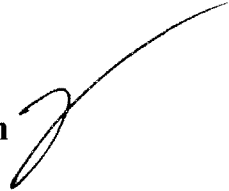


I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) REGULAR SESSION


Bill No. 492-20 (COR.)

Introduced by:

v.c. pangelinan



AN ACT TO DISTRIBUTE ADDITIONAL COLA AWARD
PAYMENTS FOR CERTIFICATES OF CLAIM ISSUED
AND TO AUTHORIZE THE SALE OF GENERAL
OBLIGATION PROMISSORY NOTES FOR PAYMENTS
TO "COLA" AWARDEES IN REFERENCE TO
SUPERIOR COURT CASE NO. SP0206-93.

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BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** In Public Law 30-196,
2 the General Appropriations Act of 2011, *I' Liheslaturan Guahan* prioritized the
3 appropriation of surplus revenues toward prior obligations incurred as a result of
4 court orders and deficit spending. The fulfillment and completion of the
5 government's payment of the obligation to retirees pursuant to *Rios vs. Camacho*,
6 SP0206-93 continues to elude claimants due to lack of a structured funding source.

7 *I' Liheslaturan Guahan* wishes to complete the payment of the Cost of
8 Living Allowance (COLA) awards to bring finality to this injustice to the
9 *Man'amko* and their heirs. The urgency of paying down this outstanding liability
10 stems from concerns related to the financial need of recipients and the legal
11 obligation that will continue to accumulate and increase the government's liability
12 and the potential for further litigation if the situation remains unresolved.

13 *I' Liheslaturan Guahan* finds that there are cash resources which remain
14 available and in some cases unclaimed due to awardees, beneficiaries and heirs
15 who are not able to complete the process to legally verify their right to the award.

1 A review of these awards projects that it is unlikely that these awards will be
2 disbursed in the near term.

3 *I' Liheslaturan Guahan* further finds it is prudent to expend funds that
4 remain in a bank account due to unclaimed awards to awardees whose claims are
5 in order and ready for payment. Rather than allow previously appropriated funds
6 for COLA claimants to sit idle, *I' Liheslaturan* intends to use a portion of these
7 funds to pay for existing claimants which have been verified by the retirement
8 fund. The *I' Liheslaturan Guahan* recognizes that use of these funds in no way
9 extinguishes the unclaimed awards of these claimants.

10 *I' Liheslaturan Guahan* further finds that the payment authorization and
11 guidelines authorized in this Act herein shall assist the government of Guam in
12 partnership with the Government of Guam Retirement Fund (GGRF) on behalf of
13 its members in meeting the court ordered obligations in *Rios vs. Camacho*,
14 SP0206-93 and further, provide relief to outstanding financial liabilities while
15 eliminating the potential of further litigation against the government of Guam.

16 *I' Liheslatura* intends that the GGRF shall use the funds appropriated herein
17 solely for paying down part of the COLA liability to retirees and for this purpose
18 alone.

19 **Section 2. Authorization to Use Unclaimed and Unprocessed COLA**
20 **awards.** The Government of Guam Retirement Fund is hereby authorized to use
21 Three Million Dollars (**\$3,000,000**) from unreleased award payments to retirees
22 and beneficiaries where no awardees, beneficiaries or heirs have come forward to
23 claim the awards and where awardees, beneficiaries or heirs are unable to complete
24 processing of claims to pay claimant awards ready for distribution set forth in Title
25 5 Guam Code Annotated, Chapter 6, Article 4, §6404(d)(1).

26 **Section 3. COLA Disbursement Provisions.**

1 The disbursement provision for the authorization in Section 2 is Principal or
2 Interest from principal owed starting with the claimant with the lowest initial
3 award from the class settlement, followed by the next lowest initial award and
4 repeating this disbursement methodology until all the funds appropriated and
5 authorized are exhausted.

6 **Section 4.** New Subsection (e) is added to §6404, Chapter 6, 5 GCA, to
7 read:

8 **“(e) Sale of Certificates of Claim in whole or part as General Obligation**
9 **Promissory Notes.**

10 (1) **Authorization to Borrow.** *I Maga’lahen Guahan* is authorized to
11 issue General Obligation Promissory Notes (the “Notes”) not to exceed the total
12 amount of all outstanding and unredeemed Certificates of Claim issued to “COLA”
13 Awardees in reference to Superior Court Case No. SP0206-93 and as authorized in
14 5GCA §6404(d). The Notes shall be general obligations of the government of
15 Guam secured by the full faith and credit of the government of Guam.

16 (2) **Terms and Conditions.** The terms and conditions of the Notes shall
17 be as determined by *I Maga’lahen Guahan*; provided that the notes:

18 (i) shall not be secured by a pledge of Section 30 revenues;

19 (ii) shall be redeemed in full, including accrued interest within
20 twenty (20) years or thereafter automatically convert to Certificates of Claim
21 subject to the terms and conditions defined in 5GCA §6404(d);

22 (iii) shall bear interest at such fixed or variable rate or rates as may
23 be negotiated by *I Maga’lahen Guahan* in the best interests of the
24 government, such interest rate shall not exceed eight percent (8%) and shall
25 be computed on a three-hundred sixty-five (365) day calendar year upon the
26 actual amount issued by the government of Guam.

27 (3) **Sale of Promissory Notes.**

1 (i) Sale of the Notes shall be in denominations no less than Five
2 Thousand Dollars (\$5,000.00);

3 (ii) Investor purchase quantity shall not be limited;

4 (iii) Investor access to purchase of the Notes shall be in the
5 following order of priority:

6 (1) The Government of Guam Retirement Fund;

7 (2) Residents of Guam;

8 (3) Banks or other Financial Institutions licensed to conduct
9 business on Guam;

10 (4) Other Entities licensed to conduct business on Guam;

11 (5) All other interested institutions as determined by *I*
12 *Maga'lahaen Guahan.*"

13 (4) **Use of Proceeds from the sale of the Notes.** The proceeds from the
14 sale of the Notes shall only be used and are hereby appropriated to redeem and pay
15 outstanding Certificates of Claims issued to COLA awardees in Superior Court
16 Case No. SP0206-93.

17 (5) **Approval by the Guam Economic Development Authority.** Notes
18 authorized in this section shall not be sold until the Board of Directors of the Guam
19 Economic Development Authority approves the terms and conditions of the Note
20 sale.

21 (6) **Approval of Voters Not Required.** The Notes shall not be subject to
22 the approval of voters of Guam.

23 (7) **Continuing Annual Appropriation of Principal and Interest.**
24 Effective October 1, 2011 and each October 1 thereafter, there is hereby
25 appropriated sums from the General Fund required for all payments of principal
26 and interest based on a maturity schedule to repay any general obligation
27 promissory notes authorized in Section 6404(e)(1). This annual appropriation shall

1 be a continuing appropriation and shall not lapse at the end of the fiscal year. In
2 addition to any funds specifically appropriated by this Act, all moneys received
3 from any other source as contributions or supplements for repayment of the notes
4 established in this Act and any interest or income earned shall be paid into a Fund
5 established for repayment and shall be a continuing appropriation.

6 **Section 5. Retirement Fund Purchase Authorization.** Notwithstanding
7 any other provision of law, the Government of Guam Retirement Fund may
8 purchase for investment the government of Guam General Obligation Promissory
9 Notes authorized herein and indemnifies all Board members from any liability
10 arising from the purchase of such promissory notes.

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

12 **Section 7. Severability.** If any provision of this Law or its application to
13 any person or circumstances is found to be invalid or contrary to law, such
14 invalidity shall not affect other provisions or applications of this Law which can be
15 given effect without the invalid provisions or application, and to this end the
16 provisions of this Law are severable.

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