

**NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE**

**PUBLIC LAW NO. 9-72**

**H. B. NO. 9-174, H.D.1**

**FIRST SPECIAL SESSION, 1994**

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**AN ACT**

To amend 2 CMC §4111 by the addition of a new subsection (e) and to amend 2 CMC §1222 in order to protect the public ownership of wetlands and submerged lands by curtailing private claims, especially to areas subject to adverse possession by virtue of adjacent private property.

**BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

Section 1. Findings. The Legislature finds the means for exploiting and developing wetlands and submerged lands has escalated in proportion to the increasing commercial value of those lands and its mineral and petroleum wealth. Mariculture, aquaculture, and off-shore construction are also poised to make demands on subsurface and wetland areas that are considered public lands according to CNMI law. Regulations and management tools are already in place to deal with uses of those lands, however, there exist no provisions protecting the public ownership of wetlands and submerged lands which through development become fastlands. For that reason it is necessary to amend 2 CMC Sections 4111 and 1222 in order to secure that interest.

Section 2. Amendment to 2 CMC Section 1222. 2 CMC Section 1222 is amended to read as follows:

"No person, partnership or corporation shall engage in any exploration, development, water or non-water dependent uses of submerged lands, or extraction of petroleum deposits or mineral deposits which may be located in submerged lands of the Commonwealth without first obtaining from the Secretary of Lands and Natural Resources an approved license, lease, or permit for such activity. Any lease, license, or permit issued by the Secretary of Lands and Natural Resources shall clearly state that any filled submerged land, or submerged land otherwise converted into fastland, shall remain the property of the Commonwealth."

Section 3. Amendment to 2 CMC Section 4111. 2 CMC Section 4111 is amended by the addition of a new subsection (e) to read as follows:

"(e) The wetlands of the Commonwealth which are not within the boundaries of privately owned property. For purposes of this Section, wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the allowing three attributes:

- (1) at least periodically, the land supports predominantly hydrophytes,
- (2) The substrate is predominantly undrained hydric soil, and

(3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year."

Section 4. 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.

Section 5. 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.

Section 6. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED BY:**

/s/ Diego T. Benavente  
DIEGO T. BENAVENTE  
Speaker  
House of Representatives

/s/ Evelyn C. Fleming  
EVELYN C. FLEMING  
House Clerk

Approved this 16th day of November, 1995

/s/ Jesus C. Borja  
~~FROILAN C. TENORIO~~ JESUS C. BORJA  
Acting Governor  
Commonwealth of the Northern Mariana Islands