

**21 GCA REAL PROPERTY
CH. 69 IMPROVEMENT DISTRICT LAW**

**CHAPTER 69
IMPROVEMENT DISTRICT LAW**

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§ 69101. Title.

This Chapter may be cited as the *Improvement District Law*.

SOURCE: GC §48000 as amended by P.L. 14-76.

CROSS-REFERENCES: See 11 GCA Chapter 31 for the creation of the *District Improvement Fund*. These two chapters are not directly related.

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§ 69102. Purpose.

The purpose of this Chapter is to provide a method of cooperation among landowners in obtaining construction or reconstruction of public facilities as defined herein within any municipality or village of Guam and any area within any municipality or village by creation of improvement districts and to provide a method of financing such construction, reconstruction, maintenance and operation.

SOURCE: GC §48001 as amended by P.L. 12-131 and P.L. 14-76.

§ 69103. Eligibility.

Areas eligible for consideration under this Chapter are limited to those that:

- (a) have more than three (3) lot owners; and
- (b) have no two (2) lot owners controlling seventy-five percent (75%) of the total area.

SOURCE: GC §48002 AS AMENDED BY P.L. 14-76.

§ 69104. Definitions.

As used in this Chapter, unless the context requires otherwise:

- (a) *Commission* means Territorial Land Use Commission.
- (b) *Department* means the Department of Public Works.
- (c) *Landowner or owner of land* means any owner of legal title of record to land in Guam, including the government of Guam. Land does not include improvements.
- (d) *Executive Secretary* means Executive Secretary of the Territorial Land Use Commission.
- (e) *Director* means the Director of Public Works.
- (f) *Public facility* means any street, alley or other public way, sidewalks, sewer, water main, power line, public lighting, park, playground, beach front, recreational area and comparable projects primarily for the benefit of landowners within an improvement district.
- (g) *Construction or reconstruction* includes acquisition of property, easements or rights-of-way.
- (h) *Municipality or village* means those areas set forth and described in 1 GCA §403.

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NOTE: Reference to §15001.1 changed to 1 GCA §403 by Compiler pursuant to P.L. 15-104, which repealed the older section and enacted 1 GCA §403.

(i) *Improvement District Revolving Fund* means the account set up to fund projects.

(j) *District* means the district landowners petition for.

SOURCE: GC §48003; subsection (c) amended by and (h) added by P.L. 12-131; as amended by P.L. 14-76. Subsection (a) amended by P.L. 20-147:3 to reflect the change in name to the *Territorial Land Use Commission* from the old Territorial Planning Commission.

§ 69105. Administration.

The administration of this law shall be under the supervision of the Commission with the active participation of the Department of Public Works and the Department of Land management as hereinafter provided, and to make such rules and regulations, subject to the approval of the Governor by Executive Order, and receive such aids from other departments or agencies of the government of Guam, as are necessary to carry out the provisions and spirit of this Chapter.

SOURCE: GC §48004 as amended by P.L. 14-76.

§ 69106. Initiation of Improvement Districts.

If the owners of twenty-five percent (25%) of the land lying within any single municipality or village in Guam or any area within any municipality or village desire to have an improvement district created for the purpose of constructing or reconstructing and financing one or more public facilities, they may file a petition with the Director asking that such a district be created.

The petition shall set forth:

(a) The proposed name of the district;

(b) A statement that there is a need for the creation of the district to provide for the construction or reconstruction of one or more public facilities as enumerated;

(c) A description of the boundaries of the proposed district, with a drawing on a base map selected by the Department;

(d) A request that the Commission issue an order for the Department or Agency concerned to survey, study and evaluate the

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proposed facilities, including plans and specifications and to furnish estimates of the cost of construction;

(e) The signatures of the landowners petitioning for the establishment of the district.

SOURCE: GC §48005 as amended by P.L. 12-131 and P.L. 14-76.

§ 69107. Review by Director.

When a petition is filed, the Director will forward to Land Management to review the same. Land Management will determine the identity of owners whose land is within the proposed district. A preliminary estimate benefits to the land involved will be made by the Director. In making his determination, he will consider the need for any additional property to connect the proposed public facility with existing facilities and its compatibility with the master plan of the commission.

SOURCE: GC §48006 as amended by P.L. 14-76.

§ 69108. Cost Scale.

The Director shall prepare unit cost scales or request such scales to be prepared by other departments or agencies from time to time for use in reviewing petitions and in preparing estimates of costs.

SOURCE: GC §48007 as amended by P.L. 14-76.

§ 69109. Report to Commission and Initial Notice to Landowners.

After review of the petition, the Director will submit a report, with his recommendations, to the Commission. If the Commission approves the project, it will notify by mail the owners of all lands within the proposed district. The notice will contain a description of the proposed public facility, the estimated cost of each landowner and a statement of the time, not to exceed thirty (30) days, within which written consent of landowners may be filed with the Commission. If the Commission does not approve the project, the Director shall notify the petitioners of the disapproval.

SOURCE: GC §48008 as amended by P.L. 14-76.

§ 69110. Preliminary Consent.

If, within the time prescribed by the notice, the owners of sixty percent (60%) of the land and sixty percent (60%) of the landowners within the proposed district give their approval in writing to the proposed district, the Commission will establish the district. If such approval is not given, the Commission shall not establish the district; provided, however, that if such

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approval is subsequently given, the Commission shall reconsider the petition.

SOURCE: GC §48009 as amended by P.L. 12-131 and P.L.14 -76.

§ 69111. Order for Specific Plans and Specifications.

If the project is approved, the Commission shall enter its order. The order will be referred to the Director, who will request the Department or Agency concerned for preparation of final construction plans and specifications and an estimate of the cost of the project as approved. The Director shall determine the allocations of costs among the landowners within the proposed district.

SOURCE: GC §48010 as amended by P.L. 14-76.

§ 69112. Classifications of Lands for Assessments.

The Director shall classify all land in the proposed district that may be benefitted by the project into classes, not to exceed five in number, by land use within each zone. The land receiving the most benefit shall be designated Class A and other classes shall be marked Class B, Class C, Class D and Class E, respectively, on a descending scale. The classification will be based on the extent to which each parcel or lot will be benefitted by the proposed facility. The classification of lands and the allocation of costs to be assessed to each lot or parcel will be determined by the Director subject to approval by the Commission. Classification will be based on the following:

- (a) Area as determined by multiples of one thousand two hundred (1,250) square feet;
- (b) Frontage on street or road;
- (c) Potential use as determined by zoning or existing non-conforming use;
- (d) Distance from improvement installed;
- (e) Assessment differentials;
- (f) Assessed land value increase; and
- (g) Subtraction of public benefit costs where additional capacities are required for extension beyond district boundaries with the exception of right-of-way.

SOURCE: GC §48011 as amended by P.L. 14-76.

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§ 69113. Allocation of Cost.

After all land has been classified on the basis of benefits received, the Director shall:

(a) Pro-rate the total costs among the classes of land, determined according to the percentage of benefit of the public facility to each class.

(b) Pro-rate the total costs assigned to each class among the parcels of land contained in that class.

(c) Allocate to each parcel its costs and prepare an itemized statement of the costs for the owner of each separate parcel, which will show the total amount in full at completion of the project, and the annual installments if the costs are paid over a period of five (5) years or a period ten (10) years with interest at six percent (6%) per annum.

(d) Submit a final report to the Commission, setting out in detail the completed plans and specifications, the total cost of the project and the proposed assessment against each parcel of land within the district including the five and ten-year plans of amortization.

SOURCE: GC §48012 as amended by P.L. 14-76.

§ 69114. Final Notice.

Upon the filing of the report, the Executive Secretary will mail to each landowner notice of the proposed assessment. Such final notice shall show the amount of the proposed assessment if paid upon completion of the project, the annual installments if amortized over five (5) years and the annual installments if amortized over ten (10) years.

The Executive Secretary shall also cause to be published a notice once per week for two successive weeks in a newspaper of general circulation in Guam which will state the place and a date not less than two weeks from the date of the last publication, at which a public hearing in the area, municipality or village affected will be held by the Commission. The notice will state the place, time and date of the hearing and include a brief description of the district, the proposed public facility, the total cost and the place at which the report may be inspected by interested persons.

SOURCE: GC §48013 as amended by P.L. 14-76.

§ 69115. Final Protest.

Any interested person may object to the proposed public facility, the extent of the proposed district or the proposed assessment against his land

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by filing a written protest with the Executive Secretary before the time set for the hearing or voice a protest during the hearing. The Executive Secretary shall endorse on each protest the date of its receipt and at the time appointed for the hearing shall present to the Commission all protests filed with him.

SOURCE: GC §48014 AS AMENDED BY P.L. 14-76.

§ 69116. Hearing.

At the time and place set for the hearing, the Commission shall consider the final report of the Director in the light of protests filed against the proposed assessments and may adopt the report as submitted, or with modifications or corrections, or abandon the project. The Commission may adjourn from day to day, if necessary, until sufficient information can be obtained to permit proper decision.

SOURCE: GC §48015 as amended by P.L. 14-76.

§ 69117. Submission to Governor.

If the final report is adopted by the Commission, it shall cause the Executive Secretary to prepare a complete summary of its actions to be submitted to the Governor with the final report of the Director and the Commission's recommendation for review and final decision.

SOURCE: GC §48016 as amended by P.L. 14-76.

§ 69118. Review By Governor.

The final report when received by the Governor shall be retained in his office for not less than fifteen (15) days for study and review, after which time he may approve or reject the same in whole or in part.

SOURCE: GC §48017 as amended by P.L. 14-76.

§ 69119. Judicial Review.

Any owner of land within a proposed district who claims to be injured by the establishment of the district may file a complaint in the Superior Court of Guam within sixty (60) days of the approval of the final report pursuant to § 69121 creating the district for review of such claim, the procedures establishing the district and legality thereof. The Court will take appropriate action under this law and the rules of Court. Such review shall not concern itself with the adequacy of proposed condemnation awards, the issue of compensation if in dispute to be determined only after trial thereon

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pursuant to the provisions of 21 GCA Division 1, Ch. 15 (Eminent Domain).

SOURCE: GC §48018 as amended by P.L. 14-76.

§ 69120. Where Other Than Minor Changes.

If the Judicial or Executive review results in other than minor changes, the final report shall be returned to the Commission unapproved, where it shall be reconsidered and resubmitted; otherwise, the Governor shall issue his Executive Order as provided in § 69122.

SOURCE: GC §48019 as amended by P.L. 14-76.

§ 69121. Final Disposition of Returned Report.

The Commission may, after consideration of the changes required when a report is returned pursuant to § 69120, abandon the project or prepare and submit a revised report in accordance with the procedures herein set out.

SOURCE: GC §48020 as amended by P.L. 14-76.

§ 69122. Executive Order Creating Improvement District.

If the Governor approves the final report, the report shall have the force and effect of the law, and the proposed assessments shall become liens upon the lands against which assessed and shall be payable and collectable as taxes under the provisions of Chapter 24, 11 Guam Code Annotated, Finance and Taxation.

SOURCE: GC §48021 as amended by P.L. 14-76.

§ 69123. Addition to Assessment Roll.

An itemized listing of the assessments approved shall be forwarded to the assessor who shall add the total amount of each assessment as a special assessment on the tax list of the owner or owners of the land within the improvement district on the next assessment roll prepared after creation of the district. The special assessment shall be entered as a separate item. The amount so entered shall not be subject to change by the Board of Equalization, but said Board may correct the roll for clerical errors or omissions.

SOURCE: GC §48022 as amended by P.L. 14-76.

§ 69124. Crediting of Assessment Funds.

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Assessed funds shall be credited back to the agency or department originally providing such. The cost for furnishing of power to the street light districts shall be credited to the Guam Power Authority. All other funds shall be credited back to the District Improvement Revolving Fund. Credits shall be transmitted on the first day of June and December of each year as collected.

SOURCE: GC §48022.1 as amended by P.L. 14-76.

§ 69125. Election to Amortize Special Assessment.

The taxpayer may, on or before the date when the first half of property taxes is due, elect to pay in annual installments the amount of the special assessment in either five (5) or ten (10) years, or pay the same in full as other property tax within the year. If the taxpayer elects to pay in installments, the tax collector shall collect the amount due in accordance with such election and credit each payment to the special assessment portion of the tax bill and after each installment show the balance of the assessment. Thereafter, the unpaid balance and the annual installment shall not be construed as preventing the owner of land subject to the assessment from paying the unpaid balance at any time. All special assessment collection including interest and penalties shall be credited as per § 69124.

SOURCE: GC §48023 as amended by P.L. 14-76.

§ 69126. Construction Procedure.

Upon notification by the Governor that the improvement district has been created, the Department of Public Works shall prepare invitations to bid, based upon the plans and specifications as approved, and proceed to advertise for bids as in other contracts for construction. When bids are received, the contract shall be let to the lowest and best bidder; but the contract price may not exceed the final estimate of costs of construction submitted by the Department of Public Works as hereinbefore provided. If no such bids are received, the Department of Public Works shall proceed with the authorized construction. Such Department shall keep exact and detailed records of all costs of construction.

SOURCE: GC §48024 as amended by P.L. 14-76.

§ 69127. Acceptance and Payment for Construction.

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Upon completion of construction, the Director of Public Works shall certify to the Commission that the project is completed according to the plans and specifications. The Commission shall immediately inspect the construction and shall approve or reject the project. If the project is approved as completed, the Commission shall order final payment made from the Improvement District Revolving Fund. If not approved, the Commission may require such additional work as is necessary to meet the plans and specifications, before payment is ordered. If the construction is performed by the Department of Public Works, the payment shall be in the nature of reimbursement of its operating appropriation from the Improvement District Revolving Fund to the extent of the cost of construction not to exceed the total assessment. The Commission may authorize progress payments for construction upon an installment basis, but such payments may not total more than eighty percent (80%) of the total cost until final completion and acceptance.

SOURCE: GC §48025 as amended by P.L. 14-76.

§ 69128. Improvement District Revolving Fund.

There is hereby created the Improvement District Revolving Fund to be used to finance costs of public facilities pursuant to this Chapter. The Fund shall be subject to the provisions of 5 GCA.

SOURCE: GC §48026 as amended by P.L. 14-76.

§ 69129. Administration of Improvement District Revolving Fund.

The Director may apply for and accept advances, loans, grants, contributions, gifts, donations, appropriations of funds and any other form of financial assistance from the Federal government, the government of Guam or other public body or agency, or from any sources, public or private, for the purpose of this Chapter and enter into and carry out contracts in connection therewith.

SOURCE: GC §48026.1 as amended by P.L. 14-76.

§ 69130. Application to Subdivisions.

This Chapter may not be used to provide for the financing of improvements required for subdividing land under the Subdivision Law, either as a separate improvement district or as part of another proposed improvement district. However, in the latter instance, with regard to any required improvements within and limited to the subdivision, the full cost of such subdivision improvements shall be allocated exclusively to parcels within the

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subdivision in addition to the pro-rata share of the cost public facilities for the entire district.

SOURCE: GC §48027 as amended by P.L. 12-131 and P.L. 14-76.
