

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
215-35 (COR)	Telo T. Taitague Louise B. Muña Kelly Marsh (Taitano), PhD William M. Castro	AN ACT TO <i>AMEND</i> § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.	10/7/19 8:43 a.m.	11/20/19	Committee on General Government Operations, Appropriations, and Housing	8/7/20 9:00 a.m.	10/12/20 10:31 a.m. As amended by the Committee on General Government Operations, Appropriations, and Housing	10/17/19	



SENATOR JOE S. SAN AGUSTIN

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUAHAN
CHAIRMAN, COMMITTEE ON APPROPRIATIONS, GENERAL GOVERNMENT OPERATIONS & HOUSING

September 24, 2020

The Honorable Tina Rose Muña Barnes

Speaker

I Mina'trentai Singko Liheslaturan Guahan

163 Chalan Santo Papa

Hagåtña, Guam 96910

VIA: The Honorable Régine Biscoe Lee

Chairperson, Committee on Rules

RE: Committee Report on Bill No.215-35 (COR) As amended by the Committee

Dear Speaker Barnes:

Transmitted herewith is the Committee Report on BILL No.215-35 (COR)- As amended by the Committee on General Government Operations, Appropriations, and Housing. Introduced by Senators Telo T. Taitague, Louise B. Muña, Kelly Marsh (Taitano), Ph.D., and William M. Castro. – "AN ACT TO AMEND § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY."

Committee votes are as follows:

2 TO DO PASS
0 TO NOT PASS
5 TO REPORT OUT ONLY
0 TO ABSTAIN
0 TO PLACE IN INACTIVE FILE

**COMMITTEE ON RULES
RECEIVED:**

September 29, 2020

8:00 A.M.

Respectfully,

Senator Joe S. San Agustin

Chairperson, Committee on Appropriations

Revisions Rec'd:

October 8, 2020 @ 1:13 P.M.



SENATOR JOE S. SAN AGUSTIN

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
CHAIRMAN, COMMITTEE ON APPROPRIATIONS, GENERAL GOVERNMENT OPERATIONS & HOUSING

COMMITTEE REPORT

Bill No. 215-35 (COR)

As amended by the Committee on General Government Operations, Appropriations, and Housing.

As introduced by Telo T. Taitague, Louise B. Muña, Kelly Marsh (Taitano), Ph.D., and William M. Castro.

AN ACT TO AMEND § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.



SENATOR JOE S. SAN AGUSTIN

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
CHAIRMAN, COMMITTEE ON APPROPRIATIONS, GENERAL GOVERNMENT OPERATIONS & HOUSING

September 24, 2020

MEMORANDUM

TO: ALL MEMBERS

Committee on General Government Operations, Appropriations, and Housing

From: Senator Joe S. San Agustin

Committee Chairperson

Subject: Committee Report on Bill No. 215-35 (COR) As amended by the Committee

Transmitted herewith for your consideration is the Committee Report on **BILL No. 215-35 (COR)** – As amended by the Committee on General Government Operations, Appropriations, and Housing. As introduced by Senators Telo T. Taitague, Louise B. Muña, Kelly Marsh (Taitano), Ph.d, and William M. Castro. –“**AN ACT TO AMEND § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.**”

This report includes the following:

- Copy of COR Referral of Bill No. 215-35 (COR)
- Notices of Public Hearing and Other Correspondence
- Copy of Public Hearing Agenda
- Public Hearing Sign-in Sheet
- Submitted Written Testimony and Supporting Documents
- Committee Report Digest
- Copy of Bill No. 215-35 (COR), As introduced
- Copy of Bill No. 215-35 (COR), As Amended by the Committee
- Copy of Fiscal Note from Bureau of Budget and Management Research
- Copy of Funding Availability Note from Office of Finance and Budget
- Committee Vote Sheet

Please take the appropriate action on the attached vote sheet, Your Attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse'.

Senator Joe S. San Agustin

Chairman, Committee on Appropriations

Senator Régine Biscoe Lee,
Chair

Senator Amanda L. Shelton,
Vice Chair

Speaker Tina Rose Mufia Barnes,
Member

Vice Speaker Telena Cruz Nelson,
Member

Senator Kelly Marsh (Taitano), PhD,
Member

Senator Sabina Flores Perez,
Member



COMMITTEE ON RULES
I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
35TH GUAM LEGISLATURE

November 20, 2019

Senator Clynton E. Ridgell
Member

Senator Joe S. San Agustin,
Member

Senator Jose "Pedro" Terlaje,
Member

Senator Therese M. Terlaje,
Member

Senator James C. Moylan,
Member

Senator Mary Camacho Torres,
Member and Chair, Subcommittee on Protocol

MEMO

To: Rennae Meno
Clerk of the Legislature

Attorney Ana Won Pat-Borja
Legislative Legal Counsel

From: Senator Régine Biscoe Lee
Chair, Committee on Rules

Re: Referral of Bill No. 215-35 (COR)

Buenas yan Håfa adai.

As per my authority as Chair of the Committee on Rules and subject to §6.01(d)(1), Rule VI of our Standing Rules, I am forwarding the referral of **Bill No. 215-35 (COR)**.

Please ensure that the subject bill is referred to the **Committee on General Government Operations, Appropriations, and Housing, chaired by Senator Joe S. San Agustin**.

I also request that the same be forwarded to the prime sponsor of the subject bill.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.

Respectfully,


Senator Régine Biscoe Lee
Chair, Committee on Rules



Catherine Leon Guerrero <cathy.senatorsa@gmail.com>

FIRST NOTICE OF PUBLIC HEARING ON FRIDAY, AUGUST 7, 2020 AT 9 AM

1 message

Michaela Celorio <msacelorio.senatorsa@gmail.com>

Fri, Jul 31, 2020 at 4:55 PM

To: phnotice@guamlegislature.org

Cc: senatortelot@gmail.com, Management Information System <mis@guamlegislature.org>, Joe San Agustin <protocol@guamlegislature.org>, Tom Unsiog <sgtarms@guamlegislature.org>

31 JULY 2020**MEMORANDUM****To: ALL HONORABLE Senators, Stakeholders and Media****From: Senator Joe S. San Agustin, Chairman****Subject: First Notice of Public Hearing on FRIDAY, AUGUST 7, 2020 AT 9 AM.***Buenas yan Håfa Adai!*

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on General Government Operations, Appropriations and Housing will convene a public hearing on **Friday, August 7, 2020, beginning at 9 a.m.** in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

The Committee will hear and accept testimonies on:

Bill No. 215-35 (COR) - Telo T. Taitague / Louise B. Muña / Kelly Marsh (Taitano), PhD / William M. Castro

AN ACT TO *AMEND* § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.

The Public Hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan's* live feed. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing.

Written testimonies may also be submitted to the Office of Senator Joe S. San Agustin before the hearing via email at senatorjoessanagustin@gmail.com.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Joe S. San Agustin at senatorjoessanagustin@gmail.com.

We look forward to your participation!

UN DANGKOLO NA SI YU'OS MA'ÅSE'!

Best,

Michaela Shaira Asoy Celorio

Research Policy Analyst

Office of Senator Joe S. San Agustin

I Mina'Trentai Singko Na Lehislaturan Guahan

Chairman, Committee on General Government Operations, Appropriations & Housing

Office of Finance and Budget

761 S. Marine Corps Drive

Ran Care Bldg. Suite B2

Tamuning, Guam 96913

Email: msacelorio.senatorsa@gmail.com

Tel: (671) 989-5445

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Catherine Leon Guerrero <cathy.senatorsa@gmail.com>

2ND NOTICE OF PUBLIC HEARING ON FRIDAY, AUGUST 7, 2020 AT 9 AM

1 message

Michaela Celorio <msacelorio.senatorsa@gmail.com>

Tue, Aug 4, 2020 at 9:20 AM

To: phnotice@guamlegislature.org

Cc: Tom Unsiog <sgtarms@guamlegislature.org>, Management Information System <mis@guamlegislature.org>, Joe San Agustin <protocol@guamlegislature.org>, senatortelot@gmail.com

04 AUGUST 2020**MEMORANDUM**

To: ALL HONORABLE Senators, Stakeholders and Media

From: Senator Joe S. San Agustin, Chairman

Subject: Second Notice of Public Hearing on **FRIDAY, AUGUST 7, 2020 AT 9 AM.***Buenas yan Håfa Adai!*

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on General Government Operations, Appropriations and Housing will convene a public hearing on **Friday, August 7, 2020, beginning at 9 a.m.** in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

The Committee will hear and accept testimonies on:

Bill No. 215-35 (COR) - Telo T. Taitague / Louise B. Muña / Kelly Marsh (Taitano), PhD / William M. Castro

AN ACT TO *AMEND* § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.

The Public Hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan's* live feed. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing.

Written testimonies may also be submitted to the Office of Senator Joe S. San Agustin before the hearing via email at senatorjoessanagustin@gmail.com.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Joe S. San Agustin at senatorjoessanagustin@gmail.com.

We look forward to your participation!

UN DANGKOLO NA SI YU'OS MA'ÅSE'!

Best,

Michaela Shaira Asoy Celorio

Research Policy Analyst

Office of Senator Joe S. San Agustin

I Mina'Trentai Singko Na Lehislaturan Guahan

Chairman, Committee on General Government Operations, Appropriations & Housing

Office of Finance and Budget

761 S. Marine Corps Drive

Ran Care Bldg. Suite B2

Tamuning, Guam 96913

Email: msacelorio.senatorsa@gmail.com

Tel: (671) 989-5445

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SENATOR JOE S. SAN AGUSTIN

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
CHAIRMAN, COMMITTEE ON APPROPRIATIONS, GENERAL GOVERNMENT OPERATIONS & HOUSING

Public Hearing

Friday, August 07, 2020 @ 9:00 a.m.

Guam Congress Building Public Hearing Room

AGENDA

Bill No. 215-35 (COR) – As introduced by Telo T. Taitague, Louise B. Muña, Kelly Marsh (Taitano), Ph.D., and William M. Castro. –“AN ACT TO AMEND § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.”



*The Law Office of
John Richard Bordallo Bell*

157 Veronica Way, Tamuning, Guam 96913
Tel: (671) 646-5722 (JRBB) Fax: (671) 646-5721
Cell: (671) www.johnbellguam.com/Email: john.r.b.bell@

August 7, 2020

**Honorable Telo T. Taitague
35th Guam Legislature
Hagåtña, Guam 96910**

Re: Bill No. 215-35 (COR) – Maximum Limits on Governmental Liability

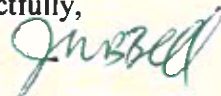
Dear Senator,

Thank you for addressing this issue and inviting my comments. A brief personal background is often requested before legislative testimony. I was born and raised in Tamuning, went to public school here, joined the military, earned a Philosophy degree from San Diego State University, a law degree from California Western School of Law, I am licensed as an attorney on Guam and by the state of California, and I have about 8 years of practice in civil litigation. My law school mentor and employer was a personal injury attorney and I have a fair amount of experience in that area as well as some experience with the government claims process. As a private practice plaintiff's attorney, much of my job entails quantifying the severity of an injury and trying to make my client whole. We can't go back in time to right the wrong they suffered, but we can compensate them accordingly. We factor in things like medical bills, pain and suffering, the need for therapy, etc. Some injuries are catastrophic and would really cost millions to make the person whole. We rarely get what we want, but we usually get the injured person or their family what they can live with.

On a personal note, while researching this bill, I read about a pretty horrific injury suffered by local attorney Joe McDonald caused by negligent road conditions for cyclists down in Tumon. I had a similar incident a couple of years ago that was thankfully more of a near miss. There are a couple of spots on Tamuning sidewalks where apparently the extremely sturdy steel posts holding street signs were apparently taken down, but there are a few inches sticking out of the sidewalk. It's like a booby trap as they are about the same color as the sidewalk and tough to see. I was jogging down the sidewalk toward Oka Payless with my 3 month old son in a jogging stroller and did not see it coming. We hit that nub leftover from the post so suddenly and so hard that my face was smashed into the stroller handlebar and then the stroller went flying toward oncoming traffic. Thankfully I had the sense to tether the stroller to myself in case of emergency. And that was the only reason my infant son did not go all the way into oncoming traffic. I reported the unsafe condition to the mayor's office and I hope the issue has been addressed. I took a pretty good beating but my son was fine. I left it alone but it was a sobering reminder of why these negligence liability issues matter.

The public should know, and I think they do, that we understand the need to protect the government treasury. I was taught in law school that we install sovereign immunity restrictions and place caps on taxpayer-funded liability so that we can keep our governments operating with financial strength and confidence. Nobody wants to bankrupt our government, but the twin aims of torts are compensation and deterrence. This bill more fairly compensates the victims of negligence and deters government officials from ignoring unsafe conditions. We want it to be cheaper to fix unsafe conditions than to have to pay out money to victims or their families. While I personally may have raised the caps higher, I won't second guess your research and completely understand the need to strike that balance between compensating victims and protecting taxpayers. In the middle of a global pandemic and when national and perhaps local politics at times have gotten pretty ugly, it's nice to see bipartisan support for a no-brainer of a bill. I think the bill is long overdue and addresses an obvious need. It is low hanging fruit and I am only left wondering why it took 40 years to raise the caps. I thank you and your colleagues for addressing this.

Respectfully,



John Richard Bordallo Bell, Esq.

Testimony on Bill No. 215-35 (COR)

1 message

Senator Telo Taitague <senatortelot@gmail.com>

7 August 2020 at 08:24

To: "Senator Joe S. San Agustin" <senatorjoessanagustin@gmail.com>

Cc: Joseph Mesngon <joe.sensorsa@gmail.com>

Hafa adai Chairman San Agustin,

Please see attached testimony from Attorney Robert Keogh for Bill 215.

Si Yu'os Ma'åse,

Create a Great Day!

Senator Telo T. Taitague

Minority Leader

35th Guam Legislature

Suite 309 DNA Building

238 Archbishop Flores St.

Hagatna, Guam 96910

Tel: (671) 989-8356

Email: senatortelot@gmail.com

----- Forwarded message -----

From: **Robert Keogh** <rlk@ >

Date: Thu, 6 Aug 2020 at 14:24

Subject: RE: Public Hearing on Bill No. 215-35 (COR) – Maximum Limits on Governmental Liability

To: Senator Telo Taitague <senatortelot@gmail.com>

Telo,

Attached is my proposed testimony. Do I have to submit it somewhere or can you take care of that? Feel free to call if you have any questions.

Rob

Robert L. Keogh

Attorney at Law

KEOGH LAW OFFICE

Telephone: (671) 472-6895

Mobile: (671)

www.keoghlawoffice.com

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email to rik@guam.net or by telephone at (671) 472-6895, and destroy the original transmission and its attachments without reading or saving in any manner. Thank you.

From: Senator Telo Taitague <senatortelot@gmail.com>

Sent: Thursday, August 06, 2020 10:09 AM

To: rik@

Subject: Re: Public Hearing on Bill No. 215-35 (COR) – Maximum Limits on Governmental Liability

Håfa adai Attorney Keogh,

Sending you this friendly reminder about the public hearing on Bill 215 which is scheduled for tomorrow, August 7, 2020, 9:00 a.m., at the Guam Congress Building.

I hope you're able to participate and contribute to the discussion.

Kindest regards,

Senator Telo Taitague

Si Yu'os Ma'åse,

Create a Great Day!

Senator Telo T. Taitague

Minority Leader

35th Guam Legislature

Suite 309 DNA Building

238 Archbishop Flores St.

Hagatna, Guam 96910

Tel: (671) 989-8356

Email: senatortelot@gmail.com

On Mon, 3 Aug 2020 at 10:06, Senator Telo Taitague <senatortelot@gmail.com> wrote:

Håfa adai Attorney Keogh,

Please find attached letter and kindly confirm receipt.

Si Yu'os Ma'åse,

Create a Great Day!

Senator Telo T. Taitague

Minority Leader

35th Guam Legislature

Suite 309 DNA Building

238 Archbishop Flores St.

Hagatna, Guam 96910

Tel: (671) 989-8356

Email: senatortelot@gmail.com



BILL 215-35 TESTIMONY.pdf

29K

TESTIMONY OF ROBERT L. KEOGH ON BILL 215-35

Thank you for the opportunity to present testimony on the referenced bill. I am an attorney licensed to practice on Guam and have been practicing in this region since 1977. I specialize in representing plaintiffs in personal injury claims. Throughout my more than 40 years of practice I have represented numerous claimants pursuing injury claims against the Government of Guam.

The current limits of recovery on injury claims of \$100,000.00 for wrongful death and \$300,000.00 for bodily injury are inadequate and in need of revision. The following website contains a review of similar statutory limits on government claims in all 50 states.

<https://www.mwl-law.com/wp-content/uploads/2013/03/MUNICIPAL-COUNTY-LOCAL-GOVERNMENTAL-LIABILITY-CHART-00212510.pdf>

As can be seen, Guam's current limits are below virtually all states with similar statutory limits. Many jurisdictions have no limit at all. Raising the limits, as Bill 215-35 does, to \$200,000.00 for wrongful death and \$500,000.00 for bodily injury, will still put Guam's limits on the low end of the nationwide scale.

The competing interests are the fiscal health of the government versus providing fair compensation for victims of negligence of government employees. A limit, of course, represents the maximum amount a judge can award or a government agency can settle for. It certainly does not mean that all death claims will result in a \$200,000.00 recovery and all injury claims will result in a \$500,000.00 recovery. Any settlement or award will be the result of a negotiation with the government agency or the amount a Superior Court judge deems appropriate under the circumstances. From my experience, Superior Court judges also have the fiscal health of the Government of Guam in mind and are conservative when assessing damages.

One example I can provide involved a 6 year old girl who suffered a severed tip of one of her fingers as a result of a collision between 2 government school buses. After a full bench trial, Superior Court Judge Lamorena awarded the girl \$35,000.00 for her permanent injury and disfigurement. While I believed, and argued, that the value of her injury was considerably higher, in the end it was the discretion of the judge that prevailed.

I endorse the limit increase and submit it is long overdue and justified. In the interest of justice, I suggest including a specific provision for retroactive application of the amendment. I will be pleased to address and answer any questions.

ROBERT L. KEOGH



Michaela Celorio <msacelorio.senatorsa@gmail.com>

Fwd: TESTIMONY: DAVID LUBOFSKY August 7, 2020 Public Hearing on Bill No. 215-35 (COR) – Maximum Limits on Governmental Liability Sen. San Agustin, Chairman of the Committee on General Government Operations, Appropriations & Housing. \$100,000 to \$200,000 for w

2 messages

Joe S. San Agustin <senatorjoessanagustin@gmail.com>

Wed, Aug 5, 2020 at 9:13 AM

To: Joseph Mesngon <joe.senatorsa@gmail.com>, msacelorio.senatorsa@gmail.com

Cc: Catherine Leon Guerrero <cathy.senatorsa@gmail.com>

Hafa adai,

Kindly see below " TESTIMONY: DAVID LUBOFSKY August 7, 2020 Public Hearing on Bill No. 215-35 (COR) – Maximum Limits on Governmental Liability Sen. San Agustin, Chairman of the Committee on General Government Operations, Appropriations & Housing. \$100,000 to \$200,000 for w ".

V/R,

Hope

The Office of Senator Joe S. San Agustin

Committee on General Government Operations, Appropriations & Housing

I Mina'trentai Singko Na Liheslaturan Guahan

35th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 989-5445 F: (671) 969-6737 E: senatorjoessanagustin@gmail.com

Website: www.senatorjoessanagustin.com

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----- Forwarded message -----

From: D L <dlubofsky@gmail.com>

Date: Wed, 5 Aug 2020 at 00:37

Subject: TESTIMONY: DAVID LUBOFSKY August 7, 2020 Public Hearing on Bill No. 215-35 (COR) – Maximum Limits on Governmental Liability Sen. San Agustin, Chairman of the Committee on General Government Operations, Appropriations & Housing. \$100,000 to \$200,000 for w

To: Krystal Agustin <krystal.senatorsa@gmail.com>, senatorjoessanagustin@gmail.com <senatorjoessanagustin@gmail.com>

Hafa Adai Senator San Agustin,
Chairperson of the Committee on General Government Operations,
Appropriations, and Housing.

Attached is my testimony that I will present Friday for

Public Hearing on Bill No. 215-35 (COR) - Maximum Limits on Governmental Liability

Sen. San Agustin, Chairman of the Committee on General Government Operations, Appropriations & Housing.

\$100,000 to \$200,000 for wrongful death, and from \$300,000 to \$500,000 for any other tort action

Thank you,
David Lubofsky

 **BILL 215 GOV CLAIMS...DAVID LUBOFSKY.docx**
20K

Joe S. San Agustin <senatorjoessanagustin@gmail.com>
To: D L <dlubofsky@...>
Cc: Rose Mesa <rose.sensorsa@gmail.com>
Bcc: msacelorio.sensorsa@gmail.com

Wed, Aug 5, 2020 at 9:15 AM

Håfa adai Mr. Lubofsky,

Our office is in receipt of your testimony.

Si Yu'os Ma'ase'
Hope Delos Reyes

The Office of Senator Joe S. San Agustin

Committee on General Government Operations, Appropriations & Housing
I Mina'trentai Singko Na Liheslaturan Guahan
35th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 989-5445 F: (671) 969-6737 E: senatorjoessanagustin@gmail.com
Website: www.senatorjoessanagustin.com

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[Quoted text hidden]

TESTIMONY:

DAVID LUBOFSKY

August 7, 2020

Public Hearing on Bill No. 215-35 (COR) - Maximum Limits on
Governmental Liability

Sen. San Agustin, Chairman of the Committee on General Government
Operations, Appropriations & Housing.

\$100,000 to \$200,000 for wrongful death, and from \$300,000 to
\$500,000 for any other tort action

Thank you, Senators, for allowing me to submit and give testimony today.

I support Bill 215-35.

This Bill is easy to understand, support and justify from a purely economic viewpoint. As much as I am here to support it, I would be amiss to not say that I would have liked to see it have larger financial increases than as presented, based realistically on current cost of living values today, as compared to 40 years ago.

Using the year 1983, 37 years ago, cost of living figures, according to the American Institute for Economic Research cost of living calculator, \$100,000 then equals \$258,594.38 today, which is \$58,000 more than what is requested today to align cost of living. Also, \$300,000, 37 years ago now equals **\$775,783.13** today, more than \$275,000 of what is being requested to align cost of living. The two requested increases from 100k to \$200K and \$300K to \$500k based on costs of living are substantially lower than what things really cost today. The Bill does not request enough, but the intent I believe is to make things on par with todays cost of living and stay frugal for the sake of Guam payers. **I support that.** This is one reason, I think the amounts should be higher, but the Bill aims at realistically increasing damage awards while being financially frugal at the same time.

I also support this Bill, as its my opinion that damages related to malpractice at the hospital, whether that be resulting in death or injury needs to

be taken seriously and higher damage amounts may deter medical negligence. It is often said that higher tortious damages can deter tortious conduct.

A person will be less willing to engage in intentional tortious conduct if he knows he will have to pay for the harm; therefore, to the extent that a defendant can engage in tortious conduct and not be held fully accountable financially, the maximum deterrent effect of the law is not being realized. It is my belief that the higher levels of compensation required by this Bill and eventual law will help to deter tort behavior and help to make people within the government and at GMH more accountable and at the same time more fairly compensate victims even though not to the extent that cost of living changes would have equated.

It is also my opinion, that this Bill will be the step in the right direction to make government workers and most importantly medical staff at GMH accountable and responsible with higher tort penalties. Accountability leads to less apathy when doing one's job, which in my opinion, is part of the problem at GMH, a lack of accountability leading to apathy negatively impacting medical care.

I would also like to point out that in my opinion, as stated, the proposed amounts, while a good start, will not make a person whole again when you figure in legal fees, continued medical care for an injury and a host of other expenses that an injured person may face and have to pay for, including off island travel.

I support this law, being the realist that I am and from my own experience, I know it would take forever to get back to this table with anything better than this that would better compensate Guam citizens. THIS BILL IS A GREAT START.

And to finish, I would like to add my personal thoughts to this Bill or any similar Bills. I do not think that the people of Guam should pay for medical negligence at GMH, which is the case now and will be with this Bill. If a GMH doctor makes a negligent mistake, that doctor should pay for that mistake or at least in part, through their own malpractice insurance, not the taxpayers which perpetuates the apathy among our medical professionals knowing that they or anyone who works for the government are not responsible to those that they harm and in essence we, as injured citizens, are paying ourselves with our own taxes for their medical negligence.

I support this Bill and at the same time hope eventually for a full reform of the Government Claims Act to be more consumer realistic and accountable.

DAVID LUBOFSKY



Office of the Attorney General of Guam

590 S. Marine Corps Drive, Suite 901 ♦ Tamuning, GU 96913
671.475.3324 extension 5015 ♦ Fax 671.477-4703 ♦ Email ag@oagguam.org

Hon. Leevin Taitano Camacho
Attorney General of Guam

August 17, 2020

Honorable Joe S. San Agustin
Office of Senator Joe S. San Agustin
I Mina Trentai Singko na Liheslaturan Guahan
761 S. Marine Corps Drive, Suite B2
Tamuning, Guam 96913

via email senatorjoessanagustin@gmail.com

Re: Bill No. 215-35 (COR); An Act to Amend § 6301(b) of Article 3,
Chapter 6, Division 1, Title 5, Guam Code Annotated, Relative to
Maximum Limits of Governmental Liability

Håfa Adai Senator San Agustin,

This is to follow up the information I provided at the public hearing on Bill No. 215.

Our office processes claims against government of Guam line agencies as defined in 5 GCA 6103(c). Attached are spreadsheets containing information on government claims filed in the past five years against line agencies.

In CY 2019, a total of 12 tort claims were paid. Please see attached list for the amount claimed and the amount paid for the claims against the listed line agencies. Also, in CY2019, nine tort claims were disputed and no claims were denied or unpaid because the time to respond to the claim expired.

I hope this answers the questions raised by the Senators at the hearing. If not, please let me know if we can be of further assistance.

Sinsaramente,

A handwritten signature in black ink, appearing to read "Shannon Joy Taitano".

Shannon Joy Taitano
Chief Deputy Attorney General

cc: Senator Telo T. Taitague
Senator Kelly Marsh (Taitano), PhD

Tort Claims paid in CY2019

Agency Name	Amount Claimed	Amended Amount Claimed	Amount Paid
Guam Police Department	\$ 5,900.25		\$ 5,620.25
Guam Police Department	\$ 8,011.83	\$ 8,122.83	\$ 8,122.83
Guam Behavioral Health and Wellness Center	\$ 4,444.71		\$ 4,444.71
Guam Behavioral Health and Wellness Center	\$ 1,659.32		\$ 1,659.32
Department of Public Works	\$ 841.90		\$ 841.90
Department of Public Works	\$ 1,523.19	\$ 1,549.19	\$ 1,549.19
Mangilao Mayor's Office	\$ 4,500.00		\$ 3,240.65
Department of Agriculture	\$ 2,688.43		\$ 2,688.43
Department of Public Works	\$ 6,390.00		\$ 6,390.00
Department of Youth Affairs	\$ 2,836.36		\$ 408.35
Chamorro Land Trust Commission	\$ 4,338.29		\$ 4,338.29

5GCA Chap. 6 GOVERNMENT CLAIMS UNIT: *typically 6-months to respond to claimant

Description	2017			2018											
	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC
<i>*numbers are inclusive of autonomous & line agencies</i>															
CLAIMS															
Claims Opened/New	3	9	6	9	9	8	24	11	10	9	14	10	8	11	5
Claims Closed	11	1	1	8	6	3	9	9	8	10	5	1	25	11	14
Claims Denied	3	0	0	4	3	2	2	5	5	4	1	0	7	9	2
TOTAL CLAIMS	17	10	7	21	18	13	35	25	23	23	20	11	40	31	21
TYPES OF CLAIMS															
Contract/Collections	3	5	2	5	3	3	20	2	7	3	2	5	3	10	2
Total Torts	0	4	3	3	6	5	4	9	3	5	11	5	4	1	3
Employee	0	0	1	1	0	0	0	0	0	1	0	0	0	0	0
Tax	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
Land	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
TOTAL	3	9	6	9	9	8	24	11	10	9	14	10	8	11	5
TORT CLAIMS															
Auto Accident	0	0	1	0	4	0	1	6	1	0	5	1	2	0	1
Personal Injury	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0
Student Injury	0	0	0	0	0	2	1	1	0	1	1	1	1	0	0
Property Damage	0	0	1	1	0	1	1	0	0	0	1	1	0	1	1
Dormant Account	0	2	1	1	1	1	1	0	1	2	3	1	1	0	0
Negligence	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0
Wrongful Death	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Malpractice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
*Other	0	2	0	1	1	0	0	1	1	1	0	1	0	0	0
TOTAL	0	4	3	3	6	5	4	9	3	5	11	5	4	1	3
COLLECTIONS															
# of Claimants Rec'd	2	3	1	2	4	9	2	0	3	6	5	4	13	0	6
\$ Dispersed to Claimants	\$ 14,580.00	\$ 2,173.99	\$ 11,480.00	\$ 2,738.74	\$ 108,213.01	\$ 98,970.17	\$ 475.28	\$ -	\$ 10,410.92	\$ 22,298.89	\$ 269,936.46	\$ 157,870.64	\$ 211,233.12	\$ -	\$ 32,383.74
\$ from Dormant Accounts	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 70,563.38	\$ -	\$ -	\$ 8,138.21	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ from Claims Denied	\$ 8,220.00	\$ -	\$ -	\$ 19,303.35	\$ 4,283.04	\$ 15,224.00	\$ 3,000,000.00	\$ 14,788.92	\$ 37,172.87	\$ 109,632.07	\$ 5,500,000.00	\$ -	\$ 618,405.71	\$ -	\$ 17,084.43
TOTAL	\$ 22,800.00	\$ 2,173.99	\$ 11,480.00	\$ 22,042.09	\$ 112,496.05	\$ 184,757.55	\$ 3,000,475.28	\$ 14,788.92	\$ 55,722.00	\$ 131,930.96	\$ 5,769,936.46	\$ 157,870.64	\$ 829,638.83	\$ -	\$ 49,468.17

*Victim's Rights

*Unclaimed Funds

*Civil Rights

*Civil Rights

*Unclaimed
Checks

*Unclaimed
Checks

*Violation of Rights, discrimination

*Employee Rights

SGCA Chap. 6 GOVERNMENT CLAIMS UNIT: *typically 6-months to respond to claimant

Description	2019				CY 2020															
	OCT	NOV	DEC	Q1 Total	JAN	FEB	MAR	Q2 Total	APR	MAY	JUN	Q3 Total	JUL	AUG	SEPT	Q4 Total	OCT	NOV	DEC	Q1 Total
CLAIMS																				
Claims Opened New	5	6	10	21	0	11		11				0				0				0
Claims Closed	6	7	6	19	10	7		17				0				0				0
Claims Denied	1	2	2	5	8	5		13				0				0				0
TOTAL CLAIMS	12	15	18	45	18	13	0	30	0	0	0	0	0	0	0	0	0	0	0	0
TYPES OF CLAIMS OPEN/NEW																				
Contract/Collections	2	3	6	11	6	6		12				0				0				0
Total Tort	1	1	1	3	1	1		2				0				0				0
Employee	0	1	0	1	0	0		0				0				0				0
Tax	0	0	0	0	0	0		0				0				0				0
Land	0	0	0	0	0	0		0				0				0				0
TOTAL	3	4	7	14	7	7	0	14	0	0	0	0	0	0	0	0	0	0	0	0
TORT CLAIMS																				
Auto Accident	2	0	1	3	2	2	0	4				0				0				0
Personal Injury	0	0	0	0	1	1	0	2				0				0				0
Student Injury	0	0	0	0	0	1	0	1				0				0				0
Property Damage	0	0	0	0	0	1	0	1				0				0				0
Dormant Accounts	0	2	3	5	0	0	0	0				0				0				0
Negligence	0	0	0	0	0	0	0	0				0				0				0
Wrongful Death	0	0	0	0	0	0	0	0				0				0				0
Malpractice	0	0	0	0	0	0	0	0				0				0				0
*Other	1	0	0	1	0	0	0	0				0				0				0
TOTAL	3	2	4	9	3	3	0	6	0	0	0	0	0	0	0	0	0	0	0	0
*Other: defined as Victim's Rights, Unclaimed Funds, Violation o																				
COLLECTIONS																				
# of Claimant Rec'd	2	0	2	4	5	1		6				0				0				0
\$ Dispersed to Claimants (-)	\$ 3,793.16	\$ 5,159.50	\$ 10,702.31	\$ 19,654.97	\$ 19,503.94	\$ 99,188.34		\$ 128,796.52				\$ -				\$ -				\$ -
\$ from Dormant Accounts (-)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -				\$ -				\$ -				\$ -
\$ from Claims Denied (-)	\$ 41,725.00	\$ 18,047.61	\$ 11,768.77	\$ 71,541.38	\$ 125,979,737.18	\$ 146,498.60		\$ 178,176,333.89				\$ -				\$ -				\$ -
TOTAL	\$ 45,518.16	\$ 23,207.11	\$ 22,471.08	\$ 91,196.35	\$ 145,483.62	\$ 245,686.94	\$ -	\$ 226,972,830.41	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
*As per State Budget - \$ for dispersed to Claimants includes dormant accounts.																				

FY 2020 Oct-Sept	CY 2020 Jan-Dec
21	0
65	39
24	13
129	52
23	12
9	0
1	0
0	0
0	0
21	0
7	4
2	2
1	1
1	1
5	0
0	0
0	0
0	0
0	0
9	0
26	16
\$157,393.58	\$88,768.52
\$0.00	\$0.00
\$126,197,774.76	\$126,126,333.89
\$126,355,168.26	\$126,215,002.40

HIGHLIGHTS
EXAMPLES:
Any record number 5 dispersed?
2014 Oct 1 - Dec 31: 14.0412 Dormant Acct = \$31,773.08, 09.0425 Personal Injury = \$21,500
2015 Jan 1 - Mar 31: 14.0510 & 14.0716 Cont-Coll = \$27,229.82, 14.0576 Cont-Coll = \$29,280
2015 Apr 1 - June 30: 15.0257 Dormant Acct = \$70,789.24
*Other (list other torts here)
Oct 1 - Dec 31: State-dated check, fundraising permit revoked

SGCA Chap. 6 GOVERNMENT CLAIMS UNIT: *typically 6 months to respond to claimant

Description	Oct 1st Dec. 31st 2014	Jan 1st March 31st 2015	April 1st June 30th 2015	Jul 1st Sept 30th 2015	TOTAL
*Numbers are inclusive of amounts due from agencies.					
CLAIMS					
Claims Opened New	12	10	33	59	186
Claims Closed	18	29	16	16	79
Claims Denied	6	20	21	20	67
TOTAL CLAIMS	36	59	70	95	292
TYPES OF CLAIMS					
Contractor Collections	16	18	9	9	54
Total Torts	14	12	18	8	45
Employee	0	2	2	-	4
Pain	0	0	1	1	2
Land	0	0	0	0	0
TOTAL	30	30	23	20	103
TURTLE CLAIMS					
Auto Accident	2	1	1	-	4
Personal Injury	4	0	0	0	4
Student Injury	1	1	-	1	3
Property Damage	1	4	2	1	8
Dormant Account	2	0	4	1	7
Negligence	0	1	0	0	1
Wrongful Death	0	1	0	0	1
Mispractice	1	0	0	0	1
*Other	2	0	1	0	3
TOTAL	14	12	11	8	45
COLLECTIONS					
# of Claims Rec'd	24	5	10	4	43
\$ Disposed to Claimants	\$ 53,881.39	\$ 60,027.24	\$ 26,666.77	\$ 30,195.11	\$ 170,770.51
\$ From Dormant Accounts	\$ 19,266.02	\$ 18,777.59	\$ 70,299.24	\$ -	\$ 108,342.84
\$ from Claims Denial	\$111,223.45	\$281,469.89	\$40,891.94	\$241,391.10	\$1,054,976.38
TOTAL	\$384,370.86	\$950,274.72	\$137,858.95	\$551,586.21	\$2,024,080.74

HIGHLIGHTS

EXAMPLES:

Any record number & dispersed?

2014 Oct 1 - Dec 31: 14.0802 Dormant Acct = \$31,773.08 09.0425 Personal Injury = \$21,500
2015 Jan 1 - Mar 31: 14.0510 & 14.0716 Cont-Coil = \$27,229.82, 14.0576 Cont-Coil = \$29,280
2015 Apr 1 - June 30 15.0257 Dormant Acct = \$70,789.24

*Other (list other torts here)

Oct 1 - Dec 31 | State-dated check, funds not yet received

Note: 1 unknown type of claim
AG#6,071b

*Other

Oct 1 - 31: State-dated check, COLA prints escheated

AG110855 CV1252-15 James Nanguta vs. Dept Public Works
 Settled \$30,000.00 (not included in above \$ Dispersed to Claimants)
 funding from "Government Claims Fund"

previous deny¹⁰ Govt Claims change of status to Court Proceeding
\$300,000.00 claimed for damages

SEPTEMBER 2017 REPORT

AG14-0035 CYN009-16 Erik Rasmussen et al vs. Dept of Corrections
Settled \$26,000.00 (not included in above \$ Dispersed to Claimants)
funding from "Government Claims Fund"

Govt Claim change of status to Court Proceedings
\$100,000.00 each claimant (5-6 claimants)

FY 2019 Oct-Sept	CY 2019 Jan-Dec
44	41
131	107
52	45
217	156
60	56
14	15
2	3
1	0
0	0
44	41
7	7
1	1
1	0
10	8
9	13
0	0
0	0
1	0
1	2
14	15
61	53
\$509,827.69	\$335,139.74
\$74,366.30	\$74,366.30
\$3,361,703.25	\$1,022,318.15
\$3,945,897.24	\$1,431,824.19

Oct 1 - Dec 31: State-dated check, fundraising permit revoked

*Increase its role

*A(1) b. Considered from 3 to 4 - has only 1 string "pentad"
for AG (determined 3 rows are equal with the AUL report
was tabulated (see AG 9 81 Z))



SENATOR JOE S. SAN AGUSTIN

Chairman, Committee on General Government Operations, Appropriations, and Housing
I Mina' Trentai Singko na Liheslaturan Guåhan Thirty-Fifth Guam Legislature

Committee Report Digest

I. OVERVIEW

Bill No. 215-35 (COR) was introduced on **October 07, 2019** by Senators **Telo T. Taitague, Louise B. Muña, Kelly Marsh (Taitano), PhD** and **William M. Castro** and was subsequently referred by the Committee on Rules to the Committee on **General Government Operations, Appropriations, and Housing** on **November 20, 2019**.

The **Committee on General Government Operations, Appropriations, and Housing** convened a public hearing on **Friday, August 07, 2020** at **9:00AM** in *I Liheslatura's* Public Hearing Room

Public Notice Requirements:

Public Hearing notices were disseminated via e-mail to all senators and all main media broadcasting outlets on **Friday, July 31, 2020** (5-Day Notice) and again on **Tuesday, August 04, 2020** (48-Hour Notice).

Senators Present

Senator, Joe S. San Agustin, Chairman

Senator, William M. Castro, Member

Senator, Kelly Marsh (Taitano) PhD., Member

Senator, Jose "Pedro" Terlaje, Member

Senator Telo Taitague

Appearing before the committee:

- Attorney John Richard Bordallo Bell, Esq.
- Attorney Robert Keogh
- David Lubofsky
- Shannon Taitano, Chief Deputy, Attorney General's Office

Written Testimony Submitted

- Attorney John Richard Bordallo **Bell, Esq.**
- Attorney Robert Keogh, Keogh Law Office
- David Lubofsky, Private Citizen
- Shannon Taitano, Chief Deputy Director, Attorney General Office

II. SUMMARY OF TESTIMONY & DISCUSSION

The public hearing was Called-to-Order at **9:10AM**.

Chairman Joe S. San Agustin: Good morning, The Committee on General Government Operations, Appropriations and Housing is now called to order. Today is Friday, August 7th and the time now is **9:10**. I'd like to first number one, apologize for we started late and what we had to do was just set up the panel so we can get all four panelists to be able to speak one time and then we could we could move this a lot more efficiently. Notice for these public hearings were disseminated via email to all senators and main medium broadcasting outlets. First public notice was issued on Friday, July 31st, second notice was issued on Tuesday, August 4th. The committee will hear and accept testimonies on **Bill 215-35 (COR)** sponsored by Senators, authored by Senator Minority Leader, Senator Tello T. Taitague, co-sponsored by Senator Louise B. Muña, Senator Kelly Marsh and Senator Will Castro. An Act to Amend Section 6301 (b) of Article 3, Chapter 6, Division 1, Title 5, Guan Code Annotated, relative to maximum limits of Governmental Liability. I'd like to acknowledge my colleagues that have joined me to my immediate left is the Minority Leader, Senator Telo Taitague and to my immediate right is Senator Will Castro.

The general rules for this public hearing shall be as follows: Those testifying on behalf the Bills will be recognized by myself and I will recognize them right now so we just have to identify them up front. We have David Lubofsky, Robert Keogh, if I murder your name please tell me and I can correct it. John Bell and Shannon Taitano. All right written testimony shall be submitted to the committee please provide my legislative staff with your written testimony for photocopy. Testimony may be read and lengthy testimony should be summarized to about five minutes but if you need more time just please continue, hopefully it's not a whole hour but you know please feel free. Testimony shall be confined to the substance. We're talking about the bill; we try to focus on the bill. We may go a little bit outside of it and there's not a problem on that one. We can work around this individual. You all be allowed to present all testimony and once you're done you are now being asked to remain in the room for additional questions or additional testimony as may be desired by the members of the committee. Proper forum/decorum shall be practiced by all present in the Public Hearing Room for these proceedings. Individuals who fail to maintain proper forum/decorum may be restricted from providing oral testimony and or may be asked to leave. When you speak please make sure that the microphone is "on" and that you speak into the microphone. Please state your name and your title for the record. If you have any other than being a concerned citizen, we'll now begin to discuss **Bill 215-35**.

I will now begin with Mr. Dave, oh I apologize, oh I forgot I'll ask the author of the bill to please give her opening statement on her bill. Thank you, thank you, thank you.

Senator Telo Taitague: *Si Yu'os ma'åse'*, Mr. Chair and *Håfa adai*, and thank you Mr. Chairman for scheduling this public hearing on **BILL 215-35** which seeks to increase the maximum limits the Government of Guam is authorized toward claimants through the Government claims act as provided in Chapter 6, Title 5, Guam Code Annotated for reference Mr. Chair according to BBMR's fiscal note on **Bill 215** from a period of 2015 to 2019 which averaged 235,500 in legislative appropriations only 65.7 only 65.75% of the funds appropriated by the legislature for the Government of Guam claims was spent. Mr. Chair **Public Law 13-116** enacted in December of 1975. Limited claims against the Government of Guam to \$35,000 dollars in an action of wrongful death and not more than one hundred thousand in any other tort action the Government claims act was later repealed and re-enacted in November of 1983 by the 17th Guam Legislature through **Public Law 17-29** which increased the limits on claims against the Government of Guam to 100 000 in an action for wrongful death and 300 000 in any tort action. Mr. Chairman, we cannot sit idle or wait another 40 years before we update our Government claims law and provide fair and just compensation to victims considering a number of other U.S. jurisdictions have much higher caps for an example Oregon's liability cap ranges between 126,000 and up to 4 million. Vermont authorizes an award of 500,000 to any one person and that the maximum aggregate liability shall be two million to all persons arising out of each occurrence, and the Georgia department of human services is authorized to pay 1 million dollars for each person and three million dollars per aggregate occurrence.

Mr. Chairman included in **Public Law 17-29** from 1975 which was the last time the maximum limit of the government claims act was adjusted in a comment made on the record which reads the tort limitations are raised to take into account inflation increase court awards and the need of the victims of the tort unquote while the intent of **Bill 215** doesn't take into action further findings finding needs should there be higher awards authorized the measure recognized the current limits on government liability haven't been adjusted since 1975 and that these caps should be increased in order to commensurate with the rising cost of health care legal defense and court fees and other goods and services *Si Yu'os ma'åse*, Mr. Chair for moving forward with **Bill 215** and for this opportunity to briefly introduce this measure. I look forward to listening to the testimonies this morning and to making any amendments that be necessary to strengthen this legislation. *Si Yu'os ma'åse*.

Chairman Joe S. San Agustin: Thank you, Senator, Senator Telo, Senator Taitague, we will now begin with Mr. Dave Lubofsky, sir.

David Lubofsky: Okay. my name is David Lubofsky, thank you, Senators for allowing me to submit and give testimony today. First of all, I wanted to say I'm a UOG graduate of 1976 and I can tell you, cost of living is really different from today than it was back then. So, in effect I'm in support of **Bill 215-35**. **(SEE WRITTEN)**.

While protecting the taxpayers at the same time thank you.

Chairman Joe S. San Agustin: Thank you sir, sir, Mr. Robert Keogh.

Attorney Robert Keogh: Yes.

Chairman Joe S. San Agustin: All right, I'm on track thank you.

Attorney Robert Keogh: Good morning, thank you for giving me this opportunity to speak. I've submitted written testimony which I'm not just going to read I will just submit that into the record. I will state that I am a private law practitioner, I've been out here for nearly 43 years. I generally represent plaintiffs in injury claims, I've represented numerous claimants in government claims act claims the concept of caps is something that is imposed in order to protect the fiscal health of in this case the government and I understand that point however, it does place the burden on those who are injured. I've also given a citation to a website that lists out what the cap situation is in all 50 states. Many states have no caps whatsoever. Guam currently and even under this proposed legislation would be at the low end of the scale of caps, many of the caps as a senator said during her opening statement, go up into the millions the first line of defense against any kind of frivolous claim is the judges, the courts.

I put an example in my testimony of a case I handled about two years ago of a young six-year-old girl who had the tip of her finger severed by an accident where two school buses negligently actually racing each other crashed side by side, windows crashed in, she lost the tip of her finger. The Attorney General's Office forced us to go to trial on that case, they refused to settle and at the end of a two-day trial Judge Lamorena awarded that young six-year-old girl even though as judge La Morena said from the bench, oh my goodness it's her wedding ring finger the tip of her finger was gone at six years old; it'll never grow back; it's gone for the rest of her life. He ordered her thirty-five thousand dollars of course. I argued that the claim had greater value than that but Judge Lamorena disagreed and there's no arguing with that. The judges control damages up to a maximum limit that's imposed by law. My only comment on this is that yes, this is long overdue to increase the limit. I would prefer personally that there be no limit at all but I understand that's not going to happen, it is the case in many jurisdictions that there are no limits and damages are what the damages are. It's what a judge would determine the value of the claim to be. You don't get jury trials against the Government of Guam so you don't have the risk of a what's called a runaway jury, of a jury awarding a billion dollars to somebody because they're angry at what happened. You're not going to have a judge do something like that. The caps are there simply to protect the budget of the Government. You cannot sue the individual Government employee personally; they have immunity for their actions done within the course and scope of their employment.

The only comment I would add to this bill is to put in a provision of retroactive application because if that's not there it will only be applied prospectively from the time that it is imposed if you have retroactive application it would give this increased potential of recovery to those whose claims are pending or have already accrued but have not been pursued yet. The second line of defense that I would talk about here is enforcement of the Government Claims Act alone the Government Claims Act in and of itself works if it is enforced there are provisions within the act for example, you're given the government agency is given six months from the time of filing the Government claim to investigate in 40 plus years. I have never had a government agency settle a claim within the six months. They use that six months to let time pass maybe this claim will be resolved on somebody else's watch not mine and I have always every single time had to file a case in court, once the case is filed in court there have been settlements more often than not we end up going to trial on these and have a judge decide liability and damages in the Government Claims Act there is a provision that says if the government does not investigate the claim during the six-month period. The superior court judge may award attorney's fees in addition to whatever the damages are to the claimant in all of these years I have never had a

judge award attorney's fees. There's just no enforcement of that provision there's nothing I can say that either this legislation or claiming that you know putting the government claims act instead of making it may compel an award of attorney's fees to have government agencies actually investigate claims and resolve them without having to use the resources of the courts. I endorse this legislation; I agree that it's not far enough but it is a step in the right direction so I complement the legislature for taking this under consideration thank you.

Chairman Joe S. San Agustin: Thank you sir, Mr. John Bell, sir

Attorney John Richard Bordallo Bell, Esq: Hey, good morning.

Chairman Joe S. San Agustin: Your good next senators, I thank you for your time and inviting me to address this issue. I think a brief personal background is sometimes requested so what it's worth. **(SEE WRITTEN TESTIMONY)**. And wanted to just chime in a little bit on a couple of things that Attorney Keogh said as far as retroactive application. I think that makes a lot of sense. I don't think, I think you know I'm no expert on exposed factors law but my general recollection is for criminal statute. You can't do that but for civil statutes, you can't so it could be retroactive. I think that would be fair and actually make a lot of sense and then the attorney's fees provision I won't, I'm just going to stick to this topic but I will say that in other areas of law very similar, it's extremely frustrating when you don't get attorney's fees and sometimes when you're dealing with the government, they just kind of make things expensive and difficult for as long as they can and that really runs up the attorney's fees and so I would just chime in to agree with Mr. Keogh that attorney's fees would be great especially in the circumstances that he discussed where it doesn't seem like the government's really doing a good faith effort sometimes to try to resolve the claims at a low level so thank you again for the opportunity to testify.

Chairman Joe S. San Agustin: Thank you sir, Ms. Taitano.

Shannon Taitano, Chief Deputy, Attorney General Office: Thank you, if you can't, is that better? Okay thank you, my name is Shannon Taitano, I'm the chief deputy at the Attorney General's Office, I'm here because our office handles or processes or receives claims for line agencies only and I won't repeat what the other gentlemen provided in their testimony. Our office of course doesn't take a position on the measure but we recognize that it's the legislature's purview to set the caps, adjust the caps and we acknowledge the fact that it's been many years since these caps were established. As I said, our office receives government claims on behalf of the line agencies and for purposes of my presentation today I just wanted to provide us stats or information on the number of claims that we have currently. So, pending at our Office, claims against line agencies there are 68 as it pertains to this measure which is to increase the caps for torts. We have six auto accident torque claims, two other torque claims that are employee related or negligence and then two personal injury claims and three property damage claims. I also have stats for a year's fiscal years prior to this current fiscal year and we'll submit that in with my written testimony. I don't want to take up any more of your time but if you have any questions for me and I am happy to answer it, all right, thank you.

Chairman Joe S. San Agustin: Thank you, Miss Taitano, I'd like to also recognize two other colleagues, that have joined us, Senator Pedro Terlaje, and we also have Senator Kelly Marsh Taitano, thank you I would like to start asking just a few questions and make a few comments for today for Mr. Lubofsky on your page two, I agree with you totally on your last paragraph but we need to figure out how we can make that work and I'm going to re, I'm going to read his statement so that everybody hears why I support it. On the second sentence I don't, I don't think the people of Guam should pay for medical negligence at GMH. I agree with that taxpayers shouldn't be paying for somebody that if your negligence you're accountable, you pay for it, that's why you got the profession, do your job, do it right, hopefully do the best you can. Then it goes on further, the doctors should pay for that mistake or at least in part through their own malpractice insurance not the taxpayers which perpetrates the apathy among our medical profession knowing that they are or anyone who works for the government are not responsible.

Those that are harm and in essence we as interim citizens are paying ourselves for our own taxes with our own taxes for their medical negligence. I agree with that Dave, I just wanted to make that statement clear with Mr. Keogh, I've listened to all hearings and I, your testimonies, I noticed on the very bottom you met, you asked for a retro amendment, what were you, what are we looking at? You're looking at going back what? One year, two years or is any specific period because we don't want to identify it by people who identify by time period right? Maybe that's I'm going to assume, that's what you're after retro. Retro if this bill was to pass, we're retrieving it to what January 2020 or we're looking at how far back?

Attorney Robert Keogh: It would be the date that the claim accrued and that within the statute of limitations, the statute of limitations on a government claim well any negligence claim is two Years so if the claim has accrued within the past two years and this new cap would apply to that claim if the claim has already been filed and is pending either administrative action or in court it would apply to that claim but not beyond the statute of limitations, it's the date of accrual of the claim.

Chairman Joe S. San Agustin: Oh okay, okay, I can agree to that, I just thought there was any specifics if it's not stated in the law, it's going to be up to the court to interpret what the intent was and the question is whether the state when we get injured it's for life, which the injury is for life and we get compensated appropriately by the veterans administration so I was just kind of like kind of bothered by that but I'm not going to get into it too much. I like to focus and I work with the author of the bill so we can take a look at the amendment to do it retro to when it was applied and within the statute of limitation all right Mr. Keogh.

Attorney Robert Keogh: Yeah, my point on that case has nothing to do with the actual intent of this statute, my point is that the first line of defense for the government is the judiciary and I mean I will say our judges here are conservative in awarding damages so you put a 200,000 or a 500,000 cap on an injury that doesn't mean you're going to get 500,000 for every injury you get. What a court decides is the value of your claim.

Chairman Joe S. San Agustin: Yes.

Attorney Robert Keogh: So, that's the line of defense to protect the government's fiscal health.

Chairman Joe S. San Agustin: All right, thank you, sir, and on Mr. Bell, I'm just, when I read your statement because you have a personal note on it on exactly what happened, you have a personal not exactly what happens and that's something that the people of Guam have noticed that when the government fail to protect our own people by removing these dangers out there it's amazing. I was just continuing to do business, no differences it's like everybody's saying when you're driving down Marine Drive or when you're walking on the sidewalk when you got this big power pole on the sidewalk, that's not a sidewalk no more, that's a power pole walk, they need to be able to identify and I'm really hoping that GPA would go into that motion before they put the pole, make it be a true sidewalk and put a rail, yeah because exactly what you wrote here, shouldn't have happened.

Attorney, John Richard Bordallo Bell, Esq. Thank you,

Chairman Joe S. San Agustin: And I'm really hoping that the government takes note that if this bill passes, we need to find a way there because you mentioned something, I think both of you mentioned about their attorney's fees, is that being taken? Is that being awarded? Is this part of this package or no?

Attorney, John Richard Bordallo Bell, Esq. I'd refer to Mr. Keogh on that one um but.

Attorney Robert Keogh: What I'm sorry what's the question?

Chairman Joe S. San Agustin: When you got the attorney's fees for getting paid, for if you win, if you win you know, win the settlement or is that being taken care of and is it part of this compensation of payment?

Attorney Robert Keogh: Yeah, under the current law and this law would not change that under the current law you do not, you're not awarded, you're not capable of being awarded attorney's fees on an injury claim, unless there is a finding by the judge that the government agency did not investigate the claim during the six-month investigative period, then you can be awarded attorney's fees but it doesn't happen so, no there is no award of attorney's fees against the government.

Chairman Joe S. San Agustin: So, the government wants they can drag their feet all they want is basically what I'm hearing and nothing happens and everybody spends money. The victim the turn everybody spends money but and it's okay is that basically what I'm hearing sir,

Attorney Robert Keogh: Attorney's fees.

Chairman Joe S. San Agustin: I'm hoping not to hear that but I'm that's what I'm interpreting.

Attorney Robert Keogh: Attorney's fees would have to come out of whatever the award is out of that 35,000 that young girl got. She had to pay a percentage of that to me to take her case all the way to trial.

Chairman Joe S. San Agustin: Maybe we need to put some sort of amendment there so that they understand that when the government doesn't do their due diligence then somebody's got to pay you know it's got to work and there's a reason why people sue, they're not suing to make a living, they're suing for negligence and for so forth and so forth so I just wanted to make that statement sir, thank you sir. Senator Taitague, the author of the bill.

Senator Telo Taitague: I have no further questions.

Chairman Joe S. San Agustin: I'm in support of the bill, Senator Taitague, and if I can be a co-sponsor, I'd appreciate it thank you.

Senator Telo Taitague: Absolutely Mr. Chair and then thank you so much. I think your comment with the retroactive application is your door in by making that amendment to the bill and we'll work with legal to ensure that it's done properly. You know I also would like to express my *dankulu na Si Yu'os ma'ase* for my co-sponsors, Senator Louise Muña, Kelly Marsh Taitano and Will Castro for being co-sponsors and understanding the importance of making individuals whole and there are a couple questions I'd like to ask the Attorney General's Office, so Shannon, on an average.

Shannon Taitano, Chief Deputy, Attorney General Office: Yes.

Senator Telo Taitague: How many months or years do claimants have to wait until their claims are fully paid by the government?

Shannon Taitano, Chief Deputy, Attorney General Office: Well the government, for towards the torts are paid after the government claims fund the government claims fund is actually administered by the Department of Administration but when the claims come in we work with the agencies to determine or and review the claim against the agency and if we are able to receive basically an affirmation from the agency that the damage did occur as a result of the Government, we then would prepare a document for the claimant to sign and then we forward that to the Department of Administration to issue a check so we can't, we don't actually control when the check is issued.

Senator Telo Taitague: I see oh so that's all in the control of Department of Administration?

Shannon Taitano, Chief Deputy, Attorney General Office: That is correct, the government claims fund pays for tort claims and so that is administered by the Department of Administration not our Office, we don't issue checks well when the checks are released from the Department of Administration, they are forwarded to our office and then we contact the claimant and they're able to pick up the check but the actual cutting of the check is a Department of Administration function.

Senator Telo Taitague: And have you heard that uh sometimes when the claimant was awarded and found that they were, it was definitely a negligent on the part of the government that DOA has sometimes put into like payment plans to the claimant and not awarding them the full amount upfront and that it's caused some kind of you know delay in making them whole right away, have you heard of that?

Shannon Taitano, Chief Deputy, Attorney General Office: No senator, I have not heard of a.

Senator Telo Taitague: Okay I will seek that answer from Department of Administration, now that I know that the Attorney General has nothing to do with the payment to the claimant that it is now at DOA so we'll seek some answers to some of my questions with regards to that you mentioned earlier that you have pending 68 cases.

Shannon Taitano, Chief Deputy, Attorney General Office: Yes. okay currently, yes Senator.

Senator Telo Taitague: Of those claims how many were, well it's pending but what is the average? does the Attorney General of course it's the judge that makes a decision on how much to be awarded

Shannon Taitano, Chief Deputy, Attorney General Office: But well if I may so at the administrative level, we would work out what if we don't give the full amount then we'll determine you know through review analysis and discussion within our office and our client, what should the amount be and if the claimant agrees to that amount, we then pay the claimant that amount, if for and there are cases I acknowledge that sometimes the claim is not resolved at the administrative level and it goes to court, the court will then determine what that amount would be to pay the claimant or in that case it's now the plaintiff

Senator Telo Taitague: But a lot of times The Attorney General's Office is there to try and settle the case with the claimant?

Shannon Taitano, Chief Deputy, Attorney General Office: Yes, we try to again, we have to work with the agencies because we don't know what actually happened so we have to investigate with the agencies on what actually happened to determine the liability of the government and if there is a liability what amount should be paid to toward the that liability.

Senator Telo Taitague: Shannon, can you speak to the process in which an individual coming who are suing the Government of Guam, they felt they were for instance you know Attorney McDonald, what happened to him? Where he sued the Government of Guam, that was mentioned in the testimony from Mr. Bell in fact I didn't have the article here with regards to the award would happen which I'm that's it's terrible McDonald but can you explain for the listening public how this actually worked the process if I were to feel that I was you know hurt and it was I felt it was a fault of the Government, what is my first step and can you also mention in that process timelines it's very important for timelines.

Shannon Taitano, Chief Deputy, Attorney General Office: Absolutely so, if an individual wants to file claim against the Government of Guam against our line agencies, they could come to our Office, we have a claim form at our office that they could fill out. It has all the statutory information that's required to be included in the claim and then after that we then would review it with the agency that is being accused of the action if you will the claimant has 18 months from the time the claim or injury arose to file a government claim with our office. I believe that's what the statute said and any of these attorneys can correct me if I'm wrong but and then if and you as Attorney Keogh said our office usually reviews these claims within six months and tries to provide the claimant and answer within that time if they don't hear from us, they of course can go to the court to appeal or if they don't like our position they of course have the option of going to superior court to file an appeal.

Senator Telo Taitague: If I may just to interject right here to verify after the claims is filed to the Attorney General, the individual, then the Attorney General's Office has six months in order to respond to this claimant?

Shannon Taitano, Chief Deputy, Attorney General Office: Yes, that's my understanding usually you take six months to try and review and resolve these claims

Senator Telo Taitague: Okay. And if not then they go to and if not that the attorney general's office did not step in or you know to try to go in for a settlement or anything like that the time, the clock has run out then at that point the claimant then could go to the courts to file suit with the courts but does that still so that means they would have to go there and while they're there the attorney general can still have the opportunity to approach the claimant.

Shannon Taitano, Chief Deputy, Attorney General Office: Oh, yes okay that time we can certainly try.

Senator Telo Taitague: And okay so and on an average how many cases are in one year let's say you have let's just give a figure 50 cases in one year how many of those are usually not addressed within the six months period?

Shannon Taitano, Chief Deputy, Attorney General Office: I don't have that information in front of me but as part of what i will submit to the legislature, I'll include that.

Senator Telo Taitague: I greatly appreciate that because that's you know time for everybody's money and you know long period of time like anything even in construction the longer you wait it costs money every day you know so there plus your case is important you know time wise to prove a case so then after that after six months if the attorney general does not contact the client claim it then after that happens it could go to court and then what is the 18-month period comes in they have 18 months can you explain that time frame?

Shannon Taitano, Chief Deputy, Attorney General Office: Yeah, I believe the statute and I apologize because I don't handle government claims in our office but the way I understand it from our claims officer in our litigation division is the statute says they have 18 months from the time the claim arose to file a claim with. If it's against the line agency. Okay, office and then if they have a claim against an autonomous agency such as the hospital, they would follow directly with them.

Senator Telo Taitague: Okay so they it's a statute of limitations, to 18 months if I'm not mistaken

okay so within the time of the accident and they have 18 months so it's a statute and I've noticed too when I was doing my research that a lot of times it is two years you know, the majority yeah.

Shannon Taitano, Chief Deputy, Attorney General Office: Yeah it can be two years if they don't hear from our office I believe if they don't 18 months to 20, 18 to 24 months right okay it's 18 months if they get a response from our office and if it's 24, I believe that they don't if they don't.

Senator Telo Taitague: If they don't hear from your office so they can actually start the clock with just one acknowledgement of your claim and saying that we are reviewing it and then then the time clock okay

Shannon Taitano, Chief Deputy, Attorney General Office: No, it's from the time the claim arose.

Senator Telo Taitague: Arose right okay. So that's the process and then whether you go to court or you settle with the attorney general's office.

Shannon Taitano, Chief Deputy, Attorney General Office: Well yes.

Senator Telo Taitague: Pretty much.

Shannon Taitano, Chief Deputy, Attorney General Office: When we handle the settlement on behalf of the agency okay that the claim is against.

Senator Telo Taitague: Okay, Attorney Keogh, you mentioned of course, you know the enforcement of government claims act part that section the enforcement, can you explain a little bit more by what you mean by you know the enforcement of the government claims act what did you mean by that exactly?

Attorney Robert Keogh: Right, what I was referring to was the attorney's fee provision that says if you do not, if the government agency does not investigate the claim within the six-month period that it has under the administrative process the court is authorized to award attorney's fees so when I was talking about enforcement, I was saying the court has the right to award attorney's fees, they just don't do it.

Senator Telo Taitague: I see.

Attorney Robert Keogh: So, I mean from my experience and my experience is just one snapshot, I'm only one attorney practicing here but I've never had a court award attorney's fee for non-enfo non-enforcement. I will say that in in that case with the young girl there was another case I had a few years ago where a young high school student was in when they used to have these what did they call them on graduation day or homecoming day they would have these parades of cars. There was a term I forget what the term is motorcade thank you. They would have these motorcades I think they're not doing those so much anymore because this young

girl was in a teacher's car in a motorcade and that car was speeding, it was raining, it crashed into another car and she was catastrophically injured that claim was against the Department of Education. They fought it eventually I think on the eve of trial that case was settled for the statutory limit and then it took years for the government to pay that it was paid bit by bit as Attorney Taitano mentioned. It was done through the Department of Administration. They paid it, twenty thousand dollars, every six months or so it took years to get that paid because there's no ability to bring an enforcement action against the government. You can't go and attach the legislature's building or any other government funds. You can't go and attach them it's just up to the Department of Administration to pay these judgments off so that's what I'm talking about enforcement is that there are laws in place that help claimants bring their claims it's up to the courts to enforce them.

Senator Telo Taitague: Is there any laws in other states because I was looking through in all the states and reviewing it, excuse me, but it was talking about you know statutes limitations liability limits but it never said anything there in particular with attorney's fees being awarded upfront shall be awarded or anything like that do you have any kind of information with regards to that if not you know I'll do my research anyways to receive it right to review it but is there anything that we can put in this legislation that would require the courts to address to make whole not just the claimant but you know the claimant's responsibilities which means medical bills and attorney's fees.

Attorney Robert Keogh: Yeah, well awards of attorney's fees can only be done by two methods one if you have a contract and the government wouldn't have a contract with an injured person or by statute there are statutes in throughout the nation federal statutes the civil rights act for example if you win on your claim you can get an award of attorney's fees but it has to be by statute again that's beyond the purview of this statute but if the legislature were to consider putting an award of attorney's fees into a government claims act I would be here endorsing that because what that would do would be to give further incentive to settle these cases which is what everybody wants you want these claims settled not to have to go to court to get a judge to award your damages.

Senator Telo Taitague: And then and that's exactly my point you know you know deter you know we talk about deterrence and this is one way to do that as well you know even on the processing of litigation you know it's important to you know avoid any you know hardship on both sides.

Attorney Robert Keogh: Yes.

Senator Telo Taitague: On the government side as well as the claimant so I greatly appreciate it allow my colleagues to have any questions that they have and appreciate every I mean, greatly appreciate you guys being here thank you.

Chairman Joe S. San Agustin: Thank you Senator Telo, Senator Will and you'll be followed by Senator Pedro. thank you.

Senator William M. Castro: Thank you so much Mr. Chairman, thank you gentlemen and the kind attorney down there Ms Taitano, thank you so much for coming. Your legal insight and revelation of the gaps and the current laws and practices helped heighten my awareness of this situation personally so thank you. *Lao put guaho*, Mr. Chairman, I think just as a matter of principle that no amount could cover the physical loss or the loss of life or trauma associated with this but I am completely on board with this bill again to the principal author because of the principle of the matter it's right up there in my humble opinion Mr. Chairman as you said we can go off on a slight tangent but there's parallel with the war claims amount which too should also be adjusted to net present value because if we don't adjust it to modern times that Senator Taitague is attempting to do by what disincentive will we have to compel practitioners to do it right the first time and when it matters the most so thank you I stand here in reaffirmation and my support for this bill in its current form and in concept I also support the few amendments that were recommended by this legal panel so thank you so much I appreciate it thank you Mr. Chairman. Thank you Senator Taitague.

Chairman Joe S. San Agustin: Thank you, Senator Will, Senator Pedro, do you have any questions you would like to post into the panel? sir.

Senator Jose "Pedro" Terlaje: First off thank you Mr. Chair and I want to thank the author of the of the bill Senator Taitague and I also want to thank the panel for their expertise in presenting the issues regarding this particular bill. I agree with the bill but at this point in time I don't really support the bill there's a lot of issues to this bill the amount mentioned bothers me a lot because I would say that there's no amount of money that can replace the life of a person and this is one of the things that I, when I was reading this bill another thing that I am concerned about for example is the medical professionals you know the amount of liabilities for the doctors if for example unintentional and there's going to be a lot of reluctance on these medical professionals if we were going to hire them to work for the hospital so we need to consider some kind of compromise with the insurance company to cover the doctor because no doctor is going to say I'm going to accept you know paying a million dollars or three hundred thousand dollars for something that I didn't mean to do and of course we know that there's some medical treatment that occurs and the doctor tried his very best to save that person but however you know our creator is the will for the life of us and it concerns me because what are we going to do we don't have enough medical professionals that have the skill for certain medical problems that we have if I am a doctor and I face the liability for some even unintentional wrongdoing on my part as a doctor and I try to do my best to save a person I will not work for the hospital so I asked Mr. Chairman if we can, I'm not recommending that we send this bill back to the committee but I'm asking that all the senators and invite all the doctors and invite the administrator for the hospital for example to join us and dialogue and interact and come up with some of the issues that we need to satisfy this particular deal that's my concern and like I mentioned the amount is the amount is way too low if we want to look at it and like I mentioned in the beginning there's no amount of money that can replace the life of a person and I want to thank the authors the bill for coming out with this because I like the bill. I like the intent of the bill but I don't really support this kind of bill until we get everybody together those professionals and the insurance companies the senators and even the governor to come out and not compromise but talk this thing over because a lot of people does not agree with the amount especially doctors and not

only the doctors at the hospital or doctors at medical clinic but also the government itself right now we're facing a dilemma in in our economy and we're talking about making this amount building the amount that is actually recommended but I don't see the amount as reasonable the amount is very low and I like I have, I appreciate with one of our guests here that you know the amount is way too low so Mr. Chair, I asked because I'm not going to refer this bill back to the committee but I think we should interact and discuss the issues that will come by if we pass this bill. I'm concerned about you know the medical professionals and I'm concerned about the government also so; we need to go back and talk about this Mr. Chair and maybe we can create some kind of compromise that is conclusive to the intent of this bill thank you, very much Mr. Chair.

Chairman Joe S. San Agustin: Thank you Senator Terlaje, Senator Kelly Marsh Taitano.

Senator Kelly Marsh (Taitano) PhD: *Si Yu'os ma'ase*, Mr. Chair and to all of you for participating today each of you provided really important considerations for us. This is important for us to revisit this is why when the author discussed this with me and we talked about how the rates hadn't been increased or adjusted in 40 years it definitely seemed like it was something that needed to be looked at so I have a few questions for Attorney Taitano, how often if to the best of your ability, how often has a claim reached that threshold just for contextual information? Does it happen very often?

Shannon Taitano, Chief Deputy, Attorney General Office: Well I believe when the claims are filed, they may more than likely will ask for the maximum. I don't have the amount that was actually paid out versus the claim but as I told Senator Taitague earlier I will provide the information when I submit the data that we've compiled but just be mindful that the data that we will be presenting to the legislature is only for line agencies. It doesn't include the hospital which may be a significant number of medical claims right for negligence or wrongful death. So, what I will be providing is just a representation of claims against line agencies and as I said earlier for an exam for example we have pending 68 claims at our office but a majority of that are contractual claims and the rest are tort claims so although we do receive torque claims it seems like a majority of the claims at least right now with our office are contractual but as I but I will provide this information to the legislature after today's hearing situation I think that information you know all the contextual information we can get is going to be really helpful and it's also important to know as you were saying that the claimant would perhaps ask for the maximum amount and then it will be up to the negotiation or the court decision to find out that final agreement.

Senator Kelly Marsh (Taitano) PhD: Is there such a thing as a typical state government threshold or is there a range to your understanding of what states at this point typically have as their thresholds?

Shannon Taitano, Chief Deputy, Attorney General Office: I haven't actually researched other jurisdictions. I believe Attorney Keogh mentioned in his presentation that some other states have thresholds and he did indicate in his testimony and he could correct me if I'm wrong that this the one being proposed in this legislation is on the lower end compared to other

jurisdictions but I don't know what the other jurisdictions are because of course naturally you want to find one that's similar to Guam. especially in.

Senator Kelly Marsh (Taitano) PhD: The other jurisdiction or other states have as their thresholds or if a threshold is indeed common

Attorney Robert Keogh: Yes, I can leave this with the legislature if you wish, it's a printout of a website that lists the 50 states and what their damage caps are and you know you can go through them. The state of Washington none the state of Iowa none some of them are you know it appears if this could find some others. Indiana five hundred thousand and seven hundred thousand so we are on the low end at one hundred thousand. We're below any jurisdiction at 200,000 we're still at the at the low end and so I mean comparing us to other states of course the Guam. Tax base is probably lower than the state of Washington's tax base for example so these are fiscal issues but I if I may just make one comment to correct one what I think is a misapprehension about the purpose of this statute this just sets a cap on what government agencies line agencies or non-light agencies like GMH is not a line agency they're there I forget the term they use for it but it's an autonomous agency thank you.

It sets the cap of what that agency would be required to pay at GMH for example, the doctor doesn't have to pay the two hundred thousand, the doctor pays nothing you can't sue a doctor if they're a government employee. You can only sue the agency if a driver of a of a school bus injures somebody in an accident you don't sue the driver of the school bus you sue the department of public works or department of education. I think the school buses are DPW so there's no impact of the government claims against the government employees. They're immune from suit doctors that work at GMH if they negligently injure somebody and no doctor I can't imagine any doctor in the history of the world has ever intentionally injured somebody it's always an accident it's always negligence and if they negligently injure somebody by doing something that is clearly below the standard of care at GMH you don't sue the doctor you sue the hospital and it's up to the hospital to negotiate the claim and in this case if it results in a death it's currently a hundred thousand dollars. If it's increased it would be two hundred thousand dollars. First for the loss of a life I agree Senator that these that these limits that these caps are low and there's no amount of money but that would mean eliminating caps altogether and an that's not within the purview of this legislation.

Senator Kelly Marsh (Taitano) PhD: *Si Yu'os ma'åse* for those many considerations, you know to hear what is going on in the other areas and what some of the issues are I mean we need to continue to look at this really carefully and think about these updates. the other question I had was since you have done some of that research have you come across anything that is for maybe lack of a better term kind of a formula for how these are calculated obviously the no limit there's no calculation there but for the states that do have limits have you found any formula or criteria as to how they arrived at their numbers.

Attorney Robert Keogh: For damages

Senator Kelly Marsh (Taitano) PhD: For their damage caps.

Attorney Robert Keogh: There is a formula that insurance companies use frankly I hate it and I never do it. What insurance companies, what insurance council will regularly tell me is they look at what's called special damages which are your out-of-pocket expenses such as medical expenses lost income any other out-of-pocket expenses and to value their claim, they multiply those special damages times three I hate it because I had a case a number of years ago where a man lost his leg and his out-of-pocket expenses were negligible. He was unemployed he had medical expenses that were covered by insurance but he lost his leg and if you multiply what his out-of-pocket expenses were something like five thousand dollars for some incidental expenses you multiply that times three you give him fifteen thousand dollars for the loss of his leg. It makes no sense so formulas are difficult because they are taking a broad approach as opposed to a person-to-person approach how you evaluate the somebody's loss it's really subjective it depends on how a judge or if you don't if you're not in a government claim situation you have a juror a jury there are books that will tell you what's what juries have done on cases or what judges have awarded on cases but it's a broad spectrum so I really can't answer the question as far as how do you evaluate something that's up to the individual evaluating it.

Senator Kelly Marsh (Taitano) PhD: Well based on what you're saying and definitely I mean individual is different than the broad policy so it maybe is that much more important to look at what all 50 states are doing and what the fellow territories are doing to see where their caps are and maybe figure out why they are where they are so I look forward to that list and you know I just do want to specifically say to Mr. Lubofsky and excuse me, Mr. Lubofsky and Mr. Bell that you're sharing your perspectives was really important it gives us actual incidences to consider and you know trying to figure out that balance between how to make the government the most accountable is going to be important Mr. Bell,

Attorney, John Richard Bordallo Bell, Esq. I'm sorry if I may I wanted to tack on to something and I appreciate the opportunity. I'll keep it really short but just two quick points is that when we're talking about limiting the caps right, we're trying to protect the taxpayers right I get that it's a laudable goal but keep in mind that when somebody suffers for a horrific injury and they're not able to work and they're not able to feed their family where do you think they get the money from right they get the money from the taxpayers anyway I know this is kind of an oversimplification but it's largely true certainly my clients people who you know relieve the David versus Goliath's you know scenario right and so I've seen my clients become homeless and not be able to feed their families and I've seen the suffering that they go through and I'm not being dramatic about this I'm saying that as a practical matter you know they become you know they end up on welfare they end up you know on food stamps and those are all wonderful programs that the taxpayers pay for anyway so that would be one point as the taxpayer's sort of end up you know floating the bill anyway really just you know in a different way and then just broadly speaking they're uh similar to what Attorney Keogh said there are formulas um frankly you can find a personal injury calculator online which you know insurance companies are familiar with a lot of our personal injury attorneys will use and my point would be so there are ways to objectively find out sort of the market value of your injury and what the caps does is keep this in mind in addition to the fact that the taxpayers end up paying for this any way you know when they when they don't get fully compensated but by this injury cost by the government number one but number two it's a cap so it's necessarily the case that you're never going to get more

from the government than you would have anyway if there was no cap and it is necessarily the case that you have for example somebody who's you know spinal cord is severed you know and they're in a wheelchair for the rest of their life I actually have a client that this happened it was a technically workers comp claim but a young man fell out of a tree and crushed his spine and he was in his early 20s and had a wife and two kids. He could never he can't even walk he much less work again and so imagine his damages you know millions of dollars and so, what that was a worker's comp claim but imagine if that was a personal injury claim it'd be billions of dollars that cap would cut them off in this case at 500 000 and so I'm not saying that that it is a tough sell to say we should get rid of the cap all together but I do want to just make that point that this is definitely a compromise right because whereas the government would be theoretically could be uh on the hook for millions we're capping off at five hundred thousand dollars that that's quite a reasonable compromise frankly for this purpose of protecting the treasury I thank you for allowing the additional comment.

Senator Kelly Marsh (Taitano) PhD: Absolutely and Mr. Lubofsky given the discussion that we've had thus far or anything else that you'd like to add before I move back to the Chair.

Attorney Lubofsky: I think what this law intention this bill intends to do this has been said over and over again but I want to repeat it is to look at caps for the what the hospital has to pay as an example referring to the doctors the way it's set up in and Attorney Keogh has already said this the doctors at the hospital don't pay anything it's not really necessary to have them in the room because nothing comes out of their pockets my advocacy is to change that though which would be a different bill where the doctors in the hospital would have to have malpractice and rather than the citizens of Guam to taxpayer dollars paying for what happens at the hospital if it's malpractice that the doctors are required to have their own malpractice at least at a minimal amount so when something happens they have they become responsible for it but this bill has nothing to do with that. This bill just basically sets the caps if something happens if a doctor kill you in the hospital and it's his fault or he never shows up in the room and the child dies you get two hundred thousand big deal so the doctor has nothing to do a doctor just walks away and that's sort of the way our system is set up right now so in terms of bringing doctors in and getting permission from them and talking to administrators and all these other things it's really not that complicated with this bill maybe another bill would be better and so forth but the way things are right now it's a simple bill raise it for 200,000 it's still under what the cost of living but it would be helpful to in in people who sustained injuries to 1,000,500,000 this is one of the most simple bills I've seen actually thank you very much.

Attorney Robert Keogh: May I add one other comment if I can definitely on the idea that when I raise the concept of enforcement there are plenty of provisions in the law as it's not implicated by this statute at this time but for example if a government agency like the hospital or any other autonomous or line agency were to get insurance on vehicles on the road then that insurance would not be subjected to the cap the insurance if you got a million-dollar insurance policy on your public works trucks out there then any person that was injured would not be limited by this cap they could bring their claim against the insurance but they don't none of the government agencies have insurance the hospital doesn't have insurance it's provided in the law that if they do that the limit is the insurance policy but they don't do it that's the enforcement issue is that they are allowed to do it but they don't do.

Senator Kelly Marsh (Taitano) PhD: *Si Yu'os ma'åse* for all the additional information as I said before it's just you know it's so important to hear all of these different aspects so that we give it as much consideration as possible and then perhaps consider additional bills to continue to tackle these issues as well, *Si Yu'os ma'åse*, Mr. Chair.

Chairman Joe S. San Agustin: Thank you, Senator Kelly, I would have Senator Taitague with the authored bill to please close and so we can wrap this one up thanks you.

Senator Telo Taitague: *Si Yu'os ma'åse*, Mr. Chair and again I want to thank you for holding this public hearing and not having to wait another 40 years before we adjust these inflated you know issues that we come across when bills are so old that have not been addressed. I appreciate everyone Shannon, thank you so much you know for the attorney general having representation here Attorney Bell, Attorney Keogh and David Lubofsky, I greatly appreciate you being here your efforts will help steer this bill into the session floor and pass and you will be contributed to that end result and my colleagues who are here to testify aren't not testified to ask questions to my colleague, Senator Pedro Terlaje if he feels this is too low of a cap then I hope he makes an amendment on the session floor to have no limits no caps on it if he feels that strongly about it but the point is if we can able to if we're able to sue companies out there that provide service you know to no limit and sue them the Government of Guam provides the same kind of services out there and if we can't you know help individuals who've been wrongfully negligent to a point, they were wronged by any kind of fault of the Government of Guam. They should be compensated and justly compensated but we need to do something first here and that is to look at the inflated cost the rising cost from 40 years today and just make that whole at this point and hopefully incorporate certain amendments in there that my good the oversight Chair who mentioned about the attorney's fees as well as I know the retroactive application that's going to be important. We're going to look into that and probably incorporate that but again I appreciate it and I'm sure all those, the people of Guam also appreciate you being here at the four of you thank you, *Si Yu'os ma'åse*, Mr. Chair.

Chairman Joe S. San Agustin: Thank you Senator Telo and I thank my colleagues for all their questions and the panel for joining us today and your testimony the committee will conclude this public hearing on **Bill No 215-35 (COR)**. The committee will continue to receive testimony please address written testimony to the committee on General Government Operation Appropriations, and Housing and submit it via email to senatorjoessanagustin@gmail.com *Si Yu'os ma'åse* for your attendance and participate in today's hearing and for those at home thank you for watching. Please enjoy your day and have a safe weekend take care

This public hearing for **Bill No, 215-35 (COR)** is now adjourned **@10:26AM**.

III. FINDINGS & RECOMMENDATIONS:

The Committee on **General Government Operations, Appropriations, and Housing** hereby reports out **Bill No, 215-35 (COR) – As Amended by the Committee on General Government Operations, Appropriations, and Housing - As Introduced by Senators Telo T. Taitague, Louise B. Muña, Kelly Marsh (Taitano) PhD and William M. Castro.** – **AN ACT TO AMEND § 6301 (b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENT LIABILITY.** –**Recommendation REPORT OUT ONLY.**

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

Bill No. *219-35 (LUP)*

Introduced by:

Telo T. Taitague *TT*
Louise B. Muña *LB*
Kelly Marsh (Taitano), PhD *KM*
JS William M. Castro

**AN ACT TO *AMEND* § 6301(b) OF ARTICLE 3, CHAPTER
6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO MAXIMUM LIMITS OF
GOVERNMENTAL LIABILITY.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Public Law 13-116, enacted on December 24, 1975, limited claims against the government of Guam to \$35,000 in an action for wrongful death, and not more than \$100,000 in any other tort action. The Government Claims Act was later repealed and re-enacted by the Seventeenth Guam Legislature through Public Law 17-29 enacted on November 9, 1983. Public Law 17-29 increased the limits on claims against the government of Guam by 65% or \$100,000 in an action for wrongful death, and by 67% or \$300,000 in any other tort action. Included in Public Law 17-29 is the comment: "... *The tort limitations are raised to take into account inflation, increased court awards and the needs of the victims of the torts.*" *I Liheslatura* also finds that the current limits of governmental liability haven't been adjusted since nearly 40 years ago and the limits fail to adequately recognize that the cost of health insurance, legal defense and court fees, and other goods and services continues to

2019 OCT -7 AM 8:43 *JS*

1 increase. Consistent with the actions of its predecessors, it is, therefore, the intent of
2 *I Liheslaturan Guåhan* to account for inflation and increase the current limits on
3 claims against the government of Guam to \$200,000 for wrongful death, and
4 \$500,000 in any other tort action.

5 **Section 2.** § 6301(b) of Article 3, Chapter 6, Division 1, Title 5, Guam Code
6 Annotated, is *amended* to read:

7 “(b) The government of Guam, in the case of line agencies, shall be liable in
8 tort for not more than ~~\$100,000~~\$200,000 in an action for wrongful death, nor for
9 more than ~~\$300,000~~\$500,000 in any other tort action.”

10 **Section 3. Severability.** *If* any provision of this Act or the application to
11 any person or circumstance is found to be invalid or contrary to law, such invalidity
12 *shall not* affect other provisions or applications of this Act that can be given effect
13 without the invalid provision or application, and to this end the provisions of this
14 Act are severable.

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

Bill No. 215-35 (LS)

As Amended by the Committee on General
Government Operations, Appropriations, and Housing

Introduced by:

Telo T. Taitague
Louise B. Muña
Kelly Marsh (Taitano), PhD
William M. Castro

**AN ACT TO *AMEND* § 6301(b) OF ARTICLE 3, CHAPTER
6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO MAXIMUM LIMITS OF
GOVERNMENTAL LIABILITY.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the “Medical Malpractice Reform Act of 1975” was enacted by Public Law 13-116, enacted on December 24, 1975, which limited claims against the ~~g~~Government of Guam to Thirty-Five Thousand Dollars (\$35,000) in an action for wrongful death, and not more than One Hundred Thousand Dollars (\$100,000) in any other tort action. The Government Claims Act was later repealed and re-enacted by the Seventeenth Guam Legislature through Public Law 17-29 enacted on November 9, 1983. Public Law 17-29 increased the limits on claims against the ~~g~~Government of Guam by sixty-five percent (65%) or One Hundred Thousand Dollars (\$100,000) in an action for wrongful death, and by sixty-seven percent (67%) or Three Hundred Thousand Dollars (\$300,000) in any other tort action. ~~Included in Public Law 17-29 is the comment:~~ Historically, “... The tort limitations ~~are~~were raised to take into account inflation, increased court awards and the needs of the victims of the torts.”

1 See 5 GCA §6301, Comment GC § 6500.13. *I Liheslatura* also finds that the current
2 limits of governmental liability haven't not been adjusted ~~since~~for nearly forty (40)
3 years ~~ago~~ and the limits fail to adequately recognize that the cost of health insurance,
4 legal defense and court fees, and other goods and services have continued to
5 increase. Consistent with the actions of its predecessors, it is, therefore, the intent of
6 *I Liheslaturan Guåhan* to account for inflation and increase the current limits on
7 claims against the ~~g~~Government of Guam to Two Hundred Thousand Dollars
8 (\$200,000) for wrongful death, and Five Hundred Thousand Dollars (\$500,000) in
9 any other tort action.

10 **Section 2.** § 6301(b) of Article 3, Chapter 6, Division 1, Title 5, Guam Code
11 Annotated, is *amended* to read:

12 “(b) The ~~g~~Government of Guam, in the case of line agencies, shall be liable
13 in tort for not more than ~~\$100,000~~Two Hundred Thousand Dollars (\$200,000) in an
14 action for wrongful death, nor for more than ~~\$300,000~~Five Hundred Thousand
15 Dollars (\$500,000) in any other tort action.”

16 **Section 3. Effective Date.** This Act shall become effective upon enactment,
17 and the provisions of this Act shall be given retroactive application to any claim
18 which has accrued, is pending or on appeal at the time of enactment which is not
19 otherwise time barred by the applicable statute of limitations.

20 **Section ~~34~~. Severability.** *If* any provision of this Act or the application to
21 any person or circumstance is found to be invalid or contrary to law, such invalidity
22 *shall not* affect other provisions or applications of this Act that can be given effect
23 without the invalid provision or application, and to this end the provisions of this
24 Act are severable.

Senator Régine Biscoe Lee,
Chair

Senator Amanda L. Shelton,
Vice Chair

Speaker Tina Rose Muña Barnes,
Member

Vice Speaker Telena Cruz Nelson,
Member

Senator Kelly Marsh (Taitano), PhD,
Member

Senator Sabina Flores Perez,
Member



COMMITTEE ON RULES
I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
35TH GUAM LEGISLATURE

October 17, 2019

Senator Clynton E. Ridgell,
Member

Senator Joe S. San Agustin,
Member

Senator Jose "Pedro" Terlaje,
Member

Senator Therese M. Terlaje,
Member

Senator James C. Moylan,
Member

Senator Mary Camacho Torres,
Member and Chair, Subcommittee on Protocol

MEMO

To: Rennae Meno
Clerk of the Legislature

From: Senator Régine Biscoe Lee
Chair, Committee on Rules

Re: Fiscal Notes

Buenas yan Håfa adai.

Attached, please find the fiscal notes for the following bills:

Bill No. 137-35 (COR)
Bill No. 200-35 (COR)
Bill No. 215-35 (COR)

Please forward the same to Management Information Services (MIS) for posting on our website.

For any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.



**Bureau of Budget & Management Research
Fiscal Note of Bill No. 215-35 (COR)**

AN ACT TO AMEND § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.

Department/Agency Appropriation Information

Dept./Agency Affected: Office of the Attorney General	Dept./Agency Head: Leevin Taitano Camacho, Attorney General of Guam
Department's General Fund (GF) appropriation(s) to date:	15,015,134
Department's Other Fund (Specify) appropriation(s) to date:	-
Total Department/Agency Appropriation(s) to date:	\$15,015,134

Fund Source Information of Proposed Appropriation

	General Fund:	Special Fund	Total:
FY 2019 Unreserved Fund Balance		\$0	\$0
FY 2020 Adopted Revenues	\$0	\$0	\$0
FY 2020 Appro. (P.L. 35-36)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2020 (if applicable)	FY 2021	FY 2022	FY 2023	FY 2024
General Fund	1/	\$0	\$0	\$0	\$0	\$0
Special Fund	\$0	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / / Yes /X/ No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes /X/ No
If no, what is the additional amount required? /X/ N/A
- Does the Bill establish a new program/agency? / / Yes /X/ No
If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /X/ Yes / / No
/X/ Requested agency comments not received by due date Office of the Attorney General / / Other:

Analyst: Raymond Breta, BMA II

Date: 10/16/19

Director: Lester L. Carlson, Jr., Director

Date: OCT 17 2019

Footnotes: 1/ See attached comments.

Bureau of Budget & Management Research
Comments on Bill No. 215-35 (COR)

Bill No. 215-35 amends the tort liabilities for government of Guam line agencies from not more than \$100,000 to \$200,000 in an action for wrongful death, and from \$300,000 to \$500,000 in any other tort action. The legislative intent of raising these limitations is to account for inflation, increased court awards and the needs of the victims of the torts. In accordance with 5 GCA, Chapter 6, Article 4 § 6402 in reference to the Government Claims Fund, "in the event funds are insufficient to fully pay a claim, the claim shall be paid pro rata until the total claim is paid in full". Utilizing 5-years of the Government Claims Fund Expenditure data from FY2015 - FY2019, FY2016 is the only year where the full appropriation was expended (reference table below). It should be noted that P.L. 35-36 appropriates \$250,000 to the Government Claims Fund in FY20.

If enacted, the Bill may potentially increase the financial obligation to the Government Claims Fund via the proposed 100% increase in tort liabilities for wrongful death and the proposed 67% increase in tort liabilities for any other tort action. Any charges obligated to the Government Claims Fund are dependent on such claims being adjudicated and awarded. Absent additional information from the Attorney General's Office regarding pending cases to be adjudicated for such claims, the Bureau is unable to determine an approximate financial impact at this time.

Government Claims Fund

Year	Appropriation	Expenditures	Percentage Spent
2015	\$212,500	\$73,586	34.63%
2016	\$200,000	\$200,000	100.00%
2017	\$250,000	\$164,709	65.88%
2018	\$250,000	\$216,068	86.43%
2019	\$250,000	\$104,514	41.81%
Average			65.75%

OFFICE OF FINANCE AND BUDGET
Committee on General Government Operations,
Appropriations and Housing
Tel: (671) 989-5445 / Fax: (671) 969-6737
Email: senatorjoessanagustin@gmail.com



I Mina'trentai Singko Na Leheslaturan Guahan
THE 35TH GUAM LEGISLATURE
Ran Care Bldg. Suite 5, 2nd Floor,
721 . Marine Corps. Dr., Tamuning Guam 96913

October 28, 2019

MEMORANDUM

To: Senator Joe S. San Agustin
Chairman, Committee on General Government Operations, Appropriations and Housing

From: Stephen J. Guerrero
Director, Office of Finance and Budget

Re: Funding Availability Note: Bill No. 215-35 (COR)

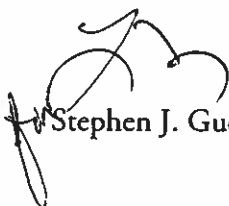
Hafa Adai Senator San Agustin!

Pursuant to the Standing Rules of the 35th Guam Legislature, the Committee on Appropriations and/or the Office of Finance and Budget (OFB) shall determine in writing if the funding source cited in Appropriation or Authorization for Appropriations bills are sufficient.

The Office has received Bill No 215-35 (COR), AN ACT TO AMEND SECTION 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.

Bill No 215-35, seeks to amend the Government of Guam claims no more than \$200,000 for wrongful death and no more than \$500,000 in any other tort action. The proposed increased are due to inflation; increased court awards and the needs of victims of the torts. There is a fiscal impact to the FY2020 appropriations should this bill become public law. P.L. 35-36, FY 2020 Budget Act appropriates \$250,000.00 to the Government Claims Fund. However, there is insufficient data to determine the fiscal impact.

Thank you,


Stephen J. Guerrero

Office of Finance and Budget
Fiscal Note

Bill No. 215-35 (COR)

Sponsor: Telo T. Taitague, Louise B. Muna, Kelly March (Taitano),
PhD, William M. CastroAN ACT TO AMEND § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO
MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.

AN ACT TO

Department/Agency/Entity						
Department/Agency/Entity:						
Fiscal Year(s)/Program Period						
General Fund Appropriation(s) (as of :						\$0
Other Fund Source(s) Appropriation(s) (Specify):						\$0
Total Department /Agency Appropriation						\$0

Projected Fiscal Impact of Bill						
	1st Year	2nd Year	3rd year	4th year	5th year	Total
General Fund						\$0
Special Fund						\$0
Other Fund Sources						\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- | | | | |
|---|--------|--------------|---------|
| 1. Is the bill a one time funding request? | // Yes | // No | /X/ N/A |
| 2. Does the bill indicate a viable funding source for the appropriation? | // Yes | // No | /X/ N/A |
| 3. Are there adequate funds in the bill's funding source for the appropriation? | // Yes | // No | /X/ N/A |
| 4. Is the bill to fund a new program or existing program? | // New | /X/ Existing | // N/A |
| 5. Are federal funds available to fund the bill? | // Yes | // No | /X/ N/A |

Analyst: Joseph L. Cabana
 Signature: _____
 Date: 10/29/2019

Director: Stephen J. Guerrero
 Signature: _____
 Date: 10/29/2019

Comments:

Bill No 215-35, seeks to amend the Government of Guam claims no more than \$200,000 for wrongful death and no more than \$500,000 in any other tort action. The proposed increased are due to inflation; increased court awards and the needs of victims of the torts. There is a fiscal impact to the FY2020 appropriations should this bill become public law. P.L. 35-36, FY 2020 Budget Act appropriates \$250,000.00 to the Government Claims Fund. However, there is insufficient data to determine the fiscal impact.




Office of
SENATOR Joe S. San Agustin

I Mina' trentai Singko na Liheslaturan Guahan Thirty-Fifth Guam Legislature

COMMITTEE VOTE SHEET

BILL No. 215-35 (COR) – As amended by Committee on General Government Operations, Appropriations and Housing. Introduced by Telo T. Taitague, Louise B. Muña, Kelly Marsh (Taitano), Ph.D, William M. Castro
- AN ACT TO AMEND § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY.

Committee Members	Signature	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Senator Joe S. San Agustin <i>Chairman</i>		✓				
Senator Amanda L. Shelton <i>Vice Chairperson (Gen Govt Operations, Appr & Housing)</i>	E-vote 09/28/2020			✓		
Speaker Tina Rose Muña Barnes <i>Member</i>						
Senator William M. Castro <i>Member</i>	E-vote 09/28/2020			✓		
Senator Régine Biscoe Lee <i>Member</i>						
Senator Kelly G. Marsh (Taitano), Ph.D. <i>Member.</i>						
Senator James C. Moylan <i>Member</i>	E-vote 09/25/2020			✓		
Senator Louise B. Muna <i>Member</i>	E-vote 09/25/2020 ✓					
Senator Clynton E. Ridgell <i>Vice Chairman (Appropriations)</i>	E-vote 09/25/2020			✓		
Senator Jose "Pedro" Terlaje <i>Member</i>	E-vote 09/25/2020			✓		
Senator Therese M. Terlaje <i>Member</i>						

Committee Chairman: General Government Operations, Appropriations, and Housing

Ran - Care Commercial Building, CBU #230, 761 South Marine Corps Dr., Tamuning, Guam 96913

Tel: (671) 989-5445 * Fax: (671) 969-6737 * email: senatorjoessanagustin@gmail.com

Request of E-Vote: Bill No. 215-35 (COR) As amended by the Committee on General Government Operations, Appropriations, and Housing

14 messages

Michaela Celorio <msacelorio.senatorsa@gmail.com>

Thu, Sep 24, 2020 at 8:31 PM

To: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, "Senator James C. Moylan" <senatormoylan@guamlegislature.org>, Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, Clynt Ridgell <clyntridgell@guamlegislature.org>, "Senator Louise B. Muna" <senatorlouise@gmail.com>, Speaker's Office <speaker@guamlegislature.org>, "PhD."

<office.senatorKelly@guamlegislature.org>, Senator William Mendiola Castro <sen.wilcastro@gmail.com>, Régine Biscoe Lee <senatorbiscoelee@guamlegislature.org>

Cc: "Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Joseph Mesngon <joe.senatorsa@gmail.com>, cathy.senatorsa@gmail.com, rose.senatorsa@gmail.com

Hafa Adai, Committee Members:

Please click on the attachment or link below to access the Committee Report for Bill No. 215-35 (COR)- "AN ACT TO AMEND § 6301(b) OF ARTICLE 3, CHAPTER 6, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MAXIMUM LIMITS OF GOVERNMENTAL LIABILITY." Introduced by Telo T. Taitague, Louise B. Muna, Kelly Marsh (Taitano), PhD., William M. Castro, and Joe S. San Agustin, as amended by the Committee on General Government Operations, Appropriations, and Housing.

Please indicate your preferred action, based on the following options.

- ☐ To Do Pass;
- ☐ To Not Pass;
- ☐ To Report Out Only;
- ☐ To Abstain; or
- ☐ To Place in Inactive File.

Please submit your response **ASAP**. Your response will be logged into the Committee Vote Sheet for Bill No.215-35 (COR) introduced by Telo T. Taitague, Louise B. Muna, Kelly Marsh (Taitano), PhD., William M. Castro, and Joe S. San Agustin, which will be filed with the Committee on Rules.

<https://drive.google.com/file/d/1kvp1RFc184AbpNTEHhAbKml0jp9nVnYB/view?usp=sharing>

 Bill 215-35 (COR)- As amended by Committee on G...

Si Yu'os Ma'ase!

Best,

Michaela Shaira Asoy Celorio**Research Policy Analyst****Office of Senator Joe S. San Agustin****I Mina'Trentai Singko Na Lehislaturan Guahan****Chairman, Committee on General Government Operations, Appropriations & Housing****Office of Finance and Budget****761 S. Marine Corps Drive****Ran Care Bldg. Suite B2****Tamuning, Guam 96913****Email: msacelorio.senatorsa@gmail.com****Tel: (671) 989-5445****Clynt Ridgell** <clyntridgell@guamlegislature.org>

Fri, Sep 25, 2020 at 9:20 AM

To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

To Report Out Only

[Quoted text hidden]

Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: Clynt Ridgell <clyntridgell@guamlegislature.org>

Fri, Sep 25, 2020 at 9:32 AM

Hafa Adai, Senator Ridgell

Received. Thank you.

Best,
Michaela
[Quoted text hidden]
—
[Quoted text hidden]

James Moylan <senatormoylan@guamlegislature.org>
To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

Fri, Sep 25, 2020 at 9:36 AM

To report out only.

SYM.
[Quoted text hidden]

Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>
To: Michaela Celorio <msacelorio.senatorsa@gmail.com>
Cc: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Senator Therese Terlaje <senatorterlajegum@gmail.com>, "Senator James C. Moylan" <senatormoylan@guamlegislature.org>, Clynt Ridgell <clyntridgell@guamlegislature.org>, "Senator Louise B. Muna" <senatorlouise@gmail.com>, Speaker's Office <speaker@guamlegislature.org>, "PhD." <office.senatorKelly@guamlegislature.org>, Senator William Mendiola Castro <sen.wilcastro@gmail.com>, Régine Biscoe Lee <senatorbiscoelee@guamlegislature.org>, "Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Joseph Mesngon <joe.senatorsa@gmail.com>, Catherine Leon Guerrero <cathy.senatorsa@gmail.com>, Rose Mesa <rose.senatorsa@gmail.com>

Fri, Sep 25, 2020 at 9:40 AM

To report out only.
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—

The Office of Senator Jose "Pedro" Terlaje
Committee on Public Safety, Border Safety,
Military and Veterans Affairs, Mayors' Council,
Infrastructure, and Public Transit

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guðhan

140 Aspinall Avenue Ste. 202 Hagatna, Guam 96910
Tel: (671) 989-5301/ 3218
Email: senatorpedo@senatorjpterlaje.com

Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: James Moylan <senatormoylan@guamlegislature.org>

Fri, Sep 25, 2020 at 10:15 AM

Hafa Adai, Senator

Received. Thank you.

Best,

Michaela

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[Quoted text hidden]

Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>

Fri, Sep 25, 2020 at 10:16 AM

Hafa Adai, Senator Terlaje

Received. Thank you.

Best,
Michaela

[Quoted text hidden]

--

[Quoted text hidden]

Louise Muna <senatorlouise@gmail.com>
To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

Fri, Sep 25, 2020 at 11:44 AM

Hafa Adai,

To Do Pass.

Si Yu'us Ma'ase,



Office of Senator
LOUISE BORJA MUÑA

I Mina' Trentai Singko Na Liheslaturan Guåhan
163 Chalan Santo Papa Street, Hagatna, Guam 96910
Tel: (671) 969-9852/3 Email: senatorlouise@gmail.com

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On Thu, Sep 24, 2020 at 8:31 PM Michaela Celorio <msacelorio.senatorsa@gmail.com> wrote:
[Quoted text hidden]

Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: Louise Muna <senatorlouise@gmail.com>

Fri, Sep 25, 2020 at 11:46 AM

Hafa Adai, Senator Muna

Received. Thank you.

Best,
Michaela

[Quoted text hidden]

--

[Quoted text hidden]

Office of Senator Shelton Guam Legislature

<officeofsenatorshelton@guamlegislature.org>

Mon, Sep 28, 2020 at 12:29 PM

To: Michaella Celorio <msacelorio.senatorsa@gmail.com>

Cc: Senator Therese Terlaje <senatorterlajeguam@gmail.com>, "Senator James C. Moylan"

<senatormoylan@guamlegislature.org>, Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, Clynt Ridgell

<clyntridgell@guamlegislature.org>, "Senator Louise B. Muna" <senatorlouise@gmail.com>, Speaker's Office

<speaker@guamlegislature.org>, "PhD." <office.senatorkelly@guamlegislature.org>, Senator William Mendiola Castro

<sen.wilcastro@gmail.com>, Régine Biscoe Lee <senatorbiscoelee@guamlegislature.org>, "Joe S. San Agustin"

<senatorjoessanagustin@gmail.com>, Joseph Mesngon <joe.senatorsa@gmail.com>, Catherine Leon Guerrero

<cathy.senatorsa@gmail.com>, Rose Mesa <rose.senatorsa@gmail.com>

To Report Out Only

On Thu, Sep 24, 2020 at 8:31 PM Michaella Celorio <msacelorio.senatorsa@gmail.com> wrote:

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Si Yu'os Ma'åse,

Office of the People • Senator Amanda L. Shelton

Legislative Secretary & Chairwoman of the Committee on Higher Education and the
Advancement of Women, Youth, and Senior Citizens

35th Guam Legislature

I Mina'trentai Singko na Libeslaturan Guåhan

Guam Congress Building

163 Chalan Santo Papa

Hagatna, GU 96910

T: (671) 989-2572/969-2574

officeofsenatorshelton@guamlegislature.org

Michaella Celorio <msacelorio.senatorsa@gmail.com>

Mon, Sep 28, 2020 at 12:52 PM

To: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>

Hafa Adai, Senator

Received. Thank you

Best,
Michaella

[Quoted text hidden]

[Quoted text hidden]

Senator William Mendiola Castro <sen.wilcastro@gmail.com>

Mon, Sep 28, 2020 at 3:09 PM

To: Michaella Celorio <msacelorio.senatorsa@gmail.com>

To report out only

Thank you.

Un Dangkolo Na Si Yu'os Ma'åse'!

The Office of William M. Castro

I Mina'trentai Singko na Liheslaturan Guåhan (35th Guam Legislature)

777 Route 4, MVP Business Center, Unit 101, Sinajana, Guam 96910

(671) 969-1225/6 | sen.wilcastro@gmail.com | wilcastro.com

On Thu, Sep 24, 2020 at 8:31 PM Michaela Celorio <msacelorio.senatorsa@gmail.com> wrote:

[Quoted text hidden]

Clynt Ridgell <clyntridgell@guamlegislature.org>
To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

Mon, Sep 28, 2020 at 3:46 PM

To report out only.

On Thu, Sep 24, 2020 at 8:31 PM Michaela Celorio <msacelorio.senatorsa@gmail.com> wrote:

[Quoted text hidden]

Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: Senator William Mendiola Castro <sen.wilcastro@gmail.com>

Mon, Sep 28, 2020 at 5:04 PM

Hafa Adai, Senator

Received. Thank you.

Best,
Michaela
[Quoted text hidden]

—
[Quoted text hidden]