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Floor Amendment

To: House Bill No. 23-95

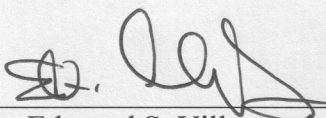
Offered By: Representative Edmund S. Villagomez

AMENDMENT:

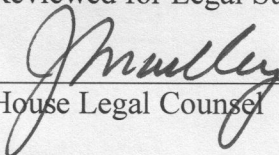
House Bill No. 23-95 is hereby substituted with House Bill No. 23-95, House Substitute 1.

Consistent with the intent of the forgoing amendment, I hereby also move to allow the Legal Counsel together with the House Clerk to make further non-substantive technical amendments that are strictly necessary to effectuate the intent of this amendment.

Date: 1/11/24


Rep. Edmund S. Villagomez

Reviewed for Legal Sufficiency by:

 1-10-24
House Legal Counsel

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Session, 2024

H. B. 23-95, HS1

A BILL FOR AN ACT

To Repeal and Re-enact Public Law 23-12; and for other purposes.

BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Legislature finds that on November
2 20, 2023 Governor Arnold I. Palacios signed House Bill 23-77, Senate Draft One
3 into Public Law 23-12 to authorize a revolving line of Credit between the
4 Commonwealth Government and the Marianas Public Land Trust (MPLT) in the
5 amount of \$15,000,000.00 with repayment terms.

6 Furthermore, the Legislature finds that on July 17, 2023, Governor Arnold
7 I. Palacios in a letter signed by the CNMI Senate President and House Speaker,
8 submitted a written request, to the Marianas Public Land Trust. Governor Palacios
9 requested a Line of Credit in the amount of \$20 million dollars for “bridge financing
10 or advances” for costs related to federally-funded Capital Improvement Projects
11 (“CIP”) from the United States Economic Development Administration whereby

1 the CNMI would be reimbursed for such advances within thirty (30) days of
2 advancing such costs for grant projects. Further, Governor Palacios requested that
3 the line of credit (“LOC”) facility be available for a period of 5-7 years while
4 infrastructure and other CIP projects are under construction. The Marianas Public
5 Land Trust has reviewed initial planned drawdown requests by the Governor and
6 has determined that a \$15 million Line of Credit is suitable for the amounts needed,
7 in any given 30-day period, during the next few years of forecasted drawdowns
8 offered by the Governor.

9 In addition to the \$20 million LOC request, Governor Palacios also
10 requested that MPLT reduce the interest rate on the CNMI’s existing debt
11 obligation to MPLT for the Typhoon Yutu loan, currently at 7.5% per annum. That
12 debt currently stands at approximately \$10.7 million dollars as of June 2023 and is
13 being repaid by MPLT’s withholding of the annual interest-income distributions to
14 the CNMI General Fund.

15 MPLT has noted that previously in June 2019 the Trust received the
16 Typhoon Yutu request from the CNMI for \$15 million dollars through a line of
17 credit and later converted it to a loan, to pay for “extraordinary expenses made
18 under extraordinary circumstances” for disaster recovery expenses which the
19 former CNMI Secretary of Finance asserted were not normal operating expenses of
20 the government. While the CNMI expected reimbursement from the Federal
21 Emergency Management Agency for disaster-related advances or expenses, the

1 CNMI ultimately could not repay the MPLT Yutu Loan for which MPLT is now
2 servicing as repayment through the withholding of distributions for the next several
3 years.

4 The Legislature acknowledges that the Trustees of MPLT continue to
5 recognize that the \$15 million LOC request addressed in this legislation, as with
6 the Yutu Loan, constitutes a public debt obligation for government operations or
7 infrastructure, which have particular requirements under the CNMI Constitution.
8 As such, the Legislature is informed that the Trust has set forth certain requirements
9 from the CNMI Government through the Office of the Governor, Secretary of
10 Finance, and the Office of the Attorney General, to ensure the propriety of the
11 requested transaction and ensure capacity for payment.

12 As one of the requirements by MPLT, the purpose of this proposed
13 legislation is to authorize this public debt by the Commonwealth Government to
14 MPLT for a period not to exceed seven years (84 months) on a Revolving Line of
15 Credit and to ensure that there are adequate funds at the disposal of the CNMI
16 Department of Finance for purposes of paying that Line of Credit timely and
17 without default. The amount authorized for the LOC from MPLT shall not exceed
18 \$15,000,000.

19 The Legislature agrees that, unlike the Yutu Loan, the \$15 million LOC is
20 to be repaid by the CNMI Government through the Secretary of Finance on a
21 regular 30-day period following each advance, with reimbursed funds from the

1 Federal government, and with other restrictions on drawdowns imposed by MPLT,
2 such as drawdown limits and drawdown pre-conditions. Therefore, this legislation
3 authorizes and pledges the funds which MPLT would distribute as interest income
4 to the General Fund pursuant to Article XI, Section 6 of the Constitution as security
5 and for repayment of the \$15 million dollar LOC with the Commonwealth
6 Government through the Department of Finance at an annual interest rate of 5.5%.
7 The LOC and this legislative authorization expire automatically at the end of the
8 84-month period and shall not be renewed or extended.

9 Accordingly, the Legislature hereby agrees and consents that MPLT may
10 withhold from its annual interest income distribution to the Commonwealth for
11 each fiscal year as security and to guarantee payment for the \$15 million LOC until
12 that credit facility is retired and fully satisfied.

13 For the foregoing reasons, the Legislature finds that the \$15 million LOC
14 with MPLT is in the best interest of our people and our Commonwealth and
15 authorizes the Executive Branch to enter into such an agreement as required on
16 terms and conditions by MPLT.

17 **Section 2. Repeal and Re-enactment.** Subject to codification by the CNMI
18 Law Revision Commission, Public Law 23-12 is hereby repealed and re-enacted to
19 read as follows:

20 “§101. Pursuant to N.M.I. CONST. ART. X Section 3, the CNMI
21 Legislature authorizes a public debt and obligation to the Marianas Public

1 Land Trust for Governor Arnold I. Palacios, through the Secretary of
2 Finance and the Department of Finance, to enter into a Revolving Line of
3 Credit with the Marianas Public Land Trust in an amount not to exceed
4 \$15,000,000 on the following terms and conditions:

5 (a) The term of the Revolving Line of Credit shall not exceed seven
6 years (84 months) starting from the date of execution of the Revolving Line
7 of Credit between MPLT and the Governor and the Secretary of Finance.

8 (b) The Office of the Governor and Department of Finance shall
9 repay the Line of Credit as to any drawdowns no later than thirty (30)
10 calendar days from the date of each drawdown.

11 (c) No further drawdowns shall be made unless and until the prior
12 drawdown is satisfied or MPLT agrees to additional drawdowns.

13 (d) Any reimbursements received by the CNMI Department of
14 Finance/Office of the Governor from the United States Economic
15 Development Administration paid or remitted to the CNMI Government for
16 CIP project advances that are covered in the MPLT-CNMI Revolving Line
17 of Credit shall be paid directly to MPLT as settlement for the line of credit
18 herein.

19 (e) The interest rate shall be 5.5% per annum.

20 (f) Because the Revolving Line of Credit is a public debt this
21 legislation must be passed by two-thirds (2/3) of the members of the House

1 of Representatives and the Senate before being signed into law. Further, the
2 obligation for such a public debt shall not exceed ten percent (10%) of the
3 total appraised value of the properties of the Commonwealth so that the
4 Secretary of Finance shall not execute the Revolving Line of Credit until
5 the Secretary of Finance certifies, with the concurrence of the Attorney
6 General, that this constitutional requirement is satisfied.

7 (g) The Attorney General shall review the Revolving Line of Credit
8 Agreement for legal sufficiency for the Governor and Secretary of Finance
9 to enter into this transaction in order for the Revolving Line of Credit to be
10 effective against the Commonwealth.

11 (h) Transactional Documents. The Marianas Public Land Trust and
12 the Commonwealth, acting through the Governor and the Secretary of
13 Finance, shall execute the transactional financial documents for the
14 Revolving Line of Credit through a line of credit agreement, assignment of
15 income, and a Promissory Note. After such documents have been duly
16 executed, MPLT shall authorize and commence any initial drawdown,
17 subject to its terms and conditions, to the Department of Finance which shall
18 be used for the CIP-approved or designated project bridge financing or
19 advances, only.

20 (i) The Secretary of Finance and the Office of the Governor shall
21 issue a quarterly summary "MPLT Loan Report" which shall be a financial

1 statement detailing the activities of the CNMI Government as to the CIP
2 project advances and status. This MPLT Loan Report shall be submitted to
3 all the members of the Legislature, the Office of the Public Auditor, the
4 Office of the Attorney General, and a copy to MPLT.

5 (j) Authorization to Defend, Hold Harmless, and Indemnify MPLT.
6 The Legislature hereby authorizes, as a condition precedent to the loan
7 agreement being authorized herein, the Commonwealth Government,
8 through the Executive Branch including the Secretary of Finance and Office
9 of the Attorney General, to defend, hold harmless, and indemnify the
10 Trustees of the Marianas Public Land Trust, individually and collectively,
11 along with MPLT's staff, counsel and consultants for any suits, causes of
12 action, litigation, and claims as well as any loss, liability, and expense
13 whatsoever of any kind or nature including but not limited to attorneys' fees
14 which may arise from or that are in any way related to the loan agreement
15 which is the subject of this Act or the events arising therefrom as to MPLT's
16 actions in extending the line of credit. The Commonwealth shall pay for the
17 cost of representation being authorized herein through the Department of
18 Finance without cost to MPLT or provide representation by the CNMI
19 Office of the Attorney General. In the event MPLT is compelled to engage
20 its own counsel or representation of the Commonwealth, ~~through~~ the
21 Department of Finance shall reimburse MPLT for such costs and expenses.

1 In the event the CNMI Government fails to reimburse or pay for such costs
2 and expenses, MPLT may withhold further distributions of income until its
3 expenses and costs are fully reimbursed.”

4 **Section 3. Severability.** If any provisions of this Act or the application of
5 any such provision to any person or circumstance should be held invalid by a court
6 of competent jurisdiction, the remainder of this Act or the application of its
7 provisions to persons or circumstances other than those to which it is held invalid
8 shall not be affected thereby.

9 **Section 4. Savings Clause.** This Act and any repealer contained herein
10 shall not be construed as affecting any existing right acquired under contract or
11 acquired under statutes repealed or under any rule, regulation, or order adopted
12 under the statutes. Repealers contained in this Act shall not affect any proceeding
13 instituted under or pursuant to prior law. The enactment of the Act shall not have
14 the effect of terminating, or in any way modifying, any liability, civil or criminal,
15 which shall already be in existence on the date this Act becomes effective.

16 **Section 5. Effective Date.** This Act shall take effect upon its approval by
17 the Governor, or it becoming law without such approval.

Profile: 1/8/2024

Date: _____

Introduced by: /s/ Rep. Edmund S. Villagomez
/s/ Rep. Blas Jonathan “BJ” T. Attao
/s/ Rep. Roman C. Benavente
/s/ Rep. Marissa R. Flores

HOUSE BILL 23-95, HS1

/s/ Rep. Ralph N. Yumul

Reviewed for legal sufficiency by:

/s/ Joseph L.G. Taijeron, Jr.

House Legal Counsel