

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

February 3, 2022

HONORABLE THERESE M. TERLAJE

Speaker, I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: SUBSTITUTE BILL NO. 230-36 (LS) – An Act to *Add* a New Article 13.3 to Chapter 1, Title 5, Guam Code Annotated, Relative to Amending the Implementation Plan for Payments for Guam World War II Claims to Claimants Who Failed to Meet the One (1) Year Filing Deadline Under U.S. Public law 114-328

Hafa Adai Madame Speaker,

Substitute Bill No. 230-36 revises the Governor's Implementation Plan for payment of additional war claims to eligible survivors of Guam's occupation during World War II, as well as eligible descendants of those we lost during the war. This Substitute Bill brings to fruition our administration's efforts to recognize the suffering our people endured, and to provide them recompense. With this Substitute Bill, we can begin again the process of accepting, processing, and adjudicating claims, and paying reparations to claimants, beginning with our war survivors.

I have instructed the Department of Administration and the Guam Museum to begin operationalizing their respective responsibilities under the Substitute Bill, and will facilitate the convening of the Adjudication Committee tasked with determining the merits of the individual claims.

As the Department of Administration prepares to effectuate the Implementation Plan, I want to highlight legislative amendments to the appropriations language in Section 13.306, which identifies as a source of funding "the General Fund balance of the revenues collected in excess of the adopted Fiscal Year 2021 revenues." The Implementation Plan our administration submitted to the Legislature contained straightforward and unequivocal language that would have appropriated funds from the General Fund to the Department of Administration. But some in the Legislature advocated for the complicated and flawed language that was ultimately adopted.

The Legislature's amendment again identifies "excess" revenues as a source of funding, which, as I have pointed out in the past, is irresponsible fiscal policy and demonstrates a lack of understanding of how government finances work. This is not a time to complicate matters further at the expense of our people; it is a time to come together and work together to remedy a wrong our people have suffered for generations. Despite the Legislature's inability to agree on the fund

To: Speaker Terlaje
Fr: Governor of Guam
Date: February 3, 2022
Re: Substitute Bill No. 230-36 nka P.L. 36-73

Page 2 of 2

source, our administration is committed to making these long-awaited payments, without compromising responsible fiscal policy.

Along with Governor Leon Guerrero, it is my hope and expectation that these claims will be processed and paid efficiently, that our greatest generation will not have to wait much longer to receive the overdue acknowledgment and reparations to which they are entitled, and that this measure brings our island and its people a final measure of closure, peace and healing. I hereby sign Substitute Bill No. 230-36 into law as ***Public Law No. 36-73***.

Senseremente,



JOSHUA F. TENORIO
Åkto Maga'låhen Guåhan
Acting Governor of Guam

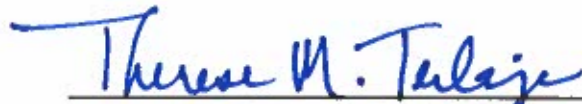
Enclosure: Sub. Bill No. 230-36 (LS) *nka P.L. No. 36-73*

cc via email: *Honorable* Lourdes A. Leon Guerrero, *Maga'hågan Guåhan*
Compiler of Laws

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÁHAN
2022 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÁGAN GUÁHAN*

This is to certify that **Substitute Bill No. 230-36 (LS), "AN ACT TO ADD A NEW ARTICLE 13.3 TO CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AMENDING THE IMPLEMENTATION PLAN FOR PAYMENTS FOR GUAM WORLD WAR II CLAIMS TO CLAIMANTS WHO FAILED TO MEET THE ONE (1) YEAR FILING DEADLINE UNDER U.S. PUBLIC LAW 114-328,"** was on the 28th day of January 2022, duly and regularly passed.



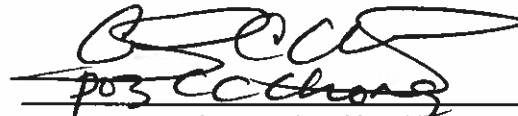
Therese M. Terlaje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 28th day of January
2022, at 7:38 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:



JOSHUA F. TENORIO, ACTING GOVERNOR OF GUAM

for: **Lourdes A. Leon Guerrero**
I Maga'hågan Guåhan

Date: 2-3-2022

Public Law No. 36-73

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 230-36 (LS)

As amended by the Committee on General Government Operations, Appropriations, and Housing; substituted on the Floor; and further amended in the Committee of the Whole.

Introduced by:

Committee on Rules

by request of *I Maga'hågan Guåhan*,
the Governor of Guam, in accordance
with the Organic Act of Guam

AN ACT TO *ADD* A NEW ARTICLE 13.3 TO CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AMENDING THE IMPLEMENTATION PLAN FOR PAYMENTS FOR GUAM WORLD WAR II CLAIMS TO CLAIMANTS WHO FAILED TO MEET THE ONE (1) YEAR FILING DEADLINE UNDER U.S. PUBLIC LAW 114-328.

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

2 **Section 1.** The Implementation Plan for Payments for Guam World War II
3 Claims shall be consistent with Public Law 36-62, the “Guam World War II
4 Reconciliation Act of 2021.” Payments authorized under Public Law 36-62 or
5 Article 13.3 of Chapter 1, Title 5, Guam Code Annotated, shall be limited to
6 claimants who failed to file a claim with the Foreign Claims Settlement Commission
7 of the United States on or before June 20, 2018 under U.S. Public Law 114-328.

8 **Section 2. Implementation Plan for Payments for Guam World War II**
9 **Claims.** A new Article 13.3 is hereby *added* to Chapter 1, Title 5, Guam Code
10 Annotated to read:

1 Meritorious Claims Act of 1945 (U.S. Public Law 79-224) or U.S. Public Law 114-
2 328.

3 (b) *Compensable Guam victim* means an individual who is not deceased as
4 of the date of the enactment of the Guam World War II Loyalty Recognition Act,
5 U.S. Public Law 114-328, and who is determined by the Adjudication Committee
6 pursuant to § 13.304 to have suffered, as a result of the attack and occupation of
7 Guam by Imperial Japanese military forces during World War II, or incident to the
8 liberation of Guam by United States military forces, any of the following:

9 (1) rape or severe personal injury, such as loss of a limb,
10 dismemberment, or paralysis.

11 (2) forced labor or a personal injury not under item (1) of this
12 Subsection, such as disfigurement, scarring, or burns.

13 (3) forced march, internment, or hiding to evade internment.

14 (c) *Personal injury* means a discernible injury, such as disfigurement,
15 scarring, or burns, that is more serious than a superficial injury.

16 (d) *Severe personal injury* means loss of a limb, dismemberment, paralysis,
17 or any injury of a similar type that is comparable in severity.

18 **§ 13.302. Payments for Certified Guam World War II Claims.**

19 (a) Payments for Death, Personal Injury, Forced Labor, Forced March, and
20 Internment. After the Director of the Department of Administration (Director)
21 receives the certification from the Chairperson of the Adjudication Committee as
22 required under § 13.304(f), the Director shall make payments, subject to the
23 availability of funds, to compensable Guam victims and survivors of compensable
24 Guam decedents as follows:

25 (1) *Compensable Guam Victim*. Before making any payments under
26 Subsection(a)(2) of this Section, the Director shall make payments to
27 compensable Guam victims as follows:

1 (A) In the case of a victim who has suffered an injury
2 described in § 13.301(b)(1), Fifteen Thousand Dollars (\$15,000).

3 (B) In the case of a victim who is not described in Subsection
4 (a)(1)(A) of this Section, but who has suffered an injury described in §
5 13.301(b)(2), Twelve Thousand Dollars (\$12,000).

6 (C) In the case of a victim, who is not described in Subsection
7 (a)(1)(A) or Subsection (a)(1)(B) of this Section, but who has suffered
8 an injury described in § 13.301(b)(3), Ten Thousand Dollars (\$10,000).

9 (2) Survivors of Compensable Guam Decedents. In the case of a
10 compensable Guam decedent, the Director shall pay Twenty-five Thousand
11 Dollars (\$25,000) for distribution to survivors of the decedent in accordance
12 with Subsection (b) of this Section. The Director shall make payments under
13 this Subsection only after all payments have been made under Subsection
14 (a)(1) of this Section.

15 (b) Distribution of Survivor Payments. A payment made under Subsection
16 (a)(2) of this Section to the survivors of a compensable Guam decedent shall be
17 distributed as follows:

18 (1) In the case of a decedent whose spouse is living as of the date of
19 the enactment of the Guam World War II Loyalty Recognition Act, U.S.
20 Public Law 114-328, but who had no living children as of such date, the
21 payment shall be made to such spouse.

22 (2) In the case of a decedent whose spouse is living as of the date of
23 the enactment of the Guam World War II Loyalty Recognition Act, U.S.
24 Public Law 114-328, and who had one (1) or more living children as of such
25 date, fifty percent (50%) of the payment shall be made to the spouse and fifty
26 percent (50%) shall be made to such children, to be divided among such
27 children to the greatest extent possible into equal shares.

1 (3) In the case of a decedent whose spouse is not living as of the date
2 of the enactment of the Guam World War II Loyalty Recognition Act, U.S.
3 Public Law 114-328, and who had one (1) or more living children as of such
4 date, the payment shall be made to such children, to be divided among such
5 children to the greatest extent possible into equal shares.

6 (4) In the case of a decedent whose spouse is not living as of the date
7 of the enactment of the Guam World War II Loyalty Recognition Act, U.S.
8 Public Law 114-328, and who had no living children as of such date, but who:

9 (A) had a parent who is living as of such date, the payment
10 shall be made to the parent; or

11 (B) had two (2) parents who are living as of such date, the
12 payment shall be divided equally between the parents.

13 (5) In the case of a decedent whose spouse is not living as of the date
14 of the enactment of the Guam World War II Loyalty Recognition Act, U.S.
15 Public Law 114-328, who had no living children as of such date, and who had
16 no parents who are living as of such date, no payment shall be made.

17 **§ 13.303. Filing Period for Claims and Notice.**

18 (a) Filing Period. An individual filing a claim for a payment under § 13.302
19 shall file such claim not later than twelve (12) months after the date on which the
20 Adjudication Committee publishes the notice described in Subsection (b) of this
21 Section.

22 (b) Notice of Filing Period. Not later than thirty (30) days after the date of
23 the enactment of this Act, the Adjudication Committee shall publish a notice of the
24 deadline for filing a claim described in Subsection (a) of this Section in a newspaper
25 of general circulation, radio, television media in Guam and the Guam Public Notice
26 website.

27 **§ 13.304. Adjudication and Eligibility.**

1 (a) The Adjudication Committee established pursuant to Public Law 36-62
2 shall adjudicate claims and determine the eligibility of individuals for payments
3 under § 13.302.

4 (b) Eligibility.

5 (1) An individual shall not be eligible for payment under § 13.302
6 unless the individual submits a timely claim in such manner and form and
7 containing information as required by the Adjudication Committee.

8 (2) An individual who filed a claim under the Guam World War II
9 Loyalty Recognition Act, U.S. Public Law 114-328, with the Foreign Claims
10 Settlement Commission of the United States, on or before June 20, 2018, shall
11 not be eligible to receive payments under Public Law 36-62 or this Act.

12 (3) An individual who received payment under the Guam World
13 War II Loyalty Recognition Act, U.S. Public Law 114-328, shall not be
14 eligible to receive payments under Public Law 36-62 or this Act.

15 (c) The decision of the Adjudication Committee on each claim filed under
16 this Act shall:

17 (1) be by majority vote;

18 (2) be in writing;

19 (3) state the reasons for the approval or denial of the claim; and

20 (4) if approved, state the amount of the payment awarded and the
21 distribution, if any, to be made of the payment.

22 (d) The Adjudication Committee shall deduct, from a payment made to a
23 compensable Guam victim or survivors of a compensable Guam decedent under this
24 Section, amounts paid to such victim or survivors under the Guam Meritorious
25 Claims Act of 1945 (U.S. Public Law 79-224) before the date of the enactment of
26 the Guam World War II Loyalty Recognition Act, U.S. Public Law 114-328.

1 (e) No interest shall be paid on payments made by the Adjudication
2 Committee under § 13.302.

3 (f) After a decision approving a claim becomes final, the Chairperson of
4 the Adjudication Committee may certify such decision to the Director of the
5 Department of Administration (Director) for authorization of a payment under §
6 13.302.

7 **§ 13.305. Appeals.**

8 Objections and appeals of decisions of the Adjudication Committee shall be
9 filed with the Adjudication Committee, who may consult with the Office of the
10 Attorney General, and upon rehearing, the decision in each claim shall be final, and
11 not subject to further review by any court or agency.

12 **§ 13.306. Funding Source for Payment of Claims.**

13 (a) Claims approved by the Adjudication Committee and certified by the
14 Chairperson shall first be paid from the Seventy-Fifth (75th) Guam Liberation War
15 Claims Fund (Guam War Claims Fund) as set forth in § 13.206 of Article 13.2,
16 Chapter 1, 5 GCA, Public Law 36-62, and established by Public Law 35-61.

17 (b) Upon full expenditure of such funds under Subsection (a) of this
18 Section, the sum of Ten Million Dollars (\$10,000,000) is hereby appropriated from
19 the General Fund balance of the revenues collected in excess of the adopted Fiscal
20 Year 2021 revenues to the Guam War Claims Fund for payment of claims approved
21 by the Adjudication Committee and certified by the Chairperson. *I Maga'hågan*
22 *Guåhan* shall submit a Fund Transfer Report regarding each transfer from the
23 General Fund to the Guam War Claims Fund. Section 30 funds made available in
24 Fiscal Year 2023 may be used to reimburse the General Fund to recoup all amounts
25 authorized by this Subsection as identified in the Fund Transfer Report executed by
26 *I Maga'hågan Guåhan*. A copy of such written report shall be delivered to *I*
27 *Liheslaturan Guåhan* within fifteen (15) days upon execution. This Fund shall be

1 exempt from the Governor's transfer authority; and any funds remaining shall be
2 subject to legislative appropriation.

3 (c) Funds appropriated under this Section shall not lapse and shall continue
4 to be available until fully expended.

5 **§ 13.307. Office.**

6 The Director shall serve as the Administrative Officer of the Adjudication
7 Committee. Five Hundred Thousand Dollars (\$500,000) may be allocated by the
8 Adjudication Committee from the funding sources in § 13.306 of this Article for
9 administrative costs or expenses necessary to carry out the mandates of this Article.
10 Amounts allocated under this Section shall not lapse and continue to be available to
11 the extent necessary to carry out the mandates of this Article.

12 **§ 13.308. Limited Compensation for Provision of Representational**
13 **Services.**

14 (a) Any agreement under which an individual who provided
15 representational services to an individual who filed a claim for a payment under this
16 Article that provides for compensation to the individual who provided such services
17 in an amount that is more than one percent (1%) of the total amount of such payment
18 shall be unlawful and void.

19 (b) Whoever demands or receives any compensation in excess of the
20 amount allowed under Subsection (a) of this Section shall be fined not more than
21 Five Thousand Dollars (\$5,000) or imprisoned not more than one (1) year, or both.

22 **§ 13.309. Affidavit.**

23 (a) An individual filing a claim pursuant to this Act shall execute a valid
24 affidavit declaring, under penalty of perjury, that the information provided in his or
25 her application and requisite forms is true and correct and that he or she is an eligible
26 claimant under this Article.

1 (b) The Adjudication Committee shall treat a claim that is accompanied by
2 an affidavit of an individual that attests to all of the material facts required for
3 establishing the eligibility of such individual for payment under such section as
4 establishing a prima facie case of the eligibility of the individual for such payment
5 without the need for further documentation, except as the Adjudication Committee
6 may otherwise require. Such material facts shall include, with respect to a claim for
7 payment made under § 13.302(a) of this Article, a detailed description of the injury
8 or other circumstance supporting the claim involved, including the level of payment
9 sought.

10 **§ 13.310. Release of Related Claims.**

11 Acceptance of a payment under § 13.302 by an individual for a claim related
12 to a compensable Guam decedent or a compensable Guam victim shall be in full
13 satisfaction of all claims related to such decedent or victim, respectively, arising
14 under the Guam Meritorious Claims Act of 1945, U.S. Public Law 79-224, the
15 implementing regulations issued by the United States Navy pursuant to U.S. Public
16 Law 79-22, the Guam World War II Loyalty Recognition Act, U.S. Public Law 114-
17 328, Public Law 36-62, or this Act.

18 **§ 13.311. Memorandum of Agreement.**

19 The Department of Administration is hereby authorized to enter into a
20 Memorandum of Agreement (MOA) with the Foreign Claims Settlement
21 Commission or the U.S. Department of the Treasury to verify whether individuals
22 filing claims pursuant to this Act received payments from the U.S. Department of
23 the Treasury pursuant to the Guam World War II Loyalty Recognition Act enacted
24 by U.S. Public Law 114-328 or the Guam Meritorious Claims Act of 1945 in order
25 to determine eligibility and payments for claims under this Act.

26 **§ 13.312. Repository.**

1 The Guam Museum shall be the repository of all public records and materials
2 pertaining to war claims for Guam. The Adjudication Committee shall transfer all of
3 its public documents upon completion of its work to such repository.

4 (a) Documents or information concerning the identity of war
5 survivors, decedents, and their application for war claims shall be protected,
6 shall remain confidential, and not subject to public disclosure. An application
7 for war claims shall include, but not be limited to, any Statement of Claim,
8 material(s), document(s), form(s), photograph(s), recording(s), written
9 testimony(s), and information submitted relating to or in support of a claim.
10 Confidentiality under this Section may be waived by the compensable Guam
11 victim or spouse of a compensable Guam decedent.

12 In the case of a compensable Guam decedent whose spouse is not living
13 as of the date of enactment of this Act, and who had one (1) or more living
14 children, such child or children may waive confidentiality by unanimous vote
15 under this Section.

16 **§ 13.313. Privacy of Claims Information.**

17 (a) Information provided by the United States government to the
18 Government of Guam concerning the identity of war survivors, decedents, and their
19 application for war claims shall be protected and shall not be part of the public
20 record. An application for war claims shall include, but not be limited to, any
21 Statement of Claim, material(s), document(s), form(s), photograph(s), recording(s),
22 written testimony(s), and information submitted relating to or in support of a claim.

23 (b) Information concerning the identity of war survivors, decedents and
24 their application for war claims shall be protected and shall not be part of the public
25 record unless waived by the compensable Guam victim or spouse of a compensable
26 Guam decedent. An application for war claims shall include, but not be limited to,
27 any Statement of Claim, material(s), document(s), form(s), photograph(s),

1 recording(s), written testimony(s), and information submitted relating to or in
2 support of a claim. In the case of a compensable Guam decedent whose spouse is
3 not living as of the date of enactment of this Act, and who had one (1) or more living
4 children, such child or children may elect to waive confidentiality by unanimous
5 vote under this Section.

6 (c) The Adjudication Committee is authorized to collect the information
7 requested in Exhibit A, Statement of Claim form; Exhibit B, Beneficiary
8 Designation form; and Exhibit D, Electronic Fund Transfer form or information
9 requested at any other time regarding a claim, under U.S. Public Law 114-328,
10 Public Law 36-62, or Article 13.3 of Chapter 1, Title 5, Guam Code Annotated. The
11 information collected shall be used to enable the Committee to carry out its statutory
12 responsibility to determine the validity and amount of the claims submitted to it
13 under Public Law 36-62 or Article 13.3 of Chapter 1, Title 5, Guam Code Annotated.
14 Furnishing the requested information to the Committee is voluntary; however,
15 failure to provide such information may result in either a delay in adjudication or
16 denial of the claim. Information collected may be disclosed only:

17 (1) to the Department of Administration Division of Accounting in
18 connection with the payment of claims;

19 (2) to contractors, grantees, experts, consultants, students, and others
20 performing or working on a contract, service, grant, cooperative agreement,
21 or other assignment for the Government of Guam, when necessary to
22 accomplish an agency function related to their system of records;

23 (3) to a Member of the Legislature or staff acting upon the Member's
24 behalf, when the Member is requesting information on behalf of the individual
25 who is the subject of the information requested;

26 (4) where a record, either alone or in conjunction with other
27 information, indicates a violation or potential violation of law that is criminal,

1 civil, or regulatory in nature, the relevant records may be referred to the
2 appropriate federal, state, local, territorial, tribal, or foreign law enforcement
3 authority or other appropriate entity charged with the responsibility for
4 investigating or prosecuting such violation or charged with enforcing or
5 implementing such law;

6 (5) in an appropriate proceeding before the Committee, or before a
7 court, grand jury, or administrative or adjudicative body, when the Committee
8 determines that the records are arguably relevant to the proceeding; or in an
9 appropriate proceeding before an administrative or adjudicative body when
10 the adjudicator determines the records to be relevant to the proceeding; or

11 (6) to the Office of Public Accountability for auditing purposes.

12 (d) All agents implementing this Chapter shall undergo disclosure and
13 confidentiality training and shall be in compliance with Guam law.

14 **§ 13.314. Schedule and Exhibits to the Schedule.**

15 (a) *I Liheslaturan Guåhan* hereby adopts the attached schedule and
16 exhibits thereto, labeled Exhibit A, Exhibit B, Exhibit C, and Exhibit D, subject to
17 the provision of this Act. Any provision or requirement contained in such schedule
18 or exhibits inconsistent with this Act shall be null and void.

19 (b) Such adopted schedule and exhibits thereto shall be amended by the
20 Adjudication Committee prior to the publication of the notice of the deadline for
21 filing a claim to conform with the requirements under this Act, notwithstanding the
22 Administrative Adjudication Law.

23 (c) The Notice of Disclosure contained in Exhibit A, "Statement of Claim"
24 shall contain the following language: The information provided in this Statement of
25 Claim and in any attachments, and any material and information submitted relating
26 to or in support of the claim, will be protected and kept confidential, except when
27 public disclosure of such information is authorized under Public Law 36-62, Public

1 Law 35-61, Article 13.3 of Chapter 1, Title 5, Guam Code Annotated, or federal law.
2 Any decision issued by the Adjudication Committee in relation to this Statement of
3 Claim may be made publicly available after redacting all information exempted from
4 public disclosure by Public Law 36-62, Public Law 35-61, Article 13.3 of Chapter
5 1, Title 5, Guam Code Annotated, or federal law.”

6 **Section 3. Severability.** If any provision of this Act or its application to any
7 person or circumstance is found to be invalid or contrary to law, such invalidity shall
8 not affect other provisions or applications of this Act that can be given effect without
9 the invalid provision or application, and to this end the provisions of this Act are
10 severable.