EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

FEB 13 2018

GCH 34-18-15-25
Speaker Benjamin J.F. Cruz

FEB 13 2018
Time: 3:08 [ ] AM [X] PM File No. 34-1524
Received By:

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

Dear Mr. Speaker:

Transmitted herewith is Bill No. 196-34 (COR), **"AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 23 OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING PROTECTIONS AGAINST RECALCITRANT JUDGMENT DEBTORS WHO REFUSE TO SATISFY THE GUAM COURT JUDGMENTS AGAINST THEM,"** which was signed on February 9, 2018, as **Public Law 34-77.**

Senseramente,

EDDIE BAZA CALVO

2018 FEB 13 PM 3:48 C.S

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

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

This is to certify that **Bill No. 196-34 (COR), "AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 23 OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING PROTECTIONS AGAINST RECALCITRANT JUDGMENT DEBTORS WHO REFUSE TO SATISFY THE GUAM COURT JUDGMENTS AGAINST THEM,"** was on the 26th day of January 2018, duly and regularly passed.

Benjamin J.F. Cruz
Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 29 day of JAN, 2018, at 1:45 o'clock P.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: FEB 09 2018

Public Law No. 34-77

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

Bill No. 196-34 (COR)
As amended on the Floor.

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

AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 23 OF TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING PROTECTIONS AGAINST RECALCITRANT JUDGMENT DEBTORS WHO REFUSE TO SATISFY THE GUAM COURT JUDGMENTS AGAINST THEM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that there are many foreign corporations who wish to, and do, avail themselves of Guam markets, businesses, and customers; however, some of the foreign corporations specifically structure their business operations to avoid being subject to Guam

courts. Therefore, if disputes occur, it is difficult to satisfy a court judgment rendered against them.

I Liheslaturan Guåhan further finds that in order to protect Guam businesses and the people of Guam from recalcitrant persons or entities who refuse to satisfy judgments against them, while still availing themselves of the Guam marketplace, additional precautions are required.

Section 2. A new Article 4 is *added* to Chapter 3, Title 7, Guam Code Annotated, to read:

"ARTICLE 4

PROTECTION AGAINST RECALCITRANT JUDGMENT DEBTORS

§ 23401. Definitions.

For purposes of this Article:

(a) *Assets* means any item of economic value owned by a person as defined in this Section. Examples include, but are not limited to, cash, securities, accounts receivable, inventory, office equipment, real estate, a car, and other property.

(b) *Judgment creditor* means a party to which a debt is owed, that has proved the debt in a legal proceeding, and that is entitled to use judicial process to collect the debt; the owner of an unsatisfied court decision.

(c) *Judgment debtor* means one who is obligated to pay a debt or damages in accordance with a judgement entered by a court.

(d) *Person* can include, but is not limited to, a natural person, firms, labor organizations, partnerships, associations, corporations, legal entities, legal representatives, or trustees.

§ 23402. Contents of Petition for Turnover.

The judgment creditor *shall* initiate the special proceeding with an order to show cause supported by an affidavit attesting to the following:

(a) the actual amount of the judgment;

(b) efforts taken to enforce the judgment;

(c) efforts taken by the judgment debtor to avoid satisfaction of the judgment;

(d) a statement of why the turnover order is needed; and

(e) a certified copy of the judgment, or if it is a foreign judgment, proof of its domestication in Guam.

§ 23403. Assets on Guam.

A Guam judgment creditor is specifically authorized to file a motion for an order to show cause against a judgment debtor in an effort to compel the turnover of assets or, when the assets that are sought are not in the possession of the judgment debtor himself, to compel any person who holds the assets of the judgment debtor to turn over those assets. Guam courts are hereby authorized to issue a "delivery order" or "turnover order."

With respect to a person who holds the assets of the judgment debtor, a Guam court may issue an order requiring any person to deliver any such assets, or to convert said assets to money for payment of the judgment. The court *shall* require any person to turn over the assets, or so much of it as is sufficient to satisfy the judgment, to the judgment creditor. Disobedience of a turnover order is contempt of court and punishable as such.

§ 23404. Assets Outside of Guam.

A judgment creditor is specifically authorized to file a special proceeding and seek an order to show cause against any person who purchased property from a judgment debtor, whether or not such property is currently within Guam's jurisdiction. Such a person *shall* receive notice and opportunity to be heard. The Guam Superior Court *shall*, upon filing of the special proceeding, set the matter for a hearing no more than thirty (30) days after service of the person who purchased

the assets from the judgment debtor. At the hearing, the person *shall* be afforded the opportunity to produce evidence of its cost in acquiring the assets. Said person *shall* be entitled to reimbursement of this amount. Thereafter, the Guam court *shall* issue a turnover order pertaining to any such purchased assets with a lien in favor of the person who originally purchased it from the judgment debtor for the purchase price of the turnover property. Upon the judgment creditor's, or his designated agent's, sale of the turnover property, all proceeds above the lien amount *shall* be used to retire the judgment debtor's obligation. Any judgment creditor who uses this Article to collect or enforce its judgment is entitled to all costs and attorneys' fees expended in the collection effort.

§ 23405. Enforcement.

If the Guam court has personal jurisdiction over a judgment debtor or a person in possession of the turnover property, a turnover order issued by a Guam court is still effective even when the property sought is outside of Guam. Any order compelling a party to bring property into the island of Guam that is ignored is contempt of court and punishable as such.

§ 23406. Application.

This Article *shall* apply to all Guam judgment creditors that have judgments against foreign persons or entities."

Section 3. 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 that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 4. Effective Date. This Act *shall* take effect upon enactment into law.