

JUN 09 1999


The Honorable Antonio R. Unpingco
Speaker
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 57 (COR), "AN ACT TO ADD CHAPTER 80 TO TITLE 21, TO AMEND §2927 AND ADD §§2926(c) AND 2946 TO TITLE 12, AND TO AMEND §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS' RECOVERY", which I have signed into law today as **Public Law No. 25-45**.

I am fully supportive of the intent of this legislation. There are though some aspects of the legislation which require further refinement. I would therefore recommend to the Liheslaturan Guåhan, that it work closely with the Ancestral Lands Commission and the BRAC GovGuam Steering Committee to effectuate the necessary amendments.

Very truly yours,


Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Ac
3:50
6/10/99

Speaker
ANTONIO R. UNPINGCO
6-10-99
1050
Charles

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

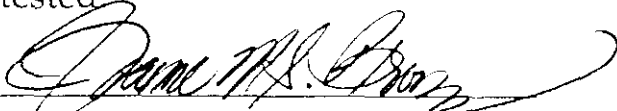
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 57 (COR), "AN ACT TO *ADD* CHAPTER 80 TO TITLE 21, TO *AMEND* §2927 AND *ADD* §§2926(c) AND 2946 TO TITLE 12, AND TO *AMEND* §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS' RECOVERY." was on the 24th day of May, 1999, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 28th day of May, 1999,
at 11:15 o'clock 9 .M.



Assistant Staff Officer
Maga'laha's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 6-9-99

Public Law No. 25-45

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 57 (COR)

As substituted by the Committee
on Rules, Government Reform,
Reorganization and Federal Affairs
and amended on the Floor.

Introduced by:

Mark Forbes
M. G. Camacho
L. F. Kasperbauer
S. A. Sanchez, II
J. C. Salas
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
A.C. Lamorena, V
C. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. R. Unpingco

AN ACT TO *ADD* CHAPTER 80 TO TITLE 21, TO
AMEND §2927 AND *ADD* §§2926(c) AND 2946 TO
TITLE 12, AND TO *AMEND* §75104(b) OF
CHAPTER 75 OF TITLE 21, ALL OF THE GUAM
CODE ANNOTATED, RELATIVE TO
CREATING THE GUAM ANCESTRAL LANDS
COMMISSION, AND FOR LAND CLAIMS AND
LANDOWNERS' RECOVERY.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Title. This Act shall be known and may be referred
3 to as the "*Guam Ancestral Lands Act*."

4 Section 2. Legislative Background, Findings, and Intent.

5 (a) Background Statement. By passage of Public Law
6 Numbers 16-111, 17-52, 20-222, 22-145, 23-23 and 23-141, *I Liheslaturan*
7 *Guâhan* recognized the need of private landowners to pursue
8 appropriate remedies to redress the harm done to them, and to Guam
9 as a whole, when a substantial percentage of the land on Guam was
10 taken by the Naval Government of Guam or the Government of the
11 United States through proceedings in eminent domain, or under
12 threat of eminent domain, following World War II. Public Law
13 Numbers 16-111, 17-52 and 20-222 granted powers to the Guam
14 Economic Development Authority ("Authority") to implement
15 appropriate remedies. Public Law Number 22-145 granted
16 additional powers to the Department of Land Management.

17 *I Liheslaturan Guâhan* hereby finds and determines that the
18 powers granted the Authority and the Department of Land
19 Management by Public Law Numbers 16-111, 17-52, 20-222 and 22-
20 145 have *not* been adequate to address the needs of landowners, and
21 that additional powers, therefore, must now be granted to
22 accomplish the legislative purposes set out in this Section and as
23 provided by Public Law Numbers 16-111, 17-52, 20-222, 22-145 and
24 23-23.

1 *I Liheslaturan Guåhan* also finds and determines that it is
2 necessary to memorialize the true history of land takings on Guam,
3 in spite of well-settled legal protections, as a foundation for
4 establishing a process for the recognition of indigenous Guamanians'
5 claims to their ancestral lands, also known as "ancestral titles," so
6 that the property rights of all citizens residing on Guam may be fully
7 and equally protected in the future.

8 **(b) History of Property Rights.** Part III of the September,
9 1996, report entitled: "The Government of Guam Plan for Local,
10 Public Benefit Use ... Federal Excess Lands on Guam pursuant to
11 USPL 103-339..." contains an accurate documentation of property
12 rights on Guam in addition to providing an authoritative basis to
13 support the legal applicability of property right laws to Guam and
14 her citizens. While the Chapter was written pertaining specifically to
15 the subject of three thousand two hundred (3,200) acres of Federal
16 excess lands pursuant to U.S. Public Law Number 103-339, the
17 evidence contained therein applies to the entire issue of Guam lands
18 in the Federal Government's holdings.

19 The Chapter is set forth in part below and is incorporated by
20 reference into this Section as follows:

21 "Under the laws of the United States of America
22 applicable to Guam and the laws of Guam, the property of
23 people residing in Guam enjoys well settled legal protection.
24 By the terms of the Treaty of Paris, signed December 10, 1898,
25 Guam was ceded by Spain to the United States. At Article VII:

1 "...it is hereby declared that the relinquishment or cession, as
2 the case may be...cannot in any respect impair the property or
3 rights which by law belong to the peaceful possession of
4 property of all kinds, of provinces, municipalities, public or
5 private establishments, ecclesiastical or civic bodies, or any
6 other association having legal capacity to acquire and possess
7 property on the aforesaid territories renounced or ceded [to
8 wit, Guam] or of private individual of what-so-ever nationality
9 such individuals may be." Article IX of the Treaty of Paris
10 further proclaims: "The civil rights and political status of the
11 native inhabitants of the territories hereby ceded to the United
12 States shall be determined by the Congress" [of the United
13 States].

14 By the Land Transfer Act of November 15, 1945, 59 Stat. 584,
15 c.485, the United States Navy was directed by the U.S. Congress to
16 transfer to native Guamanians lands held by the Navy, but no longer
17 required for military or naval purposes (aka Federal excess lands).
18 By the Land Acquisition Act of August 2, 1946, 60 Stat. 803, c.738 the
19 United States Navy was authorized to acquire lands on Guam with a
20 view to such land transfer.

21 By §28 of the Organic Act of Guam of August 1, 1950, 64 Stat.
22 392, c.512, the U.S. Congress directed that all lands on Guam *not*
23 reserved by the President should be transferred to or placed under
24 the control of the government of Guam "to be administered for the
25 benefit of the people of Guam." The United States is subject to a like

1 mandate in respect to tidal and submerged lands pursuant to §1 of
2 the Act of October 5, 1974, Public Law Number 93-435, 48 U.S.C.,
3 §1705, and amendments thereto.

4 In further respect of the duty of the U.S. Congress to fix the civil
5 rights of the people of Guam, the Organic Act provides §1421b. Bill
6 of Rights (f): Private property shall *not* be taken for public use
7 without just compensation. Section 1421b(u) extends provisions of
8 and amendments to the Constitution of the United States to Guam,
9 including the Fifth Article of Amendment which provides in
10 pertinent part that "no person shall be deprived of life, liberty or
11 property without due process of law; nor shall private property be
12 taken for public use without just compensation."

13 Following the time honored legal tradition laid by the United
14 States with respect to the administration of real property on Guam,
15 pursuant to all such private property rights found to be vested
16 therein, the United States Congress followed enactment of the Treaty
17 of Paris of 1898, the Land Transfer Act of 1945, the Land Acquisition
18 Act of 1946, the Organic Act of 1950, the Submerged Lands Act of
19 1974, *et. al.*, with enactment of that legislation which is the subject of
20 the Guam Land Use Plan (U.S. Public Law Number 103-339 "The
21 Guam Excess Lands Act"). Reflecting deep insight into the current
22 Guam land situation, the 103rd U.S. Congress took pains to display
23 its understanding of those historic circumstances which justify
24 special legislative treatment of these three thousand two hundred
25 (3,200) acres of Guam land now subject to disposal. The U.S.

1 Congress declared (§7 General Provisions, U.S. Public Law Number
2 103-339) the property subject to this Act shall *not* be subject to Public
3 Law Number 1003-77 (101 Stat 482), and §818(b)(2) of Public Law
4 Number 96-148 (94 Stat. 1782), as amended. The U.S. House of
5 Representatives, in which H.R. 2144 was introduced, also reported at
6 length (see Rept. 103-391 U.S. House of Representatives 103rd U.S.
7 Congress, 1st Session at page 3) on the “historic injustices” it sought
8 to correct with the bill: to solve “a problem which the Committee on
9 Natural Resources has been working for many years...[which has]
10 limited economic growth and created a serious housing
11 problem...and caused such tension in the territory that it has become
12 one of the major issues impacting U.S. - Guam relations.”

13 Among the reasons the Congress found for this tension was the
14 frustration expressed by “former, original landowners (or their heirs)
15 want(ing) to reclaim the property some believe that their families
16 were told they would be able to reclaim...[who] sold their land to the
17 military in unfair transactions...under duress.” Of course, the strong
18 sense of injustice, fueled by time, buttressed by unsatisfied
19 expectations, all in apparent contradiction with repeated Federal
20 pledges to protect private property interests from the very same sorts
21 of abuse revealed as the origin of this special land legislation has
22 justified this Act as a partial solution to a large still unsolved problem
23 and obviously, where well documented historic injustices have been
24 found to be the basis of an Act of Congress those injustices must be

1 considered when said Act is implemented as in this instance where
2 land use plans are made.

3 *However*, in considering the desirability of quieting title to all
4 disputed land on Guam, when a historic injustice is plain from the
5 facts recited by the U.S. Congress as its justification for a special
6 legislative act, no precedent exists for the direct transfer of title to
7 excess Federal land to a private party or land claimant; throughout
8 the pertinent legal history all precedent indicates local civil
9 government must assume the intermediary role when designated as
10 when the Naval Government of Guam was authorized to transfer
11 lands in 1945, as when the Organic Act authorized the Secretary of
12 Interior to lease or sell excess public lands on Guam §1421f.(c) and as
13 when the government of Guam was authorized by deed to transfer
14 thirty thousand (30,000) (+/-) acres of excess Federal lands to
15 dispossessed individuals for resettlement in 1952. The U.S. District
16 Court has determined that the government of Guam has authority to
17 dispose of Federal excess lands it acquires, *however*, disposal
18 according to that authority must be prescribed by enactment of
19 Guam public laws [see *Bordallo v. Camacho* (1973, CA9, Guam) 475
20 F2nd. 712, which reads: "Legislature of Guam under 48 UCS §1421(f)
21 has authority to legislate regarding land formally owned by the
22 United States and transferred to Government of Guam as long as it
23 does not do so inconsistently with Acts of Congress."]

24 Several local enactments provide a basis for former, "original"
25 landowners to assert a claim for land recovery or for compensation

1 where land recovery is *not* possible (Guam Public Law Numbers 12-
2 226, 16-111, 17-52, 20-222, 22-145 and 23-23)."

3 (c) History of Land Takings and Recognition of
4 Entitlement to Just Compensation. *I Liheslaturan Guåhan*

5 finds, from authoritative histories, that world war, and attendant
6 national security interests of the United States, motivated the taking
7 of vast tracts of Guamanian lands by the United States under powers
8 of eminent domain for the purposes of U.S. military base
9 development.

10 Irrespective of the merits of such takings, *I Liheslaturan Guåhan*
11 finds that under U.S. law, strict standards and procedures exist to
12 regulate public condemnation of private property and assure fairness
13 in such takings. After a careful examination of the history of
14 Guamanian land acquisition by the United States, as revealed by the
15 pleadings of many hundreds of claimants, their attorneys and expert
16 professional appraisers and economists, and after taking full
17 consideration of the applicable valuation and procedural standards,
18 and their application in these circumstances, *I Liheslaturan Guåhan*
19 finds and declares the United States' acquisition of Guamanian land
20 was unconscionable, unfair, unjust and inequitable.

21 Among the facts supporting this conclusion are the acquisition
22 of land from a war devastated population, confined in a closed
23 system, totally controlled by the condemnor and subjected to
24 regulations intended to prevent land prices from increasing until the
25 United States had completed its acquisition of Guamanian lands for

1 military purposes, causing less than fair market value to be paid to
2 Guamanian land owners, who lacked access to impartial courts and
3 were thus denied due process constituting duress. *I Liheslaturan*
4 *Guåhan* finds the Judge of the District Court of Guam declared by
5 judgement issued February 13, 1952 "[t]he ordinary economic forces
6 which establish fair market value are not at work."

7 Over the years *I Liheslaturan Guåhan* has sought to implement
8 remedial legislation to assist land claimants incurring the inequity
9 and injustice arising from the Federal taking of their land. *I*
10 *Liheslaturan Guåhan* finds and declares that these remedies have *not*
11 been effective and that additional legislative relief is required.

12 Official documentation of the harm done to landowners as
13 individuals and to Guam as a whole, as a result of land taking by the
14 United States after World War II, establishes a substantive,
15 authoritative history of the adverse effects resulting directly from
16 acts performed by the United States, under power, or threat of power
17 of eminent domain. Recently declassified documents of the Naval
18 Government of Guam between the period of 1938 to 1950, among
19 which are included detailed reports produced by Naval governors
20 and lengthy series of Naval Government Land and Claims
21 Commission proceedings, beginning with the first such commission
22 headed by Lt. Cmdr. Leslie Watson, established beyond doubt the
23 fact that less than fair market value was paid to Guamanian
24 landowners for land and interests in land condemned by the United
25 States in the post-war period. Actions taken by the United States in

1 preparation for the wholesale condemnation of lands on Guam
2 prevented formation of either a "fair market" or determination of
3 "fair market price."

4 Each is an essential element of "just compensation" required in
5 all legal proceedings conducted pursuant to powers of eminent
6 domain. The official records reveal gross underpayment following
7 coercive pre-condemnation acts constituting taking without just
8 compensation. Having come to clearly recognize the vital role
9 history plays in this campaign for equal social and economic justice
10 under American law, *I Liheslaturan Guåhan* finds and declares it
11 appropriate to herein recite the factual history of, and basic economic
12 truths demonstrated by, the Guam land claims and recovery issue.

13 The Hopkins Committee Report, prepared for the Secretary of
14 the Navy by Ernest M. Hopkins, Chairman, *et al.*, of March 25, 1947,
15 recommended legal and land reform measures which fell short of the
16 actions required to determine land valuation according to the
17 required just compensation, fair market standards. The Organic Act
18 of 1950 failed to provide for an independent judiciary or trial by jury
19 in Federal land condemnation cases. In August of 1950, land use
20 conditions and land problems on Guam were described in a report of
21 the Bureau of Land Management, U.S. Department of the Interior as
22 follows:

23 "... many owners have lost their land or portions of their
24 land but have been unable to secure cash settlement or to
25 secure other land in exchange...

1 This drastic program of land conversion to military use
2 has affected and will continue to affect the lives of the
3 Guamanian people. It has created a shortage of land, which in
4 turn has caused rapidly increasing land values; it has removed
5 a considerable acreage of agricultural land from a
6 predominantly agricultural economy; it has caused widespread
7 displacement of the population as is evidenced by the
8 respective census figures of 1940 and 1950. Surprisingly
9 enough, however, there was found little tendency on the part of
10 the Guamanians to question those takings which were
11 necessary for the prosecution of the war and for the
12 maintenance of an adequate military establishment subsequent
13 to the war. Even those Guamanians who have suffered most
14 from the military land acquisition program have not objected to
15 the takings when the need has been demonstrated. However,
16 from a layman's point of view, there seems to be some evidence
17 that not all the area taken has been actually acquired and that,
18 in some instances, other lands could have been substituted.
19 There is a feeling that under the guise of military necessity
20 there have been some unwarranted land takings."

21 Notwithstanding war's devastation, tardy rehabilitation,
22 displacement from their family estates and therewith the economic
23 basis for their survival, livelihood and economic independence, and
24 the dispossession from their estates for no, or less than just
25 compensation, the people of Guam welcomed the re-establishment of

1 American rule in the post-war years. With the measure of home rule
2 provided under the Organic Act of Guam in 1950, Guam's leaders
3 sought to establish a viable and competent civil government for the
4 new United States Territory of Guam.

5 After 1950, the burden for solving land problems springing
6 from the vast post-war private land takings by the United States fell
7 to the government of Guam. *However*, in attempting to deal with
8 land problems, several obstacles frustrated local authorities beyond
9 their preoccupation with continuing war rehabilitation and
10 formation of the new local government to which would devolve
11 widely specified territorial jurisdiction, without commensurate
12 financial means. United States land condemnation continued
13 through 1962, during which period Guam remained an off-limits
14 land, air and sea military reservation into which the United States
15 Navy strictly controlled all entry. No jury trials were permitted in
16 the newly organized U.S. District Court of Guam which assumed all
17 jurisdiction over Federal eminent domain proceedings; the presiding
18 U.S. District Court of Guam Judge was appointed for a limited
19 instead of life term; the Administration of the Executive Branch of the
20 government of Guam was under the control of governors, appointed
21 by the United States President and closely supervised in office by the
22 Secretary of the Interior who retained direct jurisdiction over
23 territorial civil affairs.

24 In November, 1962, Super Typhoon Karen destroyed virtually
25 all Guam's infrastructure and improved real property, thrusting the

1 entire community, including the new territorial government, back
2 once again into a prolonged phase of rehabilitation.

3 *However*, in the due course, conditions for dealing with Guam's
4 lingering land problems improved: in 1957 jury trials were
5 authorized in the Federal U.S. District Court of Guam; in 1962 the
6 Naval security clearance requirements ended; Typhoon Karen
7 rehabilitation was Federally funded, and U.S. Interior Department
8 control over the administration of territorial government finally
9 passed into the local hands of an elected governor and a local, but
10 non-voting delegate seated in the U.S. Congress. By 1971, in this
11 improved climate, the government of Guam's attention focused again
12 on a search for solutions to remaining Federal land problems.

13 In September of 1972, a Special Committee of the Eleventh
14 Guam Legislature released a report on post-war land takings
15 pursuant to Resolution Number 6, (First) Regular Session of the
16 Eleventh Guam Legislature, passed January 18, 1971, which reads as
17 follows:

18 "WHEREAS, in the latter stages of the Second World War
19 and in the build-up of Guam as a major defense base for the
20 U.S. Navy, and the U.S. Army, the U.S. Air Force and other
21 Federal agencies following World War II and the start of the
22 Cold War, a very large percentage of the limited land area
23 within the territory of Guam was acquired by the United States
24 for defense purposes, of both the Federally-owned and

1 Federally-leased land representing thirty-six percent of all the
2 real property in Guam; and

3 WHEREAS, with Guam being so limited in land area and
4 with the only asset belonging to many Guam families being
5 their inherited piece of property, it is respectfully submitted
6 that the United States Government in acquiring this land, was
7 under a duty to see that the rights of all local landowners were
8 safeguarded and fair compensation was afforded to all; and

9 WHEREAS, unfortunately, a history of Federal land-
10 taking after World War II discloses quite the contrary; that is,
11 the people of Guam were not properly compensated, were not
12 advised of their rights, and were generally deprived of their
13 property without due process of law and without just
14 compensation; and

15 WHEREAS, the facts supporting the foregoing charge
16 were as follows:

17 1. The acquisition of land for defense purposes
18 immediately following World War II was in the hands of
19 the Naval Government; there was no independent
20 judicial system, the so called "Superior Court" being
21 staffed by naval officers who were under the direct
22 command of that same officer who was condemning or
23 otherwise acquiring Guam land for defense bases;

24 2. The people of Guam immediately following
25 the Second World War were deeply grateful to the United

1 States for having been liberated from the Japanese and
2 were additionally inculcated with a deep respect, if not
3 fear of the United States Navy, which had been running
4 the territory of Guam in a high-handed manner since
5 1898; accordingly, it was almost impossible for the
6 average Guamanian to refuse to voluntarily give up his
7 land to a Naval representative requesting the same,
8 especially since it was put to him on the basis of
9 patriotism and loyalty; there are many well-attested
10 incidents where Naval negotiators intimidated the
11 owners and prevented any fair negotiations;

12 3. There are other well-attested incidents
13 wherein illiterate and unsophisticated Guamanians were
14 persuaded to sign stipulations approving fee title
15 acquisitions in the belief that they were signing mere
16 leases or licenses for the United States to use their lands
17 temporarily, and this decision on the part of the Federal
18 negotiators was willful and deliberate; and

19 WHEREAS, one of the most unfortunate aspects of this
20 history is that those relatively few Guamanians who were both
21 wealthy enough and sophisticated enough to refuse to deal
22 with the Navy negotiators ended up with fair compensation for
23 their land since they never lost title until after the passage of
24 the Organic Act which established an independent Federal
25 court and permitted the orderly and fair acquisition of land

1 through eminent domain proceedings following the Federal
2 statutes and the Federal Rules of Civil Procedure, and thus the
3 rich, whose holdings were quite large and extensive, ended up
4 well paid for their lands, while the poor, who usually had only
5 small holdings, received practically nothing; and

6 WHEREAS, since these people who lost their lands under
7 such unfair circumstances are without any adequate remedy at
8 law, any applicable statutes of limitation having long since
9 expired, the only possible solution or form of relief is action by
10 the Congress to set up a Claims Commission to re-open the
11 whole question of federal land acquisition in the territory of
12 Guam immediately following World War II; and

13 WHEREAS, it should be of salutary interest to the
14 Congress to know that the principal reason why the Trust
15 Territory islands have for the most part strenuously resisted the
16 commonwealth status offered them by the Federal government
17 is the fear that with commonwealth will come Federal
18 acquisition of their very limited land, and with the history of
19 the people of Guam's loss of their land continually before them,
20 they indeed have good reason to fear for their future; now
21 therefore be it

22 RESOLVED, that in view of the foregoing, the Eleventh
23 Guam Legislature does hereby on behalf of the people of Guam
24 respectfully request and memorialize the Congress of the
25 United States to establish a Claims Commission to review and

1 re-open if necessary the land acquisitions undertaken by the
2 Federal government in the territory of Guam following the
3 Second World War..."

4 Resolution Number 53 was adopted on April 5, 1971,
5 "[R]elative to the establishment of a special delegation from the
6 Eleventh Guam Legislature to present in Washington, D.C., the views
7 of the people of Guam on certain major issues now pending in our
8 nation's capital, and, in addition, to seek from the Congress
9 legislation establishing the Land Claims Commission requested in
10 Resolution No. 6."

11 Acknowledging that *"there is now pending before the Congress of*
12 *the United States and the major administrative agencies in our nation's*
13 *capital, a number of very serious matters of direct interest and concern to*
14 *the people of Guam,"* Resolution Number 53 says, in part:

15 "WHEREAS, additionally, the Legislature has just
16 adopted Resolution No. 6, relative to requesting the Congress
17 to establish a Claims Commission to re-open the Federal land
18 takings in the territory, which resolution is of enormous
19 emotional significance to the people of Guam and deserves, in
20 the opinion of this body, special treatment in its delivery and
21 presentation; now therefore be it

22 RESOLVED, that there be and is hereby created a special
23 committee of the Legislature to be designated the 'Washington
24 Delegation on Federal Problems,' to be composed of seven
25 members, five of whom shall be selected by the Speaker and

1 other two to be the Chairman of the Rules Committee and the
2 Minority Leader, the Chairman of Rules to serve as chairman of
3 the delegation, which delegation shall have as its duty the
4 presentation before the members of the committees of Congress
5 and Federal agencies in our nation's capital the views and
6 opinions of the people of Guam upon the various pressing
7 territorial matters now pending in Washington, such
8 presentation to include, but not be limited, to the topics set out
9 hereinbefore; and be it further

10 RESOLVED, that the delegation, in addition, shall
11 personally present to the appropriate members of the Congress
12 Resolution No. 6 and undertake all within its powers to obtain
13 from the Congress the relief sought by this resolution ..."

14 Acting pursuant to the directive and authority of Resolution
15 Number 53, the Washington Delegation on Federal Problems was
16 established on April 5, 1971, with Guam Senator Joaquin A. Perez,
17 serving as Chairman. Attorney John A. Bohn was later retained as
18 Special Consultant to the Committee, which by common usage
19 became known as the "*Special Committee on Federal Problems.*"

20 The circumstances surrounding the Federal land takings on
21 Guam following World War II have been well known to the citizens
22 of Guam for many years, and as early as December 1, 1954, testimony
23 was presented to the House Subcommittee on Territorial and Insular
24 Affairs to the effect that these land takings were inequitable.
25 *However,* it became obvious to the Guam Legislature and the Special

1 Committee that nothing would be accomplished by the United States
2 Congress, *unless* the circumstance surrounding these land takings
3 were carefully documented.

4 With this in mind the Committee established a special office in
5 Agana for the purpose of establishing the scope of the problem and
6 examining in some detail the Federal land takings in post-war Guam.
7 The Committee employed its own staff, prepared questionnaires for
8 the purpose of interviewing aggrieved property owners and
9 conducted document research and published notice in the local
10 newspaper of its goals and objectives. A persuasive case was
11 prepared to further confirm the findings of the Special Committee on
12 Federal Problems, as reflected in Resolution Number 6 referenced
13 above.

14 After considerable effort spent by Guam's Special Committee
15 on Federal Problems and Guam Delegate to the U.S. Congress, the
16 late Honorable Antonio B. Won Pat, working cooperatively with
17 California's voting Congressman Philip J. Burton, Federal legislation
18 was enacted as 48 U.S.C. §1424c to address the compensation claims
19 of those Guam landowners willing to contend, through litigation,
20 that unjust compensation had been paid to them. *However*, the
21 Federal Land Claims Commission approach, proposed by the Guam
22 Legislature, was rejected by the U.S. Congress, notwithstanding the
23 historical fact that the Naval Government of Guam had always
24 proceeded by Land Claims Commissions when private Guamanian
25 lands were originally taken. By forcing claimants to prosecute

1 claims, Congress required claimants to take the most costly and
2 burdensome course of recovery. Eligible claimants unwilling to
3 become litigants, were thus excluded from the only authorized
4 channel for relief; it is estimated that more than two thousand (2,000)
5 eligible claimants dropped out at this point, and thus lost all legal
6 recourse for their claims. By rejecting the Commission proposal, the
7 issue of excess land was sidestepped and the issue of land transfer
8 was abandoned altogether. U.S. Public Law Number 95-134
9 (October, 1977), 48 U.S.C. §1424c provides in relevant part as follows:

10 "Sec. 404(a). Notwithstanding any law or court
11 decision to the contrary, the District Court of Guam is hereby
12 granted authority and jurisdiction to review claims of persons,
13 their heirs or legatees, from whom interests in land on Guam
14 were acquired other than through condemnation proceedings
15 in which the issue of compensation was adjudicated in a
16 contested trial in the District Court of Guam, by the United
17 States between July 21, 1944, and August 23, 1962, and to
18 award fair compensation in those cases where it is determined
19 that less than fair market value was paid as a result of (1)
20 duress, unfair influence, or other unconscionable actions, or (2)
21 unfair, unjust, and inequitable actions of the United States.

22 (b) ...

23 (c) Fair compensation...is defined as such additional
24 amounts as are necessary to effect payment of fair market value
25 at time of acquisition, if it is determined that, as a result of

1 duress, unfair influence, or other unconscionable actions, fair
2 market value was not paid.”

3 In the course of this litigation two (2) subclasses of claimants
4 settled their claims in return for payment by the United States of
5 Thirty-nine Million Five Hundred Thousand Dollars (\$39,500,000).
6 A third or “Option II” subclass, after opting out of the original
7 settlement proposal, eventually proposed settlement of their claims
8 in return for payment of Three Million Ninety-seven Thousand Five
9 Hundred Five Dollars (\$3,097,505) and on April 25, 1991 the United
10 States agreed to settle all Option III claims for the amount proposed.
11 Accordingly, the Federal litigation phase commencing with
12 enactment of 48 U.S.C. §1424c in 1977 came to an end with settlement
13 for all claimants once settlement in the Option III proceedings were
14 confirmed.

15 *However*, the relief described above is strictly limited to
16 litigants, leaving large numbers of eligible claimants, who did *not*
17 elect to litigate, without any relief at all. Furthermore, the settlement
18 amounts agreed upon in the Option III class action, where competent
19 appraisals were performed, fell far short of the land lot values
20 established by plaintiffs’ professional appraisals. No land was
21 recovered by the litigation under 48 U.S.C. §1424c, which was a
22 statute limited to adjudicating compensation claims.

23 *However*, litigation proceeding under 48 U.S.C. §1424c
24 produced, for the first time in the long history of this issue, important
25 professional appraisal and market information, and thus laid the

1 basis required to determine fair market valuation for all lands
2 originally condemned. It is now possible to accurately compute the
3 balance of just compensation remaining due the people of Guam for
4 lands taken by the United States after World War II.

5 Throughout the entire history of the Guam land case, including
6 the Option III phase just prosecuted under 48 U.S.C. §1424c, Guam
7 land claimants were denied the right to trial before a jury of peers
8 and an independent judiciary. The adverse consequence of this
9 arrangement may be seen from a review of summary judgement
10 decisions in the very recent Option III proceedings, which were
11 forced by these rulings to an unsatisfactory pretrial conclusion.
12 Notwithstanding the fact the United States was in the position of a
13 fiduciary to the people of Guam, the United States was *not* forced to
14 bear the burden of proof that it acted as a fiduciary in the interest of
15 the Guamanian people from which it took lands while as wards of
16 the United States. The Navy's acquisitions of land from landowners
17 lacking access to impartial courts denied due process to those
18 landowners; denial of due process constitutes duress and is
19 unconscionable, unfair, unjust and inequitable.

20 *I Liheslaturan Guåhan* finds a fiduciary relationship existed
21 between the United States and the inhabitants of Guam at the time of
22 the land acquisitions subject of these cases. As a result of the
23 existence of that relationship it must be shown that the military land
24 acquisitions by the United States from the people of Guam were
25 conducted in perfect good faith, without pressure of influence, and

1 all information relevant to the transaction in the possession of the
2 United States was supplied to the sellers, that disinterested advice
3 was provided to the sellers and that adequate consideration was
4 paid. Not only must these elements be shown, but the burden of
5 proof with regard to each element rests with the United States.

6 Because the United States was a fiduciary with respect to the
7 inhabitants of Guam, the actions of the United States in acquiring
8 Guamanian lands must be judged according to the standards of
9 conduct required by a fiduciary relationship.

10 Recognizing the great financial burden litigation pursuant to 48
11 U.S.C. §1424c imposed upon plaintiff claimants, *I Liheslaturan Guåhan*
12 appropriated funds under Public Law Numbers 16-111 and 17-54 to
13 assist them with litigation expenses. It was anticipated plaintiff
14 claimants would secure satisfactory relief through litigation in the
15 form of fair market value for the lands taken, plus interest due
16 thereon, for the time their just compensation payments were delayed.

17 In contemplation of a satisfactory litigation result, *I Liheslaturan*
18 *Guåhan* provided that loans and loan guarantees warranted
19 additional risk and subsidies not normally assumed or provided in
20 the loans and loan guarantees otherwise allowed by the Guam
21 Economic Development Authority:

22 "Section 53610.10. Unusual Risks and Subsidies
23 Warranted. The Corporation is authorized to make loans,
24 or guarantees of loans, in furtherance of the purposes and
25 activities stated in this Chapter, and all loans or guarantees so

1 made need not meet the normal requirements of a usual
2 commercial loan or guarantee and shall not be refused for
3 reasons of lack of credit standings, or reliability, or doubts
4 about the ability of the borrower to repay, it being understood
5 that the successful termination of the land claimants litigation
6 is of such vital need to the economy of Guam as to warrant
7 unusual risks and subsidies.

8 **Section 53610. Declaration of Intent further finds:**

9 (e) That, the result of a successful conclusion of
10 the land claims cases will be the payment of large sums of
11 money to the people of Guam for the deprivation of their
12 property without the payment of adequate consideration,
13 and the availability of these funds to the claimants will
14 benefit all of Guam by reducing dependency on social
15 programs, by allowing Guamanian families to provide
16 advanced and technical education for their children; by
17 providing Guamanians capital for business ventures in
18 Guam; by expanding the supply of money available in
19 the territory of Guam; and will generally benefit the
20 economic future of Guam in a very large measure; and

21 (f) That, it is in the public interest, and sound
22 public policy for every assistance to be provided by the
23 government of Guam to these land claimants who have
24 suffered hardship so long, through no fault of their own,

1 by the loss of their property to assist the military forces of
2 the United States for the benefit of Guam.”

3 *However*, with the conclusion of litigation prosecuted under 48
4 U.S.C. §1424c came the realization that litigation has *not* produced a
5 satisfactory outcome for claimants harmed by United States’ land
6 takings on Guam: by virtue of harsh adverse rulings of the U.S.
7 District Court on fundamental issues in the litigation, claimants have
8 had to settle their claims at less than fair market value without
9 benefit of a trial before a jury or other independent trier of fact.
10 Large numbers of non-litigant claimants who dropped out for want
11 of litigation resources, or the will to prosecute their claims in court,
12 remain without any remedy at all. The appraisal standards
13 developed under 48 U.S.C. §1424c for determining fair market value
14 as the rightful measure of just compensation have still *not* been
15 applied, with the result of gross underpayment even after all
16 remedies provided under 48 U.S.C. §1424c have been exhausted.

17 **(d) Legislative Intent.** Accordingly, *I Liheslaturan Guåhan*
18 finds the continuing need to pursue just remedies to redress the harm
19 done to landowners as individuals and to Guam as a whole, resulting
20 from the taking of Guamanian lands by the United States on or after
21 January 1, 1930. In pursuing just remedies and redressing the harm
22 done, two classes of landowners emerge: (1) those whose lands have
23 been declared excess by the Federal government, *and* (2) those whose
24 lands have *not* been declared excess and may or may not likely be
25 declared excess by the United States in the future. It is the intent of *I*

1 *Liheslaturan Guåhan* to address the requirements of both classes by
2 enactment of this law, to expand authority of existing laws and to
3 embody in law a sound statutory basis for filing future claims or
4 ancestral titles to lands surplus to the government's needs.
5 Therefore, for the purposes of effecting this law, *I Maga'lahaen Guåhan*
6 or his designee, and the Director of the Department of Land
7 Management, shall hereby be authorized to and shall administer the
8 transfers to such persons and upon such terms and conditions at
9 such times as it may determine to be suitable in replacement of lands
10 or full recovery of original lands acquired for military or naval
11 purposes on Guam in the aftermath of WWII, lands *not* to be
12 otherwise required for public purposes.

13 As to both classes of landowners, the Guam Economic
14 Development Authority and the Department of Land Management
15 are hereby granted the additional powers required to aggressively
16 continue Guam's landowners' campaign for equal political and
17 socioeconomic justice under American law to include the authority
18 and the responsibility required as provided herein to determine just
19 compensation for the loss of their interests in land, and, the pursuit of
20 recovery of that amount by accomplishing just remedies as have been
21 provided herein.

22 As to the second class of landowners, *I Liheslaturan Guåhan*
23 desires to extend the same provisions afforded the first class of
24 landowners, as well as establish a process for the recognition and
25 protection of future claims, accepting the authoritative argument set

1 forth in U.S. Public Law Number 103-339 "Guam Excess Land Use
2 Plan" Report (September, 1996) as a basis for this process:

3 "...several species of private property may remain firmly
4 attached to or vested in estates of federal excess lands in Guam,
5 which may be deemed to constitute senior entitlement or rights
6 of preferment thereto: as when aboriginal title of the native
7 inhabitants in public domain lands remains unextinguished; as
8 when future private property interests in estates of federal
9 excess lands have been established by federal law but remain
10 unextinguished; as when a land exchange claim or right to
11 same under U.S. Public Law Number 225 [59 Stat.584, c.485]
12 remains unextinguished; as when reversionary private
13 property interests in estates of Federal excess lands have been
14 duly created by Guam law but remain unextinguished; and, as
15 when the United States, or the Government of Guam as an
16 instrumentality of the United States, acts or has acted as a
17 trustee owing a fiduciary obligation to the native people of
18 Guam, especially with respect to their legal rights to lands in
19 which aboriginal title, future interests (i.e. right to transfer)
20 and/or reversionary interests have been established in fact and
21 by law, and remain unextinguished."

22 Title 21, Guam Code Annotated regulates real estate within
23 Guam. In Title 21 the nature of property, ownership and owners
24 rights are defined. Specific provision in law is made for "future
25 interest" defined in §1221 as "a future interest entitled the owner to

1 the possession of the property only at a future period" as when
2 public lands become excess, and therefore subject to future interest
3 claims. Future interests pass by succession, will and transfer in the
4 same manner as present interests (§1230). A future interest is *not*
5 void merely because of the improbability of the contingency on
6 which it is limited to take effect (§1228); no future interest, valid at its
7 creation, is defeated by the determination of the precedent interest
8 before the happening of the contingency on which the future interest
9 is limited to take effect (§1404). Of course "the happening of the
10 contingency on which the future interest is limited to take effect" has,
11 by some land claimants who have already filed "Claims of Future
12 Interest," been interpreted to be the excessing and disposal of those
13 Federal lands having been declared surplus and excess and to which
14 other contingent or future property interests may attach.

15 In accordance with its responsibility under both Federal and
16 local law this plan takes account of the possibility the public lands at
17 issue here may be subject to private ownership claims as yet unmade
18 because based on the existence of future interests as defined by law.
19 A claim of ownership constitutes an encumbrance on a property in
20 the same manner as any identified constraint (i.e. Federal
21 contamination, right-of-way, perpetual easement, wetlands, etc.).
22 Under Guam law legal process has been established by which rights
23 of owners, if any, may be asserted. Under Guam law individuals
24 having interests, or who believe they have property interests, may
25 take actions to determine the validity of their claims. Actions to

1 determine conflicting claims may also be taken under law. It is
2 important to note, *however*, that claims on property are actions which
3 must be taken by claimants themselves. Guam law provides for the
4 resolution of claims pursuant to law, but the burden to make and
5 defend claims rests with the claimant alone.

6 The government of Guam has long recognized that historic
7 injustices persist with respect to many people's ancestral lands. The
8 United States Government has also given its recognition of this
9 situation both in law and by administrative acts. Indeed, U.S. Public
10 Law Number 103-339 represents such recognition as recently as 1994.
11 To the extent a lawful remedy for injustice may be found for those
12 who stake their claim it may eventually be said that some justice was
13 regained. *However*, the burden to right past wrongs rests on those
14 whose asserted rights eventually prevail. And, those who rest on
15 their rights risk losing them altogether.

16 Guam Public Law Number 22-145 requires preparation of a
17 Land Use Plan for all Federal excess land parcels designated under
18 U.S. Public Law Number 103-339 which accounts for each parcel's
19 original ownership. Guam Public Law Number 22-145 also
20 establishes land transfer conditions and exemptions, including
21 interim use conditions. Land exempt from transfer pursuant to
22 Guam Public Law Number 22-145 include all lands presently utilized
23 for public uses such as easements, utilities and the like (see §8, Guam
24 Public Law Number 22-145).

1 Guam Public Law Number 23-23 provides in "§2004.
2 POLICY WITH RESPECT TO ORIGINAL LANDOWNERS. It
3 is the policy of the government of Guam that land returned by
4 the Federal Government to Guam be returned to the estates
5 that held such property prior to the condemnation of said lands
6 by the Federal Government. Exceptions to this policy shall be:

7 (a) **Lands Clearly Under Existing Public Use.**

8 In such circumstances the government of Guam shall
9 make good faith efforts to derive a means of
10 compensation for continued public use of such lands.

11 (b) Lands that were Spanish Crown Lands, or
12 otherwise passed directly into the possession of the
13 government of the United States with the Treaty of Paris
14 at the end of the Spanish-American War.

15 (c) Lands condemned by the government for the
16 United States, or otherwise acquired, prior to January 1,
17 1930.

18 (d) Land for which said original landholder
19 against whom condemnation was exercised was not an
20 individual or family, but rather an organization, be it
21 fraternal or either a profit-making or non-profit
22 corporation, or otherwise."

23 Indeed, the entire legal history of civil government on Guam is
24 laced with provisions for the protection and recognition of private
25 property rights, as well as provision for common public use of lands

1 required to achieve the common good. Because of the manner by
2 which Federal land takings occurred on Guam following WWII, it is
3 widely believed that private property rights to public excess lands
4 remain unextinguished and may ripen when excess lands are finally
5 acquired by the government of Guam. If this in fact becomes the case
6 the laws of Guam are firmly in place to satisfactorily deal with these
7 matters based on claimant initiatives, public use transfer
8 prohibitions, etc. The role of the government of Guam is found in the
9 protection, not the creation, of private and public property.

10 **Section 3. Guam Ancestral Lands Act.** Chapter 80 is hereby
11 *added* to Title 21 of the Guam Code Annotated to read as follows:

12 **“CHAPTER 80.**

13 **GUAM ANCESTRAL LANDS COMMISSION.**

14 **Section 80101. Definitions.** Whenever used in this Chapter:

15 (a) *‘Ancestral Lands’* shall mean those lands owned privately
16 by residents of Guam on or after January 1, 1930.

17 (b) *‘Ancestral Lands Title’* shall mean that right and interest
18 entitling an owner or owner’s descendants or heirs to the
19 repossession of property taken by the United States of America or the
20 government of Guam on or after January 1, 1930, having thereafter
21 been declared excess or, where not declared excess, in exchange
22 therefor.

23 (c) *‘Ancestral Property Right’* shall mean the right and interest
24 that a private property owner has in relation to inherited land or
25 lands possessed by private property owner’s ancestor.

1 (d) '*Ancestral Title Registry*' shall mean the registry into
2 which is entered all information pertaining to ancestral land
3 claimants who are granted land title, either by land exchange or land
4 recovery, in exchange for the permanent extinguishment of all claims
5 thereto.

6 (e) '*Applicant*' shall mean any person or persons, legal entity
7 or government, who files a claim in accordance with Chapter 80 of
8 Title 21 of the Guam Code Annotated, and Articles 9 and 9A of Title
9 12 of the Guam Code Annotated.

10 (f) '*Claims Registry*' shall mean the registry into which is
11 entered information based on a determination by the Commission
12 that a valid basis exists for an ancestral title claim by an applicant.

13 (g) '*Commission*' shall mean the Guam Ancestral Lands
14 Commission.

15 (h) '*Conditional Awards Registry*' shall mean the registry into
16 which is recorded information in relation to each determination
17 made by the Commission with respect to an ancestral title and
18 compensation application made by a claimant.

19 (i) '*Determination*' shall mean an administrative ruling by the
20 Commission with respect to an applicant's request for an
21 extinguishment of an ancestral claim.

22 (j) '*Excess Lands Registry*' shall be a listing of all lands
23 declared excess by the Federal government and acquired by the
24 government of Guam on or after the effective date of this Act.

1 (k) *'Just compensation'* for the purposes of Chapter 80 of Title
2 21 of the Guam Code Annotated, and Articles 9 and 9A of Title 12 of
3 the Guam Code Annotated, as amended, shall mean only land
4 recovery or land exchange, and shall also mean any other form of
5 compensation other than a specifically described available land.

6 (l) *'Original land'* shall mean the actual specifically described
7 land, in whole or in part, which was confiscated or condemned by
8 the United States of America or the government of Guam on or after
9 January 1, 1930, and have been thereafter declared excess to which a
10 prior private ownership interest held by a resident of Guam on
11 January 1, 1930 was previously attached.

12 (m) *'Original landowners registry'* shall mean the registry into
13 which information pertaining to all lands taken and the names of
14 owners whose properties were confiscated or condemned on or after
15 January 1, 1930.

16 (n) *'Replacement land'* shall mean land surplus to the Federal
17 government or the government of Guam, and *not* in public benefit
18 use, or needed for public benefit use, to which no private ownership
19 interest was attached on January 1, 1930, and which may be used as a
20 replacement for original lands confiscated or condemned by the
21 United States government or the government of Guam.

22 **Section 80102. Affirmation of and Authorization to Exercise a**
23 **Fundamental Civil Right in Ancestral Real Property Also Known as**
24 **Lands.** The responsibility of the government of Guam to enforce rights
25 in private property, as a civil right, pursuant to the laws of the United

1 States of America applicable to Guam and the Laws of Guam is hereby
2 acknowledged and reaffirmed. The responsibility of the government of
3 Guam to also enforce the entire community's rights in public property, as
4 common property, is also hereby acknowledged and reaffirmed.

5 The government of Guam expects to eventually accept transfer of the
6 ownership of lands to be disposed under '*The Guam Excess Lands Act*'
7 through the U. S. General Services Agency and as a result of decisions in
8 1993 and 1995 issued by the U.S. Base Realignment and Closure
9 Commission, subject to certain specified encumbrances, including un-
10 relinquished property rights retained either by the United States of
11 America or other prior owners, with applicable judicial procedures
12 available should disputes arise. *However*, it is recognized that a process
13 does *not* now exist to recognize the ancestral land rights of landowners
14 whose properties have *not* been declared surplus and may *not* ever be
15 declared surplus by the military in the future. Likewise, the process
16 established by Guam Public Law Number 22-145 for disposal of three
17 thousand two hundred (3,200) acres of Guam excess lands does *not* apply
18 to claimants whose claims are attached to excess land elsewhere.

19 *I Liheslaturan Guåhan* recognizes that the rights of landowners to full
20 use and enjoyment of their private property was long deprived because of
21 unsettled issues described in the foregoing §80103 of this Chapter.
22 Therefore, to restore the rights of landowners to the use of their ancestral
23 lands, *I Liheslaturan Guåhan* through this Chapter hereby affirms and
24 formally recognizes the 'Ancestral Property Right'; establishes an
25 administrative process for the exercise of that right; and creates the Guam

1 Ancestral Lands Commission and authorizes the Commission to
2 administer the provisions of this Chapter in order that original
3 landowners, their heirs and their descendants may expeditiously exercise
4 all their fundamental civil rights in the property they own. The exercise of
5 'ancestral property right' claims shall be applicable to lands already
6 declared excess by the Federal government and shall also be applicable to
7 all future declaration of excess lands either by the United States
8 Government or by the government of Guam.

9 **Section 80103. Guam Ancestral Lands Commission.** There is
10 within the government of Guam the '*Guam Ancestral Lands Commission*' to
11 carry out the purposes of this Chapter. The Commission shall be
12 composed of seven (7) members with seven (7) people appointed by *I*
13 *Maga'lahaen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*.

14 The seven (7) Commissioners shall be appointed by *I Maga'lahaen*
15 *Guåhan* and shall be residents of Guam and descendants or heirs of
16 ancestral land owners or claimants, and they shall serve terms of four (4)
17 years from the date of their appointment.

18 Six (6) Commissioners shall constitute a quorum of the Commission
19 for the conduct of all business. A vote of a majority of the members of the
20 Commission shall be required for any action of the Commission. The
21 Commission shall adopt rules and regulations governing the conduct of its
22 affairs. It shall elect a Chairman and Vice-Chairman from among the
23 Commissioners and may employ an executive director and such staff as is
24 necessary to carry out the duties set forth in this Chapter, pending the
25 submission and approval of a budget by *I Liheslaturan Guåhan*. Each

1 Commissioner shall receive the sum of Fifty Dollars (\$50.00) for attendance
2 of each meeting of the Commission, providing that such compensation
3 shall *not* exceed One Hundred Dollars (\$100.00) per month, and providing
4 that they are not members of *I Liheslaturan Guåhan*.

5 **Section 80104. Powers and Duties of the Commission.**

6 **(a) Commission to Establish Ancestral Lands Registries.**

7 The Commission is directed to establish and maintain five (5)
8 separate registries for the purposes of recording accurate information
9 in the settlement of ancestral claims, as set out in the Subsections
10 below.

11 **(1) Original Landowners Registry.** The Original
12 Landowners Registry is a listing of all lands taken under the
13 names of owners of record at the time of taking whose
14 properties were confiscated or condemned by the United States
15 of America, or by the government of Guam on or after January
16 1, 1930, as well as other pertinent location and ownership
17 information in relation to the property. The Original
18 Landowners Registry shall be used for the purpose of
19 confirming an applicant's property claim, for future
20 extinguishment upon receipt of just compensation, as defined
21 by this Chapter.

22 **(2) Excess Lands Registry.** The Excess Lands Registry
23 is a listing of all lands that have been declared excess by the
24 Federal government or the government of Guam, including all
25 lands that may be declared excess in the future by the

1 government of Guam. The Excess Lands Registry shall be used
2 for the purpose of identifying a specified lot or lots of land with
3 which the Commission may use as *'just compensation'* in
4 extinguishing ancestral claims.

5 (3) **Claims Registry.** The Claims Registry is a
6 listing of all claims to ancestral title filed by applicants.

7 (4) **Conditional Awards Registry.** The Conditional
8 Awards Registry is a listing of conditional awards of just
9 compensation.

10 (5) **Ancestral Title Registry.** The Ancestral Title
11 Registry is a listing of applicants granted land title in return for
12 the surrender of all their ancestral property claims.

13 (b) **Duties of Commission.** In establishing all five (5)
14 registries established in this Section, the Commission or designated
15 staff shall investigate, record, file, report and respond to requests by
16 ancestral land claimants for remedy, including government of Guam,
17 whose land was taken by the United States or by the government of
18 Guam on or after January 1, 1930. Remedy includes just
19 compensation, as defined in §80101 of this Act, which for purposes of
20 this Chapter is defined as limited to the return of land or access to
21 landlocked lots across public lands, *if* public lands block access to
22 private property.

23 The Commission shall establish, in accordance with the
24 Administrative Adjudication Law, written procedures for
25 extinguishment of Claims, award of just compensation and

1 recordation of Ancestral Land Title, as well as other rules and
2 regulations required to administer this Chapter. The Commission
3 shall promulgate rules and regulations to administer the
4 Commission's functions in a fair, just, economical and expedient
5 way, and shall establish fees and specify materials reasonably
6 required to accompany applications in order to extinguish a claim in
7 favor of a just compensation award.

8 (c) **Four (4) Step Process for Extinguishment of Claims,**
9 **Award of Just Compensation, and Recordation of Ancestral Land**
10 **Title.** The following four (4) step process shall be detailed
11 within appropriate written procedures and rules and regulations to
12 be prescribed by the Commission.

13 **Step 1: Filing of Ancestral Claim** – Applicant in this first
14 step submits an application to the Commission containing
15 applicant's assertion that applicant and others, *if any*, hold
16 ancestral title in relation to a specified lot of land by virtue of
17 inheritance. Based upon the information provided, the
18 Commission shall make a determination *if in fact* a valid basis
19 for an ancestral title claim exists. The ancestral title claim shall
20 then be entered in the Claims Registry. The Claims Registry
21 shall contain the information required to be entered, as
22 established by the Commission by rules and regulations. The
23 Commission must accept an application for determination of
24 claim, provided the following minimum information is given:

- 1 1. date on which application was submitted to
2 the Commission;
- 3 2. whether the application was submitted to the
4 Commission, or Commission's designee, and the name of
5 the Commission or designee;
- 6 3. name and address for service of notification to
7 the person(s) who is the claimant (This is the person who
8 shall be the registered ancestral title claimant.);
- 9 4. the area of land covered by the claim,
10 including property descriptions and maps;
- 11 5. description of the persons who it is claimed
12 hold the ancestral title; *and*
- 13 6. other details about the claim as the
14 Commission may deem appropriate.

15 The Claims Registry may be inspected by any member of the
16 public during normal business hours. No part of the Claims Registry
17 are to be kept confidential from the public.

18 The Commission must ensure that the Claims Registry is kept
19 updated with details of any claims contained in applications given to
20 the Commission, or of any application for amendments to a claim
21 after a determination.

22 **Step 2: Ancestral Title and Compensation Application.** An
23 applicant may exercise applicant's right to extinguish an ancestral
24 claim by submitting an application to the Commission for a
25 determination of a conditional title and compensation award. An

1 applicant may submit an application in prescribed form for any of
2 the following three (3) categories defined:

3 **Category 1:** Ancestral Title Determination – for a
4 determination of ancestral title in relation to an area for which
5 there is no approved determination of ancestral title;

6 **Category 2:** Revised Ancestral Title Determination – for
7 revocation or variation of an approved determination of
8 ancestral title on the grounds that:

9 (a) events have taken place since the
10 determination was made that have caused the
11 determination no longer to be correct; *or*

12 (b) the interests of justice require the variation or
13 revocation of the determination; *or*

14 **Category 3: Compensation Application.** This
15 Chapter sets forth two (2) forms of compensation for future title
16 claims which shall be either the return of original ancestral
17 land, or just compensation, as defined in §80101 of this Act,
18 based upon mutually satisfactory negotiations between the
19 government and the applicant. Before relinquishment of
20 exchange land the Commission shall certify that the exchange
21 lands show no history of ancestral ownership or ancestral
22 ownership claim on or after January 1, 1930.

23 The Commission must accept an ancestral title and
24 compensation application provided the following requirements are
25 met by the claimants:

1 (1) that the kind of application falls within the three (3)
2 categories defined above;

3 (2) is in the prescribed form, as established by the
4 Commission;

5 (3) contains the information required and as prescribed
6 in relation to the matters sought to be determined;

7 (4) provide accompanying documents at the very
8 minimum of which include:

9 (a) a sworn affidavit that the applicant:

10 (i) believes that ancestral title has *not* been
11 extinguished in relation to any part of the land
12 claimed; *and*

13 (ii) believes that all of the statements made
14 in the application are true;

15 (b) a statement containing all information known
16 to the applicant about interests in relation to any of the
17 land or waters concerned that are held by persons other
18 than as ancestral title holders;

19 (c) a description and map of the area over which
20 the ancestral title is claimed;

21 (d) evidence of heirship;

22 (e) name and address of the person who is to be
23 considered the claimant (The name of the person given
24 under this item will become the registered ancestral title
25 claimant.); *and*

1 (5) all accompanying fees as prescribed by the
2 Commission.

3 **Step 3: Conditional Award of Just Compensation.** In
4 awarding ancestral title and just compensation, the
5 Commission shall issue a Certification of Award of Just
6 Compensation on Condition of Extinguishment of Ancestral
7 Title Claim. The Certification of Award of Just Compensation
8 shall be entered into the Conditional Awards Registry. The
9 Conditional Awards Registry shall contain as much of the
10 information in relation to each determination as must be
11 entered into the Register, at a minimum of which shall consist
12 of:

13 (1) name of the Commission or designee that
14 made the determination;

15 (2) date on which the determination was made;

16 (3) area, location, and description of specific land
17 covered by the determination;

18 (4) the matters determined; *and*

19 (5) other details about the determination or
20 decision as the Commission deems appropriate.

21 The Conditional Awards Registry shall be made available
22 for the public's inspection during normal business hours.

23 **Step 4: Extinguishment of Ancestral Land Claim –**
24 An ancestral land claimant is granted claimant's land title
25 either by land exchange or land recovery on the condition that

1 the ancestral title holder surrenders all rights and interests in
2 relation to ancestral land claims thereby permanently
3 extinguishing all rights, interests and claims to the claims.
4 Upon the Commission's issuance of title by an award of just
5 compensation and extinguishment of claims, the ancestral title
6 holder's name is removed from the Conditional Awards
7 Registry, and is entered into the Ancestral Lands Title Register
8 by the Commission. The Commission shall prescribe the
9 appropriate form to effectuate issuance of compensation and
10 extinguishment of ancestral claim. The Commission shall
11 ensure that the ancestral title holder is issued a suitable
12 property conveyance deed in full satisfaction of ancestral title
13 holder's ancestral title award. Once listed as ancestral title
14 holder after acceptance of specifically described land, the
15 holder and all of holder's heirs, successors and assigns, and
16 those who may assert subsequent claims derived from the
17 holder, are forever barred from reentry into the Claims
18 Registry.

19 **(d) Director of Land Management to Reserve All Future**
20 **Lands Received by Government of Guam Declared Excess for**
21 **Entry into Excess Lands Registry.** For the purposes of administering
22 this Section, the Director of Land Management is authorized and
23 required to reserve all future lands received by the government of
24 Guam declared excess, and ensure that all information pertaining to
25 excess lands, both current and future, are sent to the Commission for

1 entry into the Excess Lands Registry. The Commission shall
2 maintain and give the public the right to review the Excess Lands
3 Registry.

4 (e) **Land Bank.** The Commission shall take title, as
5 Trustees, of former Spanish Crown Lands and other non-ancestral
6 lands that are conveyed by the Federal government to the
7 government of Guam after the effective date of this Act, on behalf of
8 ancestral landowners who, by virtue of continued government or
9 public benefit use cannot regain possession or title to their ancestral
10 lands.

11 The Commission shall establish a Guam-based trust to
12 administer all assets and revenues of the land bank of the
13 aforementioned lands and manage the lands, and act as the
14 developer of the lands, *if necessary*, to the highest and best use. The
15 Commission shall establish rules and regulations pursuant to the
16 Administration Adjudication Law for the Guam-based trust. The
17 resulting income shall be used to provide just compensation for those
18 dispossessed ancestral landowners.

19 (f) **Notification of Extinguishment of Ancestral Claims.**

20 The Commission shall ensure that all parties whose interests may be
21 affected in the extinguishment of an ancestral claim are notified in
22 writing, *if at all possible*, and through public notice in a Guam
23 newspaper of general circulation.

24 (g) **Appeal Through Judicial Process.** If disputes arise
25 from an application which cannot be resolved by the Commission,

1 then any of the opposing parties may invoke the judicial process at
2 the party's expense."

3 **Section 4. Land Claims Facilitator. (a) Legislative Intent of**
4 **This Section.** *I Liheslaturan Guåhan* recognizes the continuing
5 need to pursue just remedies to redress the harm done to land
6 owners as individuals, and to Guam as a whole, but that the pursuit
7 of just remedies is *not* within the ready reach of the average land
8 owner, *unless* the government of Guam also assumes the role of
9 Claims Facilitator. Therefore, the Guam Ancestral Lands
10 Commission is granted powers required to aggressively continue
11 Guam landowners' campaign for equal political and socio-economic
12 justice under American Law to include the authority and the
13 responsibility required as provided in Chapter 80 of Title 21 of the
14 Guam Code Annotated to assist landowners in filing claims with the
15 Guam Ancestral Lands Commission, to include assistance in
16 determining the area of land due and owing to landowners of Guam,
17 as just compensation for the loss of their interests in land, and the
18 pursuit for the recovery of that amount by accomplishing just
19 remedies as have been provided in Chapter 80 of Title 21 of the
20 Guam Code Annotated.

21 (b) Section 2926(c) is hereby *added* to Title 12 of the Guam
22 Code Annotated to read as follows:

23 "(c) '*Facilitator*' means the Guam Ancestral Lands
24 Commission."

1 (c) Section 2927 of Title 12 of the Guam Code Annotated is
2 hereby *amended* to read as follows:

3 **“Section 2927. Landowner’s Recovery Fund Created.**

4 There is created the ‘*Landowner’s Recovery Fund*’ to further the
5 purposes of Chapter 80 of Title 21 of the Guam Code
6 Annotated, to grant loans, or guarantees of loans or grants-in-
7 aid to landowners, or to defer costs or fees of professional
8 services required by those landowners or class of landowners
9 whose land, rights in land or interest in land were taken by the
10 Naval Government of Guam or the United States Government
11 on or after January 1, 1930, in order to assist such landowners
12 with pursuit of adequate remedies for such taking, such
13 remedies to include just compensation or return of the land or
14 access to landlocked lots or other adequate redress of an
15 adverse impact of the land takings, all to be on a reimbursable
16 basis, according to standards and conditions set out in §2908 of
17 this Article. The Fund shall be utilized to make funds available
18 for landowners to contract with attorneys and necessary non-
19 attorney consultants and for the Facilitator, on behalf of a class
20 of landowners, to likewise contract for such professional
21 services as are required to further the aims of this Article. The
22 Fund shall be utilized to make funds available as necessary for
23 real property research, survey, pre-trial discovery, pre-
24 litigation settlement negotiation or litigation in the

1 circumstances where all non-litigation remedies have been
2 attempted without satisfactory result.”

3 (d) Section 2946 is hereby *added* to Title 12 of the Guam Code
4 Annotated, to read as follows:

5 **“Section 2946. Guam Ancestral Lands Commission**
6 **Authorized to Facilitate Land Claims.** The Guam Ancestral
7 Lands Commission is hereby authorized to use funds from the
8 Landowner’s Recovery Fund to facilitate land claims and to
9 further the purposes of the provisions of Chapter 80 of Title 21
10 of the Guam Code Annotated, and Articles 9 and 9A of Title 12
11 of the Guam Code Annotated, as follows:

12 1. to assist in determining the validity of
13 prospective land claims and perform such research,
14 survey or other studies deemed necessary to perfect such
15 claims;

16 2. to assist in examining all petitions from
17 claimants for assistance under the provisions of Chapter
18 80 of Title 21 of the Guam Code Annotated, and Articles 9
19 and 9A of Title 12 of the Guam Code Annotated;

20 3. to procure litigation work product of
21 attorneys and non-attorney professionals at cost where a
22 finding has been made that litigation work product is
23 documentary evidence which is required in support of a
24 claim;

1 4. to commission special appraisals to be
2 performed where claims involve water or mineral rights;
3 *and*

4 5. to investigate all government of Guam
5 property for the purposes of determining the existence of
6 original landowners.”

7 **Section 5.** Section 75104(b) of Chapter 75 of Title 21 of the Guam
8 Code Annotated is hereby *amended* to read as follows:

9 “(b) Any land acquired by the government by having been
10 declared excess by the U.S. Government, or any agency thereof, after
11 the effective date of this Chapter shall acquire the status of ancestral
12 land and be reserved by the Director of the Department of Land
13 Management for the extinguishment of ancestral land claims. All
14 such lands shall be described, surveyed and mapped, and that
15 information shall be sent to the Guam Ancestral Lands Commission
16 to be recorded in the Excess Lands Registry.”

17 **Section 6. Old Commission Abolished.** The Ancestral Lands
18 Commission established by Executive Order prior to the enactment of this
19 Act shall be abolished upon enactment of this Act, and all authority, staff,
20 equipment and funding given to the previous commission shall be
21 transferred to the Guam Ancestral Lands Commission established by this
22 Act.

23 **Section 7. Remedies and Procedures Provided Herein.** Nothing in
24 this Act shall be interpreted to eliminate in whole or in part any remedy or

1 procedure which may be utilized to further the just claim of any party to
2 land.

3 **Section 8.** Notwithstanding any provision of this Act, all
4 government of Guam lands owned or acquired prior to the enactment of
5 this Act, excepting those lands otherwise reserved for other purposes
6 pursuant to law, shall continue to be deemed "*Chamorro Homelands*," and
7 shall be utilized as "*available lands*" within the programs of the Chamorro
8 Land Trust Commission. *However*, this Section shall *not* invalidate a valid
9 claim by an original landowner on any government of Guam properties.

10 **Section 9. Severability.** *If* any provision of this Act or its
11 application to any person or circumstances is held invalid, the invalidity
12 shall *not* affect other provisions or applications of this Act which can be
13 given effect without the invalid provisions or application and to this end
14 the provisions of this Act are severable.



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

April 26, 1999
(DATE)

FILE

COPY

Memorandum

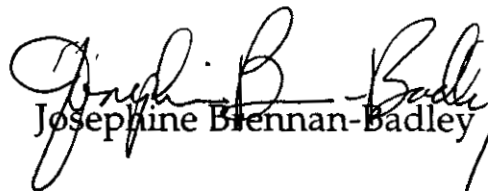
To: Senator MARK FORBES

From: Clerk of the Legislature

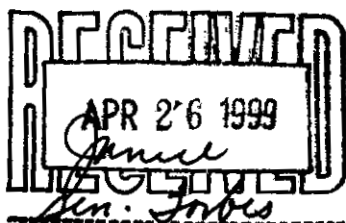
Subject: Report on Bill No. 57 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 57 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment





MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asuntion Fidirat

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayuråt*

APR 23 1999

Speaker Antonio R. Unpingco
I Mina' Bente Singko Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 57 was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 57, as substituted**, "An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery."

The voting record is as follows:

TO PASS

9

NOT TO PASS

0

ABSTAIN

0

TO PLACE IN INACTIVE FILE

0

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.


MARK FORBES

Attachments



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

MEMORANDUM

TO: Committee Members
FR: Chairman

SUBJECT: Committee Report- Bill No. 57, as substituted, "An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery."

Transmitted herewith for your information and action is the report on Bill No. 57, as substituted, from the Committee on Rules, Government Reform, Reorganization and Federal Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 57, as substituted
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

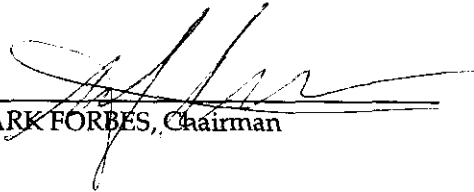
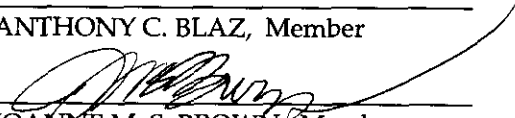
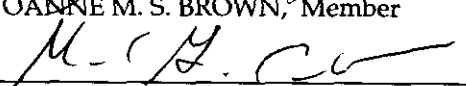

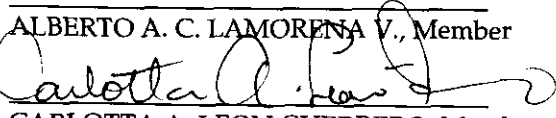
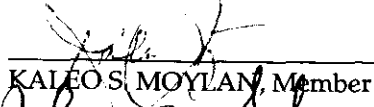
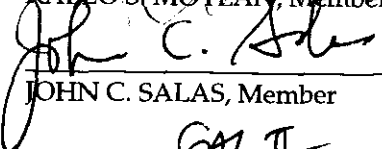

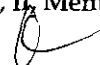

MARK FORBES

Attachments

Committee on Rules, Government Reform, Reorganization and Federal Affairs
I Mina' Bente Singko Na Liheslaturan Guåhan

Voting Record

Bill No. 57, as substituted, "An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK FORBES, Chairman	✓			
EDDIE B. CALVO, Vice-Chairman				
ANTHONY C. BLAZ, Member				
 JOANNE M. S. BROWN, Member	✓			
 MARCEL G. CAMACHO, Member	✓			
 LAWRENCE F. KASPERBAUER, Member	x			
ALBERTO A. C. LAMORENA V., Member				
 CARLOTTA A. LEON GUERRERO, Member	✓			
 KALEO S. MOYLAN, Member	✓			
 JOHN C. SALAS, Member	✓			
 SIMON A. SANCHEZ, II, Member	x			
 ANTONIO R. UNPINGCO, Member	✓			
FRANK B. AGUON, JR., Member				
ELOY G. BERMUDEZ, Member				
VICENTE C. PANGELINAN, Member				

I Mina' Bente Singko Na Liheslaturan Guåhan

**Committee On Rules,
Government Reform, Reorganization & Federal Affairs
Senator Mark Forbes, Chairman**

Committee Report

on

Bill No. 57, as substituted,

“An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery.”

I. OVERVIEW

The Committee on Rules, Government Reform, Reorganization and Federal Affairs held a public hearing on Thursday, April 15, 1999 at 10:00 a.m. at I Liheslaturan Guahan. Public notice of the hearing was announced in the February 10th, 1998 issue of the Pacific Daily News.

Senators present were:

Senator Mark Forbes, Chairman
Senator Frank Aguon, Jr., Member
Senator Marcel Camacho, Member
Senator Eddie Calvo, Member
Senator Eloy Bermudes, Member

Appearing before the Committee were:

Mr. G. Ricardo Salas, of the Salas Agency Corp.
Mr. John Camacho, of the Ancestral Lands Commission
Mr. Ron Teehan, of the Chamorro Land Trust Commission

Providing written testimony:

Ancestral Lands Commission (attached)

II. SUMMARY OF TESTIMONY

Mr. G. Ricardo Salas, of the Salas Agency Corp., testified before the Committee **in favor** of Bill No. 57. He said the bill will improve the disposal of government land. He suggested that the commission be made up of only those who are descendents of land claimants.

Mr. John Camacho, of the Ancestral Lands Commission, testified before the Committee **in favor** of Bill No. 57, with amendments the Ancestral Lands Commission submitted. He said one important amendment is the idea of a land pool for returned Spanish crown lands, which would earn money to be paid to original landowners who never get their land back.

Mr. Ron Teehan, of the Chamorro Land Trust Commission, testified before the Committee **against** Bill No. 57. He said the Spanish crown lands should go to the Chamorro Land Trust, as they are currently supposed to, as opposed to going to the land pool. He was concerned that the bill would pit Chamorros vs. Chamorros.

III. FINDINGS AND RECOMMENDATION

The Committee on Rules, Government Reform, Reorganization and Federal Affairs finds that Bill No. 57, as substituted, creates a long-needed entity to address land takings that date back before World War II, and to assist the original landowners.

Accordingly, the Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 57 was referred does hereby submit its findings and recommendations to I Mina' Bente Singko Na Liheslaturan Guahan **TO DO PASS BILL NO. 57, as substituted**, "An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery."



MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Aşuntõn Fidirat

*Senadot Mark Forbes, Gehilu
-Kabisiyon Mayurât*

APR 13 1999

MEMORANDUM

TO: Chairman
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

FROM: Chairman
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

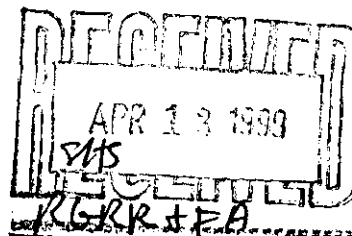
SUBJECT: Principal Referral – Bill No. 57

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment



6/

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

1999 (FIRST) Regular Session

Date: 5/24/99

VOTING SHEET

5 Bill No. 57(COR)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT ROLL CALL</u>
AGUON, Frank B., Jr.					✓
BERMUDES, Eulogio C.					✓
BLAZ, Anthony C.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

13 0 0 0 2

CERTIFIED TRUE AND CORRECT:


Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session


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

This is to certify that Substitute Bill No. 57 (COR), "AN ACT TO *ADD* CHAPTER 80 TO TITLE 21, TO *AMEND* §2927 AND *ADD* §§2926(c) AND 2946 TO TITLE 12, AND TO *AMEND* §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS' RECOVERY," was on the 24th day of May, 1999, duly and regularly passed.



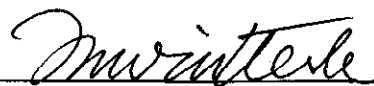
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

.....
This Act was received by *I Maga'lahaen Guahan* this 28th day of May, 1999,
at 11:15 o'clock 9.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 57 (COR), "AN ACT TO *ADD* CHAPTER 80 TO TITLE 21, TO *AMEND* §2927 AND *ADD* §§2926(c) AND 2946 TO TITLE 12, AND TO *AMEND* §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS' RECOVERY," was on the 24th day of May, 1999, duly and regularly passed.

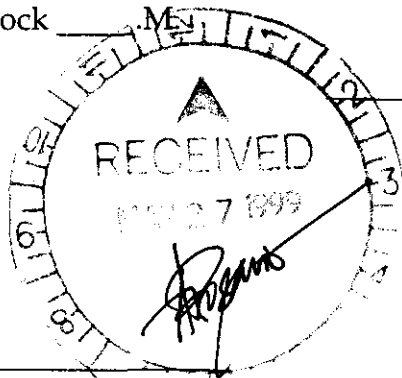
ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this _____ day of _____, 1999,
at _____ o'clock _____ ^{ME}

APPROVED:



Assistant Staff Officer
Maga'lahaen's Office

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 5-27-99

Time: 0910

Record by: _____

Print Name: Charlene

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session**

Bill No. 57 (COR)

As substituted by the Committee
on Rules, Government Reform,
Reorganization and Federal Affairs
and amended on the Floor.

Introduced by:

Mark Forbes
M. G. Camacho
L. F. Kasperbauer
S. A. Sanchez, II
J. C. Salas
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
A.C. Lamorena, V
C. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. R. Unpingco

**AN ACT TO ADD CHAPTER 80 TO TITLE 21, TO
AMEND §2927 AND ADD §§2926(c) AND 2946 TO
TITLE 12, AND TO AMEND §75104(b) OF
CHAPTER 75 OF TITLE 21, ALL OF THE GUAM
CODE ANNOTATED, RELATIVE TO
CREATING THE GUAM ANCESTRAL LANDS
COMMISSION, AND FOR LAND CLAIMS AND
LANDOWNERS' RECOVERY.**

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

2 **Section 1. Title.** This Act shall be known and may be referred
3 to as the "*Guam Ancestral Lands Act.*"

4 **Section 2. Legislative Background, Findings, and Intent.**

5 **(a) Background Statement.** By passage of Public Law
6 Numbers 16-111, 17-52, 20-222, 22-145, 23-23 and 23-141, *I Liheslaturan*
7 *Guåhan* recognized the need of private landowners to pursue
8 appropriate remedies to redress the harm done to them, and to Guam
9 as a whole, when a substantial percentage of the land on Guam was
10 taken by the Naval Government of Guam or the Government of the
11 United States through proceedings in eminent domain, or under
12 threat of eminent domain, following World War II. Public Law
13 Numbers 16-111, 17-52 and 20-222 granted powers to the Guam
14 Economic Development Authority ("Authority") to implement
15 appropriate remedies. Public Law Number 22-145 granted
16 additional powers to the Department of Land Management.

17 *I Liheslaturan Guåhan* hereby finds and determines that the
18 powers granted the Authority and the Department of Land
19 Management by Public Law Numbers 16-111, 17-52, 20-222 and 22-
20 145 have *not* been adequate to address the needs of landowners, and
21 that additional powers, therefore, must now be granted to
22 accomplish the legislative purposes set out in this Section and as
23 provided by Public Law Numbers 16-111, 17-52, 20-222, 22-145 and
24 23-23.

1 *I Liheslaturan Guåhan* also finds and determines that it is
2 necessary to memorialize the true history of land takings on Guam,
3 in spite of well-settled legal protections, as a foundation for
4 establishing a process for the recognition of indigenous Guamanians'
5 claims to their ancestral lands, also known as "ancestral titles," so
6 that the property rights of all citizens residing on Guam may be fully
7 and equally protected in the future.

8 **(b) History of Property Rights.** Part III of the September,
9 1996, report entitled: "The Government of Guam Plan for Local,
10 Public Benefit Use ... Federal Excess Lands on Guam pursuant to
11 USPL 103-339..." contains an accurate documentation of property
12 rights on Guam in addition to providing an authoritative basis to
13 support the legal applicability of property right laws to Guam and
14 her citizens. While the Chapter was written pertaining specifically to
15 the subject of three thousand two hundred (3,200) acres of Federal
16 excess lands pursuant to U.S. Public Law Number 103-339, the
17 evidence contained therein applies to the entire issue of Guam lands
18 in the Federal Government's holdings.

19 The Chapter is set forth in part below and is incorporated by
20 reference into this Section as follows:

21 "Under the laws of the United States of America
22 applicable to Guam and the laws of Guam, the property of
23 people residing in Guam enjoys well settled legal protection.
24 By the terms of the Treaty of Paris, signed December 10, 1898,
25 Guam was ceded by Spain to the United States. At Article VII:

1 '...it is hereby declared that the relinquishment or cession, as
2 the case may be...cannot in any respect impair the property or
3 rights which by law belong to the peaceful possession of
4 property of all kinds, of provinces, municipalities, public or
5 private establishments, ecclesiastical or civic bodies, or any
6 other association having legal capacity to acquire and possess
7 property on the aforesaid territories renounced or ceded [to
8 wit, Guam] or of private individual of what-so-ever nationality
9 such individuals may be." Article IX of the Treaty of Paris
10 further proclaims: "The civil rights and political status of the
11 native inhabitants of the territories hereby ceded to the United
12 States shall be determined by the Congress" [of the United
13 States].

14 By the Land Transfer Act of November 15, 1945, 59 Stat. 584,
15 c.485, the United States Navy was directed by the U.S. Congress to
16 transfer to native Guamanians lands held by the Navy, but no longer
17 required for military or naval purposes (aka Federal excess lands).
18 By the Land Acquisition Act of August 2, 1946, 60 Stat. 803, c.738 the
19 United States Navy was authorized to acquire lands on Guam with a
20 view to such land transfer.

21 By §28 of the Organic Act of Guam of August 1, 1950, 64 Stat.
22 392, c.512, the U.S. Congress directed that all lands on Guam *not*
23 reserved by the President should be transferred to or placed under
24 the control of the government of Guam "to be administered for the
25 benefit of the people of Guam." The United States is subject to a like

1 mandate in respect to tidal and submerged lands pursuant to §1 of
2 the Act of October 5, 1974, Public Law Number 93-435, 48 U.S.C.,
3 §1705, and amendments thereto.

4 In further respect of the duty of the U.S. Congress to fix the civil
5 rights of the people of Guam, the Organic Act provides §1421b. Bill
6 of Rights (f): Private property shall *not* be taken for public use
7 without just compensation. Section 1421b(u) extends provisions of
8 and amendments to the Constitution of the United States to Guam,
9 including the Fifth Article of Amendment which provides in
10 pertinent part that "no person shall be deprived of life, liberty or
11 property without due process of law; nor shall private property be
12 taken for public use without just compensation."

13 Following the time honored legal tradition laid by the United
14 States with respect to the administration of real property on Guam,
15 pursuant to all such private property rights found to be vested
16 therein, the United States Congress followed enactment of the Treaty
17 of Paris of 1898, the Land Transfer Act of 1945, the Land Acquisition
18 Act of 1946, the Organic Act of 1950, the Submerged Lands Act of
19 1974, *et. al.*, with enactment of that legislation which is the subject of
20 the Guam Land Use Plan (U.S. Public Law Number 103-339 "The
21 Guam Excess Lands Act"). Reflecting deep insight into the current
22 Guam land situation, the 103rd U.S. Congress took pains to display
23 its understanding of those historic circumstances which justify
24 special legislative treatment of these three thousand two hundred
25 (3,200) acres of Guam land now subject to disposal. The U.S.

1 Congress declared (§7 General Provisions, U.S. Public Law Number
2 103-339) the property subject to this Act shall *not* be subject to Public
3 Law Number 1003-77 (101 Stat 482), and §818(b)(2) of Public Law
4 Number 96-148 (94 Stat. 1782), as amended. The U.S. House of
5 Representatives, in which H.R. 2144 was introduced, also reported at
6 length (see Rept. 103-391 U.S. House of Representatives 103rd U.S.
7 Congress, 1st Session at page 3) on the “historic injustices” it sought
8 to correct with the bill: to solve “a problem which the Committee on
9 Natural Resources has been working for many years...[which has]
10 limited economic growth and created a serious housing
11 problem...and caused such tension in the territory that it has become
12 one of the major issues impacting U.S. - Guam relations.”

13 Among the reasons the Congress found for this tension was the
14 frustration expressed by “former, original landowners (or their heirs)
15 want(ing) to reclaim the property some believe that their families
16 were told they would be able to reclaim...[who] sold their land to the
17 military in unfair transactions...under duress.” Of course, the strong
18 sense of injustice, fueled by time, buttressed by unsatisfied
19 expectations, all in apparent contradiction with repeated Federal
20 pledges to protect private property interests from the very same sorts
21 of abuse revealed as the origin of this special land legislation has
22 justified this Act as a partial solution to a large still unsolved problem
23 and obviously, where well documented historic injustices have been
24 found to be the basis of an Act of Congress those injustices must be

1 considered when said Act is implemented as in this instance where
2 land use plans are made.

3 *However*, in considering the desirability of quieting title to all
4 disputed land on Guam, when a historic injustice is plain from the
5 facts recited by the U.S. Congress as its justification for a special
6 legislative act, no precedent exists for the direct transfer of title to
7 excess Federal land to a private party or land claimant; throughout
8 the pertinent legal history all precedent indicates local civil
9 government must assume the intermediary role when designated as
10 when the Naval Government of Guam was authorized to transfer
11 lands in 1945, as when the Organic Act authorized the Secretary of
12 Interior to lease or sell excess public lands on Guam §1421f.(c) and as
13 when the government of Guam was authorized by deed to transfer
14 thirty thousand (30,000) (+/-) acres of excess Federal lands to
15 dispossessed individuals for resettlement in 1952. The U.S. District
16 Court has determined that the government of Guam has authority to
17 dispose of Federal excess lands it acquires, *however*, disposal
18 according to that authority must be prescribed by enactment of
19 Guam public laws [see *Bordallo v. Camacho* (1973, CA9, Guam) 475
20 F2nd. 712, which reads: "Legislature of Guam under 48 UCS §1421(f)
21 has authority to legislate regarding land formally owned by the
22 United States and transferred to Government of Guam as long as it
23 does not do so inconsistently with Acts of Congress."]

24 Several local enactments provide a basis for former, "original"
25 landowners to assert a claim for land recovery or for compensation

1 preparation for the wholesale condemnation of lands on Guam
2 prevented formation of either a "fair market" or determination of
3 "fair market price."

4 Each is an essential element of "just compensation" required in
5 all legal proceedings conducted pursuant to powers of eminent
6 domain. The official records reveal gross underpayment following
7 coercive pre-condemnation acts constituting taking without just
8 compensation. Having come to clearly recognize the vital role
9 history plays in this campaign for equal social and economic justice
10 under American law, *I Liheslaturan Guåhan* finds and declares it
11 appropriate to herein recite the factual history of, and basic economic
12 truths demonstrated by, the Guam land claims and recovery issue.

13 The Hopkins Committee Report, prepared for the Secretary of
14 the Navy by Ernest M. Hopkins, Chairman, *et al.*, of March 25, 1947,
15 recommended legal and land reform measures which fell short of the
16 actions required to determine land valuation according to the
17 required just compensation, fair market standards. The Organic Act
18 of 1950 failed to provide for an independent judiciary or trial by jury
19 in Federal land condemnation cases. In August of 1950, land use
20 conditions and land problems on Guam were described in a report of
21 the Bureau of Land Management, U.S. Department of the Interior as
22 follows:

23 "... many owners have lost their land or portions of their
24 land but have been unable to secure cash settlement or to
25 secure other land in exchange...

1 This drastic program of land conversion to military use
2 has affected and will continue to affect the lives of the
3 Guamanian people. It has created a shortage of land, which in
4 turn has caused rapidly increasing land values; it has removed
5 a considerable acreage of agricultural land from a
6 predominantly agricultural economy; it has caused widespread
7 displacement of the population as is evidenced by the
8 respective census figures of 1940 and 1950. Surprisingly
9 enough, however, there was found little tendency on the part of
10 the Guamanians to question those takings which were
11 necessary for the prosecution of the war and for the
12 maintenance of an adequate military establishment subsequent
13 to the war. Even those Guamanians who have suffered most
14 from the military land acquisition program have not objected to
15 the takings when the need has been demonstrated. However,
16 from a layman's point of view, there seems to be some evidence
17 that not all the area taken has been actually acquired and that,
18 in some instances, other lands could have been substituted.
19 There is a feeling that under the guise of military necessity
20 there have been some unwarranted land takings."

21 Notwithstanding war's devastation, tardy rehabilitation,
22 displacement from their family estates and therewith the economic
23 basis for their survival, livelihood and economic independence, and
24 the dispossession from their estates for no, or less than just
25 compensation, the people of Guam welcomed the re-establishment of

1 American rule in the post-war years. With the measure of home rule
2 provided under the Organic Act of Guam in 1950, Guam's leaders
3 sought to establish a viable and competent civil government for the
4 new United States Territory of Guam.

5 After 1950, the burden for solving land problems springing
6 from the vast post-war private land takings by the United States fell
7 to the government of Guam. *However*, in attempting to deal with
8 land problems, several obstacles frustrated local authorities beyond
9 their preoccupation with continuing war rehabilitation and
10 formation of the new local government to which would devolve
11 widely specified territorial jurisdiction, without commensurate
12 financial means. United States land condemnation continued
13 through 1962, during which period Guam remained an off-limits
14 land, air and sea military reservation into which the United States
15 Navy strictly controlled all entry. No jury trials were permitted in
16 the newly organized U.S. District Court of Guam which assumed all
17 jurisdiction over Federal eminent domain proceedings; the presiding
18 U.S. District Court of Guam Judge was appointed for a limited
19 instead of life term; the Administration of the Executive Branch of the
20 government of Guam was under the control of governors, appointed
21 by the United States President and closely supervised in office by the
22 Secretary of the Interior who retained direct jurisdiction over
23 territorial civil affairs.

24 In November, 1962, Super Typhoon Karen destroyed virtually
25 all Guam's infrastructure and improved real property, thrusting the

1 entire community, including the new territorial government, back
2 once again into a prolonged phase of rehabilitation.

3 *However*, in the due course, conditions for dealing with Guam's
4 lingering land problems improved: in 1957 jury trials were
5 authorized in the Federal U.S. District Court of Guam; in 1962 the
6 Naval security clearance requirements ended; Typhoon Karen
7 rehabilitation was Federally funded, and U.S. Interior Department
8 control over the administration of territorial government finally
9 passed into the local hands of an elected governor and a local, but
10 non-voting delegate seated in the U.S. Congress. By 1971, in this
11 improved climate, the government of Guam's attention focused again
12 on a search for solutions to remaining Federal land problems.

13 In September of 1972, a Special Committee of the Eleventh
14 Guam Legislature released a report on post-war land takings
15 pursuant to Resolution Number 6, (First) Regular Session of the
16 Eleventh Guam Legislature, passed January 18, 1971, which reads as
17 follows:

18 "WHEREAS, in the latter stages of the Second World War
19 and in the build-up of Guam as a major defense base for the
20 U.S. Navy, and the U.S. Army, the U.S. Air Force and other
21 Federal agencies following World War II and the start of the
22 Cold War, a very large percentage of the limited land area
23 within the territory of Guam was acquired by the United States
24 for defense purposes, of both the Federally-owned and

1 Federally-leased land representing thirty-six percent of all the
2 real property in Guam; and

3 WHEREAS, with Guam being so limited in land area and
4 with the only asset belonging to many Guam families being
5 their inherited piece of property, it is respectfully submitted
6 that the United States Government in acquiring this land, was
7 under a duty to see that the rights of all local landowners were
8 safeguarded and fair compensation was afforded to all; and

9 WHEREAS, unfortunately, a history of Federal land-
10 taking after World War II discloses quite the contrary; that is,
11 the people of Guam were not properly compensated, were not
12 advised of their rights, and were generally deprived of their
13 property without due process of law and without just
14 compensation; and

15 WHEREAS, the facts supporting the foregoing charge
16 were as follows:

17 1. The acquisition of land for defense purposes
18 immediately following World War II was in the hands of
19 the Naval Government; there was no independent
20 judicial system, the so called "Superior Court" being
21 staffed by naval officers who were under the direct
22 command of that same officer who was condemning or
23 otherwise acquiring Guam land for defense bases;

24 2. The people of Guam immediately following
25 the Second World War were deeply grateful to the United

1 States for having been liberated from the Japanese and
2 were additionally inculcated with a deep respect, if not
3 fear of the United States Navy, which had been running
4 the territory of Guam in a high-handed manner since
5 1898; accordingly, it was almost impossible for the
6 average Guamanian to refuse to voluntarily give up his
7 land to a Naval representative requesting the same,
8 especially since it was put to him on the basis of
9 patriotism and loyalty; there are many well-attested
10 incidents where Naval negotiators intimidated the
11 owners and prevented any fair negotiations;

12 3. There are other well-attested incidents
13 wherein illiterate and unsophisticated Guamanians were
14 persuaded to sign stipulations approving fee title
15 acquisitions in the belief that they were signing mere
16 leases or licenses for the United States to use their lands
17 temporarily, and this decision on the part of the Federal
18 negotiators was willful and deliberate; and

19 WHEREAS, one of the most unfortunate aspects of this
20 history is that those relatively few Guamanians who were both
21 wealthy enough and sophisticated enough to refuse to deal
22 with the Navy negotiators ended up with fair compensation for
23 their land since they never lost title until after the passage of
24 the Organic Act which established an independent Federal
25 court and permitted the orderly and fair acquisition of land

1 through eminent domain proceedings following the Federal
2 statutes and the Federal Rules of Civil Procedure, and thus the
3 rich, whose holdings were quite large and extensive, ended up
4 well paid for their lands, while the poor, who usually had only
5 small holdings, received practically nothing; and

6 WHEREAS, since these people who lost their lands under
7 such unfair circumstances are without any adequate remedy at
8 law, any applicable statutes of limitation having long since
9 expired, the only possible solution or form of relief is action by
10 the Congress to set up a Claims Commission to re-open the
11 whole question of federal land acquisition in the territory of
12 Guam immediately following World War II; and

13 WHEREAS, it should be of salutary interest to the
14 Congress to know that the principal reason why the Trust
15 Territory islands have for the most part strenuously resisted the
16 commonwealth status offered them by the Federal government
17 is the fear that with commonwealth will come Federal
18 acquisition of their very limited land, and with the history of
19 the people of Guam's loss of their land continually before them,
20 they indeed have good reason to fear for their future; now
21 therefore be it

22 RESOLVED, that in view of the foregoing, the Eleventh
23 Guam Legislature does hereby on behalf of the people of Guam
24 respectfully request and memorialize the Congress of the
25 United States to establish a Claims Commission to review and

1 re-open if necessary the land acquisitions undertaken by the
2 Federal government in the territory of Guam following the
3 Second World War...”

4 Resolution Number 53 was adopted on April 5, 1971,
5 “[R]elative to the establishment of a special delegation from the
6 Eleventh Guam Legislature to present in Washington, D.C., the views
7 of the people of Guam on certain major issues now pending in our
8 nation’s capital; and, in addition, to seek from the Congress
9 legislation establishing the Land Claims Commission requested in
10 Resolution No. 6.”

11 Acknowledging that *“there is now pending before the Congress of*
12 *the United States and the major administrative agencies in our nation’s*
13 *capital, a number of very serious matters of direct interest and concern to*
14 *the people of Guam,”* Resolution Number 53 says, in part:

15 “WHEREAS, additionally, the Legislature has just
16 adopted Resolution No. 6, relative to requesting the Congress
17 to establish a Claims Commission to re-open the Federal land
18 takings in the territory, which resolution is of enormous
19 emotional significance to the people of Guam and deserves, in
20 the opinion of this body, special treatment in its delivery and
21 presentation; now therefore be it

22 RESOLVED, that there be and is hereby created a special
23 committee of the Legislature to be designated the ‘Washington
24 Delegation on Federal Problems,’ to be composed of seven
25 members, five of whom shall be selected by the Speaker and

1 other two to be the Chairman of the Rules Committee and the
2 Minority Leader, the Chairman of Rules to serve as chairman of
3 the delegation, which delegation shall have as its duty the
4 presentation before the members of the committees of Congress
5 and Federal agencies in our nation's capital the views and
6 opinions of the people of Guam upon the various pressing
7 territorial matters now pending in Washington, such
8 presentation to include, but not be limited, to the topics set out
9 hereinbefore; and be it further

10 RESOLVED, that the delegation, in addition, shall
11 personally present to the appropriate members of the Congress
12 Resolution No. 6 and undertake all within its powers to obtain
13 from the Congress the relief sought by this resolution ..."

14 Acting pursuant to the directive and authority of Resolution
15 Number 53, the Washington Delegation on Federal Problems was
16 established on April 5, 1971, with Guam Senator Joaquin A. Perez,
17 serving as Chairman. Attorney John A. Bohn was later retained as
18 Special Consultant to the Committee, which by common usage
19 became known as the "*Special Committee on Federal Problems.*"

20 The circumstances surrounding the Federal land takings on
21 Guam following World War II have been well known to the citizens
22 of Guam for many years, and as early as December 1, 1954, testimony
23 was presented to the House Subcommittee on Territorial and Insular
24 Affairs to the effect that these land takings were inequitable.
25 *However*, it became obvious to the Guam Legislature and the Special

1 Committee that nothing would be accomplished by the United States
2 Congress, *unless* the circumstance surrounding these land takings
3 were carefully documented.

4 With this in mind the Committee established a special office in
5 Agana for the purpose of establishing the scope of the problem and
6 examining in some detail the Federal land takings in post-war Guam.
7 The Committee employed its own staff, prepared questionnaires for
8 the purpose of interviewing aggrieved property owners and
9 conducted document research and published notice in the local
10 newspaper of its goals and objectives. A persuasive case was
11 prepared to further confirm the findings of the Special Committee on
12 Federal Problems, as reflected in Resolution Number 6 referenced
13 above.

14 After considerable effort spent by Guam's Special Committee
15 on Federal Problems and Guam Delegate to the U.S. Congress, the
16 late Honorable Antonio B. Won Pat, working cooperatively with
17 California's voting Congressman Philip J. Burton, Federal legislation
18 was enacted as 48 U.S.C. §1424c to address the compensation claims
19 of those Guam landowners willing to contend, through litigation,
20 that unjust compensation had been paid to them. *However*, the
21 Federal Land Claims Commission approach, proposed by the Guam
22 Legislature, was rejected by the U.S. Congress, notwithstanding the
23 historical fact that the Naval Government of Guam had always
24 proceeded by Land Claims Commissions when private Guamanian
25 lands were originally taken. By forcing claimants to prosecute

1 claims, Congress required claimants to take the most costly and
2 burdensome course of recovery. Eligible claimants unwilling to
3 become litigants, were thus excluded from the only authorized
4 channel for relief; it is estimated that more than two thousand (2,000)
5 eligible claimants dropped out at this point, and thus lost all legal
6 recourse for their claims. By rejecting the Commission proposal, the
7 issue of excess land was sidestepped and the issue of land transfer
8 was abandoned altogether. U.S. Public Law Number 95-134
9 (October, 1977), 48 U.S.C. §1424c provides in relevant part as follows:

10 "Sec. 404(a). Notwithstanding any law or court
11 decision to the contrary, the District Court of Guam is hereby
12 granted authority and jurisdiction to review claims of persons,
13 their heirs or legatees, from whom interests in land on Guam
14 were acquired other than through condemnation proceedings
15 in which the issue of compensation was adjudicated in a
16 contested trial in the District Court of Guam, by the United
17 States between July 21, 1944, and August 23, 1962, and to
18 award fair compensation in those cases where it is determined
19 that less than fair market value was paid as a result of (1)
20 duress, unfair influence, or other unconscionable actions, or (2)
21 unfair, unjust, and inequitable actions of the United States.

22 (b) ...

23 (c) Fair compensation...is defined as such additional
24 amounts as are necessary to effect payment of fair market value
25 at time of acquisition, if it is determined that, as a result of

1 duress, unfair influence, or other unconscionable actions, fair
2 market value was not paid.”

3 In the course of this litigation two (2) subclasses of claimants
4 settled their claims in return for payment by the United States of
5 Thirty-nine Million Five Hundred Thousand Dollars (\$39,500,000).
6 A third or “Option II” subclass, after opting out of the original
7 settlement proposal, eventually proposed settlement of their claims
8 in return for payment of Three Million Ninety-seven Thousand Five
9 Hundred Five Dollars (\$3,097,505) and on April 25, 1991 the United
10 States agreed to settle all Option III claims for the amount proposed.
11 Accordingly, the Federal litigation phase commencing with
12 enactment of 48 U.S.C. §1424c in 1977 came to an end with settlement
13 for all claimants once settlement in the Option III proceedings were
14 confirmed.

15 *However,* the relief described above is strictly limited to
16 litigants, leaving large numbers of eligible claimants, who did *not*
17 elect to litigate, without any relief at all. Furthermore, the settlement
18 amounts agreed upon in the Option III class action, where competent
19 appraisals were performed, fell far short of the land lot values
20 established by plaintiffs’ professional appraisals. No land was
21 recovered by the litigation under 48 U.S.C. §1424c, which was a
22 statute limited to adjudicating compensation claims.

23 *However,* litigation proceeding under 48 U.S.C. §1424c
24 produced, for the first time in the long history of this issue, important
25 professional appraisal and market information, and thus laid the

1 basis required to determine fair market valuation for all lands
2 originally condemned. It is now possible to accurately compute the
3 balance of just compensation remaining due the people of Guam for
4 lands taken by the United States after World War II.

5 Throughout the entire history of the Guam land case, including
6 the Option III phase just prosecuted under 48 U.S.C. §1424c, Guam
7 land claimants were denied the right to trial before a jury of peers
8 and an independent judiciary. The adverse consequence of this
9 arrangement may be seen from a review of summary judgement
10 decisions in the very recent Option III proceedings, which were
11 forced by these rulings to an unsatisfactory pretrial conclusion.
12 Notwithstanding the fact the United States was in the position of a
13 fiduciary to the people of Guam, the United States was *not* forced to
14 bear the burden of proof that it acted as a fiduciary in the interest of
15 the Guamanian people from which it took lands while as wards of
16 the United States. The Navy's acquisitions of land from landowners
17 lacking access to impartial courts denied due process to those
18 landowners; denial of due process constitutes duress and is
19 unconscionable, unfair, unjust and inequitable.

20 *I Liheslaturan Guåhan* finds a fiduciary relationship existed
21 between the United States and the inhabitants of Guam at the time of
22 the land acquisitions subject of these cases. As a result of the
23 existence of that relationship it must be shown that the military land
24 acquisitions by the United States from the people of Guam were
25 conducted in perfect good faith, without pressure of influence, and

1 all information relevant to the transaction in the possession of the
2 United States was supplied to the sellers, that disinterested advice
3 was provided to the sellers and that adequate consideration was
4 paid. Not only must these elements be shown, but the burden of
5 proof with regard to each element rests with the United States.

6 Because the United States was a fiduciary with respect to the
7 inhabitants of Guam, the actions of the United States in acquiring
8 Guamanian lands must be judged according to the standards of
9 conduct required by a fiduciary relationship.

10 Recognizing the great financial burden litigation pursuant to 48
11 U.S.C. §1424c imposed upon plaintiff claimants, *I Liheslaturan Guåhan*
12 appropriated funds under Public Law Numbers 16-111 and 17-54 to
13 assist them with litigation expenses. It was anticipated plaintiff
14 claimants would secure satisfactory relief through litigation in the
15 form of fair market value for the lands taken, plus interest due
16 thereon, for the time their just compensation payments were delayed.

17 In contemplation of a satisfactory litigation result, *I Liheslaturan*
18 *Guåhan* provided that loans and loan guarantees warranted
19 additional risk and subsidies not normally assumed or provided in
20 the loans and loan guarantees otherwise allowed by the Guam
21 Economic Development Authority:

22 **“Section 53610.10. Unusual Risks and Subsidies**
23 **Warranted.** The Corporation is authorized to make loans,
24 or guarantees of loans, in furtherance of the purposes and
25 activities stated in this Chapter, and all loans or guarantees so

1 made need not meet the normal requirements of a usual
2 commercial loan or guarantee and shall not be refused for
3 reasons of lack of credit standings, or reliability, or doubts
4 about the ability of the borrower to repay, it being understood
5 that the successful termination of the land claimants litigation
6 is of such vital need to the economy of Guam as to warrant
7 unusual risks and subsidies.

8 **Section 53610. Declaration of Intent further finds:**

9 (e) That, the result of a successful conclusion of
10 the land claims cases will be the payment of large sums of
11 money to the people of Guam for the deprivation of their
12 property without the payment of adequate consideration,
13 and the availability of these funds to the claimants will
14 benefit all of Guam by reducing dependency on social
15 programs, by allowing Guamanian families to provide
16 advanced and technical education for their children; by
17 providing Guamanians capital for business ventures in
18 Guam; by expanding the supply of money available in
19 the territory of Guam; and will generally benefit the
20 economic future of Guam in a very large measure; and

21 (f) That, it is in the public interest, and sound
22 public policy for every assistance to be provided by the
23 government of Guam to these land claimants who have
24 suffered hardship so long, through no fault of their own,

1 by the loss of their property to assist the military forces of
2 the United States for the benefit of Guam.”

3 *However*, with the conclusion of litigation prosecuted under 48
4 U.S.C. §1424c came the realization that litigation has *not* produced a
5 satisfactory outcome for claimants harmed by United States’ land
6 takings on Guam: by virtue of harsh adverse rulings of the U.S.
7 District Court on fundamental issues in the litigation, claimants have
8 had to settle their claims at less than fair market value without
9 benefit of a trial before a jury or other independent trier of fact.
10 Large numbers of non-litigant claimants who dropped out for want
11 of litigation resources, or the will to prosecute their claims in court,
12 remain without any remedy at all. The appraisal standards
13 developed under 48 U.S.C. §1424c for determining fair market value
14 as the rightful measure of just compensation have still *not* been
15 applied, with the result of gross underpayment even after all
16 remedies provided under 48 U.S.C. §1424c have been exhausted.

17 **(d) Legislative Intent.** Accordingly, *I Liheslaturan Guåhan*
18 finds the continuing need to pursue just remedies to redress the harm
19 done to landowners as individuals and to Guam as a whole, resulting
20 from the taking of Guamanian lands by the United States on or after
21 January 1, 1930. In pursuing just remedies and redressing the harm
22 done, two classes of landowners emerge: (1) those whose lands have
23 been declared excess by the Federal government, *and* (2) those whose
24 lands have *not* been declared excess and may or may not likely be
25 declared excess by the United States in the future. It is the intent of *I*

1 *Liheslaturan Guåhan* to address the requirements of both classes by
2 enactment of this law, to expand authority of existing laws and to
3 embody in law a sound statutory basis for filing future claims or
4 ancestral titles to lands surplus to the government's needs.
5 Therefore, for the purposes of effecting this law, *I Maga'lahen Guåhan*
6 or his designee, and the Director of the Department of Land
7 Management, shall hereby be authorized to and shall administer the
8 transfers to such persons and upon such terms and conditions at
9 such times as it may determine to be suitable in replacement of lands
10 or full recovery of original lands acquired for military or naval
11 purposes on Guam in the aftermath of WWII, lands *not* to be
12 otherwise required for public purposes.

13 As to both classes of landowners, the Guam Economic
14 Development Authority and the Department of Land Management
15 are hereby granted the additional powers required to aggressively
16 continue Guam's landowners' campaign for equal political and
17 socioeconomic justice under American law to include the authority
18 and the responsibility required as provided herein to determine just
19 compensation for the loss of their interests in land, and, the pursuit of
20 recovery of that amount by accomplishing just remedies as have been
21 provided herein.

22 As to the second class of landowners, *I Liheslaturan Guåhan*
23 desires to extend the same provisions afforded the first class of
24 landowners, as well as establish a process for the recognition and
25 protection of future claims, accepting the authoritative argument set

1 forth in U.S. Public Law Number 103-339 "Guam Excess Land Use
2 Plan" Report (September, 1996) as a basis for this process:

3 "...several species of private property may remain firmly
4 attached to or vested in estates of federal excess lands in Guam,
5 which may be deemed to constitute senior entitlement or rights
6 of preferment thereto: as when aboriginal title of the native
7 inhabitants in public domain lands remains unextinguished; as
8 when future private property interests in estates of federal
9 excess lands have been established by federal law but remain
10 unextinguished; as when a land exchange claim or right to
11 same under U.S. Public Law Number 225 [59 Stat.584, c.485]
12 remains unextinguished; as when reversionary private
13 property interests in estates of Federal excess lands have been
14 duly created by Guam law but remain unextinguished; and, as
15 when the United States, or the Government of Guam as an
16 instrumentality of the United States, acts or has acted as a
17 trustee owing a fiduciary obligation to the native people of
18 Guam, especially with respect to their legal rights to lands in
19 which aboriginal title, future interests (i.e. right to transfer)
20 and/or reversionary interests have been established in fact and
21 by law, and remain unextinguished."

22 Title 21, Guam Code Annotated regulates real estate within
23 Guam. In Title 21 the nature of property, ownership and owners
24 rights are defined. Specific provision in law is made for "future
25 interest" defined in §1221 as "a future interest entitled the owner to

1 the possession of the property only at a future period” as when
2 public lands become excess, and therefore subject to future interest
3 claims. Future interests pass by succession, will and transfer in the
4 same manner as present interests (§1230). A future interest is *not*
5 void merely because of the improbability of the contingency on
6 which it is limited to take effect (§1228); no future interest, valid at its
7 creation, is defeated by the determination of the precedent interest
8 before the happening of the contingency on which the future interest
9 is limited to take effect (§1404). Of course “the happening of the
10 contingency on which the future interest is limited to take effect” has,
11 by some land claimants who have already filed “Claims of Future
12 Interest,” been interpreted to be the excessing and disposal of those
13 Federal lands having been declared surplus and excess and to which
14 other contingent or future property interests may attach.

15 In accordance with its responsibility under both Federal and
16 local law this plan takes account of the possibility the public lands at
17 issue here may be subject to private ownership claims as yet unmade
18 because based on the existence of future interests as defined by law.
19 A claim of ownership constitutes an encumbrance on a property in
20 the same manner as any identified constraint (i.e. Federal
21 contamination, right-of-way, perpetual easement, wetlands, etc.).
22 Under Guam law legal process has been established by which rights
23 of owners, if any, may be asserted. Under Guam law individuals
24 having interests, or who believe they have property interests, may
25 take actions to determine the validity of their claims. Actions to

1 determine conflicting claims may also be taken under law. It is
2 important to note, *however*, that claims on property are actions which
3 must be taken by claimants themselves. Guam law provides for the
4 resolution of claims pursuant to law, but the burden to make and
5 defend claims rests with the claimant alone.

6 The government of Guam has long recognized that historic
7 injustices persist with respect to many people's ancestral lands. The
8 United States Government has also given its recognition of this
9 situation both in law and by administrative acts. Indeed, U.S. Public
10 Law Number 103-339 represents such recognition as recently as 1994.
11 To the extent a lawful remedy for injustice may be found for those
12 who stake their claim it may eventually be said that some justice was
13 regained. *However*, the burden to right past wrongs rests on those
14 whose asserted rights eventually prevail. And, those who rest on
15 their rights risk losing them altogether.

16 Guam Public Law Number 22-145 requires preparation of a
17 Land Use Plan for all Federal excess land parcels designated under
18 U.S. Public Law Number 103-339 which accounts for each parcel's
19 original ownership. Guam Public Law Number 22-145 also
20 establishes land transfer conditions and exemptions, including
21 interim use conditions. Land exempt from transfer pursuant to
22 Guam Public Law Number 22-145 include all lands presently utilized
23 for public uses such as easements, utilities and the like (see §8, Guam
24 Public Law Number 22-145).

1 Guam Public Law Number 23-23 provides in "§2004.
2 POLICY WITH RESPECT TO ORIGINAL LANDOWNERS. It
3 is the policy of the government of Guam that land returned by
4 the Federal Government to Guam be returned to the estates
5 that held such property prior to the condemnation of said lands
6 by the Federal Government. Exceptions to this policy shall be:

7 **(a) Lands Clearly Under Existing Public Use.**

8 In such circumstances the government of Guam shall
9 make good faith efforts to derive a means of
10 compensation for continued public use of such lands.

11 (b) Lands that were Spanish Crown Lands, or
12 otherwise passed directly into the possession of the
13 government of the United States with the Treaty of Paris
14 at the end of the Spanish-American War.

15 (c) Lands condemned by the government for the
16 United States, or otherwise acquired, prior to January 1,
17 1930.

18 (d) Land for which said original landholder
19 against whom condemnation was exercised was not an
20 individual or family, but rather an organization, be it
21 fraternal or either a profit-making or non-profit
22 corporation, or otherwise."

23 Indeed, the entire legal history of civil government on Guam is
24 laced with provisions for the protection and recognition of private
25 property rights, as well as provision for common public use of lands

1 required to achieve the common good. Because of the manner by
2 which Federal land takings occurred on Guam following WWII, it is
3 widely believed that private property rights to public excess lands
4 remain unextinguished and may ripen when excess lands are finally
5 acquired by the government of Guam. If this in fact becomes the case
6 the laws of Guam are firmly in place to satisfactorily deal with these
7 matters based on claimant initiatives, public use transfer
8 prohibitions, etc. The role of the government of Guam is found in the
9 protection, not the creation, of private and public property.

10 **Section 3. Guam Ancestral Lands Act.** Chapter 80 is hereby
11 *added* to Title 21 of the Guam Code Annotated to read as follows:

12 **“CHAPTER 80.**

13 **GUAM ANCESTRAL LANDS COMMISSION.**

14 **Section 80101. Definitions.** Whenever used in this Chapter:

15 (a) *‘Ancestral Lands’* shall mean those lands owned privately
16 by residents of Guam on or after January 1, 1930.

17 (b) *‘Ancestral Lands Title’* shall mean that right and interest
18 entitling an owner or owner’s descendants or heirs to the
19 repossession of property taken by the United States of America or the
20 government of Guam on or after January 1, 1930, having thereafter
21 been declared excess or, where not declared excess, in exchange
22 therefor.

23 (c) *‘Ancestral Property Right’* shall mean the right and interest
24 that a private property owner has in relation to inherited land or
25 lands possessed by private property owner’s ancestor.

1 (d) *'Ancestral Title Registry'* shall mean the registry into
2 which is entered all information pertaining to ancestral land
3 claimants who are granted land title, either by land exchange or land
4 recovery, in exchange for the permanent extinguishment of all claims
5 thereto.

6 (e) *'Applicant'* shall mean any person or persons, legal entity
7 or government, who files a claim in accordance with Chapter 80 of
8 Title 21 of the Guam Code Annotated, and Articles 9 and 9A of Title
9 12 of the Guam Code Annotated.

10 (f) *'Claims Registry'* shall mean the registry into which is
11 entered information based on a determination by the Commission
12 that a valid basis exists for an ancestral title claim by an applicant.

13 (g) *'Commission'* shall mean the Guam Ancestral Lands
14 Commission.

15 (h) *'Conditional Awards Registry'* shall mean the registry into
16 which is recorded information in relation to each determination
17 made by the Commission with respect to an ancestral title and
18 compensation application made by a claimant.

19 (i) *'Determination'* shall mean an administrative ruling by the
20 Commission with respect to an applicant's request for an
21 extinguishment of an ancestral claim.

22 (j) *'Excess Lands Registry'* shall be a listing of all lands
23 declared excess by the Federal government and acquired by the
24 government of Guam on or after the effective date of this Act.

1 (k) *'Just compensation'* for the purposes of Chapter 80 of Title
2 21 of the Guam Code Annotated, and Articles 9 and 9A of Title 12 of
3 the Guam Code Annotated, as amended, shall mean only land
4 recovery or land exchange, and shall also mean any other form of
5 compensation other than a specifically described available land.

6 (l) *'Original land'* shall mean the actual specifically described
7 land, in whole or in part, which was confiscated or condemned by
8 the United States of America or the government of Guam on or after
9 January 1, 1930, and have been thereafter declared excess to which a
10 prior private ownership interest held by a resident of Guam on
11 January 1, 1930 was previously attached.

12 (m) *'Original landowners registry'* shall mean the registry into
13 which information pertaining to all lands taken and the names of
14 owners whose properties were confiscated or condemned on or after
15 January 1, 1930.

16 (n) *'Replacement land'* shall mean land surplus to the Federal
17 government or the government of Guam, and *not* in public benefit
18 use, or needed for public benefit use, to which no private ownership
19 interest was attached on January 1, 1930, and which may be used as a
20 replacement for original lands confiscated or condemned by the
21 United States government or the government of Guam.

22 **Section 80102. Affirmation of and Authorization to Exercise a**
23 **Fundamental Civil Right in Ancestral Real Property Also Known as**
24 **Lands.** The responsibility of the government of Guam to enforce rights
25 in private property, as a civil right, pursuant to the laws of the United

1 States of America applicable to Guam and the Laws of Guam is hereby
2 acknowledged and reaffirmed. The responsibility of the government of
3 Guam to also enforce the entire community's rights in public property, as
4 common property, is also hereby acknowledged and reaffirmed.

5 The government of Guam expects to eventually accept transfer of the
6 ownership of lands to be disposed under '*The Guam Excess Lands Act*'
7 through the U. S. General Services Agency and as a result of decisions in
8 1993 and 1995 issued by the U.S. Base Realignment and Closure
9 Commission, subject to certain specified encumbrances, including un-
10 relinquished property rights retained either by the United States of
11 America or other prior owners, with applicable judicial procedures
12 available should disputes arise. *However*, it is recognized that a process
13 does *not* now exist to recognize the ancestral land rights of landowners
14 whose properties have *not* been declared surplus and may *not* ever be
15 declared surplus by the military in the future. Likewise, the process
16 established by Guam Public Law Number 22-145 for disposal of three
17 thousand two hundred (3,200) acres of Guam excess lands does *not* apply
18 to claimants whose claims are attached to excess land elsewhere.

19 *I Liheslaturan Guåhan* recognizes that the rights of landowners to full
20 use and enjoyment of their private property was long deprived because of
21 unsettled issues described in the foregoing §80103 of this Chapter.
22 Therefore, to restore the rights of landowners to the use of their ancestral
23 lands, *I Liheslaturan Guåhan* through this Chapter hereby affirms and
24 formally recognizes the 'Ancestral Property Right'; establishes an
25 administrative process for the exercise of that right; and creates the Guam

1 Ancestral Lands Commission and authorizes the Commission to
2 administer the provisions of this Chapter in order that original
3 landowners, their heirs and their descendants may expeditiously exercise
4 all their fundamental civil rights in the property they own. The exercise of
5 'ancestral property right' claims shall be applicable to lands already
6 declared excess by the Federal government and shall also be applicable to
7 all future declaration of excess lands either by the United States
8 Government or by the government of Guam.

9 **Section 80103. Guam Ancestral Lands Commission.** There is
10 within the government of Guam the '*Guam Ancestral Lands Commission*' to
11 carry out the purposes of this Chapter. The Commission shall be
12 composed of seven (7) members with seven (7) people appointed by *I*
13 *Maga'lahaen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*.

14 The seven (7) Commissioners shall be appointed by *I Maga'lahaen*
15 *Guåhan* and shall be residents of Guam and descendants or heirs of
16 ancestral land owners or claimants, and they shall serve terms of four (4)
17 years from the date of their appointment.

18 Six (6) Commissioners shall constitute a quorum of the Commission
19 for the conduct of all business. A vote of a majority of the members of the
20 Commission shall be required for any action of the Commission. The
21 Commission shall adopt rules and regulations governing the conduct of its
22 affairs. It shall elect a Chairman and Vice-Chairman from among the
23 Commissioners and may employ an executive director and such staff as is
24 necessary to carry out the duties set forth in this Chapter, pending the
25 submission and approval of a budget by *I Liheslaturan Guåhan*. Each

1 Commissioner shall receive the sum of Fifty Dollars (\$50.00) for attendance
2 of each meeting of the Commission, providing that such compensation
3 shall *not* exceed One Hundred Dollars (\$100.00) per month, and providing
4 that they are not members of *I Liheslaturan Guåhan*.

5 **Section 80104. Powers and Duties of the Commission.**

6 **(a) Commission to Establish Ancestral Lands Registries.**

7 The Commission is directed to establish and maintain five (5)
8 separate registries for the purposes of recording accurate information
9 in the settlement of ancestral claims, as set out in the Subsections
10 below.

11 **(1) Original Landowners Registry.** The Original
12 Landowners Registry is a listing of all lands taken under the
13 names of owners of record at the time of taking whose
14 properties were confiscated or condemned by the United States
15 of America, or by the government of Guam on or after January
16 1, 1930, as well as other pertinent location and ownership
17 information in relation to the property. The Original
18 Landowners Registry shall be used for the purpose of
19 confirming an applicant's property claim, for future
20 extinguishment upon receipt of just compensation, as defined
21 by this Chapter.

22 **(2) Excess Lands Registry.** The Excess Lands Registry
23 is a listing of all lands that have been declared excess by the
24 Federal government or the government of Guam, including all
25 lands that may be declared excess in the future by the

1 government of Guam. The Excess Lands Registry shall be used
2 for the purpose of identifying a specified lot or lots of land with
3 which the Commission may use as *'just compensation'* in
4 extinguishing ancestral claims.

5 (3) **Claims Registry.** The Claims Registry is a
6 listing of all claims to ancestral title filed by applicants.

7 (4) **Conditional Awards Registry.** The Conditional
8 Awards Registry is a listing of conditional awards of just
9 compensation.

10 (5) **Ancestral Title Registry.** The Ancestral Title
11 Registry is a listing of applicants granted land title in return for
12 the surrender of all their ancestral property claims.

13 (b) **Duties of Commission.** In establishing all five (5)
14 registries established in this Section, the Commission or designated
15 staff shall investigate, record, file, report and respond to requests by
16 ancestral land claimants for remedy, including government of Guam,
17 whose land was taken by the United States or by the government of
18 Guam on or after January 1, 1930. Remedy includes just
19 compensation, as defined in §80101 of this Act, which for purposes of
20 this Chapter is defined as limited to the return of land or access to
21 landlocked lots across public lands, *if* public lands block access to
22 private property.

23 The Commission shall establish, in accordance with the
24 Administrative Adjudication Law, written procedures for
25 extinguishment of Claims, award of just compensation and

1 recordation of Ancestral Land Title, as well as other rules and
2 regulations required to administer this Chapter. The Commission
3 shall promulgate rules and regulations to administer the
4 Commission's functions in a fair, just, economical and expedient
5 way, and shall establish fees and specify materials reasonably
6 required to accompany applications in order to extinguish a claim in
7 favor of a just compensation award.

8 (c) **Four (4) Step Process for Extinguishment of Claims,**
9 **Award of Just Compensation, and Recordation of Ancestral Land**
10 **Title.** The following four (4) step process shall be detailed
11 within appropriate written procedures and rules and regulations to
12 be prescribed by the Commission.

13 **Step 1: Filing of Ancestral Claim** – Applicant in this first
14 step submits an application to the Commission containing
15 applicant's assertion that applicant and others, *if any*, hold
16 ancestral title in relation to a specified lot of land by virtue of
17 inheritance. Based upon the information provided, the
18 Commission shall make a determination *if in fact* a valid basis
19 for an ancestral title claim exists. The ancestral title claim shall
20 then be entered in the Claims Registry. The Claims Registry
21 shall contain the information required to be entered, as
22 established by the Commission by rules and regulations. The
23 Commission must accept an application for determination of
24 claim, provided the following minimum information is given:

- 1 1. date on which application was submitted to
2 the Commission;
- 3 2. whether the application was submitted to the
4 Commission, or Commission's designee, and the name of
5 the Commission or designee;
- 6 3. name and address for service of notification to
7 the person(s) who is the claimant (This is the person who
8 shall be the registered ancestral title claimant.);
- 9 4. the area of land covered by the claim,
10 including property descriptions and maps;
- 11 5. description of the persons who it is claimed
12 hold the ancestral title; *and*
- 13 6. other details about the claim as the
14 Commission may deem appropriate.

15 The Claims Registry may be inspected by any member of the
16 public during normal business hours. No part of the Claims Registry
17 are to be kept confidential from the public.

18 The Commission must ensure that the Claims Registry is kept
19 updated with details of any claims contained in applications given to
20 the Commission, or of any application for amendments to a claim
21 after a determination.

22 **Step 2: Ancestral Title and Compensation Application.** An
23 applicant may exercise applicant's right to extinguish an ancestral
24 claim by submitting an application to the Commission for a
25 determination of a conditional title and compensation award. An

1 applicant may submit an application in prescribed form for any of
2 the following three (3) categories defined:

3 **Category 1:** Ancestral Title Determination – for a
4 determination of ancestral title in relation to an area for which
5 there is no approved determination of ancestral title;

6 **Category 2:** Revised Ancestral Title Determination – for
7 revocation or variation of an approved determination of
8 ancestral title on the grounds that:

9 (a) events have taken place since the
10 determination was made that have caused the
11 determination no longer to be correct; *or*

12 (b) the interests of justice require the variation or
13 revocation of the determination; *or*

14 **Category 3: Compensation Application.** This
15 Chapter sets forth two (2) forms of compensation for future title
16 claims which shall be either the return of original ancestral
17 land, or just compensation, as defined in §80101 of this Act,
18 based upon mutually satisfactory negotiations between the
19 government and the applicant. Before relinquishment of
20 exchange land the Commission shall certify that the exchange
21 lands show no history of ancestral ownership or ancestral
22 ownership claim on or after January 1, 1930.

23 The Commission must accept an ancestral title and
24 compensation application provided the following requirements are
25 met by the claimants:

1 (1) that the kind of application falls within the three (3)
2 categories defined above;

3 (2) is in the prescribed form, as established by the
4 Commission;

5 (3) contains the information required and as prescribed
6 in relation to the matters sought to be determined;

7 (4) provide accompanying documents at the very
8 minimum of which include:

9 (a) a sworn affidavit that the applicant:

10 (i) believes that ancestral title has *not* been
11 extinguished in relation to any part of the land
12 claimed; *and*

13 (ii) believes that all of the statements made
14 in the application are true;

15 (b) a statement containing all information known
16 to the applicant about interests in relation to any of the
17 land or waters concerned that are held by persons other
18 than as ancestral title holders;

19 (c) a description and map of the area over which
20 the ancestral title is claimed;

21 (d) evidence of heirship;

22 (e) name and address of the person who is to be
23 considered the claimant (The name of the person given
24 under this item will become the registered ancestral title
25 claimant.); *and*

1 (5) all accompanying fees as prescribed by the
2 Commission.

3 **Step 3: Conditional Award of Just Compensation.** In
4 awarding ancestral title and just compensation, the
5 Commission shall issue a Certification of Award of Just
6 Compensation on Condition of Extinguishment of Ancestral
7 Title Claim. The Certification of Award of Just Compensation
8 shall be entered into the Conditional Awards Registry. The
9 Conditional Awards Registry shall contain as much of the
10 information in relation to each determination as must be
11 entered into the Register, at a minimum of which shall consist
12 of:

13 (1) name of the Commission or designee that
14 made the determination;

15 (2) date on which the determination was made;

16 (3) area, location, and description of specific land
17 covered by the determination;

18 (4) the matters determined; *and*

19 (5) other details about the determination or
20 decision as the Commission deems appropriate.

21 The Conditional Awards Registry shall be made available
22 for the public's inspection during normal business hours.

23 **Step 4: Extinguishment of Ancestral Land Claim –**
24 An ancestral land claimant is granted claimant's land title
25 either by land exchange or land recovery on the condition that

1 the ancestral title holder surrenders all rights and interests in
2 relation to ancestral land claims thereby permanently
3 extinguishing all rights, interests and claims to the claims.
4 Upon the Commission's issuance of title by an award of just
5 compensation and extinguishment of claims, the ancestral title
6 holder's name is removed from the Conditional Awards
7 Registry, and is entered into the Ancestral Lands Title Register
8 by the Commission. The Commission shall prescribe the
9 appropriate form to effectuate issuance of compensation and
10 extinguishment of ancestral claim. The Commission shall
11 ensure that the ancestral title holder is issued a suitable
12 property conveyance deed in full satisfaction of ancestral title
13 holder's ancestral title award. Once listed as ancestral title
14 holder after acceptance of specifically described land, the
15 holder and all of holder's heirs, successors and assigns, and
16 those who may assert subsequent claims derived from the
17 holder, are forever barred from reentry into the Claims
18 Registry.

19 **(d) Director of Land Management to Reserve All Future**
20 **Lands Received by Government of Guam Declared Excess for**
21 **Entry into Excess Lands Registry.** For the purposes of administering
22 this Section, the Director of Land Management is authorized and
23 required to reserve all future lands received by the government of
24 Guam declared excess, and ensure that all information pertaining to
25 excess lands, both current and future, are sent to the Commission for

1 entry into the Excess Lands Registry. The Commission shall
2 maintain and give the public the right to review the Excess Lands
3 Registry.

4 (e) **Land Bank.** The Commission shall take title, as
5 Trustees, of former Spanish Crown Lands and other non-ancestral
6 lands that are conveyed by the Federal government to the
7 government of Guam after the effective date of this Act, on behalf of
8 ancestral landowners who, by virtue of continued government or
9 public benefit use cannot regain possession or title to their ancestral
10 lands.

11 The Commission shall establish a Guam-based trust to
12 administer all assets and revenues of the land bank of the
13 aforementioned lands and manage the lands, and act as the
14 developer of the lands, *if necessary*, to the highest and best use. The
15 Commission shall establish rules and regulations pursuant to the
16 Administration Adjudication Law for the Guam-based trust. The
17 resulting income shall be used to provide just compensation for those
18 dispossessed ancestral landowners.

19 (f) **Notification of Extinguishment of Ancestral Claims.**

20 The Commission shall ensure that all parties whose interests may be
21 affected in the extinguishment of an ancestral claim are notified in
22 writing, *if at all possible*, and through public notice in a Guam
23 newspaper of general circulation.

24 (g) **Appeal Through Judicial Process.** If disputes arise
25 from an application which cannot be resolved by the Commission,

1 then any of the opposing parties may invoke the judicial process at
2 the party's expense."

3 **Section 4. Land Claims Facilitator. (a) Legislative Intent of**
4 **This Section.** *I Liheslaturan Guåhan* recognizes the continuing
5 need to pursue just remedies to redress the harm done to land
6 owners as individuals, and to Guam as a whole, but that the pursuit
7 of just remedies is *not* within the ready reach of the average land
8 owner, *unless* the government of Guam also assumes the role of
9 Claims Facilitator. Therefore, the Guam Ancestral Lands
10 Commission is granted powers required to aggressively continue
11 Guam landowners' campaign for equal political and socio-economic
12 justice under American Law to include the authority and the
13 responsibility required as provided in Chapter 80 of Title 21 of the
14 Guam Code Annotated to assist landowners in filing claims with the
15 Guam Ancestral Lands Commission, to include assistance in
16 determining the area of land due and owing to landowners of Guam,
17 as just compensation for the loss of their interests in land, and the
18 pursuit for the recovery of that amount by accomplishing just
19 remedies as have been provided in Chapter 80 of Title 21 of the
20 Guam Code Annotated.

21 (b) Section 2926(c) is hereby *added* to Title 12 of the Guam
22 Code Annotated to read as follows:

23 "(c) '*Facilitator*' means the Guam Ancestral Lands
24 Commission."

1 (c) Section 2927 of Title 12 of the Guam Code Annotated is
2 hereby *amended* to read as follows:

3 **“Section 2927. Landowner’s Recovery Fund Created.**

4 There is created the ‘*Landowner’s Recovery Fund*’ to further the
5 purposes of Chapter 80 of Title 21 of the Guam Code
6 Annotated, to grant loans, or guarantees of loans or grants-in-
7 aid to landowners, or to defer costs or fees of professional
8 services required by those landowners or class of landowners
9 whose land, rights in land or interest in land were taken by the
10 Naval Government of Guam or the United States Government
11 on or after January 1, 1930, in order to assist such landowners
12 with pursuit of adequate remedies for such taking, such
13 remedies to include just compensation or return of the land or
14 access to landlocked lots or other adequate redress of an
15 adverse impact of the land takings, all to be on a reimbursable
16 basis, according to standards and conditions set out in §2908 of
17 this Article. The Fund shall be utilized to make funds available
18 for landowners to contract with attorneys and necessary non-
19 attorney consultants and for the Facilitator, on behalf of a class
20 of landowners, to likewise contract for such professional
21 services as are required to further the aims of this Article. The
22 Fund shall be utilized to make funds available as necessary for
23 real property research, survey, pre-trial discovery, pre-
24 litigation settlement negotiation or litigation in the

1 4. to commission special appraisals to be
2 performed where claims involve water or mineral rights;
3 *and*

4 5. to investigate all government of Guam
5 property for the purposes of determining the existence of
6 original landowners.”

7 **Section 5.** Section 75104(b) of Chapter 75 of Title 21 of the Guam
8 Code Annotated is hereby *amended* to read as follows:

9 “(b) Any land acquired by the government by having been
10 declared excess by the U.S. Government, or any agency thereof, after
11 the effective date of this Chapter shall acquire the status of ancestral
12 land and be reserved by the Director of the Department of Land
13 Management for the extinguishment of ancestral land claims. All
14 such lands shall be described, surveyed and mapped, and that
15 information shall be sent to the Guam Ancestral Lands Commission
16 to be recorded in the Excess Lands Registry.”

17 **Section 6. Old Commission Abolished.** The Ancestral Lands
18 Commission established by Executive Order prior to the enactment of this
19 Act shall be abolished upon enactment of this Act, and all authority, staff,
20 equipment and funding given to the previous commission shall be
21 transferred to the Guam Ancestral Lands Commission established by this
22 Act.

23 **Section 7. Remedies and Procedures Provided Herein.** Nothing in
24 this Act shall be interpreted to eliminate in whole or in part any remedy or

1 procedure which may be utilized to further the just claim of any party to
2 land.

3 **Section 8.** Notwithstanding any provision of this Act, all
4 government of Guam lands owned or acquired prior to the enactment of
5 this Act, excepting those lands otherwise reserved for other purposes
6 pursuant to law, shall continue to be deemed "*Chamorro Homelands*," and
7 shall be utilized as "*available lands*" within the programs of the Chamorro
8 Land Trust Commission. *However*, this Section shall *not* invalidate a valid
9 claim by an original landowner on any government of Guam properties.

10 **Section 9. Severability.** *If* any provision of this Act or its
11 application to any person or circumstances is held invalid, the invalidity
12 shall *not* affect other provisions or applications of this Act which can be
13 given effect without the invalid provisions or application and to this end
14 the provisions of this Act are severable.