I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN

2018 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 344-34 (COR)	**Speaker Antonio R. Unpingco Legislative Session Hall November 30, 2018**					
NAME	**Aye**	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**
Senator Thomas C. **ADA**	✓					
Senator FRANK B. **AGUON, JR.**					✓	✓
Senator William M. **CASTRO**	✓					
Senator James V. **ESPALDON**	✓					
Senator Fernando Barcinas **ESTEVES**	✓					
Senator Régine Biscoe **LEE**	✓					
Senator Tommy **MORRISON**	✓					
Senator Louise B. **MUÑA**	✓					
Senator Telena Cruz **NELSON**	✓					
Senator Dennis G. **RODRIGUEZ, Jr.**					✓	✓
Senator Joe S. San **AGUSTIN**	✓					
Senator Michael F.Q. **SAN NICOLAS**					✓	✓
Acting Speaker Therese M. **TERLAJE**	✓					
Senator Mary Camacho **TORRES**	✓					

TOTAL:	**11**				**3**	**3**
	Aye	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

I = Pass

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 344-34 (COR)

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Introduced by: Therese M. Terlaje

AN ACT TO *ADD* A NEW CHAPTER 51 TO TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO EXPEDITING THE DISTRIBUTION OF GUAM WORLD WAR II CLAIMS TO AWARDEES WHO DIE BEFORE RECEIVING THE AWARD.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Chapter 51 is hereby *added* to Title 15, Guam Code Annotated, to read as follows:

"**CHAPTER 51**

PROBATE ADMINISTRATION OF GUAM WORLD WAR II CLAIMS

§ 5101. Legislative Intent and Findings.
§ 5102. Scope and Applicability of Chapter.
§ 5103. Delivery of War Claims Award, or Share Therein, to Nonresidents.
§ 5104. Summary Distribution of War Claims Awards.
§ 5105. Discretion of Court.

§ 5101. Legislative Intent and Findings.

The Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114-328, signed on December 23, 2016, authorized the Foreign Claims Settlement Commission (FCSC) to conduct a supplemental war claims compensation program

for victims and survivors of the attack and occupation of Guam during World War II. The Act covers claims for death, rape, personal injury, severe personal injury, forced labor, forced march, internment, and hiding to evade internment. Approximately three thousand six hundred forty (3,640) World War II survivors and their families from Guam have filed war claims with the FCSC. *I Liheslaturan Guåhan* finds that special amendments to the Probate Code of Guam are necessary to permit expeditious administration of war claims awards at a minimum cost for Guam's war survivors who die before receiving the award and their families.

§ 5102. Scope and Applicability of Chapter.

(a) The term "war claims award," as used in this Chapter, *shall* mean any monetary compensation paid by the United States of America pursuant to Title XVII of Public Law 114-328 or a successor statute.

(b) War claims awards are subject to administration in the same manner as is directed in relation to other property, except as expressly provided in this Chapter.

§ 5103. Delivery of War Claims Award, or Share Therein, to Nonresidents.

A war claims award, or any share therein, set aside pursuant to this Chapter or assigned or distributed upon administration of a decedent's estate to a person residing out of Guam may be delivered by registered or certified U.S. mail, postage prepaid, with return receipt, to the last known address of the nonresident assignee or distributee, and upon such mailing the personal representative *shall not* be personally liable for any loss arising from nonreceipt thereof, except for willful misconduct. If the award or any share therein, after mailing as aforesaid, is returned to the personal representative unclaimed, the same *shall* be deposited with the Clerk of the Superior Court in the name of the nonresident assignee or distributee, pursuant to § 3023 of Chapter 30 of this Title, unless the Superior Court orders delivery by such other

means as it deems appropriate, compliance with which *shall* also discharge the personal representative from any liability whatsoever.

§ 5104. Summary Distribution of War Claims Awards.

(a) When a war claims awardee dies before receiving the award, a war claims award awarded by the Foreign Claims Settlement Commission may be set aside to a decedent's heirs at law without further administration pursuant to this Title; provided, that no probate proceedings or petition to commence such proceedings for administration upon the decedent's estate are then pending.

(b) A verified petition, together with a prayer that the award be set aside as provided herein, may be presented by any heir at law of the decedent or any heir at law of a deceased heir. The petition *shall* contain allegations showing that this Section is applicable, and *shall* state the names, mailing addresses, and relationships of each heir at law of the decedent, as well as each heir at law of any deceased heirs, and their respective fractional interests in the award. The petition *shall* further state, without qualification, that if the petition be granted the petitioner will distribute the award with due diligence to the persons named in the petition, according to their respective interests.

(c) No person to whom an award, or any portion thereof, is set aside pursuant to this Section shall be personally liable for the unsecured debts of the decedent or the debts of any deceased heir whose share of the award is paid directly to his/her heirs at law.

(d) Not less than thirty (30) days before filing the petition with the Superior Court, the applicant *shall* send by pre-paid mail, certified or registered, return receipt requested, a copy of the petition to each person entitled to share in the war claim award for whom a mailing address is known, together with notice that if such a person objects to the proposed plan of distribution he/she *shall* file a written objection with the Superior Court before the expiration of the thirty (30)-day period;

and the applicant *shall* file with such petition sworn proof of such mailing. In lieu of mailing, the applicant may submit written consent to the proposed plan of distribution signed by the person entitled to share in the war claims award.

(e) If the Superior Court finds the petitioners' plan of distribution to be fair and equitable, it *shall* by appropriate decree assign the war claims award to the petitioner with a directive to pay the same to the persons named in the petition according to their respective interests therein. The decree *shall* further direct that proof of compliance therewith, by affidavit or declaration under penalty of perjury, be filed by the petitioner within thirty (30) days after entry of said decree.

(f) A war claims award set aside pursuant to this Chapter, or any share therein, may be disbursed, in accordance with the Superior Court's decree, to nonresident persons as provided in § 5103 of this Chapter.

(g) No person shall be liable for nondelivery of any war claims award set aside pursuant to this Section, or of a share therein, except for willful misconduct, unless an action at law or proceeding in equity or in probate to recover the same is commenced within three (3) years from entry of the decree setting aside the award.

(h) No person delivering an award exempt from administration under this Section shall be liable for any loss or damage whatsoever to anyone, or be responsible for seeing to the proper distribution of the award, or is required to inquire into the truth of any statement in the petition. Any person to whom an award is delivered pursuant to this Section is answerable and accountable therefor to any personal representative of the decedent's estate or to any other person having a right to the award or any portion thereof.

(i) If any award set aside pursuant to this Section, or share therein, cannot be paid or delivered in accordance with the Superior Court's decree, for lack of information as to the identity, location, or mailing address of the person entitled thereto, the same *shall* be deposited in the name of such person with the Clerk of the

Superior Court; and, such deposit is a full discharge of the petitioner as to any liability whatsoever in relation to the sum so deposited.

(j) No administrator's fees shall be allowed, nor shall any court fees be assessed, with respect to an award set aside pursuant to this Section. If a private attorney has been retained, the Superior Court may award reasonable attorney's fees out of the estate in lieu of statutory attorney's fees pursuant to § 2811 of Chapter 28 of this Title, without regard to the size of the award. Such reasonable fees *shall* be based on verified statements of time and charges filed with the court by the attorney, and *shall not* exceed Three Hundred Dollars ($300.00).

(k) The Public Defender is directed to assist the decedent's heirs at law in obtaining distribution of war claims awards pursuant to this Chapter, but nothing shall prevent such heirs from using private attorneys for such purpose.

§ 5105. Discretion of Court.

Notwithstanding the provisions of this Chapter, any judge of the Superior Court may determine and order, at his or her discretion, that a particular estate with war claims awards be administered under the provisions of this Code applicable to other estates without war claims awards."

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