

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

APR 19 2016

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

Dear Madame Speaker:

Transmitted herewith is Bill No. 160-33 (COR), "AN ACT TO ADD A NEW ARTICLE 9 TO CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM OCEAN AND FISHERIES CONSERVATION ACT OF 2015," which I signed into law on April 15, 2016, as **Public Law 33-144**.

Senseramente,


EDDIE BAZA CALVO

33-16-1537
Office of the Speaker
Judith T. Won Pat, Ed.D.
Date: 4/19/16
Time: 2:25 pm
Received By: CARL [Signature]

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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

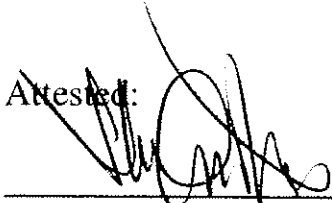
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Substitute Bill No. 160-33 (COR), "AN ACT TO ADD A NEW ARTICLE 9 TO CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM OCEAN AND FISHERIES CONSERVATION ACT OF 2015,"** was on the 2nd day of April 2016, duly and regularly passed.



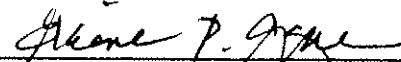
Judith T. Won Pat, Ed.D.
Speaker

Attested:

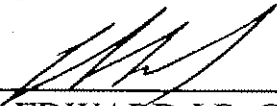


Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 04 day of APRIL, 2016, at 12:24 o'clock P.M.


Assistant Staff Officer
Maga'låhi's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: APR 15 2016

Public Law No. 33-144

1 § 63902. Establishment of the Guam Ocean and Fisheries
2 Management Council.

3 § 63903. Council Duties.

4 § 63904. Qualifications and Terms of Council Members.

5 § 63905. Vacancies.

6 § 63906. Election of Officers; Sub-committees.

7 § 63907. Council Meetings.

8 § 63908. Advisory, Non-Voting Members.

9 § 63909. Rules and Regulations; Schedule of Fees.

10 § 63910. Guam Ocean and Fisheries Conservation and
11 Development Fund Established.

12 § 63901. **Title.** This Article may be cited as the *Guam Ocean and*
13 *Fisheries Conservation Act of 2015.*

14 § 63902. **Establishment of the Guam Ocean and Fisheries**
15 **Management Council.**

16 There is hereby established within the government of Guam the *Guam*
17 *Ocean and Fisheries Management Council* composed of nine (9) voting
18 members who *shall* be appointed by *I Maga'låhen Guåhan* with the advice
19 and consent of *I Liheslaturan Guåhan*.

20 § 63903. **Council Duties.**

21 Notwithstanding any other provision of law, the duties of the Council
22 *shall* include the following:

23 (a) to prepare and coordinate the implementation of the
24 indigenous fishing rights pursuant to Public Law 29-127;

25 (b) to coordinate and promote activities in connection with the
26 conservation and development of Guam's ocean, fisheries, and marine
27 resources;

1 (c) to develop and establish permit requirements and a
2 schedule of fees in connection therewith, relative to the conduct of
3 fishing vessel operations and the harvesting of fish and other marine
4 life in the waters of Guam;

5 (d) to oversee the expenditure and management of funds in the
6 Guam Ocean and Fisheries Conservation and Development Fund
7 established pursuant to § 63911 of this Article;

8 (e) to provide advice and information to *I Maga'låhen*
9 *Guåhan* and to *I Liheslaturan Guåhan*, including the legislative
10 committee on natural resources, on matters pertaining, but not limited
11 to, the use and harvesting of freshwater and marine resources and their
12 management;

13 (f) to review and provide advice on the impact of laws
14 affecting the sustainable use of the marine and freshwater resources;

15 (g) to develop programs to enhance and promote the
16 sustainable use of Guam's marine and freshwater resources;

17 (h) to provide guidance and assist the Department of
18 Agriculture in the expenditure of funds derived from marine activities,
19 or federal grants, and other ocean, fisheries, and marine-related
20 funding;

21 (i) to provide guidance to and assist the Department of
22 Agriculture in the administration of Article 1 (Game & Fish) of this
23 Chapter, and rules and regulations adopted pursuant thereto, with the
24 exception of provisions, rules and regulations relative to non-aquatic
25 animal life. The Council is authorized to provide guidance to and assist
26 the Department of Agriculture under Article 1 of this Chapter, as may
27 be provided for through cooperative agreements or other arrangements

1 memorialized in writing and agreed to by the Council and the Director
2 of Agriculture;

3 (j) to coordinate and promote the sustainable use of Guam's
4 oceans, fisheries, marine and freshwater resources within various
5 communities on Guam; and

6 (k) to provide a report to *I Maga'låhen Guåhan* and to *I*
7 *Lihselaturan Guåhan* within ninety (90) days after the end of each fiscal
8 year summarizing the activities and accomplishments of the Council
9 over the past fiscal year.

10 **§ 63904. Qualifications and Terms of Council Members.**

11 (a) Qualifications. With the advice and consent of *I*
12 *Lihselaturan Guåhan*, *I Maga'låhen Guåhan* shall appoint eight (8)
13 voting members to the Council in the following categories:

14 (1) Four (4) Council members shall be appointed from
15 the community-at-large, two (2) individuals of which shall be
16 appointed to represent Chamorro grassroots organizations;

17 (2) One (1) Council member shall be an active member
18 in good standing of the Marianas Underwater Fishing
19 Federation;

20 (3) One (1) Council member shall be an active member
21 in good standing of the Guam Organization of Saltwater Anglers;

22 (4) One (1) Council member shall be an active member
23 in good standing of the Guam Fishermen's Cooperative
24 Association; and

25 (5) One (1) Council member shall be a faculty member
26 of the University of Guam.

1 (6) The Director of the Department of Agriculture *shall*
2 serve as a full voting member, and *shall* participate fully in
3 Council meetings and activities of the Council.

4 (7) The President of the Department of Chamorro
5 Affairs shall serve as an *ex-officio* member, without voting rights
6 in the meetings of the Council, although he or she may otherwise
7 participate fully in Council meetings and activities of the
8 Council.

9 (8) All eight (8) voting members of the Council
10 appointed by *I Maga'låhen Guåhan* shall be residents of Guam
11 for a period of at least five (5) consecutive years immediately
12 preceding their appointment, and shall continue to maintain their
13 residency during their terms on the Council.

14 (9) In making appointments to the Council, if no
15 qualified person is available from the specific organization or
16 entity identified in items (2) through (5) of this Subsection (a),
17 *supra*, to serve as a Council member, *I Maga'låhen Guåhan* may
18 substitute a suitable appointee from the community-at-large.

19 (10) If a Council member is appointed pursuant to the
20 categories in items (2) through (5) of this Subsection (a), *supra*,
21 and ceases to be affiliated or employed in the designated
22 capacity, then that member *shall* be considered to have vacated
23 his or her seat effective on the date that such employment or
24 affiliation was terminated. The Chairperson of the Council *shall*
25 forthwith notify *I Maga'låhen Guåhan* that the vacancy exists.

26 (b) Terms. *I Maga'låhen Guåhan*, when making initial
27 appointments, *shall* designate four (4) members to serve initial four (4)-

1 year terms, and three (3) members to serve initial two (2)-year terms.
2 All subsequent appointments *shall* be for terms of four (4) years, except
3 appointments to fill a vacancy. When a vacancy occurs, it *shall* be filled
4 by appointment of *I Maga'lâhen Guâhan* with the advice and consent
5 of *I Liheslaturan Guâhan* for the remainder of the vacating member's
6 term. Initial appointments to the Council *shall* be made by *I*
7 *Maga'lâhen Guâhan* within ninety (90) days after the effective date of
8 this Act.

9 **§ 63905. Vacancies.**

10 When a vacancy occurs other than by expiration of a member's term, *I*
11 *Maga'lâhen Guâhan* shall fill the vacancy in accordance with §§ 63902 and
12 63904 of this Article if the remaining term of the vacancy exceeds six (6)
13 months. Appointments to fill a vacancy *shall* be for the remainder of the
14 vacating member's term and in the same category in items (1) through (5) of
15 § 63904(a) pursuant to which the vacating member was appointed.

16 **§ 63906. Election of Officers; Sub-committees.**

17 The Council *shall* elect a Chairperson and a Vice Chairperson from
18 among its members, both to serve in those capacities no longer than for their
19 terms of office as Council members. The Chairperson *shall* preside at all
20 meetings of the Council, *shall* act as the spokesperson of the Council, and
21 *shall* perform such other duties as the Council shall direct. The Vice
22 Chairperson *shall* succeed to the duties of the Chairperson in the absence or
23 inability of the Chairperson. From among its members, the Council *shall*
24 select a Secretary of the Council and any other officers which the Council may
25 deem necessary.

1 The Council may form sub-committees from among its membership as
2 it deems necessary in order to carry out projects, research, and other activities
3 outside of the Council's meetings.

4 **§ 63907. Council Meetings.**

5 The Council *shall* meet regularly at least every other month, and at such
6 times and in such places in Guam as the Council establishes (or by the
7 Chairperson when the Council does not act), to transact such business as the
8 Council determines. The Director of the Department of Agriculture *shall*
9 assist the Council with the conduct and transaction of its business and the
10 holding of Council meetings, and *shall* make available within the Department
11 of Agriculture a venue for meetings of the Council. The Director of
12 Agriculture *shall* also assist the Council by providing technical and staff
13 support as needed. A quorum of the Council *shall* consist of a majority of the
14 members duly appointed and qualified. The Chairperson *shall* be counted for
15 a quorum, but *shall* vote only in case of a tie. Any action taken by the Council
16 *shall* be by a majority of the voting members. Special meetings of the Council
17 may be called by the Chairperson or by a majority of the Council members in
18 office. All notices and meetings of the Council *shall* comply with the Open
19 Government Law, Chapter 8, Title 5 Guam Code Annotated.

20 **§ 63908. Advisory, Non-Voting Members.**

21 The Council by majority vote of its members may invite additional
22 public and private sector members to serve on a voluntary basis without
23 compensation as advisers in the Council's sub-committees, and may prescribe
24 special procedures for their participation; provided, that no such advisory
25 members may vote at any meetings of the Council.

26 **§ 63909. Rules and Regulations; Schedule of Fees.**

1 (a) Rules and Regulations. The Council, which *shall* be assisted by
2 the Department of Agriculture and the Attorney General's Office, *shall* from
3 time to time promulgate rules and regulations, in accordance with the
4 Administrative Adjudication Act, Title 5, Guam Code Annotated, Chapter 9,
5 Article 3, to carry out the provisions of this Act.

6 (b) Permits and Fee Schedules. In order to preserve Guam's marine
7 and freshwater resources, the Council, which *shall* be assisted by the
8 Department of Agriculture and the Attorney General's Office, *shall* propose
9 a schedule of various permits, and recommended fees to be charged for such
10 permits, which *shall* be required for the conduct of fishing vessels and the
11 harvesting of fish and other marine life in the waters of Guam. Such schedules,
12 if approved by Council, *shall* be established in accordance with the procedures
13 set forth in Article 3, Chapter 9, Title 5 Guam Code Annotated, the
14 Administrative Adjudication Act, and *shall* include criteria and guidelines
15 governing the application, issuance, exemptions, and enforcement of such
16 permits and fees.

17 The initial schedule of permits and fees recommended under this
18 Section *shall* be submitted to *I Liheslaturan Guåhan* pursuant to the
19 Administrative Adjudication Act no later than one hundred eighty (180) days
20 after the effective date of this Act. The Council *shall* review the schedule at
21 least once every five (5) years thereafter to determine if any fee increases,
22 decreases, the establishment of new fees, or any other modifications, are
23 warranted; and such recommendation *shall* be adopted pursuant to the
24 Administration Adjudication Act.

25 (c) Maintenance of Required Permits. Unless otherwise expressly
26 authorized by this Act or by any other provision of law, a person or entity
27 *shall not* engage in activities requiring a permit by virtue of the rules and

1 regulations promulgated under Subsections (a) and (b) of this Section, without
2 having in his or its immediate possession such permit or a copy thereof.

3 (d) Penalty. Any person or entity that violates the provisions of
4 Subsection (c) of this Section is guilty of or liable for a civil violation
5 punishable by a fine not to exceed Five Hundred Dollars (\$500.00) for each
6 violation. Any fines recovered by the government of Guam for such civil
7 violations *shall* be paid into the Wildlife Conservation Fund established
8 pursuant to § 63130 of Article 1 of this Chapter.

9 (e) Enforcement. Except as otherwise provided by law, the
10 provisions of this § 63910 and all rules and regulations, permit and fee
11 schedules promulgated thereunder, *shall* be enforced by the Director of
12 Agriculture, as ex officio Chief Conservation Officer, and suitable employees
13 of the Department of Agriculture whom the Director may appoint as Deputy
14 Conservation Officers, as well as by peace officers, as defined in § 5.55 of
15 Title 8 GCA, all with the same powers set forth under § 63103 Of Article 1 of
16 this Chapter. The Civilian Volunteer Conservation Officer Reserve
17 established by § 63103.1 of Article 1 of this Chapter may also assist with
18 enforcement hereunder under the same conditions specified under § 63103.1.

19 (f) Collection of Fees. All proceeds from fees collected pursuant to
20 the permit and fee schedule promulgated under § 63910 (a) and (b), *supra*,
21 fines imposed under § 63910(d), and other amounts as may be authorized by
22 law, *shall* be deposited in the Wildlife Conservation Fund established
23 pursuant to § 63103 of Article 1 of this Chapter.

24 **§ 63910. Guam Ocean and Fisheries Conservation and**
25 **Development Fund Established.**

26 (a) Establishment. There is hereby created, separate and apart from
27 other funds of the government of Guam, a fund known as the *Guam Ocean*

1 *and Fisheries Conservation and Development Fund* (hereinafter GOF
2 Conservation and Development Fund). The GOF Conservation and
3 Development Fund *shall not* be commingled with the General Fund and *shall*
4 be kept in a separate bank account. Monies from donations, grants, and other
5 amounts as may be authorized by law *shall* be deposited in the GOF
6 Conservation and Development Fund and *shall* be expended by *I Liheslaturan*
7 *Guåhan* exclusively for purposes authorized in Subsection (b) of this Section.

8 (b) Uses. The GOF Conservation and Development Fund *shall* be
9 used to fund the following:

10 (1) the development and construction of boat ramps in
11 northern and southern Guam. The Council *shall* formulate plans for the
12 development, construction, maintenance, and operation of a boat ramp
13 in northern Guam in the village of *Yigo*, and a boat ramp in southern
14 Guam in the village of *Talofof*, for use by first responders and
15 emergency personnel and the general public. Such plans *shall* include,
16 but not be limited to, site identification, costs, engineering, and design.
17 No later than April 1, 2017, the Council *shall* submit its preliminary
18 plans and recommendations for the development and construction of
19 the northern and southern boat ramps to *I Maga'låhen Guåhan* and *I*
20 *Liheslaturan Guåhan*;

21 (2) research and development related to the conservation of
22 ocean resources, coral reefs, freshwater rivers, lakes, and ponds in
23 Guam;

24 (3) research and development related to the regulation and
25 conservation of fish and other wildlife in Guam's marine and fresh
26 waters;

- 1 (4) marina improvement, moorings, maintenance, and related
2 projects;
- 3 (5) the creation, improvement or beautification of access
4 paths to shore-side resources;
- 5 (6) funding for mitigation of surface and storm water runoff
6 and erosion in compliance with applicable laws;
- 7 (7) funding of public activities in support of marine activities;
- 8 (8) funding assistance for community-related marine
9 facilities;
- 10 (9) funding assistance for activities related to the preservation
11 and perpetuation of Guam's indigenous *Chamorro* culture and heritage
12 as it relates to ocean, fisheries, and other marine-related aspects;
- 13 (10) funding for staffing, office expenses, and other activities
14 in support of the mission of the Council; and
- 15 (11) other similar funding priorities as identified by *I*
16 *Liheslaturan Guåhan*.

17 (c) Expenditures. All expenditures of the GOF Conservation and
18 Development Fund *shall* be made exclusively by appropriation of *I*
19 *Liheslaturan Guåhan*. The GOF Conservation and Development Fund *shall*
20 *not* be used for any purposes other than those enumerated or reasonably
21 inferred hereunder, or for purposes other than those relating to ocean,
22 fisheries, and other marine and freshwater related matters. The GOF
23 Conservation and Development Fund *shall not* be used as a pledge of security
24 or as collateral for government loans without prior authorization by *I*
25 *Liheslaturan Guåhan*.”

26 **Section 2. Effective Date.** This Act *shall* be effective upon enactment.

1 **Section 3. Severability.** If any provision of this Act or its application to
2 any person or circumstance is found to be invalid or contrary to law, such invalidity
3 *shall not* affect other provisions or applications of this Act which can be given effect
4 without the invalid provisions or application, and to this end the provisions of this
5 Act are severable.