



Commonwealth of the Northern Mariana Islands  
Office of the Governor  
Saipan, Mariana Islands 96950

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REPLY TO:

DEPT. or ACTIVITY

January 26, 1984

The Honorable Vicente M. Sablan  
Speaker, House of Representatives  
Fourth Northern Marianas Commonwealth  
Legislature  
Saipan, CM 96950

and

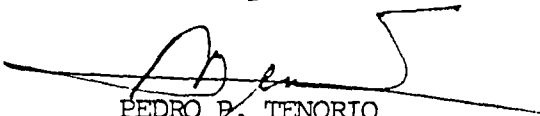
The Honorable Ponciano C. Rasa  
President of the Senate  
Fourth Northern Marianas Commonwealth  
Legislature  
Saipan, CM 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 369, entitled, "To establish a homestead program for the purpose of compensating those persons who have been inadequately compensated for transfers of interests in and encroachments upon land caused by prior governmental action, and for other purposes."

It gives me great pleasure to be able to assist those land owners who have suffered economic loss as a result of prior land exchanges. Establishing priorities which would allow these individuals to acquire homestead property is one method of resolving long-standing inequities. House Bill No. 369 becomes Public Law No. 3-103. Copies bearing my signature are forwarded for your ready reference.

Sincerely,

  
PEDRO P. TENORIO  
Governor

CC: Special Assistant for Programs and Legislative Review

THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
FOURTH REGULAR SESSION, 1984

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AN ACT

To establish a homestead program for the purpose of compensating those persons who have been inadequately compensated for transfers of interests in and encroachments upon land caused by prior governmental action, and for other purposes.

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Offered by Representative Jose M. Taitano

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Date: January 7, 1984

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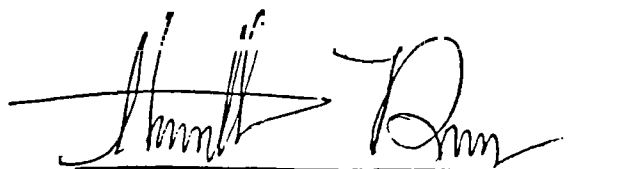
House Action

First and Final Reading:        January 7, 1984

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Senate Action

First and Final Reading:        January 7, 1984



Herbert S. Del Rosario  
Chief Clerk  
House of Representatives

FOURTH REGULAR SESSION, 1983

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AN ACT

To establish a homestead program for the purpose of compensating those persons who have been inadequately compensated for transfers of interests in and encroachments upon land caused by prior governmental action, and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1       Section 1. Short Title. This Act may be cited as the Northern  
2 Mariana Islands Homestead Compensation Act of 1984.

3       Section 2. Legislative Findings and Requirements.

4           (a) The Legislature finds that there are many  
5 residents of the Northern Mariana Islands and their heirs  
6 who have been inadequately compensated for the transfer  
7 of their interests in and/or encroachments upon their  
8 lands that were caused by prior governmental action.

9       Section 7 of the Schedule on Transitional Matters of  
10 the Commonwealth Constitution provides for the  
11 legislative study of the land takings problem in the  
12 Commonwealth. After 5 years of study, including three  
13 public hearings upon this bill, the indexing of all  
14 Land Commission records by the staff of the House of  
15 Representatives, and the collection of all preliminary  
16 documents in an indexed notebook, the Legislature finds  
17 that the judicial doctrine of laches and the statute of  
18 limitations should no longer serve as an excuse to deny  
19 compensatory relief to persons who have received no  
20 compensation or who have been inadequately compensated  
21 for these land takings and encroachments.

1           The Legislature further finds that while the  
2           Commonwealth Constitution prohibits the Legislature  
3           from awarding monetary compensation to these persons,  
4           the Constitution permits the Legislature to compensate  
5           these persons by granting them priority with respect to  
6           eligibility in a homestead compensation program. The  
7           Analysis of the Consttution states the following with  
8           respect to Section 7 of the Schedule on Transitional  
9           Matters:

10                   Section 7. Statutes of Limitations. This  
11           section provides that the legislature may repeal  
12           any statute of limitations currently in force in  
13           the Commonwealth. It may do so only after  
14           completing a study required by this provision.  
15           The legislature may repeal a statute of  
16           limitations only for the limited purpose of  
17           providing compensation to persons involved in  
18           transactions as to which the statute has barred  
19           claims. That compensation may not be monetary  
20           but may be only in the form of a priority with  
21           respect to the distribution of public lands.  
22           Since the legislature has power with respect to  
23           public lands only over the homestead program, the  
24           only form of compensation available is priority

1 with respect to eligibility in the homestead  
2 program. If the the legislature repeals these  
3 statutes of limitations for the purpose of  
4 permitting claims against the Commonwealth  
5 government, a court or administrative agency  
6 could consider previously expired claims and  
7 determine the damages of aggrieved parties.

8 The Legislature finds that there are several  
9 major categories of transfers of interests in and/or  
10 encroachments upon lands for which inadequate  
11 compensation has been awarded by prior governmental  
12 entities in the Northern Marianas. The groups your  
13 Committee has identified include the following persons:

14 (1) those landowners who lost all or a  
15 part of their lands when their lands were seized  
16 without adequate compensation for public road  
17 building purposes;

18 (2) those landowners whose lands were  
19 encroached upon by exchange properties;

20 (3) those landowners whose lands the United  
21 States Naval Administration and Trust Territory  
22 Government assumed were privately held by other  
23 persons or were public, because no persons or  
24 documents were examined to show otherwise, when  
25 in fact the the lands were private; and

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1                   (4) those landowners whose lands the United  
2                   States Naval Administration and Trust Territory  
3                   Government assumed were public based on an initial  
4                   translation of a document, which showed that the  
5                   land was sold. Upon a second translation, the  
6                   documents revealed that the landowners sold only  
7                   a right way or some other interest.

8                   Persons other than those who fall within these six  
9                   categories may also assert claims, for the relief provided  
10                  by this Act is available to those landowners and their  
11                  heirs who can prove they were inadequately compensated  
12                  for transfers of their interests in or encroachments upon  
13                  their land caused by government action after January 1,  
14                  1946, but prior to January 9, 1978.

15                 As recommended by the Constitutional Analysis, it  
16                 is the intention of this Act to provide priority with  
17                 respect to homestead eligibility for those landowners  
18                 and their heirs who can prove by a preponderance of the  
19                 evidence that they were inadequately compensated by past  
20                 governmental action for transfers of interests in and  
21                 encroachments upon their land. The Constitutional  
22                 Analysis recommends that the Legislature designate the  
23                 Commonwealth Trial Court or an administrative agency to  
24                 adjudicate the claims. The Board of Directors of the  
25                 Marianas Public Land Corporation ("MPLC") has been

1       selected by the Legislature as the administrative body  
2       to weigh on a case by case basis the nature and extent  
3       of the land claims asserted by the landowners or their  
4       heirs. It is felt that upon request the MPLC can conduct  
5       the proceedings in Chamorro or Carolinian and in a less  
6       formal and legalistic manner than that required by the  
7       court. The Marianas Public Land Corporation shall not  
8       reject a claim because of the doctrine of laches or the  
9       expiration of the statute of limitations. In the event  
10      the Marianas Public Land Corporation determines that an  
11      applicant's claim is justified in whole or in part, it  
12      shall award the applicant compensation. The priority  
13      between applicants who have been granted homestead  
14      compensation lots under this Act shall be determined  
15      by regulations issued by the Marianas Public Land  
16      Corporation which are consistent with this Act.

17           (b) The Legislature further finds that there are  
18      public lands within the Northern Mariana Islands that  
19      may be made available by the Marianas Public Land  
20      Corporation to compensate those residents who have been  
21      inadequately compensated for transfers of interests in  
22      and encroachments upon land caused by prior governmental  
23      action. In the event there are insufficient lands  
24      designated for compensation by the MPLC, the MPLC shall  
25      revise the Master Land Use Plan to provide sufficient

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1 public lands to meet the compensation requirements of  
2 this Act. Homestead compensation lands shall be  
3 separately designated and administered by the MPLC  
4 from other homestead programs created by law.

5 (c) It is the purpose of this Act to:

6 (1) establish the Northern Mariana Islands  
7 Homestead Compensation Program for the individuals  
8 described above.

9 (2) provide the MPLC with sufficient authority  
10 to implement this Act.

11 Section 3. Designation of Homestead Compensation Areas. Within  
12 60 days after the effective date of this Act, the MPLC shall designate  
13 public lands suitable for homestead compensation purposes, and which  
14 are not required for government use or reserved for other purposes by  
15 any other provision of law. A homestead may include an area of up to  
16 5 hectares; Provided, that the MPLC may award an area in excess of 5  
17 hectares if such an award is in the best interests of justice and  
18 consistent with the five factors set forth in Section 6(c) and the  
19 compensation provided to applicants who are similarly situated.  
20 Whenever possible lands with public access, water, and electricity  
21 shall be designated as homestead compensation lands.

22 Section 4. Establishment of Homestead Compensation Program. A  
23 Homestead Compensation Program is established under the authority of  
24 the MPLC. The implementation of the program shall be as provided by  
25 this Act and the policies, rules, and regulations of the MPLC which



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1 are not inconsistent with this Act. The MPLC shall assist in the  
2 implementation of this program by obtaining and indexing land records  
3 from other governmental agencies which may assist applicants and the  
4 MPLC in determining eligibility in the program.

5 Section 5. Eligibility Criteria. Applicants for the Homestead  
6 Compensation Program shall meet the following eligibility criteria:

7 (a) An applicant shall be of Northern Marianas decent  
8 as defined in Article 12, Section 4 of the Commonwealth  
9 Constitution;

10 (b) An applicant shall be at least 18 years old;

11 (c) An applicant or his or her spouse may own,  
12 have an interest in, or be a recipient of a village  
13 homestead lot but shall not own or have any interest  
14 in any agricultural homestead or have been a recipient  
15 of an agricultural homestead. The Board of Directors  
16 of the MPLC may waive this requirement if in its opinion  
17 the application of this provision with respect to an  
18 applicant would deprive an applicant of fair compensation  
19 for a prior transfer of interest in or encroachment upon  
20 the applicant's land; and

21 (d) An applicant or his or her predecessor in  
22 interest shall have been inadequately compensated for  
23 a transfer of interest in or encroachment upon land  
24 caused by prior governmental action after January 1,  
25 1946, but prior to January 9, 1978.

1 Section 6. Application for Homestead Compensation.

2 (a) An application for homestead compensation  
3 shall be made within two years from the effective date  
4 of this Act. The application shall be made on forms  
5 provided by the MPLC within 30 days from the effective  
6 date of this Act. The application shall contain:

7 (1) all statements of fact upon which  
8 the applicant relies to establish that he  
9 or his predecessor in interest has been  
10 inadequately compensated for a transfer of  
11 interest in or encroachment upon land caused  
12 by prior governmental action;

13 (2) all information necessary to  
14 determine that the applicant has met the  
15 eligibility criteria set forth in Section 5  
16 of this Act;

17 (3) all information necessary to  
18 determine the nature and extent of the  
19 interest and compensation that the applicant  
20 claims, including, if deemed necessary by the  
21 MPLC, a list of the names and the nature of  
22 the interests of the heirs of his or her  
23 predecessor in interest; and

24 (4) such other data as the MPLC may  
25 determine necessary and consistent with the  
26 policy of this Act.

1           (b) The MPLC shall carefully consider all essential  
2           facts and information set forth by the applicant. Upon  
3           request of the applicant, the MPLC shall provide the  
4           applicant a full administrative hearing upon the  
5           application, pursuant to 17 TTC Sections 8 - 10. If  
6           the application is supported by a preponderance of the  
7           evidence submitted, taking into account historical  
8           circumstances such as the nonavailability of counsel and  
9           the lack of accurate written land records in the Northern  
10          Marianas, the MPLC shall approve the eligibility of the  
11          applicant or present evidence sufficient to rebut and  
12          prove why the applicant should be denied eligibility. The  
13          determination shall be made within six months from the date  
14          of receipt of a complete application; Provided, that the  
15          MPLC may extend the six month determination period for an  
16          application, and additional six months if it finds  
17          compelling reasons to do so. In the event the MPLC  
18          denies the eligibility of an applicant, it shall promptly  
19          state in writing its findings and conclusions, and the  
20          reasons or basis for them, on all material issues of fact,  
21          law, or discretion presented on the record. No applicant  
22          shall be denied eligibility in this program on account of  
23          the doctrine of laches or the running of the statute of  
24          limitations.

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1           (c) Upon a determination that an applicant is  
2           eligible for the Homestead Compensation Program, the MPLC  
3           shall determine the size and site of the homestead to be  
4           awarded, taking into account such factors as:

5                   (1) the market value, quality, and quantity  
6                   of the land(s) taken or encroached upon;

7                   (2) the nature and extent of the applicant's  
8                   interest in the land and the adequacy of the  
9                   compensation, if any, which has been previously  
10                  awarded and/or which may be awarded to the  
11                  applicant;

12                  (3) the period of time during which the  
13                  applicant has been deprived of the use of his  
14                  lands;

15                  (4) the fair market value, quality, and  
16                  quantity of the homestead lands that are  
17                  available for distribution; and

18                  (5) the compensation previously awarded  
19                  to applicants who are similarly situated.

20           (d) The MPLC shall offer an eligible applicant a  
21           compensation homestead within one year of the date upon  
22           which the applicant is certified as eligible to receive  
23           a compensation homestead. Whenever possible, and if so  
24           requested by the applicant, the MPLC shall return fee  
25           simple title of the original lands in issue to the

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1 former owners or their heirs. Whenever possible, the  
2 MPLC shall offer an applicant a compensation homestead  
3 on the island of his choice.

4 (e) In the event an applicant wishes to appeal a  
5 compensation determination by the MPLC, he shall do so  
6 to the Commonwealth Trial Court within 60 days from the  
7 date he is notified of the determination and pursuant  
8 to the provisions of the Administrative Procedure Act  
9 in Title 17 of the Trust Territory Code.

10 Section 7. Homestead Requirements of Article XI, Section 5(a)  
11 and (b) of the Commonwealth Constitution.

12 (a) A grantee shall not receive a freehold  
13 interest in a compensation homestead for three years  
14 after the homestead is granted.

15 (b) A grantee shall not transfer a freehold  
16 interest in a compensation homestead for ten years  
17 after receipt of the homestead.

18 (c) A grantee may mortgage his freehold interest  
19 if the grantee devotes all funds received from the  
20 mortgage to the improvement of the homestead land.

21 Section 8. Issuance of Homestead Permit. Upon mutual agreement  
22 of the homestead compensation lands to be awarded, the MPLC shall  
23 issue the grantee a permit to enter, use, and improve the land. The  
24 permit shall describe the land and shall contain a reservation of  
25 necessary rights of way, public roads, easements, mineral and water  
26 rights, and other uses deemed essential to the public welfare.

1           Section 9. Standard of Review. Any determination of eligibility  
2 or award of compensation by the MPLC under this Act shall be affirmed  
3 if the court finds it supported by substantial evidence found in the  
4 record taken as a whole and consistent with the requirements of the  
5 Administrative Procedure Act in Title 17 of the Trust Territory Code.

6           Section 10. Applicability of Law. The provisions of Public  
7 Laws 1-42, 2-13, and 67 TTC Section 201 et seq., as amended, shall  
8 not apply to the homesteads established by this Act.

9           Section 11. Rules and Regulations. The MPLC shall adopt rules  
10 and regulations implementing this Act within 90 days from the effective  
12 date of this Act. The MPLC may make policy on homestead matters if the  
13 matters arise in the course of administering the homestead program and  
14 the legislature has not established any such policy in this or any  
15 other Act. The actions, orders, determinations, procedures, rules,  
16 and regulations adopted by the MPLC shall at all times comply with the  
17 Administrative Procedure Act in Title 17 of the Trust Territory Code.

18           Section 12. Reporting Requirement. The MPLC shall report within  
19 six months after the effective date of this act and semi-annually  
20 thereafter in writing to the Governor, the presiding officers of the  
21 legislature, and the general public on the progress the MPLC has made  
22 in awarding compensation to those persons or their heirs who have  
23 been inadequately compensated for transfers of interests in and  
24 encroachments upon land caused by prior governmental action. The  
25 report shall include the names of all applicants under this Act, the

1 dates of their applications, the status of their applications, the  
2 relief awarded to date, and such other information as the Governor  
3 or presiding officers shall reasonably request or the MPLC shall  
4 determine is appropriate.

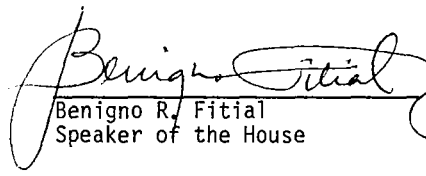
5 Section 13. Effect of Act on Liability of TTPI/US Government.  
6 Nothing in this Act shall effect the liability of or amount of  
7 damages owed by the Governments of the United States and of the Trust  
8 Territory of the Pacific Islands to any claimant or litigant for any  
9 land encroachment or taking in which those governments may have  
10 participated prior to the effective date of this Act.

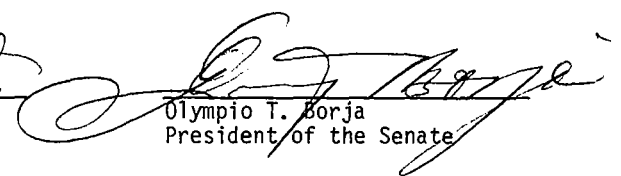
11 Section 14. Criminal Penalties. Any person who knowingly or  
12 willfully violates any provision of this Act with the intent to  
13 mislead another person or who submits any materially false and  
14 misleading information under this Act shall upon conviction be  
15 imprisoned for not more than one year and fined not more than  
16 \$5,000 or both.

17 Section 15. Severability. If any provision of this Act or any  
18 regulation or order promulgated hereunder, or the application of any  
19 such provision, regulation, or order to any person or circumstances,  
20 shall be held invalid by a court of competent jurisdiction, the  
21 remainder of this Act or any regulations or orders promulgated  
22 pursuant thereto or the application of such provisions, regulations,  
23 or orders to persons or circumstances other than those to which it is  
24 held invalid, shall not be affected thereby.

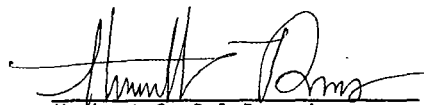
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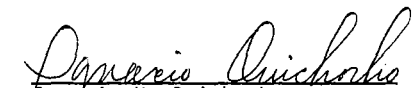
1 Section 16. Effective Date. This Act shall take effect upon its  
2 approval by the Governor, or upon its becoming law without such approval.

  
Benigno R. Fitial  
Speaker of the House

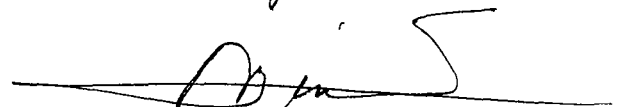
  
Olympio T. Borja  
President of the Senate

ATTEST:

  
Herbert S. Del Rosario  
Chief Clerk

  
Ignacio K. Quichocho  
Senate Legislative Secretary

January 26, 198~~8~~<sup>9</sup> *pan*

  
Pedro P. Tenorio  
Governor  
Commonwealth of the Northern Mariana Islands