

TITLE 2: NATURAL RESOURCES
DIVISION 4: LAND RESOURCES

§ 4144. Land Exchanges: When Authorized.

(a) Subject to the restrictions imposed by subsection (b) of this section, the corporation is authorized to transfer a freehold interest in public lands pursuant to land exchange agreements to accomplish any public purpose specifically enumerated in 2 CMC § 4143(e).

(b) No public land shall be exchanged for private land or as compensation for taking of private land unless:

(1) The exchange is for the accomplishment of a public purpose specifically defined in 2 CMC § 4143(e); and

(2) The land to be exchanged is of comparable value based on an independent appraisal made by a licensed appraiser at approximately the same time for all land parcels to be exchanged. In determining comparable value, any monetary compensation to be included in the transaction shall be added to the appraised value of the land held by the designated recipient of such compensation, before making the comparison; and

(3) A public notice has been published in a newspaper of general circulation and broadcast on the local radio and/or television of the Commonwealth, both in English and the vernacular, once each week for at least four consecutive weeks. Request from concerned persons for the land exchange within the time frame allocated for the public notice, for a public hearing, shall be heard as requested.

(c) The aggregate land area of the public land transferred may be greater or less than the aggregate land area of the private land obtained; provided, that the exchange is equitable and the requirements of subsection (b) of this section are met.

(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.

(e) No public land in the First Senatorial District that is either within 300 feet of the high water mark, or between the ocean and the first public road which is in existence on the date Public Law 15-64 becomes effective [May 30, 2007], whichever is closer, shall be exchanged for private land or be used as compensation for the taking of private land; nor shall any permanent structure be built thereupon with the exception of public parks, marine science and fisheries development facilities.

Source: PL 5-33, § 4; subsection (d) added by PL 13-17, § 8; subsection (e) added by PL 13-23, § 2, modified; (d) amended by PL 14-44, § 2, modified; (d) repealed in entirety by PL 15-64, § 2(e), (e) consequently renumbered to (d); (e) added by PL 15-64, § 3(d), modified; (e) repealed in entirety by PL 15-64, § 2(e); subsection (e) added by PL 15-64, § 3(d), modified.

Commission Comment: With respect to the references to the Marianas Public Land Corporation, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official

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titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 4142.

See comment to 2 CMC § 4741 regarding PL 13-17.

PL 13-23 took effect September 9, 2002 and contained purpose, severability, and savings clause provisions. The purpose of PL 13-23 stated:

Section 1. Purpose. The legislature determines the need to maintain the scenic beauty along this narrow stretch of road as well as protecting the coastal environment of the shoreline and reef adjacent to this pristine stretch of land for future generations to come.

PL 14-44 was enacted on December 2, 2004. Originally, PL 14-44 was codified as amending subsection (d). However, the Commission reviewed the history of this section in October of 2011 and made corrections in the May 2012 supplement. Although PL 14-44 stated that it was amending subsection (d), it is clear, based on the context of the law and the amendment, that this is an error. Accordingly, the amendments of PL 14-44 were made to subsection (e) and not to subsection (d). PL 14-44 contained the following findings and purpose, in addition to severability and savings clause provisions:

Section 1. Findings and Purpose. The Legislature finds that many beautiful vistas and seascapes in the First Senatorial District are treasured cultural assets, left to us unspoiled by our ancestors, which must be preserved for generations to come. The maintenance of these views is a necessary and proper legislative action, as it will protect the coastal ecosystem as well as the reefs and waters adjacent to this pristine stretch of land from deleterious effects of development. Therefore, the purpose of this Act is to prevent the exchange or permanent development of public lands that are either within 300 feet of the high water mark, or between the ocean and the first existing public road, whichever is closer.

PL 15-64 was enacted on May 30, 2007, and contained, among other enactments and repealers, findings and purpose, expenditure authority, global amendment, clarifications, severability, and savings clause provisions. Regarding subsection (e) above, the Commission assigned a different subsection number than what was designated in the original text (original was subsection (f)) and inserted the bracketed text. PL 15-64 included:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that with the enactment of various bills into public law, certain minor errors and inconsistencies have prevented the efficient codification of a number of laws. It is the intent of this Act to repeal, amend, or add necessary language to the Commonwealth Code in order to more accurately reflect the intent and purpose of laws enacted by the Commonwealth Legislature.