

***I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN***  
**2017 (FIRST) Regular Session**

Bill No. 23-34 (COR)

Introduced by:

Michael F.Q. San Nicolas 

**AN ACT TO ADD A NEW § 3132 TO ARTICLE 1  
CHAPTER 3, TITLE 5, GUAM CODE ANNOTATED;  
RELATIVE TO THE ESTABLISHMENT OF  
OPERATIONAL CONTINUITY PLANS FOR EACH  
AGENCY OF THE GOVERNMENT OF GUAM.**

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

**Section 1. Short Title.** This Act *shall* be cited as the “Responsible Operational Continuity Plans Act.”

**Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the continuity of operations for the government of Guam in the event of any emergency resulting from a natural or other disaster or hostile action is necessary for the security of individuals and property in Guam. Additionally, some circumstances may adversely impact operational continuity for agencies which do not arise from emergency conditions, such as loss of personnel by attrition, breakdown of equipment, the loss of records due to a systems failure, unavailability of a facility necessary for the provision of services, or a reduction in available funding during the fiscal year due to unforeseen circumstances.

*I Liheslaturan Guåhan* finds that in recent years, system failures have undermined quality and timely service in the Department of Public Health and Social Service’s Office of Vital Statistics and the Department of Revenue and Taxation. The establishment of an operational continuity plan for each agency can address establishing protocols to minimize the loss of electronic records from such failures, when they occur in the future.

2017 FEB 16 PM 4: 29 

1            *I Liheslatura* finds that on Monday, August 31, 2015, a fire had broken out  
2 in the Cabras 3 and 4 power stations. The temporary loss of the Cabras 3 and 4  
3 power stations, respectively, posed significant challenges for Guam Power  
4 Authority. The establishment of operational continuity plans for the loss of  
5 generating capacity under a number of alternative plausible scenarios could  
6 ultimately translate to better preparation of personnel and capital equipment in  
7 such events, if they may occasionally occur in the future.

8            *I Liheslatura* further finds that unforeseen circumstances, such as a natural  
9 or man-made disaster, a sudden downturn in tourism due to an unanticipated  
10 geopolitical situation, or the enactment of a large income tax cut while Guam's  
11 Territorial Income Tax remains mirrored on the Federal Income Tax, could have  
12 negative effects on the funding levels available to support government operations.

13            *I Liheslaturan Guåhan* finds that, as Governor Edward J.B. Calvo wrote in a  
14 letter dated November 27, 2013, to Speaker Judith T.P. Won Pat, Ed.D. on this  
15 issue, "Public health and safety is a priority for this Administration and the  
16 Government of Guam." In that spirit, *I Liheslatura* intends that the policy  
17 framework be established to ensure the health and safety of our community during  
18 and after disasters, natural or otherwise.

19            *I Liheslatura* further finds that such agency operational continuity plans as  
20 outlined in this Act may become components of an overall plan to assure the  
21 continuity of operations in government.

22            *I Liheslaturan Guåhan* finds that operational continuity is a basic function of  
23 any agency of the government. Disasters occur, whether there are operational  
24 continuity plans in place or not. When a disaster occurs, a government which plans  
25 in advance is in a better position to respond than a government which is not guided  
26 by established procedures and plans.

1 It is therefore the intent of *I Liheslaturan Guåhan* that each agency of the  
2 government of Guam should establish and maintain an up-to-date operational  
3 continuity plan to achieve maximum operational continuity during events which  
4 would disrupt the ability of the agency to operate.

5 **Section 3. Agency Operational Continuity Plans.** A new § 3132 is hereby  
6 added to Article 1, Chapter 3, Title 5, Guam Code Annotated, to read:

7 **“§ 3132. Agency Operational Continuity Plans.**

8 The Director or equivalent officer of each agency and instrumentality  
9 of the government of Guam shall establish an operational continuity plan.  
10 Each such plan shall be reviewed annually for adequacy and so ratified by  
11 the governing board or, in the absence of a governing board, *I Maga’lahen*  
12 *Guåhan*, on or before October 1<sup>st</sup> with amendments. Copies of each plan, to  
13 include those annually reviewed, shall be furnished to *I Maga’lahen Guåhan*  
14 and *I Liheslaturan Guåhan* not later than five (5) working days following  
15 the ratification thereof. Such plan shall include but not be limited to  
16 provisions for:

17 (a) events which would disrupt the ability of the agency to operate,  
18 such as:

19 (1) loss of personnel by retirement, whether known or unknown  
20 in advance, national guard deployment, military reserve deployment,  
21 sickness, death or other contingencies,

22 (2) loss, malfunction or breakdown of equipment necessary for  
23 the efficient provision of services,

24 (3) loss of physical or electronic records necessary for the  
25 efficient provision of services,

26 (4) unavailability of a facility which is necessary for the  
27 efficient provision of services,

1                   (5) unanticipated reduced funding levels during the fiscal year  
2 relative to the appropriated level by ten percent (10%), twenty percent  
3 (20%), or thirty percent (30%),

4                   (6) any combination of the above through reasonably  
5 foreseeable instances, as natural or other disaster or act or omission of  
6 the agency or other entities, including hostile acts, or

7                   (7) any additional areas so identified by the governing board, or  
8 in the absence of a governing board, *I Maga'lahen Guåhan*.

9                   (b) maintenance of maximum operational continuity in the event of  
10 any situation which would disrupt the ability of the agency to operate  
11 pursuant to subsection (a) of this section; and

12                   (c) a statement of actions to be taken to prevent or mitigate any  
13 vulnerabilities, pursuant to subsection (a) of this section, which pose a  
14 significant risk to the continuity of operations of the agency.”