



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, GU 96932
Tel: (671) 472-8931 • Fax: (671) 477-4826 • Email: governor@guam.gov

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

JUN 11 2010

30-10-0529

2010 JUN 14 AM 8:36

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

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 6/11/2010
Time 4:39 PM
Received by [Signature]

Dear Speaker Won Pat:

Hafa Adai! Attached is draft legislation that establishes the rules and regulations of the Commercial Lease Program of the Chamorro Land Trust Commission (CLTC).

The draft bill contains critical revisions to 21 GCA, Chapter 75 and to the Paul Bordallo Rules and Regulations for the Chamorro Land Trust Commission, which provide for commercial leases to generate revenues to fund mandated Commission programs. The draft legislation provides for classes of commercial lands to be used in developing the Commission inventory and subdivision plans for Commission lands. These changes articulate how the commercial land classes may be leased to the general public, the Chamorro people, or Chamorro owned and controlled companies.

To bring a higher level of public perception of integrity to the Commission and the commercial lease award process, provisions are made for public notice when lands are classed commercial and for a standard transparent method of issuance of commercial leases where selection is pursuant to the procurement law, 5 GCA, Chapter 5. The changes also address minimum lease rental rates for commercial land classes.


An examination of Chapter 75 revealed that proposed changes would address problems and issues in administering current leases, correct contradictions in the law, organize the changes to align with the logical flow of the original legislation, provide separate provisions for leases to the general public, public purposes, and the lease of land intended specifically for Chamorros.

The rules and regulations were developed by an active working group composed of the CLTC Administrative Director, the Chair and members of the Commission, CLTC legal counsel, the University of Guam and the Soil and Water Conservation District. The working group reviewed public testimony of the December 24, 2008 draft of the proposed bill, a related report of the Office of the Public Auditor, a report of the Multi-Agency Compliance Assessment Team, the

existing law and rules and regulations, and other data sources relating to issues currently facing the CLTC.

We all have a responsibility to adequately identify and communicate all concerns with this process.

Thank you in advance for your cooperation.

Sinseru yan Magåhet,


FELIX P. CAMACHO
I Maga' Låhen Guahan
Governor of Guahan

I MINA'TRENTA NA LIHESLATURAN GUAHAN
2010 (SECOND) Regular Session

Bill No. __ ()

Introduced by:

By request of *I Maga'lahaen*
Guahan in accordance with the
Organic Act of Guam

AN ACT TO AMEND CHAPTER 75 OF TITLE 21, GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE CHAMORRO LAND TRUST COMMISSION TO ENTER INTO COMMERCIAL LEASES; TO PROVIDE FOR THE RULES AND REGULATIONS ON COMMERCIAL LEASES; AND, TO PROVIDE FOR THE PAUL BORDALLO RULES AND REGULATIONS FOR THE CHAMORRO LAND TRUST COMMISSION TO BE SUBJECT TO THE ADMINISTRATIVE ADJUDICATION LAW.

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

2 **Section 1.** Legislative Intent.

3 It is the intent of the Legislature that the Chamorro Land Trust Act and
4 accompanying Rules and Regulations clearly provide for the commercial leasing of
5 certain classes of Chamorro Homelands for commercial purposes. It is, further, the
6 intent of the Legislature to affirmatively clarify the applicability of 5 GCA Chapter
7 9, by providing in Section 32 of this Act that the Rules and Regulations shall be so
8 subject, and may be amended accordingly.

9 **Section 2.** A new subsection (g) is added to 21 GCA § 75101 to read:

10 “(g) The term *agricultural* means relating to agriculture, which is the growing,

1 care and use of plants and animals, including acts and things related thereto, and
2 also includes grazing, stock raising, ornamental production, and aquaculture.”

3 **Section 3.** A new subsection (h) is added to 21 GCA § 75101 to read:

4 “(h) The term *lease* means a contract granting a possessory interest in land for a set
5 term. For purposes of this Chapter, the grantor of the lease is the *Commission* and
6 the holder of the lease is the *lessee*.”

7 **Section 4.** A new subsection (i) is added to 21 GCA § 75101 to read:

8 “(i) The term *easement*, for purposes of this Chapter, means an express grant by
9 the Commission to a person, persons, the public generally, or to the government of
10 Guam, of a nonpossessory right to use land for a specified purpose for a set term,
11 unless otherwise expressly made perpetual. In granting an easement, the
12 Commission shall continue to have the right of full possession and enjoyment
13 subject only to the limitation that it cannot interfere with the right of special use
14 created in the easement holder. In no event shall any action or inaction by the
15 Commission be construed as granting or resulting in an implied easement or
16 easement by necessity.”

17 **Section 5.** A new subsection (j) is added to 21 GCA § 75101 to read:

18 “(j) The term *license* means a privilege of the holder of the license, i.e., the
19 *licensee*, to go onto the land of another, i.e. the *licensor*, for a specific purpose. A
20 license is not an interest in land and gives the licensee no exclusive right to occupy

1 or possess the land. For purposes of this Chapter, the licensor is the
2 Commission.”

3 **Section 6.** Subsection (e) of 21 GCA § 75103 is repealed and reenacted to
4 read:

5 “(e) The Commission is authorized to: (1) develop a master land use plan for its
6 lands, subject to periodic modifications to reflect changing conditions in the
7 property and surrounding areas; (2) establish development districts, as provided
8 pursuant to the provisions of Chapter 69 and Chapter 61, if applicable, of this Title
9 21 Guam Code Annotated; (3) establish housing enterprise zones for native
10 Chamorros; (4) establish agricultural subdivisions; or, (5) any combination of the
11 preceding; and (6) designate and plan subdivisions in accordance with the
12 provisions of Chapter 62 and Chapter 61, if applicable, of this Title 21 Guam Code
13 Annotated, on available lands, in, adjacent to, or near any village. Such
14 subdivision lots shall be leased in accordance with § 75105 or 75107, as
15 appropriate.”

16 **Section 7.** A new subsection (g) is added to 21 GCA § 75103 to read:

17 “(g) The Commission shall create an annual budget subject to the amount of funds
18 contained in accounts of the Commission. The Commission shall have sole
19 discretion to determine the use of funds in its accounts.”

20 **Section 8.** Subsection (b) of 21 GCA § 75105 is amended to read:

1 “(b) Any available land as may not be immediately needed for the purposes of this
2 Chapter and designated by the Commission as premium or high value commercial
3 land, may be returned to the department for management at the discretion of the
4 Commission. Any Chamorro homelands so returned may be disposed of under a
5 general lease only. Each such lease, whether or not stipulated therein, shall be
6 deemed made subject to the right and duty of the department to, upon ninety (90)
7 days notice to the lessee, terminate the lease and return the lands to the
8 Commission whenever the Commission gives notice that the lands are required by
9 it for the purposes of this Chapter. ~~However, no lease shall be made for a term to~~
10 ~~exceed twenty five (25%) years. All income arising out of any lease or license~~
11 ~~entered into under this subsection shall be credited to and deposited in the~~
12 ~~Chamorro Home Loan Fund.~~ The acceptable parameters of the terms and
13 conditions of the lease shall be established by the Commission. The Commission
14 reserves the right to insure that the specified parameters of the terms and
15 conditions were met prior to the final execution of the lease or any renewal thereof
16 by the department. Any lease made under this subsection shall comply with the
17 conditions of subsection (d) below. All income arising out of any lease entered
18 into under this subsection shall be credited to and deposited into an account(s) of
19 the Commission, as specified by the Commission. Upon the expiration of the
20 lease, all improvements and administrative control of the tract or tracts leased shall

1 revert to the Commission. Title to land released to the department shall remain
2 with the government of Guam, unless and until returned to the Commission, and
3 shall not be sold, except as provided in subsection (c).”

4 **Section 9.** Subsection (c) of 21 GCA § 75105 is amended to read:

5 “(c) The department may sell to any contiguous landowner any fractional lot
6 placed under its management which was created by the adoption of the standard
7 block system. All income arising out of such sale entered into under this
8 subsection shall be credited to and deposited into an account(s) of the Commission,
9 as specified by the Commission.”

10 **Section 10.** Subsection (d) of 21 GCA § 75105 is repealed and reenacted to
11 read:

12 ~~“(d) In the management of any retained available lands not required for leasing~~
13 ~~under § 75107, the Commission”~~

14 “(d) In the management of any retained available lands not required for leasing
15 under § 75107, the Commission, after giving the public notice of the properties
16 considered for designation as for commercial use and opportunity to comment at a
17 meeting of the Commission, may designate certain properties as for commercial
18 use which may be disposed of through a commercial lease to the general public,
19 selected pursuant to the procurement law, 5 GCA Chapter 5. Such leases may be
20 made by the department, as set forth in subsection (b) above, or by the

1 Commission, as stated herein. The Commission may lease the lands to the general
2 public at terms and rates further provided for in § 75108.2 and in accordance with
3 the procedures set forth in the rules and regulations of the Commission. Any
4 adjustment in lease rate shall not result in a decrease of rent. All income arising
5 out of any lease entered into under this subsection shall be credited to and
6 deposited into an account(s) of the Commission, as specified by the Commission.”

7 **Section 11.** A new subsection (h) is added to 21 GCA § 75105 to read:

8 “(h) The Commission is authorized to grant leases to churches, hospitals, schools,
9 post offices, nonprofit organizations, and other improvements for public purposes.
10 The annual lease rate for such leases shall be no less than ten percent (10%) of
11 thirty-five (35%) of the fair market value of the land. No lease entered under this
12 subsection shall be for land designated by the Commission as premium value
13 commercial land.”

14 **Section 12.** A new subsection (i) is added to 21 GCA § 75105 to read:

15 “(i) The Commission is authorized to grant easements as follows:

16 (1) The Commission may grant easements for utility right of way purposes,
17 such as telephone lines, electric power and light lines, gas mains, and the like. The
18 Commission may also grant easements for roads or access.

19 (2) All easements shall be for terms of no more than twenty-one (21) years
20 and the annual rate for such easements shall be no less than ten percent (10%) of

1 thirty-five percent (35%) of the fair market value of the property.”

2 **Section 13.** A new § 75105.1 is added to 21 GCA to read:

3 “§ 75105.1. Commercial Leases. (a) For the purpose of generating income to fund
4 Commission programs and operations, the Commission is authorized to enter into
5 leases to members of the general public, as provided in § 75105(d), for the
6 following categories of land designated by the Commission for commercial use:

7 (1) Premium Value Commercial Land: not more than fifty (50) acres
8 for premium value land, which includes property of extremely high commercial
9 value or unique demand that has the potential for generating revenues to support
10 the mandated Commission programs, and generate significant positive economic
11 impact for the island. Examples include but are not limited to Ypao Point, land
12 adjacent to military installations or any lands desired to be leased by the military or
13 federal government (except post offices), properties in Tumon Bay, certain
14 properties with ocean frontage, and others identified through the master land use
15 plan developed by the Commission or as otherwise designated by the Commission.
16 The maximum aggregate term of any commercial lease of premium value
17 commercial land, including renewals, shall not exceed ninety-nine (99) years,
18 except as may be otherwise provided for in this Chapter or the rules and
19 regulations of the Commission.

20 (2) High Value Commercial Land: not more than twenty (20) acres for

1 high value commercial land. Examples include but are not limited to property of
2 commercial potential due to location (e.g., zoned as industrial), possession of key
3 infrastructure (e.g., frontage on main roads or structures) or due to possession of
4 important or unique identified resources (e.g., mineral, historical, natural resource,
5 recreational, scenic potential), lands possessing other aspects or location that make
6 commercial use a higher value use than residential or agricultural use, and others
7 identified through the master land use plan developed by the Commission or as
8 otherwise designated by the Commission. The maximum aggregate term of any
9 commercial lease of high value commercial land, including renewals, shall not
10 exceed fifty (50) years, except as may be otherwise provided for in this Chapter or
11 the rules and regulations of the Commission.

12 (b) In addition to the conditions set forth in § 75108.2, the Commission shall
13 set the lease rates and terms for such commercial leases in the rules and regulations
14 of the Commission.”

15 **Section 14.** Subsection (a) of 21 GCA § 75107 is amended to read:

16 ~~“(a) The Commission is authorized to lease to native Chamorros the right to the~~
17 ~~use and occupancy of a tract or tracts of Chamorro homelands within the following~~
18 ~~acreage limits per each lessee: (1) not less than one quarter (0.25) acre, *nor more*~~
19 ~~*than* one half (0.50) acre for subsistence agricultural or aquaculture farming; (2)~~
20 ~~not less than one half (0.50) acre, *nor more than* twenty (20) acres for commercial~~

1 ~~agricultural or aquaculture use; (3) not less than one (1) acre, nor more than twenty~~
2 ~~(20) acres for grazing use; (4) not more than one (1) acre for any class of land to be~~
3 ~~used as a residential lot.”~~

4 “(a) The Commission is authorized to lease to native Chamorros the right to the
5 use and occupancy of a tract or tracts of Chamorro homelands within the following
6 acreage limits per each lessee and, except for leases for residential use, at rates set
7 forth in the rules and regulations of the Commission: (1) not less than one-quarter
8 (1/4) acre nor more than ~~one half (0.50)~~ one (1) acre for subsistence agricultural
9 use ~~or aquaculture farming~~; (2) not less than ~~one half (0.50)~~ one (1) acre nor more
10 than ~~twenty (20)~~ three (3) acres for ~~commercial agricultural or aquaculture use~~
11 agricultural use which is both subsistence and commercial; (3) not less than ~~one~~
12 ~~(1)~~ three (3) acres nor more than ~~twenty (20)~~ ten (10) acres for ~~grazing commercial~~
13 agricultural use; (4) ~~not more than one (1) acre for any class of land to be used as a~~
14 ~~residential lot~~ not more than one-half (1/2) acre within a predominantly residential
15 area for small business use, including but not limited to theaters, garages, service
16 stations, markets, stores, and other mercantile establishments (all of which shall be
17 owned by native Chamorros or by organizations or corporations solely owned and
18 controlled by native Chamorros); (5) a tract or tracts, or a portion thereof, the size
19 and location of which shall be determined by the Commission, for commercial or
20 other business purposes, as further provided for in accordance with the procedures

1 set forth in the rules and regulations of the Commission; and (6) not more than
2 one-half (1/2) acre of any class of land for residential use.”

3 **Section 15.** Subsection (d) of 21 GCA § 75107 is amended to read:

4 ~~“(d) Upon direction by statute from the Legislature, the Commission shall release~~
5 ~~to the department any unleased available land designated for a public purpose.~~
6 ~~Such land will no longer be considered to be Chamorro Homelands.”~~

7 “(d) Upon direction by statute from the Legislature, the Commission shall release
8 to the department any unleased available land designated by the Commission for a
9 public purpose. Such land will no longer be considered to be Chamorro
10 Homelands. The government of Guam shall pay the Commission compensation as
11 agreed by the Commission of no more than the fair market value of the land, upon
12 release of the land to the department, and any such compensation shall be
13 deposited into an account(s) of the Commission, as specified by the Commission.
14 Title to any land or portion thereof not utilized for public purpose within three (3)
15 years of such transfer shall revert to the Commission. At no time shall the
16 Commission be required to pay any compensation, including rent, on lands
17 previously transferred to the department.”

18 **Section 16.** A new subsection (e) is added to 21 GCA § 75107 to read:

19 “(e) Designation of tract(s) for commercial lease. In the management of Chamorro
20 homelands not required for leasing for residential or agricultural purposes, the

1 Commission is expressly authorized to lease Chamorro homelands designated as
2 high value commercial land, as described in § 75105.1(a)(1), to a qualified native
3 Chamorro, or an organization or corporation solely owned and controlled by native
4 Chamorros, for commercial, industrial, or other business purposes for the purpose
5 of generating income to fund Commission programs and operations, as provided
6 for pursuant to this Chapter and the Paul Bordallo Rules and Regulations for the
7 Chamorro Land Trust Commission. Such lessee shall be selected pursuant to the
8 procurement law, 5 GCA Chapter 5, and must be licensed to conduct business in
9 Guam.

10 (1) The designation of a tract or tracts to be made available for disposal
11 under residential or agricultural leases shall take precedence over the designation
12 of a tract or tracts for disposal under commercial leases, except where it can be
13 clearly determined by the Commission that the best use of a tract or tracts is not to
14 be found in residential or agricultural applications.

15 (2) The Commission shall, in a continuing process and through a master land
16 use plan developed and maintained by the Commission, identify and categorize
17 commercial grade properties to be made available and disposed of by lease.”

18 **Section 17.** Subsection (a) of § 75108 of 21 GCA Chapter 75 is amended to
19 read:

20 “(a) The original lessee shall be a native Chamorro, not less than eighteen (18)

1 years of age. ~~In case two lessees either original or in succession marry, they shall~~
2 ~~choose the lease to be retained, and the remaining lease shall be transferred or~~
3 ~~anceled in accordance with the provisions of the succeeding sections.”~~

4 **Section 18.** Subsection (b) of 21 GCA § 75108 is repealed and reenacted to
5 read:

6 ~~“The lessee shall pay a rental of One Dollar (\$1.00) a year for the tract and the~~
7 ~~lease shall be for a term of ninety nine (99) years.”~~

8 “(b) Leases made pursuant to § 75107(a) shall be at the following rental rates and
9 terms:

10 (1) The lessee of a residential lease shall pay an annual rent of One Dollar
11 (\$1.00) for the tract and the lease shall be for a term of ninety-nine (99) years.

12 (2) An agricultural lease shall be for an initial term of forty (40) years with
13 an option to renew for an additional forty (40) years and shall be at rates as
14 follows:

15 (i) The lessee of a subsistence agricultural lease shall pay an annual
16 rent of One Hundred Dollars (\$100.00).

17 (ii) The lessee of an agricultural lease having a commercial nature
18 (i.e., leases entered pursuant to § 75107(a)(2) or (3)) shall pay an annual rent of
19 One Hundred Dollars (\$100.00) per acre.

20 (3) A lease for small business use shall be for an initial term of ten (10)

1 years with no more than four (4) options to renew at ten (10) years in each case, for
2 a maximum aggregate term of fifty (50) years, and shall be at a rental rate of no
3 less than Three Hundred Dollars (\$300.00) per month.

4 (4) The Commission shall set the rental rates for commercial leases in the
5 rules and regulations of the Commission.”

6 **Section 19.** Subsection (c)(i) of 21 GCA § 75108 is amended to read:

7 “(i) The lessee of agricultural lands shall plant and maintain *not less than* five (5),
8 ten (10), fifteen (15) and twenty (20) trees per acre of land leased ~~and lessee of~~
9 ~~grazing lands shall plant and maintain~~ *not less than* two (2), three (3), four (4), and
10 five (5) trees per acre of land leased during the first, second, third, and fourth
11 years, respectively, after the date of the lease. Such trees shall be of types and uses
12 recommended ~~approved~~ by the Department of Agriculture ~~and at locations~~
13 ~~specified by the Department of Agriculture’s agent.~~ Such planting and
14 maintenance shall be by or under the immediate control and direction of the lessee.
15 ~~Such trees shall be furnished by the Department of Agriculture free of charge.”~~

16 **Section 20.** Subsection (c)(ii) of 21 GCA § 75108 is repealed and reenacted
17 to read:

18 “(ii) The lessee of agricultural lands may engage in livestock and/or aquaculture
19 production after receiving written approval from the Commission based on a
20 review of production and waste management plans, relevant Guam law and permit

1 requirements. Such production should utilize species and production methods
2 approved by the appropriate agencies in approved sites. Such livestock and
3 aquaculture farming and maintenance shall be by or under the immediate control
4 and direction of the lessee and is subject to local and federal permit requirements
5 and regulations. Lessee shall provide copies and updates of the required permits
6 for the Commission files. The Chamorro Land Trust Commission may refer
7 applicants to the appropriate agencies including, but not limited to: the United
8 States Army Corps of Engineers, the Department of Public Works, the Department
9 of Land Management, the Department of Public Health, the Guam Environmental
10 Protection Agency, the Bureau of Planning and Statistics, the Department of
11 Agriculture, the Department of Parks and Recreation, the Department of Revenue
12 and Taxation, the Guam Power Authority, the Guam Waterworks Authority and
13 the University of Guam, College of Natural and Applied Sciences, for resources
14 such as permitting, planning assistance, industry information and financial
15 assistance. Regarding industry development, technical assistance, training and
16 resources, the University of Guam, College of Natural and Applied Sciences is the
17 lead agency for aquaculture, and the Department of Agriculture is the lead agency
18 for livestock. Such species suitable for aquaculture may be furnished by the
19 University of Guam Hatchery (Guam Aquaculture Development and Training
20 Center - GADTC) for a nominal fee, as available. Such species suitable for

1 livestock production may be furnished by the Guam Department of Agriculture
2 Dededo Breeding Station for a nominal fee, as available.”

3 **Section 21.** Subsections (e) of 21 GCA § 75108 is hereby repealed.

4 **Section 22.** Subsections (g) of 21 GCA § 75108 is hereby repealed.

5 **Section 23.** Subsections (f) and (h) of 21 GCA § 75108 are re-lettered as
6 subsections (e) and (f) respectively, of 21 GCA § 75108.

7 Section 24 A new subsection (g) of 21 GCA § 75108 is added to read:

8 “(g) No lease shall be transferable or assignable without the Commission’s prior
9 approval, except as otherwise provided in this Act or in the rules and regulations
10 for the Commission or applicable law. With the approval of the Commission, the
11 assignment and transfer of a lease or any unit thereof may be made to a qualified
12 native Chamorro, or, in the case of a small business or commercial lease, a
13 qualified native Chamorro or an organization or corporation solely owned and
14 controlled by native Chamorros, if:

15 (1) For residential or agricultural leases, the leasehold contains the personal
16 residence of the lessee and the assignment or transfer is to a native Chamorro who
17 is the lessee’s husband, wife, child, widow or widower of the brother or sister,
18 niece, or nephew;

19 (2) Subject to the prior approval of the Commission, in the case of
20 commercial or small business leases, the lessee put in substantial building and/or

1 other improvements;

2 (3) The lessee becomes mentally or physically disabled and it is the opinion
3 of the Commission that, due to such disability, the lessee is unable to perform the
4 lease conditions; provided, however, that the opportunity to assume the obligation
5 on behalf of the disabled lessee shall first be offered to the legal guardian or trustee
6 of the interests of the disabled lessee, so long as the disabled lessee continues to
7 reside on the property in the case of residential or agricultural leases, or, second,
8 for want of a legal guardian or trustee willing and qualified to assume the
9 obligation on behalf of the disabled lessee, to a native Chamorro, or an
10 organization or corporation solely owned and controlled by native Chamorro;

11 (4) Extreme economic hardship is demonstrated to the satisfaction of the
12 Commission; provided, however, that the assignment shall be to a native
13 Chamorro, or an organization or corporation solely owned and controlled by
14 native Chamorros;

15 (5) For small business or commercial leases, the transferee or assignee is the
16 buyer of the business or of substantial assets of the business of the original lessee;
17 provided further that prior to the approval of any transfer or assignment of lease,
18 the Commission shall have the right to review and approve the consideration paid
19 by the transferee or assignee and, if necessary, revise the rent of the demised
20 premises based upon the consideration paid by the assignee; and provided that the

1 rent shall not be revised downward and that the successor of the lessee shall be a
2 native Chamorro, or an organization or corporation solely owned and controlled by
3 native Chamorros;

4 (6) The Commission determines that the assignee or transferee is willing and
5 able to assume all the financial, performance, and other obligations of the original
6 lessee.”

7 **Section 24.** A new subsection (h) is added to 21 GCA § 75108 to read:

8 “(h) No lessee shall be granted or allowed to maintain two or more residential
9 leases or to establish two or more residences or residential type dwellings or
10 structures upon lands acquired under separate leases regardless of the class or type
11 of lease under which the demised properties were originally disposed of by the
12 Commission. In the event two lessees either original or in succession marry or
13 otherwise cohabitate in a common household, then, the lessees shall be required to
14 relinquish all but one of the residential leases or any agricultural lease upon which
15 a second residence is situated, provided, further, that the lessees may opt to assign
16 or transfer the leases to be relinquished to a direct lineal descendant of the lessee
17 (i.e., child, grandchild, great grandchild, and so forth) who is a native Chamorro
18 and who has reached the age of majority.

19 (1) In the event the demised tract to be relinquished was acquired for
20 agricultural purposes and, additionally, is of sufficient size and situated so that it

1 may lawfully be subdivided into separate residential and agricultural tracts, then,
2 the Commission may, at its discretion, subdivide the tract and allow the original
3 lessee to retain the new agricultural tract under a new lease, while the Commission
4 retains for disposition the new subdivided tract containing the residence. No such
5 subdivision may occur more than once every fifty (50) years.

6 (2) Except as otherwise provided for in this subsection (j), the
7 Commission shall rescind the lease(s) to the demised tract(s) to be relinquished and
8 may offer the subject tract(s) as provided for pursuant to this Act and applicable
9 rules and regulations.”

10 **Section 25.** A new subsection (i) is added to 21 GCA § 75108 to read:

11 “(i) For small business or commercial leases, in no event shall a lessee offer, make
12 available, sell or transfer any premium, preferred, common or any other class or
13 type of stock, nor shall a lessee offer, make available, sell or transfer any other
14 form or type of interest, controlling or otherwise, in any commercial enterprise of
15 any type built upon lands obtained through a commercial lease from the
16 Commission without first obtaining the Commission’s prior written approval. No
17 interest or ownership of any type, means or device, in the business shall be
18 transferred to an individual who does not qualify as a native Chamorro, as defined
19 in this Chapter. The term ‘interest’ shall additionally include, but not be limited to,
20 any agreement or obligation between the lessee and the investor(s), which is not

1 approved by the Commission, which guarantees or fixes returns upon the
2 investment, guarantees or authorizes salaries to investor(s) or designee(s) of the
3 investor(s), or any like agreement or condition which gives the investor(s) any
4 form of control in the business of the lessee in exchange for investment capital or
5 resources. Any circumvention or attempt to circumvent the intent of this
6 prohibition, which is to insure that the lands available for commercial lease are in
7 fact utilized for the exclusive benefit of the qualified native Chamorro lessee, shall
8 be grounds for the revocation of the lease, without any liability on the part of the
9 Commission.”

10 **Section 26.** A new § 75108.2 is added to 21 GCA Chapter 75, to read:

11 “§ 75108.2. Lease restrictions and fees; General public and Native Chamorro. (a)
12 Except as otherwise provided for in this Act or in the rules and regulations of the
13 Commission, the following restrictions shall apply:

14 (1) Options for renewal are prohibited.

15 (2) No lease of any class, other than a residential, agricultural or
16 premium value commercial leasehold, shall be for an aggregate term longer than
17 fifty (50) years.

18 (3) Where applicable, the lessee shall provide the Commission
19 notice of its intent to exercise an option to renew no later than nine (9) months
20 prior to expiration of the term;

1 (4) No lease or additional lease or renewal thereof shall be made to
2 any person or entity, including an organization or corporation, who is in arrears in
3 the payment of taxes due to the government of Guam, taxes due on taxable
4 improvements on property leased from the Commission, rents due the
5 Commission, or other obligations or debts due and unpaid to the Commission.

6 (5) At all times, the leased land shall be used according to the stated
7 and approved purposes of the original lease, unless the Commission gives its prior
8 written approval. No criminal activity shall occur on any leased lands of the
9 Commission. Any such criminal activity on the leasehold which is committed,
10 encouraged, facilitated or condoned by the lessee shall constitute a violation of the
11 lease and the Commission may, at its sole discretion, initiate revocation
12 proceedings.

13 (6) The lessee shall not sublet the whole or any part of the demised
14 premises except without first obtaining the prior written approval of the
15 Commission, and that prior to any approval, the Commission shall have the right to
16 review and, if necessary, revise the rent of the demised premises based upon the
17 rental rate charged to the sublessee. The rent shall not be revised downward. As to
18 commercial leases, it shall not be considered an assignment, sublease or transfer of
19 a lease where income is derived from room or unit rentals which are consistent
20 with the stated and approved purposes of the original lease, e.g., hotels, motels,

1 apartment buildings, office space, etc.

2 (7) The lease shall be for a specific use or uses and shall not include
3 waste lands, ecologically sensitive areas, or hazardous waste sites, etc., unless it is
4 impractical to provide otherwise.

5 (8) Mineral and other mining rights shall be reserved to the
6 Commission unless the Commission specifically disposes of such rights to a lessee
7 for compensation, and surface and ground water shall be reserved to the Territory
8 unless otherwise provided for pursuant to applicable law, rules and/or regulations.

9 (9) The use of Chamorro homelands, including submerged lands, for
10 purposes of establishing a sunbathing, swimming or boating pier shall be
11 prohibited unless specifically provided for in the lease or the Commission gives
12 prior written approval of such use; provided further that the Commission may
13 require the lessee to provide for general public access where the establishment of
14 such facilities may be determined to impede historic public access or use.

15 (10) The failure of a commercial lessee to commence with the project
16 and/or purposes for which any commercial lease was entered into within two (2)
17 years from commencement of the term of the lease shall be sufficient cause for the
18 Commission, at its sole discretion, to revoke the lease without any liability
19 whatsoever on the part of the Commission to the lessee or his or her creditors, if
20 any, except to the extent the Commission may have previously agreed to pursuant

1 to the terms of the lease or provisions of this Chapter and applicable rules and
2 regulations.

3 (11) The lessee shall not have the authority in any manner to transfer
4 to, or mortgage, pledge, or otherwise hold for the benefit of, any other person or
5 group of persons or organizations of any kind, his interest in the tract. Such
6 interest shall not be subject to attachment, levy, or sale upon court process.

7 (12) The lessee shall pay all taxes assessed upon the tract and
8 improvements thereon.

9 (13) The lessee shall perform all conditions in the lease not in conflict
10 with any provisions of this Chapter or in the Rules and Regulations of the
11 Commission.

12 (b) No lease shall be transferable or assignable without the Commission's
13 prior approval, except as otherwise provided in this Act or in the rules and
14 regulations of the Commission or applicable law. With the approval of the
15 Commission, the assignment and transfer of a lease or any unit thereof may be
16 made if:

17 (1) Extreme economic hardship is demonstrated to the satisfaction of
18 the Commission;

19 (2) For small business or commercial leases, the transferee or assignee
20 is the buyer of the business or of substantial assets of the business of the original

1 lessee; provided further that prior to the approval of any transfer or assignment of
2 lease, the Commission shall have the right to review and approve the consideration
3 paid by the transferee or assignee and, if necessary, revise the rent of the demised
4 premises based upon the consideration paid by the assignee; and provided that the
5 rent shall not be revised downward and that the transferee or assignee meets the
6 qualifications required of the original lessee;

7 (3) The Commission determines that the assignee or transferee is willing and
8 able to assume all the financial, performance, and other obligations of the original
9 lessee.

10 (c) The Commission shall be authorized to establish a processing fee
11 schedule for all classes of leases, easements, and other encumbrances which may
12 be issued by the Commission. The fee schedule may include, but shall not be
13 limited to, costs related to the processing of lease applications and awards such as
14 attorney fees, surveys, appraisals and other like costs incurred by the Commission
15 or required of the applicant for related purposes. The payment of application,
16 processing, award and other applicable fees for residential leases and subsistence
17 agricultural leases, as authorized and provided for in this Section, may be made in
18 no more than twenty-four (24) monthly installments at no less than three percent
19 (3%) interest per annum.

20 The promulgation or amendment of any fee schedule authorized pursuant to

1 this Section shall be pursuant to 5 GCA Chapter 9 (Administrative Adjudication
2 Law), and copies thereof shall be available for review at the office of the
3 Commission and shall be provided to all applicants.”

4 **Section 27.** The title of 21 GCA § 75109 is amended to read:

5 “~~§ 75109. Successors to Lessees.~~”

6 “§ 75109. Successors to Lessees of Residential or Agricultural Leases.”

7 **Section 28.** Subsection (a) of 21 GCA § 75109 is amended to read:

8 “(a) Upon the death of the lessee, his interest in the tract or tracts and the
9 improvements thereon, including growing crops (either on the tract or in any
10 collective contract or program to which the lessee is a party by virtue of his interest
11 in the tract or tracts), shall vest in the relatives of the decedent as provided in this
12 paragraph. From the following relatives of the lessee--husband and wife, children,
13 widows or widowers of the brothers and sisters, or nieces and nephews--the lessee
14 shall designate the person or persons to whom he directs his interest in the tract or
15 tracts to vest upon his death. Such person or persons must be qualified to be a
16 lessee of Chamorro homelands; provided, that such person or persons need not be
17 at least eighteen (18) years of age. Such designation must be in writing, must be
18 specified at the time of execution of such lease with a right in such lessee in similar
19 manner to change such beneficiary at anytime and shall be filed with the
20 Commission and approved by the Commission in order to be effective to vest such

1 interests in the successor or successors so named.

2 In the absence of such a designation as approved by the Commission, the
3 Commission shall select from the relatives of the lessee in the order named above
4 as limited by the foregoing paragraph one or more persons who are qualified to be
5 lessees of Chamorro homelands except as hereinabove provided, as the successor
6 or successors of the lessee's interest in the tract or tracts, and upon the death of the
7 lessee, his interest shall vest in the person or persons so selected. The Commission
8 may select such a successor or successors after the death of the lessee, and the
9 rights to the use and occupancy of the tract or tracts may be made effective as of
10 the date of the death of such lessee.

11 If the lessee chooses not to designate a beneficiary, but instead chooses the
12 value of his interest to be paid to his legal representative upon death, as described
13 below, then the lessee may so specify in a writing filed with the Commission and
14 the legal representative shall be so paid.

15 In the case of the death of a lessee leaving no such relative qualified to be a
16 lessee of Chamorro homelands or choosing to have the value of his interest paid to
17 his legal representative upon death, the land subject to the lease shall resume its
18 status as unleased Chamorro homelands and the Commission is authorized to lease
19 such land to a native Chamorro or Chamorros as provided in this Chapter.

20 Upon the death of a lessee leaving no such relative qualified to be a lessee of

1 Chamorro homelands or choosing to have the value of his interest paid to his legal
2 representative upon death, or the cancellation of a lease by the Commission, or the
3 surrender of a lease by the lessee, the Commission shall appraise the value of all
4 such improvements and growing crops and shall pay to the legal representative of
5 the deceased lessee, or to the previous lessee, as the case may be, the value thereof,
6 less any indebtedness to the Commission, or for taxes, or for any indebtedness the
7 payment of which has been assured by the Commission, from the deceased lessee
8 or the previous lessee. Such payment shall be made out of the loan fund and shall
9 be considered an advance therefrom reimbursable out of payments made by the
10 successor or successors to the tract involved. Such appraisal shall be made by
11 three appraisers, one of which shall be named by the Commission, one by the
12 previous lessee or the legal representative of the deceased lessee, as the case may
13 be, and the third shall be selected by the two appraisers hereinbefore mentioned.”

14 **Section 29.** 21 GCA § 75110 is amended to read:

15 “§ 75110. Cancellation of Leases.

16 Whenever the Commission has reason to believe that any condition
17 enumerated in §§ 75108 or 75108.2 or any provision of § 75109 of this Chapter or
18 in the Rules and Regulations of the Commission or contained in the lease has been
19 violated, the Commission shall give due notice and afford opportunity for a hearing
20 to the lessee of the tract in respect to which the alleged violation relates or to the

1 successor of the lessee's interest therein, as the case demands. If upon such
2 hearing the Commission finds that the lessee or successor has violated any
3 condition in respect to the leasing of such tract, the Commission may declare his
4 interest in the tract and all improvements thereon to be forfeited and the lease in
5 respect thereto canceled and shall thereupon order the tract to be vacated within a
6 reasonable time. The right to the use and occupancy of the Chamorro homelands
7 contained in such tract shall thereupon re-vest in the Commission and the
8 Commission may take possession of the tract and the improvements thereon.”

9 **Section 30.** Sub-Section (i)(3) of 21 GCA § 75112 is amended to read:

10 “(3) Deposit and Earmarking of Funds Collected. All taxes on improvements or
11 payments in lieu of taxes identified in Items 1 and 2 of Subsection (i) of this
12 Section shall be deposited ~~in the Chamorro Loan Guarantee Fund, and is~~
13 ~~earmarked to carry out the purposes set forth pursuant to this Chapter.~~ into an
14 account(s) of the Commission, as specified by the Commission.”

15 **Section 31.** The Paul Bordallo Rules and Regulations for the Chamorro
16 Land Trust Commission, as amended and/or provided for in the EXHIBIT A to this
17 Act, are hereby approved and adopted.

18 **Section 32.** Notwithstanding any other provision of law, the Paul Bordallo
19 Rules and Regulations for the Chamorro Land Trust Commission shall, in its
20 entirety, be subject to the Administrative Adjudication Law (5 GCA Chapter 9),

1 pursuant to which any adoption, repeal, rescission or amendment shall be
2 conducted.

3 **Section 33.** 21 GCA § 60112 is amended to read:

4 “§ 60112. Legislative Approval Required.

5 Notwithstanding any other provisions of law, government-owned real
6 property *shall not* be sold, leased, sub-leased, exchanged *or* otherwise transferred
7 without the prior approval of *I Liheslatura* (the Legislature) by duly enacted
8 legislation, which specifically authorizes a particular sale, lease, exchange *or*
9 transfer and includes the real property description of the government-owned real
10 property with particularity. This Section *shall not* apply to Land Use Permits, *or*
11 ~~residential~~ leases or other transfers by the *Chamorro* Land Trust Commission
12 pursuant to its rules and regulations, but *shall* apply to any transfer to the federal
13 government *or* any agent of the federal government of land owned in the name of
14 the government of Guam, including, but *not limited to*, its autonomous agencies,
15 public corporations, the *Chamorro* Land Trust Commission and the Ancestral
16 Lands Commission.”

17 **Section 34.** 21 GCA § 60114(a) is amended to read:

18 “(a) Notwithstanding any provision of law, rule or regulation to the contrary, the
19 government of Guam is authorized to lease government-owned property for a term
20 not exceeding fifty (50) years for commercial purposes; provided, however, that

1 the disposal of any lease for any tract or tracts of lands reserved to the Chamorro
2 Land Trust Commission pursuant to P.L. 22-18 and specifically transferred to the
3 Department pursuant to 21 GCA § 75105(b) shall be subject to the provisions of 21
4 GCA § 75105(b).”

5 **Section 35.** A new subsection (f) is added to 21 GCA § 60114 to read:

6 “(f) This section shall not apply to leases made pursuant to 21 GCA § 75105(b).”

7 **Section 36.** A new § 60114.1. is added to 21 GCA Chapter 60 to read:

8 “§ 60114.1. Transfer of lands to Chamorro Land Trust Commission. (a)
9 Notwithstanding any other provision of law, rule, regulation or Executive Order,
10 no lands shall be disposed of under any category or class of lease by the
11 Department of Land Management pursuant to 21 GCA § 60114 until such time as
12 the Department of Land Management has completed the process of
13 administratively transferring to the Chamorro Land Trust Commission all lands
14 reserved to the Chamorro Land Trust Commission pursuant to P.L. 22-18, Chapter
15 75 of 21 GCA, or any other provision of law, provided, however, that this Section
16 shall not apply to the disposal of lands specifically reserved and authorized for
17 such purposes pursuant to law. This prohibition shall not apply to leases made by
18 the Department of Land Management pursuant to 21 GCA § 75105(b).”

19 (b) The Department of Land Management shall, not later than March 31,
20 2011, complete the process of administratively transferring all lands reserved to the

- 1 Chamorro Land Trust Commission pursuant to P.L. 22-18, Chapter 75 of 21 GCA,
- 2 or any other provision of law.”

EXHIBIT A TO SECTION 31 OF BILL NO. _____.

Amendments and Provisions to the Paul Bordallo

Rules and Regulations for the Chamorro Land Trust Commission

1 **4. Definitions**

2 As used in these rules and regulations:

3 ...

4 (b) *Agricultural Tract* means Chamorro homelands with an area of not less than
5 one-quarter (1/4) acre, nor more than ~~twenty (20)~~ten (10) acres.

6 (1) *Subsistence Agriculture* means the ~~production of crops for home~~
7 consumption growing, care and use of plants and animals, including acts and
8 things related thereto, for home consumption on an agricultural tract with an area
9 of not less than one-quarter (1/4) acre, nor more than ~~one half (0.50)~~one (1) acre.

10 (2) *Commercial Agriculture* means the ~~production of crops growing, care~~
11 and use of plants and animals, including acts and things related thereto, for
12 commercial sale on an agricultural tract with an area of not less than ~~one half~~
13 ~~(0.5)~~one (1) acre, for subsistence and commercial use, or three (3) acres, for solely
14 commercial use, nor more than ten (10) acres.

15 (c) *Agricultural use* means the use of Chamorro homeland and improvements for
16 ~~farming purposes~~ the growing, care and use of plants and animals, including acts

17 and things related thereto, and also including grazing, stock raising, ornamental
18 production, and aquaculture.

19 ...

20 (i) *Residential Tract* means Chamorro homeland with an area of not less than ~~ten~~
21 ~~thousand (10,000)~~ five thousand (5,000) square feet nor more than one-half (1/2)
22 acre, or such other area which may be specified by zoning, subdivision, or
23 environmental policies.

24 **6.1 Residential tract leases; awards.**

25 ...

26 (c) Lot size for a residential tract lease to be awarded shall be not less than
27 ~~10,000~~5,000 square feet with public sewer connection available nor less than one-
28 half (1/2) acre with no public sewer connection available, but in neither case shall
29 be more than ~~one (1)~~one-half (1/2) acre; or lot size for a residential lease shall be
30 specified by zoning, subdivision, environmental, or administrative policies, but in
31 no circumstance may the area exceed one-half (1/2) acre.

32 **~~6.5 Agricultural tract leases.~~**

33 ...

34 ~~(c) The lessee shall plant and maintain not less than five, ten, fifteen, and twenty~~
35 ~~trees per acre of land leased during the first, second, third, and fourth years,~~
36 ~~respectively, after the date of the lease. Such trees shall be of types approved, and~~

37 ~~provided free of charge, by the Department of Agriculture and at locations~~
38 ~~specified by the Department of Agriculture's agent. Such planting and~~
39 ~~maintenance shall be by or under the immediate control and direction of the lessee.~~

40 **6.5 Agricultural tract leases.**

41 ...

42 (c) The lessee shall plant and maintain not less than five, ten, fifteen, and twenty
43 trees per acre of land leased during the first, second, third, and fourth years,
44 respectively, after the date of the lease. Such trees shall be of types ~~approved, and~~
45 ~~provided free of charge, and uses recommended~~ by the Department of Agriculture
46 ~~and at locations specified by the Department of Agriculture's agent..~~ Such
47 planting and maintenance shall be by or under the immediate control and direction
48 of the lessee.

49 **6.6 Residence permitted on agricultural lot.**

50 (a) Residences shall be permitted upon agricultural tracts. Only one residence will
51 be permitted per lessee on Chamorro homelands, subject to the following
52 conditions:

53 ...

54 (3) Conformance to all territorial zoning and building requirements and
55 submission of copies of all required permits to the Commission.

56

57 **6.7 Livestock and crops.**

58 ...

59 (b) Lessees may raise animals on a commercial basis on their agricultural leasehold
60 only after the following conditions are met:

61 ...

62 (3) Conformance to all territorial zoning and health laws and rules and
63 submission of copies of all required permits to the Commission; and

64

65 ~~**6.9 Commercial Leases [Reserved]**~~

66 ~~No commercial leases shall be entered into by the Chamorro Land Trust~~
67 ~~Commission until Rules and Regulations covering the same have been adopted~~
68 ~~pursuant to the Administrative Adjudication law.~~

69 **6.9 Commercial Leases.** A lease(s) of a tract or tracts of Chamorro Homelands
70 determined to be commercially suitable and specifically declared by the
71 Commission to be available for lease, pursuant to 21 GCA § 75107(e), and these
72 Rules, shall be disposed of pursuant to the procurement law, 5 GCA Chapter 5, to a
73 Native Chamorro, or an organization or corporation solely owned and controlled
74 by Native Chamorros.

75 6.9.1 Commercial leases of land categorized by the Commission as high value
76 commercial land shall be entered at terms and rates as follows:

77 (a) The initial term of the lease shall be twenty (20) years. The Commission
78 may grant options to renew for an additional ten (10) years in each case and the
79 maximum aggregate term shall not exceed fifty (50) years.

80 (b) The minimum annual rental rate shall be ten percent (10%) of fifty
81 percent (50%) of the fair market value and may be paid in monthly installments, at
82 the Commission's discretion

83 **7.2 Industrial or commercial activities.**

84 (a) No industrial or commercial activities shall be allowed on Chamorro homeland
85 leaseholds except those which are authorized by the Act, the Rules and Regulations
86 of the Commission, or as otherwise approved by the Commission, but in no event
87 shall such activity occur which was not previously approved by the Commission.

88 (b) No leasehold or portion thereof shall be used for commercial activities of such
89 a nature as to constitute a nuisance. ~~Commercial activities shall not include selling~~
90 ~~of agricultural products raised upon the premises.~~

91 **11. Leases to General Public**

92 Commercial leases of land categorized by the Commission as either premium or
93 high value commercial land, and leased pursuant to 21 GCA § 75105(b) or (d),
94 shall be entered at terms and rates as follows:

95 (a) Premium Value Commercial Land: The initial term of the lease shall be
96 forty-nine (49) years. The Commission may grant options to renew for an

97 additional ten (10) years in each case and the maximum aggregate term shall not
98 exceed ninety-nine (99) years.

99 (b) High Value Commercial Land: The initial term of the lease shall be
100 twenty (20) years. The Commission may grant options to renew for an additional
101 ten (10) years in each case and the maximum aggregate term shall not exceed fifty
102 (50) years.

103 (c) The minimum annual rental rate for leases of premium or high value
104 commercial land shall be ten percent (10%) of seventy-five percent (75%) of the
105 fair market value and may be paid in monthly installments, at the Commission's
106 discretion

107 **12. Provisions for Commercial Leases to native Chamorros and General**
108 **Public**

109 12.1. General Provisions. (a) In addition to the requirements contained in the
110 requests for proposals or invitations for bids, proposals or bids for leases made
111 pursuant to the procurement process shall be in writing and shall state the
112 applicant's name, address and telephone number, organizational or corporate
113 structure (if any), financial viability, the proposed use of the land and the services
114 or facilities to be provided, and the proposed rental rate.

115 (b) If the Commission approves the issuance of a lease, then the
116 Administrative Director of the Commission, or his or her designee, may negotiate

117 and consummate the terms and conditions of that lease, provided, however, that
118 final approval shall be made by the Commission and executed by Chairman of the
119 Commission. The Commission shall determine such terms and conditions of a
120 lease as it deems prudent, reasonable, and proper and in accordance with 21 GCA
121 Chapter 75, applicable law, rules and regulations.

122 (c) Except as otherwise provided in subsection (d), the lessee awarded the
123 lease under procurement shall pay all costs incurred by the Commission for
124 processing of the lease, including, but not limited to, attorney fees and costs of
125 procurement, advertisement, survey and appraisal. The lessee, upon award, shall
126 remit to the Commission a non-refundable deposit in the amount of one thousand
127 dollars (\$1000.00). The lessee shall pay upon execution of the lease, the balance of
128 the costs incurred by the Commission in excess of the deposit.

129 (d) All or specific processing costs, except the non-refundable deposit
130 described in subsection (c), may be waived by the Commission, at its sole
131 discretion, when the Commission initiates the action for lease awards and
132 determines that the lease benefits Native Chamorros or the Commission. Costs to
133 be waived shall be included in the initial announcement of availability for
134 commercial lease.

135 (e) As referenced in Rule 6.9.1(b), the fair market value of land shall be
136 established by appraisal as follows:

137 (i) In establishing fair market value for purposes of initiating the
138 procurement process, the Commission shall enter into a contract for appraisal or
139 make its own appraisal. The lessee awarded under procurement shall pay the cost
140 of all appraisals. Where a staff member of the Commission performs the required
141 appraisal the lessee shall pay to the Commission a sum which is reasonably
142 comparable to the current rate for similar appraisals contracted for in the private
143 sector, less twenty-five percent (25%).

144 (ii) In establishing fair market value for purposes of rent adjustments,
145 the appraisal shall be made by three (3) appraisers, one of which shall be selected
146 by the Commission, one by the lessee, and one shall be selected by the two
147 appraisers hereinbefore mentioned. The fair market value shall be the average of
148 the three (3) appraisals. However, if there is a greater than twenty percent (20%)
149 variance between the highest and lowest appraisals, then the Commission may
150 disregard the results and reinitiate the appraisal process.

151 (f) If surveys of the area proposed for lease are required by the Commission,
152 the survey shall be performed at the cost of the lessee awarded under procurement.
153 If the Commission is requested to provide the survey, the lessee shall pay all costs
154 incurred by the Commission thereon. The Commission may require an additional
155 deposit in the amount of the estimated cost for such survey as determined by the
156 Commission.

157 12.2 Lease, Disposition. (a) Notice of any proposed disposition or property by
158 lease shall be made pursuant to the notice requirements in the procurement law, 5
159 GCA Chapter 5.

160 12.3 Request for Designation of Land for Commercial Lease. A prospective lessee
161 may request the Commission to consider designating a specific tract or tracts of
162 land as being for commercial lease and disposal through the procurement process.
163 The Commission shall duly consider the request, provided, however, that the
164 ultimate determination whether to designate land for commercial use pursuant to §
165 75105(d) shall be at the discretion of the Commission, and as further provided for
166 pursuant to applicable law and these Rules. Upon designation of a tract or tracts of
167 land as being for commercial use through a lease, the Commission may commence
168 the process of disposition pursuant to the procurement law.

169 12.4 Esthetics, Environmental compatibility and Statutory Compliance. The
170 Commission shall seek to insure that all lands leased for commercial purposes are
171 developed in an esthetically pleasing and environmentally compatible manner fully
172 compliant with applicable law, rules and regulations.

173 12.5. Notices, Failure to Comply. Any commercial lease issued by the Commission
174 without fully complying with the notice requirements provided for in these Rules
175 may be voided, provided, however, that a filing of a written notice of protest for
176 non-compliance with the notice requirements of these Rules must be submitted to

177 the Commission within ten (10) calendar days, including weekends and holidays,
178 of the announcement of the award. In the event no notice of protest is filed within
179 ten (10) calendar days, then, the Commission may proceed with the disposal of the
180 tract(s) and the lease shall be deemed good and in full force and effect.

181 12.6. Appeals for Reconsideration and Grievances. Appeals for reconsideration of
182 applications, and/or matters relating or pertaining thereto, or any other matter
183 where an applicant or person believes there to be cause to challenge the conduct,
184 any action or decision of the Commission, then, the resolution of the matter shall
185 be conducted pursuant to the applicable provisions of 5 GCA Chapter 9
186 (Administrative Adjudication Law).