**EDDIE BAZA CALVO**
*Governor*

**RAY TENORIO**
*Lieutenant Governor*

*Office of the Governor Of Guam*

OCT 18 2017

Honorable Benjamin J.F. Cruz
Speaker
*I Mina'trentai Kuåttro Na Liheslaturan Guåhan*
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

GL#34-17-1102
Speaker Benjamin J.F. Cruz

OCT 18 2017
Time: 3:45 [ ] AM [ ] PM File No. 34-1040
Received By:

Dear Mr. Speaker:

Transmitted herewith is Bill No. 165-34 (LS), **"AN ACT TO *ADD* A NEW §§ 3103(b)(4) AND 3115, AND *AMEND* § 3105, ALL OF CHAPTER 3, TITLE 27, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE INCLUSION OF THE AIRCRAFT RESCUE AND FIREFIGHTING UNIT UNDER CATEGORY 2 PEACE OFFICERS; AND THE MODIFICATION OR ADOPTION OF THE PEACE OFFICER STANDARDS AND TRAINING (POST) COMMISSION'S PHYSICAL FITNESS QUALIFICATION TEST (PFQT),"** which was signed into law on October 13, 2017, as **Public Law 34-49.**

*Senseramente,*

**EDDIE BAZA CALVO**

2017 OCT 18 PM 4:28

*I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN*
**2017 (FIRST) Regular Session**

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

This is to certify that **Bill No. 165-34 (LS), "AN ACT TO *ADD* NEW §§ 3103(b)(4) AND 3115, AND *AMEND* § 3105, ALL OF CHAPTER 3, TITLE 27, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE INCLUSION OF THE AIRCRAFT RESCUE AND FIREFIGHTING UNIT UNDER CATEGORY 2 PEACE OFFICERS; AND THE MODIFICATION OR ADOPTION OF THE PEACE OFFICER STANDARDS AND TRAINING (POST) COMMISSION'S PHYSICAL FITNESS QUALIFICATION TEST (PFQT),"** was on the 29th day of September 2017, duly and regularly passed.

**Benjamin J.F. Cruz**
**Speaker**

Attested:

**Dennis G. Rodriguez, Jr.**
**Acting Legislative Secretary**

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This Act was received by *I Maga'låhen Guåhan* this 2nd day of Oct, 2017, at 4:40 o'clock P.M.

Assistant Staff Officer
*Maga'låhi's* Office

APPROVED:

EDWARD J.B. CALVO
*I Maga'låhen Guåhan*

Date: OCT 13 2017

Public Law No. 34-49

*I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN*
**2017 (FIRST) Regular Session**

**Bill No. 165-34 (LS)**
As amended on the Floor.

Introduced by: Telena Cruz Nelson
Joe S. San Agustin
William M. Castro
Thomas C. Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Dennis G. Rodriguez, Jr.
Therese M. Terlaje
Mary Camacho Torres

**AN ACT TO *ADD* NEW §§ 3103(b)(4) AND 3115, AND *AMEND* § 3105, ALL OF CHAPTER 3, TITLE 27, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE INCLUSION OF THE AIRCRAFT RESCUE AND FIREFIGHTING UNIT UNDER CATEGORY 2 PEACE OFFICERS; AND THE MODIFICATION OR ADOPTION OF THE PEACE OFFICER STANDARDS AND TRAINING (POST) COMMISSION'S PHYSICAL FITNESS QUALIFICATION TEST (PFQT).**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the Peace Officer Standards and Training (POST) Commission Physical Fitness

Qualification Test (PFQT) results collected from the Guam Fire Department and the Guam Police Department revealed that a high percentage of peace officers are failing. The Guam Fire Department's PFQT results revealed that of the one hundred sixty-six (166) uniformed personnel tested, seventy-eight (78) failed. The Guam Police Department's PFQT results revealed that of the three hundred seventeen (317) uniformed personnel tested, two hundred eighteen (218) failed. Due to the high failure rate of uniformed personnel, the public safety of the island of Guam would be at risk with a substantial shortage of peace officers.

It is the intent of *I Liheslaturan Guåhan* to require all peace officers to fully comply with the modified rules and regulations. Furthermore, it is the intent of *I Liheslaturan Guåhan* to require the POST Commission to submit its recommendation on modified or new standards for the Physical Fitness Qualification Test by July 1, 2018. It is also the intent of *I Liheslaturan Guåhan* to include the personnel of the Aircraft Rescue and Firefighting Unit under Category 2 peace officers.

**Section 2.** A new § 3103(b)(4) is *added* to Chapter 3 of Title 27, Guam Administrative Rules and Regulations, to read:

"(4) All Fire Fighter Personnel of the Aircraft Rescue and Fire Fighting Unit."

**Section 3.** The first paragraph of § 3105 and § 3105(a) and (b) of Chapter 3, Title 27, Guam Administrative Rules and Regulations, are *amended* to read:

"**§ 3105. Establishment of Physical Fitness Qualification Test.**

There is hereby established a policy that Category 1 and 2 peace officers *shall* meet a uniform minimum physical fitness standard in order to obtain and maintain their certificates from the POST Commission. The standard *shall* be denominated the Physical Fitness Qualification Test (PFQT), and *shall* be in compliance with the interim standards indicated in

Appendix A and Appendix B of this Chapter until a physical fitness program is recommended by the POST Commission and adopted by *I Liheslaturan Guåhan* (the Guam Legislature) in the form of a resolution or a bill by the dates specified in § 3115 of this Chapter.

(a) There *shall* be a mandatory test administered annually before December 31 of each year. All milestones will be calculated from the effective date of this regulation. Nothing herein shall be construed to restrict or impede agencies from testing peace officers in addition to the aforementioned mandatory annual test.

(b) No peace officers may have their certification revoked or placed on probation or other adverse action on the basis of their physical fitness until January 1, 2018. The PFQT will be administered and the results will be used by the Executive Director to determine whether a peace officer's certification should be maintained, denied, suspended, or revoked in compliance with § 3105(e) of Chapter 3, Title 27, Guam Administrative Rules and Regulations."

**Section 4.** § 3105(e) of Chapter 3, Title 27, Guam Administrative Rules and Regulations, is *amended* to read:

"(e) Peace officers must retest within ninety (90) days following an Unsatisfactory PFQT. Agencies may not mandate peace officers to retest any sooner than the end of the forty-two (42) day reconditioning period; however, a peace officer may volunteer to do so. Retesting in the first forty-two (42) days after an Unsatisfactory PFQT requires agency head approval since recognized medical guidelines recommend forty-two (42) days as the minimum timeframe to recondition from Unsatisfactory to Satisfactory status in a manner that reduces risk of injury. It is the peace officer's responsibility

to ensure he/she retests before the ninety (90) day reconditioning period expires (non-currency begins on the ninety-first (91st) day).

(1) First Unsatisfactory - A written warning is issued. The peace officer must retest within ninety (90) days.

(2) Second Unsatisfactory - A second written warning is issued. The peace officer must retest within ninety (90) days.

(3) Third Unsatisfactory - A third written warning is issued. The peace officer must retest within ninety (90) days. The peace officer *shall* receive counseling from the agency head or an individual whom the agency head designates.

(4) Fourth Unsatisfactory - The peace officer's certification *shall* be temporarily suspended until a determination is made by the POST Commission. The peace officer *shall* be assigned to administrative duties. Agency heads *shall* make a recommendation that the POST Commission revoke the peace officer's certification upon review. The peace officer *shall not* be allowed to carry a firearm. Hazardous and increment pay may be denied. The employer *shall* take administrative action in accordance with Department of Administration's rules and regulations or applicable autonomous agency personnel rules and the Fair Labor Standards Act."

**Section 5.** § 3105(f) of Chapter 3, Title 27, Guam Administrative Rules and Regulations, is *amended* to read:

"(f) Failure. A peace officer is deemed to have failed to comply with this policy when that officer's performance in a PFQT test is below the standard adopted by *I Liheslaturan Guåhan* (the Guam Legislature), and as defined and/or referenced herein after the officer has been previously tested, given the requisite conditioning period, retested, and is still unable to meet the

minimum standard. When a peace officer receives four (4) Unsatisfactory PFQT results within a twelve (12) month period and a Guam licensed health care provider has ruled out medical conditions precluding the peace officer from achieving a passing score, the POST Commission *shall* deny, suspend, or revoke the individual's certification. All PFQT test results *shall* be provided to the Executive Director within fifteen (15) calendar days after the completion of the PFQT."

**Section 6.** § 3105(g)(1) of Chapter 3, Title 27, Guam Administrative Rules and Regulations, is *amended* to read:

"(1) received four (4) Unsatisfactory PFQT scores in a twelve (12) month period;"

**Section 7.** A new § 3115 is *added* to Chapter 3 of Title 27, Guam Administrative Rules and Regulations, to read:

**"§ 3115. Modification to or Adoption of a New Physical Fitness Qualification Test.**

The Peace Officer Standards and Training Commission *shall* submit its recommendation for modified or new Physical Fitness Qualification Test standards to *I Liheslaturan Guåhan* on or before July 1, 2018 for review and adoption in accordance with the Administrative Adjudication Law, Title 5 GCA Chapter 9. Any modified or new recommendation *shall* include, at a minimum: a Physical Fitness Program, a Health and Nutrition Program, and a Physical Fitness Qualification Test. In the event that the PFQT standards submitted by the Peace Officer Standards and Training Commission is not adopted by *I Liheslaturan Guåhan* in the form of a resolution or bill by December 31, 2018, the Physical Fitness Qualification Test *shall* revert to the previous standards adopted in Public Law 32-232, and embodied in Air Force

Instruction 36-2905, dated 21 October 2013. The POST Commission *shall* be in full compliance with the reverted or adopted standards by January 2020."

# Appendix A

| MALE | | | | |
|---|---|---|---|---|
| AGE: | CATEGORY: | RUN (1 MILE) | PUSH-UPS: (1 MIN) | SIT-UPS: (1 MIN) |
| 18-29 | M-1 | 12:10 | 33 | 42 |
| 30-39 | M-2 | 12:40 | 27 | 39 |
| 40-49 | M-3 | 13:10 | 21 | 34 |
| 50-59 | *M-4 | 13:40 | 15 | 28 |
| 60+ | *M-5 | 14:10 | 14 | 22 |
| AGE: | CATEGORY: | WALK (1 MILE) | PUSH-UPS: (1 MIN) | SIT-UPS: (1 MIN) |
| 18-29 | **M-1W | 15:27 | 33 | 42 |
| 30-39 | **M-2W | 15:29 | 27 | 39 |
| 40-49 | **M-3W | 15:33 | 21 | 34 |
| 50-59 | *M-4W | 15:50 | 15 | 28 |
| 60+ | *M-5W | 16:07 | 14 | 22 |
| FEMALE | | | | |
| AGE: | CATEGORY: | RUN (1 MILE) | PUSH-UPS: (1 MIN) | SIT-UPS: (1 MIN) |
| 18-29 | F-1 | 13:15 | 18 | 38 |
| 30-39 | F-2 | 13:45 | 14 | 29 |
| 40-49 | F-3 | 14:15 | 11 | 24 |
| 50-59 | *F-4 | 14:45 | 9 | 20 |
| 60+ | *F-5 | 15:15 | 7 | 11 |
| AGE: | CATEGORY: | WALK (1 MILE) | PUSH-UPS: (1 MIN) | SIT-UPS: (1 MIN) |
| 18-29 | **F-1W | 16:10 | 18 | 38 |
| 30-39 | **F-2W | 16:25 | 14 | 29 |
| 40-49 | **F-3W | 16:40 | 11 | 24 |
| 50-59 | *F-4W | 16:55 | 9 | 20 |
| 60+ | *F-5W | 17:10 | 7 | 11 |

*Peace officers age fifty (50) and above may opt to complete either the run or walk category prior to administration of the test

**Peace officers from ages eighteen (18) to forty-nine (49) who must walk shall obtain and submit to the agency head medical authorization from a Guam licensed health care provider

## Appendix B

| Push-up Component | |
|---|---|
| **Assessment Duration** | Officers have one (1) minute to complete as many correct push-ups as possible. |
| **Starting Position** | The officer will begin in the starting position with hands slightly wider than shoulder width apart, palms or fists on the floor with arms fully extended and the body in a straight line from head to heel. The feet may be no more than twelve (12) inches apart. The body shall maintain a rigid form from head to heel. The feet may not be crossed, supported, or braced. |
| **Complete Push-up** | From the starting position, the officer will lower the body to the ground until the upper arm is at least parallel to the floor with the elbow bent at least ninety (90) degrees or less before pushing back up to the starting position. The officer's chest may touch but not rest on or bounce off the floor. The officer completes one full push-up after returning to the starting position with elbows fully extended. The officer's back must remain straight unless resting. If the officer does not lower the body until upper arm is at least parallel to the floor or the officer does not fully extend elbows when returning to starting position or the body bows at the waist, the push-up will not be counted. The officer may rest in the starting position only. If officer rests with their body on the ground, the push-up component of the test will be terminated. |
| **Timing** | The test assessor is responsible for operating the stopwatch. The assessor will start the stopwatch when the officers are instructed to begin, observe the assessment, and notify the officers how much time is remaining at thirty (30) seconds and fifteen (15) seconds. Prior to beginning the assessment, the assessor will inform the officers to continue to perform push-ups until directed to stop or until the officer is no longer able to continue. |
| **Monitoring** | A monitor will be assigned to each officer to count the correct number of push-ups while the assessor oversees and spot-checks technique to ensure accurate and safe assessment. The monitor will count the number of push-ups out loud. If the officer performs an incorrect push-up or breaks form, the monitor will repeat the last correct complete push-up number. The monitor will examine the officer from a position that allows observance of the officer's form and the arm angles. |
| **Recording** | Upon completion of the assessment, the monitor and assessor will record the total number of correct push-ups. |
| **Sit-Up Component** | |
| **Assessment Duration** | Officers have one (1) minute to complete as many correct sit-ups as possible. |

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| **Starting Position** | The officer will be instructed to lie face up on the floor or mat. In the starting position, the officer's feet may extend off the mat, but the buttocks, shoulders, and head must not extend beyond the mat. The officer's knees will be bent at a ninety (90)-degree angle with the feet or heels in contact with the floor at all times. The officer's arms will be crossed over the chest with the hands and fingers on the shoulders or resting on the upper chest. |
| **Foot Hold** | The officer's heels must remain anchored to the floor throughout the assessment. The officer may request to have their feet held down by a helper but the helper may not anchor the officer's legs by holding onto the calves or standing on the feet during the assessment. Enough force must be applied to keep the feet or ankles from rising while the sit-ups are being accomplished. If officers request helpers of the same gender to hold their feet, they must be granted that request. In place of a helper holding the feet, a bolted non-portable toe-hold bar may be used to anchor the feet so long as the officer's heels remain in contact with the ground at all times and the bar cannot move. |
| **Complete Sit-up** | A complete sit-up is accomplished when the upper torso of the officer is raised off the floor or mat, the elbows touch the knees or thighs, and the upper torso is lowered until the shoulder blades touch the floor or mat. Elbows must touch the knees or thighs at the top of the sit-up, and the shoulder blades must touch the floor or mat at the bottom of the sit-up. Any part of an officer's hands or fingers must remain in contact with his or her shoulders or upper chest at all times. If the elbows do not touch the knees or thighs at the top of the sit-up or the shoulder blades do not touch the floor or mat at the bottom of the sit- up or the hands or fingers lift completely off the shoulders or upper chest, the sit-up is incorrect and will not be counted. The officer may only rest with the upper torso raised off the floor or mat. If the officer holds onto their knees or legs or rests in the starting position, the sit-up component of the assessment will be terminated. |
| **Timing** | The assessor is responsible for operating the stopwatch. The assessor will start the stopwatch when the officers are instructed to begin, observe the assessment and notify the member how much time is remaining at thirty (30) seconds and fifteen (15) seconds. Prior to beginning the assessment, the assessor will inform the officers to continue to perform sit-ups until directed to stop or until the officer is no longer able to continue. |
| **Monitoring** | A monitor will be assigned to each officer to count the correct number of sit-ups while the assessor oversees and spot-checks technique to ensure accurate and safe assessment. The monitor will count the number of sit-ups out loud. If the officer breaks correct form, the monitor will repeat the last correct number. The monitor will examine the member from a position that allows observance to |

| | |
|---|---|
| | ensure the shoulder blades touch the floor and elbows touch the knees or thighs. |
| **Recording** | Upon completion of the assessment, the monitor and assessor will record the total number of correct sit-ups. |
| **One (1)-Mile Run or Walk** | |
| **Run Assessment** | Prior to beginning the one (1)-mile run, officers may complete up to a three (3)-minute warm up. Officers will be directed to line up behind the starting line and will begin running when instructed. No physical assistance from anyone or anything is permitted. Officers are required to stay on and complete the entire course. Leaving the course is disqualifying and terminates the test. Completion time will be recorded when the officers crosses the finish line. |
| **Alternate Assessment** | The one (1)-mile walk is the only authorized alternate assessment to the one (1)-mile run and shall be authorized by a Guam licensed health care provider. |
| **Walk Assessment** | Prior to beginning the one (1)-mile walk, officers may complete up to a three (3)-minute warm up. Officers will be directed to line up behind the starting line and will begin walking when instructed. Officers will walk the one (1)-mile course as quickly as they can; they may not run, keeping at least one foot in contact with the ground at all times. No physical assistance from anyone or anything is permitted. Officers are required to stay on and complete the entire course. Leaving the course is disqualifying and terminates the test. Completion time will be recorded when the officers crosses the finish line. |