




I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (First) Regular Session

Bill No. 22-32(COR)

Introduced by:

T. C. Ada 
B. J. Cruz 
R. J. Respicio 

**AN ACT TO AMEND §2103.12, CHAPTER 2, TITLE 4,
GUAM CODE ANNOTATED, RELATIVE TO ACTING
APPOINTMENTS IN EXCESS OF NINETY (90) DAYS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that continuity of leadership is imperative in maintaining the
4 effectiveness of an organization.

5 *I Liheslaturan Guåhan* further finds that since the War on Terror has
6 been declared by the United States, Department of Defense (DOD) and the
7 Department of Transportation (DOT) Reserve Component Units have been
8 activated for extended periods of time to engage in this War.

9 It is the intent of *I Liheslaturan Guåhan* that in the event of the
10 activation of a DOD or DOT Reserve Component Unit wherein the head or
11 director of a department, agency or instrumentality is a member, to allow for
12 acting appointments in excess of ninety (90) days.

1 **Section 2.** §2103.12, Chapter 2, Title 4 GCA is hereby *amended* to
2 read:

3 (a). *No person who shall be appointed to a position which requires*
4 *advice and consent of I Liheslatura may serve in an acting capacity as head*
5 *or director of a department, agency or instrumentality for a period in excess*
6 *of ninety (90) days. Any employee so appointed shall have the right to*
7 *return to the position the employee held immediately before the appointment*
8 *to serve in an acting capacity after the ninety (90) day period is exhausted.*

9 The time limitation of this Section *may not* be circumvented by an
10 interruption in the appointment to an acting capacity *or* by transfer back to
11 the position the employee held immediately before the appointment for a
12 period of *less than* three hundred sixty (360) days *or* by a temporary transfer
13 to *any* other position for a period of less than three hundred sixty (360) days.

14 (b). Extended Absence Due to Military Deployment.

15 (1) In the event the head or director of a department, agency or
16 instrumentality is a member of the Department of Defense or the
17 Department of Transportation Reserve Component including, but
18 not limited to, the United States Navy, Marine Corps, Air Force,
19 the Coast Guard, or the Guam National Guard and the individual's
20 Unit of Assignment receives a Unit call to active military duty for

1 a period in excess of ninety (90) days, the appointing authority
2 may appoint a person who is a classified employee of the same
3 department, agency or instrumentality as the acting head or
4 director of that department, agency or instrumentality, for a period
5 of up to fourteen (14) months, or the duration of the active military
6 duty whichever comes first.

7 (2) Information specified in §2103.5, Chapter 2, Title 4 GCA
8 shall be transmitted to the Speaker of the Guam Legislature within
9 ten (10) days of making the appointment. Said appointment shall
10 become effective five (5) working days from date of receipt of the
11 background information by the Speaker.

12 (3) Any employee so appointed shall have the right to return to the
13 position the employee held immediately before the appointment to
14 serve in an acting capacity after the time limits is exhausted or at
15 the request of the employee.

16 (4) The time limitation of this Section may not be circumvented
17 by an interruption in the appointment to an acting capacity or by
18 transfer back to the position the employee held immediately before
19 the appointment for a period of less than three hundred sixty (360)

1 days or by a temporary transfer to any other position for a period
2 of less than three hundred sixty (360) days.

3 (5) The compensation of the employee shall not be made to suffer
4 as a result of the appointment but instead shall be maintained at the
5 average of the preceding twelve (12) months earnings.

6 **Section 3. Severability.** If any of the provisions of this law or its
7 application to any person or circumstance is found to be invalid or contrary
8 to law, such invalidity shall not affect other provisions or applications of this
9 law which can be given effect without the invalid provisions or application,
10 and to this end the provisions of this law are severable.

11 **Section 4. Effective Date.** This Act shall become effective upon
12 enactment.