

I Mina'Trentai Dos Na Liheslaturan Received
Bill Log Sheet

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES |
|--------------------|----------------|---|----------------------|---------------|--|---------------------|-----------------------------|-------------------------------------|
| 320-32 (LS) | V.C.Pangelinan | AN ACT TO ADD A NEW CHAPTER 53 TO DIVISION 2, AND TO ADD A NEW SECTION 70134 TO CHAPTER 70, DIVISION 3, TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE THE CREATION OF THE GUAM QUALIFIED RETIREMENT PLAN AND TRUST ACT. | 4/14/14 1:33 p.m. | 04/14/14 | Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land | | | Fiscal Note Request 04/15/14 |



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

Senator
Dennis G. Rodriguez, Jr.
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Vice-Speaker
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Senator
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Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

April 15, 2014

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. 309-32 (COR), 310-32(LS), 311-32(LS), 312-32(LS), 313-32(LS), 314-32(LS), 315-32(LS), 316-32(LS), 317-32(LS), 318-32(LS), 319-32(LS), and 320-32(LS)

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. | Sponsors | Title |
|--------------|---|---|
| 309-32 (COR) | V.C.Pangelinan B. J.F. Cruz | AN ACT TO ADD A NEW SECTION 7 TO CHAPTER I OF PUBLIC LAW 32-068 AND TO REPEAL AND RE-ENACT SECTION 13109(a)(5), CHAPTER 13, TITLE 2 OF THE GUAM CODE ANNOTATED, RELATIVE TO PRIORITIZING THE USES OF ADDITIONAL SECTION 30 REVENUES AND TO INCREASE TRANSPARENCY AND ACCOUNTABILITY IN THE REPORTING OF SECTION 30 REVENUES TO BE RECEIVED BY THE GOVERNMENT OF GUAM. |
| 310-32 (LS) | FRANK B. AGUON, JR. | AN ACT TO ADD A NEW §55104, §55104.1, §55104.2, §55104.3 TO CHAPTER 55, DIVISION 3, TITLE 10, GUAM CODE ANNOTATED; RELATIVE TO THE ESTABLISHMENT OF PHYSICAL FITNESS STANDARDS AND POLICIES FOR PUBLIC SAFETY AND LAW ENFORCEMENT UNIFORM PERSONNEL; AND SHALL HENCEFORTH BE KNOWN AS THE “FIT TO SERVE AND PROTECT ACT OF 2014”. |
| 311-32 (LS) | FRANK B. AGUON, JR. | AN ACT RELATIVE TO APPROPRIATING THE FUNDS AVAILABLE IN THE LIMITED GAMING FUND IN FISCAL YEAR 2013-2014 IN ACCORDANCE WITH PUBLIC LAW 32-060. |
| 312-32 (LS) | FRANK B. AGUON, JR. | AN ACT RELATIVE TO APPROPRIATING THE FUNDS IN THE GMHA HEALTHCARE TRUST AND DEVELOPMENT FUND TO THE GUAM MEMORIAL HOSPITAL AUTHORITY PURSUANT TO PUBLIC LAW 32-060; BY AMENDING SUBSECTION “(B)” OF §97103, CHAPTER 97, ARTICLE 1, TITLE 10, GUAM CODE ANNOTATED. |
| 313-32 (LS) | Brant T. McCreddie V. Anthony Ada Chris M. Dueñas Michael T. Limtiaco Tommy Morrison Aline A. Yamashita, Ph.D. FRANK B. AGUON, JR. Dennis G. Rodriguez, Jr. | AN ACT TO CREATE A NEW ARTICLE 6 TO CHAPTER 90 TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE CONSTRUCTION AND RENOVATION OF THE DEPARTMENT OF CORRECTIONS ADULT CORRECTIONAL FACILITY TO ENSURE THE SAFETY OF THE PEOPLE OF GUAM; WHICH SHALL COLLECTIVELY BE CITED AS “THE DEPARTMENT OF CORRECTIONS CONSTRUCTION INITIATIVE ACT OF 2014”. |
| 314-32 (LS) | Aline A. Yamashita, Ph.D | AN ACT TO ADD A NEW CHAPTER 81 TO TITLE 21, GUAM CODE ANNOTATED RELATIVE TO CREATING A STREAMLINED AND EXPEDITED PROCESS FOR REZONING REAL PROPERTY FOR CONSTRUCTING SMALL PROJECTS BY PARTIALLY PRIVATIZING THE PROCESS. |
| 315-32 (LS) | Michael F.Q. San Nicolas | AN ACT TO APPROPRIATE TWO HUNDRED NINETY-TWO THOUSAND EIGHT HUNDRED DOLLARS (\$292,800) TO FUND PROGRAMS FOR DRUG AND ALCOHOL TREATMENT SERVICES AND EMERGENCY YOUTH SHELTER FOR HOMELESS, RUNAWAY, AND ABUSED YOUTH, BY ADDING A NEW §11 TO CHAPTER XI OF PUBLIC LAW 32-068. |

| Bill Nos. | Sponsors | Title |
|--------------------|--------------------|---|
| 316-32(LS) | Benjamin J.F. Cruz | AN ACT TO REPEAL AND REENACT §3105, CHAPTER 3 OF TITLE 22 OF THE GUAM CODE ANNOTATED RELATIVE TO RESPONSIBLY RAISING THE MINIMUM WAGE. |
| 317-32 (LS) | T.A. Morrison | AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 46 OF 9GCA RELATIVE TO THE CRIME OF PHISHING. |
| 318-32 (LS) | T.A. Morrison | AN ACT TO ADD A NEW ARTICLE 5 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO CREATING THE “COMPUTER PROTECTION ACT,” |
| 319-32 (LS) | T.A. Morrison | AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO CREATING THE “COMPUTER SPYWARE PROTECTION ACT,” |
| 320-32 (LS) | V.C. Pangelinan | AN ACT TO ADD A NEW CHAPTER 53 TO DIVISION 2, AND TO ADD A NEW SECTION 70134 TO CHAPTER 70, DIVISION 3, TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE THE CREATION OF THE GUAM QUALIFIED RETIREMENT PLAN AND TRUST ACT. |



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April 14, 2014

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 No. 320-32(LS)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 320-32(LS)**.

Please ensure that the subject bill is 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.

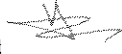
Si Yu'os Ma'åse!

Attachment

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 320 -32 (LS)

Introduced by:

V. C. Pangelinan 

**AN ACT TO *ADD* A NEW CHAPTER 53 TO DIVISION 2,
AND TO *ADD* A NEW SECTION 70134 TO CHAPTER 70,
DIVISION 3, TITLE 11 OF THE GUAM CODE
ANNOTATED, RELATIVE THE CREATION OF THE
GUAM QUALIFIED RETIREMENT PLAN AND TRUST
ACT.**

2014 APR 14 PM 1:33
MBA

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Statement and Intent. *I Liheslaturan Guåhan*

finds that companies on Guam have continued to offer qualified retirement plans and/or trusts to its employees as a benefit of employment. The offering and administering of such retirement plans requires that distributions from such retirement plans to its participants require Guam Territorial Income Tax (GTIT) withholding taxes be paid as a result of such distributions from such retirement plans.

I Liheslaturan Guåhan further finds that several qualified retirement plans and/or trusts continue to pay GTIT withholding taxes to other tax jurisdictions, such as the Internal Revenue Service (IRS) and not the Department of Revenue and Taxation (DRT), thereby complicating the DRT's collection efforts of such withholding taxes. *I Liheslatura* further aims to assist the DRT in collecting GTIT withholding taxes from these qualified retirement plans and/or trusts which *may* result in an increase in realized tax revenues that *may* be overlooked as a result of qualified retirement plans and/or trusts paying to other tax jurisdictions.

1 Therefore, it is the intent of *I Liheslaturan Guåhan* to establish an
2 administrative mechanism that will penalize qualified retirement plans and/or trusts
3 offered, provided, and/or administered on Guam that do not file and pay GTIT
4 withholding taxes for the participants in such retirement plans thereby
5 incentivizing the proper procedures and requirements of paying GTIT withholding
6 taxes to the DRT and not to other tax jurisdictions.

7 **Section 2. Guam Qualified Retirement Plan and Trust.** A new Chapter
8 53 is hereby *added* to Division 2 of Title 11, Guam Code Annotated, to read:

9 **“CHAPTER 53**

10 **GUAM QUALIFIED RETIREMENT PLAN AND TRUST ACT**

- 11 § 53101. Title.
12 § 53102. Application.
13 § 53103. Definitions.
14 § 53104. Administration.
15 § 53105. Qualifications for a Certificate of Qualified Retirement
16 Plan and Trust.
17 § 53106. Examinations.
18 § 53107. Inspections.
19 § 53108. Penalty.
20 § 53109. Certificates not Transferable.
21 § 53110. Suspension and Revocation of Certificate.
22 § 53111. Rules.
23 § 53112. Reproduction; Certified Copies and Authentication: Fees.
24 § 53113. Effective Date.
25 § 53114. Severability.
26 **§ 53101. Title.** This Chapter may be cited as the *Guam Qualified*

27 *Retirement Plan and Trust Act of 2014.*

1 **§ 53102. Application.** This Act *shall only* apply to qualified
2 retirement plans and trusts that qualify under 26 U.S.C. § 401 – Qualified
3 pension, profit-sharing, and stock bonus plans offered, provided, and/or
4 administered on Guam.

5 **§ 53103. Definitions.**

6 (a) *Certificate shall* mean and include a recognition of a Plan that
7 qualifies under 26 U.S.C. § 401 – Qualified pension, profit-sharing, and
8 stock bonus plans administered on Guam, by the Commissioner such that a
9 penalty *shall* not be assessed for such valid and authorized certificate
10 holders.

11 (b) *Commissioner shall* mean the Tax Commissioner pursuant to
12 11 GCA § 26102.

13 (c) *Person shall* mean and include any individual, firm, co-
14 partnership, joint venture, association, corporation, estate, trust, or other
15 group or combination acting as a unit.

16 (d) *Plan shall* mean a qualified retirement plan and/or trust that
17 qualify under 26 U.S.C. § 401, offered, provided, and/or administered on
18 Guam.

19 **§ 53104. Administration.** The Commissioner of the Department
20 of Revenue and Taxation (DRT) *shall* have responsibility for the
21 administration and enforcement of this Chapter.

22 **§ 53105. Qualifications for a Certificate of Qualified**
23 **Retirement Plan and Trust.**

24 (a) Persons that offer and provide Plans *shall* require a certificate
25 from the Commissioner in recognition of meeting the qualifications of
26 providing such Plans. Such certificate *shall* be granted by the Commissioner
27 to Plans that meet the following criteria:

1 (1) pays a one-time filing fee of Five Hundred Dollars
2 (\$500.00) to the DRT to be deposited into the Better Public Service
3 Fund;

4 (2) maintains separate Plans *only* for Guam-based
5 participants paying Guam Territorial Income Taxes to the DRT and
6 does not commingle participants that pay income taxes to other tax
7 jurisdictions other than Guam, unless such participants that pay
8 income taxes to other tax jurisdictions also pay Guam Territorial
9 Income Taxes to the DRT;

10 (3) makes Guam Territorial Income Tax withholding tax
11 payments for all Guam-based participants in such Plan on the
12 applicable due date to the DRT; and

13 (4) files quarterly and annual tax returns for such qualified
14 retirement plan and/or trust with the DRT.

15 (b) Persons offering and providing Plans prior to the enactment of
16 this Act *shall*:

17 (1) demonstrate that said person has been filing Guam
18 Territorial Income Tax withholding taxes with the DRT for Guam-
19 based participants in said person's Plan for the previous three (3) tax
20 years;

21 (2) if said person offering and providing a Plan has not been
22 properly paying Guam Territorial Income Tax withholding taxes to
23 the DRT for Guam-based participants in said person's Plan for the
24 previous three (3) years, but has notified the DRT of such payment to
25 another tax jurisdiction, demonstrate that said person is working with
26 the DRT to obtain Guam Territorial Income Tax withholding tax
27 payments via the Section 30 process if said person has *not* been

1 paying Guam Territorial Income Tax withholding taxes directly to the
2 DRT for Guam-based participants in said person's Plan; or

3 (3) if said person offering and providing a Plan has not been
4 properly paying Guam Territorial Income Tax withholding taxes to
5 the DRT for Guam-based participants in said person's Plan for the
6 previous three (3) years, but has *not* notified the DRT of such
7 payment to another tax jurisdiction, then said person *shall* file
8 amended tax returns for the previous three (3) tax years and pay the
9 DRT any past due taxes as a result of filing and paying withholding
10 taxes to the improper tax jurisdiction.

11 **§ 53106. Examinations.** Examination of the qualifications of any
12 Plan *shall* be the duty and responsibility of the Commissioner.

13 **§ 53107. Inspections.** It *shall* be the duty and responsibility of the
14 Commissioner to make periodic inspections or examinations of Plans to see
15 that they conform at all times to the required qualifications.

16 **§ 53108. Penalty.** Companies that offer and provide Plans without
17 a certificate from the DRT in recognition of meeting the qualifications of
18 providing such Plans *shall* be subject to a penalty of Five Hundred Dollars
19 (\$500.00) per annum until such time a certificate is granted for such Plan.

20 **§ 53109. Certificates not Transferable.** Every certificate of Plans
21 issued under this Chapter *shall* be deemed to be personal and *shall* be issued
22 to the person or persons making application therefor, and *may* not in any
23 circumstances be transferred to any other person except upon written
24 application to and written approval by the Commissioner.

25 **§ 53110. Suspension and Revocation of Certificate.** Any person
26 holding a certificate under the provisions of this Chapter who refuses or fails
27 to comply with any provision of applicable regulatory statutes, rules or

1 regulation *shall* be subject to the penalty of having his certificate either
2 suspended for a period of time or revoked by the Commissioner. The
3 suspension or revocation of any license of a person making application for
4 any new certificate *shall* be taken into consideration by the Commissioner
5 for the granting of the new certificate and may, in the Commissioner's
6 discretion, be grounds for refusal to grant a new certificate.

7 **§ 53111. Rules.** The Commissioner *may* adopt rules to implement
8 and administer this Chapter pursuant to the Administration Adjudication
9 Act.

10 **§ 53112. Reproduction; Certified Copies and Authentication:**
11 **Fees.** The fee for the reproduction of copies, certified copies, and
12 authentication for the Certificates identified in this Chapter *shall* be Twenty
13 Five Dollars (**\$25.00**) for each request.

14 **§ 53113. Effective Date.** This Act *shall* take effect upon its
15 enactment and apply prospectively.

16 **§ 53114. Severability.** *If* any provision of this Act or its
17 application to any person or circumstance is held invalid, the invalidity *shall*
18 *not* affect other provisions or applications of this Act which can be given
19 effect without the invalid provision or application and to this end the
20 provisions of this Act is severable.”

21 **Section 3.** A new Section 70134 is hereby *added* to Chapter 70, Division 3,
22 Title 11 of the Guam Code Annotated to read:

23 “**§ 70134. Requirement for License Holders Transacting for**
24 **Qualified Retirement Plans and Trusts.** Businesses holding a License *and*
25 transacting with or on behalf of a qualified retirement plan and/or trust that
26 qualify under 26 U.S.C. § 401, offered, provided, and/or administered on
27 Guam, *shall* obtain a copy of the plan(s) Certificate(s) of Qualified

1 Retirement Plan and Trust pursuant to § 53105, Chapter 53, Division 2 of
2 Title 11, Guam Code Annotated. License holders that fail to obtain a copy of
3 said certificate(s) *shall* be subject to a penalty of Five Hundred Dollars
4 (\$500.00) per annum, per plan until such time a copy of the certificate(s) is
5 obtained. For the purposes of this Section, transact *shall* mean and include,
6 but not be limited to, making contributions to qualified retirement plan
7 and/or trust that qualify under 26 U.S.C. § 401, offered, provided, and/or
8 administered on Guam.

9 All current businesses holding a License currently transacting with a
10 qualified retirement plan and/or trust that qualify under 26 U.S.C. § 401,
11 offered, provided, and/or administered on Guam before the enactment of this
12 Act *shall* have One Hundred Eighty (180) days to obtain said certificate
13 from the date each plan obtains its certificate.”

14 **Section 4. Effective Date.** This Act *shall* take effect upon its enactment and
15 apply prospectively.

16 **Section 5. Severability.** *If* any provision of this Act or its application to any
17 person or circumstance is held invalid, the invalidity *shall not* affect other
18 provisions or applications of this Act which can be given effect without the invalid
19 provision or application and to this end the provisions of this Act is severable.”
20