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 **Substitute Bill No. 399-31 (LS), "AN ACT TO *REPEAL* SECTION 2 OF PUBLIC LAW 26-10; AND TO *AMEND* SUBSECTIONS (l) AND (v) OF §8104, AND *REPEAL* AND *RE-ENACT* §8134, ALL OF ARTICLE 1, CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO SURVIVOR ANNUITIES",** was on the 17th day of February, 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 17 day of FEB, 2012, at 1:22 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. 399-31 (LS)
As substituted by the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land.

Introduced by: v. c. pangelinan
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
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Adolpho B. Palacios, Sr.
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Aline A.Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *REPEAL* SECTION 2 OF PUBLIC LAW 26-10; AND TO *AMEND* SUBSECTIONS (l) AND (v) OF §8104, AND *REPEAL* AND *RE-ENACT* §8134, ALL OF ARTICLE 1, CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO SURVIVOR ANNUITIES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that numerous amendments to §8134, Chapter 8, Article 1 of Title 4, Guam Code Annotated, have resulted in confusion over the eligibility to receive survivor

benefits, and confusion over the time periods during which such benefits are to be paid.

I Liheslaturan Guåhan intends to consolidate and clarify the various sections of §§ 8104 and 8134 to conform to the prior intent underlying §8134 and amendments thereto.

Section 2. Section 2 of Public Law 26-10 is hereby *repealed.*

Section 3. Subsection (l) of §8104, Article 1 of Chapter 8, Title 4 of the Guam Code Annotated is hereby *amended* to read as follows:

"**(l)** ***Child.*** The term child for the purpose of § 8134(a)(2) *shall* mean a member's unmarried child, by blood or adoption, (1) under the age of eighteen (18) years, who lived in the same principal residence as the member who provided more than one-half (1/2) of the child's support; (2) eighteen (18) years of age or older, but under twenty-four (24) years of age, attending high school *or* an accredited undergraduate educational institution full-time; *or* (3) disabled prior to age eighteen (18) years. To establish a child's disability, the Board must receive, *no later than* one (1) year following the death of a member, examination report(s) by two (2) licensed physicians pronouncing that prior to age eighteen (18) years the child was, and currently remains, physically, mentally and permanently disabled and incapable of self-support."

Section 4. Subsection (v) of §8104 of Article 1, Chapter 8 Title 4 of the Guam Code Annotated is hereby *amended* to read as follows:

"(v) *Surviving Spouse* means a living spouse of a deceased, active *or* retired member of the Fund, *or* of a deceased COLA Awardee, in a marriage legally recognized by Title 19, Chapter 3 of the Guam Code Annotated, *or* in a marriage recognized by the laws of the jurisdiction where the marriage

was contracted. A domestic relations order may provide that a former spouse *shall* be treated as the current spouse of a deceased member for purposes of eligibility for surviving spouse benefits under §8134."

Section 5. §8134 of Article 1, Chapter 8 of Title 4, Guam Code Annotated, is *repealed* and *reenacted* to read as follows:

"**§ 8134. Survivor Annuities and Death Benefits.** Upon the death of a member who has completed *at least* three (3) years of total service, or upon the death of a member in the line of duty, survivor annuities and death benefits *shall* be payable to eligible survivors described in Subsection (a) for the applicable term set forth in Subsection (b).

(a) Eligible Survivors. The following persons *shall* be eligible to receive the following survivor benefits or death benefits as set forth in this Article. Eligibility *shall* be determined as of the date of death of a member, whether in service, in the line of duty, or in retirement.

(1) Surviving Spouse Annuity. A surviving spouse, as defined in §8104(v), *shall* be eligible to receive a surviving spouse annuity upon the death of a member.

(2) Surviving Child Annuity. A member's unmarried child, by blood or adoption, who is:

(A) under the age of eighteen (18) years and lived in the same principal residence as the member who provided more than one-half (1/2) of the child's support;

(B) eighteen (18) years of age or older, but under twenty-four (24) years of age, and a full-time student in high school, or an accredited undergraduate educational institution; or

(C) disabled prior to age eighteen (18) years, *shall* be eligible to receive a surviving child annuity upon the death of a member based on the Rate Formula set forth in §8135.

To establish eligibility based on disability, the Board must receive, *no later than* one (1) year following the death of a member, examination report(s) by two (2) licensed physicians pronouncing that prior to age eighteen (18) years the child was, and currently remains, permanently physically or mentally disabled, and incapable of self-support.

(b) Term of Survivor Benefits.

(1) A surviving spouse annuity *shall* be payable as of the death of the member, and *shall* terminate upon the earlier of:

(A) the death of the surviving spouse; or

(B) the remarriage of the surviving spouse before the age of forty (40) years.

(2) A surviving child annuity *shall* be payable to each eligible surviving child as of the death of the member, subject to the aggregate basic surviving child annuities for five (5) or more children under §8135. A surviving child annuity *shall* terminate upon a child's death, marriage, attainment of age eighteen (18) years (*unless* the child is disabled, or attends high school or an undergraduate educational institution full-time), attainment of age twenty-five (25) years (*unless* the child is disabled), or if a previously disabled child is no longer disabled.

(c) Optional Provisions for Unmarried Employees. Upon retirement for services, any unmarried employee, whether male or female, if in good health as determined upon medical examination, may elect to

receive in lieu of his or her full service retirement annuity, on an actuarial equivalent basis, a reduced annuity payable during his or her lifetime with an annuity payable to his or her designated beneficiary at the same rate and under the same conditions as are applicable to a surviving spouse of a member. The reduced retirement annuity payable to the member under this option *shall* be ninety percent (90%) of the full service retirement annuity if the designated beneficiary is of the same age, or older, or less than five (5) years younger than the retired employee. Such retirement annuity *shall* be reduced to the extent of one percent (1%) for each additional year above five (5) that the age of the member exceeds the age of the beneficiary; provided, that the reduced retirement annuity for the member shall in no event be less than sixty percent (60%) of the full service retirement annuity.

(d) Survivor Death Benefit. Upon the death of a member, while in service or in receipt of a service retirement or disability retirement annuity, if a surviving spouse or child survives the member, a single lump sum death benefit payment in the amount of One Thousand Dollars ($1,000) *shall* be payable."

Section 6. 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 application, and to this end the provisions of the Act are severable.