

*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
163-35 (COR)	Therese M. Terlaje	AN ACT TO ADD A NEW § 30109(m) TO CHAPTER 30 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE OFFICE OF THE ATTORNEY GENERAL OF GUAM TO ENTER INTO CONTINGENCY FEE AGREEMENTS FOR THE PROTECTION OF GUAM'S ENVIRONMENT AND HISTORIC PROPERTIES.	6/13/19 2:34 p.m.						

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

Bill No. 163 -35 (COR)

Introduced by:

Therese M. Terlaje TMT

**AN ACT TO ADD A NEW § 30109(m) TO CHAPTER 30 OF  
TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO  
AUTHORIZING THE OFFICE OF THE ATTORNEY  
GENERAL OF GUAM TO ENTER INTO CONTINGENCY  
FEE AGREEMENTS FOR THE PROTECTION OF  
GUAM'S ENVIRONMENT AND HISTORIC  
PROPERTIES.**

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

**Section 1.** A new §30109(m) is hereby *added* to Chapter 30 of Title 5,  
Guam Code Annotated to read:

“(m) In addition to civil actions authorized under subsection (c) on behalf of agencies or the government of Guam, the Office of the Attorney General of Guam is authorized to enter into contingency fee agreements with private counsel for the purpose of litigation related to harm or threat of harm to Guam’s environment or harm to the people of Guam caused by the use of Agent Orange, PFOA, PFOS, PCBs, radiation, or other contaminants for CERCLA litigation on Guam’s behalf relative to the Orote Dump or other sites; or for litigation pursuant to NEPA or other environmental statute, on Guam’s behalf. The Office of the Attorney General of Guam is authorized to enter into contingency fee agreements with private counsel for the purpose of litigation related to harm or threat of harm to Guam’s historic or cultural properties pursuant to NHPA or other laws.

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1 Contracts pursuant to this Section shall not be subject to local procurement  
2 law but solicitation shall be announced publicly and to members of the Guam Bar  
3 Association and the Attorney General shall certify that legal services cannot  
4 reasonably or adequately be obtained from members of the Guam Bar Association.  
5 Contingency fees shall not exceed one-third of amount recovered or exceed the  
6 attorney's fees statutorily authorized to prevalent party. The government of Guam  
7 shall be not be liable for reimbursement of expenses. The contract pursuant to this  
8 authority may not be withheld from disclosure and is not exempt from FOIA.

9 The Attorney General shall promptly notify the Governor and oversight  
10 chairpersons of the Committees of the Legislature with jurisdiction over the Office  
11 of the Attorney General, and over the environment or historic preservation, as  
12 applicable, of all settlement offers and consult with them on settlement responses,  
13 and shall keep the Governor and Legislative Committees apprised monthly of the  
14 progress and strategy of the case. A copy of the pleadings and all discovery  
15 received in the case by attorneys for the government of Guam shall be digitized  
16 and transmitted to Micronesia Area Research Center for archiving on behalf of the  
17 government of Guam unless specifically prohibited from disclosure by law.

18 On conclusion of the matter for which legal services were obtained the  
19 Attorney General of Guam shall submit to the Governor and the Speaker of the  
20 Guam Legislature a complete written statement that describes the outcome of the  
21 matter, states the amount of any recovery, shows the computation of the amount of  
22 the contingent fee, and contains the final complete time and expense records where  
23 applicable. The written statement required by this subsection is public information  
24 and may not be exempt from a FOIA request. Information in the time and expense  
25 record may be withheld from the public if the Attorney General determines that  
26 withholding the information is necessary to protect the government's strategy or  
27 position in pending or reasonably anticipated litigation.

1           Thirty days prior to the effective date of said contingency fee agreement, the  
2 Attorney General shall submit to the Guam Legislature a copy of the Contingency  
3 Fee Agreement and a declaration by the Attorney General to include:

4           1. A description of the specific matter to be pursued (Examples: Agent  
5 Orange or other contamination, NEPA enforcement on certain  
6 projects, CERCLA litigation on Orote Dump, etc.), the need for the  
7 legal services, and goal of the litigation from the government's  
8 perspective;

9           2. The potential benefit and liability for the government or the people of  
10 the Guam in the litigation, including potential costs, fees, and time  
11 limits;

12           3. Attestation that the legal services cannot reasonably be performed by  
13 the attorneys and supporting personnel of the government of Guam;

14           4. Attestation that the legal services cannot reasonably be obtained from  
15 attorneys in private practice under a contract providing only for the  
16 payment of hourly fees, without regard to the outcome of the matter,  
17 because of the nature of the matter for which the services will be  
18 obtained or because the governmental entity does not have  
19 appropriated funds available to pay the estimated amounts required  
20 under a contract for the payment of hourly fees.

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