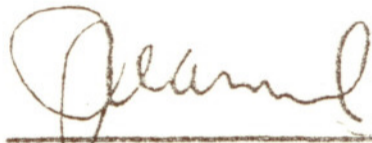


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NINTH GUAM LEGISLATURE
1968 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This certifies that Bill No. 451, "An Act to repeal Section 62.1 of the Code of Civil Procedure and Chapter 6 of Title VII of the Government Code of Guam, to enact a new Chapter 6 of said Title VII, to add Section 7005.1 to the Government Code of Guam and to amend Section 1058 of the Code of Civil Procedure, relating to claims against the government of Guam", was on the 6th day of February, 1968, duly and regularly passed.


J. C. ARRIOLA
Speaker

ATTESTED:


F. T. RAMIREZ
Legislative Secretary

This Act was received by the Governor this 18th day
of Feb., 1968 at 10:54 o'clock A.M.

/s/ Denver Dickerson

DENVER DICKERSON
Secretary of Guam

APPROVED:

/s/ Denver Dickerson

DENVER DICKERSON
Governor of Guam
Acting
DATED: MAR 14 1968

9:30 a.m.

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NINTH GUAM LEGISLATURE
1968 (SECOND) Regular Session

Bill No. 451

Introduced by _____
J. C. Okiyana
G. H. Bamba

AN ACT TO REPEAL SECTION 62.1 OF THE CODE OF CIVIL PROCEDURE AND CHAPTER 6 OF TITLE VII OF THE GOVERNMENT CODE OF GUAM, TO ENACT A NEW CHAPTER 6 OF SAID TITLE VII, TO ADD SECTION 7003.1 TO THE GOVERNMENT CODE OF GUAM AND TO AMEND SECTION 1058 OF THE CODE OF CIVIL PROCEDURE, RELATING TO CLAIMS AGAINST THE GOVERNMENT OF GUAM.

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

2 Section 1. Chapter 6 of Title VII of the Government Code of Guam is
3 hereby repealed.

4 Section 2. A new Chapter 6 is hereby added to Title VII of the Government
5 Code of Guam to read as follows:

6 "Section 6500.00. Short Title. This chapter shall be known as
7 the 'Government Claims Act'.

8 Section 6500.01. Waiver of Immunity. The government of Guam
9 hereby waives immunity from liability, but only as hereinafter provided:

10 (a) for all expenses incurred in reliance upon a contract to
11 which the government of Guam or any of its departments, agencies or
12 funds is a party, but if the contract has been substantially completed,
13 expectation damages may be awarded;

14 (b) for claims in tort, arising from the negligent acts of its
15 employees, even though occurring in an activity in which private persons
16 do not engage.

17 The government shall not be liable for claims arising from an
18 exercise of discretion in making policy.

19 Section 6500.02. Exclusion. This chapter shall not apply to
20 claim pertaining to any tax refund, the Workmen's Compensation Law, the
21 Government of Guam Retirement Fund, and claims not exceeding \$25,000
22 payable out of the Commercial Port of Guam Fund under Section 14002(c)
23 of the Government Code.

1 Section 6500.03. Procedure for Filing Claims. All claims under
2 this chapter shall be filed in duplicate with the Attorney General of
3 Guam. Each claim shall contain the following:

4 (a) The complete name and address of the claimant.

5 (b) The amount of damage or other relief claimed.

6 (c) A concise statement of the facts upon which the claim is
7 based, including the time, place, and other circumstances and the
8 department or agency or special revolving fund of the government of
9 Guam that is concerned.

10 (d) A copy of any contract or other instrument in writing upon
11 which the claim is based.

12 (e) A statement of whether or not the claimant has received
13 any payment on account of such claim, and, if so, the amount received.

14 (f) A statement whether or not any third person has any interest
15 in the claim, and, if so, the name and address of such person having such
16 interest and the nature of such interest.

17 (g) If the claimant is an executor, administrator, guardian,
18 or other representative, appointed by a judicial tribunal, a duly
19 certified copy of the record of appointment.

20 (h) A statement as to whether or not the claimant has any
21 insurance covering the damage alleged to have been suffered by him,
22 and of any payments, if any, he has received from such insurance carrier.

23 Section 6500.04. Claim to be Signed and Sworn to. The claim
24 shall be signed by the claimant and sworn to him before a person
25 authorized to administer oaths.

26 Section 6500.05. Limitation on Filing. All claims under this
27 Act must be filed within six months from the date the claim arose, but
28 any claim timely filed under the predecessor of this Act shall be
29 considered to have been timely filed under this Act.

30 Section 6500.06. Investigation. The Attorney General shall
31 cause each claim to be investigated to determine its merits.

1 Section 6500.07. Ancillary Powers of Attorney General. In
2 making his investigation, the Attorney General, or a member of his staff
3 designated by him, shall have the authority to administer oaths to claimants
4 and witnesses, and to require the production of any books, records or
5 documents that may be material or relative as evidence in connection
6 with the claim.

7 Section 6500.08. Penalty for False Swearing. If any claimant
8 or witness shall swear falsely to any material fact in an investigation of
9 a pending claim, such false swearing, whether by affidavit or orally, shall
10 constitute perjury and shall constitute a misdemeanor, punishable under
11 Section 19 of the Penal Code.

12 Section 6500.09. Hearing. The Attorney General, or a member
13 of his staff designated by him, may, in his discretion, conduct a formal
14 hearing in connection with the investigation of any claim.

15 Section 6500.10. Settlement of Claim. Subject to approval by
16 the Governor, the Attorney General may settle for \$3,000 or less any
17 claim filed under this chapter. The Attorney General may recommend
18 other relief if appropriate.

19 Section 6500.11. Action against the government of Guam. A
20 claimant may institute an action in contract or tort, for money damages
21 only, against the government of Guam in the District Court of Guam,
22 provided that:

- 23 (a) The claimant has been notified by registered mail that
24 his claim has been rejected, in whole or in part, or
25 (b) six months have elapsed since the date of filing the
26 claim under Section 6500.03 of this chapter.

27 Section 6500.12. Limitation on Actions. No action shall be
28 instituted for a sum in excess of the amount of the claim presented
29 to the Attorney General, unless the increased amount of the claim is
30 shown to be based upon new evidence not reasonably discoverable at
31 the time the claim was filed with the Attorney General.

1 Section 6500.13. Limitation on Tort Liability. The government
2 of Guam shall not be liable for more than \$10,000 in an action for
3 wrongful death, nor for more than \$25,000 in any other tort action.
4 The government of Guam shall not be liable for interest prior to the
5 date of judgment, nor for punitive damages.

6 Section 6500.14. Procedure. All actions brought under this
7 chapter shall be governed by the rules of procedure of the District
8 Court of Guam. Service of process shall be made upon the Attorney
9 General.

10 Section 6500.15. No Jury Trial. Trial will be without jury.

11 Section 6500.16. Interest and Costs. The government of Guam
12 shall be liable for interest from the date of judgment at the rate of
13 six percent. The Court may assess costs against either party.

14 Section 6500.17. Settlement of Suit. Subject to the approval
15 of the Court in which the action is pending, the Attorney General is
16 authorized to settle a suit at any time before final judgment.

17 Section 6500.18. Appeal. Judgments shall be subject to
18 review on appeal in the same manner and to the same extent as other
19 judgments of the District Court of Guam.

20 Section 6500.19. Payment. The Director of Finance shall pay
21 the amount allowed in an approved settlement under Section 6500.10 or
22 in a court judgment under Section 6500.11. All payments under this
23 Act shall be made from the Government Claims Fund. Claims against the
24 Commercial Port of Guam and the Public Utility Agency, however, shall
25 be paid only out of the funds of those agencies.

26 Section 6500.20. Limitations on Further Proceedings. Settlement
27 of a claim under Section 6500.10, or final judgment in a suit under
28 Section 6500.11 shall bar the claimant from any further proceedings
29 against the employee or employees whose acts or omissions gave rise
30 to the claim unless:

- 31 (a) the Court finds that the employee was acting outside the
32 scope of his employment; or

1 (b) the Court certifies that it would have awarded the claimant
2 more but for the limitations of Section 6500.13.

3 Satisfaction of a settlement with or of a judgment against an
4 employee of the government shall constitute a forfeiture by the claimant
5 of all rights against the government by reason of the same subject matter.

6 Section 6500.21. Statute of Limitations. Every action under
7 Section 6500.11 shall be barred unless commenced within one year from the
8 date the claim was filed with the Attorney General under Section 6500.03, or
9 within six months from the date of notification of rejection of the claim
10 under Section 6500.11(a) whichever is sooner."

11 Section 2. A new Section 7003.1 is hereby added to the Government Code
12 of Guam to read as follows:

13 "Section 7003.1. Defense of Officers and Employees. Whenever an
14 action for damages is instituted against any officer or employee of the
15 government of Guam in his individual capacity for the performance of an
16 authorized official act, the officer or employee may request the Attorney
17 General to undertake the defense of such action. If the Attorney General
18 finds that the officer or employee acted in good faith, then, subject to
19 the approval of the Governor, he shall appear and defend the officer or
20 employee. Nothing herein shall be interpreted to preclude the participation
21 of the Attorney General in any litigation in order to protect the interests
22 of the government of Guam."

23 Section 3. Section 1058 of the Code of Civil Procedure is hereby amended
24 to read as follows:

25 "Section 1058. Government of Guam not required to give bond when
26 government of Guam is a party. In any civil action or proceeding wherein
27 the government of Guam is a party plaintiff, or defendant, or any officer,
28 in his official capacity or on behalf of the government of Guam, is a party
29 plaintiff or defendant, no bond, written undertaking, or security can be
30 required of the government of Guam or any officer thereof."

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Section 4. Section 62.1 of the Code of Civil Procedure is hereby repealed, except that any proceedings under the provisions thereof commenced prior to the effective date of this Act may be pursued to final determination thereunder if still pending at the said effective date.

Section 5. This Act is an urgency measure.