I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Substitute Bill No. 382-31 (COR), "AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 63 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM FOREST SYSTEM; AND TO CITE THIS ACT AS THE "GUAM FORESTRY LEGACY ACT OF 2012",** was on the 20th day of January, 2012, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 23rd day of June, 2012, at 12:45 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 382-31 (COR)
As substituted by the Committee on Rules;
Federal, Foreign & Micronesian Affairs; and
Human & Natural Resources; and amended on the Floor.

Introduced by: Aline A. Yamashita, Ph.D.
Chris M. Dueñas
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
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Dennis G. Rodriguez, Jr.
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M. Silva Taijeron
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 63 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM FOREST SYSTEM; AND TO CITE THIS ACT AS THE "GUAM FORESTRY LEGACY ACT OF 2012."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 5 is *added* to Chapter 63 of Title 5, Guam Code Annotated, to read:

"ARTICLE 5

GUAM FORESTRY LEGACY ACT OF 2012

§ 63501. Title.
§ 63502. Statement of Purpose; Establishment of the Guam Forest System.
§ 63503. Definitions.
§ 63504. Development of the Guam Forest System Plan.
§ 63505. Promulgation of Rules and Regulations.
§ 63506. Identification of Land.
§ 63507. Leasing of Land Within the Guam Forest System.
§ 63508. Collaboration and Partnership.
§ 63509. Funding.
§ 63510. Protection of the Guam Forest System.

§ 63501. Title. This Article *shall* be cited as the *Guam Forestry Legacy Act of 2012.*

§ 63502. Statement of Purpose; Establishment of the Guam Forest System. The protection and conservation of natural resources and natural habitats or ecosystems, open spaces and historic artifacts, and land for outdoor recreation and education is of critical importance to the people of Guam, to whom the land belongs, and demands ever-increasing vigil and continual effort.

The government of Guam realizes its responsibility to further allow the Department of Agriculture to meet its mandated mission of developing and protecting the agriculture, natural resources, and aquatic and wildlife resources of Guam, and to further set into statute practices that allow for the conservation and protection of these resources.

The purpose of this Act *shall* be to hereby establish the Guam Forest System to augment the mandated responsibility of the Department of Agriculture to carry out this mission. The System *shall* be under the

jurisdiction of the Department. The Director *shall* coordinate with the Guam Department of Land Management to identify land belonging to the government of Guam, and land reserved for use by the Department. Government properties determined to have compatible use for the Guam Forest System *shall* be included in an inventory.

§ 63503. Definitions. As used in this Article:

(a) *Department* means the Guam Department of Agriculture.

(b) *Director* means the Director of the Guam Department of Agriculture.

(c) *System* means the Guam Forest System.

(d) *Inventory* means a list of lands, identified by the Department of Agriculture with the assistance of the Guam Department of Land Management, that can be included on a list for potential Guam Forest System land use, which will be recorded and updated on an annual basis and filed with the Department of Land Management.

(e) *Recreational use* is the use of land by the public, with or without charge, that is *not* detrimental to the environment, for any of the following: hiking, picnicking, camping, boating, hunting, or other outdoor games or sports. Any fee charged for the recreational use of land *shall* be reasonable such that it *shall not* have the effect of unduly limiting its use by the public.

(f) *Open space use* is the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, and to provide essential habitat for wildlife, as well as the conservation and protection of

natural resources.

(g) *Compatible use* is any use determined by the Department, in partnership with the Department of Parks and Recreation, the Department of Land Management and the Guam Environmental Protection Agency, or by this Article to be compatible with the agricultural, recreational, or open space use of land within the Guam Forest System. Determinations for *compatible use* must account for scientific data available, which may be available through various sources, including, but *not* limited to, the Department of Agriculture's Division of Aquatic Fish and Wildlife Resources, the University of Guam's Water and Environmental Research Institute of the Western Pacific (WERI), the Bureau of Statistics and Plan's Coastal Management Program, and the U.S. Department of Interior's Fish and Wildlife Service.

§ 63504. Development of the Guam Forest System Plan.

The Department *shall* develop a "Guam Forest System Plan", which *shall* be submitted to *I Maga'lahen Guåhan,* and transmitted to *I Liheslaturan Guåhan* for approval, in accordance with the Administrative Adjudication Act. This plan *shall* contain, but *not* be limited to:

(a) an inventory of land, to include lot number, size and location for proposed potential use in the System;

(b) a comprehensive and concise definition of the public interest in the System;

(c) proposals for the maintenance and enhancement of the overall quality of the System environment;

(d) stipulations for public access for recreational and

educational use;

(e) proposals for land use to include elements of, but *not* limited to:

(1) education for the purpose of conservation, preservation, environmental sciences, and other related curriculum;

(2) scientific research;

(3) training for agriculture-related personnel or those involved in natural resource fields and/or disciplines or relative activities;

(4) recreation; and

(5) conservation and preservation;

(f) proposals for collaborations with entities within the government of Guam, or non-governmental organizations for the planning, enhancement and sustainability of the System;

(g) a list of allowable activities within the System and penalties for violations;

(h) recommendations for the sustainability of the System, including the extent to which development may be allowed;

(i) proposals for permits and fee schedules for the use of properties of the Guam Forest System; and the collection of such fees *shall* be dedicated to the operations and maintenance of the System;

(j) procedures and protocols for the discovery or presence of historic artifacts on government of Guam lands included in the Guam Forest System, pursuant Chapter 76, Article 1 of Title 21, Guam Code Annotated;

(k) procedures and protocols for identifying government or privately-owned land for inclusion in the System, in accordance with U.S. Department of Agriculture Forest Service programs criteria; and

(l) procedures and protocols, which *shall* include a component for public review, for leasing of land to be included in the System to entities for purposes in accordance with § 63507, *infra*.

§ 63505. Promulgation of Rules and Regulations.

Within ninety (90) days of the approval of the "Guam Forest System Plan," the Department *shall* promulgate rules and regulations, in accordance with the Administrative Adjudication Act, to support the Plan and the operations of the Guam Forest System. Proposed rules and regulations *shall* be submitted to *I Maga'lahi* (the Governor), and transmitted to *I Liheslaturan Guåhan* (the Guam Legislature) for approval.

§ 63506. Identification of Land.

(a) **Inventory.** The Department, in coordination with the Department of Land Management, *shall* inventory land that belongs to and has been reserved for the Department that is suitable for use for the Guam Forestry System.

The Department *shall* maintain a database of the inventoried land available for public reference at the Department. A copy of the inventory *shall* be provided to the Speaker of *I Liheslaturan Guåhan, I Maga'lahen Guåhan,* the Guam Department of Land Management, and the Guam Bureau of Statistics and Plans. The inventory *shall* also be published on the Department website.

(b) **Compatible Use.** Through the identification and inventory process, the Director, in consultation with the Department of Parks and

Recreation, Department of Land Management, and the Guam Environmental Protection Agency, *shall* determine which government of Guam lands have compatible uses for the Guam Forest System pursuant to §63503(g), *supra.* Government land classified as *Conservation Reserves* pursuant to Article 4 of this Chapter may be included in this inventory to carry out the objectives of the Guam Forest System. Government lands classified as part of the Territorial Seashore Protection Act of 1974 pursuant to Chapter 63, Title 21, Guam Code Annotated, may also be included in said inventory.

(1) **Challenges.** Challenges to any *Compatible Use* determination *shall* be made in writing, addressed to the Director of the Department, and *shall* list the specific reasons for the challenge. All challenges *shall* be reviewed in consultation with the partnership entities identified in §63503(g), *supra*. Partnership entities *shall* review each challenge and submit to the Director their recommendations to reject or accept, in whole or in part, any *Compatible Use* challenges, including recommended remedies to each challenge. Findings to challenges *shall* be periodically incorporated into the Guam Forest System Plan, as appropriate.

(c) **Memoranda of Agreement.** The Department may also establish a *Memorandum of Agreement (MOA)* with the Department of Parks and Recreation for land that is part of the Department of Parks and Recreation inventory, including Guam Territorial Park System reserved properties classified as *Natural Preserves* and *Conservation Reserves* pursuant to § 77110 of Chapter 77, Title 21, Guam Code Annotated.

Additionally, the Guam Environmental Protection Agency and the

Department of Land Management may also be included in said MOA, or in separate MOAs, for properties under the jurisdiction of the Territorial Seashore Protection Act of 1974.

While the Department of Agriculture has the scientific and technical resources necessary to establish natural resource conservation and protection practices, any such MOAs should include components for the planning and protocols of maintenance and operation of the System during the planning and implementation stages, given that identified land for the System may fall under the purview of the Department of Parks and Recreation, the Department of Land Management, or the Guam Environmental Protection Agency.

(d) **Reservation of Land.** The Department of Agriculture may also reserve land in accordance with §60105 of Article 1, Division 2, Chapter 60 of Title 21, Guam Code Annotated, for future use as part of the System. The inventory of identified lands *shall* be published on the Department's website.

§ 63507. Leasing of Land Within the Guam Forest System.

Land that is part of the Guam Forest System *shall not* be sold. Such land, however, may be leased to other entities pursuant to §63504(l) *supra*, provided that leased land *shall* be used *only* for the following purposes:

(a) recreation, excluding activities that are detrimental to the environment, such as off-roading;

(b) education;

(c) training for the Department of Agriculture Forestry & Soil Resources Division or other related activities; or

(d) protection and preservation of natural resources and

historic artifacts.

Any use inconsistent with this Act *shall* be considered a violation of law, and offenders will be subject to penalties, as prescribed by the Department.

§ 63508. Collaboration and Partnership.

The Department may establish *Memoranda of Agreement* with other agencies and organizations, including, but *not* limited to:

(1) Department of Parks and Recreation;

(2) Guam Environmental Protection Agency;

(3) University of Guam (UOG) and relative departments or programs, including the Water and Environmental Research Institute of the Western Pacific, the UOG Sustainability Office, and the Soil and Water Conservation Programs;

(4) Guam Community College;

(5) Guam Energy Office;

(6) Bureau of Statistics and Plans;

(7) Guam Fire Department;

(8) Department of Land Management; and

(9) Non-profit organizations.

Any such agreements *shall* be established based on the need to define and enhance collaboration in order to reasonably carry out the creation and objectives of the Plan; and to identify potential funding sources for the sustainability and enhancement of the System.

§ 63509. Funding.

Funding for the planning and development of the Guam Forest System may come from, but is *not* limited to, the following sources:

(a) Federal Assistance for Fire Control, Watershed Protection and Reforestation pursuant to §1421o and §1421p of the Organic Act of Guam; and

(b) USDA Forest Service Grants, including programs under the Cooperative Forestry Assistance Act: Community Forest and Open Space Conservation Program, Forest Legacy Program, Urban and Community Forestry Program, and other related programs.

§ 63510. Protection of the Guam Forest System.

Department of Agriculture Conservation Officers *shall* use the authority given to them as defined in §63103 and §63103.1 of Chapter 63, Title 5, Guam Code Annotated, to serve as peace officers, to carry arms, to make arrests, and to issue citations for violations, and *shall* be assisted by law enforcement entities responsible for enforcing the laws of Guam and federal mandates."