



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Handwritten notes in Spanish: 'Copia de la carta de...'

DEC 31 2004

Handwritten notes: 'TINA 4:40', 'ESP', 'RECEIVED'

31 DEC 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 405 (COR), "AN ACT TO POSTPONE THE IMPLEMENTATION OF PUBLIC LAW 27-38, AND TO MAKE CHANGES TO GUAM'S RECYCLING LAW BY AMENDING ARTICLE 5 OF CHAPTER 51, DIVISION 2, PART 2, TITLE 10, GUAM CODE ANNOTATED, AND AMENDING PUBLIC LAW 27-38:4, now designated as Public Law 27-148.

Sins eru yan Mozähet,

Handwritten signature of Felix P. Camacho

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

Attachment: copy attached of signed bill

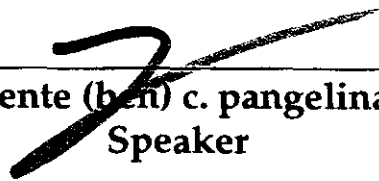
cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2004 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 405 (COR), "AN ACT TO POSTPONE THE IMPLEMENTATION OF PUBLIC LAW 27-38, AND TO MAKE CHANGES TO GUAM'S RECYCLING LAW BY AMENDING ARTICLE 5 OF CHAPTER 51, DIVISION 2, PART 2, TITLE 10, GUAM CODE ANNOTATED, AND AMENDING PUBLIC LAW 27-38:4," was on the 20<sup>th</sup> day of December, 2004, duly and regularly passed.

Attested:


  
vicente (ben) c. pangelinan  
Speaker

  
Tina Rose Muña Barnes  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahen Guåhan* this 20 day of December, 2004,  
at 5:50 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
FELIX P. CAMACHO  
*I Maga'lahen Guåhan*

Date: December 30, 2004

Public Law No. 27-148

**I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN**  
**2004 (SECOND) Regular Session**

**Bill No. 405 (COR)**

As substituted by the Committee on Youth &  
Senior Citizens, Federal & Foreign Affairs,  
Military & Veterans Affairs, Human Resources,  
and Natural Resources, and amended.

Introduced by:

R. J. Respicio  
J. M. S. Brown  
T. R. Muña Barnes  
F. B. Aguon, Jr.  
F. R. Cunliffe  
Carmen Fernandez  
Mark Forbes  
L. F. Kasperbauer  
R. Klitzkie  
L. A. Leon Guerrero  
J. A. Lujan  
v. c. pangelinan  
J. M. Quinata  
Toni Sanford  
Ray Tenorio

**AN ACT TO POSTPONE THE IMPLEMENTATION OF  
PUBLIC LAW 27-38, AND TO MAKE CHANGES TO  
GUAM'S RECYCLING LAW BY AMENDING ARTICLE 5 OF  
CHAPTER 51, DIVISION 2, PART 2, TITLE 10, GUAM CODE  
ANNOTATED, AND AMENDING PUBLIC LAW 27-38:4.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that the Guam Environmental Protection Authority has requested  
4 additional time to develop the rules and regulations for the implementation of  
5 Public Law 27-38 and further clarifying amendments to the statute. *I*

1 *Liheslaturan Guåhan* further finds that given the precedent-setting nature of  
2 Public Law 27-38, it is important that the due care is given to properly  
3 implementing this statute and that sufficient time be given the executive  
4 branch so that all concerns may be addressed.

5 **Section 2.** Section 4 of Public Law 27-38 is hereby *amended* to read:

6 “Section 4. Section 2 of this Act shall take effect on March 1, 2005.  
7 Section 3 of this Act shall take effect on January 1, 2005.”

8 **Section 3. Amendment to Article 5, Chapter 51, Divison 2 of Part 2**  
9 **of Title 10, Guam Code Annotated.** Article 5 of Chapter 51 of Division 2 of  
10 Part 2 of Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

11 **“Article 5**

12 **§51501. Definitions.**

13 **§51502. Recycling Revolving Fund.**

14 **§51503. Continuing Appropriation.**

15 **§51504. Levy of Recycling Fees.**

16 **§51505. Collection of Recycling Fees.**

17 **§51506. Recycling Fees.**

18 **§51507. Authorization for Guam Environmental Protection**  
19 **Agency (‘GEPA’) to contract with recycling companies.**

20 **Recycling Revolving Fund.**

21 **§51501. Definitions.** For purposes of this Article, and except as  
22 otherwise provided, the following words and phrases, together with all  
23 of the common derivatives thereof, shall have the meaning ascribed to  
24 them as follows:

25 (a) ‘*Administrator*’ shall mean the Administrator of the

1 Guam Environmental Protection Agency, or his or her  
2 designee.

3 (b) '*Enameled white goods*' shall mean appliances for home or  
4 commercial use including, *but not limited to*,  
5 refrigerators, water heaters, air conditioners, washers,  
6 dryers, and stoves.

7 (c) '*GEPA*' shall mean the Guam Environmental Protection  
8 Agency.

9 (d) '*Gross Vehicle Weight*' or '*Gross Vehicle Weight Rating*'  
10 means the value specified by the manufacturer as the  
11 loaded weight of a single vehicle.

12 (e) '*Heavy Equipment*' shall mean any equipment, motor  
13 vehicle or motor carrier, or non-road motor vehicle with  
14 a gross weight or gross vehicle weight of five (5) tons or  
15 more.

16 (f) '*Municipal Solid Waste*' is a subset of solid waste and is  
17 defined as durable goods (e.g., appliance, batteries,  
18 tires), nondurable goods (e.g., newspapers, books,  
19 magazines), containers and packaging, food wastes,  
20 yard trimmings, and miscellaneous organic wastes from  
21 residential, commercial, and industrial non-process  
22 sources.

23 (g) '*Recycle or Recycling*' means the method by which  
24 recovered resources are converted for use as raw  
25 materials or feedstock to make new products, as defined

1 in §51102 (35) of Chapter 51 of Title 10 of the Guam  
2 Code Annotated.

3 (h) '*Recycling fee*' shall mean an advanced disposal fee  
4 (ADF) imposed on goods for the recycling and disposal  
5 of said goods.

6 (i) '*Recyclable materials*' means materials which still have  
7 useful physical or chemical properties after serving a  
8 specific purpose for the same or other purpose.

9 Recyclable materials are as follows:

10 (1) batteries (i.e., lead-acid, portable computer  
11 batteries, nickel-cadmium, sealed types for power  
12 backup);

13 (2) automobiles, buses, and trucks or any form of  
14 motorized vehicle;

15 (3) tires (passenger/commercial);

16 (4) enameled white goods;

17 (5) home appliances (other small appliances that are  
18 not considered enameled white goods);

19 (6) glass and plastic bottles;

20 (7) foam padding;

21 (8) lead;

22 (9) metals (ferrous/non-ferrous);

23 (10) organic material (i.e., tree trimmings, palm fronds,  
24 grass, food waste, soiled cardboard);

25 (11) paper products;

- 1 (12) wood pallets and scrap wood;
- 2 (13) construction and demolition debris ('C&D');
- 3 (14) x-ray film;
- 4 (15) automobile oil and fluids;
- 5 (16) Freon and other refrigerant gases;
- 6 (17) electronic waste (i.e., computers, circuit boards,
- 7 televisions, and portable phones);
- 8 (18) heavy equipment; and
- 9 (19) other recyclable materials deemed recyclable by
- 10 GEPA pursuant to the Rules and Regulations.

11 (j) '*Recycling company*' means any business licensed by the  
12 Department of Revenue and Taxation, and issued a  
13 permit, as required in §51104 of Chapter 51 of Title 10 of  
14 the Guam Code Annotated, from the Guam  
15 Environmental Protection Agency to conduct business  
16 on Guam.

17 **§51502. Recycling Revolving Fund.** There is hereby created  
18 separate and apart from other funds of the government of Guam, a fund  
19 known as the Recycling Revolving Fund ('Fund'), which shall be  
20 maintained separate and apart from any other funds, including the  
21 General Fund of the government of Guam, and independent records  
22 and accounts shall be maintained in connection therewith. All revenue  
23 deposited in the Fund shall *not* be commingled with General Fund  
24 monies and shall be kept in a separate bank account.

25 All proceeds from fees collected in accordance with §51504 of Title

1 10 of the Guam Code Annotated shall be deposited in the Fund, and  
2 used *exclusively* for the purposes authorized in §51507 of Title 10 of the  
3 Guam Code Annotated.

4 The Administrator of GEPA shall administer the Fund and shall  
5 encumber all amounts available in the Fund as expeditiously as possible  
6 for the purposes stated in this Section. The Fund shall be subject to  
7 audits by the Public Auditor.

8 **§51503. Continuing Appropriation.** All revenues from the  
9 Recycling Revolving Fund are hereby appropriated to the Guam  
10 Environmental Protection Agency to fund recycling operations as  
11 authorized in §51507 of Title 10 of the Guam Code Annotated, and  
12 includes project management, administrative, and public outreach costs.

13 **§51504. Levy of Recycling Fees.** There is hereby levied, and shall  
14 be paid and collected, a recycling fee upon the importation for resale of  
15 all recyclable materials defined under §51501 of this Article.

16 **§51505. Collection of Recycling Fees.** The Guam Customs and  
17 Quarantine Agency shall collect the Recycling Fees mandated by this  
18 Article on:

19 (a) recyclable materials imported for resale, which comes  
20 in at the Jose D. Leon Guerrero Commercial Port of Guam, or any  
21 other seaport in Guam, to be collected *prior* to release, *except* as  
22 otherwise provided by this Act;

23 (b) recyclable materials imported for resale which comes  
24 in as freight or unaccompanied baggage at the Antonio B. Won Pat  
25 International Airport, Guam, or any other airport in Guam, to be



1 collected *prior* to release, *except* as otherwise provided by this Act;  
2 and

3 (c) recyclable materials imported for resale which comes  
4 in as freight or accompanied baggage at the A. B. Won Pat  
5 International Airport, Guam, or any other airport in Guam, to be  
6 collected *prior* to release, *except* as otherwise provided by this Act.

7 The Guam Economic Development and Commerce Authority, on  
8 behalf of the government of Guam, is authorized to promulgate rules  
9 and regulations in accordance with the Administrative Adjudication  
10 Law to enforce the intent of this Law within ninety (90) days of  
11 enactment of this Section.

12 §51506. **Recycling Fees.** The Recycling Fees authorized in §51504  
13 are hereby imposed as follows:

- 14 (a) Two Hundred Dollars (\$200.00) for each automobile,  
15 bus, and truck which shall be paid at time of resale;
- 16 (b) Three Dollars (\$3.00) for each tire;
- 17 (c) Five Dollars (\$5.00) for each enameled white goods  
18 with a volume at least 300 cubic inches (4,916.12 cubic  
19 centimeters), but *no more than* or equal to 1,000 cubic  
20 inches (16,387.1 cubic centimeters);
- 21 (d) Fifty Dollars (\$50.00) for each enameled white goods  
22 with a volume over 1,000 cubic inches (16,387.1 cubic  
23 centimeters);
- 24 (e) Five Dollars (\$5.00) for each battery for a motorized  
25 boat, automobile, truck, bus, or heavy equipment;

- 1 (f) Three Hundred Dollars (\$300.00) for each heavy  
2 equipment; and  
3 (g) Consumers who return to a recycling center any item  
4 upon which a recycling fee has been imposed shall  
5 receive a refund for such return in a percentage as  
6 determined by the Rules and Regulations established  
7 by §51505 of this Article.

8 **§51507. Authorization for GEPA to contract with recycling**  
9 **companies.** (a) GEPA is authorized, in accordance with the applicable  
10 procurement laws, to enter into contracts with recycling companies for  
11 the collection, recycling, and disposal of automobiles, buses, heavy  
12 equipment, trucks, batteries, tires, white goods, and other recyclable  
13 materials. GEPA shall submit any proposed Requests for Proposals to *I*  
14 *Liheslaturan Guåhan* within three (3) months of the enactment of this  
15 Article.

16 (b) Successful offerors for contracts authorized under this Section  
17 shall perform all work under this Article in compliance with all  
18 applicable laws, including those of this Chapter, and Rules and  
19 Regulations of GEPA as may be established. At a minimum, GEPA shall  
20 ensure that all offerors include, as part of their processing, a plan to  
21 remove collected recyclable materials, including abandoned vehicles,  
22 from Guam's waste stream.

23 (c) GEPA shall promulgate the necessary Rules and Regulations, in  
24 accordance with the Administrative Adjudication Law, to properly  
25 implement this Article."



## Senator Rory J. Respicio

Chairperson

Committee on Youth & Senior Citizens • Federal & Foreign Affairs • Veteran & Military Affairs • Human & Natural Resources

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**DEC 15 2004**

The Honorable ben. c. pangelinan  
Speaker, *I Mina' Bente Siete Na Liheslaturan Guahan*  
155 Hessler Street  
Hagatna, Guam 96910

*Via: Honorable Senator Lou Leon Guerrero, Committee on Rules & Health*

Dear Mr. Speaker:

*Buenas!* The Committee on Youth & Senior Citizens, Federal & Foreign Affairs, Military & Veteran Affairs, Human & Natural Resources to which was referred Bill No. 405: An Act to postpone the implementation of Public Law 27-38 and now wishes to report back the same with the recommendation to pass.

Transmitted herewith for your consideration and action is our Committee Report on the above subject matter.

The Committee votes are as follows:

<u>6</u>	To Pass
<u>0</u>	Not To Pass
<u>0</u>	Abstain
<u>0</u>	Report Out

A copy of the Committee report and other pertinent documents are attached for your immediate reference information.

Should you have any questions on the narrative report and the accompanying documents, please do not hesitate to call my office at 472-RORY (7679). *Si Yu'os Ma'ase!*

*Senseramente,*

  
RORY J. RESPICIO

**Mailing Address:** • Twenty-Seventh Guam Legislature • 155 Hessler Street, Hagåtña, Guam 96910

Location: Suite 101, CarlRose Building, 181 East Marine Drive, Hagåtña 96910 • Tel: (671) 472-RORY (7679) • Fax: (671) 472-3547 • Email: rjr@ire.net



**Office of Senator Rory J. Respicio**  
**Mina Bente Siete Na Liheslaturan Guahan**

**Chairman: Committee on Youth & Senior Citizens, Federal & Foreign Affairs,  
Military & Veterans Affairs, Human Resources, and Natural Resources**

VOTING SHEET ON:  
Bill No. 405: AN ACT TO POSTPONE THE IMPLEMENTATION  
OF PUBLIC LAW 27-38.

COMMITTEE MEMBER	INITIAL	TO PASS	NOT TO PASS	REPORT OUT ONLY	ABSTAIN
Sen. Rory J. Respicio Chairman					
Sen. Tina Rose Muna- Barnes Vice- Chair					
Sen. Carmen Fernandez Member					
Sen. Lou Leon Guerrero Member					
Sen. John Quinata Member					
Sen. Toni Sanford Member					
Sen. Joanne Brown Member					
Sen. Mark Forbes Member					
Sen. Robert Klitzkie Member					
Sen. Jesse Lujan Member					
Sen. Lawrence Kasperbauer Member					

The Committee on Youth & Senior Citizens,  
Federal & Foreign Affairs, Military & Veterans Affairs, Human  
Resources, and Natural Resources

**Committee Report**

Bill No. 405: AN ACT TO POSTPONE THE IMPLEMENTATION  
OF PUBLIC LAW 27-38

**Public Hearing**

The Committee on Youth & Senior Citizens, Federal & Foreign Affairs, Military & Veterans Affairs, Human Resources, and Natural Resources to which Bill No. 405 (See Attachment "A") was referred, conducted a public hearing at the Legislative Public Hearing Room in Hagatna, at 9AM, December 14, 2004.

**Summary of Testimony**

Testifying at the hearing in favor of Bill No. 405 were Guam Environmental Protection Authority Administrator Fred Castro (See Attachment "B") and Ms. Conchita Taitano also of the Guam Environmental Protection Authority. At the request of the Chairman, Senator Rory Respicio, Mr. Castro and Ms. Taitano reviewed the progress in implementing the statute and the need for further amendments. Mr. Castro noted that his agency had been working closely with the Committee on developing amendments to Public Law 27-38 which provides for advance disposal fees on white goods, automobiles, tires, batteries, and heavy equipment and provides for the use of this revenue for recycling programs.

In subsequent discussion, Senator Respicio noted that the program authorized by this statute was always intended to be an ongoing process that allowed the executive agencies sufficient time and flexibility for implementation. Senator Respicio raised the issue of goods sold on military bases. He noted that the absence of military cooperation proved to be a major problem in progress on a "bottle bill." Conchita Taitano responded that the Futures Committee has discussed this matter and the military community appears to be open to this process.

Senator Joanne Brown said that she believed that even after adoption of this measure there still will be many more discussions on this subject. Senator Brown noted that there will be further need for GEPA to create a database to track these goods and perhaps for additional staff for this process to be fully implemented. Senator Brown further commented that in the case of the military, that this issue will have to be addressed. She went on to say that this is not the end of the road in this process and there will be further adjustments.

Senator Lou Leon Guererro raised the issue of the use of these funds for operations in implementing the program as requested by the agency. On this subject, Senator Respicio indicated his support for use of these funds of implementation costs and public outreach.

Senator Leon Guererro and Senator Brown asked how soon would it take to implement the Rules and Regulations for this program. Conchita Taitano responded that it would take the regulations have been prepared and should be implemented within 3 months. Ms. Taitano further explained that action on these regulations was awaiting the adoption of the requested amendments to the statute.

Senator Leon Guerrero further asked if it was GEPA's recommendation to increase the fees. Senator Brown noted that the only change provided in the bill is to the fee on heavy equipment of 5 tons or more. GEPA Administrator Castro noted that initially in this process, it would be best to proceed prudently.

Senator Brown further asked the GEPA witnesses to explain the process by which goods, such as a refrigerator, would be recycled. Conchita Taitano explained that what is envisioned would be the use of this revenue to contract a private company to accept goods for recycling. Senator Brown noted the realistic prospect that the goods outstanding to be recycled may require more funds than raised by these fees. Senator Respicio noted that with the creation of sustainable recycling process, there will be a place for people to bring their disposed goods for recycling. GEPA Administrator Castro noted that existing problems today would need to be addressed on an ongoing basis. Mr. Castro went on to explain that it would be necessary to balance the requirements of moving forward with the need to address existing problems regarding recyclable goods that are already out there. By

way of illustration, Mr. Castro noted that already companies that collect scrap metal for sale to china.

In further discussion, Senator Respicio stated that he supported the use of the funds for outreach and administrative purposes. Senator Respicio raised the issue with GEPA officials of capping such expenses for future requirements.

Also testifying was Paul Tobiason, of the Recycling Association of Guam who indicated his support for the measure. In particular, he noted the basing of the fees on the size of the appliance made more sense than basing it on value. Mr. Tobiason noted Senator Brown's concerns about existing tires and batteries out there in the community and that this may necessitate the use of seed money for this program. In subsequent discussion, Mr. Tobiason suggested consideration of other alternatives to monetary refunds for the return of recyclable goods. One alternative suggested by Mr. Tobiason was "Green Points" which could be used for such things as video rentals or reductions in the amount of people's utility bills. Senator Brown said that you could not adjust utility rates for this purpose inasmuch as this was not legally possible.

The public hearing was adjourned at 10:20 AM. Copies of all written testimony and audio recordings of oral testimony are available with the Committee.

### **Findings and Recommendation**

The Committee on Youth & Senior Citizens, Federal & Foreign Affairs, Military & Veterans Affairs, Human Resources, and Natural Resources finds that Bill No. 405 should be enacted into law with amendments. The Committee therefore recommends passage of Bill No. 405 as substituted by the Committee (See Exhibit "C").

7-6-04  
11/3/04

**Testimony of  
Fred M. Castro  
Administrator, Guam Environmental Protection Agency  
Before the Committee on Natural Resources**

**Hearing on Bill 405: An Act To Postpone The Implementation Of Public  
Law 27-38**

**December 14, 2004**

The Guam Environmental Protection Agency appreciates and supports Bill 405, as it seeks to clarify the intent of Public Law 27-38 and the need to provide for a sustainable means to protect the environment, manage the municipal solid waste stream generated by the community, and extend the life-span of any new landfill to be built.

Since its promulgation, Guam EPA has been working with representatives from the community to evaluate and develop the institutional framework that supports the implementation and success of the aforementioned Law. In addition, we have been working with the *Committee on Youth & Senior Citizens, Veterans Affairs, and Human & Natural Resources* to strengthen and provide clarification on the Law's intent.

As part of our support, we humbly ask this Committee to consider the following additional changes:

1. Page 7, §51505(b). **Collection of Recycling Fees.** For consistency with §51505(a), Guam EPA recommends the language ".to be collected prior to release" be included at the end of this subsection.