

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
2014 (SECOND) Regular Session

Bill No. 281-32 (COR)

Introduced by:

Chris M. Duenas *ST*

AN ACT TO ADD A NEW SECTION 22401.2 TO ARTICLE 4, CHAPTER 22, OF TITLE 5 OF THE GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM, THROUGH THE OFFICE OF THE GOVERNOR, TO RETAIN PROFESSIONALS TO PURSUE CLAIMS OF THE GOVERNMENT OF GUAM AGAINST THIRD PARTIES ON A CONTINGENCY FEE BASIS, AUTHORIZATION TO PAY FOR SAME, AND TO APPROPRIATE TO THE OFFICE OF THE GOVERNOR \$350,000 TO PAY FOR THE COSTS AND EXPENSES (NOT FEES) ASSOCIATED WITH BRINING AN ACTION AGAINST THE FEDERAL GOVERNMENT FOR HARMS AT THE ORDOT DUMP

2014 FEB 21 PM 2:05
Amended

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* hereby
2 recognizes that the government of Guam has possible claims against third parties,
3 including without limitation, the Federal Government, for tortious and unlawful conduct
4 and omissions, breaches of duty, violations of law, and damage and harm caused by such
5 parties to the government of Guam, the People of Guam, and/or our environment. *I*
6 *Liheslaturan Guahan* further finds that pursuing such claims can be time-consuming and
7 cost prohibitive and the government of Guam may not have the immediate funds and
8 resources available to pay for the fees and expenses associated with pursuing such claims,
9 although action on these claims could result in the recovery of tens of millions of dollars
10 and will help to prevent future unlawful conduct and activities. *I Liheslaturan Guahan*
11 further finds that pursuit of such claims requires the retention of professions with
12 specialized knowledge, experience, and resources. Accordingly, *I Liheslaturan Guahan*
13 finds that considering the importance and significance of pursuing such claims, the lack
14 of immediate funding, the recovery potential and the welfare of the Territory it may be
15 appropriate for the government of Guam to employ professionals and/or service providers
16 on a contingency fee basis so that the fees therefor would only be payable from the
17 recovery on such claims; recovery that will not exist if these claims are not pursued.

1 **Section 2.** A new section 22401.2 is hereby added to Article 4, Chapter 22 of Title 5 of
2 the Guam Code Annotated:

3 **Section 22401.2. Authorization and Appropriation for Contingency Fee**
4 **Agreements in Furtherance of Claims by the Government of Guam.**

5 (a) Authorization to Hire. The government of Guam, through the Office of the
6 Governor, is hereby authorized, subject to compliance with the applicable
7 Guam Procurement Law and Regulations, to retain qualified service providers
8 and/or professionals on a contingency fee basis to pursue claims of the
9 government of Guam against third parties, including, without limitation, the
10 Federal Government and its agents and contractors, for tortious and unlawful
11 conduct and omissions, breaches of duty, violations of law, breaches of
12 covenants and agreements and damage and harm caused by such third parties.

13 (b) Authorization to Pay for Fees. Notwithstanding any other provision of law,
14 the Office of the Governor is hereby authorized to use an amount not to
15 exceed thirty percent (30%) of any monies collected or recovered through the
16 efforts of such private service providers and/or professionals to pay for the
17 fees of such service providers and/or professionals.

18 **Section 3. Appropriation to Pay for Costs Associated with Bringing Action(s)**
19 **against the Federal Government for Harms at the Ordot Dump.** *I Liheslaturan*
20 *Guahan* hereby appropriates \$350,000 from the General Fund to pay for costs and
21 expenses (not attorneys' fees) incurred in the pursuit of claims against the Federal
22 Government for harms caused at the Ordot Dump. The Department of Administration is
23 directed to identify the fund source for this purpose.

24 **Section 4. Effective Date.** This Act shall become effective upon enactment.

25 **Section 5. Severability.** If any provisions of this Act or its application to any person or
26 circumstance is found to be invalid or contrary to law, such invalidity shall not affect other
27 provisions or applications of this Act that can be given effect without the invalid provisions or
28 application, and to this end the provisions of this Act are severable.