



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By A. Gutierrez
Time 2:50 pm
Date 9-15-95

SEP 14 1995

OFFICE OF THE SPEAKER
Date: 9.15.95
Time: 2:15 PM
Received By: Alicia Guzman
Print Name: Alicia Guzman

The Honorable Don Parkinson
Speaker
Twenty-Third Guam Legislature
424 West O'Brien Drive
Julale Center - Suite 222
Agana, Guam 96910

Dear Speaker Parkinson:

Enclosed please find a copy of Substitute Bill No. 317 (LS), "AN ACT TO ESTABLISH RULES AND REGULATIONS OF THE CHAMORRO LAND TRUST COMMISSION PURSUANT TO §§75103 AND 75107 OF CHAPTER 75, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO LEASES FOR RESIDENTIAL AND AGRICULTURAL USES, which I have signed into law today as Public Law No. 23-38.

Although the rules and regulations that the Legislature approved in this bill are not perfect, I have signed the bill in order that the Chamorro Land Trust Commission finally have legislatively approved operating procedures, after months of inaction by the Committee on Community, Housing, and Cultural Affairs.

The following are some of the weaknesses of the rules and regulations as adopted in Substitute Bill No. 317:

- 1) The rules and regulations are based on the present Chamorro Land Trust Act statute, without amendments. Because of this, unfortunately, Chamorros who apply for a lot are prevented from mortgaging the lot to a bank or other lending institution. They may only mortgage the lot to another Chamorro. The Chamorro Land Trust Act specifically forbids the lots to be mortgaged to persons who are not "native Chamorros", a term defined in the statute. This severely limits the ability of the average Chamorro, especially a landless Chamorro without adequate financial resources, to obtain financing to build a home. The proposed bill that I transmitted to the legislature contained an amendment providing for financing.
- 2) A qualified Chamorro who is awarded a lot must occupy and commence to use the tract as his or her home within 1 year after the lease is made. Since

financing will be difficult to obtain, the average Chamorro may not be able to build and occupy a home within 1 year.

- 3) An applicant is required to pay an application fee of \$50 within 30 days of applying for a lot. The Chamorro Land Trust Commission was proposing an application fee of \$10 instead.
- 4) Although the rules and regulations provide for residential lots of 10,000 square feet, such a lot may have 2 houses built upon it according to the building code requirements implemented by the Department of Public Works. The rules and regulations do not cover this eventuality.
- 5) The rules and regulations contain many different deadlines within which to take actions. These deadlines may be hard to administer for a large group of applicants. I believe that the process could have been made simpler and more efficient.
- 6) There is a provision allowing the transfer of lots to landowning Chamorros, after 7 years' occupancy, without the approval of the Commission. Theoretically, a landless Chamorro who obtains a lot and lives on it for 7 years may transfer the lot to a landowning Chamorro. In this manner, the landowning Chamorro may bypass the first-come-first-served application priorities. A landowning Chamorro, instead of waiting for his or her application priority, may simply obtain a lot from a previously landless Chamorro.
- 7) The rules and regulations do not take into account the normal working days of the government of Guam. It is implied that the Commission will be open 5 days a week, regardless of holidays.

The Executive Branch will implement the Chamorro Land Trust Act and will provide leases according to the statute and the much-delayed rules and regulations.

Very truly yours,



Carl T. C. Gutierrez

Attachment
230624

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 317 (LS), "AN ACT TO ESTABLISH RULES AND REGULATIONS OF THE CHAMORRO LAND TRUST COMMISSION PURSUANT TO §§75103 AND 75107 OF CHAPTER 75, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO LEASES FOR RESIDENTIAL AND AGRICULTURAL USES," was on the 14th day of September, 1995, duly and regularly passed.



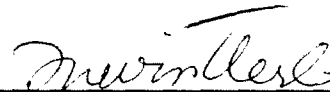
DON PARKINSON
Speaker

Attested:



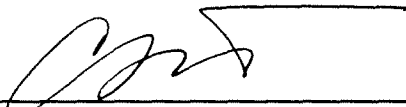
JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 14th day of September,
1995, at 4:25 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 9-14-95

Public Law No. 23-38

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 317 (LS)

As substituted by the
Committee on Community,
Housing and Cultural Affairs

Introduced by:

Committee on Rules, at the
request of the Governor
in accordance with the
Organic Act of Guam

J. P. Aguon
T. S. Nelson
J. T. San Agustin
T. C. Ada
E. Barrett-Anderson
A. C. Blaz
J. S. Brown
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
A. C. Lamorena
C. Leon Guerrero
L. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO ESTABLISH RULES AND REGULATIONS
OF THE CHAMORRO LAND TRUST COMMISSION
PURSUANT TO §§75103 AND 75107 OF CHAPTER 75,
TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO

LEASES FOR RESIDENTIAL AND AGRICULTURAL
USES.

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

2 **Section 1. (a) Legislative authority to establish rules and**
3 **regulations.** §§75103 and 75107 of Chapter 75, Title 21, Guam Code
4 Annotated authorize the Chamorro Land Trust Commission to make rules
5 and regulations pursuant to the Administrative Adjudication Law.

6 **(b) Rules and regulations in bill form.** Pursuant to Public Law 22-96,
7 for the convenience of the Legislature, rules and regulations are submitted to
8 the Legislature in bill form. Unless changed by statute, the rules and
9 regulations submitted in bill form shall be approved pursuant to the
10 Administrative Adjudication Law and be effective as rules and regulations
11 subject to further change according to the provisions of the Administrative
12 Adjudication Law.

13 **Section 2. Chamorro Land Trust Commission rules and regulations as**
14 **to tract leases.** Notwithstanding any other provision of law, rule, regulation,
15 and Executive Order, the rules and regulations for tracts to be leased by the
16 Chamorro Land Commission, as revised by the Legislature and attached
17 hereto as Exhibit "A", are hereby approved by the Twenty-Third Guam
18 Legislature.

19 **Section 3.** The Rules and Regulations adopted by this Act shall not
20 affect the provisions of the Chamorro Land Trust Act, Chapter 75 of Title 21,
21 Guam Code Annotated. Any provision or application of these Rules and
22 Regulations which conflicts with the Chamorro Land Trust Act or is held
23 invalid shall be null and void. The invalidity of a provision or application
24 shall not affect other provisions or applications of the Rules and Regulations.

1 which can be given effect without the invalid provision or application, and to
2 this end the provisions of the Rules and Regulations are severable.

3 **Section 4.** The Rules and Regulations adopted by this Act shall be
4 known as "The Senator Paul Bordallo Rules and Regulations for the
5 Chamorro Land Trust Commission".

6

1. Authority and Purpose.

1.1 Authority.

Pursuant to the mandate of Public Law 12-226, now codified as Chapter 75 of Title 21, Guam Code Annotated, these rules and regulations are promulgated as authorized by §75103 of Title 21, Guam Code Annotated, to govern the implementation and administration of Chamorro homeland programs.

1.2 Purpose.

These rules and regulations set forth the necessary procedures with respect to lease applications; to set out in detail the standards of eligibility; to provide for methods of inspection and review, as well as a system of notice and hearing prior to lease revocation; and, generally, to provide for certain requirements necessary to meet the goals and objectives of the Chamorro homeland programs.

2. The Commission

2.1 Mission of Trustees.

The commission members, as trustees, shall: act exclusively in the interest of beneficiaries under the Act; hold and protect the trust property for beneficiaries under the Act; maintain and uphold their fiduciary responsibilities to the beneficiaries, and exercise such care and skill as a person of ordinary prudence would exercise in dealing with one's own

Chamorro Land Trust Commission
Kumision Inangokkon Tâno' Chamorro

property in the management of Chamorro homelands; and, adhere to the terms of the trust as set forth in the Act.

2.2 Offices.

The commission offices are located at Buildings 903, 905, and 907, Tiyan Barrigada, Guam or whatever successor office it might relocate to in the future.

2.3 Mailing address.

P.O. Box 2950, Agana, Guam 96910

2.4 Contact numbers.

Telephone: (671) 475-4251~8

Fax: (671) 477-8082

2.5 Hours.

The offices of the commission shall be open from 8:00 a.m. to 5:00 p.m., Monday through Friday, and provide for flexible hours as determined by the Commission for the convenience of the public.

2.6 Personnel.

All personnel on the commission's staff are under the direction of and are responsible to the director. The director, subject to law and civil service rules, shall select and discharge personnel for the commission's staff. The commission shall be informed of all changes in staff personnel.

EXHIBIT "A"

2.7 Absence, disability of director.

Whenever the director is absent or disabled from performing the duties of his office, the deputy shall assume the duties of the director.

3. The Management

3.1 Director to sign for commission.

All orders and other action of the commission shall be authenticated or signed by the director. The director shall approve and sign all vouchers and assignment of funds to be received under tract leases. After approval of the commission, the director shall sign all licenses, leases, loan contracts, personnel actions, procurement and purchase forms, contracts with other governmental agencies and commission resolutions. The Chairperson of the Commission shall countersign on behalf of the Commission where approval of the Commission is required.

3.2 Director responsible for administration.

The director shall have full charge of and responsibility for the administration and execution of all actions approved by the commission and in effectuating commission policy.

4. Definitions

As used in these rules and regulations:

EXHIBIT "A"

Chamorro Land Trust Commission
Kumision Inangokkon Tâno' Chamorro

- (a) *Administrative Adjudication Law* means Chapter 9 of Title 5, Guam Code Annotated.
- (b) *Agricultural Tract* means Chamorro homeland with an area of not less than one (1) nor more than twenty (20) acres.
- (c) *Agricultural use* means the use of Chamorro homeland and improvements for farming purposes.
- (d) *Chamorro homelands* means all lands given the status of Chamorro homelands under the provisions of §75105 of Title 21, Guam Code Annotated.
- (e) *Chamorro Land Trust Act or the act* means the policy for management and disposition of Chamorro homelands and related programs found in Chapter 75 of Title 21, Guam Code Annotated or any part thereof.
- (f) *Commission* means the Chamorro Land Trust Commission established by §75102 of Title 21, Guam Code Annotated.
- (g) *Director* means the Administrative Director of the Chamorro Land Trust Commission established by §75102 of Title 21, Guam Code Annotated.
- (h) *Native Chamorro* means any person who became a U.S. citizen by virtue of the authority and enactment of the Organic Act of Guam or descendants of such person.
- (i) *Residential Tract* means Chamorro homeland with an area of not less than ten thousand (10,000) square feet nor more than one (1) acre, or such other area which may be specified by zoning, subdivision, or environmental policies.
- (j) *Residential use* means the use of Chamorro homeland and improvements for the purposes of the primary domicile of the applicant.

EXHIBIT "A"

5. Application for Leases

5.1 Forms. Beginning on November 1, 1995, subject to approval of the Rules and Regulations, applications for residential or agricultural leases shall be made on forms, consistent with the Act and these rules and regulations, provided by the commission and shall be made under oath. Falsification of a material fact for the purposes of making the applicant qualified on an application form shall be grounds for removal of the applicant's name from the waiting list, or cancellation of any lease awarded the applicant, and may subject the applicant to liability for perjury. The Chamorro Land Trust Commission shall publish, at least three (3) times in a daily newspaper of general circulation, notice of the November 1, 1995, initial date for receiving applications.

5.2 Qualification of applicants.

(a) Applicants for residential or agricultural tract leases shall provide the commission with documented proof that the applicant is:

- (1) at least eighteen (18) years of age; and
- (2) a native Chamorro.

(b) The commission shall accept all completed applications for residential or agricultural tracts from native Chamorros who are at least eighteen (18) years old.

(c) In addition to the qualifications required in subsection (a), a person applying for an agricultural lease may be required to comply with section 6.7 before a lease award can be made.

EXHIBIT "A"

5.3 Application processing.

(a) Applications shall be dated and signed by the applicant and by an authorized commission representative. The commission shall acknowledge in writing receipt of all properly completed applications. An incomplete application shall be returned to the applicant with instructions necessary to properly complete the application. Completed applications shall be time stamped, and if accepted, assigned a numerical designation, and filed in the order of receipt. Additions, corrections or deletions may be made only with the approval of the applicant and the director. A copy of the application shall be made available to the applicant. Except as otherwise provided in this chapter, a numerical designation shall not be reassigned to any other person. The applicant shall pay a one-time processing fee of \$50.00 to the commission within 30 days from application submittal.

(b) Within thirty days after the submission and filing of the completed application and all such other documents as the commission shall require of the applicants, and any investigation the commission shall require of the applicants, and any investigation the commission may conduct, the director shall make a determination as to whether the applicant qualifies as an applicant. Such determination shall be based upon the application form, birth, marriage, and death certificates, and any investigation the commission may conduct consistent with the Act and these rules and regulations. An applicant who disagrees with any action taken by the commission shall have thirty days from receipt of written notice of such action within which to petition the commission for appearance before the next regular meeting of the commission concerning the action taken on the application, at which time

the Commission shall hear and review the application and it shall make an independent decision on the matter.

5.4 Residential tract applications.

(a) Applications for residential tract leases shall be made for one lot only. One island-wide residential tract waiting list shall be maintained.

5.5 Agricultural tract applications.

For application purposes, the commission shall establish and maintain an island-wide waiting list for designated agricultural tracts.

5.6 Village and island-wide waiting lists.

(a) Applicants will be placed on the respective island-wide residential and/or agricultural tract waiting list in the order specified in section 5.3(a).

(b) In the event a new residential subdivision is opened, applicants on the island-wide waiting list shall be considered for award in accordance with rule 6.2.

(c) An applicant who is awarded a lot shall be able to decline lots in two different villages. After declining a third award, an applicant's name shall be removed from the waiting list.

(d) On or before the 15th day of every month, a copy of the priority listing for the previous month as of the last day of the month shall be recorded at the Department of Land Management.

5.7 Contract for award; priority.

Applicants shall be considered for award in the order in which their completed applications were received by the commission; provided that awards shall first be made according to ranking in existing priority waiting lists in that order until those waiting lists are exhausted.

5.8 Transfer of application rights.

(a) An applicant may designate a relative qualified under the Act to include husband and wife, children, widows or widowers of the brothers and sister, or nieces and nephews to succeed to the applicant's application rights upon the death of the applicant. Upon the death of an applicant who dies without designating a successor, the application rights may be succeeded by the qualified relative as provided in (1) and (2) in this section upon application therefor. In the absence of such a designation, the commission may

(1) Designate, in its absolute discretion, a successor from among the applicants for succession to the application rights of the deceased applicant in the order named in this paragraph (a); or

(2) Allow an unqualified spouse to designate a qualified child to succeed to the deceased applicant's application rights.

Requests for succession to application rights shall be made to the commission in writing not later than 180 days after the death of the applicant; otherwise, the application will be cancelled and the applicant's name removed from the waiting list.

5.9 Posting lessee awards.

The commission shall post, in every municipal mayor's office and once in a publication of general circulation, the names, file numbers, and dates of application of all who receive lease awards within two weeks after awards are made. They shall remain posted for a period of sixty (60) days.

5.10 Applicant current information.

(a) An applicant for awards must notify the commission, in writing, of any change in address or other information contained in the application within fifteen calendar days of such change. Whenever the commission initiates action for awards, all applicants whose application information is not current will be given ninety (90) days written notice to update the information. Written notice shall either be served personally upon the applicant or be sent to the applicant by registered mail addressed to his mailing address, as indicated on the applications. If notice is not personally served, it shall also be published once in a daily newspaper of general circulation in the territory of Guam within three days of the date the notice is mailed out. If the applicant does not furnish the information necessary to facilitate the award within 90 days of notice, the commission shall remove the applicant from the award list and the applicant must re-apply as a new applicant.

(b) The applicant may appeal the commission's decision to remove his name from any award list as provided by the Administrative Adjudication Law.

6. Leases to Native Chamorros

6.1 Residential tract leases; awards.

(a) Whenever residential tracts are available, the commission shall award residential tract leases to applicants who, in the opinion of the commission, are qualified to perform the conditions of such leases. The commission's opinion as to the applicant's qualification shall be based on criteria specified in the Act.

(b) The lessee shall occupy and commence to use the tract as his home within one year after the lease is made.

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

6.2 Awards; when, order.

(a) Whenever homeland lots are available, the commission shall award leases to applicants who meet the qualification requirements specified herein and contained in the Act.

(b) The commission shall award lots on a first-come first-served basis at the discretion of the applicant.

(c) In addition to (a) and (b) above, the commission shall prioritize awards for residential tracts to applicants in the following descending order:

EXHIBIT "A"

- (1) Those who do not own land anywhere;
- (2) Those who own one (1) acre or less anywhere;
- (3) Those who own more than one (1) acre anywhere.

6.3 Award of lease; lessee's performance.

(a) The commission shall, whenever tracts are available, enter into such a lease with any applicant who, in the opinion of the commission, is qualified to perform the conditions of such lease.

(b) In determining whether an applicant is qualified to occupy, commence construction, or use a residence, any of the following shall be sufficient proof for the commission to find compliance:

(1) Approved loan or financing for the construction of a residence, or a conditional letter of intent or the equivalent;

(2) Contract between the applicant and a construction company for the construction of a residential dwelling;

(3) Equivalent evidence of the applicant's intent and ability to construct a residential dwelling; or

(4) Equivalent evidence of the applicant's intent and ability to fulfill pre-existing requirements entered into between other parties with respect to the residential dwelling the applicant wishes to occupy.

6.4 Awards to occupants of homelands; when.

(a) Notwithstanding the provisions of section 5, subsections 5.4 through 5.10, the commission shall not serve eviction notices to individuals who presently reside and have continuously resided on Chamorro homelands prior to July 12, 1995, and who qualify under the Act.

EXHIBIT "A"

(b) Persons presently holding land use permits and who qualify under section 5.2 will hereby maintain their home or farms, adhering to all other requirements of the Act and these rules and regulations.

6.5 Agricultural tract leases.

(a) Whenever agricultural tracts are available, the commission shall award agricultural tract leases to applicants who, in the opinion of the commission, are qualified to perform the conditions of such leases. The commission's opinion as to the applicant's qualification shall be based on criteria specified in the Act.

(b) The lessee shall occupy and commence to use the tract to cultivate as his farm, within one year after the lease is made.

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

6.6 Residence permitted on agricultural lot.

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

(1) The lessee has actively cultivated or developed at least two-thirds of the agricultural tract at all times;

Chamorro Land Trust Commission
Kumision Inangokkon Tâno' Chamorro

(2) Approval by the commission; and

(3) Conformance to all territorial zoning and building requirements.

(b) A lessee possessing a residential tract lease may construct a residence on the lessee's agricultural tract; provided that, the lessee complies with all other conditions imposed by this section, section 7.3, and:

(1) Lessee makes prior arrangements to surrender or transfer the residential tract lease upon the completion of construction of the residence on the lessee's agricultural tract. Should it be feasible, the lessee may relocate the present house;

(2) Lessee must be financially able to assume the cost of relocation or construction of the new residence plus any related expenses necessary to maintain the agricultural tract. The commission may assist the lessee under chapter 8; and

(3) In the event the lessee surrenders the residential tract lease, the net proceeds thereof shall be first credited to any loan granted by the commission for the construction of a home on the agricultural tract.

(c) The commission shall not be liable for expenses incurred by the lessee for amenities brought to the tract. The commission shall not provide nor be required to provide such amenities, except as it may determine in the planned development of its lands.

(d) Upon cancellation, surrender, or transfer of the agricultural tract, the lessee shall relinquish the entire leasehold interest including the residence.

6.7 Livestock and crops.

(a) Lessees may raise animals intended for consumption on their agricultural leasehold to supply immediate family needs.

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

(1) Submission of a plan for commercial production of animals which shall include, but not be limited to, projections for production, methods of production, sanitation control measures, and proximity to surrounding residences;

(2) Approval by the commission;

(3) Conformance to all territorial zoning and health laws and rules; and

(4) The operation is restricted to confined feeding and not for open grazing.

(c) Agricultural tract lessees may raise crops for fodder to be used only for animals on the lot. A portion of the lot may be utilized to raise vegetables or fruit crops for consumption by the lessee's immediate family.

6.8 Lease cancellation.

(a) The commission may cancel a lease to a native Chamorro, as specified by §75110 of the Act and the Administrative Adjudication Law, for the following reasons:

(1) Violation by the lessee of a condition enumerated in the Chamorro Land Trust Act;

(2) Violation of a condition enumerated in the lease agreement;

(3) Violation of a condition enumerated in these rules and regulations;
or

(4) Intentional falsification of material information by the lessee on application for financial assistance submitted to the commission.

(b) No lease shall be cancelled without first affording the lessee the right to a hearing as prescribed in the Administrative Adjudication Law.

6.9 Commercial leases [Reserved]

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

7. Conditions in Leases.

7.1 Additional conditions generally.

In addition to the conditions in leases set forth in the Chamorro Land Trust Act, and in the lease document, all lessees shall be subject to the restrictions set forth in this section.

7.2 Industrial or commercial activities.

(a) No industrial or commercial activities shall be allowed on Chamorro homeland leaseholds, except those which are authorized for license by the Act.

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

EXHIBIT "A"

7.3 Building requirements.

(a) No building structure or improvement may be constructed on the premises without written approval from the commission. Such an approval shall be considered only after submission of a plan as to design, materials, and probable value and use of the structure to be built on the leasehold. Such building structures or improvements must meet building and zoning codes and other ordinances and regulations of the territory.

(b) The commission shall provide assistance to the lessee in understanding the building code requirements which would render the proposed building or other improvement suitable for approval.

7.4 Contracts covering leased lands.

No lessee may, without written approval from the commission, enter into any contract, joint venture, agreement or other arrangement of any sort with a third person on lands covered by lessee's lease for the cultivation of crops or the raising of livestock.

7.5 Transfer of leases.

Requests for transfers will be considered for approval only if the lessee has held such lease for a period of at least seven years, unless the commission, in its considered opinion, finds that an emergency exists which makes transfer imperative. A lessee may transfer the leasehold to any individual who qualifies under the Act, and is at least eighteen (18) years old. The transferee must immediately occupy the residential tract or use or cultivate the agricultural tract. Failure to occupy or use such tract within sixty (60) days

from date of transfer shall constitute grounds for cancellation of such lease. A transferee may own an interest in non-Chamorro homelands real property, regardless of degree of ownership.

7.6 Occupancy and other requirements.

(a) The time period by which a lessee is required to occupy a residential lot or to commence to use or to cultivate an agricultural lot shall be stipulated in the lease.

(b) Except as otherwise provided in the lease, the commission may require a lessee of an agricultural lot to have under development, cultivation, or use at least two-thirds of the usable acreage at all times.

(c) Lessees shall be responsible for maintaining their premises secure from fire, theft, and vandalism and shall comply with the requirements of their lease at all times.

(d) A lessee who does not have a house on the lot shall provide the commission with a current mailing address and such other information as the commission may require.

7.7 Sublease prohibited.

The lessee shall not sublet his interest in the tract or improvements thereon. Violation of this provision shall constitute grounds for cancellation of such lease.

8. Loans and Funds

8.1 Loans and Funds. [Reserved]

Since a source of funding for loans has not been identified, no loans shall be made by the Chamorro Land Trust Commission until Rules and Regulations covering the same have been adopted pursuant to the Administrative Adjudication Law.

9. Successors to Lessees

9.1 Designation of successors.

(a) A lessee shall, upon execution of the lease, designate the person in whom lessee directs the interest in the tract to vest upon death. Such person must be qualified to succeed to Chamorro homelands as provided by the Act and these rules. A lessee may elect to provide for the surrender of the lot upon death and may select a recipient for the proceeds from the surrender. A lessee's designation under this section may be changed at any time by the lessee.

(b) Such designation shall be made as specified in the Act with the right in the lessee to change the beneficiary at any time, if filed with and approved by the commission.

9.2 Reversion to the commission.

Where a lessee dies having failed to designate a successor, the commission may select a successor as provided in the Act. Otherwise, the lease shall be cancelled. The land subject to the lease shall resume its status as unleased Chamorro homelands, and the commission shall be authorized to lease said land to a native Chamorro as provided in the Act.

9.3 Notice to successors.

Upon the death of a lessee having no designated successor, the commission shall publish such fact by publishing a notice at least once in each of four successive weeks in a newspaper of general circulation. The notice shall state briefly that all persons claiming to be relatives of the lessees qualified to succeed to the lease shall present themselves at the commission with proof of their qualification, within four months from the first day of publication of the notice or be forever barred from succeeding to the lease. Those persons failing to present themselves within four months from the first day of publication of the notice shall be forever barred from succeeding to the lease in question.

9.4 Appraisals.

(a) Upon the death of a lessee leaving no individual qualified to be a successor lessee, if the commission is unable to designate a successor, or upon the cancellation or the surrender of a lease, the commission shall appraise the value of all improvements of the tract or tracts.

(b) An appraisal made pursuant to this section shall be made by three appraisers, subject to the exception of lessee waiver described herein, one of whom shall be named by the commission, one by the previous lessee or the

legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers herein before mentioned. The previous lessee or the designated representative of the deceased lessee shall bear the cost of its named appraiser. The cost of the third appraiser shall be shared equally between the commission and the previous lessee or legal representative of the deceased lessee. The previous lessee or legal representative of the deceased lessee may waive the three-man appraisal in favor of the sole appraisal made by the commission, or a compromise sole appraisal made by the commission, or a compromise valuation made between the commission and lessee.

9.5 Payments.

(a) The commission shall pay to the legal representative, administrator or executor of the deceased lessee or to the previous lessee, as the case may be, the appraisal value less:

- (1) Any indebtedness to the commission;
- (2) Taxes;
- (3) Any other indebtedness, the payment of which has been assured by the commission;
- (4) Any costs incurred by the commission for upkeep and cleaning of the leased premises; and
- (5) For any crops or improvements the commission demands removed;

(b) Payments provided in subsection (a) shall be made out of the Chamorro home loan fund and shall be considered an advance therefrom,

reimbursable out of payments by the transferee or new lessee to the tract involved.

(c) The commission may make the payment only after a new lessee is found and upon commencement of the new lease.

(d) Payments shall be made in equal annual increments over a period of five years, and shall bear interest at the rate of two and one-half percent (2 1/2%) on the unpaid balance; provided, that where the commission has sufficient funds available and such payment does not unreasonably impair the Chamorro home loan fund, the commission may pay the entire amount or fraction thereof as it deems proper, but in no case less than twenty percent (20%) per year for five years.

9.6 Cancellation and surrender.

(a) Upon receipt of written notification of a lessee's intent to surrender, the commission shall process the same. The commission may forego acceptance of a surrender until a new lessee is found and it is determined by the commission that sufficient funds are available in the Chamorro home loan fund to meet the payments required. At all times until acceptance of surrender, the lessee shall remain responsible for the demised leasehold together with any improvements thereon, and shall remain liable for all taxes, assessments and charges of whatever kind and nature, on said tract and improvements thereon.

(b) Upon the cancellation or surrender of a residential tract, should it be determined by the commission that the residence constructed on the premises is in such disrepair that demolition of the structure is required, the lessee shall be allowed to sell said structure within ninety (90) days from the date of the

cancellation or acceptance of surrender; provided that any proceeds be first used to satisfy any indebtedness to the commission, taxes, or any other indebtedness the payment of which has been assured by the commission, or any costs incurred by the commission for upkeep and cleaning of the leased premises. Sale of the structure shall not cause harm or affect in any way rights to the underlying property. Lessee shall repair and restore all damage to the Premises caused by removal of any alterations, additions, improvements or fixtures in the Premises. Lessee's obligations under this provision shall survive the expiration or termination of the Lease. If lessee fails to have structure removed, the commission may demolish the structure and the cost thereof shall be assessed the lessee.

10. Community Pastures

10.1 Location of community pastures.

The commission, when practicable and as authorized under the Act, shall maintain community pastures in such locations as it may determine.

10.2 Records.

A record of all stock in community pastures shall be kept by the commission.

10.3 Responsibilities.

(a) The lessees shall be responsible for:

(1) Permanently branding all animals with a registered brand of the lessee;

EXHIBIT "A"

Chamorro Land Trust Commission
Kumision Inangokkon Tãno' Chamorro

- (2) Worming and testing all animals and confirming district origin;
- (3) Removing sick, diseased or severely injured animals; and
- (4) Arranging for removal of animals at least forty-eight (48) hours in advance of the move with the commission.

(b) The commission shall be responsible for managing and supervising the operation to ensure equal access and use of the pastures.

TWENTY-THIRD GUAM LEGISLATURE
 1995 (FIRST) Regular Session

Date: 9/14/95

VOTING SHEET

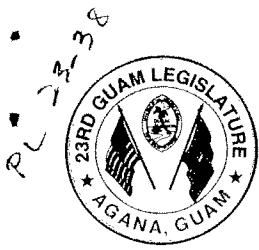
Bill No. 317

Resolution No. _____

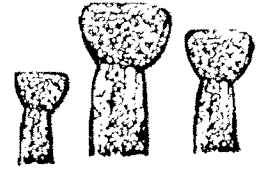
Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL 21 0 0 0



Ufisinan I TaoTao Tano'
Senator Angel L.G. Santos
Chairperson, Committee on Community,
Housing & Cultural Affairs



September 8, 1995

Speaker Don Parkinson
Twenty-Third Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Community, Housing, and Cultural Affairs hereby reports back to the Legislature on its action and findings relative to **Bill No. 317, as substituted by the Committee**- An act to establish rules and regulations of the Chamorro Land Trust Commission pursuant to §§75103 and 75107 of Chapter 75, Title 21, Guam Code Annotated, relative to leases for residential and agricultural uses.

The voting record is as follows:

TO PASS	<u>9</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
INACTIVE FILE	<u>0</u>

The Committee Report and supporting documents are attached.

According to Public Law 22-96, the Legislature has forty-five (45) calendar days plus seven (7) legislative days to approve, disapprove or amend any rules. For the record, my Committee has modified the Chamorro Land Trust rules originally submitted by the Governor to the Legislature and the 45 calendar days have expired. Should the 7 legislative days, scheduled to begin September 11, 1995, expire before the legislative body acts on the matter, the version of the rules which shall be deemed adopted will be the version reported out of my Committee.

On behalf of all the people who have waited two decades for their dream to come true, I extend warmest regards for your own personal involvement and contribution in re-writing the rules and regulations.

Si Yu'os Ma'ase,

ANGEL L.G. SANTOS
attachments

Commonwealth Now!



Ufisinan I TaoTao Tano'
Sinadot Anghet L.G. Santos

Ge'hilo' I Kumunidat Guma' yan
Asuntun Kottura na Kumite



September 7, 1995

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report on **Bill No. 317, as substituted by the Committee-** An act to establish rules and regulations of the Chamorro Land Trust Commission pursuant to §§75103 and 75107 of Chapter 75, Title 21, Guam Code Annotated, relative to leases for residential and agricultural uses.

Transmitted herewith for your consideration and action is our Committee Report on the subject matter.

Please indicate your choice on the attached VOTING RECORD and return the documents to my office for transmittal to the other members.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Your attention and cooperation in this matter are greatly appreciated.

A handwritten signature in black ink, appearing to read "Angel L.G. Santos".

ANGEL L.G. SANTOS
attachments

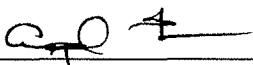
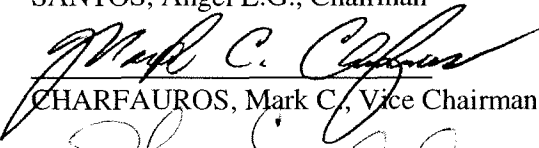
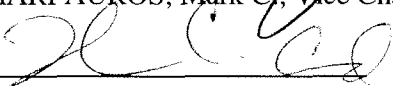
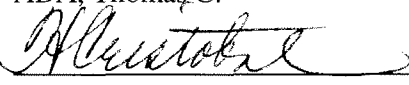
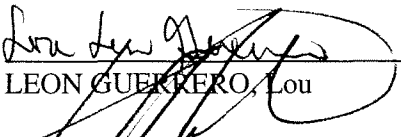
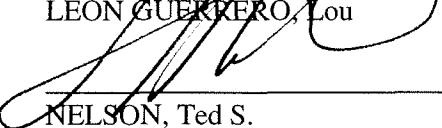

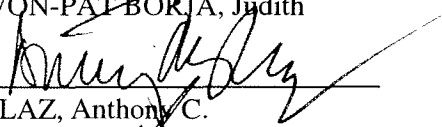
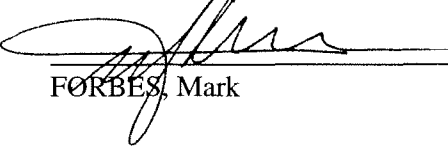
Fanohge Chamoru • Commonwealth Pa'go!

#324 W. Soledad Ave., Suite 202 Agana, Guam 96910

• Tel: (671) 472-3586/3411 • Fax: (671) 477-4482

COMMITTEE ON COMMUNITY, HOUSING, AND CULTURAL AFFAIRS
23rd Guam Legislature
VOTING RECORD

Bill No. 317, as substituted by the Committee - An act to establish rules and regulations of the Chamorro Land Trust Commission pursuant to §§75103 and 75107 of Chapter 75, Title 21, Guam Code Annotated, relative to leases for residential and agricultural uses.

	<u>TO</u> <u>PASS</u>	<u>NOT TO</u> <u>PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE</u> <u>FILE</u>
 SANTOS, Angel L.G., Chairman	✓	—	—	—
 CHARFAUROS, Mark C., Vice Chairman	✓	—	—	—
 ADA, Thomas C.	✓	—	—	—
 CRISTOBAL, Hope A.	✓	—	—	—
 LEON GUERRERO, Lou	✓	—	—	—
 NELSON, Ted S.	✓	—	—	—
 PANGELINAN, Vicente C.	✓	—	—	—
 WON-PAT BORJA, Judith	—	—	—	—
 BLAZ, Anthony C.	✓	—	—	—
 FORBES, Mark	✓	—	—	—
 LAMORENA V, Alberto	—	—	—	—
 LEON GUERRERO, Carlotta	—	—	—	—
 PARKINSON, Don, Ex-Officio	—	—	—	—



COMMITTEE ON COMMUNITY, HOUSING,
AND CULTURAL AFFAIRS
Twenty-Third Guam Legislature



REPORT

on

Bill No. 317

as substituted by the Committee

An act to establish rules and regulations of the Chamorro Land Trust Commission pursuant to §§75103 and 75107 of Chapter 75, Title 21, Guam Code Annotated, relative to leases for residential and agricultural uses.

September 7, 1995

COMMITTEE MEMBERS

Angel L.G. Santos, Chairman

Mark C. Charfauros, Vice-Chairman

Thomas C. Ada

Anthony C. Blaz

Hope A. Cristobal

Mark Forbes

Alberto Lamorena V

Carlotta Leon Guerrero

Lou Leon Guerrero

Vice Speaker Ted S. Nelson

Vicente C. Pangelinan

Judy Won Pat-Borja

Speaker Don Parkinson, Ex-Officio

I. OVERVIEW

The Committee on Community, Housing and Cultural Affairs conducted a public hearing on July 17, 1995 at 10:00 AM at the Adelup Parade Grounds Pavilion, Agana, to receive public input on Bill No. 317. Public notice was given in the Pacific Daily News on July 16, 1995.

Committee members present were:

Senator Angel Santos, Chairman

Senator Mark Charfauros

Senator Ted Nelson

Senator Hope Cristobal

Senator Carlotta Leon Guerrero

The Committee received a total of 317 requests to present testimony on this measure. The sign-in sheets indicate:

In **FAVOR** with conditions to amend Bill 317 to be **consistent** with Public Law 12-226 and Chapter 75, Title 21, Guam Code Annotated: **303**

AGAINST Bill 317 in its entirety: **10**

The Committee received **121 oral** testimonies favoring passage of the Bill.

II. SUMMARY OF THE HEARING

The Committee received overwhelming opposition from the Nasion Chamoru (Chamoru Nation), residents of Agat and the community-at-large on Bill No. 317 as introduced.

Representatives of the Nasion Chamoru testified to the Committee that over twenty years have passed since the passage of Public Law 12-226 and that the people have waited too long. The Maga'Lahi for Nasion Chamoru, Edward Benavente, told the Committee that in February 1992 the Chamoru Nation asked Governor Joseph F. Ada to implement the Chamorro Land Trust Act. The Governor, his legal counsel and the Attorney General however took the position that the Act was unconstitutional. Superior Court Judge Benjamin J. Cruz ruled that the Act is **constitutional** and further ordered Governor Ada to immediately begin its implementation. Yet it took the Chamorro Land Trust Commission three years to formulate its rules and regulations and submit them to the Legislature as Bill 317, only to find out that they are **not** consistent with Public Law 12-226.

Maga'Lahi Benavente told the Committee that, *unless Bill No. 317 is amended to be consistent with P.L. 12-226, he and the Nasion Chamoru will not support it.* Benavente made reference to the proposed fifty (50) year lease, the two hundred dollars (\$200.00) a

year rental, the pre-approved financing and resident requirements, all which are **inconsistent** with P.L. 12-226.

Testimony was also heard from attorney Michael Phillips. Phillips opposed the Bill as introduced for the same reasons indicated by Maga'Lahi Benavente. The Bill in its original form lacks consistency with P.L. 12-226. The existing Land Trust Act should not be amended; the proposed rules and regulations should be written to follow the spirit and letter of the law.

The Committee then heard testimony from Tun Jesus "Chamorro" Charfauros who echoed opposition to the Bill because its language lacked consistency with P.L. 12-226. The rules and regulations need to be written in the spirit of the law with the vision of our leaders in the Twelfth Guam Legislature.

Further testimony were presented by Dave Sablan, spokesperson for the Nasion Chamoru's protest at Adelup, and Dave Herrera who represented more than five hundred (500) people from the village of Agat in opposition to the Bill as introduced. Both called for changes to the Bill which would make it consistent with P.L. 12-226 and then they would support it.

III. FINDINGS AND RECOMMENDATION

Bill 317, introduced at the Governor's request, is a measure to establish rules and regulations for the residential and agricultural lease programs to be administered by the Chamorro Land Trust Commission (the "Commission"). It sets forth the qualifications of people who can lease and how they go about applying for land.

The Committee finds that the rules and regulations contained in Bill 317 **do not** abide with the provisions of the Chamorro Land Trust Act (the "Act"), originally enacted as Public Law 12-226 and subsequently codified as Chapter 75, Title 21, Guam Code Annotated. Specifically, the rules **specify a residency requirement of seven (7) years, reduce the lease period from ninety-nine (99) to fifty (50) years and increase the lease rate from one dollar (\$1.00) to two hundred dollars (\$200.00) per year.** Additionally, the rules call for applicants to **construct typhoon-resistant dwellings.**

The Committee finds no compelling reason or justification to alter the Act. In 1992, the Act was challenged in court by then-Attorney General, now Senator, Elizabeth Barrett-Anderson and Superior Court Judge B.J. Cruz ruled that the Act was "organic" and ordered then-Governor Joseph F. Ada to immediately implement it. Three years went by and a new Governor was elected before rules were drafted. As submitted to the 23rd Guam Legislature, those rules contradict and violate the Act. The Committee finds that

Governor Gutierrez's commissioner-appointees, like former Governor Ada's, contemptuously carry out their duties and responsibilities. The Committee does not support the rules and regulations submitted by the Commission and the Governor.

For the record, the Committee lists the names of commissioners, managers and legal counsels entrusted with the custody of Chamorro homelands:

Governor Ada's administration

Arthur Barcinas, chairman	Isabel Montague, commissioner
Rita Okada, commissioner	Fred Quitugua, commissioner
Dan Tydingco, commissioner (dec.)	
Joseph Borja, administrative director	Martin Gerber, deputy director
Monessa Lujan, legal counsel	

Governor Gutierrez's administration

Carol Ibanez, chairperson	Tomas Aguon, commissioner
John Finona, commissioner	Joseph Gumataotao, commissioner
Rita Okada, commissioners	
Joseph Borja, administrative director	Lydia Cruz, deputy director
Anita Sukola, legal counsel	

The Committee staff, with input from Speaker Parkinson, Committee legal counsel and Majority legal counsel, revised the rules to be in concert with the Act. Committee members reviewed the changes on August 31, 1995 and a public hearing was conducted on September 5, 1995 to apprise the general public of those changes. The vast majority of testimony at that hearing were favorable for the adoption of the revised rules and reflected the general sentiments expressed at the July 17, 1995 Committee hearing. The suggestions by the Guahan Landowners United to amend the Chamorro Land Trust Act by mandating the Commission to set aside homelands which had known private owners was dismissed by the Committee because there is a current mechanism in the Act to accommodate those situations.

Accordingly, the Committee on Community, Housing and Cultural Affairs, to which was referred **Bill No. 317**, submits its findings and recommendation to the Twenty-Third Guam Legislature to "DO PASS" Bill 317, as substituted by the Committee.



Ufisinan I TaoTao Tano'
Sinadot Anghet L.G. Santos

Ge'hilo' I Kumunidat Guma' yan
 Asuntón Kottura na Kumite



WITNESS SIGN-IN SHEET
Public Hearing

Substitute Bill No. 317

"An act to establish Rules & Regulations for the Chamorro Land Trust Act pursuant to §75103 and §75107 of Chapter 75, Title 21, Guam Code Annotated (GCA), relative to residential and agricultural leases, as substituted by the Committee."

Tuesday, September 5, 1995
10:00 AM
Legislative Session Hall
Guam Legislature, Agana

NAME (Please Print)	ORGANIZATION	ORAL or WRITTEN	FOR or AGAINST
✓ PAUL MURRAY	BOMBS AWAY	ORAL	FOR
✓ Kore Bell	Private	oral	for
✓ F.M. SACAS	Private	ORAL	for
R. Y. Taranao	Private	oral	FOR
✓ JOSEPH M. BORJA	Chamorro Land Trust	written/oral	for



Ufisinan I TaoTao Tano'
Sinadot Anghet L.G. Santos

Ge'hilo' I Kumunidat Guma' yan
 Asuntun Kottura na Kumite



WITNESS SIGN-IN SHEET
Public Hearing

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Tuesday, September 5, 1995
 10:00 AM
 Legislative Session Hall
 Guam Legislature, Agana

NAME (Please Print)	ORGANIZATION	ORAL or WRITTEN	FOR or AGAINST
Felix C. Aguon	Chamorro nation	written	FOR
Diana Piraula	Chamorro Nation	written	FOR
VINCENT TENORIO	CHAMORRO NATION	WRITTEN	FOR
Tighe Gayer	GUAM	written	FOR (if they don't change it again)
Anna A. Flores	Chamorro	written	FOR
✓ Dee Piraula	Chamorro Nation	oral	for
✓ Rose P. Vaitano	Chamorro Nation	written	for
✓ Juan Santos	Chamorro Nation	written	for
ANNA BENAVENTE	_____	ORAL	FOR



Ufisinan I TaoTao Tano'
Sinadot Anghet L.G. Santos

Ge'hilo' I Kumunidat Guma' yan
 Asuntun Kottura na Kumite



WITNESS SIGN-IN SHEET
 Public Hearing

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Tuesday, September 5, 1995

10:00 AM

Legislative Session Hall
 Guam Legislature, Agana

NAME (Please Print)	ORGANIZATION	ORAL or WRITTEN	FOR or AGAINST
<i>Juanita P. Cruz</i>	<i>Chamorro</i>		FOR //
<i>✓ Marthy SM Horde</i>	<i>//</i>	<i>Written</i>	<i>//</i>
<i>Rumbo Benavente</i>	<i>//</i>		<i>For it</i>
<i>Marie San Nicolas</i>	<i>//</i>		<i>// //</i>
<i>Juanito Campos</i>	<i>//</i>		<i>// //</i>
<i>Jose M. Campos</i>	<i>//</i>		<i>// //</i>



Ufisinan I TaoTao Tano'
Sinadot Anghet L.G. Santos

Ge'hilo' I Kumunidat Guma' yan
 Asuntun Kottura na Kumite



WITNESS SIGN-IN SHEET
Public Hearing

Substitute Bill No. 317

"An act to establish Rules & Regulations for the Chamorro Land Trust Act pursuant to §75103 and §75107 of Chapter 75, Title 21, Guam Code Annotated (GCA), relative to residential and agricultural leases, as substituted by the Committee."

Tuesday, September 5, 1995
10:00 AM
Legislative Session Hall
Guam Legislature, Agana

NAME (Please Print)	ORGANIZATION	ORAL <i>or</i> WRITTEN	FOR <i>or</i> AGAINST
<i>Josce S Jackson</i>			
<i>Amanda Santos</i>		<i>written</i>	<i>For</i>



Ufisinan I TaoTao Tano'
Sinadot Anghet L.G. Santos

Ge'hilo' I Kumunidat Guma' yan
 Asuntun Kottura na Kumite



WITNESS SIGN-IN SHEET
Public Hearing

Substitute Bill No. 317

"An act to establish Rules & Regulations for the Chamorro Land Trust Act pursuant to §75103 and §75107 of Chapter 75, Title 21, Guam Code Annotated (GCA), relative to residential and agricultural leases, as substituted by the Committee."

Tuesday, September 5, 1995

10:00 AM

Legislative Session Hall
 Guam Legislature, Agana

NAME (Please Print)	ORGANIZATION	ORAL or WRITTEN	FOR or AGAINST
✓ JOSE B. R. JARDORA	RITEXCO		FOR
✓ JOSE ULLOA GARRIDO	UNKNOWN	ORAL	FOR
✓ V. GARRIDO	CASAN Chamorro		FOR
✓ JUAN Q. GUZMAN	Chamorro	oral	for
✓ JUANITA Q. AGUON	Chamorro	oral	for
✓ GUDY MC JACKSON	CHAMORRO	ORAL	FOR
✓ Marianne Rios	Guahan Landowners	written oral	haven't read all
✓ Phillie Listero	" "	Need to read further	not given enough time
✓ Cruz	Chamorro		
✓ Joseph J. [unclear]	Chamorro	oral	For
✓ JOHNSON I. DeSoto	Chamorro	oral	For
✓ Alicia Pinaula	Chamorro	oral	For

Fanohge Chamoru • Commonwealth Pa'go!

#324 W. Soledad Ave., Suite 202 Agana, Guam 96910

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Ufisinan I TaoTao Tano'
Sinadot Anghet L.G. Santos

Ge'hilo' I Kumunidat Guma' yan
 Asuntion Kottura na Kumite



WITNESS SIGN-IN SHEET
 Public Hearing

Substitute Bill No. 317

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Tuesday, September 5, 1995
 10:00 AM
 Legislative Session Hall
 Guam Legislature, Agana

NAME (Please Print)	ORGANIZATION	ORAL or WRITTEN	FOR or AGAINST
TERESITA C. SUAREZ	NATION CHAMORRO	WRITTEN	FOR
BABALITA KATHERINE T	NATION CHAMORRO	WRITTEN	FOR
AGUSTO B. CRUZ	NATION CHAMORRO	WRITTEN	FOR
Adrian Quintana	Nation Chamorro		FOR
✓ ERWIN A JACKSON	NATION CHAMORRO	ORAL	FOR
✓ [Signature]	INTEGREN CHAMORRO	ORAL	FOR
✓ [Signature]	CHAMORRO	ORAL	FOR
✓ [Signature]	Chamorro	oral	For
✓ ANTHONY ANDERSON	CHAMORRO	ORAL	FOR
✓ EDDIE BENAVENTE	NATION CHAMORRO	ORAL	FOR
STIMMY DEE FLORES	CHAMORRITA SUNSET		
	Fiesta	ORAL	FOR

Chamorro Land Trust Commission

P.O. Box 2950 Agana, Guam 96910

Phone: 475-4251 Fax: 477-8082

Carol A. Ibanez, Chairperson
Rita C. Okada, Commissioner
John Q. Finona, Commissioner
Joseph T. Gumataotao, Commissioner
Tomas T. Aguon, Commissioner

Joseph M. Borja
Administrative Director

Lydia T. Cruz
Deputy Administrative Director

September 4, 1995

Honorable Angel L. G. Santos
Chairman, Committee on Housing and Community Development
Twenty Third Guam Legislature
Agana, Guam 96910

Subject: Substitute Bill No. 317 - "An act to Establish Rules and Regulations for the Chamorro Land Trust Act..."

Hafa Adai! Senator Santos:

Thank you for the opportunity to comment on Bill No. 317 as substituted by the Committee. The Commission is pleased that the proposed Rules and Regulations have been reviewed and further amended to reflect the desires of the Commission and of your Committee to effectuate rules and regulations that will guide the administering of the Chamorro Land Trust Act. The bill as substituted goes a few step further by incorporating language(s) for each of the section in a manner that is well-defined, clear and concise and we applaud your support for doing so.

The Commission does not see any major differences in the substituted version except in for the rental of the lease, the term of the lease and the agricultural tract lease which provides for commercial activities.

We do ask that you consider these items in your deliberation and would like to expound on why the Commission felt these changes are appropriate.

The Trust needs to be economically viable to perform its job. One way to raise money is change the existing \$1 rental lease to \$200 a year per leasehold. The money will help towards paying for the administration and operation of the Trust. We recognize that the lease payment is a token payment and the Trust can not rely only on this as scheme as a way to implement various programs. However, the financial resources generated by the leases will go a long way in paying for some of the costs to get the land ready for lease, to administer the programs, and to enforce the rules and regulations of the Trust.

The Commission will need to hire a highly qualified staff i.e. land agents, planners, surveyors, plan reviewers, financial officers and administrators to execute the lease program. The Trust has yet to get the staffing position approved and funded. The existing


staff are at a pay level that and job description that does not reflect the work that is required by the Commission. The existing budget will not adequately fund the needs of Trust. We will need to work with the Legislature to pass Bill 195 that will approve our organization and provide the necessary classified positions and funding.

In regards to the term of the lease, the Commission proposes a change to be 50 years in order to conform to existing law. The 50 year lease allows the Trust the flexibility to reflect the future requirements of the Land Trust.

In section 6.5 Agricultural tract leases: This section allows for subsistence, supplemental, commercial or otherwise type of farms. The Commission sees the commercial type farms to generate a much higher income than subsistence or supplemental farm type activities. The lease for commercial activity **should not** be based on the same lease fee for subsistence and supplemental farming. The leasehold will be generating income and eventually make a profit that we feel should be shared with the Commission.

The Commission looks forward to the adoption of Bill 317. Again we appreciate your input and thank you for allowing us the opportunity to comment.

Sincerely,


A handwritten signature in cursive script that reads "Carol Ann Ibanez". The signature is written in black ink and is positioned above the printed name.

Carol Ann Ibanez
Chairperson, Chamorro Land Trust

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 317
as substituted by the Committee on
Community, Housing and Cultural Affairs

Introduced by

J.P. Aguon 
Acting Chairman, Committee on Rules
by request of the Governor
in accordance with the
Organic Act of Guam

AN ACT TO ESTABLISH RULES AND REGULATIONS OF
THE CHAMORRO LAND TRUST COMMISSION PURSUANT
TO §§75103 AND 75107 OF CHAPTER 75, TITLE 21, GUAM
CODE ANNOTATED, RELATIVE TO LEASES FOR
RESIDENTIAL AND AGRICULTURAL USES.

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

2 **Section 1. (a) Legislative authority to establish rules and regulations.**

3 §§75103 and 75107 of Chapter 75, Title 21, Guam Code Annotated authorize the
4 Chamorro Land Trust Commission to make rules and regulations pursuant to the
5 Administrative Adjudication Law.

6 **(b) Rules and regulations in bill form.** Pursuant to Public Law 22-96, for the
7 convenience of the Legislature, rules and regulations are submitted to the
8 Legislature in bill form. Unless changed by statute, the rules and regulations
9 submitted in bill form shall be approved pursuant to the Administrative
10 Adjudication Law and be effective as rules and regulations subject to further
11 change according to the provisions of the Administrative Adjudication Law.

12 **Section 2. Chamorro Land Trust Commission rules and regulations as to**
13 **tract leases.** Notwithstanding any other provision of law, rule, regulation, and
14 Executive Order, the rules and regulations for tracts to be leased by the Chamorro

1 Land Commission, as revised by the Legislature and attached hereto as "Exhibit
2 A", are hereby approved by the Twenty-Third Guam Legislature.

Chamorro Land Trust Commission
Kumision Inangokkon Tãno´ Chamorro
Rules & Regulations

1st edition
duly adopted September ____, 1995



Table of Contents

1. AUTHORITY AND PURPOSE.....	1-1	6. LEASES TO NATIVE CHAMORROS ...	6-6
1.1 Authority.....	1-1	6.1 Residential tract leases; awards.....	6-6
1.2 Purpose.....	1-1	6.2 Awards; when, order.....	6-6
2. THE COMMISSION.....	2-1	6.3 Award of lease; lessee's performance.....	6-6
2.1 Mission of Trustees.....	2-1	6.4 Awards to occupants of homelands; when..	6-7
2.2 Offices.....	2-1	6.5 Agricultural tract leases.....	6-7
2.3 Mailing address.....	2-1	6.6 Residence permitted on agricultural lot.....	6-7
2.4 Contact numbers.....	2-1	6.7 Livestock and crops.....	6-8
2.5 Hours.....	2-1	6.8 Lease cancellation.....	6-9
2.6 Personnel.....	2-1	6.9 Commercial leases [Reserved].....	6-9
2.7 Absence, disability of director.....	2-1	7. CONDITIONS IN LEASES.....	7-9
3. THE MANAGEMENT.....	3-2	7.1 Additional conditions generally.....	7-9
3.1 Director to sign for commission.....	3-2	7.2 Industrial or commercial activities.....	7-9
3.2 Director responsible for administration.....	3-2	7.3 Building requirements.....	7-9
4. DEFINITIONS.....	4-3	7.4 Contracts covering leased lands.....	7-9
5. APPLICATION FOR LEASES.....	5-4	7.5 Transfer of leases.....	7-9
5.1 Forms.....	5-4	7.6 Occupancy and other requirements.....	7-10
5.2 Qualification of applicants.....	5-4	7.7 Sublease prohibited.....	7-10
5.3 Application processing.....	5-4	8. LOANS AND FUNDS.....	8-10
5.4 Residential tract applications.....	5-4	8.1 Funds and accounts.....	8-10
5.5 Agricultural tract applications.....	5-5	8.2 Purposes of loans.....	8-10
5.6 Village and island-wide waiting lists.....	5-5	8.3 Authorized actions.....	8-11
5.7 Contract for award; priority.....	5-5	8.4 Loan applications.....	8-11
5.8 Transfer of application rights.....	5-5	8.5 Application processing.....	8-11
5.9 Posting lessee awards.....	5-5	8.6 Loan standards.....	8-11
5.10 Applicant current information.....	5-5	8.7 Loan conditions.....	8-12
		8.8 Borrowed funds.....	8-13
		8.9 Additional funds.....	8-13



Table of Contents

9. SUCCESSORS TO LESSEE.....	9-13
9.1 Designation of successors.....	9-13
9.2 Reversion to the commission.....	9-13
9.3 Notice to successors.....	9-13
9.4 Appraisals.....	9-14
9.5 Payments.....	9-14
9.6 Cancellation and surrender.....	9-15
10. COMMUNITY PASTURES.....	10-15
10.1 Location of community pastures.....	10-15
10.2 Records.....	10-15
10.3 Responsibilities.....	10-15
11. APPENDIX A - THE LAW.....	11-16



Chamorro Land Trust Commission
Kumision Inangokkon Tāno' Chamorro

1. Authority and Purpose.

1.1 Authority.

Pursuant to the mandate of Public Law 12-226, now codified as Chapter 75, Title 21 of the Guam Code Annotated, these rules and regulations are promulgated as authorized by §75103, Title 21, Guam Code Annotated to govern the implementation and administration of Chamorro homeland programs.

1.2 Purpose.

These rules and regulations set forth the necessary procedures with respect to lease applications; to set out in detail the standards of eligibility; to provide for methods of inspection and review, as well as a system of notice and hearing prior to lease revocation; and, generally, to provide for certain requirements necessary to meet the goals and objectives of the Chamorro homeland programs.

2. The Commission

2.1 Mission of Trustees.

The commission members, as trustees, shall: act exclusively in the interest of beneficiaries under the Act; hold and protect the trust property for beneficiaries under the Act; maintain and uphold their fiduciary responsibilities to the beneficiaries, and to the exercise such care and skill as a person of ordinary prudence would exercise in dealing with one's own property in the management of Chamorro homelands; and, adhere to the terms of the trust as set forth in the Act.

2.2 Offices.

The commission offices are located at Buildings 903, 905 and 907, Tiyan Barrigada, Guam or whatever successor office it might relocate to in the future.

2.3 Mailing address

P.O. Box 2950, Agana, Guam 96910

2.4 Contact numbers

Telephone: (671) 475-4251~8

Fax: (671) 477-8082

2.5 Hours.

The offices of the commission shall be open from 8:00 AM to 5:00 PM, Monday through Friday, unless otherwise provided by statute.

2.6 Personnel.

All personnel on the commission's staff are under the direction of and are responsible to the director. The director, subject to law and civil service rules, shall select and discharge personnel for the commission's staff. The commission shall be informed of all changes in staff personnel.

2.7 Absence, disability of director.

Whenever the director is absent or disabled from performing the duties of his office, the deputy shall assume the duties of the director, unless the director directs otherwise.



Chamorro Land Trust Commission
Kumision Inangokkon Tãno´ Chamorro

3. The Management

3.1 Director to sign for commission.

All orders and other action of the commission shall be authenticated or signed by the director. The director shall approve and sign all vouchers and assignment of funds to be received under tract leases. After approval of the commission, the director shall sign all licenses, leases, loan contracts, personnel actions, procurement and purchase forms, contracts with other governmental agencies and commission resolutions.

3.2 Director responsible for administration.

The director shall have full charge of and responsibility for the administration and execution of all actions approved by the commission and in effectuating commission policy.



Chamorro Land Trust Commission
Kumision Inangokkon Tãno´ Chamorro

4. Definitions

As used in these rules and regulations:

(a) *Administrative Adjudication Law* means Chapter 9 of Title 5, Guam Code Annotated.

(b) *Agricultural Tract* means Chamorro homeland with an area of not less than one (1) nor more than twenty (20) acres.

(c) *Agricultural use* means the use of Chamorro homeland and improvements for farming purposes.

(d) *Chamorro homelands* means all lands given the status of Chamorro homelands under the provisions of §75105 of Title 21, Guam Code Annotated.

(e) *Chamorro Land Trust Act* or *the act* means the policy for management and disposition of Chamorro homelands and related programs found in Chapter 75 of Title 21, Guam Code Annotated or any part thereof.

(f) *Commission* means the Chamorro Land Trust Commission established by §75102 of Title 21, Guam Code Annotated.

(g) *Director* means the Administrative Director of the Chamorro Land Trust Commission established by §75102 of Title 21, Guam Code Annotated.

(h) *Native Chamorro* means any person who became a U.S. citizen by virtue of the authority and enactment of the Organic Act of Guam or descendants of such person.

(i) *Residential Tract* means Chamorro homeland with an area of not less than ten thousand (10,000) square feet nor more than one (1) acre, or such other area which may be specified by zoning, subdivision or environmental policies.

(j) *Residential use* means the use of Chamorro homeland and improvements for residential purposes.



Chamorro Land Trust Commission

Kumision Inangokkon Tãno´ Chamorro

5. Application for Leases

5.1 Forms.

Applications for residential or agricultural leases shall be made on forms consistent with the Act and these rules and regulations provided by the commission and shall be made under oath. Deliberate falsification of a material fact on an application form shall be grounds for removal of the applicant's name from the waiting list, or cancellation of any lease awarded the applicant, and may subject the applicant to liability for perjury.

5.2 Qualification of applicants.

(a) Applicants for residential or agricultural tract leases shall provide the commission with documented proof that the applicant is:

- (1) at least eighteen (18) years of age; and
- (2) a native Chamorro.

(b) The commission shall accept all completed applications for residential or agricultural tracts from native Chamorros who are at least eighteen (18) years old.

(c) In addition to the qualifications required in subsection (a), a person applying for an agricultural lease may be required to comply with section 6.7 before a lease award can be made.

5.3 Application processing.

(a) Applications shall be dated and signed by the applicant and by an authorized commission representative. The commission shall acknowledge in writing receipt of all properly completed applications. An incomplete application shall be returned to the applicant with instructions necessary to properly complete the application. Completed applications shall be time stamped, and if accepted, assigned a numerical designation, and filed in the order of receipt. Additions, corrections or deletions may be made only with the approval of the applicant and the director. A copy of the application shall be made available to the applicant. Except as otherwise provided in this chapter, a numerical designation shall not be reassigned to any other person. The applicant shall pay a one-time processing fee of \$50.00 to the commission within 30 days from application submittal.

(b) Within thirty days after the submission and filing of the completed application and all such other documents as the commission shall require of the applicants, and any investigation the commission shall require of the applicants, and any investigation the commission may conduct, the director shall make a determination as to whether the applicant qualifies as an applicant. Such determination shall be based upon the application form, birth, marriage, and death certificates, such other documents as the commission may require the applicant to produce, and any investigation the commission may conduct consistent with the Act and these rules and regulations. An applicant who disagrees with any action taken by the commission shall have thirty days from receipt of written notice of such action within which to petition the commission for appearance before the next regular meeting of the commission concerning the action taken on the application, at which time the Commission shall hear and review the application and it shall make an independent decision on the matter.

5.4 Residential tract applications.



Chamorro Land Trust Commission

Kumision Inangokkon Tāno' Chamorro

1 (a) Applications for residential tract leases shall be made for one lot only. The applicant shall
2 identify, with advice from the commission, the village of choice for such tract. Waiting lists of
3 applicants shall be maintained by village. For administrative purposes, the commission shall
4 establish and maintain an island-wide residential tract waiting list.

5 **5.5 Agricultural tract applications.**

6 Applications for agricultural tract leases may be made for any village where lands are
7 designated by the commission for such purpose. For application purposes, the commission shall
8 establish and maintain an island-wide waiting list for each village with designated agricultural
9 tracts.

10 **5.6 Village and island-wide waiting lists.**

11 (a) Applicants presently on a waiting list for any village will be placed on the respective
12 island-wide residential and/or agricultural tract waiting list in the order specified in section
13 5.3(a). Applicants presently on a waiting list for a village will be considered first for award of
14 any lots in said village.

15 (b) In the event a waiting list for a particular village is exhausted or a new residential
16 subdivision is opened, applicants on the island-wide waiting list shall be considered for award
17 according to the date of application.

18 **5.7 Contract for award; priority.**

19 Applicants shall be considered for award in the order in which their completed applications
20 were received by the commission; provided that awards shall first be made according to
21 ranking in existing priority waiting lists in that order until those waiting lists are exhausted.

22 **5.8 Transfer of application rights.**

23 (a) An applicant may designate a relative qualified under the Act to include husband and
24 wife, children, widows or widowers of the brothers and sister, or nieces and nephews to
25 succeed to the applicant's application rights upon the death of the applicant. Upon the death of
26 an applicant who dies without designating a successor, the application rights may be succeeded
27 by the qualified relative as provided in (1) and (2) in this section upon application therefor. In
28 the absence of such a designation, the commission may

29 (1) Designate, in its absolute discretion, a successor from among the applicants for
30 succession to the application rights of the deceased applicant in the order named in this
31 paragraph (a); or

32 (2) Allow an unqualified spouse to designate a qualified child to succeed to the deceased
33 applicant's application rights.

34 Requests for succession to application rights shall be made to the commission in writing not
35 later than 180 days after the death of the applicant; otherwise, the application will be cancelled
36 and the applicant's name removed from the waiting list.

37 **5.9 Posting lessee awards.**

38 The commission shall post, in every municipal mayor's office and once in a publication of
39 general circulation, the names, file numbers and dates of application of all who receive lease
40 awards within two weeks after awards are made. They shall remain posted for a period of sixty
41 (60) days.

42 **5.10 Applicant current information.**



Chamorro Land Trust Commission
Kumision Inangokkon Tãno' Chamorro

1 (a) An applicant for awards must notify the commission, in writing, of any change in
2 address or other information contained in the application within fifteen calendar days of such
3 change. Whenever the commission initiates action for awards, all applicants whose application
4 information is not current will be given ninety (90) days to update the information. If the
5 applicant does not furnish the information necessary to facilitate the award within 90 days, the
6 commission shall remove the applicant from the award list and the applicant must re-apply as a
7 new applicant.

8 (b) The applicant may appeal the commission's decision to remove his name from any award
9 list as provided by the Administrative Adjudication Law.

6. Leases to Native Chamorros

6.1 Residential tract leases; awards.

12 (a) Whenever residential tracts are available, the commission shall award residential tract
13 leases to applicants who, in the opinion of the commission, are qualified to perform the
14 conditions of such leases. The commission's opinion as to the applicant's qualification shall be
15 based on criteria specified in the Act.

16 (b) The lessee shall occupy and commence to use the tract as his home within one year after
17 the lease is made.

18 (c) Lot size for a residential tract lease to be awarded shall be not less than 10,000 square feet
19 with public sewer connection available nor less than one-half (½) acre with no public sewer
20 connection available, but in neither case shall be more than one (1) acre.

6.2 Awards; when, order.

22 (a) Whenever homeland lots are available, the commission shall award leases to applicants
23 who meet the qualification requirements specified herein and contained in the Act.

24 (b) The commission shall award lots on a first-come first-served basis at the discretion of the
25 applicant.

26 (c) In addition to (a) and (b) above, the commission shall prioritize awards to applicants in
27 the following descending order:

28 (1) Those who do not own land anywhere;

29 (2) Those who own one (1) acre or less anywhere;

30 (3) Those who own more than one (1) acre anywhere.

6.3 Award of lease; lessee's performance.

32 (a) The commission shall, whenever tracts are available, enter into such a lease with any
33 applicant who, in the opinion of the commission, is qualified to perform the conditions of such
34 lease.

35 (b) In determining whether an applicant is qualified to occupy, commence construction, or
36 use a residence, any of the following shall be sufficient proof for the commission to find
37 compliance:



Chamorro Land Trust Commission
Kumision Inangokkon Tãno' Chamorro

1 (1) Approved loan or financing for the construction of a residence, or a conditional letter
2 of intent or the equivalent;

3 (2) Contract between the applicant and a construction company for the construction of a
4 residential dwelling;

5 (3) Equivalent evidence of the applicant's intent and ability to construct a residential
6 dwelling; or

7 (4) Equivalent evidence of the applicant's intent and ability to fulfill pre-existing
8 requirements entered into between other parties with respect to the residential dwelling the
9 applicant wishes to occupy.

10 **6.4 Awards to occupants of homelands; when.**

11 (a) Notwithstanding the provisions of section 5, subsection 5.4 through 5.10, the commission
12 shall not serve eviction notices to individuals who are presently residing on Chamorro
13 homelands and who qualify under the Act.

14 (b) Persons presently holding land use permits and who qualify under section 5.2 will
15 hereby maintain their home or farms, adhering to all other requirements of the Act and these
16 rules and regulations.

17 **6.5 Agricultural tract leases.**

18 (a) Whenever agricultural tracts are available, the commission shall award agricultural tract
19 leases to applicants who, in the opinion of the commission, are qualified to perform the
20 conditions of such leases. The commission's opinion as to the applicant's qualification shall be
21 based on criteria specified in the Act.

22 (b) The lessee shall occupy and commence to use the tract to cultivate as his farm, within one
23 year after the lease is made.

24 (c) The lessee shall plant and maintain not less than five, ten fifteen and twenty trees per acre
25 of land leased during the first, second, third and fourth years after the date of the lease. Such
26 trees shall be of types approved, and provided free of charge, by the Department of Agriculture
27 and at locations specified by the Department of Agriculture's agent. Such planting and
28 maintenance shall be by or under the immediate control and direction of the lessee.

29 **6.6 Residence permitted on agricultural lot.**

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

32 (1) The lessee has actively cultivated or developed at least two-thirds of the agricultural
33 tract at all times;

34 (2) Approval by the commission;

35 (3) Conformance to all territorial zoning and building requirements;

36 (4) Adequate infrastructure, i.e., water, power, etc., shall be available to service the
37 workers' quarters;

38 (5) Removal of workers' quarters and related access and utility improvements at the
39 expense of the lessee upon cancellation or surrender of agricultural leases;



Chamorro Land Trust Commission
Kumision Inangokkon Tāno' Chamorro

1 (6) Upon transfer of agricultural leases with workers' quarters, the transferee must justify
2 the continued use of the workers' quarters, otherwise, removal of the workers' quarters and
3 related access and utility improvements will be required at the expense of the transferor;

4 (7) Not more than one workers' quarters shall be allowed per lessee, notwithstanding the
5 size of the lot or lots, or the number of leases; and

6 (8) Workers' quarters shall not be allowed for subsistence farming operations.

7 (b) A lessee possessing a residential tract lease may construct a residence on the lessee's
8 agricultural tract; provided that, the lessee complies with all other conditions imposed by this
9 section, section 7.3, and:

10 (1) Lessee makes prior arrangements to surrender or transfer the residential tract lease
11 upon the completion of construction of the residence on the lessee's agricultural tract.
12 Should it be feasible, the lessee may relocate the present house;

13 (2) Lessee must be financially able to assume the cost of relocation or construction of the
14 new residence plus any related expenses necessary to maintain the agricultural tract. The
15 commission may assist the lessee under chapter 8; and

16 (3) In the event the lessee surrenders the residential tract lease, the net proceeds thereof
17 shall be first credited to any loan granted by the commission for the construction of a home
18 on the agricultural tract.

19 (c) The commission shall not be liable for expenses incurred by the lessee for amenities
20 brought to the tract. The commission shall not provide nor be required to provide such
21 amenities, except as it may determine in the planned development of its lands.

22 (d) Upon cancellation, surrender or transfer of the agricultural tract, the lessee shall
23 relinquish the entire leasehold interest including the residence.

24 **6.7 Livestock and crops.**

25 (a) Lessees may raise animals intended for consumption on their agricultural leasehold to
26 supply immediate family needs.

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

29 (1) Submission of a plan for commercial production of animals which shall include, but
30 not be limited to, projections for production, methods of production, sanitation control
31 measures, and proximity to surrounding residences;

32 (2) Approval by the commission;

33 (3) Conformance to all territorial zoning and health laws and rules; and

34 (4) The operation is restricted to confined feeding and not for open grazing.

35 (c) Agricultural tract lessees may raise crops for fodder to be used only for animals on the
36 lot. A portion of the lot may be utilized to raise vegetables or fruit crops for consumption by the
37 lessee's immediate family.



Chamorro Land Trust Commission
Kumision Inangokkon Tāno' Chamorro

6.8 Lease cancellation.

(a) The commission may cancel a lease to a native Chamorro, as specified by §75110 of the Act and the Administrative Adjudication Law, for the following reasons:

- (1) Violation by the lessee of a condition enumerated in the Chamorro Land Trust Act;
- (2) Violation of a condition enumerated in the lease agreement;
- (3) Violation of a condition enumerated in these rules and regulations; or
- (4) Intentional falsification of material information by the lessee on application for financial assistance submitted to the commission.

(b) No lease shall be cancelled without first affording the lessee the right to a hearing as prescribed in the Administrative Adjudication Law.

6.9 Commercial leases [Reserved]

7. Conditions in Leases.

7.1 Additional conditions generally.

In addition to the conditions in leases set forth in the Chamorro Land Trust Act, and in the lease document, all lessees shall be subject to the restrictions set forth in this section.

7.2 Industrial or commercial activities.

(a) No industrial or commercial activities shall be allowed on Chamorro homeland leaseholds, except those which are authorized for license by the Act.

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

7.3 Building requirements.

(a) No building structure or improvement may be constructed on the premises without written approval from the commission. Such an approval shall be considered only after submission of a plan as to design, materials, and probable value and use of the structure to be built on the leasehold. Such building structures or improvements must meet building and zoning codes and other ordinances and regulations of the territory.

(b) The commission shall provide assistance to the lessee in understanding the building code requirements which would render the proposed building or other improvement suitable for approval.

7.4 Contracts covering leased lands.

No lessee may, without written approval from the commission, enter into any contract, joint venture, agreement or other arrangement of any sort with a third person on lands covered by lessee's lease for the cultivation of crops or the raising of livestock.

7.5 Transfer of leases.

Requests for transfers will be considered for approval only if the lessee has held such lease for a period of at least seven years, unless the commission, in its considered opinion, finds that an emergency exists which makes transfer imperative. A lessee may transfer the leasehold to any individual who qualifies under the Act, and is at least eighteen (18) years old. The



Chamorro Land Trust Commission
Kumision Inangokkon Tãno' Chamorro

transferee must immediately occupy the residential tract or use or cultivate the agricultural tract. Failure to occupy or use such tract within sixty (60) days from date of transfer shall constitute grounds for cancellation of such lease. A transferee may own an interest in non-Chamorro homelands real property, regardless of degree of ownership.

7.6 Occupancy and other requirements.

(a) The time period by which a lessee is required to occupy a residential lot or to commence to use or to cultivate an agricultural lot shall be stipulated in the lease.

(b) Except as otherwise provided in the lease, the commission may require a lessee of an agricultural lot to have under development, cultivation, or use at least two-thirds of the useable acreage at all times.

(c) Lessees shall be responsible for maintaining their premises secure from fire, theft, and vandalism and shall comply with the requirements of their lease at all times.

(d) A lessee who does not have a house on the lot shall provide the commission with a current mailing address and such other information as the commission may require.

7.7 Sublease prohibited.

The lessee shall not sublet his interest in the tract or improvements thereon. Violation of this provision shall constitute grounds for cancellation of such lease.

8. Loans and Funds

8.1 Funds and accounts.

There are established in the treasury of the territory of Guam such revolving funds and special funds as set forth in the Act.

8.2 Purposes of loans.

The commission is authorized to make loans from any revolving loan fund, with the prior written approval of the governor as specified in the Act, to lessees and, where applicable, to any cooperative association, all of whose members are lessees. Such loans may be made for the following purposes:

(1) The repair, maintenance, purchase, or erection of dwellings on Chamorro homelands, and the undertaking of other permanent improvements thereon; and

(2) The purchase of livestock, swine, poultry, fowl, and farm equipment; and

(3) Otherwise assisting in the development of tracts, farm and ranch operations;

(4) The cost of:

(A) Breaking up, planting and cultivating land and harvesting crops;

(B) Purchase of seeds, fertilizers, feeds, insecticides, medicines and chemicals for disease and pest control for animals and crops, and related supplies required for farm and ranch operations;

(C) The erection of fences and other permanent improvements for farm or ranch purposes; and

(D) The expense of marketing; and



Chamorro Land Trust Commission
Kumision Inangokkon Tāno' Chamorro

(5) To assist lessees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by lessees of the commission or by organizations formed and controlled by said lessees.

8.3 Authorized actions.

For the purpose of inter-fund transfer and capitalization, the commission is authorized and empowered to:

(1) Use moneys in the development and operating funds, with the prior approval of the governor, to match federal funds available for the same purposes and to that end, to enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and to do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;

(2) Use available funds from additional receipts to secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the commission from governmental agencies or private lending institutions and to pay the interim interest or advances required for loans;

(3) Contract private agencies to service loans made by the commission to lessees or cooperative associations, the fees for such servicing shall be assumed by the lessee or cooperative association, or from a portion of the interest charged by the commission on loans to lessees or cooperative associations;

(4) Guarantee the repayment of loans made to lessees of Chamorro homelands by other governmental agencies or private lending institutions as provided by the act;

(5) Combine available moneys from various revolving funds to make loans to lessees for the purposes enumerated in section 8.2 herein; and

(6) Exercise such other powers as authorized by the act.

8.4 Loan applications.

(a) Applications for a loan or a loan guarantee shall be made on forms provided by the commission. All applications shall be filed with the commission.

(b) The applicant shall not be required to pay any fees in connection with the filing of an application but shall be charged for the cost incurred by the commission in obtaining credit reports and other financial information deemed necessary by the commission.

(c) A holder of a residential tract lease may apply to the commission for the approval of a loan to be made by other government agencies or private lending institutions. Upon receipt of an application, the commission shall review the application and determine whether or not to guarantee said loan based on loan standards set forth in section 8.6.

8.5 Application processing.

Applications approved by the director shall be submitted to the commission within sixty (60) working days of receipt by the commission together with a summary of the applicant's financial situation including gross and net monthly income, any and all outstanding indebtedness and the number of dependents.

8.6 Loan standards.

Loans may be made to applicants who are residential lessees based on the following criteria:



Chamorro Land Trust Commission

Kumision Inangokkon Tāno' Chamorro

1 (1) Income ratio: the relation that gross monthly income bears to monthly payment,
2 principal and interest;

3 (2) Family size: person supported from the income of the lessee and co-applicant shall be
4 counted as a family member for the purpose of computing and qualifying for a loan and
5 term. The lessee shall submit to the commission a sworn, notarized statement to this effect.

6 (3) Applications for loans for any family receiving public assistance from the Department
7 of Public Health and Social Services and/or the Guam Housing and Urban Renewal
8 Authority will be considered for approval if:

9 (A) The monthly payment for said loan is within the amount that is available for
10 housing - shelter allowance minus anticipated utilities - in accordance with current
11 Department of Public Health and Social Services and Guam Housing and Urban Renewal
12 Authority standards; or

13 (B) The applicant is willing to assume the financial obligation imposed by a loan;

14 (4) Credit standing: the applicant must have satisfactory credit standing in the
15 community as determined by the commission. The commission may waive this requirement
16 if upon consideration of all the circumstances surrounding the applicant and his present
17 financial condition, it is convinced by the applicant to its satisfaction that the applicant will
18 be able to faithfully observe and perform the obligation of the loan and contract; and

19 (5) Where the loan applicant is found by the commission to have sufficient resources or
20 credit to secure financing from non-commission sources to undertake the purpose for which
21 the loan is sought, no commission loan shall be made.

22 **8.7 Loan conditions.**

23 (a) Generally, in determining the term of loans, the commission shall consider the following:

24 (1) The applicant's financial capacity;

25 (2) Age and condition of dwelling or building, based on the estimated expected
26 remaining life span; and

27 (3) The term of a loan shall be determined by the commission, but in no event be longer
28 than the term as may be authorized by the act.

29 (b) Loans shall be made in an amount to be determined by the commission, but in no event
30 be more than the amount authorized by the act.

31 (c) Loans shall bear interest at the rate authorized by the act and rules.

32 (d) Loan interest rates shall be determined based on the availability and source of funds as
33 well as the current interest rate for such loans in the private sector; provided however, that the
34 commission may, on a case-by-case basis, establish such rates as it shall determine best
35 effectuate the purposes of the individual borrower, and to offer loans of comparable interest
36 rates to all borrowers.

37 (e) Interest on loans made by the department shall commence to accrue on the twentieth day
38 of the month in which the first disbursement of funds is made.



Chamorro Land Trust Commission
Kumision Inangokkon Tāno´ Chamorro

1 (f) Repayment of loans made by the commission shall commence on the nineteenth day of
2 the month in which the first disbursement of the funds is made.

3 (g) The borrower shall pay a monthly service fee where loan payments are made payable or
4 collectible to or through a private lending institution.

5 (h) The payment of any installment due may be postponed in whole or in part by the
6 commission for reasons as it deems good and sufficient and until such later date as it deems
7 advisable. Postponed payments shall continue to bear interest on the unpaid principal at the
8 rate established for the loan.

9 (i) Whenever a borrower is delinquent with loan repayments, the commission may demand
10 that the borrower assign wages in part or all moneys due or to become due to such borrower by
11 reason of any agreement or contract to which the borrower is a party, to the commission to
12 assure repayment of the loans.

13 (j) Whenever a borrower is more than one hundred-twenty (120) days delinquent on loan
14 repayments, the commission may start garnishment proceedings in accordance with the
15 applicable statute, or start cancellation proceedings as authorized under the act.

16 **8.8 Borrowed funds.**

17 The commission may borrow funds for the purpose of making loans to lessees of residential
18 tracts for purchasing, repairing, maintaining, erecting or improving homes on Chamorro
19 homelands. Such loans shall bear interest at the same rate of interest as that paid by the
20 commission to the lender, plus one-half of one percent per year.

21 **8.9 Additional funds.**

22 The commission may make loans at such terms and conditions from any additional funds as
23 the legislature may hereafter provide in the act. In the event such additional funds are made
24 available to the commission without any specific terms, conditions, restrictions, such funds shall
25 be subject to the conditions and restrictions imposed by the act.

9. Successors to Lessees

27 **9.1 Designation of successors.**

28 (a) A lessee shall, upon execution of the lease, designate the person in whom lessee directs
29 the interest in the tract to vest upon death. Such person must be qualified to succeed to
30 Chamorro homelands as provided by the Act and these rules. A lessee may elect to provide for
31 the surrender of the lot upon death and may select a recipient for the proceeds from the
32 surrender. A lessee's designation under this section may be changed at any time by the lessee.

33 (b) Such designation shall be made as specified in the Act with the right in the lessee to
34 change the beneficiary at any time, if filed with and approved by the commission.

35 **9.2 Reversion to the commission.**

36 Where a lessee dies having failed to designate a successor, the commission may select a
37 successor as provided in the Act. Otherwise, the lease shall be cancelled. The land subject to the
38 lease shall resume its status as unleased Chamorro homelands, and the commission shall be
39 authorized to lease said land to a native Chamorro as provided in the Act.

40 **9.3 Notice to successors.**



Chamorro Land Trust Commission
Kumision Inangokkon Tāno' Chamorro

1 **9.6 Cancellation and surrender.**

2 (a) Upon receipt of written notification of a lessee's intent to surrender, the commission shall
3 process the same. The commission may forego acceptance of a surrender until a new lessee is
4 found and it is determined by the commission that sufficient funds are available in the
5 Chamorro home loan fund to meet the payments required. At all times until acceptance of
6 surrender, the lessee shall remain responsible for the demised leasehold together with any
7 improvements thereon, and shall remain liable for all taxes, assessments and charges of
8 whatever kind and nature, on said tract and improvements thereon.

9 (b) Upon the cancellation or surrender of a residential tract, should it be determined by the
10 commission that the residence constructed on the remises is in such disrepair that demolition of
11 the structure is required, the lessee shall be allowed to sell said structure within ninety (90) days
12 from the date of the cancellation or acceptance of surrender; provided that any proceeds be first
13 used to satisfy any indebtedness to the commission, taxes, or any other indebtedness the
14 payment of which has been assured by the commission, or any costs incurred by the
15 commission for upkeep and cleaning of the leased premises. Otherwise, the commission shall
16 demolish the structure and the cost thereof shall be assessed the lessee.

17 **10. Community Pastures**

18 **10.1 Location of community pastures.**

19 The commission, when practicable and as authorized under the Act, shall maintain
20 community pastures in such locations as it may determine.

21 **10.2 Records.**

22 A record of all stock in community pastures shall be kept by the commission.

23 **10.3 Responsibilities.**

24 (a) The lessees shall be responsible for:

- 25 (1) Permanently branding all animals with a registered brand of the lessee;
- 26 (2) Worming and testing all animals and confirming district origin;
- 27 (3) Removing sick, diseased or severely injured animals; and
- 28 (4) Arranging for removal of animals at least forty-eight (48) hours in advance of the
29 move with the commission.

30 (b) The commission shall be responsible for managing and supervising the operation to
31 ensure equal access and use of the pastures.



11. Appendix A - The Law

CHAPTER 75

CHAMORRO LAND TRUST COMMISSION

- §75101. Definitions.
- §75102. Commission: Composition, Chairman, Compensation.
- §75103. Administration.
- §75104. Certain Government Lands Designated Available Lands
- §75105. Control by Commission of Available Lands; Return to Department
- §75106. Other Officers Not to Control Chamorro Homelands; exception.
- §75107. Leases to Chamorro, Licenses.
- §75108. Conditions in Leases.
- §75109. Successors to Leases.
- §75110. Cancellation of Leases.
- §75111. Community Pastures.
- §75112. Chamorro Home Loan Fund, Home Development Fund, Educational Fund, Commercial Loan Fund, Home Repair Loan Fund, Loan Guarantee Fund.
- §75113. Conditions of Loans.
- §75114. Insurance by Borrowers; Acceleration of Loans; Lien and Enforcement Thereof.
- §75115. Ejectment, when: Loan to New Lease for Improvements.
- §75116. Agency Review of Statutory Authority.
- §75117. Severability.
- §75118. Commission start-up fund.

NOTES AS TO EFFECTIVE DATES: Original Chapter VI of the Government Code, Leases and Sales, enacted by P.L. 1-88, was repealed and a new Chapter VI, Chamorro Land Trust Commission (§§13500-13516), enacted by P.L. 12-226. Section 5 of P.L. 12-226 reads as follows:

"**Section 5. Effective Date.** Section 1 shall take effect in two steps: Section 1 of the bill and Sections 13501 and 13503(b) of Section 2 of the bill shall take effect January 1, 1975. The remaining sections in Section 1, and Sections 2 and 3 shall take effect on the date the Commission has its first meeting."

The Chamorro Land Trust Commission held its first meeting in March of 1993.

NOTE AS TO WAIVER OF CHAPTER FOR CERTAIN LANDS: Since the passage of the Chamorro Land Trust Act, the Legislature has passed many laws dealing with the transfer, lease, exchange and sale of government land. Some of these laws make no reference whatsoever to the Chamorro Land Trust Act. Others expressly waive its provisions. Listed in this Note are all laws which, in some manner, waive the applicability of the Land Trust Act to certain land transactions:

P.L. 13-48:3	PREFERENCES GIVEN TO PERSONS DISPLACED BY SPEEDWAY PARK.
P.L. 14-146:3	WAIVER FOR AS TUMBO SUBDIVISION
P.L. 15-68:5	WAIVER FOR LAND TRANSACTIONS IN SAID LAW.
P.L. 16-7	WAIVER FOR LAND TRANSACTION IN SAID LAW.
P.L. 16-92:2	WAIVER FOR LAND TRANSACTIONS IN SAID LAW.
P.L. 16-118:6	WAIVER FOR LAND EXCHANGE IN SAID LAW.
P.L. 20-72	WAIVER FOR FIGUA SUBDIVISION
P.L. 20-133:6	WAIVER FOR UMATAC SUBDIVISION
P.L. 21-13:4	WAIVER FOR LAND EXCHANGE.
P.L. 21-14:9	WAIVER FOR LAND EXCHANGE.
P.L. 21-32:3	WAIVER FOR LAND SALE.
P.L. 21-108:3	WAIVER FOR POST OFFICE LAND LEASES.

21 GCA §60109 ACT NOT APPLICABLE TO PRECEDING TWO SECTIONS.

21 GCA §68713 ACT INAPPLICABLE TO AGRICULTURAL LEASES EXECUTED BEFORE 4/18/79.

21 GCA §68202 INAPPLICABLE TO TALOFOFO SUBDIVISION.

§75101. Definitions. When used in this title: (a) The term *Commission* means the Chamorro Land Trust Commission.

(b) The term *territory* means the territory of Guam.

(c) The term *Chamorro homelands* means all lands given the status of Chamorro homelands under the provisions of §75105 of this Chapter.

(d) The term *Native Chamorro* means any person who became a U.S. citizen by virtue of the authority and enactment of the Organic Act of Guam or descendants of such person.

(e) The term *department* means the Department of Land Management.

SOURCE: GC §13500 repealed and reenacted by P.L. 12-226. Subsection (d) amended by P.L. 15-113:1.

§75102. Commission: Composition, Chairman, Compensation. (a) There is within the government of Guam the Chamorro Land Trust Commission. The Commission shall be composed of five members to be appointed by the Governor with the confirmation of the Legislature. Commission members shall be appointed within sixty (60) days after the enactment of this Chapter. All members shall have been residents of the Territory at least three (3) years prior to their appointment and at least three of the members shall be native Chamorro. Members shall serve terms of three (3) years, provided, however, that of the members first appointed, one shall be appointed for a term of one (1) year and two shall be appointed for terms of two (2) years. The members of the Commission shall be paid at the rate of Fifty Dollars (\$50) for each day's attendance at a meeting of the Commission, provided, however, that such compensation shall not exceed One Hundred dollars (\$100) per month. The Governor shall appoint the Chairman of the Commission from among the members thereof. The Commission shall have its first meeting within twenty (20) days after confirmation of its members.

(b) The Commission may employ such clerical and other assistants who shall be classified employees as may be necessary to effectively execute its responsibilities. In addition, the Commission shall employ and fix the compensation for an Administrative Director who shall serve in a full-time capacity and who shall exercise such powers and authority as may be delegated to him by the Commission. The Director shall be a native Chamorro. Furthermore, the Commission may employ and fix the salary of professional consultants.

SOURCE: GC §13501 repealed and reenacted by P.L. 12-226. Subsection (a) amended by P.L. 13-6:4; 13-74:1 and 15-148:7.

§75103. Administration. (a) The Commission shall adopt rules, regulations, and policies in accordance with Article 3, Chapter 9 of Title 5 of the Guam Code Annotated, *Government Operations*. The Commission may accept grants, contributions, and appropriations and may make such expenditures, loans and other disbursements as are authorized by this Chapter. These disbursements shall be allowed and paid out in accordance with the direction of the Commission upon presentation to the Administrative Director of itemized vouchers therefor signed by the Commission certifying officer.* The Administrative Director shall give bond in the sum of Five Hundred Thousand Dollars (\$500,000) for the faithful performance of his duties. These funds created by §75112 of this Chapter shall be maintained separate and apart from any other government fund and shall be in the custody of the Commission certifying officer. The Commission shall make an annual finance and progress report to the Legislature upon the first date of each regular session thereof and such special reports as the Legislature may from time to time require.

(b) When land originally leased by the Commission is, in turn, subleased by the Commission's lessee or sublessee, the Commission shall submit, within ten (10) days of the convening of any regular session, a written report to the Legislature which shall cover the sublease transactions occurring in the calendar year prior to the regular session and shall contain the names of the persons involved in the transaction, the size of the area under lease, the purpose of the lease, the land classification of the area under lease, the lease rental, the reason for approval of the sublease by the Commission, and the estimated net economic result accruing to the Commission lessee, and sublessee.

(c) The Commission shall have the power and authority to invest and re-invest any of the money in any of its funds, not otherwise immediately needed for the purposes of the funds in such bonds and securities authorized in 4 GCA Chapter 8. Any interest or other earnings arising out of such investment shall be credited to and deposited in the Chamorro Home Loan Fund.

NOTE: Reference to Chapter III, Title V of this Code, (Retirement of Public Employees), changed by Compiler to conform with the GCA recodification.

(d) The Commission is authorized to carry on any activities it deems necessary to assist lessees in obtaining maximum utilization of leased lands, including taking any steps necessary to develop these lands for their highest and best use commensurate with the purposes for which the land is being leased as provided for in §75107, and assisting lessees in all phases of farming and ranching operations and the marketing of their agricultural produce and livestock. In these efforts the Commission shall coordinate its efforts with the Department of Agriculture.

(e) The Commission, may designate and plan subdivisions in accordance with the provisions of Chapter 62 of this Title 21 Guam Code Annotated, on available lands, in, adjacent to, or near any village. Subdivision lots shall be leased in accordance with §75107.

SOURCE: GC §13502 as repealed and reenacted by P.L. 12-226.

*NOTE: GC §13502 contained the words "...in accordance with Public Law 12-34" at point of asterisk in subsection (a) above. The portion of the law creating the Territorial Auditor's Office has been repealed and the functions of auditor have been shifted to other agencies of the government (P.L. 17-7). The functions of certifying officers are found in Chapter 14 of Title 4 GCA, *Public Officers and Employees*.

§75104. Certain Government Lands Designated Available Lands. (a) All government lands excluding (1) lands held under agricultural lease, land use permit, or right of purchase lease, (2) all lands dedicated to a specific public use by law, and (3) all lands reserved in accordance with §60105 of this Title which reservations are submitted to and concurred in by the Legislature within ninety (90) days of the enactment of this Chapter, are hereby designated as available lands.

(b) Any land acquired by the government by whatever means after the effective date of this Chapter shall acquire the status of available lands unless reserved in accordance with §60105 of this Title within sixty (60) days after its acquisition.

SOURCE: GC §13503 repealed and reenacted by P.L. 12-226. P.L. 12-226 provided that effective date of GC §13503(b) was January 1, 1975.

§75104.1. Transfer of Lot No. 237-6-1, Agaña. The Governor shall transfer to the Chamorro Land Trust Commission administrative control of Lot No. 237-6-1, Agaña, which contains an area of 100± square meters and is within Lot 9, Block 9, Agaña, as depicted on sheet 2 of Drawing P-384, recorded in the Department of Land Management as a part of Instrument No. 20083.

SOURCE: Added by P.L. 22-152:6 (12/29/94).

§75105. Control by Commission of Available Lands; Return to Department. Upon and after the enactment of this Chapter, all available lands shall immediately assume the status of Chamorro homelands and shall be under the control of the Commission to be used and disposed of in accordance with the provisions of this Chapter, except that:

(a) In case any government land is under lease, permit or agreement at the enactment of this Chapter, such land shall not assume the status of Chamorro homelands until the lease, permit or agreement expires or the lands are withdrawn from the operation of the lease, permit or agreement. If the land is covered by a lease, permit or agreement containing a withdrawal clause, the department shall withdraw such lands from the operation of the lease permit or agreement whenever the Commission gives notice to it that the lands are required by it for the purposes of this Chapter.

(b) Any available land as may not be immediately needed for the purposes of this Chapter, may be returned to the department for management. Any Chamorro homelands so returned may be disposed of under a general lease only. Each such lease, whether or not stipulated therein, shall be deemed made subject to the right and duty of the department to terminate the lease and return the lands to the Commission whenever the Commission gives notice that the lands are required by it for the purposes of this Chapter. However, no lease shall be made for a term to exceed twenty-five (25%) years. All income

arising out of any lease or license entered into under this subsection shall be credited to and deposited in the Chamorro Home Loan Fund.

(c) The department may sell to any contiguous landowner any fractional lot placed under its management which was created by the adoption of the standard block system.

(d) In the management of any retained available lands not required for leasing under §75107, the Commission may lease or license such lands to the general public. Any lease or license made under this subsection shall comply with the conditions of subsection (b) above.

(e) The Commission may, in order to consolidate its holdings or to better effectuate the purposes of this Chapter, exchange the title to available lands for land of an equal value. All lands so acquired by the Commission shall assume the status of available lands as though the same were originally designated as such under §75104.

(f) The Commission shall not lease or license any available land until it is registered under the provisions of Chapter 29 of this Title (Land Title Registration Law).

SOURCE: GC §13504 repealed and reenacted by P.L. 12-226.

§75106. Other Officers Not to Control Chamorro Homelands; Exception. The powers and duties of the Governor and the department with respect to lands of the territory shall not extend to lands having the status of Chamorro homelands except as specifically provided for in this Chapter.

SOURCE: GC §13505 repealed and reenacted by P.L. 12-226.

§75107. Leases to Chamorro, Licenses. (a) The Commission is authorized to lease to native Chamorros the right to the use and occupancy of a tract or tracts of Chamorro homelands within the following acreage limits per each lessee: (1) not less than one nor more than twenty (20) acres for agricultural use; or (2) not less than one nor more than fifty (50) acres for grazing use, and (3) not more than one acre or any class of land to be used as a residence lot.

(b) The title to lands so leased shall remain in the territory. Applications for tracts shall be made to and granted by the Commission under such regulations, not in conflict with any provision of this Chapter, as the Commission may prescribe. The Commission shall, whenever tracts are available, enter into such a lease with any applicant who, in the opinion of the Commission, is qualified to perform the conditions of such lease.

(c) The Commission is authorized to grant licenses for terms of not to exceed twenty-one (21) years in each case, to public utility companies, or corporations as telephone lines, electric power and light lines, gas mains, and the like. The Commission is also authorized to grant licenses for lots within a village in which lands are leased under the provisions of this section, to:

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

(d) Upon direction by resolution from the Legislature, the Commission shall release to the department any unleased available land designated for a public purpose. Such land will no longer be considered to be Chamorro homelands.

SOURCE: GC §13506 repealed and reenacted by P.L. 12-226.

§75108. Conditions in Leases. Each lease made under the authority granted the Commission by the provisions of §75107 of this Chapter, and the tract in respect to which the lease is made, shall be deemed subject to the following conditions, whether or not stipulated in the lease.

(a) The original lessee shall be a native Chamorro, not less than eighteen (18) years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred or cancelled in accordance with the provisions of succeeding sections.

(b) The lessee shall pay a rental of One Dollar (\$1.00) a year for the tract and the lease shall be for a term of ninety-nine (99) years.

(c) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made. The lessee of agricultural lands shall plant and maintain not less than five, ten, fifteen and twenty trees per acre of land leased and lessee of grazing lands shall plant and maintain not less than two, three, four, and five trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of the lease. Such trees shall be of types approved by the Department of Agriculture and at locations specified by the Department of Agriculture's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the Department of Agriculture free of charge.

(d) The lessee shall thereafter, for at least such part of each year as the Commission shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf. The Administrative Director of the Commission, or the Director of Land Management with respect to non-Commission land, shall approve all requests for the extension of power, water, or telephone services to a qualified applicant on such applicant's request. As used in this subsection, *qualified applicant* shall mean:

(1) Any person occupying land pursuant to a lease, land use permit issued, or other permission from the government of Guam or from any agency thereof to the person occupying the land, to a relative of the person occupying the land, or to an ancestor of the person occupying the land, which land is claimed by the government of Guam and/or the Commission; or

(2) Any person who, on the effective date of the amendment to this subsection, is actually occupying land which is claimed by the government of Guam and/or the Commission and who has actually occupied such land for more than six (6) months immediately last past.

(3) As used in this subsection, *government of Guam* shall include all of the government of Guam, its agencies and instrumentalities, including autonomous agencies, **except** for the Commission.

Water shall be metered for both private and agricultural use. Approval by the Administrative Director of the Commission or the Director of the Land Management does **not** waive any of the utilities' requirements or restrictions for the installation of the utilities, and the qualified applicant shall be responsible for paying the actual connection fees. The application, issuance, and connection of utilities shall not prejudice anyone in any ejectment action, quiet title action, litigation or claim relating to the property, nor shall it be construed as an admission nor shall it create any presumptions.

(A) The application for a utility extension pursuant to this subsection and the connection of utilities shall in no way prejudice the qualified applicant in any way as to any claim or litigation relating to ownership of the land in question, the validity of any lease or land use permit, the right of the qualified applicant to occupy the property, or the qualified applicant's use of the property. By so applying for utilities, the qualified applicant is in no way admitting, recognizing or ratifying any claim which the government of Guam or the Commission may have to the land in question.

(B) The granting of a utility extension pursuant to this subsection and the connection of utilities shall in no way prejudice the government of Guam or the Commission in any way as to any claim or litigation relating to ownership of the land in question, the validity of any lease or land use permit, the right of the qualified applicant to occupy the property, or the qualified applicant's use of the property. By so granting a such a clearance, neither the government of Guam nor the Commission is in any way admitting, recognizing or ratifying any claim which the qualified applicant may have to the land in question.

(e) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Chamorro or Chamorros; and then only upon the approval of the Commission, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Chamorro or Chamorros approved of by the Commission or for any indebtedness due the Commission or for taxes, or for any other indebtedness the payment of which has been assured by the Commission, including loans from governmental agencies where such loans have been approved by the Commission, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon.

(f) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The Commission may in its discretion pay such taxes and have a lien therefor as provided by §75114 of this Law.

(g) The lessee shall perform such other conditions, not in conflict with any provision of this Chapter, as the Commission may stipulate in the lease, provided, however, that an original lessee shall be exempt from all taxes for the first seven (7) years from date of lease.

(h) The Commission may assure the repayment of loans to lessees from governmental agencies where such loans have been approved by the Commission up to the limits prescribed in §75112 provided that the lessee has no indebtedness due the Commission and the Commission shall not make any loans to the lessee while loans from governmental agencies are outstanding; provided further that upon receipt of notice of default in the payment of such loans, the Commission, may upon failure of the lessee to cure the default within sixty (60) days, cancel the lease and thereupon use its best efforts to redispense of the tract to a qualified and responsible native Chamorro or Chamorros as a new lessee who will assume the obligation of the outstanding debt thereby assured, and make payments to the governmental agency from available funds either for a monthly payments as they become due and payable or for the amount of the debt. In no event shall the aggregate amount assured by the Commission exceed Two Million Dollars (\$2,000,000).

SOURCE: GC §13507 repealed and reenacted by P.L. 12-226. Subsection (d) repealed/reenacted by P.L. 22-157:2 (12/30/94).

§75109. Successors to Lessees. (a) Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee, husband and wife, children, widows or widowers of the brothers and sisters, or nieces and nephews,--the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. Such person or persons must be qualified to be a lessee of Chamorro homelands: provided, that such person or persons need not be eighteen (18) years of age. Such designation must be in writing, must be specified at the time of execution of such lease with a right in such lessee in similar manner to change such beneficiary at anytime and shall be filed with the Commission and approved by the Commission in order to be effective to vest such interests in the successor or successors so named.

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

In the case of the death of a lessee leaving no such relative qualified to be a lessee of Chamorro homelands, the land subject to the lease shall resume its status as unleased Chamorro homelands and the Commission is authorized to lease such land to a native Chamorro or Chamorros as provided in this Chapter.

Upon the death of a lessee leaving no such relative qualified to be a lessee of Chamorro homelands, or the cancellation of a lease by the Commission, or the surrender of a lease by the lessee, the Commission shall appraise the value of all such improvements and growing crops and shall pay to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the Commission, or for taxes, or for any other indebtedness the payment of which has been assured by the Commission, from the deceased lessee or the previous lessee. Such payment shall be made out of the loan fund and shall be considered an advance therefrom reimbursable out of payments made by the successor or successors to the tract involved. Such appraisal shall be made by three appraisers, one of which shall be named by the Commission, one by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers hereinbefore mentioned.

(b) After the cancellation of a lease by the Commission in accordance with the provisions of §75110 or §75114 of this Chapter, or the surrender of a lease by a lessee, the Commission is authorized to transfer the

lease or to issue a new lease to any qualified Chamorro regardless of whether or not he is related in any way by blood or marriage to the previous lessee.

(c) Should any successor or successors to a tract be a minor or minors, the Commission may appoint a guardian therefor subject to the approval of the Superior Court. Such guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold: provided, that said guardian shall, in so representing such successor or successors, comply with the provisions of this Chapter and the stipulations and provisions contained in the lease, except that said guardian need not be a native Chamorro as defined in §75101 of this Chapter.

SOURCE: GC §13508 repealed and reenacted by P.L. 12-226.

§75110. Cancellation of Leases. Whenever the Commission has reason to believe that any condition enumerated in §75108 or any provision of §75109 of this Chapter has been violated, the Commission shall give due notice and afford opportunity for a hearing to the lessee of the tract in respect to which the alleged violation relates or to the successor of the lessee's interest therein, as the case demands. If upon such hearing the Commission finds that the lessee or successor has violated any condition in respect to the leasing of such tract, the Commission may declare his interest in the tract and all improvements thereon to be forfeited and the lease in respect thereto cancelled and shall thereupon order the tract to be vacated within a reasonable time. The right to the use and occupancy of the Chamorro homelands contained in such tract shall thereupon revert in the Commission and the Commission may take possession of the tract and the improvements thereon.

SOURCE: GC §13509 repealed and reenacted by P.L. 12-226.

§75111. Community Pastures. The Commission shall, when practicable, provide from the Chamorro homelands a community pasture adjacent to each village.

SOURCE: GC §13510 repealed and reenacted by P.L. 12-226.

§75112. Chamorro Home Loan Fund; Chamorro Home Development Fund; Chamorro Educational Fund; Chamorro Commercial Loan Fund; Chamorro Home Repair Loan Fund; and the Chamorro Loan Guarantee Fund. (a) There are hereby established three (3) revolving funds to be known as the Chamorro Home Loan Fund, the Chamorro Commercial Loan Fund and the Chamorro Home Repair Fund and three (3) special funds to be known as the Chamorro Home Development Fund, the Chamorro Educational Assistance Fund, and the Chamorro Loan Guarantee Fund.

(b) **Chamorro Home Loan Fund.** There is hereby authorized to be appropriated from the Unappropriated Surplus of the General Fund the sum of One Million Dollars (\$1,000,000) as initial capital to said Fund. In furtherance of the purposes herein, the Commission may do any one or more of the following with moneys from this Fund and any borrowed moneys under (6) herein below.

(1) The Commission may extend the benefits of the Fund only to native Chamorros as defined in this Chapter.

(2) The Commission may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of Twenty-Five Thousand Dollars (\$25,000); provided, that where, upon the death of a lessee living on Chamorro homelands who leaves no relatives qualified to be a lessee of Chamorro homelands, or the cancellation of a lease by the lessee, the Commission shall be authorized to make payment and to permit assumption of loans in excess of Twenty-Five Thousand Dollars (\$25,000) subject to the provisions of §75113(b).

(3) Where the dwelling is on Chamorro homelands, anything in the Chapter to the contrary notwithstanding, either the Commission or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Chapter, including but not limited to the provisions of §§75107, 75108, 75109, 75110, 75113, 75114 and 75116, and to such legislative amendments of the Chapter herein or thereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Chamorros Home Loan Fund, or Chamorro Home Development Fund or otherwise required the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the Commission, and the

Commission may assure payment of such loans, provided that the Commission shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the Commission immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the Commission.

(4) Where the dwelling is on non-Chamorro homelands, anything in the Chapter to the contrary notwithstanding, either the Commission or financial institutions may make loans, and in connection with such loans, the Commission shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the Commission may, by rules and regulations promulgate, provided, the Commission shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;

(5) The Commission shall establish interest rate or rates at two and one-half per cent (2½%) a year or higher, in connection with authorized loans on Chamorro homelands or non-Chamorro homelands, and where the going rate of interest on loans made by financial institutions to native Chamorros is higher, pay from the Fund or the moneys borrowed, the difference in interest rates;

(6) The Commission may borrow and deposit funds into a special revolving account for the purposes of repairing, maintaining, purchasing, erecting or improving dwellings on Chamorro homelands and non-Chamorro homelands and related purposes from financial institutions, governmental, or private;

The Commission may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;

(7) The Commission may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all loans by financial institutions made to Chamorros under this program. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment or otherwise underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the Commission.

(c) **Chamorro Home Development Fund.** Twenty-Five percent (25%) of the amount of moneys covered into the Chamorro Home Loan Fund annually shall be transferred into the Chamorro Home Development Fund. The moneys in said development fund shall be available, with the prior written approval of the Governor for construction of sanitary sewage facilities for the construction of roads through and over Chamorro homelands, and for other non-revenue producing improvements.

(d) **Match moneys.** The Commission is authorized and empowered to use moneys in the development fund, with the prior written approval of the Governor, to match Federal funds available for the same purposes and to that end is authorized to enter into such undertakings, agree to such conditions, transfer funds therein available for such expenditures and to perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

(e) **Chamorro Education Assistance Fund.** Ten percent (10%) of the amount of moneys covered into the Chamorro Home Loan Fund annually shall be transferred into the Chamorro Educational Assistance Fund. The Department of Education shall establish and direct educational projects after consultation with the University of Guam and the Commission which shall be directed primarily for the educational improvement of the children of lessees, which shall be funded with this Fund with prior written approval of the Governor.

(f) **Chamorro Commercial Loan Fund.** The Commission is authorized to create a Fund out of which loans may be made to those holding leases issued under §75107 of this Chapter. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all

be owned by lessees or by organizations formed and controlled by said lessees. The amount and duration of loans from this Fund at any one time to any lessee, or successor or successors in interest, shall be determined by the Commission on the basis of the proposed operations of lessee(s) and the security available, provided that where, upon the death of a lessee leaving no relative qualified to be a lessee of Chamorro homelands, or the cancellation of a lease by the Commission, or the surrender of a lease by the lessee, the Commission shall make the payment provided for by §75109(a). The amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, of any such loan to the successor or successors, without limitations as to any pre-established maximum amount but subject to provisions of Paragraph (b) of §75113.

(g) **Chamorro Home Repair Loan Fund.** There is hereby authorized to be appropriated from the Unappropriated Surplus of the General Fund the sum of One Hundred Thousand Dollars (\$100,000) for the Chamorro Home Repair Loan Fund. The moneys in this Fund shall be used to make loans in amounts not in excess of Five Thousand Dollars (\$5,000) to lessees for repairs to their existing homes and for necessary additions to such homes due to increase in family size. Such loans may be made for periods not to exceed five (5) years.

(h) **The Chamorro Loan Guarantee Fund.** The Commission is authorized to create a Fund out of which loans made by governmental agencies or lending institutions to those holding leases or licenses issued under §75107 of this Chapter may be guaranteed. This guarantee may be for home or commercial loan purposes. The loan guarantees shall be subject to the restrictions imposed by §§75108 and 75113 of this Act.

SOURCE: GC §13511 repealed and reenacted by P.L. 12-226.

§75113. Conditions of Loans. Except as otherwise provided in §75112, each contract of loan under this chapter with the lessee or any successor or successors to his interest shall be held subject to the following conditions whether or not stipulated in the contract loan:

(a) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semi-annual, or annual as may be determined by the Commission in each case. The term of any loan shall not exceed thirty (30) years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of two and one-half per cent (2½%) a year payable periodically or upon demand as the department may determine. The payment of any installment due shall be postponed in whole or in part by the Commission for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest at the rate of two and one-half percent (2½%) a year on the unpaid principal.

(b) In the case of the death of a lessee the Commission shall, in any case, permit the successor or successors to the tract to assume the contract of loan. In case of the cancellation of a lease by the Commission or the surrender of a lease by the lessee, the Commission may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan. The Commission may, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon said loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payment shall, however, continue to bear interest at the rate of two and one-half percent (2½%) a year on the unpaid principle. Further, the Commission may, if it seems advisable and for the best interest of the lessees, write-off and cancel, wholly or in part, the contract of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write-off and cancellation shall be made only after an appraisal of all improvements and growing crops on the tract involved, such appraisal to be made in the manner and as provided for by §75109(a). In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors.

(c) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.

(d) The borrower or the successor to his interest, shall comply with such other conditions, not in conflict with any provision of this Chapter, as the Commission may stipulate in the contract of loan.

(e) The borrower or the successor to his interest shall comply with the conditions enumerated in §75108 and with the provisions of §75109 of this Chapter in respect to the lease of any tract.

(f) Whenever the Commission shall determine that a borrower is delinquent in the payment of any indebtedness to the Commission, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the Commission of all moneys due or to become due to such borrower by reasons of any agreement or contract, collective or otherwise, to which the borrower is a party. Failure to execute such an assignment when requested by the Commission shall be sufficient ground for cancellation of the borrower's lease or interest therein.

SOURCE: GC §13512 repealed and reenacted by P.L. 12-226.

§75114. Insurance by Borrowers: Acceleration of Loans; Lien and Enforcement Thereof. The Commission may require the borrower to insure, in such amount as the Commission may prescribe, any livestock, machinery, equipment dwellings and permanent improvements purchased or constructed out of any moneys loaned by the Commission; or, in lieu thereof, the Commission may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan. Whenever the Commission has reason to believe that the borrower has violated any condition enumerated in Paragraphs (b), (d), (e), or (f) of §75113 of this Chapter, the Commission shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors to his interest, as the case demands. If upon such hearing the Commission finds that the borrower has violated the condition, the Commission may declare all principal and interest of the loan immediately due and payable notwithstanding any provisions in the contract of loan to the contrary. The Commission shall have a first lien upon the borrower's or lessee's interest in any lease, growing crops, either on his tract or in any collective contract or program, livestock, machinery and equipment purchased with moneys loaned by the Commission, and in any dwellings, or other permanent improvements paid by the Commission, and of all indebtedness of the borrower, the payment of which has been assured by the Commission, including loans from governmental agencies where such loans have been approved by the Commission. Such lien shall have priority over any other obligation for which the property subject to the lien may be security. The Commission may, at such times as it deems advisable, enforce any such lien by declaring the borrower's interest in the property subject to the lien to be forfeited, any lease held by the borrower cancelled, and shall thereupon order such lease-hold premises vacated and the property subject to the lien surrendered within a reasonable time. The right to the use and occupancy of the Chamorro homelands contained in such lease shall thereupon revert in the Commission which may take possession of the premises covered therein and the improvements and growing crops thereon: provided that the Commission shall pay to the borrower any difference which may be due him after the appraisal provided for in Paragraph (a) of §75109 of this Title has been made.

SOURCE: GC §13513 repealed and reenacted by P.L. 12-226.

§75115. Ejectment, When: Loan To New Lessee For Improvements. In case the lessee or borrower or the successor to his interest in the tract, as the case may be, fails to comply with any order issued by the Commission under the provisions of §75110 or §75114 of this Chapter, the Commission may bring action of ejectment or other appropriate proceedings for the enforcement of said order. Any tract forfeited under the provisions of §75110 or §75114 of this Chapter may be again leased by the Commission as authorized by the provisions of the §75107 of this Chapter, except that the value, in the opinion of the Commission, of all improvement made in respect to such tract by the original lessee or any successor to his interest therein shall constitute a loan by the Commission to the new lessee. Such loan shall be subject to the provisions of this section §§75113 and 75114 to the same extent as loans made by the Commission from the Chamorro Home Loan Fund.

SOURCE: GC §13514 repealed and reenacted by P.L. 12-226.

§75116. Agency Review of Statutory Authority. All agencies, departments, boards, commissions, and other instrumentalities of the territorial government shall review their present statutory authority, administrative regulations and current planning policies and procedures for the purpose of determining

whether there are any deficiencies or inconsistencies therein which inhibit full cooperation with the purposes and provisions of this Chapter and shall propose to the Commission not later than ninety (90) days after the enactment of this Chapter measures as may be necessary to bring their planning authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

SOURCE: GC §13515 repealed and reenacted by P.L. 12-226.

§75117. Severability. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

SOURCE: GC §13516 repealed and reenacted by P.L. 12-226.

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

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

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

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

SOURCE: Added by P.L. 22-09:2 (5/7/93).



AUG 03 1995

Bill No. 317 (LS)

JOHN P. AGUON 
ACTING CHAIRMAN, COMMITTEE ON RULES

Introduced by:

by request of the Governor
in accordance with the
Organic Act of Guam

AN ACT TO ESTABLISH RULES AND REGULATIONS OF THE CHAMORRO LAND TRUST COMMISSION PURSUANT TO §§75103 AND 75107 OF CHAPTER 75, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO RESIDENTIAL LOTS AND AGRICULTURAL LEASES FOR SUBSISTENCE FARMING.

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

2 Section 1. (a) Legislative authority to establish rules and
3 regulations. §§75103 and 75107 of Chapter 75, Title 21, Guam Code Annotated.
4 authorize the Chamorro Land Trust Commission to make rules and regulations
5 pursuant to the Administrative Adjudication Law.

6 (b) Rules and regulations in bill form. Pursuant to Public Law
7 22-96, for the convenience of the Legislature, rules and regulations are submitted to
8 the Legislature in bill form. Unless changed by statute, the rules and regulations
9 submitted in bill form shall be approved pursuant to the Administrative Adjudication
10 Law (§9300 et seq. of Title 5, Guam Code Annotated) and be effective as rules and
11 regulations subject to further change according to the provisions of the
12 Administrative Adjudication Law.

13 (c) Chamorro Land Trust residential lot rules and regulations.
14 Notwithstanding any other provision of law, rule, or regulation, and Executive Order,
15 the following rules and regulations for residential lots to be leased by the Chamorro
16 Land Trust Commission are approved by the Legislature according to the
17 Administrative Adjudication Law:

1 **Chapter I. Definitions.**

- 2 (a) 'Commission' means the Chamorro Land Trust Commission.
- 3 (b) 'Administrative Director' means the Administrative Director of the
- 4 Chamorro Land Trust Commission.
- 5 (c) 'Residential Use' means the use of real property consisting of land and a
- 6 dwelling as a place of residence.
- 7 (d) 'Native Chamorro' means any person who became a U. S. citizen by virtue
- 8 of the authority and enactment of the Organic Act of Guam or descendants
- 9 of such person.
- 10 (e) 'Tract' means a defined area of land as specified in §75107 of Title 21,
- 11 Guam Code Annotated.
- 12 (f) 'Typhoon resistant' means a residence that meets all building code
- 13 requirements pursuant to Chapter 67 of Title 21, Guam Code Annotated.

14 **Chapter II. Qualifications and eligibility.** (a) All applicants

15 must be at least eighteen (18) years of age and a native Chamorro.

16 (b) Every applicant shall submit a certified copy of his birth certificate to the

17 Administrative Director. If the applicant was not born on Guam, the applicant shall

18 submit a certified copy of the birth certificate of his father or mother for the

19 purposes of establishing eligibility as a descendant of a native Chamorro. Any

20 applicant may be required to execute an affidavit establishing eligibility as a native

21 Chamorro.

22 (c) Every applicant otherwise qualified as a native Chamorro or as a

23 descendant of a native Chamorro shall submit proof that he or she was a resident of

24 Guam for seven (7) consecutive years prior to submission of the lease application.

25 Such proof of residency may include copies of Guam income tax returns.

1 (d) Any applicant shall be disqualified from consideration for a residential
2 lease if the applicant falsifies or omits information required in Chapter III of these
3 rules and regulations.

4 **Chapter III. Application procedure.** (a) Applicants shall
5 complete and submit to the Commission residential lease application in a form
6 approved by the Chamorro Land Trust Commission.

7 (b) The Administrative Director shall review applicants received, in the
8 order they are received to ensure that the application is completely filled out; that
9 the land requested is designated for the intended use and identified for the specific
10 use as applied for and is compatible with the I'Tanota Land Use Master Plan or the
11 applicable zoning and environmental laws of Guam.

12 (c) Every completed application by a qualified applicant shall be reviewed by
13 the Administrative Director or his designee, who shall conduct any investigation into
14 the application as may be deemed necessary or appropriate. Upon review and
15 investigation, if any, the Administrative Director shall submit to the Commission
16 each application received with his recommendation for approval or disapproval. If
17 the Administrative Director recommends disapproval of the application, the reasons
18 therefor shall be stated in writing. The Commission shall determine whether
19 applications shall be approved or disapproved. In the event an application is
20 approved, the Commission shall direct the Administrative Director to notify the
21 applicant of such approval and the applicant so notified shall submit satisfactory
22 proof of ability to finance or to obtain conditional approval or financing for
23 construction of a residential dwelling within one (1) year after notification of
24 approval. If the applicant fails to submit such proof within the one (1) year period
25 after notification of approval by the Board, the application shall be disapproved.

26 (d) Upon submission by the applicant of satisfactory proof of ability to
27 finance or to obtain conditional approval or financing for construction of a

1 residential dwelling, within thirty (30) days after approval of the application the
2 applicant shall execute a residential lease in a form approved by the Chamorro Land
3 Trust Commission.

4 (e) In the event an application is disapproved, the applicant shall be
5 informed in writing of such disapproval and the reasons therefor within thirty (30)
6 days of disapproval by the Commission. Applicant may then appeal the disapproval to
7 the Commission within thirty (30) days after receipt of the disapproval notice.

8 **Chapter IV. Term.** The term of a residential lease shall not exceed
9 fifty (50) years.

10 **Chapter V. Use.** (a) Each lessee shall commence construction of the
11 residential dwelling within one (1) year after execution of the lease. Construction
12 shall be completed within three (3) years of execution of the lease.

13 (b) The property leased shall be used as a residential dwelling only and for no
14 other purpose.

15 (c) Lessees shall not store hazardous materials of any kind or junk materials
16 or inoperable cars or vehicles throughout the term of the lease.

17 **Chapter VI. Construction.** (a) All residential dwellings shall be
18 typhoon-resistant and all permits, construction plans and specifications shall be in
19 conformance with the Building Code of Guam, Chapter 67, Title 21, Guam Code
20 Annotated.

21 (b) Lessee shall keep all improvements constructed on the leased land free
22 and clear of any and all mechanics, materialmen's and other liens.

23 **Chapter VII. Assignment and sublease.** Lessee shall not assign or
24 transfer the lease, or sublet or grant any concession or license to use the premise or
25 any part thereto, or any interest herein.

26 **Chapter VIII. Rent.** Rental shall be Two Hundred Dollars (\$200) per
27 year per lease.

1 **Chapter IX. Inspection.** The Commission's agent or representative
2 shall inspect the land leased to insure compliance with the terms and conditions of
3 the lease at all times. The lessee shall be given forty-eight (48) hours notice of when
4 such inspection is to take place.

5 **Chapter X. Termination.** (a) In the event the Commission determines
6 that a lessee has defaulted on any of the terms and conditions of the lease, the
7 Commission shall conduct a hearing pursuant to the Administrative Adjudication Act
8 contained in Chapter 9 of Title 5, Guam Code Annotated, and and pursue all remedies
9 available under applicable Guam statutes.

10 (b) If the lease is terminated, the lessee shall vacate the premises
11 immediately and the Commission shall issue a new lease to any qualified native
12 Chamorro.

13 **Chapter XI. Taxes, charges, and utilities.** Lessee shall pay all
14 real property taxes and other charges imposed on the leased land, including but not
15 limited to water, power, telephone service, sewer and trash collection.

16 **Chapter XII. Indemnification of lessor.** The following language
17 shall be included in residential leases: 'In consideration of the privilege granted by
18 this Lease Agreement, lessee shall not claim any costs, losses, claims or damages from
19 lessor in connection with or on account of any injuries or damages arising in or on
20 the real property described above regardless of the fault or negligence of lessor
21 while being used by lessee and lessee's guests or invitee and lessee further agrees to
22 indemnify and save harmless lessor from any and all costs, losses, claims or damages
23 of any kind or nature arising in connection with the use of the real property
24 described above by lessee and lessee guests or invitee'."

25 (d) **Chamorro Land Trust agricultural rules and regulations for**
26 **subsistence farming.** Notwithstanding any other provision of law, rule,

1 regulation, and Executive Order, the following rules and regulations are approved by
2 the Legislature according to the Administrative Adjudication Law:

3 **Chapter 1. Definitions.**

- 4 (a) 'Commission' means the Chamorro Land Trust Commission.
- 5 (b) 'Administrative Director' means the Administrative Director of the
6 Chamorro Land Trust Commission.
- 7 (c) 'Subsistence Farming' means all farming activities including pursuits
8 customarily carried on in the field of agriculture, including raising of
9 crops, fruits, ornamental plants and other vegetative production,
10 including herbal medicinal plants, poultry, dairying, livestock and
11 aquaculture, for personal consumption.
- 12 (d) 'Native Chamorro' means any person who became a U. S. citizen by virtue
13 of the authority and enactment of the Organic Act of Guam or descendants
14 of such person.
- 15 (e) 'Tract' means a defined area of land as specified in §75107 of Title 21, Guam
16 Code Annotated.

17 **Chapter II. Qualifications and eligibility.** (a) Every applicant

18 born on Guam shall submit a certified copy of his birth certificate to the
19 Administrative Director. If the applicant was not born on Guam, the applicant shall
20 submit a certified copy of the birth certificate of his father or mother for the
21 purposes of establishing eligibility as a descendant of a native Chamorro. Any
22 applicant may be required to execute an affidavit establishing eligibility as a native
23 Chamorro.

24 (b) Every applicant otherwise qualified as a native Chamorro or as a
25 descendant of a native Chamorro shall submit proof that he or she was a resident of
26 Guam for seven (7) consecutive years prior to submission of the lease application.
27 Such proof of residency may include copies of Guam income-tax returns.

1 (c) Any applicant, otherwise eligible under the preceding sections, whose
2 permits under Title 21, Guam Code Annotated, §68101 et seq., or agriculture leases
3 under Title 21, Guam Code Annotated, §68101 et seq., which permits or leases were
4 terminated by default of the permit or lease, or who falsifies or deletes information
5 required in Section 4 of these Rules and Regulations, will be disqualified from
6 consideration for an agricultural lease.

7 **Chapter III. Application procedure.** (a) Applicants shall complete
8 and submit to the Commission an agricultural use lease application in a form
9 approved by the Chamorro Land Trust Commission.

10 (b) The Administrative Director shall review applications received, in the
11 order they are received to ensure that the application is completely filled out; that
12 the land requested is designated for the intended use and identified for the specific
13 use as applied for and is compatible with the MTanota Land Use Master Plan or the
14 applicable zoning or environmental laws of Guam.

15 (c) Every completed application by a qualified applicant shall be reviewed by
16 the Administrative Director or his designee, who shall conduct any investigation into
17 the application as may be deemed necessary or appropriate. Upon review and
18 investigation, if any, the Administrative Director shall submit to the Commission
19 each application received with his recommendation for approval or disapproval. If
20 the Administrative Director recommends disapproval of the application, the reasons
21 therefor shall be stated in writing. The Commission shall determine whether
22 applications shall be approved or disapproved. In the event an application is
23 approved, the Commission shall direct the Administrative Director to notify the
24 applicant of such approval and within thirty (30) days after notification of approval
25 the applicant so notified shall execute an agricultural use lease in a form approved
26 by the Chamorro Land Trust Commission

1 (d) In the event an application is disapproved, the applicant shall be notified
2 in writing of such disapproval and the reasons therefore within thirty (30) days of
3 disapproval by the Commission. Applicant may then appeal the disapproval to the
4 Commission within thirty (30) days after receipt of disapproval notice.

5 **Chapter IV. Term.** The term of an agricultural use lease shall not
6 exceed fifty (50) years.

7 **Chapter V. Use.** (a) Each agricultural lease for subsistence farming shall
8 not exceed one (1) acre. Each lessee shall plant and maintain at least:

- 9 1. five trees per acre during the first year of the term of the lease.
- 10 2. ten trees per acre during the second year of the term of the lease.
- 11 3. such trees shall be of types approved by the Department of Agriculture.

12 (b) Each lessee shall commence agricultural activities within three (3)
13 months after execution of the lease.

14 (c) Temporary storage buildings and farm related structures may be
15 constructed.

16 (d) Lessee shall not store hazardous materials or any kind of junk materials
17 or inoperable cars or vehicles throughout the term of the lease.

18 **Chapter VI. Rent.** Rental shall be Two Hundred Dollars (\$200) per
19 year.

20 **Chapter VII. Inspection.** The Commission's agent or representative
21 shall inspect the land leased to insure compliance with the terms and conditions of
22 the lease. The Lessee shall be given forty eight (48) hours notice of when such
23 inspection is to take place.

4 **Chapter VIII. Termination.** (a) In the event the Commission
5 determines that a lessee has violated any of the terms and conditions of the lease, the
6 Commission shall conduct a hearing and pursue all remedies available under the

1 Administrative Adjudication Law contained in Chapter 9 of Title 5, Guam Code
2 Annotated.

3 (b) If the lease is terminated, the lessee shall remove all temporary
4 improvements, fixtures, and crops, other than trees, at no expense to the Commission,
5 and without reimbursement within Thirty (30) days of the lease's termination date.

6 Chapter IX. Taxes and Charges. Lessees shall pay all real property
7 taxes and other charges imposed on the leased land.

8 Chapter X. Indemnification of Lessor. The following language shall be
9 included in agricultural leases for subsistence farming: 'In consideration of the
10 privilege granted by the lease agreement, lessee shall not claim any costs, losses,
11 claims or damages from lessor in connection with or on account of any injuries or
12 damages arising in or on the real property described above regardless of the fault or
13 negligence of lessor while being used by lessee and lessee's guests or invitees and
14 lessee further agrees to indemnify and save harmless lessor from any and all costs,
15 losses, claims or damages of any kind or nature arising in connection with the use of
16 the real property described above by lessee and lessee guests and invitees'."



7/12/95 3:30p

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGEMENT RECEIPT

GOVERNOR OF GUAM

Received By: [Signature]

Time: 11:08

Date: 7/13/95

JUL 12 1995

The Honorable Ted S. Nelson
 Acting Speaker
 Twenty-Third Guam Legislature
 424 West O'Brien Drive
 Julale Center - Suite 222
 Agana, Guam 96910

Office of
 VICE-SPEAKER TED S. NELSON

[Signature] Initial [Signature]

Date: 7-12-95 Time: 3:35pm

Via: Office of Speaker Don Parkinson

Dear Speaker Nelson:

I am pleased to transmit to you a draft bill and draft rules and regulations for implementation of the Chamorro Land Trust at the earliest moment. Hopefully, there will be no more stumbling blocks placed before our people before this becomes a reality. Although the first enabling statute was passed in 1974, there was no commitment to making this Trust a reality until now. I am happy to have completed the necessary actions for implementing the Chamorro Land Trust Act in such a way that residential leases and leases for subsistence farming can be achieved very soon.

Please find attached hereto:

- 1) a draft bill, entitled AN ACT TO AMEND §§75107, 75108, 75109, AND 60112, TO REPEAL AND REENACT §§75103 AND 75110, AND TO ADD A NEW §75121, ALL OF CHAPTER 75 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ENABLING THE CHAMORRO LAND TRUST COMMISSION TO EXPEDITIOUSLY ENTER INTO RESIDENTIAL AND SUBSISTENCE AGRICULTURAL LEASES, to be introduced at the request of the Governor; and
- 2) the rules and regulations approved by the Chamorro Land Trust Commission, in draft bill form for the convenience of the Legislature, as required by the provisions of Public Law 22-96.

received
[Signature]
 7/19/95 4:05


The Chamorro Land Trust Commission met for many hours and deliberated over the practical problems in implementing leases for land under their jurisdiction. In order to overcome some of these practical problems, it was discovered that some amendments need to be made to the Chamorro Land Trust Act to accompany the rules and regulations. For example, in order to make more land available to eligible Chamorros, it is desirable to lease 1/4 or 1/2 acre lots for residential homes, rather than 1 acre. The average home on Guam is on a lot of approximately 1/4 or 1/2 acre. It is not possible to make 1 acre available to all Chamorros because the number of people who would qualify is more than the land available.

In order to accommodate those who want to continue cultural practices as is done by subsistence farming, raising crops and keeping a few farm animals such as chickens, it is desirable to lease up to 1 acre. The present law calls for a minimum of 1 acre and a maximum of 20 acres for farming. A 1 acre lot is adequate for growing fruit trees, bananas, eggplant, squash and other vegetables and fruits for home use. Perhaps a smaller parcel can also be leased for this purpose. The present law would not allow a lease of a smaller lot, which may be available, for subsistence farming. On the other hand, lots larger than that would be considered a commercial venture, and should fall under other provisions.

Additionally, it is desirable to provide for those who may be able to obtain financing for homes. Presently, there are no provisions in the law whereby an applicant for a lease is authorized to obtain financing to build a house. Provisions allowing for this are contained within the draft bill.

I am hoping that the Legislature can work together soon to pass the attached draft bill and to support the adoption of the rules and regulations. The two go hand in hand. When implemented together, residential leases and leases for subsistence farming can be given out very quickly. The Executive Branch has now done its part. The Legislature must now make it possible for the many families who are waiting to finally be able to point to a specific parcel of Guam and call it "home".

Very truly yours,


Carl T. C. Gutierrez

Attachments
230543.

Chamorro Land Trust Commission

P.O. Box 2950 Agaña, Gu 06910

Phone: 476-4251 Fax: 477-8082

Carol A. Ibanez, Chairperson
Rita C. Okada, Commissioner
John Q. Finona, Commissioner
Joseph T. Gumataotao, Commissioner
Tomas T. Aguon, Commissioner

Joseph M. Borja
Administrative Director

Lydia T. Cruz
Deputy Administrative Director

12 July 1995

To: Governor Carl T.C. Gutierrez

Fr: Chairperson

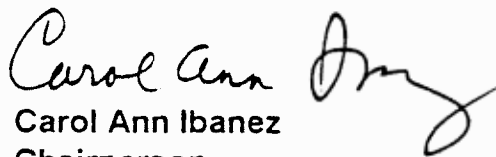
Subj: submittal of proposed Rules and Regulations
proposed amendments to enabling legislation

On July 12, 1995 during a regular meeting of the Chamorro Land Trust Commission, the Commission voted to approve and transmit to the Governor the attached proposed Rules and Regulations and proposed amendments to the enabling legislation for the Chamorro Land Trust Act.

The original draft of the Rules and Regulations were publicly heard on April 24, 25, 26, 27 and 28, 1995.

The Commission having considered all testimonies presented to them at all the public hearings made amendments to the original draft.

The Commission requests that you transmit the proposed Rules and Regulations and the proposed amendments to the enabling Act to the Legislature for their review and consideration.



Carol Ann Ibanez
Chairperson

Ufisinan I Taofaofa Tano'
Sinadot Anghet L.G. Santos
Ge'hilo' I Kumunidat Cuma' yan
Asunton Kottura na Kumite

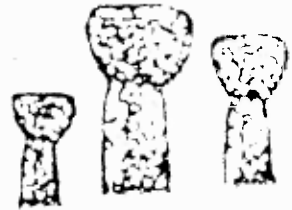
PUBLIC HEARING

on

Substitute Bill No. 317

Chamorro Land Trust

Rules & Regulation



Bill No. 317 - "An act to establish Rules & Regulations for the Chamorro Land Trust Act pursuant to §75103 and § 75107 of Chapter 75, Title 21, Guam Code Annotated, relative to residential and agricultural leases, as substituted by the Committee."

Tuesday, September 5, 1995

Legislative Public Hearing Room

#155 Hesler Street • Agana, Guam 96910

Tel: (671) 472-3586-7 • FAX: 477-4482

PDN 9-1-95

Ufisinan I Taelao' Lano'
Sinadot Anghet L.G. Santos
Ge'hilo' I Kumunida' Guma' yan
Asuntan Kottura na Kumite

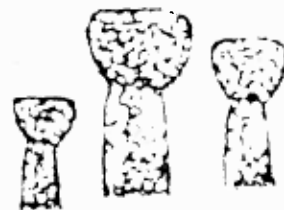
PUBLIC HEARING

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Substitute Bill No. 317

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Bill No. 317 - "An act to establish Rules & Regulations for the Chamorro Land Trust Act pursuant to §75103 and § 75107 of Chapter 75, Title 21, Guam Code Annotated, relative to residential and agricultural leases, as substituted by the Committee."

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Tel: (671) 472-3586-7 • FAX: 477-4482

PON 9-4-95

Bill No. 317
Amendatory Bill YES NO

Date Received 7/25/95
Date Reviewed 8/4/95

Department/Agency Affected: Chamorro Land Trust Commission
Department/Agency Head: Mr. Joseph Borja, Administrative Director
Total FY Appropriation to Date: \$432,000

Bill Title (preamble): An Act to establish rules and regulations of the Chamorro Land Trust Commission pursuant to §§75103 and 75107 of chapter 75, title 21, Guam code annotated, relative to leases for residential and agricultural uses.

Change in Law: N/A.

Bill's Impact on Present Program Funding:
 Increase Decrease Reallocation No Change

Bill is for: Operations Capital Improvement Other ()

FINANCIAL/PROGRAM IMPACT

PROGRAM CATEGORY	ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)		TOTAL
	GENERAL FUND	OTHER	
Natural Resources, Recreation & Arts	- 0 -		- 0 -

FUND	ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)					
	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	1/					
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO-IF NO, ADD'L AMOUNT REQUIRED \$
AGENCY/PERSON/DATE CONTACTED:

FUND	ESTIMATED POTENTIAL MULTI-YEAR REVENUES					
	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	1/					
OTHER						
TOTAL						

ANALYST Frank Lizama DATE 8/4/95 DIRECTOR JOSEPH E. RIVERA DATE AUG 10 1995
Acting Director

FOOTNOTES: (See following page).

Comments on Bill 317:

- 1/ The Commission currently lacks the necessary resources for the surveying and mapping of government land for the purposes of carrying out fully the provisions of the Chamorro Land Trust Act. Subdivision and plotting of residential and agricultural lots (tracts), and the development of on-site infrastructures to include roadways, sewer/water utilities, and power/telephone service lines, are impact costs to the government that will eventually need to be funded.

SPEAKER DON PARKINSON
23RD GUAM LEGISLATURE
SUITE 222-JULALE SHOPPING CENTER
424 W. O'BRIEN STREET
AGANA, GUAM 96910

also CHAIRPERSON, COMMITTEE ON ELECTRICAL POWER AND CONSUMER PROTECTION

July 24, 1995

Senator Angel Santos
Chairman, Committee on Community, Housing and Cultural Affairs
155 Hesler Street
Agana, Guam 96910

Dear Senator Santos:

I agree with you that it is important to address the issue of the adoption of the Rules and Regulations proposed by the Chamorro Land Trust Commission as transmitted over to the Legislature by the Governor on the 12th day of July, 1995, as soon as possible.

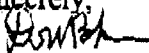
Therefore, I am prepared to call the Legislature into Session as soon as practical once your Committee, the Committee on Housing and Community Development, has reported out the Bill approving and/or modifying such Rules and Regulations. We need to take into account availability of Senators on-island. Also, note that Acting Speaker Nelson's office, with the concurrence of the Rules Chairman's representative and with no objection from me, committed the use of the Session Hall to the Pacific Basin Association of Conservation Districts on August 9 - 11, 1995.

I would point out to you that when I call the Legislature into Session, I cannot restrict the call of the Legislature to consider only certain matters, nor can I set the agenda. The agenda will be determined in accordance with the Standing Rules by the Committee on Rules, the Sub-committee of Rules for setting agenda, or by all the members in Session as a body.

Therefore, I would assume that you will lobby with our colleagues to obtain the necessary votes to put whatever items you wish on the agenda, once the bill approving the Rules and Regulations of the Chamorro Land Trust Commission has been reported out and I have called Session.

Please inform me when your Committee has reported out Bill #317, or the equivalent, and you are ready to put the Rules and Regulations of the Chamorro Land Trust Commission before the entire legislature for action. At that time, I will work with you in setting a date and time for calling the legislature into Session. I would point out that it would be premature for me to call a Session at this time when nothing has been reported out of your committee for us to potentially act on.

Personally, I stand in full support of adopting appropriate rules and regulations to implement the provisions in the Chamorro Land Trust as soon as possible.

Sincerely,

SPEAKER DON PARKINSON
23rd Guam Legislature

Wallace stuck in garage at Miller 500

LONG POND, Pa. (AP) — While Bill Elliott led a surprising domination by Fords in Friday's qualifying for the Miller Genuine Draft 500, Rusty Wallace never got a chance to see if he could break his own track qualifying standard.

Elliott turned a lap of 162.496 mph at the 2.5-mile Pocono International Raceway to put his Thunderbird on the pole for the first time in 42 races. Mark Martin was second at 161.993 and Morgan Shepherd third at 161.438.

WALLACE

But the biggest story in time trials for Sunday's \$1 million Winston Cup race was that Wallace never left his garage.

"He did not pass technical inspection because of unapproved roof flaps," NASCAR spokesman Kevin Triplett said. "We are examining them, and I don't think anything will be decided before (Saturday)."

Triplett refused to be specific about the infraction other than to

say the material used in the flaps — which slow cars in the event they spin — was being studied. Wallace, contacted outside his hauler, said only that he was confused.

He set the track qualifying record last June with a run of 164.558.

Elliott said the 47th pole of his career and the success of the other Fords — pole winners just five times in 17 events — should not be misconstrued to mean the Chevrolet is underdogs Sunday.

NOTICE OF PUBLIC HEARING

23rd Guam Legislature

Committee on Community, Housing & Cultural Affairs

Senator Angel L.G. Santos, Chairman



PUBLIC HEARING

Monday, July 17, 1995, 10:00 AM & 1:00 PM

Governor's Office Adelpup Parade Grounds Pavilion, Agaña

AGENDA

10:00 AM

Bill No. 317 - An act to establish rules and regulations of the Chamorro Land Trust Commission pursuant to §§75103 and 75107 of Chapter 75, Title 21, Guam Code Annotated, relative to residential lots and agricultural leases for subsistence farming; at Governor's request.

Bill No. 318 - An act to amend §§75107, 75108, and 60112, to repeal and reenact §§75103, 75109, and 75110, and to add a new §75121, all of Chapter 75 of Title 21, Guam Code Annotated, relative to enabling the Chamorro Land Trust Commission to expeditiously enter into residential and subsistence agricultural leases; at Governor's request.

1:00 PM

Bill No. 306, as amended by the author - An act to repeal sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of Public Law 21-60 and to repeal section 21 of Public Law 21-72, relative to authorizing the Governor to sell public lands in Yigo, Dededo and Agaña at less than fair market value; by A Santos.

The Public is Encouraged to Attend

De La Hoya says strip me

BOXING

EAST ORANGE, N.J. (AP) — The International Boxing Federation on Friday complied with Oscar De La Hoya's request and stripped him of its lightweight title.

"Since De La Hoya has publicly stated he no longer wants to be our champion, we shall only be too happy to accommodate him," IBF president Bob Lee said in a statement.



DE LA HOYA

On Wednesday, De La Hoya asked to be relieved of the 135-pound title rather than fight a mandatory defense against top-ranked challenger Miguel Julio of Colombia by Aug. 1.

"I am not ready and have not trained yet," De La Hoya said at the news conference, "and they are ready to take away my title Aug. 1, so I am going to just vacate it and not deal with it."

Lee said De La Hoya and promoter Bob Arum reneged on a

verbal commitment to fight Julio. De La Hoya made a successful mandatory IBF defense against Rafael Ruelas on April 22.

"It's the same old story with a fighter and his promoter," Lee said.

Lee said Arum did virtually the same thing with George Foreman, who relinquished the IBF heavyweight title rather than make a mandatory defense.

Chavez vs. Kamau

LAS VEGAS — Julio Cesar Chavez and Frankie Randall, the only man to beat him, will fight separate bouts as part of a Sept. 16 card of four championship bouts.



CHAVEZ

Chavez will defend his WBC super lightweight title against No. 1 contender David Kamau, while Randall will defend his WBA junior welterweight title against former champion Juan Martin Coggi.

The fights, promoted by Don King, will be held at the Mirage hotel-casino.

In other bouts, Frank Liles defends his WEA super middleweight title against No. 2 contender Mauricio Amaral, and WEA junior middleweight champion Carl Daniels takes on former world champion Julio Cesar Vasquez.

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