

I MINA'TRENTA NA LIHESLATURAN GUÅHAN

2009 (FIRST) Regular Session

Bill No. (111)

Introduced by:

Matt Rector

**AN ACT TO ESTABLISH A LIVING WAGE THAT
WILL SUPPORT A FAMILY FOR GUAM'S WORKERS
THAT ARE EMPLOYED BY COMPANIES RECEIVING
JOB CREATION SUBSIDIES FROM THE PEOPLE OF
GUAM, DOING BUSINESS WITH THE PEOPLE OF
GUAM OR LEASING OR RENTING PROPERTY FROM
THE PEOPLE. TO BE KNOWN AS:**

1 **“THE LIVING WAGE FOR GUAM'S FAMILIES ACT”**

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

3 **Section 1. Legislative findings and intent.** *I Liheslaturan Guåhan* finds

4 that for years the people of Guam have subsidized a variety of job creation

5 programs with the intent of creating good middle class jobs that allow

6 workers to support their family and be productive contributors to our

7 economy. Unfortunately, history has shown that hasn't been the case. One of

1 the prime, but not the only, recipient of job subsidies has been the hotel
2 industry through the Qualifying Certificate Program. While the people of
3 Guam have invested countless millions of dollars in the last 10 years in this
4 industry, workers are paid wages well below that which is possible to raise a
5 family thereby causing taxpayers to further subsidize the needs of these
6 families through public assistance programs such as food stamps, Section 8,
7 GHURA, MIP, and other such programs. According to the most recent report
8 from Guam's Department of Labor, on the average, an employee working
9 within the hotel industry on Guam, earns \$8.24 per hour placing a family of
10 four well within the qualifying standards to receive public assistance to
11 include food stamps, Earned Income Tax Credit, GHURA housing, MIP and
12 more so long as an employee with a family of four continue to earn less than
13 \$13.40 per hour. It is safe to conclude, programs intended to bolster the hotel
14 industry has been to the contrary and has instead resulted in the people of
15 Guam subsidizing the profits of large corporations at the expense of Guam's
16 hard working families. It has long been a fact of economics, that when we
17 give an extra dollar to a worker, it circulates in our economy 10 times
18 whereas an extra dollar towards corporate profits instantly leaves our
19 economy.

1 It is therefore the intent of *I Liheslatura* to enact a new Chapter 10, Title 22
2 GCA that shall be titled:

3 THE LIVING WAGE FOR GUAM’S FAMILIES ACT.

4 **Section 1: Chapter 10 of 22 GCA is hereby enacted to read:**

5 **CHAPTER 10**

6 **LIVING WAGE FOR GUAM’S FAMILIES LAW**

7
8 § 10101. Legislative Intent.

9 § 10102. Definitions.

10 § 10103. Schedule of Implementation.

11 § 10104. Enforcement.

12 § 10105. Provision against anti-labor activity.

13 § 10106. Penalties.

14 § 10107. Severability.

15

16 **§ 10101. Legislative Intent.**

17 It is the intent of *I Liheslatura* that the government of Guam practice

1 fiscal responsibility by ensuring the people of Guam benefit fully from any
2 revenue expended from public funds for the purpose of subsidizing private
3 enterprise of any kind, or from any contract awarded to or public property
4 lent to a private enterprise of any kind in order to ensure that the true
5 investors in such public/private partnerships, the tax-payers, receive fair rates
6 receive fair rates of return upon the investment of their money by the officials
7 of the Government of Guam.

8 **§ 10102. Definitions.**

9 (a) *Employer* for the purposes of this chapter shall be defined as an
10 individual or legal entity that controls or directs a worker or
11 employee under an express or implied contract of employment
12 and compensates him or her or is obligated to compensate him or
13 her with salary or wages in compensation.

14 (b) *Employment* for the purposes of this chapter shall be defined as
15 the hiring of a person by an individual or entity for the
16 performance of a task or tasks in exchange for compensation.

17 (c) *Living Wage* for the purposes of this chapter shall be defined as
18 the current maximum income level established by the Federal

1 Government of the United States that can be earned by a family
2 of four (4) without losing eligibility for assistance in the form of
3 the Federal food stamp program, assuming said family of four (4)
4 is a single income family.

5 (d) *Subsidized Job* for the purposes of this chapter shall be defined as
6 any job with any entity, company or corporation that employs
7 more than five people and :

8 (i) Receives any form tax rebates, exemptions, abatements,
9 deductions or reductions, to include but not limited to
10 Qualifying Certificates or other programs not specified

11 (ii) Accepts revenue from the Government of Guam or any
12 agency within in exchange for providing a good or a
13 service or is contracted or subcontracted to do work for the
14 Government of Guam

15 (iii) Rents or leases property from the Government of Guam

16 (e) *union avoidance activities* for the purposes of this chapter shall
17 be defined as payment of any Private Security enterprise or

1 investigation firm, union avoidance organization or union
2 avoidance consultation service for the purpose of disrupting
3 union organization or activity upon a Government of Guam
4 worksite, or financing of a media campaign directed at disrupting
5 Union activity upon a Government of Guam worksite.

6 **§ 10103. Schedule of implementation.**

7 (a) Within 30 days of this act becoming law, the wage of any person
8 employed in a subsidized job as defined in § 10102 subsection
9 (d) of this chapter shall be set at a rate of *no less* than ten (\$10)
10 dollars per hour.

11 (b) On October 1, 2009 the wage of any person employed in a
12 subsidized job as defined in § 10102 subsection (d) of this
13 chapter shall be *no less* than \$11 per hour. If this Chapter is
14 enacted into law after the date of October 1st, 2009, this provision
15 shall take effect sixty (60) days after this chapter's enactment into
16 law.

1 (c) On April 1, 2010 the wage of any person employed in a
2 subsidized job as defined in § 10102 subsection (d) of this
3 chapter shall be *no less* than \$12 per hour.

4 (d) On October 1, 2010 the wage of any person employed in a
5 subsidized job as defined in § 10102 subsection (d) of this
6 chapter shall be *no less* than a living wage as defined by § 10102
7 subsection (c) of this chapter.

8 (e) The enactment of this law *shall not* affect or in any way conflict
9 with or infringe upon any preexisting contracts established prior
10 to the enactment of this law.

11 (f) The provisions of this law shall in no way prevent or be
12 construed as interfering with any employer compensating any
13 employee in a subsidized job at a rate of pay higher than the rates
14 of pay mandated under the provisions of this section.

15 **§ 10104. Enforcement.**

16 (a) The mandated living wage, as defined in § 10102 subsection (c)
17 of this chapter, shall be annually calculated by the Guam
18 Department of Labor in terms of monthly income based upon a

1 forty (40) hour work week to exactly equal the current maximum
2 income level established by the Federal Government of the
3 United States that can be earned by a family of four (4) without
4 said family of four (4) losing eligibility for assistance in the form
5 of the Federal food stamp program. Calculation of these factors
6 shall assume said family of four (4) is a single income family
7 and shall exclude other qualifying factors for food stamp
8 eligibility under Federal Guidelines from consideration other than
9 earnings.

10 (b) Beginning August 1st, 2010, the Guam Department of Labor
11 shall annually publish the current Living Wage required to be
12 paid to any employee occupying any subsidized job as defined by
13 § 10102 subsection (d) of this chapter and take any steps
14 necessary to inform employers affected by the provisions of this
15 chapter of the current mandated living wages of any position
16 classified as a Subsidized Job as defined in § 10102 Subsection
17 (d) of this chapter. This information shall be annually published
18 no later than sixty days prior to October 1st of each year for the
19 purpose of providing fair notice of increase to the employer.

1 (c) Prior to October 1st, 2010, the Guam department of labor shall
2 publish and take any steps necessary to inform employers
3 affected by the provisions of this chapter of the incremental
4 increases scheduled in § 10103 of this chapter prior to the living
5 wage implementation scheduled for the date of October 1st, 2010.

6 The Guam Department of labor shall publish notice of these
7 incremental increases in mandatory rate of pay for positions
8 classified as subsidized jobs as defined in § 10102 subsection (d)
9 of this chapter as soon as possible upon the enactment of this
10 chapter, at least sixty (60) days before the dates of October 1st,
11 2009 or as soon as possible upon the enactment of this chapter
12 into law, and sixty (60) days before the date of April 1st, 2010 for
13 the purpose of providing fair notice of said increases.

14 (d) The Guam Department of Labor shall have the responsibility of
15 monitoring and ensuring compliance with all provisions of this
16 act in regards to payment of living wages as defined in § 10102
17 Subsection (c), and in maintaining record of any and all
18 businesses, corporations or private entities who's positions of
19 employment are classified as subsidized jobs as defined in §

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§ 10105. Provision against anti-labor activity.

No contractor or sub-contractor in the service of the Government of Guam shall utilize Public Funding received from the Government of Guam to finance union avoidance activities as defined by the provisions of this chapter. Individuals or entities convicted of a violation of this provision shall be barred from receiving any contract or subcontract financed with Government of Guam public revenues permanently and shall be obligated to remit to the Government of Guam an amount equal to the revenue thus far paid to said Individual or Entity by the Government of Guam for the performance of current, uncompleted or unexpired contracts or subcontracts financed with Government of Guam revenues. This provision of law shall not

1 interfere with contracts already established at the time of this
2 provision's enactment into law.

3 **§ 10106. Penalties.**

4 (a) An individual employer convicted of non-payment of wages
5 owed or of refusal to pay the full amount of wages or salary
6 prescribed in accordance with this chapter to all persons
7 employed in positions classified as subsidized jobs under § 10102
8 Subsection (d) of this chapter shall, if applicable, be guilty of
9 Theft by Deception pursuant to § 43.35 title 9 GCA in addition to
10 any other criminal or civil penalties applicable.

11 (b) Other provisions of law notwithstanding, in the case of
12 conviction of any individual or entity obligated to pay a living
13 wage in accordance with this chapter for non-payment of living
14 wages as defined by this chapter to employees, any fines and fees
15 imposed upon said convicted individual or entity shall first be
16 used to make appropriate financial reparations as deemed
17 appropriate by the court presiding over said case to any parties
18 denied the full amount of wages owed by said individual or entity

1 as mandated under the provisions of this chapter for services
2 rendered while in the employment of the party or parties
3 convicted. Of any remaining revenues, seventy-five percent
4 (75%) shall be remitted to the operational budget of the Guam
5 Department of Labor and a total of twenty-five percent (25%)
6 shall be withheld at the discretion of the court for payment of
7 individual(s) qualifying for reward under the provisions of
8 subsection (c) of this section. If the court finds that no individuals
9 are qualified for this reward amount in accordance with the
10 provisions of subsection (c) of this section, this amount of
11 twenty-five percent (25%) shall be remitted to the Guam
12 Department of Labor's operational budget .

13 (c) Other provisions of law notwithstanding, an individual who
14 provides evidence or information leading to the conviction of one
15 or more individuals for non-payment of the required wages in
16 accordance with the provisions of this chapter shall be eligible to
17 receive no less than twenty-five percent (25%) of any and all
18 remaining revenues and assets collected in fines or other financial
19 penalties levied against the convicted party or parties for said

1 violation of this chapter after reparations have been paid to any
2 employees denied the full amount of wages owed in accordance
3 with the provisions of subsection (b) of this section. This sum of
4 twenty-five-percent (25%) of remaining revenues shall be
5 considered a reward for performance of civic duty and shall be
6 awarded at the discretion of the Court presiding over the hearing
7 for said offenses. In the event of multiple parties claiming said
8 reward for contributions made to any individual case, this
9 monetary amount may be divided between any number of parties
10 deemed by the court to be deserving of said reward in an amount
11 per individual based upon individual value of contribution to any
12 case in the opinion of the Court. Individuals not eligible to collect
13 this reward will be public servants, law-enforcement officers, and
14 Federal agents.

15 **§ 10107. Severability.**

16 If any provision of this chapter or the application thereof to an
17 individual person or circumstance is held to be invalid, said invalidity
18 shall not affect other provisions or applications of this chapter which

1 can be given full effect without the invalid portions or provisions of
2 said chapter, and to that end the provisions of this chapter are declared
3 to be severable.