

***I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN***  
**2014 (Second) Regular Session**

Bill No. 265-32(COR)

Introduced by:

v.c. pangelinan 

**AN ACT TO AUTHORIZE THE CHAMORRO LAND TRUST  
COMMISSION TO ENTER INTO ECONOMIC LEASES BY  
ADDING A NEW SECTION 75122, CHAPTER 75, TITLE 21  
GUAM CODE ANNOTATED.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that since the establishment of the Chamorro Land Trust Commission (CLTC), one  
4 of the major challenges the CLTC recipients/beneficiaries have and continue to  
5 face is the lack of basic infrastructure on the Chamorro homeland properties. The  
6 enhancement of the economic self-sufficiency of the CLTC and the improvement  
7 of the lives of its recipients/beneficiaries requires that adequate infrastructure is  
8 made available to allow the maximum use of these properties.

9           *I Liheslaturan Guåhan* further finds that there are properties that exist within  
10 the CLTC inventory that have the potential to expand the revenue base of the  
11 CLTC. Entering into economic leases is one approach and has the potential to  
12 generate the much needed revenue ultimately yielding the greatest returns that will  
13 enhance the CLTC infrastructure projects by creating a revenue stream that will  
14 not require up-front costs and minimize the amount of land assets that are removed

1 from the inventory of trust properties dedicated for agricultural and residential  
2 programs. .

3 Therefore, *I Liheslaturan Guåhan* intends to authorize the CLTC to enter  
4 into economic leases for projects that will create revenue to enhance the Chamorro  
5 homeland properties primarily for the installation of infrastructure.

6 **Section 2.** *I Liheslaturan Guåhan* hereby authorizes the Chamorro Land  
7 Trust Commission to enter into economic leases for the benefit of Chamorro Land  
8 Trust infrastructure projects by adding a new Section 75122 to Chapter 75, Title 21  
9 Guam Code Annotated to read as follows:

10 **“Section 75122.1. Establishment of Economic Leases.**

11 (a) The Commission is hereby authorized to enter into and carry out  
12 contracts to develop available Chamorro homelands, not identified and designated  
13 for residential or agriculture purposes, for the generation of revenues to support the  
14 development of trust properties for beneficiaries. The Commission may enter into  
15 economic leases in the following areas:

16 (1) The lease, development, management, and operations of any lands  
17 that will result in maximum revenue generation for Chamorro Land  
18 Trust properties;

19 (2) The development, management, and operation of an enterprise  
20 that will result in maximum revenue for Chamorro Land Trust  
21 properties;

22 (3) Any other area that may result in revenue for the Chamorro Land  
23 Trust properties.

24 (b) Criteria for selection of private entity or individual:

25 (1) History in the development of land or management and operations  
26 of the proposed project;

1 (2) The applicants' financial ability and capital resources to fund the  
2 development of land or proposed project. The applicant must maintain  
3 adequate liability and casualty insurance and provide adequate surety;

4 (3) The applicant must submit to the Commission for approval  
5 preliminary plans and final plans and specifications for the total  
6 development. No construction or project shall commence until the  
7 Commission and appropriate agencies have approved the final plans and  
8 specifications;

9 (4) The applicant's adequacy of capital to develop, construct, operate,  
10 and maintain, for the duration of the project, the proposed development; and

11 (5) The capacity of the applicant to develop an entity that will have  
12 economic benefit to the community, increase employment and comply with  
13 federal and local guidelines.

14 6) All leases shall be subject to a maximum of fifty years. An initial  
15 term of five (5) years with nine (9) options for renewal of five (5) years. The  
16 lease payments shall be re-negotiated every (5) five years with a minimum  
17 increase of two percent (2%) each year in the initial five (5) year term. Any  
18 renewal of the lease shall be for lease payments that are not less than the  
19 lease payments at the end of the initial five (5) year term.

20 **Section 75112.2. Definitions.** For purposes of this Section, certain terms are  
21 defined as follows unless the context indicates another or different meaning or  
22 intent:

23 (a) "Economic Lease" shall mean a commercial lease with a non-beneficiary  
24 person or entity designed and intended to generate revenues as authorized by this  
25 Act;

26 (b) "Applicant " shall mean any person, partnership, cooperative, firm,  
27 nonprofit or for-profit corporation, or public agency who is a non-beneficiary

1 possessing the competence, expertise, experience, and resources, including  
2 financial, personal, and tangible resources, required to carry out a project;

3 (c) "Project" shall mean a specific undertaking to develop, construct,  
4 reconstruct, rehabilitate, renovate, or to otherwise improve or enhance land or real  
5 property.

6 **Section 75122.3 Economic Leases Designated Lands.**

7 (a) The Commission shall identify an initial list of ten (10) parcels within the  
8 Chamorro Land Trust inventory to be designated and made available for lease and  
9 development, within sixty (60) days of the enactment of this Act. Properties  
10 currently designated for commercial leases but has not yet been negotiated for a  
11 lease or license agreement shall be subject to the procedures for designating  
12 available lands established in Section 75122.4 of this Act. The Commission shall  
13 add additional properties to the list from time to time at their discretion and  
14 approval in the same manner as the initial list was established.

15 (b) *If* no development or construction has commenced on CLTC property that  
16 currently have a lease or license agreement, that said lease or license agreement  
17 shall terminate upon the expiration date of the lease or license agreement and no  
18 further options to renew or extend shall be granted for said lease or license  
19 agreement and the CLTC property shall therefore be subject to Section 75122.4 of  
20 this Act.

21 **Section 75122.4. Procedures for Designating Available Lands for**  
22 **Economic Leases and Consultation of Beneficiaries on Economic Lease**  
23 **Proposals.**

24 (a) Notwithstanding any other provision of law, the procedures under this  
25 Section shall apply to the process for placing Chamorro Land Trust lands on the  
26 lands designated and available for economic leases.

1 (b) Prior to the designation of available lands for economic leases, the  
2 Commission shall consult with beneficiaries of the Chamorro Land Trust in  
3 designation of the available lands. The process of beneficiary consultation shall be  
4 as established by the Commission and shall:

5 (1) Engage beneficiaries and beneficiary-serving organizations;

6 (2) Provide for the timely dissemination of information about the  
7 lands to be designated;

8 (3) Allow for a reasonable time and reasonable access to relevant  
9 information for evaluation and consideration.

10 (c) The Commission may extend the term of an economic lease in a written  
11 agreement of Chamorro Land Trust homelands for commercial projects proposed  
12 by the lessee, or the lessee and developer, to:

13 (1) Make improvements to the leased property; or

14 (2) Obtain financing for the improvement of the leased lands. The  
15 extension of the lease pursuant to this Section shall be based upon the  
16 improvements made or to be made, shall be no longer than twenty (20) years, and  
17 shall be granted only once.

18 (d) Before the written agreement is approved, the lessee, or the lessee and  
19 developer, shall submit to the Commission the plans and specifications for the  
20 proposed development. The Commission shall review the plans, specifications, and  
21 the written agreement and determine:

22 (1) Whether the development is of sufficient value and meets the  
23 priorities of the Commission to justify an extension of the lease;

24 (2) The estimated time needed to complete the improvements and  
25 expected date of completion of the improvements; and

26 (3) The minimum revised annual rent based on the fair market value  
27 of the lands to be developed, as determined by an appraiser for the Commission.

1 The Commission shall adopt and publish a policy pursuant to applicable statutes  
2 and regulations, which shall be used to evaluate any request for a lease extension,  
3 including the terms of the lease, prospective payments, and renegotiation, and shall  
4 be used by the Commission for any final determination on a lease extension  
5 request.

6 (e) The Commission shall submit an annual report to the Guam Legislature.  
7 The first annual report shall be submitted sixty (60) days after the enactment of this  
8 Act, with subsequent reports submitted no later than thirty (30) days after the end  
9 of each fiscal year. The report shall include all leases of available lands for  
10 economic leases, including the following:

- 11 (1) The total number of leases;
- 12 (2) Acreage of each lease;
- 13 (3) Terms of each lease;
- 14 (4) Whether the lessee is a beneficiary, beneficiary controlled  
15 organization or non-beneficiary person or entity; and

16 (f) All lease revenues from economic leases collected by the Commission to  
17 which this section applies shall be deposited into the Chamorro Home  
18 Development Fund established pursuant to Section 75112 Chapter 75, Title 21  
19 Guam Code Annotated.”

20 **Section 3. Effective Date.** This Act *shall* take effect upon enactment.

21 **Section 4. Severability.** If any provision of this Law or its application to any  
22 person or circumstances is found to be invalid or contrary to law, such invalidity  
23 *shall not* affect other provisions or applications of this Law which can be given  
24 effect without the invalid provisions or application and to this end the provisions of  
25 this Act are severable.

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