



*Territory of Guam*  
*Territorion Guam*

OFFICE OF THE GOVERNOR  
L'EFINAN I MA'GALAHI  
AGANA, GUAM 96910 U.S.A.

RECEIVED  
OFFICE OF THE SPEAKER  
DATE: 5/7/93  
TIME: 3:50 PM  
RECD BY: Terry

**MAY 07 1993**

The Honorable Joe T. San Agustin  
Speaker, Twenty-Second Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

RECEIVED  
LEGISLATIVE DEPARTMENT  
*JA*

Dear Mr. Speaker:

Transmitted herewith is Bill No. 303 which I have signed into law this date as  
Public Law 22-09.

Sincerely yours,

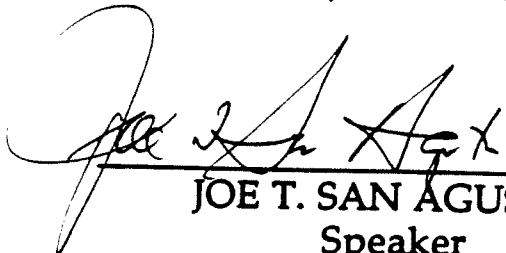
*Joseph F. Ada*  
JOSEPH F. ADA  
Governor of Guam  
**220205**

Attachment

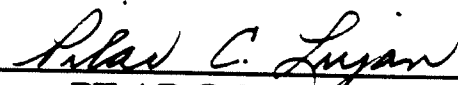
TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

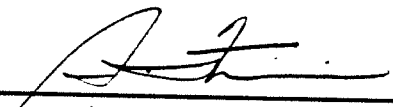
This is to certify that Bill No. 303 (COR), "AN ACT TO ADD §75118 TO TITLE 21, GUAM CODE ANNOTATED, TO APPROPRIATE FIVE HUNDRED THOUSAND DOLLARS TO THE CHAMORRO LAND TRUST COMMISSION FOR START-UP COSTS IN THE IMPLEMENTATION OF THE CHAMORRO LAND TRUST, TO AMEND SUBSECTION (a) OF §8157, TITLE 4, GUAM CODE ANNOTATED, ON COMMON STOCK INVESTMENTS, AND TO APPROPRIATE FUNDS FOR ASBESTOS REMOVAL AND AGAÑA FLOOD CONTROL," was on the 23rd day of April, 1993, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker

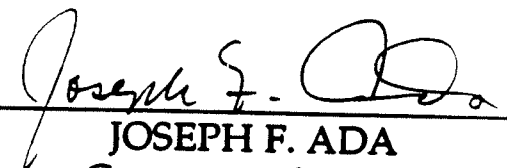
Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 26th day of April  
1993, at 3:31 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: May 7, 1993

Public Law No. 22-09

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 303 (COR)

As amended by the Committee on Rules

Introduced by:

T. C. Ada  
J. T. San Agustin  
E. P. Arriola  
M. D. A. Manibusan  
T. S. Nelson  
J. P. Aguon  
M. Z. Bordallo  
H. D. Dierking  
C. T. C. Gutierrez  
P. C. Lujan  
V. C. Pangelinan  
D. Parkinson  
E. D. Reyes  
F. R. Santos  
D. L. G. Shimizu  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
F. P. Camacho  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO ADD §75118 TO TITLE 21, GUAM CODE ANNOTATED, TO APPROPRIATE FIVE HUNDRED THOUSAND DOLLARS TO THE CHAMORRO LAND TRUST COMMISSION FOR START-UP COSTS IN THE IMPLEMENTATION OF THE CHAMORRO LAND TRUST, TO AMEND SUBSECTION (a) OF §8157, TITLE 4, GUAM CODE ANNOTATED, ON COMMON STOCK INVESTMENTS, AND TO APPROPRIATE FUNDS FOR ASBESTOS REMOVAL AND AGAÑA FLOOD CONTROL.

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

2           **Section 1. Legislative finding.** The Legislature finds that it is in the  
3 public interest to promote and facilitate the implementation of the Chamorro  
4 Land Trust Commission as set out in Chapter 75, Title 21, Guam Code  
5 Annotated.

6           **Section 2.** A new §75118 is added to Chapter 75, Title 21, Guam Code  
7 Annotated, to read:

8           "§75118. **Commission start-up fund.** Five Hundred Thousand  
9 Dollars (\$500,000) are appropriated from the General Fund to the  
10 Chamorro Land Trust Commission to initiate the business of the  
11 Commission in a manner consistent with the purpose and intent of  
12 this Chapter.

13           (1) The Commission shall establish a place of business and  
14 shall appoint and employ an Administrative Director who shall serve  
15 in a full-time capacity, and shall provide such Administrative  
16 Director with the necessary personnel and resources to carry on the  
17 work of the Commission as provided for in §75102(i) of this Chapter.

18           i. The salary of the Administrative Director shall be  
19 determined by the Commission as provided for in said §75102(i)  
20 and shall not exceed the sum of Fifty-Five Thousand Dollars  
21 (\$55,000) per annum.

22           (2) Funds available under this section shall not be utilized to  
23 directly fund the programs set out in paragraphs (b), (c), (d), (e), (f),  
24 (g) and (h) of §75112 of this Chapter."

25           **Section 3.** Subsection (a) of §8157 of Title 4, Guam Code Annotated, is  
26 hereby amended to read:

1           "(a) Common or capital stock of any institution or entity  
2 created or existing under the laws of the United States or any state,  
3 district, or territory thereof, or of the District of Columbia or of any  
4 foreign country; provided that:

5           (i) The issuing institution, entity or a predecessor  
6 thereto, has reported a profit in at least four (4) of the five (5)  
7 fiscal years next preceding the date of investment or  
8 alternatively in at least seven (7) of the ten (10) fiscal years next  
9 preceding the date of investment; and

10           (ii) The institution, entity or such predecessor has paid  
11 cash dividends on its common or capital stock in at least four  
12 (4) of the five (5) years next preceding the date of investment,  
13 or alternatively in at least seven (7) of the ten (10) fiscal years  
14 next preceding the date of investment; and

15           (iii) Total cash dividends have not exceeded total earning  
16 in the five (5) years next preceding the date of investment; and

17           (iv) On the date of investment, the issuer shall not be in  
18 default in payment of principal or interest on any of its publicly  
19 held bonds or other evidences of indebtedness and any  
20 contingent interest, cumulative and noncumulative preferred  
21 dividends and dividends on prior common or capital stock shall  
22 have been paid in full.

23           No more than Five Percent (5%) of the Fund shall be invested in  
24 the common or capital stock of any one issuing domestic company  
25 described in this Section."

26           **Section 4. Appropriation for asbestos removal.** Two Hundred Eighty-  
27 Seven Thousand Dollars (\$287,000) are hereby appropriated from the

1 General Fund to the Department of Public Works to remove and dispose of  
2 asbestos-containing transite roof materials and asbestos floor tiles at the old  
3 Piti Elementary School.

4       **Section 5. Reappropriation for Agaña flooding.** Notwithstanding the  
5 restriction on the transfer authority contained in Section 33 of Public Law 20-  
6 220, Two Million Five Hundred Thousand Dollars (\$2,500,000) of the  
7 appropriation made in that Section are reappropriated to the Department of  
8 Public Work for the construction of the Agaña flooding project to address the  
9 Federal Emergency Management Agency ("FEMA") suspension of federal  
10 assistance.

# TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

Date: 4/20/93

## VOTING SHEET

Bill No. 303

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	AYE	NO	NOT VOTING/ ABSTAN	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P.				✓
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.				✓
NELSON, Ted S.	✓			
PANGELINAN, Vicente C.	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

19      2

# Twenty-Second Guam Legislature

155 Hesler Street  
Pacific Arcade  
Agana, Guam 96910  
Telephone: (671) 472-3407 thru 9  
Fax: 477-3161



Chairman, Committee  
on Ways & Means

Vice-Chairman, Committee  
on Rules

Vice-Chairman, Committee  
on Tourism & Transportation

**CARL T.C. GUTIERREZ**  
Senator

April 12, 1993

Honorable Speaker Joe T. San Agustin  
Speaker, Twenty-Second Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Speaker:


The Committee on Ways & Means wishes to report out its findings on **BILL NO. 303, "AN ACT TO APPROPRIATE AND ENCUMBER THE SUM OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000) TO THE CHAMORRO LAND TRUST COMMISSION FOR START-UP COSTS IN THE IMPLEMENTATION OF 21 GCA CHAPTER 75, CHAMORRO LAND TRUST COMMISSION"**, to the full Legislature with the recommendation to do Pass as Introduced.

The Committee Voting Record is as follows:

<b>TO PASS:</b>	<u>14</u>
<b>NOT TO PASS:</b>	<u>0</u>
<b>ABSTENTIONS:</b>	<u>0</u>
<b>INACTIVE FILE:</b>	<u>0</u>

Copies of the Committee Report and all pertinent documents are attached for your information.

Sincerely,

  
**CARL T. C. GUTIERREZ**  
Chairman, Committee on  
Ways & Means

Attachments



Twenty-Second Guam Legislature  
 Committee on Ways & Means  
**VOTING SHEET**

BILL NO.

303

AN ACT TO APPROPRIATE AND ENCUMBER THE SUM OF FIVE HUNDRED THOUSAND DOLLARS TO THE CHAMORRO LAND TRUST COMMISSION FOR START-UP COSTS IN THE IMPLEMENTATION OF 21 GCA CHAPTER 75-CHAMORRO LAND TRUST COMMISSION.

	TO PASS	NOT TO PASS	ABSTAIN	TO PLACE IN INACTIVE FILE
<i>C. Gutierrez</i> Senator Carl T. C. GUTIERREZ Chairman	✓			
<i>H. Dierking</i> Senator Herminia D. DIERKING Vice-Chairman	✓			
<i>T. C. Ada</i> Senator Thomas C. ADA Member	✓			
<i>J. P. Aguon</i> Senator John P. AGUON Member	✓			
<i>E. Arriola</i> Senator Elizabeth P. ARRIOLA Member	✓			
<i>J. George Bamba</i> Senator J. George BAMBA Member	✓			
<i>A. Blaz</i> Senator Anthony C. BLAZ Member	✓			
<i>P. Lujan</i> Senator Pilar C. LUJAN Member	✓			
<i>Marilyn D. A. Manibusan</i> Senator Marilyn D. A. MANIBUSAN Member	✓			
<i>T. S. Nelson</i> Senator Ted S. NELSON Member	✓			
<i>V. C. Pangelinan</i> Senator Vicente C. PANGELINAN Member	✓			
<i>D. L. G. Shimizu</i> Senator David L.G. SHIMIZU Member	✓			
<i>A. R. Unpingco</i> Senator Antonio R. UNPINGCO Member	✓			
<i>Joe T. San Agustin</i> Speaker Joe T. SAN AGUSTIN Ex-Officio Member	✓			

4/12/92  
 11:22 AM

# COMMITTEE ON WAYS AND MEANS COMMITTEE REPORT ON

BILL NO. 303

**AN ACT TO APPROPRIATE AND ENCUMBER THE SUM OF FIVE HUNDRED THOUSAND DOLLARS TO THE CHAMORRO LAND TRUST COMMISSION FOR START-UP COSTS IN THE IMPLEMENTATION OF 21 GCA CHAPTER 75- CHAMORRO LAND TRUST COMMISSION.**

## PURPOSE AND ESSENTIAL ELEMENTS

Bill No. 303 adds a new §75118 to Chapter 21 of the Guam Code Annotated to provide a "Commission Start-up Fund" of Five Hundred Thousand Dollars (\$500,000) and to provide for an Administrative Director to be hired at a salary not more than Fifty-five Thousand Dollars (\$55,000) per annum for the Chamorro Land Trust Commission.

## PUBLIC HEARING

The Committee on Ways and Means conducted a public hearing on Thursday, April 8, 1993 at 9:00 a.m. in the Legislative Public Hearing Room to gather testimony on Bill No.37. Present at the hearing were the Vice-Chairperson, Senator Herminia D. Dierking who conducted the hearing, being joined by members of the committee Senators E.P. Arriola, J. G. Bamba, P.C. Lujan, B. C. Pangelinan, T. S. Nelson, T. C. Ada, A. R. Unpingco, and D.L.G. Shimizu.

## TESTIMONY

Presentation of testimony by members of the public:

1. **Mr. Arthur Barcinas** testified as a member of the Chamorro Land Trust Commission. No other members testified. He read portions of his written testimony, which is attached.

Mr. Barcinas pointed up that the Chamorro Land Trust has no money and no offices, and there is an urgent need to get started on the business of the Trust. He pointed up that Chamorro families need housing and that many times several families are living in one household.

Mr. Barcinas indicated that members of the Commission were giving of their time as much as they can, however the simple mechanics of having to make 25 copies of their testimony submitted on this bill is difficult. The Commission members receive phone calls from Department of Land Management and Department of Agriculture, and are unsure of where to

put their files and who are going to analyze their files. Mr. Barcinas urged strong support for Bill 303.

2. **Mr. Angel Leon Guerrero Santos** testified on behalf of the Chamorro Nation Traditional Council which he represented as being 15,000 members strong. He testified in favor of Bill 303.

Mr. Santos gave a historical background in support of the bill. He indicated that in 1672 approximately 95,000 Chamorros were killed by the Spaniards, including men, women, and children, to include the raping of women by Spanish soldiers. In 1898, after the Spanish-American War, the U. S. Naval Government passed laws to regulate Chamorro cultural practices and Chamorro ancestors were punished for practicing the Chamorro culture and speaking the Chamorro language. In 1941, upon invasion by the Japanese Imperial Army, Chamorros paid with their lives and were tortured by members of the Japanese Imperial Army. In 1944, and subsequently thereafter the lands were taken by the United States Naval Government without due process or just compensation. Chamorros were still punished for speaking the language up until 1975.

Mr. Santos indicated that today he feels like he has to beg for \$500,000. This amount is nothing compared to the atrocities, the torture, and the sacrifice that Chamorro ancestors paid for their right to survive in their own land. The amount of appropriation for the right to return lands to the rightful owner is just redress. Mr. Santos indicated that he was not here to beg, but to demand \$500,000. Mr. Santos publicly condemned a news article published in the February 12, 1993 edition of the Pacific Daily News which stated that the Chamorro Land Trust Act is right and just and is based on the precedents of the Native Hawaiian, Native American, and the land alienation laws of the Northern Marianas. He indicated that funding from the General Fund is troubling, according to the local news media, as it represents the transfer of wealth from all ethnic groups on Guam to just one.

Mr. Santos pointed out that another provision of law had been passed by the Guam legislature giving \$50,000 to the Aklan Association of Guam for purchasing instruments and other items to advance their culture here. If \$50,000 can be appropriated to advance the culture of one group of a Filipino organization, certainly \$500,000 is not asking too much for the purposes of Bill 303.

3. **Phillips and Bordallo**, a law firm, submitted written testimony in favor of Bill 303, which is attached. Senator Dierking pointed out that this

testimony was submitted before questioning took place by the panel of senators.

Discussion by Senators and those testifying:

Senator Ada questioned Mr. Barcinas concerning the desirability of an appropriation versus a loan for the start-up of the Trust. Mr. Barcinas indicated that a loan would not be in the best interests of the trust. Reasons offered for this proposition were: that the trustees of the Chamorro homelands have a duty and obligation to protect and preserve the trust. A loan would obligate the trust from the beginning to an obligation which they do not have the assistance of legal counsel in reviewing or financial consultants to project the results.

There is question concerning whether the trust can pay off this loan in ten years. Mr. Barcinas also indicated that if the money comes as a loan, then there is a question whether the Trust is a governmental entity, or an independent entity receiving a loan from the legislature.

Mr. Barcinas brought up the question of personnel rules and regulations, as under the current structure of the law the personnel would be classified government employees. The Chamorro homelands would end up paying these government employees from money borrowed to benefit the government and its employees.

Mr. Barcinas also brought up whether, if the money was a loan, would the Trust still be under the Administrative Adjudication Act, which the law places it under. He felt that a loan presents many problems which the trustees of the Chamorro Land Trust cannot comfortably commit themselves to.

Senator Ada inquired whether the Alaska or Hawaii Land Trusts were given outright grants or money in the form of a loan to start up their activities. Mr. Barcinas replied that he was not aware of that, although he has written some letters to some professors and persons who have worked with native lands in order to determine what precedents may have been set concerning native lands.

Senator Ada inquired whether the Commission could use the Attorney General's Office for an attorney. Mr. Barcinas replied that because of the history of the law and the Commission, that the Attorney General's Office fought against the law, and for them to now represent the Commission would present a possible conflict of interest. The Attorney General's Office

has been used for some of the Commission's meetings, and a different division than that which handled the lawsuit, however the Commission is not comfortable using their office.

Senator Ada inquired whether the Commission could obtain free legal counsel from pro bono donations by private attorneys. Mr. Barcinas replied that they have considered making an outright call for volunteers for every aspect of the Commission's functions in order to get started.

Senator Ada inquired whether Mr. Barcinas, as an attorney, could not provide legal services to the Commission himself, in the interim. Mr. Barcinas indicated that the old saying, "A person who represents himself has a fool for a client" means that he is not a fool. He does not intend that the Commission be put out as a fool to the public. He indicated that he has too much of a responsibility as a Commission member to put himself in the position as the Commission's legal counsel. Mr. Barcinas indicated that as the Chairman, he has to administer, and he cannot therefore give legal advice.

Senator Ada inquired whether the Commission has a staffing pattern as a plan for the Commission. Mr. Barcinas indicated that they had set up several committees, manned by the Commission members themselves, to look into staffing. The Commission members have put together as best they can a sketch or outline of a budget for one year, however they do not have the luxury of a secretary to type it, so it is not ready to present. Basic staffing requirements call for \$259,000, including the government benefits due. Office space requirements would be close to \$54,000 per year, based on 3,000 square foot area at a conservative estimate of \$1.50 per square foot. Senator Dierking indicated that this estimate would be low. Senator Nelson indicated that office space is approximately \$3.00 per square foot and the Commission's estimate is low. Mr. Barcinas indicated that the Department of Administration had indicated that rentals would be at about \$3.00 per square foot but that the Commission members did not want to appear greedy before the senators. The money projected does not take into account chairs, tables, xerox machines, computers, paper, telephone bills, any of these other items. None of these things have been accounted for because the Commission members are not experts in budgeting, and need to hire people to help out.

Senator Ada inquired whether the government is required to make a list of public lands that need to be set aside for public purposes, and he inquired whether there would be enough land left over for the Commission to oversee. Mr. Barcinas indicated that the Department of Land

Management is working hard to compile this data. It has been requested several times, but at this point the Department is unable to submit an estimate to the Commission.

Senator Ada inquired whether the Governor's office is willing to turn over lands which are revenue generating, such as the golf course, proceeds from the land for the landless program, and so forth. Mr. Barcinas indicated that so far there was no indication on this matter. He indicated that that would be a portion of the Commission's responsibility to go to the Governor and ask about those issues. Mr. Barcinas responded that it is too much for the Commission members to ask about substantive matters at this time, when they do not even have an office, because they don't even have a place to store the data that they would receive.

Senator Ada inquired of Mr. Santos whether the Alaskan and Hawaiian land trust programs received an outright appropriation for their operations. Mr. Santos indicated that he did not know, but he felt that Guam needs to set the example for other countries to follow. He felt that Guam should not follow the bandwagon, but to start leading.

Senator Ada inquired of Mr. Santos what he felt of a grant as opposed to a loan to the Commission. Mr. Santos indicated that it is inconsistent that the compact-impact office is given an office at the University of Guam, yet the Chamorro Land Trust Commission is forced to operate in the streets. He indicated that it is not the Chamorro thing to do to put the Chamorro on the street and be generous to our immigrants. He felt that this defies logic and insults a people who have been oppressed under colonial laws. He feels that a loan is an insult. He indicates that if Bill No. 303 is amended to provide for a loan that the Chamorro Nation will be outside the Legislature with tents protesting that amendment.

Senator Arriola indicated that the bill provides for a grant, and not for a loan. Mr. Santos pointed out that the media had reported that one of the senators had considered amending Bill No. 303 to provide for a loan rather than a grant. He hopes that the bill will not be amended. Senator Arriola indicated that she supports the bill as is, but that later, after time, some income could come in from golf courses, or something.

Senator Bamba inquired of Mr. Barcinas that after the "seed money" would be available, how would the Commission fund itself in subsequent years. Mr. Barcinas indicated there is no easy answer to this, as there is no confirmation concerning whether the Commission is a government agency, in which case it would receive money from the government. He

felt that there is a lot of merit that the Commission would be a self-sustaining revenue generating trust, and the Commission hopes that it will be that. He indicated that there are other functions of the Commissions, to provide home loans, educational funding, home repair loans, and a whole series of other types of loans to benefit the community. This question cannot be answered at this time.

Senator Bamba indicated that the bill requires the Executive Director of the Commission be appointed by the Governor and confirmed by the Legislature. He inquired of Mr. Barcinas whether the confirmation by the Legislature would place the Commission in the political arena. Mr. Barcinas indicated that the Commission had not given much thought to this as confirmation by the Legislature was assumed to be part of the process of being a government agency. Senator Bamba indicated he had no problem with the members not being approved by the Legislature, to guard their autonomy. Mr. Barcinas indicated that as trustees, they would like that autonomy, and would be in support of that amendment.

Mr. Angel Santos disagreed that the Legislative approval should be done away with, because that process would provide a balance of support from both parties for the Commission. Senator Bamba did not agree. He felt that the Commission members would be subject to "courtesy resignation" when a new administration is elected if they are not guaranteed their independence. They should remain as long as their term is not up.

Senator Nelson inquired whether the Commission had not received any in-kind contributions or secretarial help, or whether the Attorney General's Office wants to get rid of the Commission, or might be bugging their offices. What accomplishments has the Commission made to date and what contributions has the government made as of this date. Mr. Barcinas replied that various government agencies have provided in-kind donations, such as the Commission on Self Determination and the Governor's office, in terms of meeting the requirements of the open government laws, providing rooms for meetings, putting notices out and recording the meetings. The Attorney General has put a different division to sit with the Commission in its meetings.

Senator Nelson inquired whether the Governor could use his transfer authority to get the Commission going. He inquired what the Commission has done, that they have been confirmed for some time and the government has a duty to get the Commission going, with in-kind donations of temporary legal counsel and so forth. Mr. Barcinas indicated that the Attorney General's office has been providing one lawyer from the

Solicitor's Division to help with day to day items. Senator Nelson inquired whether the Commission has an office now, and Mr. Barcinas replied that they do not. Senator Nelson inquired whether the present administration has given the Commission any space. Mr. Barcinas replied that they did not ask for any space. Senator Nelson inquired how far the Commission would get on \$500,000. Mr. Barcinas replied that that would be for basic start up costs.

Senator Nelson inquired whether the government agencies are now "land grabbing" and thereby indulging in another land taking from the Chamorro people. Mr. Barcinas indicated that he had heard that, and that the Commission members would aggressively protect the trust. Senator Nelson indicated that the Governor had given instructions, and the Directors are out there now identifying lands, and that the instructions should be coming from the Commission members. Mr. Barcinas indicated that the Commission members need the money so that they can start.

Senator Nelson indicated his support for the appropriation, but that this amount of money would not take the Commission very far, and that the Commission members should look beyond the normal office expenditures and should look at the real needs of the Commission. Senator Nelson indicated that perhaps subpoena power should be looked into to protect the lands. That the Commission needs to go beyond politics and look to helping the young people of the island.

Senator Unpingco inquired whether the issue of constitutionality had been dealt with, and whether there needs to be some type of defense set up now. Mr. Barcinas replied that the constitutionality of the law has already been dealt with by the court. Mr. Barcinas indicated that they would deal with a lawsuit on the subject when and if it comes.

Senator Unpingco inquired whether the land for the landless program is in conflict with the Chamorro Land Trust. Mr. Barcinas replied that there is a lot of land designated in the land for the landless program, and that this does in fact deplete the Trust. He indicated that this would not have happened if the Land Trust had been implemented earlier.

Senator Unpingco inquired whether anyone other than a Chamorro would be able to obtain property under the Chamorro Land Trust. Mr. Barcinas indicated that the requirement is residential first, and he felt that non-Chamorros could obtain land. Senator Unpingco indicated that a lot of people are worried that the Trust would only be for the Chamorro people and no other nationality could participate. Mr. Barcinas indicates that this



is open to interpretation. Senator Unpingco indicated that the senators have a lot of constituents who are beyond the Chamorro group.

Senator Unpingco indicated that he did not feel that the Directors of government agencies were a source of worry about the depletion of lands in the Trust, but that the Legislature would be more of a source of worry because of grants by the Legislature of land.

There being no further testimony or comment, Senator Dierking then closed the hearing on Bill 303.

### **COMMITTEE ACTION**

The Committee on Ways and Means, after consideration of the testimony offered at the public hearing, did not make changes to the bill.

### **COMMITTEE RECOMMENDATION**

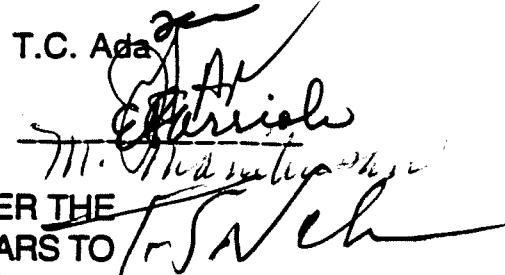
The Committee on Ways and Means wishes to report out Bill 303 to the full legislature to do pass, as introduced.

TWENTY-SECOND GUAM LEGISLATURE  
1993 (SECOND) Regular Session

BILL NO. 303

Introduced by:

T.C. Ada



AN ACT TO APPROPRIATE AND ENCUMBER THE  
SUM OF FIVE HUNDRED THOUSAND DOLLARS TO  
THE CHAMORRO LAND TRUST COMMISSION FOR  
START-UP COSTS IN THE IMPLEMENTATION OF  
21 GCA CHAPTER 75- CHAMORRO LAND TRUST  
COMMISSION.

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

2 Section 1. Legislative Finding. The legislature finds that it is  
3 in the public interest to promote and facilitate the timely  
4 implementation of 21 GCA Chapter 75 - Chamorro Land Trust  
5 Commission.

6 Section 2. A new §75118 is added to 21 GCA Chapter 75 to  
7 read:

8 "§75118. **Commission Start-up Fund.** The sum of Five  
9 Hundred Thousand Dollars (\$500,000) is appropriated from the  
10 General Fund to the Chamorro Land Trust Commission for  
11 the purpose of initiating the business of the Commission in a manner  
12 consistent with the purpose and intent of this Act.

13 (1) The Commission shall establish a place of business  
14 and shall appoint and employ an Administrative Director who  
15 shall serve in a full-time capacity, and provide same with the  
16 necessary personnel and resources, to carry on the work of the  
17 Commission as provided for in §75102(i).

18 i. The salary of the Administrative Director shall  
19 be determined by the Commission as provided for in  
20 §75102(i) and shall not exceed the sum of Fifty-Five  
21 Thousand Dollars (\$55,000) per annum.

22 ii. The Administrative Director must be confirmed  
23 by the Legislature, and the Commission shall submit  
24 information to the Legislature relative to the  
25 qualifications of the Administrative Director nominated  
26 by the Commission. The Administrative Director may

1           serve, with the approval of the Commission, in an acting  
2           capacity pending confirmation by the Legislature.  
3           (2) The appropriation under this subsection (i) shall not  
4           be utilized to directly fund the programs in §75112 (b), (c),  
5           (d), (e), (f), (g) and (h)."

TWENTY-SECOND GUAM LEGISLATURE  
1993 (SECOND) Regular Session

BILL NO. 303

Introduced by:

T.C. Ada 

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AN ACT TO APPROPRIATE AND ENCUMBER THE  
SUM OF FIVE HUNDRED THOUSAND DOLLARS TO  
THE CHAMORRO LAND TRUST COMMISSION FOR  
START-UP COSTS IN THE IMPLEMENTATION OF  
21 GCA CHAPTER 75- CHAMORRO LAND TRUST  
COMMISSION.

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

2 Section 1. Legislative Finding. The legislature finds that it is  
3 in the public interest to promote and facilitate the timely  
4 implementation of 21 GCA Chapter 75 - Chamorro Land Trust  
5 Commission.

6 Section 2. A new §75118 is added to 21 GCA Chapter 75 to  
7 read:

8 **"§75118. Commission Start-up Fund.** The sum of Five  
9 Hundred Thousand Dollars (\$500,000) is appropriated from the  
10 General Fund to the Chamorro Land Trust Commission for  
11 the purpose of initiating the business of the Commission in a manner  
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5           (d), (e), (f), (g) and (h)."

Good morning Mr. Chairman and Senators.

I am Arthur R. Barcinas, a member of the Chamorro Land Trust Commission. With me today are other members of the Commission and we are here today to testify in favor of Bill 303.

### **NEW COMMISSION**

As you are all aware from the recent events surrounding this commission, that we are a completely new commission. Therefore, the other members and myself are faced with the difficult and time consuming responsibility of forming and organizing our offices and staff so that we may begin working on the substantive areas of administering the Chamorro Land Trust.

### **URGENT NEED TO GET STARTED**

First, The Chamorro Land Trust law and its meritorious objectives of preserving and administering the Chamorro homelands have been long overdue. With each passing day there is an ever increasing demand for these lands. Without the Commission in place and fulfilling its responsibility of protecting, administering and preserving these homelands, the trust will continue to be depleted and lost forever to the Chamorro people.

Everyday we see the growing needs of the Chamorro people. In the streets we see the Chamorro's demanding back their lands. We see them in the news struggling with our own government and the military to reclaim the Chamorro homelands. We hear reports, and many of us know its true, of several Chamorro families living

together under one roof. Everyday we see and hear the frustration of the young Chamorros struggling to provide a home for their families. These are the people who lay claim to the chamorro homelands. These, Senators, are the beneficiaries of the trust. And their needs are immediate and compelling.

Both the Department of Agriculture and Land Management have been working very hard to meet their requirements under the Chamorro Land Trust Laws. We have been receiving calls and meeting with them urgently requesting guidance and coordination on the purely administrative aspects with regards to transferring the lands, determining trust lands, and agricultural lease applications now placed in limbo. All of these are pressing issues important to the whole island and we are unable to adequately address them simply because we lack the resources to begin our work.

#### **APPROPRIATION vs. LOAN**

We are aware that there has been consideration given to the idea that this start up funding should be furnished to the commission in the form of a loan. The Commission is opposed to the loan concept. We strongly urge that this body give careful consideration of this concept from the perspective of the Commission.

As members of this commission we are in effect Trustees of the lands given to us to administer. As Trustee's we have a duty and responsibility to preserve and protect the trust for the beneficiaries of the trust.

This funding in the form of a loan creates many problems. If this funding were provided in the form of a loan, it would in effect require the Commission to indebt the trust even before we can determine if it is in the best interest of the trust to accept

the debt.

We do not believe that it is in the best interest of this commission to indebt the trust without the benefit of legal counsel, without the benefit of the advice of financial consultants, and without an intelligible understanding of the quantity and quality of the body of the trust.

There is a lot of merit to the argument that yes this Commission has the potential for being self sustaining and revenue generating. However, until we can begin actually working on this trust then that is all that the trust will have...a lot of potential.

Additionally, although we anticipate that the trust will generate revenue, you must remember that every dollar we have to remove to repay a loan diminishes our ability to fulfill the other objectives of the trust especially the important aspects of the home loan programs.

In summary, there are just too many unforeseeable and possibly negative consequences for this commission to in good faith accept the idea of indebting the trust without more information and in depth analysis. We cannot even begin to study these issues without some type of start up funding.

## **COMMISSION MEMBERS**

The commission members have been working very hard. They have individually devoted a lot of their time and personal resources to see that this trust is successfully implemented. We stand ready and willing to continue to work even harder to see that the important and vital goals of this trust are met. But we need your help. The work



that this commission must do is very important to the Chamorros, our homelands, and to this island as a whole and all of its people. You who have had the foresight to implement this Act must further support its intent by providing the Commission with the resources necessary to turn the concept into reality.

**SI YU'OS MA'ASE**

**Arthur R. Barcinas, Chairman  
Chamorro Land Trust Commission**

The Law Offices of  
**PHILLIPS & BORDALLO**  
A Professional Corporation

410 West O'Brien Drive, Agana, Guam 96910  
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April 8, 1993

Honorable Carl T.C. Gutierrez  
Chairman, Committee on Ways and Means  
22nd Guam Legislature  
Agana, Guam 96910

RE: BILL 303

Dear Senator Gutierrez,

I fully support the intent of Bill 303. I am proud to see that we do have leaders who are willing to lead rather than those who wait on the side until an issue becomes a problem.

I also believe that the Government of Guam has a legal obligation to fund the Chamorro Land Trust Commission. The Legislature created the Commission with the approval of the Governor of Guam. The Chamorro Land Trust Act has been law since 1975. The Commission is now operating and like any other department, agency, board or commission, requires funding in order to function.

There have been comments made recently that public money should not be used to fund the Commission because the Act will only benefit a portion of our community. If this were the standard for appropriations, we would have very little public expenditures. Each and every department, agency, board or commission benefits a select portion of our community. For example, the Department of Agriculture benefits our farmers, the Department of Veterans Affairs benefits our veterans, and the Department of Education benefits our children.

As a society we have decided that these government functions, while directly benefitting only a portion of our community, indirectly benefit our entire island. The same holds true for the Chamorro Land Trust Commission.

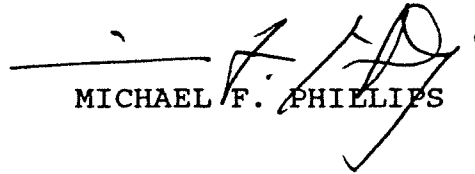
Finally, the Superior Court of Guam, Judge Benjamin J.F. Cruz presiding, has found the Chamorro Land Trust Act to be both Constitutional and within the provisions of the Organic Act of Guam. The Court ordered the Governor to implement the law. Our

" Erensia, lina'la' espiritu-ta "

legislature should follow this direction and provide the Commission with as much funding as is necessary to fully implement the Act.

Please do not hesitate to contact me if you have any questions or if you wish to discuss this matter further.

Si Yu'os Ma'ase',



MICHAEL F. PHILLIPS



MAR 15 '93

TWENTY-SECOND GUAM LEGISLATURE  
1993 (SECOND) Regular Session

BILL NO. 303 (COR)

Introduced by:

T.C. Ada 

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