



Sen. Thomas Ada
Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Liheslaturan Guahan • 33rd Guam Legislature

October 19, 2015

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina Trentai Tres Na Liheslaturan Guahan
155 Hesler Place
Hagåtña, Guam 96910

Rory J. Respicio

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 175-33 (COR) as substituted

2015 OCT 19 PM 7:25
R

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 175-33 (COR) as substituted "AN ACT TO ESTABLISH THE DESIGNATION OF AVAILABLE CLTC LAND FOR COMMERCIAL USE, TO ADOPT RULES AND REGULATIONS FOR THE COMMERCIAL LEASING OF AVAILABLE CLTC LAND, AND TO PRIORITIZE THE USE OF LEASE PROCEEDS FOR THE SURVEY AND REGISTRATION AND CONSTRUCTION OF INFRASTRUCTURE ON CLTC RESIDENTIAL AND AGRICULTURE PROPERTIES"

Committee votes are as follows:

- 5 TO DO PASS
- _____ TO NOT PASS
- 1 TO REPORT OUT ONLY
- _____ TO ABSTAIN
- _____ TO PLACE IN INACTIVE FILE

Si Yu'os ma'ase',

Thomas C. Ada

Thomas C. Ada



Sen. Thomas Ada

Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement

I Mina Trentai Tres Na Libeslaturan Guåhan • 33rd Guam Legislature

COMMITTEE REPORT ON

Bill No. 175-33 (COR)

As Substituted

**“AN ACT TO ESTABLISH THE DESIGNATION
OF AVAILABLE CLTC LAND FOR
COMMERCIAL USE, TO ADOPT RULES AND
REGULATIONS FOR THE COMMERCIAL
LEASING OF AVAILABLE CLTC LAND, AND
TO PRIORITIZE THE USE OF LEASE
PROCEEDS FOR THE SURVEY AND
REGISTRATION AND CONSTRUCTION OF
INFRASTRUCTURE ON CLTC RESIDENTIAL
AND AGRICULTURE PROPERTIES.”**



Sen. Thomas Ada

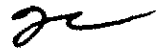
Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Libeslaturan Guahan • 33rd Guam Legislature

October 19, 2015

MEMORANDUM

To: **All Members**
Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans'
Affairs and Procurement

From: **Senator Thomas C. Ada**, Committee Chairperson 

Subject: **Committee Report on Bill No. 175-33 (COR) as substituted**

Transmitted herewith for your consideration is the Committee Report on Bill No. 175-33 (COR) as substituted. **“AN ACT TO ESTABLISH THE DESIGNATION OF AVAILABLE CLTC LAND FOR COMMERCIAL USE, TO ADOPT RULES AND REGULATIONS FOR THE COMMERCIAL LEASING OF AVAILABLE CLTC LAND, AND TO PRIORITIZE THE USE OF LEASE PROCEEDS FOR THE SURVEY AND REGISTRATION AND CONSTRUCTION OF INFRASTRUCTURE ON CLTC RESIDENTIAL AND AGRICULTURE PROPERTIES.”**

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 175-33 (COR), As Introduced
- Copy of Bill No. 175-33 (COR), As Substituted
- Public Hearing Sign-in Sheet
- Written testimonies from: Department of Land Management, GEDA, and Moñeka Flores
- COR Referral of Bill No. 175-33 (COR)
- Notices of Public Hearing
- Public Hearing Agenda
- Press Release

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.



Sen. Thomas Ada


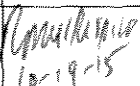



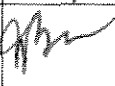
Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement

I Mina Trentai Tres Na Libeslaturan Guåhan • 33rd Guam Legislature

COMMITTEE VOTE SHEET

Bill No. 175-33 (COR), as substituted, "AN ACT TO ESTABLISH THE DESIGNATION OF AVAILABLE CLTC LAND FOR COMMERCIAL USE, TO ADOPT RULES AND REGULATIONS FOR THE COMMERCIAL LEASING OF AVAILABLE CLTC LAND, AND TO PRIORITIZE THE USE OF LEASE PROCEEDS FOR THE SURVEY AND REGISTRATION AND CONSTRUCTION OF INFRASTRUCTURE ON CLTC RESIDENTIAL AND AGRICULTURE PROPERTIES."

COMMITTEE MEMBERS	SIGNATURE AND DATE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
SENATOR THOMAS C. ADA Chairperson		✓ 10/19/15				
SENATOR RORY J. RESPICIO Vice Chairperson	 10-19-15	✓ 10/19/15				
VICE SPEAKER BENJAMIN J.F. CRUZ Member		✓				
SENATOR FRANK B. AGUON, JR. Member	 10/19/15			✓		
SENATOR DENNIS RODRIQUEZ, JR. Member	 10/19/15	✓				
SENATOR NERISSA UNDERWOOD Member	 10/19/15	✓				
SENATOR FRANK BLAS, JR. Member						
SENATOR MARY TORRES Member						
SENATOR JAMES V. ESPALDON Member						



Sen. Thomas Ada
Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Liheslaturan Guahan • 33rd Guam Legislature

COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill 175-33 (COR) was introduced on September 11, 2015 by Senator Thomas C. Ada and was subsequently referred on September 11, 2015 by the Committee on Rules to the Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement.

The Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement convened a public hearing on September 21, 2015 at 6:00 pm in *Liheslatura's* Public Hearing Room to receive public testimony on Bill 175-33 (COR).

Public Notice Requirements

Public Hearing notices were disseminated via email to all senators and all main media broadcasting outlets on September 14, 2015 (5-Day Notice) and again on September 17, 2015 (48-Hour Notice).

Senators Present

Senator Thomas C. Ada,	<i>Committee Chairperson</i>
Senator Frank B. Aguon, Jr.	<i>Committee Member</i>
Senator Rory Respicio	<i>Committee Member</i>
Senator Nerissa B. Underwood	<i>Committee Member</i>
Senator Frank Blas, Jr.	<i>Committee Member</i>

The public hearing was Called-to-Order at 6:02pm.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Chairperson Ada: Chairman Ada states Bill 175-33 is an act to an act to establish the designation of available CLTC land for commercial use, to adopt rules and regulations for the commercial leasing of available CLTC land, and to prioritize the use of lease proceeds for the survey and registration and construction of infrastructure on CLTC residential and agriculture properties." He explains that on September 11, 2015, Bill 175 was introduced 10 days after the legislature disapproved the Commercial Rules and Regulations transmitted by CLTC on August 28, 2015..

Mike Borja, Administrative Director of CLTC: The CLTC does not object to Bill 175-33, but recommends adding in significant items to be included in the bill that were previously discussed in Bill 139-33. He would like to include the following items into the bill:

- a. The ability to sublease or sublicense a space within building, such as a room, but not to include subleasing land.

- b. The ability to assign the lease in the event the ownership of the company changes.
- c. The preference to a Chamorro owner or officer of the company in the selection process.

Mr. Al San Agustin, Chamorro Tribe:

He explains that he likes and does not like Bill 175-33. Mr. Agustin is in support of the bill because it is about time the legislature passes a law that will provide funding for the surveying and infrastructure development of CLTC lands. He does not like Bill 175 because it is illegal, but we can make it legal by defining it properly to protect the interest of land.

Frank Schacher, Chairman of the Chamorro Tribe:

He explains it has always been the intent of CLTC to be self-supporting and in order to do that CLTC needs to have a source of income. These commercial leases will enable the CLTC to be a self-supporting trust as it was meant to be. According to Mr. Schacher, the leases need to be closely monitored because of past experiences by the government with leasing commercial property. He believes currently there are some commercial leases out there now which should not be in place and needs to be corrected. He wants bill 175 to address what actions are to be taken in the event of commercial leases, which are unlawful. He would like to mirror the Administrative Director for the CLTC testimony regarding subleasing. Mr. Schacher believes there is an overage of low cost housing or apartments that are available on Guam right now and there is no need to bring an investor in to build these developments on land trust property. He would also like to see the lease at a minimum of 25 years for investors to be able to recover their cost especially if it is a large amount of money. Mr. Schacher suggests the funds not only be used for infrastructure and surveying but as well as for CLTC operations. This would provide DLM with funds for land agents to go out and inspect CLTC properties. He is in support of bill 175 with the recommended amendments and believes it is necessary to lease properties commercially in order to providing funding to the CLTC.

Chairman Ada: Asks Mr. Borja, how is CLTC operations funded now?

Mike Borja: Mr. Borja responds by saying operations get their money from what is collected through commercial property leases and licenses that have been issued out, as well as some general funds to carry the department the rest of the way.

Chairman Ada: Calls on the next panel to give their testimonies.

Ted Nelson, former vice speaker: Mr. Nelson believes we have to make a decision with the 9,000 or 10,000 applicants. He would like the senators to reevaluate the leasing of commercial properties and to take a different approach to fund the surveying and infrastructure development for residential and agricultural leases. A new set of goals would help people realize and live the Chamorro dream according to Mr. Nelson. His plan is to give the Chamorro people the CLTC land and have them lease it out commercially with the assistance from GEDA. Why don't we allow our own Chamorro who were denied their property for over 70 years. Mr. Nelson wants to exhaust all other options before allowing CLTC properties to be leased commercially. Holdback the leasing of commercial properties and allow GEDA to team up with the original land owners

to lease their own properties. Right now private investors want to go to CLTC for commercial properties because it is the cheapest route according to Mr. Nelson. There are land for Chamorro landowners to lease such as in Piti, Polaris point, and Harmon. He asked why can't the legislature use rental money from current commercial leases such as the Dededo Gulf Course which brings in about 100,000 dollars a year for the CLTC. The rental money can be used to hire surveyors and develop infrastructure in order to release CLTC lands for residential and agricultural use. Another way to generate revenue is to find the proceeds from the sale of various subdivisions such as As-Lucas, Ija, and Umatac. He would like the public auditor to look at where the money went too from the sales of these subdivisions. Each lot within the subdivisions was sold for about 2,500 dollars each. He would like to find out where is that money. He believes this committee can do it internally and not have to lease property to fund the CLTC.

Chairman Ada: Calls on Ms. Monaeka Flores to provide her testimony.

Monaeka Flores, concerned citizen: Ms. Flores fully understands that the CLTC needs funding in order to distribute land, but is not in favor of Bill 175-33. She believes the bill goes against the foundation of the CLTC in finding homes for the Chamorro people. It goes against all the hard work by former senators who created and protected the CLTC. She feels by allowing commercial leasing of properties it will open up Pandora's box for land grabbing like what had happened after WWII. Ms. Flores explains that we come from a system of land taking and by allowing commercial leasing will only promote it. She asks that the committee take into account the historic injustices that have taken place here on the island and to protect the people's indigenous rights. This is why the CLTC was established in the first place.

Chairman Ada: Asked Ms. Flores, where would you suggest we get the revenue from to survey and provide infrastructure for CLTC?

Monaeka Flores: She would love to spend more time on the question and submit it in her written testimony. *(see attached testimony)*

Chairman Ada: He appreciates that and suggests Ms. Flores reads the first section of the bill. His explanation for the first section addresses the concerns of potential runaway commercial leasing of properties. The bill requires the CLTC to come up with a list of properties to be sent down to the legislature for review by the senators.

Monaeka Flores: She did read it and appreciates the proactive measure it takes regarding land grabbing.

Senator Underwood: Asks Ms. Flores if her primary opposition to Bill 175-33 section 2 due to the eligibility of Native Chamorro is no longer required for the leasing of land.

Monaeka Flores: Responds by saying that section 2 is her primary reason for opposition of the bill.

Senator Underwood: States the leasing of commercial properties to a Native Chamorro gives preference points but is not required in the bill. Senator Underwood asked Ms. Flores would she be ok with the bill if we kept the eligibility of Native Chamorros in section 2.

Monaeka Flores: She appreciates that the bill tries to prioritize the commercial leasing of properties to Chamorros, but believes there are only a few Chamorros who will benefit from the leasing of commercial properties. It goes against everything the CLTC was founded on according to Ms. Flores. NOTE: Mrs. Flores later submitted written testimony with suggested revenue sources such as:

- a. Acquiring grants from the U.S. Department of Agriculture to assist with water infrastructure.
- b. A portion of the funds collected from construction permits of private businesses be dedicated to land surveys.

Chairman Ada: We have received written testimony from Mr. John Rios Administrator of GEDA explaining the bill's impact on GEDA with the CLTC.

Ted Nelson: Asked why can't they wait for the audit to find out where the money is at from the land for the landless program before they start leasing commercial properties. He believes there are money lying around or to identify other funding sources. Why can't the legislature appropriate money for the CLTC to survey and build infrastructure.

Chairman Ada: Asked Mr. Nelson, who are we going to take the money from to fund the CLTC? Are we going to take it from the hospital or education? Chairman Ada wants Mr. Nelson to help him understand where is the appropriation going to come from.

Ted Nelson: Responds by saying that is not a fair question. He explains to Chairman Ada the land for the landless program was given millions of dollars to anyone and you can't find money to give to the Chamorro people. He would like the Chairman to look into other sources of funding such as the sales of the land for the landless program or section thirty money.

Chairman Ada: Adjourns the Public Hearing on Bill 175-33(COR)

Written Testimonies Received:

Michael Borja, *Administrative Director of CLTC*

(see attached written testimony)

Mr. Borja does not object to Bill 175-33-33(COR) but recommends added in language.

Monaeka Flores,

(see attached written testimony)

Ms. Flores is not in support of Bill 175-33 and suggests getting funds for surveying and infrastructure from grants and construction permits instead of leasing CLTC properties for commercial use.

John A. Rios, Administrator of GEDA

(see attached written testimony)

Mr. Rios does not object to Bill 175-33(COR) but recommends some changes be made to the bill.

III. Findings and Recommendations:

The Committee added the following language:


1. Mineral extraction would be considered commercial use, and would require approval from the CLTC and the Legislature.
2. The declaration of lands available for commercial leasing shall be in the form of a Board Resolution approved by the Commissioners at a duly scheduled meeting of the CLTC held after a CLTC public hearing on the specific lot and area of land to be designated. The Legislature will have 60-days to review the list, and may conduct public hearings.
3. Lease terms limited to 25-years, unless approved for longer terms by the Legislature.
4. Income from leases to be deposited in the Chamorro Land Trust Survey and Infrastructure fund until 2020.
5. Any solicitation prior to enactment of of the Act shall be void.
6. Lease Agreement Stipulations:
 - a. Leases awarded through competitive bid. However, if on the land designated already exists a commercial activity by virtue of a previous authority, CLTC may allow the activity to continue if is beneficial to the CLTC beneficiaries.
 - b. Unsolicited proposals must subsequently be put on competitive bid.
 - c. Minimum annual rent will be 10% of current appraisal of fair market value of the land. Rent to escalate every 5 years, based upon current market value.
 - d. Participation rent to be applicable after 5th year.
 - e. Interest charged on late rent payment.
 - f. Events of Default that would allow CLTC to terminate lease.:
 - i. Nonpayment of rent,
 - ii. Failure to be in compliance with lease provisions,
 - iii. Cancellation of insurance,
 - iv. Insolvency,
 - v. Abandonment.
 - g. Lease may be assigned after 5th year.
 - h. Affirmation of Legislative action disapproving Rules & Regs transmitted by CLTC June 2015.

The Committee on Transportation, Infrastructure, Land, Border Protection, Veterans' Affairs and Procurement, reports out **Bill 175-33(COR) as substituted** with the recommendation to DO PASS.

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 175-33 (OK)

Introduced by:

T.C. Ada 

R.J. Respicio 

1 AN ACT TO PRIORITIZE THE SURVEYING,
2 REGISTRATION, AND CONSTRUCTION OF
3 INFRASTRUCTURE FOR CHAMORRO LAND
4 TRUST COMMISSION (CLTC) RESIDENTIAL
5 AND AGRICULTURE PROPERTIES USING
6 THE PROCEEDS OF COMMERCIAL LEASES,
7 THROUGH THE ENACTMENT OF RULES AND
8 REGULATIONS FOR CLTC COMMERCIAL
9 LEASES.

2015 SEP 11 PM 5:03 

10
11 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

12 **Section 1. Legislative Findings.**

13 *I Liheslaturan Guåhan* finds that there exists a backlog of approximately 8,000
14 applications for Chamorro Land Trust Commission (CLTC) residential and agricultural
15 lands. A majority of the applications were filed since the onset of the program in December
16 2, 1995. The backlog is attributed primarily to the reason that much of the CLTC lands have
17 not been surveyed and registered pursuant to §75105(f) of Chapter 75 Title 21 Guam Code
18 Annotated.

19 *I Liheslaturan Guåhan* further finds that the CLTC does not have the funds necessary to
20 procure land-surveying services or to hire the manpower needed for the Commission to
21 perform these surveys. *I Liheslaturan Guåhan* also finds that the CLTC properties do not
22 have in place the water infrastructure necessary to support a decent standard of living,
23 wastewater infrastructure to adequately protect the northern Guam aquifer, to support
24 productive agricultural activities, and.

25 *I Liheslaturan Guåhan* asserts that the CLTC can generate revenue by leasing or
26 licensing for commercial use certain properties in its land inventory. The adoption of rules

1 and regulations pursuant to §75107(f) of Chapter 75 Title 21 Guam Code Annotated is
2 however a prerequisite which to date has not been accomplished.

3 *I Liheslaturan Guåhan* finds that the CLTC initiated a Memorandum of Understanding
4 (MOU) on November 17, 2011 with the Guam Economic Development Authority (GEDA)
5 “to allow GEDA to provide real property management and development assistance to the
6 Commission.” On April 24, 2013 the Governor of Guam approved the MOU.
7 Implementation of the MOU however, was contingent upon the adoption of commercial
8 leasing/licensing rules and regulations by the Guam Legislature pursuant to §75107(f) of
9 Chapter 75 Title 21 Guam Code Annotated. A similar partnership has been successfully
10 implemented between the Guam Ancestral Lands Commission and GEDA.

11 *I Liheslaturan Guåhan* intends to facilitate the leasing of selected CLTC properties for
12 commercial activities in order to begin generating revenues needed to accomplish land
13 surveys and registration and to provide infrastructure to residential and agricultural CLTC
14 land tracts.

15 **Section 2. Designation of Land for Commercial Use.**

16 a. Notwithstanding §75107(f) of Chapter 75 of 21 Guam Code Annotated and Section
17 6.9 of Exhibit A of Public Law 23-38, upon declaration by the CLTC and approval by the
18 Legislature that certain lands are not required for residential, subsistence agriculture, or
19 subsistence aquaculture leasing, those lands may be leased or licensed by the CLTC to the
20 general public pursuant to §75105(d) of Chapter 75 of 21 Guam Code Annotated, for
21 commercial use for a term not to exceed twenty-five (25) years. All income arising out of
22 any lease or license of those properties shall be credited to and deposited in the *Chamorro*
23 *Land Trust Survey and Infrastructure* Fund.

24 b. The CLTC shall transmit to the Legislature 60 days prior to solicitation of a
25 commercial lease, or license its list of lands declared as not required for residential,
26 subsistence agriculture, or subsistence aquaculture leasing . by vote of the Commissioners in
27 an open meeting and subsequent to public hearing by the CLTC. The adoption of the list
28 shall be subject to the approval of both the Legislature and the Governor.

29 **Section 3. Lease Agreement Stipulations.** The execution of long term commercial lease
30 agreements or licenses shall be subject, at minimum, to the following stipulations:

31 a. Notice of lands available for commercial use and solicitation for interest and

1 proposals thereof shall be published at least thirty (30) days prior to the deadline for
2 submittal of statements of interests and proposals from prospective Lessees or Licensees.
3 Said notice shall be posted in the websites of the CLTC and the Department of Land
4 Management continuously, and through any methods of electronic publication capable of
5 providing notice to the general public, and at least once in a newspaper of general circulation.

6 b. Leases shall be competitively solicited and negotiated with entities deemed to be
7 responsible and responsive to the requirements stipulated by the CLTC.

8 c. The CLTC may also accept unsolicited proposals, but must subsequently place such
9 proposals to competitive solicitation.

10 d. Lessee and Licensee awards shall be posted on the CLTC website for a period of one
11 (1) year after award.

12 e. Minimum annual rent shall be no less than nine percent (9%) of the current appraisal
13 of fair market value of the land that is to be leased. Rent shall escalate at a minimum of five
14 (5) year intervals based at a minimum upon current appraisals of fair market value of the land
15 being leased, but in no event shall rent be lower than the rent charged during the previous
16 five (5) year period. CLTC may require accelerated or advanced rental payments as a
17 condition of the lease.

18 f. All lease and license agreements shall require tenants and subtenants to have business
19 liability insurance which indemnifies and holds CLTC harmless; shall have tenants maintain
20 storm water management systems pursuant to generally accepted maintenance standards or as
21 required by applicable laws and government regulations; and shall require the tenant to
22 respond to CLTC requests for information on a timely basis. All lease and license
23 agreements shall require that any improvements made to or upon the real property shall
24 belong in title to the CLTC upon termination or expiration of the lease or license, and that
25 any removal required by the CLTC of improvements or items remaining on the property shall
26 be the responsibility of the tenant at no cost to the CLTC.

27 g. All commercial tenants of CLTC shall be required to pay to CLTC a negotiated
28 amount of participation rent which is defined as a percentage of the gross annual income
29 derived from the use of the property or the sale of extracted minerals or natural resources.

30 h. Land uses for properties under CLTC jurisdiction shall be utilized in a manner
31 consistent with the zoning category applicable to the property pursuant to the zoning laws of

1 Guam.

2 i. Tenants shall pay all taxes and assessments lawfully levied against the leased
3 premises and against any business conducted thereon or in connection therewith. Tenant
4 shall also pay all charges for utility services furnished or provided to the leased premises.

5 j. Tenants shall pay for those expenses associated with the processing of leases,
6 amendments, assignments, estoppels, consents or other such documents, including, but not
7 limited to, attorneys' fees, appraisal fees, title report fees, survey fees, credit report fees,
8 recording fees, and documentation fees but not including CLTC staff time. Payment of fees
9 shall be made prior to document recordation or pick up.

10 k. Applicants must be licensed to do business in Guam prior to the execution of a lease
11 or license and all tenants must maintain a valid license to do business in Guam during the
12 term of their lease or license.

13 l. All activities on leased or licensed available real property shall be in compliance and
14 maintained in accordance with existing environmental laws. Failure to comply with
15 environmental laws shall be cause to terminate the agreement.

16 m. Tenants shall be required to prepare at their own expense, a Phase I Environmental
17 Site Assessment (ESA) of the leased property to serve as a baseline of conditions at the site
18 prior to the start of the lease. The complexity of the assessment shall be dependent on the
19 previous use of the property. The Phase I ESA shall be referenced in any lease or license
20 agreement for the property. Prior to the issuance of any agreement, tenants or prospective
21 tenants must conduct a Phase I ESA of the site at tenant's expense.

22 n. At the end of the lease or license period, or upon termination, tenant shall restore the
23 land to baseline levels established at the start of their lease or license, or better/higher
24 environmental levels agreed upon in the lease or license and shall bear all expenses relating
25 to such restoration and Phase I and Phase II evaluations. However, in the case where mineral
26 extraction or the extraction of natural resources at the site was authorized initially in the lease
27 or license agreement, the site shall be returned to the CLTC baseline environmental levels
28 established at the start of their lease or license or in the better/higher environmental end-state
29 that was agreed upon at the beginning of the lease or license. CLTC shall require that a
30 performance bond be provided to ensure that property is returned in an acceptable end-state,
31 but that said bond shall not relieve the lessee of the responsibility of returning the line to the

1 required base line state.

2 o. Rent Amendments and Payments Schedules. Tenants may submit written requests for
3 temporary reductions in rent. Tenants shall submit audited financial statements covering the
4 previous three (3) year period. CLTC shall consider the current financial position of the
5 tenant and the prospect for improvements in the tenant's financial position, market
6 conditions, the benefit to the Trust in temporarily reducing the rent, and such other
7 information as may be required in considering tenant's request for rent reductions. Any rent
8 reductions authorized by CLTC shall not exceed one (1) year and shall be for the benefit of
9 the Trust. As temporary rent reductions are intended to assist tenants over a short period of
10 time, tenants must agree in writing that such temporary reductions shall in no way affect the
11 schedule and amount of rent escalations for future option terms identified in the lease
12 agreement. Requests for rent reductions shall be subject to Commission approval. The
13 CLTC shall not allow the exercise of options for additional terms unless all past due rent is
14 paid .

15 p. Payment Plans. Requests to develop a payment plan for back rent shall be submitted
16 in writing with the reasons for the request. In addition, tenants shall submit a copy of audited
17 financial statements covering the previous three (3) year period. Payment plans must include
18 a provision for payment of interest on the unpaid balance. In addition, payment plans must
19 contain the requirement that late fees using the industry standard be paid, in the event the
20 lessee does not make payments as scheduled and if the lessee is not deemed to be in breach
21 of the lease. Financial institutions must be provided with copies of approved payment plans,
22 if estoppel, mortgage or other such agreements require such notification. To the extent
23 possible, payment plans for outstanding rent must be paid off within the fiscal year to avoid
24 budgetary problems within CLTC.

25 **Section 4. Annual Report.** The Administrative Director shall prepare an annual report for
26 presentation to the Commission summarizing the benefits received by CLTC on activities of the
27 Program for the fiscal year. The annual report shall contain findings on employment, payroll,
28 gross receipts taxes paid, local purchases made and total and annual capital investments by
29 tenants and their sub-tenants, if any. The report shall not contain proprietary information of
30 tenants. The report shall also contain a projection of revenues over the next five-year time
31 period and a discussion on outstanding issues and recommendations. The report shall be

1 submitted no later than December 31 covering the previous fiscal year ending September 30.

2 **Section 5. Public-Public Partnership Encouraged.** The CLTC is encouraged to partner
3 with the Guam Economic Development Authority (GEDA) for the purposes of this Act, for
4 general consultancy on real property development and property management services.

5 a. For its part, GEDA shall invest in and provide the following services:

6 1. preparation of appraisals, environmental studies, title reports, land surveys,
7 development plans, infrastructure studies and other studies that may be appropriate:

8 2. formulation of requests for development and lease proposals for the leasing of
9 lands declared available pursuant to this Act;

10 3. maximum dissemination through print and electronic media to promote
11 competitive solicitation for offerors interested in the commercial development and long
12 term leasing of available CLTC lands that yield the highest return for the CLTC.

13 4. receipt and evaluation of proposals, preparation of recommendations to the CLTC
14 for the selection of prospective lessees, and for the negotiation of lease agreements to be
15 entered into;

16 5. manage leases and collect rent therefrom; rent collected by GEDA from
17 commercial lessees and licenses shall be remitted to the CLTC no later than twenty (20)
18 days after receipt from the commercial lessees and licensees.

19 6. collaborate with the CLTC and its employees to achieve identified goals;

20 7. provide periodic updates to the CLTC on the status of the development and
21 leasing of the lands;

22 8. do all other things necessary to carry out the above objectives to include retaining
23 subject matter experts, technical consultants, and legal counsel as necessary.

24
25 b. For its part in the leasing of lands listed in, the CLTC shall do the following to assist
26 GEDA in performing the services set forth in this section:

27 1. provide all information pertaining to the lands to be leased under the scope of this
28 Act;

29 2. participate in the formulation of development and lease specifications, and the
30 evaluation and selection of prospective lessees;

31 3. review reports submitted by GEDA and provide guidance;

1 4. obtain all necessary approvals for the commercial leasing or licensing of the lands
2 declared available for commercial leasing and licensing.

3 5. execute development and lease agreements recommended for execution:

4 6. Execute all other documents necessary to carry out the intent of this Act.

5
6 **Section 6. Creation of the Chamorro Land Trust Survey and Infrastructure Fund.**

7 a. A special Fund called the *Chamorro Land Trust Survey and Infrastructure Fund* (the
8 *Fund*) is hereby created and shall be funded by the proceeds received from the commercial
9 leasing and licensing of CLTC lands.

10 b. Expenditures from the Fund shall be subject to Legislative appropriation and shall be
11 restricted for the following expenditures:

12 1. payment to GEDA as a fee for general real property development consultancy and
13 property management services provided to the CLTC; said fee however shall be limited
14 to no more than three percent (3%) of the annual lease payments during the first year of
15 said public-public partnership, and for reimbursement to GEDA for costs related to any
16 mutually agreed upon engagement of technical and legal services needed to carry out the
17 intent of this Act, and

18 2. surveying and registration of tracts of residential and agricultural land in the
19 CLTC property inventory, and

20 3. for the construction of infrastructure, to include access roads, water, and power
21 utilities, to service CLTC tracts of land..

22 c. the Fund shall be maintained separate and apart from any other funds and shall not be
23 subject to the transfer authority of *I Maga'lahen Guahan*.

24 **Section 7. Affirmation of legislative action.** *I Liheslaturan Guāhan* affirms that if the
25 Chamorro Land Trusts Commission's proposed rules and regulations submitted to the Speaker
26 of *I Liheslaturan Guāhan* on June 3, 2015 are deemed effective by any authority, then such rules
27 and regulations are hereby repealed and shall NOT be in effect. *I Liheslatura* passed Bill No.
28 139-33 (COR), which is AN ACT TO DISAPPROVE THE PROPOSED CHAMORRO LAND
29 TRUST (CLTC) RULES AND REGULATIONS FOR COMMERCIAL USE TRANSMITTED
30 BY *I MAGA'LAHEN GUAHAN* TO THE SPEAKER OF *I LIHESLATURAN GUĀHAN* ON
31 June 3, 2015. *I MAGA LAHEN GUAHAN*, however, vetoed Bill No. 139-33 (COR) on

1 September 8, 2015 and maintained that these rules and regulations have lapsed into law. *I*
2 *Liheslatura* herein affirms that these rules and regulations did NOT lapse into law because *I*
3 *Liheslatura* passed Bill 139-33 (COR) on August 28, 2015, which is well within the 90-day
4 period to legislatively act on any proposed rule or regulation pursuant to the Administrative
5 Adjudication Law.

6 **Section 8. Reports.** The CLTC shall provide quarterly reports on the revenue,
7 surveying, and infrastructure being made from the leasing or licensing of CLTC lands pursuant
8 to this Act to *I Maga 'lahen Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and the Office of the
9 Public Auditor.

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

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 175 – 33(COR)

As Substituted by the Author.

Introduced by:

T.C. Ada

R.J. Respicio

**AN ACT TO ESTABLISH THE DESIGNATION
OF AVAILABLE CLTC LAND FOR
COMMERCIAL USE, TO ADOPT RULES AND
REGULATIONS FOR THE COMMERCIAL
LEASING OF AVAILABLE CLTC LAND, AND
TO PRIORITIZE THE USE OF LEASE
PROCEEDS FOR THE SURVEY AND
REGISTRATION AND CONSTRUCTION OF
INFRASTRUCTURE ON CLTC RESIDENTIAL
AND AGRICULTURE PROPERTIES.**

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

2 **Section 1. Legislative Findings.**

3 *I Liheslaturan Guåhan* finds that there exists a backlog of approximately
4 8,000 applications for Chamorro Land Trust Commission (CLTC) residential
5 and agricultural lands. A majority of the applications were filed since the onset
6 of the program in December 2, 1995. The backlog is attributed primarily to the
7 reason that much of the CLTC lands have not been surveyed and registered
8 pursuant to §75105(f) of Chapter 75 Title 21 Guam Code Annotated.

9 *I Liheslaturan Guåhan* further finds that the CLTC does not have the
10 funds necessary to procure land-surveying services or to hire the manpower and
11 equipment needed for the Commission to perform these surveys. *I Liheslaturan*
12 *Guåhan* also finds that the CLTC properties do not have in place the water

1 infrastructure necessary to support a decent standard of living, to support
2 productive agricultural activities, and wastewater infrastructure to protect the
3 northern Guam aquifer.

4 *I Liheslaturan Guåhan* asserts that the CLTC can generate revenue by
5 leasing or licensing for commercial use certain properties in its land inventory.
6 The adoption of rules and regulations pursuant to §75107(f) of Chapter 75 Title
7 21 Guam Code Annotated is a prerequisite which to date has not been
8 accomplished.

9 *I Liheslaturan Guåhan* finds that the CLTC initiated a Memorandum of
10 Understanding (MOU) on November 17, 2011 with the Guam Economic
11 Development Authority (GEDA) “to allow GEDA to provide real property
12 management and development assistance to the Commission.” On April 24,
13 2013 the Governor of Guam approved the MOU. Implementation of the MOU
14 however, was contingent upon the adoption of commercial leasing/licensing
15 rules and regulations by the Guam Legislature pursuant to §75107(f) of Chapter
16 75 Title 21 Guam Code Annotated. A similar partnership has been successfully
17 implemented between the Guam Ancestral Lands Commission and GEDA.

18 *I Liheslaturan Guåhan* intends to facilitate the leasing of selected CLTC
19 properties for commercial activities in order to begin generating revenues
20 needed to accomplish land surveys and registration and to provide infrastructure
21 to residential and agricultural CLTC land tracts.

22 **Section 2. Definitions.**

23 (a) “*Commercial Lease*” is a leasehold interest in real property
24 between the CLTC and a tenant (hereinafter referred to as “Commercial
25 Lessee”) for the commercial use of real property under the management of
26 the CLTC.

1 **(b) “Commercial License”** is an agreement between tenant
2 (hereinafter referred to as the “Commercial Licensee”) and the CLTC which
3 permits certain activity to be conducted upon real property in the inventory
4 of the CLTC, but does not confer upon the licensee any title or leasehold
5 interest, and is terminable upon cessation of the approved activity. Pursuant
6 to 21 GCA §75107(c), the Commission is authorized to grant licenses for
7 terms of not to exceed twenty-one (21) years in each case, to:

8 (a) public utility companies, or corporations as telephone lines,
9 electric power and light lines, gas mains, and the like; or

10 (b) for lots within a village in which lands are leased under the
11 provisions 21 GCA §75107(a) to:

12 (1) churches, hospitals, public schools, post offices, and
13 other improvements for public purposes; (2) theaters, garages,
14 service stations, markets, stores, and other mercantile
15 establishments (all of which shall be owned by §75107(a)
16 lessees of the Commission or by organizations formed and
17 controlled by said lessees).

18 **(c) “Commercial Use”** means commercial agriculture, commercial
19 aquaculture, and any permitted use or a conditional use expressly allowed on
20 an “A, R1, R2, C, P, S-1, or PF” zoned property pursuant to 21 GCA
21 §61304, §61305, §61306, §61307, and §61308. Commercial use includes
22 mineral extraction when specifically approved by the CLTC and the Guam
23 Legislature. The appropriate regulatory clearances will be required for all
24 commercial uses of CLTC lands.

25 **(d) “Tenant”** means an applicant who has been approved for either
26 a commercial lease and can also be referred to as a “Commercial Lessee or
27 Commercial Licensee” in this Act.

1 **Section 3. Designation of available land for commercial use.**

2 **(a)** Notwithstanding §75107(f) of Chapter 75 of 21 Guam Code
3 Annotated and Section 6.9 of Exhibit A of Public Law 23-38, the CLTC may
4 declare and designate that certain lands “are not required for §75107 leases
5 to native Chamorros for residential, subsistence agriculture, or subsistence
6 aquaculture, and are available for commercial leasing or licensing to the
7 general public pursuant to 21 GCA §75101(d)”. Said declaration shall be in
8 the form of a Board Resolution approved by the Commissioners at a duly
9 scheduled meeting of the CLTC held after a CLTC public hearing on the
10 specific lot and area of land to be designated. The approved CLTC
11 resolution shall be transmitted to the Legislature within thirty (30) days from
12 the date of passage of the resolution.

13 **(b)** The Legislature shall have sixty (60) days to review the
14 resolution declaring the list of available lots identified in (a) above and may
15 conduct public hearings on said lot list during this 60-day period.

16 **(c)** The lots identified in (a) above may be leased or licensed by the
17 CLTC to the general public pursuant to §75105(d) of Chapter 75 of 21
18 Guam Code Annotated, for commercial use and for a term not to exceed
19 twenty-five (25) years, or licensed pursuant to §75107(c) for a term not to
20 exceed twenty-one (21) years, unless otherwise approved by the Legislature
21 for a longer term.

22 **(d)** The CLTC shall not initiate any solicitations for commercial
23 leasing or licensing until at least sixty (60) days have elapsed from the date
24 the Legislature received the transmittal of the CLTC resolution and list in
25 accordance with this section.

26 **(e)** Notwithstanding §75107(b) of Chapter 75 of 21 Guam Code
27 Annotated all income arising out of any lease or license of those properties

1 declared in paragraph (a) of this section shall be credited to and deposited
2 into the *Chamorro Land Trust Survey and Infrastructure* Fund until 2020,
3 and to the Chamorro Home Loan Fund thereafter.

4 (f) Any solicitation for interest or proposals, prior to the enactment
5 of this Act, for commercial activity on CLTC land with the intent of entering
6 into a commercial lease shall be null and void.

7 **Section 4. Lease agreement stipulations.** The execution of commercial
8 lease agreements or licenses of the available properties identified pursuant to
9 Section 3 of this Act shall be subject, at minimum, to the following stipulations:

10 (a) **Notice of land designated to be available for commercial**
11 **use.** Solicitation for the leasing or licensing of land designated as
12 available for commercial use shall be published at least thirty (30) days
13 prior to the deadline for submittal of proposals from prospective Lessees
14 or Licensees. Notice shall be posted in the websites of the CLTC and the
15 Department of Land Management (DLM) continuously, and through any
16 methods of electronic publication capable of providing notice to the
17 general public, and at least once in a newspaper of general circulation.

18 (b) **Award of Lease Through Competitive Bid.** The lease or
19 license for the commercial use of CLTC land designated as available for
20 commercial activity shall be awarded through a competitive bid process to
21 entities determined to be responsible and responsive, as defined in Guam's
22 procurement law, to the requirements stipulated by the CLTC. However, in
23 the event that a designated available land has an existing commercial activity
24 by virtue of a previous authorization, the CLTC may allow said activity to
25 continue on the property provided that the activity continues to be beneficial
26 to CLTC beneficiaries.

27 (c) **Unsolicited Proposals.** The CLTC may also accept unsolicited

1 proposals for the development and commercialization of CLTC land
2 designated as available for commercial use, but must subsequently place
3 such proposals to competitive solicitation.

4 (d) **Posting of Awards.** Awards of Leases and Licenses shall be
5 posted, within five (5) working days from the date of award, on the CLTC
6 and DLM websites for the term of the lease.

7 (e) **Minimum Annual Rent.** Annual rent shall be no less than ten
8 percent (10%) of the current appraisal of fair market value of the land that is
9 to be leased. Rent shall escalate at a minimum of five (5) year intervals
10 based at a minimum upon current appraisal of fair market value of the land
11 being leased, but in no event shall rent be lower than the rent charged during
12 the previous five (5) year period.

13 (f) **Participation Rent.**

14 (1) Definition. The Tenant pays, to the CLTC, a mutually
15 agreed upon percentage of the revenues generated above a mutually
16 agreed upon revenue threshold.

17 (2) Applicability. Participation rent shall be applicable from
18 the fifth anniversary date to the last day of the lease. The annual
19 participation rent shall be made in four equal quarterly installments.

20 (g) **Advance Rental Payment.** CLTC may require accelerated or
21 advanced rental payments as a condition of the lease.

22 (h) **Rent Amendments and Payments Schedules.** Tenants may
23 submit written requests for temporary reductions in rent. Tenants shall
24 submit audited financial statements covering the previous three (3) year
25 period as supporting documents. CLTC shall consider the current financial
26 position of the tenant and the prospect for improvements in the tenant's
27 financial position, market conditions, the benefit to the Trust in temporarily

1 reducing the rent, and such other information as may be required in
2 considering tenant's request for rent reductions. Any rent reductions
3 authorized by CLTC shall not exceed one (1) year but may, upon written
4 application by the tenant, be extended by the Commission if such extension
5 would be beneficial for the Trust. As temporary rent reductions are intended
6 to assist tenants over a short period of time, tenants must agree in writing
7 that such temporary reductions shall in no way affect the annual amounts
8 due or the schedule of rent escalations for future option terms identified in
9 the lease agreement. Requests for rent reductions shall be subject to
10 Commission approval. The CLTC shall not allow the exercise of options for
11 additional terms unless all past due rent is paid. All amendments of rent and
12 payment schedule shall be fully documented.

13 (i) **Payment Plans.** Requests to develop a payment plan for back
14 rent shall be submitted in writing with the reasons for the request. In
15 addition, tenants shall submit a copy of audited financial statements covering
16 the previous three (3) year period. Payment plans must include a provision
17 for payment of interest on the unpaid balance. In addition, payment plans
18 must contain the requirement that late fees using the industry standard be
19 paid, in the event the lessee does not make payments as scheduled and if the
20 lessee is not deemed to be in breach of the lease. Financial institutions must
21 be provided with copies of approved payment plans, if estoppel, mortgage or
22 other such agreements require such notification. To the extent possible,
23 payment plans for outstanding rent must be paid off within the fiscal year to
24 avoid budgetary problems within CLTC.

25 (j) **Taxes And Assessments.** Tenants shall pay all taxes and
26 assessments lawfully levied against the leased premises and against any
27 business conducted thereon or in connection therewith. Tenant shall also

1 pay all charges for utility services furnished or provided to the leased
2 premises.

3 **(k) Interest for Late Payment.** All rent in arrears shall bear
4 interest at a rate of 4% per annum in excess of the Prime Rate, calculated
5 daily and compounded monthly, without demand, from the date it should
6 have been paid to CLTC, until actual payment to CLTC.

7 **(l) Environmental Site Assessment (ESA).** Prospective tenants
8 shall be required to prepare at their own expense, a Phase I Environmental
9 Site Assessment (ESA) of the leased property to serve as a baseline of
10 conditions at the site prior to the start of the lease. The comprehensiveness
11 of the assessment shall be determined by CLTC in collaboration with the
12 Guam Environmental Protection Agency. The Phase I ESA shall be
13 referenced in any lease or license agreement for the property. Prior to the
14 issuance of any agreement, tenants or prospective tenants must conduct a
15 Phase I ESA of the site at tenant's expense.

16 **(m) Condition of Land After Use Period.** At the end of the lease
17 or license period, or upon termination, tenant shall restore the land to
18 baseline levels established at the start of their lease or license, or
19 better/higher environmental levels agreed upon in the lease or license and
20 shall bear all expenses relating to such restoration and Phase I and Phase II
21 evaluations. However, in the case where mineral extraction or the extraction
22 of natural resources at the site was authorized initially in the lease or license
23 agreement, the site shall be returned to the CLTC in the better/higher
24 environmental end-state that was agreed upon at the beginning of the lease
25 or license. CLTC shall require that a performance bond be provided to
26 ensure that property is returned in an acceptable end-state, but that said bond
27 shall not relieve the lessee of the responsibility of returning the line to the

1 required base line state.

2 (n) **Tenant Requirements.** All lease and license agreements shall
3 require tenants and subtenants to have business liability insurance that
4 indemnifies and holds CLTC harmless, and shall require the tenant to
5 respond to CLTC requests for information on a timely basis.

6 (o) **Improvements to CLTC Property.** All lease and license
7 agreements shall require that any improvements made to or upon the real
8 property shall belong in title to the CLTC upon termination or expiration of
9 the lease or license, and that any removal required by the CLTC of
10 improvements or items remaining on the property shall be the responsibility
11 of the tenant at no cost to the CLTC.

12 (p) **Processing Fees.** Tenants shall pay for those expenses
13 associated with the processing of leases, amendments, assignments,
14 estoppels, consents or other such documents, including, but not limited to,
15 attorneys' fees, appraisal fees, title report fees, survey fees, credit report
16 fees, recording fees, and documentation fees but not including CLTC staff
17 time. Payment of fees shall be made prior to document recordation or pick
18 up.

19 (q) **Business License.** Applicants must be licensed to do business
20 in Guam prior to the execution of a lease or license and all tenants must
21 maintain a valid license to do business in Guam during the term of their
22 lease or license.

23 (r) **Compliance With Environmental Laws.** All activities on
24 leased or licensed available real property shall be in compliance and
25 maintained in accordance with existing environmental laws. Failure to
26 comply with environmental laws shall be a material default by tenant.

27 (s) **Events of Default; Termination.** In any of the following events

1 (each an "Event of Default"):

2 1. if Rent or any part thereof shall not be paid on any day
3 when such payment is due, CLTC may, at any time thereafter, give
4 Notice of such failure to the Lessee and if the failure is not remedied
5 by the Lessee within five (5) days after the giving of such Notice; or

6 2. if the Lessee shall fail or neglect to perform or comply
7 with any of the terms, covenants or conditions contained in the Lease
8 (other than the covenants to pay Rent) on the part of the Lessee to be
9 performed or observed, CLTC may, at any time thereafter, give
10 Notice of such failure or neglect to the Lessee and the Lessee:

11 i. if the matter complained of in such Notice is
12 capable of being remedied by the payment of money, has not
13 corrected the matter complained of within a period of five (5)
14 days after the giving of such Notice; or

15 ii. if the matter complained of in such Notice is not
16 capable of being remedied by the payment of money has not
17 corrected the matter complained of within a period of twenty
18 (20) days after the giving of such Notice, or if a period of more
19 than such twenty (20) days is reasonably required to remedy,
20 with reasonable diligence, the matters complained of in such
21 Notice, has not forthwith commenced to remedy the same and
22 diligently prosecute the remedying of the same to completion;

23 3. if an event of Insolvency shall have occurred with respect
24 to the Lessee, or

25 4. a breach of an obligation by the Lessee which has
26 resulted in cancellation of insurance coverage where the Lessee has
27 not prior to or concurrent with such cancellation replaced such

1 coverage with comparable coverage or breach of an obligation where
2 there has been a notice of cancellation of insurance coverage which
3 has not been cured and where the Lessee has not, within the period of
4 time set out in such notice (or within ten (10) days where no period is
5 set out therein) replaced such coverage with comparable coverage or
6 which is otherwise a breach of the obligations respecting insurance; or

7 5. abandonment of the Project by the Lessee; or then the
8 CLTC, at its option, may terminate the Lease by Notice to the Lessee,
9 in which event such termination shall be effective immediately upon
10 the delivery of such Notice and may enter upon the property with or
11 without process of law and take possession thereof.

12 (t) **Right to Cure Defaults.** Without limiting any other remedies
13 the CLTC may have arising out of a Lease or at law in respect of any default
14 in the performance of the Lessee's obligations under a Lease, the CLTC shall
15 have the right, in the case of any default and without any re-entry or
16 termination of a Lease, to enter upon the property and cure or attempt to cure
17 such default (but this shall not obligate the CLTC to cure or attempt to cure
18 any such default or, after having commenced to cure or attempt to cure such
19 default, prevent the Lessor from ceasing to do so) and the Lessee shall
20 promptly reimburse to the CLTC any expense incurred by the CLTC in so
21 doing and the same shall be recoverable as Rent.

22 **Section 5.** A new § 75107(g) of Chapter 75, Title 21, Guam Code

23 Annotated is hereby added to read:

24 “(g) Chamorro Land Trust Commission may also permit commercial
25 leases to be subleased or assigned under the following provisions and if the
26 sublease or assignment would be beneficial for the Trust :

1 (1) Commercial sublease.

2 a. The master lessee of the commercial lease shall be
3 permitted to sublease rooms or space within their established
4 building structure for complementary commercial use as
5 detailed in the master lease agreement or subject to the prior
6 written approval of the CLTC.

7 b. This provision does not permit the subleasing of
8 the leased land. Said commercial sublease shall be allowed only
9 with the prior written consent of CLTC, and shall not affect any
10 duty or obligation of the master lessee to CLTC.

11 (2) Assignment of commercial lease.

12 a. A commercial lease may be assigned if the
13 provisions of the original lease, and the duties or obligations of
14 the original Lessee does not change. Assignment shall not be
15 permitted if the lease or license was executed less than five (5)
16 years prior; otherwise, the lease or license shall be put through
17 the competitive solicitation process.

18 b. Said assignment of commercial lease shall be
19 allowed only with the prior written consent of CLTC.

20 **Section 6. Annual Report.** GEDA shall prepare an annual report for
21 presentation to the Commission summarizing the benefits received by CLTC on
22 activities of the commercial leasing program for the fiscal year. The annual report
23 shall contain findings on employment, payroll, gross receipts taxes paid, local
24 purchases made and total and annual capital investments by tenants and their sub-
25 tenants, if any. The report shall not contain proprietary information of tenants.
26 The report shall also contain a projection of revenues over the next five-year time
27 period and a discussion on outstanding issues and recommendations. The report

1 shall be submitted no later than December 31 covering the previous fiscal year
2 ending September 30. A copy of the Annual Report shall be submitted to the
3 Speaker of *I Liheslaturan Guåhan* and *I Maga'lahen Guahan*.

4 **Section 7. Public-Public Partnership Encouraged.** The CLTC is
5 encouraged to partner with the Guam Economic Development Authority (GEDA)
6 for the purposes of this Act, for general consultancy on real property development
7 and property management services.

8 1. For its part, GEDA shall invest in and provide the following
9 services:

10 a. formulation of requests for development and lease
11 proposals for the leasing of lands declared available pursuant to this
12 Act;

13 b. maximum dissemination through print and electronic
14 media to promote competitive solicitation for prospective offerors
15 interested in the commercial development and long term leasing of
16 available CLTC lands that yield the highest return for the CLTC.

17 c. receipt and evaluation of proposals, preparation of
18 recommendations to the CLTC for the selection of prospective
19 lessees, and for the negotiation of lease agreements to be entered into;

20 d. manage leases and collect rent therefrom; rent collected
21 by GEDA from commercial lessees and licenses shall be deposited to
22 the *Chamorro Land Trust Survey and Infrastructure Fund* no later
23 than 20 days upon receipt from the commercial lessees and licensees.

24 e. collaborate with the CLTC and its employees to achieve
25 identified goals;

26 f. provide periodic updates to the CLTC on the status of the
27 development and leasing of the lands;

1 g. do all other things necessary to carry out the above
2 objectives to include retaining subject matter experts, technical
3 consultants, and legal counsel as necessary and subject to approval by
4 CLTC.

5 2. For its part in the leasing of lands listed in, the CLTC shall do
6 the following to assist GEDA in performing the services set forth in this
7 section:

8 a. provide to GEDA all information in its possession
9 pertaining to the lands to be leased under the scope of this Act;

10 b. participate in the formulation of development and lease
11 specifications, and the evaluation and selection of prospective lessees;

12 c. review reports submitted by GEDA and provide
13 guidance;

14 d. Execute all other documents necessary to carry out the
15 intent of this Act.

16 **Section 8. Creation of the *Chamorro Land Trust Survey and***
17 ***Infrastructure Fund.***

18 1. A special Fund called the *Chamorro Land Trust Survey and*
19 *Infrastructure Fund* (the *Fund*) is hereby created and shall be funded by the
20 proceeds received from the commercial leasing and licensing of CLTC
21 lands.

22 2. Expenditures from the Fund made pursuant to a Resolution by
23 the CLTC shall be restricted for the following expenditures:

24 a. payment to GEDA as a fee for general real property
25 development consultancy and property management services provided
26 to the CLTC; said fee however shall be limited to no more than six
27 percent (6%) of the annual lease payments nor more than \$150,000,

1 whichever is less, per year during the period of the public-public
2 partnership, and

3 b. subdivision, surveying, and registration of tracts of
4 residential and agricultural land in the CLTC property inventory, and

5 c. for the construction of infrastructure, to include access
6 roads, water, and power utilities, to service CLTC residential and
7 agricultural tracts of land.

8 3. the Fund shall be maintained separate and apart from any other
9 funds and shall not be subject to the transfer authority of *I Maga'laha*
10 *Guahan*.

11 **Section 9. Affirmation of legislative action.** *I Liheslaturan*

12 *Guahan* affirms that if the Chamorro Land Trusts Commission's proposed rules
13 and regulations submitted to the Speaker of *I Liheslaturan Guahan* on June 3, 2015
14 are deemed effective by any authority, then such rules and regulations are hereby
15 repealed and shall NOT be in effect

16 **Section 10. Reports.** The CLTC shall provide monthly reports on the
17 revenue, surveying, and infrastructure being made from the leasing or licensing of
18 CLTC lands pursuant to this Act to *I Maga'laha Guahan*, the Speaker of *I*
19 *Liheslaturan Guahan*, and the *Office of the Public Auditor*.

20 **Section 11. Severability.** If any provision of this law or its application to
21 any person or circumstance is found to be invalid or contrary to law, such
22 invalidity *shall not* affect other provisions or applications of this law, which can be
23 given effect without the invalid provisions or application and to this end the
24 provisions of this act are severable.



DIPĀTTAMENTON MINANEHAN TĀNO'
 (Department of Land Management)
GUBETNAMENTON GUĀHAN
 (Government of Guam)



EDDIE BAZA CALVO
 Governor

MICHAEL J.B. BORJA
 Director

RAY TENORIO
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September 15, 2015

Senator Thomas C. Ada
 33rd Guam Legislature
 Chairman, Committee on Transportation,
 Infrastructure, Lands, Border Protection,
 Veteran's Affairs and Procurement
 173 Aspinall Ave, Ste 207
 Hagatna, Guam 96910

Hafa Adai Senator Ada:

Thank you for the invitation to meet with you on Thursday, September 17, 2015, to discuss Bill No. 175-33, regarding Chamorro Land Trust Commission (CLTC) commercial leases and licenses. Because of the pending status of an opinion from the Attorney General of Guam concerning the adoption of the CLTC Rules and Regulations for Commercial Use transmitted to the Legislature on June 3, 2015, I feel it is necessary to step back from discussions on this bill until there is a legal opinion. Additionally, the short time period between the introduction of this bill and its scheduled public hearing has been inadequate to obtain direction from my board of commissioners. Likewise, the CLTC commissioners have not had an opportunity to review the bill and discuss the matter in a regularly scheduled board meeting.

As you know, the Chamorro Land Trust Commission, and me in particular, have always been constructive in our approach to legislation and will continue this pattern. For this particular legislation, I believe a momentary pause would be prudent. I beg your indulgence in this matter and appreciate your consideration.

Very Respectfully,


MICHAEL J.B. BORJA
 Director

RECEIVED
 Office of Senator
 Thomas C. Ada





DIPATTAMENTON MINANEHAN TANO'
 (Department of Land Management)
GUBETNAMENTON GUAHAN
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 Governor

MICHAEL J.B. BORJA
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RAY TENORIO
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September 21, 2015

Mailing Address:
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Senator Thomas C. Ada
 33rd Guam Legislature
 Chairman, Committee on Transportation,
 Infrastructure, Lands, Border Protection,
 Veteran's Affairs and Procurement
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 Hagatna, Guam 96910

Website:
<http://dlm.guam.gov>

SUBJECT: Testimony on Bill No. 175-33 (COR) – AN ACT TO PRIORITIZE THE SURVEYING, REGISTRATION, AND CONSTRUCTION OF INFRASTRUCTURE FOR CHAMORRO LAND TRUST COMMISSION (CLTC) RESIDENTIAL AND AGRICULTURE PROPERTIES USING THE PROCEEDS OF COMMERCIAL LEASES, THROUGH THE ENACTMENT OF RULES AND REGULATIONS FOR CLTC COMMERCIAL LEASES.

Buenas yan Hafa Adai!

The Chamorro Land Trust Commission does not object to the intent of Bill No. 175-33 to codify the ability for the Trust to engage in commercial leases and licenses. The "Lease Agreement Stipulations" listed in Section 3 of the bill are similar to the terms specified in the June 3, 2015, transmitted rules.

However, there are several significant items not included in this bill which was requested as part of the transmittal and discussed in the original form of Bill No. 139-33. They include:

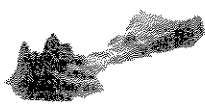
- a. The ability to sublease or sublicense a space within building, such as a room, but not to include subleasing land.
- b. The ability to assign the lease in the event the ownership of the company changes.
- c. The preference to a Chamorro owner or officer of the company in the selection process.

Because other elements of this bill were not part of the transmittal of the rules nor were they formally discussed and approved by the commissioners, we do not offer comment on these sections.

Thank you for allowing me to submit this testimony.

Senseramente,


MICHAEL J.B. BORJA
 Administrative Director
 Chamorro Land Trust Commission





GEDA

Guam Economic Development Authority

Aturidãd Inadilãnton Ikunumihan Guaban

Edward J. B. Calvo
Governor of Guam
I Maga' Lahen Guahan

Raymond S. Tenorio
Lt. Governor of Guam
I Segundo Na Maga' Lahen Guahan

John A. Rios
Administrator
Administradot

**Testimony of Mr. John A. Rios, Administrator
Guam Economic Development Authority
September 21, 2015**

**Bill 175-33 (COR) An Act to Prioritize the Surveying, Registration and Construction of
Infrastructure for CLTC Residential and Agricultural Properties Using the Proceeds of
Commercial Leases through the Enactment of Rules and Regulations for CLTC Commercial
Leases**

Good evening Chairman Ada and members of the Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement. My name is John Rios, Administrator of the Guam Economic Development Authority (GEDA), and I hereby submit this written testimony on Bill 175-33 (COR). Our comments focus on the impact of the legislation on GEDA, although we also have concerns with regard to the costs that commercial developers would have to absorb should bill 175 be enacted into law.

Impact on GEDA:

We appreciate the Legislature's acknowledgement of GEDA and CLTC efforts to enter into a partnership in this regard. Under the current MOU and replicated in Bill 175, GEDA would collect and provide an accounting of commercial lease/license rents. However, the MOU allows GEDA to remit rents to CLTC after deducting its fee. Section 6(b) of Bill 175 seems to state that GEDA fees and expenses would be subject to Legislative appropriation. In the early years of the commercial lease program, there would be little funding in the Chamorro Land Trust Survey and Infrastructure fund created by Bill 175 and certainly not enough to cover GEDA expenses. GEDA should have the authority to deduct these costs from proceeds once revenues are collected. Otherwise, once expenses are paid for by GEDA, there would be no overriding concern to legislatively appropriate money for these expenses.

Section 6(b) also sets a limit on GEDA property management fees. Three percent is only half of normal costs for property management services and we would recommend that the fee be at least 6%. As specified in the bill, this fee excludes technical and legal services.

Section 1 of the bill mentions the Memorandum of Understanding executed jointly by GEDA and CLTC and approved by the Governor in 2013. However, the bill incorrectly indicates that "Implementation of the MOU however, was contingent upon the adoption of commercial leasing/licensing rules and regulations..." To clarify, implementation of commercial leasing was contingent upon adopting rules and regulations and not implementation of the MOU. In fact, at the request of CLTC and as provided for in the MOU, GEDA developed the initial draft of the rules that went through the AAA process. Although GEDA is currently performing services, we have not received any fees as these are tied to commercial lease rent collections under the current MOU. The bill at Section 6(b) limits GEDA's fee to a percentage



“of the annual lease payments during the first year of said public-public partnership...” Only a small amount of revenues could reasonably be generated in the first year of any leasing program. Therefore, we recommend that the percentage for GEDA fees be a percentage of the commercial lease revenues collected in any year, consistent with the MOU.

Developer Costs:

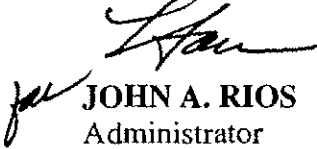
Section 3(e) indicates that rent escalations in the future shall be based upon appraisal conducted at the time the lease was executed. It is suggested that at some future date (e.g., in the 10th year), rent escalations be tied to an appraisal at that time. Developers need to determine future costs especially in the early years in order to plan their financing and operations. In later years, CLTC must ensure that rents are tied to fair market value at that time.

Section 3(f) requires business liability insurance. Would tenant indemnification of CLTC rather than tenant purchasing insurance be sufficient as tenants may be hesitant to lease CLTC land given the costs imposed by Bill 175?

Section 3(n) requires tenants to purchase a performance bond to ensure that the property is returned to an acceptable end-state condition. This is another potentially unnecessary cost and one that ties up developer finances for 25 years. Could language be included in the lease to achieve the same intent without having the tenant commit its finances upfront?

Thank you Mr. Chairman and the members of your Committee for this opportunity to provide this testimony.

Si Yu'os Ma'ase!



JOHN A. RIOS
Administrator
Guam Economic Development Authority



Monaeka Flores

• PO Box 26073, Barrigada, Guam 96921

• (671) 483-9612

• Email: mflores.guam@gmail.com

September 28, 2015

Honorable Thomas Ada
Chairman - Committee on Transportation, Infrastructure, Lands, Border Protection,
Veteran's Affairs and Procurement
33rd Guam Legislature
Suite 155 Hesler Place
Hagåtña, Guam 96910

Håfa adai Senator Ada,

I am obliged to submit this written testimony to demonstrate my strong opposition to Bill 175-33, and to supplement my oral testimony provided to the Committee on Monday, September 21, 2015 at the Guam Legislature Public Hearing Room.

While Bill 175-33 appears well-intentioned and aimed to address the need to acquire funds to support staffing for the Chamorro Land Trust Commission, necessary land surveys, as well as agricultural and wastewater infrastructure, it is also entrenched in great risk of negating the sole purpose of the trust - to provide land to landless Chamorros and empower our most marginalized community members.

The Chamorro Land Trust Act was intended to "advance the well-being of the Chamorro people by way of equitable land distribution," to act exclusively in the interest of Chamorro Land Trust beneficiaries, to hold and protect trust property for its beneficiaries, to maintain and uphold their fiduciary responsibilities to the beneficiaries of the trust to exercise due to care and diligence in the management of Chamorro homelands.

As Bill 175-33 is currently written, I am compelled to question its legality, as it goes against everything the Chamorro Land Trust Act was grounded on. As it is written, Bill 175-33 undermines the rights of the beneficiaries and may even further effect the dispossession of lands and resources by opening up the process for commercial leases without the requirement of Chamorro eligibility. Currently, the law does not specify that selection will prioritize or be limited to Chamorro owned entities, and furthermore how it may serve a larger scope of Chamorro business organizations that go beyond the limited number of businesses currently run by a small number of Chamorro families and Chamorro elite.

I am also concerned that the selection of available properties may be compromised and lead to the over-identification of "prime property", thus awarding the best CLTC properties to certain businesses for development and open "removal of natural resources" for profit, exploiting land held in public trust. Realistically, the board is a political entity and it may not even be ensured that the selection process will be unbiased and avoid preferential treatment to serve certain interests.

Monaeka Flores

• PO Box 26073, Barrigada, Guam 96921 • (671) 483-9612 • Email: mflores.guam@gmail.com

At the time of my oral testimony, I was asked if I had any suggestions for alternative sources of revenue to address the needs of the CLTC, the surveys, and water infrastructure. First off, I would like to redirect that question back to the committee and respectfully ask that you identify alternative strategies that do not compromise the integrity of Trust lands and their beneficiaries. I believe we can find other ways to build this revenue without further exploiting our resources and lands held in public Trust.

At this time my ideas include creating a non-profit arm of the CLTC to identify and acquire grants from the U.S. Department of Agriculture to assist with water infrastructure. I also suggest that a portion of the funds collected from construction permits of private businesses also be dedicated to the land surveys.

Our indigenous Chamorros have suffered from historic injustices as a result of colonization and dispossession of their lands and resources, and continue to be confronted with systemic oppression via occupation and land taking. Such oppression and displacement has prevented us from exercising our own rights to development in accordance to our own needs and interests as indigenous people. Without informed consent, fair compensation, or options for return, it can be argued that a great number of our community members including many of the applicants and beneficiaries of the CLTC are descendants of families who have lost a great deal of land and thus empowerment and economic sustainability. Therefore, the Chamorro Land Trust is critical to our physical, spiritual, economic, and cultural survivorship and to promote the inherent rights of our indigenous people.

Bill 175-33 is like a Pandora's box and we cannot imagine what negative repercussions may occur should it pass, with or without mitigations written into the bill. Bill 175-33 may not just destabilize the Trust, but it will unravel the vision of the late Senator Paul Bordallo, the hard work and sacrifices of the late Senator Angel Santos, and the championship to protect the trust by the late Senator Ben Pangelinan and Former Speaker Mark Forbes.

I sincerely appreciate the opportunity to provide this testimony.
Land is life.

Thank you and Saina Ma'åse!

Respectfully,


Monaeka Flores



COMMITTEE ON RULES

I Mina'trentai Tres na Liheslaturan Guåhan • The 33rd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

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MAJORITY LEADER

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VICE CHAIRPERSON
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Senator
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Member

V. Anthony Ada
MINORITY LEADER

Mary C. Torres
MINORITY MEMBER

September 28, 2015

Memorandum

To: **Rennae Meno**
Clerk of the Legislature

From: **Senator Rory J. Respicio**
Majority Leader & Rules Chair

Subject: **Fiscal Notes**

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes are issued on the bills as introduced.

FISCAL NOTES:

Bill No. 170-33(COR)

Bill No. 171-33(COR)

Bill No. 175-33(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2015 SEP 29 PM 12:28

Bureau of Budget & Management Research

Fiscal Note of Bill No. 175-33 (COR)

AN ACT TO PRIORITIZE THE SURVEYING, REGISTRATION, AND CONSTRUCTION OF INFRASTRUCTURE FOR CHAMORRO LAND TRUST COMMISSION (CLTC) RESIDENTIAL AND AGRICULTURE PROPERTIES USING THE PROCEEDS OF COMMERCIAL LEASES, THROUGH THE ENACTMENT OF RULES AND REGULATIONS FOR CLTC COMMERCIAL LEASES.

Department/Agency Appropriation Information

Dept./Agency Affected: Chamorro Land Trust Commission	Dept./Agency Head: Michael Borja, Director
Department's General Fund (GF) appropriation(s) to date:	-
Department's Other Fund (Specify) appropriation(s) to date: Chamorro Land Trust Operations Fund	1,006,799
Total Department/Agency Appropriation(s) to date:	\$1,006,799

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2014 Unreserved Fund Balance		\$0	\$0
FY 2015 Adopted Revenues	\$0	\$0	\$0
FY 2015 Appro. (P.L. 32-181 thru 33-07)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2015 (if applicable)	FY 2016	FY 2017	FY 2018	FY 2019
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / X / Yes / / No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? / X / N/A / / Yes / / No
If no, what is the additional amount required? \$ _____ / X / N/A
- Does the Bill establish a new program/agency? / / Yes / X / No
If yes, will the program duplicate existing programs/agencies? / X / N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? / / Yes / X / No
- Will the enactment of this Bill require new physical facilities? / / Yes / X / No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes / X / No
/ X / Requested agency comments not received by due date / X / Other: Time Constraints

Analyst: <u>Jason Baza</u> Jason Baza, BMA	Date: <u>9/21/15</u>	Director: <u>J. S. Calvo</u> Jose S. Calvo, Director	SEP 24 2015
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Notes:
See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH
COMMENTS ON BILL NO. 175-33 (COR)

The intent of the proposed legislation is to enact the rules and regulations for Chamorro Land Trust Commission (CLTC) commercial leases in order to facilitate the surveying, registration, and construction of infrastructure for CLTC residential and agriculture properties.

Much of the proposed rules and regulations for commercial leases are administrative in nature. However, there are certain subsections that include revenue generating provisions that can be received by the CLTC. Section 3(e) imposes rent expenses for commercial leases to be based upon the fair market value of the property as determined by the average of two appraisals pursuant to P.L. 31-44. The rent expense shall be no less than nine percent (9%) of the original appraisal of fair market value and shall escalate at five year intervals based upon the established fair market value for the subject property. Subsequently, Section 3(g) states that all commercial tenants shall pay the CLTC a negotiated amount of participation rent, which such amount is derived from the percentage of the gross annual income from the use of the property. In addition, all commercial tenants are required to pay any taxes and assessments lawfully levied [Section 3(i)] and to pay for any expenses associated with the processing of leases, amendments, attorney fees, appraisal fees, etc. [Section 3(j)].

Section 6 of the proposed legislation creates a new special Fund called the Chamorro Land Trust Survey and Infrastructure Fund ("Fund"). All the revenues received from the above cited provisions in Section 3 of the proposed legislation shall be deposited into the newly established "Fund". Subsection 6(b) outlines the authorized uses for the "Fund". Per this subsection, the CLTC shall pay the Guam Economic Development Authority (GEDA) in an amount no more than 3% of the annual lease payments collected during the first year of the public-public partnership between the CLTC and GEDA as stipulated in Section 5 of the proposed legislation. Absent feedback from the CLTC, it is uncertain on if they are amenable to this percentage and/or the arrangement with GEDA.

The adoption of the rules and regulations for commercial leases of the CLTC property inventory would result in additional revenues to be received by the CLTC. Any revenues received directly from commercial leases shall be deposited into the newly created Chamorro Land Trust Survey and Infrastructure Fund. However, the Bureau cannot determine an estimated amount of revenues to be received due to not having access to information regarding the amount of properties subject for commercial leases, the fair market value based on two appraisals for these properties, and the estimated gross annual income from the use of the properties through commercial leases.

Lastly, it should be noted that the CLTC was aware of the significance to fund the surveying and registration of the residential and agricultural properties of the CLTC land inventory and included \$850,000 to cover such costs in their FY 2016 Budget Request. However, it appears that such funding was omitted from the CLTC's appropriation level in the FY 2016 Appropriations Act (P.L. 33-66).



COMMITTEE ON RULES

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Nerissa Bretania Underwood
Member

V. Anthony Ada
MINORITY LEADER


Mary C. Torres
MINORITY MEMBER

September 11, 2015

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Chairperson, Committee on Rules

Subject: **Referral of Bill No. 175-33(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 175-33(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Tres Na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I Mina'Trentai Tres Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
175-33 (COR)	T. C. Ada R. J. Respicio	AN ACT TO PRIORITIZE THE SURVEYING, REGISTRATION, AND CONSTRUCTION OF INFRASTRUCTURE FOR CHAMORRO LAND TRUST COMMISSION (CLTC) RESIDENTIAL AND AGRICULTURE PROPERTIES USING THE PROCEEDS OF COMMERCIAL LEASES, THROUGH THE ENACTMENT OF RULES AND REGULATIONS FOR CLTC COMMERCIAL LEASES.	09/11/15 5:03 p.m.	09/11/15	Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement			



1st Notice of Public Hearing: Monday, September 21, 2015 at 6:00 p.m.

Charlene Flores <flores@senatorada.org>

Mon, Sep 14, 2015 at 9:48 AM

To: Media <media@senatorada.org>, phnotice@guamlegislature.org, michael.borja@land.guam.gov, Teresa Topasna <teresa.topasna@cltc.guam.gov>, john.rios@investguam.com, help@investguam.com

September 14, 2015

MEMORANDUM

To: All Senators, Media, and Stakeholders

Fr: Senator Thomas C. Ada, *Chairperson*

Subject: **1st Notice of Public Hearing: Monday, September 21, 2015 at 6:00 p.m.**

Please be advised that the Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs, and Procurement will be conducting a public hearing on **Monday, September 21, 2015 at 6:00 p.m.** This meeting will take place in the public hearing room of *I Liheslaturan Guåhan*. The agenda is as follows:


6:00 pm

Bill No. 175-33 (COR) – T.C. Ada and R.J. Respicio

An act to prioritize the surveying, registration, and construction of infrastructure for Chamorro Land Trust Commission (CLTC) residential and agriculture properties using the proceeds of commercial leases, through the enactment of rules and regulations for CLTC commercial leases.

Testimony on **Bill No. 175-33 (COR)** should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office, our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to flores@senatorada.org, or via facsimile to (671) 473-3303 until **Monday, September 28, 2015 at 5:00pm**. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Charlene Flores at 473-3301. Please feel free to contact my office should you have any questions or concerns.

—
Charlene Flores
Policy Analyst
Office of Senator Thomas C. Ada
I Mina'trentai Tres na Liheslaturan Guåban - 33rd Guam Legislature
671-473-3301

 **1st PH Notice.pdf**
317K



1st Notice of Public Hearing: Monday, September 21, 2015 at 6:00 p.m.

Charlene Flores <flores@senatorada.org>

Mon, Sep 14, 2015 at 2:27 PM

To: mstajeron@investguam.com, ltoves@investguam.com

September 14, 2015

MEMORANDUM

To: All Senators, Media, and Stakeholders

Fr: Senator Thomas C. Ada, *Chairperson*

Subject: **1st Notice of Public Hearing: Monday, September 21, 2015 at 6:00 p.m.**

Please be advised that the Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs, and Procurement will be conducting a public hearing on **Monday, September 21, 2015 at 6:00 p.m.** This meeting will take place in the public hearing room of *Liheslaturan Guåhan*. The agenda is as follows:

6:00 pm

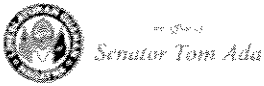
Bill No. 175-33 (COR) – T.C. Ada and R.J. Respicio

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Charlene Flores
Policy Analyst
Office of Senator Thomas C. Ada
I Mina'trentai Tres na Libeslaturan Guåhan - 33rd Guam Legislature
671-473-3301

 **1st PH Notice.pdf**
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Blaine Dydasco <bdydasco@senatorada.org>

2nd Notice of Public Hearing: Monday, September 21, 2015 at 6:00 p.m.

1 message

Peter Tran <peter@senatorada.org>

Thu, Sep 17, 2015 at 8:23 AM

To: ltoves@investguam.com, mstaijeron@investguam.com, Media <media@senatorada.org>, phnotice@guamlegislature.org, michael.borja@land.guam.gov, Teresa Topasna <teresa.topasna@cltc.guam.gov>, john.rios@investguam.com, help@investguam.com

September 17, 2015

MEMORANDUM

To: All Senators, Media, and Stakeholders

Fr: Senator Thomas C. Ada, *Chairperson*

Subject: **2nd Notice of Public Hearing: Monday, September 21, 2015 at 6:00 p.m.**

Please be advised that the Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affair, and Procurement will be conducting a public hearing on **Monday, September 21, 2015 at 6:00 p.m.** This meeting will take place in the public hearing room of *I Liheslaturan Guåhan*. The agenda is as follows:

-
6:00 pm

-
Bill No. 175-33 (COR) – T.C. Ada and R.J. Respicio

An act to prioritize the surveying, registration, and construction of infrastructure for Chamorro Land Trust Commission (CLTC) residential and agriculture properties using the proceeds of commercial leases, through the enactment of rules and regulations for CLTC commercial leases.

Testimony on **Bill No. 175-33 (COR)** should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office, our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to flores@senatorada.org, or via facsimile to (671) 473-3303 until **Monday**,

September 28, 2015 at 5:00pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Charlene Flores at 473-3301. Please feel free to contact my office should you have any questions or concerns.

Peter H. Tran

Junior Staff Analyst

Office of Senator Thomas C. Ada

I Mina'trentai Tres na Liheslaturan Guåhan - 33rd Guam Legislature



2nd PH Notice.pdf

329K

Public Hearing Notice Listserv
phnotice@guamlegislature.org (Media, All Senators, and Staff)

Updated: August 31, 2015

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Sen. Thomas Ada

Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Liheslaturan Guåhan • 33rd Guam Legislature

AGENDA

PUBLIC HEARING

Monday, September 21, 2015

Public Hearing Room, *I Liheslaturan Guåhan*

The agenda is as follows:

6:00pm

Bill No. 175-33 (COR) – T.C. Ada and R.J. Respicio

An act to prioritize the surveying, registration, and construction of infrastructure for Chamorro Land Trust Commission (CLTC) residential and agriculture properties using the proceeds of commercial leases, through the enactment of rules and regulations for CLTC commercial leases.

Testimony on the **Bill No. 175-33 (COR)**, should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office, our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to flores@senatorada.org, or via facsimile to (671) 473-3303 until **Monday, September 28, 2015 at 5:00pm**. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Charlene Flores at 473-3301. Please feel free to contact my office should you have any questions or concerns.



Sen. Thomas Ada

Public Hearing Notice

Monday, September 21, 2015

I-Liheslaturan Guahan, Public Hearing Room

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Individuals requiring special accommodations please contact Charlene Flores 473-3301.

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Sen. Thomas Ada

Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
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PRESS RELEASE

Contact: Blaine Dydasco

Phone: 473-3301

Email: bdydasco@senatorada.org

FOR IMMEDIATE RELEASE

“Bill To Fund Survey and Infrastructure Needs of Chamorro Land Trust Residential and Agriculture Land”

Hagåtña, Guam: On Friday, September 11, 2015, Senators Tom Ada and Rory Respicio introduced Bill 175-33, an act to prioritize the surveying and construction of infrastructure for Chamorro Land Trust Commission (CLTC) residential and agricultural properties. Bill 175-33 will authorize the commercial leasing of certain parcels of CLTC land; proceeds from the leases will be deposited into a *Chamorro Land Trust Survey and Infrastructure Fund* and will be restricted to expenditures related to the accomplishment of surveying lands and construction of infrastructure. Senator Ada said *“the goal of Bill 175-33 is to begin the closure of the 8,000 plus backlog of applications for residential lots and address the infrastructure need of these properties”*. A public hearing for Bill 175-33 is scheduled for Monday, September 21 at 6:00pm in the Guam Legislature public hearing room.

According to Sen. Ada, there is currently a backlog of about 8,000 applications at the CLTC, primarily for residential lots. A majority of the applications were filed since the onset of the program in December 2, 1995. *“The backlog is attributed primarily to the fact that much of the CLTC lands have not been surveyed and registered as required before a lease can be issued”*, stated Sen. Ada. Land surveys have been constrained by the lack of funds and manpower resources.

P.L. 12-226 first established the Chamorro Land Trust program in January 1975. In December 1995, 20-years later rules and regulations governing the leasing of residential and subsistence agricultural lots were adopted by the passage of P.L. 23-38. *“We are now in 2015, another 20-years later, and the issue of rules and regulation for the leasing of CLTC land for commercial use is now being actively discussed,”* according to Sen. Ada. *“The leasing of CLTC*

lands for commercial use is essential to the ability of the CLTC to generate revenues to pay for survey work and construction of infrastructure in the tracts of land to be leased out”, added the co-sponsor of Bill 175-33, Sen. Rory Respicio.

The construction of utility and road infrastructure to the CLTC lands is essential for access and the provision of essential, emergency and convenience services. Sewer infrastructure will also be imperative in view of the fact that the majority of the properties in the CLTC land inventory are in the North, over the Northern Guam Lens Aquifer. *“It will be a major undertaking, but we have to start somewhere.”* stated Sen. Ada.

Guam law requires that rules and regulations must first be adopted before CLTC lands are allowed to be leased or licensed for commercial use. Although the CLTC recently transmitted rules and regulations to the Legislature, the Legislature disapproved the rules/regulations primarily because of the concern that there did not seem to be adequate checks and balances on just how much of the CLTC land inventory should be leased for commercial use. *“The Legislature was concerned that the inventory of land for residential and agricultural use would be depleted by commercial leasing decisions resulting in a shortage of land for that main purpose of the CLTC program,”* stated Sen. Respicio.

Bill 175-33 would require prior declaration by the CLTC what lands *“are not required for residential, subsistence agriculture, or subsistence aquaculture use...by vote of the CLTC Commissioners in an open meeting and subsequent to a public hearing by the CLTC.”* *“Through this process, we can see a more complete picture of what lands are being taken out of the CLTC inventory which could otherwise be made available for residential and agricultural uses,”* stated Sen. Respicio. This process would address the major concern raised in the previous session that resulted in the disapproval of the rules/regulations transmitted by the CLTC. *“Bill 175-33 would also incorporate and approve rules and regulations which would satisfy the requirements of P.L. 12-226,”* added Sen. Ada.

To facilitate the process, Bill 175-33 advocates a partnership between the CLTC and the Guam Economic Development Authority (GEDA) using a model that had been previously used by the Guam Ancestral Lands Commission (GALC). That partnership has been generating revenue for the GALC. In this CLTC-GEDA partnership that Bill 175-33 advocates, GEDA would use its real property development and management resources and expertise to initiate the

commercial leases. GEDA's services and initial investment would be reimbursed from the lease revenues generated, Sen. Ada explained.

A copy of Bill 175-33 is attached or may be downloaded from the Office of Senator Tom Ada's website (www.senatorada.org) and the Guam Legislature's website (www.guamlegislature.com). For more information, please contact Senator Tom Ada's office at 473-3301.

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