



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

25 JUN 2009

2009 JUN 25 PM 4:59 AM

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina' Trenta Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

30-09-0747
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date: 6/25/09
Time: 3:51
Received by: [Signature]

Dear Speaker Won Pat:

Please find attached Bill No. 81 (COR), "AN ACT TO AMEND SUBSECTION (f) OF §15102, AND TO ADD NEW SUBSECTIONS (g), (h) and (i) TO §15205, ALL OF CHAPTER 15 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE DISCLOSURE OF CONFLICTS OF INTEREST," which I have signed into law on June 16, 2009 as Public Law No. 30-30.

The people of Guam hold public officials to a standard of integrity, trust and accountability. As such, government employees aim to provide a public service based solely on what is in the best interest of the people of Guam.

Guam law ensures the integrity of public servants and protects the people of Guam from government employees abusing their position of public trust. Currently, government employees including contract employees and board members are precluded from taking official action affecting a business or undertaking which the employee or employee's spouse or dependent children have a financial interest.

Bill No. 81 precludes all government employees with knowledge that the employee has a financial interest from deciding, discussing or influencing the decision of others on such matter. The legislation expands financial interest to include children (not just dependent), parents, siblings and in-laws and requires a reasonable investigation to ascertain whether these family members have an ownership interest in a business, a creditor interest in an insolvent business, an employment or prospective employment for which negotiations have begun, an ownership interest in person or real property, a loan or other debtor interest, or a directorship or officership in a business.

Unfortunately, the Bill does not define “reasonable investigation” by which to determine whether the employee should have known their children, parents, siblings and in-laws have a financial interest as described above. While some of this information may be attainable, the lack of parameters by which to judge the conduct of an employee may lead to subjective and unfair application of the law.

Furthermore, if a government employee, before dealing with any matter, is required to consult with and obtain responses from their children, parents, siblings and in-laws on whether each of them has any financial interest, ownership interest in a business, a creditor interest in an insolvent business, an employment or prospective employment for which negotiations have begun, an ownership interest in person or real property, a loan or other debtor interest, or a directorship or officership in a business, we will likely see further delays in the prompt execution of government work due to the realistic concern that no action should be taken by a government official until they are certain that all of their children, parents, siblings and in-laws do not have any financial interest, ownership interest in a business, a creditor interest in an insolvent business, an employment or prospective employment for which negotiations have begun, an ownership interest in person or real property, a loan or other debtor interest, or a directorship or officership in a business.

While I support measures to promote public integrity, I also support the hardworking and upstanding government employees that strive to provide public services to our people and would not subject them to unfair treatment. As such, I urge *I Liheslaturan Guåhan* to revisit the legislation and establish the parameters of reasonable investigation and provide guidance to our employees.

Sinseru yan Magåhet,

A handwritten signature in dark ink, appearing to read 'MICHAEL W. CRUZ', with a long horizontal stroke extending to the left.

MICHAEL W. CRUZ, M.D.

I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

Attachment

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

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

This is to certify that Bill No. 81 (COR), "AN ACT TO AMEND SUBSECTION (f) OF §15102, AND TO ADD NEW SUBSECTIONS (g), (h) and (i) TO §15205, ALL OF CHAPTER 15 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE DISCLOSURE OF CONFLICTS OF INTEREST," was on the 29th day of May 2009, duly and regularly passed.

Attested:



Tina Rose Muña Barnes
Legislative Secretary



Judith T. Won Pat, Ed. D.
Speaker

This Act was received by *I Maga'lahren Guåhan* this 4 day of June, 2009, at
955 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



MIKE W. CRUZ, MD
GOVERNOR OF GUAM ACTING

Date: 16 JUN 2009

Public Law No. 30-30

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 81 (COR)
As amended on the Floor.

Introduced by:

Judith T. Won Pat, Ed. D.
T. R. Muña Barnes
T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
v. c. pangelinan
Adolpho B. Palacios, Sr.
M. J. Rector
R. J. Respicio
Telo Taitague
Ray Tenorio

**AN ACT TO *AMEND* SUBSECTION (f) OF §15102, AND
TO *ADD* NEW SUBSECTIONS (g), (h) and (i) TO §15205,
ALL OF CHAPTER 15 OF TITLE 4 OF THE GUAM
CODE ANNOTATED, RELATIVE TO THE
DISCLOSURE OF CONFLICTS OF INTEREST.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that decisions made by officials and employees of the government of Guam should
4 be based *solely* on what is in the best interest of the public and that it must protect
5 the integrity of its government by prohibiting any government official and
6 employee from engaging in any business *or* transactions, from rendering services

1 or from having contractual, financial, or personal interests, direct or indirect,
2 which are in conflict with or which would create a justifiable impression in the
3 public of conflict or which would tend to impair independence or objectivity of
4 judgment or action in the performance of official duties.

5 *I Liheslatura* further finds that the government of Guam requires disclosure
6 of the assets and income of elected officials and certain employees so that the
7 public may review actual and potential conflicts of interest.

8 Therefore, it is the intent of *I Liheslatura* to require government officials and
9 employees to disclose financial or personal interest in any proposed matter or
10 decision pending before him.

11 **Section 2.** Subsection (f) of §15102 of Chapter 15 of Title 4 of the Guam
12 Code Annotated is hereby *amended* to read:

13 “(f) *financial interest* means an interest held by an individual, his or
14 her spouse, natural, adopted, or dependent children, parents, parents-in-law,
15 siblings, or siblings-in-law which is:

- 16 (1) an ownership interest in a business;
- 17 (2) a creditor interest in an insolvent business;
- 18 (3) an employment, or prospective employment for which
19 negotiations have begun;
- 20 (4) an ownership interest in personal or real property;
- 21 (5) a loan or other debtor interest; or
- 22 (6) a directorship or officership in a business.”

23 **Section 3.** New Subsections (g), (h) and (i) are hereby *added* to §15205 of
24 Chapter 15 of Title 4 of the Guam Code Annotated to read:

25 “(g) All employees, as defined in this Section, who know, or with
26 reasonable investigation should know, that the employee has a financial
27 interest in any decision pending before that employee or the agency of

1 which the employee is a member *shall not* vote for or against, discuss,
2 decide, in any way participate in considering the matter, *or* seek to influence
3 the votes *or* decisions of others on such matter.

4 *Prior* to any determination of the matter, the employee *shall* verbally
5 disclose at the meeting, *if* any, the nature of such interest, and *shall* have
6 such disclosure placed in the official records of the agency. Should an
7 employee be absent from that meeting *or* a portion of that meeting, the
8 employee is required to verbally disclose the nature of the conflict at the
9 next attended meeting and said disclosure *shall* be placed in the official
10 records of the agency. Further, the employee must complete a Disclosure of
11 Conflicts of Interest form with the Guam Election Commission within three
12 (3) working days upon the employee's recognition of said conflict.

13 (h) A legislator who casts a vote with respect to any bill on the
14 floor of the Guam Legislature in which the legislator has a financial interest
15 shall prepare a written statement that identifies the bill, the legislator's vote
16 and the nature of the legislator's financial interest. The legislator shall file
17 the statement with the Office of the Speaker and a copy immediately
18 provided to the Clerk of *I Liheslaturan Guåhan* prior to voting. The
19 statement shall be posted on *I Liheslaturan Guåhan's* website.

20 (i) The Guam Election Commission shall be the main repository
21 for the Disclosure of Conflicts of Interest forms and shall create such form to
22 be distributed to all departments, agencies, boards and commissions. Such
23 form shall include, but not be limited to, the name of the employee, the
24 entity represented, and a statement of disclosure describing the matter or
25 decision pending before the employee, and the nature and description of the
26 conflict.”