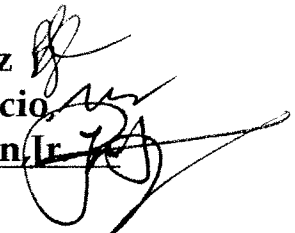


**MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
2005 (FIRST) REGULAR SESSION**

Bill No. 50 (EC)

Introduced by:

B.J.F. Cruz
R.J. Respicio
F.B. Aguon, Jr.



**THE CHAMORRO LAND OWNERSHIP ACT OF
2005; AN ACT TO AUTHORIZE CHAMORRO LAND
TRUST COMMISSION RESIDENTIAL LOT
RECIPIENTS TO OWN RESIDENTIAL LOTS
PURSUANT TO A RIGHT OF FIRST REFUSAL
PROGRAM; TO ALLOW COTTAGE INDUSTRY
ACTIVITIES ON RESIDENTIAL LEASED PROPERTY
BY LEASEHOLDERS; AND TO REMOVE THE 21
YEAR CAP ON LICENSES FOR CHURCHES,
HOSPITALS, PUBLIC SCHOOLS, PRIVATE
SCHOOLS, AND POST OFFICES; BY AMENDING
CHAPTER 75 OF DIVISION 2 OF TITLE 21 OF THE
GUAM CODE ANNOTATED**

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

2 Section 1. Legislative Findings & Intent. *I Mina Bente Ocho Na*
3 *Liheslaturan Guåhan* finds that many qualified applicants and
4 recipients of Chamorro Land Trust residential lots are experiencing
5 delays in home construction due to the inability of the Chamorro
6 Land Trust Commission and the government of Guam to provide
7 adequate funding for infrastructure and survey costs for such

1 property. *I Mina Bente Ocho Na Liheslaturan Guåhan* further finds that
2 despite the local laws relative to “homesteads”, many such
3 residential lot recipients cannot find adequate financing for the
4 construction of permanent homes. It is the intent of *I Liheslaturan*
5 *Guåhan* to provide qualified residential lease recipients and
6 applicants with an opportunity to purchase residential lots in order
7 to maximize the value of such lots.

8 In recognition of the limited inventory of Chamorro Homeland
9 available for distribution to the growing number of eligible
10 applicants, *I Liheslaturan Guåhan* finds that legislation is necessary to
11 safeguard these lands by amending the portions of the Chamorro
12 Land Trust Act relative to lot sizes. It is the intent of *I Liheslaturan*
13 *Guåhan* to reduce the size of residential lots from (1) acre to not more
14 than 1,000 square meters per lot, in order to maximize the total
15 number of lots available. Much of the available property is located in
16 wetlands and in areas in which affordable development is prohibited
17 by topography.

18 This legislation repeals the authority for the Chamorro Land
19 Trust Commission to issue leases for grazing purposes due to the
20 scarce amount of property available as well as deficient viability of
21 grazing activities. However, grazing activities are permitted on
22 property leased for agricultural purposes. A new provision

1 authorizing cottage industry activity by residential leaseholders is
2 also included.

3 Finally, it is the intent of this legislation to provide the
4 Chamorro Land Trust Commission with the flexibility to allow for
5 commercial development that will benefit newly created Chamorro
6 Land Trust residential subdivisions. *I Liheslaturan Guåhan* believes
7 that commercial development should be brought into these new
8 subdivisions for the creation of jobs and for the convenience of
9 subdivision residents. Therefore, §71507 is amended to give the
10 Chamorro Land Trust Commission the flexibility to issue commercial
11 licenses and ensure that residents will have ready access to
12 commercial services. This legislation removes the twenty-one year
13 limitation on licenses for churches, hospitals, schools, and post
14 offices. Revenues from all commercial licenses shall be used
15 exclusively to develop the necessary infrastructure for residential
16 subdivisions and for survey costs.

17 **Section 2. Short Title.** This Act shall be known as the
18 **“Chamorro Land Ownership Act of 2005”**.

19 **Section 3.** Section 75107 of Chapter 75, Division 2, of Title 21 of
20 the Guam Code Annotated is hereby *amended* as follows:

21 **§75107. Leases and Licenses.** (a) The Commission is authorized
22 to lease to native Chamorros the right to the use and occupancy

1 of a tract or tracts of Chamorro homelands within the following
2 acreage limits per lessee:

3 (1) not less than one quarter (0.25) acre, nor more than
4 one half (0.50) acre for subsistence agricultural
5 farming;

6 (2) not less than one half (0.50) acre, nor more than
7 twenty (20) acres for commercial agricultural use;

8 ~~(3) not less than one (1) acre, nor more than twenty (20)~~
9 ~~acres for grazing use; and~~

10 (4) not more than ~~one (1) acre~~ One Thousand Square
11 Meters (1,000) square meters for any class of land to
12 be used as a residential lot.

13 (b) The title to lands so leased shall remain in the territory.
14 Applications for tracts shall be made to and granted by the
15 Commission under regulations, not in conflict with any
16 provision of this Chapter, as the Commission may prescribe.
17 The Commission shall, whenever tracts are available, enter into
18 such a lease with any applicant who, in the opinion of the
19 Commission, is qualified to perform the conditions of such
20 lease.

21 (c) The Commission is authorized to grant easements to public
22 utility companies, or corporations for telephone lines, electric
23 power and light lines, gas mains, streetlights, and the like.

1 (d) The Commission is authorized to grant licenses for property
2 within a village in which lands are leased under the provisions
3 of this section to churches, hospitals, public schools, private
4 schools, post offices, and other improvements for public
5 purposes;

6 (e) The Commission is also authorized to grant commercial
7 licenses (for terms of twenty-one (21) years in each case with
8 options to renew) for property within a village in which lands
9 are leased under the provisions of this section for theaters,
10 garages, service stations, markets, stores, and other mercantile
11 establishments with options to renew.

12 ~~(e) The Commission is authorized to grant licenses for terms of~~
13 ~~not to exceed twenty one (21) years in each case, to public~~
14 ~~utility companies, or corporations as telephone lines, electric~~
15 ~~power and light lines, gas mains, and the like. The Commission~~
16 ~~is also authorized to grant licenses for lots within a village in~~
17 ~~which lands are leased under the provisions of this section, to:~~

18 ~~(1) churches, hospitals, public schools, post offices, and~~
19 ~~other improvements for public purposes;~~

20 ~~(2) theaters, garages, service stations, markets, stores, and~~
21 ~~other mercantile establishments (all of which shall be~~
22 ~~owned by lessees of the Commission or by~~
23 ~~organizations formed and controlled by said lessees).~~

1 (d) Upon direction by statute from the Legislature, the
2 Commission shall release to the government of Guam, any
3 unleased or unlicensed available land designated for a public
4 purpose. Such land will no longer be considered Chamorro
5 Homelands.

6 **Section 4.** A new subsection 75107.10 is *added* to Chapter 75,
7 Division 2 of Title 21 of the Guam Code Annotated as follows:

8 **§75107.10. Sale of Residential Lots Authorized.** (a) The
9 Chamorro Land Trust Commission is authorized to sell
10 residential lots to applicants qualified under §75108 of this
11 Chapter for a fee of Five Dollars per square meter payable to
12 the Chamorro Land Trust Commission. This amount shall be
13 paid to the Commission no later than five (5) years from the
14 date of approval of such application by the Commission. The
15 Commission shall promulgate payment schedules including
16 interest of 6%, which may be used to administer this program,
17 for those applicants who cannot pay cash in full. Title to such
18 lots shall be transferred to eligible applicants upon full-
19 payment of the fee prescribed in this section within five (5)
20 years. All funds collected pursuant to this section shall be
21 deposited into the Chamorro Land Trust Infrastructure & Land
22 Inventory Fund pursuant to §75107.20 of this Chapter. The
23 Rules and Regulations for the Chamorro Land Trust Residential

1 Lease Program shall not be applicable to the lot sold, once title
2 to such lots has been transferred to qualified applicants.

3 **(b) Residential Lot Size Restricted.** Residential lots to be
4 purchased by qualified applicants shall not exceed One
5 Thousand (1,000) square meters per lot. Qualified applicants
6 with leases for residential lots in excess of One Thousand
7 (1,000) square meters who wish to purchase said lots shall be
8 subject to this residential lot size restriction. Applicants who
9 purchase lots shall surrender any excess land from leases
10 issued for property in excess of this residential lot size
11 requirement to the Chamorro Land Trust Commission. Lessees
12 may return their residential leased lots in favor of new lots
13 available for sale. In determining the actual location of the lot to
14 be sold from within the residential lot being leased by the
15 applicant, the Chamorro Land Trust Commission shall make
16 every effort to avoid the creation of substandard lots.

17 **(c) Rules and Regulations Authorized.** The Chamorro Land
18 Trust Commission is authorized and directed to promulgate
19 rules and regulations, pursuant to the Administrative
20 Adjudication Act, for the purpose of implementing this section.
21 All such rules and regulations shall be in conformance with this
22 section and the laws of Guam.

1 **Section 5.** A new Section 75107.20 is *added* to Chapter 75,
2 Division 2 of Title 21 of the Guam Code Annotated as follows:

3 §75107.20. Chamorro Land Trust Infrastructure and Land
4 Inventory Fund. There is hereby created a special fund entitled
5 “Chamorro Land Trust Infrastructure & Land Inventory Fund”,
6 to be maintained by the Chamorro Land Trust Commission,
7 separate and apart from the General Fund. All funds collected
8 from the sale of residential lots pursuant to §75107.10 of this
9 Chapter shall be deposited into the Chamorro Land Trust
10 Infrastructure and Land Inventory Fund. Funds shall be
11 expended in accordance with the law and subject to the
12 approval of the Chamorro Land Trust Commission exclusively
13 for the development and installation of infrastructure on
14 Chamorro Land Trust property and for the purpose of
15 purchasing residential lots sold by applicants who received title
16 to such lots pursuant to §75107.10 of this Chapter. The
17 Chamorro Land Trust Infrastructure and Land Inventory Fund
18 shall not be subject to reversion to the General Fund, or any
19 other special fund of the government of Guam. The fund shall
20 be subject to an annual audit to be directed by the Office of the
21 Public Auditor. The Chamorro Land Trust Infrastructure Fund
22 shall not be subject to transfer by *I Maga’Lahen Guåhan.*

1 **Section 6.** A new Section 75107.30 is *added* to Chapter 75,
2 Division 2, of Title 21 of the Guam Code Annotated as follows:

3 §75107.30. Right of First Refusal. Applicants who purchase
4 residential lots from the inventory of lands held under the
5 Chamorro Land Trust Commission as authorized in §75107.10
6 of this Chapter, shall provide the Chamorro Land Trust
7 Commission with the right of first refusal to purchase said lots
8 upon the desire or need of such applicant to sell or otherwise
9 dispose of said property; provided that:

10 (a) Such applicants shall not sell lots within 5 years from the
11 date of receiving title to the property,

12 (b) Upon the death of a residential lot owner, his interest in the
13 lot and the improvements thereon, shall vest in the relatives
14 or survivors of the decedent as provided by law. (1) Should
15 the owner die intestate, the Superior Court shall make such
16 determination as to the recipient of such interest consistent
17 with Guam law. However, recipients shall be qualified
18 Chamorros as defined by this Act. If an heir is not a
19 qualified Chamorro, he may relinquish his interest to
20 another or other heirs who are qualified Chamorros; or the
21 Court may order the land sold to the Chamorro Land Trust
22 Commission and disburse the funds to the proposed
23 recipient and other heirs as required by law. (2) Should the

1 owner attempt to dispose of the property by will, the
2 Superior Court shall provide the Chamorro Land Trust
3 Commission the Right to Purchase said property if the
4 proposed recipient is not a qualified Chamorro as defined
5 by this Act; and

6 (c) The Right of First Refusal shall be contained in all deeds
7 from the Chamorro Land Trust Commission to the
8 purchasers and shall be required on all future deeds. When
9 this option is exercised, the Chamorro Land Trust
10 Commission shall be required to pay the appraised value of
11 the improvements on the property in addition to the price
12 paid for the lot including any interest paid by the lot owner,
13 for the lot.

14 **Section 7.** A new Section 75107.40 is *added* to Chapter 75, Division
15 2, of Title 21 of the Guam Code Annotated as follows:

16 **§75107.40. Applicant Eligibility Limited.** No applicant may be
17 eligible for any lease program for subsistence agricultural
18 farming, commercial agricultural use, or for use as residential
19 lots, as authorized by §75107 and §75108 of this Chapter if such
20 applicant acquired and subsequently sold a residential lot
21 pursuant to §75107.10 of this Chapter.

22 **Section 8.** A new Section 75108.50 is added to Chapter 75,
23 Division 2, of Title 21 of the Guam Code Annotated as follows:

1 §75108.50. Cottage Industry Activity Authorized. Within the
2 laws of Guam, residential lease holders are authorized to
3 conduct small scale business activities within their leased
4 residential lots in which the total net income earned on those
5 lots does not exceed Fifty Thousand Dollars (\$50,000) per
6 annum.

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