*I Mina'trentai Singko Na Liheslaturan Guåhan*
**BILL STATUS**

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES | NOTES |
|---|---|---|---|---|---|---|---|---|---|
| **367-35 (LS)**<br>As amended in the Committee of the Whole | Amanda L. Shelton<br>Tina Rose Muña Barnes<br>Telena Cruz Nelson<br>Régine Biscoe Lee<br>Jose "Pedo" Terlaje<br>Kelly Marsh (Taitano), PhD<br>Sabina Flores Perez<br>Joe S. San Agustin<br>William M. Castro | AN ACT RELATIVE TO THE ALLOCATION OF PAYMENTS TO ELIGIBLE GUAM RESIDENTS DURING THE STATE OF PUBLIC HEALTH EMERGENCY DUE TO THE COVID-19 PANDEMIC, TO BE KNOWN AS THE 'AYUDA I MANGAFA' HELP FOR FAMILIES PROGRAM.' | 6/8/20<br>4:59 p.m. | | | 6/9/20<br>Waiver of Public Hearing Requirement | | | |

| SESSION DATE | TITLE | DATE PASSED | TRANSMITTED | DUE DATE | PUBLIC LAW NO. | LAPSED | NOTES |
|---|---|---|---|---|---|---|---|
| 6/1/20 | AN ACT RELATIVE TO THE ALLOCATION OF PAYMENTS TO ELIGIBLE GUAM RESIDENTS DURING THE STATE OF PUBLIC HEALTH EMERGENCY DUE TO THE COVID-19 PANDEMIC, TO BE KNOWN AS THE *AYUDA I MANGÅFA* HELP FOR FAMILIES PROGRAM. | 6/15/20 | 6/15/20 | 6/26/20 | 35-94 | 6/27/20 | Received: 6/26/20<br>Mess and Comm. Doc. No.<br>35GL-20-1930.<br>Bill was returned without signature on 6/26/20. |

UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

HAND-DELIVERED

June 26, 2020

35GL-20-1930
Speaker Tina Rose Muña Barnes

JUN 26 2020
Time 6:34 ( )AM (X)PM
Received By: Matt

**HONORABLE TINA ROSE MUÑA BARNES**
Speaker
*I Mina'trentai Singko Na Liheslaturan Guåhan*
35th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

**Re: Bill No. 367-35 (LS) – An Act Relative to the Allocation of Payments to Eligible Guam Residents During the State of Public Health Emergency Due to the COVID-19 Pandemic, to be known as the *Ayuda I Mangåfa* Help for Families Program**

Dear Madame Speaker:

I am allowing Bill 367-35 to become law because I am convinced that the author's intentions were good. The measure is lapsing into law without my signature because I cannot support technical errors that would unintentionally discriminate against unwed parents living as a family but filing separately. Additionally, the legislature asserts authority over funds specifically appropriated by the United States Congress -- an act against which the courts have already ruled.

First, the measure as drafted, would allow a qualified couple filing jointly to receive one thousand dollars ($1,000). Additionally, if the same couple had two qualified dependents, this family would receive an additional five hundred dollars ($500) per qualified child -- or a total of two thousand dollars ($2,000). Under the same exact scenario, an unwed mother with two qualified dependents; filing individually would receive just five hundred dollars ($500.00).

I am certain that the legislature did not intend for this policy to discriminate on this basis. I also know that payments resulting from this program were never intended to compel years of extended litigation on these grounds.

Secondly, while dollars from the Coronavirus Aid, Relief, and Economic Security ("CARES") Act have been a vital lifeline to Guam and many jurisdictions throughout the nation, all laws have gaps. The intent of Bill 367-35 is to fill that gap for struggling families with vulnerable

dependents. It is because I value that overarching goal that I am willing to ignore the legislature's unintentional overreach into the congressional purse.

In particular, item (e) of Section 6 of this Act "authorizes" *I Maga'hågan Guåhan* to transfer up to ten million dollars ($10,000,000) to the Department of Revenue and Taxation, for the purpose of this act from funding the CARES Act, U.S. P.L. 116-36.

Yet the courts have been clear, our local legislature cannot re-authorize the use of, or appropriate federal funds once conferred by the federal purse. Specifically, *Wong v. Camina* (Dist. Guam 1978) held:

> "*Where these appropriations or grants completely fund a specific purpose without the need of local funding, and where the appropriation or grant does not provide for local legislative control, there is no authority for the Guam Legislature to assume the responsibility for reappropriating these funds.*"

While I believe this section is unenforceable for the abovementioned reason, I respect that the legislature's desire was to do good -- despite a flawed provision.

As such, Bill 367-35 will *lapse* into law without my signature. In the next few days, I will work with the author to accomplish her original intent -- dispensing payment to a class of individuals left behind by federal law.

*Senseremente,*

Lou Leon Guerrero

**LOURDES A. LEON GUERRERO**
*Maga'hågan Guåhan*
Governor of Guam

Enclosure(s): Bill No. 367-35 (LS) *nka Public Law 35-94*

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*
**2020 (SECOND) Regular Session**

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

This is to certify that **Bill No. 367-35 (LS), "AN ACT RELATIVE TO THE ALLOCATION OF PAYMENTS TO ELIGIBLE GUAM RESIDENTS DURING THE STATE OF PUBLIC HEALTH EMERGENCY DUE TO THE COVID-19 PANDEMIC, TO BE KNOWN AS THE *AYUDA I MANGÅFA* HELP FOR FAMILIES PROGRAM,"** was on the 15th day of June 2020, duly and regularly passed.

**Tina Rose Muña Barnes**
**Speaker**

Attested:

**Amanda L. Shelton**
**Legislative Secretary**

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This Act was received by *I Maga'hågan Guåhan* this 15th day of June, 2020, at 5 o'clock P.M.

Assistant Staff Officer
*Maga'håga's* Office

APPROVED:

Lourdes A. Leon Guerrero
*I Maga'hågan Guåhan*

Date: 6/26/2020

Public Law No. 35-94

2020-11022
RCVD AT CENTRAL FILES
JUN 15 '20 PM5:00
Elaine Tajalle

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*
**2020 (SECOND) Regular Session**

**Bill No. 367-35 (LS)**
As amended in the Committee of the Whole.

Introduced by:

Amanda L. Shelton
Tina Rose Muña Barnes
Telena Cruz Nelson
Régine Biscoe Lee
Jose "Pedo" Terlaje
Kelly Marsh (Taitano), PhD
Sabina Flores Perez
Joe S. San Agustin
William M. Castro
James C. Moylan
Louise B. Muña
Clynton E. Ridgell
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

**AN ACT RELATIVE TO THE ALLOCATION OF PAYMENTS TO ELIGIBLE GUAM RESIDENTS DURING THE STATE OF PUBLIC HEALTH EMERGENCY DUE TO THE COVID-19 PANDEMIC, TO BE KNOWN AS THE *AYUDA I MANGÅFA* HELP FOR FAMILIES PROGRAM.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that in response to the crisis as a result of the COVID-19 pandemic, all non-essential businesses were directed to cease operations in order to prevent the spread of

COVID-19. As a result, many people throughout our island have lost their jobs and are left in vulnerable situations.

*I Liheslaturan Guåhan* additionally finds that the federal and local government have provided direct cash payments to assist individuals and businesses. These aid packages, however, have left out substantial categories of individuals, leaving many families without the assistance that is needed, as these aid packages do not provide direct stimulus payments to families with dependents over the age of sixteen (16) years old. The current federal language also unjustly omits stimulus payments for individuals with disabilities over the age of sixteen (16) who are claimed as dependents by families.

It is, therefore, the intent of *I Liheslaturan Guåhan* to provide funding assistance to families with young adults, students, and disabled individuals who are claimed as dependents of these families.

**Section 2. Establishment of the *Ayuda I Mangåfa* Help For Families Program.**

(a) The *Ayuda I Mangåfa* Help For Families Program is hereby established by this Act.

(b) The Director of the Department of Revenue and Taxation (Director) shall administer the *Ayuda I Mangåfa* Help For Families Program and the distribution of payments to families. In the case of a qualified family, there shall be allowed a payment equal to the sum of Five Hundred Dollars ($500) for each individual eligible within the family. Qualified families shall submit an application for approval by the Department of Revenue and Taxation.

(c) Eligibility of *Ayuda I Mangåfa* Help For Families Program. Eligible individuals, to include eligible individuals filing a joint return, are

those taxpayers who filed returns in the 2019 taxable year with qualifying children:

(1) a qualifying child, as that term is defined in 26 U.S.C. § 152(c), means, with respect to any taxpayer for any taxable year, an individual:

(A) who bears a relationship to the taxpayer described in Paragraph (2) of this Subsection;

(B) who has the same principal place of abode as the taxpayer for more than one-half (½) of such taxable year;

(C) who meets the age requirements of Paragraph (3) of this Subsection;

(D) who has not provided over one-half (½) of such individual's own support for the calendar year in which the taxable year of the taxpayer begins; and

(E) who has not filed a joint return (other than only for a claim of refund) with the individual's spouse under 26 U.S.C. § 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(2) For the purposes of Paragraph (1)(A) of this Subsection, an individual bears a relationship to the taxpayer described in this Paragraph if such individual is:

(A) a child of the taxpayer or a descendant of such a child; or

(B) a brother, sister, stepbrother or stepsister of the taxpayer, or a descendant of any such relative.

(3) For the purposes of Paragraph (1)(C) of this Subsection, an individual meets the requirements of this Paragraph if such

individual is younger than the taxpayer claiming such individual as a qualifying child, and

(A) has not attained the age of nineteen (19) as of the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student who has not attained the age of twenty-four (24) as of the close of such calendar year;

(C) provided, however, that in the case of an individual who is permanently and totally disabled at any time during such calendar year, the requirements of this Paragraph (3) shall be treated as met with respect to such individual.

(4) For the purposes of this Subsection, "student," as that term is defined in 26 U.S.C. § 152(f)(2), means an individual who during each of the five (5) calendar months during the calendar year in which the taxable year of the taxpayer begins:

(A) is a full-time student at an educational organization described in 26 U.S.C. § 170(b)(1)(A)(ii); or

(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in 26 U.S.C. § 170(b)(1)(A)(ii) or of a state or political subdivision of a state.

(5) For the purposes of this Subsection, an individual is permanently and totally disabled, as that term is defined in 26 U.S.C. § 22(e)(3), if the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve

(12) months. An individual shall not be considered to be permanently and totally disabled unless the individual furnishes proof of the existence thereof in such form and manner, and at such times, as the Director may require.

(d) Limitations Based on Adjusted Gross Income. Individuals, to include individuals filing a joint return, whose adjusted gross income in the 2019 taxable year exceeds the following maximum adjusted gross income shall not be eligible for the *Ayuda I Mangåfa* Help For Families Program:

(1) $150,000 in the case of a joint return;

(2) $112,500 in the case of a head of household; or

(3) $75,000 in the case of a taxpayer not described in Paragraph (1) or (2) of this Subsection.

(e) Alternate Taxable Year. In the case of an individual who, at the time of any determination made pursuant to this Section, has not filed a tax return for the first taxable year beginning in 2018, the Director may:

(1) substitute '2018' for '2019'; or

(2) if the individual has not filed a tax return for such individual's first taxable year beginning in 2018, use information with respect to such individual for calendar year 2019 provided in:

(A) Form SSA-1099, Social Security Benefit Statement; or

(B) Form RRB-1099, Social Security Equivalent Benefit Statement.

(f) Any payment allowed or made to any individual under the *Ayuda I Mangåfa* Help For Families Program shall not be subject to reduction or offset for debts owed to the government of Guam.

**Section 3. Rules and Regulations.** Notwithstanding any provision of the Guam Administrative Adjudication Law, the Director of the Department of Revenue and Taxation shall, within thirty (30) business days of the enactment of this Act, promulgate rules and regulations to implement the *Ayuda I Mangåfa* Help For Families Program, and shall transmit such rules and regulations to the Speaker of *I Liheslaturan Guåhan*.

**Section 4. Application Period.** The application period for eligibility for the *Ayuda I Mangåfa* Help For Families Program shall end thirty (30) business days after the date of implementation of the Program.

**Section 5. Delivery of Payments.** Notwithstanding any other provision of law, or rule or regulation, the Director may certify and disburse payments pursuant to this Act. No payment shall be made or allowed under this Act after December 31, 2020.

**Section 6. Funding.** Notwithstanding any other provision of law, or rule or regulation, *I Maga'hågan Guåhan* is authorized to transfer Ten Million Dollars ($10,000,000), plus any additional amount needed for administrative costs, to the Department of Revenue and Taxation for the purposes of this Act, as may be available from the following:

(a) Fiscal Year 2020 General Fund appropriations;

(b) Fiscal Year 2020 Special Fund appropriations;

(c) the two percent (2%) General Fund deposit requirement pursuant to § 22904 of Article 9, Chapter 22, Title 5, Guam Code Annotated;

(d) any funds received pursuant to § 13.101 of Article 13.1, Chapter 1, Title 5, Guam Code Annotated; or

(e) any Coronavirus Aid Relief, and Economic Security (CARES) Act (U.S. Public Law 116-136) funding available to *I Maga'hågan Guåhan*.

No local funds may be used for this program as long as CARES Act funds are available to encumber, obligate, or expend. Any funds transferred pursuant to this Act shall only be used for the purposes of this Act.

**Section 7. Reporting.** Upon the lifting of the public health emergency declaration for Guam, the Department of Revenue and Taxation and the Department of Administration shall submit a report to the Speaker of *I Liheslaturan Guåhan*, which shall include the cumulative amount of payments made under the *Ayuda I Mangåfa* Help For Families Program, the total administrative costs to facilitate this Act, and the authorized amounts transferred by *I Maga'hågan Guåhan* under Section 6 of this Act.

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

**Section 9. Effective Date.** This Act shall be effective upon enactment.