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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN

THIRTY-THIRD GUAM LEGISLATURE

155 Hesler Place, Hagåtña, Guam 96910

August 12, 2015

The Honorable Edward J.B. Calvo
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill Nos. 102-33 (COR), 104-33 (LS), 116-33 (COR) and 119-33 (COR); and Substitute Bill No. 105-33 (LS), which were passed by *I Mina'Trentai Tres Na Liheslaturan Guåhan* on August 12, 2015.

Sincerely,

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosures (5)

OFFICE OF THE GOVERNOR
CENTRAL FILES
Christine A. Mufson
RECEIVED BY
VE. 5/12/15 DATE 8/12/15

TIME
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I MINA'TRENTAI TRES NA LIHESLATURAN GUAHAN
2015 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Bill No. 102-33 (COR), "AN ACT TO AMEND SUBSECTIONS (a), (b), (c) AND (d) OF § 5201, AND ADD NEW SUBSECTIONS (h), (i) AND (j) TO § 5202 OF ARTICLE 2, CHAPTER 5, TITLE 22, GUAM CODE ANNOTATED; AND TO AMEND SUBSECTION (a) OF § 4101 OF ARTICLE 1, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING DISCRIMINATION IN THE WORKPLACE; AND TO CITE THIS ACT AS THE "GUAM EMPLOYMENT NONDISCRIMINATION ACT (GENDA) OF 2015," was on the 12th day of August 2015, duly and regularly passed.



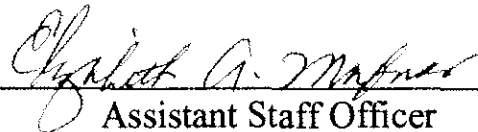
Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 12th day of August, 2015, at 5:13 o'clock P.M.




Assistant Staff Officer
Maga'laha's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

OFFICE OF THE GOVERNOR
CENTRAL FILES

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TIME 5:13 DATE 8/12/15

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 102-33 (COR)

As corrected by the Prime Sponsor;
and amended on the Floor.

Introduced by:

B. J.F. Cruz
Mary Camacho Torres
N. B. Underwood, Ph.D.
T. R. Muña Barnes
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
James V. Espaldon
Brant T. McCreddie
Tommy Morrison
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
Judith T. Won Pat, Ed.D.

AN ACT TO *AMEND* SUBSECTIONS (a), (b), (c) AND (d) OF § 5201, AND *ADD* NEW SUBSECTIONS (h), (i) AND (j) TO § 5202 OF ARTICLE 2, CHAPTER 5, TITLE 22, GUAM CODE ANNOTATED; AND TO *AMEND* SUBSECTION (a) OF § 4101 OF ARTICLE 1, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING DISCRIMINATION IN THE WORKPLACE; AND TO CITE THIS ACT AS THE “*GUAM EMPLOYMENT NONDISCRIMINATION ACT (GENDA) OF 2015.*”

1

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Title.** This Act may be known and referred to as the “*Guam*
2 *Employment Nondiscrimination Act (GENDA) of 2015.*”

3 **Section 2. Nondiscrimination in Employment.** Subsections (a), (b), (c)
4 and (d) of § 5201 of Article 2, Chapter 5, Title 22, Guam Code Annotated, are
5 *amended* to read:

6 “§ 5201. **Discriminatory Practices Made Unlawful; Offenses**
7 **Defined.**

8 It *shall* be an unlawful employment practice or unlawful
9 discrimination:

10 (a) For any employer to refuse to hire or employ or to
11 bar or discharge from employment, or otherwise to discriminate
12 against any individual in compensation or in the terms,
13 conditions, or privileges of employment because of race, sex
14 (including gender identity or expression), age, religion, color,
15 honorably discharged veteran and military status, sexual
16 orientation, or ancestry;

17 (b) For any employment agency to fail or refuse to
18 refer or employ, or to classify or otherwise to discriminate
19 against any individual because of race, sex (including gender
20 identity or expression), age, religion, color, honorably
21 discharged veteran and military status, sexual orientation, or
22 ancestry;

23 (c) For any employer or employment agency to print,
24 circulate or cause to be printed or circulated any statement,
25 advertisement or publication or to use any form of application
26 for employment or to make any inquiry in connection with
27 prospective employment, which expresses, directly or

1 indirectly, any limitation, specification or discrimination as to
2 race, sex (including gender identity or expression), age,
3 religion, color, honorably discharged veteran and military
4 status, sexual orientation, or ancestry, unless based on a bona
5 fide occupational qualification. All employers or employment
6 agencies shall have up to six (6) months to modify personnel
7 forms and policies to come into compliance with the changes to
8 the Guam Code contained in this Act;

9 (d) For any labor organization to exclude or expel
10 from its membership any person or to discriminate in any way
11 against any of its members, employer or employees because of
12 race, sex (including gender identity or expression), age,
13 religion, color, honorably discharged veteran and military
14 status, sexual orientation, or ancestry;”

15 **Section 3. Statutory Definitions.** New Subsections (h), (i), and (j) are
16 hereby *added* to § 5202 of Article 2, Chapter 5, Title 22, Guam Code Annotated, to
17 read:

18 “(h) *Sexual orientation* means having a preference for
19 heterosexuality, homosexuality, or bisexuality, having a history of any one
20 or more of these preferences, or being identified with any one or more of
21 these preferences.

22 (i) *Gender identity or expression* means a person's actual or
23 perceived gender, as well as a person's gender identity, gender-related self-
24 image, gender-related appearance, or gender-related expression, regardless
25 of whether that gender identity, gender-related self-image, gender-related
26 appearance, or gender-related expression is different from that traditionally
27 associated with the person's sex at birth.

1 (j) *Veteran and military status* means a person's status on active
2 duty in or status as a veteran of the armed forces of the United States, status
3 as a current member or veteran of any reserve component of the armed
4 forces of the United States, including the United States Army Reserve,
5 United States Marine Corps Reserve, United States Navy Reserve, United
6 States Air Force Reserve, and United States Coast Guard Reserve, or status
7 as a current member or veteran of the Guam National Guard.”

8 **Section 4. Employment in the Service of the Government of Guam.**

9 Subsection (a) of § 4101 of Chapter 4, Title 4, Guam Code Annotated, is *amended*
10 to read:

11 “(a) Employment in the service of the government of Guam *shall* be
12 based upon merit, and selection and promotion of employees *shall* be free of
13 personal or political consideration. No person shall be discriminated against
14 in an application for employment or promotion or dismissed from
15 employment on account of honorably discharged veteran and military status,
16 sexual orientation, race, color, age, religion, sex (including gender identity
17 or expression), national origin, or physical or mental impairment. No person
18 shall be discriminated against in an application for employment or
19 promotion or dismissed from employment because of the country where the
20 college or university from which he received any degree or training is
21 located. All personnel actions, including appointments and promotions, *shall*
22 be based, insofar as practicable, on competitive practical tests and
23 evaluations. Continuity of employment *shall* be dependent upon good
24 behavior, satisfactory performance and availability of funds. For the
25 purpose of this Section, the terms *sexual orientation, gender identity or*
26 *expression, and veteran and military status* are defined in § 5202 of Article
27 2, Chapter 5, 22 GCA.”

1 **Section 5. Religious Exemption.**

2 (a) In General. This Act *shall not* apply to a corporation,
3 association, educational institution or institution of learning, or society that
4 is exempt from the religious discrimination provisions of Title VII of the
5 Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) pursuant to Section
6 702(a) or 703(e)(2) of such Act (42 U.S.C. 2000e-1(a), 2000e-2(e)(2))
7 (referred to in this Section as a “religious employer”).

8 (b) Prohibition on Certain Government Actions. A religious
9 employer's exemption under this Section *shall not* result in any action by the
10 government to penalize or withhold licenses, permits, certifications,
11 accreditation, contracts, grants, guarantees, tax-exempt status, or any
12 benefits or exemptions from that employer, or to prohibit the employer's
13 participation in programs or activities sponsored by that government.
14 Nothing in this Subsection shall be construed to invalidate any other law
15 (including a regulation) that otherwise applies to a religious employer
16 exempt under this Section.

17 **Section 6. Codification.** The Compiler of Laws is authorized to codify
18 Section 5 of this Act within the appropriate Title of the Guam Code Annotated.
19 Section 5 *shall apply only* to the specific amendments made pursuant to this Act.

20 **Section 7. Severability.** If any provision of this Act or its application to
21 any person or circumstance is found to be invalid or contrary to law, such
22 invalidity *shall not* affect other provisions or application of this Act which can be
23 given effect without the invalid provisions or application, and to this end the
24 provisions of this Act are severable.