

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

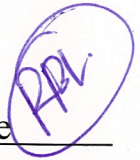
BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
200-35 (COR)	Régine Biscoe Lee	AN ACT TO AMEND §§ 9107(b), 9109(c)(20), 9110(a) and (e) AND 9115(m), OF CHAPTER 9, TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO UPDATING GUAM'S THIRTY-YEAR OLD RATES FOR WORKERS' COMPENSATION.	9/4/19 4:51 p.m.						

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

Bill No. 200-35 (*cor*)

Introduced by:

Régine Biscoe Lee



AN ACT TO AMEND §§ 9107(b), 9109(c)(20), 9110(a) and (e) AND 9115(m), OF CHAPTER 9, TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO UPDATING GUAM'S THIRTY-YEAR OLD RATES FOR WORKERS' COMPENSATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. Workers' compensation programs are a product of the late 1800s and early 1900s. They are built on the principle that society benefits when workers injured on the job have access to benefits of medical treatment and financial compensation without regard to fault while employers, in exchange, receive liability protection in the form of elimination of negligence cause of actions which would otherwise be brought against them in costly court cases. *I Liheslaturan Guåhan* finds that this protection for both workers and employers remains good public policy because it provides a certain extent of stability and predictability when dealing with the unfortunate reality that workplace injuries do occur. However, for this principle to be purposeful, the compensation afforded must be meaningful.

I Liheslaturan Guåhan finds that while the oldest update to weekly compensation rates across the fifty states was made three *years* ago, in 2016; Guam's last rate adjustment was three *decades* ago, in 1989. Then-senator Elizabeth P. Arriola's Bill No. 97 in the Nineteenth (19th) Guam Legislature, enacted as Public Law No. 19-35 on December 30, 1988, amended certain sections of the Government Code relative to workers' Compensation; the relevant

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1 provisions of this public law became effective in 1989. The minimum and
2 maximum weekly compensation rates were set between One Hundred Fifty Dollars
3 (\$150) and Two Hundred Fifty Dollars (\$250); the maximum compensation for
4 serious disfigurement was set at Ten Thousand Dollars (\$10,000). In cases where
5 an injury resulted in death, the maximum award for funeral expenses was set at
6 \$3,600; in computing death benefits for the individual's family, the average weekly
7 wages of the deceased was limited to the range of \$225 to \$375. And whether a
8 worker's injury resulted in temporary injury, permanent injury, or death, the total
9 amount of benefits an individual or his or her survivors could receive was capped
10 at One Hundred Thousand Dollars (\$100,000).

11 It is, therefore, the intent of *I Liheslaturan Guåhan* to breathe meaning back
12 into the purpose of the workers' compensation program. This bill offers to achieve
13 that through updating compensation rates, and the corresponding lifetime
14 maximum payout, for injury, disfigurement, and death benefits based on the
15 reasonable measure of standard inflation.

16 **Section 2.** Section 9107(b) of Chapter 9, Title 22, Guam Code Annotated,
17 is hereby *amended* to read:

18 **“§ 9107. Time for Commencement of Compensation; Maximum and**
19 **Minimum Compensation.**

20 (a) No compensation shall be allowed for the first three (3) days of the
21 disability, except for the benefits provided for in § 9108; provided, however,
22 that in case the injury results in disability of more than fourteen (14) days,
23 the compensation shall be allowed from the date of disability.

24 (b) Compensation for disability *shall not* exceed ~~Two Hundred Fifty~~
25 ~~Dollars (\$250)~~Five Hundred Twenty Dollars (\$520) per week; provided that
26 if the employee's average weekly wages, as computed under § 9111, are less
27 than ~~One Hundred Fifty Dollars (\$150.00)~~Three Hundred Ten Dollars

1 (\$310) per week, he or she *shall* receive as compensation for permanent total
2 disability not less than ~~One Hundred Fifty Dollars (\$150.00)~~Three Hundred
3 Ten Dollars (\$310) per week.”

4 **Section 3.** Section 9109(c)(20) of Chapter 9, Title 22, Guam Code
5 Annotated, is *amended* to read:

6 “**§ 9109. Compensation for Disfigurement.** Compensation for
7 disability shall be paid to the employee as follows:

8 (a) Permanent total disability. In case of total disability, adjudged
9 to be permanent, sixty-six and two-thirds (66-2/3) per centum of his or her
10 average weekly wages shall be paid to the employee during the continuance
11 of such total disability. Loss of both hands, or both arms, or both feet, or
12 both legs, or both eyes, or of any two (2) thereof shall, in the absence of
13 conclusive proof to the contrary, constitute permanent total disability. In all
14 other cases, permanent total disability shall be determined in accordance
15 with the facts.

16 (b) Temporary total disability. In case of disability total in
17 character but temporary in quality, sixty-six and two-third (66-2/3) per
18 centum of the average weekly wages shall be paid to the employee during
19 the continuance thereof.

20 (c) Permanent partial disability. In case of disability partial in
21 character but permanent in quality, the compensation shall be sixty-six and
22 two-thirds (66-2/3) per centum of the average weekly wages, which shall be
23 in addition to compensation for temporary total disability or temporary
24 partial disability paid in accordance with subsection (b) or subsection (e) of
25 this section respectively and shall be paid to the employee as follows:

26 (1) Arm lost, two hundred eighty (280) weeks compensation.

1 (2) Leg lost, two hundred forty-eight (248) weeks
2 compensation.

3 (3) Hand lost, two hundred twelve (212) weeks
4 compensation.

5 (4) Foot lost, one hundred seventy-three (173) weeks
6 compensation.

7 (5) Eye lost, one hundred forty (140) weeks compensation.

8 (6) Thumb lost, fifty-one (51) weeks compensation.

9 (7) First finger lost, twenty-eight (28) weeks compensation.

10 (8) Great toe lost, twenty-six (26) weeks compensation.

11 (9) Second finger lost, eighteen (18) weeks compensation.

12 (10) Third finger lost, seventeen (17) weeks compensation.

13 (11) Toe other than great toe lost, eight (8) weeks
14 compensation.

15 (12) Fourth finger lost, seven (7) weeks compensation.

16 (13) Loss of hearing. Compensation for loss of hearing of one
17 (1) ear, fifty-two (52) weeks. Compensation for loss of hearing of
18 both ears, two hundred (200) weeks.

19 (14) Phalanges. Compensation for loss of more than one
20 phalange of a digit shall be the same as for loss of the entire digit.
21 Compensation for loss of the first phalange of a digit shall be one-half
22 (1/2) of the compensation for loss of the entire digit.

23 (15) Amputated arm or leg. Compensation for an arm or a leg,
24 if amputated at or above the elbow or the knee, shall be the same as
25 for a loss of the arm or leg; but, if amputated between the elbow and
26 the wrist or the knee and the ankle, compensation shall be the same as
27 for loss of a hand or foot.

1 (16) Binocular vision or per centum of vision. Compensation
2 for loss of binocular vision or for eighty (80) per centum or more of
3 the vision of an eye shall be the same as for loss of the eye.

4 (17) Two (2) or more digits. eCompensation for loss of two
5 (2) or more digits, or one (1) or more phalanges of two (2) or more
6 digits, of a hand or foot may be proportioned to the loss of use of the
7 hand or foot.

8 (18) Total loss of use. Compensation for permanent total loss
9 of use of a member shall be the same as for loss of the member.

10 (19) Partial loss or partial loss of use. Compensation for
11 permanent partial loss or loss of use of a member may be for
12 proportionate loss or loss of use of the member.

13 (20) Disfigurement. The Commissioner *shall* award proper
14 and equitable compensation for serious, permanent disfigurement of
15 the face, head or other parts of the body that are customarily visible in
16 the course of employment, not to exceed ~~Ten~~ Twenty-Five Thousand
17 Dollars (~~\$10,000.00~~ \$25,000).

18 (21) Other cases. In all other cases of permanent partial
19 disability the compensation shall be two-thirds (2/3) of the difference
20 between the employee's average weekly wages and his or her wage-
21 earning capacity thereafter in the same employment or otherwise,
22 payable during the continuance of such partial disability; provided
23 that, compensation payments shall be subject to reconsideration as to
24 the degree of such impairment by the Commissioner on his or her own
25 motion or upon application of any party in interest.

26 (22) In any case in which there shall be a loss of, or loss of
27 use of, more than one (1) member or parts of more than one member

1 set forth in paragraphs (1) to (19) of this subsection, not amounting to
2 permanent total disability, the award of compensation shall be for the
3 loss of, or loss of use of, each such member or part thereof, which
4 awards shall run consecutively, except that where the injury affects
5 only two (2) or more digits of the same hand or foot, paragraph (17)
6 of this subsection shall apply.”

7 **Section 4.** Section 9110(a) and (e) of Chapter 9, Title 22, Guam Code
8 Annotated, is *amended* to read:

9 “§ 9110. **Compensation for Death.** If the injury causes death, the
10 compensation shall be known as a death benefit and shall be payable in the
11 amount and to or for the benefit of the persons following:

12 (a) Reasonable funeral expenses not exceeding ~~Three Thousand~~
13 ~~Six Hundred Dollars (\$3,600.00)~~Seven Thousand Four Hundred Thirty-Five
14 Dollars (\$7,435).

15 (b) If there be a surviving spouse and no surviving dependent child
16 of the deceased; to the surviving spouse thirty-five (35) per centum of the
17 average wages of the deceased until death or remarriage; and if there be a
18 surviving dependent child or dependent children of the deceased, the
19 additional amount of fifteen (15) per centum of such wage for each child. In
20 the case of the death or remarriage of such surviving spouse, if there be one
21 (1) surviving dependent child of the deceased employee, such child shall
22 have his or her compensation increased to thirty-five (35) per centum of
23 such wages; and if there be more than one (1) surviving dependent child of
24 the deceased employee, to such dependent children in equal parts, thirty-five
25 (35) per centum of such wages, increased by fifteen (15) per centum of such
26 wages for each dependent child in excess of one (1); provided that, the total
27 amount payable shall in no case exceed two-thirds (2/3rds) of such wages.

1 The Commissioner, may, at his or her discretion, require the appointment of
2 a guardian for the purpose of receiving the compensation of a minor child. In
3 the absence of such a requirement, the appointment of a guardian for such
4 purposes shall not be necessary.

5 (c) If there be one (1) surviving dependent child of the deceased,
6 but no surviving spouse, then for the support of such dependent child, thirty-
7 five (35) per_centum of the wages of the deceased. If there be more than one
8 (1) surviving dependent child of the deceased, but no surviving spouse, then
9 for the support of such wages for each dependent child in excess of one. The
10 total amount payable under this Section shall in no case exceed two-thirds
11 (2/3rds) of such wages.

12 (d) If there be no surviving spouse or dependent children, or if the
13 amount payable to a surviving spouse or to the dependent children shall be
14 less in the aggregate than sixty-six (66) and two-thirds (2/3rd) per_centum of
15 the average wages of the deceased; then for the support of surviving
16 dependent grandchildren or surviving dependent brothers and sisters, if they
17 were dependent upon the deceased at the time of the injury, fifteen (15)
18 per_centum of such wages for the support of each such person; and for the
19 support of each surviving dependent parent, or grandparent of the deceased
20 if they were dependent upon him at the time of the injury, twenty-five (25)
21 per_centum of such wages during such dependence. But in no case shall the
22 aggregate amount payable under this Section exceed the difference between
23 two-thirds (2/3rds) of such wages and the amount payable as hereinbefore
24 provided to surviving spouse and for the support of surviving dependent
25 child or children.

26 (e) In computing death benefits, the average weekly wages of the
27 deceased shall be considered to have been not more than ~~Three Hundred~~

1 ~~Seventy-Five Dollars (\$375.00)~~Seven Hundred Seventy-Five Dollars (\$775)
2 per week nor less than ~~Two Hundred Twenty-Five Dollars (\$225.00)~~Four
3 Hundred Sixty-Five Dollars (\$465) per week.

4 (f) All questions of dependency shall be determined as of the time
5 of the injury.

6 (g) Aliens. Compensation under this Title to aliens, not resident (or
7 about to become non-residents) of the United States, the Territory of Guam,
8 or Canada, shall be the same amount as provided for residents; provided
9 that, dependents in any foreign country shall be limited to the surviving
10 spouse and surviving dependent child or children, or if there be no surviving
11 spouse or dependent child or children, to surviving dependent parents whom
12 the employee has supported, either wholly or in part, for the period of one
13 (1) year prior to the date of the injury; and provided that, the Commissioner
14 may, at his or her option or upon the application of an insurance carrier,
15 commute all future installments of compensation to be paid to such aliens by
16 paying or causing to be paid to them one-half (1/2) of the commuted
17 amounts of such future installments of compensation as determined by the
18 Commission.

19 **Section 5.** Section 9115(m) of Chapter 9, Title 22, Guam Code Annotated,
20 is *amended* to read:

21 **“§ 9115. Payment of Compensation.**

22 (a) Compensation under this Title shall be paid periodically,
23 promptly, and directly to the person entitled thereto, without an award,
24 except where liability to pay compensation is controverted by the employer.

25 (b) The first installment of compensation shall become due on the
26 fourteenth (14th) day after the employer has knowledge of the injury or
27 death, on which date all compensation then due shall be paid. Thereafter,

1 compensation shall be paid in semi-monthly installments except where the
2 Commissioner determines that payment in installments should be made
3 monthly or at some other interval.

4 (c) Upon making the first payment, and upon suspension of
5 payment for any cause, the employer shall immediately notify the
6 Commissioner, in accordance with a form prescribed by the Commission,
7 that payment of compensation has begun or has been suspended, as the case
8 may be.

9 (d) If the employer controverts the right to compensation, he or she
10 shall file with the Commissioner, on or before the fourteenth (14th) day after
11 he or she has knowledge of the alleged injury or death, a notice in
12 accordance with a form prescribed by the Commission, stating that the right
13 to compensation is controverted, the name of the claimant, the name of the
14 employer, the date of the alleged injury or death, and the grounds upon
15 which the right to compensation is controverted.

16 (e) If any installment of compensation payable without an award is
17 not paid within fourteen (14) days after it becomes due, as provided in
18 subsection (b) of this section, there shall be added to such unpaid installment
19 an amount equal to ten (10) per centum thereof, which shall be paid at the
20 same time as, but in addition to, such installment unless notice is filed under
21 subsection (d) of this section, or unless such nonpayment is excused by the
22 Commissioner after a showing by the employer that owing to conditions
23 over which he or she had no control such installment could not be paid
24 within the period prescribed for the payment.

25 (f) If any compensation, payable under the terms of an award, is
26 not paid within ten (10) days after it becomes due, there shall be added to
27 such unpaid compensation an amount equal to twenty (20) per centum

1 thereof which shall be paid at the same time as, but in addition to, such
2 compensation unless review of the compensation order making such award
3 is had as provided in § 9122, and an interlocutory injunction staying
4 payment is allowed by the court as provided therein.

5 (g) Within sixteen (16) days after final payment of compensation
6 has been made, the employer shall send to the Commissioner a notice, in
7 accordance with a form prescribed by the Commission, stating that such
8 final payment has been made, the total amount of compensation paid, the
9 name of the employee, and of any other person to whom compensation has
10 been paid, the date of the injury or death, and the date up to which
11 compensation has been paid. If the employer fails to notify the
12 commissioner within such time the Commission shall assess against such
13 employer a civil penalty in the amount of one hundred dollars (\$100.00).

14 (h) The Commissioner (1) may upon his or her own initiative at
15 any time in a case in which payments are being made without an award and
16 (2) shall in any case where right to compensation is controverted, or where
17 payments of compensation have been stopped or suspended, upon receipt of
18 notice from any person entitled to compensation, or from the employer that
19 the right to compensation is controverted, or that payment of compensation
20 has been stopped or suspended, make such investigation, cause such medical
21 examinations to be made, or hold such hearings, and take such further action
22 as he or she considers will properly protect the rights of all parties.

23 (i) Whenever the Commissioner deems it advisable he or she may
24 require any employer to make a deposit with the Treasurer of Guam to
25 secure the prompt and convenient payment of such compensation; and
26 payments from such deposits upon any awards shall be made by the
27 Treasurer upon order of the Commissioner.

1 (j) Whenever the Commissioner determines that it is in the interest
2 of justice, the liability of the employer for compensation or any part thereof,
3 as determined by the Commissioner, may, with the approval of the
4 Commission, be discharged by the payment of a lump sum equal to the
5 present value of future compensation payments computed at four (4)
6 per centum true discount compounded annually; provided, however, that
7 with respect to government of Guam employees, no determination for a
8 lump sum payment of compensation which is meant to replace wages may
9 be made, *unless* a rational basis for such lump sum payment of
10 compensation exists, without which the employee's or employee's family's
11 welfare would suffer from the inability to maintain the level of lifestyle in
12 existence immediately prior to the disability. The probability of the death of
13 the injured employee or other person entitled to compensation before the
14 expiration of the period during which the employee is entitled to
15 compensation shall be determined in accordance with the American
16 Experience Table of Mortality, and the probability of the remarriage of the
17 surviving spouse shall be determined in accordance with the Remarriage
18 Tables of the Dutch Royal Insurance Institution. The probability of the
19 happening of any other contingency affecting the amount or duration of the
20 compensation shall be disregarded.

21 (k) If the employer has made advance payments of compensation,
22 he or she shall be entitled to be reimbursed out of any unpaid installment or
23 installments of compensation due.

24 (l) An injured employee or, in case of death, his or her dependents
25 or personal representative shall give receipts for payment of compensation to
26 the employer paying the same and such employer shall produce the same for
27 inspection by the Commissioner, whenever required.

1 (m) The total compensation, excluding medical services and
2 supplies, payable under this Title for any injury or death shall in no event
3 exceed the sum of ~~One Hundred Thousand Dollars (\$100,000.00)~~Two
4 Hundred Six Thousand Five Hundred Seventy Dollars (\$206,570). In cases
5 of disability compensable under Paragraph 21 of Subsection (c) of § 9109,
6 the total compensation for such disability, and for any temporary partial
7 disability sustained in addition therein, shall not exceed in the aggregate the
8 sum of ~~One Hundred Thousand dollars (\$100,000.00)~~Two Hundred Six
9 Thousand Five Hundred Seventy Dollars (\$206,570).

10 **Section 6. Effective Date.** This Act *shall* become effective upon
11 enactment.

12 **Section 7. 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 provisions or application, and to this end the
16 provisions of this Act are severable.