

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

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Bill No. 116-32 (2012)

Introduced by:

Michael F.Q. San Nicolas

AN ACT TO AMEND §§ 65102 AND 65103 OF
CHAPTER 65, TITLE 10, GUAM CODE ANNOTATED
AND TO ADD A NEW § 65103.1 TO THE SAME
CHAPTER; RELATIVE TO THE ESTABLISHMENT OF
OPERATIONAL CONTINUITY PLANS FOR EACH
AGENCY OF THE GOVERNMENT OF GUAM.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Short Title. This Act *shall* be cited as the “Responsible
3 Operational Continuity Plans Act.”

4 Section 2. Legislative Findings and Intent. *I Liheslaturan Guåhan*
5 finds that the Office of Civil Defense is given authority to prepare for and
6 direct and control government emergency functions in the event of
7 emergency conditions. The main function of Civil Defense is related to the
8 continuation of government emergency functions for public health, safety,
9 transportation and utilities.

10 *I Liheslatura* further finds that the continuity of operations for the
11 government of Guam in the event of any emergency resulting from a
12 natural or other disaster or hostile action is necessary for the security of

1 individuals and property in Guam. Additionally, some circumstances may
2 adversely impact operational continuity for agencies which do not arise
3 from emergency conditions, such as loss of personnel by attrition,
4 breakdown of equipment or the loss of records due to a systems failure.

5 It is therefore the intent of *I Liheslaturan Guåhan* that each agency of
6 the government of Guam should establish and maintain an up-to-date
7 operational continuity plan to achieve maximum operational continuity in
8 the events which would disrupt the ability of the agency to operate,
9 including emergencies resulting from a natural or other disaster or hostile
10 action.

11 **Section 3. Definition and Scope of Activity.** § 65102, Chapter 65,
12 Title 10, Guam Code Annotated, is hereby *amended*, to read:

13 **“§ 65102. Definition and Scope of Activity.**

14 As used in this Chapter the term ‘Civil Defense’ *shall* mean the
15 preparation for the carrying out of all emergency functions, other than
16 functions for which United States military forces or other Federal agencies
17 are primarily responsible, to prevent, minimize and repair injury and
18 damage resulting from disaster caused by enemy attack, sabotage or other
19 hostile action or by fire, flood, typhoon or other causes. These functions
20 include, without limitation, fire fighting services, police services, medical
21 and health services, rescue, engineering, air raid warning services,
22 communications, radiological, chemical and other special weapons of
23 defense, evacuation of persons from stricken areas, emergency welfare

1 services (civilian war aid), emergency transportation, plant protection, the
2 approval and maintenance of a separate record of operational continuity
3 plans for agencies of the government of Guam, temporary restoration of
4 public utility services and other functions related to civilian protection,
5 together with all other activities necessary or incidental to the preparation
6 for the carrying out of the foregoing functions.”

7 **Section 4. Office of Civil Defense: Creation; Administrator;**
8 **Personnel.** § 65103, Chapter 65, Title 10, Guam Code Annotated, is hereby
9 *amended*, to read:

10 **“§ 65103. Office of Civil Defense: Creation; Administrator; Personnel.**

11 (a) There is hereby created, within the Office of *I Maga’lahen Guåhan*,
12 an Office of Civil Defense with an Administrator of Civil Defense,
13 hereinafter called the ‘Administrator,’ who *shall* be a member of the
14 classified service and *is* the administrative head of the Office of Civil
15 Defense, subject to the direction and control of *I Maga’lahen Guåhan*.

16 (b) The Administrator, with the approval of *I Maga’lahen Guåhan*, *may*
17 employ such technical, clerical, stenographic and other personnel and may
18 make such expenditures within the appropriation therefore, or from other
19 funds made available to him for purposes of civil defense, as *may* be
20 necessary to carry out the purposes of this Chapter.

21 (c) The Administrator and other personnel of the Office of Civil
22 Defense *shall* be provided by *I Maga’lahen Guåhan* with appropriate office
23 space, furniture, equipment, motor vehicles, supplies, stationery and

1 printing in the same manner as are provided for personnel of other
2 government of Guam agencies.

3 (d) The Administrator, subject to the direction and control of *I*
4 *Maga'lahaen Guåhan*, shall be the administrative head of the Office of Civil
5 Defense and shall be responsible to *I Maga'lahaen Guåhan* for carrying out the
6 program for the civil defense of Guam. He shall coordinate the activities of
7 all organizations for civil defense within Guam, and shall maintain liaison
8 with and cooperate with civil defense agencies and organizations and the
9 Armed Forces of the Federal government, and shall have such additional
10 authority, duties and responsibilities as are authorized by this Chapter, or
11 as may be prescribed by *I Maga'lahaen Guåhan*.

12 (e) The Administrator shall have approval authority, pursuant to the
13 criteria set forth in §65103.1 of this Chapter, for operational continuity
14 plans for agencies of the government of Guam submitted to the Office of
15 Civil Defense by the Director or equivalent officer of each agency. Such
16 plans shall be approved on or before October 1st of each year. The
17 Administrator shall, further, maintain a separate record for each such
18 approved operational continuity plan."

19 **Section 5. Agency Operational Continuity Plans.** A new § 65103.1 is
20 hereby added to Chapter 65, Title 10, Guam Code Annotated, to read:

21 **"§65103.1. Agency Operational Continuity Plans.**

22 The Director or equivalent officer of each agency of the government
23 of Guam shall establish an operational continuity plan, which shall be

1 submitted annually on or before July 1st with amendments, as necessary, to
2 the Administrator of the Office of Civil Defense for approval. Copies of the
3 plan, as approved by the Administrator of the Office of Civil Defense, *shall*
4 be furnished to the Guam Legislature, the Governor and any Board or
5 Commission with jurisdiction over the agency not later than thirty (30)
6 days following the approval of the plan. Such plan *shall* include provisions
7 for:

8 (a) events which would disrupt the ability of the agency to operate,
9 such as:

10 (1) loss of personnel by retirement, whether known or
11 unknown in advance, national guard deployment, military reserve
12 deployment, sickness, death or other contingencies,

13 (2) loss, malfunction or breakdown of equipment necessary for
14 the efficient provision of services,

15 (3) loss of physical or electronic records necessary for the
16 efficient provision of services,

17 (4) unavailability of a facility which is necessary for the efficient
18 provision of services, or

19 (5) any combination of the above through reasonably
20 foreseeable instances, as natural or other disaster or act or omission
21 of the agency or other entities, including hostile acts;

1 (b) maintenance of maximum operational continuity in the event of
2 any situation which would disrupt the ability of the agency to operate
3 pursuant to subsection (a) of this section; and

4 (c) a statement of actions to be taken to prevent or mitigate any
5 vulnerabilities, pursuant to subsection (a) of this section, which pose a
6 significant risk to the continuity of operations of the agency.”

7 **Section 6. Initial Operational Continuity Plans.** Notwithstanding
8 the provisions of §5 of this Act, relative to the time to submit an operational
9 continuity plan, the Director or equivalent officer of each agency *shall*
10 submit the initial operational continuity plan to the Administrator of the
11 Office of Civil Defense within ninety (90) days of the enactment of this Act,
12 who *shall* approve the plans, pursuant to the criteria established in §5 of
13 this Act, within one hundred eighty (180) days of the enactment of this Act.
14 Thereafter, the time for the annual submittal of operational contingency
15 plans *shall* be as provided in §5 of this Act.