

House Clerk File



GOV. COMM. 10-26
(HOUSE)

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FROILAN C. TENORIO
Governor

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JESUS C. BORJA
Lt. Governor

The Honorable Jesus R. Sablan
President of the Senate
Tenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

04 MAR 1996

The Honorable Diego T. Benavente
Speaker of the House of Representatives
Tenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 10-1 ("S.B. 10-1"), entitled the "Tinian Agricultural Homestead Corrections Act of 1996," which was passed by the Tenth Northern Marianas Commonwealth Legislature.

This bill corrects certain legal deficiencies unintentionally created upon the approval of Public Law 6-15 (the "Tinian Agricultural Homestead Act of 1988") which was signed into law on February 21, 1989. For those Tinian residents who obtained agricultural homestead permits pursuant to P.L. 6-15 and *complied* with the conditions of their permits first established by MPLC and thereafter by its successor the Division of Public Lands ("DPL") of the Departments of Lands and Natural Resources, no law or regulation should work to obstruct their right to receive or eventually receive fee title to their agricultural homestead.

As I pointed out last year in my veto message to Senate Bill No. 9-180, I have not been satisfied with the manner in which the agricultural homestead programs have been managed. The public must be ensured that CNMI law is followed with the distribution and management of all public land, including village and agricultural homesteads. Although S.B. 10-1 will resolve legal problems with the Tinian Agricultural Homestead Program, prior to conveying title to the homesteads, DPL will still need to investigate whether all permit requirements have been complied with by the agricultural homesteaders. MPLC's failure (as documented by the Inspector General) to adequately manage the homestead programs, thereby allowing recipients to not only improperly transfer their property but also, in certain cases, allowing improper structures and commercial establishments to be located thereon, will not be permitted to continue under DPL's management of the homestead programs. Where Tinian agricultural homesteaders fail to comply with their permits by not actively using their one-hectare lots for agricultural purposes, DPL shall move to recover those lots for the Government.

S.B. 10-1 becomes Public Law No 10-2.

Sincerely,

Handwritten signature of Froilan C. Tenorio in black ink.
FROILAN C. TENORIO

Rec'd 3/4/96 2:35 p.m.

THE SENATE
TENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

FIRST REGULAR SESSION, 1996

PUBLIC LAW NO. 10-2
SENATE BILL NO. 10-1

AN ACT

To amend the Tinian Agricultural Homestead Act; to ratify actions taken and agricultural permits issued in accordance with the terms of Public Law No. 6-15; to repeal and reenact 2 CMC §§ 4372 and 4373; and for other purposes.

DATE: January 17, 1996

SENATE ACTION

Standing Committee Report No.: None
Second and Final Reading: January 18, 1996

HOUSE ACTION

Standing Committee Report No.: None
First and Final Reading: January 19, 1996


HENRY DLG, SAN NICOLAS
SENATE LEGISLATIVE SECRETARY

TENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 10-1
SENATE BILL
NO. 10-1

FIRST REGULAR SESSION, 1996

AN ACT

To amend the Tinian Agricultural Homestead Act; to ratify actions taken and agricultural permits issued in accordance with the terms of Public Law No. 6-15; to repeal and reenact 2 CMC §§ 4372 and 4373; and for other purposes.

BE IT ENACTED BY THE TENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as the "Tinian Agricultural
2 Homestead Corrections Act of 1996".

3 Section 2. Findings and Purpose. The Legislature finds that a number of
4 permits for agricultural homestead were issued following approval of Public Law No.
5 6-15 by the Governor on February 21, 1989. The Legislature further finds that the
6 final clause of Section 7 of P.L. No. 6-15, referring to effectivity "upon the
7 availability of the homestead development funds identified in the series bonds issued
8 by the Commonwealth Development Authority," was apparently overlooked both by
9 the government, Marianas Public Land Corporation, and the homesteaders. No other
10 reference to "homestead development funds," "series bonds," or the Commonwealth
11 Development Authority appears in Public Law No. 6-15. Nevertheless, this technical
12 defect now jeopardizes the right and title of agricultural homesteaders on Tinian to
13 their homesteads. The Legislature further finds that any attempt to deprive Tinian
14 agricultural homesteaders of rights in their homesteads raises serious constitutional
15 questions of taking of property without due process of law. The homesteaders
16 received their permits in accordance with the substantive terms of the law and relied
17 on the permits and the attendant rights specified by the Act and other law. The
18 purpose of this Act is to give full effect to the main intent of Public Law No. 6-15 and
19 to avoid constitutional difficulties.

1 Section 3. Amendment. Notwithstanding the language at the end of Section 7
2 of Public Law No. 6-15 ("and shall take effect upon the availability of the homestead
3 development funds identified in the series bonds issued by the Commonwealth
4 Development Authority"), Public Law No. 6-15 shall be deemed to have taken effect
5 February 21, 1989, and Section 7 of Public Law No. 6-15 is hereby amended
6 accordingly.

7 Section 4. Ratification.

8 (a) All actions taken in conformance with the provisions of Sections 1
9 through 6 of Public Law No. 6-15 and related law, and all permits or other
10 instruments issued, executed, or delivered in conformance therewith and
11 otherwise in compliance with Commonwealth law are hereby ratified, and no
12 challenge, defense, claim, remedy, cause of action, or other right, based on the
13 unamended Section 7 of Public Law 6-15, shall lie against or arise from such
14 action.

15 (b) Except as provided by this Act, Article 6 of Chapter 3 of Division
16 4 of Title 2 of the Commonwealth Code is hereby ratified and reenacted as
17 positive law.

18 Section 5. Repeal and Reenactment.

19 (a) 2 CMC § 4372 is hereby repealed and reenacted to read:

20 "§4372. Designation of Homestead Areas. Such areas of
21 public lands on the island of Tinian as may be suitable for
22 agricultural purposes, and which are not required for
23 government use or reserved for other purposes by any other
24 provision of law, shall be designated by the Secretary of the
25 Department of Lands and Natural Resources on behalf of the
26 Commonwealth government for homesteading purposes. Such
27 areas may, in accordance with applicable provisions of law, be
28 allotted to qualified persons for the purpose of farming with the
29 right to receive a freehold interest in the homestead after three
30 years after the homestead is granted and to transfer a freehold
31 interest in the homestead after ten years after the freehold
32 interest is received."

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(b) 2 CMC § 4373 is hereby repealed and reenacted to read:
"**34373. Establishment of Area: Requirements for Use of Property.**

(a) Subject to Article XI, section 5 of the Constitution of the Northern Mariana Islands, the Secretary of the Department of Lands and Natural Resources shall require and establish the following:

(1) Subject to the availability of public land for agricultural homesteading purposes, the maximum area of land allowable for each agricultural tract that may be made available to each qualified person under this Article shall be one hectare;

(2) Standards and requirements for the use, occupation and development of the homestead tracts granted under this Article consistent with applicable provisions of law."

Section 6. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

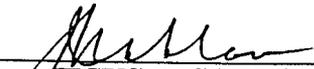
Section 7. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

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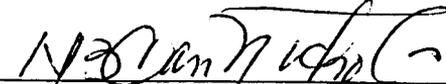
Section 8. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

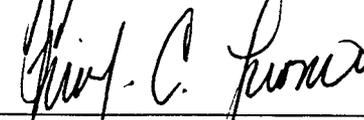


JESUS R. SABLAN
PRESIDENT OF THE SENATE



HENRY DLG. SAN NICOLAS
SENATE LEGISLATIVE SECRETARY

Approved this 4th day of March, 1996.



FROILAN C. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS