


I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

Bill No. 359-33 (COR)

Introduced by:

Michael F.Q. San Nicolas 

AN ACT TO PROVIDE FOR A BINDING REFERENDUM DURING A GENERAL ELECTION TO DETERMINE WHETHER OR NOT AMENDMENTS TO CHAPTER 30 AND CHAPTER 70 OF TITLE 11, GUAM CODE ANNOTATED, TO ADD A NEW ARTICLE 2 TO CHAPTER 30 AND A NEW §70134 TO CHAPTER 70, RELATIVE TO REQUIRING THAT HOTELS AND SIMILAR LODGING FACILITIES PROVIDE A QUALIFIED HEALTH BENEFITS PLAN FOR ALL OF THEIR EMPLOYEES, AND THEIR DEPENDENTS, SHALL BE ENACTED WITHIN GUAM; TO BE KNOWN AS THE “HOTEL WORKER HEALTH INSURANCE ACT.”

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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Short Title. This Act *shall* be cited as the “Hotel Health
3 Insurance Choice Act.”

4 Section 2. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds
5 that, according to the Guam Community Health Assessment released in 2014,
6 approximately twenty-three and four tenths percent (23.4%) of Guam’s population
7 was uninsured between 2000 and 2011, while sixteen and three tenths percent
8 (16.3%) of the United States’ population was uninsured during the same period.
9 Since that time, the United States’ rate has declined to thirteen and three tenths
10 percent (13.3%), in great part due to the Affordable Care Act. Since most

1 provisions of the Affordable Care Act do not apply to Guam, a similar reduction in
2 the uninsured rate is not as likely.

3 *I Liheslaturan Guåhan* finds that the tourism industry is a major driver of
4 economic activity in Guam. According to Guam Visitors Bureau General Manager
5 Nathan Denight, GVB has generated over ten (10) times the return on investment
6 for tax revenues. Since tourism is deeply important to Guam's economy, it is
7 imperative that the health of hotel workers be maintained. When hotel workers'
8 health suffers, it can put the tourism industry at risk. Ensuring access to quality
9 health plans for hotel workers protects this vital industry from unnecessary risk.

10 *I Liheslaturan Guåhan* further finds that hotels are among the largest
11 employers in Guam, accounting for approximately six thousand two hundred
12 seventy (6,270) employees, or nine and nine-tenths percent (9.9%) of employees
13 on payroll, in 2015. It should further be noted that the average wage for non-
14 supervisory hotel and lodging place employees in 2015 was \$9.35 per hour, or
15 roughly \$338 per week.

16 *I Liheslaturan Guahan* further finds that the recent enactment of Public Law
17 33-183, while it provides resources to the hospital in the short-run, does not
18 address the main problem related to the operation of Guam's only public hospital,
19 Guam Memorial Hospital (GMH): its apparent inability to run effectively with its
20 existing revenue sources. GMH collects approximately forty percent (40%) of its
21 billings to self-pay patients, but a somewhat higher rate for insured patients,
22 whether through government insurance programs or private health insurance. Thus,
23 increasing the rate of health insurance in Guam will tend to help improve the
24 finances of GMH.

25 *I Liheslaturan Guåhan* finds that this large tourism-critical employee pool,
26 left uninsured, poses a significant risk to Guam's tourism industry. Limited
27 earnings may further inhibit their ability to pay for healthcare, exacerbating the

1 lack of payments necessary to keep the healthcare system solvent. This
2 compounded risk poses a clear and present danger to the healthcare system and the
3 tourism industry of Guam.

4 *I Liheslaturan Guåhan* finds that the people may from time to time
5 determine matters of policy and that expanding health insurance coverage is an
6 issue of significance that should rightfully be decided by the people of Guam. *I*
7 *Liheslatura* finds that this matter is appropriate for placement on a General
8 Election ballot.

9 It is therefore the intent of *I Liheslaturan Guåhan* to provide for a binding
10 referendum during the next General Election for which the timeline in 3 GCA
11 §16213 paragraph 2 is able to be followed to determine whether or not
12 amendments to Chapter 30 and Chapter 70 of Title 11, Guam Code Annotated, to
13 add a new Article 2 to Chapter 30 and a new §70134 to Chapter 70, requiring that
14 hotels and similar lodging facilities provide a Qualified Health Benefits Plan for all
15 of their employees, and their dependents.

16 **Section 3. Question to be Submitted During a General Election.** The
17 Guam Election Commission, subject to the provisions hereinafter set forth, shall
18 put to the voters the question described in Section 4 of this Act. The question shall
19 be submitted during the next General Election for which the timeline in 3 GCA
20 §16213 paragraph 2 is able to be followed. The question shall determine whether
21 or not amendments to Chapter 30 and Chapter 70 of Title 11, Guam Code
22 Annotated, to add a new Article 2 to Chapter 30 and a new §70134 to Chapter 70,
23 requiring that hotels and similar lodging facilities provide a Qualified Health
24 Benefits Plan for all of their employees, and their dependents, as outlined in
25 Exhibit “A” attached, shall be enacted within Guam via a referendum certified by
26 the Guam Election Commission as eligible for a binding referendum vote.

27 **Section 4. Question.** The question put to voters shall be:

1 “Shall the ‘Hotel Worker Health Insurance Act’ that requires that
2 hotels and similar lodging facilities provide a Qualified Health Benefits Plan
3 for all of their employees, and their dependents, be enacted?

4 () Yes

5 () No

6 Vote for only ‘Yes’ or ‘No.’”

7 **Section 5. Voter Information.** In addition to providing voters with the
8 pamphlet as required by 3 GCA §16509, the Guam Election Commission
9 (‘Commission’) shall keep at least twelve (12) copies of the complete referendum
10 at its offices for voters to review at their request, and post the complete referendum
11 on its website. The Commission shall also distribute six (6) copies of the complete
12 referendum to each branch of the Guam Public Library, the Robert F. Kennedy,
13 Library at the University of Guam, and the Guam Territorial Law Library, and two
14 (2) copies of the complete referendum to the offices of the Office of Public
15 Auditor, the Attorney General, and each Mayor and Senator.

16 **Section 6. Appropriation.** The sum of sixty thousand dollars (\$60,000) is
17 hereby appropriated from the unexpended fund balances of each legislative office
18 of *I Liheslaturan Guåhan* in the amount of four thousand dollars (\$4,000) from
19 each such office to the Guam Election Commission for the purpose of paying for
20 the cost of submitting the question authorized in this Act to the voters in Guam for
21 the next General election for which the timeline in 3 GCA §16213 paragraph 2 is
22 able to be followed.

23 **Section 7. Effective Date of the Referendum if Approved.** If the
24 referendum is approved, the Act shall take effect on the January 1 following the
25 certification of such approval by the Commission, except as otherwise provided in
26 the Act. The Commission shall transmit the results of the referendum to *I*
27 *Maga’låhen Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and the Compiler of

- 1 Laws. If the referendum is approved, *I Maga'låhen Guåhan* shall assign a public
- 2 law number to it after its receipt by him.

EXHIBIT A

AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 30 AND A NEW §70134 TO CHAPTER 70, BOTH OF TITLE 11, GUAM CODE ANNOTATED; RELATIVE TO REQUIRING THAT HOTELS AND SIMILAR LODGING FACILITIES PROVIDE A QUALIFIED HEALTH BENEFITS PLAN FOR ALL OF THEIR EMPLOYEES, AND THEIR DEPENDENTS.

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

2 **Section 1. Short Title.** This Act *shall* be cited as the “Hotel Worker Health
3 Insurance Act.”

4 **Section 2. Hotel Employees Health Insurance.** A new Article 2 is hereby
5 added to Chapter 30, Title 11, Guam Code Annotated, to read:

6 “ARTICLE 2

7 HOTEL EMPLOYEES HEALTH INSURANCE

8
9 § 30201. Qualified Health Benefits Plan Defined.

10 § 30202. Hotels or Similar Lodging Facilities to Automatically Enroll
11 Employees and Their Dependents in a Qualified Health
12 Benefits Plan.

13 § 30203. Automatic Enrollment Opt Out for Insured Employees.

14 § 30204. Rules and Regulations; Forms; Procedures.

15

16 **§30201. Qualifying Health Benefits Plan Defined.**

1 For the purposes of this Article, ‘Qualifying Health Benefits Plan’
2 means one (1) or more health benefits plans offered by an employer with the
3 following features:

4 (a) All health benefits plans offered by the employer shall require the
5 payment of not more than fifty percent (50%) of premiums by the employee,
6 provided that at least one (1) of the health benefits plans offered by the
7 employer must have no premium cost to the employee for individual
8 coverage; and

9 (b) All health benefits plans offered by the employer must meet the
10 requirements for an essential health benefits package required in and by the
11 Secretary of Health and Human Services under section 1302(a) of the Patient
12 Protection and Affordable Care Act. Such essential health benefits package
13 shall meet the criteria under the Patient Protection and Affordable Care Act,
14 and any amendments thereto, for deductibles and out-of-pocket limits.

15 **§30202. Hotels or Similar Lodging Facilities to Provide Qualified Health**
16 **Benefits Plans to Employees and Their Dependents.**

17 The operator or owner of a hotel or similar lodging facility located in
18 Guam shall automatically enroll all employees and their dependents, not
19 later than ninety (90) days following initial employment, in a Qualified
20 Health Benefits Plan.

21 **§30203. Automatic Enrollment Opt Out for Insured Employees.**

22 Any automatic enrollment program shall include adequate notice and
23 the opportunity for the employee to opt out of any coverage the employee
24 were automatically enrolled in, provided that any employee who opts out of
25 coverage under a Qualified Health Benefits Plan shall provide evidence to
26 the operator or owner of the hotel, lodging place, bed and breakfast, or
27 similar facility located in Guam that the employee, and their dependents, is

1 insured under one (1) or more health benefits plan for each year in which the
2 employee opts out of coverage under a Qualified Health Benefits Plan. Such
3 employer shall maintain a record of such evidence for not less than five (5)
4 years from the end of the year for which the employee opts out of coverage
5 under a Qualified Health Benefits Plan.

6 **§30204. Rules and Regulations; Forms; Procedures.**

7 The Banking and Insurance Commissioner shall develop such rules
8 and regulations, forms, and procedures as may be necessary for the
9 implementation of this Article and to effectuate the Hotel Employees Health
10 Insurance Clearance, as provided in §70134 of Chapter 70 of this Title, not
11 later than the effective date of this Act. Such initial rules and regulations,
12 forms, and procedures shall be deemed effective until approved or approved
13 with amendments by the Guam Legislature pursuant to the Administrative
14 Adjudication Law.”

15 **Section 3. Hotel Employees Health Insurance Clearance.** A new §70134
16 is hereby added to Chapter 70, Title 11, Guam Code Annotated, to read:

17 **“§ 70134. Hotel Employees Health Insurance Clearance.**

18 No owner or operator of a hotel or similar lodging facility required to
19 file taxes under Chapter 30 of this Title may obtain or renew a business
20 license without clearance from the Banking and Insurance Commissioner
21 that the hotel or similar lodging facility automatically enrolls all employees
22 and their dependents, not later than ninety (90) days following initial
23 employment, in a Qualified Health Benefits Plan, pursuant to the provisions
24 of Article 2 of Chapter 30 of this Title or that contractual arrangements have
25 been made to effectuate such automatic enrollment, prospectively.”