

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN**  
**2009 (FIRST) Regular Session**

**Resolution No. 114-30 (COR)**

Introduced by:

B. J.F. Cruz  
R. J. Respicio  
Judith P. Guthertz, DPA  
Judith T. Won Pat, Ed.D.  
T. R. Muña Barnes  
T. C. Ada  
F. B. Aguon, Jr.  
F. F. Blas, Jr.  
E. J.B. Calvo  
J. V. Espaldon  
Adolpho B. Palacios, Sr.  
v. c. pangelinan  
M. J. Rector  
Telo Taitague  
Ray Tenorio

**RELATIVE TO AN ACTION REGARDING THE MARCH 20, 2009 "ORDER RE: CONTEMPT", ISSUED BY THE CHIEF JUDGE OF THE DISTRICT COURT OF GUAM, FRANCES M. TYDINGCO-GATEWOOD; AND TO AUTHORIZING THE LEGISLATIVE COUNSEL, OR OTHER RETAINED COUNSEL, TO FILE SAID ACTION BEFORE THE NINTH CIRCUIT COURT.**

1           **BE IT RESOLVED BY THE COMMITTEE ON RULES OF I**  
2 ***MINA'TRENTA NA LIHESLATURAN GUÅHAN:***

3           **WHEREAS**, on February 13, 2009, in her Order Re: Cash Payments in  
4 Civil Case No. 02-00022, the Chief Judge of the District Court of Guam,  
5 Frances M. Tydingco-Gatewood, ordered the government of Guam to make  
6 weekly payments in the amount of Nine Hundred Ninety-three Thousand  
7 Seven Hundred Dollars (\$993,700) to cover the costs of a new landfill and the  
8 closure of the Ordot dump; the suspension of such weekly payments to be  
9 ordered only upon presentation of a viable, alternative financing plan to the  
10 court by the government of Guam; and

11           **WHEREAS**, on February 26, 2009, in an attempt to avoid the sanction of  
12 weekly payments in the amount of Nine Hundred Ninety-three Thousand  
13 Seven Hundred Dollars (\$993,700), *I Liheslatura* passed Bill No. 51 (COR): "AN  
14 ACT TO ADD A NEW ARTICLE 8 TO DIVISION 2 OF CHAPTER 51 OF  
15 TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING  
16 THE GOVERNMENT OF GUAM TO ISSUE SOLID WASTE MANAGEMENT  
17 SYSTEM BONDS FOR THE PURPOSE OF FINANCING FACILITIES OF THE  
18 SOLID WASTE MANAGEMENT SYSTEM OF GUAM, AND APPROVING  
19 THE TERMS AND CONDITIONS OF THE ISSUANCE OF ONE (1) OR  
20 MORE SERIES OF SUCH BONDS PURSUANT TO SUCH ARTICLE TO PAY  
21 THE COSTS OF A NEW LANDFILL AND THE CLOSURE OF THE ORDOT  
22 DUMP AND OTHER SYSTEM COSTS; TO ADD A NEW ARTICLE 9 TO  
23 DIVISION 2 OF CHAPTER 51 OF TITLE 10, GUAM CODE ANNOTATED,  
24 RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM TO ENTER

1 INTO A LEASE AND A LEASE-BACK FOR THE PURPOSE OF FINANCING  
2 FACILITIES OF THE SOLID WASTE MANAGEMENT SYSTEM OF GUAM,  
3 AND APPROVING THE TERMS AND CONDITIONS OF SUCH LEASES  
4 PURSUANT TO SUCH ARTICLE TO PAY THE COSTS OF A NEW  
5 LANDFILL AND THE CLOSURE OF THE ORDOT DUMP AND OTHER  
6 SYSTEM COSTS; TO AUTHORIZE THE ISSUANCE OF PRIVATE ACTIVITY  
7 BONDS FOR THE CONSTRUCTION OF SOLID WASTE DISPOSAL  
8 FACILITIES; TO PROHIBIT PAYMENTS WITHOUT APPROPRIATIONS;  
9 AND TO DIRECT THE GUAM ECONOMIC DEVELOPMENT AUTHORITY  
10 TO SOLICIT ALTERNATIVE FINANCING,” and was subsequently signed  
11 into law on February 27, 2009 as Public Law 30-1; and

12       **WHEREAS,** In addition to providing several viable, alternative  
13 financing plans as required by the Court, Public Law 30-1, in Section 6,  
14 “Prohibition on Payments Without Appropriations,” stipulates:  
15 “Notwithstanding any other provision of law, and pursuant to the authority  
16 granted to the Legislature by §1423j of Subchapter 3 of the Organic Act of  
17 Guam, *I Liheslaturan Guåhan* hereby asserts its authority to appropriate funds  
18 and determine the conditions for expending such appropriations. *No public*  
19 *official of the government of Guam, including, but not limited to, I Maga’lahen*  
20 *Guåhan,* the Treasurer of Guam, the Director of the Department of  
21 Administration, and the Director of the Bureau and Management Research,  
22 *shall transfer or* expend any public funds to comply with the February 13, 2009  
23 Order of the Chief Judge of the District Court of Guam, relative to Civil Case  
24 No. 02-00022, to deposit the amount of Nine Hundred Ninety-three Thousand  
25 Seven Hundred Dollars (\$993,700) *or* any other amount beginning March 1,

1 2009 weekly to Citibank *or* any other order that purports to legally direct any  
2 official of the government of Guam to expend funds without any legislative  
3 authorization *or* appropriation. Any transfer authority granted to the  
4 Governor in any previous law *shall* be deemed restricted to the purposes of  
5 said law and *shall not* be extended to authorize any transfer of funds *or* for  
6 deposit to Citibank as directed in the February 13, 2009, Order of the District  
7 Court. Any payment of fines pursuant to the Consent Decree *shall not* be paid  
8 *except* by specific appropriation by the Legislature for that purpose, and the  
9 Governor's transfer authority *shall not* extend *or* apply to transfers for the  
10 payment of Court fines"; and

11 **WHEREAS**, *I Liheslatura* affirmed and asserted in Section 6 of Public  
12 Law 30-1 the Constitutional right of legislative bodies to retain and to exercise  
13 the power to appropriate, based on the doctrine of Separation of Powers, and  
14 that Section 6 was enacted based on the direct and specific authority granted  
15 to the Guam Legislature by the Organic Act of Guam - a constitutional act  
16 duly passed by the United States Congress; and

17 **WHEREAS**, on March 20, 2009, in her Order Re: Contempt in Civil Case  
18 No. 02-00022, the Chief Judge of the District Court of Guam, Frances M.  
19 Tydingo-Gatewood, declared Section 6 of Guam Public Law 30-1 to be "null  
20 and void under the Supremacy Clause of the U.S. Constitution," further  
21 admonishing that "The Government should not have resorted to frivolous  
22 modes of self-help, such as enacting patently unconstitutional laws designed  
23 to relieve it of its obligations under the court's February 13, 2009 Order"; and

24 **WHEREAS**, *I Liheslatura* finds that it must challenge this ruling of the  
25 Chief Judge of the District Court of Guam in order to protect a vital and

1 intrinsic power retained by Guam's Legislative branch of government,  
2 specifically *I Liheslatura's* authority to appropriate funds and to determine the  
3 conditions for expending such appropriations; and

4       **WHEREAS**, by challenging this ruling, it is the intent of *I Mina'Trenta*  
5 *Na Liheslaturan Guåhan* that the sanction, in the form of weekly payments in  
6 the amount of Nine Hundred Ninety-three Thousand Seven Hundred Dollars  
7 (\$993,700), will be revoked, and that such funds as were taken from the  
8 government of Guam by way of the Order Re: Contempt *shall* be returned;  
9 now, therefore, be it

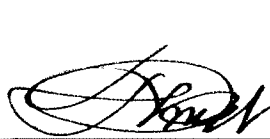
10       **RESOLVED**, that the Committee on Rules of *I Mina'Trenta Na*  
11 *Liheslaturan Guåhan* does hereby, on behalf of *I Liheslaturan Guåhan* and the  
12 people of Guam, herein direct the Legislative Legal Counsel, pursuant to Rule  
13 XVI, Section 16.08.ix of the Standing Rules, *or* alternate legal counsel  
14 designated by Vice-Speaker Benjamin J.F. Cruz, to provide legal  
15 representation for *I Liheslatura* in this matter; and be it further

16       **RESOLVED**, that the Committee on Rules of *I Mina'Trenta Na*  
17 *Liheslaturan Guåhan*, on behalf of *I Liheslatura Guåhan* and the people of Guam,  
18 herein directs said counsel, under authority of Rule XVII, Section 17.11.03 (vii)  
19 of the Standing Rules, to file before the Ninth (9<sup>th</sup>) Circuit Court an action  
20 regarding the March 20, 2009 ruling of the Chief Judge of the District Court of  
21 Guam, Frances M. Tydingo-Gatewood; and be it further

22       **RESOLVED**, that the Speaker and the Chairperson of the Committee on  
23 Rules certify, and the Legislative Secretary attest to, the adoption hereof, and  
24 that copies of the same be thereafter transmitted to the Honorable Alicia G.

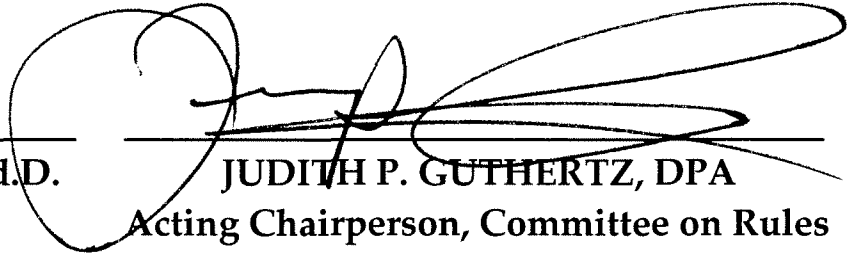
- 1 Limtiaco, Attorney General of Guam; and to the Honorable Felix P. Camacho,
- 2 *I Maga'lahren Guåhan.*

**DULY AND REGULARLY ADOPTED BY THE COMMITTEE ON RULES  
OF *I MINA'TRENTA NA LIHESLATURAN GUÅHAN* ON THIS 19<sup>TH</sup> DAY  
OF MAY 2009.**



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**JUDITH T. WON PAT, Ed.D.**  
Speaker



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**JUDITH P. GUTHERTZ, DPA**  
Acting Chairperson, Committee on Rules



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**TINA ROSE MUÑA BARNES**  
Legislative Secretary