

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 133-37 (COR)

Introduced by:

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AN ACT TO *ADD* A NEW § 48307 TO ARTICLE 3, CHAPTER 48, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ALLOWING TENANTS TO MAKE REPAIRS TO WEATHERHEADS AND WEATHERHEAD POSTS FOLLOWING STORMS IN CASES WHERE LANDLORDS FAIL TO ACT EXPEDITIOUSLY.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that unlike all other United States jurisdictions, Guam's landlord-tenant law
4 prohibits tenants from making repairs and replacing faulty appliances that the
5 landlord is contractually obligated to provide. Every US jurisdiction allows tenants,
6 usually following a written request to the landlord, to make minor or *de minimis*
7 repairs or replace appliances if such costs are less than one-month's rent payment
8 and deduct the cost from the next month's rent. On Guam, the recently enacted
9 landlord-tenant law prohibits tenants from exercising such powers and instead
10 allows tenants to essentially declare that a breach of contract has occurred and to
11 vacate the premises with no further lease obligations. This law is averse to the
12 interest of tenants because it gives tenants no direct relief from the cost of moving
13 or temporary housing until another unit can be leased. The reason states have enacted
14 such laws is to prevent breaches of contract by landlords that cause hardship to be

1 placed on the tenant. In the case of Guam’s law, the tenant has two options, vacate
2 the unit or incur the cost of repairs or replacement without reimbursement.

3 *I Liheslaturan Guåhan* further finds that following significant typhoons, the
4 most common form of damage is to the weatherheads of buildings. The weatherhead
5 is the structure where the electrical service line enters the building. Its purpose is to
6 keep rainwater out of the building. If the weatherhead is damaged during a
7 windstorm, water may enter the building’s electrical system causing damage or
8 creating an electrical hazard risk. For these reasons, GPA requires that repairs be
9 made by a licensed electrician who is required to certify that it is safe restore power
10 to the building. While owner-occupied homeowners are quick to engage repair
11 services, landlords of rental units have no incentive to make repairs. Prior to the
12 enactment of the recent landlord-tenant law (Public Law 34-146) tenants were
13 authorized to make minor repairs when the landlord did not act expeditiously (§§
14 51101 & 51102, 18 GCA). Under the recently enacted Public Law 34-146, tenants
15 can choose to either declare a breach has occurred and vacate the premises or wait
16 until the landlord decides to make repairs. Following a major storm, it is usually
17 difficult to hire moving services and find suitable housing. Therefore, residents of
18 rental units may find themselves waiting several months until the landlord decides
19 to make repairs so that electricity services can be restored.

20 It is the intent of *I Liheslaturan Guåhan* to allow a narrow exception to the
21 landlord-tenant law that allows tenants, whose landlords fail to act expeditiously, to
22 fund the cost of repairs to weatherheads and weatherhead posts caused by damaging
23 and destructive winds and to offset future rent payments by the amount of the repair
24 costs.

25 **Section 2.** A new § 48307 of Article 3, Chapter 48, Title 21, Guam Code
26 Annotated is hereby added to read as follows:

27 **“§ 48307. Weatherhead Damage from Windstorm.**

1 (a) Notwithstanding any other provisions of this Chapter, the tenant shall
2 report any observed damage to the weatherhead or weatherhead post where the
3 damage is related to damaging or destructive winds [windspeed exceeds thirty-four
4 knots (34 kts) or forty miles per hour (40mph)] to the landlord or the landlord's
5 contractor, agent, representative or employee. If the landlord fails to repair the
6 damaged weatherhead within ten (10) days following the date that the landlord
7 became aware of the damage, the tenant may, at his own cost, cause repairs to be
8 made to the weatherhead in compliance with Guam's building and electrical code
9 laws, rules and regulations. The tenant may deduct the cost of such repairs from the
10 next subsequent rent payment. In the event that the cost exceeds one (1) month's
11 rent payment, the tenant may continue to deduct the balance of the cost until the cost
12 of repairs is recovered. In the event that damage to the weatherhead occurs in a
13 multifamily structure and multiple tenants incur the cost of repairs, each tenant may
14 deduct the cost of the repairs that the respective tenants contributed for the repair
15 service from future rent payments.

16 For purposes of this section, a weatherhead post is any structure, that is not
17 attached to the building where electrical service is provided and that such structure
18 is not under the jurisdiction of the Guam Power Authority.

19 (b) The date of the landlord's awareness of the damage occurs at the
20 earliest date of the following:

21 (1) the landlord or the landlord's contractor, agent, representative or
22 employee becomes aware of the damage to the weatherhead or weatherhead
23 post,

24 (2) the tenant, in writing or orally, communicated the discovery of
25 damage to the weatherhead or weatherhead post to the landlord or the
26 landlord's contractor, agent, representative or employee, or

27 (3) An inspection of the weatherhead or weatherhead post was
28 conducted by an employee or contractor of the Guam Power Authority during

1 post-storm electrical service restoration and the landlord or tenant was
2 notified that electricity could not be restored until the damage to the
3 weatherhead was repaired in accordance with applicable law, rules and
4 regulations.

5 (c) This section does not apply to the following:

6 (1) buildings where a licensed electrician or engineer has determined
7 that it is unsafe to restore electricity service until repairs other than repairs the
8 weatherhead or weatherhead post are completed, or

9 (2) The building was subject to water inundation as a result of
10 damaged doors, windows or loss of roofing parts or flooding and such
11 building was deemed unsafe by a licensed electrician or engineer until
12 appropriate repairs can be made, or

13 (3) The tenant apparently abandoned the building following the
14 windstorm.

15 (d) The tenant has a cause of action against the landlord for retaliatory
16 measures that include:

17 (1) opting not to renew a tenant's lease when the tenant has been in
18 good standing throughout the term of the lease (has not violated the terms of
19 the lease) or

20 (2) The landlord directly or indirectly raises the lease payments or
21 cost of the lease, upon renewal, by an amount that exceeds ten percent (10%)
22 of the previous lease payments.

23 The amount of such damages that may be awarded is limited to actual
24 damages and attorney's fees."

25 **Section 3. Severability.** If any provision of this Act or its application
26 to any person or circumstance is found to be invalid or inorganic, such invalidity
27 shall not affect other provisions or applications of this Act that can be given effect

1 without the invalid provision or application, and to this end the provisions of this
2 Act are severable.

3 **Section 4. Effective Date.** This Act shall be effective upon enactment.