

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
239-32 (COR)	Dennis G. Rodriguez, Jr., Michael F.Q. San Nicolas	AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL PROCESS TO ADDRESS CLAIMS RELATIVE TO PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY THE GOVERNMENT OF GUAM WITHOUT JUST COMPENSATION.	12/13/13 2:28 p.m.	12/16/13	Committee on General Governmental Operations and Cultural Affairs			



COMMITTEE ON RULES

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December 16, 2013

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio 
Chairperson of the Committee on Rules

Subject: Referral of Bill Nos. 236-32(COR) through 240-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill Nos. 236-32(COR) through 240-32(COR)**.

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.



Si Yu'os Ma'åse!

Attachment

I MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (FIRST) Regular Session

Bill No. 239 -32 (*coR*)

Introduced by:

Dennis G. Rodriguez, Jr. 
Michael F.Q. San Nicolas 

**AN ACT TO ESTABLISH AN EXPEDITED JUDICIAL
PROCESS TO ADDRESS CLAIMS RELATIVE TO
PROPERTY EXPROPRIATED FOR PUBLIC PURPOSES BY
THE GOVERNMENT OF GUAM WITHOUT JUST
COMPENSATION**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Short Title. This Act shall be cited as the “Government Takings Compensation Act.”

Section 2. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the manner and method of taking land for public easements must be in accordance with the Organic Act of Guam and the laws of Guam. However, when establishing easements, government agencies and instrumentalities have placed utility infrastructure on private property without the proper exercise of eminent domain or negotiated transfer. These encroachments have placed an unfair burden upon citizens seeking redress, and only those who can afford attorney’s fees and professional surveying services have the capacity to confirm that these encroachments have violated the law.

It is the intent of *I Liheslatura* to place the burden of proof on the government entity alleged to have established the easement or placed the utility infrastructure on the private property in question. If it is found that government

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1 encroachment is proven, claimants should be allowed just compensation from the
2 time of the encroachment determination. Market value should be calculated from
3 time of the taking pro-rated to the value at the time period and claimant should be
4 entitled to receive interest on the fair market amount due accruing from time of
5 taking.

6 It is therefore the intent of *I Liheslatura* to establish an expedited judicial
7 process within the courts to address such matters and make determinations as to
8 claims and determine adequate compensation.

9 **Section 3.**Section 11311.1 of Article 3 of Chapter 11 of Title 7 of the Guam
10 Code Annotated is *amended* to read as follows:

11 “§ 11311.1. **Inverse Condemnation.** Any person whose land was
12 expropriated for public purposes by the government of Guam between
13 August 1, 1950, and July 1, 1994, and who has not been compensated by the
14 government of Guam for such taking may institute an action for inverse
15 condemnation. In any taking by the government of Guam after July 1, 1994,
16 in which the government fails to follow the eminent domain provisions of
17 Title 21, Guam Code Annotated, the person whose land is taken shall have
18 five (5) ~~four (4)~~ years from the time of such taking, or by December 31,
19 2017, whichever is later, to institute an action for inverse condemnation
20 pursuant to 21 GCA Chapter 16. For purposes of this section, the current
21 owner of the land subject to the claim may seek compensation dating back to
22 the time of the taking. An action shall lie for the taking of a person’s fee or
23 for lesser compensable interest in the property which has been expropriated
24 by the government of Guam without according the person due process. In
25 any action for inverse condemnation in which an award is made to a person
26 for a taking, the court shall also award reasonable attorney’s fees and costs.”

1 **Section 4.**A new Chapter 81 is hereby *added* to Division 2 of Title 21,
2 Guam Code Annotated, to read:

3 **“Chapter 16**

4 **Claims for Government Land Taking & Condemnation Actions**

5 **§16101. Filing A Claim.** Any person whose land was expropriated by
6 the government of Guam who has not been compensated by the government
7 of Guam for such taking may file a claim for inverse condemnation with the
8 agency or instrumentality which expropriated such land. In any taking by the
9 government of Guam after July 1, 1994, in which the government failed to
10 follow the eminent domain provisions of 21 GCA, a claim may be filed for
11 inverse condemnation within five (5) years from the time of such taking, or
12 by December 31, 2017, whichever is later. Such claim shall precede the
13 filing of any action pursuant to §11311.1 of 7 GCA. All claims shall include
14 documentation that the claimant has real interest in the property.

15 **§16102. Administrative Adjudication.** Upon receipt of a claim, the
16 head of any agency or instrumentality to which a claim was filed shall have
17 60 days to act.

18 **§16103. Expedited Judicial Process for Claims for Government**
19 **Land Taking and Condemnation.** The Judiciary of Guam shall establish
20 an expedited judicial process within the Superior Court of Guam to address
21 claims for government land taking and condemnation actions, which shall be
22 a court of record administered by one (1) or more Hearing Officers who
23 shall be appointed by the Chief Justice of the Supreme Court of Guam and
24 who shall be subject to the conditions articulated in §4401(b) of Title 7,
25 Guam Code Annotated, regarding magistrates. Such matters shall be filed as
26 Government Takings Proceedings.

1 **§16104. Purpose.** The purpose of this expedited process is to provide
2 a speedy and efficient legal process for government land takings and inverse
3 condemnation cases which will assist the Superior Court judges in
4 adjudicating such.

5 **§16105. Functions and Duties of Hearing Officers.** Under the
6 authority of the Superior Court, a hearing officer shall have the following
7 duties in relation to government land takings and inverse condemnation
8 matters only:

- 9 (a) To take testimony and receive evidence for the record;
10 (b) To hear and decide motions and matters, unless the same are
11 appealed by any party, including but not limited to the following
12 matters:

- 13 1. Orders to show cause for contempt;
14 2. Motions of joinder;
15 3. Motions to amend pleadings or to dismiss;
16 4. Pretrial settlement conferences;
17 5. Motions to withdraw;
18 6. Mediation to compel discovery;
19 7. To conduct informal office conferences with the parties to
20 discuss and resolve problems or questions about any matters
21 relating to claims of government land takings or inverse
22 condemnation;
23 8. To refer appropriate cases to mediation;
24 9. To adjudicate the claim.

- 25 (c) Subpoena powers. A hearing officer or the clerk of court may issue
26 subpoenas and subpoenas duces tecum at the request of any party

1 in accordance with the provisions of §7201, et seq., of Title 6,
2 Guam Code Annotated.

3 **§16106. Cost of Investigation and Confirmation.** The agency or
4 instrumentality which is alleged to have taken land without just
5 compensation pursuant to this Chapter shall pay for the cost of investigating
6 and confirming claims. In the event that a claim is determined to be
7 frivolous and/or fraudulent, the claimant shall be held liable for any amounts
8 expended to investigate or confirm the claim.”

9 **§16107. Decisions Final Unless Timely Appealed.** All decisions of
10 the hearing officer shall be final unless, within thirty (30) days of the filing
11 of the decision adjudicating the claim, the claimant notifies the hearing
12 officer of the intent to appeal the decision to the Superior Court of Guam.
13 The claimant shall have two (2) years to file an appeal.

14 **Section 5. Severability.** If any provision of this Act or its application to any
15 person or circumstance is found to be invalid or contrary to law, such invalidity
16 shall not affect other provisions or applications of this Act which can be given
17 effect without the invalid provisions or application, and to this end the provisions
18 of this Act are severable.