

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | FISCAL NOTES | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | NOTES |
|---|---|---|---------------------|--------------------|---|--------------------------------|---|---|-------|
| 228-37 (COR) As amended by the Committee on Health, Land, Justice, and Culture; and further amended on the Floor. | Therese M. Terlaje Joanne Brown Chris Barnett Telo T. Taitague Roy A. B. Quinata Sabina Flores Perez Joe S. San Agustin | AN ACT TO AMEND § 75A109 OF CHAPTER 75A AND §75109(a)(1) OF CHAPTER 75, TITLE 21, GUAM CODE ANNOTATED AND §§6A112 AND 6A132 OF CHAPTER 6A, AND §6132 OF CHAPTER 6, TITLE 18, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO SUCCESSORS TO CHAMORRO LAND TRUST LESSEES AND APPLICANTS. | 1/5/24 9:35 a.m. | 1/5/24 | Committee on Health, Land, Justice, and Culture | Request: 1/5/24 1/11/24 | 2/6/24 10:00 a.m. | 2/7/24 10:48 a.m. As amended by the Committee on Health, Land, Justice, and Culture | |
| | SESSION DATE | TITLE | DATE PASSED | TRANSMITTED | DUE DATE | PUBLIC LAW NO. | LAPSED | NOTES | |
| 2/19/24 | AN ACT TO <i>AMEND</i> § 75A109(a) OF ARTICLE 1, CHAPTER 75A AND § 75109(a)(1) OF CHAPTER 75, TITLE 21, GUAM CODE ANNOTATED; AND <i>REPEAL</i> AND <i>REENACT</i> §§ 6A112 AND 6A132 OF CHAPTER 6A, AND <i>REPEAL</i> AND <i>REENACT</i> § 6112 AND <i>AMEND</i> § 6132 OF CHAPTER 6, TITLE 18, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO SUCCESSORS TO <i>CHAMORRO</i> LAND TRUST LESSEES AND APPLICANTS. | 2/23/24 | 2/23/24 | 3/6/24 | 37-74 | 3/6/24 | Received: 3/6/24 Mess and Comm. Doc. No. 37GL-24-1726 | | |

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via email to: speaker@guamlegislature.org

Doc Type: 37GL-24-1726
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

March 6, 2024

MAR 06 2024

The Hon. Therese M. Terlaje
Speaker, I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Time: 6:16 pm
Received: [Signature]

Re: Bill No. 228-37 (COR) - AN ACT TO AMEND § 75A109(a) OF ARTICLE 1, CHAPTER 75A AND OF § 75109(A)(1) OF CHAPTER 75, TITLE 21 GUAM CODE ANNOTATED; AND REPEAL AND REENACT §§ 6A112 AND 6A132 OF CHAPTER 6A, AND REPEAL AND REENACT § 6112 AND AMEND § 6132 OF CHAPTER 6, TITLE 18, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO SUCCESSORS TO CHAMORRO LAND TRUST LESSEES AND APPLICANTS

Håfa Adai Madam Speaker,

For the reasons provided below, Bill No. 228-37 (COR) will lapse into law without my signature. While my Administration supports this legislation's general intent of promoting continuity and access to Chamorro Land Trust property for families who have been stewards of Chamorro homelands, in addition to amending statutes, this bill purports to amend rules and regulations. As I have noted many times before, this action violates the separation of powers doctrine, which prohibits legislation that amends executive rules and regulations, just as it prohibits an agency from amending legislative enactments.

Pursuant to 10 GCA §§ 75103, 75107(b), 75A103 and 75A107(b) amendments to *the Senator Paul Bordallo Rules and Regulations for Chamorro Land Trust Commission* could have been properly accomplished through formal rulemaking by the Chamorro Land Trust Commission, the agency charged with implementing regulations to meet the requirements of the Chamorro Land Trust program. Under the separation of powers doctrine, each branch of government must operate in distinct, clearly defined spheres. The Organic Act of Guam charges the Executive Branch with powers to issue "regulations" not in conflict with any applicable law, including Guam's rulemaking laws.



To: Therese M. Terlaje, Speaker
Fr: Lourdes A. Leon Guerrero, Governor of Guam
Date: March 6, 2024
Re: Bill No. 228-37 (COR)

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Conversely, the Legislature is charged with drafting and passing “bills.” Rulemaking and law-making are separate and distinct roles as provided by the Organic Act of Guam. Bill No. 228-37’s proposed amendments to Guam’s Administrative Rules and Regulations infringe on well-established principles. While it is within the Legislature’s authority to pass a bill containing the provisions in Bill No. 228-37, once the Legislature delegates rule-making authority to an agency, as it has with the Chamorro Land Trust Commission, it must honor such delegation and not interfere with agency rulemaking unless otherwise rescinded.

For the reasons noted above, Bill No. 228-37 (COR) will lapse into law without my signature.

Senseramente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

Enclosure(s): Bill No. 228-37 (COR) nka P.L. 37-74

cc via email: The *Honorable* Joshua F. Tenorio, *Maga'låhen Guåhan*, Lt. Governor of Guam
Compiler of Laws

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

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

This is to certify that **Bill No. 228-37 (COR)**, “AN ACT TO **AMEND** § 75A109(a) OF ARTICLE 1, CHAPTER 75A AND § 75109(a)(1) OF CHAPTER 75, TITLE 21, GUAM CODE ANNOTATED; AND **REPEAL AND REENACT** §§ 6A112 AND 6A132 OF CHAPTER 6A, AND **REPEAL AND REENACT** § 6112 AND **AMEND** § 6132 OF CHAPTER 6, TITLE 18, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO SUCCESSORS TO **CHAMORRO** LAND TRUST LESSEES AND APPLICANTS,” was on the 23rd day of February 2024, duly and regularly passed.



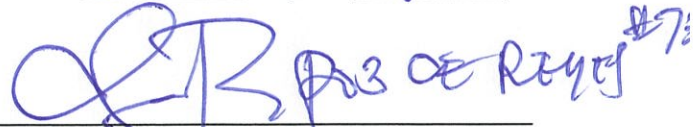
Therese M. Terlaje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 23rd day of FEB,
2024, at 10:49 o'clock P.M.



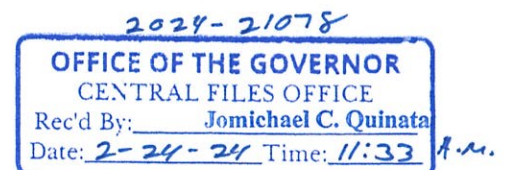
Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 3/6/2024

Public Law No. 37-74



I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÁHAN
2024 (SECOND) Regular Session

Bill No. 228-37 (COR)

As amended by the Committee on Health,
Land, Justice, and Culture; and further
amended on the Floor.

Introduced by:

Therese M. Terlaje
Joanne Brown
Chris Barnett
Telo T. Taitague
Roy A. B. Quinata
Sabina Flores Perez
Joe S. San Agustin
Frank Blas, Jr.
Christopher M. Dueñas
Thomas J. Fisher
Jesse A. Lujan
Tina Rose Muña Barnes
William A. Parkinson
Dwayne T.D. San Nicolas
Amanda L. Shelton

**AN ACT TO *AMEND* § 75A109(a) OF ARTICLE 1,
CHAPTER 75A AND § 75109(a)(1) OF CHAPTER 75,
TITLE 21, GUAM CODE ANNOTATED; AND *REPEAL*
AND *REENACT* §§ 6A112 AND 6A132 OF CHAPTER 6A,
AND *REPEAL* AND *REENACT* § 6112 AND *AMEND* § 6132
OF CHAPTER 6, TITLE 18, GUAM ADMINISTRATIVE
RULES AND REGULATIONS, RELATIVE TO
SUCCESSORS TO *CHAMORRO* LAND TRUST LESSEES
AND APPLICANTS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** § 75A109(a) of Article 1, Chapter 75A, Title 21, Guam Code

3 Annotated, is hereby *amended* to read as follows:

1 “§ 75A109. **Successors to Lessees and Applicants.**

2 (a) (1) Upon the death of the lessee or applicant, his
3 interest in the tract or tracts and the improvements thereon, including
4 growing crops (either on the tract or in any collective contract or
5 program to which the lessee is a party by virtue of his interest in the
6 tract or tracts), shall vest in the relatives of the decedent as provided in
7 this paragraph. From the following relatives of the lessee or applicant,
8 spouse, children, grandchildren, parents, grandparents, siblings,
9 widows or widowers of the children or siblings, or nieces and nephews,
10 the lessee or applicant shall designate the person or persons to whom
11 he directs his interest in the tract or tracts to vest upon his death. Such
12 person or persons must be qualified to be a lessee of *Chamorro* Land
13 Trust Property; provided, that such person or persons need not be
14 eighteen (18) years of age; provided, further, however, that, if the
15 person designated by the lessee:

16 (A) is the lessee’s spouse;

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

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

22 (D) is not an eligible beneficiary as defined under this
23 Act, such person shall, upon the death of the lessee, receive a life
24 estate in the remainder of the lease, and upon termination of the
25 life estate, assignment of the lessee’s remaining interest in the
26 lease shall be governed by the applicable provisions of the

1 *Chamorro* Land Trust Act as if the lessee had died without
2 designating his or her spouse as a beneficiary.

3 (2) Such designation must be in writing, must be
4 specified at the time of execution of such lease or
5 application with a right in such lessee or applicant in
6 similar manner to change such beneficiary at any time and
7 shall be filed with the Commission and approved by the
8 Commission in order to be effective to vest such interests
9 in the successor or successors named. A lessee may elect
10 to provide for the surrender of the lot upon death and may
11 select a recipient for the proceeds from the surrender.

12 (3) In the absence of such a designation as
13 approved by the Commission, the Commission shall select
14 from the relatives of the lessee in the order named above
15 as limited by the foregoing paragraph one (1) or more
16 persons who are qualified to be lessees of *Chamorro* Land
17 Trust Property except as hereinabove provided, as the
18 successor or successors of the lessee's interest in the tract
19 or tracts, and upon the death of the lessee, his interest shall
20 vest in the person or persons so selected. The Commission
21 may select such a successor or successors after the death
22 of the lessee, and the rights to the use and occupancy of
23 the tract or tracts may be made effective as of the date of
24 the death of such lessee.

25 (4) In the case of the death of a lessee or
26 applicant leaving no such relative qualified to be a lessee
27 of *Chamorro* Land Trust Property, the land subject to the

1 lease shall resume its status as unleased *Chamorro* Land
2 Trust Property and the Commission is authorized to lease
3 such land to an eligible beneficiary or beneficiaries as
4 provided in this Chapter.

5 (5) Upon the death of a lessee leaving no such
6 relative qualified to be a lessee of *Chamorro* Land Trust
7 Property homelands, or the cancellation of a lease by the
8 Commission, or the surrender of a lease by the lessee, the
9 Commission shall appraise the value of all such
10 improvements and growing crops and shall pay to the legal
11 representative of the deceased lessee, or to the previous
12 lessee, as the case may be, the value thereof, less any
13 indebtedness to the Commission, or for taxes, or for any
14 other indebtedness the payment of which has been assured
15 by the Commission, from the deceased lessee or the
16 previous lessee. Such payment shall be made out of the
17 loan fund and shall be considered an advance therefrom
18 reimbursable out of payments made by the successor or
19 successors to the tract involved. Such appraisal shall be
20 made by three (3) appraisers, one (1) of which shall be
21 named by the Commission, one (1) by the previous lessee
22 or the legal representative of the deceased lessee, as the
23 case may be, and the third shall be selected by the two (2)
24 appraisers hereinbefore mentioned.”

25 **Section 2.** § 75109(a)(1) of Chapter 75, Title 21, Guam Code
26 Annotated, is hereby *amended* to read as follows:

27 “§ 75109. **Successors to Lessees.**

1 (a) [No text.]

2 (1) Upon the death of the lessee, his interest in
3 the tract or tracts and the improvements thereon, including
4 growing crops (either on the tract or in any collective
5 contract or program to which the lessee is a party by virtue
6 of his interest in the tract or tracts), shall vest in the
7 relatives of the decedent as provided in this paragraph.
8 From the following relatives of the lessee, spouse,
9 children, grandchildren, parents, grandparents, siblings
10 widows or widowers of children or siblings, or nieces and
11 nephews, the lessee shall designate the person or persons
12 to whom he directs his interest in the tract or tracts to vest
13 upon his death. Such person or persons must be qualified
14 to be a lessee of *Chamorro* homelands; provided, that such
15 person or persons need not be eighteen (18) years of age;
16 provided, further, however, that, if the person designated
17 by the lessee:

18 (A) is the lessee's spouse;

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

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

24 (D) is not an eligible beneficiary as defined
25 under this Act, such person shall, upon the death of
26 the lessee, receive a life estate in the remainder of
27 the lease, and upon termination of the life estate,

1 assignment of the lessee’s remaining interest in the
2 lease shall be governed by the applicable provisions
3 of the *Chamorro* Land Trust Act as if the lessee had
4 died without designating his or her spouse as a
5 beneficiary.”

6 **Section 3.** § 6A112 of Chapter 6A, Title 18, Guam Administrative Rules
7 and Regulations, is hereby *repealed* and *reenacted* to read as follows:

8 **“§ 6A112. Application for Leases: Transfer of Application Rights.**

9 Successors to applicants shall be designated and recognized in
10 accordance with 21 GCA § 75A109.”

11 **Section 4.** § 6112 of Chapter 6, Title 18, Guam Administrative Rules and
12 Regulations, is hereby *repealed* and *reenacted* to read as follows:

13 **“§ 6112. Application for Leases: Transfer of Application Rights.**

14 Successors to applicants shall be designated and recognized in
15 accordance with 21 GCA § 75109.”

16 **Section 5.** § 6A132 of Chapter 6A, Title 18, Guam Administrative Rules
17 and Regulations, is hereby *repealed* and *reenacted* to read as follows:

18 **“§ 6A132. Successors to Lessees: Designation of Successors.**

19 Successors to lessees shall be designated and recognized in accordance with 21 GCA § 75A109.
20 A lessee may elect to provide for the surrender of the lot upon death and may select
21 a recipient for the proceeds from the surrender.”

22 **Section 6.** § 6132 of Chapter 6, Title 18, Guam Administrative Rules and
23 Regulations, is hereby *amended* to read as follows:

24 **“§ 6132. Successors to Lessees: Designation of Successors.**

25 Successors to lessees shall be designated and recognized in accordance with
26 21 GCA § 75109. A lessee may elect to provide for the surrender of the lot
27 upon death and may select a recipient for the proceeds from the surrender.”