



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Office of the Speaker
MAMA FORBES
Date: 11/6/06
Time: 3:50
Rec'd by: [Signature]
Print Name: [Signature]
28-06A 1173

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

06 NOV 2006

Dear Mr. Speaker:

Transmitted herewith is Bill No. 332(LS), "AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING I MAGA'LAHEN GUÅHAN TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY AMENDING TITLE 4 G.C.A. §7101; BY ADDING NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY ADDING §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY ADDING A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO ADD A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES" which I signed into law on October 31, 2006, as Public Law 28-151.

Sinseru yan Magåhet,

[Signature]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

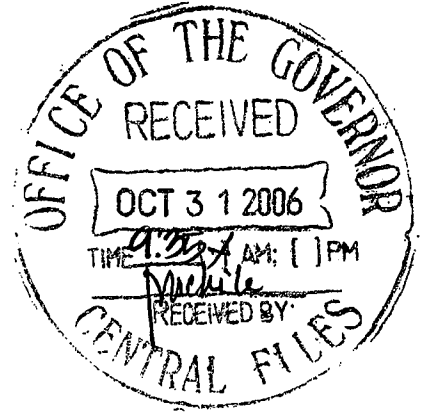
Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE
ACKNOWLEDGEMENT RECEIPT
Rcv'd by: [Signature]
Print Name & Initial
Time: 1:40 Date: 11-13-06

1076



**MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN**  
TWENTY-EIGHTH GUAM LEGISLATURE  
155 Hessler Place, Hagåtña, Guam 96910

October 30, 2006




The Honorable Felix P. Camacho  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*

Dear *Maga'lahi* Camacho:

Transmitted herewith is Substitute Bill No. 332(LS), which was passed by *I Mina'Bente Ocho Na Liheslaturan Guåhan* on October 30, 2006.

Sincerely,

  
EDWARD J.B. CALVO  
Senator and Secretary of the Legislature

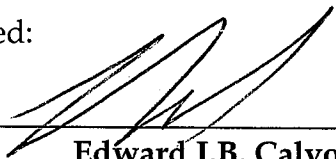
Enclosure (1)

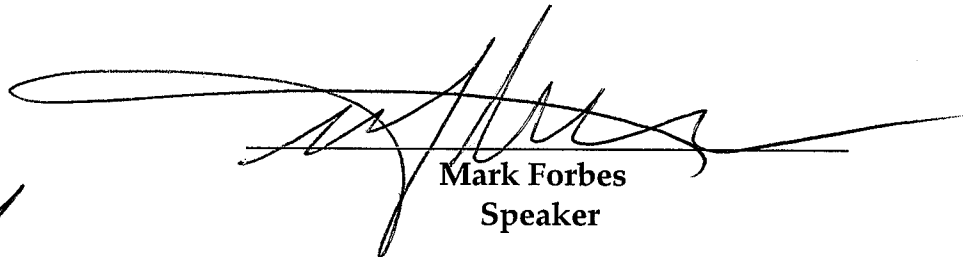
I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2006 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

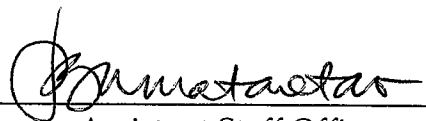
This is to certify that Substitute Bill No. 332 (LS), "AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING *I MAGA'LAHEN GUÅHAN* TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY *AMENDING* TITLE 4 G.C.A. §7101; BY *ADDING* NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY *ADDING* NEW §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY *ADDING* A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO *ADD* A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES," was on the 30<sup>th</sup> day of October, 2006, duly and regularly passed.

Attested:

  
\_\_\_\_\_  
Edward J.B. Calvo  
Senator and Secretary of the Legislature

  
\_\_\_\_\_  
Mark Forbes  
Speaker

-----  
This Act was received by *I Maga'lahaen Guåhan* this 31 day of Oct., 2006, at  
9:35 o'clock A.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahaen's* Office

APPROVED:

  
\_\_\_\_\_  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: PL 28-151

Public Law No. 10/31/06

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2006 (SECOND) Regular Session**

**Bill No. 332(LS)**

As substituted and amended  
in the Committee of the Whole.

Introduced by:

Committee on Calendar  
by request of *I Maga'lahen*  
*Guåhan*, the Governor of  
Guam, in accordance with the  
Organic Act of Guam.

**AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING *I MAGA'LAHEN GUÅHAN* TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY *AMENDING* TITLE 4 G.C.A. §7101; BY *ADDING* NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY *ADDING* NEW §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY *ADDING* A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO *ADD* A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES.**

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

2        **Section 1. Authorization to Access Funds.** Notwithstanding any other  
3 provision of law, *I Maga'lahen Guåhan* is authorized to access and expend funds from  
4 the executive branch accounts listed in Attachment "A" for the purpose of making  
5 payments for the Cost of Living Adjustment to government of Guam retirees as set  
6 forth in *Rios v. Camacho, et al.*, Superior Court Case No. SP0206-93, provided that *no*  
7 funds appropriated for the operations of agencies responsible for education, health or  
8 public safety pursuant to P.L. 28-149 and P.L. 28-150 shall be expended. The  
9 payments authorized by this Section shall *not* be considered a new appropriation. All

1 cash expended from executive branch accounts identified in Attachment "A" shall be  
2 reimbursed promptly as cash becomes available. Upon disbursement, *I Maga'laha*  
3 *Guåhan* shall provide *I Liheslaturan Guåhan* with a report detailing the total amount  
4 paid to retirees and the remaining balance owed.

5 **Section 2.** Title 4 G.C.A., Chapter 7, §7101 is *amended* to read:

6 **"§7101. Definitions.** For purposes of this Chapter:

7 (1) Employee means all employees of the government of Guam.

8 (2) Money due means the pay and allowances due on account of the  
9 services of a deceased employee of the government of Guam. It includes the  
10 following:

11 (A) Per diem and amounts due in reimbursement of travel  
12 expenses;

13 (B) Overtime or premium pay;

14 (C) Payments for accrued annual and sick leave;

15 (D) Amounts of checks drawn for pay which were not delivered to  
16 the employee during his lifetime;

17 (E) Amounts of unnegotiated checks returned to the Government  
18 because of the death of the employee.

19 (F) COLA AWARDS.

20 It does *not* include amounts the disposition of which is otherwise  
21 expressly prescribed by law.

22 (3) COLA AWARDS means Cost of Living Adjustment payments made  
23 pursuant to Superior Court Case No. SP0206-93.

24 (4) COLA AWARDEE means a government retiree entitled to receive a  
25 Cost of Living Adjustment payment pursuant to Superior Court Case No.  
26 SP0206-93."

27 **Section 3.** A new §20101.1 is *added* to Chapter 20 of Title 5 G.C.A. to read:

1           **“§20101.1. Director of Administration to Pay COLA AWARDS.**

2           *Unless* the Superior Court orders otherwise, the Director of Administration shall  
3           serve as agent for payment of COLA AWARDS as defined by Title 4 G.C.A.  
4           §7101(3). The Director shall pay COLA AWARDS to:

5                     (1) COLA AWARDEES as defined by Title 4 G.C.A. §7101(4);

6                     (2) their beneficiaries designated pursuant to Title 4 G.C.A. §7102;

7                     (3) their personal representatives or their heirs pursuant to a Decree of  
8           Final Distribution;

9                     (4) pursuant to Title 15 G.C.A. §3101.1.”

10          **Section 4.** A new §20101.2 is *added* to Chapter 20 of Title 5 G.C.A. to read:

11           **“§20101.2. Duties of Director of Administration Regarding COLA**  
12          **AWARDS.**

13                     (a) When a COLA AWARDEE dies before receiving his award, a  
14           beneficiary designated pursuant to Title 4 G.C.A. Chapter 7, §7202 may submit  
15           to the Director of Administration:

16                             (1) the AWARDEE’s death certificate;

17                             (2) an affidavit stating (i) that the decedent was entitled to the  
18           award; (ii) that he died before receiving it; and (iii) the name, age  
19           and mailing address of every beneficiary entitled to receive the  
20           award pursuant to Title 4 G.C.A. §7202.

21                     (b) If the Director determines that the affidavit is correct and that §7202  
22           applies, he shall pay over the COLA AWARD to the designated beneficiaries.

23                     (c) The Director shall develop a form affidavit to assist applicants for  
24           COLA AWARDS.”

25          **Section 5.** A new §8140.2 is *added* to Article 1 of Chapter 8 of Title 4 G.C.A.

26          to read:

1           **“§8140.2. Duties of the Director of the Retirement Fund Regarding COLA**  
2 **AWARDS.** The Director of the Government of Guam Employees’ Retirement Fund  
3 shall provide the Director of Administration with any information he requires to  
4 determine the amount of COLA AWARD per AWARDEE and appropriate  
5 beneficiaries of COLA AWARDS pursuant to Title 5 G.C.A. §§20101.1 and  
6 20101.2.”

7           **Section 6.** A new §8140.3 is *added* to Article 1 of Chapter 8 of Title 4 G.C.A.  
8 to read:

9           **“§8140.3. Assistance for COLA AWARDEES.** The Government of Guam  
10 Employees’ Retirement Fund shall provide, to any person seeking payment of a  
11 COLA AWARD as defined by Title 4 G.C.A. §7101(3), assistance in preparing the  
12 documents required by Title 5 G.C.A. §§20101.1 and 20101.2 or Title 15 G.C.A.  
13 §3101.1.”

14           **Section 7.** A new §3101.1 is *added* to Title 15 G.C.A. to read:

15           **“§3101.1. Estates of Deceased COLA AWARDEES; Summary**  
16 **Administration or Probate; Affidavit.** When a COLA AWARDEE as defined by  
17 Title 4 G.C.A. §7101(4) dies before receiving the award and the Director of  
18 Administration determines that Title 4 G.C.A. §7102 does not apply, the Director  
19 shall pay over the COLA AWARD as defined by Title 4 G.C.A. §7101(3) as follows:

- 20           (a) If no proceeding regarding the AWARDEE’s estate was brought pursuant  
21 to Title 15 G.C.A., a person who has a right to succeed to the AWARDEE’s  
22 property may, without bringing such a proceeding, submit to the Director  
23 the COLA AWARDEE’s death certificate and an affidavit showing the  
24 name, age and address of every person entitled to the COLA AWARD  
25 pursuant to the laws of intestate succession. If the Director determines that  
26 the affidavit is correct, he shall distribute the COLA AWARD accordingly.

1 (b) If a proceeding regarding the COLA AWARDEE's estate pursuant to Title  
2 15 G.C.A. is pending, the court in said proceeding shall order the Director  
3 to pay over the award to the decedent's personal representative.

4 (c) If a proceeding regarding the COLA AWARDEE's estate was brought  
5 pursuant to Title 15 G.C.A. but is closed, the personal representative or an  
6 heir of the COLA AWARDEE may request payment of the COLA  
7 AWARD and present the Director of Administration with a certified copy  
8 of the Final Decree of Distribution. The Director shall pay over the COLA  
9 AWARD according to said Decree in the appropriate amounts to the heirs  
10 named therein or to their personal representatives or successors in interest.

11 The Director shall develop form affidavits to assist applicants for COLA  
12 AWARDS.”

13 **Section 8. Tax Rebates for COLA Awardees.** A new Chapter 44 is *added* to  
14 Title 11 G.C.A. to read:

15 **“CHAPTER 44.**

16 **The COLA Settlement Awardee Appreciation Act**

17 **TAX REBATES FOR COLA Settlement Awardees**

18 **§44101. Definitions.**

19 **§44102. Tax Rebate for COLA Settlement Awardees.**

20 **§44103. Procedure to Claim Rebated Taxes.**

21 **§44104. Rebate Fund.**

22 **§44105. Implementation by Tax Commissioner.**

23 **§44101. Definitions.** As used in this Chapter:

24 (a) ‘COLA AWARDEE’ means a government retiree or eligible survivor  
25 (pursuant to Title 4 G.C.A. §7102) entitled to receive a Cost of Living  
26 Adjustment pursuant to Superior Court Case No. SP0206-93.

27 (b) ‘COLA Award Qualifying Certificate (CQC)’ means the declaration of



1 a *COLA AWARDEE*, made pursuant to Title 6 GCA §4308, of the  
2 personal income tax due from a COLA AWARD received pursuant to  
3 Superior Court Case No. SP0206-93.

4 **§44102. Tax Rebate for COLA Settlement Awardees.** A tax rebate in  
5 an amount equal to the total personal income tax due regarding Cost of Living  
6 Adjustment payments received pursuant to Superior Court Case No. SP0206-93  
7 by ‘COLA AWARDEES’ is hereby established and declared.

8 **§44103. Procedure to Claim Tax Rebates.** When a tax return is  
9 accompanied by a *CQC*, the amount of tax due prior to the rebate shall be  
10 deposited with the government of Guam when the return is filed. Alternatively,  
11 if no payment is due when the tax return is filed, the Tax Commissioner of  
12 Guam shall credit the amount of the *CQC* to the Rebate Fund from taxes paid  
13 by the taxpayer. Unless the Tax Commissioner finds that the rebate is not  
14 payable, the rebate shall be withdrawn from the deposit and returned to the  
15 taxpayer within one hundred eighty (180) days of the deposit without interest.

16 **§44104. Rebate Fund.** Deposits made pursuant to §44103 of this  
17 Chapter shall be covered and deposited into the fund created by Title 12 G.C.A.  
18 §58138.

19 **§44105. Implementation by Tax Commissioner.** The Tax  
20 Commissioner of Guam shall, *no later than* ninety (90) days after the enactment  
21 hereof, develop necessary procedures to implement this Chapter, and to that end  
22 shall:

- 23 (a) enact such rules and regulations as he finds necessary;  
24 (b) promulgate forms and publications to assist eligible taxpayers to  
25 take advantage of this Chapter; and  
26 (c) develop a procedure to allow the set off of an unpaid tax rebate  
27 from a prior year against a current year’s tax liability.”

1           **Section 9.** *I Maga'lahen Guåhan* is hereby authorized to enter into a structured  
2 settlement with the class of retirees entitled to receive COLA AWARDS as defined by  
3 Title 4 G.C.A. §7101(3) pursuant to Superior Court Case No. SP0206-93 upon such  
4 terms as *I Maga'lahi* determines to be just, to include interest up to seven percent  
5 (7%) per annum on sums paid over pursuant to the settlement. *I Maga'lahi* may  
6 pledge up to Ten Million Dollars (\$10,000,000) per year from payments received by  
7 the government of Guam pursuant to Section 30 of the Organic Act as collateral for  
8 said settlement, subject to the approval of *I Liheslaturan Guåhan*.

9           **Section 10.** This Act shall be repealed and cease to be of any further force and  
10 effect upon the Superior Court's determination in SP0206-93 that all COLA  
11 AWARDS have been paid over.

# Attachment "A"

1. GTA Privatization Fund
2. Interim Transition Office Account
3. THF Construction Fund
4. TAF Construction Fund