I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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

This is to certify that **Bill No. 114-31 (COR), "AN ACT TO *ADD* NEW §§ 54106, 54107 AND 54108 TO ARTICLE 1 OF CHAPTER 54, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ALLOCATING FEDERAL FUNDS FOR MITIGATION AND UTILITIES RELOCATION COSTS; AND TO *AMEND* §§ 53101, 53103 AND 53104, AND *ADD* A NEW §53109 ALL OF CHAPTER 53 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DEFINING UTILITIES AS *PERMITTED ENCROACHMENTS*,"** was on the 19th day of September, 2011, 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'lahen Guåhan* this 20th day of Sept, 2011, at 4:10 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 114-31 (COR)
As amended by the Committee on Utilities, Transportation,
Public Works and Veterans Affairs, and further amended on the Floor.

Introduced by:

V. Anthony Ada
Chris M. Dueñas
F. F. Blas, Jr.
T. C. Ada
B. J.F. Cruz
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
Dennis G. Rodriguez, Jr.
R. J. Respicio
M. Silva Taijeron
Aline A.Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* NEW §§ 54106, 54107 AND 54108 TO ARTICLE 1 OF CHAPTER 54, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ALLOCATING FEDERAL FUNDS FOR MITIGATION AND UTILITIES RELOCATION COSTS; AND TO *AMEND* §§ 53101, 53103 AND 53104, AND *ADD* NEW §§53102(a)(5) AND 53109 ALL OF CHAPTER 53 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DEFINING UTILITIES AS *PERMITTED ENCROACHMENTS*.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new §54106 is *added* to Article 1, Chapter 54 of Title 5, Guam Code Annotated, to read as follows:

"**§ 54106. Federally Funded Highway Projects - Mitigation Expenses.** To the extent that business/residential/traffic mitigation costs are authorized or allowed by the grantor of federal funds for highway/road projects, the Department of Public Works *shall* allocate a sufficient portion of such federal funds for mitigation expenses related to such highway/road projects."

Section 2. A new §54107 is *added* to Article 1, Chapter 54 of Title 5, Guam Code Annotated, to read as follows:

"**§ 54107. Federally Funded Highway Projects – Utilities Relocation Expenses.** To the extent that utilities relocation costs are authorized or allowed by the grantor of federal funds for highway/road projects, the Department of Public Works *shall* allocate a sufficient portion of such federal funds for utilities relocation expenses related to such highway/road projects."

Section 3. A new §54108 is hereby *added* to Article 1, Chapter 54 of Title 5, Guam Code Annotated, to read as follows:

"**§ 54108**. The Department of Public Works *shall* submit a report to the Speaker of *I Liheslatura, I Maga'lahi,* the Office of Public Accountability, the Office of Finance and Budget, and the Public Utilities Commission of all utility relocation costs that are authorized or allowed by the grantor of federal funds and allocated by DPW for mitigation and relocation expenses related to highway/road projects."

Section 4. §53101 of Chapter 53 of Title 5, Guam Code Annotated, is hereby *amended* to read as follows:

"§ **53101. Definitions.**

As used in this Chapter

(a) *Department* means the Department of Public Works.

(b) *Director* means the Director of Public Works.

(c) *Highway* means all or any part of the entire width of right of way, whether or not such entire area is actually used for highway purposes.

(d) *Encroachment* means any tower, pole, poleline, pipe, pipeline, fence, billboard, stand or building, or any structure or utility infrastructure *not* particularly mentioned, which is placed in, under or over any portion of a highway.

(e) *Betterment* means any upgrade to permitted encroachments or permitted temporary encroachments that is *not* attributable to a highway construction project, ~~and~~ *or* is made solely for the benefit of and at the election of the utility. Betterment includes, but is *not* limited to, relocation of aerial facilities underground.

(f) *Permitted encroachment* means the assets or infrastructure of a utility permitted by the Department of Public Works to use public right-of-way. This definition *does not* apply to sign permits. *Permittees*, for purposes of this Chapter, are the owners or lessors of a permitted encroachment.

(g) *Permitted temporary encroachment* means any sign, advertisement or other temporary structure that is permitted by the Department of Public Works to be posted on government of Guam rights-of-way. *Temporary Permittees*, for purposes of this Chapter, are the owners or lessors of a permitted temporary encroachment.

(h) *Utility* means the Guam Power Authority, the Guam Waterworks Authority or their legal successors, and public or legally licensed purveyors of telecommunication services."

Section 5. A new §53102(a)(5) is hereby *added* to Chapter 53 of Title 5, Guam Code Annotated, to read as follows:

"(5) Place in, under or over any highway, and perform routine maintenance and emergency repairs on utility equipment and facilities."

Section 6. §53103 of Chapter 53 of Title 5, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 53103. Permit Terms.**

Any permit issued under the provisions of this Chapter *shall* provide that the permittee will pay the entire expense of restoring the highway to the department standard for repairs made to a permitted encroachment, and may provide such other conditions as to the location and the manner in which the work is to be done as the Department finds reasonably necessary for the protection of the highways. All permits *shall* provide that they are revocable, for cause, upon thirty (30) days' written notice by the Department. Cause for revocation is the presence of any asset of any permittee that is adversely affecting the use, repair, improvement or access to the highway or as specified in §53107 (b)(c)(d) of this Chapter.

All costs of betterments *shall* be paid by the owner of such infrastructure.

The Department *shall* coordinate with all affected utilities when planning highway construction, and *shall* include the costs of any utility relocations when requesting federal funds in connection with such construction."

Section 7. §53104 of Chapter 53 of Title 5, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 53104. Cost of Work Supervision.**

The Department may, but is *not* required to, supervise any work done under any permit issued under the provisions of this Chapter, in which event, the permittee *shall* pay the reasonable cost of such supervision to the Department, *except* to the extent that there are federal funds available or accessible for such purposes."

Section 8. A new §53109 is hereby *added* to Chapter 53 of Title 5, Guam Code Annotated, to read as follows:

"**§ 53109. Relocation of Permitted Encroachments for Federally Funded Highway/Road Projects.** Notwithstanding any other provision of law, the cost to relocate any permitted encroachments as defined in this Chapter *shall* be paid for by federal funds when authorized by the grantor of federal funds pursuant to 5 GCA §54107, *except* to the extent the utility is making the request to move their infrastructure, in which case the utility *shall* bear the cost of relocation *unless* federal funding is available for such purposes. All costs to relocate a temporary permitted encroachment *shall* be paid by the owner of such temporary permitted encroachment."