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Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

16 JUL 2009

2009 JUL 17 AM 9:33 AM

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

30-09-0872

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

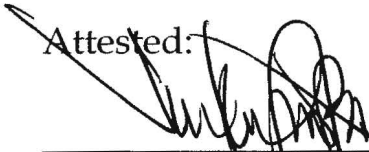
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

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'lahi'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).”