





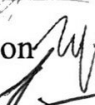
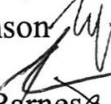

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
115-37 (COR)	Jesse A. Lujan Telo T. Taitague Dwayne T. D. San Nicolas Chris Barnett William A. Parkinson Thomas J. Fisher Tina Rose Muña Barnes	AN ACT TO ADD A NEW § 6404(f) TO ARTICLE 4, CHAPTER 6 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE PAYMENT, REDEMPTION, REISSUANCE AND ENFORCEMENT OF COST-OF-LIVING ALLOWANCE (LOLA COLA) CERTIFICATES OF CLAIM.	5/10/23 2:43 p.m.						

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

Bill No. 115-37 (COR)

Introduced by:

Jesse A. Lujan 
Telo T. Taitague 
Dwayne T.D. San Nicolas 
Chris Barnett 
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Thomas J. Fisher 
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**AN ACT TO ADD A NEW § 6404(f) TO ARTICLE 4,
CHAPTER 6 OF TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO THE PAYMENT, REDEMPTION,
REISSUANCE AND ENFORCEMENT OF COST-OF-
LIVING ALLOWANCE (LOLA COLA) CERTIFICATES
OF CLAIM.**

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

2 **Section 1. Title.** This Act is known as the COLA Relief Act.

3 **Section 2. Legislative Intent.** *I Liheslaturan Guåhan* reaffirms its intent that
4 these Certificates of Claim remain negotiable instruments, transferable, inheritable
5 and payable to the awardee, recipient, bearer, holder, their heirs and assigns pursuant
6 to Division 3, Chapter 1 of Title 13 Guam Code Annotated and 13 G.C.A. §1308.
7 The Government's obligation is extinguished when the Certificates of Claims are
8 redeemed under the terms of law, and as published on each Certificate of Claim.

1 *I Liheslaturan Guåhan* further reaffirms and ratifies its intent to codify and
2 implement the Judgment and Stipulation and Order in *Rios v. Camacho*, Superior
3 Court Case No. SP0206-93, the Guam Supreme Court Opinions in *In re Duque v.*
4 *Superior Court (Rios)*, 2007 Guam 15, and the Certificates of Claim.

5 Notwithstanding any past, present, or future attempts to void or avoid
6 payment in full, unpaid Certificates of Claim remain a continuing obligation and
7 debt of the Government of Guam. Title 5 GCA § 6404(e)(7) provides a continuing
8 appropriation for the payment of outstanding Certificate of Claims. *I Liheslaturan*
9 *Guåhan* finds the obligation to pay Cola Class Retirees is well settled. Through the
10 Cola Relief Act, *I Liheslaturan Guåhan* provided the mechanism, specifically, the
11 Certificates of Claim, and continuing appropriation to ensure the recipients and
12 current holders of Certificates of Claim are not burdened with time consuming and
13 costly litigation against the Government to receive payment or prove they are still
14 owed money.

15 The Government of Guam failed to issue Certificate of Claims to the over
16 4,000 Cola Class Retirees despite the enactment of Public Law 29-018 on September
17 23, 2007, mandating the issuance of Certificates of Claim to the Cola Class and
18 Attorney Michael Phillips. Attorney Phillips again sued the Government for the
19 issuance of Certificate of Claims and Promissory Notes in *Gloria Nelson, et.al. v.*
20 *Benita Manglona in her capacity as the Director of Administration*, Superior Court
21 of Guam SP12-10, *Frank Hill v. Lourdes Perez in her capacity as the Director of*
22 *Administration*, Superior Court of Guam SP11-10, and *Phillips & Bordallo, P.C. v.*
23 *Lourdes Perez in her capacity as the Director of Administration*, Superior Court of
24 Guam SP10-10 almost three (3) years after *I Liheslaturan Guåhan* mandated its
25 issuance. Now, almost 30 years after the initial lawsuit was filed and the death of at
26 least 90% of the Cola Class, the Government continues to maintain its air of hostility
27 towards the Cola Class and Class Attorney by refusing to pay and honor the validity

1 of outstanding Certificate of Claims by recipients and holders of these Certificates
2 of Claim, and to take the steps necessary to notify all unpaid Retirees or their heirs.

3 *I Liheslaturan Guåhan* finds that over 400 individuals have outstanding
4 Certificates of Claim totaling over \$6.2 Million Dollars, including the outstanding
5 Certificate of Claim for Cola Class Attorney Michael F. Phillips. In response to a
6 freedom of information request for a list of names and amounts still owed to COLA
7 Retirees under the *Rios* Class Action Lawsuit, the Director of the Department of
8 Administration asserted the time for retaining this information expired and the
9 documents are no longer available, and that Guam law allows the Director of
10 Administration and Attorney General of Guam to destroy these records. However,
11 the Retirement Fund provided a list confirming over 400 Cola Class Retirees remain
12 unpaid with no further attempt to compensate these Retirees, heirs, or even Class
13 Counsel.

14 It is the intent of *I Liheslaturan Guåhan* to once again settle all questions
15 concerning the validity or negotiability of Certificates of Claim and ensure
16 Certificate Holders are fully compensated without further need of litigation. *I*
17 *Liheslaturan Guåhan* finds the Government owes over 400 Cola Class Retirees and
18 Cola Class Counsel, Attorney Michael F. Phillips the full amounts of their
19 Certificates of Claim plus interest.

20 **Section 3.** A new Section 6404(f) is added to Article 4, Chapter 6 of Title 5,
21 Guam Code Annotated, to read as follows:

22 **“(f) Reissuance or Redemption of Certificates of Claim.** Any person who
23 willfully fails to perform the ministerial duty to reissue or redeem Certificates of
24 Claim upon demand by the awardee, recipient, bearer, holder, their heirs and assigns,
25 shall be personally liable for the reasonable attorney’s fees and costs incurred by
26 claimants to legally compel performance.

1 **(1) Waiver of Sovereign Immunity.** The Government of Guam waives
2 immunity from suit or action to enforce the terms of the Certificates of Claim
3 and the COLA Relief Act. Any such suit or action shall be brought in the
4 Superior Court of Guam.

5 **(2) Standing and Remedies.**

6 (a) All Certificate awardees, recipients, bearers, holders, or
7 their heirs and assigns shall have the ability to enforce the
8 terms of said Certificates against the Government of Guam
9 and may seek any and all remedies available to them
10 allowed by Guam law, including but not limited to those
11 remedies provided in 7 G.C.A. § 31202 and 7 G.C.A. §
12 31212. Possession of an Original Certificate of Claim is
13 conclusive evidence of the amounts due and owing to the
14 awardee, recipient, bearer, holder, their heirs, and assigns
15 by the Government of Guam.

16 (b) All Certificate awardees, recipients, bearers, holders, or
17 their heirs and assigns may choose to file their claims
18 directly in the Superior Court of Guam without going
19 through the Government Claims process.

20 (c) Should the Certificate awardees, recipients, bearers,
21 holders, or their heirs and assigns prevail in an action
22 against the Government of Guam for the payment,
23 redemption or reissuance of their Certificate of Claim, the
24 Government of Guam shall be liable and pay the
25 Claimant's reasonable attorney's fees.

26 (d) The Office of the Attorney General may bring an action
27 on behalf of individual Certificate of Claim awardees,

1 recipients, bearers, holders, or their heirs and assigns
2 against the person or persons responsible for failing to
3 fully implement the provisions of this Act and to compel
4 their performance in accordance with this Act.

5 (e) Failure to honor claims for payment by Certificate
6 awardees, recipients, bearers, holders, or their heirs and
7 assigns shall be a misdemeanor and shall be punishable by
8 a fine of up to One Thousand Dollars (\$1,000.00) and up
9 to one year in prison.

10 **(3) Payable on Demand.** The Government of Guam reaffirms its
11 intent to ensure Certificate of Claim awardees, recipients, bearers, holders or
12 their heirs and assigns receive the full benefits, provided and stated on the face
13 of such Certificates of Claim and ratifies its intent to ensure such Certificates
14 of Claim are recognized as negotiable instruments as that term is defined in
15 13 G.C.A. § 3104 and remain payable on demand.

16 **(4) Interest Ceases Upon Tender.** The Government of Guam shall not
17 include continuing interest otherwise due after the government officially
18 tenders the full principal and interest amount owed by the terms of the
19 Certificate of Claim to awardees, recipients, bearers, holders or their heirs and
20 assigns.”

21 **Section 4. Effective.** This new Section shall be immediately effective upon
22 enactment, retroactive to the date of Judgment in *Rios v. Camacho*, Superior Court
23 Case No. SP0206-93.

24 **Section 5. Severability.** If any provision of this Act or its application to any
25 person or circumstance is found to be invalid or contrary to the Organic Act of
26 Guam, such invalidity shall not affect other provisions or applications of this Act

1 that can be given effect without the invalid provision or application, and to this end
2 the provisions of this Act are severable.
3