



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

JUN 23 2000

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Suite 200  
130 Aspinal Street  
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>10:48am</u>
Date	<u>JUNE 23, 2000</u>

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 102 (LS), "AN ACT TO REPEAL AND REENACT CHAPTER 3 AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE GUAM CODE ANNOTATED, RELATIVE TO REFORMING THE LEGISLATIVE INVESTIGATIVE POWERS", which was vetoed. This legislation was subsequently overridden by i Liheslatura and is now designated as Public Law No. 25-147.

Very truly yours,

[Signature]  
Carl T. C. Gutierrez  
I Maga'Lahen Guåhan  
Governor of Guam

Attachment: copy attached for signed bill or overridden bill  
original attached for vetoed bill


cc: The Honorable Antonio R. Unpingco  
Speaker

00997

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
2000 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 102 (LS), "AN ACT TO REPEAL AND REENACT CHAPTER 3 AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE GUAM CODE ANNOTATED, RELATIVE TO REFORMING THE LEGISLATIVE INVESTIGATIVE POWERS," returned without approval of *I Maga'lahaen Guahan*, was reconsidered by *I Liheslaturan Guahan* and after such consideration, did agree, on 21<sup>st</sup> day of June, 2000, to pass said bill notwithstanding the veto of *I Maga'lahaen Guahan* by a vote of thirteen (13) members.



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ANTONIO R. UNPINGCO  
Speaker

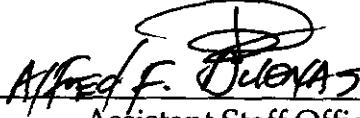
Attested:



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JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahaen Guahan* this 21 day of JUNE,  
2000, at 6:32 o'clock P.M.



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Alfred F. Duleyas  
Assistant Staff Officer  
*Maga'lahaen*'s Office

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 102 (LS)**

As substituted by the Committee on Rules,  
Government Reform, Reorganization,  
and Federal Affairs.

Introduced by:

A. R. Unpingco

J. C. Salas

K. S. Moylan

F. B. Aguon, Jr.

E. C. Bermudes

A. C. Blaz

J. M.S. Brown

E. B. Calvo

M. G. Camacho

Mark Forbes

L. F. Kasperbauer

A. C. Lamorena, V

C. A. Leon Guerrero

V. C. Pangelinan

S. A. Sanchez, II

**AN ACT TO REPEAL AND REENACT CHAPTER 3  
AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE  
GUAM CODE ANNOTATED, RELATIVE TO  
REFORMING THE LEGISLATIVE INVESTIGATIVE  
POWERS.**

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

2           **Section 1. Legislative Findings and Intent.** As part of the legislative  
3 process, Standing Committees of *I Liheslaturan Guåhan*, as well as *I*  
4 *Liheslaturan Guåhan* itself, must gather information on a timely basis in order

1 to oversee the government, and its instrumentalities, in addition to the private  
2 sector, and to gather information for drafting quality legislation. Information  
3 and documentation is critical to drafting legislation and properly overseeing  
4 government and private sector operations, *not only* balancing the other  
5 branches of government's powers, but ensuring the proper expenditures of  
6 taxpayer money. Without the power and authority to gather information,  
7 both publicly and privately, *I Liheslaturan Guåhan* will be handicapped and  
8 subject to passing misinformed or misguided legislation. As part of the  
9 government, *I Liheslaturan Guåhan* cannot be hindered by privileges asserted  
10 against it by other governmental instrumentalities within itself, which only  
11 serve to increase unnecessary, internal government bureaucracy and waste  
12 taxpayer money and government time.

13 In seeking to enforce its investigative powers, *I Liheslaturan Guåhan*  
14 must be empowered to both determine and exact contempt for the initial  
15 violation and seek further orders to compel compliance. The forum to enforce  
16 its investigative powers should be in the Committee, in *I Liheslaturan Guåhan*  
17 and through the local courts in order to timely obtain the required  
18 information and documents.

19 It is therefore the intent of *I Liheslaturan Guåhan* to clarify and  
20 implement adequate measures to ensure the free flow of information and  
21 documents to *I Liheslaturan Guåhan*, not only from the private sector, but more  
22 importantly the free and uninhibited flow of information to *I Liheslaturan*  
23 *Guåhan* from within the government itself. No information or documentation  
24 within the government's possession, *excepting* documents as are held by

1 judicial officials under court seal, should be free from discovery by *I*  
2 *Liheslaturan Guåhan*.

3 **Section 2.** Chapter 3 of Title 2 of the Guam Code Annotated is hereby  
4 *repealed and reenacted* to read as follows:

5 **“CHAPTER 3.**

6 **LEGISLATIVE INVESTIGATIVE POWERS.**

7 **Section 3101. Definitions.**

8 **Section 3102. Authority.**

9 **Section 3103. Legislative Contempt.**

10 **Section 3104. Compelling Discovery Through Superior Court.**

11 **Section 3105. Compelling Discovery Through *I Liheslaturan***  
12 ***Guåhan* and Imposing Sanctions.**

13 **Section 3106. Separate and Distinct Dual Remedies.**

14 **Section 3107. Privileges *Not* Applicable by Government of Guam.**

15 **Section 3108. Content of Process.**

16 **Section 3109. Service.**

17 **Section 3110. Fees and Voucher.**

18 **Section 3111. Oaths or Affirmations.**

19 **Section 3112. Witness Immunity.**

20 **Section 3113. Criminal Penalty, Attorney General Duties.**

21 **Section 3114. Special Committees.**

22 **Section 3101. Definitions.** The following words shall have  
23 the meanings as forth in this Chapter:

24 (a) ‘*Citation*’ shall mean ‘*Citation for Legislative Contempt.*’

1 (b) 'Committee' shall mean a Standing Committee of I  
2 *Liheslaturan Guåhan*, its authorized subcommittee, or a Special  
3 Committee formed by a Legislative Resolution.

4 (c) 'Committee on Rules' shall mean the Standing  
5 Committee designated as such, or its nearest equivalent as set  
6 forth in the current version of the legislative Standing Rules.

7 (d) 'Document' shall mean a paper, report, book, letter,  
8 memorandum, contract, article, receipt, invoice, audio or video  
9 tape, recording, other written or electronic material, or object.

10 (e) 'Fee' shall include witness and mileage fees.

11 (f) 'Hearing' shall be synonymous with and equivalent to  
12 'meeting,' by which a Committee conducts its legislative business,  
13 which may include, but is *not* limited to, oversight and  
14 investigatory proceedings.

15 (g) 'Judicial Officials' shall mean any full or part-time  
16 employee of the Judicial Branch of the government of Guam,  
17 including Justices, Judges and Referees.

18 (h) 'Member' shall be a Senator in the current *Liheslaturan*  
19 *Guåhan*.

20 (i) 'Petitioner' shall mean either the Committee or I  
21 *Liheslaturan Guåhan* itself.

22 (j) 'Presiding Officer' shall mean the Speaker of I  
23 *Liheslaturan Guåhan*.

1 (k) 'Witness' is a person appearing before a Committee or I  
2 *Liheslaturan Guåhan*, whether the person is summoned to testify or  
3 bring documents, or otherwise.

4 (l) 'Subpoena' shall mean a legal document and process  
5 commanding the recipient to appear at a time and place, and to  
6 provide testimony.

7 (m) 'Subpoena duces tecum' shall mean a legal document  
8 and process commanding the recipient to appear at a time and  
9 place, and to provide testimony and document(s).

10 **Section 3102. Authority.** The Committee and *I Liheslaturan*  
11 *Guåhan* itself shall have the authority to issue subpoenas and subpoenas  
12 duces tecums in order to compel the attendance of witnesses or the  
13 production of documents before it, or both. The Committee and *I*  
14 *Liheslaturan Guåhan* shall have the standing, authority and jurisdiction to  
15 determine and impose Legislative Contempt and to make such further  
16 orders as it deems appropriate to effectuate its powers under this  
17 Chapter, and additionally to apply to the Superior Court of Guam for an  
18 order to compel the attendance or the production of documents, or both,  
19 before it.

20 The Committee and *I Liheslaturan Guåhan* may continue the  
21 requirement of attendance of a witness, to provide testimony or to  
22 provide for additional, supplementary document production by that  
23 witness, or both, at the hearing at which the witness was ordered to  
24 attend.

1           **Section 3103. Legislative Contempt.**           For purposes of this  
2 Chapter, a witness shall be deemed in Legislative Contempt against a  
3 Committee or *I Liheslaturan Guåhan* for any of the following reasons:

4           (a) disorderly, contemptuous or insolent behavior toward  
5 the Committee or *I Liheslaturan Guåhan* while holding a hearing or  
6 Session, tending to interrupt the due course of the legislative  
7 proceeding;

8           (b) a breach of the peace, boisterous conduct or violent  
9 disturbance, tending to interrupt the due course of a legislative  
10 proceeding;

11           (c) abuse of the process or proceedings of a Committee or  
12 *I Liheslaturan Guåhan*, or falsely pretending to act under authority  
13 of a resolution, an order or process of the Committee or *I*  
14 *Liheslaturan Guåhan*;

15           (d) disobedience to any lawful order or process of a  
16 Committee or *I Liheslaturan Guåhan*;

17           (e) any other unlawful interference with the process or  
18 proceedings of a Committee or *I Liheslaturan Guåhan*;

19           (f) failing or refusing to appear in compliance with a  
20 subpoena, or to produce documents when requested, or, having  
21 appeared, fails or refuses to testify under oath or affirmation or to  
22 produce documents;

23           (g) failing or refusing to answer any relevant question, or  
24 failing or refusing to furnish any document subpoenaed; *or*



1 (h) intentionally misrepresenting the truth or a fact while  
2 under oath before a Committee or *I Liheslaturan Guåhan*.

3 **Section 3104. Compelling Discovery Through Superior**  
4 **Court.**

5 (a) **Jurisdiction.** Upon the noncompliance with a  
6 subpoena or subpoena duces tecum issued by a Committee or *I*  
7 *Liheslaturan Guåhan*, including the failure to provide *all* the  
8 documents requested by a subpoena duces tecum, the Committee  
9 or *I Liheslaturan Guåhan* shall have the standing, jurisdiction and  
10 authority to petition to the Superior Court of Guam for a timely  
11 Court order to compel the attendance of a witness before that  
12 Committee or *I Liheslaturan Guåhan*, or a Court order for the  
13 *immediate* production of documents by the witness, or both. The  
14 Court order shall set forth the time and place for compliance  
15 before either the Committee, *I Liheslaturan Guåhan* or the Court, to  
16 be determined by the Petitioner.

17 (b) **Expedited Process to Obtain Order.** The  
18 petition to the Superior Court of Guam hereunder shall be in the  
19 form of a summary, Special Proceeding case designation which  
20 shall be expedited and heard by the Court within five (5) calendar  
21 days. The witness may appear and answer at the hearing set forth  
22 in the notice to appear. In the event that notice is given and the  
23 witness fails to appear at the hearing, the Court shall immediately  
24 grant an order compelling compliance.

1           The Court shall maintain jurisdiction over the case and  
2 continue proceedings until compliance with the subpoena or  
3 subpoena duces tecum is had, including *if* the Court determines  
4 that additional time should be given to the witness for  
5 compliance. A final determination of the Court shall be  
6 immediately appealable to the Supreme Court of Guam, which  
7 shall hear the appeal on an expedited basis.

8           **(c) Imposition of Sanctions.** The Court shall impose  
9 contempt of court for any violation of its order obtained  
10 hereunder, which may include, but is *not* limited to, imprisonment  
11 until compliance or monetary fines, or both. Application for an  
12 order finding contempt of court shall be made by the Petitioner in  
13 the form of an "*Order to Show Cause RE: Contempt of Court.*"

14 **Section 3105. Compelling Discovery Through *I Liheslaturan***  
15 ***Guåhan* and Imposing Sanctions. (a) Jurisdiction.** Upon  
16 the noncompliance by a witness with a subpoena or subpoena  
17 duces tecum issued by a Committee or *I Liheslaturan Guåhan*,  
18 including the failure of a witness to provide *all* the documents  
19 requested by a subpoena duces tecum, the Committee or *I*  
20 *Liheslaturan Guåhan* shall have the jurisdiction and authority to  
21 make a finding of Legislative Contempt against a witness and  
22 determine the appropriate action and sanction to impose.

23

1                   **(b) Finding Legislative Contempt.** Legislative  
2 Contempt may be against a Committee or against *I Liheslaturan*  
3 *Guåhan* itself, both of which shall constitute contempt against *I*  
4 *Liheslaturan Guåhan*.

5                   **(1) Finding Legislative Contempt Against I**  
6 ***Liheslaturan Guåhan***. In the event that the Speaker or a  
7 Member believes a Legislative Contempt has occurred, the  
8 Speaker or the Member may apply to the legislative Body  
9 during legislative Session, or during the Committee of the  
10 Whole for a finding of Legislative Contempt against the  
11 witness or an order specifying action(s) to be taken by the  
12 witness, or both. The Body shall thereafter vote by a  
13 majority of its Members for the issuance of a '*Citation for*  
14 *Legislative Contempt*' ('Citation') for the purpose of  
15 determining Legislative Contempt and imposing sanctions  
16 or crafting an order of compliance, which may include  
17 imprisonment, imprisonment until compliance or a fine, or  
18 all the sanctions. At that Session the Speaker shall identify  
19 when the next Session will be conducted to hear the  
20 Citation, thereby affording the witness an opportunity to  
21 explain and defend. *I Liheslaturan Guåhan* may also make  
22 specific orders in furtherance of its authority under this  
23 Chapter.

1           The Citation shall summon the witness to appear  
2 before *I Liheslaturan Guåhan*, during a convening of the  
3 Committee of the Whole for such purpose, at a specific place  
4 and time to answer the Citation. The Citation shall also  
5 contain within it a brief description of the facts causing the  
6 issuance of the Citation. No notice need be given to the  
7 public, *except* as was announced at the Session authorizing  
8 the Citation's issuance. The Citation shall also advise the  
9 witness of the potential penalties which may be imposed,  
10 including imprisonment or fine, or both, and shall be  
11 immediately served by the legislative Sergeant-at-Arms, an  
12 Assistant Sergeant-at-Arms, or with the assistance of the  
13 Superior Court of Guam Marshals.

14           At the hearing for Legislative Contempt the witness  
15 may have counsel present, shall be heard if the witness  
16 chooses, and may answer questions of the Members. After  
17 the hearing *I Liheslaturan Guåhan* shall vote by a two-thirds  
18 (2/3) majority of its Members during Session in order to find  
19 if Legislative Contempt occurred and impose sanctions, be  
20 they imprisonment or fine, or both. *I Liheslaturan Guåhan*  
21 may also craft an order of compliance. The decision(s) of *I*  
22 *Liheslaturan Guåhan* shall be reduced to a Legislative  
23 Resolution during the Session either finding Legislative  
24 Contempt and setting forth the remedy, or not. The final

1 determination of Legislative Contempt shall *not* be  
2 appealable in the Superior Court of Guam, *however*, the  
3 Speaker may at any time after the approval of sanctions  
4 rescind said sanctions, at the Speaker's sole election.

5 **(2) Finding Legislative Contempt Against a**  
6 **Committee.** In the event that the Chairperson or a  
7 Member of the Committee believes a Legislative Contempt  
8 has occurred, the Chairperson or a Committee Member may  
9 apply to the Committee for a finding of Legislative  
10 Contempt against the witness and an order specifying  
11 action(s) to be taken by the witness. The Committee shall  
12 thereafter vote by a majority of its Members during any  
13 hearing for the issuance of a '*Citation for Legislative Contempt*'  
14 ('Citation') to find Legislative Contempt and then impose  
15 sanctions or craft an order of compliance, or both. The  
16 sanctions may include imprisonment, imprisonment until  
17 compliance or a fine, or all the sanctions. At that hearing the  
18 Chairperson shall identify when the next hearing will be  
19 conducted to hear the Citation, thereby affording the witness  
20 an opportunity to explain and defend. The Committee may  
21 also make specific orders in furtherance of its authority  
22 under this Chapter.

23 The Citation shall summon the witness to appear  
24 before the Committee at a specific place and time to answer

1 the Citation. The Citation shall also contain within it a brief  
2 description of the facts causing the issuance of the Citation.  
3 The hearing shall be within five (5) calendar days of the  
4 Committee hearing authorizing the Citation, and no notice  
5 need be given to the public, *except* as was announced at the  
6 hearing authorizing the Citation's issuance. The Citation  
7 shall also advise the witness of the potential penalties which  
8 may be imposed, including imprisonment or fine, or both,  
9 and shall be immediately served by the legislative Sergeant-  
10 at-Arms, an Assistant Sergeant-at-Arms, or with the  
11 assistance of the Superior Court of Guam Marshals.

12 At the Committee hearing for Legislative Contempt  
13 the witness may have counsel present, shall be heard if the  
14 witness chooses, and may answer questions of the  
15 Committee Members. After the hearing the Committee shall  
16 vote by a two-thirds (2/3) majority of its Members in order  
17 to find Legislative Contempt and impose sanctions, be they  
18 imprisonment or fine, or both. The Committee may also  
19 craft an order of compliance. The decision(s) of the  
20 Committee shall be reduced to a Committee resolution  
21 either finding Legislative Contempt and setting forth the  
22 Committee's remedy, or not. A Committee resolution  
23 finding Legislative Contempt shall immediately thereafter  
24 be submitted to the Speaker of *I Liheslaturan Guåhan* and the  
25 Chairperson of the Committee on Rules for their

1 discretionary concurrence, and *if* approved thereafter  
2 certified by the Legislative Secretary. The final  
3 determination of Legislative Contempt, approved by the  
4 Speaker and the Chairperson of the Committee on Rules,  
5 shall *not* be appealable in the Superior Court of Guam,  
6 *however*, the Speaker may at any time after the approval of  
7 sanctions rescind said sanctions, at the Speaker's sole  
8 election.

9 (c) **Imposition of Sanctions.** In the event of a finding  
10 of Legislative Contempt, the certified resolution shall thereafter be  
11 filed with the Superior Court of Guam via a Petition which shall  
12 include the approved and certified resolution finding Legislative  
13 Contempt and identifying the sanction(s) or legislative order(s), or  
14 both. The Petition shall be entitled a '*Petition for Imposing*  
15 *Sanctions for Legislative Contempt*,' which shall be a Special  
16 Proceedings case expedited and heard by the Court within five (5)  
17 calendar days. Notice shall be given to the witness who was  
18 found to be in Legislative Contempt. A judicial bench warrant  
19 may be issued for failing to appear at the court hearing once notice  
20 is duly served. The Court's jurisdiction shall be limited to *only*  
21 administering the imposition of the sanction(s) or order(s), or  
22 both, provided in the resolution, and the Court shall maintain  
23 jurisdiction until such time as the sanction(s) or order(s), or both,  
24 is completely executed.

1           The execution of the sanctions imposed under this Section  
2           shall include utilizing the assistance of Court's Marshals and the  
3           Department of Corrections, in coordination with the legislative  
4           Sergeant-at-Arms.

5           **Section 3106.     Separate and Distinct Dual Remedies.** The  
6           Committee and *I Liheslaturan Guåhan* shall have the right to seek an  
7           order compelling compliance with the subpoena or subpoena duces  
8           tecum before the Superior Court of Guam, *and* at the same time to seek  
9           Legislative Contempt, and sanction(s) and other legislative order(s) to  
10          ensure compliance with its investigative powers set forth in this  
11          Chapter.

12          Any violation of a court order obtained under this Chapter shall  
13          be deemed a separate and distinct offense punishable by the Court for  
14          violating its order, separate and apart from a finding of Legislative  
15          Contempt and the ensuing sanction(s) or order(s).

16          **Section 3107.     Privileges Not Applicable by Government of**  
17          **Guam.**     Notwithstanding any other provision of law, no privilege or  
18          defense, other than set forth herein, shall apply nor be assertable by a  
19          witness in the service of the government of Guam against any subpoena  
20          or subpoena duces tecum issued under this Chapter when issued to a  
21          witness in their government of Guam capacity. No information or  
22          documents within the government of Guam's custody or control shall  
23          be free from discovery by *I Liheslaturan Guåhan*, absent documents in the  
24          custody of judicial officials under court seal. Defenses which are *not*



1 applicable to persons in the service of the government of Guam shall  
2 include, but are *not* limited to, privacy or confidentiality of documents  
3 in the government's possession, be they of a government or non-  
4 government character, and the attorney-client privilege for government  
5 of Guam attorney-client relationships.

6 **Section 3108. Content of Process.** A subpoena issued by a  
7 Committee or *I Liheslaturan Guåhan* is sufficient if it:

8 (a) is addressed to the witness;

9 (b) states whether the proceeding is before *I Liheslaturan*  
10 *Guåhan* or a Committee thereof;

11 (c) requires the attendance of the witness at a reasonable  
12 date, time and place certain;

13 (d) states the general nature of the proceeding;

14 (e) is signed by the Speaker of *I Liheslaturan Guåhan* or the  
15 Chairperson of the Committee; *and*

16 (f) contains a statement that failure to comply with the  
17 subpoena, or subpoena duces tecum, *if* the case be, may result in a  
18 finding of Legislative Contempt punishable by a fine or  
19 imprisonment, or both, as well as may constitute a misdemeanor  
20 punishable by a fine of up to One Thousand Dollars (\$1,000.00) or  
21 incarceration up to one (1) year in prison, or both.

22 A subpoena duces tecum issued by a Committee or *I Liheslaturan*  
23 *Guåhan* is sufficient if, in addition to the foregoing, *also* includes:

1 (g) a reasonable identification of the document(s) to be  
2 produced at the date, time and place identified in the subpoena  
3 duces tecum.

4 **Section 3109. Service.** The legislative Sergeant-at-Arms,  
5 Assistant Sergeant-at-Arms, Superior Court of Guam Marshals or any  
6 person over twenty-one (21) years of age may serve a subpoena or  
7 subpoena duces tecum issued under this Chapter, or any other  
8 document requiring service under this Chapter, along with either the fee  
9 or a voucher, *if* applicable, as provided for under this Chapter.

10 **Section 3110. Fees and Vouchers.** A witness *not* in the  
11 service of the government of Guam who is subpoenaed to appear before  
12 *I Liheslaturan Guåhan* or a Committee thereof, whether to produce  
13 documents or otherwise, shall *only* be allowed a fee at the rate of Six  
14 Dollars (\$6.00) per day or Three Dollars (\$3.00) for each half day, or  
15 fraction thereof, that the witness attends. Witnesses in the service of the  
16 government of Guam who are subpoenaed shall *not* be entitled to any  
17 fees for their attendance before *I Liheslaturan Guåhan*, whether to  
18 produce documents or otherwise.

19 Upon the presentation of a voucher by a witness to the Treasurer  
20 of Guam, certified by the Speaker of *I Liheslaturan Guåhan*, along with a  
21 copy of the subpoena or subpoena duces tecum, the Treasurer of Guam  
22 shall promptly pay the fee identified in the voucher to the witness.

23 **Section 3111. Oaths or Affirmations.** The Speaker of *I*  
24 *Liheslaturan Guåhan*, or the Chairperson of a Committee, or their

1 designee, including the legislative Sergeant-at-Arms or Assistant  
2 Sergeant-at-Arms, may administer oaths or affirmations to witnesses in  
3 any matter under examination in furtherance of a legislative proceeding,  
4 whether they be under subpoena or not.

5 **Section 3112. Witness Immunity.** No person sworn and  
6 examined before *I Liheslaturan Guåhan*, or a Committee, shall be immune  
7 from criminal prosecution by reason thereof, nor shall any document or  
8 thing produced by such witness be excluded by reason of such  
9 production from use in any subsequent criminal proceeding; provided,  
10 however, that *I Liheslaturan Guåhan*, or Committee, may, by majority  
11 vote of all its respective Members, grant partial or absolute immunity to  
12 such witness who shall thereafter be compelled to testify on penalty of  
13 contempt. No witness so compelled shall be held to answer criminally  
14 or be subject to any penalty or forfeiture for any fact or act touching  
15 which the witness is required to testify, nor shall any document or thing  
16 produced by such witness be competent evidence in any criminal  
17 proceeding against the witness. Nothing in this Section exempts any  
18 witness from prosecution and punishment for perjury committed by the  
19 witness on examination.

20 **Section 3113. Criminal Penalty, Attorney General Duties.**

21 Every witness who neglects or refuses to obey a subpoena or subpoena  
22 duces tecum, or appearing, neglects or refuses to testify, or produce  
23 upon reasonable notice any document in the witness' possession or  
24 under the witness' control, without lawful excuse, is guilty of a

1 misdemeanor, punishable by up to one (1) year imprisonment or up to a  
2 One Thousand Dollar (\$1,000.00) fine, or both.

3 Upon any possible violation of this Chapter, the Chairperson of  
4 the Committee may request the Speaker, or the Speaker may himself,  
5 notify the Attorney General, who shall *immediately* conduct an  
6 investigation into the matter and take appropriate action to enforce this  
7 Chapter.

8 The Attorney General shall advise the Speaker in writing as to the  
9 status of the criminal investigation within thirty (30) days of receipt of  
10 notice by the Speaker of the possible criminal violation, and thereafter  
11 as to the final disposition of the matter.

12 In addition to the Attorney General having the responsibility and  
13 authority to enforce the provisions of this Act, the Legislative Counsel  
14 shall also have the authority to appear before the Superior Court of  
15 Guam to represent *I Liheslaturan Guåhan* in order to enforce the civil  
16 remedies set forth under this Chapter.

17 **Section 3114. Special Committees (a) Creation.**

18 *I Liheslaturan Guåhan* may by Legislative Resolution create a  
19 Special Committee, apart from the Standing Committees, for the  
20 purpose set forth in the Legislative Resolution. A Special  
21 Committee shall *not* limit, restrict nor otherwise prevent the  
22 authority of a Standing Committee to exercise its jurisdiction and  
23 powers as provided for under the Standing Rules of *I Liheslaturan*

1            *Guåhan* or under this Title, including its powers to oversee  
2 government operations and investigate matters.

3            **(b) Powers.**    The powers of a Special Committee shall  
4 be as provided for in the Legislative Resolution, the Standing  
5 Rules and as set forth in this Chapter. The Legislative Resolution  
6 shall state the Special Committee's purposes, powers, duties,  
7 duration, the subject matter and scope of its creation and number  
8 of Members. After its creation the Special Committee shall  
9 develop its rules and regulations consistent with this Chapter and  
10 the Standing Rules for governing its operations, which shall be  
11 submitted to *I Liheslaturan Guåhan* in Legislative Resolution form."

12            **Section 3.** Chapter 4 of Title 2 of the Guam Code Annotated is hereby  
13 *repealed.*

14            **Section 4. Severability.**    *If* any provision of this Law or its  
15 application to any person or circumstance is found to be invalid or contrary to  
16 law, such invalidity shall *not* affect other provisions or applications of this  
17 Law which can be given effect without the invalid provisions or application,  
18 and to this end the provisions of this Law are severable.

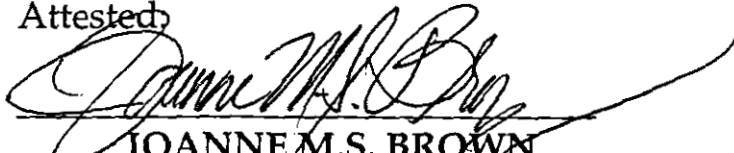
MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
2000 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 102 (LS) "AN ACT TO REPEAL AND REENACT CHAPTER 3 AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE GUAM CODE ANNOTATED, RELATIVE TO REFORMING THE LEGISLATIVE INVESTIGATIVE POWERS." was on the 19<sup>th</sup> day of April, 2000, duly and regularly passed.

  
\_\_\_\_\_  
ANTONIO R. UNPINGCO  
Speaker

Attested:

  
\_\_\_\_\_  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

.....

This Act was received by *I Maga'lahaen Guahan* this \_\_\_\_\_ day of \_\_\_\_\_, 2000,  
at \_\_\_\_\_ o'clock \_\_\_\_\_.M.

\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

\_\_\_\_\_  
CARL T. C. GUTIERREZ  
*I Maga'lahaen Guahan*

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

Public Law No. \_\_\_\_\_

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
2000 (SECOND) Regular Session

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\_\_\_\_\_  
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\_\_\_\_\_  
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*I Maga'lahaen Guahan*

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

Public Law No. \_\_\_\_\_

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 102 (LS)**

As substituted by the Committee on Rules,  
Government Reform, Reorganization,  
and Federal Affairs.

Introduced by:

A. R. Unpingco

J. C. Salas

K. S. Moylan

F. B. Aguon, Jr.

E. C. Bermudes

A. C. Blaz

J. M.S. Brown

E. B. Calvo

M. G. Camacho

Mark Forbes

L. F. Kasperbauer

A. C. Lamorena, V

C. A. Leon Guerrero

V. C. Pangelinan

S. A. Sanchez, II

**AN ACT TO REPEAL AND REENACT CHAPTER 3  
AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE  
GUAM CODE ANNOTATED, RELATIVE TO  
REFORMING THE LEGISLATIVE INVESTIGATIVE  
POWERS.**

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

2           **Section 1. Legislative Findings and Intent.** As part of the legislative  
3 process, Standing Committees of *I Liheslaturan Guåhan*, as well as *I*  
4 *Liheslaturan Guåhan* itself, must gather information on a timely basis in order



1 to oversee the government, and its instrumentalities, in addition to the private  
2 sector, and to gather information for drafting quality legislation. Information  
3 and documentation is critical to drafting legislation and properly overseeing  
4 government and private sector operations, *not only* balancing the other  
5 branches of government's powers, but ensuring the proper expenditures of  
6 taxpayer money. Without the power and authority to gather information,  
7 both publicly and privately, *I Liheslaturan Guåhan* will be handicapped and  
8 subject to passing misinformed or misguided legislation. As part of the  
9 government, *I Liheslaturan Guåhan* cannot be hindered by privileges asserted  
10 against it by other governmental instrumentalities within itself, which only  
11 serve to increase unnecessary, internal government bureaucracy and waste  
12 taxpayer money and government time.

13 In seeking to enforce its investigative powers, *I Liheslaturan Guåhan*  
14 must be empowered to both determine and exact contempt for the initial  
15 violation and seek further orders to compel compliance. The forum to enforce  
16 its investigative powers should be in the Committee, in *I Liheslaturan Guåhan*  
17 and through the local courts in order to timely obtain the required  
18 information and documents.

19 It is therefore the intent of *I Liheslaturan Guåhan* to clarify and  
20 implement adequate measures to ensure the free flow of information and  
21 documents to *I Liheslaturan Guåhan*, not only from the private sector, but more  
22 importantly the free and uninhibited flow of information to *I Liheslaturan*  
23 *Guåhan* from within the government itself. No information or documentation  
24 within the government's possession, *excepting* documents as are held by



1 (b) 'Committee' shall mean a Standing Committee of I  
2 *Liheslaturan Guåhan*, its authorized subcommittee, or a Special  
3 Committee formed by a Legislative Resolution.

4 (c) 'Committee on Rules' shall mean the Standing  
5 Committee designated as such, or its nearest equivalent as set  
6 forth in the current version of the legislative Standing Rules.

7 (d) 'Document' shall mean a paper, report, book, letter,  
8 memorandum, contract, article, receipt, invoice, audio or video  
9 tape, recording, other written or electronic material, or object.

10 (e) 'Fee' shall include witness and mileage fees.

11 (f) 'Hearing' shall be synonymous with and equivalent to  
12 'meeting,' by which a Committee conducts its legislative business,  
13 which may include, but is *not* limited to, oversight and  
14 investigatory proceedings.

15 (g) 'Judicial Officials' shall mean any full or part-time  
16 employee of the Judicial Branch of the government of Guam,  
17 including Justices, Judges and Referees.

18 (h) 'Member' shall be a Senator in the current *Liheslaturan*  
19 *Guåhan*.

20 (i) 'Petitioner' shall mean either the Committee or I  
21 *Liheslaturan Guåhan* itself.

22 (j) 'Presiding Officer' shall mean the Speaker of I  
23 *Liheslaturan Guåhan*.

1                   (k) 'Witness' is a person appearing before a Committee or *I*  
2                   *Liheslaturan Guåhan*, whether the person is summoned to testify or  
3                   bring documents, or otherwise.

4                   (l) 'Subpoena' shall mean a legal document and process  
5                   commanding the recipient to appear at a time and place, and to  
6                   provide testimony.

7                   (m) 'Subpoena duces tecum' shall mean a legal document  
8                   and process commanding the recipient to appear at a time and  
9                   place, and to provide testimony and document(s).

10                  **Section 3102. Authority.** The Committee and *I Liheslaturan*  
11                  *Guåhan* itself shall have the authority to issue subponeas and subpoenas  
12                  duces tecums in order to compel the attendance of witnesses or the  
13                  production of documents before it, or both. The Committee and *I*  
14                  *Liheslaturan Guåhan* shall have the standing, authority and jurisdiction to  
15                  determine and impose Legislative Contempt and to make such further  
16                  orders as it deems appropriate to effectuate its powers under this  
17                  Chapter, and additionally to apply to the Superior Court of Guam for an  
18                  order to compel the attendance or the production of documents, or both,  
19                  before it.

20                  The Committee and *I Liheslaturan Guåhan* may continue the  
21                  requirement of attendance of a witness, to provide testimony or to  
22                  provide for additional, supplementary document production by that  
23                  witness, or both, at the hearing at which the witness was ordered to  
24                  attend.

1           **Section 3103. Legislative Contempt.**           For purposes of this  
2 Chapter, a witness shall be deemed in Legislative Contempt against a  
3 Committee or *I Liheslaturan Guåhan* for any of the following reasons:

4           (a) disorderly, contemptuous or insolent behavior toward  
5 the Committee or *I Liheslaturan Guåhan* while holding a hearing or  
6 Session, tending to interrupt the due course of the legislative  
7 proceeding;

8           (b) a breach of the peace, boisterous conduct or violent  
9 disturbance, tending to interrupt the due course of a legislative  
10 proceeding;

11           (c) abuse of the process or proceedings of a Committee or  
12 *I Liheslaturan Guåhan*, or falsely pretending to act under authority  
13 of a resolution, an order or process of the Committee or *I*  
14 *Liheslaturan Guåhan*;

15           (d) disobedience to any lawful order or process of a  
16 Committee or *I Liheslaturan Guåhan*;

17           (e) any other unlawful interference with the process or  
18 proceedings of a Committee or *I Liheslaturan Guåhan*;

19           (f) failing or refusing to appear in compliance with a  
20 subpoena, or to produce documents when requested, or, having  
21 appeared, fails or refuses to testify under oath or affirmation or to  
22 produce documents;

23           (g) failing or refusing to answer any relevant question, or  
24 failing or refusing to furnish any document subpoenaed; or

1 (h) intentionally misrepresenting the truth or a fact while  
2 under oath before a Committee or *I Liheslaturan Guåhan*.

3 **Section 3104. Compelling Discovery Through Superior**  
4 **Court.**

5 (a) **Jurisdiction.** Upon the noncompliance with a  
6 subpoena or subpoena duces tecum issued by a Committee or *I*  
7 *Liheslaturan Guåhan*, including the failure to provide *all* the  
8 documents requested by a subpoena duces tecum, the Committee  
9 or *I Liheslaturan Guåhan* shall have the standing, jurisdiction and  
10 authority to petition to the Superior Court of Guam for a timely  
11 Court order to compel the attendance of a witness before that  
12 Committee or *I Liheslaturan Guåhan*, or a Court order for the  
13 *immediate* production of documents by the witness, or both. The  
14 Court order shall set forth the time and place for compliance  
15 before either the Committee, *I Liheslaturan Guåhan* or the Court, to  
16 be determined by the Petitioner.

17 (b) **Expedited Process to Obtain Order.** The  
18 petition to the Superior Court of Guam hereunder shall be in the  
19 form of a summary, Special Proceeding case designation which  
20 shall be expedited and heard by the Court within five (5) calendar  
21 days. The witness may appear and answer at the hearing set forth  
22 in the notice to appear. In the event that notice is given and the  
23 witness fails to appear at the hearing, the Court shall immediately  
24 grant an order compelling compliance.

1           The Court shall maintain jurisdiction over the case and  
2 continue proceedings until compliance with the subpoena or  
3 subpoena duces tecum is had, including *if* the Court determines  
4 that additional time should be given to the witness for  
5 compliance. A final determination of the Court shall be  
6 immediately appealable to the Supreme Court of Guam, which  
7 shall hear the appeal on an expedited basis.

8           **(c) Imposition of Sanctions.** The Court shall impose  
9 contempt of court for any violation of its order obtained  
10 hereunder, which may include, but is *not* limited to, imprisonment  
11 until compliance or monetary fines, or both. Application for an  
12 order finding contempt of court shall be made by the Petitioner in  
13 the form of an "*Order to Show Cause RE: Contempt of Court.*"

14 **Section 3105. Compelling Discovery Through *I Liheslaturan***  
15 ***Guåhan* and Imposing Sanctions. (a) Jurisdiction.** Upon  
16 the noncompliance by a witness with a subpoena or subpoena  
17 duces tecum issued by a Committee or *I Liheslaturan Guåhan*,  
18 including the failure of a witness to provide *all* the documents  
19 requested by a subpoena duces tecum, the Committee or *I*  
20 *Liheslaturan Guåhan* shall have the jurisdiction and authority to  
21 make a finding of Legislative Contempt against a witness and  
22 determine the appropriate action and sanction to impose.

1                   **(b) Finding Legislative Contempt.** Legislative  
2 Contempt may be against a Committee or against *I Liheslaturan*  
3 *Guåhan* itself, both of which shall constitute contempt against *I*  
4 *Liheslaturan Guåhan*.

5                   **(1) Finding Legislative Contempt Against I**  
6 ***Liheslaturan Guåhan.*** In the event that the Speaker or a  
7 Member believes a Legislative Contempt has occurred, the  
8 Speaker or the Member may apply to the legislative Body  
9 during legislative Session, or during the Committee of the  
10 Whole for a finding of Legislative Contempt against the  
11 witness or an order specifying action(s) to be taken by the  
12 witness, or both. The Body shall thereafter vote by a  
13 majority of its Members for the issuance of a '*Citation for*  
14 *Legislative Contempt*' ('Citation') for the purpose of  
15 determining Legislative Contempt and imposing sanctions  
16 or crafting an order of compliance, which may include  
17 imprisonment, imprisonment until compliance or a fine, or  
18 all the sanctions. At that Session the Speaker shall identify  
19 when the next Session will be conducted to hear the  
20 Citation, thereby affording the witness an opportunity to  
21 explain and defend. *I Liheslaturan Guåhan* may also make  
22 specific orders in furtherance of its authority under this  
23 Chapter.



1           The Citation shall summon the witness to appear  
2 before *I Liheslaturan Guåhan*, during a convening of the  
3 Committee of the Whole for such purpose, at a specific place  
4 and time to answer the Citation. The Citation shall also  
5 contain within it a brief description of the facts causing the  
6 issuance of the Citation. No notice need be given to the  
7 public, *except* as was announced at the Session authorizing  
8 the Citation's issuance. The Citation shall also advise the  
9 witness of the potential penalties which may be imposed,  
10 including imprisonment or fine, or both, and shall be  
11 immediately served by the legislative Sergeant-at-Arms, an  
12 Assistant Sergeant-at-Arms, or with the assistance of the  
13 Superior Court of Guam Marshals.

14           At the hearing for Legislative Contempt the witness  
15 may have counsel present, shall be heard if the witness  
16 chooses, and may answer questions of the Members. After  
17 the hearing *I Liheslaturan Guåhan* shall vote by a two-thirds  
18 (2/3) majority of its Members during Session in order to find  
19 if Legislative Contempt occurred and impose sanctions, be  
20 they imprisonment or fine, or both. *I Liheslaturan Guåhan*  
21 may also craft an order of compliance. The decision(s) of *I*  
22 *Liheslaturan Guåhan* shall be reduced to a Legislative  
23 Resolution during the Session either finding Legislative  
24 Contempt and setting forth the remedy, or not. The final

1 determination of Legislative Contempt shall *not* be  
2 appealable in the Superior Court of Guam, *however*, the  
3 Speaker may at any time after the approval of sanctions  
4 rescind said sanctions, at the Speaker's sole election.

5 **(2) Finding Legislative Contempt Against a**  
6 **Committee.** In the event that the Chairperson or a  
7 Member of the Committee believes a Legislative Contempt  
8 has occurred, the Chairperson or a Committee Member may  
9 apply to the Committee for a finding of Legislative  
10 Contempt against the witness and an order specifying  
11 action(s) to be taken by the witness. The Committee shall  
12 thereafter vote by a majority of its Members during any  
13 hearing for the issuance of a '*Citation for Legislative Contempt*'  
14 ('Citation') to find Legislative Contempt and then impose  
15 sanctions or craft an order of compliance, or both. The  
16 sanctions may include imprisonment, imprisonment until  
17 compliance or a fine, or all the sanctions. At that hearing the  
18 Chairperson shall identify when the next hearing will be  
19 conducted to hear the Citation, thereby affording the witness  
20 an opportunity to explain and defend. The Committee may  
21 also make specific orders in furtherance of its authority  
22 under this Chapter.

23 The Citation shall summon the witness to appear  
24 before the Committee at a specific place and time to answer

1 the Citation. The Citation shall also contain within it a brief  
2 description of the facts causing the issuance of the Citation.  
3 The hearing shall be within five (5) calendar days of the  
4 Committee hearing authorizing the Citation, and no notice  
5 need be given to the public, *except* as was announced at the  
6 hearing authorizing the Citation's issuance. The Citation  
7 shall also advise the witness of the potential penalties which  
8 may be imposed, including imprisonment or fine, or both,  
9 and shall be immediately served by the legislative Sergeant-  
10 at-Arms, an Assistant Sergeant-at-Arms, or with the  
11 assistance of the Superior Court of Guam Marshals.

12 At the Committee hearing for Legislative Contempt  
13 the witness may have counsel present, shall be heard if the  
14 witness chooses, and may answer questions of the  
15 Committee Members. After the hearing the Committee shall  
16 vote by a two-thirds (2/3) majority of its Members in order  
17 to find Legislative Contempt and impose sanctions, be they  
18 imprisonment or fine, or both. The Committee may also  
19 craft an order of compliance. The decision(s) of the  
20 Committee shall be reduced to a Committee resolution  
21 either finding Legislative Contempt and setting forth the  
22 Committee's remedy, or not. A Committee resolution  
23 finding Legislative Contempt shall immediately thereafter  
24 be submitted to the Speaker of *I Liheslaturan Guåhan* and the  
25 Chairperson of the Committee on Rules for their

1 discretionary concurrence, and *if* approved thereafter  
2 certified by the Legislative Secretary. The final  
3 determination of Legislative Contempt, approved by the  
4 Speaker and the Chairperson of the Committee on Rules,  
5 shall *not* be appealable in the Superior Court of Guam,  
6 *however*, the Speaker may at any time after the approval of  
7 sanctions rescind said sanctions, at the Speaker's sole  
8 election.

9 **(c) Imposition of Sanctions.** In the event of a finding  
10 of Legislative Contempt, the certified resolution shall thereafter be  
11 filed with the Superior Court of Guam via a Petition which shall  
12 include the approved and certified resolution finding Legislative  
13 Contempt and identifying the sanction(s) or legislative order(s), or  
14 both. The Petition shall be entitled a '*Petition for Imposing*  
15 *Sanctions for Legislative Contempt*,' which shall be a Special  
16 Proceedings case expedited and heard by the Court within five (5)  
17 calendar days. Notice shall be given to the witness who was  
18 found to be in Legislative Contempt. A judicial bench warrant  
19 may be issued for failing to appear at the court hearing once notice  
20 is duly served. The Court's jurisdiction shall be limited to *only*  
21 administering the imposition of the sanction(s) or order(s), or  
22 both, provided in the resolution, and the Court shall maintain  
23 jurisdiction until such time as the sanction(s) or order(s), or both,  
24 is completely executed.

1           The execution of the sanctions imposed under this Section  
2 shall include utilizing the assistance of Court's Marshals and the  
3 Department of Corrections, in coordination with the legislative  
4 Sergeant-at-Arms.

5           **Section 3106.    Separate and Distinct Dual Remedies.** The  
6 Committee and *I Liheslaturan Guåhan* shall have the right to seek an  
7 order compelling compliance with the subpoena or subpoena duces  
8 tecum before the Superior Court of Guam, *and* at the same time to seek  
9 Legislative Contempt, and sanction(s) and other legislative order(s) to  
10 ensure compliance with its investigative powers set forth in this  
11 Chapter.

12           Any violation of a court order obtained under this Chapter shall  
13 be deemed a separate and distinct offense punishable by the Court for  
14 violating its order, separate and apart from a finding of Legislative  
15 Contempt and the ensuing sanction(s) or order(s).

16           **Section 3107.    Privileges *Not* Applicable by Government of**  
17 **Guam.**    Notwithstanding any other provision of law, no privilege or  
18 defense, other than set forth herein, shall apply nor be assertable by a  
19 witness in the service of the government of Guam against any subpoena  
20 or subpoena duces tecum issued under this Chapter when issued to a  
21 witness in their government of Guam capacity. No information or  
22 documents within the government of Guam's custody or control shall  
23 be free from discovery by *I Liheslaturan Guåhan*, absent documents in the  
24 custody of judicial officials under court seal. Defenses which are *not*

1 applicable to persons in the service of the government of Guam shall  
2 include, but are *not* limited to, privacy or confidentiality of documents  
3 in the government's possession, be they of a government or non-  
4 government character, and the attorney-client privilege for government  
5 of Guam attorney-client relationships.

6 **Section 3108. Content of Process.** A subpoena issued by a  
7 Committee or *I Liheslaturan Guåhan* is sufficient if it:

8 (a) is addressed to the witness;

9 (b) states whether the proceeding is before *I Liheslaturan*  
10 *Guåhan* or a Committee thereof;

11 (c) requires the attendance of the witness at a reasonable  
12 date, time and place certain;

13 (d) states the general nature of the proceeding;

14 (e) is signed by the Speaker of *I Liheslaturan Guåhan* or the  
15 Chairperson of the Committee; *and*

16 (f) contains a statement that failure to comply with the  
17 subpoena, or subpoena duces tecum, *if* the case be, may result in a  
18 finding of Legislative Contempt punishable by a fine or  
19 imprisonment, or both, as well as may constitute a misdemeanor  
20 punishable by a fine of up to One Thousand Dollars (\$1,000.00) or  
21 incarceration up to one (1) year in prison, or both.

22 A subpoena duces tecum issued by a Committee or *I Liheslaturan*  
23 *Guåhan* is sufficient if, in addition to the foregoing, *also* includes:

1           (g) a reasonable identification of the document(s) to be  
2           produced at the date, time and place identified in the subpoena  
3           duces tecum.

4           **Section 3109. Service.** The legislative Sergeant-at-Arms,  
5           Assistant Sergeant-at-Arms, Superior Court of Guam Marshals or any  
6           person over twenty-one (21) years of age may serve a subpoena or  
7           subpoena duces tecum issued under this Chapter, or any other  
8           document requiring service under this Chapter, along with either the fee  
9           or a voucher, *if applicable*, as provided for under this Chapter.

10          **Section 3110. Fees and Vouchers.** A witness *not* in the  
11          service of the government of Guam who is subpoenaed to appear before  
12          *I Liheslaturan Guåhan* or a Committee thereof, whether to produce  
13          documents or otherwise, shall *only* be allowed a fee at the rate of Six  
14          Dollars (\$6.00) per day or Three Dollars (\$3.00) for each half day, or  
15          fraction thereof, that the witness attends. Witnesses in the service of the  
16          government of Guam who are subpoenaed shall *not* be entitled to any  
17          fees for their attendance before *I Liheslaturan Guåhan*, whether to  
18          produce documents or otherwise.

19          Upon the presentation of a voucher by a witness to the Treasurer  
20          of Guam, certified by the Speaker of *I Liheslaturan Guåhan*, along with a  
21          copy of the subpoena or subpoena duces tecum, the Treasurer of Guam  
22          shall promptly pay the fee identified in the voucher to the witness.

23          **Section 3111. Oaths or Affirmations.** The Speaker of *I*  
24          *Liheslaturan Guåhan*, or the Chairperson of a Committee, or their

1 designee, including the legislative Sergeant-at-Arms or Assistant  
2 Sergeant-at-Arms, may administer oaths or affirmations to witnesses in  
3 any matter under examination in furtherance of a legislative proceeding,  
4 whether they be under subpoena or not.

5       **Section 3112. Witness Immunity.** No person sworn and  
6 examined before *I Liheslaturan Guåhan*, or a Committee, shall be immune  
7 from criminal prosecution by reason thereof, nor shall any document or  
8 thing produced by such witness be excluded by reason of such  
9 production from use in any subsequent criminal proceeding; provided,  
10 however, that *I Liheslaturan Guåhan*, or Committee, may, by majority  
11 vote of all its respective Members, grant partial or absolute immunity to  
12 such witness who shall thereafter be compelled to testify on penalty of  
13 contempt. No witness so compelled shall be held to answer criminally  
14 or be subject to any penalty or forfeiture for any fact or act touching  
15 which the witness is required to testify, nor shall any document or thing  
16 produced by such witness be competent evidence in any criminal  
17 proceeding against the witness. Nothing in this Section exempts any  
18 witness from prosecution and punishment for perjury committed by the  
19 witness on examination.

20       **Section 3113. Criminal Penalty, Attorney General Duties.**  
21 Every witness who neglects or refuses to obey a subpoena or subpoena  
22 duces tecum, or appearing, neglects or refuses to testify, or produce  
23 upon reasonable notice any document in the witness' possession or  
24 under the witness' control, without lawful excuse, is guilty of a



1 misdemeanor, punishable by up to one (1) year imprisonment or up to a  
2 One Thousand Dollar (\$1,000.00) fine, or both.

3 Upon any possible violation of this Chapter, the Chairperson of  
4 the Committee may request the Speaker, or the Speaker may himself,  
5 notify the Attorney General, who shall *immediately* conduct an  
6 investigation into the matter and take appropriate action to enforce this  
7 Chapter.

8 The Attorney General shall advise the Speaker in writing as to the  
9 status of the criminal investigation within thirty (30) days of receipt of  
10 notice by the Speaker of the possible criminal violation, and thereafter  
11 as to the final disposition of the matter.

12 In addition to the Attorney General having the responsibility and  
13 authority to enforce the provisions of this Act, the Legislative Counsel  
14 shall also have the authority to appear before the Superior Court of  
15 Guam to represent *I Liheslaturan Guåhan* in order to enforce the civil  
16 remedies set forth under this Chapter.

17 **Section 3114. Special Committees (a) Creation.**

18 *I Liheslaturan Guåhan* may by Legislative Resolution create a  
19 Special Committee, apart from the Standing Committees, for the  
20 purpose set forth in the Legislative Resolution. A Special  
21 Committee shall *not* limit, restrict nor otherwise prevent the  
22 authority of a Standing Committee to exercise its jurisdiction and  
23 powers as provided for under the Standing Rules of *I Liheslaturan*

1            *Guåhan* or under this Title, including its powers to oversee  
2 government operations and investigate matters.

3            **(b) Powers.**    The powers of a Special Committee shall  
4 be as provided for in the Legislative Resolution, the Standing  
5 Rules and as set forth in this Chapter. The Legislative Resolution  
6 shall state the Special Committee's purposes, powers, duties,  
7 duration, the subject matter and scope of its creation and number  
8 of Members. After its creation the Special Committee shall  
9 develop its rules and regulations consistent with this Chapter and  
10 the Standing Rules for governing its operations, which shall be  
11 submitted to *I Liheslaturan Guåhan* in Legislative Resolution form."

12            **Section 3.** Chapter 4 of Title 2 of the Guam Code Annotated is hereby  
13 *repealed.*

14            **Section 4. Severability.**    *If* any provision of this Law or its  
15 application to any person or circumstance is found to be invalid or contrary to  
16 law, such invalidity shall *not* affect other provisions or applications of this  
17 Law which can be given effect without the invalid provisions or application,  
18 and to this end the provisions of this Law are severable.



**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910

June 21, 2000

The Honorable Carl T.C. Gutierrez  
*I Maga'lahen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*

Dear *Maga'lahi* Gutierrez:

Transmitted herewith is Substitute Bill No. 102(LS) which was overridden by *I Mina'Bente Singko Na Liheslaturan Guåhan* on June 21, 2000, notwithstanding your veto.

Sincerely,

  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

Enclosure



IX TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN  
(Included in File w/ All Bills Transmitted)

BILL NO. 102  
Veto

- EXHIBITS ATTACHED *None*
- CONFIRM NUMBER OF PAGES *17*
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN""\*"" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any *None*

Confirmed By: *[Signature]*

Dated: 6/21/2000

FINAL REVIEW: *[Signature]*

Dated: 6/21/2000

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)  
TO THE GOVERNOR. (DANNY, ROBERT OR OTHERS )
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK  
PLACED ON CLERK'S DESK. (Same copy given to Susan)
- FILED by: Danny, Robert or others

*Overridden*

# I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

2000 (SECOND) Regular Session

Date: 6/21/00

## VOTING SHEET

VETOED

Bill No. 102 (LS)

Resolution No. \_\_\_\_\_

Question: Notwithstanding the objections of the Governor, should Vetoed Bill No. 102(LS) be overridden?

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
AGUON, Frank B., Jr. <i>///</i>		<i>✓</i>			
BERMUDES, Eulogio C.		<i>✓</i>			
BLAZ, Anthony C. <i>/</i>	<i>✓</i>				
BROWN, Joanne M.S.	<i>✓</i>				
CALVO, Eduardo B.	<i>✓</i>				
CAMACHO, Marcel G.	<i>✓</i>				
FORBES, Mark	<i>✓</i>				
KASPERBAUER, Lawrence F.	<i>✓</i>				
LAMORENA, Alberto C., V	<i>✓</i>				
LEON GUERRERO, Carlotta A.	<i>✓</i>				
MOYLAN, Kaleo Scott	<i>✓</i>				
PANGELINAN, Vicente C.	<i>✓</i>				
SALAS, John C.	<i>✓</i>				
SANCHEZ, Simon A., II	<i>✓</i>				
UNPINGCO, Antonio R.	<i>✓</i>				

TOTAL

13

2

0

0

0

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



OFFICE OF THE GOVERNOR  
GUAM

MAY 05 2000

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Suite 200  
130 Aspal Street  
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By [Signature]

Time 4:13 pm

Date 05 MAY 2000

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 102 (LS), "AN ACT TO REPEAL AND REENACT CHAPTER 3 AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE GUAM CODE ANNOTATED, RELATIVE TO REFORMING THE LEGISLATIVE INVESTIGATIVE POWERS", which I have vetoed.

The legislation mandates that the power of the Superior Court must be used, without discretion, to punish individuals that either a committee of the Legislature or the whole Legislature determines have engaged in behaviors called "legislative contempt." The definition of legislative contempt has been enlarged from its current definition to include a wide variety of behaviors, such as "disorderly behavior", "insolent behavior", "boisterous conduct", behavior which "tends to interrupt the due course of the legislative proceeding", and so forth.

This overly-inclusive definition may take away the rights of our people to demonstrate in a peaceful manner before a session or public hearing at the Legislature. For example, a group of people carry signs or chant a slogan for or against an issue, this may be interpreted as "disorderly behavior", or behavior which "tends to interrupt the due course of the legislative proceeding." The determination is left solely to the discretion of the committee or the Legislature, without the need to present evidence or testimony before a court or other independent body.

Bill No. 102 makes the Superior Court a rubber stamp for any determination made by the Legislature or any of its committees, and reduces the court's role to one of meting out a predetermined punishment. Specifically, a committee or the entire body determines what behavior constitutes contempt, and then decides on the punishment. A petition is made for enforcement only by Superior Court; the court is required to impose whatever punishment the committee or Legislature has already determined. In determining punishments, prior law authorized a fine of \$1,000 or a 30-day sentence of imprisonment. This bill authorizes a fine of \$1,000 and a one-year sentence of imprisonment.

This legislation makes legislative contempt the crime of first priority on our island. Currently, the courts are required to schedule criminal cases prior to civil cases. In this legislation,

00913

legislative contempt cases, which are not really “cases” since nothing is decided by the court, must take priority. They must be heard within five calendar days.

In this legislation, the manner of determining legislative contempt and determining the sanction is done “off the record”. In a court proceeding, the matters considered are part of the record of the court, and usually can be appealed. In this legislation, the Legislature determines the matters in a Committee of the Whole, and not in regular session. Committee of the Whole is a proceeding that is “off the record”. No official records are made of these proceedings as the proceedings will not appear on the Journal of the Legislature. In fact, that is the reason for convening in Committee of the Whole; to discuss matters without any need of formal procedures such as taking votes by roll call, or keeping records. In fact, votes in Committee of the Whole cannot be reconsidered, as they can in a regular session. In other words, no record will be made of what happens, who votes for contempt, or who votes for a particular punishment. All is “off the record.”

Note also that this legislation allows for findings of legislative contempt, not only off the record during Committee of the Whole, but without the need of any public notice. “No notice need be given to the public” is stated over and over, on page 10, lines 6-7 and also on page 12, lines 4-5. Court proceedings are announced through a court calendar; legislative sessions are announced through the open government law; yet, findings of legislative contempt and imposing punishments are not subject to any official notice. This seems contrary to the concept of open government and fair procedures against an individual. This is also contrary to the current law, which provides for hearings to be open to the public.

The legislation repeals all privileges for documents in possession of the government. In other words, tax returns, medical records, attorney-client communications, and so forth, are not free from discovery by the Legislature. Included in these documents would be procurement records, trade secrets of businesses, and so forth. The only documents which are free from discovery are those “under seal” of the court (see page 14, line 24). Of course, there is no requirement on the part of the Legislature or any of its committees to keep these documents confidential, should they be submitted.

The Constitutional Right to Counsel is severely limited in this legislation. Although the legislation mentions that an individual’s attorney “may” be present, there is no guarantee of representation by the counsel. In fact, the attorney-client privilege is destroyed in other sections of the legislation.

The Constitutional Right to Freedom from Double Jeopardy is eliminated in this legislation. The legislation allows the Legislature to punish an individual, and for a court to have a separate case and impose a separate punishment for the same behavior. In other words, the Legislature can impose a prison sentence of one year for contempt, which is labeled a misdemeanor, and the individual can also be taken to court for the same behavior, and be punished again.

The legislation eliminates the Constitutional protection of Due Process. The proceedings called for in this legislation are “off the record”, do not require a public notice, do not require assistance of counsel, eliminate the attorney-client privilege, and provide no notice or


opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case. The legislation gives every opportunity to condemn an individual, even without the individual's presence, and provides no protections to the individual.

This legislation repeals both Chapters 3 and 4 of Title 2, Guam Code Annotated, the sections of law which now provide for legislative issuance of subpoenas and a fair hearing investigating committees of the Legislature. Although there may be a need for some clarifications in these laws, the enclosed Substitute Bill No. 102 goes way beyond clarifications.

This legislation has not met the standard of proper public scrutiny, even though it had a public hearing. No one from the public appeared at the public hearing. The only witness was the Legislature's legal counsel, and his testimony was oral and is not summarized in the committee report. What that testimony could have been is only conjecture.

The procedures outlined in this legislation need revision with the input of both prosecution and defense counsels. Both of these perspectives are needed in order to come up with appropriate procedures for the Legislature to subpoena individuals and documents, find contempt, as well as to provide proper constitutional protections to those members of the public who may be subjected to these actions. This legislation has overstepped the bounds of constitutional muster.

Very truly yours,

  
Madeleine Z. Bordallo  
I Maga'Lahen Guahan, Akto  
Acting Governor of Guam

Attachment: copy attached for signed bill or overridden bill  
original attached for vetoed bill

cc: The Honorable Antonio R. Unpingco  
Speaker


00913



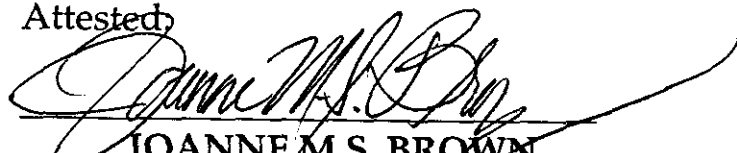
MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
2000 (SECOND) Regular Session

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

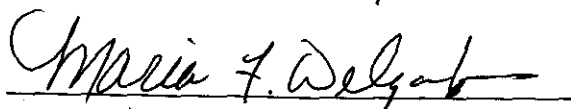
This is to certify that Substitute Bill No. 102 (LS) "AN ACT TO REPEAL AND REENACT CHAPTER 3 AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE GUAM CODE ANNOTATED, RELATIVE TO REFORMING THE LEGISLATIVE INVESTIGATIVE POWERS." was on the 19<sup>th</sup> day of April, 2000, duly and regularly passed.

  
\_\_\_\_\_  
ANTONIO R. UNPINGCO  
Speaker

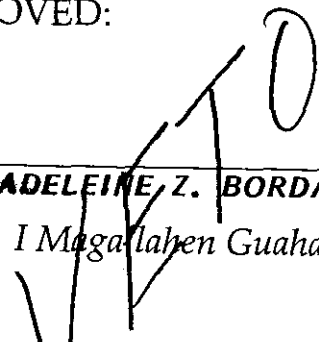
Attested:

  
\_\_\_\_\_  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by I Maga'lahen Guahan this 24<sup>th</sup> day of April, 2000,  
at 3:45 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Maga'lahi's Office

APPROVED:

  
\_\_\_\_\_  
MADELEINE Z. BORDALLO

I Maga'lahen Guahan, Akto

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

Public Law No. \_\_\_\_\_



**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 102 (LS)**

As substituted by the Committee on Rules,  
Government Reform, Reorganization,  
and Federal Affairs.

Introduced by:

A. R. Unpingco  
J. C. Salas  
K. S. Moylan  
F. B. Aguon, Jr.  
E. C. Bermudes  
A. C. Blaz  
J. M.S. Brown  
E. B. Calvo  
M. G. Camacho  
Mark Forbes  
L. F. Kasperbauer  
A. C. Lamorena, V  
C. A. Leon Guerrero  
V. C. Pangelinan  
S. A. Sanchez, II

**AN ACT TO REPEAL AND REENACT CHAPTER 3  
AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE  
GUAM CODE ANNOTATED, RELATIVE TO  
REFORMING THE LEGISLATIVE INVESTIGATIVE  
POWERS.**

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

2           **Section 1. Legislative Findings and Intent.** As part of the legislative  
3 process, Standing Committees of *I Liheslaturan Guåhan*, as well as *I*  
4 *Liheslaturan Guåhan* itself, must gather information on a timely basis in order

1 to oversee the government, and its instrumentalities, in addition to the private  
2 sector, and to gather information for drafting quality legislation. Information  
3 and documentation is critical to drafting legislation and properly overseeing  
4 government and private sector operations, *not only* balancing the other  
5 branches of government's powers, but ensuring the proper expenditures of  
6 taxpayer money. Without the power and authority to gather information,  
7 both publicly and privately, *I Liheslaturan Guåhan* will be handicapped and  
8 subject to passing misinformed or misguided legislation. As part of the  
9 government, *I Liheslaturan Guåhan* cannot be hindered by privileges asserted  
10 against it by other governmental instrumentalities within itself, which only  
11 serve to increase unnecessary, internal government bureaucracy and waste  
12 taxpayer money and government time.

13 In seeking to enforce its investigative powers, *I Liheslaturan Guåhan*  
14 must be empowered to both determine and exact contempt for the initial  
15 violation and seek further orders to compel compliance. The forum to enforce  
16 its investigative powers should be in the Committee, in *I Liheslaturan Guåhan*  
17 and through the local courts in order to timely obtain the required  
18 information and documents.

19 It is therefore the intent of *I Liheslaturan Guåhan* to clarify and  
20 implement adequate measures to ensure the free flow of information and  
21 documents to *I Liheslaturan Guåhan*, not only from the private sector, but more  
22 importantly the free and uninhibited flow of information to *I Liheslaturan*  
23 *Guåhan* from within the government itself. No information or documentation  
24 within the government's possession, *excepting* documents as are held by

1 judicial officials under court seal, should be free from discovery by *I*  
2 *Liheslaturan Guåhan*.

3 **Section 2.** Chapter 3 of Title 2 of the Guam Code Annotated is hereby  
4 *repealed and reenacted* to read as follows:

5 **"CHAPTER 3.**

6 **LEGISLATIVE INVESTIGATIVE POWERS.**

7 **Section 3101. Definitions.**

8 **Section 3102. Authority.**

9 **Section 3103. Legislative Contempt.**

10 **Section 3104. Compelling Discovery Through Superior Court.**

11 **Section 3105. Compelling Discovery Through *I Liheslaturan***  
12 ***Guåhan* and Imposing Sanctions.**

13 **Section 3106. Separate and Distinct Dual Remedies.**

14 **Section 3107. Privileges *Not* Applicable by Government of Guam.**

15 **Section 3108. Content of Process.**

16 **Section 3109. Service.**

17 **Section 3110. Fees and Voucher.**

18 **Section 3111. Oaths or Affirmations.**

19 **Section 3112. Witness Immunity.**

20 **Section 3113. Criminal Penalty, Attorney General Duties.**

21 **Section 3114. Special Committees.**

22 **Section 3101. Definitions.** The following words shall have  
23 the meanings as forth in this Chapter:

24 (a) '*Citation*' shall mean '*Citation for Legislative Contempt.*'

1           (b) '*Committee*' shall mean a Standing Committee of *I*  
2 *Liheslaturan Guåhan*, its authorized subcommittee, or a Special  
3 Committee formed by a Legislative Resolution.

4           (c) '*Committee on Rules*' shall mean the Standing  
5 Committee designated as such, or its nearest equivalent as set  
6 forth in the current version of the legislative Standing Rules.

7           (d) '*Document*' shall mean a paper, report, book, letter,  
8 memorandum, contract, article, receipt, invoice, audio or video  
9 tape, recording, other written or electronic material, or object.

10          (e) '*Fee*' shall include witness and mileage fees.

11          (f) '*Hearing*' shall be synonymous with and equivalent to  
12 '*meeting*,' by which a Committee conducts its legislative business,  
13 which may include, but is *not* limited to, oversight and  
14 investigatory proceedings.

15          (g) '*Judicial Officials*' shall mean any full or part-time  
16 employee of the Judicial Branch of the government of Guam,  
17 including Justices, Judges and Referees.

18          (h) '*Member*' shall be a Senator in the current *Liheslaturan*  
19 *Guåhan*.

20          (i) '*Petitioner*' shall mean either the Committee or *I*  
21 *Liheslaturan Guåhan* itself.

22          (j) '*Presiding Officer*' shall mean the Speaker of *I*  
23 *Liheslaturan Guåhan*.

1                   (k) 'Witness' is a person appearing before a Committee or *I*  
2                   *Liheslaturan Guåhan*, whether the person is summoned to testify or  
3                   bring documents, or otherwise.

4                   (l) 'Subpoena' shall mean a legal document and process  
5                   commanding the recipient to appear at a time and place, and to  
6                   provide testimony.

7                   (m) 'Subpoena duces tecum' shall mean a legal document  
8                   and process commanding the recipient to appear at a time and  
9                   place, and to provide testimony and document(s).

10                  **Section 3102. Authority.** The Committee and *I Liheslaturan*  
11                  *Guåhan* itself shall have the authority to issue subponeas and subpoenas  
12                  duces tecums in order to compel the attendance of witnesses or the  
13                  production of documents before it, or both. The Committee and *I*  
14                  *Liheslaturan Guåhan* shall have the standing, authority and jurisdiction to  
15                  determine and impose Legislative Contempt and to make such further  
16                  orders as it deems appropriate to effectuate its powers under this  
17                  Chapter, and additionally to apply to the Superior Court of Guam for an  
18                  order to compel the attendance or the production of documents, or both,  
19                  before it.

20                  The Committee and *I Liheslaturan Guåhan* may continue the  
21                  requirement of attendance of a witness, to provide testimony or to  
22                  provide for additional, supplementary document production by that  
23                  witness, or both, at the hearing at which the witness was ordered to  
24                  attend.

1                   **Section 3103. Legislative Contempt.**           For purposes of this  
2 Chapter, a witness shall be deemed in Legislative Contempt against a  
3 Committee or *I Liheslaturan Guåhan* for any of the following reasons:

4                   (a) disorderly, contemptuous or insolent behavior toward  
5 the Committee or *I Liheslaturan Guåhan* while holding a hearing or  
6 Session, tending to interrupt the due course of the legislative  
7 proceeding;

8                   (b) a breach of the peace, boisterous conduct or violent  
9 disturbance, tending to interrupt the due course of a legislative  
10 proceeding;

11                  (c) abuse of the process or proceedings of a Committee or  
12 *I Liheslaturan Guåhan*, or falsely pretending to act under authority  
13 of a resolution, an order or process of the Committee or *I*  
14 *Liheslaturan Guåhan*;

15                  (d) disobedience to any lawful order or process of a  
16 Committee or *I Liheslaturan Guåhan*;

17                  (e) any other unlawful interference with the process or  
18 proceedings of a Committee or *I Liheslaturan Guåhan*;

19                  (f) failing or refusing to appear in compliance with a  
20 subpoena, or to produce documents when requested, or, having  
21 appeared, fails or refuses to testify under oath or affirmation or to  
22 produce documents;

23                  (g) failing or refusing to answer any relevant question, or  
24 failing or refusing to furnish any document subpoenaed; *or*



1 (h) intentionally misrepresenting the truth or a fact while  
2 under oath before a Committee or *I Liheslaturan Guåhan*.

3 **Section 3104. Compelling Discovery Through Superior**  
4 **Court.**

5 (a) **Jurisdiction.** Upon the noncompliance with a  
6 subpoena or subpoena duces tecum issued by a Committee or *I*  
7 *Liheslaturan Guåhan*, including the failure to provide *all* the  
8 documents requested by a subpoena duces tecum, the Committee  
9 or *I Liheslaturan Guåhan* shall have the standing, jurisdiction and  
10 authority to petition to the Superior Court of Guam for a timely  
11 Court order to compel the attendance of a witness before that  
12 Committee or *I Liheslaturan Guåhan*, or a Court order for the  
13 *immediate* production of documents by the witness, or both. The  
14 Court order shall set forth the time and place for compliance  
15 before either the Committee, *I Liheslaturan Guåhan* or the Court, to  
16 be determined by the Petitioner.

17 (b) **Expedited Process to Obtain Order.** The  
18 petition to the Superior Court of Guam hereunder shall be in the  
19 form of a summary, Special Proceeding case designation which  
20 shall be expedited and heard by the Court within five (5) calendar  
21 days. The witness may appear and answer at the hearing set forth  
22 in the notice to appear. In the event that notice is given and the  
23 witness fails to appear at the hearing, the Court shall immediately  
24 grant an order compelling compliance.

1           The Court shall maintain jurisdiction over the case and  
2 continue proceedings until compliance with the subpoena or  
3 subpoena duces tecum is had, including *if* the Court determines  
4 that additional time should be given to the witness for  
5 compliance. A final determination of the Court shall be  
6 immediately appealable to the Supreme Court of Guam, which  
7 shall hear the appeal on an expedited basis.

8           **(c) Imposition of Sanctions.** The Court shall impose  
9 contempt of court for any violation of its order obtained  
10 hereunder, which may include, but is *not* limited to, imprisonment  
11 until compliance or monetary fines, or both. Application for an  
12 order finding contempt of court shall be made by the Petitioner in  
13 the form of an "*Order to Show Cause RE: Contempt of Court.*"

14 **Section 3105. Compelling Discovery Through *I Liheslaturan***  
15 ***Guåhan* and Imposing Sanctions. (a) Jurisdiction.** Upon  
16 the noncompliance by a witness with a subpoena or subpoena  
17 duces tecum issued by a Committee or *I Liheslaturan Guåhan*,  
18 including the failure of a witness to provide *all* the documents  
19 requested by a subpoena duces tecum, the Committee or *I*  
20 *Liheslaturan Guåhan* shall have the jurisdiction and authority to  
21 make a finding of Legislative Contempt against a witness and  
22 determine the appropriate action and sanction to impose.

1                   **(b) Finding Legislative Contempt.** Legislative  
2 Contempt may be against a Committee or against *I Liheslaturan*  
3 *Guåhan* itself, both of which shall constitute contempt against *I*  
4 *Liheslaturan Guåhan*.

5                   **(1) Finding Legislative Contempt Against I**  
6 ***Liheslaturan Guåhan*.** In the event that the Speaker or a  
7 Member believes a Legislative Contempt has occurred, the  
8 Speaker or the Member may apply to the legislative Body  
9 during legislative Session, or during the Committee of the  
10 Whole for a finding of Legislative Contempt against the  
11 witness or an order specifying action(s) to be taken by the  
12 witness, or both. The Body shall thereafter vote by a  
13 majority of its Members for the issuance of a '*Citation for*  
14 *Legislative Contempt*' ('Citation') for the purpose of  
15 determining Legislative Contempt and imposing sanctions  
16 or crafting an order of compliance, which may include  
17 imprisonment, imprisonment until compliance or a fine, or  
18 all the sanctions. At that Session the Speaker shall identify  
19 when the next Session will be conducted to hear the  
20 Citation, thereby affording the witness an opportunity to  
21 explain and defend. *I Liheslaturan Guåhan* may also make  
22 specific orders in furtherance of its authority under this  
23 Chapter.

1           The Citation shall summon the witness to appear  
2 before *I Liheslaturan Guåhan*, during a convening of the  
3 Committee of the Whole for such purpose, at a specific place  
4 and time to answer the Citation. The Citation shall also  
5 contain within it a brief description of the facts causing the  
6 issuance of the Citation. No notice need be given to the  
7 public, *except* as was announced at the Session authorizing  
8 the Citation's issuance. The Citation shall also advise the  
9 witness of the potential penalties which may be imposed,  
10 including imprisonment or fine, or both, and shall be  
11 immediately served by the legislative Sergeant-at-Arms, an  
12 Assistant Sergeant-at-Arms, or with the assistance of the  
13 Superior Court of Guam Marshals.

14           At the hearing for Legislative Contempt the witness  
15 may have counsel present, shall be heard if the witness  
16 chooses, and may answer questions of the Members. After  
17 the hearing *I Liheslaturan Guåhan* shall vote by a two-thirds  
18 (2/3) majority of its Members during Session in order to find  
19 if Legislative Contempt occurred and impose sanctions, be  
20 they imprisonment or fine, or both. *I Liheslaturan Guåhan*  
21 may also craft an order of compliance. The decision(s) of *I*  
22 *Liheslaturan Guåhan* shall be reduced to a Legislative  
23 Resolution during the Session either finding Legislative  
24 Contempt and setting forth the remedy, or not. The final

1 determination of Legislative Contempt shall *not* be  
2 appealable in the Superior Court of Guam, *however*, the  
3 Speaker may at any time after the approval of sanctions  
4 rescind said sanctions, at the Speaker's sole election.

5 **(2) Finding Legislative Contempt Against a**  
6 **Committee.** In the event that the Chairperson or a  
7 Member of the Committee believes a Legislative Contempt  
8 has occurred, the Chairperson or a Committee Member may  
9 apply to the Committee for a finding of Legislative  
10 Contempt against the witness and an order specifying  
11 action(s) to be taken by the witness. The Committee shall  
12 thereafter vote by a majority of its Members during any  
13 hearing for the issuance of a '*Citation for Legislative Contempt*'  
14 ('Citation') to find Legislative Contempt and then impose  
15 sanctions or craft an order of compliance, or both. The  
16 sanctions may include imprisonment, imprisonment until  
17 compliance or a fine, or all the sanctions. At that hearing the  
18 Chairperson shall identify when the next hearing will be  
19 conducted to hear the Citation, thereby affording the witness  
20 an opportunity to explain and defend. The Committee may  
21 also make specific orders in furtherance of its authority  
22 under this Chapter.

23 The Citation shall summon the witness to appear  
24 before the Committee at a specific place and time to answer

1 the Citation. The Citation shall also contain within it a brief  
2 description of the facts causing the issuance of the Citation.  
3 The hearing shall be within five (5) calendar days of the  
4 Committee hearing authorizing the Citation, and no notice  
5 need be given to the public, *except* as was announced at the  
6 hearing authorizing the Citation's issuance. The Citation  
7 shall also advise the witness of the potential penalties which  
8 may be imposed, including imprisonment or fine, or both,  
9 and shall be immediately served by the legislative Sergeant-  
10 at-Arms, an Assistant Sergeant-at-Arms, or with the  
11 assistance of the Superior Court of Guam Marshals.

12 At the Committee hearing for Legislative Contempt  
13 the witness may have counsel present, shall be heard if the  
14 witness chooses, and may answer questions of the  
15 Committee Members. After the hearing the Committee shall  
16 vote by a two-thirds (2/3) majority of its Members in order  
17 to find Legislative Contempt and impose sanctions, be they  
18 imprisonment or fine, or both. The Committee may also  
19 craft an order of compliance. The decision(s) of the  
20 Committee shall be reduced to a Committee resolution  
21 either finding Legislative Contempt and setting forth the  
22 Committee's remedy, or not. A Committee resolution  
23 finding Legislative Contempt shall immediately thereafter  
24 be submitted to the Speaker of *I Liheslaturan Guåhan* and the  
25 Chairperson of the Committee on Rules for their

1 discretionary concurrence, and *if* approved thereafter  
2 certified by the Legislative Secretary. The final  
3 determination of Legislative Contempt, approved by the  
4 Speaker and the Chairperson of the Committee on Rules,  
5 shall *not* be appealable in the Superior Court of Guam,  
6 *however*, the Speaker may at any time after the approval of  
7 sanctions rescind said sanctions, at the Speaker's sole  
8 election.

9 **(c) Imposition of Sanctions.** In the event of a finding  
10 of Legislative Contempt, the certified resolution shall thereafter be  
11 filed with the Superior Court of Guam via a Petition which shall  
12 include the approved and certified resolution finding Legislative  
13 Contempt and identifying the sanction(s) or legislative order(s), or  
14 both. The Petition shall be entitled a '*Petition for Imposing*  
15 *Sanctions for Legislative Contempt*,' which shall be a Special  
16 Proceedings case expedited and heard by the Court within five (5)  
17 calendar days. Notice shall be given to the witness who was  
18 found to be in Legislative Contempt. A judicial bench warrant  
19 may be issued for failing to appear at the court hearing once notice  
20 is duly served. The Court's jurisdiction shall be limited to *only*  
21 administering the imposition of the sanction(s) or order(s), or  
22 both, provided in the resolution, and the Court shall maintain  
23 jurisdiction until such time as the sanction(s) or order(s), or both,  
24 is completely executed.

1           The execution of the sanctions imposed under this Section  
2           shall include utilizing the assistance of Court’s Marshals and the  
3           Department of Corrections, in coordination with the legislative  
4           Sergeant-at-Arms.

5           **Section 3106.     Separate and Distinct Dual Remedies.** The  
6           Committee and *I Liheslaturan Guåhan* shall have the right to seek an  
7           order compelling compliance with the subpoena or subpoena duces  
8           tecum before the Superior Court of Guam, *and* at the same time to seek  
9           Legislative Contempt, and sanction(s) and other legislative order(s) to  
10          ensure compliance with its investigative powers set forth in this  
11          Chapter.

12          Any violation of a court order obtained under this Chapter shall  
13          be deemed a separate and distinct offense punishable by the Court for  
14          violating its order, separate and apart from a finding of Legislative  
15          Contempt and the ensuing sanction(s) or order(s).

16          **Section 3107.     Privileges *Not* Applicable by Government of**  
17          **Guam.**     Notwithstanding any other provision of law, no privilege or  
18          defense, other than set forth herein, shall apply nor be assertable by a  
19          witness in the service of the government of Guam against any subpoena  
20          or subpoena duces tecum issued under this Chapter when issued to a  
21          witness in their government of Guam capacity. No information or  
22          documents within the government of Guam’s custody or control shall  
23          be free from discovery by *I Liheslaturan Guåhan*, absent documents in the  
24          custody of judicial officials under court seal. Defenses which are *not*



1 applicable to persons in the service of the government of Guam shall  
2 include, but are *not* limited to, privacy or confidentiality of documents  
3 in the government's possession, be they of a government or non-  
4 government character, and the attorney-client privilege for government  
5 of Guam attorney-client relationships.

6 **Section 3108. Content of Process.** A subpoena issued by a  
7 Committee or *I Liheslaturan Guåhan* is sufficient if it:

8 (a) is addressed to the witness;

9 (b) states whether the proceeding is before *I Liheslaturan*  
10 *Guåhan* or a Committee thereof;

11 (c) requires the attendance of the witness at a reasonable  
12 date, time and place certain;

13 (d) states the general nature of the proceeding;

14 (e) is signed by the Speaker of *I Liheslaturan Guåhan* or the  
15 Chairperson of the Committee; *and*

16 (f) contains a statement that failure to comply with the  
17 subpoena, or subpoena duces tecum, *if the case be*, may result in a  
18 finding of Legislative Contempt punishable by a fine or  
19 imprisonment, or both, as well as may constitute a misdemeanor  
20 punishable by a fine of up to One Thousand Dollars (\$1,000.00) or  
21 incarceration up to one (1) year in prison, or both.

22 A subpoena duces tecum issued by a Committee or *I Liheslaturan*  
23 *Guåhan* is sufficient if, in addition to the foregoing, *also* includes:

1 (g) a reasonable identification of the document(s) to be  
2 produced at the date, time and place identified in the subpoena  
3 duces tecum.

4 **Section 3109. Service.** The legislative Sergeant-at-Arms,  
5 Assistant Sergeant-at-Arms, Superior Court of Guam Marshals or any  
6 person over twenty-one (21) years of age may serve a subpoena or  
7 subpoena duces tecum issued under this Chapter, or any other  
8 document requiring service under this Chapter, along with either the fee  
9 or a voucher, *if applicable*, as provided for under this Chapter.

10 **Section 3110. Fees and Vouchers.** A witness *not* in the  
11 service of the government of Guam who is subpoenaed to appear before  
12 *I Liheslaturan Guåhan* or a Committee thereof, whether to produce  
13 documents or otherwise, shall *only* be allowed a fee at the rate of Six  
14 Dollars (\$6.00) per day or Three Dollars (\$3.00) for each half day, or  
15 fraction thereof, that the witness attends. Witnesses in the service of the  
16 government of Guam who are subpoenaed shall *not* be entitled to any  
17 fees for their attendance before *I Liheslaturan Guåhan*, whether to  
18 produce documents or otherwise.

19 Upon the presentation of a voucher by a witness to the Treasurer  
20 of Guam, certified by the Speaker of *I Liheslaturan Guåhan*, along with a  
21 copy of the subpoena or subpoena duces tecum, the Treasurer of Guam  
22 shall promptly pay the fee identified in the voucher to the witness.

23 **Section 3111. Oaths or Affirmations.** The Speaker of *I*  
24 *Liheslaturan Guåhan*, or the Chairperson of a Committee, or their

1 designee, including the legislative Sergeant-at-Arms or Assistant  
2 Sergeant-at-Arms, may administer oaths or affirmations to witnesses in  
3 any matter under examination in furtherance of a legislative proceeding,  
4 whether they be under subpoena or not.

5 **Section 3112. Witness Immunity.** No person sworn and  
6 examined before *I Liheslaturan Guâhan*, or a Committee, shall be immune  
7 from criminal prosecution by reason thereof, nor shall any document or  
8 thing produced by such witness be excluded by reason of such  
9 production from use in any subsequent criminal proceeding; provided,  
10 however, that *I Liheslaturan Guâhan*, or Committee, may, by majority  
11 vote of all its respective Members, grant partial or absolute immunity to  
12 such witness who shall thereafter be compelled to testify on penalty of  
13 contempt. No witness so compelled shall be held to answer criminally  
14 or be subject to any penalty or forfeiture for any fact or act touching  
15 which the witness is required to testify, nor shall any document or thing  
16 produced by such witness be competent evidence in any criminal  
17 proceeding against the witness. Nothing in this Section exempts any  
18 witness from prosecution and punishment for perjury committed by the  
19 witness on examination.

20 **Section 3113. Criminal Penalty, Attorney General Duties.**  
21 Every witness who neglects or refuses to obey a subpoena or subpoena  
22 duces tecum, or appearing, neglects or refuses to testify, or produce  
23 upon reasonable notice any document in the witness' possession or  
24 under the witness' control, without lawful excuse, is guilty of a

1 misdemeanor, punishable by up to one (1) year imprisonment or up to a  
2 One Thousand Dollar (\$1,000.00) fine, or both.

3 Upon any possible violation of this Chapter, the Chairperson of  
4 the Committee may request the Speaker, or the Speaker may himself,  
5 notify the Attorney General, who shall *immediately* conduct an  
6 investigation into the matter and take appropriate action to enforce this  
7 Chapter.

8 The Attorney General shall advise the Speaker in writing as to the  
9 status of the criminal investigation within thirty (30) days of receipt of  
10 notice by the Speaker of the possible criminal violation, and thereafter  
11 as to the final disposition of the matter.

12 In addition to the Attorney General having the responsibility and  
13 authority to enforce the provisions of this Act, the Legislative Counsel  
14 shall also have the authority to appear before the Superior Court of  
15 Guam to represent *I Liheslaturan Guåhan* in order to enforce the civil  
16 remedies set forth under this Chapter.

17 **Section 3114. Special Committees (a) Creation.**

18 *I Liheslaturan Guåhan* may by Legislative Resolution create a  
19 Special Committee, apart from the Standing Committees, for the  
20 purpose set forth in the Legislative Resolution. A Special  
21 Committee shall *not* limit, restrict nor otherwise prevent the  
22 authority of a Standing Committee to exercise its jurisdiction and  
23 powers as provided for under the Standing Rules of *I Liheslaturan*

1            *Guåhan* or under this Title, including its powers to oversee  
2 government operations and investigate matters.

3            **(b) Powers.** The powers of a Special Committee shall  
4 be as provided for in the Legislative Resolution, the Standing  
5 Rules and as set forth in this Chapter. The Legislative Resolution  
6 shall state the Special Committee’s purposes, powers, duties,  
7 duration, the subject matter and scope of its creation and number  
8 of Members. After its creation the Special Committee shall  
9 develop its rules and regulations consistent with this Chapter and  
10 the Standing Rules for governing its operations, which shall be  
11 submitted to *I Liheslaturan Guåhan* in Legislative Resolution form.”

12            **Section 3.** Chapter 4 of Title 2 of the Guam Code Annotated is hereby  
13 *repealed*.

14            **Section 4. Severability.** *If* any provision of this Law or its  
15 application to any person or circumstance is found to be invalid or contrary to  
16 law, such invalidity shall *not* affect other provisions or applications of this  
17 Law which can be given effect without the invalid provisions or application,  
18 and to this end the provisions of this Law are severable.



**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910

April 24, 2000

The Honorable Carl T.C. Gutierrez  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*

Dear *Maga'lahi* Gutierrez:

Transmitted herewith is Substitute Bill No. 102(LS) which was passed by *I Mina'Bente Singko Na Liheslaturan Guåhan* on April 19, 2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanne M.S. Brown", is written over the printed name.

JOANNE M.S. BROWN  
Senator and Legislative Secretary


Enclosure

**CLERK OF THE LEGISLATURE**  
**TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN**  
(Included in File w/ All Bills Transmitted)  
**BILL NO.**

**FINAL PROOF-READING OF BLUEBACK COPY**

Initialed by: \_\_\_\_\_ and Date: \_\_\_\_\_

- EXHIBITS ATTACHED none
- CONFIRM NUMBER OF PAGES 19
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN "\*" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any NO

Confirmed By: 

Dated: 4/24/00

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)  
TO THE GOVERNOR. (DANNY, ROBERT OR OTHERS )
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK  
PLACED ON CLERK'S DESK. (Same copy given to Susan)
- FILED by: Danny, Robert or others

6

# I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

2000 (SECOND) Regular Session

Date: 4/19/00

## VOTING SHEET

Bill No. 102 (LS)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.	11 ✓				
BERMUDES, Eulogio C.	111	* ✓			
BLAZ, Anthony C.	1	✓			
BROWN, Joanne M.S.	1 ✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	1 ✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

13    2    \_\_\_\_\_

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence





**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senator Mark Forbes, Chairman  
Kabisiyon Mayurat*

Speaker Antonio R. Unpingco  
I Mina' Bente Singko Na Liheslaturan Guåhan  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 102, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 102, as substituted**, "An act to repeal and reenact Chapter 3 and to repeal Chapter 4 of Title 2 of the Guam Code Annotated, relative to reforming the legislative investigative powers."

The voting record is as follows:

TO PASS	<u>8</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.

  
MARK FORBES

Attachments



**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senator Mark Forbes, Chairman  
Kabisiyon Mayurat*

**MEMORANDUM**

**TO:** Committee Members

**FROM:** Chairman *A*

**SUBJECT:** Committee Report- BILL NO. 102, as substituted, "An act to repeal and reenact Chapter 3 and to repeal Chapter 4 of Title 2 of the Guam Code Annotated, relative to reforming the legislative investigative powers."

Transmitted herewith for your information and action is the report on Bill No. 102, as substituted, from the Committee on Rules, Government Reform, Reorganization and Federal Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 102, as substituted
4. Public Hearing Sign-in Sheet
5. Fiscal Note
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

**MARK FORBES**

Attachments

**Committee on Rules, Government Reform, Reorganization and Federal Affairs**  
**I Mina' Bente Singko Na Liheslaturan Guåhan**

**Voting Record**

**BILL NO. 102, as substituted, "An act to repeal and reenact Chapter 3 and to repeal Chapter 4 of Title 2 of the Guam Code Annotated, relative to reforming the legislative investigative powers."**

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
MARK FORBES, Chairman	✓			
EDDIE B. CALVO, Vice-Chairman				
ANTHONY C. BLAZ, Member				
JOANNE M. S. BROWN, Member				
MARCEL C. CAMACHO, Member	✓			
LAWRENCE F. KASPERBAUER, Member	✗			
KALEO S. MOYLAN, Member	✓			
ALBERTO A. C. LAMORENA V, Member	✓			
CARLOTTA A. LEON GUERRERO, Member				
JOHN C. SALAS, Member	✓			
SIMON A SANCHEZ, II, Member				
ANTONIO R. UNPINGCO, Member	✓			
FRANK B. AGUON, JR., Member				
ELOY C. BERMUDEZ, Member				
VICENTE C. PANGELINAN, Member				

**I MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**

**COMMITTEE ON RULES, GOVERNMENT REFORM,  
REORGANIZATION & FEDERAL AFFAIRS**

**SENATOR MARK FORBES, CHAIRMAN**

**COMMITTEE REPORT**

**ON**

**BILL NO. 102, as substituted**

**"An act to repeal and reenact Chapter 3 and to repeal Chapter 4  
of Title 2 of the Guam Code Annotated, relative to reforming the  
legislative investigative powers."**

## I. OVERVIEW

The Committee on Rules, Government Reform, Reorganization and Federal Affairs held a public hearing on Thursday, April 15, 1999 at 10:00 am at the Conference Room, Office of Senator Mark Forbes, I Liheslaturan Guahan. Public notice of the hearing was announced in the April 10<sup>th</sup> and 15<sup>th</sup>, 1999 issues of the Pacific Daily News.

Senators present were:

Senator Mark Forbes, Chairman  
Senator Marcel Camacho, Member  
Senator Frank Aguon, Jr., Member  
Senator Eloy Bermudes, Member

Individuals testifying before the Committee were:

Douglas Moylan, Legislative counsel

## II. SUMMARY OF TESTIMONY

Mr. Douglas Moylan, legal counsel for the Guam Legislature, testified **in favor** of the bill, suggesting that the term "legislative investigative powers" be substituted for "legislative discovery powers".

## III. FINDINGS AND RECOMMENDATION

The Committee on Rules, Government Reform, Reorganization and Federal Affairs finds that Bill No. 102, as substituted, strengthens the existing legislative investigative powers necessary for proper legislative oversight and proper balance of powers. Strong legislative investigative powers can only better serve the public by ensuring that facts are adequately investigated and crucial information in the government is brought under public scrutiny. It would bring more accountability to the government.

Accordingly, the Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 102 was referred does hereby submit its findings and recommendations to I Mina' Bente Singko Na Liheslaturan Guahan **TO DO PASS BILL NO. 102, as substituted**, "An act to repeal and reenact Chapter 3 and to repeal Chapter 4 of Title 2 of the Guam Code Annotated, relative to reforming the legislative investigative powers."

3e)  
2/24/00

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN  
1999 (FIRST) Regular Session**

**Bill No. 102 (LS)**

As Substituted by the Committee on Rules,  
Government Reform, Reorganization,  
and Federal Affairs

Introduced by:

A. R. Unpingco

J. C. Salas

K. S. Moylan

**AN ACT TO REPEAL AND REENACT CHAPTER 3  
AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE  
GUAM CODE ANNOTATED, RELATIVE TO  
REFORMING THE LEGISLATIVE INVESTIGATIVE  
POWERS.**

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

2 **Section 1. Legislative Findings and Intent.** As part of the legislative  
3 process, Standing Committees of *I Liheslaturan Guåhan*, as well as *I*  
4 *Liheslaturan Guåhan* itself, must gather information on a timely basis in order  
5 to oversee the government, and its instrumentalities, in addition to the private  
6 sector, and to gather information for drafting quality legislation. Information  
7 and documentation is critical to drafting legislation and properly overseeing  
8 government and private sector operations, not only balancing the other  
9 branches of government's powers, but ensuring the proper expenditures of  
10 taxpayer money. Without the power and authority to gather information,  
11 both publicly and privately, *I Liheslaturan Guåhan* will be handicapped and

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1 subject to passing misinformed or misguided legislation. As part of the  
2 government, *I Liheslaturan Guåhan* cannot be hindered by privileges asserted  
3 against it by other governmental instrumentalities within itself, which only  
4 serve to increase unnecessary, internal government bureaucracy and waste  
5 taxpayer money and government time.

6 In seeking to enforce its investigative powers, *I Liheslaturan Guåhan*  
7 must be empowered to both determine and exact contempt for the initial  
8 violation and seek further orders to compel compliance. The forum to enforce  
9 its investigative powers should be in the Committee, in *I Liheslaturan Guåhan*  
10 and through the local courts in order to timely obtain the required  
11 information and documents.

12 It is therefore the intent of *I Liheslaturan Guåhan* to clarify and  
13 implement adequate measures to ensure the free flow of information and  
14 documents to *I Liheslaturan Guåhan*, not only from the private sector, but more  
15 importantly the free and uninhibited flow of information to *I Liheslaturan*  
16 *Guåhan* from within the government itself. No information or documentation  
17 within the government's possession, excepting documents as are held by  
18 judicial officials under court seal, should be free from discovery by *I*  
19 *Liheslaturan Guåhan*.

20

21

22

23

24

1           **Section 2.** Chapter 3 of Title 2 of the Guam Code Annotated is hereby  
2 *repealed and reenacted* to read as follows:

3   **"CHAPTER 3.**  
4   **LEGISLATIVE INVESTIGATIVE POWERS.**

- 5           **Section 3101.     Definitions.**  
6           **Section 3102.     Authority.**  
7           **Section 3103.     Legislative Contempt.**  
8           **Section 3104.     Compelling Discovery Through Superior Court.**  
9           **Section 3105.     Compelling Discovery Through *I Liheslaturan***  
10                                   ***Guåhan* and Imposing Sanctions.**  
11           **Section 3106.     Separate and Distinct Dual Remedies.**  
12           **Section 3107.     Privileges *Not* Applicable by Government of Guam.**  
13           **Section 3108.     Content of Process.**  
14           **Section 3109.     Service.**  
15           **Section 3110.     Fees and Voucher.**  
16           **Section 3111.     Oaths or Affirmations.**  
17           **Section 3112.     Witness Immunity.**  
18           **Section 3113.     Criminal Penalty, Attorney General Duties.**  
19           **Section 3114.     Special Committees.**

20  
21                   **Section 3101.     Definitions.**                   The following words  
22                   shall have the meanings as <sup>set</sup>forth in this Chapter:

- 23                                   (a)   '*Citation*' shall mean '*Citation for Legislative Contempt.*'



1           (b) '*Committee*' shall mean a Standing Committee of *I*  
2 *Liheslaturan Guåhan*, its authorized subcommittee, or a Special  
3 Committee formed by a Legislative Resolution.

4           (c) '*Committee on Rules*' shall mean the Standing  
5 Committee designated as such, or its nearest equivalent as set  
6 forth in the current version of the legislative Standing Rules.

7           (d) '*Document*' shall mean a paper, report, book, letter,  
8 memorandum, contract, article, receipt, invoice, audio or video  
9 tape, recording, other written or electronic material, or object.

10          (e) '*Fee*' shall include witness and mileage fees.

11          (f) '*Hearing*' shall be synonymous with and equivalent to  
12 'meeting,' by which a Committee conducts its legislative business,  
13 which may include, but is *not* limited to, oversight and  
14 investigatory proceedings.

15          (g) '*Judicial Officials*' shall mean any full or part-time  
16 employee of the Judicial Branch of the government of Guam,  
17 including Justices, Judges and Referees.

18          (h) '*Member*' shall be a Senator in the current *I Liheslaturan*  
19 *Guåhan*.

20          (i) '*Petitioner*' shall mean either the Committee or *I*  
21 *Liheslaturan Guåhan* itself.

22          (j) '*Presiding Officer*' shall mean the Speaker of *I*  
23 *Liheslaturan Guåhan*.

1                   (k) 'Witness' is a person appearing before a Committee or *I*  
2                   *Liheslaturan Guåhan*, whether the person is summoned to testify or  
3                   bring documents, or otherwise.

4                   (l) 'Subpoena' shall mean a legal document and process  
5                   commanding the recipient to appear at a time and place, and to  
6                   provide testimony.

7                   (m) 'Subpoena duces tecum' shall mean a legal document  
8                   and process commanding the recipient to appear at a time and  
9                   place, and to provide testimony and document(s).

10                  **Section 3102. Authority.** The Committee and *I Liheslaturan*  
11                  *Guåhan* itself shall have the authority to issue subponeas and subpoenas  
12                  duces tecums in order to compel the attendance of witnesses or the  
13                  production of documents before it, or both. The Committee and *I*  
14                  *Liheslaturan Guåhan* shall have the standing, authority and jurisdiction to  
15                  determine and impose Legislative Contempt and to make such further  
16                  orders as it deems appropriate to effectuate its powers under this  
17                  Chapter, and additionally to apply to the Superior Court of Guam for an  
18                  order to compel the attendance or the production of documents, or both,  
19                  before it.

20                  The Committee and *I Liheslaturan Guåhan* may continue the  
21                  requirement of attendance of a witness, to provide testimony or to  
22                  provide for additional, supplementary document production by that  
23                  witness, or both, at the hearing at which the witness was ordered to  
24                  attend.

1           **Section 3103. Legislative Contempt.**           For purposes of this  
2 Chapter, a witness shall be deemed in Legislative Contempt against a  
3 Committee or *I Liheslaturan Guåhan* for any of the following reasons:

4           (a) disorderly, contemptuous or insolent behavior toward  
5 the Committee or *I Liheslaturan Guåhan* while holding a hearing or  
6 Session, tending to interrupt the due course of the legislative  
7 proceeding;

8           (b) a breach of the peace, boisterous conduct or violent  
9 disturbance, tending to interrupt the due course of a legislative  
10 proceeding;

11           (c) abuse of the process or proceedings of a Committee or  
12 *I Liheslaturan Guåhan*, or falsely pretending to act under authority  
13 of a resolution, an order or process of the Committee or *I*  
14 *Liheslaturan Guåhan*;

15           (d) disobedience to any lawful order or process of a  
16 Committee or *I Liheslaturan Guåhan*;

17           (e) any other unlawful interference with the process or  
18 proceedings of a Committee or *I Liheslaturan Guåhan*;

19           (f) failing or refusing to appear in compliance with a  
20 subpoena, or to produce documents when requested, or, having  
21 appeared, fails or refuses to testify under oath or affirmation or to  
22 produce documents;

23           (g) failing or refusing to answer any relevant question, or  
24 failing or refusing to furnish any document subpoenaed; *or*

1 (h) intentionally misrepresenting the truth or a fact while  
2 under oath before a Committee or *I Liheslaturan Guåhan*.

3 **Section 3104. Compelling Discovery Through Superior**  
4 **Court.**

5 (a) **Jurisdiction.** Upon the noncompliance with a  
6 subpoena or subpoena duces tecum issued by a Committee or *I*  
7 *Liheslaturan Guåhan*, including the failure to provide *all* the  
8 documents requested by a subpoena duces tecum, the Committee  
9 or *I Liheslaturan Guåhan* shall have the standing, jurisdiction and  
10 authority to petition to the Superior Court of Guam for a timely  
11 Court order to compel the attendance of a witness before that  
12 Committee or *I Liheslaturan Guåhan*, or a Court order for the  
13 *immediate* production of documents by the witness, or both. The  
14 Court order shall set forth the time and place for compliance  
15 before either the Committee, *I Liheslaturan Guåhan* or the Court, to  
16 be determined by the Petitioner.

17 (b) **Expedited Process to Obtain Order.** The petition  
18 to the Superior Court of Guam hereunder shall be in the form of a  
19 summary, Special Proceeding case designation which shall be  
20 expedited and heard by the Court within five (5) calendar days.  
21 The witness may appear and answer at the hearing set forth in the  
22 notice to appear. In the event that notice is given and the witness  
23 fails to appear at the hearing, the Court shall immediately grant an  
24 order compelling compliance.

1           The Court shall maintain jurisdiction over the case and  
2 continue proceedings until compliance with the subpoena or  
3 subpoena duces tecum is had, including *if* the Court determines  
4 that additional time should be given to the witness for  
5 compliance. A final determination of the Court shall be  
6 immediately appealable to the Guam Supreme Court, which shall  
7 hear the appeal on an expedited basis.

8           (c) **Imposition of Sanctions.** The Court shall impose  
9 contempt of court for any violation of its order obtained  
10 hereunder, which may include, but is *not* limited to, imprisonment  
11 until compliance or monetary fines, or both. Application for an  
12 order finding contempt of court shall be made by the Petitioner in  
13 the form of an Order to Show Cause RE: Contempt of Court.

14 **Section 3105. Compelling Discovery Through *I Liheslaturan***  
15 ***Guåhan* and Imposing Sanctions. (a) Jurisdiction.** Upon  
16 the noncompliance by a witness with a subpoena or subpoena  
17 duces tecum issued by a Committee or *I Liheslaturan Guåhan*,  
18 including the failure of a witness to provide *all* the documents  
19 requested by a subpoena duces tecum, the Committee or *I*  
20 *Liheslaturan Guåhan* shall have the jurisdiction and authority to  
21 make a finding of Legislative Contempt against a witness and  
22 determine the appropriate action and sanction to impose.

1                   **(b) Finding Legislative Contempt.** Legislative  
2 Contempt may be against a Committee or against *I Liheslaturan*  
3 *Guåhan* itself, both of which shall constitute contempt against *I*  
4 *Liheslaturan Guåhan*.

5                   **(1) Finding Legislative Contempt Against *I***  
6 ***Liheslaturan Guåhan*.** In the event that the Speaker or a  
7 Member believes a Legislative Contempt has occurred, the  
8 Speaker or the Member may apply to the Body during  
9 legislative Session or during the Committee of the Whole for  
10 a finding of Legislative Contempt against the witness or an  
11 order specifying action(s) to be taken by the witness, or both.  
12 The Body shall thereafter vote by a majority of its Members  
13 for the issuance of a '*Citation for Legislative Contempt*'  
14 ('Citation') for the purpose of determining Legislative  
15 Contempt and imposing sanctions or crafting an order of  
16 compliance, which may include imprisonment,  
17 imprisonment until compliance or a fine, or all the sanctions.  
18 At that Session the Speaker shall identify when the next  
19 Session will be conducted to hear the Citation, thereby  
20 affording the witness an opportunity to explain and defend.  
21 *I Liheslaturan Guåhan* may also make specific orders in  
22 furtherance of its authority under this Chapter.

23                   The Citation shall summon the witness to appear  
24 before *I Liheslaturan Guåhan*, during a convening of the

1 Committee of the Whole for such purpose, at a specific place  
2 and time to answer the Citation. The Citation shall also  
3 contain within it a brief description of the facts causing the  
4 issuance of the Citation. No notice need be given to the  
5 public, *except* as was announced at the Session authorizing  
6 the Citation's issuance. The Citation shall also advise the  
7 witness of the potential penalties which may be imposed,  
8 including imprisonment or fine, or both, and shall be  
9 immediately served by the legislative Sergeant-at-Arms, an  
10 Assistant Sergeant-at-Arms, or with the assistance of the  
11 Superior Court of Guam Marshals.

12 At the hearing for Legislative Contempt the witness  
13 may have counsel present, shall be heard if the witness  
14 chooses, and may answer questions of the Members. After  
15 the hearing *I Liheslaturan Guåhan* shall vote by a two-thirds  
16 (2/3) majority of its Members during Session in order to find  
17 if Legislative Contempt occurred and impose sanctions, be  
18 they imprisonment or fine, or both. *I Liheslaturan Guåhan*  
19 may also craft an order of compliance. The decision(s) of *I*  
20 *Liheslaturan Guåhan* shall be reduced to a Legislative  
21 Resolution during the Session either finding Legislative  
22 Contempt and setting forth the remedy, or not. The final  
23 determination of Legislative Contempt shall *not* be  
24 appealable in the Superior Court of Guam, *however*, the

1 Speaker may at any time after the approval of sanctions  
2 rescind said sanctions, at the Speaker's sole election.

3 **(2) Finding Legislative Contempt Against a**  
4 **Committee.** In the event that the Chairperson or a  
5 Member of the Committee believes a Legislative Contempt  
6 has occurred, the Chairperson or a Committee Member may  
7 apply to the Committee for a finding of Legislative  
8 Contempt against the witness and an order specifying  
9 action(s) to be taken by the witness. The Committee shall  
10 thereafter vote by a majority of its Members during any  
11 hearing for the issuance of a '*Citation for Legislative Contempt*'  
12 ('Citation') to find Legislative Contempt and then impose  
13 sanctions or craft an order of compliance, or both. The  
14 sanctions may include imprisonment, imprisonment until  
15 compliance or a fine, or all the sanctions. At that hearing the  
16 Chairperson shall identify when the next hearing will be  
17 conducted to hear the Citation, thereby affording the witness  
18 an opportunity to explain and defend. The Committee may  
19 also make specific orders in furtherance of its authority  
20 under this Chapter.

21 The Citation shall summon the witness to appear  
22 before the Committee at a specific place and time to answer  
23 the Citation. The Citation shall also contain within it a brief  
24 description of the facts causing the issuance of the Citation.  
25 The hearing shall be within five (5) calendar days of the



1 determination of Legislative Contempt, approved by the  
2 Speaker and the Chairperson of the Committee on Rules,  
3 shall *not* be appealable in the Superior Court of Guam,  
4 *however*, the Speaker may at any time after the approval of  
5 sanctions rescind said sanctions, at the Speaker's sole  
6 election.

7 (c) **Imposition of Sanctions.** In the event of a finding  
8 of Legislative Contempt, the certified resolution shall thereafter be  
9 filed with the Superior Court of Guam via a Petition which shall  
10 include the approved and certified resolution finding Legislative  
11 Contempt and identifying the sanction(s) or legislative order(s), or  
12 both. The Petition shall be entitled a '*Petition for Imposing*  
13 *Sanctions for Legislative Contempt*,' which shall be a Special  
14 Proceedings case expedited and heard by the Court within five (5)  
15 calendar days. Notice shall be given to the witness who was  
16 found to be in Legislative Contempt. A judicial bench warrant  
17 may be issued for failing to appear at the court hearing once notice  
18 is duly served. The Court's jurisdiction shall be limited to *only*  
19 administering the imposition of the sanction(s) or order(s), or  
20 both, provided in the resolution, and the Court shall maintain  
21 jurisdiction until such time as the sanction(s) or order(s), or both,  
22 is completely executed.

23 The execution of the sanctions imposed under this Section  
24 shall include utilizing the assistance of Court's Marshals and the

1 Department of Corrections, in coordination with the legislative  
2 Sergeant-at-Arms.

3 **Section 3106. Separate and Distinct Dual Remedies.** The  
4 Committee and *I Liheslaturan Guåhan* shall have the right to seek an  
5 order compelling compliance with the subpoena or subpoena duces  
6 tecum before the Superior Court of Guam, *and* at the same time to seek  
7 Legislative Contempt, and sanction(s) and other legislative order(s) to  
8 ensure compliance with its investigative powers set forth in this  
9 Chapter.

10 Any violation of a court order obtained under this Chapter shall  
11 be deemed a separate and distinct offense punishable by the Court for  
12 violating its order, separate and apart from a finding of Legislative  
13 Contempt and the ensuing sanction(s) or order(s).

14 **Section 3107. Privileges *Not* Applicable by Government of**  
15 **Guam.** Notwithstanding any other provision of law, no privilege or  
16 defense, other than set forth herein, shall apply nor be assertable by a  
17 witness in the service of the government of Guam against any subpoena  
18 or subpoena duces tecum issued under this Chapter when issued to a  
19 witness in their government of Guam capacity. No information or  
20 documents within the government of Guam's custody or control shall  
21 be free from discovery by *I Liheslaturan Guåhan*, absent documents in the  
22 custody of judicial officials under court seal. Defenses which are *not*  
23 applicable to persons in the service of the government of Guam shall  
24 include, but are *not* limited to, privacy or confidentiality of documents

1 in the government's possession, be they of a government or non-  
2 government character, and the attorney-client privilege for government  
3 of Guam attorney-client relationships.

4 **Section 3108. Content of Process.** A subpoena issued by a  
5 Committee or *I Liheslaturan Guåhan* is sufficient if it:

6 (a) is addressed to the witness;

7 (b) states whether the proceeding is before *I Liheslaturan*  
8 *Guåhan* or a Committee thereof;

9 (c) requires the attendance of the witness at a reasonable  
10 date, time and place certain;

11 (d) states the general nature of the proceeding;

12 (e) is signed by the Speaker of *I Liheslaturan Guåhan* or the  
13 Chairperson of the Committee; *and*

14 (f) contains a statement that failure to comply with the  
15 subpoena, or subpoena duces tecum, *if the case be*, may result in a  
16 finding of Legislative Contempt punishable by a fine or  
17 imprisonment, or both, as well as may constitute a misdemeanor  
18 punishable by a fine of up to One Thousand Dollars (\$1,000.00) or  
19 incarceration up to one (1) year in prison, or both.

20 A subpoena duces tecum issued by a Committee or *I Liheslaturan*  
21 *Guåhan* is sufficient if, in addition to the foregoing, *also* includes:

22 (g) a reasonable identification of the document(s) to be  
23 produced at the date, time and place identified in the subpoena  
24 duces tecum.

1           **Section 3109. Service.** The legislative Sergeant-at-Arms,  
2 Assistant Sergeant-at-Arms, Superior Court of Guam Marshals or any  
3 person over twenty-one (21) years of age may serve a subpoena or  
4 subpoena duces tecum issued under this Chapter, or any other  
5 document requiring service under this Chapter, along with either the fee  
6 *or a voucher, if applicable, as provided for under this Chapter.*

7           **Section 3110. Fees and Vouchers.** A witness *not* in the  
8 service of the government of Guam who is subpoenaed to appear before  
9 *I Liheslaturan Guåhan* or a Committee thereof, whether to produce  
10 documents or otherwise, shall *only* be allowed a fee at the rate of Six  
11 Dollars (\$6.00) per day or Three Dollars (\$3.00) for each half day, or  
12 fraction thereof, that the witness attends. Witnesses in the service of the  
13 government of Guam who are subpoenaed shall *not* be entitled to any  
14 fees for their attendance before *I Liheslaturan Guåhan*, whether to  
15 produce documents or otherwise.

16           Upon the presentation of a voucher by a witness to the Treasurer  
17 of Guam, certified by the Speaker of *I Liheslaturan Guåhan*, along with a  
18 copy of the subpoena or subpoena duces tecum, the Treasurer of Guam  
19 shall promptly pay the fee identified in the voucher to the witness.

20           **Section 3111. Oaths or Affirmations.** The Speaker of *I*  
21 *Liheslaturan Guåhan*, or the Chairperson of a Committee, or their  
22 designee, including the legislative Sergeant-at-Arms or Assistant  
23 Sergeant-at-Arms, may administer oaths or affirmations to witnesses in

1 in the government's possession, be they of a government or non-  
2 government character, and the attorney-client privilege for government  
3 of Guam attorney-client relationships.

4 **Section 3108. Content of Process.** A subpoena issued by a  
5 Committee or *I Liheslaturan Guåhan* is sufficient if it:

6 (a) is addressed to the witness;

7 (b) states whether the proceeding is before *I Liheslaturan*  
8 *Guåhan* or a Committee thereof;

9 (c) requires the attendance of the witness at a reasonable  
10 date, time and place certain;

11 (d) states the general nature of the proceeding;

12 (e) is signed by the Speaker of *I Liheslaturan Guåhan* or the  
13 Chairperson of the Committee; *and*

14 (f) contains a statement that failure to comply with the  
15 subpoena, or subpoena duces tecum, *if the case be*, may result in a  
16 finding of Legislative Contempt punishable by a fine or  
17 imprisonment, or both, as well as may constitute a misdemeanor  
18 punishable by a fine of up to One Thousand Dollars (\$1,000.00) or  
19 incarceration up to one (1) year in prison, or both.

20 A subpoena duces tecum issued by a Committee or *I Liheslaturan*  
21 *Guåhan* is sufficient if, in addition to the foregoing, *also* includes:

22 (g) a reasonable identification of the document(s) to be  
23 produced at the date, time and place identified in the subpoena  
24 duces tecum.

1           **Section 3109. Service.** The legislative Sergeant-at-Arms,  
2 Assistant Sergeant-at-Arms, Superior Court of Guam Marshals or any  
3 person over twenty-one (21) years of age may serve a subpoena or  
4 subpoena duces tecum issued under this Chapter, or any other  
5 document requiring service under this Chapter, along with either the fee  
6 or a voucher, if applicable, as provided for under this Chapter.

7           **Section 3110. Fees and Vouchers.** A witness *not* in the  
8 service of the government of Guam who is subpoenaed to appear before  
9 *I Liheslaturan Guåhan* or a Committee thereof, whether to produce  
10 documents or otherwise, shall *only* be allowed a fee at the rate of Six  
11 Dollars (\$6.00) per day or Three Dollars (\$3.00) for each half day, or  
12 fraction thereof, that the witness attends. Witnesses in the service of the  
13 government of Guam who are subpoenaed shall *not* be entitled to any  
14 fees for their attendance before *I Liheslaturan Guåhan*, whether to  
15 produce documents or otherwise.

16           Upon the presentation of a voucher by a witness to the Treasurer  
17 of Guam, certified by the Speaker of *I Liheslaturan Guåhan*, along with a  
18 copy of the subpoena or subpoena duces tecum, the Treasurer of Guam  
19 shall promptly pay the fee identified in the voucher to the witness.

20           **Section 3111. Oaths or Affirmations.** The Speaker of *I*  
21 *Liheslaturan Guåhan*, or the Chairperson of a Committee, or their  
22 designee, including the legislative Sergeant-at-Arms or Assistant  
23 Sergeant-at-Arms, may administer oaths or affirmations to witnesses in

1 any matter under examination in furtherance of a legislative proceeding,  
2 whether they be under subpoena or not.

3 **Section 3112. Witness Immunity.** No person sworn and  
4 examined before *I Liheslaturan Guåhan*, or a Committee, shall be immune  
5 from criminal prosecution by reason thereof, nor shall any document or  
6 thing produced by such witness be excluded by reason of such  
7 production from use in any subsequent criminal proceeding; provided,  
8 however, that *I Liheslaturan Guåhan*, or Committee, may, by majority  
9 vote of all its respective Members, grant partial or absolute immunity to  
10 such witness who shall thereafter be compelled to testify on penalty of  
11 contempt. No witness so compelled shall be held to answer criminally  
12 or be subject to any penalty or forfeiture for any fact or act touching  
13 which the witness is required to testify, nor shall any document or thing  
14 produced by such witness be competent evidence in any criminal  
15 proceeding against the witness. Nothing in this Section exempts any  
16 witness from prosecution and punishment for perjury committed by the  
17 witness on examination.

18 **Section 3113. Criminal Penalty, Attorney General Duties.**  
19 Every witness who neglects or refuses to obey a subpoena or subpoena  
20 duces tecum, or appearing, neglects or refuses to testify, or produce  
21 upon reasonable notice any document in the witness' possession or  
22 under the witness' control, without lawful excuse, is guilty of a  
23 misdemeanor, punishable by up to one (1) year imprisonment or up to a  
24 One Thousand Dollar (\$1,000.00) fine, or both.

1           Upon any possible violation of this Chapter, the Chairperson of  
2 the Committee may request the Speaker, or the Speaker may himself,  
3 notify the Attorney General, who shall *immediately* conduct an  
4 investigation into the matter and take appropriate action to enforce this  
5 Chapter.

6           The Attorney General shall advise the Speaker in writing as to the  
7 status of the criminal investigation within thirty (30) days of receipt of  
8 notice by the Speaker of the possible criminal violation, and thereafter  
9 as to the final disposition of the matter.

10           In addition to the Attorney General having the responsibility and  
11 authority to enforce the provisions of this Act, the Legislative Counsel  
12 shall also have the authority to appear before the Superior Court of  
13 Guam to represent *I Liheslaturan Guåhan* in order to enforce the civil  
14 remedies set forth under this Chapter.

15           **Section 3114. Special Committees. (a) Creation.** *I*  
16 *Liheslaturan Guåhan* may by Legislative Resolution create a Special  
17 Committee, apart from the Standing Committees, for the purpose  
18 set forth in the Legislative Resolution. A Special Committee shall  
19 *not* limit, restrict nor otherwise prevent the authority of a Standing  
20 Committee to exercise its jurisdiction and powers as provided for  
21 under the Standing Rules of *I Liheslaturan Guåhan* or under this  
22 Title, including its powers to oversee government operations and  
23 investigate matters.



1           **(b) Powers.** The powers of a Special Committee shall  
2 be as provided for in the Legislative Resolution, the Standing  
3 Rules and as set forth in this Chapter. The Legislative Resolution  
4 shall state the Special Committee's purposes, powers, duties,  
5 duration, the subject matter and scope of its creation and number  
6 of Members. After its creation the Special Committee shall  
7 develop its rules and regulations consistent with this Chapter and  
8 the Standing Rules for governing its operations, which shall be  
9 submitted to *I Liheslaturan Guåhan* in Legislative Resolution form."

10       **Section 3.** Chapter 4 of Title 2 of the Guam Code Annotated is hereby  
11 *repealed.*

12       **Section 4. Severability.** *If* any provision of this Law or its  
13 application to any person or circumstance is found to be invalid or contrary to  
14 law, such invalidity shall *not* affect other provisions or applications of this  
15 Law which can be given effect without the invalid provisions or application,  
16 and to this end the provisions of this Law are severable.

**Committee on Rules, Government Reform, Reorganization  
and Federal Affairs**

**Senator Mark Forbes, Chairman**

Public Hearing  
Thursday, April 15, 1999  
10:00 a.m.

I Liheslaturan Guahan, Hagåtña

**Bill No. 102 "AN ACT TO REPEAL AND REENACT CHAPTER 3 AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE GUAM CODE  
ANNOTATED, RELATIVE TO REFORMING THE LEGISLATIVE DISCOVERY POWERS."**

NAME (please print)	AGENCY/ ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR	CONTACT NUMBER
<i>Douglas B. Maylan</i>	<i>Legislative Counsel</i>	✓				

*(per Speaker's  
instructions to  
appear)*

**FISCAL NOTE**  
**BUREAU OF BUDGET AND MANAGEMENT RESEARCH**

**BBMR-F7**

Bill Number: 102(LS)  
 Amendatory Bill: Yes  
 Department/Agency Affected: Liheslaturan Guahan  
 Department/Agency Head: A. Unpingco, Speaker  
 Total FY Appropriation to Date: \$ 10,800,000

Date Received: 04/13/99  
 Date Reviewed: 04/27/99

**Bill Title (preamble):**

*An act to repeal and reenact chapter 3 and to repeal chapter 4 of Title 2 of the Guam Code Annotated, relative to performing the Legislative Discovery Powers.*

Change in Law: Yes

**Bill's Impact on Present Program Funding:**

Increase x      Decrease \_\_\_\_\_      Reallocation \_\_\_\_\_      No Change \_\_\_\_\_

**Bill is for:**

Operations x      Capital Improvement \_\_\_\_\_      Other \_\_\_\_\_

**FINANCIAL/PROGRAM IMPACT**

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
<i>Legislative Branch</i>			

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL						
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? \_\_\_\_\_ -- IF NO, ADD'L AMOUNT REQUIRED \$ \_\_\_\_\_  
 AGENCY/PERSON/DATE CONTACTED: \_\_\_\_\_

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL	<i>1/</i>					

ANALYST Christine D.F. Quichocho DATE 4/27/99  
 Christine D.F. Quichocho  
 FOOTNOTE: *See Attachment.*

DIRECTOR Joseph E. Rivera, Acting

DATE APR 28 1999

*Comments on Bill No. 102(LS)*

*Bill No. 102(LS) relates to the Legislatures discovery powers, of gathering information on a timely basis for the purpose of drafting quality legislation. This legislation may or may not have a fiscal impact on the operational budget of I Liheslaturan Guahan and is dependent upon the responsiveness of government and private sector entities.*

**POLICE BLOTTER**

**Arrests:**

**Wednesday**

▲ Joel Faesoup, 21, of Dededo was arrested on charges of disorderly conduct and public intoxication. He was booked and released.

▲ Rafter Rasauo, 21, of Agat was arrested on a charge of theft by receiving stolen property. He was booked and released.

▲ Michael Anthony Finona, 18, of Yigo was arrested on a graffiti-related charge. He was booked and released.

**Tuesday**

▲ Maria Angeles Managa, 42, of Tamuning was arrested on a charge of child abuse. She was

booked and released.

▲ Roland San Nicolas Smith, 28, of Mangilao was arrested on charges of assault and family violence. He was booked and confined.

▲ John Anthony Perez Cruz, 21, of Barrigada was arrested on a charge of family violence. He was booked and confined.

▲ Hector Casear Devero, 39, of Dededo was arrested on a charge of possession of a controlled substance. He was booked and confined.

▲ Rana Henry, 23, of Dededo was arrested on charges of obstructing government operations and resisting arrest. She was booked and released.

▲ Monica Ann Ninete Blas, 29, of Dededo was arrested on charges of family violence and assault. She was booked and confined.

▲ Jerome Ricardo Carriaga, 36, of Chalan Pago was arrested on charges of assault, family violence and terrorizing. He was booked and confined.

▲ Jarim Charfauros, 28, of Mangilao was arrested on three counts of criminal facilitation and three counts of conspiracy to commit a burglary. He was booked and released.

*Names as spelled in the blotter are provided by the Tactical Operations Command of the Guam Police Department.*

**GOVERNMENT MEETINGS**

**GVB BOARD OF DIRECTORS:** Special meeting, 4 p.m. April 15, GVB main conference room, Tumon. April 8 regular board meeting postponed until further notice, due to lack of quorum. Those with disabilities who need special accommodations, etc., should call 646-5278/9.

**AAPE RESTORATION ADVISORY BOARD:** 6:30-7:30 p.m. April 15, 1 Liheslaturan Guahan hearing room, Hagåtña. Freshwork updates for Northwest field main base. Morbo and hamon operable unit. Public invited. For more information call 566-4222.

**CIVIL SERVICE COMMISSION BOARD:** 9:30 a.m. April 15 CSC conference room, 49C Chalan Pakovic, Agaña Heights. Continuation of adverse action appeal of Daniel L.G. Sabrian vs. GPA, dismissal, new business; general business; executive session. For more information, call 475-1300/01.

**BOARD OF EXAMINERS FOR PHARMACY:** 8 a.m. April 15, Health Professional Licensing office, 1302 E. Sunset Blvd., Tiyon. Agenda copies available at 1304 E. Sunset Blvd. Those with disabilities who need special accommodations, etc., should call 475-0251/2.

**JUVENILE JUSTICE ADVISORY COMMITTEE:** Noon April 15, DYA conference room, Mangilao. All members urged to attend. Pictures to be taken for ID badges. All members urged to attend. Those with disabilities who need special accommodations, etc., should call Al Wooten at 734-3911.

**COMMITTEE ON LAND, AGRICULTURE, MILITARY AFFAIRS AND THE ARTS:** Public hearing, 7 p.m. April 15 at the Dededo community center. Confirmation hearing for Juan M. Taijito as acting director, Department of Agriculture.

**COMMITTEE ON RULES, GOVERNMENT REFORM, REORGANIZATION AND FEDERAL AFFAIRS:** Public hearing, 10 a.m. April 15, on Bills 57, 102, 149, 151, 172, Sen. Mark Forbes' office conference room, 1 Liheslaturan Guahan, Hagåtña. Public invited. Those with disabilities who need special accommodations, etc., should call 472-3512.

**COMMITTEE ON TOURISM, ECONOMIC DEVELOPMENT AND PARKS:** Public hearing, 1:13 p.m. April 16, 1 Liheslaturan Guahan public hearing room, Hagåtña. Ap-

▲ See Meetings. Page 9

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All items on sale throughout the store. Cash and Carry Only.

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to  
50%**

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**GUAMCELL Communications Inc. immediate opening for a  
WEBMASTER**

The Webmaster will be responsible for the technical architecture, design, implementation and maintenance of the GUAMCELL Communications corporate web site, as well as company intranet site. The Webmaster will work closely with the Marketing & Advertising department, Customer Service and Customer Care departments, System Administrators, and department liaisons to the intranet.

Candidates for this position must have two or more years experience as a webmaster or web staff for one or more commercial enterprises, and possess most of the following knowledge and skills.

- HTML, DHTML, XML, ASP, JavaScript, Adobe Acrobat, Peri, CGI
- Experience administering Microsoft IIS and Netscape Enterprise Server
- Experience with both UNIX and Windows NT platforms
- AA/AS or BA/BS in MIS or Computer Science (or closely related area) strongly preferred
- Database, ODBC, Application Development Experience all very helpful
- Experience in Java, VBScript, C++, Macromedia Flash & Director, Adobe Photoshop & Illustrator, a plus

The successful candidate will be both technically capable and have excellent interpersonal and communications skills. Individual must be self-motivated, comfortable working independently and as a member of a cross functional team. Valued qualities: energetic, detail-oriented, organized, deadline-driven, and flexible.

Please submit resume to:



219 S. Marine Drive, Ste. 206  
Tamuning, Guam 96911

Attn: Human Resources Manager

Deadline to submit resume/application is April 19, 1999.

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**STEWARDS**  
Part Time - Rotating Shifts Required  
experience helpful but not necessary

**COOK**  
Part Time - Swing Shift  
able to prepare a variety of  
foods for ala cart & buffet

**COOK HELPERS**  
On Call  
experienced in "Korean Food" preparation

**WAIT STAFF**  
Part Time & On Call  
restaurant or banquet experience preferred

**HOUSEPERSONS/PUBLIC AREA CLEANERS**  
Part Time - Day & Evening Shifts  
experience preferred



310 Ladera Lane, Mangilao  
fax resume to 735-1128 or pick up  
an application from the front gate

EQUAL OPPORTUNITY / DRUG-FREE WORKPLACE EMPLOYER

**NOTICE OF COMPLETION**

Joquin & Elaine Lizama,  
LOT No. 38, #275 Laguna  
Cl. Municipality of Yona,  
Guam. The owner own in  
fee simple the following  
"property" LOT No. 38,  
#275 Laguna Cl. Yona,  
Guam The Contractor  
Great ROC on February  
23, 1999 has completed  
the construction of a  
residential unit on said  
property.

Dated: February 23, 1999

Owner: Mr. Joaquin &  
Mrs. Elaine Lizama

**NOTICE OF COMPLETION**

Rito & Juan Guadachay,  
LOT No. 8, BLOCK 9  
Dededo, Guam.  
The owner own in fee simple  
the following "property":  
LOT No. 8, BLOCK 9  
Dededo, Guam. The Contractor  
Great ROC on  
April 05, 1999  
has completed the construction  
of a residential unit on said  
property.

Dated: April 05, 1999

Owner: Mr. Juan &  
Mrs. Rito Guadachay



**Notice of Public Hearing**

**Committee on Rules, Government Reform, Reorganization  
and Federal Affairs**

**Senator Mark Forbes, Chairman**

**10 A.M. THURSDAY, APRIL 15, 1999**

Bill No. 57, Relative to Creating the Guam Ancestral Lands  
Commission, and to Land Claims and Landowners Recovery.

Bill No. 102, Relative to Reforming the Legislative Discovery Powers.

Bill No. 149, Relative to Prohibiting Lame Duck Incumbents From  
Hiring New Unclassified Employees Following the Loss of an Election  
and to Prohibiting Salary Increases to Unclassified Employees  
Following the Loss of an Election or the Decision Not Seek Re-  
election by an Incumbent Elected Official.

Bill No. 151, Relative to Designating High Schools, the Guam  
Community College and Colleges of the University of Guam as Places  
of Voter Registration.

Bill No. 172, An Act to Appropriate Twenty-Five Thousand Two  
Hundred Dollars (\$25,200) from the General Fund, Through Debt  
Service Savings Derived from the Refunding of Prior Bond Issues of  
the General Fund, to the Guam Election Commission for the Purpose  
of Upgrading Their Existing Balloting Machines.

Hearing will take place in the Conference Room  
Office of Senator Mark Forbes, I Liheslaturan Guåhan  
Hagåtña, Guam  
The Public is Invited to Participate

Individuals requiring special accommodations, auxiliary aids or services  
are asked to contact the Office of Senator Forbes at 472-3512.

GUAMCELL Communications has an immediate opening for an

**INTERNET SUPPORT SPECIALIST**

The support specialist is responsible for providing technical support to GUAMCELL Communications customers, primarily via telephone. This is an entry level position and interested candidates should possess most of the following knowledge or skills:

- Strong customer service, telephone and listening skills
- Considerable internet experience and Win 3x, Win9x, Win NT, or Mac OS and related internet software experience required
- Strong problem solving and analytical skills
- Phone support experience preferred

The successful candidate will be both technically capable and have excellent interpersonal and communication skills. Individual must be self-motivated, comfortable working independently and as a member of a cross functional team. Valued qualities: energetic, detail oriented, organized, deadline driven, and flexible.

Please submit resume to:



219 S. Marine Drive, Ste. 206  
Tamuning, Guam 96911

Attn: Human Resources Manager

Deadline to submit resume/application is April 19, 1999. GUAMCELL Communications is a drug-free workplace. A police clearance is required. NO PHONE CALLS PLEASE.

GUAMCELL Communications  
has immediate opening for a full-time:

**ACCOUNTS RECEIVABLE REPRESENTATIVE**

- Individual must possess a high school diploma or it's equivalent
- Must be computer literate
- Must have prior credit/collection experience

Please submit resume or application to:



219 S. Marine Drive, Ste. 206 • Tamuning, Guam 96911

Attn: Human Resources Manager

GUAMCELL Communications is a drug-free workplace. A police and court clearance is required.  
Deadline to submit resume/application is April 12, 1999. NO PHONE CALLS PLEASE.

**IN THE SUPERIOR COURT OF GUAM**  
**ROSITA A. AGDEPPA,**  
 Plaintiff  
 vs.  
**SIMEON C. AGDEPPA**  
 Defendant  
**DOMESTIC CASE NO. DM0225-99**  
**SUMMONS**  
**TO: DEFENDANT**  
**SIMEON C. AGDEPPA:**  
**YOU ARE HEREBY summoned**  
 and required to serve upon Plaintiff's attorney, Gerald E. Gray, Attorney at Law whose address is: 202 K & F Commercial Building, 213 E. Buena Vista Avenue, Dedado, Guam 96912 an answer to the verified complaint served upon you herewith within thirty (30) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.  
 Dated: APR 05 1999

ALFREDO M. BORLAS  
 Clerk, Superior Court of Guam  
 By: **JESSE C. FRANQUEZ**  
 DEPUTY CLERK

**To Advertise  
 call  
 475-6333**

**Notice is given pursuant to 8 C.F.R. §274.9 that the following conveyances were sold:**

On January 3, 1999, one 75' Taiwanese Fishing Vessel, License: Chin Sheng Feng #27, Vic. CI 5-207 was sold at Pk. Guan.  
 Chain and cost bond requirement \$4,000.00 Reference Case # 99-9S-016322.

On January 10, 1999, one 1994, Stern Trawler Fishing Vessel, License: Su Lin Yaw, Vic. 02081 was sold at Pk. Guan.  
 Chain and cost bond requirement \$6,300.00 Reference Case # 99-9S-017121.

On January 10, 1999, one 1994 Stern Trawler Fishing Vessel, License: Su Lin Yaw, Vic. 02082 was sold at Pk. Guan.  
 Chain and cost bond requirement \$7,300.00. Reference Case # 99-9S-017134.

On January 30, 1999, one 85' Taiwanese Fishing Vessel, License: Shin Heng Hong #7, Vic. CI 4-1090 was sold at Pk. Guan.  
 Chain and cost bond requirement \$4,000.00 Reference Case # 99-9S-016322.

On February 3, 1999, one 79' Taiwanese Vessel, License: Mar Fu #9, Vic. CI 3-3372 was sold at Pk. Guan.  
 Chain and cost bond requirement \$8,200.00 Reference Case # 99-9S-016322.

On March 17, 1999, one 1998 Nissan Frontier Pickup Truck, License: Guam 75429DE, Vic. #0202651W321135 was sold at Agaña, Guam.  
 Chain and cost bond requirement \$1,799.00. Reference Case # 99-9S-029699.

On March 21, 1999, one 140' Chinese Stern Trawler, License: Unknown, Vic: Unknown was sold at Pk. Guan.  
 Chain and cost bond requirement \$230.00. Reference Case # 99-9S-020108.

The above conveyances and property were seized for alleged use in the commission of a violation of Section 274(a) of the Immigration and Nationality Act (INA) [8 U.S.C. §1324(a)]. The conveyances and property are subject to forfeiture except as provided in 8 C.F.R. §274.5(b). The Immigration and Naturalization Service is considering forfeiture of the seized conveyances and property, and their sale or other disposal if declared forfeited. Any person with appropriate property interest in the above conveyances or property, may file a petition for relief from forfeiture pursuant to 28 C.F.R. Part 9. Petitions for relief from forfeiture must be filed at the Service Office of U.S. Immigration & Naturalization Service, 238 Archbishop Flores Street #801, Agaña, Guam 96910, and should be filed within thirty (30) days of the date of the first publication of this advertisement.

Any person claiming ownership of a seized conveyance may request judicial forfeiture proceedings by filing a claim and cost bond pursuant to 8 C.F.R. §274.10. Such claim and bond must be filed at the Service Office above within twenty (20) days of the date of the first publication of this advertisement. The claim and cost bond must be filed on or before April 16, 1999. The claim must set forth the basis of the claimed ownership of the conveyance and allege why the conveyance is not subject to seizure. The claim must be accompanied by a bond in the form of a certified check in U.S. funds made payable to the Department of Justice. The owner of a seized conveyance or property may request a waiver of the requirement to post a cost bond. Pursuant to 8 C.F.R. §103.7(c)(1), the owner must establish an inability to post the required bond and reasons for that inability to be eligible for a waiver of the bond requirement. An application for a waiver of the bond requirement in official form must be filed with the Service office above.

**NOTICE OF AVAILABILITY**  
**Draft Finding of Suitability for Early Transfer (FOSET)**  
**For U.S. Naval Ship Repair facility Waterfront Industrial Area, Guam**

The Navy intends to early transfer approximately 100 acres at the U.S. Naval Ship Repair Facility to the Government of Guam. This transfer will use an Economic Development Conveyance (EC) under the Base Realignment and Closure (BRAC) program. The Navy is preparing a FOSET to document environmental conditions and the suitability of the property for early transfer. The FOSET will examine the proposed use of the property and recommend restrictions and covenants to ensure the protection of human health and the environment.

The FOSET is currently available for review and comment by any interested agencies, individuals, and groups at the Nieves M. Flores Memorial Library, 254 Martyr Street, Hagaña, Guam 96910. Telephone No. (671) 475-4751. Written comments are encouraged and should be mailed to the address below postmarked by May 8, 1999.

Contact: Commander  
 PACNAVFACENGCOM  
 258 MAKALAPA DR. STE 100  
 PEARL HARBOR, HI 96860-3134  
 ATTN: ERIC SHIGAKI (ENM18248E)

Or fax comments to: LCDR Dave Bruner at (671) 477-8937  
 Mr. Eric Shigaki at (808) 474-4519

For additional information, please contact either  
 LCDR Dave Bruner at (671) 475-5163 or  
 Mr. Eric Shigaki at (808) 474-5948.

**NOTICE OF SALE UNDER MORTGAGE**

On April 13, 1999, at 10:00 a.m. PACIFIC FINANCIAL CORPORATION the mortgages of that certain mortgages of that certain mortgage executed by Sung Goh Kim and Yu Sun Kim and recorded on January 15, 1991 as Instrument No. 428033, in the Department of Land Management, Government of Guam, pursuant to that certain Notice of Default and Election to Sell thereunder recorded January 15, 1999 as Instrument No. 596234, in the Department of Land Management, Government of Guam, will under and pursuant to a power of sale contained in said mortgage sell at public auction for cash or other forms of payment deemed acceptable, at the Barrigada Mayor's Office, Barrigada, Guam, all that right title and interest conveyed and conveyed under said mortgage situated in the Territory of Guam described as follows:  
**LOT NO. 3 BLOCK NO. 1 TRACT 1449, BARRIGADA, GUAM, AS SAID LOT IS MARKED AND DESIGNATED ON DRAWING NO. RRV87-1280S, AS RECORDED IN THE DEPARTMENT OF LAND MANAGEMENT, GOVERNMENT OF GUAM ON MARCH 31, 1988 UNDER DOCUMENT NO. 39543A. AREA: 1,858 SQUARE METERS OR 20,000 SQUARE FEET.**  
 Said sale will be made without covenant or warranty, expressed or implied, as to title, possession or encumbrances to satisfy the unpaid balance due on the note or notes secured by said mortgage, to wit: \$20,316.73, plus unpaid taxes, unpaid insurance premiums, interest to the date of sale, costs of sale, and attorney's fees.

**NOTICE OF SALE UNDER MORTGAGE**

On April 23, 1999, at 10:00 a.m. PACIFIC FINANCIAL CORPORATION the mortgages of that certain mortgage executed by Antonio V. Villavicencio and recorded on June 16, 1993 as Instrument No. 490583, in the Department of Land Management, Government of Guam, pursuant to that certain Notice of Default and Election to Sell thereunder recorded January 15, 1999 as Instrument No. 596962, in the Department of Land Management, Government of Guam, will under and pursuant to a power of sale contained in said mortgage sell at public auction for cash or other forms of payment deemed acceptable, at the Yigo Mayor's Office, Yigo, Guam, all that right title and interest conveyed and conveyed under said mortgage situated in the Territory of Guam described as follows:  
**LOT NO. 46, BLOCK NO. 1 TRACT NO. 10415, (CONSOLIDATION OF LOTS 7019-ANEW-1), 7019-ANEW-2 & 7019-ANEW-3), TERRITORY OF YIGO, TERRITORY OF GUAM, SUBURBAN, AS SAID LOT IS MARKED AND DESIGNATED ON DRAWING NO. RRV-209E, as L.M. CHECK NO. BE FY 87, DATED FEBRUARY 25, 1987 AND RECORDED MARCH 30, 1987 IN THE DEPARTMENT OF LAND MANAGEMENT, GOVERNMENT OF GUAM, UNDER DOCUMENT NO. 382858.**  
**AREA: 474 SQUARE METERS.**  
**CERTIFICATE OF TITLE NO. 71940 (7019-ANEW-3), CERTIFICATE OF TITLE NO. 71939 (7019-ANEW-2) AND CERTIFICATE OF TITLE NO. 71938 (7019-ANEW-1).**  
 Said sale will be made without covenant or warranty, expressed or implied, as to title, possession or encumbrances to satisfy the unpaid balance due on the note or notes secured by said mortgage, to wit: \$36,483.74, plus unpaid taxes, unpaid insurance premiums, interest to the date of sale, cost of sale, and attorney's fees.

The undersigned reserves the right to withdraw this notice, to reject any bid, or to accept only the highest bid, or to postpone the sale from time to time.

The undersigned is the attorney of the present owner and holder of the mortgage and note secured thereby.

**HIGHSMITH & O'MALLAN, P.C.**  
 Date: 3/8/99  
 /s/ J. Basil O'Mallan III  
 Island of Guam, Gu.

On this 8th day of March, 1999, before me, the undersigned notary, personally appeared, J. Basil O'Mallan III, the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as attorney for Pacific Financial Corporation.

/s/ Barbara P. Benavente  
 Notary Public  
 BARBARA P. BENAVENTE  
 NOTARY PUBLIC  
 In and for Guam U.S.A.  
 My Commission Expires:  
 April 07, 2002  
 366 E. Santa Barbara Ave.  
 Dedado, Guam 96912

The undersigned reserves the right to withdraw this notice, to reject any bid, or to accept only the highest bid, or to postpone the sale from time to time.

The undersigned is the attorney of the present owner and holder of the mortgage and note secured thereby.

**HIGHSMITH & O'MALLAN, P.C.**  
 Date: 3/18/99  
 /s/ J. Basil O'Mallan III  
 Island of Guam, Gu.

On this 18th day of March, 1999, before me, the undersigned notary, personally appeared, J. Basil O'Mallan III, the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as attorney for Pacific Financial Corporation.

/s/ Barbara P. Benavente  
 Notary Public  
 BARBARA P. BENAVENTE  
 NOTARY PUBLIC  
 In and for Guam U.S.A.  
 My Commission Expires:  
 April 07, 2002  
 366 E. Santa Barbara Ave.  
 Dedado, Guam 96912

**Caribe MORTGAGES**  
 SALE, TRADES and CONSIGNMENTS of quality New and Used Vehicles

**Extended Warranties Now Available**

98 VW Beato, Al. Call Us  
 98 Mitsubishi Mirage, As is. \$1,500  
 95 Toyota Corolla 5th. Al. \$4,995  
 95 Suzuki Jeep, Al. Hap. \$6,995  
 97 Pontiac Grand AM 5th. \$9,995  
 95 Toyota Camry Dlx, Al. \$9,995  
 96 Acura Integra, Scn. Al. \$10,995  
 98 Toyota Corolla VE, Scn. \$10,995  
 91 BMW 735i Scn, Al. \$12,995  
 93 MB 190E Scn, 2th mb. \$12,995  
 94 Cadillac Concours, 2th mb. \$13,995  
 94 Lexus ES300 Scn. \$14,995  
 93 Mazda B37 Twin Turbo. \$14,995  
 98 Niss 200SX SE Gas, Ltr, Blk. \$15,995  
 98 Honda Ux Sdn, Al. \$18,995

Tel: 472-9458/9340  
 1800 N. San Antonio St., Agaña, Guam

**NOTICE OF SALE UNDER MORTGAGE**  
 NOTICE IS HEREBY GIVEN pursuant to Section 2932 of the Civil Code of Guam, as modified by 18 GCA §36113, that the Mortgage executed and delivered by VIRGINIA H. GUEBBERO, now known as VIRGINIA GUEBBERO WILKINS, as Mortgagee, to BANK OF HAWAII, as Mortgagor, dated November 20, 1987, and recorded on November 25, 1987, with the Department of Land Management, Government of Guam, Office of the Recorder, as Instrument No. 392013, will be foreclosed pursuant to a power of sale contained in the Mortgage by sale of the premises encumbered by such Mortgage, as hereinafter described, to the highest bidder at public auction at the Mayor's Office, Hagaña, Guam, at 11:00 a.m. on April 23, 1999, to satisfy the amount due on such Mortgage on the day of sale. The terms of the sale are strictly cash, certified or cashier's check.

The premises that are described in such Mortgage and that will be sold to satisfy the Mortgage are as follows:  
**Lot Number 25, Block Number 11, Tract Number 232, Municipality of Hagaña, Territory of Guam, Urban, as said Lot is described in that Subdivision Survey of Tract 232, dated May 15, 1970 and recorded October 22, 1981, in the Department of Land Management, Government of Guam, under Document Number 324460.**  
**AREA: 9,151 ± square feet**  
**LAST CERTIFICATE TITLE NUMBER: 94885**

**TOGETHER** with all buildings, structures and improvements thereon and to be placed or erected thereon.

The undersigned are attorneys for the lawful owner of such Mortgage and the Note secured thereby. The Mortgagors have detailed in the performance of the terms and conditions of the Note and Mortgage, and BANK OF HAWAII deems all of the principal in the sum of ONE HUNDRED TWENTY-ONE THOUSAND FOUR HUNDRED SIX AND 45/100 DOLLARS (\$21,406.45), and interest in the sum of TWENTY-TWO THOUSAND TWO HUNDRED SIXTY AND 81/100 DOLLARS (\$22,260.81), as of April 15, 1999, and late charges to be paid on the Mortgage, plus interest accrued of eight and six hundred twenty-five thousandths (0.8625%) per annum after April 15, 1999, together with costs of sale and attorney fees.


The undersigned reserves the right to withdraw this notice, to reject any bid or to accept only the highest bid, and to postpone the sale from time to time. This Notice of Sale Under Mortgage is made for the purpose of collecting a debt and any information obtained by the undersigned will be used for that purpose.

DATED this 17th day of March, 1999.  
**CARLSMITH BULL**  
 /s/ BRUCE A. BRADLEY  
 4th Fl., Bank of Hawaii Bldg.  
 Post Office Box BF  
 Hagaña, Guam 96932  
 Attorneys for Bank of Hawaii

**GUAM, U.S.A.**  
 Municipality of Hagaña  
 On this 17th day of March, 1999, before me a notary public in and for Guam, U.S.A., personally appeared BRUCE A. BRADLEY, known to be the person whose name is subscribed to the foregoing NOTICE OF SALE UNDER MORTGAGE, and acknowledged to me that he signed it voluntarily for its stated purpose as attorneys for BANK OF HAWAII.

**IN WITNESS WHEREOF** I have hereunto set my hand and affixed my official seal the day and year first above written.

/s/ VANESSA M. FLORES  
 NOTARY PUBLIC  
 In and for the Territory of Guam, U.S.A.  
 My Co. Mission Expires: Aug. 13, 2001  
 P.O. Box BF, Hagaña, Guam 96932



## Notice of Public Hearing

Committee on Rules, Government Reform, Reorganization and Federal Affairs  
 Senator Mark Forbes, Chairman

**10 A.M. THURSDAY, APRIL 15, 1999**

Bill No. 57, Relative to Creating the Guam Ancestral Lands Commission, and to Land Claims and Landowners Recovery.

Bill No. 102, Relative to Reforming the Legislative Discovery Powers.

Bill No. 149, Relative to Prohibiting Lame Duck Incumbents From Hiring New Unclassified Employees Following the Loss of an Election and to Prohibiting Salary Increases to Unclassified Employees Following the Loss of an Election or the Decision Not Seek Re-election by an Incumbent Elected Official.

Bill No. 151, Relative to Designating High Schools, the Guam Community College and Colleges of the University of Guam as Places of Voter Registration.

Bill No. 172, An Act to Appropriate Twenty-Five Thousand Two Hundred Dollars (\$25,200) from the General Fund, Through Debt Service Savings Derived from the Refunding of Prior Bond Issues of the General Fund, to the Guam Election Commission for the Purpose of Upgrading Their Existing Balloting Machines.

Hearing will take place in the Conference Room  
 Office of Senator Mark Forbes, I Lihesiaturan Guåhan  
 Hagåtña, Guam  
 The Public is Invited to Participate

*Individuals requiring special accommodations, auxiliary aids or services are asked to contact the Office of Senator Forbes at 472-3512.*

FEB 17 1999

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 102 (LS)**

Introduced by:

A. R. Unpingco <sup>6</sup>

J. C. Salas *Salas*

K. S. Moylan

**AN ACT TO REPEAL AND REENACT CHAPTER 3  
AND TO REPEAL CHAPTER 4 OF TITLE 2 OF THE  
GUAM CODE ANNOTATED, RELATIVE TO  
REFORMING THE LEGISLATIVE DISCOVERY  
POWERS.**

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

2 **Section 1. Legislative Findings and Intent.** As part of the legislative  
3 process, Standing Committees of *I Liheslaturan Guåhan*, as well as *I Liheslaturan*  
4 *Guåhan* itself, must gather information on a timely basis in order to oversee  
5 the government, and its instrumentalities, in addition to the private sector,  
6 and to gather information for drafting quality legislation. Information and  
7 documentation is critical to drafting legislation and properly overseeing  
8 government and private sector operations, not only balancing the other  
9 branches of government's powers, but ensuring the proper expenditures of  
10 taxpayer money. Without the power and authority to gather information,  
11 both publicly and privately, *I Liheslaturan Guåhan* will be handicapped and  
12 subject to passing misinformed or misguided legislation. As part of the



1 government, *I Liheslaturan Guåhan* cannot be hindered by privileges asserted  
2 against it by other governmental instrumentalities within itself, which only  
3 serve to increase unnecessary, internal government bureaucracy and waste  
4 taxpayer money and government time. Concurrently, sensitive information  
5 gathered by *I Liheslaturan Guåhan* pursuant to its discovery powers must be  
6 protected from inadvertently being released to the public, which may require  
7 closure of hearings.

8 In seeking to enforce its discovery powers, *I Liheslaturan Guåhan* must be  
9 empowered to both determine and exact contempt for the initial violation and  
10 seek further orders to compel compliance. The forum to enforce its discovery  
11 powers should be in the Committee, in *I Liheslaturan Guåhan* and through the  
12 local courts in order to timely obtain the required information and documents.

13 It is therefore the intent of *I Liheslaturan Guåhan* to clarify and implement  
14 adequate measures to ensure the free flow of information and documents to *I*  
15 *Liheslaturan Guåhan*, not only from the private sector, but more importantly  
16 the free and uninhibited flow of information to *I Liheslaturan Guåhan* from  
17 within the government itself. No information or documentation within the  
18 government's possession, excepting documents as are held by judicial officials  
19 under court seal, should be free from discovery by *I Liheslaturan Guåhan*.

20

21

22

23

24

1           **Section 2.** Chapter 3 of Title 2 of the Guam Code Annotated is hereby  
2   *repealed and reenacted* to read as follows:

3    **"CHAPTER 3.**

4    **LEGISLATIVE DISCOVERY POWERS.**

5           **Section 3101.**     **Definitions.**

6           **Section 3102.**     **Authority.**

7           **Section 3103.**     **Legislative Contempt.**

8           **Section 3104.**     **Compelling Discovery Through Superior Court.**

9           **Section 3105.**     **Compelling Discovery Through *I Liheslaturan***  
10    ***Guåhan* and Imposing Sanctions.**

11           **Section 3106.**     **Separate and Distinct Dual Remedies.**

12           **Section 3107.**     **Privileges *Not* Applicable by Government of Guam.**

13           **Section 3108.**     **Content of Process.**

14           **Section 3109.**     **Service.**

15           **Section 3110.**     **Fees and Voucher.**

16           **Section 3111.**     **Oaths or Affirmations.**

17           **Section 3112.**     **Witness Immunity.**

18           **Section 3113.**     **Criminal Penalty, Attorney General Duties.**

19           **Section 3114.**     **Special Committees.**

20           **Section 3115.**     **Confidential Proceedings.**

21  
22                            **Section 3101.**     **Definitions.**                    The following words  
23 shall have the meanings as forth in this Chapter:

24                            (a)   ‘Citation’ shall mean ‘*Citation for Legislative Contempt.*’

1 (b) 'Committee' shall mean a Standing Committee of *I*  
2 *Liheslaturan Guåhan*, its authorized subcommittee, or a Special  
3 Committee formed by a Legislative Resolution.

4 (c) 'Committee on Rules' shall mean the Standing  
5 Committee designated as such, or its nearest equivalent as set  
6 forth in the current version of the legislative Standing Rules.

7 (d) 'Document' shall mean a paper, report, book, letter,  
8 memorandum, contract, article, receipt, invoice, audio or video  
9 tape, recording, other written or electronic material, or object.

10 (e) 'Fee' shall include witness and mileage fees.

11 (f) 'Hearing' shall be synonymous with and equivalent to  
12 'meeting,' by which a Committee conducts its legislative business,  
13 which may include, but is *not* limited to, oversight and  
14 investigatory proceedings.

15 (g) 'Judicial Officials' shall mean any full or part-time  
16 employee of the Judicial Branch of the government of Guam,  
17 including Justices, Judges and Referees.

18 (h) 'Member' shall be a Senator in the current *I Liheslaturan*  
19 *Guåhan*.

20 (i) 'Petitioner' shall mean either the Committee or *I*  
21 *Liheslaturan Guåhan* itself.

22 (j) 'Presiding Officer' shall mean the Speaker of *I*  
23 *Liheslaturan Guåhan*.

1           (k) 'Witness' is a person appearing before a Committee or *I*  
2           *Liheslaturan Guåhan*, whether the person is summoned to testify or  
3           bring documents, or otherwise.

4           (l) 'Subpoena' shall mean a legal document and process  
5           commanding the recipient to appear at a time and place, and to  
6           provide testimony.

7           (m) 'Subpoena duces tecum' shall mean a legal document  
8           and process commanding the recipient to appear at a time and  
9           place, and to provide testimony and document(s).

10          **Section 3102. Authority.** The Committee and *I Liheslaturan*  
11          *Guåhan* itself shall have the authority to issue subponeas and subpoenas  
12          duces tecums in order to compel the attendance of witnesses or the  
13          production of documents before it, or both. The Committee and *I*  
14          *Liheslaturan Guåhan* shall have the standing, authority and jurisdiction to  
15          determine and impose Legislative Contempt and to make such further  
16          orders as it deems appropriate to effectuate its powers under this  
17          Chapter, and additionally to apply to the Superior Court of Guam for an  
18          order to compel the attendance or the production of documents, or both,  
19          before it.

20          The Committee and *I Liheslaturan Guåhan* may continue the  
21          requirement of attendance of a witness, to provide testimony or to  
22          provide for additional, supplementary document production by that  
23          witness, or both, at the hearing at which the witness was ordered to  
24          attend.

1           **Section 3103. Legislative Contempt.**           For purposes of this  
2 Chapter, a witness shall be deemed in Legislative Contempt against a  
3 Committee or *I Liheslaturan Guåhan* for any of the following reasons:

4           (a)   disorderly, contemptuous or insolent behavior toward  
5 the Committee or *I Liheslaturan Guåhan* while holding a hearing or  
6 Session, tending to interrupt the due course of the legislative  
7 proceeding;

8           (b)   a breach of the peace, boisterous conduct or violent  
9 disturbance, tending to interrupt the due course of a legislative  
10 proceeding;

11          (c)   abuse of the process or proceedings of a Committee or  
12 *I Liheslaturan Guåhan*, or falsely pretending to act under authority  
13 of a resolution, an order or process of the Committee or *I*  
14 *Liheslaturan Guåhan*;

15          (d)   disobedience to any lawful order or process of a  
16 Committee or *I Liheslaturan Guåhan*;

17          (e)   any other unlawful interference with the process or  
18 proceedings of a Committee or *I Liheslaturan Guåhan*;

19          (f)   failing or refusing to appear in compliance with a  
20 subpoena, or to produce documents when requested, or, having  
21 appeared, fails or refuses to testify under oath or affirmation or to  
22 produce documents;

23          (g)   failing or refusing to answer any relevant question, or  
24 failing or refusing to furnish any document subpoenaed; or

1 (h) intentionally misrepresenting the truth or a fact while  
2 under oath before a Committee or *I Liheslaturan Guåhan*.

3 **Section 3104. Compelling Discovery Through Superior Court.**

4 (a) **Jurisdiction.** Upon the noncompliance with a  
5 subpoena or subpoena duces tecum issued by a Committee or *I*  
6 *Liheslaturan Guåhan*, including the failure to provide *all* the  
7 documents requested by a subpoena duces tecum, the Committee  
8 or *I Liheslaturan Guåhan* shall have the standing, jurisdiction and  
9 authority to petition to the Superior Court of Guam for a timely  
10 Court order to compel the attendance of a witness before that  
11 Committee or *I Liheslaturan Guåhan*, or a Court order for the  
12 *immediate* production of documents by the witness, or both. The  
13 Court order shall set forth the time and place for compliance  
14 before either the Committee, *I Liheslaturan Guåhan* or the Court, to  
15 be determined by the Petitioner.

16 (b) **Expedited Process to Obtain Order.** The petition  
17 to the Superior Court of Guam hereunder shall be in the form of a  
18 summary, Special Proceeding case designation which shall be  
19 expedited and heard by the Court within five (5) calendar days.  
20 The witness may appear and answer at the hearing set forth in the  
21 notice to appear. In the event that notice is given and the witness  
22 fails to appear at the hearing, the Court shall immediately grant an  
23 order compelling compliance.

1           The Court shall maintain jurisdiction over the case and  
2 continue proceedings until compliance with the subpoena or  
3 subpoena duces tecum is had, including *if* the Court determines  
4 that additional time should be given to the witness for compliance.  
5 A final determination of the Court shall be immediately  
6 appealable to the Guam Supreme Court, which shall hear the  
7 appeal on an expedited basis.

8           **(c) Imposition of Sanctions.** The Court shall impose  
9 contempt of court for any violation of its order obtained  
10 hereunder, which may include, but is *not* limited to, imprisonment  
11 until compliance or monetary fines, or both. Application for an  
12 order finding contempt of court shall be made by the Petitioner in  
13 the form of an Order to Show Cause RE: Contempt of Court.

14           **Section 3105. Compelling Discovery Through *I Liheslaturan***  
15 ***Guåhan* and Imposing Sanctions. (a) Jurisdiction.** Upon  
16 the noncompliance by a witness with a subpoena or subpoena  
17 duces tecum issued by a Committee or *I Liheslaturan Guåhan*,  
18 including the failure of a witness to provide *all* the documents  
19 requested by a subpoena duces tecum, the Committee or *I*  
20 *Liheslaturan Guåhan* shall have the jurisdiction and authority to  
21 make a finding of Legislative Contempt against a witness and  
22 determine the appropriate action and sanction to impose.

1                   **(b) Finding Legislative Contempt.**    Legislative

2                   Contempt may be against a Committee or against *I Liheslaturan*  
3                   *Guåhan* itself, both of which shall constitute contempt against *I*  
4                   *Liheslaturan Guåhan*.

5                   **(1) Finding Legislative Contempt Against I**

6                   *Liheslaturan Guåhan*. In the event that the Speaker or a  
7                   Member believes a Legislative Contempt has occurred, the  
8                   Speaker or the Member may apply to the Body during  
9                   legislative Session or during the Committee of the Whole for  
10                  a finding of Legislative Contempt against the witness or an  
11                  order specifying action(s) to be taken by the witness, or both.  
12                  The Body shall thereafter vote by a majority of its Members  
13                  for the issuance of a '*Citation for Legislative Contempt*'  
14                  ('Citation') for the purpose of determining Legislative  
15                  Contempt and imposing sanctions or crafting an order of  
16                  compliance, which may include imprisonment,  
17                  imprisonment until compliance or a fine, or all the sanctions.  
18                  At that Session the Speaker shall identify when the next  
19                  Session will be conducted to hear the Citation, thereby  
20                  affording the witness an opportunity to explain and defend.  
21                  *I Liheslaturan Guåhan* may also make specific orders in  
22                  furtherance of its authority under this Chapter.

23                  The Citation shall summon the witness to appear  
24                  before *I Liheslaturan Guåhan*, during a convening of the



1 Committee of the Whole for such purpose, at a specific place  
2 and time to answer the Citation. The Citation shall also  
3 contain within it a brief description of the facts causing the  
4 issuance of the Citation. No notice need be given to the  
5 public, *except* as was announced at the Session authorizing  
6 the Citation's issuance. The Citation shall also advise the  
7 witness of the potential penalties which may be imposed,  
8 including imprisonment or fine, or both, and shall be  
9 immediately served by the legislative Sergeant-at-Arms, an  
10 Assistant Sergeant-at-Arms, or with the assistance of the  
11 Superior Court of Guam Marshals.

12 At the hearing for Legislative Contempt the witness  
13 may have counsel present, shall be heard if the witness  
14 chooses, and may answer questions of the Members. After  
15 the hearing *I Liheslaturan Guåhan* shall vote by a two-thirds  
16 (2/3) majority of its Members during Session in order to find  
17 if Legislative Contempt occurred and impose sanctions, be  
18 they imprisonment or fine, or both. *I Liheslaturan Guåhan*  
19 may also craft an order of compliance. The decision(s) of *I*  
20 *Liheslaturan Guåhan* shall be reduced to a Legislative  
21 Resolution during the Session either finding Legislative  
22 Contempt and setting forth the remedy, or not. The final  
23 determination of Legislative Contempt shall *not* be  
24 appealable in the Superior Court of Guam, *however*, the

1 Speaker may at any time after the approval of sanctions  
2 rescind said sanctions, at the Speaker's sole election.

3 **(2) Finding Legislative Contempt Against a**  
4 **Committee.** In the event that the Chairperson or a  
5 Member of the Committee believes a Legislative Contempt  
6 has occurred, the Chairperson or a Committee Member may  
7 apply to the Committee for a finding of Legislative  
8 Contempt against the witness and an order specifying  
9 action(s) to be taken by the witness. The Committee shall  
10 thereafter vote by a majority of its Members during any  
11 hearing for the issuance of a '*Citation for Legislative Contempt*'  
12 ('Citation') to find Legislative Contempt and then impose  
13 sanctions or craft an order of compliance, or both. The  
14 sanctions may include imprisonment, imprisonment until  
15 compliance or a fine, or all the sanctions. At that hearing the  
16 Chairperson shall identify when the next hearing will be  
17 conducted to hear the Citation, thereby affording the witness  
18 an opportunity to explain and defend. The Committee may  
19 also make specific orders in furtherance of its authority  
20 under this Chapter.

21 The Citation shall summon the witness to appear  
22 before the Committee at a specific place and time to answer  
23 the Citation. The Citation shall also contain within it a brief  
24 description of the facts causing the issuance of the Citation.

1 The hearing shall be within five (5) calendar days of the  
2 Committee hearing authorizing the Citation, and no notice  
3 need be given to the public, *except* as was announced at the  
4 hearing authorizing the Citation's issuance. The Citation  
5 shall also advise the witness of the potential penalties which  
6 may be imposed, including imprisonment or fine, or both,  
7 and shall be immediately served by the legislative Sergeant-  
8 at-Arms, an Assistant Sergeant-at-Arms, or with the  
9 assistance of the Superior Court of Guam Marshals.

10 At the Committee hearing for Legislative Contempt  
11 the witness may have counsel present, shall be heard if the  
12 witness chooses, and may answer questions of the  
13 Committee Members. After the hearing the Committee shall  
14 vote by a two-thirds (2/3) majority of its Members in order  
15 to find Legislative Contempt and impose sanctions, be they  
16 imprisonment or fine, or both. The Committee may also  
17 craft an order of compliance. The decision(s) of the  
18 Committee shall be reduced to a Committee resolution either  
19 finding Legislative Contempt and setting forth the  
20 Committee's remedy, or not. A Committee resolution  
21 finding Legislative Contempt shall immediately thereafter be  
22 submitted to the Speaker of *I Liheslaturan Guåhan* and the  
23 Chairperson of the Committee on Rules for their  
24 discretionary concurrence, and *if* approved thereafter

1 certified by the Legislative Secretary. The final  
2 determination of Legislative Contempt, approved by the  
3 Speaker and the Chairperson of the Committee on Rules,  
4 shall *not* be appealable in the Superior Court of Guam,  
5 *however*, the Speaker may at any time after the approval of  
6 sanctions rescind said sanctions, at the Speaker's sole  
7 election.

8 (c) **Imposition of Sanctions.** In the event of a finding  
9 of Legislative Contempt, the certified resolution shall thereafter be  
10 filed with the Superior Court of Guam via a Petition which shall  
11 include the approved and certified resolution finding Legislative  
12 Contempt and identifying the sanction(s) or legislative order(s), or  
13 both. The Petition shall be entitled a '*Petition for Imposing Sanctions*  
14 *for Legislative Contempt,*' which shall be a Special Proceedings case  
15 expedited and heard by the Court within five (5) calendar days.  
16 Notice shall be given to the witness who was found to be in  
17 Legislative Contempt. A judicial bench warrant may be issued for  
18 failing to appear at the court hearing once notice is duly served.  
19 The Court's jurisdiction shall be limited to *only* administering the  
20 imposition of the sanction(s) or order(s), or both, provided in the  
21 resolution, and the Court shall maintain jurisdiction until such  
22 time as the sanction(s) or order(s), or both, is completely executed.

23 The execution of the sanctions imposed under this Section  
24 shall include utilizing the assistance of Court's Marshals and the

1 Department of Corrections, in coordination with the legislative  
2 Sergeant-at-Arms.

3 **Section 3106. Separate and Distinct Dual Remedies.** The  
4 Committee and *I Liheslaturan Guåhan* shall have the right to seek an  
5 order compelling compliance with the subpoena or subpoena duces  
6 tecum before the Superior Court of Guam, *and* at the same time to seek  
7 Legislative Contempt, and sanction(s) and other legislative order(s) to  
8 ensure compliance with its discovery powers set forth in this Chapter.

9 Any violation of a court order obtained under this Chapter shall  
10 be deemed a separate and distinct offense punishable by the Court for  
11 violating its order, separate and apart from a finding of Legislative  
12 Contempt and the ensuing sanction(s) or order(s).

13 **Section 3107. Privileges Not Applicable by Government of**  
14 **Guam.** Notwithstanding any other provision of law, no privilege or  
15 defense, other than set forth herein, shall apply nor be assertable by a  
16 witness in the service of the government of Guam against any subpoena  
17 or subpoena duces tecum issued under this Chapter when issued to a  
18 witness in their government of Guam capacity. No information or  
19 documents within the government of Guam's custody or control shall be  
20 free from discovery by *I Liheslaturan Guåhan*, absent documents in the  
21 custody of judicial officials under court seal. Defenses which are *not*  
22 applicable to persons in the service of the government of Guam shall  
23 include, but are *not* limited to, privacy or confidentiality of documents  
24 in the government's possession, be they of a government or non-

1 government character, and the attorney-client privilege for government  
2 of Guam attorney-client relationships.

3 **Section 3108. Content of Process.** A subpoena issued by a  
4 Committee or *I Liheslaturan Guåhan* is sufficient if it:

5 (a) is addressed to the witness;

6 (b) states whether the proceeding is before *I Liheslaturan*  
7 *Guåhan* or a Committee thereof;

8 (c) requires the attendance of the witness at a reasonable  
9 date, time and place certain;

10 (d) states the general nature of the proceeding;

11 (e) is signed by the Speaker of *I Liheslaturan Guåhan* or the  
12 Chairperson of the Committee; and

13 (f) contains a statement that failure to comply with the  
14 subpoena, or subpoena duces tecum, *if the case be*, may result in a  
15 finding of Legislative Contempt punishable by a fine or  
16 imprisonment, or both, as well as may constitute a misdemeanor  
17 punishable by a fine of up to One Thousand Dollars (\$1,000.00) or  
18 incarceration up to one (1) year in prison, or both.

19 A subpoena duces tecum issued by a Committee or *I Liheslaturan*  
20 *Guåhan* is sufficient if, in addition to the foregoing, *also* includes:

21 (g) a reasonable identification of the document(s) to be  
22 produced at the date, time and place identified in the subpoena  
23 duces tecum.

1           **Section 3109. Service.** The legislative Sergeant-at-Arms,  
2 Assistant Sergeant-at-Arms, Superior Court of Guam Marshals or any  
3 person over twenty-one (21) years of age may serve a subpoena or  
4 subpoena duces tecum issued under this Chapter, or any other  
5 document requiring service under this Chapter, along with either the fee  
6 or a voucher, if applicable, as provided for under this Chapter.

7           **Section 3110. Fees and Vouchers.** A witness *not* in the  
8 service of the government of Guam who is subpoenaed to appear before  
9 *I Liheslaturan Guåhan* or a Committee thereof, whether to produce  
10 documents or otherwise, shall *only* be allowed a fee at the rate of Six  
11 Dollars (\$6.00) per day or Three Dollars (\$3.00) for each half day, or  
12 fraction thereof, that the witness attends. Witnesses in the service of the  
13 government of Guam who are subpoenaed shall *not* be entitled to any  
14 fees for their attendance before *I Liheslaturan Guåhan*, whether to  
15 produce documents or otherwise.

16           Upon the presentation of a voucher by a witness to the Treasurer  
17 of Guam, certified by the Speaker of *I Liheslaturan Guåhan*, along with a  
18 copy of the subpoena or subpoena duces tecum, the Treasurer of Guam  
19 shall promptly pay the fee identified in the voucher to the witness.

20           **Section 3111. Oaths or Affirmations.** The Speaker of *I*  
21 *Liheslaturan Guåhan*, or the Chairperson of a Committee, or their  
22 designee, including the legislative Sergeant-at-Arms or Assistant  
23 Sergeant-at-Arms, may administer oaths or affirmations to witnesses in

1 any matter under examination in furtherance of a legislative proceeding,  
2 whether they be under subpoena or not.

3 **Section 3112. Witness Immunity.** No person sworn and  
4 examined before *I Liheslaturan Guåhan*, or a Committee, shall be immune  
5 from criminal prosecution by reason thereof, nor shall any document or  
6 thing produced by such witness be excluded by reason of such  
7 production from use in any subsequent criminal proceeding; provided,  
8 however, that *I Liheslaturan Guåhan*, or Committee, may, by majority  
9 vote of all its respective Members, grant partial or absolute immunity to  
10 such witness who shall thereafter be compelled to testify on penalty of  
11 contempt. No witness so compelled shall be held to answer criminally  
12 or be subject to any penalty or forfeiture for any fact or act touching  
13 which the witness is required to testify, nor shall any document or thing  
14 produced by such witness be competent evidence in any criminal  
15 proceeding against the witness. Nothing in this Section exempts any  
16 witness from prosecution and punishment for perjury committed by the  
17 witness on examination.

18 **Section 3113. Criminal Penalty, Attorney General Duties.**  
19 Every witness who neglects or refuses to obey a subpoena or subpoena  
20 duces tecum, or appearing, neglects or refuses to testify, or produce  
21 upon reasonable notice any document in the witness' possession or  
22 under the witness' control, without lawful excuse, is guilty of a  
23 misdemeanor, punishable by up to one (1) year imprisonment or up to a  
24 One Thousand Dollar (\$1,000.00) fine, or both.



1           Upon any possible violation of this Chapter, the Chairperson of  
2 the Committee may request the Speaker, or the Speaker may himself,  
3 notify the Attorney General, who shall *immediately* conduct an  
4 investigation into the matter and take appropriate action to enforce this  
5 Chapter.

6           The Attorney General shall advise the Speaker in writing as to the  
7 status of the criminal investigation within thirty (30) days of receipt of  
8 notice by the Speaker of the possible criminal violation, and thereafter as  
9 to the final disposition of the matter.

10           In addition to the Attorney General having the responsibility and  
11 authority to enforce the provisions of this Act, the Legislative Counsel  
12 shall also have the authority to appear before the Superior Court of  
13 Guam to represent *I Liheslaturan Guåhan* in order to enforce the civil  
14 remedies set forth under this Chapter.

15           **Section 3114. Special Committees. (a) Creation. I**

16           *Liheslaturan Guåhan* may by Legislative Resolution create a Special  
17 Committee, apart from the Standing Committees, for the purpose  
18 set forth in the Legislative Resolution. A Special Committee shall  
19 *not* limit, restrict nor otherwise prevent the authority of a Standing  
20 Committee to exercise its jurisdiction and powers as provided for  
21 under the Standing Rules of *I Liheslaturan Guåhan* or under this  
22 Title, including its powers to oversee government operations and  
23 investigate matters.

1                   **(b) Powers.**     The powers of a Special Committee shall be  
2                   as provided for in the Legislative Resolution, the Standing Rules  
3                   and as set forth in this Chapter. The Legislative Resolution shall  
4                   state the Special Committee's purposes, powers, duties, duration,  
5                   the subject matter and scope of its creation and number of  
6                   Members. After its creation the Special Committee shall develop  
7                   its rules and regulations consistent with this Chapter and the  
8                   Standing Rules for governing its operations, which shall be  
9                   submitted to *I Liheslaturan Guåhan* in Legislative Resolution form.

10                  **Section 3115. Confidential Proceedings.** Notwithstanding  
11                  any other provision of law and in keeping with the Speech or Debate  
12                  Clause protections, a Committee or *I Liheslaturan Guåhan* itself may close  
13                  its proceedings at any time by a majority vote of all of its Members in  
14                  order to investigate sensitive matters, receive sensitive documents or  
15                  otherwise conduct legislative business. If a Committee intends to close  
16                  its hearing it shall give at least one (1) day's notice to the Speaker of *I*  
17                  *Liheslaturan Guåhan* and shall memorialize the reason(s) for closing its  
18                  hearing in a written resolution, which shall *not* be open for public  
19                  inspection unless agreed to by a majority vote of all of its Members."

20                  **Section 3.** Chapter 4 of Title 2 of the Guam Code Annotated is hereby  
21                  *repealed.*

22                  **Section 4. Severability.**     *If* any provision of this Law or its  
23                  application to any person or circumstance is found to be invalid or contrary to  
24                  law, such invalidity shall *not* affect other provisions or applications of this