

I Mina'trentai Siette 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
23-37 (COR)	Committee on Rules by request of <i>I Maga'nhågan Guåhan</i> , 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.	1/30/23 12:32 p.m.						

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

Bill No. 23-37 (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.

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

8 On August 16, 2013, the court in *Gange et al. v. Government of Guam*
9 *et al.*, Superior Court of Guam Civil Case No. CV1461-10, issued a Decision
10 and Order holding that the transfer of Ancestral Lands Trust corpus with no
11 approved determination of ancestral title (“Spanish Crown” lands) to a

1 subsection of beneficiaries of the land trust constitutes an unconstitutional
2 taking.

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

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

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

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

8 **Section 3.** *A new subsection (o) shall be added to § 80101 of Chapter*
9 *80, Title 21, Guam Code Annotated, to read as follows:*

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

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

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

25 **Section 4.** *A new subsection (p) shall be added to § 80101 of Chapter*
26 *80, Title 21, Guam Code Annotated, to read as follows:*

1 “(p) Land Bank Trust Fund shall mean the Fund established by
2 § 80104(e) of Chapter 80, Title 21, Guam Code Annotated.”

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

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

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

1 The Land Bank shall also be funded by government of Guam
2 agencies that utilize ancestral property, a portion of Section 30 monies
3 received by the government of Guam, and other annual local and
4 federal appropriations or other funding sources and amounts deemed
5 appropriate by the government of Guam. These funds may further be
6 used to pay for the cost of the described services incurred by the
7 Commission in furtherance of its efforts to provide just compensation
8 for dispossessed ancestral landowners.

9 The Commission is also authorized to enter into financial
10 Memorandums of Understanding (MOUs) to receive payments and
11 reimbursements with government of Guam agencies whose services are
12 requested and provided in furtherance of the Commission’s efforts to
13 provide just compensation for dispossessed ancestral landowners.

14 (1) The amount of Ten Million Dollars (\$10,000,000)
15 is hereby appropriated to the Land Bank Trust Fund from Fiscal
16 Year 2023 General Fund revenues collected in excess of adopted
17 levels.

18 (2) Beginning in Fiscal Year 2024 and each fiscal year
19 thereafter, the amount of Two Million Dollars (\$2,000,000) is
20 hereby annually appropriated to the Land Bank Trust Fund from
21 the General Fund.”

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

24 “(1) the Commission or designated staff shall investigate,
25 record, file, report and respond to requests by ancestral land
26 claimants for remedy, including government of Guam, whose

1 land was taken by the United States on or after December 7, 1941
2 or by the government of Guam on or after ~~January 1, 1930~~
3 August 1950. Remedy includes just compensation, as defined in
4 § 80101 of this Act, ~~which for purposes of this Chapter is defined~~
5 ~~as limited to the return of land or access to landlocked lots across~~
6 ~~public lands, if public lands block access to private property.”~~

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

9 “(3) The Commission shall promulgate rules and regulations to
10 administer the Commission’s functions in a fair,
11 just, economical and expedient way, and shall establish fees
12 and specify materials reasonably required to accompany
13 applications in order to extinguish a claim ~~in favor of a just~~
14 ~~compensation award.”~~

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

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

22 Step 1: Filing of Ancestral Claim – Applicant in this first
23 step submits an application to the Commission containing
24 applicant’s assertion that applicant and others, if any, hold
25 ancestral title in relation to a specified lot of land by virtue of
26 inheritance. Based upon the information provided, the

1 Commission shall make a determination if in fact a valid basis
2 for an ancestral title claim exists. The ancestral title claim
3 shall then be entered in the Claims Registry. The Claims
4 Registry shall contain the information required to be entered,
5 as established by the Commission by rules and regulations. The
6 Commission must accept an application for determination of
7 claim, provided the following minimum information is given:

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

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

25 The Commission must ensure that the Claims Registry is
26 kept updated with details of any claims contained in

1 applications given to the Commission, or of any application for
2 amendments to a claim after a determination.

3 Step 2: Ancestral Title and Compensation Application.

4 An applicant may exercise applicant's right to extinguish an
5 ancestral claim by submitting an application to the
6 Commission for a determination of a conditional title and
7 compensation award. An applicant may submit an application
8 in prescribed form for any of the following two (2) categories
9 defined:

10 Category 1: Ancestral Title Determination – for a determination
11 of ancestral title in relation to an area for
12 which there is no approved determination of ancestral
13 title;

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

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

4 (1)that the kind of application falls within the two (2)
5 categories defined above;

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

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

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

12 (A) a sworn affidavit that the applicant:

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

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

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

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

24 (D) evidence of heirship;

25 (E) name and address of the person who is to be
26 considered the claimant (The name of the person given

1 under this item will become the registered ancestral title
2 claimant.); and

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

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

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

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

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

17 (4) the matters determined; and

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

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

22 Step 4: Part 1. Extinguishment of Ancestral Land Claim – An
23 ancestral land claimant is granted claimant's land title ~~either by land~~
24 ~~exchange or~~ land recovery on the condition that the ancestral title holder
25 surrenders all rights and interests in relation to ancestral land claims
26 thereby permanently extinguishing all rights, interests and claims to the

1 claims, unless the holder has claims on multiple tracts of ancestral
2 lands, not all of which have been completed. Upon the Commission's
3 issuance of title by an award of just compensation and extinguishment
4 of claims, the ancestral title holder's name is removed from the
5 Conditional Awards Registry, and is entered into the Ancestral Lands
6 Title Register by the Commission. The Commission shall prescribe the
7 appropriate form to effectuate issuance of compensation and
8 extinguishment of ancestral claim. The Commission shall ensure that
9 the ancestral title holder is issued a suitable property conveyance deed
10 in full satisfaction of ancestral title holder's ancestral title award. Once
11 listed as ancestral title holder after acceptance of specifically described
12 land, the holder and all of holder's heirs, successors and assigns, and
13 those who may assert subsequent claims derived from the holder, are
14 forever barred from reentry into the Claims Registry.

15 Part 2. For Class 1 Claimants, the Commission shall make
16 payment(s) to the estate of the ancestral land owner for land(s) that have
17 been returned by the federal government but held by the government of
18 Guam for public benefit as defined in § 80101(o) of this Chapter, or for
19 lands retained by the federal government, but which are leased or
20 licensed for use to the government of Guam for a public beneficial use.
21 Receipt of payment(s) by an estate shall waive the rights of the estate
22 to make any additional or further claim on said land(s). The sum total
23 compensation payment(s) to the estate of such claimants shall be equal
24 to the fair market value of said property upon the return of, or the
25 granting of control over, said land from the federal government to the
26 government of Guam, minus any amount previously received from the

1 government of Guam or federal government for said land. Payments
2 shall be made annually over a period of forty (40) years or less, in
3 amounts that can be sustained by the financial disposition of the Land
4 Bank.

5 Part 3. For Class 2 Claimants, whose land(s) likely will not be
6 returned in the foreseeable future, and over which control is unlikely to
7 be granted to the government of Guam in the foreseeable future, as
8 defined in § 80101(o) of this Chapter, by the federal government.
9 Receipt of payment(s) by an estate shall waive the rights of the estate
10 to make any additional or further claim on said land(s). The sum total
11 compensation payment(s) to the estate of such claimants shall be at the
12 fair market value rate at the time of federal land taking, at an annually
13 adjusted rate of increase based on inflation tied to the Consumer Price
14 Index (CPI), minus any amounts previously received from either the
15 government of Guam or the federal government. Payments shall be
16 made annually over a period of forty (40) years or less, in amounts that
17 can be sustained by the financial disposition of the Land Bank.”

18 **Section 9. Payments to the Land Bank.** The Governor shall
19 implement a plan to collect an annual Land Bank Payment from government
20 of Guam agencies who utilize federal lands still held by the federal
21 government, until such time as the ancestral owner of said land receives just
22 compensation, as defined in Title 21, Guam Code Annotated, Chapter 80, §
23 80101(k), from the time of enactment of this law.

24 **Section 10. Severability.** If any provision of this Act or its application
25 to any person or circumstance is found to be invalid or contrary to law, such
26 invalidity shall not affect other provisions or applications of this Act that can

- 1 be given effect without the invalid provision or application, and to this end the
- 2 provisions of this Act are severable.