

Calendar
9/15/2023

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

September 15, 2023

Second

Regular Session, 2023

H. B. 23- 77

A BILL FOR AN ACT

To authorize a revolving line of credit between the CNMI Government and the Marianas Public Land Trust in the amount of \$15,000,000 with repayment terms, interest and pledge as security the interest income distributions from the Marianas Public Land Trust pursuant to Article XI, Section 6(d) of the Northern Mariana Islands Constitution; to consent and authorize the Marianas Public Land Trust to withhold and to retain Net Annual Distributed Income as security until Line of Credit is satisfied or retired not to exceed seven (7) years and beyond as necessary for repayment or debt service and for other purposes.

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

- 1 **Section 1. Findings and Purpose.** On July 17, 2023, Governor Arnold I.
- 2 Palacios in a letter signed by the CNMI Senate President and House Speaker,
- 3 submitted a written request, to the Marinas Public Land Trust. Governor Palacios
- 4 requested a Line of Credit in the amount of \$20 million dollars for “bridge
- 5 financing or advances” for costs related to federally-funded Capital Improvement
- 6 Projects (“CIP”) from the United States Economic Development Administration
- 7 whereby the CNMI would be reimbursed for such advances within thirty (30)

1 days of advancing such costs for grant projects. Further, Governor Palacios
2 requested that the line of credit (“LOC”) facility be available for a period of 5-7
3 years while infrastructure and other CIP projects are under construction. The
4 Marianas Public Land Trust has reviewed initial planned drawdown requests by
5 the Governor and has determined that a \$15 million dollar Line of Credit is
6 suitable for the amounts needed, in any given 45 day period, during the next few
7 years of forecasted drawdowns offered by the Governor.

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

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

1 servicing as repayment through the withholding of distributions for the next several
2 years.

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

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

18 The Legislature agrees that unlike the Yutu Loan, the \$15 million LOC is
19 to be repaid by the CNMI Government through the Secretary of Finance on a
20 regular 30-45 day period following each advance, with reimbursed funds from the
21 Federal government, and with other restrictions on drawdowns imposed by MPLT,

1 such as drawdown limits and drawdown pre-conditions. Therefore, this legislation
2 authorizes and pledges the funds which MPLT would distribute as interest income
3 to the General Fund pursuant to Article XI, Section 6 of the Constitution as security
4 and for repayment of the \$15 million dollar LOC with the Commonwealth
5 Government through the Department of Finance at an annual interest rate of 5.5%.
6 The LOC and this legislative authorization expire automatically at the end of the
7 84 month period and shall not be renewed nor extended.

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

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

16 **Section 2. Enactment.** Subject to codification by the CNMI Law Revision
17 Commission, the following provision is hereby enacted and authorized:

18 “§101. Notwithstanding any provision of law to the contrary,
19 pursuant to N.M.I. CONST. ART. XI Section 6 (d), the CNMI Legislature
20 authorizes a public debt and obligation to the Marianas Public Land Trust
21 for Governor Arnold I. Palacios, through the Secretary of Finance and the

1 Department of Finance, to enter into a Revolving Line of Credit with the
2 Marianas Public Land Trust in an amount not to exceed \$15,000,0000 on
3 the following terms and conditions:

4 (a) The term of the Revolving Line of Credit shall not exceed seven
5 years (84 months) starting from the date of execution of the
6 Revolving Line of Credit between MPLT and the Governor and
7 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
10 (90) 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
15 Economic Development Administration paid or remitted to the
16 CNMI Government for CIP project advances which are covered
17 in the MPLT-CNMI Revolving Line of Credit shall be paid
18 directly to MPLT as settlement for the line of credit 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

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

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

14 (h) Transactional Documents. The Marianas Public Land Trust and
15 the Commonwealth, acting through the Governor and the
16 Secretary of Finance, shall execute the transactional financial
17 documents for the Revolving Line of Credit through a line of
18 credit agreement, assignment of income and a Promissory Note.
19 After such documents have been duly executed, MPLT shall
20 authorize and commence any initial drawdown, subject to its
21 terms and conditions, to the Department of Finance which shall

1 be used for the CIP-approved or designated project bridge
2 financing or advances, only.

3 (i) The Secretary of Finance and the Office of the Governor shall
4 issue a quarterly summary “MPLT Loan Report” which shall be
5 a financial statement detailing the activities of the CNMI
6 Government as to the CIP project advances and status. This
7 MPLT Loan Report shall be submitted to all the members of the
8 Legislature, the Office of the Public Auditor, Office of the
9 Attorney General and a copy to MPLT.

10 (j) Authorization to Defend, Hold Harmless and Indemnify MPLT.
11 The Legislature hereby authorizes, as condition precedent to the
12 loan agreement being authorized herein, the Commonwealth
13 Government, through the Executive Branch including the
14 Secretary of Finance and Office of the Attorney General, to
15 defend, hold harmless and indemnify the Trustees of the
16 Marianas Public Land Trust, individually and collectively, along
17 with MPLT’s staff, counsel and consultants for any suits, causes
18 of action, litigation, and claims as well as any loss, liability and
19 expense whatsoever of any kind or nature including but not
20 limited to attorneys’ fees which may arise from or that are in any
21 way related to the loan agreement which is the subject of this

1 Act or the events arising therefrom as to MPLT's actions in
2 extending the line of credit. The Commonwealth shall pay for
3 the cost of representation being authorized herein through the
4 Department of Finance without cost to MPLT or provide
5 representation by the CNMI Office of the Attorney General. In
6 the event MPLT is compelled to engage its own counsel or
7 representation of the Commonwealth, through the Department
8 of Finance shall reimburse MPLT for such costs and expenses.
9 In the event the CNMI Government fails to reimburse or pay for
10 such costs and expenses, MPLT may withhold further
11 distributions of income until its expenses and costs are fully
12 reimbursed.

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

18 **Section 4. Savings Clause.** This Act and any repealer contained herein
19 shall not be construed as affecting any existing right acquired under contract or
20 acquired under statutes repealed or under any rule, regulation, or order adopted
21 under the statutes. Repealers contained in this Act shall not affect any proceeding

1 instituted under or pursuant to prior law. The enactment of the Act shall not have
2 the effect of terminating, or in any way modifying, any liability, civil or criminal,
3 which shall already be in existence on the date this Act becomes effective.

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

Intro
Prefiled: 9/15/2023

Date: _____

Introduced by: [Signature]
Rep. Edmund S. Villagomez

Introduction Purpose Only
Reviewed for Legal Sufficiency by:
[Signature]
House Legal Counsel

[Multiple handwritten signatures and initials, including one that appears to say 'ALDAN, VINCE']