

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 |
|--------------|-----------------|--|----------------------|---------------|---------------|---------------------|-----------------------------|--------------|-------|
| 255-36 (COR) | James C. Moylan | AN ACT TO ADD A NEW § 1112.1 TO CHAPTER 1, AND TO AMEND § 1113 AND § 1114 OF CHAPTER 1, § 7105(a) OF CHAPTER 7, § 15105, § 15108, § 15301(d), § 15301(e) AND § 15404 OF CHAPTER 15, ALL OF TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO ELECTION LAWS PURSUANT TO ANY PERSON(S) SEEKING TO RUN FOR A PARTISAN ELECTED OFFICE AS AN INDEPENDENT CANDIDATE. | 2/17/22 8:46 a.m. | | | | | | |

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

Bill No. 255-36 (COR)

Introduced by:

James C. Moylan 

AN ACT TO *ADD* A NEW § 1112.1 TO CHAPTER 1, AND TO *AMEND* § 1113 AND § 1114 OF CHAPTER 1, § 7105(a) OF CHAPTER 7, § 15105, § 15108, § 15301(d), § 15301(e) AND § 15404 OF CHAPTER 15, ALL FROM TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO ELECTION LAWS PURSUANT TO ANY PERSON(S) SEEKING TO RUN FOR A PARTISAN ELECTED OFFICE AS AN INDEPENDENT CANDIDATE.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Guam's current statute creates many challenges and, in some instances, does not provide a level playing field for those residents seeking to run for elected office under an independent designation. Because such individuals are not associated with established organizations, such as a Recognized Political Party, they should not be subject to existing organizational requirements, as the archaic statutes currently require. This is primarily due to the realities that the intent of running under an independent designation is to further oneself from traditional (or new) partisan establishments, plus such independent organizations wouldn't exist, as it would defeat the very purpose of the designation.

As for the level playing field when it comes to candidates under the banner of a Recognized Political Party versus one opting to run under the designation as

1 an Independent, the current statutes require extra layers of voting requirements for
2 an independent candidate to advance to the General Election. Therefore, it is
3 paramount that Guam's statutes be amended so that the percentage requirements of
4 votes obtained be mirrored regardless of whether one runs as a Republican,
5 Democrat, Independent, or even a newly formed Political Party. Further it is vital
6 that a definition of an Independent Candidate be established for distinction
7 purposes.

8 The present statutes certainly are designed to demotivate prospective
9 residents who desire to run for a partisan seat as an independent candidate, and in
10 some instances make it nearly impossible. The objective of this Act is to assure
11 that for the purposes of effectuating and allowing democracy to prevail when it
12 comes to a level playing field for candidates, regardless of whether they desire to
13 be associated with a recognized political party or not, that a mandate is established.

14 **Section 2.** A new § 1112.1 is hereby *added* to Chapter 1, Title 3, Guam
15 Code Annotated to read as follows:

16 **§ 1112.1 Independent Candidate.**

17 For the purposes of Title 3, Guam Code Annotated, an independent
18 candidate shall be a candidate for any of the partisan offices to be filled, who has
19 elected not to run under the affiliation of a *Recognized Political Party*, pursuant to
20 § 1112 of this Chapter. Notwithstanding any other provisions of the law, rule, or
21 regulation to the contrary, an independent candidate or any group of independent
22 candidates shall not be subject to the provisions pursuant to § 1112 of this Chapter.

23 **Section 3.** § 1113 of Chapter 1, Title 3, Guam Code Annotated is hereby
24 *amended* to read as follows:

25 **§ 1113. Same: Rights.**

26 (a) In addition to any other rights accorded in this Title to a political
27 party, a recognized political party shall have the right to place on the ballot

1 in any election and to have the names of its candidates identified thereon
2 with the party's name, symbol, or other official designation.

3 (b) Any recognized political party which fails to poll in any general
4 election the percentage of total votes cast as required by § 1112(c), shall lose
5 its status as a recognized political party and shall be denied a place upon the
6 ballot unless it complies with the provisions of § 1112. This provision shall
7 not apply to any independent candidate, pursuant to § 1112.1 of this Chapter.

8 (c) Notwithstanding any other provisions of the law, rule, or
9 regulation to the contrary, any independent candidate who submits all the
10 requirements pursuant to Chapter 6 of Title 3, Guam Code Annotated, shall
11 have the right to place their name on the ballot in any election, and to have
12 the designation as an independent candidate with no affiliation with a
13 recognized political party.

14 **Section 4.** § 1114 of Chapter 1, Title 3, Guam Code Annotated is hereby
15 *amended* to read as follows:

16 **§ 1114. Formation of New Political Parties.**

17 Any number of voters may organize to form a political party, which may
18 have a place on the ballot and have the names of its candidates identified thereon
19 with the party's name, or other official designation, by complying with § 1112 (a)
20 and (b); provided, however, that the party's name and its candidates shall not be
21 placed on the ballot as directed in § 7108 until the party has qualified as a
22 recognized political party by polling, in a general election, the number of votes
23 required by § 1112 (c). This provision shall not apply to any independent
24 candidate, pursuant to § 1112.1 of this Chapter.

25 **Section 5.** § 7105(a) of Chapter 7, Title 3, Guam Code Annotated is hereby
26 *amended* to read as follows:

27 **§ 7105. Order of Names on Ballot - *Liheslatura* (Legislature).**

1 (a) The Commission shall prepare the ballot in such a manner that a
2 nominee's name appears under the name of the political party, if any,
3 sponsoring such nominee, or under the designation as an independent
4 candidate who is not affiliated with any recognized political party pursuant
5 to § 1112 of Title 3, Guam Code Annotated.

6 (b) Each candidate for any office under a party or independent
7 designation shall be listed according to lots drawn and conducted by the
8 Election Commission. All drawings for ballot position shall be done
9 publicly, and persons appearing on the ballot shall be specifically invited to
10 attend. The drawings for ballot placement shall be conducted after the
11 deadline to file candidacy and the identities of the persons to appear on the
12 ballot is known to the Election Commission.

13 (c) The names of the nominees shall appear in columns vertically in
14 such order as determined by the lots drawn. Those nominees already holding
15 the office for which they are seeking re-election shall have the word
16 “Incumbent” printed immediately after their names.

17 **Section 6.** § 15105 of Chapter 14, Title 3, Guam Code Annotated is hereby
18 *amended* to read as follows:

19 **§ 15105. Party Represented by Whom.**

20 Not less than ninety (90) days before the holding of the primary, each party
21 seeking ballot placement shall submit to the Commission a list of its officers and of
22 its central committee. This provision shall not apply to any independent candidate
23 pursuant to § 1112.1 of Title 3, Guam Code Annotated.

24 **Section 7.** § 15108 of Chapter 15, Title 3, Guam Code Annotated is hereby
25 *amended* to read as follows:

26 **§ 15108. Vacancies Not to Be Filled.**

1 In the event that fewer than fifteen (15) candidates are running for *I*
2 *Liheslaturan Guahan* within any party or the independent designation, the central
3 committee of such party, ~~or~~ parties, or independent individuals, shall not fill their
4 ~~party~~ respective slate for the primary or general election to a full fifteen (15)
5 nominees with its own nomination by filling those positions which are unfilled
6 because fewer than fifteen (15) candidates ran in that party's or independent
7 designation's primary election.

8 **Section 8.** § 15301(d) and § 15301(e) of Chapter 15, Title 3, Guam Code
9 Annotated are hereby *amended* to read as follows:

10 **§ 15301. Form of Primary Election Ballot.**

11 (d) There shall appear specific instructions in boldface type on each
12 ballot that a voter may cast votes under one (1) party or column only; that if
13 votes are cast for candidates of more than one (1) party or column for any
14 office or nomination of offices appearing on the ballot, the entire ballot shall
15 be void. The instructions on the ballot shall clearly inform voters of the
16 mandate herein.

17 (e) The ballot for each office for which party or non-affiliated
18 nominations are sought shall contain instructions to the voters as to the
19 maximum number of candidates that may be selected for that office.

20 **Section 9.** § 15404 of Chapter 15, Title 3, Guam Code Annotated is hereby
21 *amended* to read as follows:

22 **§ 15404. Result of Election.**

23 *I Maga'låhen Guåhan* and *I Segundu Na Maga'låhi*; Other Offices; Primary
24 Constituting Election to Office.

25 (a) *I Maga'låhen Guåhan* and *I Segundu Na Maga'låhi* team
26 receiving a plurality of votes cast for a partisan or non-affiliated nomination
27 shall be the respective party or independent designated nominees for the

1 general election, if the votes they receive are pursuant to the minimum
2 requirements stipulated in § 15109 of Chapter 15, Title 3, Guam Code
3 Annotated. ~~No *I Maga'låhen Guåhan* and *I Segundu Na Maga'låhi* team~~
4 ~~running in the independent column shall be eligible for general election~~
5 ~~ballot placement unless such team receives a minimum twenty percent~~
6 ~~(20%) of the total combined votes cast for the winning teams seeking~~
7 ~~partisan nomination.~~

8 (b) The winners in all other partisan or non-affiliated primary contests
9 shall be the candidates receiving the highest number of votes, ~~except that no~~
10 ~~candidate running in the independent column shall be eligible for general~~
11 ~~election ballot placement unless he or she receives votes equal to at least ten~~
12 ~~percent (10%) of the total number of the valid ballots cast for the office for~~
13 ~~which he or she is a candidate.~~ if the votes they receive are pursuant to the
14 minimum requirements stipulated in § 15109 of Chapter 15, Title 3, Guam
15 Code Annotated.

16 **Section 10. Severability.** If any provision of this Act or its application to
17 any person or circumstance is found to be invalid or contrary to law, such
18 invalidity *shall not* affect other provisions or applications of this Act that can be
19 given effect without the invalid provision or application, and to this end the
20 provisions of this Act are severable.

21 **Section 11. Effective Date.** This Act *shall* be effective on January 1, 2023.