



GOV. COMM. 9-560
(HOUSE)

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FROILAN C. TENORIO
Governor

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JESUS C. BORJA
Lt. Governor

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

01 NOV 1995

The Honorable Juan S. Demapan
President of the Senate
Ninth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 9-294 ("H.B. 9-294) entitled "To restrict the leases of public agricultural land to the resident citizens of the CNMI and of the U.S., and to similarly restrict the use of publicly owned marine and wetlands areas that come under agricultural, aquacultural, or maricultural development" which was passed by the Ninth Northern Marianas Commonwealth Legislature.

There is no question that the intent of this bill is laudable and that it is consistent with, and compatible with, the Commonwealth Constitution and the Covenant, Section 805(b), which allow the CNMI to regulate the extent to which a person may own or hold public land. The Legislature's findings sufficiently state the basis for the lease restrictions and the Attorney General's Office has informed me that there has been a previous judicial determination that provides restrictive land holdings in the Commonwealth are permissible without violation of due process or equal protection.

Section 2(b) of the bill provides that agricultural, aquacultural, maricultural and animal husbandry uses of public lands "are restricted in their development to their most appropriate use or uses." For Rota, the Rota Zoning Board (authorized by 10 CMC §§1701 et seq.) appears to have the authority to determine where the uses listed above shall be most appropriately located. The Rota zoning plan is subject to the approval of the First Senatorial District Legislative Delegation. Unfortunately, this bill does not designate which Commonwealth entity will be responsible for determining what uses are most appropriate for any given parcel of public land on Saipan and Tinian. For Saipan, the Saipan Zoning Law (Saipan Local Law 8-7) established where such areas could be located. However, pursuant to Saipan Local Law 9-1 which was signed into law on August 15, 1994, the Saipan Zoning Law has been suspended for at least three years. Therefore, unless further clarification is made, it will be presumed that for Saipan and Tinian, the Department of Lands and Natural Resources through its Division of Public Lands will make such appropriate land use determinations.

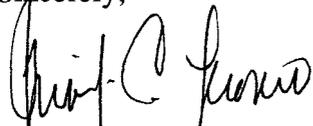
Jesus Clark
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@ 11-1-95
DATE
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The Honorable Diego T. Benavente
The Honorable Juan S. Demapan
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One last point of correction should be made for this bill and changed for any subsequent bill passed by the Legislature. In light of Executive Order **94-3**, all references to the Department of Natural Resources headed by a Director should be changed to the Department of Lands and Natural Resources headed by a Secretary. By now, your legal counsels should be aware of this fact.

H.B. **9-294** becomes Public Law No. 9-70,

Sincerely,



FROILAN C. TENORIO

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HOUSE OF REPRESENTATIVES

***NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FOURTH REGULAR SESSION, 1995***

PUBLIC LAW NO. 9-70
HOUSE BILL NO. 9-294, H.D.L

AN ACT

To restrict the leases of public agricultural land to the resident citizens of the CNMI and of the U.S., and to similarly restrict the use of publicly owned marine and wetlands areas that come under agricultural, aquacultural, or maricultural development.

Offered by Representatives: Manuel A. Tenorio,
Jesus T. Attao, Maria T. Peter, and Joaquin G. Adriano

Date: November 2, 1994

HOUSE ACTION

Referred to: Committee on Natural Resources

Standing Committee Report No. 9-71

First and Final Reading: March 17, 1995

SENATE ACTION

Referred to: Committee on Resources, Economic Development and Programs

Standing Committee Report: None

Second and Final Reading: September 29, 1995


Evelyn C. Fleming
House Clerk

AN ACT

To restrict the leases of public agricultural land to the resident citizens of the CNMI and of the U.S., and to similarly restrict the use of publicly owned marine and wetlands areas that come under agricultural, aquacultural, or maricultural development.

BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Findings. The Legislature finds that the amount of public lands set aside
2 exclusively for agriculture to be small and that it needs to be saved **for** those resident citizens
3 whose livelihood is derived in whole or in significant part from the soil. In both the CNMI and
4 **in** the U. S. mainland, the farming community is the traditional foundation **of** the nation. The
5 high rate of development in the CNMI coupled with its small land area poses **a** danger to the
6 availability of suitable agricultural lands to those who farm it or use it for animal husbandry. It
7 is appropriate then, that lands set aside in the public domain for agricultural purposes be
8 restricted to those who make the tilling of the land their life's work. And by further restricting
9 such lands to those who are citizens **of** the Commonwealth, we acknowledge the value **of** those
10 citizens to our way **of** life, and that these small plots of **earth** must be protected from large
11 scale commercial development and remain an inalienable part of our heritage.

12 Section 2. Restrictions.

13 (a) Leases or use permits of public agricultural lands, or of submerged lands and
14 wetlands in the public domain that become available for agricultural, aquacultural, or
15 maricultural development shall be restricted to citizens, and nationals of the United
16 States. Provided, that they are domiciliaries of the CNMI.

17 (b) Such lands as are leased or permitted in accordance with the provisions of
18 the Act are restricted in their development to their most appropriate use or uses, either
19 agricultural, aquacultural, maricultural, or animal husbandry. Provided that,
20 aquacultural, and maricultural uses are not to intrude on agricultural lands set aside
21 exclusively for crop farming.

1 (c) Such lands as are leased or permitted in accordance with the provisions of
2 this Act may not be used for the collateralization of loans or debts. Neither may they
3 be subleased or transferred to another individual or individuals without the approval of
4 the Director of Natural Resources according to Natural Resources regulations.

5 (d) Such lands as are leased or permitted in accordance with the provisions of
6 this Act may not be improved with any permanent structures except those consistent
7 with the use the land, such as barns, tool and equipment sheds, etc. In no case shall
8 temporary or permanent residential buildings, or commercial structures be considered
9 as consistent with appropriate use. Hydroponics facilities may only be build in these
10 areas where the soil is not of sufficient depth to make crop farming feasible, such
11 feasibility to be determined by the Plant and Industry Division of the Department of
12 Natural Resources or its successor.

13 (e) In the event the CNMI government takes back the land from a lessee or
14 permit holder, prior to the expiration of the lease or permit, the lessee or permit holder
15 must be compensated by the CNMI government for the remainder of the lease or
16 permit, for unharvested crops and for the replacement cost of any legal improvements
17 made by the lessee or permit holder to the land.

18 Section 3. Severability. If any provision of this Act or the application of any such
19 provision to any person or circumstance should be held invalid by a court of competent
20 jurisdiction, the remainder of this Act or the application of its provisions to persons or
21 circumstances other than those to which it is held invalid shall not be affected thereby.

22 Section 4. Savings Clause. This Act and any repealer contained herein shall not be
23 construed as affecting any existing right acquired under contract or acquired under statutes
24 repealed or under any rule, regulation or order adopted under the statutes. Repealers contained
25 in this Act shall not affect any proceeding instituted under or pursuant to prior law. The
26 enactment of this Act shall not have the effect of terminating, or in any way modifying, any
27 liability civil or criminal, which shall already be in existence at the date this Act becomes
28 effective.

1 Section 5. Effective Date. This Act shall take effect upon its approval by the Governor
2 or upon its becoming law without such approval.

CERTIFIED BY:



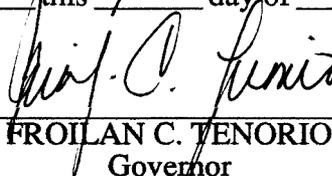
DIEGO T. BENAVENTE
Speaker
House of Representatives

ATTESTED BY:



EVELYN C. FLEMING
House Clerk

Approved this 1st day of November, 1995



FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands