

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

CHAPTER 68
USE AND DEVELOPMENT OF GOVERNMENT AND OTHER LAND

- Article 1. Land Use Permits.
- Article 2. Talofofu Subdivision.
- Article 3. Machananao Subdivision.
- Article 4. Guam Penitentiary Site.
- Article 5. Judicial Building Site.
- Article 6. Southern Development Master Plan.
- Article 7. Agricultural Leases.
- Article 8. Government Subdivisions.
- Article 9. Dededo Buffer Strip Leases.
- Article 10. Ritidian Point Land - Self Determination.
- Article 11. Miscellaneous Government Land Transactions.
- Article 12. Guam Flood Survey and Mitigation Plan.
- Article 13. Manenggon Memorial.
- Article 14. Return of Unused Properties.

ARTICLE 1
LAND USE PERMITS

- § 68101. Use Permits.
- § 68102. Use Permits: Civic Purposes.
- § 68103. Permits for Religious Displays.

§ 68101. Use Permits.

(a) The Director with the approval of the Governor is authorized to grant permits for the use of any suitable government real property, not otherwise occupied or in use, for any lawful purposes.

SOURCE: GC § 13600 enacted by P.L. 17-40:1, as amended by P.L. 17:81:21.

NOTE: P.L. 17-81:21 in amending Government Code § 13600 used the following language:

“Section 13600 of the Government Code of Guam is amended to read:
[subsection (a) as given above].”

Subsections (b) through (f), which furnished direction for operation of the program, were thus repealed and must be reenacted if it is felt they are needed.

§ 68102. Use Permits: Civic Purposes.

(a) The Director may, with the approval of the Governor, grant permits

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

for the temporary use of government real property and structures, not otherwise occupied or used by the government, by civic leagues or organizations not organized for profit as defined by § 501(c)(4) of the Guam Territorial Income Tax Law (International Revenue Code as made applicable to Guam by virtue of Section 31 of the Organic Act).

(b) Such permits shall be granted for a period not exceeding two (2) years.

(c) Such permits may be issued on a nominal-charge basis, but the permit holder shall in every case be responsible for all utilities and maintenance.

(d) The form of such permits shall be prescribed by the Attorney General.

(e) The Director, with the approval of the Governor, shall make such reasonable rules, not inconsistent with the foregoing provisions of this Section, governing the qualifications for, applications for and issuance of such permits, the terms and conditions thereof, the charges to be collected therefor, supervision of operation thereunder, and enforcement of the terms thereof as may be necessary or desirable to the efficient administration of the program and in public interest.

SOURCE: GC § 13601 enacted by P.L. 17-40:2.

§ 68103. Permits for Religious Displays.

(a) Legislative findings and intent. The United States of America was founded on the principle of religious freedom, as immigrants from Europe searched for a place to practice their religion of choice openly. The Constitution embodies the principle of separation of church and state as a means to guarantee this freedom, not to make it more difficult for citizens to practice their religion. The more recent challenge is to allow for all types of religious freedoms, even the freedom to avoid participation in religion, without making the state an instrument of the avoidance of religion rather than allowing for the exercise of the conscience of each citizen.

The Catholic religion became established in the Mariana Islands and Guam with the arrival of Padre San Vitores, now known as Blessed Diego of the Marianas, a Jesuit priest who studied the Chamorro language on the ship before his arrival in the islands. In over three hundred years of the blending of Spanish culture with island culture, the Catholic religion has become an intimate and important part of the present-day Chamorro culture.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

Prior to other contact, the Catholic religion was practiced almost exclusively by the island residents.

In more recent years, since the arrival of the American Naval Government in 1899, other religions have also been practiced on Guam, both Christian and others. In the modern era, since the lifting of the restrictions on travel to Guam during the administration of President John F. Kennedy, Guam has become home to a variety of people of different cultures. Although other religions are represented, including atheism, the predominant religion on Guam, grounded in many cultural practices, is the Catholic religion.

In keeping with the American ideal of freedom of religious expression for persons of all persuasions, and particularly in order to lift the repressive element on the free and open practice of religion, it is desirable to allow on a fair and equal basis the expression of all religious beliefs during the periods of their public celebrations, which are near and dear to the hearts of the people, but also a source of cultural learning and inspiration for those who do not ascribe to a particular religion or any religion. With this ideal in mind, it is desirable to offer permitting of religious displays.

(b) Permits Authorized. The chief executive officer or administrator of any government of Guam department or agency (Administrator) may grant permits for the temporary use of government real property and structures under the control of the Administrator's department or agency not otherwise occupied or used by the government, by bona fide religious groups or organizations not organized for profit for the purpose of displaying symbols of their religion on or around a bona fide holiday celebrated by such group's religion.

(c) Permit Term. The permits authorized by subsection (b) of this section shall be granted for a period not to exceed three (3) weeks.

(d) Permit Form. The form of the permit shall be prescribed by the Attorney General.

(e) Rules to be Adopted. The Administrator shall make reasonable rules, not inconsistent with the provisions of this section, governing the qualifications for, applications for, and issuance, the terms and conditions, the supervision of operations, and the enforcement of the terms of the permit, as may be necessary or desirable for the public interest.

SOURCE: Added by P.L. 22-37 (9/27/93).

**ARTICLE 2
TALOFOFO SUBDIVISION**

- § 68201. Definitions.
- § 68202. Authorized Sale to Qualified Purchasers.
- § 68203. Preferences.
- § 68204. Covenant to Construct on Lot.
- § 68205. Rules and Regulations.

§ 68201. Definitions.

As used in this Chapter:

(a) *Talofofa Subdivision* means the government of Guam land located in the municipality of Talofofa described as follows:

Blocks 1, 2 and 3 extension and Blocks 20 and 21 (a portion of Lot No. 402, Land Square 28, Sections 3; Land Management Drawing No. D4-70T228);

(b) *Family* means two (2) or more persons related by blood or marriage living together as a household, the head of which is a United States citizen or permanent resident alien;

(c) *Person* means a natural person who is a United States citizen or permanent resident alien;

(d) *Permanent Resident Alien* means a person who has filed a Declaration of Intention to become a United States citizen with the U.S. Immigration and Naturalization Service;

(e) *Developable Real Property* means property upon which a residential dwelling could be built in accordance with applicable law without the necessity of the developer incurring extraordinary or unreasonable cost for the site preparation; and

(f) *Alienation* means the transfer of the property and possession of lands, tenements or other things from one person or another.

§ 68202. Authorized Sale To Qualified Purchasers.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

Notwithstanding any other provision of law (including the provisions of the Chamorro Land Trust Act), with respect to the sale of government land, the Governor may convey the remaining unsold lots in the Talofoto Subdivision to qualified purchasers at less than fair market value of the lot and at less than that expended by the Government in developing and improving the lots. The selling price of a lot shall be Two Thousand Five Hundred Dollars (\$2,500).

SOURCE: GC § 13551 enacted by P.L. 16-118:1.

§ 68203. Preferences.

The Department of Land Management shall sell such lots in accordance with the disposition policy subject to the following preferences:

(a) First preference shall be given to a person or family who is a tenant of any part or portion of the government subdivision in the municipality of Talofoto prior to the enactment of this Chapter and who is without fee title to any developable real property of his own and who is not at the time of application entitled to receive by right of inheritance any developable real property;

(b) Second preference shall be given to a person or family who resided in the municipality of Talofoto prior to the enactment of this Chapter and who is without fee title to any developable real property of his own and who is not at the time of application entitled to receive by right of inheritance any developable real property; and

(c) Third preference shall be given to a person or family who is without fee title to any developable real property and who is a resident of Guam and who is not at the time of application entitled to receive by right of inheritance any developable real property.

SOURCE: GC § 13552 enacted by P.L. 16-118:1.

§ 68204. Covenant to Construct on Lot.

The deed or other agreement executed by the Governor in accordance with this Article shall contain a covenant requiring the purchaser to construct on the lot a dwelling in conformance with building requirements set forth in the laws of Guam. The deed or other agreement shall contain a restraint on either the alienation or sale of the real property for a period of ten (10) years after the deed or other agreement is executed except this restraint shall not apply in the event that title is passed under the laws of

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

succession.

SOURCE: GC § 13553 enacted by P.L. 16-118:1.

§ 68205. Rules and Regulations.

The Department of Land Management shall promulgate in accordance with the Administrative Adjudication Law regulations necessary to effectuate the purposes of this Article.

SOURCE: GC § 13554 enacted by P.L. 16-118:1.

ARTICLE 3
MACHANANAO SUBDIVISION

§ 68301. Sale of Land to Permittee or Lessees.

§ 68301. Sale of Land to Permittee or Lessees.

Notwithstanding any other provisions of law, any person qualified to own land in Guam who has occupied Tract 103, Lot No. 13 and Tract 103, Lot No. 14 and Lot No. 8, Block No. 7, Machananao Subdivision under a government of Guam land use permit or leasehold in the municipalities of Chalan Pago and Yigo shall be entitled to purchase the land so occupied but not to exceed one lot; on the condition that (a) he has continuously and uninterruptedly occupied said land for more than three years and (b) he owns no other land in Guam. Any land acquired pursuant to this Section shall not be resold by the owner within ten (10) years from the date of sale thereof.

SOURCE: GC § 13602 enacted by P.L. 14-153:3.

ARTICLE 4
GUAM PENITENTIARY SITE

§ 68401. Legislative Intent.

§ 68402. Authorization to Exchange land, Guam Penitentiary Site.

§ 68403. Authorization to Exchange Land, Lot 5384, Sabanan Magas, Barrigada.

§ 68404. Authorization to Purchase Homes.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

- § 68405. Time Limitations, § 68403.
- § 68406. Time Limitations, § 68402.
- § 68407. Authorization for Appropriation.
- § 68408. Compensation for Land Owners.

§ 68401. Legislative Intent.

The construction in progress on the site acquired in Mangilao by the government for the new facility of the Guam Penitentiary has brought to light the fact that surrounding residents' homes are located too close to the perimeter of the new facility. Not only has the construction caused considerable air pollution and wastewater buildup on area residents' property, but even after construction is completed it is noted that an access road to the new penitentiary will be within six (6) feet from some residents, and the fencing perimeter will be within twelve (12) to twenty (20) feet from some residents. This excessive proximity of residents' homes to the perimeter of the new facility calls into question the ability of the Department of Corrections to provide adequately for the health and safety of the future inmates as well as the health and safety of the surrounding residents. The Penitentiary site has also been characterized as small by the Final Penitentiary Feasibility Plan, limiting space needed for rehabilitation purposes. Noting that the federal prison system is authorized by law to acquire additional land surrounding federal prisons essential to the protection of the health or safety of the inmates, it is the intent of this law to create a protective zone surrounding the perimeter of the new penitentiary site and provide land and buildings which may be used for rehabilitation purposes.

SOURCE: GC § 13650 enacted by P.L. 17-54:1.

§ 68402. Authorization to Exchange Land, Guam Penitentiary Site.

The Governor is authorized to exchange government land on an area-for-area basis for private land upon which homes are located on the effective date of this Law and located within a five-hundred (500) foot perimeter of the present site of the new Guam Penitentiary facility, namely within a five-hundred (500) foot radius of the perimeter of the penitentiary site as shown on preliminary drawing No. 14-80T122-A, Land Management data number 35-FY81, excluding the area designated on such map for a ponding basin.

SOURCE: GC § 13651 enacted by P.L. 17-54:2.

§ 68403. Authorization to Exchange Land, Lot 5384, Sabanan Magas, Barrigada.

The Governor is authorized to exchange government land on an area-for-area basis for portions of basic Lot No. 5384 located in Land Square 19, §4, in Sabanan Magas, Municipality of Barrigada, known as the following: Lot No. 5384-3 as shown on drawing no. H-105Y63 made by Hiracio G. Carolina and dated December 13, 1963, check by Land Management on December 13, 1983, by F.G.B., Lot No. 5384-6-1 as shown on drawing no. M222-353 made by Juan R. Mesa and recorded under Land Management date no. 917-FY72, Lot Nos. 5384-6-2, 5384-R11, 5384-11 and 5384-6-2 as shown on drawing no. SDCO.39-1176 made by Vicente D. Sian, Jr., and recorded on December 9, 1976 under instrument 274298, Lot Nos. 5384-7, 5384-8, 5384-9 and 5384-10 as shown on drawing no. 7310-11 made by Gregorio S. Torres, Jr., recorded under Land Management Data No. 244-FY74, Lot No. 5384-2 as shown on map prepared by Licensed Surveyor Juan T. Untalan, recorded under Land Management Document No. 400-71 and Lot No. 5384-1 containing an area of 1827.21 square meters as shown on map prepared by Juan T. Untalan, Licensed Surveyor.

SOURCE: GC § 13652 enacted by P.L. 17-54:3, as amended by P.L. 17-75:29.

§ 68404. Authorization to Purchase Homes.

The Governor shall purchase homes located on private land described in §§ 68402 and 68403 of this Article on a replacement cost basis or on such other basis as the parties may mutually agree with consideration given to current mortgage interest rates, incidental cost and insurance to homeowners.

SOURCE: GC § 13653 enacted by P.L. 17-54:4 as amended by P.L. 18-14:7.

§ 68405. Time Limitations, § 68403.

The land exchanges authorized by § 68403 of this Article shall be accomplished by June 1, 1986. The purchase of homes located on private land described in § 68403 authorized by § 68404 of this Article shall be accomplished by June 1, 1986. The property of Jose and Victoria Perez is also included within the deadlines set out in this Section.

SOURCE: GC § 13654 enacted by P.L. 17-54:5 amended by P.L. 18-14:7 and further amended by P.L. 18-32:15.

§ 68406. Time Limitations, § 68402.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

The land exchanges authorized by § 68402 of this Article, and the purchase of homes located on private land described in § 68402 which is authorized by § 68404 of this Article, shall be negotiated within eighteen (18) months from June 11, 1984. Land exchanges and purchase of homes under this Section shall be at the option of private landowners and private homeowners who, after notice by the Department of Land Management, shall notify the Department of their intention to take part in this exchange.

SOURCE: GC § 13655 enacted by P.L. 17-54:6 as amended by P.L. 18-14:7.

§ 68407. Authorization for Appropriation.

There is authorized to be appropriated such sums as may be required to implement this Law. The Governor shall submit within eighteen (18) months to the Speaker of the Guam Legislature a request for funding this authorization as it pertains to § 68405 of this Article.

SOURCE: GC § 13656 enacted by P.L. 17-54 as amended by P.L. 18-14:7.

§ 68408. Compensation for Land Owners.

The Department of Land Management shall expend any balance of the appropriation made by Section 5 of P.L. 15-140, as amended, for the payment of just compensation to the owners of real property in Mangilao whose real properties have been used by the government for the Sabanan Magas Road and for utility improvements along the road. In the alternative, if there is no unexpended balance in the appropriation, then the Governor shall request an appropriation to pay just compensation for the property taken or exchange property for government of Guam land on a value for value basis.

SOURCE: GC § 13657 enacted by P.L. 17-54:8.

ARTICLE 5
JUDICIAL BUILDING SITE

§ 68501. Land Acquisition.

§ 68501. Land Acquisition.

(a) The Governor of Guam shall take the property located within the boundaries of O'Brien Drive, Route No. 7, Esperanza Street and the Government property currently occupied by the Superior Court of Guam,

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

Agana and Lots Numbers 1303-5-2, 1303-5-1, and 1308, which are required for the public purpose of erecting a judicial building and attendant facilities in accordance with Chapter 15 of this Title.

After the taking as described in Subsection (a) of this Section and notwithstanding any other provision of law, with the prior approval of the Governor and prior approval of the Guam Legislature, the Governor of Guam, or his designee, shall acquire by purchase, land exchange or other means of transfer or, if the parties cannot agree upon terms for acquisition by such means, by condemnation, the following lots contained within the area described in Subsection (a): 1286 REM-1-1; 1286-1-1; 1288-1-1; 1288-1-1; 1289; 1290; 1291-1; 1292; 1293; 1294; 1295-1; 1298-1; 1297-1; 1298 REM; 1299-1; 1300; 1301-2; 1301-4 NEW; 1301-5; 1301-6; 1301-6-1; 1301-7; 1301-8; 1301-9; 1301-REM; 1303-1-2; 1303-1-3; 1303-1-4; 1303-1-R4; 1303-2; 1303-4; 1309; 1310; 1311; 1312; 1312-1; 1313; 1214; 1315; 1316; 1317; 1318; 1319; and 1320.

Condemnation proceedings instituted for this purpose shall be conducted in accordance with the provisions of Chapter 15 of this Title, or any other applicable Government of Guam statute. Before any such condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation. In any such condemnation proceedings, and in the interest of expedition, the issue of just compensation may be determined by a committee of three qualified disinterested persons to be appointed by the Governor of Guam. The three disinterested appraisers shall determine how much the government should offer for each parcel of land, using the following criteria:

- (1) the fair market value of the land;
- (2) the actual cost (based at acquisition) and value of any improvements installed or constructed; and
- (3) relocation payments (mortgages and losses for work not compensated.)

If any landowner refuses to accept the amount of the offer, then the government of Guam shall promptly institute condemnation proceedings in the Superior Court of Guam, and deposit into the Court an amount not less than the value set by the three (3) appraisers. Such sums shall be invested in time certificates of deposit at whichever bank on Guam offers the highest rate of interest, with interest to be paid to the landowner as it accrues.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

Any condemnation hearing hereunder shall be heard by a judge pro tem appointed by the Judicial Counsel.

(d) Obligations due the Government of Guam by owners of property within the boundaries described in Subsection (a) of this section may be wholly or partially offset in an amount equal to the value of such land acquired. Such obligations to the value of such land acquired by the government may include real estate tax liability, business privilege tax liability, interest due the Government of Guam on any of the aforementioned obligations, plus rental or lease of Government of Guam land for agricultural or other purposes.

(e) Fractional lots within the boundaries of the property described in Subsection (a) which have not been taxed within the past five (5) years shall be assumed to have a tax obligation to the Government of Guam based on current fair market value of the land at the time of the acquisition.

SOURCE: GC § 13525.1 added by P.L. 17-82:2 (Dec. 12, 1984), repealed and reenacted by P.L. 19-6:3 (Aug. 26, 1987). Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax.

ARTICLE 6
SOUTHERN DEVELOPMENT MASTER PLAN

- § 68601. Geographical Definition.
- § 68602. Funding; Reports and Budget Requests.
- § 68603. Environmental Impact.
- § 68604. Public Hearings.
- § 68605. Task Force Membership.
- § 68606. Master plan; Guidelines.
- § 68607. Duty of Cooperation of Departments and Agencies.
- § 68608. Task Force Majority and Quorum.
- § 68609. Professional and Technical Assistance.
- § 68610. Funding Policy for Implementation of the Southern Master Plan.

NOTE: This Article was enacted as uncodified law by P.L. 19-38, Sections 1 through 10, and codified by the Compiler.

§ 68601. Geographical Definition.

The task force created by this Law (hereinafter, *Task Force*) is hereby

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

charged with the duty, as specified by this law, to develop a comprehensive development Master plan (hereinafter *Southern Master plan* or *Master plan*) for the following villages: Agat, Santa Rita, Umatac, Merizo, Inarajan, Malojoj, Talofofu and Yona, and such areas adjacent to or located in between said villages, including, but not limited to, any offshore areas such as Cocos Island and any body of water as to which the government of Guam has jurisdiction to develop; and since some of the plans or projects to be advanced by the Task Force may have incidental effect, residue application or extension related to other geographical areas under the jurisdiction of the government of Guam, the Task Force may, when necessary and proper, extend the application of the Southern Master plan to such affected areas.

§ 68602. Funding; Reports & Budgets Requests.

The sum of Three Hundred Thousand Dollars (\$300,000.00) is designated as a budget for the Task Force work. The Director Bureau of Budget and Management Research (hereinafter BBMR) shall be responsible for providing the Task Force with the necessary funds to accomplish its work. The Director of BBMR shall use first the following sources of existing appropriations: (a) any existing appropriations in the budget of Bureau of Planning which may be used for the kind of work with which the Task Force is charged; to be supplemented, if necessary by (b) funds from the General Fund appropriated pursuant to this section, which are hereby appropriated. The appropriation from the General Fund shall not, at any event, exceed the sum of Three Hundred Thousand Dollars (\$300,000.00).

The Chairperson of the Task Force shall be responsible for developing a set of written guidelines to control the expenditure of said budget. A report, detailing expenditure, shall be appended to the final Southern Master plan of the Task Force. Said report shall be audited and approved by the Bureau of Budget and Management Research. In the event that the final Master plan is not produced within six (6) months following enactment of this Law, an interim report shall be produced at the end of said six month period, and every six month period thereafter. Such interim reports shall also be audited and approved by the Bureau of Budget and Management Research, and appended to the final Southern Master plan of the Task Force.

§ 68603. Environmental Impact.

The Task Force shall include an Environmental Impact Report in its draft Master plan and any subsequent Master plan, detailing the impact of

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

the Southern Development Plan on the ecology of the areas subject to the Master plan. Said report shall be approved by the Guam Environmental Protection Agency prior to its inclusion in the draft Master plan.

§ 68604. Public Hearings.

The Task Force shall produce an initial draft of the Southern Master plan which, then, shall be subject to public discussion in the form of public hearings. The Chairperson of the Task Force shall append to the draft Master plan, a schedule for such public hearings which will include dates, locations, issues to be discussed in each hearing, recording and reporting procedures; and within thirty (30) days of the conclusion of the last public hearing, the Task Force shall issue a report summarizing the issues and concerns raised during the public hearings. Thereafter said input shall be used in conjunction with the draft Master plan to produce a final Master plan. The final Master plan will be in the form of a draft legislation and will be submitted to the Governor for review. Such review, which will include legal and budgetary analysis, will be concluded within (60) days from submission of the Master plan to the Governor. Upon completion of the review the Governor shall submit legislation containing the Master plan to the Legislature to be introduced in his behalf. In the event that the Governor fails to submit such legislation within said sixty (60) days, he shall issue a written public report detailing his reasons for declining to submit the Master plan. The final Master plan, and memoranda containing the legal and budgetary analyses will be appended to the public report.

§ 68605. Task Force Membership.

The Director of the Bureau of Statistics and Plans shall serve as the Chairperson of the Task Force. In addition, the Task Force will include the Director of the Department of Land Management ('DLM'), the Administrator of the Guam Environmental Protection Agency ('GEPA'), the Administrator of the Guam Economic Development and Commerce Authority, the General Manager of Guam Visitors Bureau ('GVB'), all Mayors from the Villages specified in § 68601, hereinabove, a representative of the Chamber of Commerce and a member of the public at-large to be chosen by I Maga'lahaen Guåhan.

The Chamber of Commerce may, however, decline to participate in this Task Force. Each Director or Administrator may appoint a permanent representative from that person's office to attend meetings in that person's stead; provided, however, that the Director or Administrator shall bear

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

ultimate responsibility for the actions of such representative.

SOURCE: Amended by P.L. 26-76:42.

§ 68606. Master Plan; Guidelines.

It shall be the duty of the Task Force to produce a detailed development Master plan for the geographical area described in § 68601 of this Law. This plan will include the following areas: infrastructure, including: electricity, water, sewage, roads, and communication; tourism; population enhancement; commercial development; industry; zoning; anthropological and archeological preservation; ecological protection; and agriculture, and such incidental matters and issues necessarily related to the areas enumerated in this section. The Task Force may establish committees responsible for any one of these areas. The Task Force shall produce a detailed five-year subplan, and a more general subplan for a period of twenty (20) years. The Task Force shall complete the final Master plan no later than one year from the date it first convenes. The Chairperson may appoint ex-officio members to any committee from any agency, such as Guam Power Authority, Department of Public Works, Public Utility Agency of Guam, etc., and may require attendance or presentation by such agency at any given session of the Task Force or its committees. A ten-day notice shall be provided to any employee of the Government of Guam, or any other witness prior to his testimony or attendance, which notice will specify which issues are to be discussed by such employee. The Director or Administrator of such agency may choose a suitable substitute for the employee whose presence is requested by the Task Force. Failure to respond to a notice to appear before the Task Force or any of its committees shall be a petty misdemeanor.

§ 68607. Duty of Cooperation of Departments and Agencies.

It shall be the duty of each department or agency of the Administrator to cooperate and assist the Task Force in accomplishing its mission. Such duty shall include access to all relevant documents, information, personnel, legal economic and environmental analysis, manpower, machinery, data, computers, software, vehicles and any other kind of assistance deemed necessary and proper for accomplishing the Task Force's mission. The Governor of Guam shall be responsible for speedy resolution of any dispute related to interagency action, or lack thereof, as delineated above. The chairperson may request written legal opinions from the Attorney General regarding any legal matter related to the Task Force work. The Attorney

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

General shall produce and deliver the requested legal opinion in writing within fifteen (15) days from the date of the receiving the request.

§ 68608. Task Force Majority and Quorum.

A majority of the Task Force members shall constitute a quorum. A majority of the members present may undertake any decision necessary for its purposes. It shall be the duty of each member to attend each meeting of this Task Force. Failure to attend more than three (3) meetings shall be brought to the attention of the Governor.

§ 68609. Professional and Technical Assistance.

In the event that the Task Force determines, by a majority vote, that it has a need for professional or technical assistance which is not available, pursuant to § 68607, above, from sources within the government of Guam, the Task Force may contract with firms or individuals from the private sector. No person employed by the government of Guam may be hired pursuant to this section. The Task Force may appoint one of its members to negotiate with individuals or firms to be hired in accordance with this section, but any final agreement will be subject to approval by the Task Force. A team of qualified planners, which would include planners from the Bureau of Planning and the Department of Land Management, experienced in the areas of land usage requirements, technical zoning requirements, building law requirements, and other legal and regulatory requirements pertaining to development of real property, whether onshore or offshore shall be provided to the Task Force by the Governor upon a request from the Task Force. In the event that the Task Force determines that outside assistance is necessary in order to assist the team of planners, such assistance may be contracted for the private sector, provided however, that the Director of the Bureau of Planning submits a detailed recommendation delineating the nature of the assistance needed, the projected cost of such hiring, a list of qualified candidates, and an estimate of the amount of time such services will be needed. The team of planners shall be responsible for producing all necessary maps, charts, diagrams and similar aids for the Southern Master plan. The Director of the Bureau of Planning shall oversee the work of the team of planners including outside assistance, if any, and shall be responsible for coordination between the Task Force, or any committee created pursuant to § 68606 of the law and the team of planners, and shall submit to the Task Force a monthly progress report describing progress made and outlining problems encountered by the team of planners.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

It shall be the duty of the chairperson to coordinate the Task Force's work with the Central Planning Council and to insure compliance with existing legislation such as Public Laws 12-200 (GC §§ 62010-62024) and Public Law 13-89 (as amended, respectively) and any other existing legislation which may have an effect on the Task Force's work and procedures. In the event of a conflict between Public Laws 12-200 or 13-89 (as amended) and this Law, the mandates of this Law shall prevail.

NOTE: The provisions referred to in § 68609 concerning Comprehensive Planning and the Central Planning Council (enacted by P.L.'s 12-200 and 13-89) are now included in 5 GCA Chapter 1, Art. 2, entitled Centralized Planning.

§ 68610. Funding Policy for Implementation of the Southern Master plan.

It is the intent of the Legislature that the Task Force shall commence the process of locating the necessary funds for implementation of the five-year subplan. Due to the existing deficit of the government of Guam and the magnitude of the Master plan, special emphasis is placed on locating financial resources without the General Fund. In addition, since the implementation of the Master plan may be highly beneficial to the Department of Defense and other departments and agencies of the federal government, as well as the private sector, the Director of Bureau of Planning shall utilize those powers available to him pursuant to Title 5 Guam Code Annotated §1213 to promote implementation of the Southern Master plan. A report of grants, loans, contributions, appropriations, and assistance either from the federal government, or any other source, public or private, which may be used for implementation of the Southern Master plan shall be either incorporated into or appended to the final Master plan. For purpose of this section, the Director of Bureau of Planning, or the Governor, may negotiate with any federal agency for funds or other assistance to be utilized in implementation of the Southern Master plan. The Task Force may also recommend a scheme of taxation, fees, deposits and other such financial mechanism pursuant to the intent of this section.

ARTICLE 7
AGRICULTURAL LEASES

- § 68701. Agricultural Leases.
- § 68702. Definitions.
- § 68703. Regulation by Department of Agriculture.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

- § 68704. Eligibility.
- § 68705. Application for Leases.
- § 68706. Approval.
- § 68707. Form of Lease.
- § 68708. Rent.
- § 68709. Cancellation.
- § 68710. Taxes.
- § 68711. Transfers of Encumbrances; Approval Required.
- § 68712. Annual Financial Statement.
- § 68713. Ratification of Agricultural Leases.
- § 68714. Repeal on Convening of Chamorro Land Trust Commission.

NOTE: This Law was passed by P.L. 15-18 as uncodified sections of the Government Code, and codified by the Compiler. No further Source information is given below except where subsequent amendments have been made.

NOTE AS TO REPEAL: In March 1993, the Chamorro Land Trust Commission convened for the first time. Therefore, pursuant to § 68714 of this Article, this entire Article was repealed. For the effect of such a repeal see Attorney General Opinion AGR 93-0387 (4/6/93). The Compiler has retained this Article in the Code for reference in dealing with those leases which remain outstanding on the date of repeal.

§ 68701. Agricultural Leases.

Agricultural Land Available for Lease: Selection. The Department of Land Management, subject to approval by the Governor, is authorized to declare available for lease under the provision of this Law government real property as may be suitable for agriculture and which is not required for public use or reserved for other purposes by any other provision of law. Such land shall then be transferred for administrative purposes to the Department of Agriculture for lease in accordance with the provisions of this Law to qualified persons for the purposes of agriculture. The provisions of Chapter 75 of this Title shall not apply to any leases executed hereunder.

§ 68702. Definitions.

As used in this Law, the term *agriculture* shall include also grazing, stock raising and aquaculture. References to the Department of Agriculture or Director of Agriculture shall be construed to mean any successor to said department or director.

§ 68703. Regulation by Department of Agriculture.

The Department of Agriculture shall process all applications for lease made under the provisions of this Law. It shall determine the best

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

agricultural uses for which the available land should be put and the size of the tracts to be leased, keeping in mind that successful commercial production on such government land is desired by the Legislature and that, therefore, the parcels should be large enough to make such production possible.

§ 68704. Eligibility.

Any person who is a citizen of the United States and of legal age, any corporation authorized to do business in the territory of Guam and authorized by its articles of incorporation to engage in agriculture and any partnership, limited or general, licensed to do business in the territory of Guam, shall, in accordance with the provisions of this Law, be eligible to lease government of Guam land for agricultural purposes.

SOURCE: P.L. 15-18:4 codified by Compiler; as amended by P.L. 19-10:43.

§ 68705. Application for Leases.

Application for leases of agricultural land hereunder shall be made to the Department of Agriculture. The application shall be made in such form as the Director of Agriculture, with the approval of the Governor, shall by rule or regulation prescribe, and the application shall contain such data as the director, with the approval of the Governor, may, by rule or regulation, require.

§ 68706. Approval.

The Department of Agriculture shall verify the eligibility of the applicant and all essential facts set forth by the applicant. The department shall then approve or disapprove the application in accordance with such reasonable standards as the director, with the approval of the Governor, may prescribe by rule or regulation, not inconsistent with law. Such standards shall include the previous experience and background in agriculture of the applicant, the financial ability of the applicant insofar as his ability to make maximum productive use of the land leased in concern, the proposed investment of the applicant and the local need and marketability of the crop or other agricultural product to be raised or derived from the land to be leased, it being the intent of the Legislature that agricultural land belonging to the government be leased to those who will make maximum productive use thereof.

§ 68707. Form of Lease.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

Upon approval of the application and approval of the Legislature as required by P.L. No. 12-61, the Governor shall execute a lease with the applicant, in a form approved by the Attorney General, which, among other lease provisions, shall include the following:

(a) The maximum term shall be fifty (50) years, to be divided into ten (10) year increments, renewable at the option of the lessee.

(b) No rent shall be collected for the first five (5) years operation under the lease and thereafter, rent will be due on an annual basis at the end of the sixth year and those years following.

(c) The lease shall terminate if any topsoil or coral is removed from the land for profit.

(d) Any topsoil or coral removed from the land for the purpose of clearing the land shall be and remain the property of the government of Guam.

SOURCE: P.L. 15-18:7. Codified by Compiler; as amended by P.L. 18-39:2.

NOTE: Section 3 of P.L. 12-61, cited above, requiring legislative approval of land transactions, was amended by P.L.'s 12-226, 15-131 and 15-133. This section was codified by P.L. 18-34:14 as GC § 13008, and renumbered by the Compiler to § 60112 of this Title.

§ 68708. Rent.

The amount of rent due shall be established by using a schedule to be promulgated by the director, with the approval of the Governor, which shall operate in inverse proportion to the investment made on the lease land, as such investment is certified by the Department of Agriculture. The director, in establishing the schedule, shall attempt to award thereby those lessees who make maximum investment in the leased land and penalized those who make the least. In no event, however, shall the annual rent exceed six percent (6%) of the fair market value of the land at the time of the execution of the lease.

§ 68709. Cancellation.

The government of Guam shall reserve the right to cancel at any time, any lease executed hereunder if the lessee is not using the land for the purpose for which leased, unless good cause for such failure can be shown, except that no lease can be canceled without a hearing thereon pursuant to the provisions of the Administrative Adjudication Act.

§ 68710. Taxes.

During the first five (5) years of occupancy of government real property under an agricultural lease executed pursuant to the provisions of this Law, the said land shall not be subject to real estate taxes, except that any improvements shall be taxed in the same manner as any other private property. At the end of the first five (5) years, both the leasehold interests as well as the improvements shall be subject to real estate taxes.

§ 68711. Transfers or Encumbrances; Approval Required.

(a) No rights derived from any lease executed under the provisions of this Law shall be assigned, sold, subleased, encumbered or hypothecated with approval of the Director of Agriculture unless such encumbrance is in accordance with the provisions of Subsection (b) of this Section.

(b) A lessee may obtain a purchase money mortgage for improvement to the leased property. If such mortgage is obtained, then transfer of the title of the lease is authorized to the mortgagee provided the property is continued to be used in accordance with the provisions of this law. Provided further, that the term of any mortgage may not extend beyond the maximum period which the lessee may renew his lease.

(c) Subsection (b) of this Section is adopted because the Legislature finds that the lessees of agricultural land have had considerable difficulty in improving the property so that they can have a decent place to live. The Legislature finds that the main reason for the difficulty is inability to obtain adequate financing and the Legislature finds that if the lessees were permitted to mortgage their own homes, this problem would be greatly alleviated. The Legislature further finds that lessees of government land at the GHURA 500 low cost housing project are permitted to mortgage their property in a manner outlined in Subsection (b) of this Section. The Legislature, therefore, concludes that the lessees of agricultural land should be permitted to mortgage their homes in order to improve their property.

§ 68712. Annual Financial Statement.

Every lessee under a lease executed pursuant to provisions of this Law shall annually submit to the Department of Agriculture a financial statement and report setting forth in detail the improvements on and the income derived from the leased land. The director, may, with the approval of the Governor, prescribe by rule and regulation, the form of such financial statement and the data required.

§ 68713. Ratification of Agricultural Leases.

Public Law No. 12-226 repealed authority for agricultural leases effective January 1, 1975. During the time between the effective date of this Law and January 1, 1975, numerous agricultural leases have been entered by the government of Guam. Such leases may be in violation of the provisions of Chapter 75 of this Title relating to the Chamorro Land Trust Commission. All agricultural leases entered between the government of Guam and any person after January 1, 1975 and prior to the effective date of this Act are ratified and shall remain in effect according to the terms of said leases notwithstanding any provision of law to the contrary.

§ 68714. Repeal on Convening Chamorro Land Trust Commission.

Sections 68701 through 68713 of this Article are repealed upon the convening of the Chamorro Land Trust Commission as provided in Chapter 75 of this Title.

**ARTICLE 8
GOVERNMENT SUBDIVISIONS**

§ 68801. Public Drawing for Government Subdivision Lots.

§ 68801. Public Drawing for Government Subdivision Lots.

In any government of Guam subdivision of public land, if more persons are eligible to purchase lots than there are lots therein, the Attorney General of Guam shall conduct a public drawing to determine the purchasers.

SOURCE: Added by P.L. 20-189:12.

**ARTICLE 9
DEDEDO BUFFER STRIP LEASES**

§ 68901. *Buffer Zone* Leasing: Use of Proceeds.

§ 68901. Dededo Buffer Strip Leases.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

(a) Commercial Leases, Dededo Buffer Strip. The Department of Land Management, with the approval of the Governor, after consultation with the Dededo Municipal Planning Council, is authorized to enter into commercial leases, not exceeding ten (10) years, for the use of that area of land between Marine Drive and the commercial business buildings, and situated between Harmon Loop and I Sengsong Road, on the southern side of Marine Drive in the Municipality of Dededo, known as the Dededo Buffer Strip, for public parking and other purposes which improve surrounding existing business establishments adjacent to the Zone, upon such terms and conditions as are deemed reasonable and in the best interest of the government based upon a yearly rental of not more than twenty percent (20%) of the fair market value of the individual parcel being leased. Preference may be given to businesses immediately abutting the Buffer Strip, as identified by the Department. Each lease shall provide for beautification plans and projects to be implemented by the lessee with the approval of the Department of Parks and Recreation, and after consultation with the Dededo Municipal Planning Council.

(b) Vendor Permits.

(1) Weekend Swap-Meet Vendors. The Mayor of Dededo, with the approval of the Department of Land Management, is authorized to issue vendor permits to individuals requesting to use as space no larger than sixteen feet by sixteen feet (16'X16'), herein designated as a "stall", for weekend usage for a fee of \$20.00. Permits may be issued for individual stalls established by the Municipal Council. Permits shall be issued for six months at a time, renewable upon approval of the Council. Vendors may be allowed to erect temporary structures for purposes of selling their goods, but shall be required to remove such structure daily; no permanent structure or building may be erected on individual stalls. Building permit requirements shall not apply for purposes of erecting temporary stalls. The Municipal Council may establish priority approval for residents of Dededo for weekend vendors who desire to sell used goods, or to barter, sell or swap household wares, goods, clothing, furniture or other new or used items.

(2) Pre-Existing Vendors. Non-commercial vendors who have, prior to the enactment of this law, engaged in the selling of locally grown agricultural produce, locally caught fish and other seafood may continue to operate at the present site at no charge, but shall be subject to an assigned area as designated by the Mayor of Dededo, and are

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

required to keep the area assigned to them clear of trash, debris, solid waste and any other waste material, and maintain the area in a sanitary and clean manner.

(c) Earmarking Proceeds for Dededo and Yigo. All proceeds from such leases shall be earmarked for the exclusive use of the Dededo and Yigo Municipal Planning Councils (two-thirds (2/3) to Dededo and one-third (1/3) to Yigo). Such funds shall be spent by the respective Municipal Planning Councils for the benefit of the municipality pursuant to rules and regulations governing the use of such proceeds which are promulgated by the Municipal Planning Council within one hundred eighty (180) days of passage of this Act and adopted pursuant to the Administrative Adjudication Law. Prior to the adoption of such rules and regulations, the expenditure of such proceeds shall be approved by the respective Municipal Planning Council by majority vote. All proceeds under this Subsection (c) of § 68901 shall be deposited into the Dededo Municipal Planning Council Fund.

(d) Compliance with ADA Requirements. The Dededo Buffer Zone shall comply with the requirements of the Americans with Disabilities Act ('ADA') with regards to accessibility of facilities by persons with disabilities. The cost to bring the Buffer Zone into compliance and to maintain such compliance with the ADA shall be shared between the Dededo and Yigo Municipal Planning Councils based on the same percentage in which the Councils share in the Buffer Zone revenues under the provisions of Item (b) of this Section.

SOURCE: Added by P.L. 22-40 (9/28/93). Repealed by P.L. 23-45:IV:27. Added by P.L. 23-045:IV:28. Subsection (a) repealed and reenacted by P.L. 24-59:IV:5. Subsection (c) amended by P.L. 24-97:2 and P.L. 24-237:1. Subsection (d) added by P.L. 25-03:IV:28 as § 69901(d). Renumbered by Compiler.

NOTE: Added as §26021, Title XXVII, Government Code. Changed by Compiler to 21 GCA § 68901. This change reflects the actual administration of the government lease by Department of Land Management by creating a new Article 9 within 21 GCA Chapter 68, *Use and Development of Government and Other Land*. The Government Code section would have put this section in Title 19, *Department of Parks & Recreation*, which does play a role in the leasing.

ARTICLE 10
RITIDIAN POINT LAND

§ 68950. Termination of Wildlife Refuge.

§ 68951. Ritidian Point Land - Self Determination.

§ 68950. Termination of Wildlife Refuge.

(a) Legislative statement. It is the policy of the government of Guam to seek the termination of federal ownership of real property in Northern Guam commonly known as the *Wildlife Refuge* and to seek the transfer of those lands from the control of the U.S. Department of the Interior's Fish and Wildlife Service to local authority for whatever purposes deemed appropriate by local authority, including possible return to original landowners. In as much as this is public policy, it is inappropriate for any government of Guam instrumentality to act in a manner inconsistent with this policy. While Guam has its own legitimate concerns and programs with respect to the conservation of local fauna, flora, and habitat, it is the position of the government of Guam that federal jurisdiction in these matters is to be opposed. Consequently, in the carrying out of local conservation initiatives and programs, it is vital that neither the government of Guam nor any of its instrumentalities implicitly or explicitly convey tacit or expressed approval of the continuous existence of the Wildlife Refuge under federal jurisdiction.

(b) Neither the government of Guam, nor any of its instrumentalities, shall enter into any cooperative agreement or memorandum of understanding, with any department, agency, or instrumentality of the United States federal government, which in any manner can be construed as providing tacit or expressed support of continued existence of the so-called Wildlife Refuge under federal jurisdiction at Ritidian. The use of any government of Guam resource, personnel, equipment, or funds to enforce any limitation of public access to the so-called Wildlife Refuge at Ritidian is prohibited. Nothing in this section shall be construed as prohibiting the government of Guam from enforcement of local laws with respect to protection and management of fish, wildlife, and flora.

(c) The government of Guam hereby disestablishes all federal designations of critical habitat or wildlife refuge as an act of sovereignty.

SOURCE: Added by P.L. 23-24 (5/30/85).

§ 68951. Ritidian Point Land - Self Determination.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

As an act of self-determination and as an act of autonomy, the lands of the former Naval Facility at Ritidian Point are hereby designated as the lands of the Government of Guam, to be held in trust by the Government of Guam for the benefit of the original owners, and to be held in trust for the shortest time possible until the land can be returned to the original owners or their heirs. The purported transfer of the land from the control of the Department of Defense to the United States Fish and Wildlife Service and the designation of the land as a critical habitat are hereby repudiated and canceled, as is the original taking by the United States government, which taking the Legislature finds to be theft from the original owners.

SOURCE: Added by P.L. 23-25 (5/9/95).

ARTICLE 11
MISCELLANEOUS GOVERNMENT LAND TRANSACTIONS

§ 68975. Farmers' Cooperative.

§ 68976. Authorization to Lease Mangilao Koban.

§ 68975. Farmers' Cooperative.

(a) The Governor of Guam is hereby authorized to lease to the Guam Farmers Cooperative Association the following tract of government-owned land and building:

- A. Lot Nos. 1361-1-B-R1 (2,122.2 sq.m.) and 1361-1-C New (4,214.9 sq.m.), municipality of Agana, containing an area of 6,337.1 square meters, less 28' of the western portion now occupied by Singer Sewing Machine Company (Lot 1393-1, CT. 16754).
- B. Semi-concrete building, approximately 40' x 80' dimension (formerly Farmers Public Market).

The Governor shall execute all instruments necessary to carry out the provisions of subsections (a) through (e) of this Section. The provisions of Section 3 of P.L. 12-61, as amended, shall not apply to the land lease authorized in this Section.

(b) The Government shall lease to the Guam Farmers Cooperative Association for the sum of One Dollar (\$1.00) per annum the lots and

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

building cited in subsection (a). The Association may subject the property and its improvements to a leasehold mortgage.

(c) The land leased to the Guam Farmers Cooperative Association shall be for a period of fifty (50) years. Upon the expiration of the said fifty (50) years, the lease shall be subject to renegotiation between the government of Guam and the Guam Farmers Cooperative Association.

(d) The land leased shall be for the purpose of a chill and freezer facilities, dry storage, retail and wholesale transactions and headquarters of the Guam Farmers Cooperative Association with adjacent parking facilities.

(e) Notwithstanding any other laws to the contrary, the lease by the Government to the Guam Farmers Cooperative Association of Lots 1361-1-B-R1 and 1361-1-C New, Agana, and improvements thereon, shall be valid upon execution by the Governor and the duly authorized representative of the Guam Farmers Cooperative Association. The lease shall not require the concurrence of the Legislature.

SOURCE: This section added by P.L. 16-110:1-5. Section 6 of the same law directed the Compiler to codify these sections.

NOTE: Public Law 21-129:8 dealt with part of the above land as follows: Section 8.

(a) Legislative intent. The Governor is requesting the authority to convey title to 1,522 square meters of government land in the Anigua area to the Guam Power Authority (*GPA*) to build a new substation which would provide primary power and redundancy for *GPA* customers in Agana. The property requested is a portion of that lot previously leased to and used by the Guam Farmers' Cooperative (the *Co-op*). After the closing of the *Co-op*, the property has been in limbo pending resolution of the *Co-op*'s bankruptcy proceedings. Recently, *GPA* has been advised that such property can be conveyed to *GPA* notwithstanding the bankruptcy proceedings since all leased government of Guam land reverts to the government upon termination of the lease for any reason. The legislation authorizing this sale, Bill No. 509, introduced by the Committee on Rules at the request of the Governor, was given a public hearing on April 29, 1992. The Department of Land Management, testifying on behalf of the Administration, supported the bill without any condition.

(b) Authorization. The Governor of Guam is authorized to convey to *GPA*, for One Dollar (\$1), all the right, title and interest of the government of Guam in and to that certain parcel of land described as a portion of basic Lot No. 1361-1-C-NEW, containing an area of 1,522 square meters, situated in the city of Agana, as shown on Land Management Drawing No. I4-81T134, recorded under Document No. 319946 (the Property").

21 GCA REAL PROPERTY

CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

(c) Survey, mapping and registration. The survey, mapping and registration of the Property herein shall be performed at the direction of the Director of Land Management with the cost for such to be borne by GPA.

(e) Reversionary clause. Title and ownership of the Property must remain with GPA for a period of at least ten (10) years. In the event that title and ownership for the Property be conveyed or otherwise transferred to another, such title and ownership of the Property shall revert to the government of Guam.

§ 68976. Authorization to Lease Mangilao Koban.

I Maga'lahaen Guåhan is hereby authorized to lease a portion, to be designated by I Maga'lahaen Guåhan, of Lot No. 2288-1-1-1, located within the municipality of Mangilao, Guam, and the Fansagayan Policia (Police Koban) situated thereon to the Vietnam Veterans of America, Chapter 668, Guam, for an amount of One Dollar (\$1.00) per annum and for a term not to exceed twenty (20) years, renewable for a like term lease subject to renewal by I Liheslaturan Guåhan, so long as lessee shall not cease to function or exist. The lease shall contain the following terms:

(a) The Vietnam Veterans of America, Chapter 668, Guam, shall be considered as having ceased to function should the Chapter fail to conduct a proper meeting as provided for by the chapter and national governing documents for a period of twelve (12) months.

(b) I Maga'lahaen Guåhan may declare a cessation of activity or organizational existence upon a finding that the lessee is not maintaining the property, or is not in compliance with chapter and national governing documents or the laws of Guam or the United States.

(c) Lessee shall not demolish or cause to be demolished any portion of any structure located on the leasehold.

(d) The leasehold is not assignable nor may it be sublet.

(e) The use of the leasehold shall be limited to those activities consistent with the mission and purpose of lessee as detailed in its chapter and national governing documents for a period, and in no circumstances shall the use of the leasehold provide any personal pecuniary benefit to any member or members of the lessee or to any other person.

Nothing herein shall be construed to prohibit I Maga'lahaen Guåhan from establishing additional terms in the lease or renewal.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

SOURCE: Added by P.L. 28-04 (2/15/05).

ARTICLE 12
GUAM FLOOD SURVEY AND MITIGATION PLAN

SOURCE: New Article added by P.L. 28-05

§ 68980. Guam Flood Survey and Mitigation Plan.

(a) The Director of Public Works shall conduct a comprehensive, island-wide survey of all residential and commercial areas of Guam, or areas otherwise subject to human occupancy, that are prone to flooding during storms, typhoons, heavy rains or general inclement weather. Such survey shall be conducted using existing manpower and budgetary resources as exist within the Department. Such survey shall be completed within ninety (90) days of the effective date of this Act, except that failure to meet such deadline shall not be construed as relieving the Department of its mandate to complete the survey required herein.

(b) Upon conclusion of the survey, the Director of Public Works shall submit a report to I Maga'lahen Guåhan and the Speaker of I Liheslaturan Guåhan. Such report shall contain, at a minimum, a comprehensive and detailed map of all areas in Guam surveyed, a detailed description of each area included in the survey, causal and contributory factors that lead to or otherwise exacerbate flooding in areas surveyed, mitigating measures that are recommended to eliminate or severely reduce the threat of flooding in areas surveyed, in the absence of plausible mitigating efforts, recommendations for relocation inclusive of recommendations for land exchanges or purchases, and all estimated costs associated with mitigating efforts or ameliorative solutions. Such report shall be submitted no later than ninety (90) days after the conclusion of the survey, except that failure to meet such deadline shall not be construed as relieving the Department of its mandate to complete the report required herein.

ARTICLE 13
MANENGGON MEMORIAL

SOURCE: This Article added by P.L. 27-97:1 The Legislature numbered this article as § 69xxx. The Compiler has renumber it as § 689xx to conform to the Legislature's placement in Chapter 68 of this Title.

§ 68985. Legislative Findings and Intent.

§ 68986. Land Lease.

§ 68985. Legislative Findings and Intent.

I Liheslaturan Guåhan [The Legislature] finds that on December 8, 1941, the Empire of Japan invaded and captured the Island of Guam several hours after launching the attack on Pearl Harbor that propelled the United States into World War II.

Guam was under Japanese rule for nearly three (3) years during the War, the only populated American soil captured and occupied by the enemy in World War II. Their captors treated the people of Guam harshly. As American liberation forces began their march across the Pacific, most Chamorros were forced to move into concentration camps. The invaders used many Chamorros as laborers for carrying supplies and ammunition, and for building infrastructure to advance the Japanese war efforts.

The largest of these concentration camps was located in the Municipality of Yona, in an area known as Manenggon, at one time housing over eight thousand (8,000) men, women and children who had been forced to march to the remote site in early 1944.

Conditions in the camp were horrendous, the prisoners constructing their rain shelters and sleeping areas from palm fronds. Many captives suffered from malnutrition, dysentery and a long list of other health problems. In addition, physical abuse inflicted on those held in the camp was common, and beheading was a frequently used punishment.

I Liheslaturan Guåhan [The Legislature] further finds that each survivor's personal and deeply moving stories of his or her ordeal and experiences must be preserved and documented.

These stories, and the history of the imprisonment of Chamorros in concentration camps in Guam during World War II, are a part of our island's history. It is also essential that the stories, artifacts and physical location of the campsite be incorporated in an appropriate memorial that will enable present and future generations to learn from and understand the horrors of war and a defining moment in the history of our island.

It is the additional finding of I Liheslatura that the Manenggon Memorial Foundation was established with the sole purpose of recording, honoring and memorializing those who perished and those who survived.

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

Further, the efforts of Ms. Rita Franquez must also be recognized, as she was the responsible individual who approached Mr. Dwight Look. Mr. Look, agreeing with Ms. Franquez, believed that the Manenggon story must be told and forever remembered through a monument in honor of those who endured captivity. In order to see this goal come to fruition, Mr. Look deeded that portion of his property upon which the Concentration Camp was located to the government of Guam for the purpose of creating a memorial for such a purpose.

It is, therefore the intent of I Liheslaturan Guåhan [The Legislature] to lease the property deeded to the government of Guam by Mr. Look to the Manenggon Memorial Foundation so that a proper memorial may be constructed and the stories, artifacts and site may be protected in perpetuity.

§ 68986. Land Lease.

The government of Guam shall lease to the Manenggon Memorial Foundation, a Guam Non-Stock, Non-Profit Corporation ("*Lessee*"), for One Dollar (\$1.00) per year, the parcel of land identified in this Section for the purpose of establishing a memorial of the Manenggon Concentration Camps of World War II under the following conditions:

(a) The parcel is identified as Lot No. 208, in the Municipality of Yona, containing an area of 1,076,578± square feet or 100,018± square meters as shown on Land Management Drawing Number 14-91T658, LM checked No. 050FY2000, recorded under Document Number 616596;

(b) The parcel was deeded to the government of Guam by Mr. Dwight Look in a Quitclaim Deed signed on July 8, 1998, and filed at the Department of Land Management on September 8, 1998, for the specific purpose contained in Quitclaim Deed Instrument Number 590177, to establish a memorial of the Manenggon Concentration Camps of World War II;

(c) The Lessee, a Guam Non-Stock, Non-Profit Corporation filed under Charter Number D-13814 with the Department of Revenue and Taxation, government of Guam, on September 6, 2001, shall utilize the property solely for the purpose contained in the Quitclaim Deed Instrument Number 590177;

(d) The Lease shall contain, at a minimum, the following terms:

1. The period of the Lease shall be for Twenty (20) years with an option to renew three (3) times for another twenty (20) years each;

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

2. The rate shall be One Dollar (\$1.00) per year, payable on the date of the original execution of the Lease and on each anniversary of that date for the term of the Lease;

3. The Lease, or any portion of the property covered thereby, shall not be sold, mortgaged, assigned, sublet, hypothecated or otherwise transferred without the consent of I Maga'lahaen Guåhan and I Liheslatura by statute, and any attempted alienation of any interest in the Lease, or property covered thereby, without such prior consent shall be void;

4. Any change in the tax status of the Lessee shall require an immediate renegotiation of the rate of the Lease. If such change shall be to a For-Profit entity, the rate of the Lease shall be no less than fifty percent (50%) of the actual Lease market value of the property.

(e) The Attorney General of Guam shall incorporate the provisions of this Article in the final Lease Agreement between the government of Guam and the Lessee in such a manner as to facilitate enforcement thereof. I Maga'lahaen Guåhan [the Governor] shall execute all necessary documents to effectuate such Lease.

ARTICLE 14
RETURN OF UNUSED PROPERTIES

SOURCE: New Article added as §§ 6814101-6814107 by P.L. 29-151:1 (Jan. 30, 2009). Renumbered by Compiler to harmoniously fit this chapter.

- § 68991. Title.
- § 68992. Legislative Findings and Intent.
- § 68993. Authorization to Return Properties.
- § 68994. Facilitation of Land Exchange.
- § 68995. No Prohibition Against Building.
- § 68996. Inclusion of Parcels in Real Estate Tax Roll.
- § 68997. Severability.

§ 68991. Title.

This Act may be cited or referred to as "*The Return of Private*

Properties Act of 2008.”

§ 68992. Legislative Findings and Intent.

Public Law 17-54 created a protective zone surrounding the perimeter of the Department of Corrections (DOC) in Mangilao and further authorized *I Maga’lahen Guåhan* to conduct land exchanges on an area-for-area basis with the affected land owners. This zone affected those properties contained within the five hundred foot (500’) radius surrounding the Department of Corrections.

I Liheslaturan Guåhan finds that these families whose properties have been adversely affected by the protective zone, and who should have been granted an exchange with government of Guam land, have been left in an uncertain situation for over thirty (30) years. Furthermore, the government left the landowners in a position where they were unable to improve their properties *or* to even construct safe and decent homes. *I Liheslaturan Guåhan* finds that, through no fault of their own, these families faced condemnation of their land by default.

More importantly, *I Liheslaturan Guåhan* finds that the Department of Corrections is desirous of returning unused properties back to the original landowners.

Therefore, it is the intent of *I Liheslaturan Guåhan* to come to a fair and equitable resolution of this thirty (30) year old continuing problem by returning the properties mentioned herein to the families at no cost.

§ 68993. Authorization to Return Properties.

I Maga’lahen Guåhan is authorized to return the following private properties back to the respective owners:

(1) Lot No. 3339-4A-3, Mangilao, containing an area of 4,046 ± square meters belonging to Bernadette Salas Atoigue with reference map filed at the Department of Land Management as Document Number 321816.

(2) Lot No. 3339-4A-R5, Mangilao, containing an area of 24,083 ± square meters belonging to Raymond C. Salas with reference map filed at the Department of Land Management as Document Number 321816.

(3) Lot No. 3339-8-3, Mangilao, containing an area of 1,858.24 ± square meters belonging to Raymond C. Salas with reference map filed

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

at the Department of Land Management as Document Number 333641.

(4) Lot No. 3339-8-4, Mangilao, containing an area of 1,858.06 ± square meters belonging to Raymond C. Salas with reference map filed at the Department of Land Management as Document Number 333641.

(5) Lot No. 3339-8-5, Mangilao, containing an area of 1,868.49 ± square meters belonging to Jesse C. Salas with reference map filed at the Department of Land Management as Document Number 333641.

(6) Lot No. 3339-8-6, Mangilao, containing an area of 1,858 ± square meters belonging to Jesus M. Salas with reference map filed at the Department of Land Management as Document Number 333641.

(7) Lot No. 3339-8-7, Mangilao, containing an area of 1,868.49 ± square meters belonging to Jesus M. Salas with reference map filed at the Department of Land Management as Document Number 333641.

(8) Lot No. 3348, Mangilao, containing an area of 65,506.62 ± square meters belonging to Manuel C. Salas with reference map filed at the Department of Land Management as Document Number 234754.

(9) Lot No. 5400-2, Mangilao, containing an area of 7,594 ± square meters belonging to Priscilla U. Mesa, reference to Drawing No. LCJ66T131 at the Department of Land Management as Document Number 83310.

(10) Lot No. 5400-3, Mangilao, containing an area of 7,594 ± square meters belonging to Priscilla U. Mesa, reference to Drawing No. LCJ66T131 at the Department of Land Management as Document Number 83310.

(11) Lot No. 2406-7, Mangilao, containing an area of 4,000 ± square meters belonging to Larry Ko, as designated on Map Drawing Number RRV83-26S, recorded as Instrument Number 347003.

(12) Lot No. 2406-9, Mangilao, containing an area of 3,874 ± square meters belonging to Larry Ko, as designated on Map Drawing Number RRV83-26S, recorded as Instrument Number 347003.

(13) Lot No. 2406-12, Mangilao, containing an area of 3,874 ± square meters belonging to Larry Ko, as designated on Map Drawing Number RRV83-26S, recorded as Instrument Number 347003.

(14) Lot No. 2406-13, Mangilao, containing an area of 3,874 ±

21 GCA REAL PROPERTY
CH. 68 USE & DEVELOPMENT OF GOVERNMENT REAL PROPERTY

square meters belonging to Larry Ko, as designated on Map Drawing Number RRV83-26S, recorded as Instrument Number 347003.

(15) Lot No. 2406-14, Mangilao, containing an area of 3,874 ± square meters belonging to Larry Ko, as designated on Map Drawing Number RRV83-26S, recorded as Instrument Number 347003.

§ 68994. Facilitation of Land Exchange.

(a) The Director of Land Management *shall* facilitate for *I Magsa'lahen Guåhan* the return of those properties identified in §68993 of this Chapter. The return of these properties *shall* be accomplished within thirty (30) days *or* sooner, from the date of enactment.

(b) The Director of Land Management is hereby authorized to expend such sums as are necessary to effectuate the return of properties mentioned herein.

§ 68995. No Prohibition Against Building.

Nothing contained in this Act *shall* be construed to prevent *or* prohibit the party receiving the properties from improving such land *or* from building, erecting *or* constructing structures approved in accordance with the building and zoning codes of Guam.

§ 68996. Inclusion of Parcels in Real Estate Tax Roll.

Because of the government's failure to utilize the parcels identified herein as part of a government facility, inclusive of roadways and utility easements, the Director of Land Management *shall* transmit to the Director of Revenue and Taxation those parcels identified herein for inclusion in the real estate tax rolls. Upon verification, the Director of Revenue and Taxation *shall* include the parcels back into the real estate tax rolls and *shall* be applied prospectively and *not* retroactively.

§ 68997. Severability.

If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.
