

I MINA'TRENTAITRES NA LIHESLATURAN GUÁHAN
2016 (SECOND) Regular Session

Bill No. 383-33 (COR)

Introduced by:

J. T. Won Pat, Ed.D.

J.R. Muna Borrero

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AN ACT TO ADD A NEW §127116 TO CHAPTER 127, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UNCLAIMED TANGIBLE AND INTANGIBLE PROPERTY HELD IN A FIDUCIARY CAPACITY FOR THE BENEFIT OF ANOTHER.

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

2 **Section 1.** §127116 is added to Chapter 127, Title 11, Guam Code Annotated to
3 read as follows:

4 **“§127116. Unclaimed Property Held in Fiduciary Capacity.**

5 (a) Definitions. For the purpose of this section, terms as defined in §127115
6 of this Chapter shall apply to this section.

7 (b) All tangible and intangible personal property held in a fiduciary capacity
8 for the benefit of another person, including tangible personal property
9 subject to §127115 of this Chapter, all intangible personal property
10 maintained in a deposit or account, and the income or increment on such
11 tangible or intangible property, escheats to Treasurer of Guam if, for more
12 than three years after it becomes payable or distributable, the owner has not
13 done any of the following:

- 14 (1) Increased or decreased the principal;
15 (2) Accepted payment of principal or income;

1 (3) Corresponded in writing concerning the property; or

2 (4) Otherwise indicated an interest in the property as evidenced by a
3 memorandum or other record on file with the fiduciary.

4 (c) Notwithstanding subsection (b), tangible or intangible property, and the
5 income or increment on the tangible or intangible property, held in a
6 fiduciary capacity for another person shall not escheat to Treasurer of Guam
7 if the following are satisfied:

8 (1) During the previous three (3) years, the fiduciary took one of the
9 following actions:

10 (i) Held another deposit or account for the benefit of the same
11 owner.

12 (ii) Maintained a deposit or account on behalf of the same owner in
13 an individual retirement account.

14 (iii) Held funds or other property for the same owner under a
15 retirement plan for a self-employed individual, or similar account or
16 plan, established pursuant to the Internal Revenue laws of the United
17 States or the laws of Guam.

18 (2) During the previous three years, the owner has done any of the acts
19 described in subsections (b)(1), (b)(2), (b)(3), or (b)(4) with respect to
20 the deposit, account, or plan described in subsection (c)(1), and the
21 fiduciary has communicated electronically or in writing with the owner
22 at the address to which communications regarding that deposit, account,
23 or plan are regularly sent, with regard to the deposit, account, or plan
24 that would otherwise escheat under this section. "Communications," for
25 purposes of this section, includes account statements or statements
26 required under the Internal Revenue laws of the United States.

1 (d) Funds in an individual retirement account or a retirement plan for self-
2 employed individuals or similar account or plan established pursuant to the
3 Internal Revenue laws of the United States or Guam are not payable or
4 distributable within the meaning of section (b) unless either of the following
5 is true:

6 (1) Under the terms of the account or plan, distribution of all or part of
7 the funds would then be mandatory.

8 (2) For an account or plan not subject to mandatory distribution
9 requirement under the Internal Revenue laws of the United States or
10 Guam, the owner has attained 70 1/2 years of age.

11 (e) For the purpose of this section, when a person holds property as an agent
12 for a business association, he or she is deemed to hold the property in a
13 fiduciary capacity for the business association alone, unless the agreement
14 between him or her and the business association clearly provides the
15 contrary. For the purposes of this section, if a person holds property in a
16 fiduciary capacity for a business association alone, he or she is the holder of
17 the property only insofar as the interest of the business association in the
18 property is concerned and the association is deemed to be the holder of the
19 property insofar as the interest of any other person in the property is
20 concerned.

21 (f) Treasurer of Guam, upon receiving sums of money pursuant to this
22 Section, shall furnish the transferring association with a receipt for such
23 sums transferred, and sums of money shall be used in accordance with the
24 provisions of the First-Time Homeowner's Assistance Program Act."