

I Mina'trentai Singko 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
147-35 (LS)	James. C. Moylan	AN ACT TO AMEND § 7161 OF CHAPTER 7, TITLE 11, § 54102 OF CHAPTER 54, TITLE 5, § 72106 OF CHAPTER 72, TITLE 10, § 5204 OF CHAPTER 5, TITLE 11, AND §22107 OF TITLE 22, TITLE 10, ALL OF GUAM CODE ANNOTATED, AND TO ADD § 51202(a) TO CHAPTER 51, TITLE 10, AND § 54102(g) TO CHAPTER 54, TITLE 5, BOTH ALSO FROM THE GUAM CODE ANNOTATED, RELATIVE TO PREVENTING UNAUTHORIZED TRANSFERS FROM THE STREET LIGHT FUND, RECYCLING REVOLVING FUND, TERRITORIAL HIGHWAY FUND, FIRE, LIFE, AND MEDICAL EMERGENCY (FLAME) FUND, LIMITED GAMING FUND, AND THE ENVIRONMENTAL HEALTH FUND.	5/30/19 9:53 a.m.						

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. ~~47~~-35 (LS)

Introduced by:

James. C. Moylan 

AN ACT TO AMEND § 7161 OF CHAPTER 7, TITLE 11, § 54102 OF CHAPTER 54, TITLE 5, § 72106 OF CHAPTER 72, TITLE 10, § 5204 OF CHAPTER 5, TITLE 11, AND §22107 OF TITLE 22, TITLE 10, ALL OF GUAM CODE ANNOTATED, AND TO ADD § 51202(a) TO CHAPTER 51, TITLE 10, AND § 54102(g) TO CHAPTER 54, TITLE 5, BOTH ALSO FROM THE GUAM CODE ANNOTATED, RELATIVE TO PREVENTING UNAUTHORIZED TRANSFERS FROM THE STREET LIGHT FUND, RECYCLING REVOLVING FUND, TERRITORIAL HIGHWAY FUND, FIRE, LIFE, AND MEDICAL EMERGENCY (FLAME) FUND, LIMITED GAMING FUND, AND THE ENVIRONMENTAL HEALTH FUND

2019 MAY 30 AM 9:53 ✓

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that on March 9, 2019, the Office of Public Accountability released OPA Report
4 19-02, which was in relation to the Department of Administrations Special
5 Revenue Funds (SRF's). It was determined in that report that between FY 2013 to
6 FY 2017, \$45.5 million was borrowed from 21 special funds to pay for General
7 Fund expenses. \$39 million was considered a permanent transfer, since repayment
8 is not expected within a reasonable period to comply with the Governmental
9 Accounting Standards Board No. 34.

1 Of the 21 SRF's audited, 12 accounts had over \$1 million permanently
2 transferred. It was further noted in the report that the objectives outlined in these
3 special funds are at risk of failure if these borrowed funds are not repaid. The
4 report concluded that improper use of SRF's could potentially affect public health,
5 public safety, and deprive social and economic benefits for which the SRF's were
6 created. In certain cases, legal ramifications may exist if provisions of federal
7 laws, which may also oversee certain funds, are violated.

8 Of the 12 accounts noted in the system, which were raided in the amount
9 exceeding \$1 million, it was determined in 2018, that because over \$3.8 million
10 was transferred from the "Enhanced 911 Emergency Report System Fund", the
11 Guam Fire Department faced many challenges in providing an adequate response
12 system for the community. This led the 34th Guam Legislature to pass legislation
13 making it a misdemeanor if unauthorized transfers from the specific fund were
14 made in the future. Further, the incoming administration had pledged to replenish
15 the transfers to assure that the 911 system would be effective for the public safety
16 of island residents.

17 6 of the 12 funds, whose accounts were also raided in excess of \$1 million
18 dollars, have also impacted the fulfillment of the objectives of that SRF. This has
19 affected public safety, the environment, the welfare of our children, public health,
20 and our island's roads by over \$22.7 million between 2013 and 2017. Therefore it
21 is important to further protect these accounts, as the "Enhanced 911 Emergency
22 Report System Fund" was protected in 2018, by making it unlawful for
23 unauthorized transfers from these accounts to the General Fund, or any other
24 special fund accounts. Further, as per the OPA Report, it is important to assure
25 that these SRF's are held in separate accounts from the General Fund, prevented
26 from getting commingled and transfer authority's. The accounts and their
27 legislative intents are noted as follows:

1 Street Light Fund, which was first established in the Ninth Guam
2 Legislature, is intended to pay for the operation and installation of public street
3 lights. Island residents pay \$36 towards the Street Light Fund when they register
4 their vehicles annually. A little over \$1.7 million has been transferred from this
5 account between 2013 and 2017, which has impacted proper lighting in many of
6 our village roads and highways.

7 Recycling Revolving Fund, which was created in 2003, and among many
8 objectives, is intended to address abandoned vehicles, white goods, batteries, tires,
9 and many other recyclables within our community. Over \$10.6 million has been
10 transferred from this account between 2013 and 2017, which has impacted the
11 environmental conditions within our villages.

12 Territorial Highway Fund, which has existed for decades with the objectives
13 of constructing, repairing and maintaining our island's roads. Residents pay into
14 this fund whenever they register their vehicle, as well as when they purchase
15 gasoline, via the liquid fuel tax. Over \$4.2 million has been transferred from this
16 account between 2013 and 2017, impacting the condition of our island's roads.

17 Fire, Life and Medical Emergency Fund ("FLAME") has existed since 1993
18 and helps fund the purchase, critical maintenance and repair of essential
19 emergency rescue and firefighting vehicles, emergency life support and medical
20 equipment, and training for EMT and Paramedic certifications. Over \$2.5 million
21 has been transferred from the "FLAME" account between 2013 and 2017,
22 impacting the public health and safety of our community.

23 Limited Gaming Fund, established in 2013, assists in funding the
24 maintenance and construction of sports facilities within the jurisdictions of the
25 municipalities, DPR and DOE, and is funded via the Limited Gaming Tax, which
26 is generated from bingo. Over \$1.8 million has been transferred from the Limited
27 Gaming Fund between 2013 and 2017, taking away from sports, welfare and
28 recreational aspects for island residents, most especially our youth.

1 Environmental Health Fund, established in 2000, and provides the support of
2 the functions of the Division of Environment Health of the Department of Public
3 Health and Social Services. In return this allows the Department to enforce the
4 laws associated with public health. Almost \$1.8 million has been transferred from
5 the Environmental Health Fund between 2013 and 2017, which has impacted the
6 public health of our community.

7 Unauthorized transfers are transfers not authorized by *I Liheslaturan*
8 *Guåhan*, and any person or persons who authorizes such a transaction, should be
9 held responsible, as they would be taking monies away from critical needs. If the
10 agency or *I Maga'hagan Guåhan* deems that another pressing need exists in
11 another agency or instrumentality, and monies from the SRF are greatly needed to
12 be transferred, then the request must be submitted to *I Liheslaturan Guåhan* for
13 further action, as well as input from the community via a public hearing.

14 **Section 2.** § 7161 of Chapter 7, Title 16, Guam Code Annotated is hereby
15 *amended* to read as follows:

16 **§ 7161. Street Light Fund.**

17 (a) There is established within the Treasury of Guam a fund to be
18 known as the Street Light Fund, which *shall* be maintained separate and
19 apart from any other funds, including the General Fund of the Government
20 and independent records and accounts *shall* be maintained in connection
21 therewith. The Street Light Fund shall not be commingled with the General
22 Fund and shall be kept in a separate bank account. The funds deposited into
23 the Street Light Fund shall not be subject to the transfer authority of the I
24 Maga'hagan Guåhan.

25 (1) Money in the Street Light Fund *shall* be used to pay for the
26 installation and operation of public street lights.

1 (2) All revenues deposited in the Fund are reserved for use by
2 the Guam Power Authority for payment for operation and installation
3 of public street lights.

4 (b) In addition to all other fees imposed by law, an additional Twenty-
5 Five Dollars (\$25.00) annual fee is imposed upon any vehicle subject to
6 registration under this Title which shall be deposited in the Treasury of
7 Guam to the credit of the Street Light Fund. This fee shall be collected at the
8 same time and in the same manner as the annual license and registration fee
9 provided for in this Title.

10 (c) Effective April 1, 2004, the fee established in the preceding
11 subsection shall be amended and increased by Fifteen Dollars (\$15.00), to be
12 adjusted to a total of Forty Dollars (\$40.00), with the proceeds to be
13 deposited in said Fund.

14 (d) Effective January 1, 2005, the fee established in the preceding
15 subsections (b) and (c) shall be adjusted to a total of Thirty-Six Dollars
16 (\$36.00), with the proceeds to be deposited in said Fund.

17 (e) No funds from the Street Light Fund may be expended or
18 encumbered without an appropriation by *I Liheslaturan Guåhan*.

19 (f) The Street Light Fund Fee in this Section shall be waived upon
20 initial issuance and subsequent renewal of vehicle license and registration
21 for any Veteran determined by the U.S. Department of Veterans Affairs
22 (USDVA) to be 100% Disabled or Individually Unemployable due to
23 military service connected injuries.

24 (1) The fee shall be waived for one (1) non-commercial
25 passenger vehicle, which includes sedans, coupes, pick-up trucks,
26 motorcycles and station wagons manufactured primarily for the
27 purpose of carrying passengers, and including those passenger cars

1 pulling other light trailers, registered to the Veteran, or legal guardian
2 applying for benefits under this Section.

3 (2) A document issued by the USDVA or a U.S. military ID
4 card, which certifies the disability rating, must be furnished to the
5 Department of Revenue and Taxation in order to waive the annual
6 Street Light Fund Fee.

7 (g) Notwithstanding any other provisions of the law, other than by an
8 approval or authorization from *I Liheslaturan Guåhan*, it shall be unlawful
9 for any unauthorized transfer of funds from the Street Light Fund to the
10 General Fund, or to any other special fund. Any person or persons, who
11 unlawfully transfer any portion of the funds from the Street Light Fund to
12 the General Fund or other special funds without authorization, shall be
13 charged with a misdemeanor.

14 **Section 3.** § 51302(a) of Chapter 51, Title 10, Guam Code Annotated is
15 hereby *added* to read as follows:

16 **§ 51302. Recycling Revolving Fund.**

17 There is hereby created the Recycling Revolving Fund (Fund), which *shall*
18 be maintained separate and apart from any other funds, including the General Fund
19 of the government of Guam, and independent records and accounts *shall* be
20 maintained thereof. The Recycling Revolving Fund *shall not* be commingled with
21 the General Fund and *shall* be kept in a separate bank account. All revenue
22 generated from recycling fees collected pursuant to this Article, including interest
23 earned, *shall* be deposited into the Recycling Revolving Fund and *shall* be
24 expended exclusively for the purposes authorized in Article 3 of Chapter 51 of
25 Title 10, Guam Code Annotated. The funds deposited into the Recycling
26 Revolving Fund *shall not* be subject to the transfer authority of *I Maga'låhen*
27 *Guåhan*.

1 “(a) Notwithstanding any other provisions of the law, other than by an
2 approval or authorization from *I Liheslaturan Guåhan*, it shall be unlawful
3 for any unauthorized transfer of funds from the Recycling Revolving Fund
4 to the General Fund, or to any other special fund. Any person or persons,
5 who unlawfully transfer any portion of the funds from the Recycling
6 Revolving Fund to the General Fund or other special funds without
7 authorization, shall be charged with a misdemeanor.”

8 **Section 4.** § 54102 of Chapter 54, Title 5, Guam Code Annotated is hereby
9 *amended* to read as follows:

10 **§ 54102. Territorial Highway Fund.**

11 (a) For the purpose of securing ~~the~~ for the entire Territory proper
12 maintenance and construction of existing highways, including roads and city
13 and village streets and for implementing all highway-safety related plans,
14 programs and projects, there is hereby established a fund to be known as the
15 Territorial Highway Fund, which fund to be maintained separate and apart
16 from any other funds of the government of Guam, and independent records
17 shall be kept in connection therewith. The Territorial Highway Fund shall
18 not be commingled with the General Fund and shall be kept in a separate
19 bank account. The funds deposited into the Territorial Highway Fund shall
20 not be subject to the transfer authority of the *I Maga'hagan Guåhan*.

21 **Section 5.** § 54102(g) of Chapter 54, Title 5, Guam Code Annotated is
22 hereby *added* to read as follows:

23 “(g) Notwithstanding any other provisions of the law, other than by an
24 approval or authorization from *I Liheslaturan Guåhan*, it shall be unlawful
25 for any unauthorized transfer of funds from the Territorial Highway Fund to
26 the General Fund, or to any other special fund. Any person or persons, who
27 unlawfully transfer any portion of the funds from the Territorial Highway

1 Fund to the General Fund or other special funds without authorization, shall
2 be charged with a misdemeanor.”

3 Section 6. § 72106 of Chapter 72, Title 10, Guam Code Annotated is hereby
4 *amended* to read as follows:

5 **§ 72106. Fire, Life and Medical Emergency Fund (‘FLAME’).**

6 (a) Creation of Fire, Life and Medical Emergency Fund (‘FLAME’).
7 There is hereby created the Fire, Life and Medical Emergency Fund
8 (‘FLAME’). The ‘FLAME’ shall not be commingled with the General
9 Fund and shall be kept in a separate bank account. The funds deposited into
10 the ‘FLAME’ shall not be subject to the transfer authority of the I
11 Maga’hagan Guåhan. Sixty percent (60%) of all monies deposited within
12 the ‘FLAME’ Fund shall be used for the purchase, critical maintenance and
13 repair of essential emergency rescue and firefighting vehicles, emergency
14 life support and medical equipment, and training for Emergency Medical
15 Technician and Paramedic certifications. Forty percent (40%) of all monies
16 deposited within the ‘FLAME’ Fund shall be used to pay for emergency
17 medical and paramedic certified firefighter salary adjustments required by 4
18 GCA § 6223 and § 6231 and 10 GCA § 72105.3. The ‘FLAME’ Fund shall
19 be under the control of the Guam Fire Department and the Director of
20 Administration (the Director). The Director *shall* administer the ‘FLAME’
21 Fund and release the necessary monies upon request by the Fire Chief for
22 expenditures authorized by this Section. The Director shall report on a
23 quarterly basis to the Speaker of *I Liheslaturan Guåhan* the revenues
24 collected and expended from this Fund and post the same on the
25 Department’s website.

26 (b) Authorization to Collect Fees for Services and Fines. The Guam
27 Fire Department shall establish, in accordance with the Administrative
28 Adjudication Law, no later than August 1, 2006, a schedule of

1 (1) fees for the following services: non-emergency use of an
2 ambulance primarily for transportation as opposed to emergency
3 medical care under circumstances where the person ordering the same
4 does not reasonably believe that a bona fide medical emergency
5 condition exists, making building inspections, or issuing burning
6 permits; and

7 (2) fines for creating fire hazards, disobeying permit conditions,
8 failing to correct hazardous conditions reported as a result of building
9 inspections, or non-compliance with the Fire Code. All fees and fines
10 collected under such approved schedule shall be deposited in the
11 Fund.

12 ~~(e) No Transfer Authority by I Maga'lahañ Guåhan. I Maga'lahañ~~
13 ~~Guåhan may not use his transfer authority to utilize any monies deposited in~~
14 ~~the Fund.~~

15 (c) Notwithstanding any other provisions of the law, other than by an
16 approval or authorization from I Liheslaturan Guåhan, it shall be unlawful
17 for any unauthorized transfer of funds from the "FLAME" to the General
18 Fund, or to any other special fund. Any person or persons, who unlawfully
19 transfer any portion of the funds from the "FLAME" to the General Fund or
20 other special funds without authorization, shall be charged with a
21 misdemeanor.

22 **Section 7.** § 5204 of Chapter 5, Title 11, Guam Code Annotated is hereby
23 *amended* to read as follows:

24 **§ 5204. Limited Gaming Fund.**

25 (a) There is hereby created, separate and apart from other funds of the
26 government of Guam, a fund to be known as the Limited Gaming Fund.

27 (1) All license fees, taxes and penalties collected under this Act
28 shall be deposited in the Fund.

1 (2) The Fund shall not be commingled with the General Fund,
2 except as indicated herein, shall be kept in a separate bank account,
3 and shall not be used as a pledge of security or as collateral for
4 government loans.

5 (3) The Director of Administration shall make an itemized
6 quarterly report to *I Maga'lahañ Guåhan* (the Governor of Guam),
7 and *I Liheslaturan Guåhan*, of the condition of, and a detailed
8 description of all financial activity within, the Fund.

9 (4) The Director of Administration shall further make an
10 itemized annual report, which shall be made available to the general
11 public.

12 (5) The funds deposited into the Limited Gaming Fund shall
13 not be subject to the transfer authority of the *I Maga'hagan Guåhan*.

14 (6) Notwithstanding any other provisions of the law, other than
15 by an approval or authorization from *I Liheslaturan Guåhan*, it shall
16 be unlawful for any unauthorized transfer of funds from the Limited
17 Gaming Fund to the General Fund, or to any other special fund. Any
18 person or persons, who unlawfully transfer any portion of the funds
19 from the Limited Gaming Fund to the General Fund or other special
20 funds without authorization, shall be charged with a misdemeanor.

21 **Section 8.** § 22107 of Chapter 22, Title 10, Guam Code Annotated is hereby
22 *amended* to read as follows:

23 **§ 22107. Environmental Health Fund.**

24 There is hereby created, separate and apart from other funds of the
25 government of Guam, a fund known as the Environmental Health Fund. The fund
26 shall *not* be commingled with any other fund and shall be deposited into a separate
27 account. The funds deposited into the Environmental Health Fund shall not be
28 subject to the transfer authority of the *I Maga'hagan Guåhan*. All proceeds from

1 fees and fines collected pursuant to this Subchapter shall be deposited into the fund
2 and it shall be expended upon legislative appropriation solely in support of the
3 functions of the Division of Environmental Health of the Department of Public
4 Health and Social Services.

5 (a) Notwithstanding any other provisions of the law, other than by an
6 approval or authorization from I Liheslaturan Guåhan, it shall be unlawful
7 for any unauthorized transfer of funds from the Environmental Health Fund
8 to the General Fund, or to any other special fund. Any person or persons,
9 who unlawfully transfer any portion of the funds from the Environmental
10 Health Fund to the General Fund or other special funds without
11 authorization, shall be charged with a misdemeanor.

12 **Section 9. Severability.** If any provision of this Act or its application to
13 any person or circumstance is found to be invalid or contrary to law, such
14 invalidity *shall not* affect other provisions or applications of this Act that can be
15 given effect without the invalid provision or application, and to this end the
16 provisions of this Act are severable.

17 **Section 10. Effective Date.** The Act shall become effective upon
18 enactment.

