

I Mina'trentai Siette Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
178-37 (COR)	Joe S. San Agustin Roy A. B. Quinata Dwayne T.D. San Nicolas William A. Parkinson	AN ACT TO ADD NEW §§75A126, 75A127, 75A128 and 75A129 TO CHAPTER 75A OF TITLE 21 DIVISION 2, GUAM CODE ANNOTATED, RELATIVE TO THE ESTABLISHMENT OF THE CHAMORRO LAND TRUST ENDOWMENT FUND.	9/29/23 9:58 a.m.						Referred Version 10/3/23

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 178-37 (COR)

Introduced by:

Joe S. San Agustin
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Dwayne T. D. San Nicolas
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**AN ACT TO ADD NEW §§75A126, 75A127, 75A128 and 75A129
TO CHAPTER 75A OF TITLE 21 DIVISION 2, GUAM CODE
ANNOTATED, RELATIVE TO THE ESTABLISHMENT OF
THE CHAMORRO LAND TRUST ENDOWMENT FUND.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Chamorro Land Trust Act was enacted in 1975 for the important mission of protecting and administering trust properties for the benefit of the Chamorro people. Continued funding of the trust is essential for the Chamorro Land Trust Commission to carry out this mission and to implement critical initiatives such as surveying trust properties, registering unregistered trust properties, providing basic infrastructure to service trust properties and guaranteeing home loans for qualified beneficiaries built on trust properties.

I Liheslaturan Guåhan further finds that the Chamorro Land Trust is primarily funded by revenue generated by its rental properties and funding provided by the legislature. In order to help stabilize and ensure future funding for the Chamorro Land Trust, it is in the best interest of the Chamorro Land Trust, its beneficiaries and the people of Guam that an endowment fund be established as a source of permanent

1 and supplemental funding for the Chamorro Land Trust that utilizes only earnings
2 of the fund with the corpus of the fund held in perpetuity.

3 *I Liheslaturan Guåhan* further finds that pursuant to 21 Guam Code
4 Annotated Chapter 75A, Division 2, section 75A122, the Chamorro Land Trust may
5 include the payment of accelerated rent as a term and condition of a commercial
6 lease. The payment of accelerated rent is an opportunity to fund the corpus of the
7 endowment fund as the annual earnings from the accelerated rent when invested may
8 equal or exceed the annual rent from the lease that would have been received had
9 the payment of rent not been accelerated. Accordingly, the Chamorro Land Trust is
10 encouraged to incorporate an option for its commercial tenant to pay accelerated rent
11 in its new commercial leases and in its existing leases through the amendment
12 thereof.

13 **Section 2.** A new §75A126, §75A127, §75A128 and §75A129 are *added* to
14 Chapter 75 of Title 21, Guam Code Annotated, Division 2, to read as follows:

15
16 “§ 75A126. CLTC Endowment Fund. There is hereby created,
17 separate and apart from all other funds, the *CLTC Endowment Fund* ("Fund")
18 which shall be administered by the Chamorro Land Trust Commission, as
19 trustee. The endowment shall consist of amounts transferred into such
20 endowment and any other amounts as may, from time to time, be deposited in
21 the endowment from public or private sources. All amounts so transferred or
22 deposited shall become part of the corpus of the fund to be invested by the
23 Chamorro Land Trust Commission with the earning there from to be used
24 exclusively for the operations and activities of the Chamorro Land Trust and
25 for no other purpose.

26 All amounts transferred or deposited into the Fund, which shall not be
27 commingled with any other funds of Chamorro Land Trust Commission and

1 any other appropriation made to the agency, shall be kept in a separate bank
2 account or accounts. The Fund shall be audited annually and the Chamorro
3 Land Trust Commission is required to prepare and submit an annual report to
4 *I Maga'hågan Guåhan* and the Speaker of *I Liheslaturan Guåhan* concerning
5 the administration and activities of the Fund.

6 **§ 75A127. Investment of Funds.**

7 (a) The revenue from the collection of accelerated rent, in such
8 portions thereof as determined by the Board of Commissioners of the
9 Chamorro Land Trust, shall be deposited and made a part of the corpus of the
10 Fund and be invested and re-invested by or under authority of the Board of
11 Commissioners. At its discretion, the Board may designate its Chairman or an
12 investment committee consisting of two (2) or more members of the Board to
13 supervise this function; in either case, references to the Board hereunder shall
14 be deemed to refer to the individual or committee exercising said function.

15 (b) The Board shall have full power to manage the investments as in
16 its judgment seem most appropriate to the requirements and objectives of the
17 Fund and shall invest and re-invest any money in the Fund in such bonds,
18 securities and investment funds authorized in 4 GCA Chapter 8.

19 (c) All proceeds and income from investments, of whatever nature,
20 shall be credited to the accounts of the Fund.

21 (d) No member of the Board and no employee of the Board shall
22 have any direct or indirect interest in the income, gains or profits on any
23 investment made by the Board, nor shall any such person receive any pay or
24 emolument for services in connection with any investment made by the Board.

25 (e) No member of the Board, employee or agent shall become an
26 endorser or surety or in any manner an obliger of investments made by the
27 Fund, nor shall any member, employee or agent be held liable for actions

1 taken in good faith and in performance of his duties.

2 (f) Investments may be held in bearer form or may be registered
3 either in the name of the Fund or the nominee of the custodian engaged under
4 § 75A128.

5 **§ 75A128. Custodian.**

6 The Board shall engage one or more custodians to assume responsibility
7 for the physical possession of fund assets or evidences of assets.

8 (a) The custodian shall submit such reports, accountings and other
9 information in such form and at such times as requested by the Board. All
10 costs incurred for custodial services shall be a direct charge to Investment
11 Income.

12 (b) The custodian shall hold all assets for the account of the Fund
13 and shall act only upon the instructions of the Board or agent so authorized by
14 the Board.

15 (c) No custodian shall be engaged unless it: (1) has been
16 continuously engaged in rendering custody services for a period of ten (10) or
17 more years; and (2) is organized under the laws of the United States or a state
18 or territory thereof; and (3) has Tier 1 capital in excess of One Billion Dollars
19 (\$1,000,000,000); and (4) is a member of the Federal Reserve System whose
20 deposits are insured by the Federal Deposit Insurance Corporation or any
21 successor thereto; or (5) notwithstanding any of the above, any locally
22 chartered bank may be a custodian of the Fund.

23 **§ 75A129. Investment Agent.**

24 (a) In order to secure expert advice and counsel, the Board may
25 engage an investment agent to serve as investment counsel which shall be
26 either an investment counsel or a bank trust department as hereinafter
27 qualified; and one or more investment agents to serve as investment

1 manager(s) to manage asset classes identified by the Board upon the
2 recommendation of investment counsel. All costs incurred in this connection
3 shall be a direct charge to Investment Income.

4 (b) No person, firm or corporation shall be eligible for employment
5 as investment counsel which acts as principal for its own account or as broker
6 for a client other than the Fund in connection with the sale of any security to
7 or the purchase of any security from the Fund.

8 (c) No investment agent shall be engaged unless: (1) the principal
9 business of the person, firm or corporation selected by the Board consists of
10 rendering investment supervisory services, that is, the giving of continuous
11 advice as to the investment of Funds on the basis of the individual needs of
12 each client; and (2) the principal ownership or control of such person, firm or
13 corporation rests with individuals who are actively engaged in such business;
14 and (3) such person, firm or corporation and its predecessors have been
15 continuously engaged in such business for a period of ten (10) or more years;
16 and (4) such person, firm or corporation is registered as an investment adviser
17 under the laws of the United States of America, as from time to time in effect,
18 such as the Securities Exchange Act of 1934, and the Investment Advisers Act
19 of 1940, as amended; and (5) the contract between the Board and the
20 investment agent is of no specific duration and is voidable at any time by
21 either party; and (6) such person, firm or corporation certifies in writing, to
22 the Board, that the assets under its direct investment supervision are in excess
23 of One Billion Dollars (\$1,000,000,000).

24 (d) The Board shall not engage a bank trust department unless it: (1)
25 certifies in writing, to the Board, that the assets under its direct investment
26 supervision are in excess of One Billion Dollars (\$1,000,000,000); and (2) has
27 been, together with its predecessors, continuously engaged in supervising

1 investments for a period of ten (10) or more years; and (3) is organized under
2 the laws of the United States, or a state or territory thereof; and (4) has Tier 1
3 capital in excess of One Billion Dollars (\$1,000,000,000); and (5) is a member
4 of the Federal Reserve System whose deposits are insured by the Federal
5 Deposit Insurance Corporation or any successor thereto.

6 (e) The Board shall establish and may from time to time change
7 operating arrangements with the Investment Agent in order to facilitate
8 efficient management and timely investment action.

9 (f) No investment shall be made unless in the opinion of the
10 Investment Agent it is an appropriate investment for the Fund and is an
11 authorized investment under § 75A127(b) or in the absence of such opinion,
12 unless preceded by a resolution of the Board directing the investment.

13 **Section 3. Preemption.** This Act preempts any other provision of law to the
14 extent that such law is inconsistent with this Act.

15 **Section 4. Effective Date.** This Act shall be effective upon enactment.