


I Mina'trentai Sais Na Liheslaturan Guåhan  
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
345-36 (COR)	<u>Committee on Rules</u> by request of <i>I Maga'hågan</i> Guåhan, the Governor of Guam, in accordance with the Organic Act of Guam.	AN ACT TO <i>AMEND</i> SUBSECTION (k) AND <i>ADD</i> NEW SUBSECTIONS (o) AND (p) TO § 80101, AND TO <i>AMEND</i> §§ 80104(b)(1), 80104(b)(3), 80104(c), AND 80104(e) EACH OF CHAPTER 80, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE STATUTORY MANDATE OF THE ANCESTRAL LAND TRUST BANK.	10/18/22 4:16 p.m.						

***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2022 (SECOND) Regular Session**

**Bill No.345-36 (COR)**

Introduced by:

Committee on Rules   
by request of *I Maga'hågan*  
*Guåhan*, the Governor of  
Guam, in accordance with  
the Organic Act of Guam.

**AN ACT TO *AMEND* SUBSECTION (k) AND *ADD NEW*  
SUBSECTIONS (o) AND (p) TO § 80101, AND TO *AMEND*  
§§ 80104(b)(1), 80104(b)(3), 80104(c), AND 80104(e) EACH  
OF CHAPTER 80, TITLE 21, GUAM CODE  
ANNOTATED, RELATIVE TO CLARIFYING THE  
STATUTORY MANDATE OF THE ANCESTRAL LAND  
TRUST BANK.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Guam Ancestral Lands Commission, in accordance with Title 21, Guam  
4 Code Annotated, Chapter 80 and Public Law 25-45 is responsible for administering  
5 the return of excess government lands to original owners, except in circumstances in  
6 which land is under existing public use or is identified as “Spanish Crown” lands.

7        On August 16, 2013, the court in *Gange et al. v. Government of Guam et al.*,  
8 Superior Court of Guam Civil Case No. CV1461-10, issued a Decision and Order  
9 holding that the transfer of Ancestral Lands Trust corpus with no approved

1 determination of ancestral title (“Spanish Crown” lands) to a subsection of  
2 beneficiaries of the land trust constitutes an unconstitutional taking.

3 In an April 26, 2017 opinion, the Attorney General of Guam advised the Guam  
4 Ancestral Lands Commission that (1) rules and regulations regarding the  
5 extinguishment of claims cannot exceed statutory authority, (2) certain definitions  
6 within the proposed regulations contradicted the definitions provided in Title 21,  
7 Guam Code Annotated, Chapter 80, and (3) the existing statutory structure did not  
8 define with sufficient clarity which landowners were considered eligible for  
9 compensation by the Land Bank. The ambiguity made it unclear whether the only  
10 people eligible were those whose land was returned to the government of Guam, or  
11 if individuals whose land was unlikely to be returned by the federal government were  
12 also eligible for compensation.

13 *I Liheslaturan Guåhan* further finds that in September 2017, the Guam  
14 Ancestral Lands Commission board passed Resolution No. 2017-02, requesting that  
15 the Guam Legislature enact additional legislation clarifying the classes of  
16 dispossessed landowners eligible for compensation from Land Bank funds. The  
17 accompanying legislation provides clarity as to who is eligible for compensation  
18 from the Land Bank.

19 **Section 2.** § 80101(k) of Chapter 80, Title 21, Guam Code Annotated, is  
20 hereby *amended* to read as follows:

21 “(k) Just compensation for the purposes of Chapter 80 of Title 21 of  
22 the Guam Code Annotated, and Articles 9 and 9A of Title 12 of the Guam  
23 Code Annotated, as amended, shall mean ~~only land recovery or land~~  
24 ~~exchange, and shall also mean any other form of compensation other than a~~  
25 ~~specifically described available land~~ a claimant’s receipt of title to their  
26 ancestral land, or receipt by a Class 1 claimant of monetary compensation for

1 the fair market value of the property, at the time the government of Guam  
2 receives control of the property, or relative portion(s) thereof, via title transfer,  
3 lease, license, or otherwise. Just compensation shall also mean receipt by a  
4 Class 2 claimant of fair market value monetary compensation for the  
5 continued federal use of their ancestral land, or relative portion(s) thereof, at  
6 the time of the federal land taking.”

7 **Section 3.** A *new* subsection (o) shall be *added* to § 80101 of Chapter 80,  
8 Title 21, Guam Code Annotated, to read as follows:

9 “(o) Beneficiary shall mean one of the following two (2) classes:

10 (1) A Class 1 claimant in the Claims Registry shall be a person  
11 whose ancestral lands were returned by the federal government to the  
12 government of Guam, but whose lands were retained by the government  
13 of Guam for an existing public use, or whose ancestral lands were  
14 returned by the federal government to the government of Guam, but  
15 will be retained by the government of Guam for public beneficial use,  
16 or whose ancestral lands are retained by the federal government, but are  
17 leased or licensed for use to the government of Guam for a public  
18 beneficial use; and

19 (2) A Class 2 claimant shall be a person whose ancestral lands  
20 likely will not be returned, or over which the government of Guam  
21 likely will not be granted control by the federal government in the  
22 foreseeable future.”

23 **Section 4.** A *new* subsection (p) shall be *added* to § 80101 of Chapter 80,  
24 Title 21, Guam Code Annotated, to read as follows:

25 “(p) Land Bank Trust Fund shall mean the Fund established by §  
26 80104(e) of Chapter 80, Title 21, Guam Code Annotated.”

1       **Section 5.** § 80104(e) of Chapter 80, Title 21, Guam Code Annotated, is  
2 hereby *amended* to read as follows:

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

10           The Commission shall establish a Guam-based trust to administer all  
11 assets and revenues of the ~~land bank~~Land Bank of the aforementioned lands  
12 and manage the lands, and act as the developer of the lands, if necessary, to  
13 the highest and best use. The Commission shall establish rules and regulations  
14 pursuant to the Administration Adjudication Law for the Guam-based trust.  
15 The resulting income shall be used to fund the Land Bank, and for beneficial  
16 use of the Trust to ensure the highest and best use of the Trust’s land, including  
17 but not limited to appraisals or valuations of properties, land surveys and  
18 development of adequate access, as deemed necessary by the Commission, as  
19 well as for administrative, legal, or other professional costs incurred by the  
20 Commission in furtherance of its efforts to provide just compensation for  
21 ~~those~~ dispossessed ancestral landowners.

22           The Land Bank shall also be funded by government of Guam agencies  
23 that utilize ancestral property, a portion of Section 30 monies received by the  
24 government of Guam, and other annual local and federal appropriations or  
25 other funding sources and amounts deemed appropriate by the government of  
26 Guam. These funds may further be used to pay for the cost of the described

1 services incurred by the Commission in furtherance of its efforts to provide  
2 just compensation for dispossessed ancestral landowners.

3 The Commission is also authorized to enter into financial  
4 Memorandums of Understanding (MOUs) to receive payments and  
5 reimbursements with government of Guam agencies whose services are  
6 requested and provided in furtherance of the Commission's efforts to provide  
7 just compensation for dispossessed ancestral landowners."

8 **Section 6.** § 80104(b)(1) of Chapter 80, Title 21, Guam Code Annotated, is  
9 hereby *amended* to read as follows:

10 "(1) the Commission or designated staff shall investigate, record, file,  
11 report and respond to requests by ancestral land claimants for remedy,  
12 including government of Guam, whose land was taken by the United States  
13 on or after December 7, 1941 or by the government of Guam on or after  
14 January 1, 1930-August 1950. Remedy includes just compensation, as defined  
15 in § 80101 of this Act, ~~which for purposes of this Chapter is defined as limited~~  
16 ~~to the return of land or access to landlocked lots across public lands, if public~~  
17 ~~lands block access to private property."~~

18 **Section 7.** § 80104(b)(3) of Chapter 80, Title 21, Guam Code Annotated, is  
19 hereby *amended* to read as follows:

20 "(3) The Commission shall promulgate rules and regulations to  
21 administer the Commission's functions in a fair, just, economical and  
22 expedient way, and shall establish fees and specify materials reasonably  
23 required to accompany applications in order to extinguish a claim ~~in favor of~~  
24 ~~a just compensation award."~~

25 **Section 8.** § 80104(c) of Chapter 80, Title 21, Guam Code Annotated, is  
26 hereby *amended* to read as follows:

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

5           Step 1:       Filing of Ancestral Claim B Applicant in this first  
6 step submits an application to the Commission containing applicant’s  
7 assertion that applicant and others, if any, hold ancestral title in relation  
8 to a specified lot of land by virtue of inheritance. Based upon the  
9 information provided, the Commission shall make a determination if in  
10 fact a valid basis for an ancestral title claim exists. The ancestral title  
11 claim shall then be entered in the Claims Registry. The Claims Registry  
12 shall contain the information required to be entered, as established by  
13 the Commission by rules and regulations. The Commission must accept  
14 an application for determination of claim, provided the following  
15 minimum information is given:

16                   (1)   date on which application was submitted to the  
17 Commission;

18                   (2)   whether the application was submitted to the  
19 Commission, or Commission’s designee, and the name of the  
20 Commission or designee;

21                   (3)   name and address for service of notification to the  
22 person(s) who is the claimant (This is the person who shall be the  
23 registered ancestral title claimant.);

24                   (4)   the area of land covered by the claim, including  
25 property descriptions and maps;

26                   (5)   description of the persons who it is claimed hold the  
27 ancestral title; and

1 (6) other details about the claim as the Commission  
2 may deem appropriate.

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

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

9 Step 2: Ancestral Title and Compensation Application. An  
10 applicant may exercise applicant's right to extinguish an ancestral claim by  
11 submitting an application to the Commission for a determination of a  
12 conditional title and compensation award. An applicant may submit an  
13 application in prescribed form for any of the following three (3) categories  
14 defined:

15 Category 1: Ancestral Title Determination B for a determination of  
16 ancestral title in relation to an area for which there is no approved  
17 determination of ancestral title;

18 Category 2: Compensation Application. This Chapter sets forth two (2)  
19 forms of compensation for future title claims which shall be either the  
20 return of original ancestral land, or just compensation, as defined in §  
21 80101 of this Act, ~~based upon mutually satisfactory negotiations~~  
22 ~~between the government and the applicant. Before relinquishment of~~  
23 ~~exchange land the Commission shall certify that the exchange lands~~  
24 ~~show no history of ancestral ownership or ancestral ownership claim on~~  
25 ~~or after January 1, 1930~~ for lands, that have not been returned or are not  
26 likely to be returned.



1           The Commission must accept an ancestral title and compensation  
2 application provided the following requirements are met by the claimants:

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

5           (2) is in the prescribed form, as established by the  
6 Commission;

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

9           (4) provide accompanying documents at the very minimum of  
10 which include:

11           (A) a sworn affidavit that the applicant:

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

15           (ii) believes that all of the statements made in the  
16 application are true;

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

21           (C) a description and map of the area over which the  
22 ancestral title is claimed;

23           (D) evidence of heirship;

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

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

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

8                       (1)    name of the Commission or designee that made the  
9                       determination;

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

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

13                      (4)   the matters determined; and

14                      (5)   other details about the determination or decision as the  
15                      Commission deems appropriate.

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

18           Step 4:       Part 1. Extinguishment of Ancestral Land Claim – An  
19           ancestral land claimant is granted claimant's land title ~~either by land exchange~~  
20           or land recovery on the condition that the ancestral title holder surrenders all  
21           rights and interests in relation to ancestral land claims thereby permanently  
22           extinguishing all rights, interests and claims ~~to the claims~~ that land which has  
23           been recovered by the ancestral title holder. Upon the Commission's issuance  
24           of title by an award of just compensation and extinguishment of claims, the  
25           ancestral title holder's name is removed from the Conditional Awards  
26           Registry, and is entered into the Ancestral Lands Title Register by the  
27           Commission. The Commission shall prescribe the appropriate form to

1 effectuate issuance of compensation and extinguishment of ancestral claim.  
2 The Commission shall ensure that the ancestral title holder is issued a suitable  
3 property conveyance deed in full satisfaction of ancestral title holder's  
4 ancestral title award. Once listed as ancestral title holder after acceptance of  
5 specifically described land, the holder and all of holder's heirs, successors and  
6 assigns, and those who may assert subsequent claims derived from the holder,  
7 are forever barred from reentry into the Claims Registry.

8 Part 2. For Class 1 Claimants, the Commission shall make  
9 payment(s) to the estate of the ancestral land owner for land(s) that have been  
10 returned by the federal government but held by the government of Guam for  
11 public benefit as defined in § 80101(o) of this Chapter, or for lands retained  
12 by the federal government, but which are leased or licensed for use to the  
13 government of Guam for a public beneficial use. Receipt of payment(s) by an  
14 estate shall waive the rights of the estate to make any additional or further  
15 claim on said land(s). The sum total compensation payment(s) to the estate of  
16 such claimants shall be equal to the fair market value of said property upon  
17 the return of, or the granting of control over, said land from the federal  
18 government to the government of Guam, minus any amount previously  
19 received from the government of Guam or federal government for said land.  
20 Payments shall be made annually over a period of forty (40) years or less, in  
21 amounts that can be sustained by the financial disposition of the Land Bank.

22 Part 3. For Class 2 Claimants, whose land(s) likely will not be  
23 returned in the foreseeable future, and over which control is unlikely to be  
24 granted to the government of Guam in the foreseeable future, as defined in §  
25 80101(o) of this Chapter, by the federal government. Receipt of payment(s)  
26 by an estate shall waive the rights of the estate to make any additional or  
27 further claim on said land(s). The sum total compensation payment(s) to the

1        estate of such claimants shall be at the fair market value rate at the time of  
2        federal land taking, at an annually adjusted rate of increase based on inflation  
3        tied to the Consumer Price Index (CPI), minus any amounts previously  
4        received from either the government of Guam or the federal government.  
5        Payments shall be made annually over a period of forty (40) years or less, in  
6        amounts that can be sustained by the financial disposition of the Land Bank.”

7        **Section 9. Payments to the Land Bank.** The Governor shall implement a  
8        plan to collect an annual Land Bank Payment from government of Guam agencies  
9        who utilize federal lands still held by the federal government, until such time as the  
10       ancestral owner of said land receives just compensation, as defined in Title 21, Guam  
11       Code Annotated, Chapter 80, § 80101(k), from the time of enactment of this law.

12       **Section 10. Severability.** If any provision of this Act or its application to  
13       any person or circumstance is found to be invalid or contrary to law, such invalidity  
14       shall not affect other provisions or applications of this Act that can be given effect  
15       without the invalid provision or application, and to this end the provisions of this  
16       Act are severable.