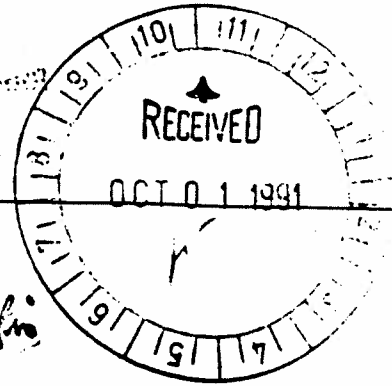




Territory of Guam
Territorial Guam

OFFICE OF THE GOVERNOR
LEGISLATIVE BLDG. 1ST FLOOR
AGANA, GUAM 96910



SEP 30 1991

Joe T. San Agustin

LEGISLATIVE SECRETARY

The Honorable Joe T. San Agustin
Speaker, 21st Guam Legislature
155 Hesler Street
Agana, GU 96910

Dear Mr. Speaker:

On behalf of Governor Joseph F. Ada and the people of Guam, I would like to extend my personal thanks and appreciation to you and your colleagues for the swift approval of Bill 243(COR), which was signed into law as Public Law 21-60, authorizing the use of public property for residential development in response to assisting Typhoon Russ victims. We were pleased to be able to sign this legislation into law because of the urgent need for same.

However, Mr. Speaker, the enactment into law of Bill 243 has now created an additional problem associated with this assistance effort; specifically, the identification of properties listed in Executive Order 90-19 as designated for residential development. This order, a copy of which is enclosed, identifies public property intended for agricultural land-use permits only. A subsequent directive, Executive Order 90-20, indeed identifies parcels suitable for housing. The parcels identified in Executive Order 90-19 are deemed suitable for agriculture and can be subdivided and monitored in order to ensure against the illegal construction of homes, which Bill 243 alludes to, and about which you have yourself voiced concerns.

Along this same line, Section 6 of the bill would allow the sale of Lot No. 7150-3-R4, Yigo, containing an area of 395,941 square meters, for residential purposes. This lot has already been committed to long term agricultural land lease activities and is therefore not available.

Because of these concerns, I request a technical correction to reflect the parcel on which work has already commenced to create a subdivision addressing the needs of Typhoon Russ victims. Under Section 6, the reference to "Lot No. 7150-3-R4, containing an area of 395,941 square meters, as shown and delineated on Land Management Check Map No. 183FY-90, Municipality of Yigo" should be deleted and amended to read, "a seventy (70) acre portion of Lot No. 10125-R8, Municipality of Dededo, as shown and delineated on Land Management Check Map No. 244-FY-91, Land Management Drawing No. 14-91T 401."




Speaker Joe T. San Agustin
Page Two

I want to call your attention to Section 16 of Bill 243, authorizing appropriation of funds. We are anticipating considerable expense in the area of infrastructure for the housing sites. Certainly, this expense is a necessary one in that if we are going to create housing for typhoon victims, we must also provide necessary roadways, water, sewer, telephone and power for these homes. Accordingly we will submit funding requests for these infrastructure improvements as soon as they are available.

I urge you and your colleagues to swiftly approve corrective legislation in order that we may immediately sign it into law and provide the relief our people of Guam, who suffered so much during Typhoon Russ, need.

Thank you and Si Yu'os Ma'ase.

Sincerely,



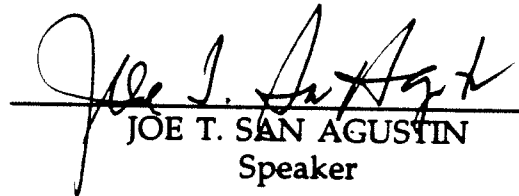
FRANK F. BLAS
Governor,
Acting

210465

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 243 (COR), "AN ACT TO AUTHORIZE THE SALE OF GOVERNMENT OF GUAM LAND IN AGAT AND YIGO AT BELOW FAIR MARKET VALUE TO LANDLESS RESIDENTS OF GUAM, WITH FIRST PRIORITY BEING GIVEN TO THOSE WHOSE HOMES ON LAND USE PERMIT SITES WERE DESTROYED BY TYPHOON RUSS," was on the 13th day of September, 1991, duly and regularly passed.



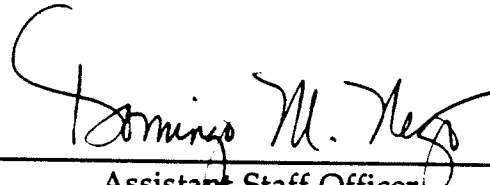
JOE T. SAN AGUSTIN
Speaker

Attested:



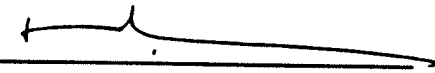
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 18th day of September
1991, at 2:50 o'clock P.m.



Assistant Staff Officer
Governor's Office

APPROVED:



FRANK F. BLAS
Governor of Guam, Acting

Date: September 30, 1991

Public Law No: 21-60

TWENTY FIRST GUAM LEGISLATURE
FIRST REGULAR (1991) SESSION

Bill No. 243 (COR)

As substituted by the
Committee on Housing, Community Development,
Federal and Foreign Affairs

Introduced by:

F.R. Santos
J.T. San Agustin
H.D. Dierking
D.L.G. Shimizu
M.D.A. Manibusan
A.C. Blaz

AN ACT TO AUTHORIZE THE SALE OF
GOVERNMENT OF GUAM LAND IN AGAT
AND YIGO AT BELOW FAIR MARKET VALUE
TO LANDLESS RESIDENTS OF GUAM, WITH
FIRST PRIORITY BEING GIVEN TO THOSE
WHOSE HOMES ON LAND USE PERMIT SITES
WERE DESTROYED BY TYPHOON RUSS.

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

3 **Section 1. Legislative Findings and Statement.** The Legislature
4 finds that many homes constructed on agricultural land use permit sites
5 were either completely destroyed or partly damaged by Typhoon Russ and
6 that the persons affected have been attempting to secure loans from the
7 U.S. Small Business Administration ("SBA") in an effort to either repair or
8 to rebuild new homes upon the sites. The Legislature further finds that
9 because of existing laws governing government land use permits which
10 prohibit construction of homes and utilization of the permit sites as

1 permanent places of residence, the Department of Land Management will
2 not give clearances to the SBA loan applications which thus remain
3 pending. The Legislature notes, however, that over the years families
4 who have been granted such land use permit, have built non-typhoon
5 proof and sub-standard homes as their permanent homes and places of
6 residence on the sites.

7 The Legislature further notes Executive Order No. 90-19, has
8 identified certain government of Guam lands for residential land use
9 permit purposes whereon permittees are allowed to construct residences.

10 Additionally, the Legislature finds it desirable to make available for
11 purchase residential house lots created by Executive Order NO. 90-19,
12 specifically, in those areas set aside in the Municipalities of Yigo and Agat.
13 This would make available to qualified residents of Guam who are
14 landless the opportunity to own a piece of property on which they can
15 realize the American dream of owning a home. Members of the
16 Legislature have been approached by the Mayors of the various
17 municipalities of Guam requesting the identification and establishment of
18 land for the landless projects for the many individuals who have expressed
19 a desire and need for property on which to build their homes. Since
20 suitable areas have been identified by the Department of Land
21 Management, the Legislature finds the needs established by the Typhoon
22 Russ disaster can be met and that the time is opportune to make
23 government properties available to those most in need.

24 **Section 2. Authority to Encumber.** Notwithstanding any other
25 provision of law, and in addition to provisions hereinafter established, the
26 Governor of Guam is hereby authorized to encumber, or otherwise
27 establish a lien through a mortgage instrument with the SBA, government

1 land for which there is a valid Government of Guam Residential Land Use
2 Permit for residential lots contained and identified in the Agat and Yigo
3 subdivisions established by this Act.

4 **Section 3. Duration of Encumbrance.** Such encumbrance shall be
5 valid only for the size covered by a valid residential land use permit, and
6 for (1) the life of the mortgage loan; (2) until such time as the permittee
7 satisfies the terms and conditions of the mortgage loan; (3) until such time
8 as the SBA officially releases such encumbrance; (4) until such time as the
9 government of Guam assumes the encumbrance; or (5) until such time as
10 the original permittee in whose name the encumbrance is made, purchases
11 the lot from the government; **provided**, however, that all applicable laws
12 and SBA regulations and requirements are satisfied. Where the SBA loan
13 is unsecured because it is below the SBA's threshold for acquiring a
14 mortgage, the borrower will be permitted for the life of the loan to occupy
15 the property that would have been subject to a mortgage if the loan
16 amount had been above SBA's threshold; **provided**, however, that the
17 following conditions are met:

18 (a) That the borrower is a legal permittee of the site;

19 (b) That the borrower is a U.S. citizen or a permanent resident alien;

20 and

21 (c) That there is compliance with all applicable SBA laws, rules and
22 regulations.

23 **Section 4. Default.** Should the permittee borrower default on the
24 loan agreement with SBA, it may with the prior written permission of the
25 Governor of Guam, assign the encumbered land to another resident of
26 Guam who applies for and is qualified for a residential land use permit;

1 provided, however, that the provisions of Section 3 of this Act shall apply
2 to the assignee.

3 **Section 5. Non applicability to Agricultural or Commercial Land**
4 **Leases.** The provisions of this Act shall not apply to long term agricultural
5 or commercial land use permits for government land as approved by the
6 Governor and the Legislature.

7 **Section 6. Authorization to Sell.** Notwithstanding any other
8 provision of law or of administrative actions taken with respect to the
9 government of Guam lands described in this Act and enacted or taken prior
10 to the enactment of this Act, the Governor of Guam is hereby authorized to
11 subdivide Lot No. 7150-3-R4, containing an area of 395,941 square meters,
12 as shown and delineated on Land Management Check Map No. 183FY-90,
13 Municipality of Yigo, and Lot No. 350-R5, containing an area of 565-082
14 square meters, as shown an delineated on Land Management Check Map
15 No. 289FY-79, Municipality of Agat, into residential lots not exceeding ten
16 thousand (10,000) square feet per lot and to sell such lots below their fair
17 market value to eligible landless residents of Guam who are U.S. citizens
18 or permanent residents aliens in the order of priority established in this
19 Act.

20 **Section 7. Qualifications.** All applicants for lots within the
21 subdivisions established in this Act must:

- 22 a) Be U.S. citizens or permanent resident aliens;
- 23 b) Be legal residents of Guam;
- 24 c) Be of the age of majority; and
- 25 d) Not have, or have had, any interest,
26 share or claim in any land or property prior
27 to submitting an application under this Act.

1 Applications submitted under this Act shall be considered affidavits
2 to the effect that the applicant acknowledges that he or she is familiar with
3 the provisions of this Act and attests to the truthfulness of the statements
4 contained in the application.

5 The Director of Land Management shall cause to be verified all
6 applications through the records of the Department of Land Management
7 to determine whether the applicant holds any interest, claim or title to any
8 land or property. Any false statement made on the application under this
9 Act shall be grounds for immediate disqualification from eligibility to
10 purchase a lot in the subdivisions created in this Act.

11 **Section 8. Order of Priority.** The order of priority preference for the
12 sale of the subdivided lots shall be as follows:

- 13 a) Those U.S. citizens or permanent resident aliens who are legal
14 residents of Guam who are living on sites within the
15 subdivisions established in this Act under a residential land use
16 permit shall be given first preference;
- 17 b) The following persons whose residences were damaged or
18 destroyed by Typhoon Russ and whose disaster loan
19 applications have been approved by SBA shall be given second
20 preference:

	<u>Name:</u>	<u>Control #:</u>	<u>Village:</u>
21			
22	1) AGUON, Henry	203-HU	Umatac
23	2) ANTONIO, Teresita	248-HS	Dededo
24	3) APATANG, Margarita	953-HS	Dededo
25	4) ATOIGUE, David P.	018-HS	Talofof
26	5) CAMACHO, Arthur	319-HS	Yigo
27	6) CAMADDU, Abraham	312-HS	Mangilao

1	7)	CASTRO, Gloria	923-HS	Dededo
2	8)	CHACO, Gilbert	307-HU	Agat
3	9)	CRUZ, George	282-HU	Mangilao
4	10)	CRUZ, Rosa	360-HS	Dededo
5	11)	DELA CRUZ, Juan	351-HS	Dededo
6	12)	DUENAS, Soledad	498-HS	Malojloj
7	13)	GUTIERREZ, Teresita	188-HU	Dededo
8	14)	HAMLING, Evelyn	738-HU	Agat
9	15)	HUALDE, Rosario	8-HU	Dededo
10	16)	HUBBARD, Landina	116-HS	Agat
11	17)	LAPAN, Edward D.	114-HS	Dededo
12	18)	LEON GUERRERO, Antonio	399-HS	Dededo
13	19)	LEON GUERRERO, Benny	316-HS	Tamuning
14	20)	MANTANONA, Jose M.	83-HS	Inarajan
15	21)	MASGA, Vicente	314-HU	Yigo
16	22)	NAPUTI, Peter	1052-HU	Talofofo
17	23)	NAVARRO, Jose	600-HU	Agat
18	24)	QUINTANILLA, Albert	282-HU	Agat
19	25)	RABAGO, Juanita	484-HS	Talofofo
20	26)	REYES, Gloria	552-HS	Umatac
21	27)	SALAS, Francisco	608-HS	Agat
22	28)	SALAS, Joaquin	672-HS	Agat
23	29)	SARMIENTO, Arceli	580-HS	Dededo
24	30)	SIMSIMAN, Teodoro M.	112-HS	Dededo
25	31)	TAIJERON, Joaquin	483-HS	Talofofo
26	32)	TAJALLE, Jose	427-HS	Umatac
27	33)	TAJALLE, Joseph	428-HS	Umatac

- | | | | | |
|----|-----|---|---------|--------|
| 1 | 34) | TORRES, Basillo | 336-HU | Dededo |
| 2 | 35) | VELASQUEZ, Vicente | 596-HS | Agat |
| 3 | 36) | ARTIDA, Rafael C. | 98-HS | Agat |
| 4 | 37) | ROSARIO, Pedro | 905-HS | |
| 5 | 38) | NAUTA, Ronnie S. | 665-HS | Umatac |
| 6 | 39) | ROSARIO, Francisco M. | 1103-HS | Dededo |
| 7 | 40) | CRUZ, Ana | 104-HS | Dededo |
| 8 | 41) | BAMBA, Vicente A. | 1128-HS | Dededo |
| 9 | c) | All persons who qualify and are landless, and who have lived in | | |
| 10 | | the municipality in which the subdivision is located for a period | | |
| 11 | | of no less than ten (10) years, shall be given third preference; | | |
| 12 | d) | All persons who qualify and are landless, and who are living in | | |
| 13 | | the municipality in which the subdivision is located, shall be | | |
| 14 | | given fourth preference; | | |
| 15 | e) | All bona fide residents of Guam who qualify and are landless | | |
| 16 | | and who reside anywhere on Guam shall be given fifth | | |
| 17 | | preference. | | |

18 **Section 9. Public Drawing for Subdivision Lots.** For the purposes of
19 this Act, if more persons are eligible to purchase lots than there are lots in
20 the subdivision, the Attorney General of Guam and the Director of Land
21 Management shall conduct a public drawing, in accordance with the
22 systems of priority established in §8 of this Act, to determine the
23 purchasers. The public drawing shall be conducted at the Office of the
24 Mayor of Agat for the Agat Subdivision and at the Office of the Mayor of
25 Yigo for the Yigo Subdivision.

1 **Section 10. Sale Price.** The subdivided lots shall be sold at Two
2 Thousand Five Hundred Dollars (\$2,500) per lot, which the Legislature
3 finds to be below fair market value.

4 **Section 11. No Resale or Conveyance.** Any qualified individual who
5 purchases a lot within the subdivisions established in this Act shall
6 covenant and warrant to the government that for a period of ten (10) years
7 from the date of purchase the purchaser shall not sell, convey or otherwise
8 transfer, by any means, title or interest in the lot Any attempt to sell,
9 convey or otherwise transfer, by any means, title or interest in the lot,
10 without the prior written consent of the Governor of Guam, shall
11 constitute a violation of this section and title to the property shall
12 automatically revert to the government of Guam. The Attorney General
13 of Guam shall incorporate provisions to effect the provisions of this
14 section in the instrument of conveyance issued by the government, and the
15 certificate of title issued for each lot shall contain a notation of this
16 restriction. The restrictions of this section do not apply to encumbrances to
17 SBA as authorized by this Act.

18 **Section 12. Government's First Right of Refusal.** In the event an
19 original purchaser desires to sell his or her title, right and interest in any
20 lot purchased under this Act within ten (10) years of the original date of
21 purchase, the government of Guam shall have the first right of refusal.
22 The original purchaser shall declare to the government, no less than one
23 hundred twenty (120) days prior to the intended sale, any intent to sell such
24 lot and the government of Guam shall either waive its right or give notice
25 of its intent to exercise the right of first refusal, within thirty (30) days of
26 notification by the original purchaser.

1 **Section 13. No Further Action Required.** The sales authorized in this
2 Act shall be deemed approved by the Legislature without any further
3 review or action by the Legislature required.

4 **Section 14. Rezoning.** The basic lots in Yigo and Agat, described in
5 Section 6 of this Act are hereby rezoned from Agricultural ("A") to Single
6 Family Residential ("R-1") zone.

7 **Section 15. No Further Approvals Required.** Notwithstanding any
8 other provision of law, the subdivision projects in Yigo and Agat
9 authorized by this Act shall only require the approval of maps by the Chief
10 Surveyor and the Director of Land Management without any requirement
11 of approval by the Territorial Land Use Commission or the Territorial
12 Planner.

13 **Section 16. Authorization for Appropriations.** There is hereby
14 authorized to be appropriated Four Hundred Seventy Five Thousand
15 Dollars (\$475,000) from the General Fund to the Department of Land
16 Management for the perimeter surveying of both subdivision sites
17 authorized in this Act; for topographic surveys and mapping of both areas;
18 for the development of subdivision schemes; for the lots, blocks and road
19 rights of way surveys and maps; and, for the engineering study and cost
20 estimate for infrastructure requirements for both sites. Upon receipt of the
21 cost estimates for infrastructure requirements for both sites, the Director
22 of Land Management shall submit to the Legislature the estimated cost for
23 such requirements and a request for additional appropriations as needed
24 for the purposes established in this Act.

25 **Section 17. Cancellation of land use permit.** Any land use permit
26 held by a purchaser of a lot in a subdivision established by this Act shall be

1 automatically cancelled upon recordation of the deed of conveyance of
2 such lot.

3 **Section 18. Extension of Astumbo Subdivision Application Periods.**

4 The period during which applications for lots within the Astumbo
5 Subdivision may be accepted shall be extended for a period not to exceed
6 one hundred eighty (180) days from the date on which the initial period of
7 application expired.

8 **Section 19. Severability.** If any provisions of this Act or the

9 application thereof to any person or circumstance is held invalid, such
10 invalidity shall not affect any other provision or application of this Act
11 which can be given effect without the invalid provision or application, and
12 to this end the provisions of this Act are severable.

21-60

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

Date: 9/13/91

VOTING SHEET

Bill No. 243

Resolution No. _____

Question: _____

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

19

2

**COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT,
FEDERAL AND FOREIGN AFFAIRS
TWENTY-FIRST GUAM LEGISLATURE
163 Chalan Santo Papa
Agaña, Guam 96910**

Senator Francisco R. Santos
Chairman

Tel: (671) 472-3414/3413
Fax: (671) 477-3048

August 26, 1991

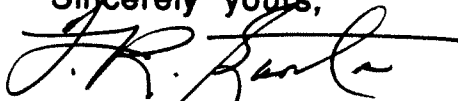
The Honorable Joe T. San Agustin
Speaker
Twenty First Guam Legislature
Agana, Guam

Dear Mr. Speaker,

The Committee on Housing, Community Development, Federal and Foreign Affairs, to which was referred **Bill No. 243**, has had said bill under consideration and herewith reports the same with its recommendation **TO DO PASS AS SUBSTITUTED BY THE COMMITTEE**. The votes of the Committee members are as follows:

TO DO PASS	7
TO DO NOT PASS	0
TO REPORT OUT ONLY	0
NOT VOTING/PASS ON FILE	0
OFF-ISLAND/UNAVAILABLE	3

Sincerely yours,


F.R. Santos

**COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT,
FEDERAL, AND FOREIGN AFFAIRS
TWENTY FIRST GUAM LEGISLATURE**

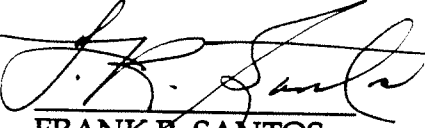
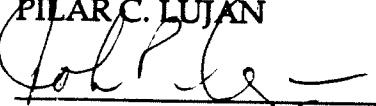
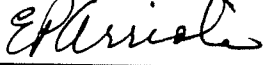
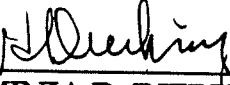


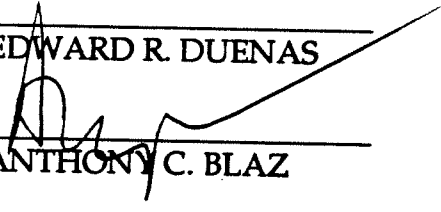
155 Hesler St.
Agaña, Guam 96910

Senator Francisco R. Santos
Chairman

Tel: (671) 472-3414/3415
Fax: (671) 477-3048

Voting Sheet

On Bill No. 243: An Act to Authorize the Governor of Guam to encumber in SBA mortgage loans to Residential Land Use Permittees Government of Guam land and to authorize the sale of Government of Guam land in Agat and Yigo at below fair market value to landless residents of Guam.

	TO DO PASS	TO DO NOT PASS	TO REPORT OUT ONLY	OFF ISLAND
 FRANK R. SANTOS	✓			
_____ PILAR C. LUJAN				
 JOHN P. AGUON	✓			
 ELIZABETH P. ARRIOLA	✓			
 HERMINIA D. DIERKING	✓			
 J. GEORGE BAMBA	✓			
 MARILYN D.A. MANIBUSAN	8/26/91 ✓ mdm			
_____ EDWARD R. DUENAS				
 ANTHONY C. BLAZ	✓			
_____ JOE T. SAN AGUSTIN				

Executive Summary
on
Bill No. 243

Section 1: Legislative Findings and Statement

Section 2: Authorization to Encumber and/or Mortgage

Authorizes Governor to encumber, establish a lien through a mortgage instrumentn with SBA government land on which there is a current Residential Land Use Permit

Section 3: Limits life of encumbrance or lien to life of mortgage/establishes parameters for mortgaging

Section 4: Default and Remedy

Section 5: Provisions of this Act cannot be applied to Agricultural or Commercial land leases

Section 6: Authorizes establishment of subdivision in Agat and Yigo for sale below fair market value.

Section 7: Specific descriptions of parcels to be subdivided.

Section 8: Basic (Minimum) qualifications of purchasers

Section 9: Order of Priority of purchasers

Section 10: Conduct of public drawing (lottery) to determine buyers

Section 11: Sale Price per Lot set at \$2500.00

Section 12: Prohibits sale of property for ten (10) years from date of purchase

Section 13: Government has first right of refusal on subsequent sale of property

Section 14: Land sales final, no further legislative action needed

Section 15: Rezones subdivisions from Agricultural (A) to Single Family Residential (R1)

Section 16: Map approval by Territorial Surveyor and Director of Land Management final. No need for TLUC approval.

Section 17: Authorizes appropriation of \$475,000 for surveying of property

Section 18: Extension of Astumbo Subdivision application period.

Section 19: Standard Severability Clause

TWENTY FIRST GUAM LEGISLATURE
FIRST REGULAR (1991) SESSION

Bill No. 243

As substituted by the
Committee on Housing, Community Development,
Federal and Foreign Affairs

Introduced by:

F.R. Santos
J.T. San Agustin
H.D. Dierking.....

D.L.G. Shimizu

M. Manibusan

A.C. BLAZ

AN ACT TO AUTHORIZE THE GOVERNOR OF
GUAM TO ENCUMBER, IN SBA MORTGAGE
LOANS TO RESIDENTIAL LAND USE
PERMITTEES, GOVERNMENT OF GUAM
LAND AND TO AUTHORIZE THE SALE OF
GOVERNMENT OF GUAM LAND IN AGAT
AND YIGO AT BELOW FAIR MARKET VALUE
TO LANDLESS RESIDENTS OF GUAM.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:
3

4 **Section 1. Legislative Findings and Statement:** The Twenty First Guam
5 Legislature has found that many homes constructed upon Agricultural
6 Land Use Permit Sites were either completely destroyed or partly
7 damaged by Typhoon Russ and that victims affected have been attempting
8 to secure loans from SBA in an effort to either repair their damaged homes
9 or to rebuild new homes upon said sites. The Legislature further finds that
10 because of the existing statutes governing government Land Use Permits
11 which prohibits construction of homes and utilization of said area as a

1 permanent place of residence, the Department of Land Management will
2 not render its clearance and consequently, applications for loans with SBA
3 remain pending. The Legislature notes that, over the years, families, who
4 have been granted Agricultural Land Use Permits, have built non-typhoon
5 and sub-standard homes, as their permanent homes and place of
6 residence, on said sites.

7
8 The Legislature further notes that in an effort to accommodate the
9 needs of the people, the government of Guam, pursuant to Executive
10 Order No. 90-19, has identified certain government of Guam lands for
11 Residential Land Use Permit purposes whereon permittees are allowed to
12 construct their residences. The Legislature finds no reason why citizens of
13 Guam should not be permitted to mortgage those parcels for which they
14 have been issued Residential Land Use Permits in accordance with the
15 provisions herein and provided that the interests of the government of
16 Guam in said property are protected and insured.

17
18 Additionally, the Guam Legislature finds it desirable to make
19 available for purchase residential house lots created by the
20 aforementioned Executive Order NO. 90-19, specifically, those areas
21 identified in the Municipalities of Yigo and Agat. This would make
22 available to qualified residents of Guam who are landless the opportunity
23 to own a piece of property on which they can realize the American dream
24 of owning a home. The members of the Guam Legislature have been
25 approached by the Mayors of the various Municipalities of Guam
26 requesting the identification and establishment of land for the landless
27 projects for the many individuals who have expressed a desire and need
28 for property on which to build their homes. Whereas a suitable area has
29 been identified by the Department of Land Management, the Guam
30 Legislature finds the need established by the Typhoon Russ disaster as now
31 attainable and that the time is opportune to make these properties
32 available to those most in need.

33
34 The Legislature finds that despite the availability of financial
35 assistance for the repair of existing homes or the construction of new
36 residential structures by those families who qualify for said assistance, said
37 financial assistance cannot be utilized because statutes governing the Land

1 Use Permit programs do not authorize the Governor to encumber said
2 property for the purpose of securing residential construction financing.
3 Therefore, in an effort to assist these families and in an effort to avail the
4 island of the benefits which would precipitate from the availability of such
5 Federal financing, the heretowith noted legislation is introduced.
6

7 **Section 2. Authorization to Encumber and/or Mortgage:**
8 Notwithstanding any other provision of law, and in addition to provisions
9 hereinafter established, the Governor of Guam is hereby authorized to
10 encumber, or otherwise establish a lien through a mortgage instrument
11 with the Small Business Administration, government land for which there
12 is a valid Government of Guam Residential Land Use Permit for
13 residential lots contained and identified in the Agat and Yigo subdivisions
14 established herein.
15

16 **Section 3. Duration of Encumbrance.** Such encumbrance shall be valid
17 for: (1) the life of the mortgage loan; (2) until such time as the permittee
18 satisfies the terms and conditions of the mortgage loan; (3) until such time
19 as the Small Business Administration officially releases such encumbrance;
20 or (4) until such time as the government of Guam assumes the mortgage
21 and/or encumbrance through a legal instrument establishing said
22 encumbrance or lien; or (5) until such time as the original permittee, and in
23 whose name the mortgage instrument is made, purchases said lot from the
24 government, provided, however, that all applicable laws and SBA
25 regulations and requirements are satisfied. Where the SBA loan is
26 unsecured because it is below the SBA's threshold for requiring a
27 mortgage, the borrower will be permitted for the life of the loan to occupy
28 the property that would have been subject to a mortgage if the loan
29 amount had been above SBA's threshold, provided, however, that the
30 following conditions are met:

- 31 (a) that the borrower is a legal permittee as to the site involved;
32 (b) that the borrower is a US citizen or a Permanent Resident Alien
33 (c) that there is compliance with all applicable laws and rules and
34 regulations of the Small Business Administration.
35

36 **Section 4. In Case of Default.** Should the borrower/permittee default on
37 the loan agreement with the Small Business Administration, the SBA may,

1 with the prior written permission of the Governor of Guam, assign the
2 encumbered land to another resident of Guam who applies for and is
3 qualified for a Residential Land Use Permit, provided, however, that the
4 provisions of Section 3 of this Act shall likewise and subsequently apply to
5 the assignee.

6
7 **Section 5. Non Applicability to long term Agricultural or Commercial Land**
8 **Leases.** The provisions herein shall not apply to long term Agricultural or
9 Commercial Land Use Permits for government of Guam as approved by
10 the Governor of Guam and the Guam Legislature.

11
12 **Section 6. Authorization to Sell.** Notwithstanding any other provisions of
13 law or administrative actions on the affected government of Guam lands
14 designated herein and taken prior to the enactment of the provisions
15 hereof, the Governor of Guam is hereby authorized to subdivide Lot No.
16 7150-3-R4, situated in the Municipality of Yigo, and Lot No. 350-R5,
17 situated in the Municipality of Agat, into residential lots not exceeding ten
18 thousand (10,000) square feet per subdivided lot and to sell the said lots
19 below the fair market value to eligible landless residents of Guam who are
20 U.S. citizens or permanent residents aliens in the order of priority
21 established herein.

22
23 **Section 7. Specific Descriptions of Property.** More specifically, the lots to
24 be subdivided in accordance with Section 6 hereof are described as follows:

- 25
26 a) Lot No. 7150-3-R4, containing an area of 395,941
27 square meters, as shown and delineated on Land
28 Management Check Map No. 183FY-90, situated
29 in the Municipality of Yigo, Territory of Guam; and
30
31 b) Lot No. 350-R5, containing an area of 565-082
32 square meters, as shown and delineated on Land
33 Management check Map No. 289FY-79, situated in
34 the Municipality of Agat, Territory of Guam.
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36 **Section 8. Base Qualifications.** All applicants for lots within the
37 subdivisions established herein must be:

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- a) U.S. citizens or permanent resident aliens;
- b) legal residents of Guam;
- c) have attained the age of majority;
- d) and must not have, or have had, any interest, share or claim in any land or property prior to submitting an application hereunder.

Applications submitted hereunder shall be considered and construed as affidavits to the effect that the applicant acknowledges the provisions herein and attests to the truthfulness of the statements contained in the application.

The Director of Land Management shall cause to be verified all applications through the records of the Department of Land Management to determine and verify that the applicant, in fact, holds no interest, claim or title to any land or property. Any violation or false statements made on the application herefor shall be grounds for immediate disqualification from eligibility to purchase a lot in the subdivisions created herein.

Section 9. Order of Priority. The order of priority preference for the sale of the subdivided lots shall be as follows:

- a) Those U.S. citizens and/or permanent resident aliens who are legal residents of Guam and are living upon the subdivision sites herein established under a residential land use permit shall be given first preference;
- b) All U.S. citizens and/or permanent resident aliens who are legal residents of Guam, are landless and are living upon a Land Use Permit site whose homes were damaged by Typhoon Russ and are willing to relocate to the subdivision sites established herein shall be given second preference;
- c) All persons who qualify and are landless, who have lived in the municipality in which the said subdivision is

1 located for a period of no less than ten (10) years shall
2 be given third preference to purchase lots within the
3 subdivisions established herein;
4

5 d) All persons who qualify and are landless, who are living
6 in the municipality in which the said subdivision is
7 located shall be given fourth preference to purchase lots
8 within said subdivision.
9

10 e) All bonafide residents of Guam who qualify and are
11 landless and who are residing anywhere on Guam shall
12 be given fifth preference to purchase lots within the
13 subdivisions established herein.
14

15 **Section 10. Public Drawing for Subdivision Lots:** For the purposes of this
16 Act, if more persons are eligible to purchase lots than there are lots therein,
17 the Attorney General of Guam and the Director of Land Management
18 shall conduct a public drawing, in accordance with the systems of priority
19 established in § 9 hereof, to determine the purchasers. The public drawing
20 shall be conducted at the Office of the Municipal Mayor of Agat for the
21 Agat Subdivision and at the Office of the Municipal Mayor of Yigo for the
22 Yigo Subdivision.
23

24 **Section 11. Sale Price.** The subdivided lots shall be sold at less than the
25 fair market value but in no case shall it be less nor more than Two
26 Thousand Five Hundred Dollars (\$2,500.00) per lot.
27

28 **Section 12. Against Sale or Conveyance.** Any qualified individual who
29 shall purchase a lot within the subdivisions established herein shall
30 covenant and warrant to the government that for a period of ten (10) years
31 from the date of purchase the purchaser shall not sell, convey or otherwise
32 transfer, by any means or manner, title or interest in and to said lot Any
33 attempt to sell, convey or otherwise transfer, by any means or manner,
34 title or interest in and to said lot, without the prior written consent of the
35 Governor of Guam, shall constitute and violation of this section and
36 interest and title to the property shall revert to the government of Guam.
37 The Director of Land Management and the Attorney General of Guam

1 shall incorporate provisions to effect the intent and provisions of this
2 section in the instrument of conveyance and warranty deed issued by the
3 government. The certificate of title issued for each lot purchased shall
4 contain a notation of this provision and restriction.

5
6 **Section 13. Government's First Right of Refusal.** In the event an original
7 purchaser desires or intends to sell the title, right and interest in any lot
8 purchased hereunder, within ten (10) years of the original date of
9 purchase, the government of Guam shall have the first right of refusal.
10 The original purchaser shall declare to the government, no less than 120
11 days prior to the intended sale, any intent or desire to sell the title, right
12 and interest in any lot purchased hereunder. The government of Guam
13 shall either approve or give notice of its intent to exercise the right of first
14 refusal, within thirty (30) days of first issue of notification by the original
15 purchaser.

16
17 **Section 14. No Further Action Required.** The sales authorized herein shall
18 be deemed approved by the Guam Legislature without any further review
19 and action by the Legislature required.

20
21 **Section 15. Rezoning.** By virtue of this Act, the Basic Lots in Yigo and Agat
22 to be subdivided hereunder are hereby rezoned from Agricultural (A) to
23 Residential (R1) zone.

24
25 **Section 16. No Further Approvals Required.** Notwithstanding any other
26 provisions of law, these subdivisions projects in Yigo and Agat shall only
27 require the approval of said maps by the Chief Surveyor and the Director
28 of Land Management without any requirement of approval by the
29 Territorial Land Use Commission or the Territorial Planner.

30
31 **Section 17. Authorization for Appropriations.** There is hereby authorized
32 to be appropriated the sum of Four Hundred Seventy Five Thousand
33 dollars (\$475,000.00) from the General Fund to the Department of Land
34 Management for the perimeter surveying of both subdivision sites
35 authorized herein; for topographic surveys and mapping of both areas; for
36 the development of subdivision schemes; for the lots, blocks and road
37 rights of way surveys and maps; and, for the engineering study and cost

1 estimate for infrastructure requirements for both sites. Upon receipt of the
2 cost estimates for infrastructure requirements for both sites, the Director
3 of Land Management shall submit to the Legislature the estimated cost for
4 such requirements and a request for additional appropriations as needed
5 for the purposes herein established.

6
7 **Section 18. Extension of Astumbo Subdivision Application Periods.** The
8 period during which applications for lots within the Astumbo Subdivision
9 may be accepted shall be extended for a period not to exceed one hundred
10 eighty days from the date on which the initial period of application expired.

11
12 **Section 19. Severability:** If any provisions of this Act or the application
13 thereof to any person or circumstance, is held invalid, such invalidity shall
14 not affect any other provision or application of this Act which can be given
15 effect without the invalid provision or application, and to this end the
16 provisions of this Act are severable.

COMMITTEE REPORT

on

BILL NO. 243

***AN ACT TO AUTHORIZE THE GOVERNOR OF
GUAM TO ENCUMBER, IN SBA MORTGAGE
LOANS TO RESIDENTIAL LAND USE
PERMITTEES, GOVERNMENT OF GUAM LAND
AND TO AUTHORIZE THE SALE OF
GOVERNMENT OF GUAM LAND IN AGAT AND
YIGO AT BELOW FAIR MARKET VALUE TO
LANDLESS RESIDENTS OF GUAM.***

COMMITTEE RECOMMENDATION

The Committee on Housing, Community Development, Federal and Foreign Affairs recommends passage of Bill No. 243, as substituted by the Committee, with provisions to establish residential subdivisions in the Municipalities of Yigo and Agat for the purpose of re-locating land use permittees who qualify and have obtained Small Business Administration loans for the rebuilding of homes, previously situated on land use permit parcels, and destroyed or irreparably damaged by Typhoon Russ, and to provide residential house lots for other landless residents of Guam.

COMMITTEE FINDINGS

1. The Committee finds that there are many families, whose homes were built on government of Guam property under the land use permit program, who are in need of assistance as a result of those homes being destroyed or irreparably damaged by Typhoon Russ.
2. The Committee finds that the government of Guam can assist these families, as well as, other landless families of the island, by authorizing and initiating residential subdivisions in various areas of the island in which subdivisions landless families can secure a residential lot upon which to build their homes.
3. The Committee finds that it is not desirable to permit the mortgaging of government parcels under the land use permit program as such mortgaging would be permitted over the entire island and would unnecessarily tie up valuable government of Guam land for long periods of time, at the least, the length of the mortgage instrument.
4. The Committee finds that, because the Small Business Administration is willing to extend the period of time in which typhoon disaster assistance will be extended to the families whose homes were destroyed or irreparably damaged by Typhoon Russ can secure financial assistance for the building of new homes or repair of existing houses, the government of Guam should exert whatever resources available to make available to these families, as well as, other landless families of the community, residential lots in government organized subdivisions.
5. The Committee finds that the development of residential subdivisions for the landless residents of Guam are one of the most beneficial and desirable uses of government land otherwise idle and that this form of utilization realizes further benefits in that the property will be generating real estate tax revenues, as well as, providing a sense of value

and worth to the families of the island in the realizing of the American dream of owning their own homes.

6. The Committee finds that there are government properties presently suitable for the development of residential subdivisions in the Municipalities of Agat and Yigo and that there presently does not exist any future plans for the use of these parcels other than for residential subdivisions for the people of Guam.

7. The Committee finds that there has been an implied promise by the government of Guam to continue programs which would provide land for the landless and provide residential lots for the building of homes for the people of Guam.

8. The Committee finds that acquiring the land on which to build a home is the most difficult and costly steps in building an affordable home and that where the Committee is totally supportive of affordable housing in many forms, that the development of residential subdivisions in the Municipalities of Agat and Yigo is in keeping with the desire of the government to provide affordable housing for the people of Guam.

Many of the individuals whose homes were destroyed or irreparably damaged by Typhoon Russ, have, however, contacted the Chairman of the Committee and have individual expressed their support of the legislation.

OVERVIEW

The Committee on Housing, Community Development, Federal and Foreign Affairs was apprised, by the Governor of Guam, the Director of Land Manangement, the Director of the Bureau of Planning and the Small Business Administration, of a critical need to address the problems being confronted by certain residents of Guam who suffered substantial or total losses of their homes during Typhoon Russ. These individuals applied for disaster relief with the Small Business Administration, and though the Small Business Administration has approved their disaster loan applications in order that they may rebuild their homes, the SBA is not authorized nor prepared to release such loans to the individuals because the required real estate mortgage, to provide security on the note, cannot be executed.

Further, the Committee was apprised that a large number of the residents who lost their homes, or suffered substantial damage, were residents who had built such homes on government land they had secured under a land use permit, or the Arendu program of the government of Guam. Though the construction of permanent homes and residential structures is discouraged and prohibited on land being leased under the land use permit program, many residents, in particular, the landless and those in the lower income brackets who cannot afford to purchase residential lots and to build homes, have resorted to self-construction of sub-standard homes on these government owned and leased parcels of land. All of the homes destroyed by Typhoon Russ were of wooden-frame-tin roof/siding construction.

In many cases these homes are built on government land for which a land use permit has not been issued by the Department of Land Management or the Department of Agriculture. These "homesteads" or "squatters" are not found until disasters such as Typhoon Russ and these families and individuals find themselves without shelter.

Though substandard, in all considerations, these "houses" provided shelter to a number of families and their children. Until the government is able to secure or provide homes which are and can be affordably purchased or rented by these individuals, the government must and will continue to confront this situation on a continuing basis. Likewise, the government, as caretaker of the people, must seek to provide a means by which these families can be sheltered. This responsibility and obligation, though logically limited and, by design, restricted to providing land for the landless or homes for families who cannot afford artificially inflated prices for land and houses, impacts on the community in general as a lack of such land and housing creates an undesirable situation with the community itself.

Because of the extended family concept on Guam, members of individual families assist one another and permit others members to live with them. It is not doubted that this concept limits or decreases the number of homeless on the streets of Guam. However, if families themselves are without homes, there can be no doubt that the ranks of the homeless will increase. It is, therefore, incumbent upon the government to extend its assistance in many forms.

As the most costly and most difficult initial step in the building of a home is the acquisition of land, it is the consensus of government officials involved in affordable housing programs that the most acceptable, expedient and efficient method of providing housing assistance is through the sale of low cost residential lots within subdivisions built on government land. Likewise, the government may also provide land use permits which would permit families to build temporary homes on government land without transferring ownership of such property to the home builder, however, because it is considered generally desirable to have families own

their home, to instill the pride of homeownership and to create a situation and feeling of belonging, the land use permit program should not be viewed as a long term solution. Likewise, it should also be noted that land use permit programs have not been conducive to the most effective and efficient management of government land and creates problems with the overall program of government land use for the short, as well as, the long term. Planning becomes extremely difficult and unsure.

In meetings with the Department of Land Management, it was ascertained that the government considers it ill advised to permit the mortgaging of government properties presently under the land use permit program for the following reasons:

1. The mortgage authorization could have to be extended to all land use permittees and lots in order to avoid litigation on equal protection of the laws and equal treatment. This would create a situation where government property all over the island, in scattered patches, would be mortgaged and thus, encumbered for long terms.

2. Should the government one day have need for these lots, they would not be accessible for reasons of the mortgages. If the government should desire and have plans to build schools on large tracts of land, the existence of a mortgage, through land use permits, on parcels within those tracts, could render those plans unattainable.

3. Homes constructed on these sites, because ownership of the property remains with the government, will not be permanent in nature. There would be no incentive for the individual to build a substantial and very permanent (concrete) structure nor would there be an incentive for the continual improvement of the property and house itself.

In discussions with the Small Business Administration, these officials have noted that the SBA is willing to extend and approve disaster loans to individuals for the purpose of rebuilding homes destroyed by typhoons, whether those homes were built on government land or not. However, because of the nature of the loans, the SBA will require that the loan be

secured by a mortgage on the property, even if the property is owned by the government. SBA officials have noted that the agency will accept mortgages on government property so long as there are statutes authorizing the government property to be used as security in a mortgage.

It was further noted by the SBA officials that SBA would be willing to extend the deadlines for these loans on the basis that the government of Guam will be extending assistance to the affected individuals either in the form of authorizing the mortgage of government property or some other form of permitting these individuals to secure property which can be mortgaged.

OF PARTICULAR NOTE

In discussing this program with individuals who had their homes destroyed by Typhoon Russ and who have had their loans approved by the Small Business Administration, it was noted that the majority of these individuals are seeking authorization to mortgage the parcels of land on which their homes were situated prior to the typhoon. It was noted that these individuals generally do not want to move away from the general area of where they are now situated. Several examples of this can be cited:

1. A family with a land use permit for the Nimitz Hills area was asked their feelings of moving to a new area where a subdivision would be built to permit them a residential lot for the purpose of building a home. This family stated their preference of remaining where they are presently situated. When they were informed why this would be difficult it was difficult for them to accept the idea that the government did not want idea of being able to purchase, at \$2500, a residential lot in a government subdivision if they could be permitted to retain their land use permit for the property they are now on for gardening purposes. This family especially expressed reservations about moving from their present location to a residential subdivision in the northern sector of the island. They noted that they would prefer moving into a subdivision closer to the southern area.

2. A family with a land use permit in the Talofofa area was asked the same questions and they expressed their desire to remain on the property they have been using under a land use permit for the last 30 years. Again, this family expressed generally the same feelings as those expressed by the family in Item 1.

For the most part, many of these families have been utilizing their land use permits for a period of time. This is generally attested to by the fact that over the years they have been able to build homes, be they wooden frame with sheet metal sidings and roofing, and that they have been able to plan permanent type plants, i.e., trees, on the government leased lands. Many of them expressed disappointment when they were informed that the government is not now amenable to the sale of government land that is not in a residential subdivision and that the sale of one acre parcels of land used for the land use permits would be on the current fair market value of the property and would be subject to other considerations which may not be acceptable to the family.

A few of the families indicated that they understood. They also noted that they would be willing to move to a residential subdivision if they were also able to continue their land use permit in the areas they were in so that they could continue small farming, gardening and livestock raising activities.

SUMMARY OF TESTIMONY

MR. FRANK L.G. CASTRO, DIRECTOR OF LAND MANAGEMENT

Mr. Castro testified that the government was in support of developing a program by which homeowners who had their residences destroyed by Typhoon Russ could be assisted. He noted that because the Small Business Administration was willing to assist those families whose

homes, built on government leased land, rebuild their homes, provided, however, that the SBA would be able to secure the financial assistance with mortgages on the land, the government should do what it can to assist these individuals. Mr. Castro was not in favor of an unplanned and uncontrolled mortgaging or selling of government land now leased under the land use permit program as this would entail the sale of many one acre parcels of property all over the island. This "spot" type sales would create havoc with the overall integrity of government land as many of these sales would be spread out over the entire island.

Likewise, Mr. Castro noted that the Department of Land Manangement was not in favor of any program which would tie up government land, for periods of up to 30 years, in a sporadic method, all over the island for long periods of time as this would unnnecessarily tie up land which may be needed at some future date. In this case, Mr. Castro noted that he would favor selling, at a much reduced cost (\$2500) residential lots in subdivided government of Guam land. This would permit these families to take advantage of the SBA loans while maintaining the integrity of the government owned tracts of land.

In this stead, Mr. Castro indicated that the Department of Land Management has identified land in Agat and Yigo for development into a government residential subdivision for sale to residents who do not own any land. The Director noted that he would submit specifics on these plans for incorporation into legislation which would permit full utilization of the SBA program and make additional land available to the landless. Mr. Castro noted that these areas were already identified in legislation introduced in the Twentieth Guam Legislature but never enacted into law.

In his proposal to develop government residentail subdivisions for sale to the landless, Mr. Castro noted that the two areas already considered by the Department of Land Management, in response to legislation introduced in the Twentieth Guam Legislature, would produce approximately 827 residential lots - 487 lots in the Pagachao/Santa Rosa area of Agat and 340 lots in the Yigo area.

In response to the need to address the SBA program, Mr. Castro noted that those individuals who have approved SBA loans can be placed on the priority list. Not only for the Agat and Yigo subdivisions but also for the Astumbo Subdivision program of GHURA since that project and program will again be reopened as there were not enough qualified applicants after all applications were screened from the first submission. All land use permittees who are eligible and qualify for SBA assistance can be re-located to one of these three subdivisions for the construction of their homes. The legislation can be so structured as to place these individuals, provided, however, that they are landless, on the first priority for a lot within these subdivisions.

Additionally, Mr. Castro noted that if the government of Guam authorized the mortgaging of land under the land use permit program, and the individual defaulted on the mortgage there would be serious questions as to the disposition of the matter. If a foreclosure is initiated what method would be utilized for the government of Guam to attempt a recovery of its property? Likewise, under what authorization would GovGuam property be forfeit in a default situation and eventual foreclosure sale? In response to this, Mr. Castro noted that the most workable solution would be the sale of residential lots in government subdivisions to the individuals affected. Mr. Castro noted that the sale could be limited to the price that other government subdivisions were sold for - \$2500 per lot - and that this would be most reasonable and acceptable to the SBA. Mr. Castro noted that this method had already been discussed with SBA and that it would be satisfactory.

MR. JOSE LUJAN AND OFFICIALS OF THE SMALL BUSINESS ADMINISTRATION:

Mr. Lujan, Administrator of the Guam Office of the Small Business Administration, noted that the SBA has already qualified over 40 applications for disaster assistance to rebuild typhoon destroyed homes. He noted that the SBA had reviewed many of these applications, not on the basis that the homes were built on government land under the land use permit program, but on the basis that homes were either destroyed or irreparably damaged and that these families were without adequate shelter. Mr. Lujan noted that the SBA would still be amenable to extending this financial assistance to these families, even if the homes are situated on government land, if the government of Guam would authorize the mortgaging of such properties to secure the assistance loan.

Mr. Lujan noted that the SBA would require this simply because the agency wants assurance that the assistance would be used to rebuild the homes and that there would be some form of security for the repayment of the financial assistance. Mr. Lujan noted that processing would be easier and more manageable if the recipient of the SBA assistance actually secured ownership of the parcel to be mortgaged.

Asked if the SBA would be willing to extend the deadlines for the acceptance and drawdowns on these loans, in order that the government be able to process the legislation and other requirements to get the program started, Mr. Lujan and the SBA's Legal Counsel, noted that it would be possible to grant extensions but that the SBA would have to have some form assurance that the program would be launched within a reasonable period of time.

As of the date of this Committee report, it was ascertained that the SBA was still willing to extend disaster relief loans for individuals desiring to rebuild Typhoon Russ destroyed homes. Loans are still being extended and some of the payroll deduction repayment of some of these loans have already been initiated.

TWENTY FIRST GUAM LEGISLATURE
FIRST REGULAR (1991) SESSION

Bill No. 245

Introduced by:

F.R. Santos

AN ACT TO AUTHORIZE THE GOVERNOR OF
GUAM TO ENCUMBER IN A MORTGAGE LOAN
BY THE SMALL BUSINESS ADMINISTRATION,
GOVERNMENT OF GUAM LAND BEING LEASED
UNDER THE GOVERNMENT'S 'ARENDU'
PROGRAM.

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

3
4 Section 1. Legislative Findings: The Twenty First Guam
5 Legislature has found that many homes constructed upon
6 Agricultural Land Use Permit Sites were either completely
7 destroyed or partly damaged by Typhoon Russ and that victims
8 affected have been attempting to secure loans from SBA in an
9 effort to either repair their damaged homes or to rebuild new
10 homes upon said sites. The Legislature further finds that because
11 of the existing statutes governing Agricultural Land Use Permits
12 which prohibits construction of homes and utilization of said area
13 as a permanent place of residence, the Department of Land
14 Management will not render its clearance and consequently,
15 applications for loans with SBA remain pending. The Legislature
16 notes that, over the years, families, who have been granted
17 Agricultural Land Use Permits, have built non-typhoon and sub-
18 standard homes, as their permanent homes and place of
19 residence, on said sites. The Legislature further notes that in an
20 effort to accommodate the needs of the people, the government of
21 Guam, pursuant to Executive Order No. 90-19, has identified

1 certain government of Guam lands for Residential Land Use Permit
2 purposes whereon permittees are allowed to construct their
3 residences. The Legislature finds that despite the availability of
4 financial assistance for the repair of existing homes or the
5 construction of new residential structures by those families who
6 qualify for said assistance, said financial assistance cannot be
7 utilized because statutes governing the Land Use Permit programs
8 do not authorize the Governor to encumber said property for the
9 purpose of securing residential construction financing. Therefore,
10 In an effort to assist these families and in an effort to avail the
11 Island of the benefits which would precipitate from the availability
12 of such Federal financing, the heretowith noted legislation is
13 introduced.

14
15 **Section 2.** Notwithstanding any other provision of law, the
16 Governor of Guam is hereby authorized to encumber, or otherwise
17 establish a lien through a Small Business Administration mortgage
18 instrument, any government land for which there is a valid
19 Government of Guam Land Use Permit and on which the holders
20 of said permit built a residential home which was subsequently
21 destroyed or damaged by Typhoon Russ and for which the
22 permittees/owners are qualified for a Small Business
23 Administration loan to rebuild or repair said home.

24
25 **Section 3.** Such encumbrance shall be valid for the life of the
26 mortgage loan, until the permittee satisfies the terms and
27 conditions of the mortgage loan or until the Small Business
28 Administration releases such encumbrance.

29
30 **Section 4.** Should the borrower/permittee default on the loan
31 agreement with the Small Business Administration, the SBA may,
32 with the prior written permission of the Governor of Guam, assign
33 the encumbered land to another resident of Guam who applies for
34 and is qualified for a Residential Land Use Permit, until such time
35 as the mortgage is satisfied.

1 Section 5. The provisions herein shall not apply to long term
2 Agricultural or Commercial Land Use Permits for government of
3 Guam land in excess of one acre.

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DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910

April 1, 1991

The Honorable Frank R. Santos
Chairman, Committee on Housing,
Community Development, Federal
and Foreign Affairs
Twenty First Guam Legislature
Agana, Guam 96911

Subject: Legislative Bill No. 243

Dear Mr. Chairman:

Thank you for the opportunity afforded the Department of Land Management in commenting to the intent and purposes of Bill 243. For the record, my name is Frank Castro, Director of Land Management and I am appearing before your Committee on this day to voice my Department's support for passage of the subject Bill, with the condition that the anticipated Law should, and must clearly indicate that Applicants must be either United States Citizens or Permanent Resident Aliens.

It is eminently clear that the pace in which our population is growing is faster than we would like to see it grow, and given that our land resources are limited, it is only proper and fitting that our Arendu Program should be limited to only our citizens and Permanent Resident Aliens. I therefore, like to recommend that this matter be made clear on the Bill.

I further would like to comment that passage of Bill 243 into Law will most certainly give us the authority into clearing Applications for loans with SBA for the intended purpose and we shall no longer have to be confronted with the situation of rejecting from clearing applications. We have in fact been rejecting applications simply because in an Arendu, no one is supposed to be living upon the said site and by clearing the applications, we will be encouraging the continued violations which have existed for years. By enacting Bill 243 into Law, it will grant us the authority in allowing the Permittees to reconstruct or to repair their homes without feeling guilty that we cleared the action.

Sincerely,

F. L. S. CASTRO
Director, Department of
Land Management



PUBLIC HEARING

The Committee on Housing, Community Development, Federal and Foreign Affairs, to which was referred Bill No. 243, scheduled a public hearing on said measure on April 1, 1991, at 9:00 am, in the Legislature's Public Hearing Room, 155 Hesler St., Agana, Guam. In accordance with the Standing Rules of the Twenty First Guam Legislature, advance public announcement and notice was printed in a newspaper of general circulation.

Likewise, official requests for testimony were transmitted to the Office of the Governor, the Bureau of Planning, the Department of Land Management, the Guam Housing Corporation, the Guam Housing and Urban Renewal Authority, the Mayor's Council and the Small Business Administration.

Senators present at the public hearing were:

Senator Francisco R. Santos, Chairman
Senator Pilar C. Lujan, Vice Chairperson
Senator Elizabeth P. Arriola
Senator John P. Aguon
Senator Herminia D. Dierking
Senator Anthony C. Blaz
Senator Edward R. Duenas
Senator Marilyn D.A. Manibusan
Senator J. George Bamba

Appearing before the Committee to provide testimony were:

Mr. Frank L.G. Castro
Director, Department of Land Management

Mr. Jose Lujan
Leading a Delegation from the
Small Business Administration

Several individuals who presently hold land use permits, and whose disaster loan applications have been approved by the Small Business Administration, appeared at the hearing but did not provide testimony.

*Rick's proposed
addition to the bill*

Section 4. If the conditions listed in Section 2, above, are met, the borrower will be permitted to occupy the mortgaged property for the life of the mortgage loan, provided there is compliance with all other applicable laws and that SBA has not had occasion to proceed in accordance with Section 3, above.

Section 5. If the SBA loan is unsecured (i.e., the amount of the loan is below SBA's threshold for requiring a mortgage), the borrower will be permitted for the life of the loan to occupy the property that would have been subject to a mortgage if the loan amount had been above SBA's threshold, PROVIDED HOWEVER the following conditions are met:

- A) That the borrower is a legal permittee as to the site involved;
- B) That the borrower is a United States Citizen or a Permanent Resident Alien;
- C) That there is compliance with subsections D and E of section 2, above;
- D) That there is compliance with all other applicable laws.

Introduced

TWENTY FIRST GUAM LEGISLATURE
FIRST REGULAR (1991) SESSION

APR 03 '91

Bill No. 243 (COR)

Introduced by:

F.R. Santos

AN ACT TO AUTHORIZE THE GOVERNOR OF
GUAM TO ENCUMBER IN A MORTGAGE LOAN
BY THE SMALL BUSINESS ADMINISTRATION,
GOVERNMENT OF GUAM LAND BEING LEASED
UNDER THE GOVERNMENT'S 'ARENDU'
PROGRAM.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:
3

4 Section 1. Legislative Findings: The Twenty First Guam
5 Legislature has found that many homes constructed upon
6 Agricultural Land Use Permit Sites were either completely
7 destroyed or partly damaged by Typhoon Russ and that victims
8 affected have been attempting to secure loans from SBA in an
9 effort to either repair their damaged homes or to rebuild new
10 homes upon said sites. The Legislature further finds that because
11 of the existing statutes governing Agricultural Land Use Permits
12 which prohibits construction of homes and utilization of said area
13 as a permanent place of residence, the Department of Land
14 Management will not render its clearance and consequently,
15 applications for loans with SBA remain pending. The Legislature
16 notes that, over the years, families, who have been granted
17 Agricultural Land Use Permits, have built non-typhoon and sub-
18 standard homes, as their permanent homes and place of
19 residence, on said sites. The Legislature further notes that in an
20 effort to accommodate the needs of the people, the government of
21 Guam, pursuant to Executive Order No. 90-19, has identified

1 certain government of Guam lands for Residential Land Use Permit
2 purposes whereon permittees are allowed to construct their
3 residences. The Legislature finds that despite the availability of
4 financial assistance for the repair of existing homes or the
5 construction of new residential structures by those families who
6 qualify for said assistance, said financial assistance cannot be
7 utilized because statutes governing the Land Use Permit programs
8 do not authorize the Governor to encumber said property for the
9 purpose of securing residential construction financing. Therefore,
10 in an effort to assist these families and in an effort to avail the
11 island of the benefits which would precipitate from the availability
12 of such Federal financing, the heretofore noted legislation is
13 introduced.

14
15 Section 2. Notwithstanding any other provision of law, the
16 Governor of Guam is hereby authorized to encumber, or otherwise
17 establish a lien through a Small Business Administration mortgage
18 instrument, any government land for which there is a valid
19 Government of Guam Land Use Permit and on which the holders
20 of said permit built a residential home which was subsequently
21 destroyed or damaged by Typhoon Russ and for which the
22 permittees/owners are qualified for a Small Business
23 Administration loan to rebuild or repair said home.

24
25 Section 3. Such encumbrance shall be valid for the life of the
26 mortgage loan, until the permittee satisfies the terms and
27 conditions of the mortgage loan or until the Small Business
28 Administration releases such encumbrance.

29
30 Section 4. Should the borrower/permittee default on the loan
31 agreement with the Small Business Administration, the SBA may,
32 with the prior written permission of the Governor of Guam, assign
33 the encumbered land to another resident of Guam who applies for
34 and is qualified for a Residential Land Use Permit, until such time
35 as the mortgage is satisfied.

1 **Section 5. The provisions herein shall not apply to long term**
2 **Agricultural or Commercial Land Use Permits for government of**
3 **Guam land in excess of one acre.**

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