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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. 532-31 (COR), "AN ACT TO *ADD* NEW§§ 16201.1, 16201.2, 16201.3, 16215, 16216, 16217, 16218, 16219, 16220, 16221, AND 16222; AND TO *AMEND* §§ 16203, 16205 AND 16206, ALL OF ARTICLE 2 OF CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO THE PRESENTATION OF INITIATIVE MEASURES, AND TO BE KNOWN AS *THE INITIATIVE REFORM AND TRANSPARENCY ACT OF 2012*",** was on the 14th day of December, 2012, duly and regularly passed.

Benjamin J.F. Cruz
Acting Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 17 day of Dec, 2012, at 11:40 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. 532-31 (COR)
As substituted by the Committee on Health and Human Services, Senior Citizens, Economic Development and Election Reform; and amended on the Floor.

Introduced by:

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

AN ACT TO *ADD* NEW§§ 16201.1, 16201.2, 16201.3, 16215, 16216, 16217, 16218, 16219, 16220, 16221, AND 16222; AND TO *AMEND* §§ 16203, 16205 AND 16206, ALL OF ARTICLE 2 OF CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO THE PRESENTATION OF INITIATIVE MEASURES, AND TO BE KNOWN AS *THE INITIATIVE REFORM AND TRANSPARENCY ACT OF 2012.*

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that initiatives put before the electorate *shall* contain full disclosure of genesis and intent. Considering the immense expense and diligent efforts of the Guam Election Commission and the processes and standards which the Commission must assume and adhere to in order to entertain an initiative; the burden of transparency and accountability *shall not* fall *solely* on the voting public to ascertain the origins or intentions of a proposal. This should be a shared responsibility. It serves the public's interest to require that proponents of any initiative placed before the people of Guam be forthcoming and available; and that proponents be held accountable for any initiative they offer to the people of Guam by providing accurate information about its origins, intention and purpose.

It is the intent of *I Liheslaturan Guåhan* to clarify certain standards to ensure transparency and accountability regarding matters put before the electorate by any individual, organization, partnership, corporation, committee, or business. *The Initiative Reform and Transparency Act of 2012 shall* begin the process of easily identifying the origins, intention and purpose behind all future initiatives so that the voters of Guam have the opportunity to be fully informed about any initiative proposed for their consideration and those proposing the initiative before making their determination at the polls.

Section 2. New §§ 16201.1, 16201.2, 16201.3, 16215, 16216, 16217, 16218, 16219, 16220, 16221 and 16222 are hereby *added*; and §§ 16203, 16205 and 16206 are hereby *amended*, all of Article 2, Chapter 16, Title 3, Guam Code Annotated, as *repealed* and *reenacted* by overridden Bill No. 413-31 (COR), to read:

"§ 16201.1. Qualified Proponent.

§ 16201.2. Initiative Author.

§ 16201.3. Public Input.

§ 16203. Same: Failed Initiative.

§ 16205. Same: Presentation of.

§ 16206. Same: Majority Required; Effective Date.

§ 16215. Commission to Develop Registration and Disclosure Requirements and Form.

§ 16216. Financial Disclosure and Registration Requirement.

§ 16217. Shareholder/Member Disclosure Requirement.

§ 16218. Police and Court Clearances.

§ 16219. Requirement of Fiscal Impact Statement.

§ 16220. Preparation of Fiscal Impact Statement, or Waiver Thereof.

§ 16221. Contents of Fiscal Impact Statement.

§ 16222. Fiscal Impact Statement Circular.

§ 16201.1. Qualified Proponent. Initiative measures may *only* be proposed by a bona fide resident and registered voter of Guam who was registered during the preceding general election. The qualified proponent of any initiative may act individually *or* on behalf of an organization, partnership, corporation, committee, *or* business.

§ 16201.2. Initiative Author. The qualified proponent of the initiative and officers of the organization, partnership, corporation, committee, *or* business he or she represents, if applicable, must be identified.

§ 16201.3. Public Input. Prior to circulation of the initiative for signature gathering, the proponent must host village meetings in *at least* ten (10) villages, to include the six (6) villages with the largest number of registered voters in the previous election. The meetings *shall* be documented with written minutes and a video recording.

§ 16203. Same: Failed Initiative. If an initiative measure is *not* approved by more than sixty percent (60%) of the voters in any election, no initiative measure proposing a substantially similar or substantially related subject shall be submitted to voters for at least ten (10) years after the date of such election.

§ 16205. Same: Presentation of. The Election Commission *shall* submit the initiative to the electors after certification at the next regularly scheduled biennial general election; provided, however, that *I Liheslatura* may call an island-wide special election for the purpose of having the electors vote on an initiative measure.

§ 16206. Same: Majority Required; Effective Date. An initiative must be approved by fifty percent (50%) plus one (1) of all voters who go to the polls to vote in the special or biennial general election at which the initiative was placed on the ballot. Any initiative so approved by fifty percent (50%) plus one (1) of all voters who go to the polls to vote at said election *shall* take effect no earlier than the first (1st) day of the month of February of the succeeding year after certification of its passage by the Commission; and after all requisite government rules, regulations, permits pertaining to the initiative are officially adopted and effectuated by relevant department and agencies of the government of Guam.

§ 16215. Commission to Develop Registration and Disclosure Requirements and Form. The Commission *shall* develop the registration requirements and rules and regulations governing the information requisite for discovery of financial and shareholder or member disclosure requirements contained herein that stipulate the essential financial information of any person and all shareholders and/or members of any organization, partnership, corporation, committee, or business which expects to receive funds or make expenditures in an effort to directly support or put forward any initiative.

The Commission *shall* adopt these rules within one hundred twenty (120) days of the enactment of this Act. The Commission may revisit and amend these rules as deemed necessary by the Commission every three (3) years thereafter.

§ 16216. Financial Disclosure and Registration Requirement. Any person, and all individual shareholders *or* members of any organization, partnership, corporation, committee, *or* business, which receives funds *or* makes expenditures in an effort to directly support *or* put forward any initiative must register and file financial disclosure reports with the Commission.

§ 16217. Shareholder/Member Disclosure Requirement. Financial disclosure reports *shall* list all individual shareholders *or* members of any organization, partnership, corporation, committee, *or* business which receives funds *or* makes expenditures in an effort to directly support *or* put forward any initiative.

§ 16218. Police and Court Clearances. At the time of filing of an initiative, any person, and all shareholders and or members of any organization, partnership, corporation, committee, or business, which receives funds or makes expenditures in an effort to directly support or put forward any initiative must be registered with the Commission and *shall* submit:

(a) a clearance from the Guam Police Department;

(b) a clearance from the Judiciary of Guam;

(c) a clearance from United States District Court; and

(d) a signed affidavit attesting that the proponent, shareholder or member of any organization, partnership, corporation, committee, or business, has *not* been convicted of a felony or misdemeanor, as described herein, in any state or territory of the United States or foreign country.

Notwithstanding any other provision of law, in order to put forward an initiative, any person, and all shareholders and or members of any organization,

partnership, corporation, committee, or business must *not* have been convicted of a felony, and must *not* have been convicted of a misdemeanor involving criminal sexual conduct or crime of moral turpitude. Initiatives forwarded by proponents listed with such crimes herein *shall* be disqualified from further action by the Commission.

The cost for the police clearance and the court clearances required by this Section *shall* be borne by the person/s seeking to propose the initiative.

§ 16219. Requirement of Fiscal Impact Statement. A fiscal impact statement *shall* be required for all initiatives that have an effect upon the revenues or the expenditure of any funds of the government of Guam. A waiver of a fiscal impact statement *shall* be required for all measures that do *not* have an effect upon the revenues or the expenditure of any funds of the government of Guam. No initiative shall be presented to the electorate by the Commission, *unless* a fiscal impact statement or waiver thereof is submitted.

§ 16220. Preparation of Fiscal Impact Statement, or Waiver Thereof. The fiscal impact statement, or waiver thereof, *shall* be prepared by the Director of the Bureau of Budget and Management Research (BBMR), in coordination with the director of the department, agency or appropriate government instrumentality, affected by the initiative. The fiscal impact statement *or* waiver thereof prepared by BBMR *shall* be considered as the official document required for fulfillment of this Section.

The proponents of an initiative may commission an independent accounting firm to conduct a fiscal impact statement of its own for informational purposes, but proponents of any initiative measure *may not* present a waiver of its own of said fiscal impact statement.

§ 16221. Contents of Fiscal Impact Statement. A fiscal impact statement *shall* contain the best estimate of the fiscal impact of an initiative for the fiscal year in which it would become effective, *if* enacted, and for the next four (4) succeeding fiscal

years. *If* the fiscal impact of the measure is *not* expected to occur within the operating fiscal year, the estimate *shall* be for the first fiscal year in which it is expected to be fully effective, and for the next four (4) succeeding fiscal years.

§ 16222. Fiscal Impact Statement Circular. The fiscal impact statement *shall* be attached to any voter information pamphlet circulated by the Commission. Proponents *shall* assume the costs associated with printing their independent fiscal impact statement and reimburse the Commission for costs it incurs in appending the independent fiscal impact statement to any pamphlet commissioned by the Commission."