



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

OCT 16 2014

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

32-14-2143
Office of the Speaker
Judith T. Won Pat, Ed.D.

2014 OCT 17 PM 4:54
RANU

Date: 10-17-14
Time: 4:14pm
Received By:

Dear Madame Speaker:

Transmitted herewith is Bill No. 337-32 (COR) "AN ACT TO AMEND §§ 76114, 76116 AND 76124 OF CHAPTER 76, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE UNDERGROUND STORAGE TANK MANAGEMENT FUND, CLOSURE, AND ASSOCIATED PENALTIES," which I signed into law on October 13, 2014 as Public Law 32-195.

Senseramente,

EDDIE BAZA CALVO

2143

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

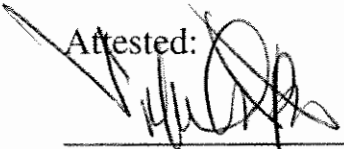
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 337-32 (COR), "AN ACT TO AMEND §§ 76114, 76116 AND 76124 OF CHAPTER 76, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE UNDERGROUND STORAGE TANK MANAGEMENT FUND, CLOSURE, AND ASSOCIATED PENALTIES,"** was on the 3rd day of October, 2014, duly and regularly passed.




Judith T. Won Pat, Ed.D.
Speaker

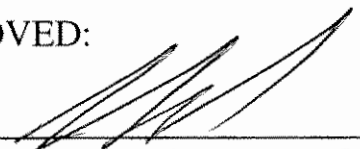
Attested:


Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 6 day of Oct,
2014, at 6:32 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date:

OCT 13 2014

Public Law No. 32-195

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

Bill No. 337-32 (COR)

As amended by the Committee on Rules, Federal, Foreign
and Micronesian Affairs, Human and Natural Resources,
and Election Reform.

Introduced by:

T. C. Ada
R. J. Respicio
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Lintiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO AMEND §§ 76114, 76116 AND 76124 OF
CHAPTER 76, TITLE 10, GUAM CODE ANNOTATED,
RELATIVE TO THE UNDERGROUND STORAGE
TANK MANAGEMENT FUND, CLOSURE, AND
ASSOCIATED PENALTIES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the underground storage of liquid petroleum or other regulated substances
4 poses a threat to the environment. Specifically, potential leaks from underground
5 storage tanks (UST) and pipelines, which may result from faulty installation,
6 earthquakes, or inadequate operating and maintenance procedures, may seep into

1 the soil and contaminate groundwater sources. The cost of remediation to rectify
2 damages resulting from a leak can be very costly.

3 *I Liheslatura* also finds that there are over three hundred (300) regulated
4 underground storage tanks (UST), with a total capacity of ninety (90) million
5 gallons, currently in use to store gasoline, diesel, and residual oil, and
6 approximately fifty-five (55) miles of buried pipeline, with a static holding
7 capacity of three (3) million gallons, used to transport these products. These
8 facilities are owned by commercial, private, local and federal government entities
9 located at one hundred thirty-six (136) different sites, which include gas stations,
10 residential estates, commercial and industrial buildings, hotels, golf courses,
11 resorts, and federal and local government agencies.

12 *I Liheslatura* finds that during the period 2000 to 2013, there were a total of
13 one hundred thirty-nine (139) releases from underground tanks on Guam. The
14 majority of incidences have occurred in northern Guam where the island's sole-
15 source aquifer is located. *I Liheslatura* further finds the vast majority of these
16 releases, one hundred eighteen (118), or eighty-four percent (84%), have been
17 completely cleaned up. Of the remainder, twenty-one (21) are subject to ongoing
18 clean up, remediation and/or monitoring to ensure that conditions continue to
19 improve.

20 *I Liheslatura* further finds that although the number of incidences has been
21 decreasing annually due to more stringent construction and operating requirements,
22 the threat to the environment posed by these tanks remains.

23 *I Liheslatura* finds that the Guam UST program was established and codified
24 under Chapter 76 of Title 10, Guam Code Annotated. The existing USTs on Guam
25 have largely been upgraded to meet current standards, and one hundred percent
26 (100%) of the facilities with active tanks meet regulatory standards for corrosion
27 protection and leak detection systems.

1 *I Liheslatura* intends to increase the maximum civil penalty per tank per day,
2 for each violation of a requirement or standard, from Eleven Thousand Dollars
3 (\$11,000) to Sixteen Thousand Dollars (\$16,000) in order to adequately fund
4 mitigation activities and subsequent related actions in accordance with Chapter 76
5 of Title 10, Guam Code Annotated, and Chapter 50 of Division 10, Title 22, Guam
6 Administrative Rules and Regulations.

7 **Section 2.** § 76114 of Chapter 76, Title 10, Guam Code Annotated, is
8 hereby *amended* to read as follows:

9 **“§ 76114. Underground Storage Tank Management Fund.**

10 There is hereby established a fund to be known as the “Underground
11 Storage Tank Management Fund”, hereafter referred to as the UST-LUST
12 Fund, a non-lapsing, revolving fund which *shall* be maintained separate and
13 apart from any other funds of the government of Guam.

14 (a) All fees, reimbursements, assessments, fines, forfeitures,
15 and other funds collected or received pursuant to this Chapter, *shall* be
16 deposited in the UST-LUST Fund, *and shall not* lapse at the end of
17 the fiscal year, but *shall* rollover into the next fiscal year or until
18 expended. Independent records and accounts *shall* be maintained in
19 connection therewith. The UST-LUST Fund *shall* be kept in a bank
20 licensed to do business on Guam, and funds *shall* be paid out only
21 upon a request for payment or requisition submitted by the
22 Administrator. All monies in the UST-LUST Fund are hereby
23 appropriated to the Guam Environmental Protection Agency (GEPA)
24 to be expended in accordance with this part and are *not* subject to *I*
25 *Maga’låhi’s* transfer authority. The Administrator *shall* comply with
26 all existing reporting requirements by issuing a quarterly accounting
27 of the UST-LUST Fund to *I Maga’lahen Guåhan, I Liheslaturan*

1 *Guåhan*, and the Office of Public Accountability. The Administrator
2 *shall* ensure the UST-LUST Fund is in compliance with all existing
3 statutes, rules and regulations, codes, executive orders, and any other
4 authority which is applicable to GEPA and the use of the funds in the
5 UST-LUST Fund pursuant to this Chapter.

6 (b) The Administrator *shall* administer the UST-LUST Fund
7 and make disbursements from the Fund:

8 (1) to fund the implementation of actions authorized
9 by § 76113 of this Chapter;

10 (2) to train Agency employees in the regulation of
11 USTs and the response to the release of regulated substances
12 from USTs; or

13 (3) to fund the administration and implementation of
14 this Chapter including, but *not* limited to, purchase of
15 equipment, supplies, public outreach, and payment of personnel
16 costs and service contracts arising from enforcement of this
17 Chapter.”

18 **Section 3.** § 76116 of Chapter 76, Title 10, Guam Code Annotated, is
19 hereby *amended* to read as follows:

20 “§ 76116. **Closure.**

21 (a) The owner *shall* close a UST so as to prevent future
22 releases of regulated substances. The owner and operator *shall* comply
23 with the release response provisions in this Chapter, and other
24 requirements promulgated by the Administrator, before and during
25 removals of the USTs and tank systems. The Administrator *shall*
26 adopt requirements for change-in-service and temporary closure and
27 permanent closure of USTs and tank systems.

1 (b) *No later than* one hundred eighty (180) calendar days
2 following submission to the Guam Environmental Protection Agency
3 of a *Notice of Intent* for permanent closure, all USTs containing
4 regulated substances must be physically removed from below ground
5 surface.

6 (c) An exception to requirements for removal may be
7 considered based on extenuating circumstances, which may warrant
8 abandonment in-place for the UST. The extenuating circumstances
9 such as, but *not* limited to, compromising the structural integrity of
10 public infrastructure, must be requested in written form and submitted
11 to the Administrator for consideration. Any exception granted by the
12 Administrator *shall* relieve the owner of future liability, *unless*
13 otherwise stated in the written exception to requirements.

14 (d) GEPA *shall* cause the owner of any previously approved
15 UST which is discovered to have been improperly abandoned in-place
16 to remove the improperly abandoned UST and any soil and/or
17 groundwater contamination found to be caused by a release from the
18 UST; and *shall* be mitigated by the owner as soon as reasonably
19 possible, but *not to exceed* one hundred eighty (180) calendar days or
20 as may be deemed reasonable by the GEPA Administrator. This *shall*
21 *not* apply to any USTs that previously received written approval to be
22 abandoned in-place, and were properly abandoned in-place.

23 (e) Any UST discovered to have been abandoned in-place
24 without written approval from GEPA *shall* be removed as soon as
25 reasonably possible, but *not to exceed* one hundred eighty (180)
26 calendar days, or for a longer time as may be deemed reasonable by
27 the GEPA Administrator; and any soil and/or groundwater

1 contamination found to be caused by a release from the UST *shall* be
2 mitigated as soon as reasonably possible. If ownership of the UST is
3 unknown, uncertain, and disputed, the current owner of the land
4 where the UST has been found *shall* be responsible for removal of the
5 UST and any required mitigation. Nothing herein, however, shall
6 prohibit the owner of such land from pursuing any remedies available
7 in equity or at law against the party which previously owned and
8 abandoned in-place the UST in question if such party is subsequently
9 identified.”

10 **Section 4.** § 76124 of Chapter 76, Title 10, Guam Code Annotated, is
11 hereby *amended* to read as follows:

12 **“§ 76124. Penalties.**

13 (a) A person who violates any provision of this Chapter, or
14 rules or regulations enacted pursuant hereto, or refuses or neglects to
15 comply with an order issued by the Administrator to require
16 compliance with this Chapter, *shall* be guilty of a civil violation and
17 *shall* be subject to a penalty of up to Sixteen Thousand Dollars
18 (\$16,000) for each tank for each day of each violation.

19 (b) Any person with an interest that may be adversely
20 affected by a violation of this Chapter may intervene as a matter of
21 right in any civil action brought by the Administrator to require
22 compliance with this Chapter.

23 (c) A person who knowingly fails to notify the Administrator
24 pursuant to §§ 76105 or 76112, or who makes any false statement or
25 representation in any UST notification, permit application, or other
26 document filed, maintained, or used for compliance with this Chapter,
27 *shall* be guilty of a civil violation.

1 (d) Any person who denies, obstructs, or hampers the
2 entrance, inspection, or conduct or release response activity by a
3 representative of the Agency at any building, place, site, facility,
4 vehicle, or structure that the representative is authorized to enter, or
5 any inspector who fails to provide information requested by the
6 agency representative pursuant to § 76110 *shall* be guilty of a civil
7 violation and shall be subject to a penalty of up to Sixteen Thousand
8 Dollars (\$16,000) for every day the person denies, obstructs or hinders
9 the acquisition of, or fails to provide, the information requested, as
10 determined in a civil action in the Superior Court of Guam.

11 (e) Each separate civil violation *shall* be subject to the
12 following penalties: for the first, second and third offense, the violator
13 *shall* be subject to a penalty of up to Sixteen Thousand Dollars
14 (\$16,000) per tank per day for each separate violation. Second, third,
15 and fourth offenses are defined as offenses within twelve (12) months
16 from the first, second and third offenses respectively. For any fourth
17 violation of this Part, the violator *shall* be guilty of a misdemeanor,
18 and may be subject to imprisonment for up to twelve (12) months and
19 fined up to Sixteen Thousand Dollars (\$16,000) per day for each
20 violation, or both.”

21 **Section 5. Severability.** *If* any provision of this Law or its application to
22 any person or circumstance is found to be invalid or contrary to law, such
23 invalidity shall not affect other provisions or applications of this Law which can be
24 given effect without the invalid provisions or application, and to this end the
25 provisions of this Law are severable.

26 **Section 6. Effective Date.** This Act *shall* be effective upon enactment.