



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

The Honorable Oscar Babauta
Speaker, House of Representatives
Fifteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

JUL 20 2007

The Honorable Joseph Mendiola
Senate President
Fifteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill 15-69, HS1, entitled, "An Act to criminalize theft of utility services by adding a new Section 1609 to Chapter 1, Part 2, Division 1, Title 6 of the Commonwealth Code; and for other purposes," which was passed by the Fifteenth Northern Marianas Commonwealth Legislature.

The approval of this measure is timely in light of the increased theft of utility services in the Commonwealth. It is imperative that the community understands that theft in any form is unacceptable, even that of utility services. Yet, it is problematic for several reasons as identified by the Attorney General.

This legislation makes theft of utility services a specific crime, while in the past, it was punishable as a traditional theft offense, 6 CMC §1601 *et. seq.* This measure changes existing law in that it requires the value of the theft to be more than \$50, unless hired by someone else to commit the crime.

Existing law provides for imprisonment for not more than five years if the value of the property or service is at least \$250 but less than \$20,000. With this legislation, the same punishment is mandated if the value of the property or service is at least \$5,000 but less than \$20,000. This bill raises the minimum amount from \$250 to \$5,000. This provision has potential for raising issues in other theft cases where the defendant may argue unfair or disproportionate punishment because one kind of theft offense has a minimum of \$250 and another has a minimum amount of 20 times higher for the same maximum penalty.

In addition, this bill creates a new category of offense, thefts valued of at least \$250 but less than \$5,000. For this offense, an individual may be sentenced to imprisonment for not more than 2 years or a fine or \$2,000 or both. This provision raises the same issues of disproportionate treatment between theft offenses.

This bill also provides for an amnesty from punishment period of 90 days from the effective date of the bill, but fails to specifically require customers to set up a payment plan or execute a promissory note.

I reiterate once again that this bill is problematic and urge the Legislature to revisit it and make the necessary amendments. This bill becomes **Public Law No. 15-74**. Copies bearing my signature are forwarded for your reference.

Sincerely,



TIMOTHY R. VILLANOMEZ
Acting Governor

CC: Governor
Special Legal Counsels, Office of the Governor
Legal Counsel, Office of the Lt. Governor
Attorney General, Office of the Attorney General
Mayors, CNMI
Secretary, Department of Finance
Executive Director, Commonwealth Utilities Corporation
Presiding Judge, CNMI Superior Court
Secretary, Department of Community and Cultural Affairs
Secretary, Department of Commerce
Office of Public Auditor
Secretary, Department of Public Works
Special Assistant to the Administration
Senior Policy Advisor, Office of the Governor
Special Assistant for Programs & Legislative Review



House of Representatives
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500586
SAIPAN, MP 96950

Reply to:
Hon. Oscar M. Babauta
Speaker of the House
P.O. Box 500586
Saipan, MP 96950

June 12, 2007

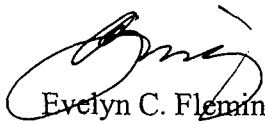
PUBLIC LAW NO. 15-74

The Honorable Benigno R. Fitial
Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Governor Fitial:

I have the honor of transmitting herewith for your action **H. B. No. 15-69, HS1**, entitled: "An Act to criminalize theft of utility services by adding a new Section 1609 to Chapter 1, Part 2, Division 1, Title 6 of the Commonwealth Code; and for other purposes." The Bill was passed by the House of Representatives and the Senate of the Fifteenth Northern Marianas Commonwealth Legislature.

Sincerely yours,


Evelyn C. Fleming
House Clerk

Attachment



HOUSE OF REPRESENTATIVES
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
SIXTH DAY, THIRD REGULAR SESSION, 2007

PUBLIC LAW NO. 15-74
H. B. No. 15-69, HS1

AN ACT

To criminalize theft of utility services by adding a new Section 1609 to Chapter 1, Part 2, Division 1, Title 6 of the Commonwealth Code; and for other purposes.

In the HOUSE OF REPRESENTATIVES

Offered by Representative: Ray N. Yumul

Date: February 9, 2006

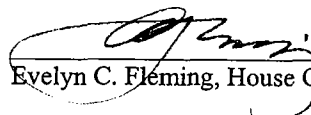
Referred to: Committee on Public Utilities, Transportation, and Communications
Public Hearing: None
Standing Committee Report 15-50

Passed First and Final Reading on February 26, 2007

In the SENATE

Referred to: None
Public Hearing: None
Standing Committee Report: None

Passed Final Reading on June 5, 2007


Evelyn C. Fleming, House Clerk



HOUSE OF REPRESENTATIVES
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2006

PUBLIC LAW NO. 15-74
H. B. No. 15-69, HS1

AN ACT

To criminalize theft of utility services by adding a new Section 1609 to Chapter 1, Part 2, Division 1, Title 6 of the Commonwealth Code; and for other purposes.

BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Title.** This Act may be cited as the "Theft of Utility Services Act of
2 2006".

3 **Section 2. Findings.** The Legislature finds that theft of utility services has been
4 prevalent in the Commonwealth for many years. However, the existing criminal laws do not
5 specifically provide for prosecution of such activities. The Legislature further finds that for
6 example, the Commonwealth Utilities Corporation has lost and continues to lose revenue
7 from theft of utility services. Accordingly, the Legislature finds that criminalizing theft of
8 utility services is necessary to deter such activities and possibly increase the revenue of the
9 Commonwealth Utilities Corporation, or its duly licensed private contractors, and
10 telecommunications and cable television companies. The purpose of this legislation is to
11 criminalize theft of utility services and provide for penalties upon conviction of such a crime.

12 **Section 3. Amendment.** Chapter 1, Part 2, Division 1, Title 6 of the Commonwealth
13 Code is amended to add a new § 1609 to read as follows:

14 "§ 1609. Theft of Utility Services.

15 (a) For purposes of this section:

16 (1) "Customer" means the person in whose name the utility service is
17 provided or any person who takes possession of a property and uses a utility
18 service without having made application for such service at that property.

1 (2) "Divert" means to change the intended course or path of utility
2 services without the authorization or consent of the utility.

3 (3) "Person" means any individual, partnership, firm, association,
4 corporation, business trust, company, joint venture company, limited liability
5 company, government or government subdivision, corporation, or agency, or
6 any other legal entity.

7 (4) "Reconnection" means the reconnection of utility service by a
8 customer or other person after service has been lawfully disconnected by the
9 utility.

10 (5) "Utility" means any provider of electric, water, sewer, cable
11 television, and telecommunications services in the Commonwealth.

12 (6) "Utility service" means the provision of electrical, water, sewer,
13 cable television, telephone, or any other service provided by the utility for
14 compensation.

15 (b) A person commits the offense of theft of utility services if the person, with
16 intent to obtain utility services for the person's own or another's use without paying
17 the full lawful charge therefor, or with intent to deprive any utility of any part of the
18 full lawful charge for utility services it provides, commits, authorizes, solicits, aids, or
19 abets any of the following:

20 (1) Diverts, or causes to be diverted utility services, by any means
21 whatsoever;

22 (2) Prevents any utility meter, or other device used in determining the
23 charge for utility services, from accurately performing its measuring function;

24 (3) Makes or causes to be made any connection or reconnection with
25 property owned or used by the utility to provide utility services, without the
26 authorization or consent of the utility; or

1 (4) Uses or receives the direct benefit of all or a portion of utility
2 services with knowledge or reason to believe that a diversion, prevention of
3 accurate measuring function, or unauthorized connection existed at the time of
4 use or that the use or receipt was otherwise without the authorization or
5 consent of the utility.

6 (c) A person commits the offense of theft of utility services in cases where the
7 theft:

8 (1) Accrues to the benefit of any customer where the value of the theft
9 of utility services exceeds \$50; or

10 (2) Is obtained through the services of a person hired to commit the
11 theft of utility services; in which event, both the person hired and the person
12 responsible for the hiring shall be punished under this section; or

13 (d) A person convicted of theft of utility services under this section shall be
14 punished:

15 (1) If the value of the service is \$20,000 or more, by imprisonment for
16 not more than 10 years and a fine of not more than \$10,000, or both; or

17 (2) If the value of the service is at least \$5,000 but less than \$20,000,
18 by imprisonment for not more than five years or a fine of not more than
19 \$5,000, or both; or

20 (3) If the value of the or service is at least \$250 but less than \$5,000,
21 by imprisonment for not more than two years or a fine of \$2,000, or both.

22 (4) If the value of the service is less than \$250, by imprisonment of not
23 more than one year and a fine of not more than \$1,000, or both.

24 (e) A person who violates this section shall make restitution to the utility for
25 the value of the electric, water, sewer, cable television, telecommunications, or any
26 other service provided by the utility for compensation, plus all reasonable expenses,
27 and costs, including court costs and attorney's fees incurred on account of the
28 violation of this section. Reasonable expenses and costs include expenses and costs

1 for investigation, disconnection, reconnection, service calls, metering device, labor,
2 materials, equipment use, and prosecution.

3 (f) Any person in violation of this section that comes forward voluntarily
4 within 90 days after the effective date of this Act shall be given amnesty and be
5 exempted from punishment under subsection (d).”

6 **Section 4. Amendment.** 4 CMC § 8123, as amended by Executive Order 06-4, is
7 amended by adding a new section (o) and redesignating the remaining section to read as
8 follows:

9 “§ 8123. Commonwealth Utilities Corporation: Powers.

10 (o) To establish a system of rewards for persons, other than
11 government employees in the course of their official duties, who furnish
12 information which leads to a conviction of a criminal violation involving theft
13 of utility materials or utility services.”

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

18 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not be
19 construed as affecting any existing right acquired under contract or acquired under statutes
20 repealed or under any rule, regulation, or order adopted under the statutes. Repealers
21 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
22 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
23 any liability, civil or criminal, which shall already be in existence on the date this Act
24 becomes effective.

1 Section 7. Effective Date. This Act shall take effect upon its approval by the
2 Governor or becoming law without such approval.

CERTIFIED BY:



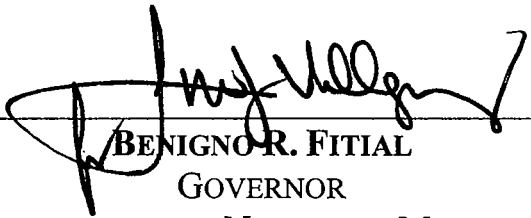
OSCAR M. BABAUTA
SPEAKER OF THE HOUSE

ATTESTED TO BY:



EVELYN C. FLEMING
HOUSE CLERK

Approved on this 20th day of July, 2007



BENIGNO R. FITIAL
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS