

I Mina'Trentai Kuáttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
82-34 (COR)	Mary Camacho Torres	AN ACT TO ADD CHAPTER 50 TO TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS.	4/28/17 10:49 a.m.	5/1/17	Committee on Culture and Justice	5/11/17 10:00 a.m.	5/16/17 2:27 p.m. As amended by the Committee on Culture and Justice.	Fiscal Note Request 5/1/17	



**OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE**
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

May 12, 2017

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa
Hagåtña, Guam 96910

VIA: The Honorable Michael F.Q. San Nicolas
Chairperson, Committee on Rules

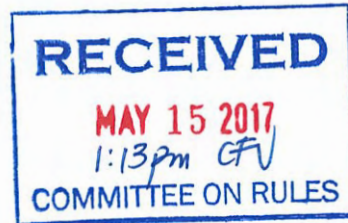
RE: Committee Report on Bill No. 82-34 (COR), As Amended by Committee on Culture and Justice

Dear Speaker Cruz:

Transmitted herewith is the **Committee Report on Bill No. 82-34 (COR), As Amended by Committee on Culture and Justice – “An Act to Add Chapter 50 to Title 15, Guam Annotated, Relative to Fiduciary Access to Digital Assets.”**

Committee votes are as follows:

- 3 TO DO PASS
- 0 TO NOT PASS
- 2 TO REPORT OUT ONLY
- 0 TO ABSTAIN
- 0 TO PLACE IN INACTIVE FILE



Sì Yu'os Ma'åse',

Therese M. Terlaje

2017 MAY 16 PM 2:27
Paul

**COMMITTEE REPORT
ON**

**Bill No. 82-34 (COR),
As Amended by Committee on
Culture and Justice**

**“AN ACT TO ADD *CHAPTER 50* TO
TITLE 15, GUAM CODE
ANNOTATED, RELATIVE TO
FIDUCIARY ACCESS TO
DIGITAL ASSETS.”**



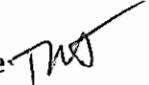
**OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE**
Chairperson of the Committee
On Culture and Justice

*I Mina'trentai Kuâttro na Liheslaturan Guåhan
34th Guam Legislature*

May 12, 2017

MEMORANDUM

To: All Members
Committee on Culture and Justice

From: Vice Speaker Therese M. Terlaje 
Committee Chairperson

Subject: Committee Report on Bill No. 82-34 (COR), As Amended by Committee on Culture and Justice

Transmitted herewith for your consideration is the Bill No. 82-34 (COR), As Amended by Committee on Culture and Justice – “An Act to Add Chapter 50 to Title 15, Guam Annotated, Relative to Fiduciary Access to Digital Assets.”

This report includes the following:

- Copy of COR Referral of Bill No. 82-34 (COR)
- Copy of COR Pre-Referral Checklist on Bill No. 82-34 (COR)
- Copy of Bill No. 82-34 (COR), As Introduced
- Copy of Bill No. 82-34 (COR), As Amended by Committee on Culture and Justice
- Notices of Public Hearing
- Public Hearing Sign-in Sheet
- Copy of the Public Hearing Agenda
- Copies of Submitted Testimony & Supporting Documents
- Related News Reports
- Committee Report Digest
- Committee Vote Sheet

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse'!



COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuáttro na Liheslaturan Guåhm • 34th Guam Legislature



MEMO

To: **Rennae Meno**
Clerk of the Legislature
Attorney Julian Aguon
Legislative Legal Counsel

From: **Senator Michael F.Q. San Nicolas**
Chairman of the Committee on Rules

Date: **May 1, 2017**

Re: **Referral of Bill No. 82-34 (COR)**

Buenas yan Háfa adai.

As per my authority as Chairman of the Committee on Rules, I am forwarding the referral of **Bill No. 82-34 (COR)**.

Please ensure that the subject bill is referred, in my name, to **Vice Speaker Therese M. Terlaje, Chairperson of the Committee on Culture and Justice**. I also request that the same be forwarded to the prime sponsor of the subject bill.

Attached, please see the COR pre-referral checklist for your information, which shall be attached as a committee report item to the bill.

If you have any questions or concerns, please feel free to contact Christian Valencia, Committee on Rules Director, at 472-2461.

Thank you for your attention to this important matter.

Respectfully,


Senator Michael F.Q. San Nicolas
Chairman of the Committee on Rules



I Mina'Trentai Kuattro Na Liheslaturan
 BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
82-34 (COR)	Mary Camacho Torres	AN ACT TO ADD CHAPTER 8 TO DIVISION 1 OF TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS.	4/28/17 10:49 a.m.	5/1/17	Committee on Culture and Justice				

FIRST Notice for Public Hearing - Thursday, May 11, 2017 at 10:00 AM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Thu, May 4, 2017 at 2:56 PM

To: phnotice@guamlegislature.org

Cc: Joe San Agustin <protocol@guamlegislature.org>, MIS Guam Legislature <mis@guamlegislature.org>

Håfa adai,

Please see pasted below and attached public hearing notice from Vice Speaker Therese M. Terlaje.

The Committee on Culture and Justice submits the request that this notice for the May 11, 2017 public hearing be posted on the Legislative Channel, and posted on the Legislative Website in a manner that is easily accessible to the public today and everyday until the public hearing on May 11, 2017.

Should you have any questions, please contact our office.

Thank you,
Monaeka Flores
Policy Analyst

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: FIRST NOTICE of Public Hearing – Thursday, May 11, 2017 at 10:00 AM

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Thursday, May 11, 2017, beginning at 10:00 AM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

- **Bill No. 82-34 (COR), As Introduced – M.C. Torres – An Act to Add Chapter 8 to Division 1 of Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets**
- **Bill No. 82-34 (COR), As Amended by Committee (DRAFT 1) – An Act to Add Chapter 50 to Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets**

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse

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The Office of Vice Speaker Therese M. Terlaje

Committee on Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan

34th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 472-3589

senatorterlajeguam@gmail.com

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First notice PH 5.11.17.pdf

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OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

May 4, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje 
Chairperson, Committee on Culture and Justice

Subject: **FIRST NOTICE of Public Hearing – Thursday, May 11, 2017 at 10:00 AM**

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Thursday, May 11, 2017, beginning at 10:00 AM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

- **Bill No. 82-34 (COR), As Introduced – M.C. Torres – An Act to Add Chapter 8 to Division 1 of Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets**
- **Bill No. 82-34 (COR), As Amended by Committee (DRAFT 1) – An Act to Add Chapter 50 to Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets**

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via *I Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 472-3589 Email: senatorterlajeguam@gmail.com
www.senatorterlaje.com

SECOND Notice for Public Hearing - Thursday, May 11, 2017 at 10:00 AM

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, May 9, 2017 at 9:02 AM

To: phnotice@guamlegislature.org

Cc: MIS Guam Legislature <mis@guamlegislature.org>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Håfa adai,

Please see pasted below and attached public hearing notice from Vice Speaker Therese M. Terlaje.

The Committee on Culture and Justice submits the request that this notice for the May 11, 2017 public hearing be posted on the Legislative Channel, and posted on the Legislative Website in a manner that is easily accessible to the public today and everyday until the public hearing on May 11, 2017.

Should you have any questions, please contact our office.

Thank you,
Jocelyn de Guia
Policy Analyst

MEMORANDUM

From: Vice Speaker Therese M. Terlaje
Chairperson, Committee on Culture and Justice

Subject: SECOND NOTICE of Public Hearing – Thursday, May 11, 2017 at 10:00 AM

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Thursday, May 11, 2017, beginning at 10:00 AM in / *Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

- **Bill No. 82-34 (COR), As Introduced – M.C. Torres** – An Act to Add Chapter 8 to Division 1 of Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets
- **Bill No. 82-34 (COR), As Amended by Committee (DRAFT 1)** – An Act to Add Chapter 50 to Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via / *Liheslaturan Guåhan's* live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker

Therese M. Terlaje, 163 Chalan Santo Papa, at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

We look forward to your attendance and participation.

Si Yu'os Ma'åse

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The Office of Vice Speaker Therese M. Terlaje
Committee on Culture and Justice
I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 472-3589
senatorterlajeguam@gmail.com

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 **Second notice PH 5.11.17.pdf**
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OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

May 9, 2017

MEMORANDUM

From: Vice Speaker Therese M. Terlaje 
Chairperson, Committee on Culture and Justice

Subject: **SECOND NOTICE of Public Hearing – Thursday, May 11, 2017 at 10:00 AM**

Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on Culture and Justice will convene a public hearing on Thursday, May 11, 2017, beginning at 10:00 AM in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña). On the agenda are the following items:

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We look forward to your attendance and participation.

Si Yu'os Ma'åse

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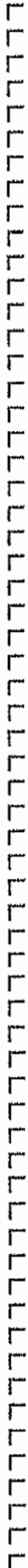
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w/media

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thebigshow@k57.com
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tritten@pstripes.asd.mil
tterlaje@guam.net
xiosormd@gmail.com
xiosormd@yahoo.com
ylee2@guam.gannett.com
yourvoice.guam@gmail.com

T MEETINGS

School cafeteria. For special accommodations or information, contact Leilani Cruz, Administrative Officer at 300-1627 or

lmbcruz@gdoe.net.
 » The Northern Guam Soil and Water Conservation District regular board meeting will be at 4 p.m. May 18 at the University of Guam's Agriculture and Life Sciences Building, Conference

Room 202. For more information, call 735-2014.

» The Government of Guam Retirement Fund board of trustees regular board meeting will be at noon May 26 in the Retirement Fund Conference

Room, 424 Route 8, Maite. Agenda will be made available prior to the meeting. For special accommodations, contact the Board of Trustees' Office at 475-8900-1.

May 11

» The Guam Legislature's Committee on Culture and Justice public hearing will begin at 10 a.m. May 11 in I Liheslaturan Guåhan's Public Hearing Room, Guam Congress Building, 163 Chalan Santo Papa, Hagåtña. On the agenda are Bill No. 82-34 (COR) and Bill No. 82-34 (COR). The public is invited. For more information or special accommodations, contact the Office of Vice Speaker Therese M. Terlaje at 472-3586 or senatorterlajeguam@gmail.com.

» The University of Guam Regent Nominating Council meeting will be held at noon May 11 in the President's Conference Room, second floor, the Jesus S. & Eugenia A. Leon Guerrero School of Business and Public Administration Building. For special accommodations, contact the ADA Coordinator at 735-2244, TTY 735-2243.

» The Guam Land Use Commission public meeting will be at 1:30 p.m. May 11 at the Land Management Conference Room, third floor, ITC building, Tamuning. For more information, visit <http://dlm.guam.gov/notices-2/>. For special accommodations, contact Cristina at 649-5263, ext. 375 or Cristina.gutierrez@land.guam.gov.

» The P.O.S.T. (Peace Officer Standards and Training) Commission will hold its monthly meeting at 1:30 p.m. May 11 at the Guam Community College in Room 112, Learning Resource Center.

Piti-Yona

DAY DAY

more!!! - LOW PRICE GUARANTEE

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ALTANTIC/PACIFIC MACKEREL \$1.99/LB
 PARROT FISH \$3.99/LB
 TILAPIA FISH \$1.35/LB
 ATULAI FISH \$22.99/cs

DRINKS SPECIALS

MT. FRESH WATER 24-500ml \$6.99/cs	LET'S BE COFFEE \$9.99/cs
MR BROWN CAN \$15.95/cs	KINGCAR, BLACKTEA - CAN \$13.95/cs BTL \$16.95/cs
PEPSI CAN 12PK \$5.99/cs	LIPTON ICEDTEA 38QT \$7.99/ea
TANG MIX 22QT \$9.99/ea	NESTEA MIX 40 QT \$8.99/ea
ZESTO DRINK BOX \$2.99/bx	ALOHA MAID 24/CS \$11.99/cs
GL CHOCOLATE 24/CS \$12.99/cs	

GRAINS

DIAMOND G RICE \$23.99/50LB (limit:2)	LOTUS JASMIN RICE \$22.99
GOLDEN PHENIX \$25.99/50LB (limit:1)	GUAM ROSE RICE \$22.99

ROGERY ITEMS

BAR-S CON 16 oz \$4.29	MILLER HC REG/ HOT LINK 4 LB \$15.99	HOT LINKS 24 oz \$4.29	HOT POCKET 17 PK \$16.99	BNS ORIGINAL PATTIES 6.4 oz 2 for \$2.99
SHRIMP \$10.99/200	RAW SHRIMP TAIL-ON 2LB \$17.99	AJI-MOMOTO SHUMAI AND GYOZA 2 for \$8.99	YAMASHI SOY SAUCE 18 fl oz \$6.99	EXTRA LARGE DOZEN OF EGGS \$2.49
HOKKIGAI CLAM \$10.99	SEAFOOD MIX 16 OZ \$2.99			

BRAND ALTIES 3 lbs \$10.99	POLAR BIRD CRAB MEAT 1kg \$4.99	HALF SHELL MUSSEL 1 KG \$9.99	CHICKEN DRUMSTICK FAMILY TRAY \$13.99	CHICKEN THIGH FAMILY TRAY \$14.99
ACRES 1LB EGGS/CUT CORN \$1.99	AMARAL CHAMORRO SAUS 16 oz \$5.99	KVI CHINESE SAUSAGE 13.2 oz \$4.99	HAWAIIAN SAUSAGE 4 oz \$2.19	HOR CHICKEN PARTY WINGS 5 LB \$16.99
VIENNA 5oz/BOX \$10.99	LIBBY VIENNA 8.5 oz \$3.99	TULIP BRAND LUNCHEON MEAT 12oz \$1.99	TUNA CAN \$1.99	SUN FLOWER MACKEREL 15 oz \$2.99

LIFESTYLE

GOVERNMENT MEETINGS

News Meetings - The Guam Associated Lands Commission meeting will be held on May 24 at 10:00 AM in the main room of the Guam Convention Center. The meeting will be held in the main room of the Guam Convention Center. The meeting will be held in the main room of the Guam Convention Center. The meeting will be held in the main room of the Guam Convention Center.

Subscriptions - Government Meetings are published in a quarterly issue at a public meeting to the community.

May 10

In Loving Memory

Felix Ray Igisaiar Concepcion

April 22, 1940 - April 29, 2017
 Christian Burial Home

Our loved one will be buried at the Christian Burial Home. The funeral will be held on April 29, 2017 at 10:00 AM. The burial will be held at the Christian Burial Home.

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OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

Public Hearing

Thursday, May 11, 2017
10:00 a.m. – 12:00 p.m.

AGENDA

Bills:

- **Bill No. 82-34 (COR), As Introduced – M.C. Torres** – An Act to Add Chapter 8 to Division 1 of Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets.
- **Bill No. 82-34 (COR), As Amended by Committee (DRAFT 1)** – An Act to Add Chapter 50 to Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via [I Liheslaturan Guåhan's](#) live feed. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Vice Speaker Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Vice Speaker Therese M. Terlaje at the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; at the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910; or via email to senatorterlaje@guam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Vice Speaker Therese M. Terlaje, 163 Chalan Santo Papa, at (671) 472-3586 or by sending an email to senatorterlaje@guam@gmail.com.

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 472-3589 Email: senatorterlaje@guam@gmail.com
www.senatorterlaje.com



I Mina'trentai Kuáttro na Liheslaturan Guåhan
Office of the Vice Speaker
Senator Therese M. Terlaje
Committee On Culture and Justice

Date:
Bill No.:

Thursday, May 11, 2017
82-34 (COR)

Time: 10:00 AM

Public Hearing on Bill No. 82-34 (COR)

	NAME	AGENCY	CONTACT NO.	E-MAIL	POSITION		TYPE OF	
					SUPPORT	OPPOSE	WRITTEN	ORAL
1	None	None	None	None	None	None	None	None
2								
3								
4								
5								
6								
7								
8								
9								
10								



State Lawmakers Have Options to Protect Your Digital Legacy

<https://cdt.org/blog/state-lawmakers-have-options-to-protect-your-digital-legacy>

OCTOBER 05, 2015

- Privacy & Data

As state legislatures prepare for another season, they will be able to choose among several models for updating estate law while preserving users' control of their digital legacies. This administrative question has been caught up in larger questions about our relationship with technology and the difficulty of anticipating the future of innovation. Rules for accessing digital accounts after death are nontrivial as they hold huge troves of information about our habits, preferences, and connections to others. The narratives of our lives can be assembled through this data, and everyone should have control over how their stories are told. CDT has some advice for users looking to establish their own digital legacies, and we have advocated for legislation that prioritizes user control.

In fact, CDT played a major role in crafting two of the models that are available this year, and this week the Uniform Law Commission has unveiled a new model that is both privacy protecting and administrable. This is the result of a year of negotiation and represents a hard-won compromise among key stakeholders.

The Uniform Law Commission (ULC), a nonprofit that provides state lawmakers with model bills “to bring clarity and stability to critical areas of state statutory law,” worked with technology companies, trust and estate lawyers, and privacy advocates to update the model legislation they released last year, the Uniform Access to Digital Assets Act (UFADAA). Both technology companies and privacy advocates criticized that proposal for providing overly broad access to fiduciaries, and the bill was stalled after being

introduced in many states across the country. The new model, conveniently titled the Revised Uniform Access to Digital Assets Act (RUFADAA), addresses several of the objections raised to the last model and substantially shifted in its default treatment of digital assets.

The updated model makes several meaningful improvements, including:

Protecting Communications by Default: The revised bill requires the consent of the user before granting access to contents of digital communications, reversing the default of the original bill. Our digital communications are vast, searchable archives of many of our fleeting thoughts, feelings, and preferences and may include photos or video shared with a private, specific audience. They should not be treated the same as physically stored letters. Users expect that they will be private and take steps to ensure as much; they are stored by third parties behind password-protected accounts that may or may not be linked to a person's true identify. The treatment of these assets under RUFADAA is a more accurate reflection of the technology, and more respectful of user control.

Prioritizing selections made through online tools: RUFADAA gives priority to wishes expressed through tools like Google's Inactive Account Manager and Facebook's Digital Legacy Contact, even over wills and other testamentary documents. CDT supports this prioritization. The tremendous diversity of online accounts will only increase with time. Providers are in the best position to communicate what options are available directly to users based on the type of content they store. Prioritizing these tools incentivizes companies to create them and encourage users to share their preferences directly. Additionally, while we may only interact with a testamentary instrument a few times in our lives, we interact with our online accounts on a reasonably regular basis and are more likely to keep our settings up to date than our wills. That said, there are some conditions: the setting must be able to be changed (not a one-time election) and it must be distinct from the terms of service agreement. Speaking of which...

Terms of Service Are Given the Lowest Priority: The original model completely negated any provision in the terms of service that prohibited access; however, the updated bill appropriately recognizes the role of terms of service agreements. While

Incentivizing users to express their desires directly (through provider tools or testamentary instruments), RUFADAA's recognition of terms of service acknowledges that users may have chosen a particular provider or service based on the expectations that are rooted in terms of service.

Earlier this year, the trade association NetChoice published a model bill titled the "Privacy Expectation Afterlife and Choices Act" (PEAC). This bill differs in some respects from RUFADAA, but maintains a similarly robust privacy-preserving default of limiting access unless a user gives permission or a court deems it necessary for the administration of the estate. This model is limited in scope, only addressing personal representatives and not trusts or conservatorships.

CDT worked with the authors of both the RUFADAA and the PEAC model, and as a result both contain the basic privacy protections that were lacking in previous attempts. The ULC will promote its model across the country this legislative season, and has prepared a helpful comparison chart to help lawmakers understand the differences between available models. Both of these models put control in the hands of users and provide protections against privacy harms. We encourage state lawmakers to keep privacy and digital dignity in mind as they decide what legislation to introduce this year.

Insight on the issues

Challenges and Opportunities in Managing Digital Estates

Neal Walters
AARP Public Policy Institute

INTRODUCTION

Advances in technology and the increasing spread of digital connectivity are bringing about big changes in how people live. The Internet provides a new level of connectivity that is fueling a wave of applications and services that promise to meet people's needs with exceptional convenience and efficiency. As of 2015, 84 percent of adult Americans connect to the Internet, with 81 percent of those ages 50-64 and 58 percent ages 65+ connecting.¹

In today's Internet-connected world, people accrue vast amounts of digital assets. These include digital files (e.g., e-mails, photos, videos, and documents), as well as digital accounts (e.g., financial, business, social media, e-mail, retail shopping, and cloud storage). Based on an AARP Public Policy

Institute study of digital readiness, over half (57 percent) of Internet users ages 18 and older have between 1 and 10 online accounts, while over a third (38 percent) have more than 10 online accounts. The digital assets left behind when an Internet user dies, or is no longer capable of managing his or her digital estate, forms the person's digital legacy.

Despite the increasing number of digital assets Internet users are

accumulating, many have not thought about managing their digital legacy. This lack of action can result in heirs losing access to their loved one's digital assets.

Managing one's digital legacy is a key issue because digital assets can have both monetary and sentimental value. Further, in many states, laws pertaining to the disposition of assets do not address the treatment of digital content after the owner dies or is unable to manage his or her digital content due to illness. As such, state governments and service providers² are in a position to update various laws and practices.

This report examines the current landscape concerning Internet users' digital legacy—that is,

EXAMPLES OF DIGITAL ASSETS

- Financial Accounts:** banking, brokerage, bill paying
- Virtual Property Accounts:** virtual currencies, air miles
- Online Business Accounts:** eBay, Amazon, Etsy
- E-mail Accounts:** Gmail, Outlook, Yahoo
- Social Networking Accounts:** Facebook, Twitter, Instagram
- Online Storage Accounts:** Google Drive, iCloud, Dropbox
- Application Accounts:** Netflix, Kindle, Apple TV
- Websites, Blogs, Videos:** YouTube, WordPress

relevant laws and regulations, the shortcomings of such policy in keeping up with the evolving digital age, and the role of Internet service providers, among other variables. To understand how American Internet users are using their connectivity and to what extent they have thought about and taken action to prepare their digital legacy, AARP conducted a nationally representative survey of Internet users ages 18 and older (survey methodology provided in appendix). The survey data, which include information on current Internet usage by demographic, provide context for the accompanying, ever-evolving issues.

SURVEY BASICS: HOW ADULTS ARE USING THE INTERNET

Survey results indicate that the frequency of Internet usage for communication varies by age. Almost 8 in 10 (79 percent) Internet users under the age of 50 send text messages daily, compared with 45 percent of those ages 50 and older. Similarly, half (50 percent) of those under the age of 50 use social media at least once a day, compared with 35 percent of online users ages 50 and older.

The non-communication-related Internet activities of adults also vary by age. Younger Internet users post photos or other content online more often than older users. However, the majority of adult Internet

users of all ages are using the Internet to make purchases and for financial transactions (table 1).

The implications concerning the increasing use of the Internet for financial purposes—one of the most sensitive online functions—are significant. As such, users of all ages need to consider their digital legacy to prevent loss of digital content of both a financial nature and sentimental value.

When asked at what locations they access the Internet, adult Internet users indicated that home is the most common location (figure 1).

THE IMPORTANCE OF PRESERVING DIGITAL ASSETS

Failing to plan for one's digital legacy can leave family members with a complex and difficult landscape to navigate. Without a detailed inventory of an individual's digital assets, family members may have difficulty identifying what assets exist and how to locate and access them.

Creating a detailed inventory of digital assets, however, can be difficult for Internet users because they often do not have an accurate understanding of the extent of their digital content.³ Further, most have not prepared a list of digital assets for their estate, nor have they documented their wishes for how they want their digital assets addressed. This is not surprising given a recent survey found that 64 percent of Americans have not prepared a will.⁴

TABLE 1
Online Activities within the Past 12 Months

Online Activity	General Population n=2,042	18-49 n=960	50-64 n=661	65-74 n=306	75+ n=209
Make a purchase online	80%	82%	81%	74%	64%
Perform a banking or financial transaction	69%	71%	69%	61%	54%
Post photos, videos, or other content online	61%	70%	54%	46%	29%
Store or back up important content with online services	38%	46%	30%	21%	19%
Sell something	24%	29%	21%	14%	6%

QB. "Within the past 12 months, have you used the internet to...? Check yes or no for each item."

Source: AARP Public Policy Institute study of Internet users.

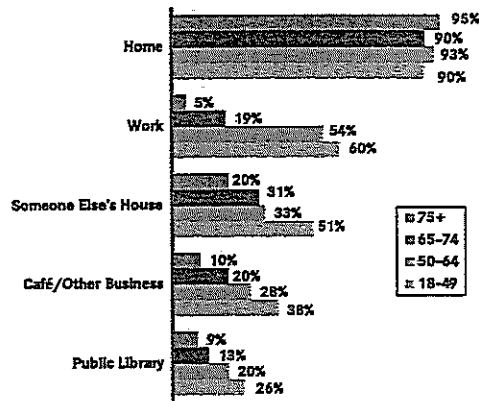


This lack of planning can lead to lengthy legal battles over access to digital assets and the loss of digital assets after a person's death or incapacitation. Passwords and encryption can prevent access to digital accounts and make it difficult to retrieve digital content. In addition to technological challenges, existing privacy and security laws may also prevent access to digital content. This complicates the task for the fiduciary³ responsible for an estate that includes digital assets. A fiduciary is a trusted person with the legal authority to manage another's property and the duty to act in that person's best interest.

Digital assets of monetary value are usually of greatest concern because loss of these assets can result in loved ones being unable to recover valuable property.⁴ However, it is not always clear which assets have monetary value. While digital financial accounts, virtual property accounts, and online business accounts are obvious sources of potential wealth, other digital assets may also have value. For example, e-mail accounts, photos, videos, websites, and blogs can be of monetary value or contain business-related information and other assets of financial value.

MOST ADULT INTERNET USERS HAVE NOT THOUGHT ABOUT THEIR DIGITAL LEGACY
Our survey finds more than half (58 percent) of adult Internet users have not thought about what will happen to their digital content when they die or become incapacitated. African American and Hispanic adult Internet users are more likely⁵ to say they have not thought about their digital legacy compared with White adult Internet users (figure 2). Of adult Internet users, 16 percent have taken some kind of action to manage their digital legacy. Older

FIGURE 1
Home Is the Most Common Location for Accessing the Internet for All Age Groups



Base: 18-49 n = 960, 50-64 n = 661, 65-74 n = 305, 75+ n = 210

Q3. "Do you access the Internet at any of the following places? Check yes or no for each item."

Source: AARP Public Policy Institute study of Internet users.

Internet users are more likely to have taken action, with 29 percent of those ages 65 and older saying they have taken action, compared with 18 percent of those ages 50-64 and 12 percent of Internet users ages 18-49.

Of those who have taken action to manage their digital legacy, few documented their wishes using a written will or online account settings (figure 3).

The majority of adult Internet users who have taken action to manage their digital legacy made a list of account passwords that is available to a trusted person (56 percent), and/or discussed their wishes with a trusted person (62 percent). While these strategies can help provide access to digital content for the trusted person, they do not necessarily grant the trusted person legal authority to access and manipulate the accounts.

A small number of online service providers offer account settings that allow subscribers to set their preferences regarding the treatment of digital content in the event of death or incapacitation. However, these account settings apply only to the digital content associated with that account.

Overall, more than one-third of adult Internet users (35 percent) said they are concerned about what will happen to their digital assets in the event of their death or incapacitation. African Americans (35 percent) and Hispanics (40 percent) are more likely than Whites (30 percent) to say they are concerned about what will happen to their digital content. Less than half of adult Internet users said they were likely to look for more information on preparing their digital legacy in the next 12 months. Forty-six percent of Hispanic Internet users and 37 percent of African American Internet users said they are likely to look for more information, compared with 29 percent of White Internet users.

Despite their apparent lack of concern for their own digital legacy, 46 percent of adult Internet users believe their loved ones will want access to their digital content in the event of their death (figure 4).

Similarly, 41 percent of adult Internet users said they would want access to their loved one's digital content in the event of the loved one's death. This suggests that many Internet users do see value in being able to access digital content after the death of loved ones.

BARRIERS TO ACCESSING DIGITAL ASSETS OF DECEASED OR INCAPACITATED INDIVIDUALS

There are a number of potential barriers facing those seeking to access the digital assets of a deceased or incapacitated loved one.

Because people often open new accounts and close or abandon older accounts, keeping track of online accounts is

FIGURE 2
Most Adult Internet Users Have Not Thought about Their Digital Legacy

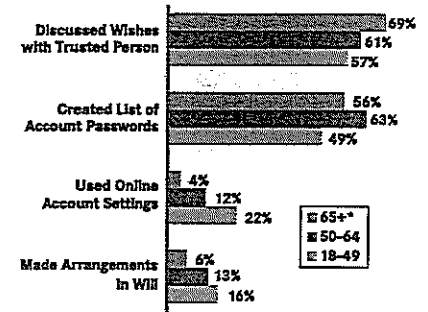


Base: Hispanic n=622, African American/Black n=605, White n=1,527

Q23. "Have you ever thought about what will happen to your digital content if you become incapacitated or after you pass away?"

Source: AARP Public Policy Institute study of Internet users.

FIGURE 3
Actions Taken by Adult Internet Users to Prepare Their Digital Legacy



Base: Respondents reporting they've taken action (n = 356)

* Due to small sample size, further age breakdowns for this age group were not possible.

Q25. "What action(s) have you taken? Check all that apply."

Source: AARP Public Policy Institute study of Internet users.

challenging. And with each account comes another username and password those wanting to access the account will need to know. Further, many online music, video, and book services⁵ do not sell content to the user, but instead sell an individual user's license granting the subscriber access to the content. Generally, these licensing agreements prohibit the transfer of the license should the subscriber die. As a result, many online music, video, and book libraries may not be part of the deceased's digital property. To determine legal ownership of such content, it will be necessary to review each relevant licensing agreement.

Beyond these complications, current laws and service provider agreements can limit access to the digital content of a deceased or incapacitated individual.

Federal Law

Federal law does not specifically address access to a deceased or incapacitated individual's digital content. However, federal privacy laws designed to protect against unauthorized access to computers and electronic files can limit what information service providers can disclose to third parties. The key federal law is the Electronic Communications Privacy Act (ECPA),⁶ which governs what types of information a service provider can disclose and under what circumstances. This statute limits the disclosure of digital content to others unless the account holder has explicitly given consent.

In addition, under the Computer Fraud and Abuse Act (CFAA),⁷ it is illegal to access a computer or computer network without authorization or in excess of authorization. The intention of the CFAA is to penalize criminals engaging in instances of malicious hacking; however, civil actions can occur under the statute. This means that fiduciaries attempting to gain access to a deceased or incapacitated person's computer devices without proper authorization could be liable for violating the CFAA.

In response to these laws, service providers often operate under terms of service limiting access to digital content to prevent unauthorized access. Frequently, the terms of service permit only the account owner to access content. Some terms of service explicitly state these rights are

FIGURE 4
Almost Half of Adult Internet Users Think Loved Ones Will Want Access to Their Digital Content Should They Pass Away

- Would not Want Access
- Don't Know
- Would Want Access



Base: n = 2,042

Q27. "Do you think your loved ones would want access to your digital content after you pass away?"

Source: AARP Public Policy Institute study of Internet users.

nontransferable.⁸ As a result, service providers may refuse to release information in the absence of a will or other legal documentation consenting to the disclosure of a deceased or incapacitated individual's digital content.

State Law

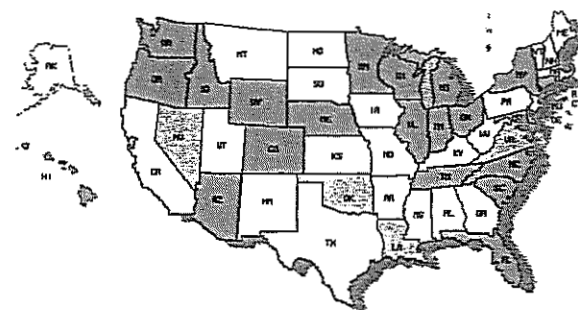
Given the uncertainty of access to digital content under existing federal laws, states are moving to help make digital content available to fiduciaries. To date, 27 states have enacted laws addressing access to digital assets of a deceased or incapacitated person (figure 5).

The utility of these state laws varies. For example, Nevada law provides only for the termination of the deceased's social media accounts and does not grant access to digital content. Rhode Island law requires service providers to grant executors access to contents of e-mails, but not other digital content.

More recently passed laws seek to provide much broader access to digital content, giving a fiduciary authority to manage or distribute the digital

FIGURE 5
States with Laws Related to Accessing Digital Content of Decedents (as of January, 2017)

- RUFADAA
- Other Law



Source: AARP Public Policy Institute.

property as appropriate. Through January 2017, 21 states⁹ enacted legislation designed by the Uniform Law Commission that addresses access to digital assets based on the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA) of 2015.¹⁰ The Uniform Law Commission (also known as the National Conference of Commissioners on Uniform State Laws) researches, drafts, and promotes enactment of uniform acts in areas of state law where uniformity is desirable and practical.

The goal of RUFADAA is to provide legal authority for fiduciaries to manage digital assets in the same manner as they manage tangible assets. RUFADAA works in conjunction with existing federal laws, thereby removing barriers that prevent fiduciaries from managing digital content. Importantly, the act allows the owner of the digital content to specify how to handle his or her digital assets by identifying what content should be preserved, distributed to heirs, or destroyed.¹¹

Under RUFADAA, using online account settings to designate a person to manage that account in the event of the account holder's death or incapacitation

is legally enforceable. If the account owner has not provided direction through account settings or a traditional estate plan (such as a will, power of attorney, or other written record), then the provider's terms of service will determine access to the digital content. If the terms of service fail to address fiduciary access, the default rules of RUFADAA will apply.

Service Provider Agreements

In the absence of laws or legal documentation such as a will addressing digital assets, the service provider agreement determines the rules applying to the access of an individual's digital assets. Unfortunately, many of these agreements do not specifically address the question of what happens to digital content belonging to a deceased or incapacitated account holder. If the service provider's terms of service do not make specific provisions for fiduciary access to digital assets, these assets may not be recoverable.

A small number of service providers do provide online account settings to address this issue.¹² For example, some services allow account holders to use

account settings to select what they want done with their account. The account holder can elect to have the account deleted, or access given to an individual he or she specifies.

Other services such as password managers consolidate username and password information into a single account²⁶ that the account holder can elect to share with loved ones. While this may provide loved ones with access to accounts, it does not address the legality of having someone other than the account owner access or manipulate the accounts. Some argue that many service provider agreements prohibit this type of access due to concerns about privacy laws such as the federal ECPA.²⁷

CONCLUSION AND RECOMMENDATIONS

Managing one's digital assets is an important issue for those connecting to the Internet. The survey found that 6 out of 10 adult Internet users have not considered how they want to address their digital legacy. Few adult Internet users said they had taken any action to prepare for the management of their digital legacy. More important, two-thirds indicated they were not concerned about addressing the issue of their digital legacy, and would not look for further information on this topic. Consequently, people managing the estates of those who die or become incapacitated will face challenges identifying, recovering, and accessing the person's digital assets. In many cases, the digital assets will be lost.

The legal landscape can make it challenging for fiduciaries seeking access to an individual's digital assets. Many service providers do not include provisions in their terms of service granting access to accounts of deceased or incapacitated individuals. In the absence of legal documentation such as a will or power of attorney specifically addressing the digital assets, this content may not be accessible. A number of states have recently enacted laws regarding access to digital assets that seek to help overcome this problem.

As digital assets increasingly form a larger part of the estates of Internet users, addressing issues associated with providing access to digital content after death or incapacitation will grow in importance. To help address these issues, the appropriate stakeholders should take the following steps:

Informed Stakeholders Should Educate Internet Users – Many Internet users have not thought about or taken any action to prepare their digital legacy. For this reason, consumer groups, financial planners, estate planners, and service providers should educate Internet users about the importance of managing their digital legacy to ensure that their digital assets of monetary and sentimental value are not lost.

Service Providers Should Provide Options to Manage Digital Assets – Service providers should provide users with account settings that allow account holders to indicate their preferences for the treatment of their digital content in the event of death or incapacitation.

Service Providers Should Address Fiduciary Access in Their Service Provider Agreements – Service providers should include specific provisions allowing access to the digital content of deceased or incapacitated account holders.

State Laws Should Provide for Fiduciary Access to Digital Assets and:

- Be applicable to all digital assets and not just specific types of accounts.
- Treat digital content in the same manner as tangible property. For example, laws should allow a fiduciary to manage digital currencies²⁸ (such as bitcoin) in the same way as they manage traditional financial assets such as bank accounts.
- Protect the privacy of account holders by allowing them to specify what digital content they want to make available and who should have access to it.
- Not conflict with federal laws related to digital privacy and security, or conflict with existing state laws related to probate, guardianship, trusts, and powers of attorney.

Consumers Should Plan Their Digital Legacy – Consumers should create an inventory of important online accounts and usernames to ensure their digital content is accessible should they no longer be able to manage the content. They should also document their digital legacy wishes and coordinate with an estate planner or loved ones to ensure the documents comply with relevant laws relating to digital legacy.

APPENDIX. SURVEY METHODOLOGY

The research utilized GfK's KnowledgePanel[®] nationally representative online panel. Respondents were screened to ensure that they use the Internet for reasons other than taking KnowledgePanel[®] surveys.

For this study, a total of 2,998 qualified interviews were secured from the nationally representative KnowledgePanel[®] sample of Internet users. The overall sample was weighted by age, gender, race/ethnicity, education, Census region, metropolitan status, and household income (and primary language for Hispanics) to be nationally representative of Internet users ages 18+. In addition, due to the oversampling of certain groups (see descriptions below) and weighting, the survey also yielded samples of adults ages 50–64, adults ages 65+, non-Hispanic African Americans/Blacks, Hispanic/Latinos, and non-Hispanic Whites that were designed to be nationally representative of Internet users in each of those groups.

The general population sample included a representative sample of 2,042 respondents ages

18+ from different race/ethnicities and age groups. However, in order to make comparisons by race/ethnicity and by age, additional interviews ("oversamples") were completed among three groups, African American/Blacks (n=443), Hispanic/Latinos (n=419), and Americans ages 65 or older (n=94), in order to secure an adequate number of respondents in each of these groups for analysis. Ultimately, a total of 605 interviews were completed among African Americans, 622 interviews were completed among Hispanics, and 515 interviews were completed among respondents ages 65 or older. Therefore, in the report, when making comparisons by race/ethnicity or age, the sample sizes of Hispanics/Latinos, African Americans, and adults ages 65+ are based on the total number of interviews completed for each group, which included respondents from the general population sample, as well as those from the oversamples. However, the results shown for the general population are based only on the nationally representative sample of 2,042, which excludes the oversamples.

1 Andrew Perrin and Maeve Duggan, *Americans' Internet Access: 2000–2015* Pew Research Center, (June 2015).

2 Service providers are companies that provide subscribers with access to Internet services.

3 Evan Powers, *Estate Planning: Don't Forget Your Digital Assets!* Seeking Alpha, (April 10, 2016).

4 Rocket Lawyer, *Digital Limbo: Rocket Lawyer Uncovers How Americans Are (or Aren't) Protecting Their Digital Legacies* Rocket Lawyer, (April 21, 2015).

5 Fiduciaries include executors/personal representatives of an estate, conservators for the protected person, agents serving under a power of attorney, and trustees.

6 Samantha D. Haworth, "Laying Your Online Self to Rest: Evaluating the Uniform Fiduciary Access to Digital Assets Act," *University of Miami Law Review* 66 (Winter 2014).

7 Unless otherwise noted, differences are statistically significant at the 5 percent risk level.

8 This includes services such as iTunes, Kindle, and Amazon.

9 18 U.S.C. § 2510 et seq

10 18 U.S.C. § 1030.

11 William Bissett and David Kauffman, "Understanding Proposed Legislation for Digital Assets," *Journal of Financial Planning* (April 1, 2014).

12 The states are Arizona, Colorado, Connecticut, Florida, Hawaii, Idaho, Illinois, Indiana, Maryland, Michigan, Minnesota, Nebraska, New York, North Carolina, Ohio, Oregon, South Carolina, Tennessee, Washington, Wisconsin, and Wyoming.

13 Details of the act are available at Uniform Law Commission (<http://www.uniformlaws.org>).

14 Uniform Law Commission, *Why Your State Should Adopt the Revised Uniform Fiduciary Access to Digital Assets Act (2015)* (May 2015).

15 For example, Gmail allows users to designate an "inactive account manager" to receive an e-mail alert that the account has been dormant for a certain period, while Facebook allows family members to memorialize the deceased/incapacitated person's Facebook page.

16 Such accounts allow users to use one username and password to gain access to all their accounts.

17 Craig Dickson, "The Digital Legacy Conundrum: Who Really Owns What?" *New Zealand Law Journal* 275 (2015).

18 Digital currencies are internet-based forms of currency that exhibit properties similar to physical currencies but allow for instantaneous transactions and borderless transfer of ownership.

Insight on the Issues 116, March 2017

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25 Massachusetts Ave., NW
Washington, DC 20001
Phone: 202-346-1100

October 13, 2015

Ben Orzeske
Chief Counsel
Uniform Law Commission
111 N. Wabash Ave.
Suite 1010
Chicago, IL 60602

Dear Mr. Orzeske:

I am writing to express Google's support for the Revised Uniform Fiduciary Access to Digital Assets Act. We are pleased to have found common accord with the Uniform Law Commission in both of our efforts to address access issues to digital information of decedents and others.

The revised Uniform Act accommodates the needs of settling and administering estates, providing full or limited access to information for guardians, holders of powers of attorney and others assisting people who may be incapacitated, while respecting the account holder's rights to privacy. In addition to commitments made to users, custodians' obligations under the federal Electronic Communications Privacy Act prohibit disclosures of content or account information except under specific circumstances. The Uniform Act appropriately recognizes these limitations and provides a consistent framework for anyone petitioning for information related to the contents of another's account.

Support for this legislation extends only as far as bills based on the Uniform Act remain consistent with it and we reserve the right to support or oppose individual bills based on the Uniform Act after their review.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Barnes".

Ron Barnes
Head of State Legislative Affairs



WHY YOUR STATE SHOULD ADOPT THE REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)

The Revised Uniform Fiduciary Access to Digital Assets Act (Revised UFADAA) modernizes fiduciary law for the internet age. Fiduciaries are the people appointed to manage our property when we die or lose the capacity to manage it ourselves. Nearly everyone today has digital assets, such as documents, photographs, email, and social media accounts, and fiduciaries are often prevented from accessing those accounts by password protection or restrictive terms of service. Digital assets may have real value, both monetary and sentimental, but they also present novel privacy concerns. UFADAA provides legal authority for fiduciaries to manage digital assets in accordance with the user's estate plan, while protecting a user's private communications from unwarranted disclosure.

- ***Revised UFADAA gives internet users control.*** Revised UFADAA allows users to specify whether their digital assets should be preserved, distributed to heirs, or destroyed.
- ***Revised UFADAA provides efficient uniformity for all concerned.*** Digital assets travel across state lines nearly instantaneously. In our modern mobile society, people relocate more often than ever. Because state law governs fiduciaries, a uniform law ensures that fiduciaries in every state will have equal access to digital assets and custodians will have a single legal standard with which to comply.
- ***Revised UFADAA respects privacy interests.*** Private communications like email and social media conversations are protected by federal privacy law. Revised UFADAA prevents the companies that store our communications from releasing them to fiduciaries unless the user consented to disclosure.
- ***Revised UFADAA addresses four common types of fiduciaries.*** Revised UFADAA provides appropriate default rules governing access to digital assets for executors of a decedent's estate, agents under a power of attorney, conservators, and trustees.
- ***Revised UFADAA works hand-in-hand with federal and state law.*** Under Revised UFADAA, fiduciaries must provide proof of their authority in the form of a certified document. Custodians of digital assets that comply with a fiduciary's apparently authorized request for access are immune from any liability under statutes that prohibit unauthorized access. A fiduciary's authority over digital assets is limited by federal law, including the Copyright Act and the Electronic Communications Privacy Act.

For further information about Revised UFADAA, please contact ULC Chief Counsel Benjamin Orzeske at (312) 450-6621 or borzeske@uniformlaws.org.

October 12, 2015

Uniform Law Commission
111 N. Wabash Avenue
Suite 1010
Chicago, Illinois 60602

Dear Uniform Law Commission:

Facebook appreciates the work of the ULC commissioners and staff in crafting a uniform act – the Revised Uniform Fiduciary Access to Digital Assets Act (“RUFADAA”) – which we believe creates a reasonable compromise regarding disposition of digital accounts upon death or incapacitation. We support the enactment of RUFADAA by state legislatures.

Recognizing that this is a sensitive issue involving an extremely complicated legal landscape and each state must conform RUFADAA to its own statutes, we will need to review proposed bills individually before determining our position. Uniformity in state law on this issue is important to Facebook and we are unlikely to support language that materially differs from RUFADAA.

Again, we appreciate the hard work of the ULC on this issue.

Sincerely,



Dan Sachs
Manager, State Policy
Facebook, Inc.



1 Hacker Way
Menlo Park, CA 94025



OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
 Chairperson of the Committee
 On Culture and Justice

I Mina'trentai Kuàttro na Liheslaturan Guåhan
 34th Guam Legislature

COMMITTEE VOTE SHEET

**Bill No. 82-34 (COR), As Amended by Committee on Culture and Justice –
 “An Act to Add Chapter 50 to Title 15, Guam Annotated, Relative to Fiduciary
 Access to Digital Assets.”**

	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Vice Speaker Therese M. Terlaje Chairperson 5/11/17		✓				
Senator Telen Cruz Nelson Vice Chairperson 5/12/17				✓		
Speaker B.J.F. Cruz Member		✓				
Senator FRANK B. AGUON, JR. Member 5/15/17		✓				
Senator Joe S. San Agustin Member						
Senator Louise B. Muña Member						
Senator Fernando Esteves Member	FBE			✓		



I Mina'trentai Kuåtto na Liheslaturan Guåhan
34th Guam Legislature

OFFICE OF THE VICE SPEAKER

THERESE M. TERLAJE

Chairperson of the Committee
On Culture and Justice

COMMITTEE REPORT DIGEST

Bill No. 82-34 (COR) – As Amended by Committee on Culture and Justice – An Act to Add Chapter 50 to Title 15, Guam Code Annotated, Relative to Fiduciary Access to Digital Assets

I. OVERVIEW

Bill No. 82-34 (COR) was introduced by Senator Mary C. Torres on April 28, 2017, and referred to Committee on Culture and Justice on May 1, 2017.

The Committee on Culture and Justice convened a public hearing on Thursday, May 11, 2017, beginning at 10:00 a.m. in the Guam Congress Building's Public Hearing Room. The hearing for Bill No. 82-34 (COR) began at 10:15 a.m. and concluded at 10:33 a.m.

Public Notice Requirements.

Notices for this public hearing were disseminated via email to all senators and all main media broadcasting outlets on May 4, 2017 and again on May 9, 2017. The notice was also published in the Guam Daily Post on May 5, 2017 and in the Pacific Daily News on May 10, 2017 and May 11, 2017.

Notices were also sent individually to the Attorney General, the Judiciary, the Legal Services Corporation, the Guam Bar Association, and the Guam Family Law Offices.

Senators Present

Vice Speaker Therese M. Terlaje, Chairperson
Senator Mary C. Torres
Senator Régine Biscoe Lee

Appeared Before the Committee

None

Submitted Written Testimony

None

II. SUMMARY OF TESTIMONY & DISCUSSION

Chairperson of the Committee on Culture and Justice called the public hearing to order on Thursday, May 11, 2017, at 10:15 a.m. Bill No. 82-34 (COR) was the only item on the Agenda.

Chairperson Terlaje:

Good morning everybody. This public hearing is now called to order. It's Thursday, May 11, at 10:15 AM. On today's agenda we have two (2) Bills: Bill No. 82-34 (COR) as introduced by Senator M.C. Torres, An Act to add Chapter 8 to Division 1 of Title 15, Guam Code Annotated, relative to Fiduciary Access to Digital Assets. We're also including in this public hearing an amendment to that Bill which is to change the chapter number to chapter fifty (50). We wanted to make sure that everybody had public notice of that. Notices for this public hearing were disseminated via email to all senators and all main media broadcasting outlets on May 4, 2017 and again on May 9, 2017. The notice was also published in the Guam Daily Post on May 5, 2017 and in the Pacific Daily News on May 10, 2017 and May 11, 2017. I'd like to thank my colleagues Senator Torres and Senator Regine Biscoe Lee for attending this morning. I'd like to ask Senator Torres to please introduce Bill No. 82-34.

Senator Mary C. Torres:

Thank you Madam Chair. Bill No. 82-34 is an act to add Chapter 50 to title 15, Guam Code Annotated, relative to Fiduciary Access to Digital Assets. Chapter 15, by the way, is the estates and probate section of the Guam Code Annotated. This bill was introduced because we believe that the revised Uniform Fiduciary Access to Digital Assets Act is necessary to modernize Guam's fiduciary law in the internet age. Fiduciaries are the people we appoint to manage our properties when we die or when we lose the capacity to manage it ourselves. The gist of the bill is that we once lived in a tangible world of paper trails and now our everyday lives are mostly operated by digital assets. They drive how we interact with others socially or conduct our business. As technology continues to advance and become a larger part of our personal lives, many of us find that we have increasing numbers of digital assets. These assets include any electronic record to which an individual has a right or interest such as media accounts, emails, photographs, or any documents. Just think about the collection of documents that we personally have stored in the cloud, the emails and text messages in our servers, or the photographs we upload to websites. For many of us, our tax returns, our bank statements, our music collections, our books, our utility bills, and other bills we have to pay exist only in the electronic record form.

We also are aware that cyber security has resulted in many measures that have been put in place to safeguard our digital information from falling into the hands of people that are not authorized. When we need someone to handle our digital accounts and information, all of those safeguards and privacy measures that we put in place when we are alive and of sound mind and body, are suddenly working against us if we die or are

incapacitated. Many of these terms of service agreements, as well as federal and state laws, do not contemplate the death or incapacity that may prevent access to digital assets. This is where the catch-22 comes in. We have some congressional acts such as the Historic Communication Act, which addresses the privacy and use of our home computers. This Historic Communication Act creates privacy rights to protect the contents of our electronic communications and governs the conduct of our custodians; which are the companies that store the electronic communications. Many times these inherent privacy acts prohibit such custodians from voluntarily disclosing a user's content to the government or any person or entity unless an exception exists under this Historic Communications Act.

There are also instances where the fine print in the online server's terms of service agreement prohibits third party access which would include a fiduciary accessing and account because it exceeded the authorized access limits. Under this fraud and abuse act, which is a federal anti-hacking act, just accessing this would be a crime. To help address this problem, I introduced Bill 82-34 which is the revised Uniform Fiduciary Access to Digital Assets Act. It establishes the standards for the handling individual's digital assets upon their death. It provides the legal authority for fiduciaries to manage their digital assets in accordance a person's estate plans while protecting the user's private communications from unwarranted disclosure. There are many components of this Act that work to the favor of people that have concerns over how their digital assets are going to be managed or how it will pass upon their death. There are times where there are some things we don't want to be passed on, say we're incapacitated, we want to ensure privacy.

This bill also empowers individuals to allow them to specify whether they want certain assets to be preserved, distributed to the heirs, or destroyed. This act creates uniformity even as our digital access travels across state lines as we move. It ensures that fiduciaries in every state will have equal acts as to the assets; custodians will have a single legal standard to comply. That's the importance of having this uniform law. This one standard will be the standard no matter where the application of your desires should fall. It does not, in any way, infringe on our privacy rights as individuals to dictate how we want our assets to be distributed or disclosed. Madam Chair that is the gist of the bill. It's a uniform bill that has been adopted in thirty (30) states so far. In this digital age, the idea and objective is to have jurisdictions adopt this standard and uniform act so that people that are dealing with the States, either upon their death or in the event they are incapacitated, can have their matters dealt with and not find themselves in a very bad situation. Situations such as bank accounts that cannot be accessed because of privacy rights or if you wanted your children to inherit personal memorabilia; those things can also be passed on. It not only addresses some of your business and financial type of information but it also includes some of those nostalgic things that have a lot of value to people when they pass on. Thank you Madam Chair.

Chairperson Terlaje:

Thank you very much Senator Torres. There is no one who signed up to testify at this

time but the committee will continue to accept testimonies for ten (10) days following this hearing. You can submit that by email to senatorterlajeguam@gmail.com. Senator Biscoe Lee did you have any comments or questions?

Senator Regine Biscoe Lee:

Thank you Madam Chair and thank you Senator Torres. Just two (2) questions regarding the bill. I wanted to know if you could just walk us through how it might work so if somebody in my family passed away, is there a requirement for written authorization for them to be covered? Let's say they name me as the fiduciary. I would have access to their digital assets but only if I'm named in their will or they have to explicitly say that I have access?

Senator Mary C. Torres:

What it does is this bill applies to a fiduciary acting under a will or a power of attorney executed before the effective date of this act. It also applies to a personal representative acting for the deceased who died before or after this, a guardian preceding that commenced before or after the date, or a trustee acting under a trust created before or after this act. These are the people that have a valid and legal cause to act on your behalf. It also applies to custodians if you reside on Guam or if you resided on Guam at the time of your death. It doesn't apply to digital assets of an employer that are used by an employee in this. Generally, the way that it works is you have the right to express your desires for the disposition of your digital assets. This type of law would be recognized by companies like Google, Facebook, or a bank that has custody of your accounts. It would supersede those federal laws that are in place right now that prohibit anybody but you from accessing it. The idea is to express the desire for how you would like things to be handled when you die or when you can't act for yourself.

Senator Regine Biscoe Lee:

Thank you so much for that clarification. One last question: in the event that someone fraudulently claimed to be a fiduciary and was somehow granted access to the digital assets, maybe tampered with them or deleted information, is it explicit in the law that there would be penalties or are the penalties already associated with crimes of that nature?

Senator Mary C. Torres:

My understanding is that the fiduciary would have to pass certain qualifications for them to be lawfully recognized as a fiduciary, custodian, or agent. It's not as easy as somebody saying "here I am, and do this for me"; there are legal tools in place that would determine who is a qualified and a legally recognized agent for you. Those would involve legal instruments like a will that is in probate, a valid power of attorney that is recognized by the courts, or a legal custody act that's determined by the courts. It's not as easy as that. You have to understand that this does not supersede, necessarily, the terms that are secured by law but it does allow an exception where there is an express designation by the person. This is a uniform law that was created by the Uniform Law

Commission and was revised after there were some concerns about those agents that were controlling that. It did pass the muster for fraud and unforeseen types of activities. It's also important to know when adopting this law that it conforms to the model legislation. It's not as effective or will not be as easily recognized by other states if it does not have the exact same terms and conditions. That is what we aimed to do.

Senator Regine Biscoe Lee:

Thank you and Madam Chair I just wanted to request if there have been any letters of support or in opposition to this legislation?

Chairperson Terlaje:

I haven't received any today.

Senator Regine Biscoe Lee:

Thank you, thank you both.

Chairperson Terlaje:

I want to thank the sponsor of this Bill; I think it brings to light the need for people to plan. This Bill will remind us all to make these types of long plans for ourselves and our loved ones so that we can take care of these digital assets. I agree with the sponsor that they are very valuable in our current culture and that the act is a Uniform Act. It's been endorsed by Google and Facebook because they agree to comply with our state laws. I agree with the sponsor that it has protections in here; of course there are already existing laws that make it illegal to do otherwise. The exceptions are very limited and so the custodians may need to obtain court orders if they don't have any of the other requirements necessary to prove that you are the new custodian or the representative.

I would like to thank each and every one of you for your testimonies this morning. I'm going to correct my earlier statement and say that I will only accept testimonies until Monday at noon because committee reports are due on May 15. In order to get this Bill on the next session I would like to have the committee report done by that day. I will be accepting at senatorterlajeguam@gmail.com until noon on Monday, May 15. This concludes the testimonies on Bill No. 82-34 (COR). There being no additional individuals to present further testimony, his Committee will continue to remain open for time I said earlier. You may also submit testimony to the mail room of the Guam Legislature. Thank you very much. Si Yu'os Ma'ase' for your presence and public testimony this morning. The public hearing is now adjourned; time is 10:33 AM. Thank you very much.

III. FINDINGS AND RECOMMENDATIONS

The Committee on Culture and Justice has amended Bill No. 82-34 (COR) with minor technical formatting revisions and by changing the chapter number that the bill would add to Title 15 from Chapter 8 to Chapter 50.

The Committee on Culture and Justice, hereby reports out Bill No. 82-34 (COR), As Amended by the Committee on Culture and Justice, with the recommendation
TO DO PASS.

I MINA'TRENTAI KUÁTTO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. *82*- 34 (COR)

Introduced by:

Mary Camacho Torres *MCC*

AN ACT TO *ADD* CHAPTER 8 TO DIVISION 1 OF TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. LEGISLATIVE FINDINGS AND INTENT. *I Liheslaturan*

Guåhan finds that the Revised Uniform Fiduciary Access to Digital Assets Act (Revised UFADAA) is necessary to modernize Guam fiduciary law for the internet age. Fiduciaries are the people appointed to manage our property when we die or lose the capacity to manage it ourselves. Nearly everyone today has digital assets, such as documents, photographs, email, and social media accounts, and fiduciaries are often prevented from accessing those accounts by password protection or restrictive terms of service. Digital assets may have real value, both monetary and sentimental, but they also present unique privacy concerns. UFADAA provides legal authority for fiduciaries to manage digital assets in accordance with the user's estate plan, while protecting a user's private communications from unwarranted disclosure.

2017 APR 28 AM 10:49 *RR*

This bill:

(1) Empowers Individuals. Users can specify whether their digital assets should be preserved, distributed to heirs, or destroyed.

(2) Creates uniformity. Digital assets travel across state lines nearly instantaneously. In our modern mobile society, people relocate more often than ever. Because state law governs fiduciaries, a uniform law ensures that fiduciaries in every state will have equal access to digital assets and custodians will have a single legal standard with which to comply.

(3) Respects privacy interests. This bill prevents the companies that store our communications from releasing them to fiduciaries unless the user consented to disclosure.

(4) Addresses four common types of fiduciaries. This bill provides appropriate default rules for executors of a decedent's estate, agents under a power of attorney, Guardians, and trustees.

(5) Complies with federal laws. Under this bill, fiduciaries must provide proof of their authority in the form of a certified document. Custodians of digital assets that comply with a fiduciary's apparently authorized request for access are immune from any liability under statutes that prohibit unauthorized access. A fiduciary's authority over digital assets is limited by federal law, including the Copyright Act and the Electronic Communications Privacy Act.

Section 2. A new Chapter 8 is hereby *added* to Division 1 of Title 15, Guam Annotated Code, to read as follows:

“CHAPTER 8

**REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS
ACT (2015)**

- § 8101. Short Title.
- § 8102. Definitions.
- § 8103. Applicability.
- § 8104. User Direction for Disclosure of Digital Assets.
- § 8105. Terms of Service Agreement
- § 8106. Procedure for Disclosing Digital Assets
- § 8107. Disclosure of Content of Electronic Communications of Deceased User.
- § 8108. Disclosure of Other Digital Assets of Deceased User
- § 8109. Disclosure of Content of Electronic Communications of Principal
- § 8110. Disclosure of Other Digital Assets of Principal
- § 8111. Disclosure of Digital Assets Held in Trust when Trustee is Original User
- § 8112. Disclosure of Digital Assets Held in Trust when Trustee is Not Original User
- § 8113. Disclosure of Other Digital Assets Held in Trust When Trustee Not Original User
- § 8114. Disclosure of Digital of Digital Assets to Guardian of Ward.
- § 8115. Fiduciary Duty and Authority
- § 8116. Custodian Compliance and Immunity
- § 8117. Uniformity of Application and Construction

§ 8118. Relation to Electronic Signatures in Global and National Commerce Act.

§ 8019. Severability.

§ 8101. Short Title. §§8102 through 8118, inclusive, of this Act *shall* be known and may be cited as the “Revised Uniform Fiduciary Access to Digital Assets Act (2015)”.

§ 8102. Definitions. In this act:

(1) “Account” means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

(2) “Agent” means an attorney-in-fact granted authority under a durable or nondurable power of attorney.

(3) “Carries” means engages in the transmission of an electronic communication.

(4) “Catalogue of electronic communications” means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5) “Content of an electronic communication” means information concerning the substance or meaning of the communication which:

(A) has been sent or received by a user;

(B) is in electronic storage by a custodian providing an

electronic-communication service to the public or is carried or maintained by a custodian providing a remote-computing service to the public; and

(C) is not readily accessible to the public.

(6) “Court” means the Superior Court of Guam or any other Guam court of competent jurisdiction.

(7) “Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

(8) “Designated recipient” means a person chosen by a user using an online tool to administer digital assets of the user.

(9) “Digital asset” means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(10) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) “Electronic communication” has the meaning set forth in 18 U.S.C. Section 2510(12) as amended.

(12) “Electronic-communication service” means a custodian that provides to a user the ability to send or receive an electronic communication.

(13) “Fiduciary” means an original, additional, or successor personal representative, guardian, agent, or trustee.

(14) “Guardian” means a person appointed by a court to manage the estate of a living individual. The term includes a limited guardian.

(15) “Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(16) “Online tool” means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(17) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(18) “Personal representative” means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this act.

(19) “Power of attorney” means a record that grants an agent authority to act in the place of a principal.

(20) “Principal” means an individual who grants authority to an agent in a power of attorney.

(21) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable

form.

(22) “Remote-computing service” means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Section 2510(14), as amended.

(23) “Terms-of-service agreement” means an agreement that controls the relationship between a user and a custodian.

(24) “Trustee” means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

(25) “User” means a person that has an account with a custodian.

(26) “Ward” means an individual for whom a Guardian has been appointed. The term includes an individual for whom an application for the appointment of a Guardian is pending.

(27) “Will” includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

§8103. Applicability.

(a) This act applies to:

(1) a fiduciary acting under a will or power of attorney executed before, on, or after the effective date of this act;

(2) a personal representative acting for a decedent who died before, on, or after the effective date of this act;

(3) a Guardianship proceeding commenced before, on, or after the effective date of this act; and

(4) a trustee acting under a trust created before, on, or after the effective date of this act.

(b) This act applies to a custodian if the user resides in Guam or resided in this Guam at the time of the user's death.

(c) This act does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

§8104. User Direction For Disclosure of Digital Assets.

(a) A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(b) If a user has not used an online tool to give direction under subsection (a) or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some

or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(c) A user's direction under subsection (a) or (b) overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

§8105. Terms-of-Service Agreement

(a) This act does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(b) This act does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under §8104.

§8106. Procedure of Disclosing Digital Assets

(a) When disclosing digital assets of a user under this act, the custodian may at its sole discretion:

(1) grant a fiduciary or designated recipient full access to the user's account;

(2) grant a fiduciary or designated recipient partial access to the user's

account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this [act].

(c) A custodian need not disclose under this [act] a digital asset deleted by a user.

(d) If a user directs or a fiduciary requests a custodian to disclose under this [act] some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

(1) a subset limited by date of the user's digital assets;

(2) all of the user's digital assets to the fiduciary or designated recipient;

(3) none of the user's digital assets; or

(4) all of the user's digital assets to the court for review in camera.

§ 8107. Disclosure of Content of Electronic Communications of

Deceased User. If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the death certificate of the user;
- (3) a certified copy of the letter of appointment of the representative or a small-estate affidavit or court order;
- (4) unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and
- (5) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
 - (B) evidence linking the account to the user; or
 - (C) a finding by the court that:
 - (i) the user had a specific account with the custodian, identifiable by the information specified in subparagraph (A);

(ii) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Section 2701 et seq., as amended, 47 U.S.C. Section 222, as amended, or other applicable law;

(iii) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(iv) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

§8108. Disclosure of Other Digital Assets of Deceased User. Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user, if the representative gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the death certificate of the user;

(3) a certified copy of the letter of appointment of the representative or a small-estate affidavit or court order; and

(4) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) evidence linking the account to the user;

(C) an affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(D) a finding by the court that:

(i) the user had a specific account with the custodian, identifiable by the information specified in subparagraph (A); or

(ii) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

§8109. Disclosures of Content of Electronic Communications of Principal. To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) an original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or

account identifier assigned by the custodian to identify the principal's account; or

(B) evidence linking the account to the principal.

§8010. Disclosure of Other Digital Assets of Principal. Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) an original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(B) evidence linking the account to the principal.

§8011. Disclosure of Digital Assets Held in Trust When Trustee is

Original User. Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

§8012. Disclosure of Contents of Electronic Communications Held In Trust When Trustee Not Original User. Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the trust instrument[or a certification of the trust under [cite trust-certification statute, such as Uniform Trust Code Section 1013]] that includes consent to disclosure of the content of electronic communications to the trustee;
- (3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and
- (4) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber or

account identifier assigned by the custodian to identify the trust's account; or

(B) evidence linking the account to the trust.

§8013. Disclosure of Other Digital Assets Held in Trust When Trustee Not Original User. Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the trust instrument[or a certification of the trust under [cite trust-certification statute, such as Uniform Trust Code Section 1013]];

(3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(B) evidence linking the account to the trust.

§8014. Disclosure of Digital Assets to Guardian of Ward.

(a) After an opportunity for a hearing under Division 4 of Title 15 of the Guam Code Annotated , the court may grant a Guardian access to the digital assets of a ward.

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a Guardian the catalogue of electronic communications sent or received by a ward and any digital assets, other than the content of electronic communications, in which the ward has a right or interest if the Guardian gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the court order that gives the Guardian authority over the digital assets of the ward; and

(3) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the ward; or

(B) evidence linking the account to the ward.

(c) A Guardian with general authority to manage the assets of a ward may request a custodian of the digital assets of the ward to suspend or terminate an account of the ward for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the Guardian authority

over the ward's property.

§8015. Fiduciary Duty and Authority

(a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

- (1) the duty of care;
- (2) the duty of loyalty; and
- (3) the duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

- (1) except as otherwise provided in Section 4, is subject to the applicable terms of service;
- (2) is subject to other applicable law, including copyright law;
- (3) in the case of a fiduciary, is limited by the scope of the fiduciary's duties; and
- (4) may not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, ward, principal, or settlor has the right to access any digital asset in which the decedent, ward, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an

authorized user of the property of the decedent, ward, principal, or settlor for the purpose of applicable computer-fraud and unauthorized-computer-access laws, including applicable sections of Chapter 46 of Title 9, Guam Code Annotated.

(e) A fiduciary with authority over the tangible, personal property of a decedent, ward, principal, or settlor:

(1) has the right to access the property and any digital asset stored in it; and

(2) is an authorized user for the purpose of computer-fraud and unauthorized-computer-access laws, including applicable sections of Chapter 46 of Title 9, Guam Code Annotated.

(f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(g) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

(1) if the user is deceased, a [certified] copy of the death certificate of the user;

(2) a [certified] copy of the [letter of appointment of the representative or a small-estate affidavit or court order,] court order, power of attorney, or trust

giving the fiduciary authority over the account; and

(3) if requested by the custodian:

(A) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) evidence linking the account to the user; or

(C) a finding by the court that the user had a specific account with the custodian, identifiable by the information specified in subparagraph (A).

§8016. Custodian Compliance and Immunity.

(a) Not later than 60 days after receipt of the information required under §§ 8007 through 8015, a custodian shall comply with a request under this act from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(b) An order under subsection (a) directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. Section 2702, as amended.

(c) A custodian may notify the user that a request for disclosure or to terminate an account was made under this act.

(d) A custodian may deny a request under this act from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the

fiduciary's request.

(e) This act does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this act to obtain a court order which:

(1) specifies that an account belongs to the ward or principal;

(2) specifies that there is sufficient consent from the ward or principal to support the requested disclosure; and

(3) contains a finding required by law other than this act.

(f) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this act.

§8017. Uniformity of Application and Construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§8018. Relation to Electronic Signature in Global and National Commerce Act. This act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

§8019. Severability. If any provision of this Act or the application of any

such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid *shall not* be affected thereby.

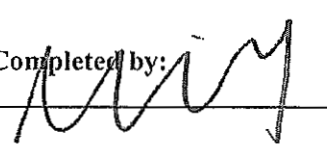


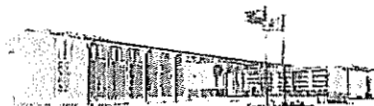
COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuåttro na Liheslaturan Guåhan • 34th Guam Legislature



PRE-REFERRAL CHECKLIST

BILL NO. 82-34 (COR)		
AN ACT TO ADD CHAPTER 8 TO DIVISION 1 OF TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS.		
(A) Legal Bureau	<p>(1) One subject matter? [SR § 6.01(a), 2 GCA § 2108(a)] <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (Return to Prime Sponsor)</p> <p>(2) Conform to Standing Rules as to form and style? [SR §§ 6.02(b) and (d), 6.03(d)] <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (Return to Prime Sponsor)</p>	<p>Notice to Legal Bureau: <u>4/28/17</u></p> <p>Completed by Legal Bureau: <u>5/1/17 11:26 am</u></p>
(B) Office of Finance & Budget (OFB)	<p>(1) Does the Bill contain appropriations or authorizations for appropriations from any fund sources? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A</p> <p>(2) Does the Bill contain an authorization to expend government funds? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A</p> <p>(3) Does the Bill contain provisions that have <u>potential</u> fiscal impacts on the government of Guam budget? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A</p>	<p>Notice to OFB: <u>4/28/17</u></p> <p>Completed by OFB: <u>5/1/17 9:08 am</u></p>
COR Action	<p>Is the fiscal impact revenue negative to the government of Guam budget? <input type="checkbox"/> YES (Refer to Committee on Appropriations) <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A</p>	<p>Completed by: <u></u></p>



PRE-REFERRAL CHECKLIST

BILL NO. 82-34 (COR) AN ACT TO <i>ADD</i> CHAPTER 8 TO DIVISION 1 OF TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS.		
(C) DEBT		
(1) SR § 6.01 (b)(1)(A) Land, Infrastructure, Building Projects, Capital Improvement Projects	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES <input type="checkbox"/> NO (Return to Prime Sponsor)	Received by: (Signature, Date & Time) 5/1/17 Completed by: 12:46 (Signature, Date & Time) 5/1/17 12:46
(2) SR § 6.01 (b)(1)(B) Refinancing of existing debt (not less than 2%)	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES <input type="checkbox"/> NO (Return to Prime Sponsor)	
(3) SR § 6.01 (b)(2) Authorize public debt to fund operations of agency, instrumentality, public corporation	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES (Return to Prime Sponsor) <input type="checkbox"/> NO <input type="checkbox"/> Waived (per official state of emergency, as attached)	
COR Action	<input type="checkbox"/> Return to Prime Sponsor <input checked="" type="checkbox"/> Refer to: CMTE on Justice @	Date & Time: 5/1/17 12:46

For COR Office Use Only	Pursuant to COR decision (COR Meeting, April 3, 2017): Completed within five (5) working days? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Initial: If NO: Provide letter of explanation (see attached).
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I MINA'TRENTAI KUÀTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 82- 34 (COR)

As Amended by the Committee on Culture and Justice.

Introduced by:

Mary Camacho Torres

**AN ACT TO ADD *CHAPTER 50* TO TITLE 15, GUAM
CODE ANNOTATED, RELATIVE TO FIDUCIARY
ACCESS TO DIGITAL ASSETS**

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

2 **Section 1. Legislative Finding and Intent.** *I Liheslaturan Guåhan* finds
3 that the Revised Uniform Fiduciary Access to Digital Assets Act (Revised
4 UFADAA) is necessary to modernize Guam fiduciary law for the internet age.
5 Fiduciaries are the people appointed to manage our property when we die or lose the
6 capacity to manage it ourselves. Nearly everyone today has digital assets, such as
7 documents, photographs, email, and social media accounts, and fiduciaries are often
8 prevented from accessing those accounts by password protection or restrictive terms
9 of service. Digital assets may have real value, both monetary and sentimental, but
10 they also present unique privacy concerns. UFADAA provides legal authority for
11 fiduciaries to manage digital assets in accordance with the user's estate plan, while
12 protecting a user's private communications from unwarranted disclosure.

13 This bill:

14 (1) Empowers Individuals. Users can specify whether their digital assets should be
15 preserved, distributed to heirs, or destroyed.

16 (2) Creates uniformity. Digital assets travel across state lines nearly instantaneously.
17 In our modern mobile society, people relocate more often than ever. Because state

1 law governs fiduciaries, a uniform law ensures that fiduciaries in every state will
2 have equal access to digital assets and custodians will have a single legal standard
3 with which to comply.

4 (3) Respects privacy interests. This bill prevents the companies that store our
5 communications from releasing them to fiduciaries unless the user consented to
6 disclosure.

7 (4) Addresses four common types of fiduciaries. This bill provides appropriate
8 default rules for executors of a decedent’s estate, agents under a power of attorney,
9 Guardians, and trustees.

10 (5) Complies with federal laws. Under this bill, fiduciaries must provide proof of
11 their authority in the form of a certified document. Custodians of digital assets that
12 comply with a fiduciary’s apparently authorized request for access are immune from
13 any liability under statutes that prohibit unauthorized access. A fiduciary’s authority
14 over digital assets is limited by federal law, including the Copyright Act and the
15 Electronic Communications Privacy Act.

16 **Section 2.** A new *Chapter 50* is hereby added to Title 15, Guam Annotated
17 Code, to read as follows:

18 *“Chapter 50*

19 **Revised Uniform Fiduciary Access to Digital Assets Act (2015)**

20 § 5001. Short Title.

21 § 5002. Definitions.

22 § 5003. Applicability.

23 § 5004. User Direction for Disclosure of Digital Assets.

24 § 5005. Terms of Service Agreement

25 § 5006. Procedure for Disclosing Digital Assets

26 § 5007. Disclosure of Content of Electronic Communications of

27 Deceased User.

- 1 § 5008. Disclosure of Other Digital Assets of Deceased User
- 2 § 5009. Disclosure of Content of Electronic Communications of
3 Principal
- 4 § 5010. Disclosure of Other Digital Assets of Principal
- 5 § 5011. Disclosure of Digital Assets Held in Trust when Trustee
6 is Original User
- 7 § 5012. Disclosure of Digital Assets Held in Trust when Trustee
8 is Not Original User
- 9 § 5013. Disclosure of Other Digital Assets Held in Trust When
10 Trustee Not Original User
- 11 § 5014. Disclosure of Digital of Digital Assets to Guardian of Ward.
- 12 § 5015. Fiduciary Duty and Authority
- 13 § 5016. Custodian Compliance and Immunity
- 14 § 5017. Uniformity of Application and Construction
- 15 § 5018. Relation to Electronic Signatures in Global and National
16 Commerce Act.
- 17 § 5019. Severability.

18 **§ 5001. Short Title.** §§5002 through 5018, inclusive, of this Act shall be
19 known and may be cited as the “Revised Uniform Fiduciary Access to Digital
20 Assets Act (2015)”.

21 **§ 5002. Definitions.** In this act:

22 (1) “Account” means an arrangement under a terms-of-service
23 agreement in which a custodian carries, maintains, processes, receives, or
24 stores a digital asset of the user or provides goods or services to the user.

25 (2) “Agent” means an attorney-in-fact granted authority under a durable
26 or nondurable power of attorney.

1 (3) "Carries" means engages in the transmission of an electronic
2 communication.

3 (4) "Catalogue of electronic communications" means information that
4 identifies each person with which a user has had an electronic
5 communication, the time and date of the communication, and the electronic
6 address of the person.

7 (5) "Content of an electronic communication" means information
8 concerning the substance or meaning of the communication which:

9 (A) has been sent or received by a user;

10 (B) is in electronic storage by a custodian providing an electronic
11 communication service to the public or is carried or maintained by a
12 custodian providing a remote computing service to the public; and

13 (C) is not readily accessible to the public.

14 (6) "Court" means the Superior Court of Guam or any other Guam court
15 of competent jurisdiction.

16 (7) "Custodian" means a person that carries, maintains, processes,
17 receives, or stores a digital asset of a user.

18 (8) "Designated recipient" means a person chosen by a user using an
19 online tool to administer digital assets of the user.

20 (9) "Digital asset" means an electronic record in which an individual
21 has a right or interest. The term does not include an underlying asset or
22 liability unless the asset or liability is itself an electronic record.

23 (10) "Electronic" means relating to technology having electrical,
24 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

25 (11) "Electronic communication" has the meaning set forth in 18 U.S.C.
26 Section 2510(12) as amended.

1 (12) “Electronic communication service” means a custodian that
2 provides to a user the ability to send or receive an electronic communication.

3 (13) “Fiduciary” means an original, additional, or successor personal
4 representative, guardian, agent, or trustee.

5 (14) “Guardian” means a person appointed by a court to manage the
6 estate of a living individual. The term includes a limited guardian.

7 (15) “Information” means data, text, images, videos, sounds, codes,
8 computer programs, software, databases, or the like.

9 (16) “Online tool” means an electronic service provided by a custodian
10 that allows the user, in an agreement distinct from the terms-of-service
11 agreement between the custodian and user, to provide directions for
12 disclosure or nondisclosure of digital assets to a third person.

13 (17) “Person” means an individual, estate, business or nonprofit entity,
14 public corporation, government or governmental subdivision, agency, or
15 instrumentality, or other legal entity.

16 (18) “Personal representative” means an executor, administrator,
17 special administrator, or person that performs substantially the same function
18 under law of this state other than this act.

19 (19) “Power of attorney” means a record that grants an agent authority
20 to act in the place of a principal.

21 (20) “Principal” means an individual who grants authority to an agent
22 in a power of attorney.

23 (21) “Record” means information that is inscribed on a tangible
24 medium or that is stored in an electronic or other medium and is retrievable
25 in perceivable form.

26 (22) “Remote computing service” means a custodian that provides to a
27 user computer-processing services or the storage of digital assets by means

1 of an electronic communications system, as defined in 18 U.S.C. Section
2 2510(14), as amended.

3 (23) “Terms of service agreement” means an agreement that controls
4 the relationship between a user and a custodian.

5 (24) “Trustee” means a fiduciary with legal title to property under an
6 agreement or declaration that creates a beneficial interest in another. The
7 term includes a successor trustee.

8 (25) “User” means a person that has an account with a custodian.

9 (26) “Ward” means an individual for whom a Guardian has been
10 appointed. The term includes an individual for whom an application for the
11 appointment of a Guardian is pending.

12 (27) “Will” includes a codicil, testamentary instrument that only
13 appoints an executor, and instrument that revokes or revises a testamentary
14 instrument.

15 **§5003. Applicability.**

16 (a) This act applies to:

17 (1) a fiduciary acting under a will or power of attorney executed
18 before, on, or after the effective date of this act;

19 (2) a personal representative acting for a decedent who died
20 before, on, or after the effective date of this act;

21 (3) a Guardianship proceeding commenced before, on, or after
22 the effective date of this act; and

23 (4) a trustee acting under a trust created before, on, or after the
24 effective date of this act.

25 (b) This act applies to a custodian if the user resides in Guam or resided
26 in this Guam at the time of the user’s death.

1 (c) This act does not apply to a digital asset of an employer used by an
2 employee in the ordinary course of the employer's business.

3 **§5004. User Direction For Disclosure of Digital Assets.**

4 (a) A user may use an online tool to direct the custodian to disclose to
5 a designated recipient or not to disclose some or all of the user's digital assets,
6 including the content of electronic communications. If the online tool allows
7 the user to modify or delete a direction at all times, a direction regarding
8 disclosure using an online tool overrides a contrary direction by the user in a
9 will, trust, power of attorney, or other record.

10 (b) If a user has not used an online tool to give direction under
11 subsection (a) or if the custodian has not provided an online tool, the user
12 may allow or prohibit in a will, trust, power of attorney, or other record,
13 disclosure to a fiduciary of some or all of the user's digital assets, including
14 the content of electronic communications sent or received by the user.

15 (c) A user's direction under subsection (a) or (b) overrides a contrary
16 provision in a terms-of-service agreement that does not require the user to act
17 affirmatively and distinctly from the user's assent to the terms of service.

18 **§5005. Terms-of-Service Agreement**

19 (a) This act does not change or impair a right of a custodian or a user
20 under a terms-of-service agreement to access and use digital assets of the
21 user.

22 (b) This act does not give a fiduciary or designated recipient any new
23 or expanded rights other than those held by the user for whom, or for whose
24 estate, the fiduciary or designated recipient acts or represents.

25 (c) A fiduciary's or designated recipient's access to digital assets may
26 be modified or eliminated by a user, by federal law, or by a terms-of-service
27 agreement if the user has not provided direction under §5004.

1 **§5006. Procedure of Disclosing Digital Assets**

2 (a) When disclosing digital assets of a user under this act, the custodian
3 may at its sole discretion:

4 (1) grant a fiduciary or designated recipient full access to the
5 user's account;

6 (2) grant a fiduciary or designated recipient partial access to the
7 user's account sufficient to perform the tasks with which the fiduciary
8 or designated recipient is charged; or

9 (3) provide a fiduciary or designated recipient a copy in a record
10 of any digital asset that, on the date the custodian received the request
11 for disclosure, the user could have accessed if the user were alive and
12 had full capacity and access to the account.

13 (b) A custodian may assess a reasonable administrative charge for the
14 cost of disclosing digital assets under this act.

15 (c) A custodian need not disclose under this act a digital asset deleted
16 by a user.

17 (d) If a user directs or a fiduciary requests a custodian to disclose under
18 this act some, but not all, of the user's digital assets, the custodian need not
19 disclose the assets if segregation of the assets would impose an undue burden
20 on the custodian. If the custodian believes the direction or request imposes
21 an undue burden, the custodian or fiduciary may seek an order from the court
22 to disclose:

23 (1) a subset limited by date of the user's digital assets;

24 (2) all of the user's digital assets to the fiduciary or designated
25 recipient;

26 (3) none of the user's digital assets; or

1 (4) all of the user's digital assets to the court for review in
2 camera.

3 **§ 5007. Disclosure of Content of Electronic Communications of Deceased**
4 **User.** If a deceased user consented or a court directs disclosure of the
5 contents of electronic communications of the user, the custodian shall
6 disclose to the personal representative of the estate of the user the content of
7 an electronic communication sent or received by the user if the representative
8 gives the custodian:

9 (1) a written request for disclosure in physical or electronic form;

10 (2) a certified copy of the death certificate of the user;

11 (3) a certified copy of the letter of appointment of the representative or
12 a small estate affidavit or court order;

13 (4) unless the user provided direction using an online tool, a copy of the
14 user's will, trust, power of attorney, or other record evidencing the user's
15 consent to disclosure of the content of electronic communications; and

16 (5) if requested by the custodian:

17 (A) a number, username, address, or other unique subscriber or
18 account identifier assigned by the custodian to identify the user's
19 account;

20 (B) evidence linking the account to the user; or

21 (C) a finding by the court that:

22 (i) the user had a specific account with the custodian,
23 identifiable by the information specified in subparagraph (A);

24 (ii) disclosure of the content of electronic communications
25 of the user would not violate 18 U.S.C. Section 2701 et seq., as
26 amended, 47 U.S.C. Section 222, as amended, or other applicable
27 law;

1 (iii) unless the user provided direction using an online tool,
2 the user consented to disclosure of the content of electronic
3 communications; or

4 (iv) disclosure of the content of electronic
5 communications of the user is reasonably necessary for
6 administration of the estate.

7 **§5008. Disclosure of Other Digital Assets of Deceased User.** Unless the
8 user prohibited disclosure of digital assets or the court directs otherwise, a
9 custodian shall disclose to the personal representative of the estate of a
10 deceased user a catalogue of electronic communications sent or received by
11 the user and digital assets, other than the content of electronic
12 communications, of the user, if the representative gives the custodian:

13 (1) a written request for disclosure in physical or electronic form;

14 (2) a certified copy of the death certificate of the user;

15 (3) a certified copy of the letter of appointment of the representative or
16 a small estate affidavit or court order; and

17 (4) if requested by the custodian:

18 (A) a number, username, address, or other unique subscriber or
19 account identifier assigned by the custodian to identify the user's
20 account;

21 (B) evidence linking the account to the user;

22 (C) an affidavit stating that disclosure of the user's digital assets
23 is reasonably necessary for administration of the estate; or

24 (D) a finding by the court that:

25 (i) the user had a specific account with the custodian,
26 identifiable by the information specified in subparagraph (A); or

1 (ii) disclosure of the user's digital assets is reasonably
2 necessary for administration of the estate.

3 **§5009. Disclosures of Content of Electronic Communications of**
4 **Principal.** To the extent a power of attorney expressly grants an agent
5 authority over the content of electronic communications sent or received by
6 the principal and unless directed otherwise by the principal or the court, a
7 custodian shall disclose to the agent the content if the agent gives the
8 custodian:

9 (1) a written request for disclosure in physical or electronic form;

10 (2) an original or copy of the power of attorney expressly granting the
11 agent authority over the content of electronic communications of the
12 principal;

13 (3) a certification by the agent, under penalty of perjury, that the power
14 of attorney is in effect; and

15 (4) if requested by the custodian:

16 (A) a number, username, address, or other unique subscriber or
17 account identifier assigned by the custodian to identify the principal's
18 account; or

19 (B) evidence linking the account to the principal.

20 **§5010. Disclosure of Other Digital Assets of Principal.** Unless otherwise
21 ordered by the court, directed by the principal, or provided by a power of
22 attorney, a custodian shall disclose to an agent with specific authority over
23 digital assets or general authority to act on behalf of a principal a catalogue
24 of electronic communications sent or received by the principal and digital
25 assets, other than the content of electronic communications, of the principal
26 if the agent gives the custodian:

27 (1) a written request for disclosure in physical or electronic form;

1 (2) an original or a copy of the power of attorney that gives the agent
2 specific authority over digital assets or general authority to act on behalf of
3 the principal;

4 (3) a certification by the agent, under penalty of perjury, that the power
5 of attorney is in effect; and

6 (4) if requested by the custodian:

7 (A) a number, username, address, or other unique subscriber or
8 account identifier assigned by the custodian to identify the principal's
9 account; or

10 (B) evidence linking the account to the principal.

11 **§5011. Disclosure of Digital Assets Held in Trust When Trustee is**
12 **Original User.** Unless otherwise ordered by the court or provided in a trust,
13 a custodian shall disclose to a trustee that is an original user of an account
14 any digital asset of the account held in trust, including a catalogue of
15 electronic communications of the trustee and the content of electronic
16 communications.

17 **§5012. Disclosure of Contents of Electronic Communications Held In**
18 **Trust When Trustee Not Original User.** Unless otherwise ordered by the
19 court, directed by the user, or provided in a trust, a custodian shall disclose
20 to a trustee that is not an original user of an account the content of an
21 electronic communication sent or received by an original or successor user
22 and carried, maintained, processed, received, or stored by the custodian in
23 the account of the trust if the trustee gives the custodian:

24 (1) a written request for disclosure in physical or electronic form;

25 (2) a certified copy of the trust instrument[or a certification of the trust
26 under [cite trust certification statute, such as Uniform Trust Code Section

1 1013]] that includes consent to disclosure of the content of electronic
2 communications to the trustee;

3 (3) a certification by the trustee, under penalty of perjury, that the trust
4 exists and the trustee is a currently acting trustee of the trust; and

5 (4) if requested by the custodian:

6 (A) a number, username, address, or other unique subscriber or
7 account identifier assigned by the custodian to identify the trust's
8 account; or

9 (B) evidence linking the account to the trust.

10 **§5013. Disclosure of Other Digital Assets Held in Trust When Trustee**

11 **Not Original User.** Unless otherwise ordered by the court, directed by the
12 user, or provided in a trust, a custodian shall disclose, to a trustee that is not
13 an original user of an account, a catalogue of electronic communications sent
14 or received by an original or successor user and stored, carried, or maintained
15 by the custodian in an account of the trust and any digital assets, other than
16 the content of electronic communications, in which the trust has a right or
17 interest if the trustee gives the custodian:

18 (1) a written request for disclosure in physical or electronic form;

19 (2) a certified copy of the trust instrument[or a certification of the trust
20 under [cite trust certification statute, such as Uniform Trust Code Section
21 1013]];

22 (3) a certification by the trustee, under penalty of perjury, that the trust
23 exists and the trustee is a currently acting trustee of the trust; and

24 (4) if requested by the custodian:

25 (A) a number, username, address, or other unique subscriber or
26 account identifier assigned by the custodian to identify the trust's
27 account; or

1 (B) evidence linking the account to the trust.

2 **§5014. Disclosure of Digital Assets to Guardian of Ward.**

3 (a) After an opportunity for a hearing under Division 4 of Title 15 of
4 the Guam Code Annotated, the court may grant a Guardian access to the
5 digital assets of a ward.

6 (b) Unless otherwise ordered by the court or directed by the user, a
7 custodian shall disclose to a Guardian the catalogue of electronic
8 communications sent or received by a ward and any digital assets, other than
9 the content of electronic communications, in which the ward has a right or
10 interest if the Guardian gives the custodian:

11 (1) a written request for disclosure in physical or electronic form;

12 (2) a certified copy of the court order that gives the Guardian
13 authority over the digital assets of the ward; and

14 (3) if requested by the custodian:

15 (A) a number, username, address, or other unique
16 subscriber or account identifier assigned by the custodian to
17 identify the account of the ward; or

18 (B) evidence linking the account to the ward.

19 (c) A Guardian with general authority to manage the assets of a ward
20 may request a custodian of the digital assets of the ward to suspend or
21 terminate an account of the ward for good cause. A request made under this
22 section must be accompanied by a certified copy of the court order giving the
23 Guardian authority over the ward's property.

24 **§5015. Fiduciary Duty and Authority**

25 (a) The legal duties imposed on a fiduciary charged with managing
26 tangible property apply to the management of digital assets, including:

27 (1) the duty of care;

1 (2) the duty of loyalty; and

2 (3) the duty of confidentiality.

3 (b) A fiduciary's or designated recipient's authority with respect to a
4 digital asset of a user:

5 (1) except as otherwise provided in Section 4, is subject to the
6 applicable terms of service;

7 (2) is subject to other applicable law, including copyright law;

8 (3) in the case of a fiduciary, is limited by the scope of the
9 fiduciary's duties; and

10 (4) may not be used to impersonate the user.

11 (c) A fiduciary with authority over the property of a decedent, ward,
12 principal, or settlor has the right to access any digital asset in which the
13 decedent, ward, principal, or settlor had a right or interest and that is not held
14 by a custodian or subject to a terms-of-service agreement.

15 (d) A fiduciary acting within the scope of the fiduciary's duties is an
16 authorized user of the property of the decedent, ward, principal, or settlor for
17 the purpose of applicable computer fraud and unauthorized computer access
18 laws, including applicable sections of Chapter 46 of Title 9, Guam Code
19 Annotated.

20 (e) A fiduciary with authority over the tangible, personal property of a
21 decedent, ward, principal, or settlor:

22 (1) has the right to access the property and any digital asset stored
23 in it; and

24 (2) is an authorized user for the purpose of computer fraud and
25 unauthorized computer access laws, including applicable sections of
26 Chapter 46 of Title 9, Guam Code Annotated.

1 (f) A custodian may disclose information in an account to a fiduciary of
2 the user when the information is required to terminate an account used to
3 access digital assets licensed to the user.

4 (g) A fiduciary of a user may request a custodian to terminate the user's
5 account. A request for termination must be in writing, in either physical or
6 electronic form, and accompanied by:

7 (1) if the user is deceased, a [certified] copy of the death
8 certificate of the user;

9 (2) a [certified] copy of the [letter of appointment of the
10 representative or a small estate affidavit or court order,] court order,
11 power of attorney, or trust giving the fiduciary authority over the
12 account; and

13 (3) if requested by the custodian:

14 (A) a number, username, address, or other unique
15 subscriber or account identifier assigned by the custodian to
16 identify the user's account;

17 (B) evidence linking the account to the user; or

18 (C) a finding by the court that the user had a specific
19 account with the custodian, identifiable by the information
20 specified in subparagraph (A).

21 **§5016. Custodian Compliance and Immunity.**

22 (a) Not later than 60 days after receipt of the information required under
23 §§ 5007 through 5015, a custodian shall comply with a request under this act
24 from a fiduciary or designated recipient to disclose digital assets or terminate
25 an account. If the custodian fails to comply, the fiduciary or designated
26 recipient may apply to the court for an order directing compliance.

1 (b) An order under subsection (a) directing compliance must contain a
2 finding that compliance is not in violation of 18 U.S.C. Section 2702, as
3 amended.

4 (c) A custodian may notify the user that a request for disclosure or to
5 terminate an account was made under this act.

6 (d) A custodian may deny a request under this act from a fiduciary or
7 designated recipient for disclosure of digital assets or to terminate an account
8 if the custodian is aware of any lawful access to the account following the
9 receipt of the fiduciary's request.

10 (e) This act does not limit a custodian's ability to obtain or require a
11 fiduciary or designated recipient requesting disclosure or termination under
12 this act to obtain a court order which:

- 13 (1) specifies that an account belongs to the ward or principal;
- 14 (2) specifies that there is sufficient consent from the ward or
15 principal to support the requested disclosure; and
- 16 (3) contains a finding required by law other than this act.

17 (f) A custodian and its officers, employees, and agents are immune from
18 liability for an act or omission done in good faith in compliance with this act.

19 **§5017. Uniformity of Application and Construction.** In applying and
20 construing this uniform act, consideration must be given to the need to
21 promote uniformity of the law with respect to its subject matter among states
22 that enact it.

23 **§5018. Relation to Electronic Signature in Global and National**
24 **Commerce Act.** This act modifies, limits, or supersedes the Electronic
25 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et
26 seq., but does not modify, limit, or supersede Section 101(c) of that act, 15

1 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices
2 described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

3 **§5019. Severability.** If any provision of this Act or the application of any
4 such provision to any person or circumstance should be held invalid by a
5 court of competent jurisdiction, the remainder of this Act or the application
6 of its provisions to persons or circumstances other than those to which it is
7 held invalid shall not be affected thereby.

https://www.postguam.com/forum/featured_columnists/hacking-the-catch--of-digital-assets-access/article_1a89633c-309e-11e7-989a-8b8516659863.html

In Other Words

Hacking the Catch-22 of digital assets access

Sen. Mary Torres May 5, 2017 Updated May 8, 2017

Have you read your email provider's terms of service agreement? What about the terms of service agreement for your iTunes account ... or your Facebook, online banking, Instagram, Kindle or DropBox accounts? Are you one to just click that little box at the bottom of the pages and pages of legalese so that you can set up your accounts as quickly as possible? Luckily for all of us, someone actually did read those terms of service agreements and realized it was going to be problematic someday.

We once lived in a tangible world of paper trails and now our everyday lives are mostly operated by digital assets that drive how we interact with others socially and conduct business. As technology continues to advance and become a larger part of our personal lives, many find they have an increasing number of "digital assets." These include any electronic record in which an individual has a right or interest that includes social media accounts, emails, photographs and documents. Just think of your collection of documents stored in a cloud, the emails and text messages in your server, the photographs you upload to a website and music you download from a website. For many of us, our tax returns, bank statements, music collections, books and correspondence only exist in electronic record form.

Cybersecurity has resulted in many measures that have been put in place to safeguard our digital information from falling into anyone else's hands. But when we need someone to handle our digital accounts and information, all of those safeguards and privacy measures we put in place while alive and sound, suddenly are working against us, not for us.

Many terms of service agreements, as well as federal and state laws, do not contemplate that death or incapacity may block digital access and herein lies the Catch-22 scenario. For example, Congress enacted the Stored Communications Act (SCA) in 1986 as part of the Electronic Communications Privacy Act (that addresses privacy in use of a home computer network.) The SCA creates privacy rights protecting the content of a user's electronic communications and governs the conduct of custodians, the companies that store electronic communications on their servers. The SCA's inherent privacy rights prohibit such custodians from voluntarily disclosing a user's content to the government or any person or entity unless an exception under the SCA applies. There are instances where the fine print in the online server's terms of service agreement prohibit third-party access, which would include a fiduciary, from accessing an account because it exceeds the authorized access to the custodian's system. Under the computer fraud and abuse act, which is the federal anti-hacking law, this would be a crime.

To help address this problem, this month I introduced Bill 82-34, the Revised Uniform Fiduciary Access to Digital Assets Act (Revised UFADAA), which establishes standards for the handling of an individual's digital media accounts upon their death. The UFADAA provides legal authority for fiduciaries to manage digital assets in accordance with the user's estate plan, while protecting a user's private communications from unwarranted disclosure.

Perhaps there are some aspects of our digital history that we'd rather have die with us, so this piece of legislation addresses those concerns as well. Bill 82-34 empowers individuals by allowing them to specify whether their digital assets should be preserved, distributed to heirs or destroyed. It also creates uniformity even as digital assets travel across state lines nearly instantaneously and as people relocate more often than ever. This uniform law ensures that fiduciaries in every state will have equal access to digital assets and custodians will have a single legal standard with which to comply. This bill also seeks to respect privacy interests by preventing companies that store communications from releasing them to fiduciaries unless the user consented to disclosure.

It's my hope that Guam will be the next jurisdiction to pass a law (Bill 82-34) to maximize the say that people have in disposing of their digital assets when they become incapacitated or pass away. Because of the prevalence of digital assets, permitting access to some if not all of these files and records after incapacity or death is essential. It is said that a dead man tells no tales (including telling Facebook management to give our passwords and account access to our executor) so we must hack away at the Catch-22 of digital assets access by passing this uniform policy measure today.



COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuattro na Liheslaturan Guahan • 34th Guam Legislature



COMMITTEE REPORT CHECKLIST

Part 1 /

BILL NO. 82-34 (COR) <i>As Amended by the Committee</i> AN ACT TO <i>ADD</i> CHAPTER 50 TO TITLE 15, GUAM CODE ANNOTATED, RELATIVE TO FIDUCIARY ACCESS TO DIGITAL ASSETS.		
Referred to: Committee on Culture and Justice; Vice Speaker Therese M. Terlaje, <i>Chairperson</i>		
(A) FISCAL NOTE or WAIVER	(1) Requested by COR <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Date & Time: <i>5/1/17 1:33 pm</i>
	(2) Received by COR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Date & Time:
	(3) Waived by COR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Date & Time:
	(4) Bill contains appropriations or authorizations for appropriations from any fund sources? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<i>If YES:</i> (4/5)(a) Funding Availability Note/Waiver (OFB) attached? <input type="checkbox"/> YES <input type="checkbox"/> NO (Unable to file CMTE Report) (4/5)(b) Funding source identified? 2 GCA § 9101 <input type="checkbox"/> YES <input type="checkbox"/> NO (Proceed to (A)(6))
	(5) Bill contains an authorization to expend government funds? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	(4/5)(c) Funds available and sufficient? 2 GCA § 9101 <input type="checkbox"/> YES <input type="checkbox"/> NO (Proceed to (A)(6))
	(6) Restrictions Against Unfunded Appropriations (2 GCA § 9101) <input type="checkbox"/> Identifies specific alternate funding source <input type="checkbox"/> De-appropriates from previous appropriation with available funds and fiscal note <input type="checkbox"/> Written certification by CMTE Chair that a situation exists which "threatens the safety, health and welfare of the community"	<i>If no boxes checked:</i> UNABLE TO PLACE ON SESSION AGENDA 2 GCA § 9102



Committee Report Checklist on
 Bill No. 82-34 (COR), As Amended by the Committee
 Part 1/1

(B) PUBLIC HEARING	(1) HEARING NOTICES SR §§ 6.04(a)(1) and 6.04(a)(2), Open Government Law (5 GCA, Ch. 8)	
	<input checked="" type="checkbox"/> (a) Five (5) working days prior (ALL Senators & ALL Media)	Date and Time of Notice: 5/4/17 2:56pm
	<input checked="" type="checkbox"/> (b) Forty-eight (48) hours prior (ALL Senators & ALL Media)	Date and Time of Notice: 5/9/17 9:02 am
	(2) Date and Time of Hearing: 5/11/17 10:00 am	<i>or</i> (4) HEARING WAIVED by Speaker in case of emergency SR § 6.04(a)(1) <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A
	(3) Location: Public Hearing Room, Guam Congress Bldg.	<i>If YES:</i> Attach memo indicating WAIVER
	(5) AMENDMENTS or SUBSTITUTIONS BY COMMITTEE SR § 6.04(b)	
	(a) Committee elects to substitute bill? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<i>If YES:</i> Date and Time: (a)(1) Vote sheet affirmative? <input type="checkbox"/> YES <input type="checkbox"/> NO (a)(2) Preliminary report filed with COR? SR § 6.04(b)(2) <input type="checkbox"/> YES <input type="checkbox"/> NO (a)(3) Public Hearing noticed? <input type="checkbox"/> YES <input type="checkbox"/> NO
	(b) Bill materially different after committee amendment or substitution? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<i>If YES:</i> SECONDARY PUBLIC HEARING MAY BE REQUIRED SR § 6.04(c)(3) <input type="checkbox"/> YES <input type="checkbox"/> NO
	COR Chair	



Committee Report Checklist on
 Bill No. 82-34 (COR), As Amended by the Committee
 Part 1/1

(C) COMMITTEE REPORT	(1) Committee Report filed with COR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <i>If YES:</i> Date & Time: 5/15/17 1:13 pm	Notes:	<i>If NO:</i> UNABLE TO PLACE ON SESSION AGENDA SR § 6.04(d)(1)		
	(1)(a) Secondary CMTE Report filed with COR? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <i>If YES:</i> Date & Time:				
	(2) LAND LEGISLATION				
	(a) Bill involves government taking, transfer, purchase, or lease of land? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A			<i>If YES:</i> ATTACH TWO (2) PROPERTY APPRAISALS TO CMTE REPORT SR § 6.04(c)(4) 2 GCA § 2107(b)	
	(a)(1) Please indicate on both columns: <table border="1" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> (i) Type of transaction: <input type="checkbox"/> Taking <input type="checkbox"/> Transfer <input type="checkbox"/> Purchase <input type="checkbox"/> Lease </td> <td style="width: 50%; vertical-align: top;"> (ii) Type of entity: <input type="checkbox"/> Government <input type="checkbox"/> Non-government </td> </tr> </table>	(i) Type of transaction: <input type="checkbox"/> Taking <input type="checkbox"/> Transfer <input type="checkbox"/> Purchase <input type="checkbox"/> Lease	(ii) Type of entity: <input type="checkbox"/> Government <input type="checkbox"/> Non-government		
	(i) Type of transaction: <input type="checkbox"/> Taking <input type="checkbox"/> Transfer <input type="checkbox"/> Purchase <input type="checkbox"/> Lease	(ii) Type of entity: <input type="checkbox"/> Government <input type="checkbox"/> Non-government			
	(b) Bill involves legislative land rezoning? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A			<i>If YES:</i> INCLUDE Land Zoning Consideration Report 2 GCA § 2110	
	(b)(1) Bill involves legislative rezoning of property zoned Agricultural (A)? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A			<i>If YES:</i> INCLUDE Agricultural Consideration Report (Dept. of Agriculture) 2 GCA § 2110 [Proceed to (b)(2)]	
(b)(2) Proof of Agricultural consideration report reviewed by Guam Land Use Commission? 21 GCA § 61637 <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A					



Committee Report Checklist on
 Bill No. 82-34 (COR), As Amended by the Committee
 Part 1/1

(D) COMMITTEE REPORT (continued)	(3) G.A.R.R. LEGISLATION SR § 6.04(c)(1) 5 GCA §§ 9301 and 9303	
	a) Bill involves approving or amending Rules and Regulations? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A	<i>If YES:</i> INCLUDE Economic Impact Statement 5 GCA §§ 9301(d), 9301(e), 9301(f)
	(4) COMMITTEE REPORT COMPONENTS	
	(a) Front Page Transmittal to Speaker	<input checked="" type="checkbox"/>
	(a)(1) COR Chair Signature Line	<input checked="" type="checkbox"/>
	(b) Title Page	<input checked="" type="checkbox"/>
	(c) Committee Chair Memo to All Committee Members	<input checked="" type="checkbox"/>
	(d) COR Referral Memorandum	<input checked="" type="checkbox"/>
	(e) Notice of Public Hearing & Other Correspondence	<input checked="" type="checkbox"/>
	(f) Public Hearing Agenda	<input checked="" type="checkbox"/>
	(g) Public Hearing Sign-in Sheet	<input checked="" type="checkbox"/>
	(h) Written Testimonies & Additional Documents	<input checked="" type="checkbox"/>
	(i) Committee Vote Sheet(s)	<input checked="" type="checkbox"/>
	(j) Committee Report Digest(s)	<input checked="" type="checkbox"/>
	(k) Bill History	<input type="checkbox"/>
	(k)(1) Copy of Bill as introduced	<input checked="" type="checkbox"/>
	(k)(2) COR Pre-Referral Checklist	<input checked="" type="checkbox"/>
	(k)(3) Copy of Bill as corrected by Prime Sponsor (if applicable)	<i>n/a</i> <input type="checkbox"/>
	(k)(4) Copy of Bill as amended/substituted by Committee (if applicable)	<input checked="" type="checkbox"/>
	(l) Fiscal Note/Waiver and Funding Availability Note (OFB)	<input type="checkbox"/>
(m) Two (2) Property Appraisals (if applicable)	<i>n/a</i> <input type="checkbox"/>	
(n) Related News Reports (optional)	<input checked="" type="checkbox"/>	
(o) Miscellaneous (optional)	<i>n/a</i> <input type="checkbox"/>	
(p) Committee Report Checklist(s)	<input checked="" type="checkbox"/>	
(E) COR Action	<input checked="" type="checkbox"/> CMTE Report duly filed; Available for Placement on Session Agenda <input type="checkbox"/> CMTE Report non-conforming for acceptance; Return to Committee <i>§ 9102 2GCA Filing</i>	COR CHAIR (Signature, Date & Time) <i>Mit 5/16/17 2:07</i>

