



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

2009 JUL 15 AM 9:23 ME

13 JUL 2009

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina' Trenta Na Liheslaturan Guahan
Thirtieth Guam Legislature
155 Hessler Street
Hagåtña, Guam 96910

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 7/13/09
Time 5:10 pm
Received by [Signature]
30-09-0834

Dear Speaker Won Pat:

Submitted herewith is Bill No. 122 (COR), "AN ACT TO IMPOSE A TEMPORARY MORATORIUM ON THE ISSUANCE OF COMMERCIAL LEASES AND LICENSES BY THE CHAMORRO LAND TRUST COMMISSION, " which I have vetoed.

As noted in the Bill's legislative findings and intent, the Chamorro Land Trust rules and regulations adopted by the legislature as Public Law 23-38 prevent the execution of commercial leases by the Chamorro Land Trust Commission ("CLTC") until rules and regulations governing commercial leases have been implemented. Further, the CLTC has self-imposed a moratorium on approving new commercial leases and their commercial lease rules and regulations are only pending legal review. As such, Bill No. 122 is statutorily unnecessary.

Further, Bill No. 122 likely creates a conflict in law. Bill No. 122 places a moratorium on the issuance of commercial leases and licenses by the CLTC until rules and regulations have been approved by the legislature. Normally and as stated in Section 6.9 of the Chamorro Land Trust rules adopted in Public Law 23-38, the rules and regulations covering commercial leases shall be adopted pursuant to the Administrative Adjudication Law. The Administrative Adjudication Law sets forth the process by which rules and regulations are promulgated and does not necessarily require legislative action.

Following the letter of Bill No. 122, it appears that the Administrative Adjudication Law will not apply and that only legislative approval is required. The Administrative Adjudication Law provides a valid process to adopt rules and regulations which allows for the incorporation of views from the public and prevents delays due to legislative inaction. Specifically, the Administrative Adjudication Law requires public hearings and allows for the adoption of the rules and regulation when the legislature fails to act within 90 calendar days. Avoiding the

Administrative Adjudication Law process was surely not the intent of the author and merely the unintended consequence of his legislation.

Another consequence of Bill No. 122 is the requirement for a land use plan approved by the legislature absent the resources to assist the CLTC in developing that plan. The Commission is already underfunded and does not have the resources for such an undertaking. Commercial leases remain the major funding source for the Commission's operations and without this source, the Commission will lose its only dedicated funding stream. Doing so will inhibit the continued issuance of leases to those individuals who direly need land for residential and agricultural purposes. Also, such an action would further delay, if not outright impede, the implementation of corrective measures proffered by the Office of the Public Auditor in her recent report to the CLTC.

I would also note that while the legality of legislative approval on executive branch agency plans is tenuous, Guam statute already provides for the approval of plans. This law also does not require legislative action.

As a result, of these unintended consequences, I must **veto** this bill thereby ensuring that existing law and the process for which it provides is adhered to.

Sinseru yan Magåhet,

A handwritten signature in black ink, appearing to read "W. Cruz". The signature is stylized and fluid, with a long horizontal stroke extending to the left.

MICHAEL W. CRUZ, M.D.

I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

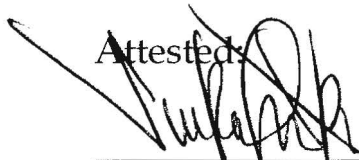
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 122 (COR)**, "AN ACT TO IMPOSE A TEMPORARY MORATORIUM ON THE ISSUANCE OF COMMERCIAL LEASES AND LICENSES BY THE *CHAMORRO* LAND TRUST COMMISSION," was on the 29th day of June, 2009, duly and regularly passed.



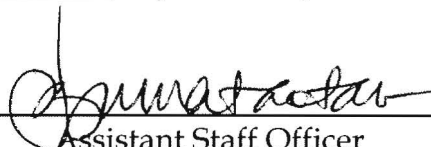
Judith T. Won Pat, Ed. D.
Speaker

Attested:



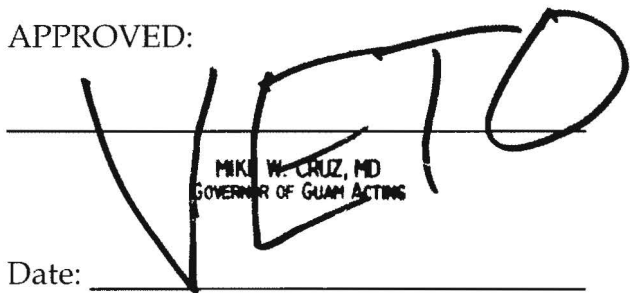
Tina Rose Muña Barnes
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 01 day of July, 2009, at 11:11 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



MIKE W. CRUZ, MD
GOVERNOR OF GUAM ACTING

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 122 (COR)

As amended by the Committee on Appropriations
Taxation, Banking, Insurance, Retirement, and Land
and further amended on the Floor.

Introduced by:

v. c. pangelinan
T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
M. J. Rector
R. J. Respicio
Telo Taitague
Ray Tenorio
Judith T. Won Pat, Ed.D.

**AN ACT TO IMPOSE A TEMPORARY MORATORIUM ON
THE ISSUANCE OF COMMERCIAL LEASES AND LICENSES
BY THE *CHAMORRO* LAND TRUST COMMISSION.**

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

2 **Section 1. Legislative Findings and Intent.** Section 6.9 of the *Senator*
3 *Paul Bordallo Rules and Regulations for the Chamorro Land Trust Commission,*
4 as adopted in 1995 pursuant to Public Law 23-38, provides that “no commercial
5 leases shall be entered into by Commission until Rules and Regulations covering
6 the same have been adopted pursuant to the Administrative Adjudication Law”.

7 *I Liheslaturan Guåhan* finds that the *Chamorro* Land Trust Commission

1 (CLTC) continues to approve commercial leases and licenses without any
2 approved rules and regulations *or* plan to identify which lands will be designated
3 for commercial leases and for licenses. Absent any guidelines *or* appropriate
4 methods to govern the issuance of commercial leases and licenses, this has resulted
5 in inequitable practices by the CLTC with regard to the issuance of commercial
6 leases and licenses.

7 *I Liheslaturan Guåhan* further finds that because of the lack of rules and
8 regulations and the absence of a land use plan identifying which lands will be
9 reserved for commercial use or for licenses, there is no accountability for
10 individuals and/or organizations approved for commercial leases and for licenses
11 in their uses of CLTC properties. The implementation of rules and regulations and
12 the designation of lands for commercial development are crucial to the viability of
13 these properties and the Trust.

14 Therefore, it is the intent of *I Liheslaturan Guahan* to place a temporary
15 moratorium on the issuance of all commercial leases and all licenses until such
16 time that rules and regulations, and the identification of lands designated for
17 commercial leases and for licenses, are approved and in place.

18 **Section 2. Temporary Moratorium on the Issuance of Commercial**
19 **Leases and the Issuance of Licenses by the Chamorro Land Trust**
20 **Commission.** There *shall* be a temporary moratorium placed on the issuance of all
21 commercial leases and on the issuance of licenses by the *Chamorro* Land Trust
22 Commission until such time that rules and regulations, and a land use plan
23 designating which lands are available for commercial leases or for licenses, have
24 been approved and adopted by *I Liheslaturan Guahan*.

25 **Section 3.** The CLTC shall formulate, within one hundred eighty (180)
26 days, Rules & Regulations that provide the guidelines for the issuance of all
27 commercial leases and for the issuance of licenses, and *shall* develop a land use

1 plan on where commercial and public activities will be allowed.

2 **Section 4.** Any future actions by the Board, Administrative Director, or
3 employees of the *Chamorro* Land Trust Commission that conflict with the
4 provisions of this Act shall make them collectively and/or individually subject to
5 the civil and criminal penalties prescribed by the laws of the government of Guam.

6 **Section 5. Severability.** *If* any of the provisions of this Act or the
7 application thereof to any person or circumstance is held invalid, such invalidity
8 shall *not* affect any other provision or application of this Act which can be given
9 effect without the invalid provision or application, and to this end the provisions of
10 this Act are severable.