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I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

November 13, 2013

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
***Hagåtña,* Guam 96910**

OFFICE OF THE GOVERNOR
CENTRAL FILES
RECEIVED BY: J. Dela Rosa
TIME: 11:28 a.m. DATE: 11/15/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 35-32(COR), 74-32(LS), 75-32(LS), 91-32(COR), 94-32(COR), 98-32(LS), 99-32(LS), 108-32(COR), 112-32(COR), 116-32(COR), 133-32(COR), 134-32(COR), 140-32(COR), 141-32(COR), 143-32(COR), 145-32(LS), 150-32(COR), 153-32(COR), 154-32(COR), 156-32(COR), 157-32(COR), 158-32(COR), 160-32(COR), 161-32(COR), 162-32(LS), 165-32(COR), 170-32(LS), 176-32(COR), 189-32(COR), 193-32(COR), 194-32(COR), 195-32(COR), 196-32(COR), 200-32(COR), 205-32(COR), 210-32(COR), 211-32(COR) and 217-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on November 12, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (38)

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I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

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

This is to certify that **Substitute Bill No. 35-32 (COR), "AN ACT TO ADD NEW §§ 61605, 61606, 61607, 61608, 61609, 61610 AND 61611 TO ARTICLE 6 OF CHAPTER 61, OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE ENFORCEMENT OF ZONING LAWS",** was on the 12th day of November 2013, 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 15th day of Nov, 2013, at 11:28 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 DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 35-32 (COR)
As substituted and further amended on the Floor.

Introduced by: Vicente (ben) C. Pangelinan
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* NEW §§ 61605, 61606, 61607, 61608, 61609, 61610 AND 61611 TO ARTICLE 6 OF CHAPTER 61, OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE ENFORCEMENT OF ZONING LAWS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings And Intent. The Department of Public Works (DPW) and the Department of Land Management (DLM) receive and review all complaints of non-compliance of zoning designations, but are unable to enforce the laws they are tasked to oversee as enforcement rests solely with the Office of the Attorney General (OAG). Currently, the process for enforcement is

long and cumbersome, which allows the violation to continue without recourse by the DPW and DLM and must wait action by the OAG.

I Liheslaturan Guåhan further finds that to better serve the community, by expeditiously addressing violations of zone designtions, DPW should be allowed to enforce zoning laws.

Therefore, it is the intent of *I Liheslaturan Guåhan* to allow enforcement powers of zoning laws to DPW by providing proper and timely notification and imposing fines to the person(s) or entity in violation of zoning laws.

Section 2. New §§ 61605, 61606, 61607, 61608, 61609, 61610 and 61611 are hereby *added* to Article 6 of Chapter 61, of Title 21, Guam Code Annotated, to read:

"**§ 61605. Form and Filing. Who May File.** Any government official or person(s) may file a complaint with the Director of the Department of Public Works.

(a) **Filing.** Complaints of violations of zoning laws *shall* be made in writing to the Director of the Department of Public Works. A complaint for zoning violations, when received by the Department of Public Works, *shall* stamp and record the date and time upon receipt of each complaint.

(b) **Form.** A written complaint *shall* include the following:

(1) The name, contact number, electronic mail (if available), mailing and/or business address of the complainant;

(2) Detailed narrative of complaint;

(3) Supporting evidence or documents to substantiate grounds for complaint.

§ 61606. Standard of Review. The Director of the Department of Public Works *shall* investigate all violation complaints within ten (10) days

of submission. Investigative findings *shall* be completed and issued within 30 working days from receipt of complaint.

§ 61607. Findings and Notice. Such person(s) in receipt of the notice of violation; the owner, occupant, lessee, mortgagee, agent and other person(s) having control over the activities or use of said area, or all of the aforementioned, *shall* be notified in writing with a detailed description of the violation. The notice *shall* be issued via certified mail or by personal delivery and signed by the Director of the Department of Public Works, or his/her designee.

Any person(s) that is found in violation *shall* have ten working (10) days to rectify said violations by the following:

(a) cease and desist all violative activity and remove all violative structures and/or violative items; or

(b) cease and desist all violative activity and immediately apply for appropriate zone designation. No violative activity *shall* be conducted on the said property during the pendency of the zoning application to cure a violation.

§ 61608. Failure to Comply – Fines/Revocation of Certificate of Occupancy. Failure to rectify violations within ten (10) days of the receipt of the notice of violation *shall* be assessed a fine of One Hundred Dollars ($100.00) per day until the violation has been rectified according to §61607 of this Chapter. In the event the violator is a business, if the violation(s) is *not* rectified within ten (10) working days after a fine has been assessed, the Director *shall* revoke the certificate of occupancy until such time as the violation(s) has been rectified. If the violation involves a complaint regarding residential setback, the violator may seek a variance or summary zone change from the Department of Land Management to come into

compliance. The fine imposed by this Section will *not* be applied until the variance or summary zone change application has been denied.

§ 61609. Department of Public Works Building and Design Fund. All monies collected from fines according to §61608 of this Chapter *shall* be deposited into the DPW Building and Design Fund for the administrative costs to the division for the enforcement of zoning laws.

§ 61610. Decision - Final. Any determination of finding(s) of the violation of zoning laws by the Director of the Department of Public Works or his/her designee *shall* be final.

§ 61611. Appeals. A complainant, or any person in receipt of a notice of violation who wishes to, may, within 10 working days, appeal the determination of finding(s), or lack of findings by the Director of the Department of Public Works, and may file such appeal and submit to the Guam Land Use Commission who *shall* exercise its powers pursuant to Article 6 of Chapter 61 of Title 21, Guam Code Annotated. The payment of fines and the revocation of occupancy certificate *shall be* stayed during appeals, but monetary fines *shall* continue to accrue."

Section 3. Rules and Regulations. The Department of Public Works and the Department of Land Management *shall* promulgate rules and regulations within ninety (90) days of the enactment of this Act, pursuant to Chapter 9, Title 5 Guam Code Annotated, the Administrative Adjudication Law.

Section 4. Notification. Within thirty (30) days upon enactment of this Act, the Department of Public Works and the Department of Land Management *shall* provide notification of the implementation of this Act to the general public by posting notices within their respective Departments and by using various media outlets.

Section 5. Severability. *If* any of the provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity *shall not* affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.