



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam.*

September 8, 2015

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

2015 SEP 11 PM 1:27  
LNUK

Dear Madame Speaker,

Transmitted herewith is Bill No. 102-33 (COR) "AN ACT TO AMEND SUBSECTIONS (a), (b), (c) AND (d) OF § 5201 AND ADD NEW SUBSECTIONS (h), (i), AND (j) TO § 5202 OF ARTICLE 2, CHAPTER 5, TITLE 22, GUAM CODE ANNOTATED ; AND TO AMEND SUBSECTION (a) OF § 4101 OF ARTICLE 1, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING DISCRIMINATION IN THE WORKPLACE; AND TO CITE THIS ACT AS THE "GUAM EMPLOYMENT NONDISCRIMINATION ACT (GENDA) OF 2015" which lapsed into law on August 25, 2015 as Public Law 33-64.

Sincerely,

  
EDDIE CALVO

33-15-0842  
Office of the Speaker  
Judith T. Won Pat, Ed.D

Date: 9/11/15  
Time: 1:11 PM  
Received By: [Signature]

0842



**EDDIE BAZA CALVO**  
Governor

**RAY TENORIO**  
Lieutenant Governor

*Office of the Governor of Guam*

September 7, 2015

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

Dear Madame Speaker,

Attached are Public Laws 33-64 and 33-65, which I allowed to lapse into law on August 25, 2015.

When the government was sued earlier this year, I was particularly concerned that such an important social issue as marriage would not be decided by the people of Guam through our democratic process, but by the courts.

With respect to the same-sex marriage law, it is regrettable that public debate on marriage was muted by the courts. Although it may be more accurate to say that the legislature has adopted the will of the judiciary rather than the will of the people, I am less conflicted with enforcing a law locally enacted than one mandated by the federal courts.

Nonetheless, although the courts may not have left us with the option to decide the marriage issue for ourselves, I believe that there still exists the need to engage in public debate over the constitutional principles that have collided, or inevitably will collide, in Public Law 33-64.

To be clear, I fully support Public Law 33-64's intent to prevent discrimination; there is no basis to deny equality in housing, employment or opportunity to any individual based on sexual orientation or gender identity.

But I must caution that in the legislative zeal to recognize more recently recognized personal rights, our elected lawmakers do not also abandon centuries-recognized personal freedoms.

One of the most important fundamental freedoms on which the United States was established is that of religious conscience. Although this was discussed by some senators during the legislative debate on Bill 102-33, now Public Law 33-64, the discussion did not result in any apparent meaningful amendment to the bill so as to avoid a potential conflict between sexual orientation and gender identity rights and expressions of religious conscience.

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Eddie Baza Calvo



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governorofguam

Individuals and religious organizations have long been afforded constitutional protection for their religious expressions. Religious organizations have long been among the leaders in charitable giving and community service. Just look at the efforts of these religious and other charitable organizations in response to the recent typhoon in Saipan.

The Salvation Army and Catholic Social Services, just to name a few, have long served our Island in providing community programs and charitable giving.

Thus, I am concerned that Public Law 33-64 does not do enough to ensure the protection of religious conscience that may not directly align itself with certain expressions of sexual orientation or gender identity contrary to certain religious tenets.

I would ask our Legislature to amend the law to ensure that the pendulum of social conscience is not swung so far to one side as to restrict the legitimate expression of religious conscience, and to ensure that that right is balanced with the other personal rights that are being newly-defined.

As an example of how such rights may be balanced, I recommend that the Legislature look at a legislative enactment in the state of Utah, namely S.B. 296, the "Antidiscrimination and Religious Freedom Amendments" law that passed earlier this year. This law has been widely recognized by many religious organizations and LGBT advocates as striking a balance similar to the one I am advocating.

The categories in existing antidiscrimination laws in Utah were amended to add "sexual orientation" and "gender identity." Yet also added to the law were certain exceptions protecting religious expression by individuals and religious organizations.

I suggest that the legislature move toward finding that balance now, rather than risk a future legal challenge that may cause further social upheaval in our community.

A house divided cannot stand. We need to come together as a community. I continue my call for unity and for an understanding of each other's differences in opinions. Although it was our Lord Jesus Christ who taught the golden rule, I don't think anyone can argue against its universal applicability in any social setting. We may have differences of opinion, but surely we can treat and respect each other as we would want to be treated and respected.

We are a peaceful people, who manage to live with each other in harmony and with respect. It is a part of who we are, our spirit of inafa' maolek. It has been this way since the days of our ancestors, and it will remain this way so long as we impart this value to our children and to theirs.

May God continue to bless and prosper our Island and our people.

Sincerely,



**EDDIE CALVO**

**I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN**  
**2015 (FIRST) Regular Session**

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

This is to certify that **Bill No. 102-33 (COR)**, "AN ACT TO *AMEND* SUBSECTIONS (a), (b), (c) AND (d) OF § 5201, AND *ADD* NEW SUBSECTIONS (h), (i) AND (j) TO § 5202 OF ARTICLE 2, CHAPTER 5, TITLE 22, GUAM CODE ANNOTATED; AND TO *AMEND* SUBSECTION (a) OF § 4101 OF ARTICLE 1, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING DISCRIMINATION IN THE WORKPLACE; AND TO CITE THIS ACT AS THE "GUAM *EMPLOYMENT NONDISCRIMINATION ACT (GENDA) OF 2015*," was on the 12<sup>th</sup> day of August 2015, duly and regularly passed.

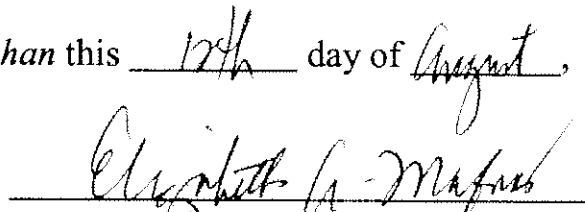


Judith T. Won Pat, Ed.D.  
Speaker

Attested:

  
Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 12<sup>th</sup> day of August, 2015, at 5:13 o'clock P.M.

  
Elizabeth A. Mafres  
Assistant Staff Officer  
Maga'laha's Office

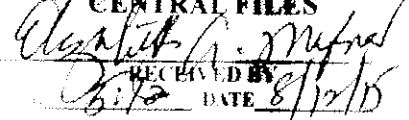
APPROVED:

EDWARD J.B. CALVO  
*I Maga'lahaen Guåhan*

Date: \_\_\_\_\_

Public Law No. 33-64

OFFICE OF THE GOVERNOR  
CENTRAL FILES

  
RECEIVED BY  
DATE 8/12/15

*I MINA'TRENTAI TRES NA LIHESLATURAN GUÁHAN*  
2015 (FIRST) Regular Session

**Bill No. 102-33 (COR)**

As corrected by the Prime Sponsor;  
and amended on the Floor.

Introduced by:

B. J.F. Cruz  
Mary Camacho Torres  
N. B. Underwood, Ph.D.  
T. R. Muña Barnes  
T. C. Ada  
V. Anthony Ada  
FRANK B. AGUON, JR.  
Frank F. Blas, Jr.  
James V. Espaldon  
Brant T. McCreddie  
Tommy Morrison  
R. J. Respicio  
Dennis G. Rodriguez, Jr.  
Michael F.Q. San Nicolas  
Judith T. Won Pat, Ed.D.

**AN ACT TO *AMEND* SUBSECTIONS (a), (b), (c) AND (d) OF § 5201, AND *ADD* NEW SUBSECTIONS (h), (i) AND (j) TO § 5202 OF ARTICLE 2, CHAPTER 5, TITLE 22, GUAM CODE ANNOTATED; AND TO *AMEND* SUBSECTION (a) OF § 4101 OF ARTICLE 1, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING DISCRIMINATION IN THE WORKPLACE; AND TO CITE THIS ACT AS THE “*GUAM EMPLOYMENT NONDISCRIMINATION ACT (GENDA) OF 2015.*”**

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

1           **Section 1. Title.** This Act may be known and referred to as the “*Guam*  
2 *Employment Nondiscrimination Act (GENDA) of 2015.*”

3           **Section 2. Nondiscrimination in Employment.** Subsections (a), (b), (c)  
4 and (d) of § 5201 of Article 2, Chapter 5, Title 22, Guam Code Annotated, are  
5 *amended* to read:

6           “§ 5201.    **Discriminatory Practices Made Unlawful; Offenses**  
7           **Defined.**

8                   It *shall* be an unlawful employment practice or unlawful  
9 discrimination:

10                   (a) For any employer to refuse to hire or employ or to  
11 bar or discharge from employment, or otherwise to discriminate  
12 against any individual in compensation or in the terms,  
13 conditions, or privileges of employment because of race, sex  
14 (including gender identity or expression), age, religion, color,  
15 honorably discharged veteran and military status, sexual  
16 orientation, or ancestry;

17                   (b) For any employment agency to fail or refuse to  
18 refer or employ, or to classify or otherwise to discriminate  
19 against any individual because of race, sex (including gender  
20 identity or expression), age, religion, color, honorably  
21 discharged veteran and military status, sexual orientation, or  
22 ancestry;

23                   (c) For any employer or employment agency to print,  
24 circulate or cause to be printed or circulated any statement,  
25 advertisement or publication or to use any form of application  
26 for employment or to make any inquiry in connection with  
27 prospective employment, which expresses, directly or

1 indirectly, any limitation, specification or discrimination as to  
2 race, sex (including gender identity or expression), age,  
3 religion, color, honorably discharged veteran and military  
4 status, sexual orientation, or ancestry, unless based on a bona  
5 fide occupational qualification. All employers or employment  
6 agencies shall have up to six (6) months to modify personnel  
7 forms and policies to come into compliance with the changes to  
8 the Guam Code contained in this Act;

9 (d) For any labor organization to exclude or expel  
10 from its membership any person or to discriminate in any way  
11 against any of its members, employer or employees because of  
12 race, sex (including gender identity or expression), age,  
13 religion, color, honorably discharged veteran and military  
14 status, sexual orientation, or ancestry;”

15 **Section 3. Statutory Definitions.** New Subsections (h), (i), and (j) are  
16 hereby *added* to § 5202 of Article 2, Chapter 5, Title 22, Guam Code Annotated, to  
17 read:

18 “(h) *Sexual orientation* means having a preference for  
19 heterosexuality, homosexuality, or bisexuality, having a history of any one  
20 or more of these preferences, or being identified with any one or more of  
21 these preferences.

22 (i) *Gender identity or expression* means a person's actual or  
23 perceived gender, as well as a person's gender identity, gender-related self-  
24 image, gender-related appearance, or gender-related expression, regardless  
25 of whether that gender identity, gender-related self-image, gender-related  
26 appearance, or gender-related expression is different from that traditionally  
27 associated with the person's sex at birth.

1           (j) *Veteran and military status* means a person's status on active  
2 duty in or status as a veteran of the armed forces of the United States, status  
3 as a current member or veteran of any reserve component of the armed  
4 forces of the United States, including the United States Army Reserve,  
5 United States Marine Corps Reserve, United States Navy Reserve, United  
6 States Air Force Reserve, and United States Coast Guard Reserve, or status  
7 as a current member or veteran of the Guam National Guard.”

8           **Section 4. Employment in the Service of the Government of Guam.**

9 Subsection (a) of § 4101 of Chapter 4, Title 4, Guam Code Annotated, is *amended*  
10 to read:

11           “(a) Employment in the service of the government of Guam *shall* be  
12 based upon merit, and selection and promotion of employees *shall* be free of  
13 personal or political consideration. No person shall be discriminated against  
14 in an application for employment or promotion or dismissed from  
15 employment on account of honorably discharged veteran and military status,  
16 sexual orientation, race, color, age, religion, sex (including gender identity  
17 or expression), national origin, or physical or mental impairment. No person  
18 shall be discriminated against in an application for employment or  
19 promotion or dismissed from employment because of the country where the  
20 college or university from which he received any degree or training is  
21 located. All personnel actions, including appointments and promotions, *shall*  
22 be based, insofar as practicable, on competitive practical tests and  
23 evaluations. Continuity of employment *shall* be dependent upon good  
24 behavior, satisfactory performance and availability of funds. For the  
25 purpose of this Section, the terms *sexual orientation, gender identity or*  
26 *expression, and veteran and military status* are defined in § 5202 of Article  
27 2, Chapter 5, 22 GCA.”



1       **Section 5. Religious Exemption.**

2           (a) In General. This Act *shall not* apply to a corporation,  
3       association, educational institution or institution of learning, or society that  
4       is exempt from the religious discrimination provisions of Title VII of the  
5       Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) pursuant to Section  
6       702(a) or 703(e)(2) of such Act (42 U.S.C. 2000e-1(a), 2000e-2(e)(2))  
7       (referred to in this Section as a “religious employer”).

8           (b) Prohibition on Certain Government Actions. A religious  
9       employer's exemption under this Section *shall not* result in any action by the  
10      government to penalize or withhold licenses, permits, certifications,  
11      accreditation, contracts, grants, guarantees, tax-exempt status, or any  
12      benefits or exemptions from that employer, or to prohibit the employer's  
13      participation in programs or activities sponsored by that government.  
14      Nothing in this Subsection shall be construed to invalidate any other law  
15      (including a regulation) that otherwise applies to a religious employer  
16      exempt under this Section.

17      **Section 6. Codification.** The Compiler of Laws is authorized to codify  
18      Section 5 of this Act within the appropriate Title of the Guam Code Annotated.  
19      Section 5 *shall apply only* to the specific amendments made pursuant to this Act.

20      **Section 7. Severability.** If any provision of this Act or its application to  
21      any person or circumstance is found to be invalid or contrary to law, such  
22      invalidity *shall not* affect other provisions or application of this Act which can be  
23      given effect without the invalid provisions or application, and to this end the  
24      provisions of this Act are severable.