



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

7:00 PM 1:10

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

DEC 24 2009

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 135-30 (COR) "AN ACT TO ADD A NEW CHAPTER 26A TO DIVISION 2 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPHSS) TO CONTRACT AN INDEPENDENT ENVIRONMENTAL HEALTH INSPECTION COMPANY(S) TO CONDUCT SANITARY INSPECTIONS ON BEHALF OF DPHSS; AND TO FUND INSPECTION SERVICES FROM FEES AUTHORIZED TO BE COLLECTED UNDER §7119 OF CHAPTER 7, TITLE 22 OF GUAM CODE ANNOTATED" which I signed into law on November 27, 2009 as Public Law 30-64.

Sins eru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy of Bill

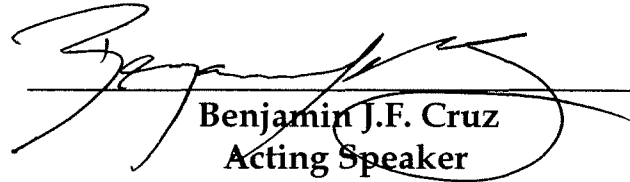
30-69-1457

[Handwritten signature and date 12/29/09]

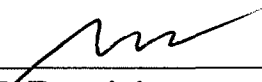
I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
2009 (FIRST) Regular Session

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

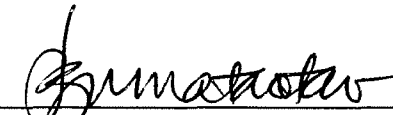
This is to certify that Substitute Bill No. 135-30 (COR), "AN ACT TO ADD A NEW CHAPTER 26A TO DIVISION 2 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPHSS) TO HIRE ENVIRONMENTAL HEALTH SPECIALISTS AND TO CONTRACT AN INDEPENDENT ENVIRONMENTAL HEALTH INSPECTION COMPANY(S) TO CONDUCT INSPECTIONS ON BEHALF OF DPHSS; AND TO FUND INSPECTION SERVICES FROM FEES AUTHORIZED TO BE COLLECTED, BY AMENDING §7119 OF CHAPTER 7, TITLE 22, GUAM CODE ANNOTATED," was on the 13<sup>th</sup> day of November, 2009, duly and regularly passed.

  
Benjamin J.F. Cruz  
Acting Speaker

Attested:

  
Rory J. Respicio  
Acting Legislative Secretary

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This Act was received by *I Maga'lahaen Guåhan* this 17 day of Nov.,  
2009, at  
4:25 o'clock P.M.

  
Assistant Staff Officer  
Maga'laha's Office

APPROVED:

  
FELIX P. CAMACHO

*I Maga'lahaen Guåhan*

Date: 27 Nov. 2009  
Public Law No. 30-64

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

**Bill No. 135-30 (COR)**

As substituted by the Committee on Economic Development,  
Health & Human Services, and Judiciary, and amended on the Floor.

Introduced by:

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

**AN ACT TO *ADD* A NEW CHAPTER 26A TO DIVISION  
2 OF TITLE 10, GUAM CODE ANNOTATED,  
RELATIVE TO AUTHORIZING THE DEPARTMENT  
OF PUBLIC HEALTH AND SOCIAL SERVICES  
(DPHSS) TO HIRE ENVIRONMENTAL HEALTH  
SPECIALISTS AND TO CONTRACT AN  
INDEPENDENT ENVIRONMENTAL HEALTH  
INSPECTION COMPANY(S) TO CONDUCT  
INSPECTIONS ON BEHALF OF DPHSS; AND TO FUND  
INSPECTION SERVICES FROM FEES AUTHORIZED  
TO BE COLLECTED, BY *AMENDING* §7119 OF  
CHAPTER 7, TITLE 22, GUAM CODE ANNOTATED.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that building contractors on Guam will be bringing in as many as 17,000 temporary  
4 workers, primarily H-2 laborers, as a result of the forthcoming military buildup. A  
5 majority of these workers will live in temporary workforce housing, and as such be  
6 susceptible to the environmental health hazards inherent to any large-scale  
7 communal living arrangement. In anticipation of this growth, and to protect the  
8 health of the entire Guam community – long-term residents and temporary workers  
9 alike – it is imperative that the DPHSS be provided the necessary resources to  
10 protect the public health through proper and consistent inspections of these  
11 temporary workforce housing.

12           *I Liheslaturan Guåhan* finds that an important component of the DPHSS is  
13 the regulation and enforcement conducted through the DPHSS, Division of  
14 Environmental Health (DEH). DEH is entrusted to reduce the risk of  
15 communicable diseases among workers and the public by establishing  
16 comprehensive, uniform procedures for permitting and inspecting temporary  
17 workforce housing.

18           The projected proliferation of temporary workforce housing, and the  
19 resulting increase in required site inspections, will add a substantial amount of  
20 workload upon an already understaffed Division of Environmental Health. In  
21 order to ensure the DEH will be able to effectively inspect temporary workforce  
22 housing and sustain its current inspection workload, *I Liheslaturan Guåhan* intends  
23 to authorize the DPHSS to: (1) hire up to fifteen (15) personnel, including,  
24 environmental health specialists, environmental health engineers, an administrative  
25 assistant and a customer service representative; and (2) contract an independent  
26 environmental health inspection company(s) to perform inspections of temporary

1 workforce housing and other required inspections related to temporary workforce  
2 housing as deemed necessary by the DPHSS.

3 It is further the intent of *I Liheslaturan Guåhan* to establish the general  
4 parameters by which the DPHSS will certify and contract an independent  
5 environmental health inspection company(s), and to direct DPHSS to develop and  
6 implement rules and regulations regarding sanitary inspections that will minimize  
7 or eliminate environmental health risks in the temporary workforce housing. This  
8 authorization affirms that DPHSS has the exclusive power to regulate and enforce  
9 temporary workforce housing inspections, to ensure that the inspections required to  
10 prevent public health emergencies are effectively accomplished, and to determine  
11 if environmental health specialists need to be hired, or if an independent  
12 environmental health inspection company(s) needs to be contracted to augment its  
13 inspection capacity.

14 **Section 2. Temporary Workforce Housing.** A new Chapter 26A of  
15 Division 2 of Title 10, Guam Code Annotated, is hereby *added* to read:

16 **“Chapter 26A**

17 **Temporary Workforce Housing**

18 **§26301. Definitions.**

19 (a) *Temporary worker* means:

- 20 (1) a worker from a point of origin outside of Guam who is  
21 sponsored by an employer, or has come to Guam on his own  
22 to seek employment for a specific project; and  
23 (2) is on Guam for the purpose of being employed for a specific  
24 work project expected to be completed in a specific period  
25 of time; and  
26 (3) will exit Guam upon completion of their work contract on  
27 this specific project.

1 (b) *Temporary workforce housing* means any enclosures of living  
2 spaces, reasonably contiguous, together with the land appertaining  
3 thereto, established, operated or used as living quarters and, at a  
4 minimum, fifty-one percent (51%) of the residents are temporary  
5 workers, including, but *not* limited to, facilities known by varying  
6 nomenclatures or designations as dormitories, hotels, motels, travel  
7 lodges, or tourist homes.

8 (c) *Change of Temporary Workforce Housing Status* means any  
9 significant variances to temporary workforce housing in relation to the  
10 most recent prior inspection. Such variances *shall* be determined or  
11 defined by the Department of Public Health and Social Services  
12 (DPHSS) and include, but *not* be limited to, significant change in the  
13 number of occupants, structural change, or change of ownership.

14 (d) *Sanitary Permit* means the official document issued by the DPHSS  
15 authorizing the establishment to operate its business.

16 (e) *Workers' Dormitory Permit* means the official sanitary permit  
17 issued by the DPHSS for temporary workforce housing.

18 (f) *Environmental Health Specialist* means an individual who has  
19 been hired to perform inspections in accordance with established  
20 DPHSS environmental health inspection procedures.

21 (g) *Independent Environmental Health Inspection Company* means an  
22 association, a corporation, individual, other legal entity or agency that  
23 is duly licensed to do business on Guam and has been certified by the  
24 DPHSS as being competent and capable to conduct sanitary  
25 inspections in accordance with established DPHSS environmental  
26 health inspection procedures.

1 (h) *Temporary Workforce Housing Operator* means a person, or  
2 business entity, who owns, leases or manages, or proposes to own,  
3 lease or manage, a temporary workforce housing, and herein *shall* be  
4 referred to as an *operator*.

5 **§26302. Powers and Duties.** The Department of Public Health  
6 and Social Services (DPHSS) is hereby authorized to establish and hire *up to*  
7 a total of fifteen (15) personnel to fill positions in the DPHSS Division of  
8 Environmental Health (DEH) to include: one (1) Environmental Health  
9 Supervisor, ten (10) Environmental Health Specialists, two (2)  
10 Environmental Health Engineers, one (1) Administrative Assistant, and one  
11 (1) Customer Service Representative, and to certify and contract an  
12 independent environmental health inspection company(s) to conduct sanitary  
13 inspections at temporary workforce housing, and other required inspections  
14 related to temporary workforce housing, as deemed necessary by DPHSS.

15 **§26302.1.** The recruitment and hiring of personnel to fill positions  
16 in the DPHSS Division of Environmental Health (DEH), to include: one (1)  
17 Environmental Health Supervisor, ten (10) Environmental Health  
18 Specialists, two (2) Environmental Health Engineers, one (1) Administrative  
19 Assistant, and one (1) Customer Service Representative, *shall* be in  
20 accordance with established Government of Guam Personnel regulations.

21 **§26302.2.** Contracting for the services of an independent  
22 environmental health inspection company(s) *shall* be in accordance with  
23 Government of Guam Procurement procedures, and in accordance with duly  
24 approved Rules and Regulations that establish the certification and operating  
25 parameters of a contracted independent environmental health inspection  
26 company. Said parameters *shall* include, but *not* be limited to, the  
27 following:

1 (a) The DPHSS *shall* determine certification requirements for the  
2 independent environmental health inspection company(s) and *shall*  
3 periodically review and evaluate the performance and eligibility of the  
4 company.

5 (b) Independent environmental health inspection company(s) under  
6 certification by DPHSS *shall* conduct sanitary inspections *only* on  
7 behalf of and at the direction of DPHSS.

8 (c) The company *does not* perform work for an operator of a  
9 temporary workforce housing or related company, which may require  
10 the sanitary inspection that may come under its inspection review,

11 (d) The company has *no* conflict of interest as determined by the  
12 DPHSS.

13 (e) The DPHSS reserves the right to terminate its contract with the  
14 company in the event that the company conducts negligent work.

15 (f) The DPHSS *shall* retain *sole* authority to grant sanitary permits.

16 (g) independent environmental health inspection company(s)  
17 certified by DPHSS *may* act as agents of DPHSS, provided that they  
18 meet the following criteria:

19 (1) The inspection company, or the organization of which it  
20 forms a part, *shall* be legally identifiable.

21 (2) An inspection body that is part of an organization involved  
22 in functions other than inspection *shall* be identifiable  
23 within that organization.

24 (h) The Director of DPHSS *shall* contract with an independent  
25 environmental health inspection company *only* as a last resort, after  
26 attempting to hire environmental health personnel pursuant to the  
27 merit system, and *only* if unable to fill the positions after utilizing all



1 local potential sources of recruitment, including GCC, UOG and other  
2 entities.

3 **§26303. Sanitary and Workers' Dormitory Permit for**  
4 **Temporary Workforce Housing, Required:**

5 (a) The operator of a temporary workforce housing must possess a  
6 valid sanitary and workers' dormitory permit issued by DPHSS,  
7 and be made available for inspection by DPHSS or its agent(s).

8 (b) The operator *shall* be responsible for applying for a sanitary  
9 and workers' dormitory permit with DPHSS and maintaining  
10 such valid sanitary and workers' dormitory permit as a  
11 condition for operating a temporary workforce housing.

12 (c) The operator *shall* apply for renewal of its workers' dormitory  
13 permit from DPHSS prior to the June 30 expiration date and the  
14 payment thereof *shall* be deposited into the Environmental  
15 Health Fund.

16 (d) The operator *shall* apply for the renewal of a sanitary permit  
17 from DPHSS in accordance with §26304 and the payment  
18 thereof *shall* be deposited into the Environmental Health Fund.

19 **§26304. Sanitary Inspections, Phases:** For the purposes of  
20 sanitary regulation, permitting of temporary workforce housing *shall* be  
21 required during each of the following phases:

22 (a) Primary Inspection Phase:

23 (1) During the Primary Inspection Phase, sanitary  
24 inspections *shall* be conducted quarterly following the  
25 issuance of the initial sanitary permit.

26 (2) The Primary Inspection Phase *shall* apply to all  
27 temporary workforce housing, new or currently existing,

1 and *shall* endure until four (4) consecutive quarters of  
2 satisfactory inspections have been achieved.

- 3 (3) Inspection during the Primary Inspection Phase *shall* be  
4 performed no sooner than forty-five (45) days of the  
5 previous inspection conducted. *If* an inspection occurs  
6 sooner than forty-five (45) days of the previous  
7 inspection conducted, the inspection shall *not* qualify as  
8 one of the quarterly inspections required.

9 (b) Secondary Inspection Phase:

- 10 (1) Secondary Inspection Phase *shall* be applied following  
11 successful completion of the Primary Inspection Phase,  
12 as defined in §26304(a).
- 13 (2) During the Secondary Inspection Phase, inspections *shall*  
14 be conducted on a semiannual basis.
- 15 (3) Inspection during the Secondary Inspection Phase *shall*  
16 be performed no sooner than ninety (90) days from the  
17 previous inspection conducted. *If* an inspection occurs  
18 sooner than ninety (90) days of the previous inspection  
19 conducted, the inspection shall *not* qualify as one of the  
20 semiannual inspections required.
- 21 (4) Successful completion of the Secondary Inspection Phase  
22 *shall* consist of two (2) consecutive semiannual  
23 inspections that were rated satisfactory.
- 24 (5) Following a failed inspection or Change of Temporary  
25 Workforce Housing Status, the temporary workforce  
26 housing in question *shall* return to the Primary Inspection  
27 Phase.

1 (c) Tertiary Inspection Phase:

- 2 (1) During the Tertiary Inspection Phase, inspections will be  
3 conducted on an annual basis.
- 4 (2) Inspection during the Tertiary Phase *shall* be performed  
5 no sooner than one hundred eighty (180) days from the  
6 previous inspection conducted. If an inspection occurs  
7 sooner than one hundred eighty (180) days of the  
8 previous inspection conducted, the inspection will *not*  
9 qualify as one of the annual inspections required.
- 10 (3) Following a failed inspection or Change of Temporary  
11 Workforce Housing Status, the temporary workforce  
12 housing in question *shall* return to the Primary Inspection  
13 Phase.

14 **§26305. Fees.**

15 (a) When any re-inspection is required pursuant to §26304 of this  
16 Chapter, the operator *shall* pay a fee, established by rules and regulations  
17 promulgated by DPHSS, for each re-inspection.

18 (b) All fees due must be paid before a valid sanitary and workers'  
19 dormitory permit will be issued or renewed.

20 (c) Permit is *not* transferable.

21 (d) There will be *no* charges for the following types of inspections,  
22 provided a current permit has been issued:

- 23 (1) Validation inspections; and  
24 (2) Complaint verification inspections.

25 (e) All sanitary and workers' dormitory permit fees collected under  
26 this Chapter *shall* be deposited in the Environmental Health Fund created  
27 in 10 GCA Chapter 22, §22107.

1                   **§26306.     DPHSS Sanitary Inspection Revolving Fund.**

2                   (a) There is hereby created the DPHSS Sanitary Inspection  
3 Revolving Fund, which *shall* be accounted for separately from the  
4 General Fund and shall *not* lapse at the end of a fiscal year but *shall* roll-  
5 over until used by the DPHSS for the overall cost of conducting sanitary  
6 inspections of temporary workforce housing and other required  
7 inspections that it deems necessary, including, but *not* limited to, hiring  
8 employees authorized to be hired under this Act, the purchase of  
9 vehicles, conducting or attending training, or the purchase of related  
10 equipment.

11                   (b) Payment to contracted independent environmental health  
12 inspection company(s) for services rendered *shall* be paid from the  
13 DPHSS Sanitary Inspection Revolving Fund.

14                   (c) Notwithstanding the Central Accounting Act, fees  
15 collected and deposited into a special fund known as the DPHSS Sanitary  
16 Inspection Revolving Fund *shall* be kept in a bank licensed to do  
17 business on Guam and funds *shall* be paid out only upon a request for  
18 payment or requisition submitted by the Director of DPHSS. All monies  
19 in this Fund *shall* be subject to legislative appropriation, and are hereby  
20 specifically appropriated *only* for the use of the Division of  
21 Environmental Health in the pursuit of its authority.

22                   **§26307.     Receiving and Giving Bribes.** The sanitary inspection  
23 agent from DEH, or the independent environmental health inspection  
24 company(s), *shall* be guilty of a felony if he or she solicits, accepts or agrees  
25 to accept any benefit from another person as consideration for his or her  
26 performance of an official function. A person is guilty of a felony if he or  
27 she offers, or agrees to offer, any benefit to the sanitary inspection agent as

1 consideration for such sanitary inspection agent’s performance of an official  
2 function.

3 **§26308. Effective Date.**

4 (a) Upon passage of this Act, the DPHSS *shall* develop rules and  
5 regulations and *shall* submit same to *I Liheslatura no later than* ninety (90)  
6 days following the passage of this Act.

7 (b) The rules and regulations *shall* become effective upon adoption  
8 by *I Liheslaturan Guåhan.*”

9 **Section 3.** §7119 of Chapter 7, Title 22, Guam Code Annotated, is hereby  
10 *amended* to read:

11 **“§7119. Registration Fee.**

12 (a) The Guam Department of Labor is authorized to collect a  
13 registration fee of One Thousand Ninety-one Dollars (\$1,091.00) annually  
14 per non-immigrant temporary worker for each calendar year or a fraction  
15 thereof from the employer of each non-immigrant temporary worker,  
16 payable at the time of registration by the non-immigrant worker.

17 (b) Funds collected pursuant hereto *shall* be subject to legislative  
18 appropriation, and *shall* be used solely to support §7120, Chapter 7, Title 22,  
19 GCA, the Manpower Development Fund (MDF), and the Skills Training  
20 Programs for Guam residents in order to eliminate the need to bring non-  
21 immigrant temporary workers on Guam; and Chapter 26A Division 2 of  
22 Title 10, GCA, the DPHSS Sanitary Inspection Revolving Fund, which is  
23 used to ensure that the sanitary conditions of the workers’ dormitories is in  
24 compliance with DPHSS Rules and Regulations, and also to provide  
25 protection for both the general public and the non-immigrant temporary  
26 workers as related to environmental health concerns.

1           (c)    One Thousand Dollars (\$1000.00) of funds collected *shall* go to  
2           the MDF and appropriated pursuant to §7120, Chapter 7, Title 22 GCA; the  
3           remaining Ninety-One Dollars (\$91.00) *shall* go to the DPHSS Sanitary  
4           Inspection Revolving Fund.”

5           **Section 4. Effective Date.**   This Act *shall* be effective sixty (60) days  
6           from date of enactment.

7           **Section 5. Severability.** *If* any provision of this law or its application to  
8           any person or circumstance is found to be invalid or contrary to law, such  
9           invalidity *shall not* affect other provisions or applications of this law which can be  
10          given effect without the invalid provisions or applications, and to this end the  
11          provisions of this law are severable.