

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

2023 (FIRST) Regular Session

VOTING RECORD

Bill No. 7-37 (COR) As amended by the Committee on Health, Land, Justice, and Culture; and further amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building July 28, 2023					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Chris Barnett	✓					
Senator Frank Blas, Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator Thomas J. Fisher	✓					
Senator Jesse A. Lujan	✓					
Vice Speaker Tina Rose Muña Barnes		✓				
Senator William A. Parkinson		✓				
Senator Sabina Flores Perez		III ✓				
Senator Roy A. B. Quinata		✓				
Senator Joe S. San Agustin		✓				
Senator Dwayne T. D. San Nicolas	✓					
Senator Amanda L. Shelton		✓				
Senator Telo T. Taitague	✓					
Speaker Therese M. Terlaje	✓					

TOTAL

9

6

Aye

Nay

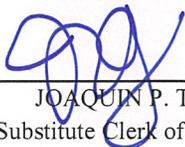
**Not
Voting/
Abstained**

**Out
During
Roll Call**

Absent

Excused

CERTIFIED TRUE AND CORRECT:



JOAQUIN P. TAITAGUE
Substitute Clerk of the Legislature

I = Pass

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Introduced by:

Christopher M. Dueñas
Jesse A. Lujan
Frank Blas, Jr.
Thomas J. Fisher
Joanne Brown
Telo T. Taitague
Chris Barnett
Dwayne T.D. San Nicolas

**AN ACT TO *ADD* A NEW § 19406, AND *AMEND* §§
19405(b), 19405(c), AND 19805(c) OF CHAPTER 19, TITLE
10, GUAM CODE ANNOTATED, RELATIVE TO
PROHIBITING THE SUSPENSION OF
CONSTITUTIONAL RIGHTS, AND TO REPEAL
CRIMINAL PENALTIES FOR VIOLATIONS OF
EXECUTIVE ORDERS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the Organic Rights of citizens of Guam include:

4 48 U.S.C. § 1421b(a), which states “No law shall be enacted in Guam
5 respecting an establishment of religion or prohibiting the free exercise thereof, or
6 abridging the freedom of speech, or of the press, or the right of the people peaceably
7 to assemble and to petition the government for a redress of their grievances.”

1 48 U.S.C. § 1421b(e) and (f), which state that “No person shall be deprived
2 of life, liberty, or property without due process of law.” And “Private property shall
3 not be taken for public use without just compensation.”

4 48 U.S.C. § 1421b(u), which statutorily incorporates the “First through Ninth
5 Amendments” to the Constitution of the United States, and which include the First
6 and Second amendments.

7 48 U.S.C. § 1423b gives *I Liheslatura* the sole authority to create laws. Courts
8 throughout the United States have held that criminal acts (felonies and
9 misdemeanors) can be created exclusively by enactment of law and not
10 administratively or through an executive order. Additionally, in a unanimous
11 decision in the case of *Timbs v. Indiana*, 586 U.S. ____ (2019), the United States
12 Supreme Court incorporated the Excessive Fines Clause of the Eighth Amendment
13 in 2019.

14 *I Liheslaturan Guåhan* further finds that the U.S. Supreme Court, in the case
15 of *Roman Catholic Diocese of Brooklyn, New York v. Andrew M. Cuomo, Governor*
16 *Of New York on Application for Injunctive Relief* 592 U. S. ____ (2020), granted
17 requests from the Roman Catholic Diocese of Brooklyn and two Orthodox Jewish
18 synagogues to block enforcement of a New York executive order restricting
19 attendance at houses of worship. Both the diocese and the synagogues claimed that
20 the executive order violated the right to the free exercise of religion guaranteed by
21 the First Amendment, particularly when secular businesses in the area are allowed
22 to remain open.

23 As it was the intent of the framers of the Bill of Rights in 1789 to limit the
24 powers of government over the people, it is also the intent of *I Liheslaturan Guåhan*
25 to reaffirm such fundamental rights of Guam’s residents during public health
26 emergencies. The first nine (9) amendments to the United States Constitution that
27 are guaranteed to the people of Guam by 48 U.S.C. § 1421b(u) were never intended

1 for the government to grant or withhold rights and privileges to the governed.
2 Instead, these and other amendments to the United States Constitution are strict
3 limitations and proscriptions on governmental power. Such rights are often referred
4 to as *negative rights*, that instead of granting individual rights to its citizens, it
5 prevents government from taking away specified privileges, immunities, freedoms
6 and protections from the citizens of this country.

7 Therefore, it is the intent of *I Liheslaturan Guåhan* to reaffirm that such
8 fundamental rights on Guam continue to exist during declared public health
9 emergencies.

10 **Section 2.** A new § 19406 is *added* to Article 4 of Chapter 19, Title 10,
11 Guam Code Annotated, to read:

12 **“§ 19406. Rights During Public Health Emergencies.**

13 No executive order, agency directive, or administrative rule or regulation
14 issued or promulgated pursuant to a declaration of a state of public health
15 emergency, or in anticipation or contemplation of a declaration of a state of public
16 health emergency, shall:

- 17 (a) prohibit freedom of assembly in or on one’s residential property;
- 18 (b) prohibit the free exercise of religion;
- 19 (c) diminish or suspend a person’s Second (2nd) Amendment
20 Constitutional rights as specified in Chapter 60 of Title 10 Guam Code
21 Annotated;
- 22 (d) deprive any person of liberty without due process of law;
- 23 (e) permit the confiscation or seizure of any lawfully owned
24 property without due process and just compensation;
- 25 (f) create or have the effect to create criminal acts or redefine or
26 expand the scope of existing criminal acts or civil violations that are defined
27 by public law;

1 (g) impose excessive fines; or

2 (h) deny access to public information as required by the *Freedom of*
3 *Information Act* (Chapter 10, 5 GCA).”

4 **Section 3.** § 19405(b) of Article 4, Chapter 19, Title 10, Guam Code
5 Annotated, is *amended* to read as follows:

6 “(b) Automatic Termination. Notwithstanding any other provision of
7 this Chapter, the declaration of a state of public health emergency shall be
8 terminated automatically after sixty (60) days, unless renewed by *I*
9 *Liheslaturan Guåhan* under the same standards and procedures set forth in
10 this Article. Any such renewal shall also be terminated automatically after
11 sixty (60) days, unless renewed by *I Liheslaturan Guåhan* under the same
12 standards and procedures set forth in this Article.”

13 **Section 4.** § 19405(c) of Article 4, Chapter 19, Title 10, Guam Code
14 Annotated, is *amended* to read as follows:

15 “(c) *I Liheslaturan Guåhan* by a resolution passed by a majority vote
16 of its members, may terminate, in part or in whole, the declaration of a state
17 of public health emergency at any time from the date of original declaration
18 upon finding that the occurrence of an illness or health condition that caused
19 the emergency does not or no longer poses a high probability of a large
20 number of deaths in the affected population, a large number of incidents of
21 serious permanent or long-term disability in the affected population or a
22 significant risk of substantial future harm to a large number of people in the
23 affected population. Any request, attempt, or renewal of such earlier
24 termination or partial termination by *I Maga'låhen/Maga'hågan Guåhan* shall
25 be of no force or effect without a majority vote of *I Liheslaturan Guåhan*.”

26 **Section 5.** § 19805(c) of Article 8, Chapter 19, Title 10, Guam Code
27 Annotated, is *amended* to read as follows:

1 “(c) Amount. The amount of compensation shall be calculated in the
2 same manner as compensation due for taking of property pursuant to non-
3 emergency eminent domain procedures, as provided in Chapter 15 of Title 21,
4 Guam Code Annotated, except that the amount of compensation calculated
5 for items obtained under §19505 shall be the replacement cost of the item on
6 the date of seizure plus the cost of shipping. If the government of Guam fails
7 to pay the importer within thirty (30) days of seizure, the government of Guam
8 shall pay a penalty of ten percent (10%) of the replacement value of the item
9 seized on the date of seizure plus the cost of shipping.”