

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.		Fiscal Note Requested 12/16/13 Fiscal Note Received 1/13/14



COMMITTEE ON RULES

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

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

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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(COR)}

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

- Does the bill contain "revenue generating" provisions? /X/ Yes / / No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriator? /X/ N/A / / Yes / / No
If no, what is the additional amount required? \$ _____
- 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
- 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
/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.



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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 RECIPROCATATION 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).



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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

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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 *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 **§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