

A BILL FOR AN ACT

To improve the submerged land lease agreement between the APEX International corporation, Saipan, and the Commonwealth Government of the Northern Mariana Islands via the Department of Natural Resources pursuant to Public Law 6-13 as amended; and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act shall be known as the.
2 "Submerged Lands Lease S-023-July05-90.

3 Section 2. Findings. The Legislature finds that under
4 the provisions of the Submerged Lands Act (Public Law 6-13,
5 as amended), the Legislature has exclusive right to approve,
6 disapprove, or modify the provisions of any development lease
7 or water dependent use of submerged lands and that all leases
8 shall be approved by law.

9 The Legislature further finds that Public Law 6-13, as
10 amended, requires the Director of the Department of Natural
11 Resources to submit all leases, licenses and permits of the
12 use of Commonwealth submerged lands to the Legislature for
13 approval.

14 Lastly, the Legislature finds that the notice of the
15 public hearing required by P.L. 6-13, as amended, and
16 codified at 2 CMC section 1233, has been widely publicized in

1 accordance with the requirements of applicable law.

2 section 3. Purpose. the purpose of this Act is to
3 approve the Submerged Lands Lease Agreement executed between
4 APEX International Corporation, Saipan, and the Commonwealth
5 Government of the Northern Mariana Islands via the Department
6 of Natural Resources.

7 Section 4. Authority to Lease Submerged Lands. On
8 behalf of the Commonwealth Government of the Northern Mariana
9 Islands, the Director of Natural Resources may execute a
10 Submerged Lands Lease Agreement with APEX International
11 Corporation which contains the following descriptions:

12 SUBMERGED LANDS LEASE

13 S-023-JULY05-90

14 BOAT MARINA

15 APEX INTERNATIONAL CORPORATION, SAIPAN

- 16 (a) Legal Description: Bounded by coordinates
17 N53,8000.00 meters and
18 N54,000.00 meters; and
19 E50,500.00 meters and
20 E50,700.00 meters (see
21 attached Exhibit "A").
- 22 (b) Property Address: West of Horiguchi Building
23 and Garapan Catholic
24 Church and adjacent to Lot
25 Nos. 013 D 37, 013 D 38,

1 and 013 D 35 in Garapan,
2 Saipan.
3 (c) Lessor : Commonwealth Government of
4 the Northern Mariana
5 Islands.
6 (d) Lessee : APEX International
7 Corporation, Saipan, P.O.
8 Box 379, Saipan, MP 96950
9 (e) Size 58,549 square meters or
10 5.8 hectares.
11 (f) Improvements None.
12 (g) Zone Unzoned.
13 (h) Use To construct a 100 slip
14 private marina.
15 (i) Terms The term of this lease
16 agreement shall be for a
17 term of forty (40) years.
18 The commencing and
19 expiration dates shall be
20 reflected in the lease
21 agreement.
22 (j) Lease Fee : The annual lease fee of
23 \$105,000.00 is only for
24 the first ten years of the
25 lease. The APEX

1 International Corporation
2 shall, within 90 days upon
3 the effective date of this
4 Act, pay to the
5 Commonwealth Government
6 the sum of \$1,050,000.00,
7 which represents the
8 amount for the first ten
9 years of the lease fee.
10 The lease amount for the
11 remaining 30 years of the
12 lease period shall be
13 determined by the
14 Department of Natural
15 Resources.

16 (k) Public
17 Contributions : The APEX International
18 Corporation shall
19 construct a sewerline to
20 connect to the existing
21 sewerline from the
22 Horiguchi Building
23 southward to approximately
24 200 feet south of the Jade
25 Garden Restaurant. The

1 design of the sewerline
2 construction shall meet
3 the standards of the
4 Commonwealth Utilities
5 Corporation and be subject
6 to CUC inspection and
7 approval. In addition,
8 APEX International
9 Corporation shall
10 contribute in cash the sum
11 of Eight Hundred Eight
12 Thousand Five Hundred
13 Dollars (U.S. \$808,500.00)
14 to the Commonwealth
15 Government.

16 (1) Appropriation

17 Authority : The appropriations of the
18 \$1,050,000.00 and the
19 \$808,500.00 for capital
20 improvement projects shall
21 be determined by the Third
22 Senatorial District
23 Delegation by Resolution,
24 provided, that \$300,000.00
25 is appropriated for

1 sewerline construction for
2 Koblerville, \$300,000.00
3 is appropriated to improve
4 the dock facility at Sugar
5 Dock and \$208,500.00 is
6 appropriated to construct
7 a drainage system for the
8 Tanapag subdivision.

9 (m) Sublease : Section 9 of the "Lease
10 Agreement Between the
11 Department of Natural
12 Resources and APEX
13 International Corporation
14 (Saipan)" is hereby
15 amended to read as
16 follows: "Lessee shall
17 not sublease, assign, or
18 transfer all or any part
19 of its interest in this
20 lease in or to the
21 premises or any portion
22 thereof or any improvement
23 thereon without prior
24 legislative approval
25 through a Joint

1 Resolution. In the event
2 that a lease is terminated
3 prior to the expiration of
4 the lease term,
5 cancellation or other
6 default shall not serve to
7 terminate subleases
8 assignments, or
9 subtenancies but shall
10 operate as an assignment
11 to the Director of the
12 Department of Natural
13 Resources or any and all
14 subleases, and
15 subtenancies. The above
16 condition is only
17 applicable to subleasing
18 operations within
19 submerged land.

20 (n) Public Facilities: The Director of Natural
21 Resources shall **bid** out
22 Management and operation
23 of public facilities that
24 are for a water related
25 use within the public

1 marina. The Director of
2 Natural Resources shall
3 award the bid to any
4 businesses which have at
5 least 75 percent ownership
6 by U.S. citizens, even if
7 the next highest bidder is
8 lower by 20 percent, but
9 having met the 75 percent
10 ownership by U.S.
11 citizens.

12 Section 5. Conditions.

13 (a) The Director of Natural Resources or his
14 designee shall have the right to make reasonable
15 inspections of the designated submerged land area at any
16 reasonable time in order to assess compliance with the
17 submerged lands lease agreement and the submerged land
18 Rules and Regulations.

19 (b) As required by Section 404 of the Public Law
20 3-91, the Lessee shall provide the Public Auditor of the
21 Commonwealth of the Northern Mariana Islands with access
22 to and the right to examine and copy any records, data
23 or documents relevant to this lease until three (3)
24 years have passed since the final payment pursuant to
25 this lease.

1 (c) The submerged Lands Lease Agreement, as herein
2 amended, between APEX International Corporation, Saipan,
3 and the commonwealth Government of the Northern Mariana
4 Islands via the Department of Natural Resources and
5 other relevant documents indicated in the lease
6 agreement shall become part of this Act.

7 Section 6. Lease Term. Notwithstanding any provisions
8 of Public Law 6-13, as amended, the lease term shall be for
9 forty (40) years and a simple majority of each house shall be
10 sufficient for approval of the lease.

11 Section 7. Approval of Lease. The attached lease, as
12 amended, entitled; "Lease for Water Dependent Use of
13 Submerged Land^N, between APEX International Corporation,
14 Saipan, and the Commonwealth Government of the Northern
15 Mariana Islands is hereby approved.

16 Section 8. Execution of Lease. The Director of the
17 Department of Natural Resources shall issue the approved
18 lease within thirty (30) days upon effective date of this
19 Act.

20 Section 9. Severability. If any provision of this Act,
21 or its application to any person or circumstances is held
22 invalid by a court of competent jurisdiction, the invalidity
23 does not affect other provisions or applications of the A c t
24 which can be given effect without the invalid provisions, and
25 to this end the provisions of this Act are severable.

1 Section 10. Effective Date. This Act shall take effect
2 upon its approval by the Governor, or upon its becoming law
3 without such approval.

CERTIFIED AND ATTESTED TO BY:




LUIS C. BENAVENTE
Acting Speaker



JOAN B. IPAT
Acting House Clerk

APPROVED this 02 day of FEBRUARY, 1991



LORENZO I. DE LEON GUERRERO
Governor
Commonwealth of the Northern Mariana Islands