

**CHAPTER 49**  
**PROBATE ADMINISTRATION OF GUAM LAND CLAIMS AWARDS**

**NOTE:** Chapter 49 was added in its entirety by P.L. 19-34:24.

- § 4901. Legislative Findings.
- § 4902. Scope and Applicability of Chapter.
- § 4903. Subsequent Administration of Land Claims Awards.
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- § 4905. Notices Concerning Administration of Land Claims Awards.
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**§ 4901. Legislative Findings.**

Pursuant to § 1424c of Title 48, United States Code, a judgment has been entered in the District Court of Guam, in Civil Action No. C-81-0112 RFP, approving the settlement of numerous claims for compensation in respect to the land acquisitions by the United States of America after World War II. Additional claims under 48 U.S.C. Section 1424c may, in the future, also be settled. There are presently proceeds of settlement in excess of \$42,000,000, with interest, awaiting distribution to approximately 5,100 former landowners, the great majority of whom are deceased. The Legislature finds that special amendments to the Probate Code of Guam permitting expeditious administration of compensation awards at a minimum of cost are in the public interest, as such will encourage the prompt release of substantial sums into the economy of the territory.

**§ 4902. Scope and Applicability of Chapter.**

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(a) the term land claims award, as used in this Chapter, shall mean any monetary compensation paid by the United States of America pursuant to 48 U.S.C. Section 1424c or a successor statute.

(b) Land awards are subject to administration in the same manner as is directed in relation to other property, except as expressly provided in this Chapter.

(c) This Chapter shall only apply in cases where it is alleged that the sole asset of a decedent's estate subject to administration is a land claims award.

(d) In cases arising under this Chapter, the Superior Court shall award reasonable attorney's fees out of the estate in lieu of statutory attorney's fees pursuant to § 2811 of this Title, without regard to the size of the award. Such reasonable fees shall be based on verified statements of time and charges filed with the court by the attorney.

**SOURCE:** Subparagraph (d) added by P.L. 20-7:1.

**§ 4903. Subsequent Administration of Land Claims Awards.**

Letters testamentary or of administration, or of administration which the will annexed, shall issue in probate cases in which an estate has been finally settled, for the purpose of administration on a land claims award. The Superior Court shall reopen the original probate proceedings and issue such letters to the persons entitled thereto in the same order and manner as is directed in relation to original letters of administration.

**§ 4904. Distribution of Land Claims Awards Directly to Issue of Deceased Heirs.**

(a) No separate administration on the share of a deceased heir, legatee or devisee in a land claims award shall be necessary; such share shall instead be distributed directly to his heirs at law, provided that the following conditions are met:

(1) The petition for letters testamentary or of administration, or administration with the will annexed, or if a personal representative has already been appointed as of the effective date of this Chapter, then the first petition for preliminary or final distribution to be filed after the effective date of this Chapter, shall include the names, addresses, relationships and ages of the heirs at law of each deceased heir;

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(2) Said petition shall state, as to each deceased heir whose share will be distributed directly, that to the best of the petitioner's knowledge the deceased heir died intestate and that no proceedings for administration upon said heir's estate are pending;

(3) Notice of the hearing on said petition shall be given as provided in § 4905 of this Title, and said notice shall list the estates of all deceased heirs whose shares will be distributed directly to their heirs at law;

(4) Notice of the hearing on said petition shall also be given to the heirs at law of each deceased heir;

(5) Notice of the hearing on said petition shall also be given to the creditors of each deceased heir in the manner provided and to the same extent required by § 4906 of this Title in relation to awards subject to separate administration; and

(6) No party interested in the estate of any deceased heir named in the petition requests administration on the share of the deceased heir in the ordinary course, provided that said request is made in writing and is served upon the petitioner or the Clerk of the Superior Court before the entry of a decree of preliminary or final distribution.

(b) In the event a timely request is made for administration in the ordinary course in the share of a deceased heir, by a party interested in said share, or if a valid and timely creditor's claim is filed against the share of any deceased heir, the share shall be distributed to the personal representative of the estate of the deceased heir or, if none has been appointed, deposited in the name of said estate with the Clerk, Superior Court of Guam.

(c) The delivery of a land claims award, or any share therein, directly to the heirs at law of a deceased heir, in accordance with a decree of preliminary or final distribution made under the provisions of this section, is a full discharge of the personal representative in relation to the sum so delivered, and when the decree becomes final it binds and concludes all parties in interest with respect to both the decedent's estate and the estate of the deceased heir.

**§ 4905. Notices Concerning Administration of Land Claims Awards.**

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(a) Notice of the hearing on a petition for letters testamentary or of administration with the will annexed, or for an order setting aside a land claims award pursuant to § 4909 of this Chapter, or for preliminary or final distribution filed under § 4904(a)(1) of this Chapter, shall be given by publishing notice of such hearing in a daily newspaper of general circulation in Guam for one (1) day, not more than ten (10) calendar days prior to the date set for such hearing. Notice of the hearing on any of the aforesaid petitions, on any petition for preliminary or final distribution, or on any other petition, application or other paper for which a hearing is required, shall also be given as provided in § 3401(b) of this Title, except that such notice shall be served personally or delivered by first class U.S. mail, postage prepared, not less than thirty (30) calendar days prior to the time set for hearing the petition. Registered or certified mailing of said notice shall not be required. The aforesaid notices shall contain the name of the estate, the name of each deceased heir's estate if direct distribution is requested, the name of the petitioner, applicant or moving party, the nature of the petition, application or paper (referring to the petition, application, or paper for further particulars), and shall state the time and place at which the petition, application or other paper will be heard.

(b) Proof of the giving of notice, as provided in this section, must be made at the hearing; and if it appears to the satisfaction of the Superior Court that said notice has been regularly given, the Superior court shall so find in its order, and such order, when it becomes final, shall be conclusive upon all persons.

(c) The inability of a petitioner or personal representative to deliver or mail notice of a petition for letters or for a decree of preliminary or final distribution to each person entitled to such notice shall not preclude the issuance of letters or entry of a decree of preliminary or final distribution, if the Superior Court determines that notice cannot with due diligence be given for lack of information concerning the identity, location or mailing address of every person entitled to notice.

(d) Notice required to be given to a minor or incompetent person who has no legal guardian may be given as provided in the preceding subsection (a) to such minor or incompetent person in care of a parent or, if none, then in care of any person of legal age with whom the minor or incompetent person resides. An award, or share therein, distributed to minor or incompetent person who has no legal guardian shall be delivered as provided in § 3023 of this Title.

**§ 4906. Notice, etc., of Claims.**

(a) Notice, presentation and payment of creditor's claims shall be undertaken in proceedings governed by this Chapter, except as follows:

(1) In the case of proceeding re-opened under § 4903 of this Chapter, or in the case of a deceased heir's estate previously subject to probate administration as to which direct distribution of the deceased heir's share of an award is proposed, no notice to creditors shall be given and no creditor's claims shall be allowed or approved; provided, however, that if a creditor's claim approved in the original proceedings remains unsatisfied, notice by registered mail of the reopened proceedings shall be given to such creditor and the balance of his approved claim shall be paid if a written request for payment is filed or presented within sixty (60) days of said mailing.

(2) In original proceedings, and in the case of a deceased heir's estate that was not previously subject to probate administration, as to which direct distribution is proposed, notice to creditors shall be given as provided in Chapter 25 of this Title, except that notice shall be published, pursuant to §§ 2503 and 2505 of this Title, in only one (1) issue of a daily newspaper of general circulation in Guam. In proceedings under § 4904 of this Chapter, such notice shall also list the estates of each deceased heir whose share is proposed to be distributed directly, and shall require all persons having a claim against any of said estates to file, before the entry of a decree of preliminary or final distribution, a written request for separate administration on the deceased heir's estate, with the Clerk of the Superior Court.

(b) Nothing herein shall be construed as permitting revival of a creditor's claim barred by any statute of limitations or other rule of law.

**§ 4907. Security for Performance of Representatives.**

The provisions of Chapter 20, Subchapter B, of this Title, concerning security for the faithful performance of a personal representative shall not apply to this Chapter, provided that the land claims award is deposited with a federally insured depository under a court order prohibiting any charge or withdrawal except as may be directed in a certified order or decree of the Superior Court.

**§ 4908. Delivery of Land Claims Award, or Share Therein, to Nonresidents.**

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A land claims award, or any share therein, assigned or distributed upon administration of a decedent's estate to a person residing out of Guam may be delivered by registered or certified U.S. mail, postage prepaid, with return receipt, to the last known address of the nonresident assignee or distributee, and upon such mailing the personal representative shall not be personally liable for any loss arising from nonreceipt thereof, except for willful misconduct. If the award or any share therein, after mailing as aforesaid, is returned to the personal representative unclaimed, the same shall be deposited with the Clerk of the Superior Court in the name of the nonresident assignee or distributee, pursuant to § 3023 of this Title, unless the Superior Court orders delivery by such other means as it deems appropriate, compliance with which shall also discharge the personal representative from any liability whatsoever.

**§ 4909. Summary Distribution of Land Claims Awards Not Exceeding \$100,000.**

(a) A land claims award not exceeding \$100,000 after deduction of costs and attorney's fees awarded or authorized by the District Court of Guam may be set aside to a decedent's heirs at law, provided that no proceedings for administration upon the decedent's estate are then pending.

(b) A verified petition, together with a prayer that the award be set aside as provided herein, may be presented by any heir at law of the decedent or any heir at law of a deceased heir. The petition shall contain allegations showing that this section is applicable and shall state the names, mailing addresses, relationships and ages of each heir at law of the decedent, as well as each heir at law of any deceased heirs, and their respective fractional interests in the award. The petition shall further state, without qualification, that if the petition be granted the petitioner will distribute the award with due diligence to the persons named in the petition, according to their respective interests.

(c) No person to whom an award, or any portion thereof, is set aside pursuant to this section shall be personally liable for the unsecured debts of the decedent or the debts of any deceased heir whose share of the award is paid directly to his heirs at law, unless an action at law or proceeding in equity or in probate to recover such debts is commenced within one (1) year from entry of the decree setting aside the award. Such liability shall not, in any event, exceed the amount received by the person

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charged the debts as his share of the award. If an action at law or proceeding to collect such debts is commenced within the time allowed, as aforesaid, the person or persons charged may assert any defenses, counterclaims or set-offs that would have been available to the decedent or deceased heir if he had not died.

(d) Notice of the hearing on the petition authorized by this section shall be given as provided in § 4905 of this Chapter.

(e) If, upon hearing the petition authorized in this section, the Superior Court finds that the award, after deduction of all costs and attorney's fees allowed by the District Court of Guam, does not exceed the sum of \$100,000, it shall by appropriate decree assign the award to the petitioner with a directive to pay the same to the persons named in the petition according to their respective interests therein. The decree shall further direct that proof of compliance therewith, by affidavit or declaration under penalty of perjury, be filed by the petitioner within thirty (30) days after entry of said decree.

(f) An award set aside pursuant to this section, or any share therein, may be disbursed, in accordance with the Superior Court's decree, to nonresident persons as provided in § 4908 of this Chapter.

(g) No person shall be liable for nondelivery of any award set aside pursuant to this section, or of a share therein, except for willful misconduct, unless an action at law or proceeding in equity or in probate to recover the same is commenced within three (3) years from entry of the decree setting aside the award.

(h) If any award set aside pursuant to this section, or share therein, cannot be paid or delivered in accordance with the Superior Court's decree, for lack of information as to the identity, location or mailing address of the person entitled thereto, the same shall be deposited in the name of such person with the Clerk of the Superior Court; such deposit is a full discharge of the petitioner as to any liability whatsoever in relation to the sum so deposited.

(i) No administrator's fees shall be allowed, nor shall any court fees pursuant to Rule 91, Superior Court Rules of Civil Procedure, be assessed, with respect to an award set aside pursuant to this section. If a private attorney has been retained, the Superior Court shall award reasonable attorney's fees out of the estate.

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(j) The Public Defender is directed to assist the decedent's heirs at law in obtaining distribution of land claim awards pursuant to this section and § 4910 of this Title, but nothing shall prevent such heirs from using private attorneys for such purpose.

**SOURCE:** Repealed and Reenacted by P.L. 20-7:2.

**§ 4910. Delivery of Land Claims Awards Not Exceeding \$15,000 Without Administration.**

(a) No probate administration is required upon a land claims award not exceeding \$15,000 after deduction of costs and attorney's fees awarded or authorized by the District Court of Guam (the "Court").

(b) Any successor to the decedent entitled to the award or a portion thereof is authorized to collect and distribute the award to the proper heirs or distributees upon filing with the Court a certified copy of the death certificate of the decedent and an affidavit stating that:

(1) The award does not exceed \$15,000 after deduction of costs and attorney's fees awarded or distributed by the Court;

(2) No probate proceedings or petition to commence such proceedings are pending in Guam;

(3) The applicant is a successor-in-interest of the decedent entitled to collect the award or a part thereof and explaining the relationship of the applicant to the decedent;

(4) The names and mailing addresses (if known) of the persons entitled to share in the award, their relationship to the decedent, and their respective interests in the award;

(5) Not less than thirty (30) days before filing the affidavit with the Court, the applicant will send by pre-paid mail, certified or registered, return receipt requested, a copy of the affidavit to each person entitled to share in the award for whom a mailing address is known, together with notice that if such a person objects to the proposed plan of distribution he shall file a written objection with the Court before the expiration of the thirty-(30-)day period; the applicant shall file with such affidavit sworn proof of such mailing.

(6) Either the Public Defender, an attorney member of the office of the Attorney General, a judge of the Superior Court, or a judge pro tem, appointed by the presiding judge of the Superior Court to assist in such cases, (which representative shall also exe-



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cute the affidavit) finds the applicant's plan of distribution to be fair and equitable.

(7) The applicant will, upon collection of the award, endeavor in good faith and with reasonable diligence to distribute the award to those entitled by the Guam laws of succession to shares therein.

If any person entitled to the award or any portion thereof cannot be found (therefore making it impossible to distribute same to him), such award or portion thereof allocable to him shall be deposited in a trust account in the Superior Court of Guam for a period not to exceed five (5) years. At the expiration of five (5) years if the person cannot be found the Clerk of Court shall distribute the award pro rata to those entitled thereto by the laws of succession;

(c) No person delivering an award exempt from administration under this section shall be liable for any loss or damage whatsoever to anyone, or be responsible for seeing to the proper distribution of the award, or is required to inquire into the truth of any statement in the affidavit. Any person to whom an award is delivered pursuant to this section is answerable and accountable therefor to any personal representative of the decedent's estate or to any other person having a right to the award or any portion thereof.

**SOURCE:** Repealed and Reenacted by P.L. 20-7:3.

**§ 4911. No Administration if Title to Condemned Land was Subject of Prior Administration.**

A decree of preliminary or final distribution purporting to distribute a parcel of real property that had been condemned either before or after the decedent's death, but prior to entry of such decree, passes title to the land claims award with respect to the property taken to those persons to whom the parcel is distributed by the decree, and is a binding and conclusive determination of the persons entitled to the land claims award for said property; no further administration is required upon the decedent's estate in respect of said award. The Superior Court may reopen the proceedings for the sole purpose of consolidating administration upon the estates of deceased heirs, pursuant to §§ 4903 and 4904 of this Chapter, but shall not vacate, set aside or in any way modify the terms of the prior decree purporting to distribute the condemned land, except in

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case of fraud, misrepresentation made to the court, heirs omitted from the proceedings, or lack of notice.

**§ 4911.1. No Further Administration in Certain Cases.**

A decree of preliminary or final distribution, an order setting aside a land claims award, or an affidavit filed pursuant to § 4910 of this Title passes title to any additional sums awarded by the District Court of Guam with respect to the parcel identified in the decree, order or affidavit. No further administration is required upon the decedent's estate in respect of such additional awards and the person authorized in the decree, order or affidavit to collect and distribute the original award is authorized to collect and distribute any additional awards for said parcel to the same heirs and in the same proportions as provided in the decree, order or affidavit.

**NOTE:** Compiler has recodified § 4911a added by P.L. 21-14:16 to § 4911.1.

**§ 4912. Discretion of Court.**

Notwithstanding the provisions of this Chapter, any judge of the Superior Court may determine and order, at his or her discretion, that a particular estate with land claims be administered under the provisions of this Code applicable to other estates without land claims.

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