

SEVENTH SPECIAL SESSION, 1986

AN ACT

To authorize the Marianas Public Land Corporation to enter into land exchanges to accomplish public purposes, to specify procedures and standards therefore, to define the public purposes for which, and the conditions under which, such land exchanges are authorized, and for other purposes.

BE IT ENACTED BY THE FIFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as the "Public
2 Purpose Land Exchange Authorization Act of 1987."

3 Section 2. Findings and Purpose. The purpose of this Act is to
4 facilitate the accomplishment of certain public purposes by authorizing
5 the Marianas Public Land Corporation to enter into agreements by which
6 the government obtains freehold interest in private land in exchange for
7 passing freehold interest in public land to the private landowner.
8 Pursuant to Article XI, Section 5(a) of the Constitution of the
9 Commonwealth of the Northern Mariana Islands (as amended by
10 Constitutional Amendment No. 32), such land exchanges are permitted only
11 as specifically authorized by law. The Legislature finds that such land
12 exchanges are an effective and economical means of obtaining private land
13 essential to public projects and of resolving lawful claims against the
14 government. The Legislature further finds that land exchanges are often
15 preferable, both socially and economically, to monetary compensation for
16 private land acquired for public purposes. The Legislature also finds
17 that equitable land exchanges serve the public interest far better than
18 expensive and divisive condemnation proceedings. The Legislature further
19 finds that the requirement of Section 7 of the Schedule on Transitional

1 Matters of the Constitution may be expeditiously accomplished through
2 land exchange in implementing Constitutional Amendment No. 32. This Act
3 specifies the public purposes for which land exchanges are authorized and
4 the conditions under which such exchanges can be executed.

5 Section 3. Definitions. As used in this Act:

6 (a) "Corporation" means the Marianas Public Land
7 Corporation established by Article XI, Section 4 of the
8 Constitution of the Commonwealth of the Northern Mariana
9 Islands, or its successor.

10 (b) "Wetlands" include wetlands as defined in the
11 Coastal Resources Management Act of 1983, 2 CMC, Division
12 1, Chapter 5 and regulations promulgated thereunder.

13 (c) "Public purpose" means any of the following
14 singularly or in combination:

15 (1) Any public use or purpose declared or
16 determined by the Legislature, either by law or by
17 joint resolution;

18 (2) Any public use or purpose determined by
19 the Governor pursuant to 1 CMC §9213(b);

20 (3) Settlement of any claim wherein a court of
21 competent jurisdiction has determined there was a
22 taking or deprivation of private land by the
23 government either without compensation or with in-
24 adequate compensation;

1 (4) Provision of compensatory relief to
2 persons or to their heirs or successors in interest
3 who have received no compensation or who have been
4 inadequately compensated for land takings or
5 encroachments qualifying as cause for compensation
6 under the Homestead Compensation Act of 1984 (Article
7 5 of Chapter 3 of Division 4 of Title 2 of the
8 Commonwealth Code);

9 (5) Satisfaction of any land exchange agreement
10 entered into by the Commonwealth Government, by the
11 Trust Territory Government or a part thereof, or by
12 the United States Naval Administration, and involving
13 land in the Northern Mariana Islands, in which the
14 full area of public land agreed upon was not conveyed
15 to the landowner or to his or her heirs or successors
16 in interest; and

17 (6) Any activity for which public funds have
18 been lawfully appropriated, committed, allocated, or
19 expended, or any official action done by a public
20 official or employee pursuant to his or her legally
21 prescribed duties and responsibilities.

22 (7) The acquisition of privately owned beach,
23 shoreline and historic property or access to such
24 properties, and the acquisition of privately owned wet-
25 lands and sensitive ecological and environmental lands.

1 (d) "Public Lands" means all lands as described in
2 Article XI, Section 1 of the Commonwealth Constitution or
3 land that is controlled and used by the CNMI Government.

4 (e) "Land exchange" means any transfer, disposition,
5 use, control, occupancy or possession of public lands or
6 the right or privilege to derive profits from such lands,
7 made in exchange for similar rights to or interests in
8 private lands or made to accomplish a public purpose for
9 uncompensated or inadequately compensated taking of similar
10 rights or interest in previous privately owned lands.

11 (f) "Protected resources" means land encompassing:

12 (1) a shoreline defined to be an area within 150
13 feet of the mean high water mark.

14 (2) public parks and other lands used for public
15 purposes.

16 (3) historic area as defined by the Historic
17 Preservation Office.

18 (4) ecologically sensitive areas, public purpose
19 or village homesteading.

20 (5) public access right-of-ways.

21 Section 4. Land Exchanges: When Authorized.

22 (a) Subject to the restrictions imposed by Subsection
23 (b) of this section, the Corporation is hereby authorized to
24 transfer a freehold interest in public lands pursuant to
25 land exchange agreements to accomplish any public purpose

1 specifically enumerated in Section 3(c) of this Act.

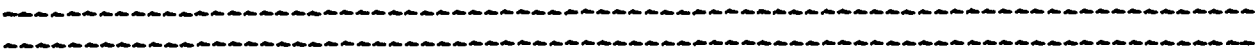
2 (b) No public land shall be exchanged for private
3 land or as compensation for taking of private land unless:

4 (1) The exchange is for the accomplishment of a
5 public purpose specifically defined in Section 3(c)
6 of this Act; and

7 (2) The land to be exchanged is of comparable
8 value based on independent appraisal made by a
9 licensed appraiser at approximately the same time for
10 all land parcels to be exchange. In determining
11 comparable value, any monetary compensation to be
12 included in the transaction shall be added to the
13 appraised value of the land held by the designated
14 recipient of such compensation, prior to making the
15 comparison; and

16 (3) A public notice has been published in a
17 newspaper of general circulation and broadcast on the
18 local radio and/or television in the Commonwealth,
19 both in English and the vernacular, once each week
20 for at least four consecutive weeks. Request from
21 concerned persons for the land exchange within the
22 time frame allocated for the public notice, for a
23 public hearing, shall be heard as requested.

24 (c) The aggregate land area of the public land
25 transfered may be greater or less than the aggregate land



1 area of the private land obtained; provided, that the
2 exchange is equitable and the requirements of subsection
3 (b) of this section are met.

4 Section 5. Land Exchanges: In General.

5 (a) Land exchanges, rather than monetary compensation,
6 are hereby declared to be the preferred means of obtaining
7 private lands for public purposes and of providing
8 compensation of public purposes specified in Section 3(c) of
9 this Act, and in any judicial determination of just
10 compensation for the taking of or encroachment upon private
11 land by the government, transfer of a freehold interest in
12 public land of comparable value shall be deemed to be an
13 equally valid means of compensation as monetary remuneration;
14 Provided that nothing in this Act shall be construed as
15 precluding or prohibiting monetary compensation, either in
16 lieu of or in addition to a land exchange.

17 (b) The Corporation may, upon its own initiative, propose
18 and/or execute land exchange agreements for the accomplishment
19 of public purposes defined in this Act in which it has
20 jurisdiction pursuant to other Commonwealth law.

21 (c) The Corporation shall make available, other than
22 protected resources, public lands necessary to accomplish the
23 purpose of this Act. Provided, however, exchange of public
24 lands adjacent to protected resources, the Corporation, in
25 consultation with appropriate government agencies, shall

1 delineate by cadastral survey an area adequate for preservation
2 of the protected resources.

3 (d) For a period of 10 years after the effective date of
4 this Act, land exchanges shall be made only for land physically
5 located within the same Senatorial District, as defined in 1
6 CMC 1402(d), as the land for which an exchange is to be made.

7 Section 6. Regulations. The Corporation may promulgate rules and
8 regulations to carry out the purposes of this Act.

9 Section 7. Prior Exchanges. Any land exchange agreement entered
10 into by the Corporation prior to the effective date of this Act, which
11 accomplished a public purpose as defined in this Act, is hereby deemed
12 to be a lawful and binding agreement in the same manner and to the same
13 extent as if entered into after the effective date of this Act. Provided,
14 however, this Section shall not affect pending agreements to exchange all
15 future claims, pursuant to Public Law 5-5, or exchanges relating to 1944
16 land action, until such claims have been completed.

17 Section 8. Conflict With Other Laws. If the provisions of this Act
18 are in conflict or inconsistent with the provisions of any other law, or
19 regulation or rule promulgated thereunder, then the provisions of this
20 Act shall control. Any law, regulation or rule that is in conflict or
21 inconsistent with the provisions of this Act is hereby amended and
22 superseded to conform with the intent and purpose of this Act.

23 Section 9. Amendment. Title 2 CMC, Division 4, Chapter 3, Article
24 2, Section 4324 is amended by adding a new subsection (c) to read as
25 follows:

1 "(c) No time limitation shall be imposed by the Marianas
2 Public Land Corporation for a period shorter than twelve years
3 after the effective date of this Article for submission of
4 requests or applications for deeds and permits pursuant to
5 this Article.

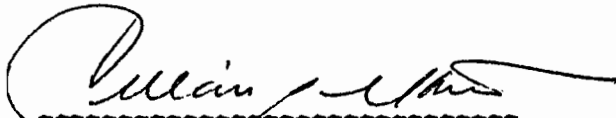
6 Section 10. Amendment. Title 2 CMC, Division 4, Chapter 3, Article 3
7 Section 4335, subsection (c) is amended by adding to the last sentence of
8 the existing subsection (c) to read as follows:

9 "Provided, however, that no time limitation
10 shall be imposed by the Marianas Public Land
11 Corporation for a period shorter than twelve years
12 after the effective date of this Article for
13 submission of requests or applications for deeds
14 and permits pursuant to this Article."

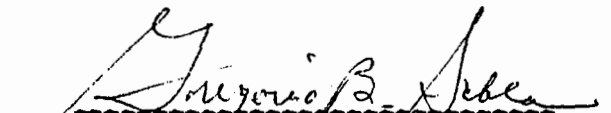
15 Section 11. Annual Budget Request. The Marianas Public Land
16 Corporation shall include in its annual budget a funding request
17 necessary to carry out the provisions of this Act.

18 Section 12. Severability. If any provision of this Act or any rule,
19 regulation or order promulgated hereunder, or the application of any such
20 provision, rule, regulation or order to any person or circumstance shall
21 be held invalid by a court of competent jurisdiction, the remainder of
22 this Act or any rules, regulations or orders promulgated pursuant thereto
23 or the application of such provisions, regulations, rules or orders to
24 persons or circumstances other than those to which it is held invalid,
25 shall not be affected thereby.

 1 Section 13. Effective Date. This Act shall take effect upon its
 2 approval by the Governor or upon its becoming law without such approval.

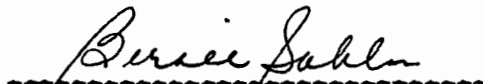


 JULIAN S. CALVO
 President of the Senate




 GREGORIO B. SABLAN
 Acting Speaker
 House of Representatives

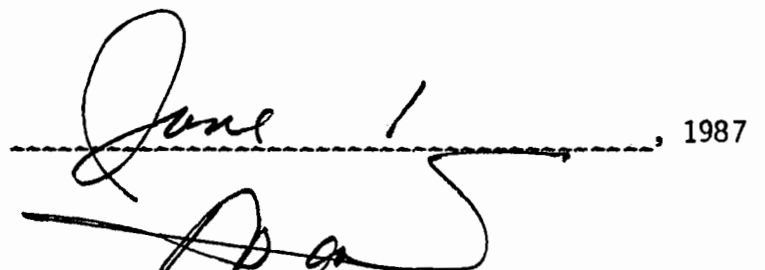
ATTEST:



 BERNIE C. SABLAN
 Senate Clerk



 FRANCES P. SABLAN
 House Clerk


 -----, 1987

 PEDRO P. TENORIO
 Governor
 Commonwealth of the Northern Mariana Islands