

TITLE 2: NATURAL RESOURCES
DIVISION 4: LAND RESOURCES

§ 4382. Designation of Homestead Areas.

Such areas of public lands on the island of Rota as may be suitable for agricultural purposes, and which are not required for government use or reserved for other purposes by any other provision of law, including those areas of public land being farmed or used for raising livestock by qualified applicants shall be designated by the Board of Public Land on behalf of the Commonwealth government for homesteading purposes. Such areas may, in accordance with the provisions of this law, be allotted to qualified persons for the purpose of farming with the right to acquire title upon fulfillment of the conditions prescribed in this article.

Source: PL 10-3 § 5 (repealing former 2 CMC § 4382, PL 7-11, § 2); amended by PL 12-53, § 2, modified.

Commission Comment: PL 10-3, the “Rota Agricultural Homestead Corrections Act of 1996,” took effect March 4, 1996. According to PL 10-3, §§ 2-4:

Section 2. Findings and Purpose. The Legislature finds that a number of permits for agricultural homestead were issued following approval of [PL] 7-11 by the Governor on October 24, 1990. The Legislature further finds that the final clause of Section 7 of [PL] 7-11, referring to effectivity “upon the availability of the homestead development funds identified in the series bonds issued by the Commonwealth Development Authority,” was apparently overlooked both by the government, Marianas Public Land Corporation, and the homesteaders. No other reference to “homestead development funds,” “series bonds,” or the Commonwealth Development Authority appears in [PL] 7-11. Nevertheless, this technical defect now jeopardizes the right and title of agricultural homesteaders on Rota to their homesteads. The Legislature further finds that any attempt to deprive Rota agricultural homesteaders of rights in their homesteads raises serious constitutional questions of taking of property without due process of law. The homesteaders received their permits in accordance with the substantive terms of the law and relied on the permits and the attendant rights specified by the Act and other law. The purpose of this Act is to give full effect to the main intent of [PL] 7-11 and to avoid constitutional difficulties.

Section 3. Amendment. Notwithstanding the language at the end of Section 7 of [PL] 7-11 (“and shall take effect upon the availability of the homestead development funds identified in the series bonds issue by the Commonwealth Development Authority”), [PL] 7-11 shall be deemed to have taken effect October 24, 1990, and Section 7 of [PL] 7-11 is hereby amended accordingly.

Section 4. Ratification.

(a) All actions taken in conformance with the provisions of Sections 1 through 6 of [PL] 7-11 and related law, and all permits or other instruments issued, executed, or delivered in conformance therewith and otherwise in compliance with Commonwealth law are hereby ratified, and no challenge, defense, claim, remedy, cause of action, or

TITLE 2: NATURAL RESOURCES
DIVISION 4: LAND RESOURCES

other right, based on the unamended Section 7 of [PL] 7-11, shall lie against or arise from such action.

(b) Except as provided by this Act, Article 7 of Chapter 3 of Division 4 of Title 2 of the Commonwealth Code [2 CMC § 4381 et seq.] is hereby ratified and reenacted as positive law.

PL 12-53, which took effect on May 29, 2001, contained the following short title, severability, and savings clauses:

Section 1. Short Title. This act may be cited as “Rota Agricultural Homestead Amendment Act of 2001.”

Section 3. 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.

Section 4. 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. Repealers 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.

Regarding the reference to the “Board of Public Lands,” PL 15-2, which was enacted on February 22, 2006, abolished the Marianas Public Lands Authority and created a Department of Public Lands in its place. PL 15-2 contained short title, legislative findings and declaration of policy, repealer, global amendment, transition, severability, and savings clauses. The global amendment therein did not include the Board of Public Lands. See 1 CMC § 2801 for detailed information regarding PL 15-2.