

TITLE 2: NATURAL RESOURCES
DIVISION 4: LAND RESOURCES

§ 4111. Public Lands: Defined.

Public lands, belonging collectively to the people of the Commonwealth who are of Northern Marianas descent, include the following:

(a) The lands as to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974;

(b) The lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976;

(c) The lands as to which right, title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under Covenant art. VIII; and

(d) The submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership under United States law.

(e) The wetlands of the Commonwealth which are not within the boundaries of privately-owned property. For purposes of this section, “wetlands” means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes:

- (1) At least periodically, the land supports predominantly hydrophytes;
- (2) The substrate is predominantly undrained hydric soil; and
- (3) The substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Source: N.M.I. Const. art. XI, § 1; PL 9-72 § 3, modified.

Commission Comment: This article sets forth, in codified form, certain constitutional provisions relating to public lands. For definition of persons “of Northern Marianas descent,” see N.M.I. Const. art. XII, § 4. Secretarial Order 2989 is reprinted in the material preceding title 1.

PL 9-72, which took effect November 16, 1995, added subsection (e) to this section. According to PL 9-72, § 1:

Section 1. Findings. The Legislature finds the means for exploiting and developing wetlands and submerged lands has escalated in proportion to the increasing commercial value of those lands and its mineral and petroleum wealth. Mariculture, aquaculture, and off-shore construction are also poised to make demands on subsurface and wetland areas that are considered public lands according to CNMI law. Regulations and management tools are already in place to deal with uses of those lands, however, there exist no provisions protecting the public ownership of wetlands and submerged lands which through development become fastlands. For that reason it is necessary to amend [2 CMC §§ 4111 and 1222] in order to secure that interest.

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The Board of Public Lands, which succeeded the Marianas Public Lands Corporation, was abolished by PL 12-71, § 2 (a) and replaced with the Marianas Public Lands Authority without conforming amendments to other sections of the act as enacted by PL 12-33. See comment to 1 CMC § 2801 regarding other technical deficiencies contained in PL 12-71. 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 [codified at 1 CMC § 2801 et seq.]. PL 15-2 contained the following provisions, in addition to severability and savings clauses. The global amendment therein included references to the Marianas Public Lands Corporation but did not account for existing references within the Commonwealth Code to the Board of Public Lands.

Section 1. Short Title. This Act may be cited as the “Public Lands Act of 2006.”

Section 2. Legislative Findings and Declaration of Policy. The purpose of this Act is to transfer the obligations and responsibilities of the Marianas Public Lands Authority to the elected legislative and executive officials of the Commonwealth. The Legislature has concluded that this Act is necessary based upon the following findings:

(a) Art. XI section 4 (f) of the Constitution, as amended in 1985, provides that the functions previously performed by the Marianas Public Land Corporation “shall be transferred to the executive branch of government” after its dissolution. The Marianas Public Lands Authority in its current structure as an autonomous agency outside the executive branch fails to comply with this constitutional mandate.

(b) The Commonwealth’s experience with the management of public lands over the years has demonstrated the need for additional controls to ensure that this valuable resource is administered in compliance with the requirements and fiduciary duties imposed by the Constitution.

Section 3. Repeal. Public Laws 10-57, 12-33, and 12-71 to the extent they are applicable to public lands, are hereby repealed and re-enacted as a new Article 3 under Title 1, Chapter 13, as follows . . .

Section 4. Global Amendment. Any reference to the Marianas Public Lands Corporation, Division of Public Lands, Office of Public Lands or the Marianas Public Lands Authority in the Commonwealth Code is hereby amended to read “Department of Public Lands.”

PL 15-64 (effective May 30, 2007) further amended the global amendment section of PL 15-2 as follows:

Section 4. Global Amendment. Any reference to the Marianas Public Lands Corporation, Division of Public Lands, Office of Public Lands or the Marianas Public Lands Authority in the Commonwealth Code is hereby amended to read “Department of Public Lands.” Any reference to the Board of Public Lands in the Commonwealth Code is amended to read “Secretary of Public Lands.”