

**I MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN**  
**2013 (FIRST) Regular Session**

Bill No. 239 -32 ( *coR* )

Introduced by:

Dennis G. Rodriguez, Jr. ✓  
Michael F.Q. San Nicolas (P)

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**AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL  
PROCESS TO ADDRESS CLAIMS RELATIVE TO  
PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY  
THE GOVERNMENT OF GUAM WITHOUT JUST  
COMPENSATION**

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

2        **Section 1. Short Title.** This Act shall be cited as the “Government  
3 Takings Compensation Act.”

4        **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
5 that the manner and method of taking land for public easements must be in  
6 accordance with the Organic Act of Guam and the laws of Guam. However, when  
7 establishing easements, government agencies and instrumentalities have placed  
8 utility infrastructure on private property without the proper exercise of eminent  
9 domain or negotiated transfer. These encroachments have placed an unfair burden  
10 upon citizens seeking redress, and only those who can afford attorney’s fees and  
11 professional surveying services have the capacity to confirm that these  
12 encroachments have violated the law.

13        It is the intent of *I Liheslatura* to place the burden of proof on the  
14 government entity alleged to have established the easement or placed the utility  
15 infrastructure on the private property in question. If it is found that government

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1 encroachment is proven, claimants should be allowed just compensation from the  
2 time of the encroachment determination. Market value should be calculated from  
3 time of the taking pro-rated to the value at the time period and claimant should be  
4 entitled to receive interest on the fair market amount due accruing from time of  
5 taking.

6 It is therefore the intent of *I Liheslatura* to establish an expedited judicial  
7 process within the courts to address such matters and make determinations as to  
8 claims and determine adequate compensation.

9 **Section 3.**Section 11311.1 of Article 3 of Chapter 11 of Title 7 of the Guam  
10 Code Annotated is *amended* to read as follows:

11 “§ **11311.1. Inverse Condemnation.** Any person whose land was  
12 expropriated for public purposes by the government of Guam between  
13 August 1, 1950, and July 1, 1994, and who has not been compensated by the  
14 government of Guam for such taking may institute an action for inverse  
15 condemnation. In any taking by the government of Guam after July 1, 1994,  
16 in which the government fails to follow the eminent domain provisions of  
17 Title 21, Guam Code Annotated, the person whose land is taken shall have  
18 five (5) ~~four (4)~~ years from the time of such taking, or by December 31,  
19 2017, whichever is later, to institute an action for inverse condemnation  
20 pursuant to 21 GCA Chapter 16. For purposes of this section, the current  
21 owner of the land subject to the claim may seek compensation dating back to  
22 the time of the taking. An action shall lie for the taking of a person’s fee or  
23 for lesser compensable interest in the property which has been expropriated  
24 by the government of Guam without according the person due process. In  
25 any action for inverse condemnation in which an award is made to a person  
26 for a taking, the court shall also award reasonable attorney’s fees and costs.”



1           **§16104. Purpose.** The purpose of this expedited process is to provide  
2 a speedy and efficient legal process for government land takings and inverse  
3 condemnation cases which will assist the Superior Court judges in  
4 adjudicating such.

5           **§16105. Functions and Duties of Hearing Officers.** Under the  
6 authority of the Superior Court, a hearing officer shall have the following  
7 duties in relation to government land takings and inverse condemnation  
8 matters only:

9           (a) To take testimony and receive evidence for the record;

10          (b) To hear and decide motions and matters, unless the same are  
11             appealed by any party, including but not limited to the following  
12             matters:

13                   1. Orders to show cause for contempt;

14                   2. Motions of joinder;

15                   3. Motions to amend pleadings or to dismiss;

16                   4. Pretrial settlement conferences;

17                   5. Motions to withdraw;

18                   6. Mediation to compel discovery;

19                   7. To conduct informal office conferences with the parties to  
20                   discuss and resolve problems or questions about any matters  
21                   relating to claims of government land takings or inverse  
22                   condemnation;

23                   8. To refer appropriate cases to mediation;

24                   9. To adjudicate the claim.

25          (c) Subpoena powers. A hearing officer or the clerk of court may issue  
26             subpoenas and subpoenas duces tecum at the request of any party

1 in accordance with the provisions of §7201, et seq., of Title 6,  
2 Guam Code Annotated.

3 **§16106. Cost of Investigation and Confirmation.** The agency or  
4 instrumentality which is alleged to have taken land without just  
5 compensation pursuant to this Chapter shall pay for the cost of investigating  
6 and confirming claims. In the event that a claim is determined to be  
7 frivolous and/or fraudulent, the claimant shall be held liable for any amounts  
8 expended to investigate or confirm the claim.”

9 **§16107. Decisions Final Unless Timely Appealed.** All decisions of  
10 the hearing officer shall be final unless, within thirty (30) days of the filing  
11 of the decision adjudicating the claim, the claimant notifies the hearing  
12 officer of the intent to appeal the decision to the Superior Court of Guam.  
13 The claimant shall have two (2) years to file an appeal.

14 **Section 5. Severability.** If any provision of this Act or its application to any  
15 person or circumstance is found to be invalid or contrary to law, such invalidity  
16 shall not affect other provisions or applications of this Act which can be given  
17 effect without the invalid provisions or application, and to this end the provisions  
18 of this Act are severable.

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