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CH. 75A CHAMORRO LAND TRUST COMMISSION EFFECTIVE JANUARY 1, 2021

CHAPTER 75A
CHAMORRO LAND TRUST COMMISSION EFFECTIVE JANUARY 1, 2021

SOURCE: Entire chapter added by P.L. 35-112:1 (Dec. 10, 2020), which did not provide a title; therefore, pursuant to the authority of 1 GCA § 1606, the Compiler designated Chapter 75A as “Chamorro Land Trust Commission – Effective January 1, 2021” to avoid confusion with the existing Chapter 75.

2024 NOTE: Pursuant to 5 GCA § 1510, *I Maga'hâgan/Maga'lâhen Guâhan* means Governor of Guam and *I Maga'hâga/Maga'lâhi* means Governor. Pursuant to 2 GCA § 1101, *I Liheslaturan Guâhan/Liheslatura* means “Guam Legislature/Legislature.”

2022 NOTE: Pursuant to the authority of P.L. 36-108:3 (Sept. 29, 2022), existing provisions in Chapter 75A (§§ 75A100-75A125), added by P.L. 35-112:1 (Dec. 10, 2020), have been designated as Article 1.

- Article 1 Chamorro Land Trust Commission
- Article 2 Guam Undersea Access for Homes Act (GUAHA)

ARTICLE 1
CHAMORRO LAND TRUST COMMISSION

2021 NOTE: Entire chapter added by P.L. 35-112:1 (Dec. 10, 2020), which stated in part:

Section 1. A new Chapter 75A of Title 21, Guam Code Annotated, is hereby enacted, which shall mirror the existing Chapter 75 of Title 21, Guam Code Annotated, except as provided in this Act, and shall be effective January 1, 2021. The new Chapter 75A of Title 21, Guam Code Annotated, shall be codified, and renumbered by the Compiler of Laws consistent with this Act[.]

Chapter 75A therefore “mirrors” the provisions in Chapter 75, except as expressly provided by P.L. 35-112, and except for § 75104.1, which was not codified in Chapter 75A as it had been repealed by P.L. 30-074:2 (Nov. 27, 2009). References to Chapter 75 as a whole and to provisions therein were replaced with references to Chapter 75A and corresponding provisions.

Further, because legislation did not provide a title for Chapter 75A, it has been designated as “Chamorro Land Trust Commission – Effective January 1, 2021” by the Compiler to avoid confusion with the existing Chapter 75.

- § 75A100. Legislative Findings and Intent.
- § 75A101. Definitions.
- § 75A101.1. *United States of America v. Government of Guam, Chamorro Land Trust Commission, and Administrative Director of the Chamorro Land Trust*, CV 17-00113 (D. Guam).
- § 75A101.2. Verification of Eligible Beneficiaries.
- § 75A102. Commission: Composition, Chairman, Compensation.
- § 75A103. Administration.
- § 75A104. Certain Government Lands Designated Available Lands
- § 75A105. Control by Commission of Available Lands; Return to Department.
- § 75A106. Other Officers Not to Control Chamorro Land Trust Property; Exception.
- § 75A107. Leases to Eligible Beneficiaries, Licenses.
- § 75A108. Conditions in Leases.
- § 75A108.1. Cottage Industry Activity Authorized.
- § 75A109. Successors to Leases and Applicants.
- § 75A110. Cancellation of Leases.
- § 75A111. Community Pastures.

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- § 75A112. Beneficiary Home Loan Fund; Beneficiary Home Development Fund; Beneficiary Educational Fund; Beneficiary Commercial Loan Fund; Beneficiary Home Repair Loan Fund; and the Beneficiary Loan Guarantee Fund.
- § 75A113. Conditions of Loans.
- § 75A114. Insurance by Borrowers; Acceleration of Loans; Lien and Enforcement Thereof.
- § 75A115. Ejectment, When: Loan to New Lease for Improvements.
- § 75A116. Agency Review of Statutory Authority.
- § 75A117. Severability.
- § 75A118. Commission Start-Up Fund.
- § 75A119. Identification of Land to Be Exchanged to Compensate Private Landowners.
- § 75A120. Title to Municipal Golf Course; Operation.
- § 75A121. The Establishment of “*Hatdin Ámot Chamorro.*”
- § 75A122. Commercial Leases and Licenses.
- § 75A123. Annual and Monthly Reports.
- § 75A124. The Chamorro Land Trust Survey and Infrastructure Fund.
- § 75A125. Designation of Biodiversity Conservation Easement.

§ 75A100. Legislative Findings and Intent.

(a) It is the intent of *I Liheslaturan Guåhan* to defend the history and purpose of the Chamorro Land Trust Act created in 1975 by Public Law 12-226 and enacted as Chapter 75 of Title 21, Guam Code Annotated. The Chamorro Land Trust Act established a land restoration program meant to rectify the unjust taking of Chamorro homelands by the United States federal government between 1898 and 1968 and provide residential and agricultural land for those persons eligible in the form of Chamorro Land Trust Commission (CLTC) leases.

(b) Additionally, *I Liheslaturan Guåhan* intends to support the expansion of the program’s eligible beneficiaries to include individuals and their descendants who owned land or who ranched, farmed, or otherwise occupied the lands that were taken.

(c) *I Liheslaturan Guåhan* finds that on September 29, 2017, the United States of America filed a case against the CLTC in *United States of America v. Government of Guam, Chamorro Land Trust Commission, and Administrative Director of the Chamorro Land Trust*, CV 17-00113 (D. Guam) (Lawsuit), alleging, among other things, violations of the U.S. Fair Housing Act.

(d) *I Liheslaturan Guåhan* further finds that on December 18, 2018, the U.S. District Court agreed with Guam that, at that pleading stage, “the court could not conclude that the Chamorro Land Trust operates as a race-based entity.” *U.S. v. Gov’t of Guam, et al.*, CV 17-00113, 2018 WL 6729629, at *1 (D. Guam Dec. 21, 2018), reconsideration denied, No. CV 17-00113, 2019 WL 1867426 (D. Guam Apr. 25, 2019). The court stated that “the record must be further developed to address the question of whether the Chamorro Land Trust operates instead as a compensatory entity that seeks to implement the return to the people of Guam of land that the United States took from them.” *Id.* Furthermore, it is possible that, “the Chamorro Land Trust includes some land that was not taken by the United States, but, if that is so, that cannot be discerned from the present record.” *Id.*

(e) Based on the state of the record, the court rejected the “United States’ contention that the court should now determine as a matter of law that Guam is violating the Fair Housing Act.” *Id.* The court further stated that the “matter requires further exploration and an expansion of the record in this case.” *Id.*

(f) *I Liheslaturan Guåhan* further finds that the Office of the Attorney General and *I Maga’håga/Maga’låhi*’s representatives on behalf of the Government of Guam, Attorney Michael Phillips, and Chairperson Pika Fejeran on behalf of the CTLC, the Office of the Attorney General on behalf of the

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CLTC Director, and the United States entered into settlement conferences to attempt to resolve the lawsuit amicably and without further litigation. At the conclusion of a settlement conference on November 14, 2019, a settlement term sheet was agreed to in principle by the counsel for the parties and subject to approval by the respective parties. On December 26, 2019, the CLTC adopted Resolution 2019-08 which found “the settlement terms in the Agreement to be favorable for the Chamorro Land Trust Program and its beneficiaries, as it preserves the program intact and would not materially affect existing leaseholders.” Chamorro Land Trust Commission, *Kumision Inangokkon Tano’ CHamoru*, Resolution No. 2019-08 (2019). In addition, “the Commission found that the proposed modifications or amendments to the Chamorro Land Trust Act and the Rules and Regulations of the Chamorro Land Trust Commission would more clearly demonstrate that the Chamorro Land Trust (CLT) program is a land restoration program meant to rectify the unjust taking of Chamorro homelands by the United States federal government between 1898 and 1968, and would expand the program’s eligible beneficiaries to include individuals and their descendants who owned land or who ranched, farmed, or otherwise occupied the lands that were taken.” *Id.*

(g) On May 29, 2020, after further settlement negotiations, the Settlement Agreement between the United States of America and Government of Guam, Chamorro Land Trust Commission and Administrative Director of the Chamorro Land Trust Commission, regarding *U.S. v. Gov’t of Guam, et al.*, CV 17-00113 (D. Guam) (Settlement Agreement), was signed by the Chamorro Land Trust Commission and *I Maga’hågan Guåhan. I Liheslaturan Guåhan* further finds that the Settlement Agreement resolves the allegations contained in the lawsuit, and in it the Government of Guam does not admit liability and denies that the Chamorro Land Trust Act violates the Fair Housing Act. Settlement Agreement at ¶ 10. Part of the terms and conditions within the Settlement Agreement requires legislative and administrative changes to the Chamorro Land Trust Act and/or the rules and regulations of the CLTC.

(h) *I Liheslaturan Guåhan* finds that the changes proposed by this Act are therefore intended to more clearly demonstrate that the CLT program is a land restoration program meant to rectify the unjust taking of Chamorro homelands by the United States federal government between 1898 and 1968, and would expand the program’s eligible beneficiaries to include individuals and their descendants who owned land or who ranched, farmed, or otherwise occupied the lands that were taken.

SOURCE: New provision added by P.L. 35-112:1 (Dec. 10, 2020).

2021 NOTE: This provision did not originate from Chapter 75.

Subsection designations added pursuant to the authority granted by 1 GCA § 1606.

§ 75A101. Definitions.

When used in this title:

(a) The term “Commission” means the Chamorro Land Trust Commission.

(b) The term “Guam” means Guam.

(c) The term “Chamorro Land Trust property” means all available lands, which includes Chamorro homelands, under the control of the Chamorro Land Trust Commission under the provisions of § 75A105 of this Chapter and § 75105 of Chapter 75.

(d) The [term] “eligible beneficiary” means any person, regardless of race, color, or national origin:

(1) whose land was acquired by the United States government between 1898 and 1968, or descendants of such person; or

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(2) who either occupied, farmed, or ranched land for residential or agricultural purposes for at least one (1) year immediately prior to that land being acquired by the United States government between 1898 and 1968 or descendants of such person; except that if a person occupied, farmed, or ranched the land on or after December 8, 1941, and the land was acquired at any time after that date and up to 1950, the one (1) year tenure need not have occurred immediately prior to acquisition by the United States government.

(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: Subsections (a), (b), (e), and (f) originated from Chapter 75. Subsections (c) and (d) added by P.L. 35-112:1 (Dec. 10, 2020).

2021 NOTE: References to “territory” in subsection (b) removed pursuant to 1 GCA § 420.

§ 75A101.1. *United States of America v. Government of Guam, Chamorro Land Trust Commission, and Administrative Director of the Chamorro Land Trust, CV 17-00113 (D. Guam).*

(a) *I Liheslaturan Guåhan* hereby approves the settlement in *United States of America v. Government of Guam, Chamorro Land Trust Commission, and Administrative Director of the Chamorro Land Trust, CV 17-00113 (D. Guam)*, and the amendments to the Chamorro Land Trust law made pursuant to this Act are to strengthen the Chamorro Land Trust and in furtherance of said settlement; provided, that the settlement shall not absolve or relieve the United States of any liability for land takings or waive the historic demand of the people of Guam for return or restoration of the land; and provided further, that the settlement shall include dismissal of allegations against the government of Guam and preclude further challenge of the Chamorro Land Trust law by the same parties on the same grounds, and preclude a constitutional challenge of the provisions of the Chamorro Land Trust law, as amended or added by this Act.

(b) Any applications for leases that have not been approved by January 1, 2021 shall be subject to the terms of the public law enacted by this Act and Chapter 75A of Title 21, Guam Code Annotated. All leases approved prior to January 1, 2021 shall be subject to the terms of Chapter 75, as amended. The enactment of Chapter 75A of Title 21, Guam Code Annotated, and this Act shall not affect the order of consideration of applications by the CLTC under Chapter 75 of Title 21, Guam Code Annotated, and pursuant to applicable rules and regulations to the same. Nothing in this Act shall affect or alter the existing priorities for awarding leases as stated in Rule 6.2 of the Senator Paul J. Bordallo Rules and Regulations for the Chamorro Land Trust Commission.

SOURCE: New provision added by P.L. 35-112:1 (Dec. 10, 2020).

2021 NOTE: This provision was not part of Chapter 75.

§ 75A101.2. Verification of Eligible Beneficiaries.

(a) Owned Land Acquired by the United States:

(1) To be eligible based on ownership of land that was acquired by the United States government between 1898 and 1968, an applicant must provide either:

(A) documentary evidence of ownership in substantially the same form as that required by the Guam Ancestral Lands Commission for ancestral land claims; or

(B) a declaration or affidavit, signed under penalty of perjury, attesting that the person owned, or is the descendant of someone who owned land that was acquired by the United States. To the extent known or reasonably ascertainable by the applicant, this declaration or affidavit

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shall include the location, by parcel number, address, legal description, or other legally-recognized identifier, of the land that was claimed to have been owned and the date of acquisition by the United States.

(2) The applicant shall be required to use his or her best efforts to obtain the information described above and to provide documentation demonstrating that he or she is the descendent of the person who owned the land. Based upon review of the documentation, declarations or affidavits, and any additional research the Commission conducts, including, but not limited to, the “Bohn files” and any other readily-available condemnation and land records, the Commission shall determine whether the applicant is an eligible beneficiary.

(b) Occupied, Farmed, or Rached Land Acquired by the United States:

(1) Persons shall be considered eligible beneficiaries if the United States acquired land on which they did not hold title or ownership, but that they nevertheless had either occupied, farmed, or rached land for residential or agricultural purposes for at least one (1) year immediately prior to that land being acquired by the United States government between 1898 and 1968 or descendants of such person; except that if a person occupied, farmed, or rached the land on or after December 8, 1941, and the land was acquired at any time after that date and up to 1950, the one (1) year tenure need not have occurred immediately prior to acquisition by the United States government. To be eligible under this provision, an applicant must sign a declaration or affidavit setting forth, in sufficient detail and under penalty of perjury, the following facts to the extent known or reasonably ascertainable by the applicant:

(A) the location, by parcel number, address, legal description, or other legally-recognized identifier, of the land that was claimed to have been occupied, farmed, or rached;

(B) the name of the person or persons who occupied, farmed, or rached the land;

(C) the length of time the person(s) continuously occupied, farmed, or rached the land;

(D) the legal owner of the land and the relationship between the owner and the person who occupied, farmed, or rached the land, including whether any compensation or rent was paid to the owner;

(E) a description of the nature of the person’s activity on the land, including whether the land was used for residential or agricultural purposes;

(F) if the land was farmed or rached, the type of activity being conducted on the land (such as the types of crops harvested or animals raised); and

(G) whether the person improved the land in any way and the nature of such improvements.

(2) The applicant shall be required to use his or her best efforts to obtain the information described above and to provide documentation demonstrating that he or she is the descendent of the person or persons who occupied, rached, or farmed the land. Based upon review of the documentation, declarations, or affidavits, and any additional research the Commission conducts, the Commission shall determine whether the person is an eligible beneficiary. For purposes of this provision, a person shall be deemed to have “occupied” land if he or she maintained his or her primary residence on the land.

SOURCE: New provision added by P.L. 35-112:1 (Dec. 10, 2020).

2021 NOTE: This provision was not part of Chapter 75.

§ 75A102. 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 *I Maga'håga/Maga'låhi* with the confirmation of *I Liheslatura*. Commission members shall be appointed within sixty (60) days after the enactment of this Chapter. All members shall have been residents of Guam 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. *I Maga'håga/Maga'låhi* 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.

(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'håga/Maga'låhi* and *I Liheslatura* notice of three (3) unexcused absences of any member.

2024 NOTE: References to "Governor" replaced with *I Maga'håga/Maga'låhi* pursuant to 5 GCA § 1510. References to the "Guam Legislature/Legislature" replaced with *I Liheslaturan Guåhan/ Liheslatura* pursuant to 2 GCA § 1101.

2021 NOTE: Reference to "Territory" in subsection (a) removed pursuant to 1 GCA § 420.

The references to "native Chamorro" in subsections (a) and (b) were not replaced, as they refer to the commission members and director, rather than to the participants in the program.

§ 75A103. 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 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 § 75A112 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 *I Liheslatura* upon the first date of each regular session thereof and such special reports as *I Liheslatura* may from time to time require.

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(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 *I Liheslatura* 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 Beneficiary Home Loan Fund.

(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 § 75A107, and assisting lessees in all 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 § 75A107.

(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 §§ 75A112, 75A113 and 75A114, or other applicable provisions of this Chapter 75A, 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 75A, applicable law and regulation.

2024 NOTE: References to the "Legislature" replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

2021 NOTE: References to Chapter 75 and provisions in that chapter replaced with references to Chapter 75A and corresponding provisions.

References to "Territory" in subsection (a) removed pursuant to 1 GCA § 420.

The following annotation from Chapter 75 has been retained:

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.

§ 75A104. 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 *I Liheslatura* within ninety (90) days of the enactment of this Chapter, are hereby designated as available lands.

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(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.

2024 NOTE: Reference to the “Legislature” replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

§ 75A105. Control by Commission of Available Lands; Return to Department.

Upon and after the enactment of this Chapter, all available lands pursuant to § 75A104 of Chapter 75A and § 75104 of Chapter 75, which includes Chamorro homelands, shall immediately assume the status of Chamorro Land Trust Property 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 upon the enactment of this Chapter, such land shall not assume the status of Chamorro Land Trust Property 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.

(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 Land Trust Property so returned may be disposed of under a general lease only. Each such lease, whether or not stipulated therein, shall be 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 into 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;

(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

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(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 § 75A107, 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) of this Section.

(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 or higher 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 21 GCA § 75104 and 21 GCA § 75A104.

(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, *Inalåhan*, containing an area of 304.76 acres and being Chamorro Land Trust Property, only for affordable housing.

SOURCE: This provision originated from Chapter 75, with new language from P.L. 35-112:1 (Dec. 10, 2020).

2024 NOTE: Reference to “*Inarajan*” replaced with “*Inalåhan*” pursuant to P.L. 36-016:2 (Apr. 9, 2021).

§ 75A106. Other Officers Not to Control Chamorro Land Trust Property; Exception.

The powers and duties of *I Maga'håga/Maga'låhi* and the department with respect to lands of Guam shall not extend to lands having the status of Chamorro Land Trust Property except as specifically provided for in this Chapter.

2024 NOTE: Reference to “Governor” replaced with *I Maga'håga/Maga'låhi* pursuant to 5 GCA § 1510.

2021 NOTE: Reference to “territory” replaced with “Guam” pursuant to 1 GCA § 420.

§ 75A107. Leases to Eligible Beneficiaries, Licenses.

(a) The Commission is authorized to lease to eligible beneficiaries the right to the use and occupancy of a tract or tracts of Chamorro Land Trust Property 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 Guam. 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:

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

(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 *I Liheslatura*, 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 Land Trust Property.

(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 *I Liheslatura*, 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.

(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.

2024 NOTE: Reference to the “Legislature” replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

2021 NOTE: Reference to “territory” replaced with “Guam” pursuant to 1 GCA § 420.

§ 75A108. Conditions in Leases.

Each lease made under the authority granted the Commission by the provisions of § 75A107 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 an eligible beneficiary, 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

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one (1) year from the effective date of the lease. The payments of such leases may be used for the payment of surveying Chamorro Land Trust Property pursuant to § 75A108(g)(1) of this Chapter.

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

(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 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) [No text]

(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

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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 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 an eligible beneficiary or beneficiaries; and then only upon the approval of the Commission, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with an eligible beneficiary or beneficiaries 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 § 75A114 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 Land Trust Property 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 § 75A112 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) calendar days, cancel the lease and thereupon use its best efforts to dispose of the tract to a qualified and responsible eligible beneficiary or beneficiaries 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.

2024 NOTE: The Compiler has added “no text” to indicate a change in formatting only; the content of the provision has not been altered.

2021 NOTE: References to provisions in Chapter 75 replaced with references to corresponding provisions in Chapter 75A.

§ 75A108.1. 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 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 and Light Agriculture.
- (2) Baking and Producing Foodstuff.
- (3) Arts and Crafts.
- (4) Cultural Practitioning.
- (5) Alternative Medicine (*Suruhanu/Suruhana*).
- (6) Dress Making.
- (7) Growing and 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.

§ 75A109. Successors to Lessees and Applicants.

(a) [No text]

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(1) Upon the death of the lessee or applicant, 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, or applicant, spouse, children, grandchildren, parents, grandparents, siblings, widows or widowers of the children or siblings, or nieces and nephews, the lessee or applicant 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 Land Trust Property; provided, that such person or persons need not be eighteen (18) years 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 or application with a right in such lessee or applicant 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. A lessee may elect to provide for the surrender of the lot upon death and may select a recipient for the proceeds from the surrender.

(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 Land Trust Property 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 or applicant leaving no such relative qualified to be a lessee of Chamorro Land Trust Property, the land subject to the lease shall resume its status as unleased Chamorro Land Trust Property and the Commission is authorized to lease such land to an eligible beneficiary or beneficiaries as provided in this Chapter.

(5) Upon the death of a lessee leaving no such relative qualified to be a lessee of Chamorro Land Trust Property 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 § 75A110 or § 75A114 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 beneficiary 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 an eligible beneficiary as defined in § 75A101 of this Chapter.

SOURCE: Added by P.L. 35-112:1 (Dec. 10, 2020). Subsection (c) amended by P.L. 36-076:2 (Feb. 9, 2022). Subsection (a) amended by P.L. 37-074:1 (Mar. 6, 2024).

2024 NOTE: The Compiler has added “no text” to indicate a change in formatting only; the content of the provision has not been altered.

2021 NOTE: References to provisions in Chapter 75 replaced with references to corresponding provisions in Chapter 75A. Subsection designations altered/added in subsection (a) pursuant to the authority granted by 1 GCA § 1606.

§ 75A110. Cancellation of Leases.

Whenever the Commission has reason to believe that any condition enumerated in § 75A108 or any provision of § 75A109 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 Land Trust Property contained in such tract shall thereupon revert in the Commission and the Commission may take possession of the tract and the improvements thereon.

§ 75A111. Community Pastures.

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

§ 75A112. Beneficiary Home Loan Fund; Beneficiary Home Development Fund; Beneficiary Educational Fund; Beneficiary Commercial Loan Fund; Beneficiary Home Repair Loan Fund; and the Beneficiary Loan Guarantee Fund.

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

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

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(1) The Commission may extend the benefits of the Fund only to eligible beneficiaries 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 Land Trust Property who leaves no relatives qualified to be a lessee of Chamorro Land Trust Property, 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 § 75A113(b).

(3) Where the dwelling is on Chamorro Land Trust Property, 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 §§ 75A107, 75A108, 75A109, 75A110, 75A113, 75A114 and 75A116, 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 Beneficiary Home Loan Fund, or Beneficiary 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 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 Land Trust Property, 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 Land Trust Property or non-Chamorro Land Trust Property, and where the going rate of interest on loans made by financial institutions to eligible beneficiaries 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 Land Trust Property and non-Chamorro Land Trust Property 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 residential property in all loans by financial institutions made to beneficiaries under this

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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) Beneficiary Home Development Fund. Twenty-five percent (25%) of the amount of moneys covered into the Beneficiary Home Loan Fund annually shall be transferred into the Beneficiary Home Development Fund. The moneys in said development fund shall be available, with the prior written approval of *I Maga'håga/Maga'låhi* for construction of sanitary sewage facilities for the construction of roads through and over Chamorro Land Trust Property, 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 *I Maga'håga/Maga'låhi*, 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) Beneficiary Education Assistance Fund. Ten percent (10%) of the amount of moneys covered into the Beneficiary Home Loan Fund annually shall be transferred into the Beneficiary 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 *I Maga'håga/Maga'låhi*.

(f) Beneficiary 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 Land Trust Property, 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 § 75A113.

(g) Beneficiary 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 Beneficiary 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 Beneficiary 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 § 75A107 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 §§ 75A108 and 75A113 of this Act.

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The Commission's guarantee of repayment shall be adequate security for a loan under any Guam law prescribing the 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 Beneficiary 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 Beneficiary 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 Beneficiary 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 Beneficiary Loan Guarantee Fund. The aggregate amount of the payments made by the Commission to bring the loan current may be recovered by the Commission by adding such amount to the principal amount of the loan being reassigned to and assumed by a qualified beneficiary. All funds so expended and subsequently recovered shall be deposited in the Beneficiary Loan Guarantee Fund.

(i) Applicable Taxes on Chamorro Land Trust Property. 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 Land Trust Property 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 Beneficiary 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.

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

2024 NOTE: References to Chamorro were replaced with beneficiary pursuant to P.L. 35-112:1(3) (Dec. 10, 2020) ("The new Chapter 75A of Title 21, Guam Code Annotated, shall replace all references to 'Chamorro' and 'native Chamorro,' (or any variations thereof) with 'beneficiary' and 'eligible beneficiary,' respectively.") References to "Governor" replaced with *I Maga'håga/Maga'låhi* pursuant to 5 GCA § 1510.

2021 NOTE: References to provisions in Chapter 75 replaced with references to corresponding provisions in Chapter 75A.

§ 75A113. Conditions of Loans.

Except as otherwise provided in § 75A112, 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 Beneficiary 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 unpaid principal. Notwithstanding any other provision of law, rule, regulation or this Chapter 75A, 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 § 75A109(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 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 § 75A108 and with the provisions of § 75A109 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.

2021 NOTE: References to provisions in Chapter 75 replaced with references to corresponding provisions in Chapter 75A.

§ 75A114. 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 § 75A113 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 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 Land Trust Property 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 § 75A109 of this Title has been made.

2021 NOTE: References to provisions in Chapter 75 replaced with references to corresponding provisions in Chapter 75A.

§ 75A115. 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 § 75A110 or § 75A114 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 § 75A114 of this Chapter may be again leased by the Commission as authorized by the provisions of the § 75A107 of this Chapter, except that the value, in the opinion of the Commission, of all improvement made in respect to such tract by 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 §§ 75A113 and 75A114 to the same extent as loans made by the Commission from the Beneficiary Home Loan Fund.

2021 NOTE: References to provisions in Chapter 75 replaced with references to corresponding provisions in Chapter 75A.

§ 75A116. Agency Review of Statutory Authority.

All agencies, departments, boards, commissions, and other instrumentalities of the Guam 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.

2024 NOTE: Reference to “territorial” replaced with “Guam” pursuant to 1 GCA § 420.

§ 75A117. 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.

§ 75A118. 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 provided for in § 75A102(b) of this Chapter. The salary of the Administrative Director shall be determined by the Commission as provided for in said § 75A102(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 § 75A112 of this Chapter.

2021 NOTE: References to provisions in Chapter 75 replaced with references to corresponding provisions in Chapter 75A.

§ 75A119. 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 *I Maga'håga/Maga'låhi* 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.

2024 NOTE: Reference to the “Governor” replaced with *I Maga'håga/Maga'låhi* pursuant to 5 GCA § 1510.

§ 75A120. 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 Guam Waterworks Authority 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 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.

2021 NOTE: Reference to Public Utility Agency of Guam was replaced with Guam Waterworks Authority pursuant to P.L. 23-119:3 (July 31, 1996).

§ 75A121. The Establishment of “*Hatdin Āmot 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 Āmot 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 Āmot Chamorro.*

(c) The Chamorro Land Trust Commission, in consultation with the *Hāya* 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 Āmot 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 Āmot 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

(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.

§ 75A122. 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.

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(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 § 75A107(c) of Chapter 75A, 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 § 75A107(a) of Chapter 75A, Title 21 GCA, to:

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

(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 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 § 75A107(f) of Chapter 75A 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.

(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 § 75A105(d) of Chapter 75A of Title 21, Guam Code Annotated, for commercial use and for a term not to exceed twenty-five (25) years; or licensed pursuant to § 75A107(c) of Chapter 75A, 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.

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(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 § 75A105(b) of Chapter 75A 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, and the Chamorro Home Loan Fund in allocated amounts determined by the CLTC through the adoption of a resolution.

(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. 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 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.

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(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 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.

(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 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;

(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

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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. 35-112:1 (Dec. 10, 2020). Subsection (b)(5) amended by P.L. 37-114:5 (July 22, 2024).

2021 NOTE: References to provisions in Chapter 75 replaced with references to corresponding provisions in Chapter 75A.

§ 75A123. Annual and Monthly Reports.

(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'hågan/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'hågan/Maga'låhen Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and the Office of Public Accountability.

§ 75A124. 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'hågan/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;

(2) the proceeds of commercial leases or licenses executed after October 2015; and

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(3) the proceeds of CLTC commercial submerged lands license agreements, to include license fees, landing fees, fines, and interest.

(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, sewer, power utilities, telecommunications resources, and subdivision improvements, which include, but are not limited to, storm drainage facilities, curbs, street gutters, and sidewalks, to service CLTC residential and agricultural tracts of land, including debt service required for financing secured through the U.S. Department of Agriculture's Rural Utilities Service (RUS) to include the Substantially Underserved Trust Area (SUTA) Initiative. In addition to the annual lease fee established by § 75A108 of this Chapter, the Commission may recover from lessees, the full cost of RUS and SUTA funded investments which shall be prorated over the life of duly executed lease agreements.

(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, including any and all financial agreements secured through the U.S. Department of Agriculture's RUS and SUTA Initiative, 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. 35-112:1 (Dec. 10, 2020). Amended by P.L. 36-114:1 (Oct. 12, 2022); P.L. 37-114:3 (July 22, 2024).

§ 75A125. 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; 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.

ARTICLE 2
GUAM UNDERSEA ACCESS FOR HOMES ACT (GUAHA)

2022 NOTE: Entire article added by P.L. 36-108:2 (Sept. 29, 2022).

- § 75A201. Title.
- § 75A202. Legislative Findings and Intent.
- § 75A203. Authorization to Enter into Commercial Submerged Lands License Agreements with Telecommunication Providers.
- § 75A204. Compensation for Submerged Lands License Agreements.
- § 75A205. License Agreement Requirements.
- § 75A206. Default and Termination.
- § 75A207. Deposit of Revenues and Fees.
- § 75A208. Authorization to Adopt New Fees After 2031.
- § 75A209. Guam Coastal Management to Recommend Optimal Submerged Cable Landing Sites.
- § 75A210. Establishment of Fees.
- § 75A211. Exemption from Commercial Leases and Licenses.
- § 75A212. Other Submerged Licenses Allowed.

§ 75A201. Title.

This Article shall be known and may be cited as the Guam Undersea Access for Homes Act (GUAHA).

§ 75A202. Legislative Findings and Intent.

(a) *I Liheslaturan Guåhan* finds that it is in the best interest of Guam to support and facilitate the construction of fiber optic submarine cables between Guam and the rest of the world to support future and current telecommunication requirements for its residents and businesses. There are several fiber optic cable systems landing in Guam providing connectivity to Guam. Several companies and consortiums have expressed an interest to construct additional fiber optic cable systems or to extend current leases, which will benefit Guam residents and businesses by creating more connectivity and a more robust infrastructure to support modern commerce.

(b) *I Liheslaturan Guåhan* further finds while the government of Guam recognizes the importance of telecommunications cables and enhanced connection capability to the future growth of Guam's economy, the government does not have a uniform policy to govern the leasing of submerged lands for the purposes of submarine cables, nor a plan for taking advantage of the placement of these cables to diversify industry and economic investment fairly.

(c) § 1705(a) of the Organic Act of Guam, regarding Tidelands, etc. Conveyed to Guam, states that "subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territories of Guam... are hereby conveyed to the governments of Guam... as the case may be, to be administered in trust for the benefit of the people

thereof.” The bulk of submerged lands on Guam is currently under stewardship of the Chamorro Land Trust Commission (CLTC), and this Article shall apply to CLTC submerged lands.

(d) *I Liheslaturan Guåhan* further finds there is a need to update previous cable License Agreements entered into by the government of Guam to bring all telecommunications agreements more in line with the global market.

(e) Therefore, it is the intent of *I Liheslaturan Guåhan* to authorize CLTC to negotiate and enter into commercial submerged lands License Agreements for the purpose of bringing additional telecommunications infrastructure for a period exceeding the twenty-one (21) year limit authorized in § 75A122(a)(2) of this Chapter subject to approvals and permits, and concurrence as required by U.S. federal and local laws including permitting application review and approval from the U.S. Army Corps of Engineers for work in U.S. waters, the Guam Coastal Management Program Federal Consistency Certification requirements in accordance with the Coastal Zone Management Act of 1972, and the Guam Territorial Seashore Protection Commission pursuant to the Guam Territorial Seashore Protection Act of 1974 for work within the seashore reserve, Guam Environmental Protection Agency and the National Oceanic and Atmospheric Administration National Marine Fisheries Service.

2022 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 75A203. Authorization to Enter into Commercial Submerged Lands License Agreements with Telecommunication Providers.

(a) Notwithstanding any other provision of law, rule, or regulation, *I Liheslaturan Guåhan* authorizes Chamorro Land Trust Commission (CLTC) to enter into commercial submerged lands License Agreements for submerged lands under its jurisdiction for the purpose of construction, installation, operation, maintenance, and use of fiber optic cable telecommunications systems subject to the provisions of this Article.

(b) The submerged lands to be licensed (Licensed Properties) shall extend from the line of mean high tide and seaward to a line three (3) geographical miles distant from the coastline and may include an approximate ten (10+/-) feet wide corridor starting from the mean high tide watermark to the exit offshore for underground conduit infrastructure that would consist of such number of submerged cable ducts and landing pipes as necessary to operate its cable landing stations; provided, that the licensee shall not locate more than six (6) submarine cables and landing pipes within the Licensed Property. The landing pipes may be installed using the Horizontal Directional Drilling construction method, if required permits and approvals, and concurrence allow. Cut and cover methods on the reef crest and forereef are discouraged.

(c) Licensee shall provide to CLTC and Department of Land Management the Global Positioning System [GPS] Survey Depiction of the final permitted conduit infrastructure.

(d) Term. The License Agreement may be for a term of up to twenty-five (25) years. Licensee may be afforded up to two (2) five (5)-year options to renew such License Agreement at its election upon written notification to CLTC at least one hundred eighty (180) days prior to the end of the twenty-fourth (24th) year of the original term and one hundred eighty (180) days prior to the end of the first (1st) five (5)-year option period. The License Agreement shall be subject to termination by Licensee in the event that Licensee is unable to procure the necessary permits, approvals, and concurrence for the construction and operation of the submarine and terrestrial facilities to support the proposed submarine cable landing activity of Licensee within three (3) years of the start of the term of the initial License Agreement.

(e) Such License Agreement, subject to the terms stated herein, shall be binding and enforceable in all respects on the CLTC upon execution.

(f) Non-Exclusivity and Non-Interference. Licensee acknowledges that the Cable Easement is non-exclusive. However, CLTC may not unreasonably interfere with the continued operation and maintenance of the Licensee's landing pipes and manholes and will notify Licensee of any proposed crossing or parallel installation at least sixty (60) calendar days (Notice Period) prior to any proposed installation, unless installation is required due to an emergency. Licensee shall notify CLTC within the Notice Period if they object to CLTC's intention to place conduit, utility lines or any other structure or line within the subject easement and shall support with plans and specifications to the satisfaction of CLTC the basis for any contention that there is an unreasonable interference with Licensee's conduit. CLTC shall at its sole discretion determine whether there is an unreasonable interference with Licensee's landing pipes. CLTC shall be authorized to install any parallel or crossing installation if it reasonably determines there is no unreasonable interference with Licensee's landing pipes.

§ 75A204. Compensation for Submerged Lands License Agreements.

In exchange for those rights granted under the Submerged Land License Agreement for up to six (6) cables, Licensee shall pay CLTC landing fees and annual license fees according to the following schedule:

(a) For the first cable system: A landing fee of One Hundred Thousand Dollars (\$100,000) shall be paid within thirty (30) days of approval of the Bureau of Statistics and Plans Guam Coastal Management Program when the construction, installation, or repair/upgrade of conduit infrastructure or cables is required. In addition, an initial annual license payment in accordance with § 75A204(h) shall be paid within thirty (30) days of the System Operational Date (as defined in § 75A204(g) of this Article) of the first cable system (First System Operational Date); and thereafter, an annual license payment adjusted in accordance with § 75A204(i) shall be paid beginning on the first anniversary of the First System Operational Date and continuing annually for the term of the License Agreement. If no construction, installation, or repair/upgrade of conduit infrastructure or cables is required, only license payments in accordance with § 75A204(h), (i), and § 75A208 shall apply.

(b) For the second cable system: A landing fee of One Hundred Thousand Dollars (\$100,000) shall be paid within thirty (30) days of approval of the Bureau of Statistics and Plans Guam Coastal Management Program when the construction, installation, or repair/upgrade of conduit infrastructure or cables is required. In addition, an initial annual license payment in accordance with § 75A204(h) shall be paid within thirty (30) days of the System Operational Date (as defined in § 75A204(g) of this Article) of the second cable system (Second System Operational Date); and thereafter, an annual license payment adjusted in accordance with § 75A204(i) shall be paid beginning on the first anniversary of the Second System Operational Date and continuing annually for the term of the License Agreement. If no construction, installation, or repair/upgrade of conduit infrastructure or cables is required, only license payments in accordance with § 75A204(h), (i), and § 75A208 shall apply.

(c) For the third cable system: A landing fee of One Hundred Thousand Dollars (\$100,00) shall be paid within thirty (30) days of approval of the Bureau of Statistics and Plans Guam Coastal Management Program when the construction, installation, or repair/upgrade of conduit infrastructure or cables is required. In addition, an initial annual license payment in accordance with § 75A204(h) shall be paid within thirty (30) days of the System Operational Date (as defined in § 75A204(g) of this Article) of the third cable system (Third System Operational Date); and thereafter, an annual license payment adjusted in accordance with § 75A204(i) shall be paid beginning on the first anniversary of the Third System Operational Date and continuing annually for the term of the License Agreement. If no construction, installation, or repair/upgrade of conduit infrastructure or cables is required, only license payments in accordance with section § 75A204(h), (i), and § 75A208 shall apply.

(d) For the fourth cable system: A landing fee of One Hundred Thousand Dollars (\$100,00) shall be paid within thirty (30) days of approval of the Bureau of Statistics and Plans Guam Coastal

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Management Program when the construction, installation, or repair/upgrade of conduit infrastructure or cables is required. In addition, an initial annual license payment in accordance with § 75A204(h) shall be paid within thirty (30) days of the System Operational Date (as defined in § 75A204(g) of this Article) of the fourth cable system (Fourth System Operational Date); and thereafter, an annual license payment adjusted in accordance with § 75A204(i) shall be paid beginning on the first anniversary of the Fourth System Operational Date and continuing annually for the term of the License Agreement. If no construction, installation, or repair/upgrade of conduit infrastructure or cables if required, only license payments in accordance with § 75A204(h), (i), and § 75A208 shall apply.

(e) For the fifth cable system: A landing fee of One Hundred Thousand Dollars (\$100,00) shall be paid within thirty (30) days of approval of the Bureau of Statistics and Plans Guam Coastal Management Program when the construction, installation, or repair/upgrade of conduit infrastructure or cables is required. In addition, an initial annual license payment in accordance with § 75A204(h) shall be paid within thirty (30) days of the System Operational Date (as defined in § 75A204(g) of this Article) of the fifth cable system (Fifth System Operational Date); and thereafter, an annual license payment adjusted in accordance with § 75A204(i) shall be paid beginning on the first anniversary of the Fifth System Operational Date and continuing annually for the term of the License Agreement. If no construction, installation, or repair/upgrade of conduit infrastructure or cables if required, only license payments in accordance with § 75A204(h), (i), and § 75A208 shall apply.

(f) For the sixth cable system: A landing fee of One Hundred Thousand Dollars (\$100,00) shall be paid within thirty (30) days of approval of the Bureau of Statistics and Plans Guam Coastal Management Program when the construction, installation, or repair/upgrade of conduit infrastructure or cables is required. In addition, an initial annual license payment in accordance with § 75A204(h) shall be paid within thirty (30) days of the System Operational Date (as defined in § 75A204(g) of this Article) of the sixth cable system (Sixth System Operational Date); and thereafter, an annual license payment adjusted in accordance with § 75A204(i) shall be paid beginning on the first anniversary of the Sixth System Operational Date and continuing annually for the term of the License Agreement. If no construction, installation, or repair/upgrade of conduit infrastructure or cables if required, only license payments in accordance with § 75A204(h), (i), and § 75A208 shall apply.

(g) The “System Operational Date” of each cable system shall be that date at which the cable system is fully installed, the associated system-wide testing is completed, and the cable system is approved to carry commercial traffic. Licensee shall notify CLTC within thirty (30) days after the establishment of the System Operational Date of each cable installed and operational cable systems, the “system operational date” shall mean the start of the term of the new License Agreement.

(h) Annual license fees for cable systems that have a System Operational Date, from the enactment of this Article through December 31, 2031, shall be applied as follows:

(1) Enactment - December 31, 2022	\$100,000
(2) January 1 - December 31, 2023	\$102,000
(3) January 1 - December 31, 2024	\$104,040
(4) January 1 - December 31, 2025	\$106,121
(5) January 1 - December 31, 2026	\$108,243
(6) January 1 - December 31, 2027	\$110,408
(7) January 1 - December 31, 2028	\$112,616
(8) January 1 - December 31, 2029	\$114,868

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(9) January 1 - December 31, 2030 \$117,165

(10) January 1 - December 31, 2031 \$119,509

(i) The annual fees for each cable system set forth in this Section shall be adjusted annually on the anniversary of the System Operational Date of each cable system, and on the anniversary of the System Operational Date of each cable system, and for the remainder of the term. All recurring fees shall be adjusted and increased annually for inflation at a fixed rate of two percent (2%) per annum.

(j) The annual fees for each cable system set forth in this section shall be applicable exclusively to License Agreements granted after the enactment of this Article. All unexpired existing License Agreements signed before enactment of this Article will be honored within the limits already set forth in their respective agreement.

(k) The Chamorro Land Trust Commission and staff shall also utilize this section for operators with existing cable system agreements which may be expired or expiring who are seeking to renegotiate new Submerged Lands License Agreements.

(l) A cable system is defined as a single end-to-end undersea communications cable and associated facilities owned by a set of joint partners which lands in Guam, recognizing that a cable system may either (1) terminate in Guam via a single cable end, or (2) transit in and out of Guam via two (2) cable ends interconnected at a local cable landing station. A single landing fee and annual license would be applied to each cable system as articulated in Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), of this section or as provided for in other sections of law.

(1) "Undersea Cable" or "Submarine Cable" includes a cable used to conduct electricity or light that is placed on the submerged or submersible lands within the territorial sea of Guam.

(2) In either case, a single landing fee and annual license would be applied to each cable system as articulated in Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), of this Section or as provided for in other sections of law.

(3) CLTC reserves the right to modify the Guam Open Access Link (GOAL) from time-to-time as appropriate. CLTC's decision will be in line with standard industry practices while final decisions are at CLTC's sole and absolute discretion subject to legislative approval.

(m) Existing Agreements set to expire within the six (6) month period after the effective date of this Article may be extended for one (1) additional six (6) month period upon written notification by Licensee to the CLTC unless Licensee provides written notification to the CLTC denouncing such extension within thirty (30) days of the effective date of this Article. The terms of the Existing Agreement shall govern the terms of the six (6) month extension period, except that for cables installed by Licensee prior to the effective date of this Article, if they associated system-wide testing has not been completed and cable system has not been approved to carry commercial traffic prior to such date, it shall be governed by the provisions of this Article.

(n) For the purposes of Subsection (a)-(f) of this § 75A204, a landing fee is required for cables that have been installed by Licensee prior to the effective date of this Article if the associated system-wide testing has not been completed and the cable system has not been approved to carry commercial traffic prior to such date.

§ 75A205. License Agreement Requirements.

From and after the effective date of this Article, the following requirements shall apply to and be incorporated in each submerged lands License Agreement entered into with the CLTC for the construction, installation, operation, maintenance, and use of fiber optic cable telecommunications systems:

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(a) Interest for Late Payment. All license fees in arrears shall bear interest at a rate of four (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.

(b) Taxes. Any and all taxes, fees and assessments, to include taxes on gross receipts and improvements to the Licensed Property, levied upon the Licensed Property shall be borne and paid by Licensee upon execution of the License Agreement.

(c) Insurance. The License Agreement shall require Licensee to have:

(1) General Liability Insurance (GLI) that indemnifies and holds CLTC and the government of Guam harmless, and shall require Licensee to respond to CLTC request for information on a timely basis. Licensee shall procure, at its own cost and expense, and keep in force during the term of the License Agreement for the mutual benefit of CLTC and Licensee, a policy of General Liability Insurance with such insurance company as CLTC shall approve, and in such amounts as set forth in Subsection (c)(2) of this Section. A copy of such policies shall be provided to CLTC at CLTC's request. CLTC may review the foregoing limits of coverage and require increases therein but shall not require increases more frequently than annually.

(2) Licensee shall procure and maintain for the duration of the License Agreement General Liability Insurance against claims for injuries to persons or damages to property which may arise from or in connection with exercise of Licensee's rights under the Cable License Agreement. The GLI shall be of the type, in the amounts, and subject to the provisions described as follows:

(A) Commercial General Liability coverage with a limit of not less than Two Million Dollars (\$2,000,000) per occurrence;

(B) Business Automobile Liability Insurance with a limit of not less than One Million Dollars (\$1,000,000) per accident;

(C) Workers Compensation Insurance;

(D) Construction Payment and Performance Insurance or bonding in an amount equal to One Million Dollars (\$1,000,000). Coverage, however, may be discontinued after recordation of the Notice of Termination of Construction Easement.

(E) Evidence of Coverage:

(i) Prior to commencement of construction under the License Agreement, Licensee shall file certificates of insurance with original endorsements evidencing coverage in compliance with this section, and in a form acceptable to CLTC. The certificate shall be on an insurer's standard proof of insurance form.

(ii) Licensee shall provide to CLTC, upon request, a complete copy, including all endorsements and riders, of any applicable insurance policy.

(iii) During the Term, Licensee shall maintain current valid proof of insurance coverage with CLTC at all times. Proof of renewals shall be filed prior to expiration of any required coverage and shall be provided on the insurer's standard proof of insurance form.

(F) All insurance coverages shall be provided by insurers with a rating of A-, VII, or better in the most recent edition of Best's Key Rating Guide, Property-Casualty Edition.

(G) Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, or canceled, and shall not be reduced in coverage or limits, except after

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thirty (30) days prior written notice is provided to CLTC. Upon prior request of the carrier, the notice period may be reduced to ten (10) days in the event of non-payment of premium.

(H) All liability coverages shall name CLTC, and every elected official, officer, attorneys, agent, and employee of CLTC, as additional insureds with respect to activities undertaken pursuant to the Cable License Agreement or the construction easement.

(I) Licensee's insurance and any insurance provided in compliance with these specifications shall be primary with respect to any insurance programs covering CLTC.

(J) Where available, the insurer shall agree to waive all rights of subrogation against the CLTC and every officer, agent, and employee of CLTC.

(K) In the event that Licensee does not provide continuous coverage, CLTC shall have the right, but not the obligation, to obtain the required insurance coverage at Licensee's cost, and reimbursement of insurance costs shall become a material obligation of the Cable License Agreement.

(L) As an alternative to all other requirements of this section, Licensee may provide self-insurance reasonably satisfactory in kind and amount to CLTC.

(M) On or after the fifteenth (15th) anniversary of the Commencement Date, CLTC may increase the minimum amount of the required commercial General Liability Insurance to Four Million Dollars (\$4,000,000) per occurrence by giving written notice to Licensee within thirty (30) days prior to the expiration of Licensee's GLI policy.

(d) The general public shall have the right to use the seafloor, water column, and sea surface to enter on or cross any portion of the Licensed Property for fishing and other recreational purposes. Anchoring or any destructive activities to the Licensee's infrastructure is prohibited. CLTC reserves the right to itself and to the agents and representatives of the government of Guam, to enter on and cross any portion of the Licensed Property for the purpose of performing any public or official duties; provided, however, that in the exercise of such rights, CLTC and the general public shall not unreasonably interfere with Licensee's use and enjoyment of the rights granted by the License Agreement.

(e) The Licensed Property may be occupied and used by Licensee solely for the activities proposed by Licensee and for incidental purposes related to the landing of submarine cables. In no event shall Licensee conduct any activity on the Licensed Property without obtaining all requisite authorizations and permits from the appropriate Guam and federal government agencies or authorities.

(f) Compliance with Environmental Laws. All activities on Licensed Property shall be in compliance and maintained in accordance with existing federal and local environmental laws, including permitting application review and approval from the U.S. Army Corps of Engineers for work in U.S. waters, the Guam Coastal Management Program (GCMP) Consistency Certification in accordance with the Coastal Zone Management Act of 1972, and the Guam Territorial Seashore Protection Commission pursuant to the Guam Territorial Seashore Protection Act of 1974 for work within the seashore reserve, Guam Environmental Protection Agency, and the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries. Failure to comply with environmental laws shall be a material default by Licensee.

(g) Licensee shall comply with all requirements imposed under all such authorizations and permits and, more generally, shall comply with all applicable Guam and federal government laws, rules, and regulations relating to its activities on the Licensed Property. Licensee shall comply with applicable federal laws, including the Submarine Cable Act of 1921 and the Communications Acts of

1934, as amended, and rules and regulations of the Federal Communications Commission applicable to its interstate and international submarine cable landing authorizations and licensure, including annual reporting obligations. The rights of Licensee under the License Agreement are personal to Licensee and may not be transferred or assigned to any other person, firm, corporation or other entity without the prior written consent of CLTC, which consent shall not be unreasonably withheld; provided however, that Licensee may, without CLTC's consent, lease or transfer conduit or duct space to third parties landing submarine cables; and provided further, that Licensee may, without CLTC's consent, assign its rights to any person acquiring all of Licensee's assets in Guam on condition that the assignee assumes all of Licensee's obligations under the License Agreement.

(h) Improvements to CLTC Property. The License Agreement shall require that any improvements made to or upon Licensed Property shall belong in title to the CLTC upon termination or expiration of the License Agreement, and that any removal required by the CLTC of improvements or items remaining on the property shall be the responsibility of Licensee at no cost to the CLTC; provided, however, that upon a finding by the CLTC, in consultation with the GCMP, that removal of any improvements will cause more environmental damage than to abandon such improvements in place, Licensee may be permitted to abandon such improvements, or any portion approved by the CLTC, without any further financial or legal responsibility for such abandoned improvements.

§75A206. Default and Termination.

From and after the effective date of this Article, the following provisions shall apply to and be incorporated into any submerged lands License Agreement entered into with the CLTC:

(a) Any failure to comply with this Article, the License Agreement, or a material term of the conditions of any government approval, permit, and concurrence shall be considered a material breach of the License Agreement. The party aggrieved by such breach may deliver a "Notice of Default" to the party in breach specifying such noncompliance and the appropriate cure. Except as otherwise provided in this Article, if the breach has not been corrected within a period of ninety (90) days after receipt of the Notice of Default, then the aggrieved party may terminate the License Agreement. Notwithstanding the foregoing, if the breach cannot reasonably be corrected during its applicable cure period, then the aggrieved party may not terminate the License Agreement if the breaching party begins to correct such noncompliance during the cure period and diligently pursues corrective measures to completion.

(b) Upon termination or expiration of the License Agreement, unless extended pursuant to the terms of the License Agreement, the License Agreement shall become null and void, except that CLTC may enforce any and all obligations of Licensee arising out of acts or omissions occurring prior to such termination or expiration.

(c) Without limiting any other remedies the CLTC may have arising out of the License Agreement or at law in respect of any default in the performance of Licensee's obligations under the License Agreement, the CLTC shall have the right, in the case of any default and without any re-entry or termination of the License Agreement, to enter upon the Licensed 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 CLTC from ceasing to do so) and Licensee shall promptly reimburse to the CLTC any expense incurred by the CLTC in so doing and the same shall be recoverable.

(d) The License Agreement may be terminated in any of the following events (each an "Event of Default"):

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(1) If license fees 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 Licensee, and if the failure is not remedied by Licensee within five (5) days after the giving of such notice; or

(2) If Licensee fails or neglects to perform or comply with any of the terms, covenants or conditions contained in the License Agreement (other than the covenants to pay license fees) on the part of Licensee to be performed or observed, CLTC may, at any time thereafter, give notice of such failure or neglect to Licensee:

(A) 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

(B) 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; or

(C) if an event of insolvency shall have occurred with respect to Licensee; or

(D) a breach of an obligation by Licensee which has resulted in cancellation of insurance coverage where Licensee 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 Licensee 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

(E) abandonment of the project by Licensee; the CLTC, at its option, may terminate the License Agreement by notice to Licensee, in which event such termination shall be effective immediately upon the delivery of such notice and may enter upon the Licensed Property with or without process of law and take possession thereof.

(F) if a cable is decommissioned by Licensee, Licensee, at its option, may terminate the License Agreement by providing written notice to the CLTC, in which event such termination shall be effective twelve (12) months after the delivery of such notice and CLTC may enter upon the Licensed Property and take possession thereof. Upon termination by Licensee, all fees (landing and annual) shall cease for the decommissioned cable.

§ 75A207. Deposit of Revenues and Fees.

Revenues from fees and interest generated from any commercial submerged lands License Agreement(s) authorized in this Article shall be deposited into the Chamorro Land Trust Survey and Infrastructure Fund to be used for all authorized purposes of that Fund.

§ 75A208. Authorization to Adopt New Fees After 2031.

(a) The CLTC shall adopt new landing fees and license fees for submerged lands License Agreements beginning January 1, 2032, and may amend landing and license fees thereafter, subject to the provisions of the Administrative Adjudication Act. The new landing fees shall not be less than One Hundred Thousand Dollars (\$100,000) and license fees shall not be less than One Hundred Twenty-one Thousand Eight Hundred Ninety-nine Dollars (\$121,899) per cable system with a minimum two percent (2%) annual

escalation per cable system beginning January 1, 2032, and thereafter. License Agreements entered into after 2032 shall begin at no less than the corresponding annual escalated rate.

(b) In the absence of and pending the adoption of new landing fees and license fees pursuant to this Section, the landing fee of One Hundred Fifty Thousand Dollars (\$150,000) shall apply, and the license fees for 2032 shall begin at One Hundred Twenty-one Thousand Eight Hundred Ninety-nine Dollars (\$121,899) per cable system with a minimum two percent (2%) annual escalation per cable system and shall begin at the corresponding annual escalated rate for that year for agreements entered into after 2032.

2022 NOTE: Subsection designations added pursuant to 1 GCA § 1606.

§ 75A209. Guam Coastal Management to Recommend Optimal Submerged Cable Landing Sites.

Within twelve (12) months of the enactment of this Article, the Guam Coastal Management Program (GCMP) shall establish guidelines for initial and periodic review of optimal areas for the landing of submarine cables, and make recommendations to the CLTC which shall be compatible with and minimize adverse impacts to the surrounding coastal area's environment, aesthetic quality, and beach accessibility for fishing and recreation. The areas shall include options for safety corridors, cable landing zones, and multiple access points to strengthen telecommunications connectivity through redundancy in the face of adverse events, including natural disasters and inadvertent breaks to cables caused by human error, as well as provide for the orderly sitings of future cable landings for Guam. The recommendations shall be consistent with the guidelines set forth by federal and local law, including, but not limited to, the Coastal Zone Management Act of 1972 and the Guam Territorial Seashore Protection Act of 1974, as well as be consistent with rules promulgated by the Guam Environmental Protection Agency and the Department of Agriculture. CLTC may consult with GCMP, the NOAA National Marine Fisheries Service, and the U.S. Army Corps of Engineers prior to finalizing any future leases of submerged lands. GCMP and CLTC shall consider employing the International Cable Protection Committee's Government Best Practices for Protecting and Promoting Resilience of Submarine Telecommunications Cables.

§ 75A210. Establishment of Fees.

The Bureau of Statistics and Plans may establish a schedule of fees, in accordance with the Administrative Adjudication Law (Title 5 GCA Chapter 9), to be charged for applications when the construction, installation, or repair/upgrade of conduit infrastructure or cables is required. The schedule of fees shall be sufficient to recover the costs associated with the review and approval of applications, the initial and periodic review of optimal areas for the landing of submarine cables, and other costs incurred from ensuring compliance and the monitoring of submarine cables landed on Guam.

§ 75A211. Exemption from Commercial Leases and Licenses.

Submerged Lands License Agreements pursuant to this Article shall not be subject to § 75A122 of Chapter 75A and § 75122 of Chapter 75, both of Title 21, Guam Code Annotated.

§ 75A212. Other Submerged Licenses Allowed.

Nothing herein shall prevent the CLTC from leasing, licensing, or reserving submerged lands for other purposes, including aquaculture, consistent with law and environmental concerns.
