

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

§ 2801. Department of Public Lands.

The Department of Public Lands is hereby established within the Executive Branch to manage and administer the Commonwealth's public lands under the provisions of Article XI of the Constitution. Except as provided in this act, all powers and duties assigned to the Marianas Public Lands Authority by existing statute shall be assigned to the Department of Public Lands (hereafter "the Department").

Source: PL 12-33, § 3 (101); subsection (a) amended by PL 12-71, § 2 (a), modified; repealed and re-enacted by PL 15-2, § 3 (101), modified.

Commission Comment: PL 12-33, which took effect December 5, 2000, repealed and reenacted PL 10-57, § 3 (2671), formerly 1 CMC § 2671. PL 12-33 provided the following title, findings, and repeal and reenactment provisions:

Section 1. Title. This Act may be cited as the "Board of Public Lands Act of 2000."

Section 2. Findings. The Legislature finds that an inherent conflict exists by placing the Board of Public Lands (BPL) and Division of Public Lands (DPL) within the Department of Lands and Natural Resources (DLNR). *See* PL 10-57, as amended. The Secretary of DLNR is required to implement the policies put forth by the BPL. However, the Secretary, who serves at the pleasure of the Governor, must also implement the policies of the administration. A potential conflict arises when BPL and the administration's policies differ or are inconsistent. By separating BPL and DPL from DLNR, such conflicts would be avoided and [would] help ensure that public land policy is dictated by an independent Board.

Section 3. Repeal and Reenactment. Except as provided in Section 4 of this Act, PL 10-57, as amended and codified under Article 3, Chapter 13, Part 2 of Title 1 of the Commonwealth Code is hereby repealed and reenacted as a new Chapter 14 under Division 2 of Title 1.

PL 10-57 was codified under Division 2, Part 1 of Title 1 of the Commonwealth Code, and not Part 2 as erroneously stated in PL 12-33, § 3. Further, PL 12-33 included the following global amendment, transition, severability, and savings clause provisions:

Section 4. Global Amendment. Any reference to the Division of Public Lands in the Commonwealth Code is hereby amended to read "Office of Public Lands."

Section 5. Transition. All property, equipment, supplies, and personnel of the Board of Public Lands and the Division of Public Lands under Public Law 10-57, as amended, are transferred to the Board of Public Lands established under this Act. The provisions of this Act shall not affect the appointment and service term of the Board of directors serving on the effective date of this Act.

Section 6. 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

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the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 7. 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.

The Commission assigned a different number sequence to the reenacted sections than that provided in PL 12-33.

PL 12-71 became effective November 13, 2001 and contained some technical deficiencies. The first deficiency is the amendment of subsection (a) above without conforming amendments to subsection (b) and the remainder of the act; a global amendment provision was not included in PL 12-71. Additionally, the reference in subsection (a) above to the term of the Board of Directors is unclear and also in conflict with 1 CMC § 2803 (d). Furthermore, it appears that in the last sentence of subsection (a) above, the reference to “effected” should have been “affected.” Finally, the reference in PL 12-67 to “H.B. 12-257” should instead be to “PL 12-33.”

For reference purposes, the pre-amended text of 1 CMC § 2801 (a) is as follows:

§ 2801. Board of Public Lands Management.

(a) There is established within the Executive Branch an independent Board of Public Lands. An Office of Public Lands, headed by a Public Lands Administrator, is established under the control and general supervision of the Board to execute, implement and enforce the policies, decisions, orders, rules and regulations of the Board.

. . .

PL 12-71 included findings, severability, and savings clause provisions. According to PL 12-71:

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

With regard to the scope of the Commission’s revision authority, see 1 CMC § 3806.

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. PL 15-2 contained the following provisions, in addition to severability and savings clauses. The global amend-

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ment included therein 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.”

Section 5. Transition. Upon the effective date of this Act, the terms of the existing Board of Directors for the Marianas Public Lands Authority shall be terminated, and the Commissioner shall report to the Governor or his designee until the Secretary of Public Lands is appointed. All property, funds, equipment, supplies, and personnel of the Marianas Public Lands Authority under PL 10-57, 12-33, and 12-71 as amended, are transferred to the Department of Public Lands upon the effective date. Within 120 days after the effective date of this Act, the Secretary of the Department, in consultation with the Office of Personnel Management, shall take appropriate actions to ensure that all Department employees are subject to the provisions of PL 7-31.

PL 15-64, which took effect on 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.”

Public Law 16-8, which took effect on July 30, 2008, amended Public Law 15-2. PL 16-8, in pertinent part, provides:

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Section 2. Amendments to Public Law 15-2:

(a) The introductory clause to Section 3 is amended to read as follows:

"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 Chapter 14 Article 3 under Title 1, Division 2, Part 1, ~~Chapter 13~~ as follows:"

(b) A new Section 105 under Section 3 shall read as follows, and the existing Section 105 and subsequent sections shall be renumbered as Section 106 and so forth:

The new section 105 is codified in 1 CMC § 2805. See the Commission comment to 1 CMC § 2805 for more information regarding PL 16-8.