

*Territory of Guam
Territorio Guam*

OFFICE OF THE GOVERNOR
SINJAN MAGALAH
AGANA GUAM 96910 USA

James 2:10 P.M.
RECEIVED OCT 06 1992

OCT 08 1992

REFER TO
LEGISLATIVE SECRETARY
REFER TO
LEGISLATIVE SECRETARY

The Honorable Joe T. San Agustin
Speaker, Twenty-First Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 1S which I signed into law as Public Law 21-134.

Sincerely yours,

JOSEPH F. ADA
Governor

210967

Attachment



CERTIFICATION OF EMERGENCY CONDITIONS

I, the Speaker and presiding officer of the Twenty-First Guam Legislature hereby CERTIFY, pursuant to §2103 of Title 2, Guam Code Annotated, that emergency conditions exist, involving danger to the public health and safety, so that the statutory requirement of a public hearing for Bill Number 1S(1-S) may be waived. Such emergency conditions result from the destruction caused by Typhoon Omar which has made many Guam residents homeless and which has badly damaged Guam's utility infrastructure to the point where the health and safety of the public are threatened. Bill Number 1S(1-S) directly addresses the emergency problems caused by the great storm, and therefore I CERTIFY that immediate action must be taken hereon. Accordingly, there is no time for a public hearing thereon.

DATED this 3rd day of September, 1992.

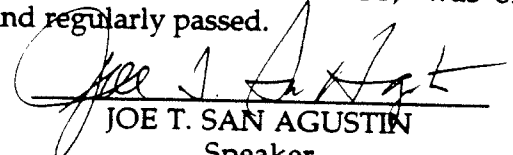


JOE T. SAN AGUSTIN
Speaker

TWENTY-FIRST GUAM LEGISLATURE
1992 (FIRST) Special Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 1S(1-S), "AN ACT PROVIDING FUNDING FOR THE RECOVERY OF GUAM FROM DAMAGE DONE BY TYPHOON OMAR, AUTHORIZING TEMPORARY EMPLOYMENT OF PERSONNEL TO PROCESS RELIEF APPLICATIONS; TO PROVIDE FIVE HUNDRED FIFTY-SIX THOUSAND DOLLARS (\$556,000) TO THE DEPARTMENT OF PUBLIC WORKS AND TO THE PUBLIC UTILITY AGENCY OF GUAM TO REPAIR A LANDSLIDE AND A BROKEN SEWER SPILLING RAW SEWAGE INTO THE NAMO RIVER AND THE OCEAN AS A RESULT OF TYPHOON OMAR; TO ADD §§55.60 TO TITLE 9, GUAM CODE ANNOTATED, TO PROHIBIT THE USE OF PUBLIC WATER DURING EMERGENCIES; TO PERMIT EMERGENCY ASSIGNMENT OF NURSES; TO REQUIRE HEALTH INSPECTIONS OF TYPHOON SHELTERS; AND TO PERMIT REASSIGNMENT OF GOVERNMENT PERSONNEL DURING THE TYPHOON OMAR EMERGENCY," was on the 3rd day of September, 1992, duly and regularly passed.



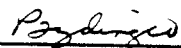
JOE T. SAN AGUSTIN
Speaker

Attested:




PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 3rd day of September, 1992,
at 5:33 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: September 3, 1992

Public Law No. 21-134

TWENTY-FIRST GUAM LEGISLATURE
1992 (FIRST) Special Session

Bill No. 1S(1-S)

Introduced by:

As substituted by:

At the request of the Governor
C. T. C. Gutierrez
J. T. San Agustin
J. P. Aguon
E. P. Arriola
M. Z. Bordallo
H. D. Dierking
P. C. Lujan
G. Mailloux
D. Parkinson
F. R. Santos
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
E. R. Dueñas
E. M. Espaldon
M. D. A. Manibusan
M. J. Reidy
M. C. Ruth
T. V. C. Tanaka
A. R. Unpingco

AN ACT PROVIDING FUNDING FOR THE RECOVERY OF GUAM FROM DAMAGE DONE BY TYPHOON OMAR, AUTHORIZING TEMPORARY EMPLOYMENT OF PERSONNEL TO PROCESS RELIEF APPLICATIONS; TO PROVIDE FIVE HUNDRED FIFTY-SIX THOUSAND DOLLARS (\$556,000) TO THE DEPARTMENT OF PUBLIC WORKS AND TO THE PUBLIC UTILITY AGENCY OF GUAM TO REPAIR A LANDSLIDE AND A BROKEN SEWER SPILLING RAW SEWAGE INTO THE ÑAMO RIVER AND THE OCEAN AS A RESULT OF TYPHOON OMAR; TO ADD §§55.60 TO TITLE 9, GUAM CODE ANNOTATED, TO PROHIBIT THE USE

OF PUBLIC WATER DURING EMERGENCIES; TO PERMIT EMERGENCY ASSIGNMENT OF NURSES; TO REQUIRE HEALTH INSPECTIONS OF TYPHOON SHELTERS; AND TO PERMIT REASSIGNMENT OF GOVERNMENT PERSONNEL DURING THE TYPHOON OMAR EMERGENCY.

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

2 **Section 1. Legislative finding.** On August 28, 1992, Typhoon Omar
3 passed over Guam, causing destruction of hundreds of residences and some
4 businesses and extensive damage to residences, businesses and public
5 facilities. As a result, basic necessities such as shelter, food and clothing must
6 be provided to thousands of homeless people.

7 Disaster application centers and relief centers must be operated in
8 conjunction with the Federal Emergency Management Agency, the U.S.
9 Small Business Administration, the Red Cross, the Office of Civil Defense
10 and the Departments of Labor and Public Health and Social Services.
11 Essential government services must continue.

12 Restoration of essential infrastructure, clearing debris and repair of
13 government buildings, especially the schools, must be accomplished as quickly
14 as possible.

15 **Section 2. (a)** The Governor may expend not more than Ten Million
16 Dollars (\$10,000,000) of any available Fiscal Years 1992 and 1993 funds of the
17 government of Guam which are hereby appropriated for the purposes of
18 recovering from Typhoon Omar. Six Hundred Thousand Dollars (\$600,000)
19 of such appropriation shall be allocated to the Department of Agriculture to
20 compensate *bona fide* Guam farmers for uninsured crop and livestock losses
21 suffered as a result of Typhoon Omar, and Four Hundred Seventy-Five
22 Thousand Dollars (\$475,000) of such appropriation shall be allocated to each
23 Municipal Planning Council at Twenty-Five Thousand Dollars (\$25,000) per

1 Council to undertake emergency typhoon-related repairs in their respective
2 municipalities; **provided**, that no disbursement shall be made for crop or
3 livestock losses or for municipal repairs if the Governor determines that such
4 a disbursement would jeopardize Federal funding for disaster relief; and
5 **provided**, further, that the Director of Agriculture shall establish criteria to
6 determine who qualify as **bona fide** farmers and no disbursement shall be
7 made to any person unless the Director of Agriculture certifies in writing that
8 such person is a **bona fide** farmer. The balance of the appropriation may be
9 used for maintaining the peace, purchasing food for cooking at typhoon
10 shelters, repairing damage to the island-wide power system, to the water and
11 sewer systems including the installation of water tanks at all public schools
12 and the repair of broken sewer lines and sewer lines at the point of breakage,
13 to roadways, to schools and other government facilities, and to government
14 vehicles such as fire trucks, ambulances, buses and the like. Such expenditures
15 include but are not limited to overtime; matching Federal funds; the purchase
16 of supplies and equipment, including generators; the rental of heavy
17 equipment; and the purchase of temporary services. The Certifying Officer
18 for expenditures made pursuant to this appropriation shall be the Director of
19 the Bureau of Budget and Management Research; **provided**, that notice of all
20 such expenditures shall be delivered to the Speaker of the Legislature by the
21 end of the month in which the expenditures are made.

22 (b) Notwithstanding any other provision of law, the Department of
23 Public Health and Social Services may hire not more than one hundred (100)
24 temporary employees to receive, qualify and administer emergency food
25 stamp applications and to receive, qualify and administer individual family
26 grants as follows: Eighty (80) persons may be employed for not more than
27 sixty (60) days for the emergency food stamp program and twenty (20) persons

1 may be employed up to December 31, 1992 for the individual family grant
2 program. No person hired temporarily shall be entitled to any government
3 benefits.

4 (c) The appropriation made in subparagraph (a) of this section shall
5 be available until December 31, 1992, and if any monies expended from such
6 appropriation are later reimbursed by the Federal government, such
7 reimbursement shall be deposited in the General Fund for appropriation by
8 the Legislature.

9 **Section 3. Legislative findings.** (a) Some years ago Jose A. Borja
10 dedicated, without compensation, an easement to the government of Guam
11 to install a sewer line in the Ñamo Falls area. Two years ago, a defect was
12 noticed in the sewer line due to erosion and a small break in the pipe, and this
13 defect was reported to all the relevant government agencies but no action
14 was taken to correct the situation. Because of a landslide during Typhoon
15 Omar which produced a major failure in the construction, the land under the
16 easement collapsed and the sewer line caved in, being broken in half,
17 producing a fifty-foot drop, which now releases raw sewage into the Ñamo
18 River and thence into the ocean.

19 Jose A. Borja's son, Frank C. Borja, the latter's wife, Mary U. Borja,
20 and his sister Ana C. Borja, have taken out a loan from the Guam Economic
21 Development Authority ("GEDA") to start a small business in the visitor
22 industry, taking visitors to the island to the beautiful Ñamo Falls area. This
23 business, however, has had to be curtailed because of the sewage situation.

24 Because of the gift of the Borja family to the government of Guam in
25 granting the easement for the sewer, and in light of the recent disaster closing
26 down the Ñamo Falls visitor attraction, and the danger to the health,
27 welfare, and safety of the community due to the release of raw sewage, it is

1 desirable for GEDA to forgive the remainder of the loan to the Borja family
2 as settlement for any claim against the government for damage from the
3 faulty sewer line. It is also desirable to take immediate action on the release
4 of raw sewage into the area, causing environmental and health hazards.

5 (b) Five Hundred Fifty-Six Thousand Dollars (\$556,000) are hereby
6 appropriated from the General Fund with Fifty-Six Thousand Dollars
7 (\$56,000) to be allocated to GEDA to repay that loan to Frank C. Borja, Ana
8 C. Borja and Mary U. Borja for the development of the Ñamo Falls, in
9 payment for the gift of the easement granted by Jose A. Borja for the sewer
10 line in the Ñamo Falls area, and in exchange for the release of all claims by
11 the borrowers against the government for damages incurred because of the
12 sewer line defect and subsequent collapse, the balance of Five Hundred
13 Thousand Dollars (\$500,000) to be allocated between the Department of
14 Public Works and to the Public Utility Agency of Guam for the architectural
15 and engineering design and cost estimate of, and to jointly repair the
16 damaged sewer line and landslide, which are located on Lots Nos. 241 and
17 242, Municipality of Agat, near Ñamo Falls, Village of Santa Rita.

18 Section 4. §55.60 is added to Title 9, Guam Code Annotated, to read:

19 "§55.60. **Public water, unlawful use during period of**
20 **emergency.** Upon the declaration by the Governor of a state of
21 emergency as the result of a disaster that threatens the public
22 water supply, it shall be a petty misdemeanor for any person to
23 use water supplied by the Public Utility Agency of Guam for any
24 unauthorized use. During a state of emergency public water is
25 authorized to be used for purposes of public health, safety and
26 welfare. Any use of the public water during a state of emergency
27 for a use not pertaining to public health, safety and welfare shall

1 not be authorized. Such unauthorized uses shall include, but not
2 be limited to, washing motor vehicles, windows, streets,
3 sidewalks and buildings or irrigating or watering ornamental
4 plants, shrubs, flowers, lawns or golf courses. In addition to any
5 other penalty imposed by the court upon conviction under this
6 section, a conviction arising from unauthorized use of water for a
7 business or commercial purpose shall be punished by a fine of not
8 less than One Thousand Dollars (\$1,000) nor more than Twenty-
9 Five Thousand Dollars (\$25,000). No state of emergency
10 proclaimed by the Governor shall be for a period of more than
11 fifteen (15) days. The Governor may proclaim successive states of
12 emergency if he deems such proclamation to be in the public
13 interest."

14 **Section 5. Assignment of nurses where needed during emergency.** The
15 Governor after declaration by executive order of a civil defense or public
16 health or public safety emergency and notwithstanding any other provision of
17 law, may transfer during the emergency period licensed nurses from one
18 department or agency to another department or agency where their presence
19 is critically needed.

20 **Section 6. Inspection of typhoon shelters.** Within three (3) days after
21 this Act is signed into law, the Department of Public Health and Social
22 Services and the Guam Environmental Protection Agency shall conduct a
23 joint inspection of typhoon shelters currently occupied by typhoon shelter
24 residents to assess the conditions of the shelters and adequacy of sanitary
25 facilities and to submit recommendations to the Governor of Guam to make
26 such shelters safe for the health and welfare of the shelters' occupants.

1 **Section 7. Reassignment of government personnel.** During the
2 emergency declared by the Governor as a result of Typhoon Omar, he may
3 temporarily reassign government employees whose regular jobs have been
4 disrupted or interrupted by the storm to other positions involved in typhoon
5 recovery in any agency, autonomous or otherwise, of the government of
6 Guam.

TWENTY-FIRST GUAM LEGISLATURE

1991 ~~(FIRST)~~ Regular Session
 (Second) *(First Special)*

Date: 9/3/92

VOTING SHEET

Bill No. 15(1-5)

Resolution No. _____

Question: _____

	AYE	NO	NOT VOTING	ABSENT/ OUT DURING ROLL CALL
<u>AGUON, John P.</u>	✓			
<u>ARRIOLA, Elizabeth P.</u>	✓			
<u>BAMBA, J. George</u>	✓			
<u>BLAZ, Anthony C.</u>	✓			
<u>BORDALLO, Madeleine Z.</u>	✓			
<u>BROOKS, Doris F.</u>	✓			
<u>DIERKING, Herminia D.</u>	✓			
<u>DUENAS, Edward R.</u>				✓
<u>ESPALDON, Ernesto M.</u>	✓			
<u>GUTIERREZ, Carl T.C.</u>	✓			
<u>LUJAN, Pilar C.</u>	✓			
<u>MAILLOUX, Gordon</u>	✓			
<u>MANIBUSAN, Marilyn D.A.</u>	✓			
<u>PARKINSON, Don</u>	✓			
<u>REIDY, Michael J.</u>	✓			
<u>RUTH, Martha C.</u>	✓			
<u>SAN AGUSTIN, Joe T.</u>	✓			
<u>SANTOS, Francisco R.</u>	✓			
<u>SHIMIZU, David L.G.</u>	✓			
<u>TANAKA, Thomas V.C.</u>	✓			
<u>UNPINGCO, Antonio R.</u>	✓			

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Territory of Guam
Territorion Guam

OFFICE OF THE GOVERNOR
UFSINAN I MAGALANAN
AGANA, GUAM, U.S.A.

**REFER TO
LEGISLATIVE SECRETARY**



September 2, 1992

The Honorable Joe T. San Agustin
Speaker
Twenty-First Guam Legislature
Agana, Guam 96910

Dear Mr. Speaker:

Typhoon Omar passed over Guam on August 28, 1992 leaving thousands homeless and in need of the basic necessities of life--shelter, food and clothing. Many island schools have been opened as shelter for these people. The damage caused by this typhoon caused vital public services to shut down. Restoration of these services is underway. Cleanup of debris is underway. Although much has been done, much remains to be done. Many people on Guam are suffering. Government funds must be made available for the typhoon recovery. Public interest requires the Legislature to meet to address funding requirements.

Pursuant to the authority vested in me by Section 18 of the Organic Act of Guam, as amended, {48 USC SS1423h} I call the Legislature into Special Session on September 3, 1992 at 2:00 p.m. I call upon the Legislature to pass a bill which provides funds for recovery from the devastation brought by Typhoon Omar. Attached hereto is a bill entitled, AN ACT PROVIDING FUNDING FOR RECOVERY OF GUAM FROM DAMAGE DONE BY TYPHOON OMAR AND AUTHORIZING TEMPORARY EMPLOYMENT OF PERSONNEL TO PROCESS RELIEF APPLICATIONS, which I request that the Legislature pass without delay.

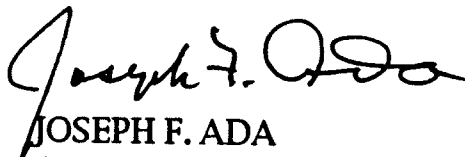
If the Legislature does not act immediately, it will only increase the suffering of our people. It will only gaurantee that small businesses located in flood zone areas may never recover placing those local small businessmen and their families in financial distress or even bankruptcy. If the Legislature does not act immediately, it only means that families who live in flood areas, and whose homes were



The Honorable Joe T. San Agustin
Page Two

destroyed by Typhoon Omar will be unable to rebuild their homes or their shattered lives, their children continuing to sleep huddled under tents or tarpaulins, exposed to privations due to no fault of their own: but rather, the fault of this body. I urge you to act on your promise to do what is necessary to relieve human suffering and restore normalcy for the people that we all serve.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph F. Ada". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

JOSEPH F. ADA
Governor of Guam

210935

Introduced

SEP 03 '92

TWENTY-FIRST GUAM LEGISLATURE
1992 (FIRST) Special Session

Bill No. 15 (1-S)

Introduced by:

At the Request of the
Governor

AN ACT PROVIDING FUNDING FOR RECOVERY
OF GUAM FROM DAMAGE DONE BY TYPHOON
OMAR AND AUTHORIZING TEMPORARY EMPLOYMENT
OF PERSONNEL TO PROCESS RELIEF APPLICATIONS.

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

1 Section 1. Legislative Finding. On August 28, 1992 Typhoon
2 Omar passed over the Territory of Guam. The typhoon caused
3 destruction of hundreds of residences and some businesses and
4 extensive damage to residences, businesses and public facilities.
5 As a result, basic necessities such as shelter, food and clothing
6 must be provided to thousands of homeless people.

7 Disaster Application Centers and Relief Centers must be
8 operated in conjunction with FEMA, SBA, the Red Cross, the Office
9 of Civil Defense and the Departments of Labor and Public Health and
10 Social Services. Essential government services must continue.

11 Restoration of essential infrastructure, clearing debris and
12 repair of government buildings especially the schools must be
13 accomplished as quickly as possible.

14 Section 2. (a) The Governor may expend not more than Ten
15 Million Dollars (\$10,000,000) of any available funds of the
16 government of Guam which is hereby appropriated for the purposes of
17 recovering from Typhoon Omar. This appropriation may be used for

1 providing assistance to people requiring shelter and food;
2 maintaining the peace and repairing damage to the islandwide power
3 system, water and sewer systems, roadways, schools and other
4 government facilities and government vehicles such as fire trucks,
5 ambulances, buses and so forth. Such expenditures include but are
6 not limited to personnel salaries and benefits, including overtime;
7 purchase of supplies and equipment (including stand-by and portable
8 generators); rental of heavy equipment; and purchase of temporary
9 services. The Certifying Officer for expenditures made pursuant
10 to this appropriation shall be the Director of the Bureau of Budget
11 and Management Research.

12 (b) The Governor may expend such additional sums of money
13 which are hereby appropriated as may be necessary from any
14 available appropriation or fund of the government of Guam to
15 provide matching funds to any federal grant program operating
16 because of Typhoon Omar.

17 (c) Notwithstanding any other provision of law, the
18 Department of Public Health and Social Services may hire not more
19 than one hundred (100) temporary employees to receive, qualify and
20 administer emergency food stamp applications and to receive,
21 qualify and administer individual family grants as follows: 80
22 people may be employed for not more than sixty days for the
23 emergency food stamp program and 20 people may be employed for not
24 more than one hundred eighty days for the individual family grant
25 program. No person hired temporarily shall be entitled to any
26 government benefits.

1 Section 3. 5 GCA §22402 is amended to read:

2 "\$22402. **Emergency Expenses.** The Governor of Guam is
3 authorized to utilize any part or portion, not to exceed [Two
4 Hundred Fifty Thousand Dollars] Five Hundred Thousand Dollars of
5 outstanding appropriations within [the General Fund] any fund
6 created by law for expenses caused by civil defense, public safety
7 or health emergencies. Whenever this authorization is used by the
8 Governor, he shall report the expenditure thereunder to the
9 Legislature within five days."

10 Section 4. Notwithstanding any other provision of law, the
11 Governor may transfer up to fifteen percent (15%) of funds
12 appropriated by the Legislature for fiscal year 1993 to the various
13 departments and agencies of the government of Guam; provided that
14 notice of each transfer and justification therefor is delivered by
15 the end of the month in which the transfer takes place to the
16 Speaker of the Legislature.

TWENTY-FIRST GUAM LEGISLATURE
1992 (SECOND) Regular Session

Bill No. 957

Introduced by:

- C. T. C. Gutierrez
- J. T. San Agustin
- J.P. Aguon
- E. P. Arriola
- M. Z. Bordallo
- H. D. Dierking
- P. C. Lujan
- G. Mailloux
- D. Parkinson
- F. R. Santos
- D. L. G. Shimizu
- J. G. Bamba
- A. C. Blaz
- D. F. Brooks
- E. R. Dueñas
- E. M. Espaldon
- M. D. A. Manibusan
- M. J. Reidy
- M. C. Ruth
- T. V. C. Tanaka
- A. R. Unpingco

AN ACT PROVIDING FUNDING FOR THE RECOVERY OF GUAM FROM DAMAGE DONE BY TYPHOON OMAR, AUTHORIZING TEMPORARY EMPLOYMENT OF PERSONNEL TO PROCESS RELIEF APPLICATIONS; TO PROVIDE FIVE HUNDRED FIFTY-SIX THOUSAND DOLLARS (\$556,000) TO THE DEPARTMENT OF PUBLIC WORKS AND TO THE PUBLIC UTILITY AGENCY OF GUAM TO REPAIR A LANDSLIDE AND A BROKEN SEWER SPILLING RAW SEWAGE INTO THE ÑAMO RIVER AND THE OCEAN AS A RESULT OF TYPHOON OMAR; TO PROVIDE FIFTY THOUSAND DOLLARS (\$50,000) TO THE COMMISSION ON

SELF-DETERMINATION TO HIRE AN ATTORNEY TO PROVIDE AN AMICUS CURIAE BRIEF IN THE CASE UNITED STATES OF AMERICA EX REL. RICHARDS VS. DE LEON GUERRERO IN THE DISTRICT COURT OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS TO PRESERVE THE MEANING OF THE CONCEPT OF COMMONWEALTH FOR GUAM; TO ADD §§55.60 TO TITLE 9, GUAM CODE ANNOTATED, TO PROHIBIT THE USE OF PUBLIC WATER DURING EMERGENCIES; TO PERMIT EMERGENCY ASSIGNMENT OF NURSES; TO REQUIRE HEALTH INSPECTIONS OF TYPHOON SHELTERS; AND TO PERMIT REASSIGNMENT OF GOVERNMENT PERSONNEL DURING THE TYPHOON OMAR EMERGENCY.

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

2 **Section 1. Legislative finding.** On August 28, 1992, Typhoon Omar
3 passed over Guam, causing destruction of hundreds of residences and some
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5 facilities. As a result, basic necessities such as shelter, food and clothing must
6 be provided to thousands of homeless people.

7 Disaster application centers and relief centers must be operated in
8 conjunction with the Federal Emergency Management Agency, the U.S.
9 Small Business Administration, the Red Cross, the Office of Civil Defense
10 and the Departments of Labor and Public Health and Social Services.
11 Essential government services must continue.

12 Restoration of essential infrastructure, clearing debris and repair of
13 government buildings, especially the schools, must be accomplished as quickly
14 as possible.

15 **Section 2.** (a) The Governor may expend not more than Ten Million
16 Dollars (\$10,000,000) of any available Fiscal Year 1992 funds of the
17 government of Guam which are hereby appropriated for the purposes of

1 recovering from Typhoon Omar. Six Hundred Thousand Dollars (\$600,000)
2 of such appropriation shall be allocated to the Department of Agriculture to
3 compensate **bona fide** Guam farmers for uninsured crop and livestock losses
4 suffered as a result of Typhoon Omar, and Four Hundred Seventy-Five
5 Thousand Dollars (\$475,000) of such appropriation shall be allocated to each
6 Municipal Planning Council at Twenty-Five Thousand Dollars (\$25,000) per
7 Council to undertake emergency typhoon-related repairs in their respective
8 municipalities. The balance of the appropriation may be used for maintaining
9 the peace, purchasing food for cooking at typhoon shelters, repairing damage
10 to the island-wide power system, to the water and sewer systems including
11 the installation of water tanks at all public schools and the repair of broken
12 sewer lines and sewer lines at the point of breakage, to roadways, to schools
13 and other government facilities, and to government vehicles such as fire
14 trucks, ambulances, buses and the like. Such expenditures include but are not
15 limited to overtime; matching Federal funds; the purchase of supplies and
16 equipment, including generators; the rental of heavy equipment; and the
17 purchase of temporary services. The Certifying Officer for expenditures
18 made pursuant to this appropriation shall be the Director of the Bureau of
19 Budget and Management Research; **provided**, that notice of all such
20 expenditures shall be delivered to the Speaker of the Legislature by the end of
21 the month in which the expenditures are made.

22 (b) Notwithstanding any other provision of law, the Department of
23 Public Health and Social Services may hire not more than one hundred (100)
24 temporary employees to receive, qualify and administer emergency food
25 stamp applications and to receive, qualify and administer individual family
26 grants as follows: Eighty (80) persons may be employed for not more than
27 sixty (60) days for the emergency food stamp program and twenty (20) persons

1 may be employed up to December 31, 1992 for the individual family grant
2 program. No person hired temporarily shall be entitled to any government
3 benefits.

4 (c) The appropriation made in subparagraph (a) of this section shall
5 be available until December 31, 1992, and if any monies expended from such
6 appropriation are later reimbursed by the Federal government, such
7 reimbursement shall be deposited in the General Fund for appropriation by
8 the Legislature.

9 **Section 3. Legislative findings.** (a) Some years ago Jose A. Borja
10 dedicated, without compensation, an easement to the government of Guam
11 to install a sewer line in the Ñamo Falls area. Two years ago, a defect was
12 noticed in the sewer line due to erosion and a small break in the pipe, and this
13 defect was reported to all the relevant government agencies but no action
14 was taken to correct the situation. Because of a landslide during Typhoon
15 Omar which produced a major failure in the construction, the land under the
16 easement collapsed and the sewer line caved in, being broken in half,
17 producing a fifty-foot drop, which now releases raw sewage into the Ñamo
18 River and thence into the ocean.

19 Jose A. Borja's son, Frank C. Borja, the latter's wife, Mary U. Borja,
20 and his sister Ana C. Borja, have taken out a loan from the Guam Economic
21 Development Authority ("GEDA") to start a small business in the visitor
22 industry, taking visitors to the island to the beautiful Ñamo Falls area. This
23 business, however, has had to be curtailed because of the sewage situation.

24 Because of the gift of the Borja family to the government of Guam in
25 granting the easement for the sewer, and in light of the recent disaster closing
26 down the Ñamo Falls visitor attraction, and the danger to the health,
27 welfare, and safety of the community due to the release of raw sewage, it is

1 desirable for GEDA to forgive the remainder of the loan to the Borja family
2 as settlement for any claim against the government for damage from the
3 faulty sewer line. It is also desirable to take immediate action on the release
4 of raw sewage into the area, causing environmental and health hazards.

5 (b) Five Hundred Fifty-Six Thousand Dollars (\$556,000) are hereby
6 appropriated from the General Fund with Fifty-Six Thousand Dollars
7 (\$56,000) to be allocated to GEDA to repay that loan to Frank C. Borja, Ana
8 C. Borja and Mary U. Borja for the development of the Ñamo Falls, in
9 payment for the gift of the easement granted by Jose A. Borja for the sewer
10 line in the Ñamo Falls area, and in exchange for the release of all claims by
11 the borrowers against the government for damages incurred because of the
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13 Thousand Dollars (\$500,000) to be allocated between the Department of
14 Public Works and to the Public Utility Agency of Guam for the architectural
15 and engineering design and cost estimate of, and to jointly repair the
16 damaged sewer line and landslide, which are located on Lots Nos. 241 and
17 242, Municipality of Agat, near Ñamo Falls, Village of Santa Rita.

18 **Section 4. (a) Legislative intent.** The Legislature is aware of the
19 **DECISION AND ORDER GRANTING ENFORCEMENT OF**
20 **ADMINISTRATIVE SUBPOENA** dated July 24, 1992 in Miscellaneous Case
21 No. 92-00001, UNITED STATES OF AMERICA, ex rel. JAMES R.
22 RICHARDS, Inspector General, U.S. Department of the Interior vs.
23 LORENZO DE LEON GUERRERO, Governor and Custodian of Records for
24 the Department of Finance, Commonwealth of the Northern Mariana
25 Islands, in the United States District Court for the Northern Mariana
26 Islands.

1 This decision is a result of a dispute between the Commonwealth of the
2 Northern Mariana Islands ("CNMI") and the Inspector General, U.S.
3 Department of the Interior, concerning the release of individual tax returns
4 in the CNMI to the Inspector General for the purpose of performing a review
5 of the CNMI's assessment and collection of income taxes.

6 The decision recited some of the historical background of the CNMI,
7 stating that the Trust Territory of the Pacific Islands was officially terminated
8 as to the CNMI on November 3, 1986, and found that formerly relevant
9 United Nations international law principles and the independent sovereignty
10 of the Trust Territory were at that point no longer applicable. The CNMI has
11 been under the sovereignty of the United States.

12 The court went on to analyze the power of the Inspector General to
13 conduct an audit, and held that the history of the various statutes authorizing
14 the auditing of the Trust Territory and the Northern Mariana Islands is not
15 inconsistent with the right of local self-government as set out in the CNMI
16 Covenant. Those who ratified the Covenant were presumed to have been
17 aware of these various statutes and their applicability to the CNMI.

18 The court recites that "the CNMI most assuredly is not an
19 instrumentality of the federal government"; "Nor is the CNMI 'subject to' or
20 in any way subservient to the Department of the Interior."(page 32,
21 DECISION AND ORDER, SUPRA), yet goes on further to argue that since
22 the CNMI has incorporated into its local laws the U. S. Internal Revenue
23 Code as the Northern Marianas Territorial Income Tax, the Inspector
24 General's subpoena of individual tax records of the CNMI is in keeping with
25 the purpose of carrying into effect the local CNMI Revenue and Taxation Act
26 of 1982.

1 The court further states that even though there is no specific exemption
2 from the confidentiality requirement in federal law for the income tax records
3 to be released to the Inspector General, the Inspector General is also bound
4 by principles of privacy, and that confidentiality is not violated by disclosure
5 to governmental agencies of this tax information.

6 The most difficult holding of the court, and the one which directly
7 affects Guam's quest for Commonwealth status, is the view of the court that
8 the guarantee of self-government in §103 of the CNMI Covenant provides
9 only an "institutional right" of local self-government and does not confer any
10 substantive rights. By "institutional right" is meant that Congress may not
11 dissolve the CNMI legislature or judiciary and return to a system of Naval
12 government. It implies only that the U. S. Government will not exercise its
13 full rights under the U. S. Constitution's Territorial Clause (Art. IV, §3, cl. 2 of
14 the United States Constitution). §103 of the Covenant states:

15 "The people of the Northern Mariana Islands will have the
16 right of local self-government and will govern themselves with
17 respect to internal affairs in accordance with a Constitution of
18 their own adoption."

19 The court appears to be actively discouraging other non-state
20 governmental entities of the American family from seeking to improve their
21 status by denigrating the commonwealth status of the CNMI government.
22 The court states:

23 "The scope of the institutional guarantee of self-government
24 contained in Covenant §103 is of great importance not only to the
25 CNMI, but also to the United States and all U.S. territories that
26 are or in the future may be in the process of reevaluating or

1 renegotiating their political status." (page 85, DECISION AND
2 ORDER, SUPRA)

3 The court indicates that the language of §101 of the CNMI Covenant
4 means that all federal laws applicable to the several states apply to the
5 CNMI, unless excluded by Congress. §101 states:

6 "The Northern Mariana Islands upon termination of the
7 Trusteeship Agreement will become a self-governing
8 commonwealth to be known as the 'Commonwealth of the
9 Northern Mariana Islands,' in political union with and under the
10 sovereignty of the United States of America."

11 The court further argued that §105 of the Covenant authorizes the
12 United States to legislate "in accordance with its constitutional processes"
13 with respect to the CNMI, and this includes the applicability of the laws
14 giving the right of the Inspector General to enforce a subpoena of individual
15 tax returns of people of the CNMI for the purposes of auditing the
16 assessment and collection of taxes.

17 In light of the foregoing legal precedent set in the United States District
18 Court of the Northern Mariana Islands, it is desirable for the government of
19 Guam to enter into the appeal of this decision. The interpretation of the
20 United States court system in this decision makes almost no distinction
21 between the status of commonwealth and the status of territory of the United
22 States with respect to sovereignty, local decision-making authority over local
23 matters, the applicability of federal laws to the local jurisdiction, and the
24 applicability of the continuing effect of the Territorial Clause of the United
25 States Constitution to non-state governmental entities within the "American
26 family".

1 (b) Fifty Thousand Dollars (\$50,000) are hereby appropriated from
2 the General Fund to the Commission on Self-Determination, which,
3 notwithstanding any other provision of law, shall obtain the services of an
4 attorney or law firm to represent the government of Guam to support the
5 appeal of the Commonwealth of the Northern Mariana Islands in its appeal
6 of DECISION AND ORDER GRANTING ENFORCEMENT OF
7 ADMINISTRATIVE SUBPOENA in UNITED STATES OF AMERICA, ex rel.
8 JAMES R. RICHARDS vs. LORENZO DE LEON GUERRERO, Misc. Case
9 No. 92-00001, UNITED STATES DISTRICT COURT FOR THE
10 NORTHERN MARIANA ISLANDS, by filing an *amicus curiae* brief before
11 the appellate court.

12 Section 5. §55.60 is added to Title 9, Guam Code Annotated, to read:

13 "§55.60. **Public water, unlawful use during period of**
14 **emergency.** Upon the declaration by the Governor of a state of
15 emergency as the result of a disaster that threatens the public
16 water supply, it shall be a petty misdemeanor for any person to
17 use water supplied by the Public Utility Agency of Guam for any
18 unauthorized use. During a state of emergency public water is
19 authorized to be used for purposes of public health, safety and
20 welfare. Any use of the public water during a state of emergency
21 for a use not pertaining to public health, safety and welfare shall
22 not be authorized. Such unauthorized uses shall include, but not
23 be limited to, washing motor vehicles, windows, streets,
24 sidewalks and buildings or irrigating or watering ornamental
25 plants, shrubs, flowers, lawns or golf courses. In addition to any
26 other penalty imposed by the court upon conviction under this
27 section, a conviction arising from unauthorized use of water for a

1 business or commercial purpose shall be punished by a fine of not
2 less than One Thousand Dollars (\$1,000) nor more than Twenty-
3 Five Thousand Dollars (\$25,000). No state of emergency
4 proclaimed by the Governor shall be for a period of more than
5 fifteen (15) days. The Governor may proclaim successive states of
6 emergency if he deems such proclamation to be in the public
7 interest."

8 **Section 6. Assignment of nurses where needed during emergency.** The
9 Governor after declaration by executive order of a civil defense or public
10 health or public safety emergency and notwithstanding any other provision of
11 law, may transfer during the emergency period licensed nurses from one
12 department or agency to another department or agency where their presence
13 is critically needed.

14 **Section 7. Inspection of typhoon shelters.** Within three (3) days after
15 this Act is signed into law, the Department of Public Health and Social
16 Services and the Guam Environmental Protection Agency shall conduct a
17 joint inspection of typhoon shelters currently occupied by typhoon shelter
18 residents to assess the conditions of the shelters and adequacy of sanitary
19 facilities and to submit recommendations to the Governor of Guam to make
20 such shelters safe for the health and welfare of the shelters' occupants.

21 **Section 8. Reassignment of government personnel.** During the
22 emergency declared by the Governor as a result of Typhoon Omar, he may
23 temporarily reassign government employees whose regular jobs have been
24 disrupted or interrupted by the storm to other positions involved in typhoon
25 recovery in any agency, autonomous or otherwise, of the government of
26 Guam.