



GOV. COMM. 12-191
(HOUSE1)

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Pedro P. Tenorio
Governor

Jesus R. Sablan
Lt. Governor

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The Honorable Paul A. Manglona
Senate President
Twelfth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

NOV 13 2001

and

The Honorable Benigno R. Fitial
Speaker, House of Representatives
Twelfth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

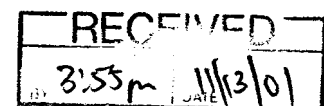
Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 12-123, SD1, CD1, "To make amendments to the Board of Public Lands Act of 2000, 1 CMC § 101 (a), Section 102, § 104 (h) and § 106 (d); and for other purposes," which was passed by the Twelfth Northern Marianas Commonwealth Legislature.

I sign this bill into law in deference to the broad constitutional authority of our Legislature and to the support of the bill by the Board of Public Lands and by the Public Lands Administrator. This bill, however, suffers from several technical deficiencies, which will have to be remedied by corrective amendment in order to properly carry out the intent of the bill.

The technical deficiencies which require further amendment are as follows:

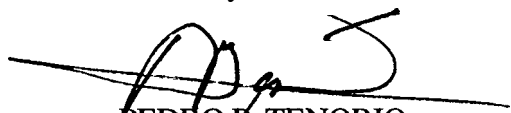
1. By amending 1 CMC § 101 (a), this legislation reorganizes and redesignates the current Board of Public Land Management, which was established by Public Law 12-33, as the "Marianas Public Lands Authority." The Office of the Public Lands, headed by the Public Lands Administrator appears to be abolished. The newly designated agency head is the "Commissioner of Public Lands Authority." However, the reference to the Public Lands Administrator, "to carry out the policies of the Board concerning matters under its jurisdiction," in Section 103 (a) of Public Law 12-33 remains unchanged. Section 103 (a) should be amended to conform to Section 101 (a).



2. Section **101 (b)** of Public Law **12-33** declares the Board of Public Lands to be the successor to the Marianas Public Lands Corporation ("MPLC") and assigns all residual powers and duties of MPLC to the Board of Public Lands Management. This legislation does not amend Section **101 (b)**. This creates the anomalous situation of an abolished entity, the Board of Public Lands (Management), holding and succeeding to certain powers formerly held by MPLC. Section **101 (b)** should be amended to conform with the amendments made to Section **101 (a)**.
3. Section **101 (a)** of the bill provides that the "Board of Directors shall serve every (sic) five years with three serving four and two serving five years." This provision is both unclear and inconsistent with Public Law **12-33**, Section **103 (d)**, which creates a four year staggered term. The conflict between these sections must be reconciled by amendment.
4. Proper reference to the law that this bill seeks to amend is Public Law **12-33**, not "H.B. **12-257**." Therefore, all references to "H.B. **12-257**" should be redesignated as Public Law **12-33**.

This bill becomes **Public Law No. 12-71**. Copies bearing my signature are forwarded for your reference.

Sincerely,



PEDRO P. TENORIO
ED. TENORIO

CC: Board of Public **Lands**
Director of Public **Lands**
Special Assistant for Programs & Legislative Review

THE SENATE
TWELFTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

Public Law No. 12-71
SENATE BILL NO. 12-123, SD1, CD1

AN ACT

To make amendments to the Board of Public Lands Act of 2000, 1
CMC § 101(a), Section 102, § 104 (h) and § 106 (d); and for other
purposes

Offered by Senator(s): Joaquin G. Adriano

Date: July 11, 2001

SENATE ACTION

Standing Committee Report: None

Final Reading: July 25, 2001

Accepted House Amendments: September 27, 2001

HOUSE ACTION

Referred to: Committee on Natural Resources

Standing Committee Report: 12-262

First and Final Reading: September 7, 2001



JOAQUIN G. ADRIANO
Senate Legislative Secretary

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

THIRD REGULAR SESSION, 2001

Public Law No. 12-71

SENATE BILL

NO. 12-123,SD1,CD1

AN ACT

To make amendments to the Board of Public Lands Act of 2000, 1 CMC§ 101 (a), Section 102, § 104(h) and § 106 (d); and for other purposes.

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

1 Section 1. Findings. The Legislature finds that questions have arisen to the extent of the
2 powers and duties of the Board of Public Lands. It is the intent of the Legislature that the Board of
3 Public Lands be given broad powers over its operations, and the leasing of public lands.

4 Section 2. Amendments.

5 (a) 1 CMC § 101 (a) as enacted by the Board of Public Lands Act of 2000 (H.B.
6 No. 12-257), is hereby amended as follows:

7 “(a) There is established within the Executive Branch an independent public
8 corporation of the Commonwealth of the Northern Mariana Islands, a public
9 corporation to be known as the Marianas Public Lands Authority. The office of
10 Marianas Public Lands Authority shall be headed by Commissioner of Marianas
11 Public Lands Authority and Deputy Commissioner for each Senatorial District. All
12 other Division of the Marianas Public Lands Authority shall be headed by the
13 Division Chief. The Commissioner shall serve at the pleasure of the Board of
14 Directors. Each Deputy Commissioner shall be appointed by the Board of Directors.
15 This Public Corporation is established under the control and general supervision of
16 the Board of Directors to execute, implement and enforce the policies, decisions,
17 orders, rules and regulations of the Board. The Board of Directors shall serve every
18 five years with three serving four and two serving five years. The present board is
19 not effected by this amendment upon effective of this Act.”

(b) 1 CMC Section 102 as enacted by the Board of Public Lands Act of 2000 (H.B. No. 12-257), is hereby amended to include a new subsection (c) to read as follows:

“(c) The Board of Directors may select, employ, promote and terminate employees, employ contractors and consultants, employ legal counsels, sue and be sued in its own name, provide liability insurance as it considers necessary, make contracts, borrow money within the limitations contained in Article X of the Constitution of the Northern Mariana Islands, and take any other action necessary for the management or disposition of surface and submerge public lands.”

(c) 1 CMC § 104 (h) as enacted by the Board of Public Lands Act of 2000 (H.B. No. 12-257), is hereby amended to read as follows:

“(h) The Board of Directors shall receive all moneys from public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 104 (c), and shall transfer these moneys after the end of fiscal year to the Marianas Public Land Trust except that the Board of Directors shall retain the amount necessary to meet reasonable expenses of administration and management, land surveying, homestead development, and any other expenses reasonably necessary for the accomplishment of its functions. It shall prepare and submit a budget as a government corporation pursuant to 1 CMC § 7206.”

(d) 1 CMC § 106 (d) as enacted by the Board of Public Lands Act of 2000 (H.B. No. 12-257), is hereby amended to read as follows:

(d) **The** Board of Directors shall maintain records documenting the basis of rental computations for public lands leases. Minimum annual rental payments for all public land lease for commercial purposes shall not be less than eight percent (8%) of the appraised fair market value of the public land except where otherwise provided **by** the terms of a valid lease in effect prior to October 23, 1998. The Board of Directors, however, shall have the power to negotiate lease rental at rates, not less than 2% that take into consideration the current economic condition of the Commonwealth and or the economic benefits to be derived therefrom. This discretion of the Board of Directors in negotiating lease rentals shall take into consideration the following but not necessarily limited to, rental reduction due to the present economic climate in the Commonwealth, reduction in lease rentals during development and construction phases of any commercial development on public

lands, and reduction in rentals for non-profit learning institutions, which reduction in lease rentals is deemed an economic incentive for a developer to proceed in completing the development intended with less burden. The Board of Directors may set the minimum annual lease rentals at two percent (2%), but not less than, of the appraised fair market value of the lease of public lands during the development and construction phases, pursuant to the terms of commercial lease or non-profit lease, as the case may be, entered into after the effective date of this Act. Following the completion of the construction of the development in accordance with the terms of a lease, the Board of Directors shall increase the minimum annual rates at one percent (1%) per year until the minimum of eight percent (8%) is attained and, in that event, the increment thereafter shall be based on eight percent (8%) of the current appraised fair market value of the leased public land. Such increment shall be made at every five-year interval or period during the term of a lease, and shall be computed and collected by the Board of Directors. The Board of Directors may, at its discretion, insert a provision in any lease entered into after the effective date of this Act, requiring lessee to pay additional rentals to be based on at least a minimum of three percent (3%) of the business gross receipts of a commercial lease, which additional gross receipt rentals shall be computed and collected by the Board as additional rentals if the gross receipt rentals exceed the minimum annual base rentals. This, however, shall not preclude the Board of Directors from immediately imposing the appraised fair market value of any leased public land for commercial development if, in the opinion of the Board of Directors, the lessee of that public land has not made reasonable effort in completing the development project in accordance with the construction schedule set forth in the lease. The Board of Directors shall establish procedures for the regular appraisal of all public lands leased for commercial purposes which ensure that the fair market value basis for computation of minimum annual rental payments for any given lease is updated every five (5) years or such other period as provided in valid leases in effect prior to October 23, 1996. That all local farmer(s) for grazing and farming may obtain five years permit and additional five years upon approval by the Board of Directors. Except for commercial use, farming and grazing shall be charged not more than \$5.00 per hectares. Failure of the Board of Directors to comply with the

requirements stated herein shall not relieve any lessee of the obligation to pay the minimum rentals prescribed herein."

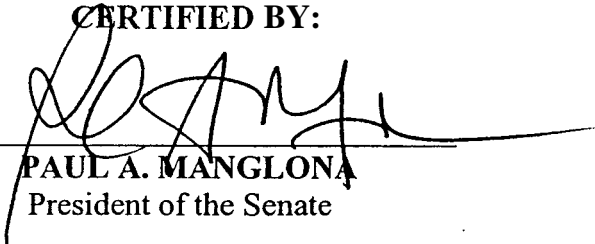
Section 3. Compensation for Board of Directors. The Board of Directors shall be compensated and receive **\$300.00** per day when attending off-island Board of Directors meetings within the Northern Mariana Islands Senatorial District. The Board of Directors meeting at his/her own Senatorial District shall receive \$150.00 per day. **Any** Board of Directors traveling outside of the Commonwealth of the Northern Mariana Islands shall receive the establish Government Rate.

Section 4. 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.

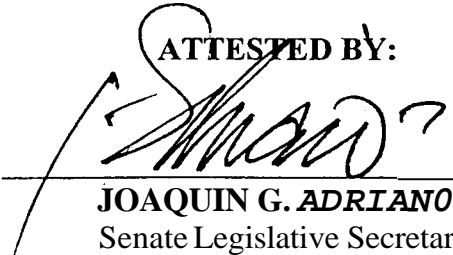
Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect 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.

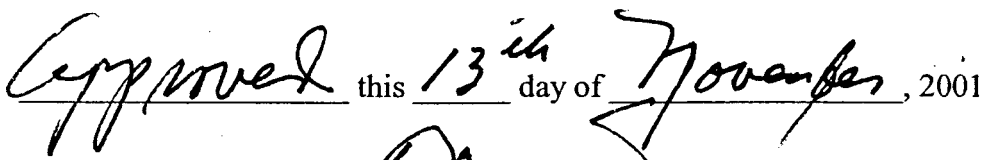
Section 6. Effective Date. This Act shall take effect upon its approval by the Governor, or upon its becoming law without such approval.


CERTIFIED BY:


PAUL A. MANGLONA
President of the Senate

ATTESTED BY:


JOAQUIN G. ADRIANO
Senate Legislative Secretary


Approved this 13th day of November, 2001


PEDRO P. TENORIO
Governor

Commonwealth of the Northern Mariana Islands