I Mina'trentai Sais 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
267-36 (COR) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research and Planning; substituted; and further substituted on the Floor.	Sabina F. Perez Telo T. Taitague	AN ACT TO *AMEND* § 13103 AND §§ 13104 (a)-(b) ALL OF CHAPTER 13, DIVISION 1, TITLE 12, GUAM CODE ANNOTATED AND TO *AMEND* § 2121 ARTICLE 1, CHAPTER 2 OF TITLE 28, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO ESTABLISHING A FAIR PROCESS FOR RESOLVING PUBLIC UTILITY RATEPAYER DISPUTES.	3/4/22 4:31 p.m.	3/11/22	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	3/23/22 2:00 p.m.	4/18/22 8:39 a.m. As Amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research and Planning	Request: 3/14/22 Waiver: 3/22/22	

SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	LAPSED	PUBLIC LAW NO.	DATE SIGNED	NOTES
4/22/22	AN ACT TO *AMEND* §§ 13102(6), 13103, AND 13104 (a) AND (b) OF CHAPTER 13, DIVISION 1, TITLE 12, GUAM CODE ANNOTATED; AND TO AMEND § 2121 OF ARTICLE 1, CHAPTER 2, TITLE 28, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO ESTABLISHING A FAIR PROCESS FOR RESOLVING PUBLIC UTILITY RATEPAYER DISPUTES.	4/29/22	5/2/22	5/13/22	36- 99	Lapsed into Law	Received: 5/13/22 Mess and Comm. Doc. No. 36GL-22-2030

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

May 13, 2022

Doc Type: 36GL-22-2030
OFFICE OF THE SPEAKER
THERESE M. TERLAJE
05 13 2022
Time: 4:51pm
Received:

HONORABLE THERESE M. TERLAJE
Speaker
I Mina'trentai Sais Na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: SUBSTITUTE BILL NO. 267-36 (COR) – AN ACT TO *AMEND* §§ 13102(6), 13103, AND 13104 (a) AND (b) OF CHAPTER 13, DIVISION 1, TITLE 12, GUAM CODE ANNOTATE; AND TO *AMEND* § 2121 OF ARTICLE 1, CHAPTER 2, TITLE 28, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO ESTABLISHING A FAIR PROCESS FOR RESOLVING PUBLIC UTILITY RATEPAYER DISPUTES

Hafa Adai Madame Speaker,

Our Administration supports the general intent of Substitute Bill No. 267-36—that is, improving the processes for customers seeking to appeal a utility bill. To that end, Substitute Bill No. 267-36 seeks to amend Guam laws and regulations. I thank Guam Waterworks Authority representatives, and acknowledge their public testimony to align the legislation with the agency's current practices and their support to offer payment plans as a method of financial assistance.

However, I cannot sign this bill because it seeks to amend Guam regulations. Under the Organic Act of Guam, as amended, the executive branch is empowered to issue regulations that do not conflict with applicable law. Agencies must promulgate administrative regulations within the contours of applicable law, including the Guam Administrative Adjudication Law. On the other hand, the legislature's power to pass "bills" is separate and distinct from the executive power to issue "regulations." The Organic Act reserves the promulgation of administrative regulations for executive agencies, not the legislative branch, and Substitute Bill No. 267-36 appears to run afoul of these entrenched principles.

The intention of Substitute Bill No. 267-36 is well-meaning and consistent with the goals of our Administration. However, effectuating these important changes should not come at the expense of observing the distinct powers conferred on our respective branches of government. And while our administration supports the intended amendment to the Guam Administrative Rules and Regulations ("GARR"), I would be remiss if I did not preserve my criticism of the mechanism utilized in the bill. To be clear, the Legislature has the power to write a bill containing the exact language of the administrative regulation it has attempted to adopt in this bill. However, it cannot

do so under the guise of promulgating administrative rules. A duly-passed statute would in turn not be codified in the GARR, but rather in the Guam Code Annotated. Unlike an administrative rule or regulation, a legislative enactment could only be amended by statute – legislation cannot be enacted by an agency through the AAA process, like other administrative rules and regulations. Once the Legislature has, by law, delegated rule-making authority to an agency, it must abide by that delegation and not interfere with that authority until altered or revoked by law. This bill's attempt to perform an executive function, unfortunately, likely results in an ineffective measure that cannot be ratified by my signature, were I willing to provide it, which I am not.

Again, I thank the agency and the Legislature for their efforts in preparing legislation to improve appeal processes for customers seeking to dispute a utility bill. However, for the reasons noted above, ***Substitute Bill No. 267-36 will lapse into law without my signature***.

Senseremente,

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

Enclosure: Substitute Bill No. 267-36 (COR) *nka P.L. No. 36-99*

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*
Compiler of Laws

RECEIVED
MAY 16 2022
8:00 A.M.
COMMITTEE ON RULES

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 267-36 (COR), "AN ACT TO *AMEND* §§ 13102(6), 13103, AND 13104 (a) AND (b) OF CHAPTER 13, DIVISION 1, TITLE 12, GUAM CODE ANNOTATED; AND TO *AMEND* § 2121 OF ARTICLE 1, CHAPTER 2, TITLE 28, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO ESTABLISHING A FAIR PROCESS FOR RESOLVING PUBLIC UTILITY RATEPAYER DISPUTES,"** was on the 29th day of April 2022, duly and regularly passed.

Therese M. Terlaje

Therese M. Terlaje
Speaker

Attested:

Amanda Shelton

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 2nd day of May, 2022, at 5:17 o'clock P .M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 5/13/2022

Public Law No. 36-99

RCVD AT CENTRAL FILES
MAY 3 '22 AM8:49
2022-16437
Evelyn Fejeran

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 267-36 (COR)
As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research and Planning; substituted; and further substituted on the Floor.

Introduced by: Sabina Flores Perez
Telo T. Taitague
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
James C. Moylan
Tina Rose Muña Barnes
Telena Cruz Nelson
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Jose "Pedo" Terlaje
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* §§ 13102(6), 13103, AND 13104 (a) AND (b) OF CHAPTER 13, DIVISION 1, TITLE 12, GUAM CODE ANNOTATED; AND TO *AMEND* § 2121 OF ARTICLE 1, CHAPTER 2, TITLE 28, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO ESTABLISHING A FAIR PROCESS FOR RESOLVING PUBLIC UTILITY RATEPAYER DISPUTES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that current laws and regulations aimed at resolving customer complaints do not

result in the prompt resolution of power and water billing issues. Billing issues often result from the sudden, unexplained increases in power and/or water consumption that may indicate water leaks, faulty meters, or other conditions that require immediate attention.

I Liheslaturan Guåhan further finds that the current rules and regulations requiring deposits held in escrow and paying interest of nine percent (9%) on disputed bill amounts are outdated, nor do these rules and regulations promote a simple process for administering disputes that require timely investigation and resolution.

I Liheslaturan Guåhan further finds that prompt resolution of power and water billing issues will improve customer satisfaction and assist ratepayers in determining issues which may negatively impact their property and financial situation.

Therefore, *I Liheslaturan Guåhan* intends to provide a fair process to resolve complaints for power and water customers to prevent and or lessen the financial burden on low and fixed income customers.

Section 2. § 13102(6) of Chapter 13, Division 1, Title 12, Guam Code Annotated, is hereby *amended* to read:

"(6) *Deposit payment* means a cash payment to be made at the time a customer complaint is filed. The deposit payment shall not exceed an amount equal to the average of three (3) months billing prior to the time that the dispute arose."

Section 3. § 13103 of Chapter 13, Division 1, Title 12, Guam Code Annotated, is hereby *amended* to read:

"**§ 13103. Complaints.**

A customer who in good faith believes that he has been incorrectly billed for services by an agency, or harmed by another action of the agency except a rate increase, may submit a customer complaint to the agency

involved. Upon receipt of the customer complaint, and the deposit payment in the case of a billing dispute, the agency shall investigate the matters raised in the customer complaint. The agency shall forthwith furnish the customer with a statement indicating the right of appeal provided by § 13104 of this Chapter. Within thirty (30) days, the agency shall respond to the customer as to its findings with respect to the complaint. If required, the agency shall make an adjustment of account, including a credit for or return of any deposit payment or portion thereof made towards the amount disputed if the agency statement indicates an adjustment is due a customer. However, if the agency indicates that the dispute should be resolved in favor of the agency, and it is a billing dispute, the agency shall charge the customer's account the amount due less any deposit payments made towards the disputed amount and may offer a payment plan. If the agency determines that one of its actions has harmed the customer, then it shall pay to the customer liquidated damages, if any, for such action. Disconnection or termination of services shall not be undertaken by the agency with respect to the disputed amount until the expiration of thirty (30) days from the date the statement required by this Section is mailed to the customer."

Section 4. § 13104(a) and (b) of Chapter 13, Division 1, Title 12, Guam Code Annotated, are hereby *amended* to read:

"**§ 13104. Appeal From Agency Action.**

(a) If an agency statement is adverse to a customer, the customer may file an appeal with the Commission within thirty (30) days of the issuance of the agency statement. The Commission shall have jurisdiction to resolve the dispute. During the pendency of said appeal, no action adverse to the customer with respect to the disputed amount may be undertaken. An appeal pursuant to this Section shall operate as a stay.

(b) If the agency's determination is reversed by the Commission, then the Commission shall require the agency to make an adjustment of account, including a credit, return of any deposit payment or a portion thereof. The remedies contained in this Section are not exclusive, and the customer may, at the customer's sole option under this Section, proceed pursuant to Article 2 of Chapter 4, Title 7, Guam Code Annotated, or may pursue any other remedies available."

Section 5. § 2121 of Article 1, Chapter 2, Title 28, Guam Administrative Rules and Regulations, is hereby *amended* to read:

"**§ 2121. Administrative and Hearing Requirements.**

(a) Bill Disputes. In the event a consumer questions the accuracy of a bill rendered to him by GWA, the question shall be brought to the attention of the Agency for an oral explanation. After the oral explanation, if the consumer still believes that the billing is in error, and after making a deposit payment to GWA in an amount not to exceed the amount equal to the average of the three (3) months prior billing prior to the time the dispute arose, the consumer may request a written statement from GWA as stated in 12 GCA, Sections 13103 and 13104. That written statement is subject to appeal before the Chief Officer of GWA who will review the case and render a decision in accordance with the General Manager's findings.

(1) If an adjustment is due a consumer, GWA shall render an adjustment of account including a credit for or return of any deposit payment made towards the amount disputed. However, should the dispute be resolved in favor of the Agency, the customer's account shall be charged the amount due less any payments made towards the disputed amount. Disconnection or termination of services shall not be undertaken by GWA with respect to the disputed amount until the

expiration of thirty (30) days from the date the written statement is mailed or delivered to the customer."

Section 6. Severability. If any provision of these Regulations 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 these Regulations which can be given effect without the invalid provisions or application, and to this end the provisions of these Regulations are severable.