

# DRAFT

*I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN*  
2015 (FIRST) Regular Session

Bill No. \_\_\_\_\_

Introduced by: \_\_\_\_\_

**AN ACT TO APPROVE RULES AND REGULATIONS OF THE  
GUAM ANCESTRAL LANDS COMMISSION PURSUANT TO  
SECTION 75107 OF CHAPTER 80, TITLE 21, GUAM CODE  
ANNOTATED RELATIVE TO THE LAND BANK PROGRAM  
FOR THE EXTINGUISHMENT OF CLAIMS AND  
AWARDING JUST COMPENSATION .**

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

**Section 1.** Section 80104(b) of Chapter 80, Title 21, Guam Code Annotated authorizes the Guam Ancestral Lands Commission to make rules and regulations relative to the extinguishment of claims and awarding just compensation pursuant to the Administrative Adjudication Law.

**Section 2.** Notwithstanding any other provision of law, rule, regulation, and Executive Order, the rules and regulations, attached hereto as Appendix "A," are hereby approved by *I Liheslaturan Guahan*.

**Section 3.** The Rules and Regulations contained in the Appendix and adopted by this Act shall not affect the provisions of the Guam Ancestral Lands Commission, Chapter 80 of Title 21, Guam Code Annotated. The invalidity of a provision or application shall not affect other provisions or applications of the Rules and Regulations which can be given effect without the invalid provision or application, and to this end the provisions of the Rules and Regulations are severable.

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1 **APPENDIX “A”**

2 **“The Land Bank Program”**

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5 Title 21 of the Guam Administrative Rules, Chapter 80, Article 3, Section 80103.30 “Land  
6 Bank Program” of the Guam Ancestral Lands Commission is amended read:

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8 **Section 80103.30 Land Bank Program: Purpose.**

9 The Guam Ancestral Land Commission is mandated by Title 21 GCA Chapter 80 to establish a  
10 mechanism for compensation to Beneficiaries of the Land Bank Trust for the extinguishment of  
11 claim to their ancestral land and to develop procedures to ensure the effective implementation of  
12 the Land Bank Program.

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14 **Section 80103.30 (a) Definitions.**

- 15 **1. Beneficiary** means a Claimant who the Commission determines is entitled to  
16 just compensation as a dispossessed landowner whose ancestral land was  
17 returned as excess land by the federal government but retained by the  
18 government of Guam, and have not received just compensation.
- 19 **2. Land Bank Trust Fund** means the Fund established by Title 21 GCA  
20 §80104(e).
- 21 **3. Value** means the market value, or the price a willing buyer would pay to a  
22 willing seller a commercially reasonable transaction, of the Ancestral Lands  
23 that are in the continued government or public use.
- 24 **4. Severability.** If any of the provisions on this Act or its application thereof to  
25 any person or circumstances is held invalid, the invalidity shall not affect any  
26 other provisions or applications of this Act which can be given effect without  
27 the invalid provisions or application and to this end the provisions of this Act  
28 are severable.

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30 **Section 80103.30 (b) Compensation Methodology.**

1           **1. Claim Procedure.** To determine eligibility as a Beneficiary, a Claimant must  
2           file a claim as provided in Title 21 GCA §80104.) If the Commission  
3           determines that a Claimant is not eligible as a Beneficiary, the Commission  
4           shall deny the claim. If the Commission determines that a Claimant is a  
5           Beneficiary, the Commission shall determine the amount of compensation due  
6           to the Claimant from the Land Bank Trust by considering one of the following  
7           methods provided by the Claimants:

8                   **a.** At least three (3) real property tax data from the Department of  
9                   Revenue and Taxation on Fair Market Value (FMV) for parcels  
10                  of real property that is comparable to the Claimant’s ancestral  
11                  land to derive at the average amount per square meters.

12                  **b.** The average of two (2) appraisals performed at the Claimant’s  
13                  expense by licensed real estate appraisers on their ancestral land  
14                  for the current value. One of the appraisers must be from a list  
15                  provided by the Commission.

16           **2.** As a condition for monetary compensation, the Claimant must extinguish their  
17           claim to their ancestral land.

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19           **Section 80103.30 (c) Method of Distribution.** The Commission shall conduct an annual  
20           review of the Land Bank Trust account to determine its financial feasibility for disbursement of  
21           funds to qualified Claimants. This yearly review shall be conducted and completed within sixty  
22           (60) days prior to the ending of the fiscal year. The Commission’s determination for the  
23           disbursement of funds shall be based on the following:

24                   **1.** Amount to be retained in the Trust Fund. During the review, an amount to be  
25                   retained shall be established by the Commission based on the Commission’s  
26                   financial investments for the viability of future disbursement of funds to  
27                   Claimants.

28                   **2.** The amount available for disbursement in the Trust Fund is no less than Two  
29                   Million Dollars (\$2,000,000). That amount does not include the amount to be  
30                   retained in the Trust Fund as established by the Commission.

- 1           **3.** If the Commission approves the release of funds, the approval shall include the  
2           date for disbursement and the amount available for disbursement of funds.
- 3           **4.** Funds will be issued to qualified Claimants who meet the deadline established  
4           by the Commission in completing all of the following:
- 5                 a. Application has been completed and approved by the Commission  
6                 b. Claimant has received an approved compensatory award from the  
7                 Commission based on Section 2.1.3. of this policy.  
8                 c. A court appointed administrator of the Estate has executed a form  
9                 provided by the Commission for the extinguishment of their ancestral  
10                land.
- 11           **5.** Claimants who do not meet the deadline will be included on the next  
12           distribution of funds.
- 13           **6.** *Equal Distribution.* The Commission shall disburse funds to each Estate  
14           equally by dividing the amount to be disbursed with the number of Estates the  
15           Commission approved for disbursement. At any time that an Estate’s balance  
16           for compensation is less than the equal amount to be disbursed, that Estate shall  
17           be paid only the balance and the difference will be applied towards the amount  
18           to be divided equally to the rest of the Estates.
- 19           **7.** The Commission shall maintain a record of funds paid to each Beneficiary to  
20           ensure that the Beneficiary is compensated in accordance with the amount  
21           approved by the Commission.
- 22           **8.** *Land Claims Monetary Award.* Monetary compensation will be awarded to the  
23           Estate of the original landowner and are subject to administration in same  
24           manner as Title 15 GCA for Estates and Probates.
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