





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
151-36 (COR)	James C. Moylan V. Anthony Ada Christopher M. Dueñas Frank Blas Jr.	AN ACT TO <i>AMEND</i> ARTICLE 5 OF CHAPTER 66, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO MODERNIZING THE PROCESS AND PENALTIES IN ASSOCIATION WITH UNSAFE AND DERELICT BUILDINGS AND STRUCTURES.	6/11/21 2:13 p.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 151-36 (COR)

Introduced by:

James C. Moylan 
V. Anthony Ada 
Christopher M. Duenas 
Frank F. Blas Jr. 

**AN ACT TO *AMEND* ARTICLE 5 OF CHAPTER 66,
TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO
MODERNIZING THE PROCESS AND PENALTIES IN
ASSOCIATION WITH UNSAFE AND DERELICT
BUILDINGS AND STRUCTURES.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. *I Liheslaturan Guåhan* finds that Guam's statute associated with unsafe buildings and structures require some modifications to provide inspectors of the Department of Public Works, reasonable timelines to work with property owners of derelict structures to remedy the problem. Likewise, stringent penalties are needed to assure compliance with Guam's laws associated with vacating, repairing, or demolishing unsafe structures exist. This Act addresses both the timelines and penalties.

Unfortunately, derelict buildings bring many conundrums towards communities. Whether they become illegal dumping groups for trash, create fire hazards, house illicit activity, adversely impact property values for neighboring structures, or essentially affect the beautification of the area, these unsafe structures need to be addressed by the government. Some structures also become a

1 roof over the heads of island residents, thus addressing unsafe buildings may lead
2 to assisting more families with proper housing. After all, such structures are
3 considered unsafe for inhabiting.

4 **Section 2.** Article 5 of Chapter 66, Title 21, Guam Code Annotated, is
5 hereby amended to read as follows:

6 **§ 66501. Unsafe Structures.**

7 (a) All unsafe buildings and structures are hereby declared to be illegal, and
8 shall be vacated and either repaired or demolished, in accordance with the
9 procedure established by this Chapter.

10 (b) For the purpose of this Chapter, unsafe buildings are all buildings and
11 structures or equipment thereof which are structurally unsafe, or which are
12 unsanitary, or have been utilized as a site to dump trash illegally, or which are unfit
13 for human habitation, or are not provided with adequate means of egress, or which
14 constitute a fire hazard, or are otherwise dangerous to human life or safety, or
15 which in relation to existing uses constitute a hazard to the safety of the public or
16 occupants by reason of inadequate maintenance, dilapidation, obsolescence,
17 criminal activity, or abandonment.

18 (c) A vacant structure not secured against entry shall be deemed unsafe.

19 **§ 66502. Same: Examination.**

20 The building official shall examine or cause to be examined every unsafe or
21 damaged building or structure. He shall make or cause to be made, a written record
22 of such examination, which shall set forth a factual description of the premises and
23 specifically enumerate the particular conditions which are alleged to be violations
24 of the provisions of this Chapter or otherwise render such buildings unsafe.

25 **§ 66503. Same: Same: Report.**

26 (a) The building official, whenever he shall make a finding, as a result of the
27 examination required in § 66502, shall:

1 (1) Within ten (10) days of completing the finding, N~~o~~otify in writing,
2 by personal service, certified mail, or registered mail, the owner, occupant,
3 lessee, mortgagee, agent, and other persons having an interest in said
4 building as shown by the land records of the Department of Land
5 Management, that the building or structure is unsafe, and that:

6 (A) the owner must vacate and either repair or demolish said
7 building or structure in accordance with the terms of the notice and of
8 this Chapter;

9 (B) the occupant or lessee must vacate said building, or prove it
10 repaired in accordance with the terms of the notice and of this
11 Chapter; and

12 (C) said mortgagee, agent, or other persons having an interest in
13 said building, must vacate and may, at his own risk, repair or
14 demolish said building or have such work or act done. Any person
15 notified under this Subsection to vacate and either repair or demolish
16 any building shall be given such reasonable time, not exceeding thirty
17 (30) days, as may be necessary to do, or have done, the work or act
18 required by the notice as herein provided. Such notice shall describe
19 the building deemed unsafe, shall include a statement of the
20 particulars which make it unsafe, and shall contain an order requiring
21 the building to be put in such condition as to comply with the terms of
22 this Chapter within a stated time, not exceeding thirty (30) days.

23 (2) Within ten (10) days of completing the finding, p~~o~~st, or cause to
24 be posted in a conspicuous place at the principal point of entry to the
25 building deemed unsafe, a notice reading as follows:

26 “This building has been found to be unsafe by the Department of
27 Public Works, government of Guam. This notice is to remain on the building

1 until it is vacated and either repaired or demolished in accordance with the
2 notice which has been given to all parties having an interest in this building.
3 It is unlawful, with a citation of no less than ten thousand dollars
4 (\$10,000.00) to remove this notice until such notice is complied with.”

5 (b) The building official, in the event of non-compliance with the notice and
6 order hereinabove provided for in § 66503(a) shall:

7 (1) Notify in writing by personal service, certified mail, or registered
8 mail, the State Historic Preservation Officer and the same parties as in §
9 66503(a) to appear before him on a specified date, not to exceed ten (10)
10 days from the deadline established in the notice pursuant to § 66503(a)(1)(C)
11 of this Chapter, to show cause why the building deemed unsafe should not
12 be vacated and either repaired or demolished in accordance with the
13 statement of particulars set forth in the prior notice. The building owner
14 shall be issued a citation with a penalty of five thousand dollars (\$5,000.00)
15 if they or their representative fail to appear on the specified date pursuant to
16 § 66503(b)(1) of this Chapter.

17 (2) Hold a hearing within fifteen (15) days from the deadline
18 established in the notice pursuant to § 66503(a)(1)(C) of this Chapter, and
19 hear such testimony as building department employees, owner, occupant,
20 lessee, mortgagee, or other interested parties shall offer relative to the unsafe
21 building.

22 (3) Make written findings of fact from the testimony offered at said
23 hearing, and on the basis of such findings render a written decision within
24 ten (10) days from the date of hearing, as to whether the building is safe, or
25 unsafe within the meaning of this Chapter. The original copy of such
26 findings and decisions shall be kept in the Department of Public Works.
27 Other copies shall be sent to all parties served with notice of the hearing.

1 (4) On the finding that the building is unsafe, shall issue an order
2 within five (5) days based on such findings of fact, commanding all parties
3 served with notice of the hearing to vacate and either repair or demolish such
4 unsafe building; provided, that any person so notified, except the owner,
5 must vacate the premises and shall have the privilege of repairing; and
6 provided further, that no person other than the owner shall be ordered to
7 demolish said building.

8 (c) In the case of non-compliance with the above order within ten (10) days,
9 the building official shall cause such building to be vacated and either repaired or
10 demolished as the facts may warrant, in accordance with the standards for vacation
11 and either repair or demolition set forth in § 66503(d). The costs of such vacation
12 and either repair or demolition shall be the responsibility of the property owner,
13 and if failure to comply within ten (10) days, the government of Guam may assume
14 the costs with a lien against the land on which the building exists or existed, as the
15 case may be, until recovered by the government of Guam. The property owner
16 shall also be issued a citation of ten thousand dollars (\$10,000.00) for non-
17 compliance pursuant to § 66503(b)(4) of this Chapter.

18 (1) The property owner shall have no more than ninety (90) days to
19 repay the government of Guam for the costs incurred by the government of
20 Guam pursuant to § 66503(4)(c) of this Chapter, and if they fail to do so,
21 they shall be fined an amount equal to twenty percent (20%) of the assessed
22 value of the subject property. The fine provided in this Subsection shall be a
23 lien on the property if unpaid for more than ninety (90) days.

24 (d) The building official in ordering vacation and either repair or demolition
25 of a building found unsafe, shall be governed by the following standards:

1 (1) If an unsafe building can reasonably be repaired so that it will no
2 longer exist in violation of the terms of this Chapter, it shall be ordered to be
3 repaired.

4 (2) If deemed an unsafe building, it shall be ordered to be vacated.

5 (3) If an unsafe building is damaged or decayed, or deteriorated to the
6 extent of fifty percent (50%) of its original value or structure, it shall be
7 demolished. In all cases where a building cannot be repaired so that it will
8 no longer exist in violation of the terms of this Chapter, it shall be
9 demolished. In all cases where an unsafe building is a fire hazard existing or
10 erected in violation of the provisions or unsafe within the meaning of this
11 Chapter, it shall be demolished.

12 **§ 66504. Same: Order to Vacate.**

13 The building official, whenever he determines that a building, structure, or
14 portion thereof, constitutes an unsafe structure, as defined in § 66501 of this
15 Article, shall order the buildings, structure, or portion thereof, to be vacated at once
16 and not reoccupied until issuance of a new certificate of occupancy by the building
17 official.

18 **§ 66505. Same: Same.**

19 (a) The building official, on the vacation of any building in accordance with
20 the provisions of § 66503 or § 66504, shall post or cause to be posted at each
21 entrance to the building, a sign stating: "This building is unsafe and its use or
22 occupancy is prohibited by the Director of Public Works. Any person entering this
23 building without permission of the Director of Public Works shall be subject to
24 fine of no less than ten thousand dollars (\$10,000) or imprisonment or both."

25 (b) Such sign shall remain posted until the required repairs are made or
26 demolition is completed.

(c) Any person entering the building, except for the purpose of making the required repairs or effecting demolition, or any person removing any sign posted by the building official shall be liable to the penalties provided for in this Chapter.

§ 66506. Same: Actual and Immediate Danger.

(a) In case there shall be, in the opinion of the building official, actual and immediate danger of failure or collapse of a building or structure, or any part thereof so as to endanger life or property, he shall promptly cause such building or structure to be made temporarily safe, or if necessary, to be demolished. In such cases the decision of the building official shall be final and conclusive.

(b) The building official, in exercising his powers and duties under this section, may at once enter any unsafe building, or the land on which it stands, or abutting land or structure, with such assistance and at such costs as he deems necessary. He may vacate adjacent structures and protect the public by an appropriate fence or such other means as may be necessary, and for this purpose he may close a public or private way.

(c) Costs incurred under this section shall be paid out of the General Fund of Guam on a certified voucher of the building official. Such costs shall be a lien on the land on which the building exists or existed, as the case may be, until recovered by the government of Guam.

§ 66507. Prohibition and Penalty.

(a) It shall be unlawful for any person to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in Guam contrary to any provision of this Chapter.

(b) Any person violating the provisions of this Chapter shall be deemed guilty of a petty misdemeanor; except, that any person entering an unsafe structure without permission of the Director of Public Works shall be subject to a fine of up to One Thousand Dollars (\$1,000) per violation, and shall be required to perform

1 community service, not to exceed one hundred (100) hours. Any subsequent
2 violation of entering an unsafe structure pursuant to this subsection *shall* require an
3 additional fifty (50) hours of community service per offense. The service *shall* be
4 conducted under the supervision of the Department of Public Works.

5 (c) Such person shall be deemed guilty of a separate offense for each day
6 during which any violation of the provisions of this Chapter continues.

7 ~~(d) Any person violating the provisions of this Article pertaining to unsafe~~
8 ~~structures, including failure to vacate and either repair or demolish such structures,~~
9 ~~who is the owner of real property that has been classified as an industrial or~~
10 ~~commercial site in accordance with § 60107, Chapter 60, Article 1, Title 21, Guam~~
11 ~~Code Annotated, shall be fined, annually, an amount equal to twenty percent~~
12 ~~(20%) of the assessed value of the subject property, and such fine shall be pro-~~
13 ~~rated for any portion of a year in which the violation continues. The fine provided~~
14 ~~in this Subsection shall be a lien on the property if unpaid for more than ninety~~
15 ~~(90) days.~~

16 **§ 66508. Guam Building Code Council; Territorial Land Use Commission;**
17 **Appeals.**

18 (a) Guam Building Code Council. The Guam Building Code Council shall
19 sit as a Board of Appeals (Board) to hear appeals of any decision of the building
20 official relative to the suitability of alternate materials and methods of
21 construction, and to provide for reasonable interpretation of the provisions of this
22 Chapter. The Director of Public Works, or the building official, shall make such
23 investigations as are deemed necessary for appeals to the Board. The Board shall
24 hold hearings and may adopt reasonable rules and regulations for the conduct of
25 any investigations made under its direction; provided, however, that every hearing
26 shall be conducted pursuant to the procedure set forth in the Administrative
27 Adjudication Law; and further provided, that the Board shall render all decisions

1 and findings in writing to the building official with a duplicate copy to the
2 appellant, and may recommend such new legislation as is consistent therewith to *I*
3 *Liheslatura* (the Legislature). Neither the Director of Public Works nor the
4 building official shall influence or attempt to influence the decision of the Board
5 relative to any matter that pursuant to the provisions of this Section comes before
6 it, except by the presentation of relevant evidence arising from its investigations, as
7 directed by the Board. The Director of Public Works shall not vote on any appeal
8 pursuant to this Subsection.

9 A final decision of the Board of Appeals may be appealed to the Superior
10 Court in the manner provided in the Administrative Adjudication Law. The Guam
11 Building Code Council may waive all accrued fines pursuant to § 66507(d) of this
12 Article within one hundred eighty (180) days of the declaration of a building as
13 unsafe if the property owner has demolished or repaired the subject property to the
14 standard of the Guam Building Code.

15 (b) Territorial Land Use Commission. In any matter other than that which is
16 the subject of an appeal pursuant to Subsection (a) of this Section, the Commission
17 is empowered to hear appeals from any order, requirement, decision or
18 determination of the building official or his authorized representative or any rule,
19 regulation or amendment or repeal thereof made by the building official; provided,
20 that summary abatement by the building official or his authorized representative
21 pursuant to § 66506 of this Chapter shall be final and conclusive.

22 **Section 3. Severability.** If any provision of this Act or its application to
23 any person or circumstance is found to be invalid or contrary to law, such
24 invalidity *shall not* affect other provisions or applications of this Act that can be
25 given effect without the invalid provision or application, and to this end the
26 provisions of this Act are severable.

27 **Section 4. Effective Date.** The Act *shall* be effective upon enactment.