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I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

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

This is to certify that **Bill No. 190-32 (COR), "AN ACT TO *ADD* A NEW CHAPTER 28 TO DIVISION 2 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE ESTABLISHMENT OF THE RESEARCH CORPORATION, UNIVERSITY OF GUAM (RCUOG),"** was on the 1st day of February, 2014, 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 1ST day of FEB, 2014, at 10:50 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. 190-32 (COR)
As amended on the Floor.

Introduced by:

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

AN ACT TO *ADD* A NEW CHAPTER 28 TO DIVISION 2 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE ESTABLISHMENT OF THE RESEARCH CORPORATION, UNIVERSITY OF GUAM (RCUOG).

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the University of Guam has the capacity to grow and expand its economic, social and environmental benefits to the people of Guam and the region, while fulfilling its mission as the premier institution of higher education in the region, by engaging more in research and educational programs funded by private and federal

sponsors, to include business development through commercialization of research and public-private partnerships. These private contracts and federal grants complement the government of Guam's appropriations to the University by adding new revenues that assist in sustaining the University and enabling it to grow.

I Liheslaturan Guåhan further finds that in 2011, University of Guam revenues from grants and contracts amounted to $49 million, a growth of $11 million (or 29%) over the prior year. Since 2004, the University has more than doubled the value of federal grants and contracts. This rate of increase has led to challenges in managing such remarkable growth and puts at risk the University's ability to seek and achieve further grant and contract growth.

I Liheslaturan Guåhan further finds that states and jurisdictions have implemented over 200 research corporations at or affiliated with universities that have led to dramatic growth in grant and contract awards through infrastructure, regulations and systems that are tailored to the research environment. These states have crafted legislation that provides best practice; the flexibility required for grants management while remaining compliant with rules and regulations, such as federal OMB Circulars A-21 and A-133; and the agility needed to grow grants and contracts to the benefit of their jurisdictions and constituents.

Therefore, it is the intent of *I Liheslaturan Guåhan* to create a new entity, to be called the Research Corporation of the University of Guam (RCUOG).

Section 2. A new Chapter 28 is hereby *added* to Division 3 of Title 17, Guam Code Annotated, to read as follows:

"CHAPTER 28

RESEARCH CORPORATION OF THE UNIVERSITY OF GUAM (RCUOG)

§ 2801. Establishment of the Research Corporation.

§ 2802. Purpose.
§ 2803. Administration.
§ 2804. Officers and Employees of the Research Corporation.
§ 2805. Authorized Activities.
§ 2806. Procurement.
§ 2807. Annual Report.
§ 2808. Dissolution.
§ 2809. Special Account.
§ 2810. RCUOG Excepted From Certain Guam Laws.
§ 2811. Severability.

§ 2801. Establishment of the Research Corporation. The University of Guam is authorized to establish a body corporate, the Research Corporation of the University of Guam (RCUOG, Corporation). The Corporation *shall* be a public corporation incorporated on Guam, and *shall* operate as an integral part of the University of Guam (University, UOG) and may apply for a 501(c)(3) designation.

§ 2802. Purpose. The purposes of the Corporation *shall* include, but *not* be limited to, the promotion of assigned educational, scientific, and literary pursuits of the University of Guam's grants and contracts by:

(a) encouraging, initiating, aiding, developing, and conducting training, research, and study in the physical, biological, and social sciences, humanities, and all other branches of learning;

(b) encouraging and aiding in the education and training of persons for the conduct of the training, investigations, research, and study;

(c) furnishing the means, methods, and agencies by which the training, investigation, research, and study may be conducted, in support of the mission and best practices of the University of Guam;

(d) assisting in the dissemination of knowledge by establishing, aiding, and maintaining professorships or other staff positions, fellowships, scholarships, publications, and lectures;

(e) engaging in other means of making the benefits of training, investigations, research, and study available to the public; and

(f) taking any and all other actions reasonably designed to promote these purposes in the interest of promoting the general welfare of the people of Guam.

§ 2803. Administration. The affairs of the Corporation *shall* be under the general management and control of the RCUOG Board of Directors.

(a) Composition of Board of Directors. The Board of Directors *shall* consist of up to ten members, as follows:

(1) Ex-officio Chief Executive Officer – University of Guam President;

(2) Ex-officio Member – Senior Vice President of Academic and Student Affairs;

(3) Ex-officio Member – Vice President of Administration and Finance;

(4) UOG President appointee of up to four (4) members (minimum of two representing the community at large);

(5) UOG Research Council appointee of one Member;

(6) UOG Faculty Senate appointee of one member; and

(7) UOG Board of Regents appointees of two UOG Board of Regents members.

(b) All members of the Board of Directors *shall* serve without pay, but *shall* be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

(c) The Chairperson of the Board of Directors *shall* be the President of the University of Guam. The Senior Vice President and Vice President for Administration and Finance *shall* serve as ex-officio members of the Board.

§ 2804. Officers and Employees of the Research Corporation.

(a) RCUOG will follow all the requirements applicable to each major grant program and maintain internal control over compliance in accordance with OMB Circulars A-133 and A-21, and appropriate Federal Acquisition Requirements.

(b) RCUOG employees *shall* be governed by the RCUOG Board of Directors. Rules and regulations governing the selection, compensation, promotion, performance evaluation, disciplinary action, and other terms and conditions of employment, affecting RCUOG personnel *shall* be adopted by the Board. The Board may establish or abolish positions as necessary for the purposes herein.

(c) The Board of Directors *shall* appoint the Executive Director of RCUOG.

(d) The RCUOG Board of Directors *shall* establish an employment policy for the Research Corporation, as necessary, in administering the affairs of the RCUOG.

(e) Notwithstanding any other provision of law, rule, or regulation, employees of the Research Corporation *shall* be unclassified public employees. The Board of Directors *shall* set the employees' duties, responsibilities, salaries, holidays, leaves, hours of work, and working conditions. The Board of Directors may grant such other benefits to its employees as it deems necessary, and in accordance with RCUOG's employment policy and federal employment laws.

(f) The RCUOG Board of Directors *shall* promulgate rules and regulations for hiring, employment, procurement and property set forth by RCUOG Policy, and the requirements applicable to each major grant program and on internal control over compliance in accordance with OMB Circulars A-133 and A-21, and Federal Acquisition Requirements.

(g) Employees of the Research Corporation *shall not* be entitled to any benefits conferred under Title 4, GCA - Public Officers and Employees: Chapter 4 - Personnel Policy and the Civil Service Commission, relating to civil service and public service; and Chapter 8 - Retirement of Public Employees, relating to pension and retirement systems, and the appropriate collective bargaining agreement, executive order, executive directive, or rule.

§ 2805. Authorized Activities. Notwithstanding any other provision of law, rule, or regulation, the RCUOG is authorized to conduct the following activities:

(a) to create, adopt, amend, and repeal by-laws governing the conduct of its business and the exercise of the powers and performance of duties granted to it or imposed upon it by law;

(b) to enter into and perform such contracts, leases, cooperative agreements, grants or other transactions on behalf of the University, as may be necessary to facilitate the conduct of the authorized activities described herein;

(c) to buy, sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in accordance with the conditions under which it was received and under the purposes of the RCUOG;

(d) to submit each year for the approval of the Board of Directors an annual budget; such budget will include projected income, including indirect/facilities and administrative revenue, and a cost of operating expenses of the Corporation, as well as the distribution plan of the net proceeds for the University's use, which *shall* include a reasonable corporate reserve; the allocation of indirect/facilities and administrative cost will be determined by the Board of Directors, and following UOG-BOR Resolution 08-40;

(e) to receive through University policies and procedures, by gifts, grants, devises, bequests, or otherwise from private or public sources, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income therefrom, in accordance with the conditions under which it was received; *except,* that no gift to the Corporation shall be accepted *unless* approved or confirmed by the RCUOG Board of Directors;

(f) to facilitate multi-year contracts;

(g) to have a corporate seal;

(h) to sue and to be sued in its own name and to indemnify the University against losses incurred specific to that activity;

(i) to serve as trustee or beneficiary under terms of any gift, indenture, or will;

(j) to apply for, take out, receive by purchase or gift, hold, administer, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes, and other property, rights or interests therein, the income thereof, absolutely or subject to such conditions or trusts as may be attached thereto or be imposed thereon, and to obligate itself to perform and execute any and all such conditions or trusts in coordination with UOG's Intellectual Property Policy;

(k) to conduct research, studies, experiments, investigations, and tests in all fields of knowledge; to promote and develop the scientific and commercial value of inventions, discoveries, and processes; and to make published, and distribute the results thereof;

(l) to do any and all other acts reasonably necessary to carry out the objectives and purposes of the Corporation and the University, as approved by the University and the RCUOG Board of Directors;

(m) to coordinate and correlate activities and projects of the Corporation with the work of government of Guam agencies for the purpose of relating research work to the economic development of Guam whenever practical or desirable;

(n) to stimulate and promote cooperative research projects and activities;

(o) to establish and maintain, or to assist in establishing and maintaining, scholarships, fellowships, and professorships, and other staff positions for the purpose of aiding in the acquisition and dissemination of knowledge; and to enter into agreements or contracts with other corporations, organizations, institutions, or persons for this purpose and to pay the necessary and appropriate expenses therefor;

(p) to prepare, print, or publish any manuscript, research article, report, study, discussion, reference, collection, or any pictorial or schematic representation or group or collection thereof, whether it belongs to or is the work of any government of Guam agency or its employees, or the University or one of its faculty members or employees, or the Corporation or its employees, or a contractor of RCUOG. The printing or publication may be accomplished through whatever person, company, or agency is deemed most appropriate by the Board of Directors.

§ 2806. Procurement. RCUOG *shall* adopt a procurement policy approved by the RCUOG Board that is aligned with sound business practices and consistent with federal program rules and regulations as applicable to grants, and contracts, such as, but *not* limited to, OMB Circular A-21.

§ 2807. Annual Report. The Corporation *shall* submit an annual report to the University of Guam Board of Regents, *I Maga'lahen Guåhan* (the Governor of Guam), and *I Liheslaturan Guåhan* (the Guam Legislature).

The report *shall* include, but *not* be limited to, the Corporation's audited financial statements, including its balance sheet, statement of income and expenses, a synopsis of all ongoing research projects and a summary of

funding for each such project by the source of such funding, whether local government, federal government or other sources, and statement of cash flows; and progress and accomplishments during the year.

§ 2808. Dissolution. In the event of the dissolution of the Corporation, all of its property, real, personal, and mixed, and wheresoever situated, *shall* vest immediately and absolutely in the University of Guam.

§ 2809. Special Account. The Corporation *shall* be authorized to set up a special account for depositing moneys received from either public or private contracts, or from private or public grants, awards, or gifts. All disbursements *shall* be drawn on the special account upon checks prepared and signed, as approved by the Executive Director of the RCUOG and *at least* one other RCUOG officer or employee authorized by the RCUOG Board of Directors.

§ 2810. RCUOG Excepted From Certain Guam Laws. Unless otherwise specifically stated in law, RCUOG is excepted from the following Guam laws:

(a) Title 5 GCA - Government Operations: Chapter 22 - General Fiscal Policies and Controls, relating to the management and regulation of expenditures with the use of public funds;

(b) Title 4 GCA - Public Officers and Employees: Chapter 4 - Personnel Policy and the Civil Service Commission, relating to public employment and the Civil Service Commission;

(c) Title 4 GCA - Public Officers and Employees: Chapter 8 - Retirement of Public Employees, relating to pension and retirement systems;

(d) Title 5 GCA - Government Operations: Chapter 5 - Guam Procurement Law, relating to the procurement of goods and services with public funds.

§ 2811. Severability. *If* any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does *not* affect other provisions or applications of the Act that can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable."