

**TITLE 1: GOVERNMENT**  
**DIVISION 2: EXECUTIVE BRANCH**

**§ 2807. Public Lands: Additional Policies and Procedures.**

(a) The Department may not amend or otherwise make any substantive changes in the terms and conditions of a lease subject to legislative approval of the amendment or change in the same manner as required for the original approval. "Lease" includes all extensions thereof.

(b)(1) Except as provided in subsection (e), prior to the execution of any lease of public land for use for commercial purposes, the Department shall give at least 15 days public notice of its intended action and shall afford all interested persons reasonable opportunity to submit data, views, or arguments in writing and shall accept from interested persons alternative proposals for lease of the public land which is the subject of the intended action; provided, that the Department need not accept alternative proposals if alternative proposals have previously been solicited by public notice captioned "Request for Proposals to Lease Public Land." Notice shall be by publication at least eight times during two consecutive weeks in a newspaper of general circulation in the Commonwealth and by posting in convenient places in the civic center and in local government offices in each senatorial district, and shall be in the English, Chamorro, and Carolinian languages. The notice shall be captioned "Notice of Proposed Lease of Public Land" and shall contain at a minimum the following:

(i) A description of the property, including the location in terms making it readily identifiable by the general public;

(ii) The proposed lessee, and if the proposed lessee is not a natural person, the names of the officers, directors, and principal shareholders or members of the proposed lessee, and including all real parties in interest;

(iii) The names of any agents, representatives, or attorneys involved in negotiating the lease on behalf of the proposed lessee;

(iv) A concise statement of the terms and conditions of the proposed lease and information where a complete copy of the proposed lease and any alternative proposals may be obtained without charge at any time during normal working hours;

(v) Identification of all alternative proposals received pursuant to a Request for Proposals to Lease Public Land for lease of all or any part of the public land covered by the proposed lease; and

(vi) The time when, the place where, and the manner in which interested persons may present their views or proposals.

(2) The requirements of subsection (b)(1) of this section are in addition to, and not in lieu of, any requirements imposed by other law.

(3) With respect to any lease requiring legislative approval, the notice required by this subsection (b) of this section shall be completed prior to submission of the proposed lease to the Legislature.

(4) The Department is not required to give additional notice of any proposed lease which is substantially the same as a proposed lease for which

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notice has previously been given during the nine months immediately preceding execution; and further, the Legislature may by joint resolution waive the requirements of this subsection (b) of this section with respect to any lease for which notice has previously been given during such period.

(c) Environmental Sampling and Consultation. Notwithstanding any law to the contrary, the Department of Public Lands shall fund an independent study to conduct environmental samplings and consultations on areas possibly contaminated with chemicals of concern throughout the CNMI.

(d)(1) All public land leases shall include a condition that the lessee connects to and uses the power grid of the Commonwealth Utilities Corporation for the duration of the public land lease. This condition shall be subject to the corporation's evaluation of any proposed development's power requirements and a determination that the existing power generation capacity is capable of providing the requisite power service to the proposed development. If necessary, the lessee may be required to provide and pay for improvements and upgrades to the power grid as necessary to meet the additional power load of the proposed development. If the corporation determines that the existing power generation capacity is incapable of providing the estimated power needs of the proposed development, the lessee may be exempt from the condition to use the corporation's power grid until the corporation's power generation capacity is capable of accommodating the lessee's power generation requirement.

(2) The Department of Public Lands and the Commonwealth Utilities Corporation may promulgate rules and regulations necessary to implement the provisions of (d)(1).

(e) The Department shall negotiate a new public land lease with existing public land lessees that have an existing school, religious organization, hotel, or golf course on the leased property with five years or less remaining on the lease under new terms and consideration without publishing a request for proposal for interested parties as required by subsection (b)(1). The Department in negotiating the lease extension shall make a leasing decision prior to the expiration of the lease and after public notice of intent to renew providing for public comment and public hearings. The new public land lease shall be based on the following terms and conditions, including, but not limited to:

(1) Rental based on at least two new appraisals of the property to be leased, including, but not limited to, the improvements thereon. The appraisal shall be performed by at least one appraiser who is a member of the American Society of Appraisers.

(2) Possible terms and conditions:

(i) New improvements or development on the property to be leased beneficial to the economic development of the CNMI;

(ii) Public Benefits and Contributions;

(A) Creation of public improvements separate from lessee's activities such as construction or renovation of public facilities;

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(B) Establishment of in-house job training programs for CNMI residents; and

(C) Financial contribution to an independent job training program or scholarship fund.

(iii) Financial contribution to infrastructure improvement or development in the area of the leased property including water, power, waste water, landfill, and highway infrastructure.

(iv) Plans to alleviate or lessen traffic or parking congestion at or near the property to be leased.

(3) If the negotiation under new terms and consideration fails, the Department may publish a request for proposal for other interested parties.

**Source:** PL 12-33, § 3 (106); subsection (d) amended by PL 12-71, § 2 (d), modified; repealed and re-enacted by PL 15-2, § 3 (106), modified; renumbered by PL 16-8 § 2(b); (c) added by PL 17-05 § 2 (June 17, 2010); (d) enacted by PL 19-59 § 2, 3 (Aug. 2, 2016), modified; (b)(1) amended by PL 20-84 § 3 (Dec. 31, 2018), modified; (e) enacted by PL 20-84 § 4 (Dec. 31, 2018), modified.

**Commission Comment:** 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.

Pursuant to the authority granted by [1 CMC § 3806\(g\)](#) to correct manifest clerical and typographical errors, the Commission inserted a close quotation mark in subsection (b)(1) above to read “Request for Proposals to Lease Public Land.”

Public Law 17-5 (effective June 17, 2010) contained the following findings and purpose section:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that sometime in the 1960’s, the United States Department of Defense stored an unknown quantity of electrical capacitors in Tanapag in addition to the abandoned forty-two (42) known tanks formerly used to store aviation fuel, gasoline, and heavy oil and the two military dumpsites. These capacitors contained polychlorinated biphenyl (PCB’s) and when burned reease dioxins, both of which are extremely hazardous chemicals. Both PCB’s and dioxins have been found in dangerous concentrations throughout Tanapag Village, clear evidence of widespread contamination and as a result, the United States Department of Defense accepted responsibility for the clean up of the PCB and dioxin contamination in 1992. However, environmental sampling associated with soil removal actions by the United States Army Corp of Engineers had predominantly focused solely on the PCB contamination soils at source areas within the village on public lands and has not addressed other chemicals such as Dioxin, Vinyl Chloride, Benzene, Ethylbenzene,

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Dichloroethylene, Mercury, Nitrites, Lead, and other heavy metals and chemicals of concern. Additional environmental sampling and consultation is necessary to determine the extent of the contamination due to harmful substances, the exposure to the public, the associated risks of adverse health effects and to protect the rights due to the citizens.

The Commonwealth Legislature further finds that Tanapag Village consists primarily of public lands and lots formerly public lands, deeded as homesteads lots to the public from the Commonwealth. The Commonwealth Legislature finds that the failure of federal government to address the environmental concerns of the public and homesteads lots does not relinquish the responsibility of the Commonwealth in the protection of its citizens' rights once aware of such failure by the federal government. Additionally, nothing noted herein shall be construed as a waiver of the Commonwealth's right to seek and obtain reimbursement from the Federal Government for any and all funds so expended by the Commonwealth by any and all legal proceedings or actions.

In accordance with House Joint Resolution No. 11-57, the Office of the Attorney General has expended the sum of Two Hundred and Fifty Thousand Dollars for environmental and consultation services. Information was obtained and reported to the Legislature noting several areas of concern impacting the environment and public health were outlined, including the potential presence of other chemicals of concern, contamination of food sources by PCB's and other chemicals of concern, transport of contaminated sediment within the village, contamination of water sources, and the potential risk to the local ecology. The presence of such harmful chemicals of concern would constitute a possible imminent and immediate danger to the environment and the health and welfare of the people of Tanapag and the entire CNMI.

The Commonwealth Legislature further finds that there are other fuel farms within the Commonwealth where possible contaminations have occurred due to the United States Department of Defense's storage of fuels in these areas. Because of the potential hazards, the Commonwealth Legislature finds that it is necessary that other areas of concern be tested for the potential presence of polychlorinated biphenyls (PCB), Dioxin, Vinyl Chloride, Benzene, Ethylbenzene, Dichloroethylene, Mercury, Nitrites, Lead, other heavy metals and chemicals of concern.

The Commonwealth Legislature further finds that Article 11, Section 5(g) notes that the Marianas Public Land Corporation, whose rights, duties and responsibilities have been transferred in accordance with Executive Order 94-3, Section 306, with the provision of duties and responsibilities by law noted in Public Law 15-2, shall follow certain fundamental policies in the performance of its responsibilities within the framework of the Constitution, stating that: "The corporation shall receive all money from the public lands except those from lands in which freehold interest has been transferred to another agency of government pursuant to section 5(b), and shall transfer these moneys after the end of the fiscal year to meet reasonable expenses of administration and management, land surveying, homestead development, and any other

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expenses reasonably necessary for the accomplishment of its functions.” The environmental contamination has been identified as being located on both public and homestead lots administered under the former Marianas Public Land Corporation. The Commonwealth Legislature also notes that these homesteads lots were distributed by the former Marianas Public Land Corporation without conducting an environmental assessment pertaining to such contamination. Furthermore, Article 1, Section 9 of the Constitution of the Commonwealth of the Northern Marianas Island states that “Each person has the right to a clean and healthful public environment in all areas, including the land, air, and water. Harmful and unnecessary noise pollution, and the storage of nuclear or radioactive material and the dumping or storage of any type of nuclear waste within the surface or submerged lands and water of the Northern Marianas Islands, are prohibited except as provided by law.”

The Commonwealth Legislature therefore finds that because harmful substances have been released into the environment of the village of Tanapag and other possible areas within the CNMI, and threaten public health and safety and the quality of the environment, it is necessary to authorize and mandate the Department of Public Lands to conduct an environmental sampling and consultation of areas possibly contaminated.

PL 19-59 became effective on August 2, 2016 and included findings, savings, and severability clauses.

The Commission codified PL 19-59 § 2 adding (d)(1) and numbered PL 19-59 § 3 as (d)(2) pursuant to 1 CMC § 3806(a). The Commission substituted “(d)(1)” for “this Act” in (d)(2) pursuant to 1 CMC § 3806(d).

In codifying PL 20-84, the Commission removed all drafting marks; struck “of this section” in (b)(1) and (e); inserted a comma after “hotel” in (e) and after “landfill” in (e)(2)(iii); inserted a comma after “including” and after “limited to” in (e)(1); changed “facilities,” to “facilities;” in (e)(2)(A); and changed “students,” to “students;” in (e)(2)(B) pursuant to 1 CMC § 3806(g).