

127



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

16 JUL 2009

2009 JUL 17 AM 9:33 me

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 16(LS) "AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 46 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO MORTGAGE FRAUD" which I signed into law on July 14, 2009 as **Public Law 30-44**.

Sinseru yan Magåhet,

MICHAEL W. CRUZ, M.D.
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

Attachment: copy of Bill

30-09-10872

Office of the Speaker
Judith T. Won Pat, Ed.D.

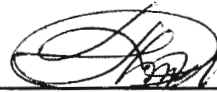
Date: 7/16/09
Time: 3:15 PM
Received by: [Signature]

0876

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

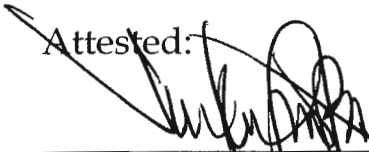
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 16 (LS)**, "AN ACT TO *ADD* A NEW ARTICLE 3 TO CHAPTER 46 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO MORTGAGE FRAUD," was on the 2nd day of July 2009, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 2 day of July, 2009, at
4:30 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



MIKE W. CRUZ, MD
GOVERNOR OF GUAM ACTING

Date:

07.14.09

Public Law No.

30-44

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 16 (LS)

As amended on the Floor.

Introduced by:

Ray Tenorio
T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
M. J. Rector
R. J. Respicio
Telo Taitague
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW ARTICLE 3 TO CHAPTER 46 OF
TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO
MORTGAGE FRAUD.**

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

2 **Section 1.** Article 3 is *added* to Chapter 46 of Title 9, Guam Code
3 Annotated, to read:

4 **“Article 3**

5 **Mortgage Fraud**

6 **§46.100. Title.** This Act may be cited as the Mortgage Fraud Act.

7 **§46.101. Definitions.** As used in this Act: (a) *Mortgage lending*
8 *process* means the process through which a person seeks *or* obtains a

1 mortgage loan, including solicitation, application, *or* origination,
2 negotiation of terms, third-party provider services, underwriting, signing
3 and closing, and funding of the loan.

4 (b) *Mortgage loan:*

5 (1) means a loan *or* agreement made to extend credit to a
6 person when the loan is secured by a deed, security deed, mortgage,
7 security interest, deed of trust, *or* other document representing a
8 security interest *or* lien upon any interest in one (1)-to-four (4) family
9 residential property;

10 (2) includes the renewal *or* refinancing of any loan; and

11 (3) includes home equity loans.

12 (c) *Unlawful activity* means to directly engage in conduct *or* to
13 solicit, request, command, encourage, *or* intentionally aid another person to
14 engage in conduct which would constitute any offense described by the
15 following crimes *or* categories of crimes, *or* to attempt *or* conspire to
16 engage in an act which would constitute any of those offenses, regardless of
17 whether the act is in fact charged *or* indicted by any authority *or* is
18 classified as a misdemeanor *or* a felony

19 (d) *Pattern of unlawful activity* means engaging in conduct which
20 constitute the commission of at least three (3) episodes of unlawful activity,
21 which episodes are *not* isolated, but have the same *or* similar purposes,
22 results, participants, victims, *or* methods of commission, *or* otherwise are
23 interrelated by distinguishing characteristics. Taken together, the episodes
24 *shall* demonstrate continuing unlawful conduct and be related either to each
25 other *or* to the enterprise. The most recent act constituting part of a pattern
26 of unlawful activity as defined by this part *shall* have occurred within five

1 (5) years of the commission of the next preceding act alleged as part of the
2 pattern.

3 (e) *Sensitive personal identifying information* means any of the
4 following information regarding an individual's:

5 (1) Social Security number;

6 (2) driver license number *or* other government issued
7 identification number;

8 (3) financial account number *or* credit *or* debit card number;

9 (4) password *or* personal identification number *or* other
10 identification required to gain access to a financial account *or* a
11 secure website;

12 (5) automated *or* electronic signature;

13 (6) unique biometric data; and

14 (7) any other information that can be used to gain access to
15 an individual's financial accounts *or* to obtain goods *or*
16 services.

17 (f) *Value* means the value of the property, money, *or* thing
18 obtained *or* sought to be obtained.

19 (g) *Person* includes any individual *or* entity capable of holding a
20 legal *or* beneficial interest in property, including governmental
21 entities.

22 (h) *Obtain* means to come into possession of, get, acquire *or*
23 procure.

24 **§46.102. Mortgage Fraud.** (a) A person commits the offense of
25 mortgage fraud *if* the person *does* any of the following with the intent to
26 defraud:

1 (1) knowingly makes any material misstatement,
2 misrepresentation, *or* omission during the mortgage lending process,
3 intending that it be relied upon by a mortgage lender, borrower, *or*
4 any other party to the mortgage lending process;

5 (2) knowingly uses *or* facilitates the use of any material
6 misstatement misrepresentation, *or* omission, during the mortgage
7 lending process, intending that it be relied upon by a mortgage lender,
8 borrower, *or* any other party to the mortgage lending process;

9 (3) files *or* causes to be filed with the Department of Land
10 Management any document that the person knows contains a material
11 misstatement, misrepresentation, *or* omission; *or*

12 (4) receives any proceeds *or* any compensation in connection with
13 a mortgage loan that the person knows resulted from a violation of
14 this Section.

15 **§46.103. Classification of Offense.** (a) Notwithstanding any
16 other administrative, civil, *or* criminal penalties, a person who violates
17 §46.102 of this Chapter is guilty of a:

18 (1) misdemeanor when the value is *or exceeds* Three
19 Hundred Dollars (\$300) but is *less than* One Thousand Dollars
20 (\$1,000);

21 (2) third degree felony when the value is *or exceeds* One
22 Thousand Dollars (\$1,000) but is *less than* Five Thousand Dollars
23 (\$5,000);

24 (3) second degree felony when the value is *or exceeds* Five
25 Thousand Dollars (\$5,000);

1 (4) second degree felony when the object *or* purpose of the
2 commission of an act of mortgage fraud is other than the obtaining of
3 something of monetary value; and

4 (5) second degree felony when the object *or* purpose of the
5 commission of an act of mortgage fraud is the obtaining of sensitive
6 personal identifying information, regardless of the value.

7 (6) The determination of the degree of any offense under
8 this Subsection (a) is measured by the total value of all property,
9 money, *or* things obtained *or* sought to be obtained by a violation of
10 §46.102 of this Chapter, *except* as provided in Subsections (a)(4) and
11 (5).

12 (b) Each residential *or* commercial property transaction offense
13 under this part constitutes a separate violation.

14 **§46.104. Mortgage Fraud Prosecutor and Investigators.** (a)

15 The Attorney General may employ:

16 (1) An attorney licensed to practice law who:

17 (A) has knowledge of the law related to mortgage
18 fraud; and

19 (B) *if* possible, has a background *or* expertise in
20 investigating and prosecuting mortgage fraud.

21 (2) At least two (2) investigators who have a background *or*
22 expertise in investigating mortgage fraud.

23 (3) The attorney employed under Subsection (a) (1) has as
24 that attorney's primary responsibility the prosecution of mortgage
25 fraud.

1 (4) Each person employed under Subsection (b) *shall* have
2 as that person's primary responsibility the investigation of mortgage
3 fraud.

4 (5) clerks, interns, *or* other personnel to assist the attorney
5 employed under Subsection (a) (1).”

6

I MINA' TRENTA NA LIHESLATURAN GUÅHAN

2009 (FIRST) Regular Session

Date: July 2, 2009

VOTING SHEET

Bill No. 16(LS)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.					EA
BLAS, Frank F., Jr.	✓				
CALVO, Edward J.B.					EA
CRUZ, Benjamin J. F.	✓				
ESPALDON, James V.					EA
GUTHERTZ, Judith Paulette	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera//		✓			
RECTOR, Matthew //		✓			
RESPICIO, Rory J.	✓				
TAITAGUE, Telo	✓				
TENORIO, Ray	✓				
WON PAT, Judith T.	✓				

TOTAL 10 2 0 0 3

CERTIFIED TRUE AND CORRECT:


Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Thirtieth
Guam Legislature

Committee on Public Safety,
Law Enforcement &
Senior Citizens
Members:

Senator Adolpho B. Palacios, Sr.
Chairman

Senator Ray Tenorio
Vice Chairman

Speaker Judith T. Won Pat
Member

Senator Thomas C. Ada
Member

Senator Frank B. Aguon, Jr.
Member

Senator Matt Rector
Member

Senator Edward J.B. Calvo
Member

Senator James V. Espaldon
Member

Other Committee Membership:

- Vice Chairman, Committee on Economic Development, Health and Human Services, & Judiciary
- Vice Chairman, Committee on Utilities, Transportation, Public Works, & Veterans Affairs
- Vice Chairman, Committee on Labor, the Public Structure, Public Libraries & Technology
- Member, Committee on Rules
- Member, Committee on Education

**COMMITTEE ON PUBLIC SAFETY,
LAW ENFORCEMENT & SENIOR CITIZENS**

I Mina'Trenta na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

February 27, 2009

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'Trenta na Liheslaturan Guåhan

155 Hessler Place

Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio

Chairperson, Committee on Rules

RE: Committee Report – Bill No. 16 (LS)

Dear Speaker Won Pat:

The Committee on Public Safety, Law Enforcement & Senior Citizens, to which was referred **Bill No. 16 (LS) "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 46 OF 9 GCA RELATIVE TO MORTGAGE FRAUD,"** hereby reports out with the recommendation **TO PASS**.

Committee votes are as follows:

4	TO PASS
_____	NOT TO PASS
4	TO REPORT OUT ONLY
_____	ABSTAIN
_____	INACTIVE FILE

Sincerely,

ADOLPHO B. PALACIOS, SR., MPA, BS/CJA

Chairperson

Attachments

2009 FEB 27 PM 2:30 MLC



Thirtieth
Guam Legislature

**COMMITTEE ON PUBLIC SAFETY,
LAW ENFORCEMENT & SENIOR CITIZENS**

I Mina'Trenta na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

February 25, 2009

Committee on Public Safety,
Law Enforcement &
Senior Citizens
Members:

Senator Adolpho B. Palacios, Sr.
Chairman

Senator Ray Tenorio
Vice Chairman

Speaker Judith T. Won Pat
Member

Senator Thomas C. Ada
Member

Senator Frank B. Aguon, Jr.
Member

Senator Matt Rector
Member

Senator Edward J.B. Calvo
Member

Senator James V. Espaldon
Member

Other Committee Membership:

- Vice Chairman, Committee on Economic Development, Health and Human Services, & Judiciary
- Vice Chairman, Committee on Utilities, Transportation, Public Works, & Veterans Affairs
- Vice Chairman, Committee on Labor, the Public Structure, Public Libraries & Technology
- Member, Committee on Rules
- Member, Committee on Education

MEMORANDUM

TO: ALL MEMBERS
Committee on Public Safety, Law Enforcement, & Senior Citizens

FROM: Chairman, Committee on Public Safety, Law Enforcement,
& Senior Citizens *ABP*

SUBJECT: Voting Sheet.

Transmitted herewith are the voting sheet and the Committee Report on **Bill No. 16 (LS) "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 46 OF 9 GCA RELATIVE TO MORTGAGE FRAUD,"** for your review and vote via signature.

Your attention to this matter is greatly appreciated.

Attachments

Office/Mailing Address: 155 Hesler Pl., Hagatña GU 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS**

**SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN**

I Mina'Trenta na Liheslaturan Guåhan

VOTING SHEET ON:


**Bill No. 16 (LS) - AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 46 OF 9 GCA
RELATIVE TO MORTGAGE FRAUD.**

SENATOR	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Adolpho B. Palacios, Sr. Chairman						
Ray Tenorio Vice Chairman						
Speaker Judith T. Wun-Fat Member				✓		
Thomas C. Ada Member	 2/25/09			✓		
Frank B. Aguon, Jr. Member		✓				
Matt Rector Member				✓		
Edward J.B. Calvo Member		✓				
James V. Espaldon Member				✓		

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 16 (LS)

Introduced by:

Ray Tenorio 

**AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 46 OF
9GCA RELATIVE TO MORTGAGE FRAUD.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Article 2 is *added* to Chapter 46 of 9GCA to read:

Article 2

Mortgage Fraud

§46201. Title. This Act may be cited as the Mortgage Fraud Act.

§46202. Definitions. As used in this Act:

(A) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.

(B) "Mortgage loan":

2009 JAN -5 AM 10:55

1 (1) means a loan or agreement made to extend credit to a person
2 when the loan is secured by a deed, security deed, mortgage, security
3 interest, deed of trust, or other document representing a security
4 interest or lien upon any interest in one-to-four family residential
5 property;

6
7 (2) includes the renewal or refinancing of any loan, and

8
9 (3) includes home equity loans.
10

11 (C) "Unlawful activity" means to directly engage in conduct or to solicit, request,
12 command, encourage, or intentionally aid another person to engage in conduct
13 which would constitute any offense described by the following crimes or
14 categories of crimes, or to attempt or conspire to engage in an act which would
15 constitute any of those offenses, regardless of whether the act is in fact charged or
16 indicted by any authority or is classified as a misdemeanor or a felony

17
18 (D) "Pattern of unlawful activity" means engaging in conduct which constitute the
19 commission of at least three (3) episodes of unlawful activity, which episodes are
20 not isolated, but have the same or similar purposes, results, participants, victims,
21 or methods of commission, or otherwise are interrelated by distinguishing
22 characteristics. Taken together, the episodes shall demonstrate continuing
23 unlawful conduct and be related either to each other or to the enterprise. The most
24 recent act constituting part of a pattern of unlawful activity as defined by this part
25 shall have occurred within five (5) years of the commission of the next preceding
26 act alleged as part of the pattern.

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(E) "Sensitive personal identifying information" means any of the following information regarding an individual's:

- (1) Social Security number;
- (2) driver license number or other government issued identification number;
- (3) financial account number or credit or debit card number;
- (4) password or personal identification number or other identification required to gain access to a financial account or a secure website;
- (5) automated or electronic signature; and
- (6) unique biometric data; and
- (7) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

(F) "Value" means the value of the property, money, or thing obtained or sought to be obtained.

(G) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including governmental entities.

§46203. Mortgage Fraud.

(A) A person commits the offense of mortgage fraud if the person does any of the following with the intent to defraud:

1 (1) knowingly makes any material misstatement, misrepresentation, or
2 omission during the mortgage lending process, intending that it be
3 relied upon by a mortgage lender, borrower, or any other party to the
4 mortgage lending process;

5 (2) knowingly uses or facilitates the use of any material misstatement
6 misrepresentation, or omission, during the mortgage lending process,
7 intending that it be relied upon by a mortgage lender, borrower, or
8 any other party to the mortgage lending process;

9 (3) files or causes to be filed with the Department of Land
10 Management any document that the person knows contains a material
11 misstatement, misrepresentation, or omission; or

12 (4) receives any proceeds or any compensation in connection with a
13 mortgage loan that the person knows resulted from a violation of this
14 section.

15
16 **§46204. Classification of Offense.**

17
18 (A) Notwithstanding any other administrative, civil, or criminal penalties, a person
19 who violates §46203 of this Chapter is guilty of a:

20
21 (1) misdemeanor when the value is or exceeds Three Hundred Dollars
22 (\$300) but is less than One Thousand Dollars (\$1,000);

23
24 (2) third degree felony when the value is or exceeds One Thousand Dollars
25 (\$1,000) but is less than Five Thousand Dollars (\$5,000);

1 (3) second degree felony when the value is or exceeds Five Thousand
2 Dollars (\$5,000);

3
4 (4) second degree felony when the object or purpose of the commission of
5 an act of mortgage fraud is other than the obtaining of something of
6 monetary value; and

7
8 (5) second degree felony when the object or purpose of the commission of
9 an act of mortgage fraud is the obtaining of sensitive personal identifying
10 information, regardless of the value.

11
12 (6) The determination of the degree of any offense under Subsection (A) is
13 measured by the total value of all property, money, or things obtained or
14 sought to be obtained by a violation of §46203 of this Chapter, except as
15 provided in Subsections (A)(4) and (5).

16
17 (B) Each residential or commercial property transaction offense under this part
18 constitutes a separate violation.

19
20 **§46205. Mortgage Fraud Prosecutor and Investigators.**

21
22 (A) The Attorney General may employ:

23
24 (1) an attorney licensed to practice law who:

25
26 (i) has knowledge of the law related to mortgage fraud; and

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(ii) if possible, has a background or expertise in investigating and prosecuting mortgage fraud; and

(B) At least two investigators who have a background or expertise in investigating mortgage fraud.

(1) The attorney employed under Subsection (A)(1) has as that attorney's primary responsibility the prosecution of mortgage fraud.

(2) Each person employed under Subsection (B) shall have as that person's primary responsibility the investigation of mortgage fraud.

(C) The Attorney General may employ clerks, interns, or other personnel to assist the attorney employed under Subsection (A)(1)



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS**

**SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN**

I Mina'Trenta na Liheslaturan Guåhan

COMMITTEE REPORT

ON

Bill No. 16 (LS)

**AN ACT TO ADD A NEW ARTICLE 2 TO
CHAPTER 46 OF 9 GCA RELATIVE TO
MORTGAGE FRAUD.**

Office/Mailing Address: 155 Hesler Place, Hagatña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

PUBLIC HEARING

Bill No. 16 (LS) "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 46 OF 9 GCA RELATIVE TO MORTGAGE FRAUD."

I. OVERVIEW

The Committee on Public Safety, Law Enforcement, & Senior Citizens convened the public hearing on Friday, February 13, 2009. Hearing commenced at 9:13am on Bill No. 16 (LS). Notices of the hearing were disseminated to all local media outlets via facsimile on February 4 and on February 10, 2009, pursuant to the Open Government Law. Notice of the hearing was also posted on the Guam Legislature's website.

Committee Members and Senators present:

Senator Adolpho B. Palacios, Sr., Chairman
Senator Ray Tenorio, Vice Chairman
Senator Frank B. Aguon Jr., Member
Senator Tina R. Muña-Barnes
Senator Telo Taitague

Individual(s) Registered for oral or written testimony:

Mr. Phil Tydingco, Chief Prosecutor, Attorney General's Office, Oral Testimony, In Favor of Bill No. 16 (LS)

II. SUMMARY OF TESTIMONIES

Chairman Adolpho B. Palacios, Sr. called the Committee on Public Safety, Law Enforcement, and Senior Citizens to order at 9:13am, welcomed and introduced Senators present.

Chairman Palacios recognized the author of the bill, Senator Ray Tenorio, who gave a brief presentation of the bill. Senator Tenorio stated that this is a new measure which follows many of the issues that is plaguing the United States in its financial crisis. If someone commits mortgage fraud, this bill would criminalize misrepresentation of information or materials.

Chairman Palacios then called those present to testify.

Mr. Phil Tydingco, Attorney General's Office, Oral Testimony IN FAVOR of Bill 16

The Attorney General supports this bill that will strengthen crimes against mortgage fraud and is currently adhering to the "theft by deception and mortgage fraud act." One question that Mr. Tydingco posed was whether this bill was modeled after the Federal Fraud Statute to which Senator Tenorio concurred. The Attorney General would like to employ investigators and attorneys in this specific area, especially with regards to financial, mortgage, and tax crimes, but is in need of financial support from the Legislature.

Chairman Palacios said that the bill is timely due to the financial crisis in the country and that the bill will be very helpful in the next five years. Chairman Palacios expressed that he supports the bill.

Chairman Palacios then allowed senators to give comments and/or questions.

Senator Tina Rose Muña Barnes expressed that theft by deception is made clear in this bill yet after a constituent came to her about her case, the Police Department stated that they could not file a report. The senator asked Mr. Tydingco if this was permissible.

Mr. Phil Tydingco wondered why GPD didn't make the report because all cases that deal with theft by deception must be reported to police. He mentioned that when cases such as these are brought to the Attorney General's office, it is usually too late for them to do anything because the statute of limitations have run out. It is the case that parties want to work things out between themselves before legal authorities are contacted.

Senator Ray Tenorio asked Mr. Tydingco, "Would this bill change the statute of limitations?"

Mr. Phil Tydingco responded that the general statute of limitations is over thirty (30) years old and that there are different kinds of felonies that could be expanded if the legislature changed the requirements.

Chairman Palacios concluded the hearing and requested that written testimony be submitted within the next ten (10) days. He adjourned the hearing at 9:30am.

III. WRITTEN TESTIMONIES

No written testimony received within the ten (10) day period after the public hearing.

IV. FINDINGS AND RECOMMENDATIONS

The Committee on Public Safety, Law Enforcement, & Senior Citizens finds that Bill No. 16 (LS) intends to ensure that a person who commits the offense of mortgage fraud will be prosecuted. The bill also helps to protect the rights of citizens in the mortgage lending process and in acquiring a mortgage loan on residential and/or commercial properties. Furthermore, it spells out "unlawful activity" with regards to the mortgage lending process and intends to protect sensitive personal identifying information.

Accordingly, the Committee on Public Safety, Law Enforcement, & Senior Citizens to which **Bill No. 16(LS)** was referred does hereby submit its findings and recommendations to *I Mina'Trenta na Liheslaturan Guåhan* **TO PASS** Bill No. 16 (LS), "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 46 OF 9 GCA RELATIVE TO MORTGAGE FRAUD."

Declaration Under Penalty of Perjury of Priscilla T. Cruz

1. I am employed as an Administrative Officer at the Office of Senator Adolpho B. Palacios, Sr.
2. I am assigned the task of disseminating public hearing notices to each newspaper of general circulation, broadcasting stations, all Senators, Clerk of the Legislature, Protocol, and Audio.
3. In such notice I included all information required by the Open Government Law, §8107, Title 5, Guam Code Annotated.
4. I sent a public hearing notice via facsimile (fax) to all local media on February 4, 2009, (5 working days prior to hearing) and on February 10, 2009, (48 hours prior to hearing) in accordance with §8107, Title 5, Guam Code Annotated.
5. Copies of the public hearing notice were placed in boxes of all Senators, the Clerk of the Legislature, Protocol, and Audio, located in the Mail Room of the Guam Legislature, on February 9, 2009.
6. Copies of public hearing notices, email and fax confirmations are on file at the Office of Senator Adolpho B. Palacios, Sr.

**Declaration Under Penalty of Perjury
§4308, Title 6, Guam Code Annotated**

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on February 24, 2009 on Guam by



PRISCILLA T. CRUZ



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guahan

FACSIMILE TRANSMITTAL SHEET

DATE: February 10, 2009

TO: KUAM 637-9865
TV 14 637-8819
PDN 477-3079
Marianas Variety 648-2007
K-57/Power 98 477-3982
Hit Radio 100 472-7663
KStereo/KISH 477-6411

FROM: Office of Senator Adolpho B. Palacios, Sr.

SUBJECT: Public Hearing Notice (2nd notice).

PAGES: 2 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

PLEASE SEE ATTACHED PUBLIC HEARING NOTICE. THANK YOU.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

February 10, 2009

(Pursuant to §8107, Title 5 GCA -
48 hours prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Senior Citizens has scheduled a public hearing at 9:00 am, Friday, February 13, 2009 at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 16 (LS)** – “An Act to Add a New Article 2 to Chapter 46 of 9GCA relative to mortgage fraud.” – by Senator Ray Tenorio.
- **Bill No. 17 (LS)** – “An Act to Add a New Paragraph (j) to §18101 and to amend §18102 of 16GCA relative to driving under the influence of sedating substances.” – by Senator Ray Tenorio.
- **Bill No. 31 (COR)** – “An Act to Add a New Chapter 26 to 9GCA, relative to the crime of trafficking in humans.” – by Senator Ray Tenorio.
- **Bill No. 36 (COR)** – “An Act to Add a New Chapter 26 to GCA Title 9, relative to combating human trafficking on Guam and to protect victims of human trafficking from sexual and economic exploitation.” – by Senator Tina R. Muña-Barnes.

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Adolpho B. Palacios, Sr., or via fax to 472-5022, or via email to SenABPalacios@gmail.com. Copies of the aforementioned Bills may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Jonathan Diaz or Priscilla Cruz at 472-5047/5048.

Office/Mailing Address: 155 Hesler Place, Hagåtña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com

MULTI COMMUNICATION REPORT

FEB-10-2009 01:31 PM TUE

FAX NUMBER :
NAME :

REF. NAME :
PAGES : 2

1. SUCCESSFUL

FAX NUMBER	NAME
6379865	
6378819	
4773079	
6482007	
4773982	
4727663	
4776411	

2. UNSUCCESSFUL

FAX NUMBER	NAME
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3. MULTI COMMUNICATION JOURNAL

NO.	NAME/NUMBER	START TIME	TIME	MODE	PAGE	RESULTS
264	4773079	02-10 01:25PM	00' 46"	ECM BC	002/002	[O.K]
264	6482007	02-10 01:26PM	00' 16"	ECM BC	002/002	[O.K]
264	4773982	02-10 01:27PM	00' 18"	ECM BC	002/002	[O.K]
264	4727663	02-10 01:28PM	00' 18"	ECM BC	002/002	[O.K]
264	4776411	02-10 01:28PM	00' 38"	ECM BC	002/002	[O.K]
264	6379865	02-10 01:30PM	00' 18"	ECM BC	002/002	[O.K]
264	6378819	02-10 01:31PM	00' 18"	ECM BC	002/002	[O.K]



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS


SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guahan

February 9, 2009

MEMORANDUM

TO: Chairman, Committee on Rules
Members, Committee on Public Safety, Law Enforcement
and Senior Citizens
ALL SENATORS

FROM: Chairman, Committee on Public Safety, Law Enforcement
and Senior Citizens 

SUBJECT: Public Hearing Notice.

The Committee on Public Safety, Law Enforcement, and Senior Citizens has scheduled a public hearing at 9:00 a.m., Friday, February 13, 2009 at *I Liheslaturan Guahan's* Public Hearing Room in Hagatña, on the following:

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cc: Protocol
Clerk of the Legislature
Audio



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

FACSIMILE TRANSMITTAL SHEET

DATE: February 4, 2009

TO: KUAM 637-9865
TV 14 637-8819
PDN 477-3079
Marianas Variety 648-2007
K-57/Power 98 477-3982
Hit Radio 100 472-7663
KStereo/KISH 477-6411

FROM: Office of Senator Adolpho B. Palacios, Sr.

SUBJECT: Public Hearing Notice.

PAGES: 2 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

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COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

February 4, 2009

(Pursuant to §8107, Title 5 GCA -
5 days prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Senior Citizens has scheduled a public hearing at 9:00 am, Friday, February 13, 2009 at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

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The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Adolpho B. Palacios, Sr., or via fax to 472-5022, or via email to SenABPalacios@gmail.com. Copies of the aforementioned Bills may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Jonathan Diaz or Priscilla Cruz at 472-5047/5048.

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MULTI COMMUNICATION REPORT

FEB-04-2009 12:28 PM WED

FAX NUMBER :
 NAME :
 REF. NAME :
 PAGES : 2

1. SUCCESSFUL

FAX NUMBER	NAME
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6482007	
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**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS**

**SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN**

I Mina'Trenta na Liheslaturan Guåhan

PUBLIC HEARING

Friday, February 13, 2009

9:00 a.m.

Public Hearing Room, I Liheslaturan Guåhan

Notices for the public hearing were disseminated to all local media via fax on February 4, 2009 and on February 10, 2009, pursuant to the Open Government Law.

A G E N D A

- **Bill No. 16 (LS)** – “An Act to Add a New Article 2 to Chapter 46 of 9GCA relative to mortgage fraud.” – by Senator Ray Tenorio.
- **Bill No. 17 (LS)** – “An Act to Add a New Paragraph (j) to §18101 and to amend §18102 of 16GCA relative to driving under the influence of sedating substances.” – by Senator Ray Tenorio.
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The Committee will allow up to ten (10) days after the public hearing date for submission of testimonies written or electronic, to Senator Adolpho B. Palacios, Sr., Chairman, Committee on Public Safety, Law Enforcement, and Senior Citizens. Deadline for submission of testimonies will be February 23, 2009, after which time the Committee will prepare the Committee Report, in preparation for consideration by the legislative body.

Office/Mailing Address: 155 Hester Place, Hagatña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS**

I Mina 'Trenta na Liheslaturan Gudhan

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN


**Bill No. 16 (LS) - "An Act to Add a New Article 2 to Chapter 46 of 9CCA relative to mortgage fraud."
- by Senator Ray Tenorio.**

NAME (Please Print)	AGENCY/ORGANIZATION	CONTACT NUMBER	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR
<i>Phil Tenorio</i>	<i>ABO</i>		/		/	

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 16 (LS)

Introduced by:

Ray Tenorio 

**AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 46 OF
9GCA RELATIVE TO MORTGAGE FRAUD.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Article 2 is *added* to Chapter 46 of 9GCA to read:

Article 2

Mortgage Fraud

§46201. Title. This Act may be cited as the Mortgage Fraud Act.

§46202. Definitions. As used in this Act:

(A) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.

(B) "Mortgage loan":

2009 JAN -5 AM 10:55

1 (1) means a loan or agreement made to extend credit to a person
2 when the loan is secured by a deed, security deed, mortgage, security
3 interest, deed of trust, or other document representing a security
4 interest or lien upon any interest in one-to-four family residential
5 property;

6
7 (2) includes the renewal or refinancing of any loan, and

8
9 (3) includes home equity loans.
10

11 (C) "Unlawful activity" means to directly engage in conduct or to solicit, request,
12 command, encourage, or intentionally aid another person to engage in conduct
13 which would constitute any offense described by the following crimes or
14 categories of crimes, or to attempt or conspire to engage in an act which would
15 constitute any of those offenses, regardless of whether the act is in fact charged or
16 indicted by any authority or is classified as a misdemeanor or a felony
17

18 (D) "Pattern of unlawful activity" means engaging in conduct which constitute the
19 commission of at least three (3) episodes of unlawful activity, which episodes are
20 not isolated, but have the same or similar purposes, results, participants, victims,
21 or methods of commission, or otherwise are interrelated by distinguishing
22 characteristics. Taken together, the episodes shall demonstrate continuing
23 unlawful conduct and be related either to each other or to the enterprise. The most
24 recent act constituting part of a pattern of unlawful activity as defined by this part
25 shall have occurred within five (5) years of the commission of the next preceding
26 act alleged as part of the pattern.

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(E) "Sensitive personal identifying information" means any of the following information regarding an individual's:

- (1) Social Security number;
- (2) driver license number or other government issued identification number;
- (3) financial account number or credit or debit card number;
- (4) password or personal identification number or other identification required to gain access to a financial account or a secure website;
- (5) automated or electronic signature; and
- (6) unique biometric data; and
- (7) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

(F) "Value" means the value of the property, money, or thing obtained or sought to be obtained.

(G) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including governmental entities.

§46203. Mortgage Fraud.

(A) A person commits the offense of mortgage fraud if the person does any of the following with the intent to defraud:

1 (1) knowingly makes any material misstatement, misrepresentation, or
2 omission during the mortgage lending process, intending that it be
3 relied upon by a mortgage lender, borrower, or any other party to the
4 mortgage lending process;

5 (2) knowingly uses or facilitates the use of any material misstatement
6 misrepresentation, or omission, during the mortgage lending process,
7 intending that it be relied upon by a mortgage lender, borrower, or
8 any other party to the mortgage lending process;

9 (3) files or causes to be filed with the Department of Land
10 Management any document that the person knows contains a material
11 misstatement, misrepresentation, or omission; or

12 (4) receives any proceeds or any compensation in connection with a
13 mortgage loan that the person knows resulted from a violation of this
14 section.

15
16 **§46204. Classification of Offense.**

17
18 (A) Notwithstanding any other administrative, civil, or criminal penalties, a person
19 who violates §46203 of this Chapter is guilty of a:

20
21 (1) misdemeanor when the value is or exceeds Three Hundred Dollars
22 (\$300) but is less than One Thousand Dollars (\$1,000);

23
24 (2) third degree felony when the value is or exceeds One Thousand Dollars
25 (\$1,000) but is less than Five Thousand Dollars (\$5,000);
26

1 (3) second degree felony when the value is or exceeds Five Thousand
2 Dollars (\$5,000);

3
4 (4) second degree felony when the object or purpose of the commission of
5 an act of mortgage fraud is other than the obtaining of something of
6 monetary value; and

7
8 (5) second degree felony when the object or purpose of the commission of
9 an act of mortgage fraud is the obtaining of sensitive personal identifying
10 information, regardless of the value.

11
12 (6) The determination of the degree of any offense under Subsection (A) is
13 measured by the total value of all property, money, or things obtained or
14 sought to be obtained by a violation of §46203 of this Chapter, except as
15 provided in Subsections (A)(4) and (5).

16
17 (B) Each residential or commercial property transaction offense under this part
18 constitutes a separate violation.

19
20 **§46205. Mortgage Fraud Prosecutor and Investigators.**

21
22 (A) The Attorney General may employ:

23
24 (1) an attorney licensed to practice law who:

25
26 (i) has knowledge of the law related to mortgage fraud; and

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(ii) if possible, has a background or expertise in investigating and prosecuting mortgage fraud; and

(B) At least two investigators who have a background or expertise in investigating mortgage fraud.

(1) The attorney employed under Subsection (A)(1) has as that attorney's primary responsibility the prosecution of mortgage fraud.

(2) Each person employed under Subsection (B) shall have as that person's primary responsibility the investigation of mortgage fraud.

(C) The Attorney General may employ clerks, interns, or other personnel to assist the attorney employed under Subsection (A)(1)