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DIVISION 2: EXECUTIVE BRANCH

§ 2653. Department of Lands and Natural Resources: Duties.

The Department of Lands and Natural Resources shall have the following powers and duties:

(a) To be responsible for the protection and enhancement of the natural resources of the islands, including the marine environment;

(b) To protect wildlife resources including fish, game, and endangered species;

(c) To be responsible, in consultation with the Department of Public Lands, for the protection and preservation of Maug, Uracas, Asuncion, and Guguan as mandated by Article XIV, Section 2 of the CNMI Constitution, and also be responsible for the preservation, protection, and maintenance of public access of Managaha pursuant to Article XIV, section 3 of the CNMI Constitution;

(d) To conduct surveys of public lands;

(e) To maintain and provide for the conservation of agricultural and aquatic resources;

(f) To issue permits for fishweirs;

(g) To perform the duties, functions, and responsibilities previously vested in the Marianas Fishing Authority;

(h) To maintain and provide for the conservation of forests;

(i) To establish landscaping and beautification projects;

(j) To promote, develop, and administer agricultural programs, including but not limited to, plant industry, agricultural extension services, and animal industry and health;

(k) To be responsible for the management, use and disposition of three miles of the submerged lands off the coast of the Commonwealth, pursuant to the Submerged Lands Act, as amended [2 CMC §§ 1201 *et seq.*] and in conjunction with U.S. Public Law 113-34;

(l) To simplify, coordinate, and to the extent practicable, integrate the development permitting process and public land leasing process within the department;

(m) To perform, under the guidance of the Special Assistant for Planning and subject to the approval of the Secretary of Public Lands established by this chapter, the land use planning functions previously performed by the Special Assistant for Planning and Budgeting;

(n) To manage and operate the Commonwealth Mitigation Bank, as provided by law;

(o) To construct, maintain, and repair recreational facilities as defined in 1 CMC § 2674(g);

(p) To conduct administrative adjudication for the department and its subdivisions as required by law; and

(q) The Secretary of the Department of Lands and Natural Resources may promulgate necessary regulations to carry out its duties.

Source: PL 1-8, tit. 1, ch. 13, § 4; repealed and reenacted by PL 10-57, § 3 (2653); new subsections (n) and (o) added by PL 11-106, § 4; new subsection

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(p) added by PL 12-12, § 11(b); (c) repealed by PL 15-2, § 3; (c) added and (m) amended by PL 15-64, §§ 3(c) (amending PL 14-49, § 2) and 4, respectively; subsections (c), (k), and (p) amended and (q) added by PL 18-42 § 2 (Mar. 27, 2014), modified.

Commission Comment: For the Fish, Game and Endangered Species Act, see 2 CMC §§ 5101 *et seq.*

PL 11-106 that added new subsections (n) and (o) to this section took effect October 8, 1999. PL 11-106 contained short title and findings and purpose provisions as follows:

Section 1. Short Title. This Act may be cited as the “Parks and Recreation Act of 1998.”

Section 2. Findings and Purpose. The Legislature finds that the Department of Lands and Natural Resources is empowered to establish landscaping and beautification projects pursuant to Public Law 10-57. The Legislature further finds that the Department of Lands and Natural Resources has enhanced, maintained, and beautified public parks since approximately 1979. The Legislature further finds that the number of public parks managed by the Department of Lands and Natural Resources has increased substantially since 1979 and maintenance of the parks has become increasingly difficult without the power to charge fees, promulgate regulations, and enforce rules. The Legislature further finds that there is currently no single governmental entity charged with the responsibility of constructing, maintaining and repairing community sports facilities. To this end, a Division of Parks and Recreation within the Department of Lands and Natural Resources must be established with the necessary powers to oversee the administration of such parks and recreational sports facilities.

PL 11-106 also contained authorization for appropriation, repealer, transitional clause, severability, and savings clause provisions as follows:

Section 5. Authorization for Appropriation. There is hereby authorized to be appropriated from the general fund the amounts necessary to accomplish the objectives set forth within this Act.

Section 6. Repealer. The provisions of Section 2 in Public Law No. 10-84 are hereby repealed in their entirety.

Section 7. Transitional Clause. Except as provided in this Act, any powers or duties relative to Commonwealth parks and recreational facilities previously charged to any other government entity shall be transferred to the Division.

Section 8. 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 9. 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.

PL 12-12, § 11(b) that added new subsection (p) to this section took effect on August 8, 2000. PL 12-12 contained short title, findings and purpose, severability, and savings clauses as follows:

Section 1. Short Title. This act may be cited as the Managaha Marine Conservation Act of 2000.

Section 2. Findings and Purpose. The Legislature finds that Article XIV, Section 1 of the Commonwealth Constitution, mandates that “the marine resources shall be managed, controlled, protected and preserved by the Legislature for the benefit of the people.” The Legislature also finds that Managaha Island and its surrounding waters contain historical, cultural, and natural resources that must be protected. Therefore the purpose of this legislation is to designate certain areas as marine conservation areas through strict management programs. These management programs shall ensure that areas such as Managaha Island and its surrounding waters continue to exist as protected recreational and educational areas; safe habitats for fish and other marine life to exist and propagate for the continued use and enjoyment for the people of the Commonwealth and its visitors. This act is the product of collaborative efforts between the Administration and the Legislature to correct deficiencies in a similar bill enacted by the Eleventh Northern Marianas Legislature.

...

Section 12. Severability. If any section of this Act or any regulation issued under the authority of this Act should be declared invalid or unenforceable by a court of competent jurisdiction, the judicial determination shall not affect the validity of the Act as a whole, other than the particular part declared invalid or unenforceable.

Section 13. 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.

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 a short title, legislative findings and declaration of policy,

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repealer, global amendment, transition, severability, and savings provisions. See 1 CMC § 2801 for detailed information regarding PL 15-2.

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. The findings and purpose and global amendment provisions stated:

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.

...

Section 4. Global Amendment. Any reference to the Marianas Public Lands Corporation, Division of Public Lands, Office of Public Lands or the Marianas Public Land 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."

Section 3(c) of PL 15-64 made a corrective amendment to PL 14-49, § 2 (effective January 7, 2005) which was previously not codifiable by the Commission due a lack of clarity as to what statute was being affected. PL 14-69 contained the following purpose provision in addition to severability and savings clauses:

Section 1. Purpose. Section 2, article XIV of the NMI Constitution mandates that the islands of Maug, Uracas, Asuncion, and Guguan be maintained as uninhabited places and used only for the preservation and protection of natural resources, including but not limited to bird, wildlife and plant species. While the enabling statute for the Department of Lands and Natural Resources sets forth its duties and jurisdiction, it does not specifically assign the department with the responsibility of overseeing the protection and preservation of those islands so designated under the Constitution, even though similar conservation responsibilities have been given to the department pursuant to the Fish, Game and Endangered Species Act. Consistent with that statute and its primary mission of protecting and managing the Commonwealth's natural resources, this Act accordingly designates the Department of Lands and Natural Resources as the administering authority over those islands protected under the Constitution.

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The Commission corrected the phrase “2 CMC 1201 et seq.” in subsection (k) to “2 CMC §§ 1201 *et seq.*” pursuant to 1 CMC § 3806(g). The Commission removed an extra “the” from subsection (k) pursuant to 1 CMC § 3806(g).

PL 18-42 (Mar. 27, 2014) contained, in addition to savings and severability clauses, the following Findings and Purpose section:

Section 1. Findings and Purpose. The Legislature recognizes that the NMI Constitution Article XIV, Section 2, mandates that Managaha island be uninhabited and maintained for cultural and recreational purposes. The Legislature also recognizes that Section 3 of Article XIV provides that “[p]laces of importance to the culture, traditions and history of the people of the Northern Mariana Islands shall be protected and preserved and public access to these places shall be maintained as provided by law.”

Additionally, Article XI, section 2 of the NMI Constitution provides that “[t]he management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.” The Legislature is cognizant that the Commonwealth is granted jurisdiction over the three miles of submerged land off its coast pursuant to U.S. Public Law 113-34.

The purpose of this Act is to establish by law the protection, preservation, and maintenance of public access of Managaha island. In addition, establish by law the management and disposition of submerged lands off the coast of the Commonwealth.