FILE COPY

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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

This is to certify that **Bill No. 488-31 (COR), "AN ACT TO *ADD* A NEW ITEM (1) TO SUBSECTION (a) OF §16301 OF ARTICLE 3, CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM ELECTION COMMISSION TO RECONFIGURE THE PRIMARY ELECTION BALLOT TO ACCOMMODATE INDEPENDENT CANDIDATES"**, was on the 9th day of July, 2012, 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 10th day of July, 2012, at 9:10 o'clock A.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
2012 (SECOND) Regular Session

Bill No. 488-31 (COR)
As amended on the Floor.

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

AN ACT TO *ADD* A NEW ITEM (1) TO SUBSECTION (a) OF §16301 OF ARTICLE 3, CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM ELECTION COMMISSION TO RECONFIGURE THE PRIMARY ELECTION BALLOT TO ACCOMMODATE INDEPENDENT CANDIDATES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new item (1) is hereby added to Subsection (a) of §16301 of Article 3, Chapter 16, Title 3, Guam Code Annotated, to read:

"**§ 16301. Form of Primary Election Ballot.** Ballots used in the Primary Election *shall* be in the form prescribed by the Guam Election Commission and *shall* conform to the following minimum requirements:

(a) All candidates for all offices to be contested in the forthcoming General Election *shall* appear on a Primary Ballot to be voted upon by voters in each voting district. A voting district is each district within Guam as defined in 1 GCA § 403, *unless* otherwise provided in this Title. The Guam Election Commission *shall* publish a ballot with the names of all qualified candidates from the Republican Party on one (1) side of the ballot, and the names of all qualified candidates from the Democratic Party on the opposite side. This ballot format *shall* be used to limit voters to casting votes in only one (1) party for all offices in that Primary Election.

(1) If there are qualified candidates who are *not* members of any political party registered with the Guam Election Commission, then the Guam Election Commission *shall* reconfigure the ballot as necessary in order that candidates' names *shall* be placed on the ballot in three (3) or more columns with a separate column for each different recognized party, and a separate column for those non-affiliated. The Guam Election Commission *shall* limit voters to mark their ballots in *only* one (1) column for all offices in that Primary Election;"

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

Section 3. Effective Date. This Act *shall* take effect upon enactment.

OFFICE OF THE SPEAKER
JUDITH T. WON PAT, Ed.D.
CHAIRPERSON OF THE COMMITTEE ON EDUCATION AND PUBLIC LIBRARIES

VICE CHAIR
COMMITTEE ON TOURISM, MUNICIPAL AFFAIRS, HOUSING AND RECREATION

COMMITTEE ON TAXATION, APPROPRIATIONS, PUBLIC DEBT, BANKING, INSURANCE, RETIREMENT AND LAND

COMMISSIONER
GUAM COMMISSION ON DECOLONIZATION

GUAM FIRST COMMISSION

VICE PRESIDENT
ASSOCIATION OF PACIFIC ISLAND LEGISLATURES (APIL)

BOARD MEMBER
PACIFIC RESOURCES FOR EDUCATION AND LEARNING (PREL)

LEGISLATIVE REPRESENTATIVE
PACIFIC ISLAND DEVELOPMENT BANK (PIDB)

FESTIVAL OF THE PACIFIC ARTS (FESTPAC)

July 9, 2012

MEMORANDUM

To: Honorable Rory Respicio
Chairperson, Committee on Rules

From: Speaker Judith T. Won Pat, Ed.D.

Subject: Waiver of Public Hearing

After carefully evaluating the request to waive the requirement of a public hearing on Bill No. 488-31 (COR) "AN ACT RELATIVE TO AUTHORIZING THE GUAM ELECTION COMMISSION TO RECONFIGURE THE PRIMARY ELECTION BALLOT TO ACCOMMODATE INDEPENDENT CANDIDATES, BY ADDING A NEW ITEM (1) TO SUBSECTION (a) of §16301 OF ARTICLE 3, CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED."

I agree that the statutory conflicts needs to be quickly resolved by the Guam Legislature so that the Guam Election Commission can proceed with the timely printing of the ballots in order to meet the absentee ballot mailing deadlines so as to be in compliance with federal law relative to the candidate position of Non Voting Delegate to the U.S. House of Representatives.

I certify that Bill No. 488-31 (COR) meets one of the requirements set forth in §2103(a) of Title 2 Guam Code Annotated and the requirement for a public hearing is hereby waived.

Senseramente,

Judith T. Won Pat, Ed.D.
Speaker

Legal 2:15 pm

cc: Clerk of the Legislature

SENATOR DENNIS G. RODRIGUEZ, JR.

Chairman,
Committee on Health & Human Services, Senior Citizens, Economic Development, & Election Reform

Member,
Committee on Public Safety, Law Enforcement, & Judiciary

Member,
Committee on Youth, Cultural Affairs, Procurement, General Government Operations, & Public Broadcasting

Member,
Committee on Municipal Affairs, Tourism, Housing & Recreation

Member,
Committee on Rules, Federal, Foreign & Micronesian Affairs, & Human & Natural Resources

Member,
Committee on the Guam Military Buildup & Homeland Security

Member,
Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, & Land

Member,
Committee on Utilities, Transportation, Public Works, & Veterans Affairs

Assistant Majority Whip

July 09, 2012

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 7/9/12
Time 2:10 pm
Received by

Honorable Judith T. Won Pat
Speaker
I Mina'Trentai Una na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

RE: Request for Speaker's Waiver of Public Hearing for Bill No. 488-31(COR).

Dear Speaker Won Pat:

I wish to respectfully request your waiver of the requirement for public hearing relative to Bill No. 488-31 (COR).

As you are aware, the Executive Director of the Guam Election Commission notified Mr. Jonathan Frank Blas Diaz on JULY 07, 2012 (attached), that he has been certified as an independent candidate for the office of Non Voting Delegate to the U.S. House of Representatives. However, the same notification also informs Mr. Diaz that 3 G.C.A., §16301(a) does not provide for the placement of an independent candidate on the primary ballot. Consequently, Mr. Diaz name cannot appear on the ballot for the September 1, 2012 Primary Election.

The existing statute which requires the Democratic and Republican candidates to be placed on opposite sides of the ballot. However, it does not provide for the current situation whereby there is an independent candidate who has been certified for the Non Voting Delegate to the U.S. House of Representatives position in the upcoming September 1, 2012 Primary Election. Specifically, Subsection (a) of §16301 of Article 3, Chapter 16, Title 3, Guam Code Annotated, provides that:

"**§ 16301.** (a) All candidates for all offices to be contested in the forthcoming General Election *shall* appear on a Primary Ballot to be voted upon by voters in each voting district. A voting district is each district within Guam as defined in 1 GCA § 403, *unless* otherwise provided in this Title. The Guam Election Commission *shall* publish a ballot with the names of all qualified candidates from the Republican Party on one (1) side of the ballot, and the names of all qualified candidates from the Democratic Party on the opposite side. This ballot format *shall* be used to limit voters to casting votes in only one (1) party for all offices in that Primary Election;"

Ufisinan Todu Guam • 31st Guam Legislature
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E-mail: senatordrodriguez@gmail.com

The timely consideration of BILL NO. 488-31 (COR); AN ACT RELATIVE TO AUTHORIZING THE GUAM ELECTION COMMISSION TO RECONFIGURE THE PRIMARY ELECTION BALLOT TO ACCOMMODATE INDEPENDENT CANDIDATES, BY ADDING A NEW ITEM (1) TO SUBSECTION (a) OF §16301 OF ARTICLE 3, CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED, would resolve the statutory conflict with which we are now faced.

The provisions of Bill No. Bill No. 488-31 (COR) are essentially identical to §15301 of Article 3 of Chapter 15, 3 GCA, as was provided pursuant to Bill 413-31, which went through the public hearing process and was reported out of Committee for consideration by the Body. Bill 413-31 was then passed by *I Liheslaturan Guåhan* and was subsequently *vetoed* by the Governor.

There is a pressing need to address the independent candidate for the office of non-voting delegate to the U.S. House of Representatives. The Legislature provided a remedy in Bill 413-31. If this election reform bill was signed into law, it would have authorized the ballot placement for independent candidates. Regrettably, this bill did not meet the Governor's approval for reasons outside of this provision. I respectfully request a waiver of the public hearing requirement be made pursuant to law.

This request is made with due consideration of:

> **§ 2103. Public Hearings Mandatory.** (a) No bill may be passed by I Liheslatura unless it has received a public hearing, except that when the presiding officer of I Liheslatura certifies that emergency conditions exist, involving danger to the public health or safety, the requirement for a public hearing may be waived and in the event the bill is identical to a bill introduced earlier, which later bill received a public hearing, then a public hearing for the identical bill may be waived.

Time is of the essence in that the statutory conflict needs to be quickly resolved by *I Liheslaturan Guåhan* so that the Guam Election Commission can proceed with the timely printing of the ballots in order to meet the absentee ballot mailing deadlines so as to be in compliance with federal law relative to the candidate position of Non Voting Delegate to the U.S. House of Representatives. .

Your consideration of this matter is urgently requested.

Si Yu'os ma'ase.

Senseramente,

DENNIS G. RODRIGUEZ, JR.

Attachment: - Bill No. 488-31 (COR);
- GEC Notification to Mr. Jonathan F.B. Diaz; &
- §15301 of Article 3 of Chapter 15, 3 GCA, pursuant to Bill 413-31.

GUAM ELECTION COMMISSION
Kumision Ileksion Guåhan

Your VOTE is your voice. √ BOTA ya un ma kuenta.

July 7, 2012

Mr. Jonathan Frank Blas Diaz
P.O. Box 21603 GMF
Barrigada, GU 96921

Via e-mail: jonadiaz@gmail.com

Hafa Adai Mr. Diaz,

The Guam Election Commission, at its July 7, 2012 meeting, certified you as an independent candidate for the office of Non Voting Delegate to the U.S. House of Representatives. We regret to inform you that Guam law, 3 G.C.A. §16301 (a) does not provide for the placement of an independent candidate's name on the primary ballot. Because of this, under current law, your name cannot appear on the ballot for the September 1, 2012 Primary Election.

The GEC reminds you that, pursuant to 3 G.C.A. §14604 (b), no candidate running as an independent shall be eligible for placement on the ballot for the general election unless the candidate receives votes in the primary election "equal to at least ten percent (10%) of the total number of the ballots cast for the office for which he is a candidate."

Please contact the Guam Election Commission if you need additional information. Si Yu'os ma'ase'.

Sinseramente,

MARIA I.D. PANGELINAN
Executive Director

cc: Honorable Judith T. Won Pat, Ed.D.
Speaker, I Mina'trentai Unu Na Liheslaturan Guåhan

Joseph F. Mesa
Chairman
Republican

Donald I. Weakley, Sr.
Vice-Chairman
Democrat

Christopher L. Carillo
Member
Democrat

Dot H. Chargualaf
Member
Democrat

G. Patrick Civille
Member
Independent

Johnny P. Taitano
Member
Republican

Martha C. Ruth
Member
Republican

Maria I.D. Pangelinan
Ex Officio Secretary
Executive Director

Jeffrey A. Cook, Esq.
Legal Counsel

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vote@gec.guam.gov (e-mail) • www.gec.guam.gov (website)

at the office of the Commission of a nomination of a candidate, the day, hour and minute when it was received *shall* be endorsed thereon.

§ 15207. Independent Candidates. Nomination papers may be filed on behalf of independent candidates. The papers *shall* be in the same form and signed in the same manner as in the case of party candidates.

§ 15208. Vacancies. In case of the death, withdrawal or disqualification of a nominee for *I Maga'låhen Guåhan* after a primary, the candidate for *I Segundu Na Maga'lahi* on the same slate *shall* thereupon become candidate for *I Maga'låhen Guåhan*, who *shall* then select the nominee for *I Segundu Na Maga'lahi*. In case of the death, withdrawal or disqualification of any nominee for *I Segundu Na Maga'lahi* after a primary, the nominee for *I Maga'låhen Guåhan* on the same slate *shall* select the nominee for *I Segundu Na Maga'lahi*. In case of the death, withdrawal or disqualification of any nominee for any other office after a primary, the vacancy so caused *shall* be filled by the nominee to such office receiving the next highest number of votes in the primary. In case of the death, withdrawal or disqualification of any candidate for office after an unopposed primary, the vacancy so caused *shall* be filled by the central committee of the party.

ARTICLE 3
BALLOTS

§ 15301. Form of Primary Election Ballot. Ballots used in the primary election *shall* be in the form prescribed by the Guam Election Commission and *shall* conform to the following minimum requirements:

(a) All candidates for all offices to be contested in the forthcoming general election *shall* appear on a primary ballot to be voted upon by registered voters in each voting district. A voting

district is each district within Guam as defined in Title 1 GCA § 403, *unless* otherwise provided in this Title. The Guam Election Commission *shall* print a ballot with the names of all qualified candidates from the Republican Party on one (1) side of the ballot, and the names of all qualified candidates from the Democratic Party on the opposite side. This ballot format *shall* be used so as to limit voters to mark their ballots in only one (1) party for all offices in that primary election.

If there are qualified candidates who are not members of either the Republican Party or the Democratic Party, the Guam Election Commission *shall* reconfigure the ballot as necessary in order that candidates' names *shall* be placed on the ballot in three (3) or more columns with a separate column for each different recognized party, and a separate column for those non-affiliated. The Guam Election Commission *shall* limit voters to mark their ballots in *only* one (1) party or for non-affiliated candidates *only* for all offices in that primary election.

(b) Across the top of the ballot *shall* be printed the words "OFFICIAL PRIMARY ELECTION BALLOT" and the date of the primary election.

(c) Thereafter *shall* appear an explanation to the voter instructing him or her how to vote.

(d) There *shall* appear specific instructions in boldface type on each ballot that a voter may cast votes under one (1) party *only*; that if votes are cast for candidates of *more than* one (1) party for any office or nomination of offices appearing on the ballot, the entire