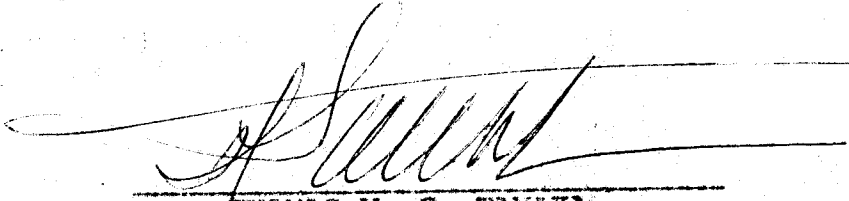


FIFTEENTH GUAM LEGISLATURE  
1980 (SECOND) Regular Session

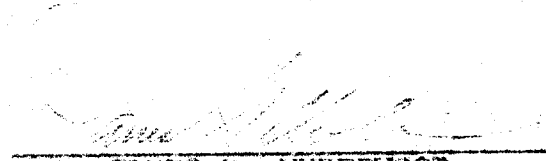
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 9, "An Act amending, adding and repealing certain sections of the Civil Code relative to the property of married persons and for other purposes", was on the 13th day of February 1980, duly and regularly passed.



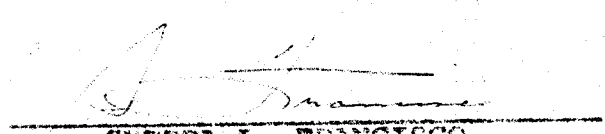
THOMAS V. C. TANAKA  
Speaker

ATTESTED:



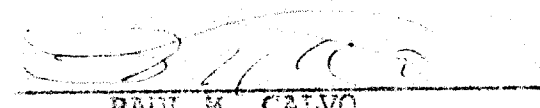
JAMES H. UNDERWOOD  
Legislative Secretary

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This Act was received by the Governor this 11<sup>th</sup> day of March, 1980, at 3:15 o'clock P..M.



SIERRA L. FRANCISCO  
Assistant Staff Officer  
Governor's Staff

APPROVED:



PAUL M. CALVO  
Governor of Guam

DATED: 3/20/80 9:00 a.m.

P.L. 15-113

FIFTEENTH GUAM LEGISLATURE  
1980 (SECOND) Regular Session

Bill No. 9  
(As Substituted by the  
Committee on Criminal  
Justice)

Introduced by

K. B. Aguon  
C. A. Kasperbauer  
C. C. Bamba

AN ACT AMENDING, ADDING AND REPEALING  
CERTAIN SECTIONS OF THE CIVIL CODE  
RELATIVE TO THE PROPERTY OF MARRIED  
PERSONS AND FOR OTHER PURPOSES.

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

2 Section 1. Purpose. The purpose of Section 2 of this Act  
3 is to comply with the provisions of Public Law 14-28 by making  
4 the provisions of the community property law of Guam apply  
5 equally to all persons regardless of sex.

6 Section 2. Chapter III of Title II of Division First of  
7 the Civil Code is repealed and reenacted to read:

8 "CHAPTER III

9 Community Property

10 Section 155. Classes of Property. (a) 'Separate  
11 property' means:

12 (1) property acquired by either spouse before  
13 marriage or after entry of a decree of dissolution of  
14 marriage;

15 (2) property and earnings of a spouse and the  
16 minor children living with, or in the custody of,  
17 the spouse, while living separate and apart from  
18 the other spouse;

19 (3) property acquired after entry of a  
20 decree entered pursuant to Section 136 of the Civil  
21 Code unless the decree provides otherwise;

1 (4) property or money paid by or on behalf of a  
2 married person to his spouse in satisfaction of a  
3 judgment for damages for personal injuries to the  
4 spouse or pursuant to an agreement for the settlement  
5 or compromise of a claim for such damages;

6 (5) property designated as separate property by  
7 a judgement or decree of any court having jurisdiction;

8 (6) property acquired by either spouse by gift,  
9 bequest, devise or descent;

10 (7) property designated as separate property by  
11 a written agreement between the spouses; and

12 (8) each spouse's undivided interest in property  
13 owned in whole or in part by the spouses as cotenants  
14 in joint tenancy or as cotenants in tenancy in common.

15 (b) 'community property' means property acquired by  
16 either spouse during marriage which is not separate  
17 property.

18 (c) For purposes of dividing property between the  
19 spouses in a proceeding for dissolution of marriage,  
20 'community property' includes all real or personal property  
21 owned by a married person domiciled in Guam, wherever  
22 situated and whenever acquired:

23 (1) by either spouse while domiciled outside  
24 of Guam which would have been community property had  
25 the spouse acquiring it been domiciled in Guam at the  
26 time of acquisition; or

27 (2) any property acquired in exchange for  
28 property which would have been community property if  
29 the spouse acquiring it had been domiciled in Guam at  
30 the time of acquisition.

1 (d) For purposes of determining the property rights  
2 of a surviving spouse upon the death of the other spouse,  
3 'community property' includes all personal property,  
4 wherever situated and whenever acquired, and all real  
5 property situated in Guam, if acquired:

6 (1) by either spouse while domiciled outside  
7 of Guam which would have been community property had  
8 the spouse acquiring it been domiciled in Guam at the  
9 time of acquisition; or

10 (2) any property acquired in exchange for  
11 property which would have been community property if  
12 the spouse acquiring it had been domiciled in Guam at  
13 the time of acquisition.

14 (e) 'property' includes the rents, issues and profits  
15 thereof.

16 (f) The right of husband and wife to hold property as  
17 joint tenants or as tenants in common and the legal  
18 incidents of so holding, including but not limited to the  
19 incident of the right of survivorship of joint tenancy, are  
20 not altered by this Chapter except as provided in Sections  
21 157, 158 and 160 of this Chapter.

22 (g) The respective interests of the husband and wife  
23 in community property during continuance of the marriage  
24 relation are present, existing and equal interests. This  
25 Subsection shall be construed as defining the respective  
26 interests and rights of husband and wife in community  
27 property.

28 (h) Neither husband nor wife has any interest in the  
29 separate property of the other, except as provided in  
30 Section 158, but neither can be excluded from the other's

1 dwelling except pursuant to a court order. The Superior  
2 Court may order the temporary exclusion of either party  
3 from the family dwelling or from the dwelling of the other  
4 upon a showing that physical or emotional harm might result  
5 otherwise or for such other good cause as the court may  
6 state in such an order.

7 Section 156. Definition of separate and community  
8 debts. (a) 'Separate debt' means:

9 (1) a debt contracted or incurred by a spouse  
10 before marriage or after entry of a decree of  
11 dissolution of marriage;

12 (2) a debt contracted or incurred by a spouse  
13 after entry of a decree entered pursuant to Section  
14 136 of this Code unless the decree provides otherwise;

15 (3) a debt designated as a separate debt of a  
16 spouse by a judgement or decree of any court having  
17 jurisdiction;

18 (4) a debt contracted by a spouse during marriage  
19 which is identified by a spouse to the creditor in  
20 writing at the time of its creation as the separate  
21 debt of the contracting spouse; or

22 (5) a debt which arises from a tort committed  
23 by a spouse before marriage or after entry of a decree  
24 of dissolution of marriage, a tort committed by one  
25 spouse against the other spouse or a separate tort  
26 committed during marriage.

27 (b) 'Community debt' means a debt contracted or  
28 incurred by either or both spouses during marriage which is  
29 not a separate debt.

30 (c) As used in Paragraph (5) of Subsection (a) of this  
31 Section, 'separate tort' means an act or omission which

1 occurred while the married person was performing an activity  
2 not for the benefit of the community.

3 Section 157. Priorities for satisfaction of separate  
4 debts. (a) The separate debt of a spouse shall be  
5 satisfied first from the debtor spouse's separate property,  
6 excluding that spouse's interest in property in which each  
7 of the spouses owns an undivided equal interest as a joint  
8 tenant or tenant in common. Should such property be  
9 insufficient, then the debt shall be satisfied from the  
10 debtor spouse's one-half (1/2) interest in the community  
11 property or in which each spouse owns an undivided equal  
12 interest as a joint tenant or tenant in common, excluding  
13 the residence of the spouses. Should such property be  
14 insufficient, then the debt shall be satisfied from the  
15 debtor spouse's interest in the residence of the spouses.  
16 Neither spouse's interest in community property or separate  
17 property shall be liable for the separate debt of the other  
18 spouse.

19 (b) This Section shall apply only while both spouses  
20 are living, and shall not apply to the satisfaction of  
21 debts after the death of one (1) or both spouses.

22 Section 158. Priorities for satisfaction of community  
23 debts. (a) Community debts shall be satisfied first from  
24 all community property and all property in which the spouses  
25 own an undivided equal interest as joint tenants or tenants  
26 in common, excluding the residence of the spouses. Should  
27 such property be insufficient, community debts shall then  
28 be satisfied from the residence of the spouses. Should  
29 such property be insufficient, only the separate property  
30 of the spouse who contracted or incurred the debt shall be

1        liable for its satisfaction. If both spouses contracted or  
2        incurred the debt, the separate property of both spouses is  
3        jointly and severally liable for its satisfaction.

4                (b) This Section shall apply only while both spouses  
5        are living, and shall not apply to the satisfaction of debts  
6        after the death of one (1) or both spouses.

7                Section 159. Presumption of community property:  
8        Presumption of separate property where property acquired by  
9        a married woman prior to July 1, 1980. (a) Property  
10       acquired during marriage by either husband or wife, or both,  
11       is presumed to be community property.

12               (b) Property or any interest therein acquired during  
13       marriage by a woman by an instrument in writing, in her  
14       name alone, or in her name and the name of another person  
15       not her husband, is presumed to be the separate property of  
16       the married woman if the instrument in writing was delivered  
17       and accepted prior to July 1, 1980. The date of  
18       execution or, in the absence of a date of execution, the  
19       date of acknowledgement, is presumed to be the date upon  
20       which delivery and acceptance occurred.

21               (c) The presumptions contained in Subsection (b)  
22       of this Section are conclusive in favor of any person  
23       dealing in good faith and for valuable consideration with  
24       a married woman or her legal representative or successor in  
25       interest.

26               Section 160. Transfers, conveyances, encumbrances and  
27       leases of real property: When joinder required.

28               (a) Except as otherwise provided in this subsection  
29       and Section 163, either spouse has the management and  
30       control of the community real property, whether acquired

1 prior to or after July 1, 1980, but both spouses must join  
2 in all transfers, conveyances or encumbrances or contracts  
3 to transfer, convey or encumber any interest in community  
4 real property and separate real property owned by the  
5 spouses as cotenants in joint tenancy or tenancy in common.  
6 The spouses must join in all leases of community real  
7 property or separate real property owned by the spouses as  
8 cotenants in joint tenancy or tenancy in common if the  
9 initial term of the lease, together with any option or  
10 extension contained therein or provided for contemporaneously,  
11 may exceed five (5) years, or if the lease is for an  
12 indefinite term.

13 Any transfer, conveyance, encumbrance or lease or  
14 contract to transfer, convey, encumber or lease any interest  
15 in the community real property or in separate real property  
16 owned by the spouses as cotenants in joint tenancy or  
17 tenancy in common, attempted to be made by either spouse  
18 alone in violation of the provisions of this Section shall  
19 be void and of no effect, except that either spouse may  
20 transfer, convey, encumber or lease directly to the other  
21 without the other joining therein.

22 Except as provided above, either spouse may transfer,  
23 convey, encumber or lease separate real property without  
24 the other's joinder.

25 (b) Nothing in this Section shall preclude a married  
26 person from authorizing his spouse or another person to  
27 transfer, convey, encumber or lease, or contract to transfer,  
28 convey, encumber or lease, any community real property, or  
29 separate real property owned by the spouses as cotenants  
30 in joint tenancy or tenancy in common, pursuant to a validly  
31 executed power of attorney.



1           Section 101. Management and control of community  
2 personal property. (a) Except as provided in subsections  
3 (b), (c), (e) and (f) of this Section, either spouse alone  
4 has full power to manage, control, dispose of and encumber  
5 the entire community personal property.

6           (b) (1) If only one spouse is named in a document  
7 evidencing ownership of community personal property then  
8 only the spouse so named may manage, control, dispose of or  
9 encumber such property.

10           (2) If only one spouse is named or designated  
11 in a written agreement between that spouse and a third  
12 party as having sole authority to manage, control,  
13 dispose of or encumber the community personal property  
14 which is described in or which is the subject of the  
15 agreement, only the spouse so named may manage, control,  
16 dispose of or encumber such property.

17           (3) This subsection shall apply whether the  
18 agreement was executed prior to or after July 1, 1980.

19           (c) (1) If both spouses are named in a document  
20 evidencing ownership of community personal property then  
21 both spouses must join to dispose of or encumber such  
22 property.

23           (2) If both spouses are named or designated in a  
24 written agreement with a third party as having joint  
25 authority to dispose of or encumber the community  
26 personal property which is described in or the subject  
27 of the agreement then both spouses must join to dispose  
28 of or encumber such property.

29           (3) This subsection shall apply whether the  
30 agreement was executed prior to or after July 1, 1980.

1 (d) (1) In a document evidencing ownership of  
2 community personal property where the names of the spouses  
3 are joined by the word, 'or', or by the words, 'and/or',  
4 either spouse alone may dispose of or encumber such  
5 property.

6 (2) In a document evidencing ownership of  
7 community personal property where the names of the  
8 spouses are joined by the word, 'and', both spouses  
9 must join to dispose of or encumber such property.

10 (e) A spouse may not make a gift of or dispose of  
11 community personal property without a valuable considera-  
12 tion, without the written consent of the other spouse.

13 (f) A spouse may not sell, convey, or encumber the  
14 furniture, furnishings, or fittings of the home, or the  
15 clothing or wearing apparel of the other spouse or minor  
16 children which is community personal property, without  
17 the written consent of the other spouse.

18 (g) Each spouse shall act in good faith with respect  
19 to the other spouse in the management and control of the  
20 community personal property.

21 Section 162. Joinder of minor spouse in conveyances,  
22 mortgages and leases. A minor married person may join  
23 with his spouse in all transactions for which joinder is  
24 required by Sections 160 and 161 of the Civil Code and  
25 such joinder shall have the same force and effect as if the  
26 minor spouse had attained his majority at the time of the  
27 execution of the instrument.

28 Section 163. Disposition and management of real  
29 property without joinder and management of community

1 personal property subject to management of one spouse  
2 alone where spouse has disappeared or is adjudged  
3 incompetent. (a) If a spouse is adjudged incompetent  
4 or disappears and his location is unknown to the other  
5 spouse, the other spouse may file a petition setting forth  
6 the facts which make it desirable for the petitioning  
7 spouse to engage in a transaction for which joinder of  
8 both spouses is required by Section 160 or 161 of the Civil  
9 Code or to manage, control, dispose of or encumber community  
10 personal property which the other spouse alone has sole  
11 authority to manage, control, dispose of or encumber under  
12 Section 161 of the Civil Code.

13 (b) The petition shall be filed in the Superior  
14 Court.

15 (c) The court shall appoint a guardian ad litem for  
16 the incompetent or disappearing spouse and shall allow a  
17 reasonable fee for his services.

18 (d) A notice stating that the petition has been  
19 filed and specifying the date of the hearing, accompanied  
20 by a copy of the petition shall be issued and served on  
21 the guardian ad litem and shall be published once each  
22 week for three (3) successive weeks in a newspaper of  
23 general circulation. The last such publication shall be  
24 made at least ten (10) days before the hearing.

25 (e) After the hearing, and upon determination of the  
26 fact of disappearance by one spouse or the spouse's incompe-  
27 tence, the court may allow the petitioning spouse alone to  
28 engage in the transaction for which joinder of both spouses

1 is required by Section 160 or 161 of the Civil Code or to  
2 manage, control, dispose of or encumber community personal  
3 property which the other spouse alone has authority to  
4 manage, control, dispose of or encumber under Section 161  
5 of the Civil Code.

6 (f) Any transfer, conveyance, encumbrance or lease  
7 authorized by the court pursuant to Subsection (e) of this  
8 Section shall be confirmed by order of the court and that  
9 order may be recorded in the Department of Land Management.

10 Section 164. Judgment to be recorded. All court  
11 orders authorizing the transfer, conveyance, encumbrance  
12 or lease of community real property or other real property  
13 owned by the spouses as co-tenants in joint tenancy or  
14 tenancy in common may be recorded in the Department of  
15 Land Management.

16 Section 165. Property relations. (a) Either husband  
17 or wife may enter into any engagement or transaction with  
18 the other, respecting property subject, in transaction  
19 between themselves, to the general rules which control the  
20 actions of persons occupying confidential relations with  
21 each other.

22 (b) A husband and wife cannot, by any contract with  
23 each other, alter their legal relations, except as to  
24 property, and except that they may agree, in writing, to  
25 an immediate separation, and may make provision for the  
26 support of either of them and of their children during  
27 such separation.

28 (c) The mutual consent of the parties is a sufficient  
29 consideration for such an agreement.

30 Section 166. (a) All contracts between husband and  
31 wife of which the subject matter is their separate or

1 community property must be in writing and executed and  
2 acknowledged or approved in like manner as a grant of  
3 land is required to be executed and acknowledged or  
4 approved.

5 (b) A minor married person may enter a contract with  
6 his spouse with the same force and effect as if the minor  
7 spouse had attained his majority at the time of execution  
8 of the contract.

9 (c) The recording or non-recording of such contract  
10 has a like effect as the recording or non-recording of a  
11 grant of real property.

12 Section 167. (a) A full and complete inventory of  
13 the separate personal property of either spouse may be  
14 made out and signed by such spouse, acknowledged in the  
15 manner required by law for the acknowledgment of a grant of  
16 real property and recorded in the Department of Land  
17 Management.

18 (b) The filing of the inventory in the Department  
19 of Land Management is notice and prima facie evidence of  
20 the title of the party filing such inventory.

21 Section 168. No estate is allowed the husband as  
22 tenant by curtesy upon the death of his wife, nor is any  
23 estate in dower allotted to the wife upon the death of her  
24 husband."

25 Section 3. Section 136 of the Civil Code is amended to  
26 read:

27 "Section 136. Dissolution of marriage denied:  
28 maintenance. Though judgment of dissolution of marriage  
29 is denied, the court may, in an action for dissolution of  
30 marriage, provide for the maintenance by either spouse of

1 the other and the children of the marriage, children of  
2 either spouse adopted by the other or any of them."

3 Section 4. Section 139 of the Civil Code is amended to  
4 read:

5 "Section 139. Family support. When a dissolution of  
6 marriage is granted, the court may compel either spouse to  
7 provide for the maintenance of the children of the marriage  
8 and children of either spouse adopted by the other, and to  
9 make such suitable allowance to the other spouse for that  
10 person's support, during that person's life or for a  
11 shorter period, as the court may deem just, having regard  
12 to the circumstances of the parties respectively; and the  
13 court may, from time to time, modify its order in these  
14 respects."

15 Section 5. Section 141 of the Civil Code is amended to  
16 read:

17 "Section 141. Property liable. In executing the five  
18 (5) preceding Sections, the court must resort:

19 (1) to the community property, then,

20 (2) to the separate property of the spouse

21 required to make payment."

22 Section 6. A new Section 147.1 is added to the Civil Code  
23 to read:

24 "Section 147.1. Division of real property situated in  
25 another jurisdiction. (a) If the property subject to  
26 division under Section 147 of the Civil Code includes real  
27 property situated in another jurisdiction, the Superior  
28 Court shall, if possible, divide the property in such a  
29 manner that it is not necessary to change the state of the  
30 title to the real property situated outside Guam.

1 (b) If it is not possible to divide the property  
2 in the manner directed in Subsection (a) of this Section,  
3 the court may require either or both parties to execute  
4 such conveyances and take such other actions with respect  
5 to the real property situated outside Guam, and make such  
6 other orders or awards, as are necessary to divide the  
7 property between the parties in accordance with law."

8 Section 7. A new Section 1714.3 is added to the Civil  
9 Code to read:

10 "Section 1714.3. If a married person is injured by  
11 the negligent or wrongful act or omission of a person  
12 other than his spouse, the fact that the negligent or  
13 wrongful act or omission of the spouse of the injured  
14 person was a concurring cause of the injury is not a  
15 defense in any action brought by the injured person to  
16 recover damages for such injury except in cases where such  
17 concurring negligence or wrongful act or omission would  
18 be a defense if the marriage did not exist."

19 Section 8. Section 1237 of the Civil Code is repealed and  
20 reenacted to read:

21 "Section 1237. Homestead, of what it consists. The  
22 homestead consists of the dwelling house in which the  
23 claimant resides, together with outbuildings, and the land  
24 on which the same are situated, selected as in this Title  
25 provided.

26 The dwelling house may be in a condominium, a planned  
27 development, a stock cooperative, or a community apartment  
28 project, or may be situated on real property held under  
29 long-term lease rather than a freehold. In such cases,  
30 an agreement, covenant, or restriction between or binding

1 upon the owners of a title, interest or estate in a  
2 condominium, planned development, stock cooperative or  
3 community apartment project, or a lien arising under  
4 such agreement, covenant or restriction or an underlying  
5 lease or sublease, indebtedness, security, or other  
6 interest or obligation may be enforced in the same manner  
7 as if no homestead were declared, and the homestead shall  
8 include the interest in and right to use common areas and  
9 other appurtenances subject to the terms and conditions  
10 applicable thereto. For the purposes of this Section,  
11 'long-term lease' is a lease thirty (30) years or more."  
12 Section 9. Section 1238 of the Civil Code is repealed and  
13 reenacted to read:

14 "Section 1238. From what property it may be selected.  
15 If the claimant be married, the homestead may be selected:  
16 (a) from the community property; or  
17 (b) from the property held by the spouses as cotenants  
18 in tenancy in common or in joint tenancy or from the  
19 separate property of the husband or the wife.

20 When the claimant is not married but is the head of a  
21 family within the meaning of Section 1261 of this Chapter,  
22 the homestead may be selected from any of his or her  
23 property. If the claimant be an unmarried person, other  
24 than the head of a family, the homestead may be selected  
25 from any of his or her property. Property within the  
26 meaning of this Chapter, includes any freehold title,  
27 interest or estate which vests in the claimant the  
28 immediate right of possession, even though such a right of  
29 possession is not exclusive, and includes land held under  
30 long-term lease, as specified in Section 1237 of this



1 Chapter, and ownership rights in a condominium, planned  
2 development, stock cooperative, or community apartment  
3 project even though the title, interest, or estate of the  
4 condominium, planned development, stock cooperative, or  
5 community apartment project is in a leasehold or sublease-  
6 hold."

7 Section 10. Section 1241 of the Civil Code is repealed  
8 and reenacted to read:

9 "Section 1241. Subject to, when. The homestead is  
10 subject to execution or forced sale in satisfaction of  
11 judgments obtained:

12 1. before the declaration of homestead is  
13 recorded, and which, at the time of such recordation,  
14 constitute liens upon the premises;

15 2. on debts secured by mechanics, contractors,  
16 subcontractors, artisans, architects, builders,  
17 laborers of every class, materialmen's or vendors'  
18 liens upon the premises;

19 3. on debts secured by encumbrances on the  
20 premises executed and acknowledged by husband or  
21 wife, by a claimant of a married person's separate  
22 homestead, or by an unmarried claimant; or

23 4. on debts secured by encumbrances on the  
24 premises, executed and recorded before the declaration  
25 of homestead was filed for record."

26 Section 11. Section 1242 of the Civil Code is repealed and  
27 reenacted to read:

28 "Section 1242. How conveyed or encumbered. Except  
29 as provided in Section 163 of this Code where one or more  
30 spouses is incompetent, and except in the case of a

1 married person's separate homestead, the homestead of a  
2 married person cannot be conveyed or encumbered unless  
3 the instrument by which it is conveyed or encumbered is  
4 executed and acknowledged by both husband and wife or  
5 unless each spouse executes and acknowledges a separate  
6 instrument so conveying or encumbering the homestead in  
7 favor of the same party or his successor in interest;  
8 provided, however, that a conveyance of the homestead  
9 between husband and wife need be executed and acknowledged  
10 only by the spouse conveying, and unless the one conveying  
11 expressly reserves his homestead rights, the spouse to  
12 whom the conveyance is made may convey or encumber the  
13 homestead property in the same manner and to the same  
14 extent as though no homestead had been declared."

15 Section 12. Section 1243 of the Civil Code is repealed  
16 and reenacted to read:

17 "Section 1243. Now abandoned. Except as provided in  
18 Section 163 of this Code, a homestead can be abandoned only  
19 by:

- 20 1. a declaration of abandonment executed and  
21 acknowledged by the husband and wife, jointly, or by  
22 separate instruments, if the claimants are married;
- 23 2. a declaration of abandonment or a conveyance  
24 by the claimant if unmarried;
- 25 3. a declaration of abandonment or a conveyance  
26 by the grantee named in a conveyance by which one  
27 spouse conveys the homestead to the other spouse  
28 without expressly reserving his homestead rights;
- 29 4. a conveyance or conveyances by both spouses  
30 as provided in Section 1242 of this Chapter; or

1                   5. a declaration of abandonment or a conveyance  
2                   by the claimant alone in the case of a married person's  
3                   separate homestead."

4                   Section 13. Section 1251 of the Civil Code is amended to  
5 read:

6                   "Section 1251. They must view the premises and  
7                   appraise the value thereof, and if the appraised value,  
8                   less the aggregate of all liens and encumbrances thereon,  
9                   exceeds the homestead exemption, they must determine whether  
10                   the land claimed can be divided without material injury."

11                   Section 14. Section 1257 of the Civil Code is amended to  
12 read:

13                   "Section 1257. Exemption - moneys protected. The  
14                   money paid to the claimant is entitled, for the period of  
15                   six (6) months thereafter, to the same protection against  
16                   legal process and the voluntary disposition of the husband  
17                   or wife, which the law gives to the homestead."

18                   Section 15. Section 1260 of the Civil Code is repealed and  
19 reenacted to read:

20                   "Section 1260. Who may select homestead, value.

21                   Homesteads may be selected and claimed:

22                   1. by any head of a family, of not exceeding  
23                   Forty Thousand Dollars (\$40,000) in actual cash  
24                   value, over and above all liens and encumbrances on  
25                   the property at the time of any levy of execution  
26                   thereon;

27                   2. by any person 65 years of age or older, of  
28                   not exceeding Forty Thousand Dollars (\$40,000) in  
29                   actual cash value, over and above all liens and  
30                   encumbrances on the property at the time of any  
31                   levy of execution thereon; or

1           3. by any other person, of not exceeding Twenty-  
2 Five Thousand Dollars (\$25,000) in actual cash value,  
3 over and above all liens and encumbrances.

4           Any declaration of homestead which has been filed  
5 prior to July 1, 1980 shall be deemed to be amended  
6 on such date by increasing the value of any property  
7 selected and claimed to the value permitted by this  
8 Section on such date to the extent that such increase  
9 does not impair or defeat the right of any creditor  
10 to execute upon the property which existed prior to  
11 such date."

12       Section 16. Section 1261 of the Civil Code is amended to  
13 read:

14       "Section 1261. Head of family, generally. The phrase  
15 'head of a family', as used in this Title, includes within  
16 its meaning:

17           1. the husband or wife when the claimant is a  
18 married person.

19           2. every person who has residing on the premises  
20 with him or her, and under his or her care and  
21 maintenance, either:

22               (a) his or her minor child, or minor grand-  
23 child, or the minor child of his deceased wife  
24 or husband;

25               (b) a minor brother or sister, or the minor  
26 child of a deceased brother or sister;

27               (c) a father, mother, grandfather, or  
28 grandmother;

29               (d) the father, mother, grandfather, or  
30 grandmother of a deceased husband or wife; or

1 (e) An unmarried sister or brother, or any  
2 other of the relatives mentioned in this Section,  
3 who have attained the age of majority, and are  
4 unable to take care of or support themselves."

5 Section 17. Section 1261.1 is added to the Civil Code to  
6 read:

7 "Section 1261.1. Claim of homestead on property  
8 previously homesteaded not deemed abandonment of prior  
9 homestead. Whenever a claim of homestead is made pursuant  
10 to Subsection 1 or 2 of Section 1260 of this Chapter which  
11 includes property previously homesteaded, to the extent  
12 that such prior homestead is still valid, such new claim  
13 of homestead shall not be considered an abandonment of  
14 the prior homestead."

15 Section 18. Section 1262 of the Civil Code is repealed and  
16 reenacted to read:

17 "Section 1262. Mode of selection. In order to select  
18 a homestead, either husband or wife or head of a family  
19 must execute and acknowledge, in the same manner as a grant  
20 of real property is acknowledged, a declaration of home-  
21 stead, and file the same for record in the Department of  
22 Land Management."

23 Section 19. Section 1263 of the Civil Code is repealed  
24 and reenacted to read:

25 "Section 1263. Declaration of homestead. The  
26 declaration of homestead must contain:

- 27 1. a statement showing that the person making  
28 it is the head of a family, and if the claimant is  
29 married, the name of the spouse; or, when the  
30 declaration is made by a married person without the

1 joinder of his or her spouse, in the execution and  
2 acknowledgement of the declaration, showing that the  
3 other spouse has not made such declaration and that  
4 he or she therefor makes the declaration for their  
5 joint benefit;

6 2. a statement that the person making it is  
7 residing on the premises, and claims them as a  
8 homestead;

9 3. a description of the premises; and

10 4. Such declaration of homestead may further  
11 contain a statement of the character of the property  
12 sought to be homesteaded, showing the improvement or  
13 improvements which have been affixed thereto, with  
14 sufficient detail to show that it is a proper subject  
15 of homestead, and that no former declaration has been  
16 made, or, if made, that it has been abandoned and if  
17 it contains such further statement and the declaration  
18 is supported by the affidavit of the declarant,  
19 annexed thereto, that the matters therein stated are  
20 true of his or her own knowledge, such declaration,  
21 when properly recorded, shall be prima facie evidence  
22 of the facts therein stated, and conclusive evidence  
23 thereof in favor of a purchaser or encumbrancer in  
24 good faith and for a valuable consideration.

25 The declaration of a homestead shall not affect  
26 the property rights of spouses as between themselves  
27 other than as provided by this Title."

28 Section 20. Section 1265.1 is added to the Civil Code to  
29 read:

1           "Section 1265.1. Retroactive effect of new declaration  
2 on property purchased with proceeds of former homestead.  
3 If the proceeds arising from the sale of property selected  
4 as a homestead are used for the purchase of real property  
5 within the period of six (6) months following such sale, the  
6 property purchased may be selected as a homestead in the  
7 manner provided in this Title within the period of six (6)  
8 months following such sale, and such selection, when the  
9 declaration has been filed for record, shall have the same  
10 effect as if it had been created at the time the prior  
11 declaration of homestead was filed for record."

12           Section 21. Chapter IV of Title V of Part IV, Division  
13 Second of the Civil Code is repealed and reenacted to read:

14                           "CHAPTER IV

15                               Married Person's Separate Homestead

16           Section 1269.1. Married person's separate homestead:  
17 Execution, acknowledgment, and declaration. Following the  
18 entry of a judgment decreeing legal separation of the  
19 parties or an interlocutory judgment of dissolution of a  
20 marriage, each spouse may execute and acknowledge in the  
21 same manner as a grant of real property is acknowledged,  
22 a declaration of a married person's separate homestead  
23 from the separate property of the spouse so declaring same,  
24 or from any property awarded to such spouse by said  
25 judgment.

26           Section 1269.2. Contents of declaration. The  
27 declaration must contain:

- 28                   (1) a statement that the declarant is a married  
29 person, and that there is in existence a judgment  
30 decreeing legal separation of the parties or an

1 interlocutory judgment of dissolution of the marriage  
2 between declarant and his or her spouse;

3 (2) a statement showing that declarant is the  
4 head of a family, as defined in this Chapter, if such  
5 is the case.

6 (3) The matters required by the second and third  
7 subsections of Section 1263, and in addition thereto,  
8 may contain the statement and affidavit provided for  
9 by Subsection 4 of said Section, with like effect as  
10 therein provided.

11 Section 1269.3. 'Head of family' defined. For the  
12 purpose of this Chapter, the phrase 'head of a family'  
13 includes every person who is residing on the premises with  
14 him or her and under his or her care and maintenance one or  
15 more of the persons enumerated in paragraphs (a), (b), (c),  
16 (d) and (e) of Subsection 2 of Section 1261, and such  
17 person shall receive the exemption allowed the head of  
18 a family by Section 1260. Any married person declaring a  
19 homestead under this Chapter who is not the head of a  
20 family, as defined in this Section, shall receive the  
21 exemption allowed other persons by Section 1260.

22 Section 1269.4. When land becomes homestead. From  
23 and after the time the declaration is recorded in the  
24 Department of Land Management, the land described therein  
25 is a homestead.

26 Section 1269.5. Reconciliation of parties: Trans-  
27 formation of married person's separate homestead into joint  
28 protection homestead: Reduction of exemption. When a  
29 homestead has been declared under Section 1269.1 by a  
30 married person following the entry of an interlocutory



1 judgment of dissolution of a marriage upon property awarded  
2 to such person by such judgment, a subsequent reconciliation  
3 of the parties when evidenced by a dismissal of such  
4 dissolution action executed by both parties or their  
5 attorneys of record shall transform such homestead into a  
6 joint protection homestead, which shall thereafter have the  
7 force and effect of a homestead selected under this Title.  
8 If each such married person has selected a homestead under  
9 this Chapter, and such a dismissal has been filed after  
10 reconciliation, one of the homesteads must be abandoned or  
11 the exemption under each shall be reduced by one-half."

12 Section 22. Sections 142, 687 and 1239 of the Civil Code  
13 are repealed.

14 Section 23. A new subsection 4 is added to Section 70 of  
15 the Civil Code to read:

16 "4. The Director of Revenue and Taxation or the  
17 Director of Administration."

18 Section 24. Section 70a of the Civil Code is amended to  
19 read:

20 "Section 70a. Obligatory upon judge, the Director of  
21 Revenue and Taxation or the Director of Administration.  
22 The duty of solemnizing the marriage ceremony on any day  
23 shall be obligatory upon all the judges, the Director of  
24 Revenue and Taxation or the Director of Administration.  
25 The fee shall be Ten Dollars (\$10.00)."

26 Section 25. The provisions of Sections 1, 2 and 15 of this  
27 Act shall take effect July 1, 1980.

15TH GUAM LEGISLATURE

VOTING RECORD

BILL/RESOLUTION NO. 9

MAIN SPONSOR  
NOT  
VOTING

KB Dgum

SENATOR	AYE	NAY	MAIN SPONSOR NOT VOTING	ABSENT
<del>ASUN, Katherine B.</del>	<i>resigned</i>			
BAMBA, Cecilia C.	✓			
BLAS, Frank F.	✓			
CHARFAUROS, Edward T.	✓			
CRISOSTOMO, Thomas C.	✓			
DUENAS, Edward R.	✓			
ESPALDON, Ernesto M.	✓			
KASPERBAUER, Carmen A.	✓			
LAMORENA, Alberto C., III	✓			
PALOMO, Antonio M.	✓			
PALOMO, Benigno M.	✓			
PEREZ, Peter, Jr.	✓			
QUAN, John F.	✓			
QUITUGUA, Franklin J.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SUDO, Ramon Q.	✓			
TAITANO, Richard F.	✓			
TANAKA, Thomas V. C.	✓			
UNDERWOOD, James H.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

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