



Commonwealth of the Northern Mariana Islands  
Office of the Governor  
Saipan, Mariana Islands 96950

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APR 10 1986

The Honorable Jose R. Lifoifoi  
Speaker, House of Representatives  
Fifth Northern Marianas  
Commonwealth Legislature  
Saipan, CM 96950

GOV. COMM. NO. 5-22  
(House of Rep.)

and

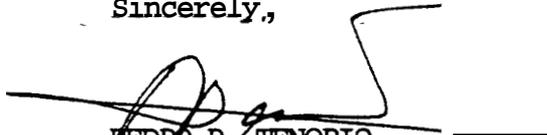
The Honorable Julian S. Calvo  
Senate President  
Fifth Northern Marianas  
Commonwealth Legislature  
Saipan, CM 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 5-24, S.D.1, entitled, "To make possible the implementation of HUD/FHA and other federal mortgage insurance or guarantee programs in the Commonwealth, to encourage the construction of improved residential busing, to provide for a study of the Torrens system of land registration, and for other purposes," which was passed by the Fifth Northern Marianas Commonwealth Legislature.

This legislation becomes Public law No. 48. Copies bearing my signature are forwarded for your ready reference.

Sincerely,

  
PEDRO P. TENORIO  
Governor

CC: Special Assistant for Programs and Legislative Review



PUBLIC LAW NO. 5-8

HOUSE BILL NO. 5-24, S.D.1

FIFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND REGULAR SESSION, 1986

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AN ACT

TO MAKE POSSIBLE THE IMPLEMENTATION OF HUD/FHA AND OTHER FEDERAL MORTGAGE INSURANCE OR GUARANTEE PROGRAMS IN THE COMMONWEALTH, TO ENCOURAGE THE CONSTRUCTION OF IMPROVED RESIDENTIAL HOUSING, TO PROVIDE FOR A STUDY OF THE TORRENS SYSTEM OF LAND REGISTRATION, AND FOR OTHER PURPOSES.

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Introduced by Representatives Vicente M. Sablan, Pedro R. Guerrero,  
Pedro C. Arriola, Edward M. Deleon Guerrero, Maximo T. Attao and  
Benigno M. Sablan

Date: January 28, 1986

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House Action

Referred to: Committee on Health, Education and Welfare

Standing Committee Report No. 5-3

First and Second Reading: February 25, 1986

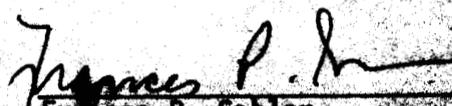
Final Reading: March 27, 1986

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Senate Action

Second and Final Reading: March 6, 1986

  
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Frances P. Sablan  
Chief Clerk  
House of Representatives

FIRST REGULAR SESSION, 1986

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AN ACT

To make possible the implementation of HUD/FHA and other federal mortgage insurance or guarantee program in the Commonwealth, to encourage the construction of improved residential housing, to provide for a study of the Torrens system of land registration, and for other purposes.

BE IT ENACTED BY THE FIFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1           Section 1. Short Title. This Act may be cited as the Housing  
2 Mortgage Insurance Implementation Act.

3           Section 2. Findings and Purposes.

4           (a) The Legislature finds that--

5                   (1) the United States Department of Housing  
6 and Urban Development (HUD), through its Federal-  
7 Housing Administration (FHA), is willing to insure  
8 residential housing mortgages on real property in  
9 the Commonwealth if questions of restrictions of  
10 alienation of land contained in Article XII of the  
11 Commonwealth Constitution and of marketability of  
12 title to interests in real property can be resolved;

13                   (2) improvement in living standards of the  
14 people of the Commonwealth is directly related to  
15 the availability of modern typhoon-proof housing;

16                   (3) a significant shortage of such modern  
17 housing exists in the Commonwealth;

18                   (4) many families in the Commonwealth,  
19 particularly those with limited incomes or  
20 finances, are not assisted under existing federal

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1 mortgage insurance or guarantee programs,  
2 and such families constitute the greatest  
3 potential market for improved housing;

3 (5) new residential construction is  
5 extremely inhibited because of unwillingness  
6 of mortgage lenders to make residential  
7 mortgage loans in the Commonwealth, for which  
8 there is currently no secondary market;

9 (6) federal insurance or guarantees on  
10 residential housing mortgages, such as the  
11 mortgage insurance provided by HUD/FHA, would  
12 serve the needs of all Commonwealth residents,  
13 including those of moderate income, and would  
14 permit such federally-insured mortgages to be  
15 sold in the secondary market or to be financed  
16 through the issuance of federally tax-exempt  
17 or taxable obligations by the Commonwealth or  
18 an agency thereof, thus enhancing their  
19 acceptability to mortgage lenders and  
20 investors;

21 (7) restrictions of alienation of land  
22 contained in Article XII of the Commonwealth  
23 Constitution have raised the question of  
24 whether title to a permanent and long-term  
25 interest in real property within the

1 Commonwealth can be transferred by means of  
2 foreclosure on a mortgaged property; and  
3 (3) title insurance or other form of title  
4 assurance, such as a Torrens system of land  
5 registration should be made more readily available  
6 to evidence marketable title to interests in real  
7 property in the Commonwealth so as to facilitate  
8 such residential mortgage lending, insurance and  
9 guarantee programs.  
10 (b) It is the purpose of this Act to--  
11 (1) make possible the implementation of such  
12 federal mortgage insurance or guarantee programs for  
13 residential housing mortgages in the Commonwealth;  
14 (2) improve the standard of living in the  
15 Commonwealth by encouraging the construction of new  
16 residential housing;  
17 (3) insure that the interest rates which will  
18 be available for mortgage loans to Commonwealth  
19 borrowers will be comparable to those available to  
20 other borrowers in the mainland United States,  
21 where the loans are similarly guaranteed;  
22 (4) resolve the question of salability of  
23 title to an interest in real property securing a  
24 federally-insured mortgage after foreclosure by  
25 authorizing the Mariana Islands Housing Authority

1 (MIHA) to guarantee that as a Commonwealth  
2 Government agency it will purchase title to such  
3 an interest in real property under certain  
4 conditions, and to pledge the Commonwealth's full  
5 faith and credit for such purposes;

6 (5) resolve questions of marketability of  
7 title to interests in real property by encouraging  
8 the private sector to offer title insurance or  
9 other forms of title assurance as evidence of  
10 title to such interests in real property in the  
11 Commonwealth;

12 (6) if private title assurance is not  
13 available, to establish a Commonwealth Government-  
14 sponsored title assurance program or a Torrens  
15 system of land registration in connection with  
16 title to interests in real property in the  
17 Commonwealth; and

18 (7) obtain information regarding the long-term  
19 advantages and disadvantages of perfecting the new  
20 land registration system of the Commonwealth as a  
21 full Torrens system.

22 Section 3. Definitions.

23 (a) As used in this Act:

24 (1) "appraised value" means the fair market  
25 value of a parcel of real property at a given point

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1 in time as determined by a qualified real estate  
2 appraiser, who is approved by MIHA and the federal  
3 agency insuring or guaranteeing the mortgage;

4 (2) "claim value" means the total of the  
5 insurance benefits paid by a federal mortgage  
6 insurer to a mortgagee under the insurance  
7 agreement between them after a default by a  
8 mortgagor on a federally-insured mortgage,  
9 whether such insurance benefits are paid before  
10 or after the foreclosure of such mortgage by  
11 the mortgagee or the insurer, and all expenses  
12 incurred by the federal mortgage insurer that  
13 are not contained in such insurance benefits  
14 for liens, assessments, taxes, comprehensive and  
15 extended hazard insurance, maintenance, upkeep  
16 and repairs to the property;

17 (3) "federal mortgage insurer" means any  
18 agency or instrumentality of the Government of  
19 the United States of America which insures or  
20 guarantees mortgages and other loans for  
21 residential housing ;

22 (4) "federally-insured mortgage" means a  
23 mortgage or **deed** of trust on the title to an  
24 interest in real property to secure a loan or  
25 other advance, payment of which is insured or

1           guaranteed **by** a federal mortgage insurer, and  
2           which is held **by** a mortgagee or, pursuant to an  
3           assignment, **by** the federal mortgage insurer;

4           (5) "freehold interest" means an interest or  
5           estate **by** inheritance which may be acquired or  
6           transferred by deed, will or intestate succession,  
7           such as a fee simple interest in real property,  
8           and may also mean an interest or estate not by  
9           inheritance, such as a life estate;

10          (6) "interest in real property" means a  
11          freehold interests or a leasehold interests,  
12          whether or not it is a permanent and long-term  
13          interest ;

14          (7) "leasehold interest" means a right  
15          granted **by** contract or created **by** law for the  
16          possession and use of specific real property for  
17          a specified period, usually of years;

18          (8) "permanent and long-term interest(s)"  
19          means freehold interests and lease hold interests  
20          in real property or land of more than 40 years,  
21          including renewal rights;

22          (9) "real property" means a specific parcel  
23          of land and any and all improvements located  
24          thereon ;

1           (10) "title assurance" means any form of  
2           assurance, such as title insurance policy,  
3           certificate of title, abstract of title , interim  
4           title insurance binder, or attorney's opinion of  
5           title, which reports on the state of title to an  
6           interest in real property and which either,  
7           (A) indemnifies the insured party (owner or  
8           mortgagee) against loss or damage sustained or  
9           incurred by reason of defects, liens, adverse  
10          interests, encumbrances and other matters  
11          affecting such title, or (B) provides the basis  
12          for an action at law or a proceeding in equity if  
13          such loss or damage is suffered by the insured  
14          party;

15          (11) "title insurance" means an undertaking,  
16          in the form of an insurance policy, for a valuable  
17          consideration, to indemnify the insured party  
18          (owner or mortgagee) against loss or damage  
19          sustained or incurred by reason of defects,  
20          liens, adverse interests, encumbrances and  
21          other matters affecting the title to an  
22          interest in real property; and

23          (12) "Torrens system" means a system of land  
24          registration used in several American and foreign  
25          jurisdictions, the key features of which include the

1 establishment and transfer of title to interests in  
2 real property pursuant to government certification  
3 and registration, indefeasible vesting of title  
4 (with certain exceptions) in any person named in a  
5 certificate of title issued with respect to an  
6 interest in real property entered in the system,  
7 recordation of the certificate of certain  
8 non-ownership interests that exist or are claimed  
9 to exist in the property, and indemnification by  
10 the government of persons for injuries sustained  
11 due to loss of interest in real property as a  
12 result of faulty system operation.

13 (b) For purposes of this Act, terms defined in the  
14 following acts shall have the same meanings as used in such  
15 acts:

- 16 (1) the Land Commission Act of 1983 (P.L.  
17 3-79; 2 CMC 4211 et seq.);  
18 (2) District Law 5-67 (2 CMC 4411 et seq.),  
19 relating to the Mariana Islands Housing Authority  
20 (MIHA); and  
21 (3) District Law 4-143 (2 CMC 4511 et seq.),  
22 relating to real estate mortgages.

23 Section 4. Marketability of Title. Title to a permanent and  
24 long-term interest in real property in the Commonwealth shall not be  
25 considered unmarketable merely because of the restriction on alienation

1 of permanent and long-term interests in real property contained in  
2 Article XII, Section 2, of the Commonwealth Constitution. Persons  
3 providing title insurance or other forms of title assurance may cite  
4 this Act as authority for insuring or otherwise assuring that, despite  
5 such cited Constitutional restriction, the title to a permanent and  
6 long-term interest in real property is marketable.

7 Section 5. Title Assurance.

8 (a) Promptly upon the enactment of this Act, MIHA shall  
9 contact insurance agents and brokers within and without the  
10 Commonwealth, title insurance companies, attorneys, and others  
11 who may be interested in providing title assurance in the  
12 Commonwealth, inform them that a program of federally-insured  
13 mortgages is contemplated, and solicit their participation in  
14 such programs.

15 (b) The Director of Commerce and Labor may, if he or  
16 she finds it necessary, promulgate regulations to assure the  
17 integrity and performance of any person providing title  
18 insurance in the Commonwealth, and such regulations may  
19 differ from those applicable to other forms of insurance.  
20 Such regulations shall not apply to the practice of law in  
21 the Commonwealth nor to the program described in subsection  
22 (c) of this section.

23 (c)(1) Not later than 90 days after the date of  
24 enactment of this Act, if MIHA finds, that no qualified  
25 person, or that an insufficient number of such persons,

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1 is willing to offer title assurance in the Commonwealth,  
2 MIHA shall establish its own program of title assurance.

3 (2) Such program shall be developed  
4 after consultation with local mortgage lenders,  
5 any federal mortgage insurer interested in  
6 insuring mortgages in the Commonwealth, and  
7 the Attorney General, and shall be designed to  
8 induce such mortgages and any such insurer to  
9 accept and insure mortgages on residential  
10 housing. MIHA shall provide title assurance  
11 under the program to such mortgagee and, if  
12 required after foreclosure, to the federal  
13 mortgage insurer, in any acceptable form.  
14 MIHA may also provide title assurance to the  
15 mortgagor.

16 (3) MIHA shall charge reasonable fees in  
17 connection with title assurance provided under  
18 this subsection. Such fees should approximate  
19 fees normally charged by private title insurers  
20 under similar circumstances in order that private  
21 persons not be discouraged from entering the  
22 market.

23 (4) MIHA may decline to provide title  
24 assurance in connection with any application for  
25 a federally-insured mortgage if it determines that

1 it cannot formulate a reasonably certain opinion  
2 regarding the status of the title to an interest  
3 in the real property to be mortgaged, or that  
4 exceptions required to be taken under the  
5 circumstances would not fall within any guidelines  
6 provided by the lender or federal mortgage insurer.

7 (5) MIHA may, at its discretion, provide  
8 title assurance in connection with transfers of  
9 title to interests in real property under  
10 circumstances not involving a federally-insured  
11 mortgage.

12 (6) MIHA shall not provide title assurance  
13 under this subsection to the extent that such  
14 assurance is available from private sources. MIHA  
15 shall cease offering new title assurance when it  
16 finds that private providers are willing and able  
17 to meet the overall needs of the market. In such  
18 case, MIHA may seek to transfer its liability,  
19 under assurances it has already provided and with  
20 the consent of any mortgagee that has relied on its  
21 title assurance, to any qualified private provider  
22 and may pay fair consideration in connection with  
23 such transfer. MIHA shall resume providing title  
24 assurance whenever it finds that private providers

1 are no longer willing or able to meet the overall  
2 needs of the market.

3 (7)(A) Any title assurance provided by MIHA  
3 under this subsection shall reserve the right to  
5 transfer liability pursuant to paragraph (6) of  
6 this subsection.

7 (B) Any title assurance provided by  
8 MIHA under this subsection shall provide that  
9 the liability of MIHA shall terminate if a  
10 Torrens system of land registration is  
11 established in the Commonwealth, if the  
12 mortgaged interest in real property is  
13 entered in such system, and if a copy of  
14 a Certificate of Title to such interest  
15 in real property substantially equivalent  
16 to the assurance provided by MIHA is  
17 provided to the assured person.

18 Section 6. Salability after Foreclosure.

19 (a) To assure any federal mortgage insurer that the  
20 provisions of Article XII of the Commonwealth Constitution,  
21 prohibiting the acquisition of title to permanent and  
22 long-term interests in real property in the Commonwealth by  
23 persons not of Northern Marianas descent, will not prevent  
24 such insurer from transferring at a fair price by sale or  
25 other means title to any interest in real property which is

1 transferred to it by means of; or after foreclosure on a  
2 federally-insured mortgage, MIHA is hereby authorized and  
3 directed to act as a purchaser of last resort of title to  
4 such interest pursuant to the provisions of this section.

5 (b)(1) Whenever title to an interest in real property  
6 has been transferred by means of or after such foreclosure  
7 to a federal mortgage insurer by deed or other instrument,  
8 such insurer may offer to transfer title to such interest  
9 to MHA at its claim value. If the interest in real  
10 property is a leasehold interest and is so offered, MIHA  
11 shall agree to purchase title to such interest and shall  
12 pay its claim value to the insurer. If the interest in  
13 real property is a fee simple freehold interest, MHA may  
14 purchase title to such interest at its claim value if it  
15 is offered.

16 (2) If MIHA does not acquire title to the  
17 interest in real property pursuant to paragraph  
18 (1) of this subsection, it may bid or negotiate to  
19 purchase title to such interest in the same manner  
20 as any other qualified prospective purchaser.

21 (3) If title to the interest in real  
22 property remains unsold six months after it is so  
23 transferred to the federal mortgage insurer, MIHA  
24 shall purchase title to such interest at the  
25 appraised value of such interest at that time, if

1 requested to **do** so by such insurer within such  
2 time thereafter as *is* established **by** agreement  
3 with such insurer.

4 (c) For the purpose of implementing the Provisions of  
5 this section, **MHA** shall enter into a binding agreement with  
6 any federal mortgage insurer willing to insure or guarantee  
7 mortgages in the Commonwealth, and shall be empowered to  
8 pledge the full faith and credit of the Commonwealth of the  
9 Northern Mariana Islands for amounts payable to the federal  
10 mortgage insurer pursuant to the provisions of this section.

11 Section 7. Conveyance of Title to a Permanent and Long-term  
12 Interest in Real Property. Any person who is a mortgagee, or a federal  
13 mortgage insurer which succeeds to the interest of a mortgagee, including  
14 such a person who is not a person of Northern Marianas descent, to whom  
15 by deed or other instrument title to a permanent and long-term interest  
16 in real property is transferred **by** means of or after the foreclosure of a  
17 mortgage on real property in the Commonwealth pursuant to Article XII,  
18 Section 2 of the Commonwealth Constitution shall have the power to  
19 transfer by deed or other instrument, as appropriate, title to the entire  
20 interest in real property which was pledged as security for the mortgage  
21 to any person qualified to acquire title to such **an** interest.

22 Section 8. Study of Torrens System.

23 (a) The Chief Judge of the Commonwealth Trial Court,  
24 the Chief Land Commissioner, the Attorney General, and the  
25 Chairman of the Board of **MHA** shall each report to the

1 Speaker of the House of Representatives and the President of  
2 the Senate, not later than ninety days after the date of  
3 enactment of this Act, regarding the advantages and  
4 disadvantages of modifying the system of land registration  
5 provided for in the Land Commission Act of 1983 so as to  
6 institute a Torrens system of land registration in the  
7 Commonwealth.

8 (b) The reports from the Chief Judge and the Chief  
9 Land Commissioner shall include consideration of any  
10 necessary modification, exchange, or coordination of  
11 functions currently assigned to their respective offices.

12 (c) The report from the Attorney General shall include  
13 consideration of the potential liability of the Commonwealth  
14 under Torrens system, the loss experience in jurisdictions  
15 using such a system, and suggestions as to fees which might  
16 be charged in connection with registration to offset such  
17 losses. Such report shall also include suggestions for  
18 legislation to institute a Torrens system in the Commonwealth.

19 (d) The Chairman of the Board of MHIA shall consult  
20 with lending institutions in the Commonwealth to determine  
21 the acceptability of Torrens Certificates in lieu of other  
22 form of title assurance in connection with mortgages on real  
23 property in the Commonwealth and shall include such findings  
24 in his or her report.  
25

1           Section 9. Technical Amendments to other Statutes.

2                   (a) Subsection (e) of Section 25 of District Law 4-14?,  
3           2 CMC 4537 (e), is amended in its last sentence to read as  
4           follows :

5                               "Nothing in this Chapter shall deny to the  
6                   mortgagee, or to a federal government agency that  
7                   has insured or guaranteed payment on a mortgage  
8                   and which succeeds to the interest of the  
9                   mortgagee, the right to purchase the mortgaged  
10                  property at a foreclosure sale, and to receive  
11                  a certificate of sale and deed pursuant to  
12                  subsection (f) of this section.

13                              The Deed shall evidence the transfer of  
14                   title to all rights and interests that were  
15                   pledged **by** the mortgager to secure payment of  
16                   the mortgage, as permitted by Article XII,  
17                   Section 2 of the Commonwealth Constitution. A  
18                   mortgagee ~~may~~ transfer to a federal mortgage  
19                   insurer **by** deed or other instrument title to  
20                   all rights and interests in property that it  
21                   purchases at a foreclosure sale."

22                   (b) Section 33 of District Law 4-143, 2 CMC 4554,  
23           is amended **by** adding the following language to the second  
24           sentence of the section: "However, no section of this  
25           Chapter shall be construed to mean that a person not of

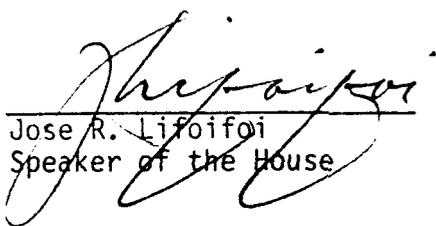
1 Northern Marianas descent is 'entitled at any time to hold  
2 title to real property in the Commonwealth except as provided  
3 in this Chapter, as permitted by Article XII, Section 2 of  
4 the Constitution of the Commonwealth of the Northern Mariana  
5 Islands."

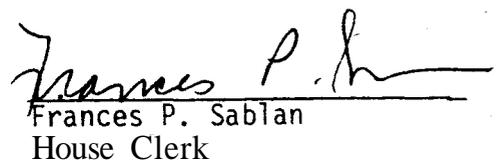
6 Section 10. Conflict with other Laws. If a provision of this Act  
7 is in conflict or inconsistent with any other law, then the provision of  
8 this Act shall control, unless it is expressly contravened by such other  
9 law.

10 Section 11. Severability. If any provision of this Act or any  
11 rule, regulation, or order promulgated under this Act, or the application  
12 of any such provision, rule, regulation, or order to any person or  
13 circumstances, shall be held invalid, the remainder of this Act or any  
14 other rule, regulation, or other promulgated under this Act, or the  
15 application of such provision, rule, regulation, or order to persons or  
16 circumstances other than those to which it is held invalid, shall not be  
17 affected thereby.

18 Section 12. Effective Date. This Act shall take effect upon its  
19 approval by the governor or upon its becoming law without such approval

ATTEST:

  
Jose R. Lifoifoi  
Speaker of the House

  
Frances P. Sablan  
House Clerk

April 9, 1986

  
Pedro P. Tenorio  
Governor  
Commonwealth of the Northern Mariana Islands