

THIRTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2002

Public Law 13-17

H. B. NO. 13-001, HS1, HD1, SD1

AN ACT

To authorize the Marianas Public Lands Authority in conjunction with the Commonwealth Development Authority to incur public debt in an amount of up to Forty Million Dollars (\$40,000,000) for the settlement of land compensation claims against the Commonwealth and for other purposes.

**BE IT ENACTED BY THE THIRTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Short Title. This Act may be cited to as the “Land Compensation Act of 2002.”

Section 2. Findings and Purpose. The Legislature finds that the Commonwealth currently owes to its citizens approximately Forty Million Dollars (\$40,000,000) for land acquired by eminent domain or other legal process. The Legislature further finds that the current rate of repayment is unacceptable, and the prompt compensation for such land taking serves the Commonwealth’s best interest. While in the past land taking claims against the Commonwealth were settled largely through an exchange of public land, the diminishing availability of public land, coupled with other competing public land uses, requires the establishment of a compensation program to pay for the taking of private lands for public uses, such as road and ponding basin construction. The purpose of this Act, therefore, is to authorize the Marianas Public Lands Authority, in conjunction with the Commonwealth Development Authority, to incur public debt in an amount of up to \$40,000,000, and to use the proceeds to settle and to discharge outstanding land compensation claims against the Commonwealth. Similar to Public Law 11-14, a portion of the liquid fuel tax revenue and the entire aviation fuel tax revenue collected under 4 CMC § 1403 would be reserved specifically for the repayment of the public debt authorized herein.

Section 3. Public Debt Authorization.

(a) The Marianas Public Lands Authority is hereby authorized to incur public debt in an amount up to \$40,000,000, for the financing of the retirement of land compensation claims against the Commonwealth for land taking by eminent domain or other legal process. In accordance with 4 CMC § 10203(a)(27), the Marianas Public Lands Authority shall arrange for the public debt authorized under this Act in cooperation with, and subject to the approval of, the Commonwealth Development Authority.

(b) The public debt authorized herein shall be denominated in and payable in United States Dollars and not in the equivalent amount of any foreign currency.

(c) This authorization for public debt is made only for the purpose of financing, by Marianas Public Lands Authority, the retirement of land compensation claims against the Commonwealth and only up to a total primary liability not to exceed \$40,000,000, inclusive of any commission or fee.

(d) The public debt authorized herein is only authorized with an interest rate not exceeding 7% per annum simple interest on the principle amount remaining outstanding and unpaid and with repayment terms not exceeding 20 years for payment in full of principle and interest.

(e) The public debt authorized herein shall be backed by the full faith and credit of the Commonwealth government and shall be a debt of the Commonwealth.

Section 4. Land Compensation Fund.

(a) There is hereby established a special fund within the Department of Finance which shall be known and designated as the Land Compensation Fund.

(b) The purpose of the Fund shall be to pay principal and interest on any financing entered into by the Marianas Public Lands Authority for the financing of the retirement of land compensation claims against the Commonwealth as authorized by this Act.

(c) The Commissioner of the Marianas Public Lands Authority shall have expenditure authority over the Fund, subject to approval of claims by the Board.

(d) In implementing this Act, the Marianas Public Land Authority shall first compensate the acquisition of private lands for right of way purposes, including but not limited to public road construction. After those claims have been compensated, the Authority shall then compensate those claims involving the acquisition of private land for the purpose of constructing public ponding basins. Wetland and other claims shall be entertained only after claims involving right of way and ponding basin acquisitions have been compensated.

Section 5. Amendment. Subsection (e) of 4 CMC § 1803, is amended as follows:

“(e) Fuel tax distribution.

(i) Notwithstanding any law to the contrary, beginning October 1, 1998, and annually thereafter, the Department of Finance shall deposit \$2,000,000, collected from the liquid fuel tax imposed under 4 CMC § 1403(a) into the Public School System Building fund established in 1 CMC § 2281. Such funds shall be continually appropriated to the Public School System for the sole purpose of paying the principal and interest on any financing entered into the Public School System pursuant to House Joint Resolution 10-36. The funds shall be nonlapsing except that upon certification by the Secretary of Finance that all principal and interest on all financing has been paid in full and discharged, any funds remaining in the Public School System Building Fund shall lapse to the general fund.

(ii) After the amount in subparagraph (i) has been transferred, and notwithstanding any law to the contrary, beginning October 1, 2002 and annually thereafter, the Department of Finance shall deposit the balance amount of the liquid fuel tax collected under 4 CMC § 1403(a) and the entire amount of the aviation tax collected under 4 CMC § 1403(b) into the Land

Compensation Fund. Such funds shall be continually appropriated to the Marianas Public Lands Authority for the sole purpose of paying the principal and interest on any financing authorized by this Act. Provided, that, in the event the amount in the Land Compensation Fund is insufficient to cover any requisite payment, the Governor is hereby authorized, notwithstanding any contrary law, to pay the remaining balance from the general fund. The funds in the Land Compensation Fund shall be nonlapsing, except, upon certification by the Secretary of Finance that all principal and interest on all financing has been paid in full and discharged, any funds remaining in the Land Compensation Fund shall lapse to the general fund.”

Section 6. Application. This Act shall apply to land compensation claims against the Commonwealth Government submitted to the Marianas Public Land Corporation, or its successor agency, on or after January 1, 1990.

Section 7. Income tax application. Any compensation received under this Act shall not be subject to the earnings tax imposed under 4 CMC § 1202(b)(2).

Section 8. Land Exchange Option. 2 CMC § 4144 is amended by adding a new subsection (d) to read as follows:

“(d) Subject to the approval of the Board of the Marianas Public Land Authority, an owner of private land who qualifies for a public land exchange may elect for an equitable land exchange, notwithstanding subsections (b)(2) and (c) of this section, provided that the area of public land shall not exceed twice the area of the private land to be exchanged.”

Section 9. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

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

Section 11. Effective Date. This Act shall take effect upon its approval by the Governor or upon it becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____
HEINZ S. HOFSCHEIDER
SPEAKER OF THE HOUSE

/s/ _____
EVELYN C. FLEMING
HOUSE CLERK

Approved this 23rd day of July, 2002

/s/ _____
JUAN N. BABAUTA
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS