturan Guåhan*.

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

Si Yu'os Ma'åse!

Attachment



FIRST NOTICE of Public Hearing – December 26, 2013

Tessa Weidenbacher <tessa@senatorbjcruz.com>

Wed, Dec 18, 2013 at 10:01 AM

To: phnotice@guamlegislature.org

Cc: cor@guamlegislature.org, mis <mis@guamlegislature.org>

December 18, 2013

MEMORANDUM

To: All Members/All Senators

From: Senator Tina R. Muña Barnes, Acting Chairperson

Re: FIRST NOTICE of Public Hearing – December 26, 2013

Håfa Adai! The Committee on General Government Operations and Cultural Affairs will conduct a Public Hearing of Bills beginning at 10:30AM on Thursday, December 26, 2013, in the *Liheslatura* Public Hearing Room with the following agenda:

10:30AM – Public Hearing of Bills

- **Bill No. 234-32 (COR)** – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (l) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.
- **Bill No. 237-32 (COR)** – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.
- **Bill No. 239-32 (COR)** – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

Testimonies may be submitted via hand delivery to the Office of Vice Speaker Benjamin J.F Cruz at the Guam Legislature; via postal mail to 155 Hesler Street, Hagåtña Guam 96910; via facsimile to 477-2522; or via e-mail to senator@senatorbjcruz.com. Please submit testimonies at least one day prior to the date of the hearing.

All government activities, programs, and services are accessible for people with disabilities in compliance with Title II of the Americans with Disabilities Act (ADA). Should you or interested parties require assistance or special accommodations to fully participate in this public hearing, please contact Mr. Carlo J. Branch at the Office of the Vice Speaker at 477-2521 or via e-mail at carlo.branch@senatorbjcruz.com.

We look forward to your attendance and participation.


cc: COR
MIS
Media

--
Tessa Weidenbacher
/senior research analyst/

Vice Speaker Benjamin J.F. Cruz
I Minatrentai Dos Na Liheslaturan Guâhan
Phone: (671) 477-2520/1 | Fax: (671) 477-2522
<http://www.senatorbjcruz.com>

2 attachments

 **1st Notice PR PH 12262013.pdf**
190K

 **1st Notice PH 12262013.pdf**
211K



SECOND NOTICE of Public Hearing – December 26, 2013

Tessa Weidenbacher <tessa@senatorbjcruz.com>
To: phnotice@guamlegislature.org
Cc: cor@guamlegislature.org, mis <mis@guamlegislature.org>

Tue, Dec 24, 2013 at 10:00 AM

December 24, 2013

MEMORANDUM

To: All Members/All Senator
From: Senator Tina R. Muña Barnes, Acting Chairman
Re: SECOND NOTICE of Public Hearing – December 26, 2013

Håfa Adai! The Committee on General Government Operations and Cultural Affairs will conduct a Public Hearing of Bills beginning at **10:30AM** on **Thursday, December 26, 2013**, in the *Liheslatura* Public Hearing Room with the following agenda:

10:30AM - Public Hearing of Bills

- **Bill No. 234-32 (COR)** – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (I) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.
- **Bill No. 237-32 (COR)** – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.
- **Bill No. 239-32 (COR)** – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.

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We look forward to your attendance and participation.

cc: COR
MIS
Media

n.b. Links for agenda items direct to pertinent document (e.g Bill as Introduced).

–
Tessa Weidenbacher

/senior research analyst/

Vice Speaker Benjamin J.F. Cruz

I Mina'trentai Dos Na Liheslaturan Guåhan

Phone: (671) 477-2520/1 | Fax: (671) 477-2522

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2 attachments



2nd Notice PR PH 12262013.pdf

178K



2nd Notice PH 12262013.pdf

199K

**Listserv: phnotice@guamlegislature.org
As of December 17, 2013**

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As of December 17, 2013**

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Tessa Rivera <tessa.rivera@senatorbjcruz.com>

Invitation to Public Hearing: Bill 239

Carlo Branch <carlo.branch@senatorbjcruz.com>
To: drivera@guamag.org, Patrick Mason <pmason@guamag.org>
Bcc: tessa@senatorbjcruz.com

Mon, Dec 23, 2013 at 12:13 PM

AAG's. Rivera and Mason:

I was copied on Attorney Rivera's recent correspondence with Senator Ada's office relating to procurement matters presently before the Committee on General Government Operations. We thank you for your assistance.

We would also like to notify your office of our next Public Hearing scheduled for the 26th of December at 10:30a.m. at the Guam Legislature's Public Hearing Room. Of particular note is:

- ***Bill No. 239-32 (COR) – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation***

As always, any testimony the AG may provide will be greatly beneficial to the Committee. I can be reached at 477-2521 or 687-7567.

~Carlo

Agenda

- **Bill No. 234-32 (COR)** – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (l) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.
- **Bill No. 237-32 (COR)** – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.
- **Bill No. 239-32 (COR)** – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation



Tessa Weidenbecher <tessa@senatorbjcruz.com>

Bill 239

Carlo Branch <carlo.branch@senatorbjcruz.com>

Mon, Dec 23, 2013 at 12:28 PM


To: office@senatorada.org, William Brennan <will@senatorada.org>

Bcc: tessa@senatorbjcruz.com

Senator Ada:

Per our conversation, ***please see the attached measure scheduled for Public Hearing on the 26th of December at 10:30a.m.*** Of course, our office will work to contact all relevant parties but any assistance your office might provide with the entities under your purview would be greatly appreciated.

~ Carlo

 **Bill No. B239-32 (COR).pdf**
178K



Tessa Wainaina <tessa@senatorbjcruz.com>

Invitation For Testimony on Bill 239

Carlo Branch <carlo.branch@senatorbjcruz.com>

Mon, Dec 23, 2013 at 12:43 PM

To: telo.taitague@guam.gov

Bcc: tessa@senatorbjcruz.com

Senator Taitague:

The Committee on General Government Operations would like to notify the Office of the Governor of its next Public Hearing scheduled for the 26th of December at 10:30a.m. The hearing will be at the Guam Legislature's Public Hearing Room. Of particular note is:

- **Bill No. 239-32 (COR) – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation**

As always, any testimony interested agencies may provide will be greatly beneficial to the Committee. I can be reached at 477-2521 or 687-7567.

~Carlo

Agenda

- **Bill No. 234-32 (COR) – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (l) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.**
- **Bill No. 237-32 (COR) – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.**
- **Bill No. 239-32 (COR) – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation**



PUBLIC HEARING AGENDA

Thursday, December 26, 2013

I Liheslatura Public Hearing Room • Hagåtña, Guam

Public Hearing of Bills – 10:30AM

Bill No. 234-32 (COR) – M.F.Q. San Nicolas – An act to require that the office of technology establish a protocol to back-up critical electronic data necessary for the efficient operation of agencies by adding a new subsection (l) to §20204.1 of Article 2, Chapter 20, Title 5, Guam Code Annotated.

Bill No. 237-32 (COR) – J.T. Won Pat, Ed.D. / A.A. Yamashita, Ph.D. – An act to amend subsection 12107(c)(4), subsection 12107(f) and subsection 12107(g) of Chapter 12, Title 17, Guam Code Annotated, relative to the Guam Academy Charter School Act of 2009.

Bill No. 239-32 (COR) – D.G. Rodriguez, Jr. / M.F.Q. San Nicolas – An act to establish an Expedited Judicial Process to address claims relative to property expropriated for public purposes by the Government of Guam without just compensation.



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

January 13, 2014

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Memorandum

To: Rennae Meno
Clerk of the Legislature

Senator
Vicente (Ben) C. Pangelinan
Member

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

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Subject: Fiscal Notes /Waivers

Senator
Dennis G. Rodriguez, Jr.
Member

Hafa Adai!

Vice-Speaker
Benjamin J.F. Cruz
Member

Attached please find the fiscal notes, or waivers for the bill numbers listed below.

Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Legislative Secretary
Tina Rose Muña Barnes
Member

FISCAL NOTES:

Bill Nos. 235-32 (COR), 236-32 (COR), 237-32 (COR); 239-32 (COR), 240-32 (COR), 241-32 (COR), and 242-32 (COR)

Senator
Frank Blas Aguon, Jr.
Member

WAIVER:

Bill No. 245-32 (COR)

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

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

Senator
Aline Yamashita
Member

Si Yu'os ma'åse'!

2014 JAN 13 PM 2:38

**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
DIRECTOR

JOSE S. CALVO
DEPUTY DIRECTOR

FACSIMILE INFORMATION PAGE

PLEASE DELIVER TO: Senator Rory Respicio

FACSIMILE NUMBER: 472-3547

FROM: BBMR

Total Pages including this page: 15

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

as possible. Phone numbers (671) 475-9412/9450. Fax number (671) 472-2825

RE: Fiscal Note on the following Bill Nos.: 235-32(COR), 236-32(COR), 237-32(COR), 239-32(COR), 240-32(COR), 241-32(COR), 242-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 245-32(COR).

COMMENTS: Fiscal Notes to be picked up via Central Files.

Thank You!

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORJOHN A. RIOS
DIRECTORRAY TENORIO
LIEUTENANT GOVERNORJOSE S. CALVO
DEPUTY DIRECTOR

JAN 10 2014

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

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 235-32(COR), 236-32(COR), 237-32(COR), 239-32(COR), 240-32(COR), 241-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 245-32(COR), ^{242-32(LOR)}

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

JOHN A. RIOS
Director

Enclosures
cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 239-32 (COR)**

AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL PROCESS TO ADDRESS CLAIMS RELATIVE TO PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY THE GOVERNMENT OF GUAM WITHOUT JUST COMPENSATION.

Department/Agency Appropriation Information

Dept./Agency Affected: Department of Land Management		Dept./Agency Head: David Camacho, Acting Director	
Department's General Fund (GF) appropriation(s) to date:		358,375	
Department's Other Fund (Specify) appropriation(s) to date: Land Survey Revolving Fund		<u>\$3,145,845</u>	
Total Department/Agency Appropriation(s) to date:		\$3,504,220	

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2013 Unreserved Fund Balance ¹		\$0	\$0
FY 2014 Adopted Revenues	\$0	\$0	\$0
FY 2014 Appro. (P.L. 31-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2014 (if applicable)	FY 2015	FY 2016	FY 2017	FY 2018
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Special Fund	1/	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

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

Analyst: <u>Jason Baza</u> Jason W. Baza, BMA I	Date: <u>1/3/14</u>	Director: <u>John A. Rios</u> John A. Rios, Director	Date: <u>JAN 10 2014</u>
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Footnotes:
1/ See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH
COMMENTS ON BILL NO. 239-32 (COR)

The proposed legislation is aimed at creating a new chapter to be added to Division 2 of Title 21, Guam Code Annotated to reflect the legal process for filing claims in regards to Government land taking and condemnation actions. This new chapter, Chapter 81 of Division 2, Title 21 GCA, outlines the necessary steps for private property owners to receive proper compensation if they have been victims of improper exercise of eminent domain or negotiated transfer of their properties for public use sanctioned by the Government of Guam. The new chapter allows any person whose land was expropriated by the Government of Guam to file a claim for inverse condemnation, in which the agency or instrumentality that receives receipt of such claim has 60 days to act. According to §11311.1 of Chapter 11 GCA, "an action shall lie for the taking of a person's fee or for lesser compensable interest in the property which has been expropriated by the government of Guam without according the person due process."

The proposed legislation states that the cost of investigation and confirmation shall be paid by the agency/instrumentality that had allegedly taken land without just compensation if said agency/instrumentality is found guilty of unjust compensation by an appointed hearing officer. However, if the claim is found to be fraudulent, then the claimant is held responsible for the cost of investigation and confirmation.

Due to the fact that different claims can vary from property square footage and years owed compensation, the Bureau is unable to determine an approximate cost impact of this proposed legislation. Another factor deterring the Bureau from estimating an approximate cost impact is the variable factor of fraudulent claims that may arise in the claim filing process. However, assuming that a claim is legitimate and upheld in court, the Government of Guam is responsible for paying compensation to the property owner and covering the cost of the investigation and confirmation of claim.



COMMITTEE ON RULES

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Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

December 16, 2013

VIA E-MAIL

john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 236-32 (COR), 237-32(COR), 238-32 (COR), 239-32 (COR) and 240-32 (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (1)

Cc: Clerk of the Legislature

Bill Nos.	Sponsor	Title
236-32 (COR)	Aline A. Yamashita, Ph.D. T.C. Ada	AN ACT TO ADD NEW SECTION 3102.5 AND SECTION 3102.6 THROUGH SECTION 3102.8 TO CHAPTER 3 OF TITLE 16, GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE DEPARTMENT OF REVENUE AND TAXATION TO OUTSOURCE THE DRIVER TESTING REQUIREMENT FOR CERTAIN COMMERCIAL DRIVER'S LICENSES, AND TO THE RECIPROCATION OF COMMERCIAL DRIVER'S LICENSES.
237-32 (COR)	Judith T. Won Pat, Ed.D. Aline A. Yamashita, Ph.D.	AN ACT TO AMEND SUBSECTION 12107(c)(4), SUBSECTION 12107(f) AND SUBSECTION 12107(g) OF CHAPTER 12, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM ACADEMY CHARTER SCHOOL ACT OF 2009.
238-32 (COR)	T.A. Morrison V. Anthony Ada Chris Duenas	AN ACT TO AMEND §1001 OF 1GCA RELATIVE TO REESTABLISHING GUAM DISCOVERY DAY AS A LEGAL HOLIDAY OF THE GOVERNMENT OF GUAM.
239-32 (COR)	Dennis G. Rodriguez, Jr. Michael F.Q. San Nicolas	AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL PROCESS TO ADDRESS CLAIMS RELATIVE TO PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY THE GOVERNMENT OF GUAM WITHOUT JUST COMPENSATION.
240-32 (COR)	T.R. MUÑA BARNES	AN ACT TO REZONE LOT NO. 54NEW-R1, BLOCK NO. 3, MUNICIPALITY OF TAMUNING, GUAM FROM SINGLE-FAMILY DWELLING ZONE (R-1) TO COMMERCIAL ZONE (C).



COMMITTEE ON RULES

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MINORITY LEADER


Senator
Aline Yamashita
Member

December 16, 2013

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio 
Chairperson of the Committee on Rules

Subject: Referral of Bill Nos. 236-32(COR) through 240-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill Nos. 236-32(COR) through 240-32(COR)**.

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 Dos na Liheslaturan Guåhan*.

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

Si Yu'os Ma'åse!

Attachment

I MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (FIRST) Regular Session

Bill No. 239 -32 (*coR*)

Introduced by:

Dennis G. Rodriguez, Jr. ✓
Michael F.Q. San Nicolas (P)

**AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL
PROCESS TO ADDRESS CLAIMS RELATIVE TO
PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY
THE GOVERNMENT OF GUAM WITHOUT JUST
COMPENSATION**

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

2 **Section 1. Short Title.** This Act shall be cited as the “Government
3 Takings Compensation Act.”

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
5 that the manner and method of taking land for public easements must be in
6 accordance with the Organic Act of Guam and the laws of Guam. However, when
7 establishing easements, government agencies and instrumentalities have placed
8 utility infrastructure on private property without the proper exercise of eminent
9 domain or negotiated transfer. These encroachments have placed an unfair burden
10 upon citizens seeking redress, and only those who can afford attorney’s fees and
11 professional surveying services have the capacity to confirm that these
12 encroachments have violated the law.

13 It is the intent of *I Liheslatura* to place the burden of proof on the
14 government entity alleged to have established the easement or placed the utility
15 infrastructure on the private property in question. If it is found that government

2013 OCT 13 PM 5:28

1 encroachment is proven, claimants should be allowed just compensation from the
2 time of the encroachment determination. Market value should be calculated from
3 time of the taking pro-rated to the value at the time period and claimant should be
4 entitled to receive interest on the fair market amount due accruing from time of
5 taking.

6 It is therefore the intent of *I Liheslatura* to establish an expedited judicial
7 process within the courts to address such matters and make determinations as to
8 claims and determine adequate compensation.

9 **Section 3.**Section 11311.1 of Article 3 of Chapter 11 of Title 7 of the Guam
10 Code Annotated is *amended* to read as follows:

11 “§ **11311.1. Inverse Condemnation.** Any person whose land was
12 expropriated for public purposes by the government of Guam between
13 August 1, 1950, and July 1, 1994, and who has not been compensated by the
14 government of Guam for such taking may institute an action for inverse
15 condemnation. In any taking by the government of Guam after July 1, 1994,
16 in which the government fails to follow the eminent domain provisions of
17 Title 21, Guam Code Annotated, the person whose land is taken shall have
18 five (5) ~~four (4)~~ years from the time of such taking, or by December 31,
19 2017, whichever is later, to institute an action for inverse condemnation
20 pursuant to 21 GCA Chapter 16. For purposes of this section, the current
21 owner of the land subject to the claim may seek compensation dating back to
22 the time of the taking. An action shall lie for the taking of a person’s fee or
23 for lesser compensable interest in the property which has been expropriated
24 by the government of Guam without according the person due process. In
25 any action for inverse condemnation in which an award is made to a person
26 for a taking, the court shall also award reasonable attorney’s fees and costs.”

1 **Section 4.** A new Chapter 81 is hereby *added* to Division 2 of Title 21,
2 Guam Code Annotated, to read:

3 **“Chapter 16**

4 **Claims for Government Land Taking & Condemnation Actions**

5 **§16101. Filing A Claim.** Any person whose land was expropriated by
6 the government of Guam who has not been compensated by the government
7 of Guam for such taking may file a claim for inverse condemnation with the
8 agency or instrumentality which expropriated such land. In any taking by the
9 government of Guam after July 1, 1994, in which the government failed to
10 follow the eminent domain provisions of 21 GCA, a claim may be filed for
11 inverse condemnation within five (5) years from the time of such taking, or
12 by December 31, 2017, whichever is later. Such claim shall precede the
13 filing of any action pursuant to §11311.1 of 7 GCA. All claims shall include
14 documentation that the claimant has real interest in the property.

15 **§16102. Administrative Adjudication.** Upon receipt of a claim, the
16 head of any agency or instrumentality to which a claim was filed shall have
17 60 days to act.

18 **§16103. Expedited Judicial Process for Claims for Government**
19 **Land Taking and Condemnation.** The Judiciary of Guam shall establish
20 an expedited judicial process within the Superior Court of Guam to address
21 claims for government land taking and condemnation actions, which shall be
22 a court of record administered by one (1) or more Hearing Officers who
23 shall be appointed by the Chief Justice of the Supreme Court of Guam and
24 who shall be subject to the conditions articulated in §4401(b) of Title 7,
25 Guam Code Annotated, regarding magistrates. Such matters shall be filed as
26 Government Takings Proceedings.

1 **§16104. Purpose.** The purpose of this expedited process is to provide
2 a speedy and efficient legal process for government land takings and inverse
3 condemnation cases which will assist the Superior Court judges in
4 adjudicating such.

5 **§16105. Functions and Duties of Hearing Officers.** Under the
6 authority of the Superior Court, a hearing officer shall have the following
7 duties in relation to government land takings and inverse condemnation
8 matters only:

9 (a) To take testimony and receive evidence for the record;

10 (b) To hear and decide motions and matters, unless the same are
11 appealed by any party, including but not limited to the following
12 matters:

13 1. Orders to show cause for contempt;

14 2. Motions of joinder;

15 3. Motions to amend pleadings or to dismiss;

16 4. Pretrial settlement conferences;

17 5. Motions to withdraw;

18 6. Mediation to compel discovery;

19 7. To conduct informal office conferences with the parties to
20 discuss and resolve problems or questions about any matters
21 relating to claims of government land takings or inverse
22 condemnation;

23 8. To refer appropriate cases to mediation;

24 9. To adjudicate the claim.

25 (c) Subpoena powers. A hearing officer or the clerk of court may issue
26 subpoenas and subpoenas duces tecum at the request of any party

1 in accordance with the provisions of §7201, et seq., of Title 6,
2 Guam Code Annotated.

3 **§16106. Cost of Investigation and Confirmation.** The agency or
4 instrumentality which is alleged to have taken land without just
5 compensation pursuant to this Chapter shall pay for the cost of investigating
6 and confirming claims. In the event that a claim is determined to be
7 frivolous and/or fraudulent, the claimant shall be held liable for any amounts
8 expended to investigate or confirm the claim.”

9 **§16107. Decisions Final Unless Timely Appealed.** All decisions of
10 the hearing officer shall be final unless, within thirty (30) days of the filing
11 of the decision adjudicating the claim, the claimant notifies the hearing
12 officer of the intent to appeal the decision to the Superior Court of Guam.
13 The claimant shall have two (2) years to file an appeal.

14 **Section 5. Severability.** If any provision of this Act or its application to any
15 person or circumstance is found to be invalid or contrary to law, such invalidity
16 shall not affect other provisions or applications of this Act which can be given
17 effect without the invalid provisions or application, and to this end the provisions
18 of this Act are severable.

19