I Mina'Trentai Unu Na Liheslaturan Guahan

Bill Log Sheet

BILL NOS.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
452-31 (COR)	v.c. pangelinan	AN ACT TO *ADD* SUBSECTION 6206(c) AND TO *AMEND* SUBSECTION 6210(a) AND TO *ADD* SUBSECTION 6210(c) TO TITLE 5 GUAM CODE ANNOTATED CHAPTER 6 ARTICLE 2; TO *AMEND* SUBSECTION 6401(b) TO TITLE 5 GUAM CODE ANNOTATED CHAPTER 6, ARTICLE 4; TO *AMEND* SUBSECTION 10102(d) AND SECTION 10113 TO TITLE 5 GUAM CODE ANNOTATED, CHAPTER 10, ARTICLE 1; AND TO *AMEND* SECTION 1820 TO TITLE 1 GUAM CODE ANNOTATED, CHAPTER 18, ARTICLE 2 RELATIVE TO PROHIBIT THE SEALING OF SETTLEMENTS OF CLAIM AGAINST THE GOVERNMENT	5/4/2012 4:23 p.m.	5/7/12		Committee on Public Safety, Law Enforcement and Judiciary			

COMMITTEE ON RULES

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May 7, 2012

MEMORANDUM

To: **Pat Santos**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio**
Majority Leader & Rules Chair

Subject: **Referral of Bill No. 452-31 (COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 452-31 (COR).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan.*

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

(1) Attachment

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

2012 MAY 4 PM 4:23

Bill No. 452-31 (COR)

Introduced by: **v.c. pangelinan**

AN ACT TO *ADD* SUBSECTION 6206(c) AND TO *AMEND* SUBSECTION 6210(a) AND TO *ADD* SUBSECTION 6210(c) TO TITLE 5 GUAM CODE ANNOTATED CHAPTER 6 ARTICLE 2; TO *AMEND* SUBSECTION 6401(b) TO TITLE 5 GUAM CODE ANNOTATED CHAPTER 6, ARTICLE 4; TO *AMEND* SUBSECTION 10102(d) AND SECTION 10113 TO TITLE 5 GUAM CODE ANNOTATED, CHAPTER 10, ARTICLE 1; AND TO *AMEND* SECTION 1820 TO TITLE 1 GUAM CODE ANNOTATED, CHAPTER 18, ARTICLE 2 RELATIVE TO PROHIBIT THE SEALING OF SETTLEMENTS OF CLAIM AGAINST THE GOVERNMENT.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* advocates for an open and transparent government and desires to enhance accountability in public departments, agencies, branches, and corporations.

Currently, there is no provision in statute requiring open and transparent settlements for civil action suits or other disputes concerning public departments, agencies, branches, corporations and funds. Without such a statute to allow for the public to review the government's actions in all settlements, the government will never truly be open and accountable.

I Liheslaturan Guåhan finds that good public policy allows all settlements are accessible for public review. Full disclosure of decisions made by elected or appointed public officials on behalf of the government of Guam with individuals, private business or other governments provides for review and scrutiny of such decisions. By enacting a policy establishing full disclosure, public officials and the government of Guam are more accountable in aligning settlements with the public's interest, as well as building a climate of public trust.

Therefore, *I Liheslaturan Guåhan* intends to prohibit the sealing of settlements concerning public departments, agencies, branches, corporations and funds by adding and amending current laws relative to the procedures for filing claims and actions to ensure that settlement of claims on behalf of the government of Guam shall be open to public review.

Section 2. §6206(c) is hereby added to Title 5 Guam Code Annotated, Chapter 6, Article 2 to read:

"§ 6206. Settlement of Claim Before Action.

(c) Settlement of any claims concerning government of Guam shall not be sealed and shall be open to public inspection. The Attorney General or the attorney for the agency shall send a copy of

each settlement to the Speaker of *I Liheslaturan Guåhan* within five (5) days of approval by *I Maga'lahen Guåhan*."

Section 3. §6210(a) is hereby amended and §6210(c) is hereby added to Title 5 Guam Code Annotated, Chapter 6, Article 2 to read:

"§ 6210. Settlement of Suit.

(a) Subject to the approval of the court in which the case is pending, the Attorney General is authorized to settle a suit at any time before final judgment; provided that if government funds are to be paid in excess of the balance in the government claims fund, that appropriation for that purpose or authorization to transfer resources of the government have been authorized by law.

(b) In the case of autonomous agencies, the attorney representing such agency is authorized to settle a suit against the agency he represents subject to the approval of the governing board of the agency, or if no board exists, to the approval of the chief executive officer of said agency.

(c) Settlement of any claims concerning government of Guam shall not be sealed and shall be open for public inspection. A copy of each settlement shall be sent to the Speaker of *I Liheslaturan Guåhan*."

Section 4. §6401(b) is hereby amended to Title 5 Guam Code Annotated, Chapter 6, Article 4 to read:

"(b) Reports by the Attorney General. Upon the settlement of any claim by the Attorney General, or final judgment in any action under this Chapter, the Attorney General shall designate which line agency incurred the liability, which requires payment, and whether the liability arose under tort or contract. A report of settlements or judgements in any action under this Chapter shall be made to the Speaker of *I Liheslaturan Guåhan* every thirty (30) days. "

Section 5. §10102 (d) is hereby amended to Title 5 Guam Code Annotated, Chapter 10, Article 1 to read:

"§ 10102. Definitions.

(d) *Public records* includes any writing containing information relating to the conduct of the public's business prepared, owned, used, ~~retained~~ or any out-of-court settlement records by any state or local agency in any format, including electronic format."

Section 6. §10113 is hereby amended to Title 5 Guam Code Annotated, Chapter 10, Article 1 to read:

"§10113. Judicial Records.

The provisions of this Chapter shall *not* be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this Section, not to affect the rights of litigants, including parties to administrative proceedings,

under the laws of discovery of Guam, nor to limit or impair any rights of discovery in a criminal case. The sealing of settlement documents in cases involving government of Guam is prohibited."

Section 7. §1820 is hereby amended to Title 1 Guam Code Annotated, Chapter 18 to read:

"§ 1820. Legislative Approval of Settlements.

No office, department, instrumentality, agency, institution, board, bureau, commission, council, authority, committee of territorial government *or* branch, of the government of Guam may enter into any consent decree, stipulated order *or* other settlement agreement with any party seeking a claim against the government of Guam, that requires the payment of cash, financing, *or* future financing by the government of Guam without the approval of *I Liheslatura* [the Legislature] *or* specific appropriation for that claim. Any proposed settlement agreement, supra, that requires legislative appropriation *or* authorization, by an Office, Department, Instrumentality, Agency, Institution, Board, Bureau, Commission, Council, Authority *or* Branch, purporting a consent decree, stipulated order *or* other settlement with the government of Guam *shall* be transmitted to *I Liheslatura* which, by statute, may amend, approve, *or* disapprove the plan *or* the action taken within forty-five (45) days *or*

said plan *or* action *shall* be deemed approved. This Section *shall not* apply to claims against the government arising from the provisions of the Government Claims Act (Chapter 6, 5GCA), the actions authorized by Public Law of the Civil Service Commission *or* other settlement expressly authorized by Public Law. No settlement in legal proceedings or threatened legal proceedings concerning government of Guam shall be sealed from public review."

Section 8. 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 the Act are severable.