


SEVENTEENTH GUAM LEGISLATURE  
1984 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 588, AN ACT TO ADD A NEW ARTICLE 9 TO 12 GCA CHAPTER 2, RELATIVE TO ESTABLISHING A LANDOWNER'S RECOVERY FUND," was on the 31st day of 1984, duly and regularly passed.

  
CARL T. C. GUTIERREZ  
Speaker

Attested:

  
ELIZABETH P. ARRIOLA  
Senator and Legislative Secretary

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This Act was received by the Governor this 31 day of May  
1984, at 8 o'clock p.m.

  
Robin D. Alvarez  
Special Assistant  
Governor's Office

APPROVED: 

RICARDO J. BORDALLO  
Governor of Guam

Date: June 1, 1984

Public Law No. 10:40AM

17-52

SEVENTEENTH GUAM LEGISLATURE  
1984 (SECOND) Regular Session

Bill No. 588  
Substitute by Committee  
on Ways and Means

Introduced by:

C. T. C. Gutierrez  
T. S. Nelson  
M. D. A. Manibusan

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J. H. Underwood  
A. C. Lamorena III  
J. F. Ada  
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E. P. Arriola  
E. T. Charfauros  
E. R. Duenas  
F. J. Gutierrez  
M. K. Hartsock  
P. C. Lujan  
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J. F. Quan  
F. J. Quitugua  
J. T. San Agustin  
F. R. Santos  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO ADD A NEW ARTICLE 9 TO 12 GCA  
CHAPTER 2, RELATIVE TO ESTABLISHING A  
LANDOWNER'S RECOVERY FUND.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:  
2 Section 1. A new Article 9 is added to 12 GCA Chapter 2 to read:

3 "Article 9

4 Landowner's Recovery Fund

5 §2901. Legislative purposes. The Legislature hereby finds and  
6 determines that loans made pursuant to Chapter VI of Title LIV of the  
7 Government Code (P. L. 16-111, Chapter II, Section 21) are not  
8 adequate to address the need of landowners to pursue appropriate  
9 remedies to redress the harm done to landowners as individuals and to  
10 Guam as a whole when a very substantial percentage of the land on  
11 Guam was taken by the Naval Government of Guam or the government

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of the United States through proceedings in eminent domain, or under threat of eminent domain, following World War II. Additional powers not necessarily set out in 12 GCA §2103 or other sections of this title are granted to the Authority to accomplish the Legislative purposes set out in this section. The legislature recognizes that the land takings have adversely affected nearly every family on Guam, that the land takings completely changed the lifestyle and economy on Guam from a self-sustaining agricultural way of life to an economy where the populace must obtain cash to provide for a livelihood, and that the prices paid for the land during the time of the takings is believed by the landowners to be much too low and therefore unfair. The legislature finds also that the public well-being has suffered severely and continuously from the loss of use of the land taken by the Naval Government of Guam or the United States government in that the development of the economy and future of Guam has been curtailed, particularly when adequate compensation to offset this loss, which could have been used for education, business ventures and other endeavors by the populace, has not been forthcoming. The Legislature further finds that recovery of land and adequate compensation for landtakings by landowners will greatly benefit the Territory of Guam by increasing the tax base for future property tax assessments and by increasing receipts due the territory assessed on interest earned on recoveries by landowners according to the provisions of the Territorial Income tax. The purpose of this Article is to further and supplement the aims established under Chapter VI of Title LIV of the Government Code (P.L. 16-111, Chapter II, Section 21) by declaring the following:

(a). That it is in the public interest to seek, from the Government of the United States, creation of an adequate program of remedies to the people of Guam in general and to their Government for the adverse public impact on Guam and its citizens of the land takings during and after World War II.

1 (b). That it is in the public interest to investigate and pursue,  
2 on behalf of all of the landowners, the taking of such initiatives as  
3 may be reasonably necessary to secure to the private landowners  
4 restoration of title, and where possible consistent with U.S. security  
5 requirements, possession of land improperly taken by the Naval  
6 Government of Guam or the United States government during and after  
7 World War II, and where possession cannot be restored due to U.S.  
8 security or other interests, to secure making of leasehold arrangements  
9 at present fair market values, to compensate such landowners for  
10 ongoing use and occupancy of their land by U.S. military authorities;

11 (c). That it is in the public interest to secure to all landowners  
12 proper and just compensation for use of lands from time of taking until  
13 time of actual return of land or of making of proper leasehold  
14 arrangements;

15 (d). That it is in the public interest for landowners who desire  
16 to accept a settlement offer from the United States Government to be  
17 able to proceed with the necessary surveys, land valuations, legal  
18 work, consultant and support services already rendered or to be  
19 rendered in the future which will allow such a settlement to take  
20 place;

21 §2902. Definitions. As used in this Article:

22 (a). 'Landowner' means any person who has or whose  
23 predecessors in interest had beneficial ownership of any land interest  
24 on Guam which interest was adversely affected by taking of the Naval  
25 Government of Guam or the United States Government between July 21,  
26 1944 and August 23, 1963, or the executor or administrator of the  
27 estate of such person;

28 (b). 'Authority' means the Guam Economic Development  
29 Authority.

30 §2903. Landowner's Recovery Fund Created. There is created  
31 the 'Landowner's Recovery Fund' to grant loans to those landowners  
32 whose land was taken by the Naval Government of Guam or the United  
33 States government during and after World War II, in order to assist  
34 such landowners with pursuit of adequate remedies for such taking,

1 such remedies to include just compensation or return of the land or  
2 adequate redress of or adverse impact of the land takings, all to be on  
3 a reimbursable basis, according to standards and conditions set out in  
4 Section 2908 of this Article. The fund shall be utilized to make funds  
5 available for landowners to contract with attorneys and necessary  
6 non-attorney consultants to further the aims of this Article.

7 §2904. Appropriation. The sum of Two Hundred Twenty  
8 Thousand Dollars (\$220,000) is appropriated from the General Fund to  
9 the Landowner's Recovery Fund for the uses specified in this Article.  
10 Additionally, there is authorized to be appropriated by legislative  
11 enactment Four Hundred Ninety-Five Thousand Dollars (\$495,000) from  
12 the General Fund to the Landowner's Recovery Fund for the uses  
13 specified in this Article.

14 §2905. Administering Authority. The Board of Directors of the  
15 Guam Economic Development Authority shall be the administering  
16 authority of the Landowner's Recovery Fund and shall administer the  
17 Fund and make loans therefrom. The Board shall promulgate all rules  
18 and regulations necessary for the operation of the fund in accordance  
19 with this Article. Interest charged on loans shall not exceed six  
20 percent (6%) per annum.

21 §2906. Classes of Loan. There shall only be one (1) class of  
22 loan which may only be used by the attorneys for a land owner for  
23 necessary fees, costs and expenses, including expenses of expert  
24 witnesses and other consultants, in connection with prosecution of  
25 claims for redress of damages or restoration of property.

26 §2907. Eligibility Requirements for Loans. To be eligible for  
27 loans under this Article an applicant shall be a landowner as defined  
28 in §2902(a) of this Article.

29 §2908. Loan Standards and Conditions. All loans extended under  
30 this Article shall comply with the following standards and conditions:

31 (a). Application for Assistance. Any landowner may apply  
32 for a loan of funds by setting forth on an application form  
33 authorized by the Authority a statement showing:

- 1 (i) name of the landowner,  
2 (ii) description of the land interests  
3 which are the subject of the claim,  
4 (iii) written description of the plan of  
5 the landholder to seek compensation, return of land  
6 or redress of harms suffered,  
7 (iv) a copy of a written fee agreement between  
8 the landowner and attorney who represents the  
9 landowner in pursuit of the claim,  
10 (v) if the applicant has an outstanding debt  
11 to an appraiser, an assignment of not less than ten percent  
12 (10%) of the loan proceeds to the appraiser to be applied  
13 against the debt, and  
14 (vi) a proposed budget for the expenditure of  
15 all loan proceeds;

16 (b). Limitation on Amount. No single loan under this  
17 Article shall exceed Two Hundred Twenty Thousand Dollars  
18 (\$220,000).

19 (c). Promissory Note and Assignment. Any recipient of a  
20 loan shall, at the time the loan is granted, execute a promissory  
21 note to Guam Economic Development Authority, payable to the  
22 Authority on demand after the recipient receives court awarded  
23 attorney's fees or expenses in connection with the litigation. Any  
24 such recipient shall also execute, at the time the loan is granted,  
25 an assignment to Guam Economic Development Authority of  
26 proceeds ultimately obtained by such recipient in an award of  
27 court awarded fees or expenses in connection with litigation. As  
28 a condition of receiving the proceeds of the loan, the attorney of  
29 the recipient (except for the Public Defenders Service  
30 Corporation), shall personally guarantee payment of said note to  
31 the extent of proceeds ultimately obtained by such recipient in an  
32 award of court awarded fees or expenses in connection with  
33 litigation.

1 (d). Notices Filed in Court File. The Authority shall cause  
2 notices to be filed in the Court File of pending litigation setting  
3 forth the fact of the making of such assignments and the  
4 interests of the Authority under such assignments and setting  
5 forth the interest of the Authority and Government of Guam in  
6 respect to funds previously provided by P. L. 14-98 and P. L.  
7 16-111.

8 (e). Accounting for Funds Under this Article. The use of  
9 all funds loaned under this Article shall be accounted for on a  
10 monthly basis in a detailed accounting submitted to the Authority  
11 by the applicant which shall indicate the date, type of  
12 expenditures made and copies of billings received by the  
13 landowner for services rendered to the landowner in preparation  
14 and pursuit of claims under this Article.

15 (f). Accounting and Auditing of Funds Provided for  
16 Prosecution of Claims. The Authority shall employ independent  
17 outside certified public accounts for the purpose of regularly  
18 auditing the books and records of the Authority and of each  
19 applicant and the attorney of each applicant with respect to the  
20 administration of funds for the purpose of prosecution of claims  
21 hereunder and such auditor shall conduct such audits and make  
22 such reports no less frequently than quarterly during the first  
23 year after enactment of this Legislation and no less frequently  
24 than semi-annually thereafter. The reports shall be forwarded by  
25 the Authority to the Legislature immediately after their  
26 preparation.

27 (g). Open Records. As a condition of receiving any loan,  
28 all applications by applicants hereunder, all records with respect  
29 to administration of funds by attorneys and all reports of audit  
30 shall be public records regularly available for inspection or  
31 photocopying by the members of the general public or the news  
32 media.

1           §2909. Transer of Funds. Any money remaining in the Land  
2 Claims Loan Revolving Fund established under Chapter VI of Title LIV  
3 of the Government Code (P.L. 16-111, Chapter II, Section 21) shall be  
4 transferred to the Landowner's Recovery Fund established by this Act.

5           §2910. The revenues obtained by the government pursuant to the  
6 license fee imposed by §19200 of the Government Code shall be a  
7 source of funding for the appropriation made in §2904 of this Chapter.

8           §2911. Any appraiser who is owed money by land claimants shall  
9 file a list of such land claimants and the amount of the debt with the  
10 Authority. Such statements shall be confidential except that the  
11 Authority may inform a land claimant who makes application under this  
12 Article of the amount claimed from such applicant by the Appraiser."

13           Section 2. Without prejudice to any land claimant, Seventy Thousand  
14 Dollars (\$70,000) is appropriated from the General Fund to the Department  
15 of Public Works for the purpose of providing matching funds for the  
16 Asquiroga Bay Project to be completed by the Army Corps of Engineers.

17           Section 3. The sum of Seventy-Three Thousand Dollars (\$73,000) is  
18 appropriated from the General Fund to the Agency for Human Resources  
19 Development for payment to the United States Department of Labor of funds  
20 advanced under the Comprehensive Employment and Training Act (CETA)  
21 pursuant to an audit of a subgrant of CETA funds to Skills Training and  
22 Job Development, Inc.

23           Section 4. There is hereby appropriated from the General Fund  
24 Thirty-Six Thousand Dollars (\$36,000) to the Public Utility Agency of Guam  
25 for the installation of six-inch water lines and fire hydrants to serve ten  
26 families living behind the Father Duenas Memorial School area, and seven  
27 homes at Malojloj, Basic Lot No. 189-2-R2, that are very inadequately  
28 served by the existing 3/4 inch water lines.