The Honorable Antonio R. Unpingco
Speaker
I MinaBente Singko na Lihesluran Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam  96910

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 57 (COR), "AN ACT TO ADD CHAPTER 80 TO TITLE 21, TO AMEND §2927 AND ADD §§2926(c) AND 2946 TO TITLE 12, AND TO AMEND §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS' RECOVERY", which I have signed into law today as Public Law No. 25-45.

I am fully supportive of the intent of this legislation. There are though some aspects of the legislation which require further refinement. I would therefore recommend to the Lihesluran Guåhan, that it work closely with the Ancestral Lands Commission and the BRAC GovGuam Steering Committee to effectuate the necessary amendments.

Very truly yours,

Carl T. C. Gutierrez
I Maga'lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill original attached for vetoed bill

c: The Honorable Joanne M. S. Brown
Legislative Secretary
MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 57 (COR), "AN ACT TO ADD CHAPTER 80 TO TITLE 21, TO AMEND §2927 AND ADD §§2926(c) AND 2946 TO TITLE 12, AND TO AMEND §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS’ RECOVERY." was on the 24th day of May, 1999, duly and regularly passed.

ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga’lahen Guahan this 28th day of May, 1999, at 11:15 o’clock a.m.

Assistant Staff Officer
Maga’lahi’s Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga’lahen Guahan

Date: 6-9-99
Public Law No. 25-45
Bill No. 57 (COR)
As substituted by the Committee on Rules, Government Reform, Reorganization and Federal Affairs and amended on the Floor.

Introduced by: Mark Forbes
M. G. Camacho
L. F. Kasperbauer
S. A. Sanchez, II
J. C. Salas
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
A.C. Lamorena, V
C. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. R. Unpingco

AN ACT TO ADD CHAPTER 80 TO TITLE 21, TO AMEND §2927 AND ADD §§2926(c) AND 2946 TO TITLE 12, AND TO AMEND §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS' RECOVERY.
BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Title. This Act shall be known and may be referred to as the "Guam Ancestral Lands Act."

Section 2. Legislative Background, Findings, and Intent.

(a) Background Statement. By passage of Public Law Numbers 16-111, 17-52, 20-222, 22-145, 23-23 and 23-141, I Liheslaturan Guåhan recognized the need of private landowners to pursue appropriate remedies to redress the harm done to them, and to Guam as a whole, when a substantial percentage of the land on Guam was taken by the Naval Government of Guam or the Government of the United States through proceedings in eminent domain, or under threat of eminent domain, following World War II. Public Law Numbers 16-111, 17-52 and 20-222 granted powers to the Guam Economic Development Authority ("Authority") to implement appropriate remedies. Public Law Number 22-145 granted additional powers to the Department of Land Management.

I Liheslaturan Guåhan hereby finds and determines that the powers granted the Authority and the Department of Land Management by Public Law Numbers 16-111, 17-52, 20-222 and 22-145 have not been adequate to address the needs of landowners, and that additional powers, therefore, must now be granted to accomplish the legislative purposes set out in this Section and as provided by Public Law Numbers 16-111, 17-52, 20-222, 22-145 and 23-23.
I Liheslaturan Guåhan also finds and determines that it is necessary to memorialize the true history of land takings on Guam, in spite of well-settled legal protections, as a foundation for establishing a process for the recognition of indigenous Guamanians' claims to their ancestral lands, also known as "ancestral titles," so that the property rights of all citizens residing on Guam may be fully and equally protected in the future.

(b) History of Property Rights. Part III of the September, 1996, report entitled: "The Government of Guam Plan for Local, Public Benefit Use ... Federal Excess Lands on Guam pursuant to USPL 103-339..." contains an accurate documentation of property rights on Guam in addition to providing an authoritative basis to support the legal applicability of property right laws to Guam and her citizens. While the Chapter was written pertaining specifically to the subject of three thousand two hundred (3,200) acres of Federal excess lands pursuant to U.S. Public Law Number 103-339, the evidence contained therein applies to the entire issue of Guam lands in the Federal Government's holdings.

The Chapter is set forth in part below and is incorporated by reference into this Section as follows:

"Under the laws of the United States of America applicable to Guam and the laws of Guam, the property of people residing in Guam enjoys well settled legal protection. By the terms of the Treaty of Paris, signed December 10, 1898, Guam was ceded by Spain to the United States. At Article VII:
...it is hereby declared that the relinquishment or cession, as
the case may be...cannot in any respect impair the property or
rights which by law belong to the peaceful possession of
property of all kinds, of provinces, municipalities, public or
private establishments, ecclesiastical or civic bodies, or any
other association having legal capacity to acquire and possess
property on the aforesaid territories renounced or ceded [to
wit, Guam] or of private individual of what-so-ever nationality
such individuals may be.” Article IX of the Treaty of Paris
further proclaims: “The civil rights and political status of the
native inhabitants of the territories hereby ceded to the United
States shall be determined by the Congress” [of the United
States].

By the Land Transfer Act of November 15, 1945, 59 Stat. 584,
c.485, the United States Navy was directed by the U.S. Congress to
transfer to native Guamanians lands held by the Navy, but no longer
required for military or naval purposes (aka Federal excess lands).
By the Land Acquisition Act of August 2, 1946, 60 Stat. 803, c.738 the
United States Navy was authorized to acquire lands on Guam with a
view to such land transfer.

392, c.512, the U.S. Congress directed that all lands on Guam not
reserved by the President should be transferred to or placed under
the control of the government of Guam “to be administered for the
benefit of the people of Guam.” The United States is subject to a like
mandate in respect to tidal and submerged lands pursuant to §1 of the Act of October 5, 1974, Public Law Number 93-435, 48 U.S.C., §1705, and amendments thereto.

In further respect of the duty of the U.S. Congress to fix the civil rights of the people of Guam, the Organic Act provides §1421b. Bill of Rights (f): Private property shall not be taken for public use without just compensation. Section 1421b(u) extends provisions of and amendments to the Constitution of the United States to Guam, including the Fifth Article of Amendment which provides in pertinent part that "no person shall be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation."

Following the time honored legal tradition laid by the United States with respect to the administration of real property on Guam, pursuant to all such private property rights found to be vested therein, the United States Congress followed enactment of the Treaty of Paris of 1898, the Land Transfer Act of 1945, the Land Acquisition Act of 1946, the Organic Act of 1950, the Submerged Lands Act of 1974, *et. al.*, with enactment of that legislation which is the subject of the Guam Land Use Plan (U.S. Public Law Number 103-339 "The Guam Excess Lands Act"). Reflecting deep insight into the current Guam land situation, the 103rd U.S. Congress took pains to display its understanding of those historic circumstances which justify special legislative treatment of these three thousand two hundred (3,200) acres of Guam land now subject to disposal. The U.S.
Congress declared (§7 General Provisions, U.S. Public Law Number 103-339) the property subject to this Act shall not be subject to Public Law Number 1003-77 (101 Stat 482), and §818(b)(2) of Public Law Number 96-148 (94 Stat. 1782), as amended. The U.S. House of Representatives, in which H.R. 2144 was introduced, also reported at length (see Rept. 103-391 U.S. House of Representatives 103rd U.S. Congress, 1st Session at page 3) on the “historic injustices” it sought to correct with the bill: to solve “a problem which the Committee on Natural Resources has been working for many years...[which has] limited economic growth and created a serious housing problem...and caused such tension in the territory that it has become one of the major issues impacting U.S. - Guam relations.”

Among the reasons the Congress found for this tension was the frustration expressed by “former, original landowners (or their heirs) want(ing) to reclaim the property some believe that their families were told they would be able to reclaim...[who] sold their land to the military in unfair transactions...under duress.” Of course, the strong sense of injustice, fueled by time, buttressed by unsatisfied expectations, all in apparent contradiction with repeated Federal pledges to protect private property interests from the very same sorts of abuse revealed as the origin of this special land legislation has justified this Act as a partial solution to a large still unsolved problem and obviously, where well documented historic injustices have been found to be the basis of an Act of Congress those injustices must be
considered when said Act is implemented as in this instance where land use plans are made.

However, in considering the desirability of quieting title to all disputed land on Guam, when a historic injustice is plain from the facts recited by the U.S. Congress as its justification for a special legislative act, no precedent exists for the direct transfer of title to excess Federal land to a private party or land claimant; throughout the pertinent legal history all precedent indicates local civil government must assume the intermediary role when designated as when the Naval Government of Guam was authorized to transfer lands in 1945, as when the Organic Act authorized the Secretary of Interior to lease or sell excess public lands on Guam §1421f.(c) and as when the government of Guam was authorized by deed to transfer thirty thousand (30,000) (+/-) acres of excess Federal lands to dispossessed individuals for resettlement in 1952. The U.S. District Court has determined that the government of Guam has authority to dispose of Federal excess lands it acquires, however, disposal according to that authority must be prescribed by enactment of Guam public laws [see Bordallo v. Camacho (1973, CA9, Guam) 475 F2nd. 712, which reads: “Legislature of Guam under 48 UCS §1421(f) has authority to legislate regarding land formally owned by the United States and transferred to Government of Guam as long as it does not do so inconsistently with Acts of Congress.”]

Several local enactments provide a basis for former, “original” landowners to assert a claim for land recovery or for compensation
where land recovery is not possible (Guam Public Law Numbers 12-226, 16-111, 17-52, 20-222, 22-145 and 23-23)."

(c) History of Land Takings and Recognition of Entitlement to Just Compensation. I Lihe斯lutan Guåhan finds, from authoritative histories, that world war, and attendant national security interests of the United States, motivated the taking of vast tracts of Guamanian lands by the United States under powers of eminent domain for the purposes of U.S. military base development.

Irrespective of the merits of such takings, I Lihe斯lutan Guåhan finds that under U.S. law, strict standards and procedures exist to regulate public condemnation of private property and assure fairness in such takings. After a careful examination of the history of Guamanian land acquisition by the United States, as revealed by the pleadings of many hundreds of claimants, their attorneys and expert professional appraisers and economists, and after taking full consideration of the applicable valuation and procedural standards, and their application in these circumstances, I Lihe斯lutan Guåhan finds and declares the United States' acquisition of Guamanian land was unconscionable, unfair, unjust and inequitable.

Among the facts supporting this conclusion are the acquisition of land from a war devastated population, confined in a closed system, totally controlled by the condemnor and subjected to regulations intended to prevent land prices from increasing until the United States had completed its acquisition of Guamanian lands for
military purposes, causing less than fair market value to be paid to Guamanian land owners, who lacked access to impartial courts and were thus denied due process constituting duress. *I Liheslaturan Guåhan* finds the Judge of the District Court of Guam declared by judgement issued February 13, 1952 "[t]he ordinary economic forces which establish fair market value are not at work."

Over the years *I Liheslaturan Guåhan* has sought to implement remedial legislation to assist land claimants incurring the inequity and injustice arising from the Federal taking of their land. *I Liheslaturan Guåhan* finds and declares that these remedies have not been effective and that additional legislative relief is required.

Official documentation of the harm done to landowners as individuals and to Guam as a whole, as a result of land taking by the United States after World War II, establishes a substantive, authoritative history of the adverse effects resulting directly from acts performed by the United States, under power, or threat of power of eminent domain. Recently declassified documents of the Naval Government of Guam between the period of 1938 to 1950, among which are included detailed reports produced by Naval governors and lengthy series of Naval Government Land and Claims Commission proceedings, beginning with the first such commission headed by Lt. Cmdr. Leslie Watson, established beyond doubt the fact that less than fair market value was paid to Guamanian landowners for land and interests in land condemned by the United States in the post-war period. Actions taken by the United States in
preparation for the wholesale condemnation of lands on Guam prevented formation of either a "fair market" or determination of "fair market price."

Each is an essential element of "just compensation" required in all legal proceedings conducted pursuant to powers of eminent domain. The official records reveal gross underpayment following coercive pre-condemnation acts constituting taking without just compensation. Having come to clearly recognize the vital role history plays in this campaign for equal social and economic justice under American law, I Liheslatura Guåhan finds and declares it appropriate to herein recite the factual history of, and basic economic truths demonstrated by, the Guam land claims and recovery issue.

The Hopkins Committee Report, prepared for the Secretary of the Navy by Ernest M. Hopkins, Chairman, et al., of March 25, 1947, recommended legal and land reform measures which fell short of the actions required to determine land valuation according to the required just compensation, fair market standards. The Organic Act of 1950 failed to provide for an independent judiciary or trial by jury in Federal land condemnation cases. In August of 1950, land use conditions and land problems on Guam were described in a report of the Bureau of Land Management, U.S. Department of the Interior as follows:

"... many owners have lost their land or portions of their land but have been unable to secure cash settlement or to secure other land in exchange..."
This drastic program of land conversion to military use has affected and will continue to affect the lives of the Guamanian people. It has created a shortage of land, which in turn has caused rapidly increasing land values; it has removed a considerable acreage of agricultural land from a predominantly agricultural economy; it has caused widespread displacement of the population as is evidenced by the respective census figures of 1940 and 1950. Surprisingly enough, however, there was found little tendency on the part of the Guamanians to question those takings which were necessary for the prosecution of the war and for the maintenance of an adequate military establishment subsequent to the war. Even those Guamanians who have suffered most from the military land acquisition program have not objected to the takings when the need has been demonstrated. However, from a layman's point of view, there seems to be some evidence that not all the area taken has been actually acquired and that, in some instances, other lands could have been substituted. There is a feeling that under the guise of military necessity there have been some unwarranted land takings.”

Notwithstanding war's devastation, tardy rehabilitation, displacement from their family estates and therewith the economic basis for their survival, livelihood and economic independence, and the dispossession from their estates for no, or less than just compensation, the people of Guam welcomed the re-establishment of
American rule in the post-war years. With the measure of home rule provided under the Organic Act of Guam in 1950, Guam's leaders sought to establish a viable and competent civil government for the new United States Territory of Guam.

After 1950, the burden for solving land problems springing from the vast post-war private land takings by the United States fell to the government of Guam. However, in attempting to deal with land problems, several obstacles frustrated local authorities beyond their preoccupation with continuing war rehabilitation and formation of the new local government to which would devolve widely specified territorial jurisdiction, without commensurate financial means. United States land condemnation continued through 1962, during which period Guam remained an off-limits land, air and sea military reservation into which the United States Navy strictly controlled all entry. No jury trials were permitted in the newly organized U.S. District Court of Guam which assumed all jurisdiction over Federal eminent domain proceedings; the presiding U.S. District Court of Guam Judge was appointed for a limited instead of life term; the Administration of the Executive Branch of the government of Guam was under the control of governors, appointed by the United States President and closely supervised in office by the Secretary of the Interior who retained direct jurisdiction over territorial civil affairs.

In November, 1962, Super Typhoon Karen destroyed virtually all Guam's infrastructure and improved real property, thrusting the
entire community, including the new territorial government, back
once again into a prolonged phase of rehabilitation.

However, in the due course, conditions for dealing with Guam's
lingering land problems improved: in 1957 jury trials were
authorized in the Federal U.S. District Court of Guam; in 1962 the
Naval security clearance requirements ended; Typhoon Karen
rehabilitation was Federally funded, and U.S. Interior Department
control over the administration of territorial government finally
passed into the local hands of an elected governor and a local, but
non-voting delegate seated in the U.S. Congress. By 1971, in this
improved climate, the government of Guam's attention focused again
on a search for solutions to remaining Federal land problems.

In September of 1972, a Special Committee of the Eleventh
Guam Legislature released a report on post-war land takings
pursuant to Resolution Number 6, (First) Regular Session of the
Eleventh Guam Legislature, passed January 18, 1971, which reads as
follows:

"WHEREAS, in the latter stages of the Second World War
and in the build-up of Guam as a major defense base for the
U.S. Navy, and the U.S. Army, the U.S. Air Force and other
Federal agencies following World War II and the start of the
Cold War, a very large percentage of the limited land area
within the territory of Guam was acquired by the United States
for defense purposes, of both the Federally-owned and
Federally-leased land representing thirty-six percent of all the real property in Guam; and

WHEREAS, with Guam being so limited in land area and with the only asset belonging to many Guam families being their inherited piece of property, it is respectfully submitted that the United States Government in acquiring this land, was under a duty to see that the rights of all local landowners were safeguarded and fair compensation was afforded to all; and

WHEREAS, unfortunately, a history of Federal land-taking after World War II discloses quite the contrary; that is, the people of Guam were not properly compensated, were not advised of their rights, and were generally deprived of their property without due process of law and without just compensation; and

WHEREAS, the facts supporting the foregoing charge were as follows:

1. The acquisition of land for defense purposes immediately following World War II was in the hands of the Naval Government; there was no independent judicial system, the so called "Superior Court" being staffed by naval officers who were under the direct command of that same officer who was condemning or otherwise acquiring Guam land for defense bases;

2. The people of Guam immediately following the Second World War were deeply grateful to the United
States for having been liberated from the Japanese and were additionally inculcated with a deep respect, if not fear of the United States Navy, which had been running the territory of Guam in a high-handed manner since 1898; accordingly, it was almost impossible for the average Guamanian to refuse to voluntarily give up his land to a Naval representative requesting the same, especially since it was put to him on the basis of patriotism and loyalty; there are many well-attested incidents where Naval negotiators intimidated the owners and prevented any fair negotiations;

3. There are other well-attested incidents wherein illiterate and unsophisticated Guamanians were persuaded to sign stipulations approving fee title acquisitions in the belief that they were signing mere leases or licenses for the United States to use their lands temporarily, and this decision on the part of the Federal negotiators was willful and deliberate; and

WHEREAS, one of the most unfortunate aspects of this history is that those relatively few Guamanians who were both wealthy enough and sophisticated enough to refuse to deal with the Navy negotiators ended up with fair compensation for their land since they never lost title until after the passage of the Organic Act which established an independent Federal court and permitted the orderly and fair acquisition of land
through eminent domain proceedings following the Federal statutes and the Federal Rules of Civil Procedure, and thus the rich, whose holdings were quite large and extensive, ended up well paid for their lands, while the poor, who usually had only small holdings, received practically nothing; and

WHEREAS, since these people who lost their lands under such unfair circumstances are without any adequate remedy at law, any applicable statutes of limitation having long since expired, the only possible solution or form of relief is action by the Congress to set up a Claims Commission to re-open the whole question of federal land acquisition in the territory of Guam immediately following World War II; and

WHEREAS, it should be of salutary interest to the Congress to know that the principal reason why the Trust Territory islands have for the most part strenuously resisted the commonwealth status offered them by the Federal government is the fear that with commonwealth will come Federal acquisition of their very limited land, and with the history of the people of Guam’s loss of their land continually before them, they indeed have good reason to fear for their future; now therefore be it

RESOLVED, that in view of the foregoing, the Eleventh Guam Legislature does hereby on behalf of the people of Guam respectfully request and memorialize the Congress of the United States to establish a Claims Commission to review and
re-open if necessary the land acquisitions undertaken by the
Federal government in the territory of Guam following the
Second World War...”

Resolution Number 53 was adopted on April 5, 1971,
“[R]elative to the establishment of a special delegation from the
Eleventh Guam Legislature to present in Washington, D.C., the views
of the people of Guam on certain major issues now pending in our
nation’s capital, and, in addition, to seek from the Congress
legislation establishing the Land Claims Commission requested in
Resolution No. 6.”

Acknowledging that “there is now pending before the Congress of
the United States and the major administrative agencies in our nation’s
capital, a number of very serious matters of direct interest and concern to
the people of Guam,” Resolution Number 53 says, in part:

“WHEREAS, additionally, the Legislature has just
adopted Resolution No. 6, relative to requesting the Congress
to establish a Claims Commission to re-open the Federal land
takings in the territory, which resolution is of enormous
emotiona l significance to the people of Guam and deserves, in
the opinion of this body, special treatment in its delivery and
presentation; now therefore be it

RESOLVED, that there be and is hereby created a special
committee of the Legislature to be designated the ‘Washington
Delegation on Federal Problems,’ to be composed of seven
members, five of whom shall be selected by the Speaker and
other two to be the Chairman of the Rules Committee and the Minority Leader, the Chairman of Rules to serve as chairman of the delegation, which delegation shall have as its duty the presentation before the members of the committees of Congress and Federal agencies in our nation’s capital the views and opinions of the people of Guam upon the various pressing territorial matters now pending in Washington, such presentation to include, but not be limited, to the topics set out hereinbefore; and be it further

RESOLVED, that the delegation, in addition, shall personally present to the appropriate members of the Congress Resolution No. 6 and undertake all within its powers to obtain from the Congress the relief sought by this resolution …”

Acting pursuant to the directive and authority of Resolution Number 53, the Washington Delegation on Federal Problems was established on April 5, 1971, with Guam Senator Joaquin A. Perez, serving as Chairman. Attorney John A. Bohn was later retained as Special Consultant to the Committee, which by common usage became known as the “Special Committee on Federal Problems.”

The circumstances surrounding the Federal land takings on Guam following World War II have been well known to the citizens of Guam for many years, and as early as December 1, 1954, testimony was presented to the House Subcommittee on Territorial and Insular Affairs to the effect that these land takings were inequitable. However, it became obvious to the Guam Legislature and the Special
Committee that nothing would be accomplished by the United States Congress, unless the circumstance surrounding these land takings were carefully documented.

With this in mind the Committee established a special office in Agana for the purpose of establishing the scope of the problem and examining in some detail the Federal land takings in post-war Guam. The Committee employed its own staff, prepared questionnaires for the purpose of interviewing aggrieved property owners and conducted document research and published notice in the local newspaper of its goals and objectives. A persuasive case was prepared to further confirm the findings of the Special Committee on Federal Problems, as reflected in Resolution Number 6 referenced above.

After considerable effort spent by Guam’s Special Committee on Federal Problems and Guam Delegate to the U.S. Congress, the late Honorable Antonio B. Won Pat, working cooperatively with California’s voting Congressman Philip J. Burton, Federal legislation was enacted as 48 U.S.C. §1424c to address the compensation claims of those Guam landowners willing to contend, through litigation, that unjust compensation had been paid to them. However, the Federal Land Claims Commission approach, proposed by the Guam Legislature, was rejected by the U.S. Congress, notwithstanding the historical fact that the Naval Government of Guam had always proceeded by Land Claims Commissions when private Guamanian lands were originally taken. By forcing claimants to prosecute
claims, Congress required claimants to take the most costly and burdensome course of recovery. Eligible claimants unwilling to become litigants, were thus excluded from the only authorized channel for relief; it is estimated that more than two thousand (2,000) eligible claimants dropped out at this point, and thus lost all legal recourse for their claims. By rejecting the Commission proposal, the issue of excess land was sidestepped and the issue of land transfer was abandoned altogether. U.S. Public Law Number 95-134 (October, 1977), 48 U.S.C. §1424c provides in relevant part as follows:

"Sec. 404(a). Notwithstanding any law or court decision to the contrary, the District Court of Guam is hereby granted authority and jurisdiction to review claims of persons, their heirs or legatees, from whom interests in land on Guam were acquired other than through condemnation proceedings in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam, by the United States between July 21, 1944, and August 23, 1962, and to award fair compensation in those cases where it is determined that less than fair market value was paid as a result of (1) duress, unfair influence, or other unconscionable actions, or (2) unfair, unjust, and inequitable actions of the United States.

(b) ...

(c) Fair compensation...is defined as such additional amounts as are necessary to effect payment of fair market value at time of acquisition, if it is determined that, as a result of
duress, unfair influence, or other unconscionable actions, fair
market value was not paid."

In the course of this litigation two (2) subclasses of claimants
settled their claims in return for payment by the United States of
Thirty-nine Million Five Hundred Thousand Dollars ($39,500,000).
A third or "Option II" subclass, after opting out of the original
settlement proposal, eventually proposed settlement of their claims
in return for payment of Three Million Ninety-seven Thousand Five
Hundred Five Dollars ($3,097,505) and on April 25, 1991 the United
States agreed to settle all Option III claims for the amount proposed.
Accordingly, the Federal litigation phase commencing with
enactment of 48 U.S.C. §1424c in 1977 came to an end with settlement
for all claimants once settlement in the Option III proceedings were
confirmed.

However, the relief described above is strictly limited to
litigants, leaving large numbers of eligible claimants, who did not
elect to litigate, without any relief at all. Furthermore, the settlement
amounts agreed upon in the Option III class action, where competent
appraisals were performed, fell far short of the land lot values
established by plaintiffs' professional appraisals. No land was
recovered by the litigation under 48 U.S.C. §1424c, which was a
statute limited to adjudicating compensation claims.

However, litigation proceeding under 48 U.S.C. §1424c
produced, for the first time in the long history of this issue, important
professional appraisal and market information, and thus laid the
basis required to determine fair market valuation for all lands originally condemned. It is now possible to accurately compute the balance of just compensation remaining due the people of Guam for lands taken by the United States after World War II.

Throughout the entire history of the Guam land case, including the Option III phase just prosecuted under 48 U.S.C. §1424c, Guam land claimants were denied the right to trial before a jury of peers and an independent judiciary. The adverse consequence of this arrangement may be seen from a review of summary judgement decisions in the very recent Option III proceedings, which were forced by these rulings to an unsatisfactory pretrial conclusion. Notwithstanding the fact the United States was in the position of a fiduciary to the people of Guam, the United States was not forced to bear the burden of proof that it acted as a fiduciary in the interest of the Guamanian people from which it took lands while as wards of the United States. The Navy’s acquisitions of land from landowners lacking access to impartial courts denied due process to those landowners; denial of due process constitutes duress and is unconscionable, unfair, unjust and inequitable.

I Liheslaturan Guåhan finds a fiduciary relationship existed between the United States and the inhabitants of Guam at the time of the land acquisitions subject of these cases. As a result of the existence of that relationship it must be shown that the military land acquisitions by the United States from the people of Guam were conducted in perfect good faith, without pressure of influence, and
all information relevant to the transaction in the possession of the
United States was supplied to the sellers, that disinterested advice
was provided to the sellers and that adequate consideration was
paid. Not only must these elements be shown, but the burden of
proof with regard to each element rests with the United States.

Because the United States was a fiduciary with respect to the
inhabitants of Guam, the actions of the United States in acquiring
Guamanian lands must be judged according to the standards of
conduct required by a fiduciary relationship.

Recognizing the great financial burden litigation pursuant to 48
U.S.C. §1424c imposed upon plaintiff claimants, I Lihelsaturan Guåhan
appropriated funds under Public Law Numbers 16-111 and 17-54 to
assist them with litigation expenses. It was anticipated plaintiff
claimants would secure satisfactory relief through litigation in the
form of fair market value for the lands taken, plus interest due
thereon, for the time their just compensation payments were delayed.

In contemplation of a satisfactory litigation result, I Lihelsaturan
Guåhan provided that loans and loan guarantees warranted
additional risk and subsidies not normally assumed or provided in
the loans and loan guarantees otherwise allowed by the Guam
Economic Development Authority:

"Section 53610.10. Unusual Risks and Subsidies
Warranted. The Corporation is authorized to make loans,
or guarantees of loans, in furtherance of the purposes and
activities stated in this Chapter, and all loans or guarantees so
made need not meet the normal requirements of a usual commercial loan or guarantee and shall not be refused for reasons of lack of credit standings, or reliability, or doubts about the ability of the borrower to repay, it being understood that the successful termination of the land claimants litigation is of such vital need to the economy of Guam as to warrant unusual risks and subsidies.

Section 53610. Declaration of Intent further finds:

(e) That, the result of a successful conclusion of the land claims cases will be the payment of large sums of money to the people of Guam for the deprivation of their property without the payment of adequate consideration, and the availability of these funds to the claimants will benefit all of Guam by reducing dependency on social programs, by allowing Guamanian families to provide advanced and technical education for their children; by providing Guamanians capital for business ventures in Guam; by expanding the supply of money available in the territory of Guam; and will generally benefit the economic future of Guam in a very large measure; and

(f) That, it is in the public interest, and sound public policy for every assistance to be provided by the government of Guam to these land claimants who have suffered hardship so long, through no fault of their own,
by the loss of their property to assist the military forces of the United States for the benefit of Guam."

However, with the conclusion of litigation prosecuted under 48 U.S.C. §1424c came the realization that litigation has *not* produced a satisfactory outcome for claimants harmed by United States' land takings on Guam: by virtue of harsh adverse rulings of the U.S. District Court on fundamental issues in the litigation, claimants have had to settle their claims at less than fair market value without benefit of a trial before a jury or other independent trier of fact. Large numbers of non-litigant claimants who dropped out for want of litigation resources, or the will to prosecute their claims in court, remain without any remedy at all. The appraisal standards developed under 48 U.S.C. §1424c for determining fair market value as the rightful measure of just compensation have still *not* been applied, with the result of gross underpayment even after all remedies provided under 48 U.S.C. §1424c have been exhausted.

(d) Legislative Intent. Accordingly, *I Liheşlaturan Guåhan* finds the continuing need to pursue just remedies to redress the harm done to landowners as individuals and to Guam as a whole, resulting from the taking of Guamanian lands by the United States on or after January 1, 1930. In pursuing just remedies and redressing the harm done, two classes of landowners emerge: (1) those whose lands have been declared excess by the Federal government, *and* (2) those whose lands have *not* been declared excess and may or may not likely be declared excess by the United States in the future. It is the intent of *I
Lihe slaturan Guåhan to address the requirements of both classes by enactment of this law, to expand authority of existing laws and to embody in law a sound statutory basis for filing future claims or ancestral titles to lands surplus to the government's needs. Therefore, for the purposes of effecting this law, I Magålahen Guåhan or his designee, and the Director of the Department of Land Management, shall hereby be authorized to and shall administer the transfers to such persons and upon such terms and conditions at such times as it may determine to be suitable in replacement of lands or full recovery of original lands acquired for military or naval purposes on Guam in the aftermath of WWII, lands not to be otherwise required for public purposes.

As to both classes of landowners, the Guam Economic Development Authority and the Department of Land Management are hereby granted the additional powers required to aggressively continue Guam's landowners' campaign for equal political and socioeconomic justice under American law to include the authority and the responsibility required as provided herein to determine just compensation for the loss of their interests in land, and, the pursuit of recovery of that amount by accomplishing just remedies as have been provided herein.

As to the second class of landowners, I Lihe slaturan Guåhan desires to extend the same provisions afforded the first class of landowners, as well as establish a process for the recognition and protection of future claims, accepting the authoritative argument set
forth in U.S. Public Law Number 103-339 “Guam Excess Land Use
Plan” Report (September, 1996) as a basis for this process:

“...several species of private property may remain firmly
attached to or vested in estates of federal excess lands in Guam,
which may be deemed to constitute senior entitlement or rights
of preferment thereto: as when aboriginal title of the native
inhabitants in public domain lands remains unextinguished; as
when future private property interests in estates of federal
excess lands have been established by federal law but remain
unextinguished; as when a land exchange claim or right to
same under U.S. Public Law Number 225 [59 Stat.584, c.485]
remains unextinguished; as when reversionary private
property interests in estates of Federal excess lands have been
duly created by Guam law but remain unextinguished; and, as
when the United States, or the Government of Guam as an
instrumentality of the United States, acts or has acted as a
trustee owing a fiduciary obligation to the native people of
Guam, especially with respect to their legal rights to lands in
which aboriginal title, future interests (i.e. right to transfer)
and/or reversionary interests have been established in fact and
by law, and remain unextinguished.”

Title 21, Guam Code Annotated regulates real estate within
Guam. In Title 21 the nature of property, ownership and owners
rights are defined. Specific provision in law is made for “future
interest” defined in §1221 as “a future interest entitled the owner to
the possession of the property only at a future period" as when public lands become excess, and therefore subject to future interest claims. Future interests pass by succession, will and transfer in the same manner as present interests (§1230). A future interest is not void merely because of the improbability of the contingency on which it is limited to take effect (§1228); no future interest, valid at its creation, is defeated by the determination of the precedent interest before the happening of the contingency on which the future interest is limited to take effect (§1404). Of course "the happening of the contingency on which the future interest is limited to take effect" has, by some land claimants who have already filed "Claims of Future Interest," been interpreted to be the excessing and disposal of those Federal lands having been declared surplus and excess and to which other contingent or future property interests may attach.

In accordance with its responsibility under both Federal and local law this plan takes account of the possibility the public lands at issue here may be subject to private ownership claims as yet unmade because based on the existence of future interests as defined by law. A claim of ownership constitutes an encumbrance on a property in the same manner as any identified constraint (i.e. Federal contamination, right-of-way, perpetual easement, wetlands, etc.). Under Guam law legal process has been established by which rights of owners, if any, may be asserted. Under Guam law individuals having interests, or who believe they have property interests, may take actions to determine the validity of their claims. Actions to
determine conflicting claims may also be taken under law. It is
important to note, however, that claims on property are actions which
must be taken by claimants themselves. Guam law provides for the
resolution if claims pursuant to law, but the burden to make and
defend claims rests with the claimant alone.

The government of Guam has long recognized that historic
injustices persist with respect to many people's ancestral lands. The
United States Government has also given its recognition of this
situation both in law and by administrative acts. Indeed, U.S. Public
Law Number 103-339 represents such recognition as recently as 1994.
To the extent a lawful remedy for injustice may be found for those
who stake their claim it may eventually be said that some justice was
regained. However, the burden to right past wrongs rests on those
whose asserted rights eventually prevail. And, those who rest on
their rights risk losing them altogether.

Guam Public Law Number 22-145 requires preparation of a
Land Use Plan for all Federal excess land parcels designated under
U.S. Public Law Number 103-339 which accounts for each parcel's
original ownership. Guam Public Law Number 22-145 also
establishes land transfer conditions and exemptions, including
interim use conditions. Land exempt from transfer pursuant to
Guam Public Law Number 22-145 include all lands presently utilized
for public uses such as easements, utilities and the like (see §8, Guam
Public Law Number 22-145).
Guam Public Law Number 23-23 provides in "§2004. POLICY WITH RESPECT TO ORIGINAL LANDOWNERS. It is the policy of the government of Guam that land returned by the Federal Government to Guam be returned to the estates that held such property prior to the condemnation of said lands by the Federal Government. Exceptions to this policy shall be:

(a) Lands Clearly Under Existing Public Use. In such circumstances the government of Guam shall make good faith efforts to derive a means of compensation for continued public use of such lands.

(b) Lands that were Spanish Crown Lands, or otherwise passed directly into the possession of the government of the United States with the Treaty of Paris at the end of the Spanish-American War.

(c) Lands condemned by the government for the United States, or otherwise acquired, prior to January 1, 1930.

(d) Land for which said original landholder against whom condemnation was exercised was not an individual or family, but rather an organization, be it fraternal or either a profit-making or non-profit corporation, or otherwise."

Indeed, the entire legal history of civil government on Guam is laced with provisions for the protection and recognition of private property rights, as well as provision for common public use of lands
required to achieve the common good. Because of the manner by which Federal land takings occurred on Guam following WWII, it is widely believed that private property rights to public excess lands remain unextinguished and may ripen when excess lands are finally acquired by the government of Guam. If this in fact becomes the case the laws of Guam are firmly in place to satisfactorily deal with these matters based on claimant initiatives, public use transfer prohibitions, etc. The role of the government of Guam is found in the protection, not the creation, of private and public property.

Section 3. Guam Ancestral Lands Act. Chapter 80 is hereby added to Title 21 of the Guam Code Annotated to read as follows:

"CHAPTER 80.

GUAM ANCESTRAL LANDS COMMISSION.

Section 80101. Definitions. Whenever used in this Chapter:

(a) 'Ancestral Lands' shall mean those lands owned privately by residents of Guam on or after January 1, 1930.

(b) 'Ancestral Lands Title' shall mean that right and interest entitling an owner or owner's descendants or heirs to the repossession of property taken by the United States of America or the government of Guam on or after January 1, 1930, having thereafter been declared excess or, where not declared excess, in exchange therefor.

(c) 'Ancestral Property Right' shall mean the right and interest that a private property owner has in relation to inherited land or lands possessed by private property owner's ancestor.
(d) 'Ancestral Title Registry' shall mean the registry into which is entered all information pertaining to ancestral land claimants who are granted land title, either by land exchange or land recovery, in exchange for the permanent extinguishment of all claims thereto.

(e) 'Applicant' shall mean any person or persons, legal entity or government, who files a claim in accordance with Chapter 80 of Title 21 of the Guam Code Annotated, and Articles 9 and 9A of Title 12 of the Guam Code Annotated.

(f) 'Claims Registry' shall mean the registry into which is entered information based on a determination by the Commission that a valid basis exists for an ancestral title claim by an applicant.

(g) 'Commission' shall mean the Guam Ancestral Lands Commission.

(h) 'Conditional Awards Registry' shall mean the registry into which is recorded information in relation to each determination made by the Commission with respect to an ancestral title and compensation application made by a claimant.

(i) 'Determination' shall mean an administrative ruling by the Commission with respect to an applicant's request for an extinguishment of an ancestral claim.

(j) 'Excess Lands Registry' shall be a listing of all lands declared excess by the Federal government and acquired by the government of Guam on or after the effective date of this Act.
(k) 'Just compensation' for the purposes of Chapter 80 of Title 21 of the Guam Code Annotated, and Articles 9 and 9A of Title 12 of the Guam Code Annotated, as amended, shall mean only land recovery or land exchange, and shall also mean any other form of compensation other than a specifically described available land.

(l) 'Original land' shall mean the actual specifically described land, in whole or in part, which was confiscated or condemned by the United States of America or the government of Guam on or after January 1, 1930, and have been thereafter declared excess to which a prior private ownership interest held by a resident of Guam on January 1, 1930 was previously attached.

(m) 'Original landowners registry' shall mean the registry into which information pertaining to all lands taken and the names of owners whose properties were confiscated or condemned on or after January 1, 1930.

(n) 'Replacement land' shall mean land surplus to the Federal government or the government of Guam, and not in public benefit use, or needed for public benefit use, to which no private ownership interest was attached on January 1, 1930, and which may be used as a replacement for original lands confiscated or condemned by the United States government or the government of Guam.

Section 80102. Affirmation of and Authorization to Exercise a Fundamental Civil Right in Ancestral Real Property Also Known as Lands. The responsibility of the government of Guam to enforce rights in private property, as a civil right, pursuant to the laws of the United
States of America applicable to Guam and the Laws of Guam is hereby acknowledged and reaffirmed. The responsibility of the government of Guam to also enforce the entire community’s rights in public property, as common property, is also hereby acknowledged and reaffirmed.

The government of Guam expects to eventually accept transfer of the ownership of lands to be disposed under 'The Guam Excess Lands Act' through the U. S. General Services Agency and as a result of decisions in 1993 and 1995 issued by the U.S. Base Realignment and Closure Commission, subject to certain specified encumbrances, including unrelinquished property rights retained either by the United States of America or other prior owners, with applicable judicial procedures available should disputes arise. However, it is recognized that a process does not now exist to recognize the ancestral land rights of landowners whose properties have not been declared surplus and may not ever be declared surplus by the military in the future. Likewise, the process established by Guam Public Law Number 22-145 for disposal of three thousand two hundred (3,200) acres of Guam excess lands does not apply to claimants whose claims are attached to excess land elsewhere.

I Liheslaturan Guåhan recognizes that the rights of landowners to full use and enjoyment of their private property was long deprived because of unsettled issues described in the foregoing §80103 of this Chapter. Therefore, to restore the rights of landowners to the use of their ancestral lands, I Liheslaturan Guåhan through this Chapter hereby affirms and formally recognizes the ‘Ancestral Property Right’; establishes an administrative process for the exercise of that right; and creates the Guam
Ancestral Lands Commission and authorizes the Commission to administer the provisions of this Chapter in order that original landowners, their heirs and their descendants may expeditiously exercise all their fundamental civil rights in the property they own. The exercise of ‘ancestral property right’ claims shall be applicable to lands already declared excess by the Federal government and shall also be applicable to all future declaration of excess lands either by the United States Government or by the government of Guam.

**Section 80103. Guam Ancestral Lands Commission.** There is within the government of Guam the 'Guam Ancestral Lands Commission' to carry out the purposes of this Chapter. The Commission shall be composed of seven (7) members with seven (7) people appointed by I Mga’lahen Guåhan with the advice and consent of I Liheslaturan Guåhan.

The seven (7) Commissioners shall be appointed by I Mga’lahen Guåhan and shall be residents of Guam and descendants or heirs of ancestral land owners or claimants, and they shall serve terms of four (4) years from the date of their appointment.

Six (6) Commissioners shall constitute a quorum of the Commission for the conduct of all business. A vote of a majority of the members of the Commission shall be required for any action of the Commission. The Commission shall adopt rules and regulations governing the conduct of its affairs. It shall elect a Chairman and Vice-Chairman from among the Commissioners and may employ an executive director and such staff as is necessary to carry out the duties set forth in this Chapter, pending the submission and approval of a budget by I Liheslaturan Guåhan. Each
Commissioner shall receive the sum of Fifty Dollars ($50.00) for attendance of each meeting of the Commission, providing that such compensation shall not exceed One Hundred Dollars ($100.00) per month, and providing that they are not members of I Liheslaturan Guåhan.

Section 80104. Powers and Duties of the Commission.

(a) Commission to Establish Ancestral Lands Registries.

The Commission is directed to establish and maintain five (5) separate registries for the purposes of recording accurate information in the settlement of ancestral claims, as set out in the Subsections below.

(1) Original Landowners Registry. The Original Landowners Registry is a listing of all lands taken under the names of owners of record at the time of taking whose properties were confiscated or condemned by the United States of America, or by the government of Guam on or after January 1, 1930, as well as other pertinent location and ownership information in relation to the property. The Original Landowners Registry shall be used for the purpose of confirming an applicant's property claim, for future extinguishment upon receipt of just compensation, as defined by this Chapter.

(2) Excess Lands Registry. The Excess Lands Registry is a listing of all lands that have been declared excess by the Federal government or the government of Guam, including all lands that may be declared excess in the future by the
government of Guam. The Excess Lands Registry shall be used for the purpose of identifying a specified lot or lots of land with which the Commission may use as 'just compensation' in extinguishing ancestral claims.

(3) Claims Registry. The Claims Registry is a listing of all claims to ancestral title filed by applicants.

(4) Conditional Awards Registry. The Conditional Awards Registry is a listing of conditional awards of just compensation.

(5) Ancestral Title Registry. The Ancestral Title Registry is a listing of applicants granted land title in return for the surrender of all their ancestral property claims.

(b) Duties of Commission. In establishing all five (5) registries established in this Section, the Commission or designated staff shall investigate, record, file, report and respond to requests by ancestral land claimants for remedy, including government of Guam, whose land was taken by the United States or by the government of Guam on or after January 1, 1930. Remedy includes just compensation, as defined in §80101 of this Act, which for purposes of this Chapter is defined as limited to the return of land or access to landlocked lots across public lands, if public lands block access to private property.

The Commission shall establish, in accordance with the Administrative Adjudication Law, written procedures for extinguishment of Claims, award of just compensation and
recordation of Ancestral Land Title, as well as other rules and regulations required to administer this Chapter. The Commission shall promulgate rules and regulations to administer the Commission’s functions in a fair, just, economical and expedient way, and shall establish fees and specify materials reasonably required to accompany applications in order to extinguish a claim in favor of a just compensation award.

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

Step 1: Filing of Ancestral Claim – Applicant in this first step submits an application to the Commission containing applicant’s assertion that applicant and others, if any, hold ancestral title in relation to a specified lot of land by virtue of inheritance. Based upon the information provided, the Commission shall make a determination if in fact a valid basis for an ancestral title claim exists. The ancestral title claim shall then be entered in the Claims Registry. The Claims Registry shall contain the information required to be entered, as established by the Commission by rules and regulations. The Commission must accept an application for determination of claim, provided the following minimum information is given:
1. date on which application was submitted to the Commission;
2. whether the application was submitted to the Commission, or Commission's designee, and the name of the Commission or designee;
3. name and address for service of notification to the person(s) who is the claimant (This is the person who shall be the registered ancestral title claimant.);
4. the area of land covered by the claim, including property descriptions and maps;
5. description of the persons who it is claimed hold the ancestral title; and
6. other details about the claim as the Commission may deem appropriate.

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

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

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

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

**Category 2: Revised Ancestral Title Determination** – for revocation or variation of an approved determination of ancestral title on the grounds that:

(a) events have taken place since the determination was made that have caused the determination no longer to be correct; or

(b) the interests of justice require the variation or revocation of the determination; or

**Category 3: Compensation Application.** This Chapter sets forth two (2) forms of compensation for future title claims which shall be either the return of original ancestral land, or just compensation, as defined in §80101 of this Act, based upon mutually satisfactory negotiations between the government and the applicant. Before relinquishment of exchange land the Commission shall certify that the exchange lands show no history of ancestral ownership or ancestral ownership claim on or after January 1, 1930.

The Commission must accept an ancestral title and compensation application provided the following requirements are met by the claimants:
that the kind of application falls within the three (3) categories defined above;

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

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

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

(a) a sworn affidavit that the applicant:
   (i) believes that ancestral title has not been extinguished in relation to any part of the land claimed; and
   (ii) believes that all of the statements made in the application are true;

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

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

(d) evidence of heirship;

(e) name and address of the person who is to be considered the claimant (The name of the person given under this item will become the registered ancestral title claimant.); and
(5) all accompanying fees as prescribed by the Commission.

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

1. name of the Commission or designee that made the determination;
2. date on which the determination was made;
3. area, location, and description of specific land covered by the determination;
4. the matters determined; and
5. other details about the determination or decision as the Commission deems appropriate.

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

**Step 4: Extinguishment of Ancestral Land Claim** – An ancestral land claimant is granted claimant’s land title either by land exchange or land recovery on the condition that
the ancestral title holder surrenders all rights and interests in relation to ancestral land claims thereby permanently extinguishing all rights, interests and claims to the claims. Upon the Commission's issuance of title by an award of just compensation and extinguishment of claims, the ancestral title holder's name is removed from the Conditional Awards Registry, and is entered into the Ancestral Lands Title Register by the Commission. The Commission shall prescribe the appropriate form to effectuate issuance of compensation and extinguishment of ancestral claim. The Commission shall ensure that the ancestral title holder is issued a suitable property conveyance deed in full satisfaction of ancestral title holder's ancestral title award. Once listed as ancestral title holder after acceptance of specifically described land, the holder and all of holder's heirs, successors and assigns, and those who may assert subsequent claims derived from the holder, are forever barred from reentry into the Claims Registry.

(d) **Director of Land Management to Reserve All Future Lands Received by Government of Guam Declared Excess for Entry into Excess Lands Registry.** For the purposes of administering this Section, the Director of Land Management is authorized and required to reserve all future lands received by the government of Guam declared excess, and ensure that all information pertaining to excess lands, both current and future, are sent to the Commission for
entry into the Excess Lands Registry. The Commission shall maintain and give the public the right to review the Excess Lands Registry.

(e) Land Bank. The Commission shall take title, as Trustees, of former Spanish Crown Lands and other non-ancestral lands that are conveyed by the Federal government to the government of Guam after the effective date of this Act, on behalf of ancestral landowners who, by virtue of continued government or public benefit use cannot regain possession or title to their ancestral lands.

The Commission shall establish a Guam-based trust to administer all assets and revenues of the land bank of the aforementioned lands and manage the lands, and act as the developer of the lands, if necessary, to the highest and best use. The Commission shall establish rules and regulations pursuant to the Administration Adjudication Law for the Guam-based trust. The resulting income shall be used to provide just compensation for those dispossessed ancestral landowners.

(f) Notification of Extinguishment of Ancestral Claims. The Commission shall ensure that all parties whose interests may be affected in the extinguishment of an ancestral claim are notified in writing, if at all possible, and through public notice in a Guam newspaper of general circulation.

(g) Appeal Through Judicial Process. If disputes arise from an application which cannot be resolved by the Commission,
then any of the opposing parties may invoke the judicial process at the party’s expense.”

Section 4. Land Claims Facilitator. (a) Legislative Intent of This Section.  *I Lihešlaturan Guåhan* recognizes the continuing need to pursue just remedies to redress the harm done to landowners as individuals, and to Guam as a whole, but that the pursuit of just remedies is not within the ready reach of the average landowner, unless the government of Guam also assumes the role of Claims Facilitator. Therefore, the Guam Ancestral Lands Commission is granted powers required to aggressively continue Guam landowners’ campaign for equal political and socio-economic justice under American Law to include the authority and the responsibility required as provided in Chapter 80 of Title 21 of the Guam Code Annotated to assist landowners in filing claims with the Guam Ancestral Lands Commission, to include assistance in determining the area of land due and owing to landowners of Guam, as just compensation for the loss of their interests in land, and the pursuit for the recovery of that amount by accomplishing just remedies as have been provided in Chapter 80 of Title 21 of the Guam Code Annotated.

(b) Section 2926(c) is hereby *added* to Title 12 of the Guam Code Annotated to read as follows:

“(c) ‘Facilitator’ means the Guam Ancestral Lands Commission.”
(c) Section 2927 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

"Section 2927. Landowner's Recovery Fund Created.

There is created the 'Landowner's Recovery Fund' to further the purposes of Chapter 80 of Title 21 of the Guam Code Annotated, to grant loans, or guarantees of loans or grants-in-aid to landowners, or to defer costs or fees of professional services required by those landowners or class of landowners whose land, rights in land or interest in land were taken by the Naval Government of Guam or the United States Government on or after January 1, 1930, in order to assist such landowners with pursuit of adequate remedies for such taking, such remedies to include just compensation or return of the land or access to landlocked lots or other adequate redress of an adverse impact of the land takings, all to be on a reimbursable basis, according to standards and conditions set out in §2908 of this Article. The Fund shall be utilized to make funds available for landowners to contract with attorneys and necessary non-attorney consultants and for the Facilitator, on behalf of a class of landowners, to likewise contract for such professional services as are required to further the aims of this Article. The Fund shall be utilized to make funds available as necessary for real property research, survey, pre-trial discovery, pre-litigation settlement negotiation or litigation in the
circumstances where all non-litigation remedies have been attempted without satisfactory result.”

(d) Section 2946 is hereby added to Title 12 of the Guam Code Annotated, to read as follows:

“Section 2946. Guam Ancestral Lands Commission Authorized to Facilitate Land Claims. The Guam Ancestral Lands Commission is hereby authorized to use funds from the Landowner’s Recovery Fund to facilitate land claims and to further the purposes of the provisions of Chapter 80 of Title 21 of the Guam Code Annotated, and Articles 9 and 9A of Title 12 of the Guam Code Annotated, as follows:

1. to assist in determining the validity of prospective land claims and perform such research, survey or other studies deemed necessary to perfect such claims;

2. to assist in examining all petitions from claimants for assistance under the provisions of Chapter 80 of Title 21 of the Guam Code Annotated, and Articles 9 and 9A of Title 12 of the Guam Code Annotated;

3. to procure litigation work product of attorneys and non-attorney professionals at cost where a finding has been made that litigation work product is documentary evidence which is required in support of a claim;
4. to commission special appraisals to be performed where claims involve water or mineral rights; and

5. to investigate all government of Guam property for the purposes of determining the existence of original landowners."

Section 5. Section 75104(b) of Chapter 75 of Title 21 of the Guam Code Annotated is hereby amended to read as follows:

"(b) Any land acquired by the government by having been declared excess by the U.S. Government, or any agency thereof, after the effective date of this Chapter shall acquire the status of ancestral land and be reserved by the Director of the Department of Land Management for the extinguishment of ancestral land claims. All such lands shall be described, surveyed and mapped, and that information shall be sent to the Guam Ancestral Lands Commission to be recorded in the Excess Lands Registry."

Section 6. Old Commission Abolished. The Ancestral Lands Commission established by Executive Order prior to the enactment of this Act shall be abolished upon enactment of this Act, and all authority, staff, equipment and funding given to the previous commission shall be transferred to the Guam Ancestral Lands Commission established by this Act.

Section 7. Remedies and Procedures Provided Herein. Nothing in this Act shall be interpreted to eliminate in whole or in part any remedy or
procedure which may be utilized to further the just claim of any party to land.

Section 8. Notwithstanding any provision of this Act, all government of Guam lands owned or acquired prior to the enactment of this Act, excepting those lands otherwise reserved for other purposes pursuant to law, shall continue to be deemed "Chamorro Homelands," and shall be utilized as "available lands" within the programs of the Chamorro Land Trust Commission. However, this Section shall not invalidate a valid claim by an original landowner on any government of Guam properties.

Section 9. Severability. If any provision of this Act or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application and to this end the provisions of this Act are severable.
Memorandum

To: Senator MARK FORBES

From: Clerk of the Legislature

Subject: Report on Bill No. 57 (OR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 57 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.

Attachment

Josephine Brennan-Badley

Executive Director 472-3409 Fax: 472-3510 • Chief Fiscal Officer 472-3491 • Personnel 472-3520 • Protocol 472-3499 • Archives 472-3443 • Clerk of Legislature 472-3464
Speaker Antonio R. Unpingco
I Mina' Bente Singko Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 57 was referred, wishes to report its findings and recommendations TO DO PASS BILL NO. 57, as substituted, “An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery.”

The voting record is as follows:

- TO PASS: 9
- NOT TO PASS: 0
- ABSTAIN: 0
- TO PLACE IN INACTIVE FILE: 0

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.

MARK FORBES

Attachments

155 Hesler Street, Hagåtña, Guam 96910
Telephone: 671-472-3407/408/512 • Facsimile: 671-477-5036 • Email: senforbes@kuentes.guam.net
MEMORANDUM

TO: Committee Members

FR: Chairman

SUBJECT: Committee Report- Bill No. 57, as substituted, “An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery.”

Transmitted herewith for your information and action is the report on Bill No. 57, as substituted, from the Committee on Rules, Government Reform, Reorganization and Federal Affairs.

This memorandum is accompanied by the following:
1. Committee Voting Sheet
2. Committee Report
3. Bill No. 57, as substituted
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu’os ma’ase.

MARK FORBES

Attachments
Committee on Rules, Government Reform, Reorganization and Federal Affairs
I Mina' Bente Singko Na Liheslaturan Guåhan

**Voting Record**

Bill No. 57, as substituted, "An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery."

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Committee Report
on
Bill No. 57, as substituted,
"An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery."
I. OVERVIEW
The Committee on Rules, Government Reform, Reorganization and Federal Affairs held a public hearing on Thursday, April 15, 1999 at 10:00 a.m. at I Liheslaturan Guahan. Public notice of the hearing was announced in the February 10th, 1998 issue of the Pacific Daily News.

Senators present were:
- Senator Mark Forbes, Chairman
- Senator Frank Aguon, Jr., Member
- Senator Marcel Camacho, Member
- Senator Eddie Calvo, Member
- Senator Eloy Bermudes, Member

Appearing before the Committee were:
- Mr. G. Ricardo Salas, of the Salas Agency Corp.
- Mr. John Camacho, of the Ancestral Lands Commission
- Mr. Ron Teehan, of the Chamorro Land Trust Commission

Providing written testimony:
- Ancestral Lands Commission (attached)

II. SUMMARY OF TESTIMONY
Mr. G. Ricardo Salas, of the Salas Agency Corp., testified before the Committee in favor of Bill No. 57. He said the bill will improve the disposal of government land. He suggested that the commission be made up of only those who are descendents of land claimants.

Mr. John Camacho, of the Ancestral Lands Commission, testified before the Committee in favor of Bill No. 57, with amendments the Ancestral Lands Commission submitted. He said one important amendment is the idea of a land pool for returned Spanish crown lands, which would earn money to be paid to original landowners who never get their land back.

Mr. Ron Teehan, of the Chamorro Land Trust Commission, testified before the Committee against Bill No. 57. He said the Spanish crown lands should go to the Chamorro Land Trust, as they are currently supposed to, as opposed to going to the land pool. He was concerned that the bill would pit Chamorros vs. Chamorros.

III. FINDINGS AND RECOMMENDATION
The Committee on Rules, Government Reform, Reorganization and Federal Affairs finds that Bill No. 57, as substituted, creates a long-needed entity to address land takings that date back before World War II, and to assist the original landowners.

Accordingly, the Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 57 was referred does hereby submit its findings and recommendations to I Mina’ Bente Singko Na Liheslaturan Guahan TO PASS BILL NO. 57, as substituted, “An act create the Guam Ancestral Lands Commission, and amend Section 75104, and add a new Chapter 79, Title 21, Guam Code Annotated; and to amend §2903 and §2927, and to add a new §2946, to Title 12, Guam Code Annotated, relative to land claims and landowners recovery.”
MEMORANDUM

TO: Chairman
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

FROM: Chairman
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

SUBJECT: Principal Referral – Bill No. 57

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee “shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body.” It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment
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CERTIFIED TRUE AND CORRECT:

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Clerk of the Legislature

* 3 Passes = No vote
   EA = Excused Absence
CERTIFICATION OF PASSAGE OF AN ACT TO IMAGA’LAHEN GUAMAN

This is to certify that Substitute Bill No. 57 (COR), "AN ACT TO ADD CHAPTER 80 TO TITLE 21, TO AMEND §2927 AND ADD §§2926(c) AND 2946 TO TITLE 12, AND TO AMEND §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS’ RECOVERY," was on the 24th day of May, 1999, duly and regularly passed.

ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga’lahen Guahan this 24th day of May, 1999, at 11:15 o’clock A.M.

APPROVED:

CARL T. C. GUTIERREZ
I Maga’lahen Guahan

Date: _______________________

Public Law No. ___________________
MINA’BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA’LAHEN GUAHAN

This is to certify that Substitute Bill No. 57 (COR), “AN ACT TO ADD CHAPTER 80 TO TITLE 21, TO AMEND §§2927 AND ADD §§2926(c) AND 2946 TO TITLE 12, AND TO AMEND §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS’ RECOVERY,” was on the 24th day of May, 1999, duly and regularly passed.

__________________________________________
ANTONIO R. UNPINGCO
Speaker

Attested:

__________________________________________
JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga’lahen Guahan this ______ day of ________, 1999, at __________ o’clock ________

Assistant Staff Officer
Maga’lahi’s Office

APPROVED:

__________________________________________
CARL T. C. GUTIERREZ
I Maga’lahen Guahan

Date: _________________________________

Public Law No. ________________
AN ACT TO ADD CHAPTER 80 TO TITLE 21, TO AMEND §2927 AND ADD §§2926(c) AND 2946 TO TITLE 12, AND TO AMEND §75104(b) OF CHAPTER 75 OF TITLE 21, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM ANCESTRAL LANDS COMMISSION, AND FOR LAND CLAIMS AND LANDOWNERS' RECOVERY.
BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Title. This Act shall be known and may be referred to as the "Guam Ancestral Lands Act."

Section 2. Legislative Background, Findings, and Intent.

(a) Background Statement. By passage of Public Law Numbers 16-111, 17-52, 20-222, 22-145, 23-23 and 23-141, I Liheslaturan Guåhan recognized the need of private landowners to pursue appropriate remedies to redress the harm done to them, and to Guam as a whole, when a substantial percentage of the land on Guam was taken by the Naval Government of Guam or the Government of the United States through proceedings in eminent domain, or under threat of eminent domain, following World War II. Public Law Numbers 16-111, 17-52 and 20-222 granted powers to the Guam Economic Development Authority ("Authority") to implement appropriate remedies. Public Law Number 22-145 granted additional powers to the Department of Land Management.

I Liheslaturan Guåhan hereby finds and determines that the powers granted the Authority and the Department of Land Management by Public Law Numbers 16-111, 17-52, 20-222 and 22-145 have not been adequate to address the needs of landowners, and that additional powers, therefore, must now be granted to accomplish the legislative purposes set out in this Section and as provided by Public Law Numbers 16-111, 17-52, 20-222, 22-145 and 23-23.
I Lihteslaturan Guåhan also finds and determines that it is necessary to memorialize the true history of land takings on Guam, in spite of well-settled legal protections, as a foundation for establishing a process for the recognition of indigenous Guamanians' claims to their ancestral lands, also known as "ancestral titles," so that the property rights of all citizens residing on Guam may be fully and equally protected in the future.

(b) History of Property Rights. Part III of the September, 1996, report entitled: "The Government of Guam Plan for Local, Public Benefit Use ... Federal Excess Lands on Guam pursuant to USPL 103-339..." contains an accurate documentation of property rights on Guam in addition to providing an authoritative basis to support the legal applicability of property right laws to Guam and her citizens. While the Chapter was written pertaining specifically to the subject of three thousand two hundred (3,200) acres of Federal excess lands pursuant to U.S. Public Law Number 103-339, the evidence contained therein applies to the entire issue of Guam lands in the Federal Government's holdings.

The Chapter is set forth in part below and is incorporated by reference into this Section as follows:

"Under the laws of the United States of America applicable to Guam and the laws of Guam, the property of people residing in Guam enjoys well settled legal protection. By the terms of the Treaty of Paris, signed December 10, 1898, Guam was ceded by Spain to the United States. At Article VII:
it is hereby declared that the relinquishment or cession, as the case may be...cannot in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other association having legal capacity to acquire and possess property on the aforesaid territories renounced or ceded [to wit, Guam] or of private individual of what-so-ever nationality such individuals may be.” Article IX of the Treaty of Paris further proclaims: “The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress” [of the United States].

By the Land Transfer Act of November 15, 1945, 59 Stat. 584, c.485, the United States Navy was directed by the U.S. Congress to transfer to native Guamanians lands held by the Navy, but no longer required for military or naval purposes (aka Federal excess lands). By the Land Acquisition Act of August 2, 1946, 60 Stat. 803, c.738 the United States Navy was authorized to acquire lands on Guam with a view to such land transfer.

By §28 of the Organic Act of Guam of August 1, 1950, 64 Stat. 392, c.512, the U.S. Congress directed that all lands on Guam not reserved by the President should be transferred to or placed under the control of the government of Guam “to be administered for the benefit of the people of Guam.” The United States is subject to a like
mandate in respect to tidal and submerged lands pursuant to §1 of the Act of October 5, 1974, Public Law Number 93-435, 48 U.S.C., §1705, and amendments thereto.

In further respect of the duty of the U.S. Congress to fix the civil rights of the people of Guam, the Organic Act provides §1421b. Bill of Rights (f): Private property shall not be taken for public use without just compensation. Section 1421b(u) extends provisions of and amendments to the Constitution of the United States to Guam, including the Fifth Article of Amendment which provides in pertinent part that “no person shall be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.”

Following the time honored legal tradition laid by the United States with respect to the administration of real property on Guam, pursuant to all such private property rights found to be vested therein, the United States Congress followed enactment of the Treaty of Paris of 1898, the Land Transfer Act of 1945, the Land Acquisition Act of 1946, the Organic Act of 1950, the Submerged Lands Act of 1974, et. al., with enactment of that legislation which is the subject of the Guam Land Use Plan (U.S. Public Law Number 103-339 “The Guam Excess Lands Act”). Reflecting deep insight into the current Guam land situation, the 103rd U.S. Congress took pains to display its understanding of those historic circumstances which justify special legislative treatment of these three thousand two hundred (3,200) acres of Guam land now subject to disposal. The U.S.
Congress declared (§7 General Provisions, U.S. Public Law Number 103-339) the property subject to this Act shall not be subject to Public Law Number 1003-77 (101 Stat 482), and §818(b)(2) of Public Law Number 96-148 (94 Stat. 1782), as amended. The U.S. House of Representatives, in which H.R. 2144 was introduced, also reported at length (see Rept. 103-391 U.S. House of Representatives 103rd U.S. Congress, 1st Session at page 3) on the "historic injustices" it sought to correct with the bill: to solve "a problem which the Committee on Natural Resources has been working for many years...[which has] limited economic growth and created a serious housing problem...and caused such tension in the territory that it has become one of the major issues impacting U.S. - Guam relations."

Among the reasons the Congress found for this tension was the frustration expressed by "former, original landowners (or their heirs) want(ing) to reclaim the property some believe that their families were told they would be able to reclaim...[who] sold their land to the military in unfair transactions...under duress." Of course, the strong sense of injustice, fueled by time, buttressed by unsatisfied expectations, all in apparent contradiction with repeated Federal pledges to protect private property interests from the very same sorts of abuse revealed as the origin of this special land legislation has justified this Act as a partial solution to a large still unsolved problem and obviously, where well documented historic injustices have been found to be the basis of an Act of Congress those injustices must be
considered when said Act is implemented as in this instance where land use plans are made.

However, in considering the desirability of quieting title to all disputed land on Guam, when a historic injustice is plain from the facts recited by the U.S. Congress as its justification for a special legislative act, no precedent exists for the direct transfer of title to excess Federal land to a private party or land claimant; throughout the pertinent legal history all precedent indicates local civil government must assume the intermediary role when designated as when the Naval Government of Guam was authorized to transfer lands in 1945, as when the Organic Act authorized the Secretary of Interior to lease or sell excess public lands on Guam §1421f.(c) and as when the government of Guam was authorized by deed to transfer thirty thousand (30,000) (+/-) acres of excess Federal lands to dispossessed individuals for resettlement in 1952. The U.S. District Court has determined that the government of Guam has authority to dispose of Federal excess lands it acquires, however, disposal according to that authority must be prescribed by enactment of Guam public laws [see Bordallo v. Camacho (1973, CA9, Guam) 475 F2nd. 712, which reads: “Legislature of Guam under 48 UCS §1421(f) has authority to legislate regarding land formally owned by the United States and transferred to Government of Guam as long as it does not do so inconsistently with Acts of Congress.”]

Several local enactments provide a basis for former, “original” landowners to assert a claim for land recovery or for compensation
preparation for the wholesale condemnation of lands on Guam prevented formation of either a "fair market" or determination of "fair market price."

Each is an essential element of "just compensation" required in all legal proceedings conducted pursuant to powers of eminent domain. The official records reveal gross underpayment following coercive pre-condemnation acts constituting taking without just compensation. Having come to clearly recognize the vital role history plays in this campaign for equal social and economic justice under American law, I Liheslaturan Guåhan finds and declares it appropriate to herein recite the factual history of, and basic economic truths demonstrated by, the Guam land claims and recovery issue.

The Hopkins Committee Report, prepared for the Secretary of the Navy by Ernest M. Hopkins, Chairman, et al., of March 25, 1947, recommended legal and land reform measures which fell short of the actions required to determine land valuation according to the required just compensation, fair market standards. The Organic Act of 1950 failed to provide for an independent judiciary or trial by jury in Federal land condemnation cases. In August of 1950, land use conditions and land problems on Guam were described in a report of the Bureau of Land Management, U.S. Department of the Interior as follows:

"... many owners have lost their land or portions of their land but have been unable to secure cash settlement or to secure other land in exchange..."
This drastic program of land conversion to military use has affected and will continue to affect the lives of the Guamanian people. It has created a shortage of land, which in turn has caused rapidly increasing land values; it has removed a considerable acreage of agricultural land from a predominantly agricultural economy; it has caused widespread displacement of the population as is evidenced by the respective census figures of 1940 and 1950. Surprisingly enough, however, there was found little tendency on the part of the Guamanians to question those takings which were necessary for the prosecution of the war and for the maintenance of an adequate military establishment subsequent to the war. Even those Guamanians who have suffered most from the military land acquisition program have not objected to the takings when the need has been demonstrated. However, from a layman’s point of view, there seems to be some evidence that not all the area taken has been actually acquired and that, in some instances, other lands could have been substituted. There is a feeling that under the guise of military necessity there have been some unwarranted land takings."

Notwithstanding war’s devastation, tardy rehabilitation, displacement from their family estates and therewith the economic basis for their survival, livelihood and economic independence, and the dispossession from their estates for no, or less than just compensation, the people of Guam welcomed the re-establishment of
American rule in the post-war years. With the measure of home rule provided under the Organic Act of Guam in 1950, Guam’s leaders sought to establish a viable and competent civil government for the new United States Territory of Guam.

After 1950, the burden for solving land problems springing from the vast post-war private land takings by the United States fell to the government of Guam. However, in attempting to deal with land problems, several obstacles frustrated local authorities beyond their preoccupation with continuing war rehabilitation and formation of the new local government to which would devolve widely specified territorial jurisdiction, without commensurate financial means. United States land condemnation continued through 1962, during which period Guam remained an off-limits land, air and sea military reservation into which the United States Navy strictly controlled all entry. No jury trials were permitted in the newly organized U.S. District Court of Guam which assumed all jurisdiction over Federal eminent domain proceedings; the presiding U.S. District Court of Guam Judge was appointed for a limited instead of life term; the Administration of the Executive Branch of the government of Guam was under the control of governors, appointed by the United States President and closely supervised in office by the Secretary of the Interior who retained direct jurisdiction over territorial civil affairs.

In November, 1962, Super Typhoon Karen destroyed virtually all Guam’s infrastructure and improved real property, thrusting the
entire community, including the new territorial government, back once again into a prolonged phase of rehabilitation.

However, in the due course, conditions for dealing with Guam’s lingering land problems improved: in 1957 jury trials were authorized in the Federal U.S. District Court of Guam; in 1962 the Naval security clearance requirements ended; Typhoon Karen rehabilitation was Federally funded, and U.S. Interior Department control over the administration of territorial government finally passed into the local hands of an elected governor and a local, but non-voting delegate seated in the U.S. Congress. By 1971, in this improved climate, the government of Guam’s attention focused again on a search for solutions to remaining Federal land problems.

In September of 1972, a Special Committee of the Eleventh Guam Legislature released a report on post-war land takings pursuant to Resolution Number 6, (First) Regular Session of the Eleventh Guam Legislature, passed January 18, 1971, which reads as follows:

"WHEREAS, in the latter stages of the Second World War and in the build-up of Guam as a major defense base for the U.S. Navy, and the U.S. Army, the U.S. Air Force and other Federal agencies following World War II and the start of the Cold War, a very large percentage of the limited land area within the territory of Guam was acquired by the United States for defense purposes, of both the Federally-owned and
Federally-leased land representing thirty-six percent of all the real property in Guam; and

WHEREAS, with Guam being so limited in land area and with the only asset belonging to many Guam families being their inherited piece of property, it is respectfully submitted that the United States Government in acquiring this land, was under a duty to see that the rights of all local landowners were safeguarded and fair compensation was afforded to all; and

WHEREAS, unfortunately, a history of Federal land-taking after World War II discloses quite the contrary; that is, the people of Guam were not properly compensated, were not advised of their rights, and were generally deprived of their property without due process of law and without just compensation; and

WHEREAS, the facts supporting the foregoing charge were as follows:

1. The acquisition of land for defense purposes immediately following World War II was in the hands of the Naval Government; there was no independent judicial system, the so called “Superior Court” being staffed by naval officers who were under the direct command of that same officer who was condemning or otherwise acquiring Guam land for defense bases;

2. The people of Guam immediately following the Second World War were deeply grateful to the United
States for having been liberated from the Japanese and were additionally inculcated with a deep respect, if not fear of the United States Navy, which had been running the territory of Guam in a high-handed manner since 1898; accordingly, it was almost impossible for the average Guamanian to refuse to voluntarily give up his land to a Naval representative requesting the same, especially since it was put to him on the basis of patriotism and loyalty; there are many well-attested incidents where Naval negotiators intimidated the owners and prevented any fair negotiations; 

3. There are other well-attested incidents wherein illiterate and unsophisticated Guamanians were persuaded to sign stipulations approving fee title acquisitions in the belief that they were signing mere leases or licenses for the United States to use their lands temporarily, and this decision on the part of the Federal negotiators was willful and deliberate; and 

WHEREAS, one of the most unfortunate aspects of this history is that those relatively few Guamanians who were both wealthy enough and sophisticated enough to refuse to deal with the Navy negotiators ended up with fair compensation for their land since they never lost title until after the passage of the Organic Act which established an independent Federal court and permitted the orderly and fair acquisition of land
through eminent domain proceedings following the Federal statutes and the Federal Rules of Civil Procedure, and thus the rich, whose holdings were quite large and extensive, ended up well paid for their lands, while the poor, who usually had only small holdings, received practically nothing; and

WHEREAS, since these people who lost their lands under such unfair circumstances are without any adequate remedy at law, any applicable statutes of limitation having long since expired, the only possible solution or form of relief is action by the Congress to set up a Claims Commission to re-open the whole question of federal land acquisition in the territory of Guam immediately following World War II; and

WHEREAS, it should be of salutary interest to the Congress to know that the principal reason why the Trust Territory islands have for the most part strenuously resisted the commonwealth status offered them by the Federal government is the fear that with commonwealth will come Federal acquisition of their very limited land, and with the history of the people of Guam's loss of their land continually before them, they indeed have good reason to fear for their future; now therefore be it

RESOLVED, that in view of the foregoing, the Eleventh Guam Legislature does hereby on behalf of the people of Guam respectfully request and memorialize the Congress of the United States to establish a Claims Commission to review and
re-open if necessary the land acquisitions undertaken by the Federal government in the territory of Guam following the Second World War...”

Resolution Number 53 was adopted on April 5, 1971, “[R]elative to the establishment of a special delegation from the Eleventh Guam Legislature to present in Washington, D.C., the views of the people of Guam on certain major issues now pending in our nation’s capital, and, in addition, to seek from the Congress legislation establishing the Land Claims Commission requested in Resolution No. 6.”

Acknowledging that “there is now pending before the Congress of the United States and the major administrative agencies in our nation’s capital, a number of very serious matters of direct interest and concern to the people of Guam,” Resolution Number 53 says, in part:

“WHEREAS, additionally, the Legislature has just adopted Resolution No. 6, relative to requesting the Congress to establish a Claims Commission to re-open the Federal land takings in the territory, which resolution is of enormous emotional significance to the people of Guam and deserves, in the opinion of this body, special treatment in its delivery and presentation; now therefore be it

RESOLVED, that there be and is hereby created a special committee of the Legislature to be designated the ‘Washington Delegation on Federal Problems,’ to be composed of seven members, five of whom shall be selected by the Speaker and
other two to be the Chairman of the Rules Committee and the Minority Leader, the Chairman of Rules to serve as chairman of the delegation, which delegation shall have as its duty the presentation before the members of the committees of Congress and Federal agencies in our nation's capital the views and opinions of the people of Guam upon the various pressing territorial matters now pending in Washington, such presentation to include, but not be limited, to the topics set out hereinafore; and be it further

RESOLVED, that the delegation, in addition, shall personally present to the appropriate members of the Congress Resolution No. 6 and undertake all within its powers to obtain from the Congress the relief sought by this resolution ...

Acting pursuant to the directive and authority of Resolution Number 53, the Washington Delegation on Federal Problems was established on April 5, 1971, with Guam Senator Joaquin A. Perez, serving as Chairman. Attorney John A. Bohn was later retained as Special Consultant to the Committee, which by common usage became known as the "Special Committee on Federal Problems."

The circumstances surrounding the Federal land takings on Guam following World War II have been well known to the citizens of Guam for many years, and as early as December 1, 1954, testimony was presented to the House Subcommittee on Territorial and Insular Affairs to the effect that these land takings were inequitable. However, it became obvious to the Guam Legislature and the Special
Committee that nothing would be accomplished by the United States Congress, unless the circumstance surrounding these land takings were carefully documented.

With this in mind the Committee established a special office in Agana for the purpose of establishing the scope of the problem and examining in some detail the Federal land takings in post-war Guam. The Committee employed its own staff, prepared questionnaires for the purpose of interviewing aggrieved property owners and conducted document research and published notice in the local newspaper of its goals and objectives. A persuasive case was prepared to further confirm the findings of the Special Committee on Federal Problems, as reflected in Resolution Number 6 referenced above.

After considerable effort spent by Guam’s Special Committee on Federal Problems and Guam Delegate to the U.S. Congress, the late Honorable Antonio B. Won Pat, working cooperatively with California’s voting Congressman Philip J. Burton, Federal legislation was enacted as 48 U.S.C. §1424c to address the compensation claims of those Guam landowners willing to contend, through litigation, that unjust compensation had been paid to them. However, the Federal Land Claims Commission approach, proposed by the Guam Legislature, was rejected by the U.S. Congress, notwithstanding the historical fact that the Naval Government of Guam had always proceeded by Land Claims Commissions when private Guamanian lands were originally taken. By forcing claimants to prosecute
claims, Congress required claimants to take the most costly and burdensome course of recovery. Eligible claimants unwilling to become litigants, were thus excluded from the only authorized channel for relief; it is estimated that more than two thousand (2,000) eligible claimants dropped out at this point, and thus lost all legal recourse for their claims. By rejecting the Commission proposal, the issue of excess land was sidestepped and the issue of land transfer was abandoned altogether. U.S. Public Law Number 95-134 (October, 1977), 48 U.S.C. §1424c provides in relevant part as follows:

"Sec. 404(a). Notwithstanding any law or court decision to the contrary, the District Court of Guam is hereby granted authority and jurisdiction to review claims of persons, their heirs or legatees, from whom interests in land on Guam were acquired other than through condemnation proceedings in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam, by the United States between July 21, 1944, and August 23, 1962, and to award fair compensation in those cases where it is determined that less than fair market value was paid as a result of (1) duress, unfair influence, or other unconscionable actions, or (2) unfair, unjust, and inequitable actions of the United States.

(b) ...

(c) Fair compensation...is defined as such additional amounts as are necessary to effect payment of fair market value at time of acquisition, if it is determined that, as a result of
duress, unfair influence, or other unconscionable actions, fair
market value was not paid.”

In the course of this litigation two (2) subclasses of claimants
settled their claims in return for payment by the United States of
Thirty-nine Million Five Hundred Thousand Dollars ($39,5000,000).
A third or “Option II” subclass, after opting out of the original
settlement proposal, eventually proposed settlement of their claims
in return for payment of Three Million Ninety-seven Thousand Five
Hundred Five Dollars ($3,097,505) and on April 25, 1991 the United
States agreed to settle all Option III claims for the amount proposed.
Accordingly, the Federal litigation phase commencing with
enactment of 48 U.S.C. §1424c in 1977 came to an end with settlement
for all claimants once settlement in the Option III proceedings were
confirmed.

However, the relief described above is strictly limited to
litigants, leaving large numbers of eligible claimants, who did not
elect to litigate, without any relief at all. Furthermore, the settlement
amounts agreed upon in the Option III class action, where competent
appraisals were performed, fell far short of the land lot values
established by plaintiffs’ professional appraisals. No land was
recovered by the litigation under 48 U.S.C. §1424c, which was a
statute limited to adjudicating compensation claims.

However, litigation proceeding under 48 U.S.C. §1424c
produced, for the first time in the long history of this issue, important
professional appraisal and market information, and thus laid the
basis required to determine fair market valuation for all lands originally condemned. It is now possible to accurately compute the balance of just compensation remaining due the people of Guam for lands taken by the United States after World War II.

Throughout the entire history of the Guam land case, including the Option III phase just prosecuted under 48 U.S.C. §1424c, Guam land claimants were denied the right to trial before a jury of peers and an independent judiciary. The adverse consequence of this arrangement may be seen from a review of summary judgement decisions in the very recent Option III proceedings, which were forced by these rulings to an unsatisfactory pretrial conclusion. Notwithstanding the fact the United States was in the position of a fiduciary to the people of Guam, the United States was not forced to bear the burden of proof that it acted as a fiduciary in the interest of the Guamanian people from which it took lands while as wards of the United States. The Navy’s acquisitions of land from landowners lacking access to impartial courts denied due process to those landowners; denial of due process constitutes duress and is unconscionable, unfair, unjust and inequitable.

I Liheslaturan Guåhan finds a fiduciary relationship existed between the United States and the inhabitants of Guam at the time of the land acquisitions subject of these cases. As a result of the existence of that relationship it must be shown that the military land acquisitions by the United States from the people of Guam were conducted in perfect good faith, without pressure of influence, and
all information relevant to the transaction in the possession of the United States was supplied to the sellers, that disinterested advice was provided to the sellers and that adequate consideration was paid. Not only must these elements be shown, but the burden of proof with regard to each element rests with the United States.

Because the United States was a fiduciary with respect to the inhabitants of Guam, the actions of the United States in acquiring Guamanian lands must be judged according to the standards of conduct required by a fiduciary relationship.

Recognizing the great financial burden litigation pursuant to 48 U.S.C. §1424c imposed upon plaintiff claimants, I Liheslaturan Guåhan appropriated funds under Public Law Numbers 16-111 and 17-54 to assist them with litigation expenses. It was anticipated plaintiff claimants would secure satisfactory relief through litigation in the form of fair market value for the lands taken, plus interest due thereon, for the time their just compensation payments were delayed.

In contemplation of a satisfactory litigation result, I Liheslaturan Guåhan provided that loans and loan guarantees warranted additional risk and subsidies not normally assumed or provided in the loans and loan guarantees otherwise allowed by the Guam Economic Development Authority:

"Section 53610.10. Unusual Risks and Subsidies Warranted. The Corporation is authorized to make loans, or guarantees of loans, in furtherance of the purposes and activities stated in this Chapter, and all loans or guarantees so
made need not meet the normal requirements of a usual commercial loan or guarantee and shall not be refused for reasons of lack of credit standings, or reliability, or doubts about the ability of the borrower to repay, it being understood that the successful termination of the land claimants litigation is of such vital need to the economy of Guam as to warrant unusual risks and subsidies.

**Section 53610. Declaration of Intent further finds:**

(e) That, the result of a successful conclusion of the land claims cases will be the payment of large sums of money to the people of Guam for the deprivation of their property without the payment of adequate consideration, and the availability of these funds to the claimants will benefit all of Guam by reducing dependency on social programs, by allowing Guamanian families to provide advanced and technical education for their children; by providing Guamanians capital for business ventures in Guam; by expanding the supply of money available in the territory of Guam; and will generally benefit the economic future of Guam in a very large measure; and

(f) That, it is in the public interest, and sound public policy for every assistance to be provided by the government of Guam to these land claimants who have suffered hardship so long, through no fault of their own,
by the loss of their property to assist the military forces of
the United States for the benefit of Guam."

However, with the conclusion of litigation prosecuted under 48
U.S.C. §1424c came the realization that litigation has not produced a
satisfactory outcome for claimants harmed by United States' land
takings on Guam: by virtue of harsh adverse rulings of the U.S.
District Court on fundamental issues in the litigation, claimants have
had to settle their claims at less than fair market value without
benefit of a trial before a jury or other independent trier of fact.
Large numbers of non-litigant claimants who dropped out for want
of litigation resources, or the will to prosecute their claims in court,
remain without any remedy at all. The appraisal standards
developed under 48 U.S.C. §1424c for determining fair market value
as the rightful measure of just compensation have still not been
applied, with the result of gross underpayment even after all
remedies provided under 48 U.S.C. §1424c have been exhausted.

(d) Legislative Intent. Accordingly, I Liheflagturan Guåhan
finds the continuing need to pursue just remedies to redress the harm
done to landowners as individuals and to Guam as a whole, resulting
from the taking of Guamanian lands by the United States on or after
January 1, 1930. In pursuing just remedies and redressing the harm
done, two classes of landowners emerge: (1) those whose lands have
been declared excess by the Federal government, and (2) those whose
lands have not been declared excess and may or may not likely be
declared excess by the United States in the future. It is the intent of I
Lihe slaturan Guåhan to address the requirements of both classes by enactment of this law, to expand authority of existing laws and to embody in law a sound statutory basis for filing future claims or ancestral titles to lands surplus to the government’s needs. Therefore, for the purposes of effecting this law, I Maga’lahen Guåhan or his designee, and the Director of the Department of Land Management, shall hereby be authorized to and shall administer the transfers to such persons and upon such terms and conditions at such times as it may determine to be suitable in replacement of lands or full recovery of original lands acquired for military or naval purposes on Guam in the aftermath of WWII, lands not to be otherwise required for public purposes.

As to both classes of landowners, the Guam Economic Development Authority and the Department of Land Management are hereby granted the additional powers required to aggressively continue Guam’s landowners’ campaign for equal political and socioeconomic justice under American law to include the authority and the responsibility required as provided herein to determine just compensation for the loss of their interests in land, and, the pursuit of recovery of that amount by accomplishing just remedies as have been provided herein.

As to the second class of landowners, I Lihe slaturan Guåhan desires to extend the same provisions afforded the first class of landowners, as well as establish a process for the recognition and protection of future claims, accepting the authoritative argument set
forth in U.S. Public Law Number 103-339 "Guam Excess Land Use Plan" Report (September, 1996) as a basis for this process:

"...several species of private property may remain firmly attached to or vested in estates of federal excess lands in Guam, which may be deemed to constitute senior entitlement or rights of preferment thereto: as when aboriginal title of the native inhabitants in public domain lands remains unextinguished; as when future private property interests in estates of federal excess lands have been established by federal law but remain unextinguished; as when a land exchange claim or right to same under U.S. Public Law Number 225 [59 Stat. 584, c.485] remains unextinguished; as when reversionary private property interests in estates of Federal excess lands have been duly created by Guam law but remain unextinguished; and, as when the United States, or the Government of Guam as an instrumentality of the United States, acts or has acted as a trustee owing a fiduciary obligation to the native people of Guam, especially with respect to their legal rights to lands in which aboriginal title, future interests (i.e. right to transfer) and/or reversionary interests have been established in fact and by law, and remain unextinguished."

Title 21, Guam Code Annotated regulates real estate within Guam. In Title 21 the nature of property, ownership and owners rights are defined. Specific provision in law is made for "future interest" defined in §1221 as "a future interest entitled the owner to
the possession of the property only at a future period" as when public lands become excess, and therefore subject to future interest claims. Future interests pass by succession, will and transfer in the same manner as present interests (§1230). A future interest is not void merely because of the improbability of the contingency on which it is limited to take effect (§1228); no future interest, valid at its creation, is defeated by the determination of the precedent interest before the happening of the contingency on which the future interest is limited to take effect (§1404). Of course "the happening of the contingency on which the future interest is limited to take effect" has, by some land claimants who have already filed "Claims of Future Interest," been interpreted to be the excessing and disposal of those Federal lands having been declared surplus and excess and to which other contingent or future property interests may attach.

In accordance with its responsibility under both Federal and local law this plan takes account of the possibility the public lands at issue here may be subject to private ownership claims as yet unmade because based on the existence of future interests as defined by law. A claim of ownership constitutes an encumbrance on a property in the same manner as any identified constraint (i.e. Federal contamination, right-of-way, perpetual easement, wetlands, etc.). Under Guam law legal process has been established by which rights of owners, if any, may be asserted. Under Guam law individuals having interests, or who believe they have property interests, may take actions to determine the validity of their claims. Actions to
determine conflicting claims may also be taken under law. It is important to note, however, that claims on property are actions which must be taken by claimants themselves. Guam law provides for the resolution if claims pursuant to law, but the burden to make and defend claims rests with the claimant alone.

The government of Guam has long recognized that historic injustices persist with respect to many people's ancestral lands. The United States Government has also given its recognition of this situation both in law and by administrative acts. Indeed, U.S. Public Law Number 103-339 represents such recognition as recently as 1994. To the extent a lawful remedy for injustice may be found for those who stake their claim it may eventually be said that some justice was regained. However, the burden to right past wrongs rests on those whose asserted rights eventually prevail. And, those who rest on their rights risk losing them altogether.

Guam Public Law Number 22-145 requires preparation of a Land Use Plan for all Federal excess land parcels designated under U.S. Public Law Number 103-339 which accounts for each parcel's original ownership. Guam Public Law Number 22-145 also establishes land transfer conditions and exemptions, including interim use conditions. Land exempt from transfer pursuant to Guam Public Law Number 22-145 include all lands presently utilized for public uses such as easements, utilities and the like (see §8, Guam Public Law Number 22-145).
Guam Public Law Number 23-23 provides in “§2004. POLICY WITH RESPECT TO ORIGINAL LANDOWNERS. It is the policy of the government of Guam that land returned by the Federal Government to Guam be returned to the estates that held such property prior to the condemnation of said lands by the Federal Government. Exceptions to this policy shall be:

(a) Lands Clearly Under Existing Public Use.
In such circumstances the government of Guam shall make good faith efforts to derive a means of compensation for continued public use of such lands.

(b) Lands that were Spanish Crown Lands, or otherwise passed directly into the possession of the government of the United States with the Treaty of Paris at the end of the Spanish-American War.

(c) Lands condemned by the government for the United States, or otherwise acquired, prior to January 1, 1930.

(d) Land for which said original landholder against whom condemnation was exercised was not an individual or family, but rather an organization, be it fraternal or either a profit-making or non-profit corporation, or otherwise.”

Indeed, the entire legal history of civil government on Guam is laced with provisions for the protection and recognition of private property rights, as well as provision for common public use of lands.
required to achieve the common good. Because of the manner by
which Federal land takings occurred on Guam following WWII, it is
widely believed that private property rights to public excess lands
remain unextinguished and may ripen when excess lands are finally
acquired by the government of Guam. If this in fact becomes the case
the laws of Guam are firmly in place to satisfactorily deal with these
matters based on claimant initiatives, public use transfer
prohibitions, etc. The role of the government of Guam is found in the
protection, not the creation, of private and public property.

Section 3. Guam Ancestral Lands Act. Chapter 80 is hereby
added to Title 21 of the Guam Code Annotated to read as follows:

"CHAPTER 80.
GUAM ANCESTRAL LANDS COMMISSION.

Section 80101. Definitions. Whenever used in this Chapter:

(a) 'Ancestral Lands' shall mean those lands owned privately
by residents of Guam on or after January 1, 1930.

(b) 'Ancestral Lands Title' shall mean that right and interest
entitling an owner or owner’s descendants or heirs to the
repossession of property taken by the United States of America or the
government of Guam on or after January 1, 1930, having thereafter
been declared excess or, where not declared excess, in exchange
therefor.

(c) 'Ancestral Property Right' shall mean the right and interest
that a private property owner has in relation to inherited land or
lands possessed by private property owner’s ancestor."
(d) 'Ancestral Title Registry' shall mean the registry into which is entered all information pertaining to ancestral land claimants who are granted land title, either by land exchange or land recovery, in exchange for the permanent extinguishment of all claims thereto.

(e) 'Applicant' shall mean any person or persons, legal entity or government, who files a claim in accordance with Chapter 80 of Title 21 of the Guam Code Annotated, and Articles 9 and 9A of Title 12 of the Guam Code Annotated.

(f) 'Claims Registry' shall mean the registry into which is entered information based on a determination by the Commission that a valid basis exists for an ancestral title claim by an applicant.

(g) 'Commission' shall mean the Guam Ancestral Lands Commission.

(h) 'Conditional Awards Registry' shall mean the registry into which is recorded information in relation to each determination made by the Commission with respect to an ancestral title and compensation application made by a claimant.

(i) 'Determination' shall mean an administrative ruling by the Commission with respect to an applicant's request for an extinguishment of an ancestral claim.

(j) 'Excess Lands Registry' shall be a listing of all lands declared excess by the Federal government and acquired by the government of Guam on or after the effective date of this Act.
(k) 'Just compensation' for the purposes of Chapter 80 of Title 21 of the Guam Code Annotated, and Articles 9 and 9A of Title 12 of the Guam Code Annotated, as amended, shall mean only land recovery or land exchange, and shall also mean any other form of compensation other than a specifically described available land.

(l) 'Original land' shall mean the actual specifically described land, in whole or in part, which was confiscated or condemned by the United States of America or the government of Guam on or after January 1, 1930, and have been thereafter declared excess to which a prior private ownership interest held by a resident of Guam on January 1, 1930 was previously attached.

(m) 'Original landowners registry' shall mean the registry into which information pertaining to all lands taken and the names of owners whose properties were confiscated or condemned on or after January 1, 1930.

(n) 'Replacement land' shall mean land surplus to the Federal government or the government of Guam, and not in public benefit use, or needed for public benefit use, to which no private ownership interest was attached on January 1, 1930, and which may be used as a replacement for original lands confiscated or condemned by the United States government or the government of Guam.

Section 80102. Affirmation of and Authorization to Exercise a Fundamental Civil Right in Ancestral Real Property Also Known as Lands. The responsibility of the government of Guam to enforce rights in private property, as a civil right, pursuant to the laws of the United
States of America applicable to Guam and the Laws of Guam is hereby acknowledged and reaffirmed. The responsibility of the government of Guam to also enforce the entire community's rights in public property, as common property, is also hereby acknowledged and reaffirmed.

The government of Guam expects to eventually accept transfer of the ownership of lands to be disposed under 'The Guam Excess Lands Act' through the U. S. General Services Agency and as a result of decisions in 1993 and 1995 issued by the U.S. Base Realignment and Closure Commission, subject to certain specified encumbrances, including unrelinquished property rights retained either by the United States of America or other prior owners, with applicable judicial procedures available should disputes arise. However, it is recognized that a process does not now exist to recognize the ancestral land rights of landowners whose properties have not been declared surplus and may not ever be declared surplus by the military in the future. Likewise, the process established by Guam Public Law Number 22-145 for disposal of three thousand two hundred (3,200) acres of Guam excess lands does not apply to claimants whose claims are attached to excess land elsewhere.

I Liheslaturan Guåhan recognizes that the rights of landowners to full use and enjoyment of their private property was long deprived because of unsettled issues described in the foregoing §80103 of this Chapter. Therefore, to restore the rights of landowners to the use of their ancestral lands, I Liheslaturan Guåhan through this Chapter hereby affirms and formally recognizes the 'Ancestral Property Right'; establishes an administrative process for the exercise of that right; and creates the Guam
Ancestral Lands Commission and authorizes the Commission to administer the provisions of this Chapter in order that original landowners, their heirs and their descendants may expeditiously exercise all their fundamental civil rights in the property they own. The exercise of 'ancestral property right' claims shall be applicable to lands already declared excess by the Federal government and shall also be applicable to all future declaration of excess lands either by the United States Government or by the government of Guam.

Section 80103. Guam Ancestral Lands Commission. There is within the government of Guam the 'Guam Ancestral Lands Commission' to carry out the purposes of this Chapter. The Commission shall be composed of seven (7) members with seven (7) people appointed by I Mga’lahen Guåhan with the advice and consent of I Liheslaturan Guåhan.

The seven (7) Commissioners shall be appointed by I Mga’lahen Guåhan and shall be residents of Guam and descendants or heirs of ancestral land owners or claimants, and they shall serve terms of four (4) years from the date of their appointment.

Six (6) Commissioners shall constitute a quorum of the Commission for the conduct of all business. A vote of a majority of the members of the Commission shall be required for any action of the Commission. The Commission shall adopt rules and regulations governing the conduct of its affairs. It shall elect a Chairman and Vice-Chairman from among the Commissioners and may employ an executive director and such staff as is necessary to carry out the duties set forth in this Chapter, pending the submission and approval of a budget by I Liheslaturan Guåhan. Each
Commissioner shall receive the sum of Fifty Dollars ($50.00) for attendance of each meeting of the Commission, providing that such compensation shall not exceed One Hundred Dollars ($100.00) per month, and providing that they are not members of I Lihe'slaturan Guåhan.

Section 80104. Powers and Duties of the Commission.

(a) Commission to Establish Ancestral Lands Registries.

The Commission is directed to establish and maintain five (5) separate registries for the purposes of recording accurate information in the settlement of ancestral claims, as set out in the Subsections below.

(1) Original Landowners Registry. The Original Landowners Registry is a listing of all lands taken under the names of owners of record at the time of taking whose properties were confiscated or condemned by the United States of America, or by the government of Guam on or after January 1, 1930, as well as other pertinent location and ownership information in relation to the property. The Original Landowners Registry shall be used for the purpose of confirming an applicant's property claim, for future extinguishment upon receipt of just compensation, as defined by this Chapter.

(2) Excess Lands Registry. The Excess Lands Registry is a listing of all lands that have been declared excess by the Federal government or the government of Guam, including all lands that may be declared excess in the future by the
government of Guam. The Excess Lands Registry shall be used for the purpose of identifying a specified lot or lots of land with which the Commission may use as 'just compensation' in extinguishing ancestral claims.

(3) Claims Registry. The Claims Registry is a listing of all claims to ancestral title filed by applicants.

(4) Conditional Awards Registry. The Conditional Awards Registry is a listing of conditional awards of just compensation.

(5) Ancestral Title Registry. The Ancestral Title Registry is a listing of applicants granted land title in return for the surrender of all their ancestral property claims.

(b) Duties of Commission. In establishing all five (5) registries established in this Section, the Commission or designated staff shall investigate, record, file, report and respond to requests by ancestral land claimants for remedy, including government of Guam, whose land was taken by the United States or by the government of Guam on or after January 1, 1930. Remedy includes just compensation, as defined in §80101 of this Act, which for purposes of this Chapter is defined as limited to the return of land or access to landlocked lots across public lands, if public lands block access to private property.

The Commission shall establish, in accordance with the Administrative Adjudication Law, written procedures for extinguishment of Claims, award of just compensation and
recordation of Ancestral Land Title, as well as other rules and regulations required to administer this Chapter. The Commission shall promulgate rules and regulations to administer the Commission’s functions in a fair, just, economical and expedient way, and shall establish fees and specify materials reasonably required to accompany applications in order to extinguish a claim in favor of a just compensation award.

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

**Step 1: Filing of Ancestral Claim** – Applicant in this first step submits an application to the Commission containing applicant’s assertion that applicant and others, if any, hold ancestral title in relation to a specified lot of land by virtue of inheritance. Based upon the information provided, the Commission shall make a determination if in fact a valid basis for an ancestral title claim exists. The ancestral title claim shall then be entered in the Claims Registry. The Claims Registry shall contain the information required to be entered, as established by the Commission by rules and regulations. The Commission must accept an application for determination of claim, provided the following minimum information is given:
1. date on which application was submitted to the Commission;

2. whether the application was submitted to the Commission, or Commission’s designee, and the name of the Commission or designee;

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

4. the area of land covered by the claim, including property descriptions and maps;

5. description of the persons who it is claimed hold the ancestral title; and

6. other details about the claim as the Commission may deem appropriate.

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

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

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

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

**Category 2:** Revised Ancestral Title Determination – for
revocation or variation of an approved determination of
ancestral title on the grounds that:

(a) events have taken place since the
determination was made that have caused the
determination no longer to be correct; or

(b) the interests of justice require the variation or
revocation of the determination; or

**Category 3: Compensation Application.** This
Chapter sets forth two (2) forms of compensation for future title
claims which shall be either the return of original ancestral
land, or just compensation, as defined in §80101 of this Act,
based upon mutually satisfactory negotiations between the
government and the applicant. Before relinquishment of
exchange land the Commission shall certify that the exchange
lands show no history of ancestral ownership or ancestral
ownership claim on or after January 1, 1930.

The Commission must accept an ancestral title and
compensation application provided the following requirements are
met by the claimants:
that the kind of application falls within the three (3) categories defined above;

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

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

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

(a) a sworn affidavit that the applicant:

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

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

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

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

(d) evidence of heirship;

(e) name and address of the person who is to be considered the claimant (The name of the person given under this item will become the registered ancestral title claimant.); and
(5) all accompanying fees as prescribed by the Commission.

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

1. name of the Commission or designee that made the determination;
2. date on which the determination was made;
3. area, location, and description of specific land covered by the determination;
4. the matters determined; and
5. other details about the determination or decision as the Commission deems appropriate.

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

**Step 4: Extinguishment of Ancestral Land Claim –** An ancestral land claimant is granted claimant’s land title either by land exchange or land recovery on the condition that
the ancestral title holder surrenders all rights and interests in relation to ancestral land claims thereby permanently extinguishing all rights, interests and claims to the claims. Upon the Commission's issuance of title by an award of just compensation and extinguishment of claims, the ancestral title holder's name is removed from the Conditional Awards Registry, and is entered into the Ancestral Lands Title Register by the Commission. The Commission shall prescribe the appropriate form to effectuate issuance of compensation and extinguishment of ancestral claim. The Commission shall ensure that the ancestral title holder is issued a suitable property conveyance deed in full satisfaction of ancestral title holder's ancestral title award. Once listed as ancestral title holder after acceptance of specifically described land, the holder and all of holder's heirs, successors and assigns, and those who may assert subsequent claims derived from the holder, are forever barred from reentry into the Claims Registry.

(d) Director of Land Management to Reserve All Future Lands Received by Government of Guam Declared Excess for Entry into Excess Lands Registry. For the purposes of administering this Section, the Director of Land Management is authorized and required to reserve all future lands received by the government of Guam declared excess, and ensure that all information pertaining to excess lands, both current and future, are sent to the Commission for
entry into the Excess Lands Registry. The Commission shall maintain and give the public the right to review the Excess Lands Registry.

(e) **Land Bank.** The Commission shall take title, as Trustees, of former Spanish Crown Lands and other non-ancestral lands that are conveyed by the Federal government to the government of Guam after the effective date of this Act, on behalf of ancestral landowners who, by virtue of continued government or public benefit use cannot regain possession or title to their ancestral lands.

The Commission shall establish a Guam-based trust to administer all assets and revenues of the land bank of the aforementioned lands and manage the lands, and act as the developer of the lands, *if necessary*, to the highest and best use. The Commission shall establish rules and regulations pursuant to the Administration Adjudication Law for the Guam-based trust. The resulting income shall be used to provide just compensation for those dispossessed ancestral landowners.

(f) **Notification of Extinguishment of Ancestral Claims.**
The Commission shall ensure that all parties whose interests may be affected in the extinguishment of an ancestral claim are notified in writing, *if at all possible*, and through public notice in a Guam newspaper of general circulation.

(g) **Appeal Through Judicial Process.** If disputes arise from an application which cannot be resolved by the Commission,
then any of the opposing parties may invoke the judicial process at
the party’s expense.”

Section 4. Land Claims Facilitator. (a) Legislative Intent of
This Section. I Liheisluran Guåhan recognizes the continuing
need to pursue just remedies to redress the harm done to land
owners as individuals, and to Guam as a whole, but that the pursuit
of just remedies is not within the ready reach of the average land
owner, unless the government of Guam also assumes the role of
Claims Facilitator. Therefore, the Guam Ancestral Lands
Commission is granted powers required to aggressively continue
Guam landowners’ campaign for equal political and socio-economic
justice under American Law to include the authority and the
responsibility required as provided in Chapter 80 of Title 21 of the
Guam Code Annotated to assist landowners in filing claims with the
Guam Ancestral Lands Commission, to include assistance in
determining the area of land due and owing to landowners of Guam,
as just compensation for the loss of their interests in land, and the
pursuit for the recovery of that amount by accomplishing just
remedies as have been provided in Chapter 80 of Title 21 of the
Guam Code Annotated.

(b) Section 2926(c) is hereby added to Title 12 of the Guam
Code Annotated to read as follows:

“(c) ‘Facilitator’ means the Guam Ancestral Lands
Commission.”
(c) Section 2927 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

"Section 2927. Landowner's Recovery Fund Created.

There is created the 'Landowner's Recovery Fund' to further the purposes of Chapter 80 of Title 21 of the Guam Code Annotated, to grant loans, or guarantees of loans or grants-in-aid to landowners, or to defer costs or fees of professional services required by those landowners or class of landowners whose land, rights in land or interest in land were taken by the Naval Government of Guam or the United States Government on or after January 1, 1930, in order to assist such landowners with pursuit of adequate remedies for such taking, such remedies to include just compensation or return of the land or access to landlocked lots or other adequate redress of an adverse impact of the land takings, all to be on a reimbursable basis, according to standards and conditions set out in §2908 of this Article. The Fund shall be utilized to make funds available for landowners to contract with attorneys and necessary non-attorney consultants and for the Facilitator, on behalf of a class of landowners, to likewise contract for such professional services as are required to further the aims of this Article. The Fund shall be utilized to make funds available as necessary for real property research, survey, pre-trial discovery, pre-litigation settlement negotiation or litigation in the
4. to commission special appraisals to be performed where claims involve water or mineral rights; and

5. to investigate all government of Guam property for the purposes of determining the existence of original landowners."

Section 5. Section 75104(b) of Chapter 75 of Title 21 of the Guam Code Annotated is hereby amended to read as follows:

"(b) Any land acquired by the government by having been declared excess by the U.S. Government, or any agency thereof, after the effective date of this Chapter shall acquire the status of ancestral land and be reserved by the Director of the Department of Land Management for the extinguishment of ancestral land claims. All such lands shall be described, surveyed and mapped, and that information shall be sent to the Guam Ancestral Lands Commission to be recorded in the Excess Lands Registry."

Section 6. Old Commission Abolished. The Ancestral Lands Commission established by Executive Order prior to the enactment of this Act shall be abolished upon enactment of this Act, and all authority, staff, equipment and funding given to the previous commission shall be transferred to the Guam Ancestral Lands Commission established by this Act.

Section 7. Remedies and Procedures Provided Herein. Nothing in this Act shall be interpreted to eliminate in whole or in part any remedy or
procedure which may be utilized to further the just claim of any party to land.

Section 8. Notwithstanding any provision of this Act, all government of Guam lands owned or acquired prior to the enactment of this Act, excepting those lands otherwise reserved for other purposes pursuant to law, shall continue to be deemed "Chamorro Homelands," and shall be utilized as "available lands" within the programs of the Chamorro Land Trust Commission. However, this Section shall not invalidate a valid claim by an original landowner on any government of Guam properties.

Section 9. Severability. If any provision of this Act or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application and to this end the provisions of this Act are severable.