

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024(SECOND) Regular Session

Bill No. 334-37 (LS)

As Substituted on the Floor.

Introduced by:

Therese M. Terlaje

**AN ACT TO ADD A NEW §75A126 AND §75126 TO
ARTICLE 1, CHAPTER 75A AND CHAPTER 75, TITLE
21, GUAM CODE ANNOTATED RELATIVE TO
REMOVING LEGAL CLOUDS ON THE EXISTING
LEASES ISSUED BY THE CHAMORU LAND TRUST
COMMISSION.**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** This bill was introduced at the
3 recommendation of the Attorney General of Guam. *I Liheslaturan Guåhan* hereby
4 finds that the opportunity for persons eligible to receive land leases and other
5 benefits from the CHamoru Land Trust Commission are stymied by practices of
6 former Commissions and their staff that have created legal clouds over nearly all
7 existing Commission leases. These legal clouds inhibit the opportunity for lessees to
8 obtain financing to build or rebuild farms and residences.

9 Where a lessee is otherwise in compliance with the terms and conditions of
10 their lease *I Liheslatruan Guåhan* desires that the Commission remove any legal
11 clouds or other issues by issuing existing tenants new leases for a term that matches
12 the remaining term of their existing lease. The intent is that the new lease removes
13 any potential risk that a lessee that has been on the land for many years and otherwise
14 has fully complied with these obligations may have their lease terminated because
15 of a legal defect that occurred at the time the lease was initially issued.

1 *I Liheslaturan Guåhan* has also determined that the Commission and its
2 lessees shall have five years to remedy these legal issues that arose at the time of
3 lease issuance. The Commission has an important role to fill in providing new
4 housing and agricultural opportunities for eligible beneficiaries. The sooner the
5 Commission can remediate its past legal issues the more productive and efficient it
6 can be in providing new leases. The Commission shall use the lease review provided
7 for in this legislation to verify that its tenants are otherwise complying with their
8 obligations under law. While the Commission is removing as many legal clouds for
9 existing lessees as possible *I Liheslaturan Guåhan* seeks to have the Commission
10 continue to undertake new leases with new eligible beneficiaries.

11 **Section 2.** A new Section 75A126 is hereby *added* to Article 1, Chapter 75A,
12 Title 21, Guam Code Annotated to read:

13 **“75A126. Review and Remediation of Existing Leases.**

14 (a) The Commission is directed to review each Lease it has entered into
15 prior to the effective date of this section with an eligible beneficiary
16 and identify whether the issuance of the lease occurred contrary to
17 any law or regulation of the Commission. The Commission shall
18 also determine whether the current lessee is in compliance with the
19 terms of their lease, including complying with Sections 75A108 and
20 75A109 of this Article. The Commission shall serve the Lessee with
21 a notice of the Commission’s determination under this subsection
22 (a) at the Lessee’s address of record on file with the Commission.

23 (b) If the Commission makes a finding that:

24 (1) the Lease was issued in a manner contrary to the regulations of
25 the Commission; and

1 (2) the Lessee is otherwise in full compliance with the terms of their
2 lease, the law and the Commission’s regulations, the
3 Commission shall issues the Lessee a new Lease for a term to
4 equal the terms of the Lessee’s existing lease. Any other
5 provisions of a new lease shall be substantially the same as the
6 terms of any prior lease.

7 (3) For purpose of this Section “full compliance” means that the
8 Lessee has complied with all other legal obligations to obtain and
9 maintain their lease except for compliance with laws or
10 regulations regarding the initial issuance of the Lease. For
11 purposes of determining full compliance as required by
12 Subsection 2 of this Section, a Lessee whose lease exceeds the
13 authorized acreage limits set out at Section 75A107(a) and who
14 is otherwise in compliance with all other lease obligations shall
15 be deemed in full compliance with the terms of the lease. Any
16 new lease issued to a Lessee whose original lease exceeds the
17 authorized acreage limits set out at Section 75A107(a) shall
18 require that the leased acreage comply with the authorized
19 acreage limits of Section 75A107(a) as enacted at the time of
20 original award or a maximum of two (2) acres, not later than a
21 transfer of the lease to other than a spouse pursuant to Section
22 75A109(a) or 18 GARR 6A128. The Commission and a Lessee
23 are authorized to enter into a lease modification at any time to
24 bring the leased acreage into compliance with the authorized
25 acreage limits of Section 75A107(a). The Commission and a
26 Lessee are authorized to enter into a commercial agriculture or

1 aquaculture lease, if applicable, for acreage exceeding two (2)
2 acres in original lease.

3 (c) If the Commission makes a finding that:

4 (1) the Lease was issued in a manner consistent or contrary to the
5 regulations of the Commission; and

6 (2) the Lessee is otherwise not in full compliance with the terms of
7 their lease, the law or the Commission’s regulations, the
8 Commission shall issue the Lessee a Notice to Remediate. The
9 Notice to Remediate shall identify the lessee’s noncompliance
10 with the terms of their lease and shall direct the Lessee to come
11 into compliance within one year. Any Notice to Remediate shall
12 be appealable in accordance with the Commission’s regulations.
13 If the Lessee comes into compliance the Commission shall issue
14 the Lessee a new lease in accordance with subsection (b) of this
15 Section. If the Lessee fails to come into full compliance with the
16 Notice to Remediate the Commission shall seek to terminate any
17 leasehold claims the lessee may have, in accordance with the
18 Commission’s regulations.

19 (3) For purpose of this Section “full compliance” means that the
20 Lessee has complied with all other legal obligations to obtain and
21 maintain their lease except for compliance with laws or
22 regulations regarding the initial issuance of the Lease. For
23 purposes of determining full compliance as required by
24 Subsection 2 of this Section, a Lessee whose lease exceeds the
25 authorized acreage limits set out at Section 75A107(a) and who
26 is otherwise in compliance with all other lease obligations shall

1 be deemed in full compliance with the terms of the lease. Any
2 new lease issued to a Lessee whose original lease exceeds the
3 authorized acreage limits set out at Section 75A107(a) shall
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5 acreage limits of Section 75A107(a) as enacted at the time of
6 original award or a maximum of two (2) acres, not later than a
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8 75A109(a) or 18 GARR 6A128. The Commission and a Lessee
9 are authorized to enter into a lease modification at any time to
10 bring the leased acreage into compliance with the authorized
11 acreage limits of Section 75A107(a). The Commission and a
12 Lessee are authorized to enter into a commercial agriculture or
13 aquaculture lease, if applicable, for acreage exceeding two (2)
14 acres in original lease.

15 (d) The Commission shall complete the requirements of subsection (a)
16 no later than December 31, 2027.

17 (e) The Commission shall complete the requirements of subsections (b)
18 and (c) not later than December 31, 2029.

19 (f) Where the Commission makes a finding that a Lessee should be
20 issued a new lease pursuant to subsection (b) of this section, but the
21 Lessee has not executed a new lease by December 31, 2029 the
22 Commission shall seek to terminate any leasehold claims the lessee
23 may have, in accordance with the Commission's regulations.

24 (g) When the Commission executes a new lease pursuant to subsection
25 (b) of this Section the Commission may execute such additional
26 documents as may be necessary to reaffirm any loans or loan

1 guarantees that the lessee may have previously entered into with the
2 consent of the Commission.

3 (h) Where the Commission has determined that land subject to a
4 Commission lease is unregistered, the Commission shall move to
5 register the land pursuant to Title 21, Chapter 29. Upon registration
6 if the lessee is otherwise in full compliance with the terms of the
7 lease, law and the Commission’s regulations, the Commission shall
8 issue the lessee a new lease pursuant to subsection (b) of this section.
9 Where the lessee is not in full compliance with the terms of the lease,
10 the law or the Commission’s regulation the Commission shall issue
11 a Notice to Remediate pursuant to subsection (c) of this Section.

12 (i) The Commission shall use its best efforts to issue new leases to
13 Eligible Beneficiaries who have not received a Commission lease
14 concurrent with its duties under this Section. Where the Commission
15 offers a lease to an eligible beneficiary who declines in writing the
16 lease offer, the eligible beneficiary shall retain their priority for
17 additional leases. If the Commission has offered an eligible
18 beneficiary three leases and the eligible beneficiary declines each
19 opportunity to lease, the eligible beneficiary shall be deemed to have
20 terminated their rights to any benefits provided by the Commission.”

21 **Section 3.** A new Section 75126 is hereby *added* to Article 1, Chapter 75,
22 Title 21, Guam Code Annotated to read:

23 **“ 75126. Review and Remediation of Existing Leases.**

24 (a) The Commission is directed to review each Lease it has entered into
25 prior to the effective date of this section with an eligible beneficiary
26 and identify whether the issuance of the lease occurred contrary to

1 any law or regulation of the Commission. The Commission shall
2 also determine whether the current lessee is in compliance with the
3 terms of their lease, including complying with Sections 75108 and
4 75109 of this Article. The Commission shall serve the Lessee with
5 a notice of the Commission’s determination under this subsection
6 (a) at the Lessee’s address of record on file with the Commission.

7 (b) If the Commission makes a finding that:

8 (1) the Lease was issued in a manner contrary to the regulations of
9 the Commission; and

10 (2) the Lessee is otherwise in full compliance with the terms of their
11 lease, the law and the Commission’s regulations, the
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25 lease issued to a Lessee whose original lease exceeds the
26 authorized acreage limits set out at Section 75107(a) shall require

1 that the leased acreage comply with the authorized acreage limits
2 of Section 75107(a) as enacted at the time of original award or a
3 maximum of two (2) acres, not later than a transfer of the lease
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5 6128. The Commission and a Lessee are authorized to enter into
6 a lease modification at any time to bring the leased acreage into
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13 of Section 75107(a) as enacted at the time of original award or a
14 maximum of two (2) acres, not later than a transfer of the lease
15 to other than a spouse pursuant to Section 75109(a) or 18 GARR
16 6128. The Commission and a Lessee are authorized to enter into
17 a lease modification at any time to bring the leased acreage into
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19 75107(a). The Commission and a Lessee are authorized to enter
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25 and (c) not later than December 31, 2029.

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3 Lessee has not executed a new lease by December 31, 2029 the
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19 a Notice to Remediate pursuant to subsection (c) of this Section.
- 20 (i) The Commission shall use its best efforts to issue new leases to
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25 additional leases. If the Commission has offered an eligible
26 beneficiary three leases and the eligible beneficiary declines each

1 opportunity to lease, the eligible beneficiary shall be deemed to have
2 terminated their rights to any benefits provided by the Commission.”

3 **Section 4. No Waiver of Criminal Liability.** Issuance of a new lease
4 pursuant to this section does not constitute a waiver of any criminal liability
5 associated with the issuance of an original lease.

6 **Section 5. Severability.** If any provisions of this Act or its application to any
7 person or circumstance is found to be invalid or contrary to law, such invalidity shall
8 not affect other provisions or applications of this Act that can be given effect without
9 the invalid provision or application, and to this end the provisions of this Act are
10 severable.