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CH. 75 CHAMORRO LAND TRUST COMMISSION

2021 NOTE: P.L. 35-112:2 (Dec. 10, 2020) provides that “Chapter 75 of Title 21, Guam Code Annotated, *shall* remain intact for leases approved prior to January 1, 2021”.

CHAPTER 75
CHAMORRO LAND TRUST COMMISSION

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2021 NOTE: Pursuant to P.L. 35-112:2 (Dec. 10, 2020), Chapter 75 “shall remain intact for leases approved prior to January 1, 2021.” Applications for leases that have not been approved by January 1, 2021 shall be subject to the terms established by P.L. 35-112:1, which enacted a new Chapter 75A, Title 21 GCA.

2017 NOTE: Past print publications of the GCA included an annotation from the previous Compiler, recognizing that, since the enactment P.L. 12-226 (Feb. 4, 1975) that created the Chamorro Land Trust Commission, “the Legislature has passed many laws dealing with the transfer, lease, exchange and sale of governmental land,” and some “make no reference whatsoever to the Chamorro Land Trust Act” while others “expressly waive its provisions.” The Compiler’s Note listed “all laws, which, in some manner, waive the applicability of the Land Trust Act to certain land transactions.” This annotation is outdated and therefore, has been removed from future publications of the GCA.

NOTE: EFFECTIVE DATES: Original Chapter VI of the Government Code, Leases and Sales, enacted by P.L. 1-88, was repealed and a new Chapter VI, Chamorro Land Trust Commission (§ §13500 - 13516), enacted by P.L. 12-226. Section 5 of P.L. 12-226 reads as follows:

“Section 5. Effective Date. Section 1 shall take effect in two steps: Section 1 of the bill and Sections 13501 and 13503(b) of Section 2 of the bill shall take effect January 1, 1975. The remaining sections in Section 1, and Sections 2 and 3 shall take effect on the date the Commission has its first meeting.”

The Chamorro Land Trust Commission held its first meeting in March of 1993.

§ 75101. Definitions.

When used in this title:

- (a) The term *Commission* means the Chamorro Land Trust Commission.
- (b) The term *territory* means the territory of Guam.

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(c) The term *Chamorro homelands* means all lands given the status of Chamorro homelands under the provisions of § 75105 of this Chapter.

(d) The term *Native Chamorro* means any person who became a U.S. citizen by virtue of the authority and enactment of the Organic Act of Guam or descendants of such person.

(e) The term *department* means the Department of Land Management.

(f) The term *Suruhana* or *Suruhanu* means a publicly recognized individual who heals through massage and the use of traditional *Chamorro* remedies that include the use of roots, leaves, bark, plants, and grass and incorporates the cultural healing process.

SOURCE: GC § 13500 repealed and reenacted by P.L. 12-226. Subsection (d) amended by P.L. 15-113:1. Subsection (f) added by P.L. 30-032 (June 16, 2009).

§ 75102. Commission: Composition, Chairman, Compensation.

(a) There is within the government of Guam the Chamorro Land Trust Commission. The Commission shall be composed of five members to be appointed by the Governor with the confirmation of the Legislature. Commission members shall be appointed within sixty (60) days after the enactment of this Chapter. All members shall have been residents of the Territory at least three (3) years prior to their appointment and at least three of the members shall be native Chamorro. Members shall serve terms of three (3) years, provided, however, that of the members first appointed, one shall be appointed for a term of one (1) year and two shall be appointed for terms of two (2) years. The members of the Commission shall be paid at the rate of Fifty Dollars (\$50) for each day's attendance at a meeting of the Commission, provided, however, that such compensation shall not exceed One Hundred dollars (\$100) per month. The Governor shall appoint the Chairman of the Commission from among the members thereof. The Commission shall have its first meeting within twenty (20) days after confirmation of its members.

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(b) The Commission may employ such clerical and other assistants who shall be classified employees as may be necessary to effectively execute its responsibilities. In addition, the Commission shall employ and fix the compensation for an Administrative Director who shall serve in a full-time capacity and who shall exercise such powers and authority as may be delegated to him by the Commission. The Director shall be a native Chamorro. Furthermore, the Commission may employ and fix the salary of professional consultants.

(c) The Commission *shall* meet regularly on the third Thursday of every month at 1 p.m. *or* more often as determined by the Chairperson of the Commission. At its first meeting the Commission *shall* select a Vice Chairperson who *shall* conduct the meetings in the absence of the Chairman. In the absence of both the Chairperson and the Vice-Chairperson from a meeting, a quorum of the members *shall* select an Acting Chairperson to conduct the meeting until the Vice-Chairperson *or* Chairperson is in attendance. In the absence of a quorum, Minutes *shall* be prepared indicating the lack of a quorum, the date, and the members in attendance. Any appointed member of the Commission who fails to attend three (3) consecutive regular meetings, without being excused pursuant to a motion passed by the Commission, *shall* automatically be disqualified to continue serving in his *or* her position and the appointing authority *shall* then be required to appoint a replacement for said member. The Executive Director *shall* transmit to *I Maga'lahi* and *I Liheslatura* notice of three (3) unexcused absences of any member.

SOURCE: GC § 13501 repealed and reenacted by P.L. 12-226. Subsection (a) amended by P.L. 13-6:4; 13-74:1 and 15-148:7. Subsection (c) added by P.L. 29-116:8 (Nov. 25, 2008) as an untitled subsection. Numbered by Compiler to harmoniously fit this section.

§ 75103. Administration.

(a) The Commission shall adopt rules, regulations, and policies in accordance with Article 3, Chapter 9 of Title 5 of the Guam Code Annotated, *Government Operations*. The Commission may accept grants, contributions, and appropriations and may make such expenditures, loans and other disbursements as are authorized by this Chapter. These

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disbursements shall be allowed and paid out in accordance with the direction of the Commission upon presentation to the Administrative Director of itemized vouchers therefor signed by the Commission certifying officer.* The Administrative Director shall give bond in the sum of Five Hundred Thousand Dollars (\$500,000) for the faithful performance of his duties. These funds created by § 75112 of this Chapter shall be maintained separate and apart from any other government fund and shall be in the custody of the Commission certifying officer. The Commission shall make an annual finance and progress report to the Legislature upon the first date of each regular session thereof and such special reports as the Legislature may from time to time require.

(b) When land originally leased by the Commission is, in turn, subleased by the Commission's lessee or sublessee, the Commission shall submit, within ten (10) days of the convening of any regular session, a written report to the Legislature which shall cover the sublease transactions occurring in the calendar year prior to the regular session and shall contain the names of the persons involved in the transaction, the size of the area under lease, the purpose of the lease, the land classification of the area under lease, the lease rental, the reason for approval of the sublease by the Commission, and the estimated net economic result accruing to the Commission lessee, and sublessee.

(c) The Commission shall have the power and authority to invest and re-invest any of the money in any of its funds, not otherwise immediately needed for the purposes of the funds in such bonds and securities authorized in 4 GCA Chapter 8. Any interest or other earnings arising out of such investment shall be credited to and deposited in the Chamorro Home Loan Fund.

NOTE: Reference to Chapter III, Title V of this Code, (Retirement of Public Employees), changed by Compiler to conform with the GCA recodification.

(d) The Commission is authorized to carry on any activities it deems necessary to assist lessees in obtaining maximum utilization of leased lands, including taking any steps necessary to develop these lands for their highest and best use commensurate with the purposes for which the land is being leased as provided for in § 75107, and assisting lessees in all

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phases of farming and ranching operations and the marketing of their agricultural produce and livestock. In these efforts the Commission shall coordinate its efforts with the Department of Agriculture.

(e) The Commission, may designate and plan subdivisions in accordance with the provisions of Chapter 62 of this Title 21 Guam Code Annotated, on available lands, in, adjacent to, or near any village. Subdivision lots shall be leased in accordance with § 75107.

(f) Assistance in the Development and Administrative Implementation of Loan and Fund Programs. The Chamorro Land Trust Commission is authorized to enter into memorandums of agreement, or contract with government or private agencies or lending institutions, relative to servicing loans made or guaranteed by the Commission pursuant to §§ 75112, 75113 and 75114, or other applicable provisions of this Chapter 75, applicable law and regulation.

The Commission shall provide for in its administrative rules and regulations the processes by which non-government of Guam agencies, to include Federal agencies and instrumentalities and private lending institutions, may participate in the Commission's revolving fund and special fund programs, to the extent authorized pursuant to this Chapter 75, applicable law and regulation.

SOURCE: GC § 13502 as repealed and reenacted by P.L. 12-226. Subsection (f) added by P.L. 24-220:2.

NOTE: *GC § 13502 contained the words "...in accordance with Public Law 12-34" at point of asterisk in subsection (a) above. The portion of the law creating the Territorial Auditor's Office has been repealed and the functions of auditor have been shifted to other agencies of the government (P.L. 17-7). The functions of certifying officers are found in Chapter 14 of Title 4 GCA, *Public Officers and Employees*.

§ 75104. Certain Government Lands Designated Available Lands.

(a) All government lands excluding (1) all lands dedicated to a specific public use by law, and (2) all lands reserved in accordance with § 60105 of this Title which reservations are submitted to and concurred in by the Legislature within ninety

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(90) days of the enactment of this Chapter, are hereby designated as available lands.

(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.

SOURCE: GC § 13503 repealed and reenacted by P.L. 12-226. P.L. 12-226 provided that effective date of GC § 13503(b) was January 1, 1975. Subsection (a) amended by P.L. 22-18:5. Subsection (b) amended by P.L. 25-45:5.

§ 75104.1. Transfer of Lot No. 237-6-1, Agaña.

[Repealed].

SOURCE: Added by P.L. 22-152:6 (12/29/94). Repealed by P.L. 30-074:2 (Nov. 27, 2009).

§ 75105. Control by Commission of Available Lands; Return to Department.

Upon and after the enactment of this Chapter, all available lands shall immediately assume the status of Chamorro homelands and shall be under the control of the Commission to be used and disposed of in accordance with the provisions of this Chapter, except that:

(a) In case any government land is under lease, permit or agreement at the enactment of this Chapter, such land shall not assume the status of Chamorro homelands until the lease, permit or agreement expires or the lands are withdrawn from the operation of the lease, permit or agreement. If the land is covered by a lease, permit or agreement containing a withdrawal clause, the department shall withdraw such lands from the operation of the lease permit or agreement whenever the Commission gives notice to it that the lands are required by it for the purposes of this Chapter.

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(b) Any available land as may not be immediately needed for the purposes of this Chapter, may be returned to the department for management. Any Chamorro homelands so returned may be disposed of under a general lease only. Each such lease, whether or not stipulated therein, shall be deemed made subject to the right and duty of the department to terminate the lease and return the lands to the Commission whenever the Commission gives notice that the lands are required by it for the purposes of this Chapter. However, no lease shall be made for a term to exceed twenty-five (25%) years. All income arising out of any lease or license entered into under this subsection shall be credited to and deposited in the Chamorro Home Loan Fund.

(c) The Department, with the approval of the Commission, or the Commission may sell to any contiguous landowner any fractional lot placed under its management which was created by the adoption of the standard block system, or bull cart trails that no longer serve the transportation function originally intended. The Chamorro Land Trust Commission *shall* offer any such land for sale to any contiguous landowner of such property, on written application of such owner, provided:

(1) that the land is not contiguous to government property, does not serve as a utility easement, or does not provide access to natural resources;

(2) that the sale price is based on the appraised fair market value having due regard to the fair market value of contiguous properties, and that the price be paid in full in cash equivalent;

(3) that if the property extends into property other than that belonging to the applicant, that the property to be sold *shall* be subdivided to align with the borders of such adjacent owners;

(4) that notice of the application *shall* be given to all owners of land within five hundred (500) feet adjacent to the applicant's land;

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(5) that where the land to be sold adjoins land in addition to the applicant's land, and such adjacent owner timely objects to the application, the land *shall* be sold by the highest cash price bid at an auction conducted, to include the applicant and any other adjacent owner objecting, it being a condition of sale that the highest price bid is not less than the appraised fair market value; and

(6) that unless expressly provided otherwise, any use of the term "owner," in relation to interests in real property, in this Title, as well as any derivative thereof, including, but not limited to, "landowner" or "property owner," is presumed to mean an owner in fee simple or absolute fee, and to exclude any other estate or interest therein.

(d) In the management of any retained available lands not required for leasing under § 75107, the Commission may lease or license such lands to the general public. Any lease or license made under this subsection shall comply with the conditions of subsection (b) above.

(e) The Commission may, in order to consolidate its holdings or to better effectuate the purposes of this Chapter, exchange the title to available lands for land of an equal value. All lands so acquired by the Commission shall assume the status of available lands as though the same were originally designated as such under § 75104.

(f) The Commission shall not lease or license any available land until it is registered under the provisions of Chapter 29 of this Title (Land Title Registration Law).

(g) The Commission shall utilize Lot No. 382-R1, Inarajan, containing an area of 304.76 acres and being Chamorro Homelands, only for affordable housing

SOURCE: GC § 13504 repealed and reenacted by P.L. 12-226. Subsection (g) added by P.L. 22-18:6. Subsection (c) amended by P.L. 33-090:2 (Nov. 9, 2015).

§ 75106. Other Officers Not to Control Chamorro Homelands; Exception.

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The powers and duties of the Governor and the department with respect to lands of the territory shall not extend to lands having the status of Chamorro homelands except as specifically provided for in this Chapter.

SOURCE: GC § 13505 repealed and reenacted by P.L. 12-226.

§ 75107. Leases to Chamorro, Licenses.

(a) The Commission is authorized to lease to native Chamorros the right to the use and occupancy of a tract or tracts of Chamorro homelands within the following acreage limits per each lessee:

(1) not less than one quarter (0.25) acre, *nor more than* one half (0.50) acre for subsistence agricultural or aquaculture farming;

(2) not less than one half (0.50) acre, *nor more than* twenty (20) acres for commercial agricultural or aquaculture use;

(3) not less than one (1) acre, *nor more than* twenty (20) acres for grazing use; and

(4) not more than one (1) acre for any class of land to be used as a residential lot.

(b) The title to lands so leased shall remain in the territory. Applications for tracts shall be made to and granted by the Commission under such regulations, not in conflict with any provision of this Chapter, as the Commission may prescribe. The Commission shall, whenever tracts are available, enter into such a lease with any applicant who, in the opinion of the Commission, is qualified to perform the conditions of such lease.

(c) The Commission is authorized to grant licenses for terms of not to exceed twenty-one (21) years in each case, to public utility companies, or corporations as telephone lines, electric power and light lines, gas mains, and the like. The Commission is also authorized to grant licenses for lots within a village in which lands are leased under the provisions of this section, to:

(1) churches, hospitals, public schools, post offices, and other improvements for public purposes;

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(2) theaters, garages, service stations, markets, stores, and other mercantile establishments (all of which shall be owned by lessees of the Commission or by organizations formed and controlled by said lessees).

(d) Upon direction by statute from the Legislature, the Commission shall release to the department any unleased available land designated for a public purpose. Such land will no longer be considered to be Chamorro Homelands.

(e) The Commission *shall* require two (2) appraisals of any commercial property to be leased or any license to be issued as authorized by this Section. Appraisals *shall* be paid by the potential lessor or licensee, and at least one (1) appraiser *shall* be chosen by the Commission.

(f) Nothing herein *shall* be construed to authorize the commercial lease or the license of *Chamorro* Land Trust properties prior to the promulgation of rules and regulations, pursuant to the Administrative Adjudication Act or adoption by *Liheislatura* (the Legislature), to govern commercial leases and licenses.

(g) The Chamorro Land Trust Commission may also permit commercial leases to be subleased or assigned under the following provisions, and if the sublease or assignment would be beneficial for the Trust:

(1) Commercial Sublease.

(A) The master lessee of the commercial lease *shall* be permitted to sublease rooms or space within their established building structure for complementary commercial use as detailed in the master lease agreement or subject to the prior written approval of the CLTC.

(B) This provision *does not* permit the subleasing of the leased land. Said commercial sublease *shall* be allowed *only* with the prior written consent of CLTC, and *shall not* affect any duty or obligation of the master lessee to CLTC.

(2) Assignment of Commercial Lease.

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(A) A commercial lease may be assigned if the provisions of the original lease, and the duties or obligations of the original lessee, *do not* change. Assignment *shall not* be permitted if the lease or license was executed less than five (5) years prior; otherwise, the lease or license *shall* be put through the competitive solicitation process.

(B) Said assignment of commercial lease *shall* be allowed *only* with the prior written consent of CLTC.

SOURCE: GC § 13506 repealed and reenacted by P.L. 12-226. Subsection (d) amended by P.L. 22-18:4. Subsection (a) repealed and reenacted by P.L. 24-318:2; amended by P.L. 27-133:2 (Dec. 30, 2004). Subsections (e) and (f) added by P.L. 31-044:1 (May 17, 2011). Subsection (g) added by P.L. 33-095:3 (Nov. 9, 2015).

§ 75108. Conditions in Leases.

Each lease made under the authority granted the Commission by the provisions of § 75107 of this Chapter, and the tract in respect to which the lease is made, shall be deemed subject to the following conditions, whether or not stipulated in the lease.

(a) The original lessee shall be a native Chamorro, not less than eighteen (18) years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred or canceled in accordance with the provisions of succeeding sections.

(b) The lessee *shall* pay a rental of One Dollar (\$1.00) a year for the tract, and the lease *shall* be for a term of ninety-nine (99) years. Payment for the full term of the lease *shall* be paid, in full, within one (1) year from the effective date of the lease. The payments of such leases may be used for the payment of surveying Chamorro homelands pursuant to § 75108(g)(1) of this Chapter.

(1) The remaining balance on any residential or agricultural lease terminated prior to its expiration *shall* be refunded.

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(c) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one (1) year after the lease is made.

(1) The lessee of agricultural lands shall plant and maintain *not less than* five (5), ten (10), fifteen (15) and twenty (20) trees per acre of land leased and lessee of grazing lands shall plant and maintain *not less than* two (2), three (3), four (4), and five (5) trees per acre of land leased during the first (1st), second (2nd), third (3rd) and fourth (4th) years, respectively, after the date of the lease. Such trees shall be of types approved by the Department of Agriculture and at locations specified by the Department of Agriculture's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the Department of Agriculture free of charge.

(2) The lessee of aquaculture lands shall install and maintain not less than three hundred (300) square foot pond, tank or pool per acre of land leased. Such pond, tank or pool shall be at a location and of a type approved by the appropriate agencies. Such aquaculture farming and maintenance shall be by or under the immediate control and direction of the lessee and is subject to local and Federal permit requirements and regulations. The Chamorro Land Trust Commission may refer applicants to the appropriate agencies including, but not limited to: the United States Army Corps of Engineers, the Department of Public Works, the Department of Land Management, the Guam Environmental Protection Agency, the Bureau of Planning, the Department of Agriculture, the Department of Parks and Recreation, the Department of Revenue and Taxation, the Guam Power Authority, the Guam Waterworks Authority and the University of Guam, College of Natural and Applied Sciences, for resources such as permitting, planning assistance, industry information and financial assistance. The University of Guam, College of Natural and Applied

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Sciences is the lead agency for aquaculture development, technical assistance, training and resources. Such species suitable for aquaculture may be furnished by the University of Guam Hatchery (Guam Aquaculture Development and Training Center-GADTC) for a nominal fee, as available.

(d) (1) The lessee shall thereafter, for at least such part of each year as the Commission shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf. The Administrative Director of the Commission, or the Director of Land Management with respect to non-Commission land, shall approve all requests for the extension of power, water, or telephone services to a qualified applicant on such applicant's request. As used in this Subsection, qualified applicant shall mean:

(A) Any person occupying land pursuant to a lease, land use permit issued, or other permission from the government of Guam, or from any agency thereof to the person occupying the land, to a relative of the person occupying the land, or to an ancestor of the person occupying the land, which land is claimed by the government of Guam and/or the Commission; or

(B) Any person who, on the effective date of the amendment to this Subsection, is actually occupying land which is claimed by the government of Guam and/or the Commission and who has actually occupied such land for more than six (6) months immediately last past.

(C) As used in this Subsection, government of Guam shall include all of the government of Guam, its agencies and instrumentalities, including autonomous agencies, except for the Commission.

(2) Water shall be metered for both private and agricultural/aquaculture use. Approval by the Administrative Director of the Commission, or the

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Director of Land Management, does not waive any of the utilities' requirements or restrictions for the installation of the utilities, and the qualified applicant shall be responsible for paying the actual connection fees. The application, issuance, and connection of utilities shall *not* prejudice anyone in any ejectment action, quiet title action, litigation or claim relating to the property, nor shall it be construed as an admission, nor shall it create any presumptions.

(3) The application for a utility extension pursuant to this Subsection and the connection of utilities shall in no way prejudice the qualified applicant in any way as to any claim or litigation relating to ownership of the land in question, the validity of any lease or land use permit, the right of the qualified applicant to occupy the property, or the qualified applicant's use of the property. By so applying for utilities, the qualified applicant is in no way admitting, recognizing or ratifying any claim which the government of Guam or the Commission may have to the land in question.

(4) The granting of a utility extension pursuant to this Subsection and the connection of utilities shall in no way prejudice the government of Guam or the Commission in any way as to any claim or litigation relating to ownership of the land in question, the validity of any lease or land use permit, the right of the qualified applicant to occupy the property, or the qualified applicant's use of the property. By so granting such a clearance, neither the government of Guam nor the Commission is in any way admitting, recognizing or ratifying any claim which the qualified applicant may have to the land in question.

(e) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Chamorro or Chamorros; and then only upon the approval of the Commission, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in

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the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Chamorro or Chamorros approved of by the Commission or for any indebtedness due the Commission or for taxes, or for any other indebtedness the payment of which has been assured by the Commission, including loans from governmental agencies where such loans have been approved by the Commission, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon.

(f) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The Commission may in its discretion pay such taxes and have a lien therefor as provided by § 75114 of this Law.

(g) The lessee *shall* perform such other conditions, not in conflict with any provision of this Chapter, as the Commission may stipulate in the lease; provided, however, that an original lessee *shall* be exempt from all taxes for the first seven (7) years from the date of the lease.

(1) Thirty (30) days after the enactment of this Act, Chamorro homeland leases surveyed at the cost of the government of Guam *shall not* be eligible for the tax exemptions stipulated in this Subsection as an offset to the cost of such surveys.

(h) The Commission may assure the repayment of loans to lessees from local or Federal governmental agencies or instrumentalities, or private lending institutions where such loans have been approved by the Commission up to the limits prescribed in § 75112 of this Chapter; provided, that the lessee has no indebtedness due the Commission and the Commission shall not make any loans to the lessee while loans from local and Federal governmental agencies or instrumentalities, or private lending institutions, and guaranteed by the Commission are outstanding; provided further, that upon receipt of notice of default in the payment of such loans, the Commission, may upon failure of lessee to cure the default within sixty (60)

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calendar days, cancel the lease and thereupon use its best efforts to dispose of the tract to a qualified and responsible native Chamorro or Chamorros as a new lessee who will assume the obligation of the outstanding debt thereby assured, and to make payments to the local or Federal governmental agency, or instrumentality or private lending institution, from available funds either for monthly payments as they become due and payable or for the amount of the debt. In no event shall the aggregate amount assured by the Commission exceed the ability of the Chamorro Loan Guarantee Fund to reasonably provide security for the loans authorized.

(i) Upon completion of an application for a Chamorro Land Trust Commission lease, the lessee shall automatically and concurrently be registered with the Guam Election Commission Decolonization Registry.

SOURCE: GC § 13507 repealed and reenacted by P.L. 12-226. Subsection (c) amended by P.L. 27-133:3 (Dec. 30, 2004). Subsection (d) repealed/reenacted by P.L. 22-157:2 (12/30/94), amended by P.L. 27-133:4 (Dec. 30, 2004). Subsection (h) amended by P.L. 24-168:10. Subsection (i) added by P.L. 30-102:2 (Mar. 12, 2010), effective, Mar. 1, 1993, pursuant to P.L. 30-102:6. Subsection (b) amended by P.L. 33-102:2 (Dec. 1, 2015). Subsection (g) amended by P.L. 33-102:3 (Dec. 1, 2015).

2015 NOTE: Subsection designations in subsection (d) were altered in accordance with the authority granted by 1 GCA § 1606.

P.L. 33-090: 3 (Nov. 9, 2015) added § 75124 to this Chapter, to create the Chamorro Land Trust Survey and Infrastructure Fund. This fund would receive specific deposits as articulated by § 75124(a). P.L. 33-102:4 (Dec. 1, 2015) further specified monies to be deposited to this fund, and added the following uncodified law:

Section 4. Deposit of Funds into the *Chamorro Land Trust Survey Fund*. Funds received *shall* be deposited into the *Chamorro Land Trust Survey Fund*, created by Public Law 33-090.

§ 75108.1. Cottage Industry Activity Authorized.

(a) In accordance with the laws of Guam, and subject to rules and regulations promulgated by the *Chamorro* Land Trust Commission, residential and agricultural leaseholders are authorized to conduct small-scale cottage industry activities, in

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which goods and services are produced primarily within their leased residential and agricultural lots and in which the total net income earned on those lots *does not exceed* Fifty Thousand Dollars (\$50,000) per annum. The following cottage industry activities are authorized:

- (1) Farm Produce & Light Agriculture.
- (2) Baking & Producing Foodstuff.
- (3) Arts & Crafts.
- (4) Cultural Practitioning.
- (5) Alternative Medicine (*Suruhanu/Suruhana*).
- (6) Dress Making.
- (7) Growing & Selling Plants and Flowers.
- (8) Repair of Personal Effects.

(b) The *Chamorro* Land Trust Commission shall, pursuant to the Administrative Adjudication Act, promulgate rules and regulations governing cottage industry activities. These rules and regulations shall include environmental considerations to protect the quality of life for surrounding residents.

SOURCE: Added by P.L. 28-059:2 as § 75108.50, re-numbered by Compiler since §§ 75108.2-75108.50 do not exist. Subsection (a) amended by P.L. 30-075:2 (Nov. 27, 2009).

§ 75109. Successors to Lessees.

(a) (1) Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee, husband and wife, children, widows or widowers of the brothers and sisters, or nieces and nephews, the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. Such person or persons must be qualified to be a lessee of Chamorro homelands; provided, that such person or persons need not be eighteen (18) years

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of age; provided, further, however, that, if the person designated by the lessee:

(A) is the lessee's spouse;

(B) has been married to the lessee for at least the past seven (7) years;

(C) is residing on the property with the lessee in a structure that has been approved as a residence at the time of the lessee's death; and

(D) is not an eligible beneficiary as defined under this Act, such person shall, upon the death of the lessee, receive a life estate in the remainder of the lease, and upon termination of the life estate, assignment of the lessee's remaining interest in the lease shall be governed by the applicable provisions of the Chamorro Land Trust Act as if the lessee had died without designating his or her spouse as a beneficiary.

(2) Such designation must be in writing, must be specified at the time of execution of such lease with a right in such lessee in similar manner to change such beneficiary at any time and shall be filed with the Commission and approved by the Commission in order to be effective to vest such interests in the successor or successors named.

(3) In the absence of such a designation as approved by the Commission, the Commission shall select from the relatives of the lessee in the order named above as limited by the foregoing paragraph one (1) or more persons who are qualified to be lessees of Chamorro homelands except as hereinabove provided, as the successor or successors of the lessee's interest in the tract or tracts, and upon the death of the lessee, his interest shall vest in the person or persons so selected. The Commission may select such a successor or successors after the death of the lessee, and the rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.

(4) In the case of the death of a lessee leaving no such relative qualified to be a lessee of Chamorro homelands, the land subject to the lease shall resume its status as unleased

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Chamorro homelands and the Commission is authorized to lease such land to a native Chamorro or Chamorros as provided in this Chapter.

(5) Upon the death of a lessee leaving no such relative qualified to be a lessee of Chamorro homelands, or the cancellation of a lease by the Commission, or the surrender of a lease by the lessee, the Commission shall appraise the value of all such improvements and growing crops and shall pay to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the Commission, or for taxes, or for any other indebtedness the payment of which has been assured by the Commission, from the deceased lessee or the previous lessee. Such payment shall be made out of the loan fund and shall be considered an advance therefrom reimbursable out of payments made by the successor or successors to the tract involved. Such appraisal shall be made by three (3) appraisers, one (1) of which shall be named by the Commission, one (1) by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two (2) appraisers hereinbefore mentioned.(b) After the cancellation of a lease by the Commission in accordance with the provisions of § 75110 or § 75114 of this Chapter, or the surrender of a lease by a lessee, the Commission is authorized to transfer the lease or to issue a new lease to any qualified Chamorro regardless of whether or not he is related in any way by blood or marriage to the previous lessee.

(c) Should any successor or successors to a tract be a minor or minors, the Commission may appoint a guardian therefor subject to the approval of the Superior Court. Such guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold: provided, that said guardian shall, in so representing such successor or successors, comply with the provisions of this Chapter and the stipulations and provisions contained in the lease, except that said guardian need not be a native Chamorro as defined in § 75101 of this Chapter.

SOURCE: GC § 13508 repealed and reenacted by P.L. 12-226. Amended by P.L. 35-112:3 (Dec. 10, 2020).

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2021 NOTE: Designations added/altered in subsection (a) pursuant to authority granted by 1 GCA § 1606.

§ 75110. Cancellation of Leases.

Whenever the Commission has reason to believe that any condition enumerated in § 75108 or any provision of § 75109 of this Chapter has been violated, the Commission shall give due notice and afford opportunity for a hearing to the lessee of the tract in respect to which the alleged violation relates or to the successor of the lessee's interest therein, as the case demands. If upon such hearing the Commission finds that the lessee or successor has violated any condition in respect to the leasing of such tract, the Commission may declare his interest in the tract and all improvements thereon to be forfeited and the lease in respect thereto canceled and shall thereupon order the tract to be vacated within a reasonable time. The right to the use and occupancy of the Chamorro homelands contained in such tract shall thereupon revert in the Commission and the Commission may take possession of the tract and the improvements thereon.

SOURCE: GC § 13509 repealed and reenacted by P.L. 12-226.

§ 75111. Community Pastures.

The Commission shall, when practicable, provide from the Chamorro homelands a community pasture adjacent to each village.

SOURCE: GC § 13510 repealed and reenacted by P.L. 12-226.

§ 75112. Chamorro Home Loan Fund; Chamorro Home Development Fund; Chamorro Educational Fund; Chamorro Commercial Loan Fund; Chamorro Home Repair Loan Fund; and the Chamorro Loan Guarantee Fund.

(a) There are hereby established three (3) revolving funds to be known as the Chamorro Home Loan Fund, the Chamorro Commercial Loan Fund and the Chamorro Home Repair Fund and four (4) special funds to be known as the Chamorro Home Development Fund, the Chamorro Educational Assistance Fund, Chamorro Land Trust Operations Fund and the Chamorro Loan Guarantee Fund.

(b) Chamorro Home Loan Fund. There is hereby authorized to be appropriated from the Unappropriated Surplus of the

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General Fund the sum of One Million Dollars (\$1,000,000) as initial capital to said Fund. In furtherance of the purposes herein, the Commission may do any one or more of the following with moneys from this Fund and any borrowed moneys under (6) herein below.

(1) The Commission may extend the benefits of the Fund only to native Chamorros as defined in this Chapter.

(2) The Commission may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum amount not to exceed the financial ability of the borrower to satisfy the indebtedness as approved by the lender; provided, that where, upon the death of a lessee living on Chamorro homelands who leaves no relatives qualified to be a lessee of Chamorro homelands, or in the event of the cancellation of a lease by the lessee or by the Commission for cause, then the Commission shall be authorized to make payment and to permit assumption of loans, subject to the provisions of § 75113(b).

(3) Where the dwelling is on Chamorro homelands, anything in the Chapter to the contrary notwithstanding, either the Commission or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Chapter, including but not limited to the provisions of §§ 75107, 75108, 75109, 75110, 75113, 75114 and 75116, and to such legislative amendments of the Chapter herein or thereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Chamorros Home Loan Fund, or Chamorro Home Development Fund or otherwise required the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the Commission, and the Commission may assure the payment of such loans, provided that the Commission shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that

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written notice be given to the Commission immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the Commission.

(4) Where the dwelling is on non-Chamorro homelands, anything in the Chapter to the contrary notwithstanding, either the Commission or financial institutions may make loans, and in connection with such loans, the Commission shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the Commission may, by rules and regulations promulgate, provided, the Commission shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;

(5) The Commission shall establish interest rate or rates at two and one-half per cent (2½%) a year or higher, in connection with authorized loans on Chamorro homelands or non-Chamorro homelands, and where the going rate of interest on loans made by financial institutions to native Chamorros is higher, pay from the Fund or the moneys borrowed, the difference in interest rates;

(6) The Commission may borrow and deposit funds into a special revolving account for the purposes of repairing, maintaining, purchasing, erecting or improving dwellings on Chamorro homelands and non-Chamorro homelands and related purposes from financial institutions, governmental, or private;

The Commission may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;

(7) The Commission may exercise the functions and reserved rights of a lender of money or mortgagee of

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residential property in all loans by financial institutions made to Chamorros under this program. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment or otherwise underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the Commission.

(c) Chamorro Home Development Fund. Twenty-five percent (25%) of the amount of moneys covered into the Chamorro Home Loan Fund annually shall be transferred into the Chamorro Home Development Fund. The moneys in said development fund shall be available, with the prior written approval of the Governor for construction of sanitary sewage facilities for the construction of roads through and over Chamorro homelands, and for other non-revenue producing improvements.

(d) Match moneys. The Commission is authorized and empowered to use moneys in the development fund, with the prior written approval of the Governor, to match Federal funds available for the same purposes and to that end is authorized to enter into such undertakings, agree to such conditions, transfer funds therein available for such expenditures and to perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

(e) Chamorro Education Assistance Fund. Ten percent (10%) of the amount of moneys covered into the Chamorro Home Loan Fund annually shall be transferred into the Chamorro Educational Assistance Fund. The Department of Education shall establish and direct educational projects after consultation with the University of Guam and the Commission which shall be directed primarily for the educational improvement of the children of lessees, which shall be funded with this Fund with prior written approval of the Governor.

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(f) Chamorro Commercial Loan Fund. The Commission is authorized to create a Fund out of which loans may be made to those holding leases issued under § 75107 of this Chapter. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by said lessees. The amount and duration of loans from this Fund at any one time to any lessee, or successor or successors in interest, shall be determined by the Commission on the basis of the proposed operations of lessee(s) and the security available, provided that where, upon the death of a lessee leaving no relative qualified to be a lessee of Chamorro homelands, or the cancellation of a lease by the Commission, or the surrender of a lease by the lessee, the Commission shall make the payment provided for by § 75109(a). The amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, of any such loan to the successor or successors, without limitations as to any pre-established maximum amount but subject to provisions of Paragraph (b) of § 75113.

(g) Chamorro Home Repair Loan Fund. There is hereby authorized to be appropriated from the Unappropriated Surplus of the General Fund the sum of One Hundred Thousand Dollars (\$100,000) for the Chamorro Home Repair Loan Fund. The moneys in this Fund shall be used to make loans in amounts not in excess of Five Thousand Dollars (\$5,000) to lessees for repairs to their existing homes and for necessary additions to such homes due to increase in family size. Such loans may be made for periods not to exceed five (5) years.

(h) The Chamorro Loan Guarantee Fund. The Commission is authorized to create a Fund out of which loans made by governmental agencies or lending institutions to those holding leases or licenses issued under § 75107 of this Chapter may be guaranteed. This guarantee may be for home or commercial loan purposes. The loan guarantees shall be subject to the restrictions imposed by §§ 75108 and 75113 of this Act.

The Commission's guarantee of repayment shall be adequate security for a loan under any Guam law prescribing the

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nature, amount, or form of security, or requiring security upon which loans may be made. This guarantee shall include, but not be limited to, loans secured or obtained through the CIP and other programs of the Federal Home Loan Bank of Seattle, United States Federal agencies and instrumentalities, or any other public or private lending institution or program duly authorized to do business on Guam.

(1) Loan Default Remedy. In the event of a loan default, the Commission shall offer and reassign to the next qualified applicant the opportunity to assume any loan in default guaranteed by the Chamorro Loan Guarantee Fund. The Commission shall pursue this remedy to avert a loan default prior to making any direct repayment of a loan and accrued interest with funds from the Chamorro Loan Guarantee Fund.

(2) For purposes of this Section, a mortgage is considered in default when payments due upon the mortgage have not been satisfactorily tendered for a period of one hundred twenty (120) calendar days. The lending institutions shall provide to the Commission advance notice of a potential default in instances where payments due upon a mortgage have not been satisfactorily tendered for a period of sixty (60) calendar days. In cases where the mortgage or loan is obtained through the lending programs of United States agencies and instrumentalities, the period a loan is deemed to be in default if payments due upon the mortgage have not been satisfactorily tendered are determined by the applicable laws, rules and regulations of the respective programs.

(3) Upon notification of the default of a loan guaranteed by the Chamorro Loan Guarantee Fund, the Commission shall, during the period pending reassignment of the loan or the determination of the Commission to directly repay the loan and accrued interest due, bring current the payments due the lender with funds so reserved for such purposes in the Chamorro Loan Guarantee Fund. The aggregate amount of the payments made by the Commission to bring the loan current may be recovered by

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the Commission by adding such amount to the principal amount of the loan being reassigned to and assumed by a qualified Chamorro. All funds so expended and subsequently recovered shall be deposited in the Chamorro Loan Guarantee Fund.

(i) Applicable Taxes on *Chamorro* Homelands. Notwithstanding any other provision of law:

(1) Taxes on *Chamorro* Land Trust Land. The holder of any lease or license for the occupation or beneficial use of *Chamorro* Homelands shall be subject to all applicable taxes on the lessee's or licensee's interest in the land and on any improvements to any land so leased or licensed. Taxes assessed shall be collected by the Department of Revenue and Taxation, which shall maintain a separate record for all such taxes collected.

(2) Deposit and Earmarking of Funds Collected. All taxes identified in Item 1 of Subsection (i) of this Section shall be deposited in the *Chamorro* Loan Guarantee Fund, and is earmarked to carry out the purposes set forth pursuant to this Chapter.

(j) The Chamorro Land Trust Operations Fund. The Commission shall create a Fund called the Chamorro Land Trust Operations Fund (Fund), which shall be maintained separate and apart from any other funds and is subject to *I Liheslaturan Guåhan's* appropriation beginning in Fiscal Year 2006. Notwithstanding any other provision requiring the deposit of proceeds to other funds, the Fund shall receive the proceeds of all land use permits, monetary contributions and fees. The Commission shall create, within thirty (30) days of enactment, a reconciliation of all accounts in which such proceeds were deposited and shall transfer the remaining balances to the Fund. The Fund shall be used for the operational expenses of the Chamorro Land Trust Commission.

The Commission shall report on a quarterly basis to the Speaker of *I Liheslaturan Guåhan* the revenues collected and expended from the Fund and post the same on the Commission's

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website. The Fund shall be subject to audit by the Guam Public Auditor.

SOURCE: GC § 13511 repealed and reenacted by P.L. 12-226. Subsection (h) amended by P.L. 24-168:8. Subsection (i) added by P.L. 24-168:9. Subsection (b)(2) amended by P.L. 24-168:11. Subsection (a) amended by P.L. 28-068:IV:29 (Sept. 30, 2005). Subsection (j) added by P.L. 28-068:IV:30 (Sept. 30, 2005). Subsection (i) amended by P.L. 31-076:2 (Sept. 19, 2011).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education. References to Guam Public School System have been changed to Department of Education pursuant to P.L. 30-050:3.

§ 75113. Conditions of Loans.

Except as otherwise provided in § 75112, each contract of loan under this chapter with the lessee or any successor or successors to his interest shall be held subject to the following conditions whether or not stipulated in the contract loan:

(a) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semi-annual or annual as may be determined by the Commission in each case. The term of any loan shall not exceed thirty (30) years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of two and one-half percent (2½ %) a year for loans made directly from the Chamorro Home Loan Fund, or at the rate of two and one-half percent (2½%), or higher, as established by law, rule or regulation for other loans made or guaranteed by the Commission, payable periodically or upon demand as the Commission may determine. The payment of any installment due shall be postponed in whole or in part by the Commission for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest at the rate of two and one-half percent (2½%) a year, or higher, as established by law, rule or regulation for other loans made or guaranteed by the Commission, on the

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unpaid principal. Notwithstanding any other provision of law, rule, regulation or this Chapter 75, this Subsection (a) shall not diminish nor relieve the Commission of its obligation to assure or effect the periodic or full repayment of loans issued to a lessee by local or Federal governmental agencies or instrumentalities or private lending institutions, where such loans have been guaranteed by the Commission

(b) In the case of the death of a lessee the Commission shall, in any case, permit the successor or successors to the tract to assume the contract of loan. In case of the cancellation of a lease by the Commission or the surrender of a lease by the lessee, the Commission may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan. The Commission may, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon said loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payment shall, however, continue to bear interest at the rate of two and one-half percent (2½%) a year on the unpaid principle. Further, the Commission may, if it seems advisable and for the best interest of the lessees, write-off and cancel, wholly or in part, the contract of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write-off and cancellation shall be made only after an appraisal of all improvements and growing crops on the tract involved, such appraisal to be made in the manner and as provided for by § 75109(a). In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors.

(c) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.

(d) The borrower or the successor to his interest, shall comply with such other conditions, not in conflict with any

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provision of this Chapter, as the Commission may stipulate in the contract of loan.

(e) The borrower or the successor to his interest shall comply with the conditions enumerated in § 75108 and with the provisions of § 75109 of this Chapter in respect to the lease of any tract.

(f) Whenever the Commission shall determine that a borrower is delinquent in the payment of any indebtedness to the Commission, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the Commission of all moneys due or to become due to such borrower by reasons of any agreement or contract, collective or otherwise, to which the borrower is a party. failure to execute such an assignment when requested by the Commission shall be sufficient ground for cancellation of the borrower's lease or interest therein.

SOURCE: GC § 13512 repealed and reenacted by P.L. 12-226. Subsection (a) amended by P.L. 24-168:12.

2020 NOTE: Past publications included typographical errors in subsection (a) and (b) with regard to the interest rate, and the manifest error has been corrected pursuant to the authority of 1 GCA § 1606.

§ 75114. Insurance by Borrowers: Acceleration of Loans; Lien and Enforcement Thereof.

The Commission may require the borrower to insure, in such amount as the Commission may prescribe, any livestock, machinery, equipment dwellings and permanent improvements purchased or constructed out of any moneys loaned by the Commission; or, in lieu thereof, the Commission may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan. Whenever the Commission has reason to believe that the borrower has violated any condition enumerated in Paragraphs (b), (d), (e), or (f) of § 75113 of this Chapter, the Commission shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors to his interest, as the case demands. If upon such hearing the Commission finds that the borrower has violated the

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condition, the Commission may declare all principal and interest of the loan immediately due and payable notwithstanding any provisions in the contract of loan to the contrary. The Commission shall have a first lien upon the borrower's or lessee's interest in any lease, growing crops, either on his tract or in any collective contract or program, livestock, machinery and equipment purchased with moneys loaned by the Commission, and in any dwellings, or other permanent improvements paid by the Commission, and of all indebtedness of the borrower, the payment of which has been assured by the Commission, including loans from governmental agencies where such loans have been approved by the Commission. Such lien shall have priority over any other obligation for which the property subject to the lien may be security. The Commission may, at such times as it deems advisable, enforce any such lien by declaring the borrower's interest in the property subject to the lien to be forfeited, any lease held by the borrower canceled, and shall thereupon order such lease-hold premises vacated and the property subject to the lien surrendered within a reasonable time. The right to the use and occupancy of the Chamorro homelands contained in such lease shall thereupon revert in the Commission which may take possession of the premises covered therein and the improvements and growing crops thereon: provided that the Commission shall pay to the borrower any difference which may be due him after the appraisal provided for in Paragraph (a) of § 75109 of this Title has been made.

SOURCE: GC § 13513 repealed and reenacted by P.L. 12-226.

§ 75115. Ejectment, When: Loan To New Lessee For Improvements.

In case the lessee or borrower or the successor to his interest in the tract, as the case may be, fails to comply with any order issued by the Commission under the provisions of § 75110 or § 75114 of this Chapter, the Commission may bring action of ejectment or other appropriate proceedings for the enforcement of said order. Any tract forfeited under the provisions of § 75110 or § 75114 of this Chapter may be again leased by the Commission as authorized by the provisions of the § 75107 of this Chapter, except that the value, in the opinion of the Commission, of all improvement made in respect to such tract by

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the original lessee or any successor to his interest therein shall constitute a loan by the Commission to the new lessee. Such loan shall be subject to the provisions of this section §§ 75113 and 75114 to the same extent as loans made by the Commission from the Chamorro Home Loan Fund.

SOURCE: GC § 13514 repealed and reenacted by P.L. 12-226.

§ 75116. Agency Review of Statutory Authority.

All agencies, departments, boards, commissions, and other instrumentalities of the territorial government shall review their present statutory authority, administrative regulations and current planning policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full cooperation with the purposes and provisions of this Chapter and shall propose to the Commission not later than ninety (90) days after the enactment of this Chapter measures as may be necessary to bring their planning authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

SOURCE: GC § 13515 repealed and reenacted by P.L. 12-226.

§ 75117. Severability.

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

SOURCE: GC § 13516 repealed and reenacted by P.L. 12-226.

§ 75118. Commission Start-Up Fund.

Five Hundred Thousand Dollars (\$500,000) are appropriated from the General Fund to the Chamorro Land Trust Commission to initiate the business of the Commission in a manner consistent with the purpose and intent of this Chapter.

(a) The Commission shall establish a place of business and shall appoint and employ an Administrative Director who shall serve in a full-time capacity, and shall provide such Administrative Director with the necessary personnel and resources to carry on the work of the Commission as

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provided for in § 75102(b) of this Chapter. The salary of the Administrative Director shall be determined by the Commission as provided for in said § 75102(b) and shall not exceed the sum of Fifty-Five Thousand Dollars (\$55,000) per annum.

(b) Funds available under this section shall not be utilized to directly fund the programs set out in paragraphs (b), (c), (d), (e), (f), (g) and (h) of § 75112 of this Chapter.

SOURCE: Added by P.L. 22-09:2 (May 7, 1993).

2015 NOTE: Subsection designations altered to adhere to the Compiler's alpha-numeric scheme as authorized by 1 GCA § 1606.

§ 75119. Identification Of Land To Be Exchanged To Compensate Private Landowners.

The Commission, with the assistance of the Director of Land Management, the Director of Public Works, the Director of Agriculture, and the Director of Parks and Recreation, shall identify land under its jurisdiction which may be utilized by the Governor in exchanging property with private landowners whose lands have been expropriated by the government of Guam for public purposes prior to December 31, 1993, and for which no compensation has been paid to such private landowners.

SOURCE: Added by P.L. 22-73:7.

§ 75120. Title to Municipal Golf Course; Operation.

(a) Transfer of title of golf course to Commission. Title to and jurisdiction over that parcel of government-owned real property in the municipality of Dededo encompassing the Guam Municipal Golf Course, described as Lot No. 10122-12, containing an area of 829,124± square meters, less 28,328 ± square meters set aside as easements for the use of the Guam Power Authority and the Public Utility Agency of Guam, are hereby transferred to the Chamorro Land Trust Commission which shall act as administrator of the lease to Guam Municipal Golf Course, Inc., and shall receive all payments thereunder. All other terms of the lease agreement executed on January 17, 1989 (the "Lease") between the government of Guam and the Guam Municipal Golf Course, Inc. (the "Golf Course") shall remain in effect, except that references to the Department of Land

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Management shall be deemed to refer to the Chamorro Land Trust Commission (the "Commission").

(b) Rules. The Commission shall establish rules and regulations for the use of the lease payments described in subparagraph (a) of this section in accordance with the procedures set out in the Administrative Adjudication Law. The Commission shall annually publish a properly audited financial statement in a newspaper of general circulation. Nothing in this section shall be deemed a ratification of the Lease or of any actions of the Golf Course.

SOURCE: Added by P.L. 22-76:1.

§ 75121. The Establishment of ‘*Hatdin Ámot Chamorro*’.

(a) The *Chamorro* Land Trust Commission shall designate and make available a parcel of land in the northern part of the island that shall be designated as a Biodiversity Conservation Easement for the purpose of transplanting and cultivating herbal plants, and establishing *Hatdin Ámot Chamorro*.

(b) Block 3, Tract 1722 in the municipality of Mangilao, as shown on Land Management Instrument No. 880762 (Exhibit A), shall be designated as a Biodiversity Conservation Easement for the purpose of providing land for *Hatdin Ámot Chamorro*.

(c) The *Chamorro* Land Trust Commission, in consultation with the *Håya* Foundation (a non-profit organization dedicated to the preservation of the *Chamorro* healing arts), is hereby directed to establish the criteria, application, and operational procedures of *Hatdin Ámot Chamorro*. The procedures shall establish the parameters for the usage of the parceled lot and a list of plants to be cultivated. To qualify to use a parcel of *Hatdin Ámot Chamorro*, an applicant must be an individual eligible for residential lease of *Chamorro* Land Trust Commission land, and either:

(1) be a member or officer of a non-profit organization registered with the Department of Revenue and Taxation, whose charter includes the advancement of *Chamorro* traditional healing or medicine, or the advancement of *Chamorro* heritage and culture; or

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(2) be a *Suruhana* or *Suruhanu*, or an apprentice, or a student of traditional *Chamorro* medicines.

Preference *shall* be given to an applicant who meets more than one (1) of the qualifications in this Subsection.

SOURCE: Added by P.L. 30-032:3 (June 16, 2009), amended by P.L. 33-210:2 (Dec. 15, 2016).

2017 NOTE: Pursuant to P.L. 33-210:3:

Exemption. § 2107 of Title 2, Guam Code Annotated, and the Standing Rules of *I Mina'Trentai Tres Na Liheslaturan Guåhan* relative to the appraisals of land *shall* not apply to this Act.

§ 75122. Commercial Leases and Licenses.

(a) Definitions.

(1) *Commercial lease* is a leasehold interest in real property between the CLTC and a tenant (hereinafter referred to as “Commercial Lessee”) for the commercial use of real property under the management of the CLTC.

(2) *Commercial license* is an agreement between a tenant (hereinafter referred to as the “Commercial Licensee”) and the CLTC which permits certain activity to be conducted upon real property in the inventory of the CLTC, but does not confer upon the licensee any title or leasehold interest, and is terminable upon cessation of the approved activity. Pursuant to § 75107(c) of Chapter 75, Title 21 GCA, the Commission is authorized to grant licenses for terms not to exceed twenty-one (21) years in each case, to:

(A) public utility companies, or corporations as telephone lines, electric power and light lines, gas mains, and the like; or

(B) for lots within a village in which lands are leased under the provisions § 75107(a) of Chapter 75, Title 21 GCA, to:

(i) churches, hospitals, public schools, post offices, and other improvements for public purposes; or

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(ii) theaters, garages, service stations, markets, stores, and other mercantile establishments (all of which *shall* be owned by the § 75107(a) lessees of the Commission or by organizations formed and controlled by said lessees).

(3) *Commercial use* means commercial agriculture, commercial aquaculture, and any permitted use or a conditional use expressly allowed on an “A,” “R1,” “R2,” “C,” “P,” “S-1,” or “PF” zoned property pursuant to §§ 61304, 61305, 61306, 61307, 61308, 61312 and 61313 of Article 3, Chapter 61 of Title 21 GCA. Commercial use includes mineral extraction when specifically approved by the CLTC and *I Liheslaturan Guåhan* (the Guam Legislature). The appropriate regulatory clearances will be required for all commercial uses of CLTC lands.

(4) *Tenant* means an applicant who has been approved for either a commercial lease or license, and can also be referred to as a “Commercial Lessee or Commercial Licensee” in this Act.

(b) Designation of Available Land for Commercial Use.

(1) Notwithstanding § 75107(f) of Chapter 75 of Title 21, Guam Code Annotated, and Section 6.9 of Exhibit A of Public Law 23-38, the CLTC may declare and designate that certain lands, not to exceed nine percent (9%) of the total remaining unassigned Chamorro Land Trust Commission land area inventory, “are not required for § 75107 leases to native Chamorros for residential, subsistence agriculture, or subsistence aquaculture, and are available for commercial leasing or licensing to the general public pursuant to § 75105(d) of Chapter 75, Title 21 GCA.” Said declaration *shall* be in the form of a Board Resolution approved by the Commissioners at a duly scheduled meeting of the CLTC held after a CLTC public hearing on the specific lot and area of land to be designated. The approved CLTC resolution *shall* be transmitted to *I Liheslaturan Guåhan* within thirty (30) days from the date of passage of the resolution.

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(2) *I Liheslaturan Guåhan shall* have sixty (60) days to review the Resolution declaring the list of available lots identified in this Subsection, and may conduct public hearings on said lot list during this sixty (60)-day period.

(3) The lots identified in this Subsection may be leased or licensed by the CLTC to the general public pursuant to § 75105(d) of Chapter 75 of Title 21, Guam Code Annotated, for commercial use and for a term not to exceed twenty-five (25) years; or licensed pursuant to § 75107(c) of Chapter 75, Title 21, Guam Code Annotated, for a term not to exceed twenty-one (21) years, unless otherwise approved by *I Liheslaturan Guåhan* for a longer term.

(4) The CLTC *shall not* initiate any solicitations for commercial leasing or licensing until at least sixty (60) days have elapsed from the date *I Liheslaturan Guåhan* received the transmittal of the CLTC Resolution and list in accordance with this Section.

(5) Notwithstanding § 75105(b) of Chapter 75 of Title 21, Guam Code Annotated, all income arising out of any lease or license of those properties declared in this Subsection *shall* be credited to and deposited in the Chamorro Land Trust Survey and Infrastructure Fund until 2020, and to the Chamorro Home Loan Fund thereafter.

(6) Any solicitation for interest or proposals, prior to the enactment of this Act, for commercial activity on CLTC land with the intent of entering into a commercial lease *shall* be null and void.

(c) Lease Agreement Stipulations. The execution of commercial lease agreements or licenses of the available properties identified pursuant to this Section *shall* be subject, at a minimum, to the following stipulations:

(1) Notice of Land Designated to be Available for Commercial Use. Solicitation for the leasing or licensing of land designated as available for commercial use *shall* be published at least thirty (30) days prior to the deadline for submittal of proposals from prospective lessees or licensees.

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Notice *shall* be posted on the websites of the CLTC and the Department of Land Management (DLM) continuously, and through any methods of electronic publication capable of providing notice to the general public, and at least once in a newspaper of general circulation.

(2) Award of Lease through Competitive Bid. The lease or license for the commercial use of CLTC land designated as available for commercial activity *shall* be awarded through a competitive bid process to entities determined to be responsible and responsive, as defined in Guam's procurement law, to the requirements stipulated by the CLTC. However, in the event that a designated available land has an existing commercial activity by virtue of a previous authorization, this Act *shall not* be interpreted to invalidate existing commercial leases or licenses where lessee or licensee has not defaulted during the entire term of the lease or license, and lessee or licensee has complied with the laws of Guam. At the expiration of a lease or license, and all options to renew that lease or license, the CLTC *shall* reconsider its designation as available land and comply with all other provisions of this Act.

(3) Unsolicited Proposals. The CLTC may also accept unsolicited proposals for the development and commercialization of CLTC land designated as available for commercial use, but must subsequently place such proposals to competitive solicitation.

(4) Posting of Awards. Awards of leases and licenses *shall* be posted, within five (5) working days from the date of award, on the CLTC and DLM websites for the term of the lease.

(5) Minimum Annual Rent. Annual rent *shall be no less than* ten percent (10%) of the current appraisal of fair market value of the land that is to be leased. Rent *shall* escalate at a minimum of five (5) year intervals based at a minimum upon current appraisal of fair market value of the land being leased, but in no event shall rent be lower than the rent charged during the previous five (5) year period. The rent to be charged on any request to exercise an option

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to renew an existing lease *shall* also be based on the current appraisal of the fair market value of the land at the time the option to renew is exercised.

(6) Participation Rent.

(A) Definition. The tenant pays to the CLTC a mutually agreed upon percentage of the revenues generated above a mutually agreed upon revenue threshold.

(B) Applicability. Participation rent *shall* be applicable from the fifth (5th) anniversary date to the last day of the lease. The annual participation rent *shall* be made in four (4) equal quarterly installments.

(7) Advance Rental Payment. CLTC may require accelerated or advanced rental payments as a condition of the lease.

(8) Rent Amendments and Payment Schedules. Tenants may submit written requests for temporary reductions in rent. Tenants *shall* submit audited financial statements covering the previous three (3) year period as supporting documents. CLTC *shall* consider the current financial position of the tenant and the prospect for improvements in the tenant's financial position, market conditions, the benefit to the Trust in temporarily reducing the rent, and such other information as may be required in considering tenant's request for rent reductions. Any rent reductions authorized by CLTC *shall not* exceed one (1) year but may, upon written application by the tenant, be extended by the Commission if such extension would be beneficial for the Trust. As temporary rent reductions are intended to assist tenants over a short period of time, tenants must agree in writing that such temporary reductions shall in no way affect the annual amounts due or the schedule of rent escalations for future option terms identified in the lease agreement. Requests for rent reductions *shall* be subject to Commission approval. The CLTC *shall not* allow the exercise of options for additional terms unless all past

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due rent is paid. All amendments of rent and payment schedules *shall* be fully documented.

(9) Payment Plans. Requests to develop a payment plan for back rent *shall* be submitted in writing with the reasons for the request. In addition, tenants *shall* submit a copy of its audited financial statements covering the previous three (3) year period. Payment plans must include a provision for payment of interest on the unpaid balance. In addition, payment plans must contain the requirement that late fees using the industry standard be paid, in the event the lessee *does not* make payments as scheduled, and if the lessee is *not* deemed to be in breach of the lease. Financial institutions must be provided with copies of approved payment plans if estoppel, mortgage or other such agreements require such notification. To the extent possible, payment plans for outstanding rent must be paid off within the fiscal year to avoid budgetary problems within CLTC.

(10) Taxes and Assessments. Tenants *shall* pay all taxes and assessments lawfully levied against the leased premises and against any business conducted thereon or in connection therewith. Tenant *shall* also pay all charges for utility services furnished or provided to the leased premises.

(11) Interest for Late Payment. All rent in arrears *shall* bear interest at a rate of four percent (4%) per annum in excess of the prime rate, calculated daily and compounded monthly, without demand, from the date it should have been paid to CLTC, until actual payment to CLTC.

(12) Environmental Site Assessment (ESA). Prospective tenants *shall* be required to prepare at their own expense, a Phase I Environmental Site Assessment (ESA) of the leased property to serve as a baseline of conditions at the site prior to the start of the lease. The comprehensiveness of the assessment *shall* be determined by CLTC in collaboration with the Guam Environmental Protection Agency. The Phase I ESA *shall* be referenced in any lease or license agreement for the property. Prior to the issuance of any agreement, tenants or prospective tenants must conduct a Phase I ESA of the site at tenant's expense.

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(13) Condition of Land After Use Period. At the end of the lease or license period, or upon termination, tenant *shall* restore the land to baseline levels established at the start of their lease or license, or better/higher environmental levels agreed upon in the lease or license, and *shall* bear all expenses relating to such restoration and Phase I and Phase II evaluations. However, in the case where mineral extraction or the extraction of natural resources at the site was authorized initially in the lease or license agreement, the site *shall* be returned to the CLTC in the better/higher environmental end-state that was agreed upon at the beginning of the lease or license. CLTC *shall* require that a performance bond be provided to ensure that the property is returned in an acceptable end-state, but that said bond *shall not* relieve the lessee of the responsibility of returning the land to the required baseline state.

(14) Tenant Requirements. All lease and license agreements *shall* require tenants and subtenants to have business liability insurance that indemnifies and holds CLTC harmless, and *shall* require the tenant to respond to CLTC requests for information on a timely basis.

(15) Improvements to CLTC Property. All lease and license agreements *shall* require that any improvements made to or upon the real property *shall* belong in title to the CLTC upon termination or expiration of the lease or license, and that any removal required by the CLTC of improvements or items remaining on the property *shall* be the responsibility of the tenant at no cost to the CLTC.

(16) Processing Fees. Tenants *shall* pay for those expenses associated with the processing of leases, amendments, assignments, estoppels, consents or other such documents, including, but not limited to, attorneys' fees, appraisal fees, title report fees, survey fees, credit report fees, recording fees, and documentation fees, but *not* including CLTC staff time. Payment of fees *shall* be made prior to document recordation or pick up.

(17) Business License. Applicants must be licensed to do business in Guam prior to the execution of a lease or

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license, and all tenants must maintain a valid license to do business in Guam during the term of their lease or license.

(18) Compliance with Environmental Laws. All activities on leased or licensed available real property *shall* be in compliance and maintained in accordance with existing environmental laws. Failure to comply with environmental laws *shall* be a material default by tenant.

(19) Events of Default; Termination. In any of the following events (each an “Event of Default”):

(A) if rent or any part thereof shall not be paid on any day when such payment is due, CLTC may, at any time thereafter, give notice of such failure to the lessee, and if the failure is not remedied by the lessee within five (5) days after the giving of such notice; or

(B) if the lessee shall fail or neglect to perform or comply with any of the terms, covenants or conditions contained in the lease (other than the covenants to pay rent) on the part of the lessee to be performed or observed, CLTC may, at any time thereafter, give notice of such failure or neglect to the lessee and the lessee:

(i) if the matter complained of in such notice is capable of being remedied by the payment of money, has not corrected the matter complained of within a period of five (5) days after the giving of such notice; or

(ii) if the matter complained of in such notice is not capable of being remedied by the payment of money has not corrected the matter complained of within a period of twenty (20) days after the giving of such notice, or if a period of more than such twenty (20) days is reasonably required to remedy, with reasonable diligence, the matters complained of in such notice, has not forthwith commenced to remedy the same and diligently prosecute the remedying of the same to completion;

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(iii) if an event of insolvency shall have occurred with respect to the lessee, or

(iv) a breach of an obligation by the lessee which has resulted in cancellation of insurance coverage where the lessee has not prior to or concurrent with such cancellation replaced such coverage with comparable coverage or breach of an obligation where there has been a notice of cancellation of insurance coverage which has not been cured and where the lessee has not, within the period of time set out in such notice (or within ten (10) days where no period is set out therein) replaced such coverage with comparable coverage or which is otherwise a breach of the obligations respecting insurance; or

(v) abandonment of the project by the lessee; or then the CLTC, at its option, may terminate the lease by notice to the lessee, in which event such termination *shall* be effective immediately upon the delivery of such notice and may enter upon the property with or without process of law and take possession thereof.

(20) Right to Cure Defaults. Without limiting any other remedies the CLTC may have arising out of a lease or at law in respect of any default in the performance of the lessee's obligations under a lease, the CLTC *shall* have the right, in the case of any default and without any re-entry or termination of a lease, to enter upon the property and cure or attempt to cure such default (but this *shall not* obligate the CLTC to cure or attempt to cure any such default or, after having commenced to cure or attempt to cure such default, prevent the lessor from ceasing to do so) and the lessee *shall* promptly reimburse to the CLTC any expense incurred by the CLTC in so doing and the same *shall* be recoverable as rent.

SOURCE: Added by P.L. 33-095:2 (Nov. 9, 2015).

§ 75123. Annual and Monthly Reports.

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(a) The Guam Economic Development Authority *shall* prepare an annual report for presentation to the Commission summarizing the benefits received by CLTC on activities of the commercial leasing program for the fiscal year. The annual report *shall* contain findings on employment, payroll, gross receipts taxes paid, local purchases made, and total and annual capital investments by tenants and their sub-tenants, if any. The report *shall not* contain proprietary information of tenants. The report *shall* also contain a projection of revenues over the next five (5)-year time period, and a discussion on outstanding issues and recommendations. The report *shall* be submitted *no later than* December 31 covering the previous fiscal year ending September 30. A copy of the annual report *shall* be submitted to the Speaker of *I Liheslaturan Guåhan* and *I Maga'låhen Guåhan*.

(b) The CLTC *shall* provide monthly reports on the revenue, surveying, and infrastructure being made from the leasing or licensing of CLTC lands pursuant to this Act to *I Maga'låhen Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and the Office of Public Accountability.

SOURCE: Added by P.L. 33-095:4 (Nov. 9, 2015).

§ 75124. The Chamorro Land Trust Survey and Infrastructure Fund.

The Chamorro Land Trust Commission *shall* create a special fund called the *Chamorro Land Trust Survey and Infrastructure Fund* (Fund), which *shall* be maintained separate and apart from any other funds and *shall not* be subject to the transfer authority of *I Maga'låhen Guåhan*.

(a) Notwithstanding any other provision requiring the deposit of proceeds to other funds, the Fund *shall* receive:

(1) the proceeds of all sales of bull cart trails, substandard lots, irregular lots, remnants, splinter lots, fractional lots, easement purchase remnants, and easement condemnation remnants belonging to the government of Guam; and

(2) the proceeds of commercial leases or licenses

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executed after October 2015.

(b) Expenditures from the Fund *shall* be made pursuant to a resolution by the CLTC, and *shall* be restricted to the following expenditures:

(1) for the subdivision, surveying, mapping and registration of tracts of residential and agricultural land in the CLTC property inventory; and

(2) for the construction of infrastructure, to include access roads, water, and power utilities, to service CLTC residential and agricultural tracts of land.

(c) The Commission *shall* report on a quarterly basis to the Speaker of *I Liheslaturan Guåhan* as to the revenues collected and expended from the Fund, and post the same on the website of the Chamorro Land Trust Commission. The Fund *shall* be subject to audit by the Guam Public Auditor.

SOURCE: Added by P.L. 33-090:3 (Nov. 9, 2015), and again by P.L. 33-095:5 (Nov. 9, 2015).

§ 75125. Designation of Biodiversity Conservation Easement.

(a) Notwithstanding any law, provision, rule, or regulation, the Chamorro Land Trust Commission (CLTC) is hereby authorized to designate Lot 5133-1-2, municipality of *Tamuning*, consisting of 1,024± square meters, as shown on L.M. Checked No. 258FY89, as a Biodiversity Conservation Easement (Easement) for the purposes of promoting awareness, conservation, and preservation of species survival by providing refuge, sanctuary, and habitat restoration for wildlife.

(b) The Chamorro Land Trust Commission is authorized to execute a lease for the Easement with James Walter Cushing and Barbara Benavente Cushing—as joint tenants in common with rights of survivorship—and their successors, as provided in 21 GCA § 75109, (hereinafter Cushings), for thirty (30) years at an annual rental rate of One Dollar (\$1.00) per year; *provided*, that they continue to support and advocate for greater awareness through biological study and education of animal care;

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encourage and promote awareness, conservation, and preservation of species survival by providing refuge, sanctuary, and habitat restoration for wildlife; engage in conservation practices of endemic species of flora and fauna; educate the public on conservation efforts; and, promote awareness and appreciation of flora and fauna through live exhibitions. The Cushings may elect to renew the lease for a second term of ten (10) years subject to express legislative concurrence. Upon completion of the second term lease, the Cushing Zoo may elect to renew the lease for one (1) subsequent ten (10) year term, subject to express legislative concurrence.

(c) The Cushings are additionally authorized to operate a for-profit zoo, botanical garden, or marine display on the property, consistent with other requirements of this Section, and may partner with one (1) or more non-profit organizations in the pursuit of their goals for the Easement. The Cushings must maintain compliance with the United States Department of Agriculture and federal and local environmental laws.

(d) If the Cushings are no longer lessees of this property, the Easement *shall* be declared null and void and the property *shall* be consolidated with Lot 5133-1-R2 (*Matapang Beach Park*).

(e) The Cushings may partner with a non-profit organization in the operations and management of the Biodiversity Conservation Easement and activities on the premises, but the lease *shall not* be sold, transferred, assigned, or subleased.

SOURCE: Added by P.L. 33-157:2 (May 17, 2016).

2016 NOTE: P.L. 33-157 stated the following:

Section 3. The Cushings are hereby authorized to install or erect signs—electronic, flashing lights, or otherwise, on Lot 5133-1-2; on Lot 5133-1-R2; on the one hundred (100) feet right of way known as San Vitores Road; and on Route 1 - Marine Corps Drive, pursuant to 21 GCA, Chapter 61 (Zoning Law).

Section 4. Exemption. § 2107 of Title 2, Guam Code Annotated and the Standing Rules of *I Mina'Trentai*

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Tres Na Liheslaturan Guåhan relative to the appraisals
of land *shall not* apply to this Act.
