# TITLE 2 NATURAL RESOURCES

## LIST OF SECTIONS AFFECTED (WITH DATES)
## SEPT. 1, 2007 – DEC. 31, 2010

standard type: amended section; **bold** type: new or reenacted section;
~~strikeout~~ type: repealed section; underlined type: renumbered section; *italics* type: corrected section

| Title | § | PL/LL & Section # | Eff'v Date |
|---|---|---|---|
| **2 CMC** | 1114(c)(1) | PL 17-1 4 | 3/22/10 |
| | 1311(e) | PL 17-10 3 | 7/28/10 |
| | 1312(a)(h) | 4 | |
| | 1314(d)(e) | 5 | |
| | **1326** | **6** | |
| | 1651 | PL 17-14 2 | 9/24/10 |
| | **1651** | **PL 15-90 2** | 10/2/07 |
| | **1652** | **3** | |
| | **1653** | **4** | |
| | **1654** | **5** | |
| | **1701** | **PL 16-49 2-3** | 1/6/10 |
| | 2121 cmt. | Exec Order 08-05 30 CR 28762 (Sept. 25, 2008) | |
| | 4324(c) | PL 16-50 5 | 1/15/10 |
| | **4335(d)** | **PL 17-4 3** 6/17/10 | |
| | **4339** | **PL 17-26 2** | 12/16/10 |
| | **4377** | **PL 17-12 3** | 8/17/10 |
| | **4378** | **4** | |
| | **43101** | **PL 16-50 4(101)** | 1/15/10 |
| | **43102** | **4(102)** | |
| | **43103** | **4(103)** | |
| | **43104** | **4(104)** | |
| | **43105** | **4(105)** | |
| | **43106** | **4(106)** | |
| | **43107** | **4(107)** | |
| | **43108** | **4(108)** | |
| | ~~4743(f)~~ | PL 15-92 2 | 10/2/07 |
| | **4743(f)** | **2** | |
| | **4851** | **PL 17-18 2** | 9/30/10 |
| | **4894(a)** | **PL 17-17 2** | 9/30/10 |
| | **4894(b)** | **3** | |
| | 5601 | *commission cmt correction* | |
| | 5631 | PL 17-13 2 | 8/24/10 |
| | **5634(b)** | **3** | |
| | **5641** | **PL 15-124 2(5641)** | 1/3/08 |
| | **5642** | **2(5642)** | |
| | **5643** | **3** | |
| | **5644** | **4** | |
| | **5801** | **PL 17-23 3** | 10/19/10 |
| | **5802** | **4** | |
| | **5803** | **5** | |
| | **5804** | **6** | |
| | **5805** | **7** | |
| | 6103 | *commission cmt correction* | |
| | 6701 | *commission cmt correction* | |

# DIVISION 1: MARITIME AND COASTAL RESOURCES

## CHAPTER 1. MARINE SOVEREIGNTY ACT OF 1980.

### Article 1. General.

**§ 1114. Declarations.**

(a)-(b) [unchanged]

(c) The legislature declares, on behalf of the people of the Northern Mariana Islands, that the Commonwealth will exercise in the contiguous zone the control necessary to:

(1) Prevent infringement of Commonwealth customs, fiscal, ~~immigration,~~ or sanitary

regulations within the territorial sea or the territory of the Commonwealth; and

(2) [unchanged]

**Source:** . . . (c)(1) amended by PL 17-1 § 4 (March 22, 2010).

**Commission Comment:** *PL 17-1 contained the following section regarding the effective date of the law:

Section 12. Effective date. This Act shall take effect upon its approval by the Governor or becoming law without such approval and shall be retroactive to November 28, 2009 except as otherwise specifically provided herein.

## CHAPTER 3. NUCLEAR AND CHEMICAL FREE ZONE ACT.

### Article 1. General.

. . .

§ 1326. Limited Exemption for Specific Types of U.S. Department of Energy Approved Small Modular Nuclear Power Reactors (SMR's) When Used Solely for the Purpose of Electric Power Generation. [new section]

**§ 1311. Statement of Purpose and Policy.**

(a)-(d) [unchanged]

(e) This chapter is also intended to permanently ban from the Commonwealth radioactive materials used in weapons, ships, submarines, and other machines, except medical equipment, or for limited use in certain reactors or power plants as provided by 2 CMC § 1326 unless the possession or use of the radioactive materials is related to United States foreign affairs and defense responsibilities affecting the Northern Mariana Islands, as provided in Covenant § 104 and in 2 CMC § 1324.

(f) [unchanged]

**Source:** . . . (e) amended by PL 17-10 § 3 (July 28, 2010), modified.

**Commission Comment:** The commission inserted proper code section references pursuant to 1 CMC § 3806(c). For more information regarding PL 17-10, see comment to 2 CMC § 1326.

**§ 1312. Definitions.**

As used in this chapter, unless the context otherwise requires, the term:

(a) Chemical wastes means the following chemicals and their components, except as permitted by limited exemption in 2 CMC § 1326.

(1)-(26) [unchanged]

(b)-(g) [unchanged]

(h) Nuclear reactor means a device for initiating and maintaining a controlled nuclear chain reaction in a fissionable fuel for the production of energy or additional fissionable material, or the modern Small Modular nuclear power Reactor (SMR), which utilizes passive features that minimizes the "nuclear reaction" within the sealed container. Nuclear reactors are used in nuclear energy power plants and nuclear-powered vessels.

(i)-(k) [unchanged]

**Source:** . . . (a) and (h) amended by PL 17-10 § 4 (July 28, 2010), modified.

**Commission Comment:** The commission inserted proper code section references pursuant to 1 CMC § 3806(c). For more information regarding PL 17-10, see comment to 2 CMC § 1326.

**§ 1314. Prohibited Acts**.

(a)-(c) [unchanged]

(d) It is unlawful for any person to:

(1) Transport radioactive materials or nuclear weapons within or through the Commonwealth and its nuclear and chemical free zone except as permitted by limited exemption in 2 CMC § 1326.

(2) Possess, store, test, use, or deploy radioactive materials or nuclear weapons within the Commonwealth and its nuclear and chemical free zone except as permitted by limited exemption in 2 CMC § 1326.

(3) Build or manufacture nuclear reactors or nuclear weapons or components thereof within the Commonwealth and its nuclear and chemical free zone except as permitted by limited exemption in 2 CMC § 1326.

(e) It is unlawful for any person to build, manufacture, possess, or operate any nuclear-powered vessel, including ships, submarines, and aircraft, within the Commonwealth and its nuclear and chemical free zone except as per the limited exemption in 2 CMC § 1326.

**Source:** . . . (d) and (e) amended by PL 17-10 § 5 (July 28, 2010), modified.

**Commission Comment:** The commission inserted proper code section references pursuant to 1 CMC § 3806(c). For more information regarding PL 17-10, see comment to 2 CMC § 1326.

**§ 1326. Limited Exemption for Specific Types of U.S. Department of Energy Approved Small Modular Nuclear Power Reactors (SMR's) When Used Solely for the Purpose of Electric Power Generation.**

This chapter shall not apply to radioactive materials used in the building, operation and maintenance of SMR reactors or later versions utilizing passive, modular designs and used solely for the generation of electrical power and meeting all criteria of safety certifications by the Nuclear Regulatory Commission (NRC), the United States Department of Energy and its Nuclear Regulatory subdivisions, including Los Alamos National Laboratory (LANL) Technology Program in conjunction with Hyperion Power Generation or any other U.S. licensed company, and which pose no known public health hazards equal to or less than fossil fuel power plants; provided, however, that any radioactive waste or left-over material from such use shall not be dumped in the Commonwealth or its nuclear and chemical free zone and shall not be stored for more than a reasonable period of time within which to ship such waste or left-over material to a licensed disposal or recharging facility outside of the Commonwealth.

**Source:** PL 17-10 § 6 (July 28, 2010), modified.

**Commission Comment:** The commission changed “it's” to “its” and changed “LANL” to “Los Alamos National Laboratory (LANL)” pursuant to 1 CMC § 3806(g).

Public Law 17-10 (effective July 28, 2010) included severability and savings provisions and the following:

Section 1. Short Title. This Act may be referred to as "The Nuclear and Chemical Free Zone Amendment Act of 2010".

Section 2. Findings and Purpose. The Commonwealth Legislature finds that it is in

the best interest of the residents of the Commonwealth of the Northern Mariana Islands to amend "The Nuclear and Chemical Free Zone Act of 1983" in order to meet the public demands for more environmentally friendly and much cheaper power generation for the years to come and for the next generations of young CNMI residents. The Legislature further finds that it is necessary to allow for the deployment of new and safer nuclear power technology, which has significantly changed the safety, classification, and economic feasibility through the utilization of Small Modular nuclear power Reactors (SMRs).

This modern nuclear technology has had significant recent improvements and technological advances, which have resulted in certain types of small reactors and power plants that utilize passive minimal reactions in "nuclear batteries". These "batteries" maintain eco-friendly controls and other exceptional safety measures, along with the elimination of dependency of usually high-priced foreign fossil fuel, excessive costs of spare parts and continuous breakdowns, and expensive temporary and semi-permanent repairs. These specific small nuclear reactors and power plants meet or exceed all safety requirements of any power plant, including diesel and coal. Furthermore, they could be paid for with available U.S. grants and approximately the same CUC's costs of a year's worth of fossil fuels, parts and maintenance costs, and the "nuclear battery" would last another nine years without any more "excessive fuel or parts' costs." This translates to long lasting, dependable, and inexpensive power bills, which should encourage a major social and business boost for the Commonwealth.

These specific SMR reactors and power plants are "economical" to install and operate, compared to the outrageous costs of fossil fuel plants, and would result in a significant economic benefit to the CNMI without any compromise in the safety, health, and well-being of its citizens. Additionally, U.S. certified pre-fabricated and modular designs of these reactors result in drastically reduced onsite construction, which reduces the possibility of construction mishaps or exposure to toxins of any type.

Furthermore, these reactors are more environmentally friendly than other power generation techniques, and there are no radioactive emissions from these buried modular reactors, including greenhouse (global warming) gasses. These specific reactors are designed to eliminate the nuclear waste and by-products of the larger fission-type reactors. The SMR spends its fuel internally and "empties" the battery, and then the battery capsule is returned to the factory for another 10-year recharge. The cost of the re-charge may be covered by further U.S. grants and a long range, minimally built-in "recharge fee".

In retrospect, United States nuclear power generation has had a successful power application history for over fifty years, and the technology has been remarkably safe in that there have been no fatalities within the United States attributable to any commercial nuclear power reactor accident.

This remarkable nuclear safety record should be compared to the severe problems of fossil fuel power generation that endangers a safe living environment, causes civil unrest, economic turmoil, and foreign dependency, which has resulted in major socio-economic problems and life-shattering unemployment, resulting in social unrest and major criminal activities of theft, assaults, and even deaths.

Therefore, it is the purpose of this Act to amend the "The Nuclear and Chemical Free Zone Act of 1983," to allow for the modern deployment of economically feasible power generation technology, which has been designed and developed by the U.S. Department of Energy's famed Los Alamos National Laboratory (LANL) in New Mexico. Through the commercialization program at LANL's Technology Transfer Division, Hyperion Power Generation was awarded the exclusive license to utilize the intellectual property and develop a product (SMR) that will benefit the U.S./CNMI economy and global society as a whole.

Finally, President Barack Obama has just announced a 54 billion dollar endorsement for nuclear power generation in the U.S, and the Commonwealth needs to act now to allow this type of safe and modern nuclear power generation, and not be left behind.

## CHAPTER 6. COASTAL AREAS.

**Article 5. Tinian Marine Reserve Area.** **[New article]**

§ 1651. Marine Reserve Area.
§ 1652. Assessment After 3 Years.
§ 1653. Activities Restricted.
§ 1654. Enforcement and Remedies.

### § 1651. Marine Reserve Area.

This article shall create a marine reserve area, to be located from the Southwest Carolinas Point to the Tinian Recreational Boat harbor, specifically encompassing all the areas from Tachogna Beach, Taga Beach, YCC Beach, Kammer Beach, and Tinian Harbor, from the high-tide mark on shore to one-half mile out to the reef. The Department of Lands and Natural Resources, in consultation with the Tinian Resident Director of the Department of Lands and Natural Resources, shall delineate the boundaries of said areas by installing buoys to ensure that the boundaries are visible to the general public.

**Source:** PL 15-90, § 2; PL 17-14 § 2 (September 24, 2010), modified.

**Commission Comment:** The commission changed all occurrences of "this Act" to "this article" pursuant to 1 CMC § 3806(d). PL 15-90, enacted on October 2, 2007, contained severability and savings clause provisions and the following:

> Section 1. Findings and Purposes. The Commonwealth Legislature finds that there is a need to preserve the marine environment for its natural and pristine beauty, and to regulate the fishing and harvesting of other marine life in the area located from the Southwest Carolinas Point to Puntan Diablo Point to Tachogna Beach. The Commonwealth Legislature further finds that the protection of marine life in this area will be best accomplished by establishing a marine reserve area wherein fishing and other potentially harmful activities to the marine life shall be restricted. The purpose of this act is to restrict activities in said area and to provide for penalties.

PL 17-14 (effective September 24, 2010) included the following:

> Section 1. Findings and Purpose. The Legislature finds that Public Law 15-90 created a marine reserve area on the island of Tinian from Southwest Carolinas Point to Puntan Diablo. However, the Legislature finds that during these difficult economic times the restrictions on fishing within the marine reserve has caused hardship on those Tinian residents that rely on subsistence fishing. Further, when considering the possibility that the U.S. military may in the future prohibit entry into other traditional fishing areas on Tinian, residents must be allowed increased access to fishing grounds for subsistence purposes.
>
> Therefore, it is the purpose of this Act to amend Section 2 of Public Law 15-90 by decreasing the restricted area for fishing within the marine reserve.

### § 1652. Assessment After 3 Years.

The Division of Fish and Wildlife shall, three years from the effective date of this provision, conduct a marine biologist-certified assessment of the marine life of this area to determine whether the fish population and marine habitat has reached a level adequate for sustainable fishing and harvesting. In the event that the assessment results show that the area has reached a level adequate for sustainable fishing and harvesting, the Secretary of the Department of Lands and Natural Resources, in consultation with the Director of the Division of Fish and Wildlife and the Resident Director of Department of Lands and Natural Resources in the Second Senatorial District, may allow certain

activities and impose conditions on such activities, including the period during which such activities may be permitted.

**Source:** PL 15-90, § 3.

**§ 1653. Activities Restricted.**

For a period of five years from the effective date of this article, the removal, disturbance, damage, or destruction of any marine life or habitat, including any fish, coral, lobster, shellfish, clams, octopus or any shellfish, shall be prohibited within the Marine Reserve Area, except that seasonal fish, such as atulai, i'i', and ti'ao may be removed only during their respective seasons. Any other activities which are exploitative or destructive to the marine life or to any historical value of this area are strictly prohibited, except that aquaculture and marine studies conducted in the area shall not be considered a violation of this article.

**Source:** PL 15-90, § 4, modified.

**Commission Comment:** The commission changed all occurrences of "this Act" to "this article" pursuant to 1 CMC § 3806(d).

**§ 1654. Enforcement and Remedies.**

Enforcement of this article shall be subject to Title 2, Division 5, Chapter 1 (2 CMC § 5101 et. seq.) and shall be the responsibility of the Secretary of the Department of Lands and Natural Resources, in consultation with the Director of the Division of Fish and Wildlife and the Resident Director of Department of Lands and Natural Resources in the Second Senatorial District. The Secretary of the Department of Lands and Natural Resources, in accordance with existing law, shall promulgate such regulations necessary to carry out the purposes of this article.

**Source:** PL 15-90, § 5, modified.

**Commission Comment:** The commission changed all occurrences of "this Act" to "this article" pursuant to 1 CMC § 3806(d).

## CHAPTER 7. BOAT LAUNCHING. [New chapter]

### Article 1. Saipan Boat Launching. [New article]

**§ 1701. Lau Lau Bay Boat Launching Site.**

(a) *Designation of Lau Lau Bay Boat Launching Site*. The shore fronting *Bantalan Aliman* at Lau Lau Bay is hereby designated as a boat launching site.

(b) *Authorization.* The Secretary of the Department of Lands and Natural Resources, in consultation with the Department of Public Safety Boating Safety Section, Coastal Resources Management, and the Division of Environmental Quality, is authorized to establish this site and to temporarily delineate the boat launching corridor to provide for the immediate use of the boat launching site by fishermen and boating safety officials until a permanent structure is established. The Secretary is further authorized to promulgate rules and regulations consistent with the intent of this section.

**Source:** PL 16-49 §§ 2-3 (January 6, 2010), modified.

**Commission Comment:** The commission changed "this Act" to "this section" in subsection (b) pursuant to 1 CMC § 3806(d). Public Law 16-49, which was enacted into law by override on January 6, 2010, contained severability and savings clause provisions and the following:

Section 1. Findings and Purpose. The Legislature finds that Lau Lau Bay is a popular recreational site for many locals. It is also a significant historical fishing site which continues to be used by locals today. Historically, flying proas and larger fishing canoes were launched off of Lau Lau Bay, and later the Germans and the Japanese also used this site as a port. The Legislature also finds that many local fishermen fish as a means to provide for their families and that during these harsh economic times, that fishing for many families has become a necessity.

The Legislature also finds that Lau Lau Bay is located adjacent to Forbidden Island, Tank Beach, and Marine Beach which are other very popular local and tourist sites. The Legislature further finds that although this area is visited heavily by tourists and locals that there are no readily accessible boat launching sites in the vicinity. Recent tragic events demand that the government take steps to remedy this problem.

On March 23, 2007, four students drowned when a big wave struck the group on the southern side of Forbidden Island. The Boating Safety Section of the Department of Public Safety launched a rescue operation, while a U.S. Navy chopper assisted by conducting an aerial search of the area. The Legislature further finds that there have been many reported drownings in this area even prior to this recent tragedy and that it is time to take action. The Legislature finds that rescue boats launching from the Smiling Cove Marina are confronted with many challenging variables in trying to conduct a search and rescue operation on the east side of the island. Rescue times can vary depending upon weather and water conditions, and can have an impact on the success of the rescue operation.

The Legislature finally finds that it would be in the best interest of the public to provide a boat launching site at Lau Lau Bay. Every minute in a rescue operation is precious, and can make a difference in "rescuing" rather "recovering" a drowning victim. Therefore, the purpose of this Act is to establish a boat launching site at Lau Lau Bay to assist our local subsistence fishers, to improve emergency response times, and ultimately to save lives.

# DIVISION 2: PORTS

## CHAPTER 1. COMMONWEALTH PORTS AUTHORITY.

### Article 2. The Ports Authority.

#### § 2121. Commonwealth Ports Authority.

. . .

**Commission Comment:** . . . Executive Order 08-05 ("Re-organization Plan No. 02 of 2008") signed on May 13, 2008, allocated the Commonwealth Ports Authority to the Office of the Governor for a period of 120 days upon the effective date of the organization plan. 30 Com. Reg. 28762 (Sept. 25, 2008). Section 206 of Executive Order 08-05 notes that the Reorganization Plan "shall become effective sixty days after submission to the Legislature, unless specifically modified or disapproved by a majority of members of each house of the Legislature . . ." 30 Com. Reg. 28764 (Sept. 25, 2008).

### § 2122. Commonwealth Ports Authority: Powers and Duties.

**Case Annotations:** *Pacific Security Alarm, Inc. v. CPA,* 2006 MP 17, 7 N.M.I. 334 (2006).

### § 2132. Contract and Bidding Requirements; Exceptions.

**Case Annotations:** *Pacific Security Alarm, Inc. v. CPA,* 2006 MP 17, 7 N.M.I. 334 (2006).

# DIVISION 4: LAND RESOURCES

## CHAPTER 1. PUBLIC LAND.

## Article 4. Public Purpose Land Exchange Authorization.

### § 4141. Short Title.

**Case Annotations:** *Benavente v. Marianas Pub. Land Corp.,* 2000 MP 13, 6 N.M.I. 136 (2000).

### § 4143. Definitions.

**Case Annotations**: *Benavente v. Marianas Pub. Land Corp.,* 2000 MP 13, 6 N.M.I. 136 (2000).

### § 4144. Land Exchanges: When Authorized.

**Case Annotations:** *Apatang v. Marianas Pub. Land Corp.*, 1 N.M.I. 140--159; *Borja v. Rangamar*, 1 N.M.I. 347--354.

**PUBLIC LAND**

**Conveyances**

**– Exchanges**

A land exchange must be made on a value for value basis. 2 CMC § 4144(b)(2). *Benavente v. Marianas Pub. Land Corp*., 2000 MP 13 ¶ 26, 6 N.M.I. 136, 143 (2000).

## CHAPTER 2. LAND COMMISSION.

## Article 1. General Provisions.

### § 4211. Short Title.

**Case Annotations:** *Aguon v. Marianas Pub. Land Corp.,* 2001 MP 4, 6 N.M.I. 233 (2001)*; Estate of Muna v. Commonwealth,* 2000 MP 2, 6 N.M.I. 71 (2000).

## Article 2. Senior Land Commissioner.

### § 4222. Senior Land Commissioner: Duties and Responsibilities.

**Case Annotations:** *Estate of Muna v. Commonwealth,* 2000 MP 2, 6 N.M.I. 71 (2000).

### § 4224. Senior Land Commissioner: Appointment of Land Registration Teams; Conflicts of Interest.

**Case Annotations:** *Estate of Muna v. Commonwealth,* 2000 MP 2, 6 N.M.I. 71 (2000).

## Article 4. Procedural Provisions.

### § 4241. Land Registration Teams: Duties Generally.

**Case Annotations:** *Estate of Muna v. Commonwealth,* 2000 MP 2, 6 N.M.I. 71 (2000); *Estate of Taisacan v. Hattori*, 4 N.M.I. 26--31.

**CONSTITUTIONAL LAW**

**Due Process**

**– Determination of Ownership**

NMI Land Commission's failure to follow statutory procedure for determining disputed claims to land, 2 CMC § 4241 *et seq.*, was harmless error in case concerning alleged interest of beneficiary of Trust Territory land title determination who later submitted affidavit to Commission clearly disclaiming ownership interest in land at issue. Commission was not required to give beneficiary notice and opportunity to challenge the authenticity of his own affidavit; Commission's failure did not violate beneficiary's right to due process. *Pangelinan v. Tudela*, 3 N.M.I. 233 (1992).

### § 4243. Review of Record of Adjudication by Senior Land Commissioner.

**Case Annotations:** *Estate of Muna v. Commonwealth,* 2000 MP 2, 6 N.M.I. 71 (2000).

### § 4249. Review of Determination of Ownership.

**Case Annotations:** . . .

**ADMINISTRATIVE LAW**

**Judicial Review**

**– Statutes of Limitation; Particular Agencies**

Any person with actual or constructive notice of a Land Commission property determination and an interest in the property has 120 days thereafter to seek judicial review of the determination. 2 CMC § 4249. *Estate of Muna v. Commonwealth*, 2000 MP 2 § 9, 6 N.M.I. 71, 73 (2000).

**DEEDS AND CONVEYANCES**

**Determination of Ownership**

– **Judicial Review**

. . .

# CHAPTER 3. HOMESTEADS.

## Article 2. Homestead Waiver Act: Agricultural.

### § 4321. Short Title.

**Case Annotations:** *Sablan v. Cabrera*, 4 N.M.I. 133-136.

**HOMESTEADS**

**Homestead Requirements Waiver**

The waiver of homestead requirements, provided by the Homestead Waiver Act, 2 CMC § 4321, *et seq.*, do not extend to those persons who have received quitclaim deeds to their homestead lots from the TT government. 2 CMC § 4321, *et seq. Aguon v. Marianas Pub. Land Corp.*, 2001 MP 4 ¶ 33, 6 N.M.I. 233, 241 (2001).

The Legislature never intended to permit persons, having acquired ownership of agricultural homesteads from the Trust Territory government, to obtain more public land under 2 CMC § 4321, *et seq.*, the Homestead Waiver Act. 2 CMC § 4321, *et seq. Aguon v. Marianas Pub. Land Corp.*, 2001 MP 4 ¶ 34, 6 N.M.I. 233, 241 (2001).

The Homestead Waiver Act, 2 CMC § 4321, *et seq.*, does not vest any right in a person, who has obtained a quitclaim deed to an agricultural homestead lot, to claim land beyond the boundaries described in the deed. To conclude otherwise would not only create uncertainty over homestead boundaries but also throw into chaos the management of public lands. 2 CMC § 4321, *et seq. Aguon v. Marianas Pub. Land Corp.*, 2001 MP 4 ¶ 35, 6 N.M.I. 233, 242 (2001).

The Homestead Waiver Act, 2 CMC § 4321, *et seq.*, benefits only those persons who were unable to obtain an ownership interest in a particular parcel of public land because of the Trust Territory homestead restrictions. 2 CMC § 4321, *et seq. Aguon v. Marianas Pub. Land Corp.*, 2001 MP 4 ¶ 36, 6 N.M.I. 233, 242 (2001).

### § 4322. Findings and Purpose.

**Case Annotations:** *Sablan v. Cabrera*, 4 N.M.I. 133-136.

**HOMESTEADS**

**Homesteads Requirements Waiver**

Section 4322 of Title 2 of the Commonwealth Code delimits the class of intended beneficiaries of the Homestead Waiver Act, 2 CMC § 4321, *et seq.*, to only those persons who were unable to obtain from the Trust Territory government ownership of public land they had been occupying for at least 15 years. 2 CMC § 4322; 2 CMC § 4321, *et seq. Aguon v. Marianas Pub. Land Corp.*, 2001 MP 4 ¶ 32, 6 N.M.I. 233, 241 (2001).

### § 4323. Waiver of Homestead Requirements.

**Case Annotations:** *Aguon v. Marianas Pub. Land Corp.*, 2001 MP 4, 6 N.M.I. 233 (2001); *Sablan v. Cabrera*, 4 N.M.I. 133-136.

**§ 4324. Conveyance of Public Lands: Limitations and Requirements.**

(a)-(b) [unchanged]

(c) No time limitation shall be imposed by the Department of Public Lands for submission of requests or applications for deeds and permits pursuant to this article.

**Source:** . . . (c) amended by PL 16-50 § 5 (January 15, 2010).

**Commission Comment:** . . . See comment to 2 CMC § 4401 for more information regarding PL 16-50.

**Case Annotations:** *Aguon v. Marianas Pub. Land Corp.*, 2001 MP 4, 6 N.M.I. 233 (2001).

## Article 3. Village Homesteads.

. . .

§ 4339. Amendment of Department of Public Lands Regulation (§145-20.4-115); Environmental Impact Assessment Prior to Lottery of Homestead Lots. [new section]

**§ 4335. Waiver of Homestead Requirements.**

(a)-(c) [unchanged]

(d) The Department of Public Lands shall waive any requirement or policy requiring village homesteader(s) to re-build a second residential dwelling house upon showing by any homesteader(s) that his/her completed residential dwelling structure was destroyed or severely damaged by typhoon, tsunami or other natural or man-made disasters.

**Source:** . . . (d) added by PL 17-4 § 3 (June 17, 2010).

**Commission Comment:** . . . Public Law 17-4 (effective June 17, 2010) included severability and savings clause provisions and the following:

Section 1. Short Title. This Act shall be known as the "Natural Disaster Village Homestead Waiver Act of 2010".

Section 2. Findings and Purpose. The Legislature finds that there are instances where a homesteader(s) who, after completing a residential dwelling house on his/her homestead lot, albeit constructed of tin and lumber or concrete, have had their residential dwelling house destroyed or severely damaged by typhoon. The Legislature further finds that there has been many cases where the Department of Public Lands and the former Marianas Public Lands Authority have waived homesteader(s) from re-building a second residential dwelling house and were issued quitclaim deeds. The Legislature has determined that it is unfair for the Department of Public Lands to revoke a village homestead permit because a homesteader(s) failed to re-build a second residential dwelling house in order to comply with the NMI village homestead rules and regulations, due to the destruction of the homesteader(s) dwelling house by typhoon, tsunami, or other natural or man-made disasters.

The purpose of this Act is to require the Department of Public Lands to waive the requirement or policy of re-building a second residential dwelling when it has been determined or proven that the homesteader(s) initially built a residential dwelling house

that was destroyed or severely damaged by typhoon, tsunami, or other natural or man-made disaster.

**§ 4339. Amendment of Department of Public Lands Regulation (§145-20.4-115); Environmental Impact Assessment Prior to Lottery of Homestead Lots.**

§145-20.4-115 is hereby amended to read as follows:

§145-20.4-115(a) A lottery participant shall be issued a homestead permit to the homestead lot drawn, provided that an environmental impact assessment had been conducted and completed prior to the lottery.

**Source:** PL 17-26 § 2 (December 16, 2010).

**Commission Comment:** The commission created the title of this section. Public Law 17-26 (effective December 16, 2010) included the following:

Section 1. Findings and Purpose. The Legislature finds that the intent of the Village Homesteading Act of 1979 was to insure the residents of the Commonwealth who are without village lots to construct safe, decent, and sanitary dwelling houses for themselves and their families. The law enabled our residents that do not have the means to acquire lots or who are without lots, the ability to obtain public lands from the Department of Public Lands designated for residential homesteads.

The Legislature further finds that qualified homesteaders participated in a lottery, the drawing of a village homestead lot, conducted by the Department of Public Lands (DPL) but were never issued a homestead permit to the homestead lot drawn because DPL proceeded with the lottery without conducting and completing an environmental impact assessment on the homestead lots. After the initial lottery of homestead lots, qualified homesteaders were shown the actual boundaries of the lot without the issuance of a homestead permit to the homestead lot drawn. It has been over a year since the lottery of homestead lots and these homesteaders have yet to enter, use and improve their homestead lots because the environmental impact assessment has not been completed. The Legislature finds this fact to be extremely disturbing. Homesteaders have been given high hopes of receiving their homestead lot by having them participate in a lottery process only to diminish their dreams of owning and building a safe, decent and sanitary dwelling for themselves and their families. The important and overall intent of the Village Homesteading Act of 1979 has been tarnished by this preventable act; therefore the Legislature finds this bill necessary to prevent such an act from occurring again.

The purpose of this Act therefore is to require the Department of Public Lands to conduct and complete an environmental impact assessment prior to having qualified homesteaders participate in the lottery of available homestead lots.

## Article 6. Tinian Agricultural and Village Homesteads.

. . .

§ 4377. Inventory of Public Land on Tinian. [new section]
§ 4378. Commitment of Vacant Public Land. [new section]

**§ 4377. Inventory of Public Land on Tinian.**

The Department of Public Lands shall identify and inventory all public lands in the Second Senatorial District that are vacant, undeveloped and unfettered. This shall not include lands designated as public right-of-ways, accesses, roadways and/or easements. The Department of Public Lands shall complete this inventory no later than December 31, 2011.

**Source:** PL 17-12 § 3 (August 17, 2010) .

**Commission Comment:** Public Law 17-12 (effective August 17, 2010) included the following:

Section 1. Title. This Act shall be entitled "The Tinian Homestead Act of 2010".

Section 2. Findings and Purposes. The Legislature finds that public land in the Commonwealth of the Northern Mariana Islands is a finite resource. The Legislature further finds that public land on the island of Tinian is particularly limited as the United States Department of Defense leases approximately two thirds of the vacant public land on the island. The Legislature finds that the lease of such a large portion of the island's public land has severely hindered the homestead program on Tinian.

Further, the Legislature finds that public lands belong collectively to the people of the Commonwealth who are of Northern Marianas descent and the Department of Public Lands is tasked with overseeing these lands in the best interest of our people. The Legislature further finds that the Department of Public Lands is constitutionally mandated to make available some portion of public lands on Tinian for a homestead program. Furthermore, the Legislature finds that allocating a portion of public lands on Tinian for current and future homestead development is in the best interest of those Tinian residents who are of Northern Marianas descent. Finally, the Legislature finds that sometime in the future, there will be no lands available for allocating to the people of Tinian.

Therefore, is it the purpose of this Act to designate at least fifty percent of available public land in Tinian for homesteading purposes. In addition, the Department of Public Lands shall set forth a moratorium for accepting any application for homestead program when there are no more available public lands.

**§ 4378. Commitment of Vacant Public Land.**

Pursuant to authority granted in Article XI, section 5, paragraph (a) of the CNMI Constitution, the Secretary of the Department of Public Lands shall commit and assign at least fifty percent of the lands identified in 2 CMC § 4377 for current and future homestead development.

**Source:** PL 17-12 § 4 (August 17, 2010), modified.

**Commission Comment:** The commission inserted proper code section references pursuant to 1 CMC § 3806(c).

**Article 9. The Northern Islands Homestead Act.** **[New article]**

§ 43101. Short Title.
§ 43102. Designation of Agricultural Homestead Area.
§ 43103. Establishment of Area; Requirements for Use of Property.
§ 43104. Establishment of the Northern Islands Homesteading Program.
§ 43105. Eligibility to Homestead.
§ 43106. Authorization to Mortgage.
§ 43107. Deeds of Conveyance.
§ 43108. Rules and Regulations.

**§ 43101. Short Title.**

This article may be cited as the "Northern Islands Homestead Act of 2008."

**Source:** PL 16-50 § 4(101) (January 15, 2010), modified.

**Commission Comment:** The commission changed all occurrences of "this Act" to "this article" pursuant to 1 CMC § 3806(d). Public Law 16-50 (enacted on January 15, 2010) contained findings, severability and savings clause provisions and the following:

Section 3. Purpose: It is the purpose of this Act: (a) To establish the Northern Islands Village and Agricultural Homesteading Program for the residents of the islands north of Saipan who are currently residing or haveresided on those islands without any

approved village or agricultural homestead lots, and to any qualified person interested to reside in the islands north of Saipan.
(b) To enable the residents of the islands north of Saipan who are holder of ahomestead permit to avail of housing loan pursuant to 2 CMC § 4336 and 2 CMC § 4337;allowing them to borrow money and build a safe, decent, and sanitary home for their families.
(c) To initiate and promote economic development in the islands north of Saipan through long-term commercial land leases to sustain a more permanent settlements and to make the islands north of Saipan socially and economically active and eventually contributes to the CNMI economy.
(d) To provide the Department of Public Lands with sufficient authority andflexibility to implement and administer this Act.
(e) To allow the Department of Public Lands to review claims that may be qualified under 2 CMC § 4323 on their merits by removing the time limitation provision established under 2 CMC § 4324(c).

**§ 43102. Designation of Agricultural Homestead Area.**

Such areas of public lands in the Northern Islands as may be suitable for village, and agricultural homesteading purposes, and which are not required for government use or reserved for other purposes by any other provision of law, shall be designated by the Department of Public Lands on behalf of the Commonwealth Government for village, and agricultural homesteading purposes. Such areas may, in accordance with the provisions of this article, be allotted to qualified persons for the purpose of establishing and developing village lots or agricultural lots with the right to acquire title upon the fulfillment of the conditions prescribed in this article.

**Source:** PL 16-50 § 4(102) (January 15, 2010), modified.

**Commission Comment:** The commission changed all occurrences of "this Act" to "this article" pursuant to 1 CMC § 3806(d).

**§ 43103. Establishment of Area; Requirements for Use of Property.**

(a) Subject to Article XI, § 5 of the Commonwealth Constitution, the Department of Public Lands shall determine and establish:

(1) The maximum size of land allowable for homesteading of village or agricultural lot to persons qualified pursuant to this article.

(2) Standards and requirements for the use, occupation and development of village or agricultural homestead lots.

(b) The Department of Public Lands shall file a copy of each of its determinations under this section with the Commonwealth Recorder's Office.

**Source:** PL 16-50 § 4(103) (January 15, 2010), modified.

**Commission Comment:** The commission changed "this Act" to "this article" pursuant to 1 CMC § 3806(d).

**§ 43104. Establishment of the Northern Islands Homesteading Program.**

Village and agricultural homesteading programs are hereby established within the Department of Public Lands; the implementation of the program shall be as provided by rules and regulations which shall include but not limited to:

(a) Establishment of eligibility criteria for designated village and agricultural homesteading lots which provide:

(1) An applicant must be a person of Northern Marianas Descent as defined in Article XII, Section 4, of the Constitution of the Northern Mariana Islands;

(2) An applicant is not eligible for more than one village or agricultural homestead lot;

(3) An applicant must be eighteen years old or older who is either single, married, widowed, divorced, or unmarried with or without dependents; and,

(4) An applicant or his or her spouse must not own or have an interest in any village or agricultural homestead lot or have been a recipient of a village or agricultural homestead lot in the Commonwealth;

(5) An applicant must be presently residing in the Northern Islands for at least one year and is registered to vote in Northern Islands elections at least three years immediately prior to applying.

(b) Establishment of Northern Islands Village and Agricultural Homestead Subdivisions, consistent with modern village and agricultural and other rural planning standards and which take into consideration lot requirements, roadways, housing, utilities, such as power and water distribution system; provided, however, that lot distributions and assignments may commence on or before the availability of infrastructures if the following conditions have been met:

(1) Completion of the environmental impact assessment and related studies and receipt of appropriate permits to start the homesteading program from the government permitting and regulatory agencies;

(2) Completion of village or agricultural homestead design, surveying, identification and marking of physical boundaries, and identification of lot legal descriptions;

(3) Completion of land clearing and grading to enable access to the homestead lots and to identify and designate primary and secondary road systems; and,

(c) Establishment of reasonable filing fees and other related charges;

(d) Establishment of inspection and compliance procedures for each designated village or agricultural homestead lot; provided, however, that the homesteader shall be granted a certificate of compliance three years after the issuance of a homestead permit and upon fulfillment of the requirements as established by the Department of Public Lands.

**Source:** PL 16-50 § 4(104) (January 15, 2010), modified.

**Commission Comment:** The commission removed figures that repeated words; changed program to its plural form in the first sentence of this section; changed “be of person” to “be a person” in subsection (a)(1); changed a comma to a semi-colon at the end of subsection (a)(4) and changed “lots” to its singular form in subsection (d) pursuant to 1 CMC § 3806(e) and (g).

### § 43105. Eligibility to Homestead.

In addition to those requirements set forth in section 4389,* eligibility to enter upon or acquire rights to public land under this article shall also be determined in accordance with 2 CMC § 4303.

**Source:** PL 16-50 § 4(105) (January 15, 2010).

**Commission Comment:** *This section number does not exist in Title 2. Therefore, the commission did not change “section 4389" because the proper code section number could not be determined. The commission changed “this Act” to “this article” pursuant to 1 CMC § 3806(d).

### § 43106. Authorization to Mortgage.

The Department of Public Lands is hereby authorized to mortgage village or agricultural homestead lots on behalf of the homesteaders who are eligible to receive housing loans under Article VII, Section 702(c) of the Covenant, or eligible to receive loans under the Rural Development Program or from private or public lending institutions.

**Source:** PL 16-50 § 4(106) (January 15, 2010).

**§ 43107. Deeds of Conveyance.**

Deeds of conveyance shall be issued by the Department of Public Lands for homestead land entered under the provisions of this article; provided, that no such deed shall be issued until the expiration of three years from the date of entry and the execution of a certification by the Department of Public Lands certifying that the homesteader has complied with all deed of conveyance within two years of the time the homesteader becomes eligible to receive the deed of conveyance under the provisions of this article. Such deed of conveyance shall convey to the homesteader any and all rights of the Commonwealth government to the property, excepting such rights as are reserved by law or by permit.

**Source:** PL 16-50 § 4(107) (January 15, 2010).

**§ 43108. Rules and Regulations.**

The Department of Public Lands shall adopt rules and regulations implementing the provisions of this article.

**Source:** PL 16-50 § 4(108) (January 15, 2010), modified.

**Commission Comment:** The commission changed "this Act" to "this article" pursuant to 1 CMC § 3806(d).

## CHAPTER 5. REAL ESTATE MORTGAGE LAW.

### Article 1. General Provisions.

**§ 4511. Purpose of Chapter.**

**Case Annotations:** *Comm. Dev. Auth. v. Tenorio,* 2004 MP 22, 7 N.M.I. 97 (2004).

**§ 4514. Right to Possession.**

**Case Annotations:** *Villanueva v. City Trust,* 2002 MP 1, 6 N.M.I. 346 (2002).

### Article 2. Requisites of Mortgages; Notice; Assignments.

**§ 4524. Service of Notice; Designated Personal Representative.**

**Case Annotations:** *Comm. Dev. Auth. v. Tenorio,* 2004 MP 22, 7 N.M.I. 97 (2004).

**§ 4531. No Private Power of Sale Conferred by Mortgage.**

**Case Annotations:** *Villanueva v. City Trust,* 2002 MP 1, 6 N.M.I. 346 (2002).

## Article 3. Remedies of Mortgagee.

### § 4533. Mortgagee's Remedies in the Event of Default.

**Case Annotations:** *Villanueva v. City Trust,* 2002 MP 1, 6 N.M.I. 346 (2002).

### § 4534. Notice of Default.

**Case Annotations:** *Comm. Dev. Auth. v. Tenorio,* 2004 MP 22, 7 N.M.I. 97 (2004).

### § 4537. Actions for Foreclosure of Mortgages.

**Case Annotations:** *NMHC v. Flores,* 2006 MP 23 (2006); *Comm. Dev. Auth. v. Tenorio,* 2004 MP 22, 7 N.M.I. 97 (2004).

**STATUTES**

**Interpretation and Construction**

– **Plain Meaning**
The plain language of 2 CMC § 4537(d) clearly envisions attorney fees and costs to be included in the judgment. *Northern Marianas Housing Corp. v. Flores*, 2006 MP 23 ¶ 5, 7 N.M.I. 370, 371 (2006).

# CHAPTER 7. LAND ACQUISITION; RELOCATION.

## Article 1. Land Acquisition.

### § 4711. Application of Chapter.

**Case Annotations:** *Estate of Muna v. Commonwealth,* 2007 MP 16, 7 N.M.I. 473 (2007).

### § 4712. Procedures Generally.

**Case Annotations:** *Estate of Muna v. Commonwealth,* 2007 MP 16, 7 N.M.I. 473 (2007).

## Article 3. Land Compensation Act.

### § 4741. Short Title.

**Case Annotations:**

**EMINENT DOMAIN**

**Compensation**

– **Generally**

The Land Compensation Act of 2002, 2 CMC § 4741 *et seq*., in putting forth its procedures, does not contemplate claims that go back to pre-war times. *Estate of Muna v. Commonwealth*, 2007 MP 16 ¶ 12, 7 N.M.I. 473, 478 (2007).

**§ 4743. Land Compensation Fund.**

(a)-(e) [unchanged]

(f) ~~In implementing this Act, the Department of Public Lands shall compensate the acquisition of private lands for right of way purposes, including but not limited to public road construction, construction of ponding basins, wetland, and other claims involving private land acquisition permitted by applicable laws.~~

In implementing this section, the Department of Public Lands shall first compensate the acquisition of private lands for right of way purposes, including but not limited to public road construction by date order first certified. After those claims have been compensated, the Department of Public Lands shall then compensate those claims involving the acquisition of private land for the purpose of constructing public ponding basins. Wetland and other claims shall be entertained only after claims involving right of way and ponding basin acquisitions have been compensated.

Appendix 1 is a listing from DPL of all currently existing uncompensated land claims. All claims on this list shall be settled by date order first certified prior to any other.

**Source:** . . . (f) repealed and reenacted by 15-92, § 2, modified.

**Commission Comment:** The commission changed "this Act" to "this section" in subsection (f) pursuant to the authority granted by 1 CMC § 3806(d).

. . .

PL 15-92 became law on October 2, 2007 and contained eight pages of specific land compensation listings. PL 15-92 also contained severability and savings clause provisions and the following:

Section 1. Findings and Purpose. The Legislature finds that Public Law No. 13-17, the "Land Compensation Act of 2002," prioritized compensation in order to balance the need to compensate landowners with the need to address critical infrastructure needs, namely, issues of right of way and road construction. Compensation was prioritized as follows: (1) Right of Way purposes, including but not limited to public road construction; (2) Public Ponding Basin construction; (3) Wetland; and (4) Other claims. The Legislature further finds that Public Law No. 14-29 removed this prioritization with the intent to treat all claims equally. However, the Legislature now finds that many capital improvement road projects are at a standstill as landowners still have not been compensated for their lands. In fact, millions of dollars were used to compensate wetland and ponding basin claims first. The government neglected to address critical right of way claims thus continuing to leave many road construction projects in limbo. Therefore, the purpose of this Act is to restore the prioritization of land compensation claims so that the Commonwealth can proceed with its crucial road construction projects.

## CHAPTER 8. HISTORIC PRESERVATION.

**Articles** . . .

5. Tinian Historic Sites. [new article]
6. Commonwealth Museum Act. [renumbered article]
7. Rota Cultural Center. [renumbered article]

**Article 5. Tinian Historic Sites.** **[new article]**

**§ 4851. House of Taga Park; Designation as Commonwealth Historic Site.**

The Secretary of the Department of Public Lands shall designate the House of Taga Park on the island of Tinian as a Commonwealth Historical Site under the administration of the Historic Preservation Office. The park shall be co-managed and maintained by the Historic Preservation Office and the Division of Parks and Recreation. The Tinian Division of Parks and Recreation shall continue to maintain the park site. The Historic Preservation Office shall assume management and administration of the House of Taga Park Historical Site.

**Source:** PL 17-18 § 2 (September 30, 2010), modified.

**Commission Comment:** The commission changed capitalization for conformity pursuant to 1 CMC § 3806(f). Public Law 17-18 (effective September 30, 2010) included severability and savings provisions and the following:

Section 1. Findings and Purpose. The Legislature finds that the House of Taga Park on the island of Tinian contains invaluable historical artifacts and remnants of ancient Chamorro culture. Among other historically significant artifacts, the Tinian Taga Park contains ancient latte stones and skeletal remains of indigenous Chamorro people. The Legislature further finds that the park should be preserved and maintained in a manner that will recognize and protect these valuable ancestral resources and allow the site to be managed in such a way that adds value to its cultural significance.

Therefore, it is the purpose of this Act to designate the House of Taga park on Tinian as a Commonwealth Historical Site that shall fall under the supervision and management of the Historic Preservation Office.

**Article ~~6~~ 7. Rota Cultural Center.** [renumbered article]

. . .

§ 4894. Tatachog Beach Park Pavilion Cultural/Arts Center [new section]

**§ 4894. Tatachog Beach Park Pavilion Cultural/Arts Center**

(a) *Designation of Beach Park Pavillion*. The Tatachog Beach Park pavilion is hereby designated as a cultural/arts center under the management of the Rota Mayor's Office.

(b) *Authorization*. The Mayor of Rota is authorized to establish and initiate the development of Tatachog Beach Park Pavilion into a cultural/arts center. The Mayor of Rota is further authorized to promulgate rules and regulations consistent with the intent of this section.

**Source:** PL 17-17 §§ 2 and 3 (September 30, 2010), modified.

**Commission Comment:** The commission changed "this Act" to "this section" pursuant to 1 CMC § 3806(d). Public Law 17-17 (effective September 30, 2010) included severability and savings provisions and the following:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that with the continued decline in the Commonwealth's economy, there is a perceived need to develop additional tourist attractions such as family-style entertainment that showcase our unique arts and culture. The development of a cultural/arts center that provides our island visitors the opportunity to view and experience the creation of art as well as purchase art products is one way of attracting additional interests. The development of a cultural/arts center should also include the installation of art crafting equipment for local artists' usage to assist the production of arts and crafts and to promote the arts on Rota.

The Commonwealth Legislature further finds that within the Tatachog Park on Rota is a pavilion that is not frequently used and may be developed into a cultural/arts center. Its

location within a historic site and adjacent to the main highway, makes it suitable and easily accessible to tourists and residents for their entertainment and possible purchase of art products. It is therefore the purpose of this Act to establish the Tatachog Beach Park pavilion as a cultural/arts center under the management of the Rota Mayor's Office for the benefit of tourists and residents alike.

# CHAPTER 9. MISCELLANEOUS PROVISIONS RELATING LAND AND REAL PROPERTY.

## § 4911. Legislative Findings.

**Case Annotations:** *Reyes v. Reyes,* 2004 MP 1, 7 N.M.I. 1 (2004).

## § 4912. Interests in Real Property: Writing Required.

**Case Annotations:** *Reyes v. Reyes,* 2004 MP 1, 7 N.M.I. 1 (2004); *Eurotex (Saipan), Inc. v. Muna,* 2 N.M.I. 280- 286; *Lifoifoi v. Lifoifoi-Aldan*, 1996 MP 14, 5 N.M.I. 1.

**STATUTE OF FRAUDS**

**Deeds and Conveyances**

– **Options Contracts**
Generally, verbal notice of acceptance of an option for renewal of a written lease does not violate the statute of frauds. Theory behind rule is that written lease embodies terms and conditions of contract, and notice of acceptance serves merely to make original lease operative for renewal period. 2 CMC § 4912. *Eurotex (Saipan), Inc. v. Muna*, 4 N.M.I. 280 (1995).

Lessee's verbal notice of exercise of option to lease additional portion of premises described in original lease did not violate statute of frauds. Original lease, which contained option, was in writing and satisfied statute of frauds; further, language of option explicitly provided that lease of additional portion would be under same terms and conditions as provided for in original lease. 2 CMC § 4912. *Eurotex (Saipan), Inc. v. Muna*, 4 N.M.I. 280 (1995).

– **Particular Cases**
A transfer of an interest in land for more than one year must be put in writing under the statute of frauds, 2 CMC § 4912. When a contract is subject to the statute of frauds, gaps in essential terms cannot be filled by parole evidence. *Merci Corp. v. World Int'l Corp*., 2005 MP 10 ¶ 18, 7 N.M.I. 170, 174 (2005).

Under the Statute of Frauds, 2 CMC § 4912, an oral promise to transfer an interest in land for more than one year will not be enforceable unless placed in writing. *Merci Corp. v. World Int'l Corp.*, 2005 MP 10 ¶ 19, 7 N.M.I. 170, 174 (2005).

# CHAPTER 10. ACTIONS CONCERNING N.M.I. CONST. ART. XII.

## Article 1. Attorney's Fees.

## § 4941. Definitions.

**Case Annotations:** . . .

**STATUTES**

**Constitutional Questions**

**– Particular Cases**
Title 2 CMC § 4941 and 2 CMC § 4942 are constitutional. *Matsunaga v. Matsunaga*, 2006 MP 25 ¶ 17, 7 N.M.I. 379, 383 (2006).

### § 4942. Contingent Fees; Limitation: Penalty.

**Case Annotations:**

**STATUTES**

**Constitutional Questions**

**– Particular Cases**
Title 2 CMC § 4941 and 2 CMC § 4942 are constitutional. *Matsunaga v. Matsunaga*, 2006 MP 25 ¶ 17, 7 N.M.I. 379, 383 (2006).

The statute [2 CMC § 4942] restricting attorneys in Article XII cases to a 20% contingency fee or an amount equal to $700.00 per hour is reasonable. *Matsunaga v. Matsunaga*, 2006 MP 25 ¶ 22, 7 N.M.I. 379, 384 (2006).

Title 2 CMC § 4942 does not operate to substantially impair contractual relationships between attorneys and clients in Article XII cases. *Matsunaga v. Matsunaga*, 2006 MP 25 ¶ 24, 7 N.M.I. 379, 384 (2006).

## Article 5. Severability of Contractual Provisions Violating N.M.I. Const. art. XII.

### § 4981. Legislative Declaration and Purpose.

**Case Annotations:** *Milne v. Lee Po Tin,* 2001 MP 16, 6 N.M.I. 308 (2001).

## Article 6. Limitation on N.M.I. Const. art. XII Actions.

### § 4991. Limitation on N.M.I. Const. art. XII Actions.

**Case Annotations:** *In re Estate of Roberto,* 2004 MP 7, 7 N.M.I. 39 (2004).

**LAND ALIENATION RESTRICTION (N.M.I. Const. art. XII)**

**Acquisition of Restricted Interest**
Sales of land to a person not of Northern Marianas Descent are constitutionally void *ab initio* and must be returned upon challenge to the original granter. If the original granter is the CNMI Government, there is no statute of limitations. If the original granter is other than the CNMI Government, then the statute of limitations on Article XII claims, 2 CMC § 4991, would apply and the action would be barred if brought more than six years after the plaintiff last had possession of the property. N.M.I. Const. art. XII, 2 CMC § 4991. *In re Estate of Roberto*, 2003 MP 16 ¶ 25, 6 N.M.I. 618, 622 (2003).

# DIVISION 5: ANIMALS, PLANTS AND FOOD

## CHAPTER 6. MARINE LIFE.

### Article 1. Moratorium on Seaweed, Sea Grasses, and Sea Cucumber.

#### § 5601. Moratorium.

. . .

**Commission Comment:** . . . PL 15-41 was enacted on January 11, 2007, and contained the following findings and purpose in addition to severability and savings provisions:

Section 1. Findings and Purpose. The Legislature finds that tourism is an important economic component of the Commonwealth of the Northern Mariana Islands. In addition, the CNMI tourism industry attracts over 500,000 visitors a year throughout Asia and beyond. One of the CNMI's greatest assets, and a major consideration of those visiting our islands are our pristine beaches and ocean. However, increased development and inadequate infrastructure has resulted in the increased growth of seaweed and sea grass on our beachfronts. The increased proliferation of these seaweed and sea grass has resulted in a negative impression of our oceans by our visitors and is of great concern to the Marianas Visitors Authority as well as its travel industry partners.

### Article 3. Fair Fishing Act.

#### § 5631. Non-traditional Fishing Methods Prohibited.

It shall be unlawful for any commercial and non-commercial fishermen to use explosives, poisons, electric shocking devices, scuba tank or hookah when fishing for reef fish and harvesting other marine life within waters of the Commonwealth, provided however, that the use of throw nets (talaya), or the use of the following types of nets provided the net mesh size are no smaller than two inches, drag nets (chenchulun lagua), surround nets (chenchulun umesugon) or trap nets (chenchulun managam) shall be legal in the waters surrounding the First Senatorial District when used for non commercial purposes only. Non-commercial purpose means fish caught for personal or immediate family use. Any sales or distribution beyond ones immediate family shall be a violation of this law.

**Source:** . . . PL 17-13 § 2 (August 24, 2010).

**Commission Comment:** . . .

PL 17-13 § 2 amends Section 3 of PL 12-14, which was codified in 2 CMC § 5631. Section 3 of PL 12-14 (as codified in 2 CMC § 5631) was amended by PL 12-77 and PL 12-87. Although PL 17-13 does not mention that 2 CMC § 5631 was amended by PL 12-77 and PL 12-87, the only proper codification of PL 17-13 § 2 is to place it here in 2 CMC § 5631.

Public Law 17-13 (effective August 24, 2010) included the following:

AN ACT

To amend Section 3 of Public Law 12-14, as it applies to the surrounding waters of the municipality of Rota, to ensure that such regulations do not restrict the rights of persons to engage in non-commercial net-fishing, provided that such right be restricted to non-commercial net fishing for the purpose of obtaining fish for personal or immediate family consumption, to also ensure that the definition

of "non-traditional fishing methods" is not misinterpreted to include non-commercial net-fishing; and for other purposes.

Section 1. Findings. The local delegation of Rota finds that Article XIV, Section 1 of the Commonwealth Constitution, mandates that "the marine resources shall be managed, controlled, protected and preserved by the Legislature for the benefit of the people." The Division of Fish and Wildlife, in furtherance of Public Law 12-14, "the Fair Fishing Act of 2000," further discussed herein, recently proposed the promulgation of regulations banning the use of many forms of nets for fishing, such regulations to be imposed throughout the CNMI. The Legislature finds that such proposed regulations fail to take into account the economic and social realities of the CNMI and the need for non-commercial net-fishing as a source of food for the people of the CNMI that have traditionally relied on such fishing methods to support and sustain themselves and their families. The Legislature further notes that Public Law 12-14, "the Fair Fishing Act of 2000," which prohibits certain non-traditional fishing methods, has been misinterpreted by the Department of Lands and Natural Resources and the Division of Fish and Wildlife to extend to all "non-traditional" net-fishing methods. The Legislature notes that the Division of Fish and Wildlife has adopted a narrow interpretation of Public Law 12-14 and has determined, in effect, that "non-traditional" fishing methods include the use of all fishing nets except the throw net (talaya). The Legislature, in light of such misinterpretation of the Legislature's intent in enacting Public Law 12-14, finds that Section 3 of Public Law 12-14 must also be amended to ensure that the rights of persons to engage in non-commercial net-fishing be safeguarded, provided that such rights be restricted to non-commercial net-fishing for the purpose of obtaining fish for personal or immediate family consumption.

**§ 5634. Penalty.**

(a) Any person convicted of violating this article shall be imprisoned for not more than 30 days or fined up to $1,500, or both.

(b) All violations of this law shall be punished as follows, first violation $200 fine, second violation $400 fine, and the third violation up to $1000 fine, all subsequent violations shall be punished by up to a $1000 fine and up to 10 days in jail.

**Source:** PL 12-14, § 6; (b) added by PL 17-13 § 3 (August 24, 2010).

**Commission Comment:** The commission did not remove subsection (a) from this penalty section because PL 17-13 did not repeal it. For more information regarding PL 17-13, see comment to 2 CMC § 5631.

## Article 4. Protection of Rays and Shark Feeding Prohibition. [New article]

**§ 5641. Protection of Rays.**

(a) *Prohibited Acts*. It shall be unlawful for any person, within the CNMI or any place subject to the jurisdiction thereof, to knowingly, or with wanton disregard for the consequences of his act, feed, take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner any ray, alive or dead, or any part thereof, without being permitted to do so as provided in this section, or to violate any permit or regulation issued pursuant to this section.

*(b)* *Criminal Penalties*. A person convicted under this section shall be punishable as follows:

(1) First Offense. A person may be punished by imprisonment of not more than six months, or a fine of not more than $1,000, or both.

(2) Second or Subsequent Offense. A person convicted of a second or subsequent offense may be punished by imprisonment of not more than one year, or a fine of not more than $3,000, or both.

(3) The commission of each taking or other act prohibited by this section with respect to a ray shall constitute a separate violation of this section.

(c) *Civil Penalties*. It shall be unlawful for any person, within the Commonwealth or any place subject to the jurisdiction thereof, to take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any ray, alive or dead, or any part thereof, without being permitted to do so as provided in this section, or violates any permit or regulation issued pursuant to this section, may be assessed a civil penalty by the Director of not more than $5,000 for each such violation. Each violation shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Upon any failure to pay the penalty assessed under this subsection, the Director shall request the Attorney General to institute a civil action in a court of the Commonwealth to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In hearing any such action, the court must sustain the Director's action if supported by substantial evidence.

(d) *Application*. Nothing herein shall be construed to apply to any employee of the governments of the United States or the Commonwealth acting within the scope of their employment.

(e) *Taking and Using for Scientific or Exhibition Purposes*.

(1) Whenever, after investigation, the Director of the Division of Fish and Wildlife shall determine that it is compatible with the preservation of rays to permit the taking, possession, and transportation of specimens thereof for scientific investigations or the educational purposes of museums, aquaria, scientific societies, or zoological parks, or that it is necessary to permit the taking of such fishes for the protection of aquacultural or other interests in any particular locality, he may authorize the taking of such fishes pursuant to regulations which he is hereby authorized to prescribe: Provided, that said fishes may not be taken for any purpose unless, prior to such taking, a permit to do so is procured from the Director.

(2) The regulations promulgated pursuant to subsection (e)(l) above shall include provisions regulating the interaction with including feeding of rays by commercial tour operators, and the interaction of SCUBA divers and snorkelers with said fishes. The Division of Fish and Wildlife shall promulgate the said regulations within 120 days of the effective date of this article.

(f) *Definitions*. As used in this section, the following terms have the following definitions:

(1) "Person" includes natural persons, associations, partnerships, corporations and any legal entity whatsoever.

(2) "Ray" means animals in the Order *Myliobatiformes*, including but not limited to: Eagle Rays (*Aetobatus narinari*); Manta Rays (*Manta birostris*); and Blue-spotted Rays (*Taeniura lymma*).

(3) "Take" means to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest. The accidental catching of a ray by a person fishing with hook and line does not amount to a taking if the ray is immediately returned to the water.

**Source:** PL 15-124, § 2(5641), modified.

**Commission Comment:** The commission deleted numbers that repeated words and changed "this Act" to "this article" pursuant to 1 CMC § 3806(d) and (e).

PL 15-124 was enacted on January 3, 2008, and contained the following findings and purpose in addition to severability and savings provisions.

Section 1. Findings and Purpose. The Legislature finds that a SCUBA diving location commonly called "Eagle Ray City" is a popular dive destination in the waters off Saipan due to the regular gathering of Spotted Eagle Rays. The Legislature finds that this dive site is popular with tourists because it is rare to find naturally occurring

gatherings on a regular basis. The congregation of Spotted Eagle Rays is easily photographed; each photo taken home with the tourist is free advertising showing the great beauty and grand scale of aquatic life in the CNMI. The Legislature further finds that Eagle Ray City is popular with local residents and good for the economy in that it is accessible only by boat; divers (tourist and resident alike) need to hire local guides and secure the services of local boats and captains to reach this spot. This type of ecotourism is beneficial to the CNMI's economy, fits within the advertising campaigns offered by the Marianas Visitors Authority and should be nurtured, protected and grown.

The Legislature finds that evidence suggests the Eagle Rays have been recently hunted to such an extent as to threaten their population levels and as to instill an unnatural fear of divers, thereby threatening one aspect of the Commonwealth's revenues. The Legislature finds that Spotted Eagle Rays specifically, and rays generally, are not traditional food fishes in the CNMI. Fishing specifically for such rays is not a tradition in the CNMI; the recent practice of doing so is detrimental to the welfare of the Commonwealth and should be prohibited,

The Legislature finds that, recently, it was reported to the government that some tour operators were un-thoughtfully engaging in the practice of shark feeding in areas traditionally used by children to swim, notably Saipan's Grotto, one of our premier dive attractions. That this practice is dangerous and should be discouraged is self-evident. The Legislature finds that feeding sharks in the near shore waters of the CNMI without a permit should be made a crime to ensure that any feeding of sharks is done in a responsible fashion, if at all.

The Legislature finds and declares that this Act is necessary for the protection of the welfare of the residents of the Commonwealth and is a proper use of the Legislative power granted by Section 1 of Article II of the Commonwealth Constitution. It is the purpose of this act to criminalize the taking of rays and to empower the Director of the Division of Fish and Wildlife to promulgate regulations necessary to regulate the taking of said fishes. It is further the intent of this act to criminalize the feeding of sharks within the near-shore waters of the Commonwealth without obtaining a permit from the Director of the Division of Fish and Wildlife. It is not the intent of this act to affect in any way the statutes concerning fishing for sharks by utilizing baited hooks.

**§ 5642. Feeding of Sharks.**

(a) *Prohibited Acts*. It is unlawful for any person, within the near shore waters of the CNMI to knowingly, or with wanton disregard for the consequences of his act feed in any manner any shark, without first obtaining a permit from the Director of the Division of Fish and Wildlife, or violates any permit or regulation issued pursuant to this section.

(b) *Criminal Penalties*. A person convicted under this section shall be punishable as follows:

(1) First Offense. A person may be punished by imprisonment of not more than six months, or a fine of not more than $1,000, or both.

(2) Second or Subsequent Offense. A person convicted of a second or subsequent offense may be punished by imprisonment of not more than one year, or a fine of not more than $3,000, or both.

(3) The commission of each act prohibited by this section with respect to a shark shall constitute a separate violation of this section.

(c) *Civil Penalties*. It shall be unlawful for any person, within the Commonwealth or any place subject to the jurisdiction thereof, to take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any shark, alive or dead, or any part thereof, without being permitted to do so as provided in this section, or violates any permit or regulation issued pursuant to this section, may be assessed a civil penalty by the Director of not more than $5,000 for each such violation. Each violation shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Upon any

failure to pay the penalty assessed under this subsection, the Director shall request the Attorney General to institute a civil action in a court of the Commonwealth to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In hearing any such action, the court must sustain the Director's action if supported by substantial evidence.

(d) *Application*. Nothing herein shall be construed to apply to any employee of the governments of the United States or the Commonwealth acting within the scope of their employment.

(e) *Feeding Permits*. Whenever, after investigation, the Director of the Division of Fish and Wildlife shall determine that it is compatible with the safety of the people of the Commonwealth to permit the feeding of sharks outside of the near shore waters of the CNMI, he may authorize the feeding of such fishes pursuant to regulations which he is hereby authorized to prescribe; provided, that said fishes may not be fed unless, prior to such taking, a permit to do so is procured from the Director.

(f) *Definitions*. As used in this section only, the following terms have the following definitions:

(1) "Feed" means (A) to place within or near the mouth of a shark anything edible by a shark, including but not limited to fish or meat of any kind, whether alive or dead, whole, chopped or ground; (B) to intentionally put into the ocean blood of any kind with the intent of attracting a shark or sharks; (C) to chum in any manner whatsoever when using SCUBA equipment with the knowledge that a shark is in the vicinity or with the intent of attracting a shark or sharks. It does not include fishing with a line and baited hook if the fisherperson is on land or in a boat.

(2) "Near shore waters of the CNMI" means: the waters extending 1000 feet seaward from the high tide line of any point of land within the Commonwealth; the waters 1000 feet from any portion of exposed reef within the jurisdiction of the Commonwealth; and the area commonly known as the Saipan Lagoon, encompassing the area from the reef crest to the shore, from Coral Ocean Point to the northern end of Wing Beach including, but not limited to: Lagunan Chalan Kanoa, Lapnan Garapan and Lagunan Tanapag.

(3) "Person" includes natural persons, associations, partnerships, corporations and any legal entity whatsoever.

(4) "Shark" means an animal commonly known as a shark and includes all animals in the Orders Hexanchifarmes, Pristiophoriformes, Squatiniformes, Heterodontiformes, Orectolobiformes, Lamniformes, and Carcharhiniformes.

**Source:** PL 15-124, § 2(5642), modified.

**§ 5643. Fish and Game Revolving Fund.**

All fees and fines collected pursuant to the provisions of this article shall be deposited into the Fish and Game Revolving Fund Account No. 6045 and allocated to the Division of Fish and Wildlife for the purpose of enforcing the provisions of this article. The said funds shall be used only for enforcement purposes including, but not limited to, hiring enforcement personnel and purchasing collateral equipment and may not be reprogrammed or expended for any other purpose. These funds shall not be reprogrammed or subject to fiscal year limitation. The expenditure authority shall be the Secretary of the Department of Lands and Natural Resources with the concurrence of the Director of the Division of Fish and Wildlife.

**Source:** PL 15-124, § 3, modified.

**Commission Comment:** The commission changed all occurrences of "this Act" to "this article" pursuant to the authority granted by 1 CMC § 3806(d).

**§ 5644. Regulations and Enforcement.**

The Division of Fish and Wildlife shall promulgate rules and regulations necessary to implement the provisions of this article. The Division of Fish and Wildlife shall enforce the provisions of this article with the assistance of the Department of Public Safety, the Coastal Resources Management, and the Division of Environmental Quality.

**Source:** PL 15-124, § 4, modified.

**Commission Comment:** The commission changed "Equality" to "Quality" and all occurrences of "this Act" to "this article" pursuant to 1 CMC § 3806(g) and (d).

## CHAPTER 8. CAPTIVE WILDLIFE. [new chapter]

**Article 1. Sambar Deer**. **[new article]**

§ 5801. Captive/Domesticated Sambar Deer (Binado).
§ 5802. Terms and Condition For Captive Wildlife.
§ 5803. General Provisions for Sambar Deer (Binado).
§ 5804. Rules and Regulations.
§ 5805. Amnesty.

**§ 5801. Captive/Domesticated Sambar Deer (Binado).**

It is hereby legal in the Commonwealth to capture alive Sambar Deer (Binado) during authorized hunting season as provided by regulation.

**Source:** PL 17-23 § 3 (October 19, 2010), modified.

**Commission Comment:** The commission changed "authorize" to "authorized" pursuant to 1 CMC § 3806(g) This is exactly as stated in Public Law 17-23. PL 17-23 (enacted on October 19, 2010) included severability and savings clause provisions and the following:

Section 1. Short Title. This act may be cited as "The Raising of Sambar Deer in Captivity Act of 2010."

Section 2. Findings and Purpose. The Commonwealth Legislature finds that hunting of Sambar Deer is seasonal as established by regulation to control their continued existence and to prevent its extinction. The Commonwealth Legislature further finds that there are several people in the CNMI who are presently raising Sambar Deer in captivity and many have express [sic] similar interest if the law or regulation would allow them. It is the purpose of this Act to legalize or allow the raising of Sambar Deer in captivity.

**§ 5802. Terms and Condition For Captive Wildlife.**

Captive wildlife may be retained in the possession of an individual who holds a permit pursuant to the terms and conditions set forth:

(a) Location:

The location of the registered wildlife should be specified on a map that includes clearly marked roads and landmarks. If requested, the permittee will assist a member of the Division of Fish and Wildlife staff in locating the site where the wildlife is to be kept.

(b) Humane and enclosed environment:

The permittee shall erect and maintain for the duration of captivity a humane, completely enclosed and secure habitat for the wildlife. A humane habitat includes but is not limited to a clean

environment, sheltered from harsh weather, adequate food and water supply, and a suitable space, provided that it is not within a residential area, for the animal to roam.

(c) Notification of change of condition:

If at any time the condition of the captive registered wildlife changes, the permittee must report the change to the Division of Fish and Wildlife within 12 hours of the event. Changes in condition of the wildlife that should be reported include, but are not limited to, death, escape, or birth of new captive wildlife.

(d) Responsibility for escaped captive wildlife:

Permittee is responsible for any damage that occurs as a result of the captive wildlife during a period of escape. This includes, but is not limited to, damage to neighboring crops, damage to conservation areas, or damage to other property.

(e) Time to capture escaped wildlife:

The permittee will have a grace period of up to one week from the time of escape to recapture the registered wildlife. Any registered wildlife escapee that is not captured with the specified one week time will be captured and confiscated by the Division of Fish and Wildlife.

(f) Inspection:

Division of Fish and Wildlife reserves the right to inspect at any reasonable time the captive wildlife, its enclosure, and any other feature that pertains to its living environment.

(g) Addition of new captive wildlife.

The permittee may under no conditions increase the number of captive wildlife being held unless authorized by the Division of Fish and Wildlife in writing or through the normal permitting process.

(h) Compliance:

If the permittee fails to comply with any of the above terms and conditions, the Division of Fish and Wildlife reserves the right to revoke the permit and impose appropriate penalties.

**Source:** PL 17-23 § 4 (October 19, 2010), modified.

**Commission Comment:** The commission changed capitalization and deleted figures that repeated written words pursuant to 1 CMC § 3806(f) and (e).

**§ 5803. General Provisions for Sambar Deer (Binado).**

(a) A license to maintain captive deer (wild or domesticated from wild animals) is required. Licenses to maintain captive wildlife will be renewed on an annual basis and it is the responsibility of the permit holder to keep the license up to date.

(b) Permittee with a captive rearing license for deer may sell the meat or any part of such animals as long as a "certificate of origin" accompanies the sale. This certificate must include the name of the permittee, the captive rearing permit number, the date of sale, the name and address of the buyer, and the destination of the meat if it is to be transported off-island. One copy of the "certificate of origin" must accompany the buyer, the seller will retain one copy, and one copy must be filed with the Enforcement Section of DFW within 10 days of the transaction.

(c) Captive rearing permit holders may utilize meat and animal parts as a personal food source. For example, a captive rearing permit holder during mealtime may legally offer deer meat to guests. Such fare must be consumed on-premises and may not be transported off-island unless accompanied by a "certificate of origin".

(d) All captive deer and their progeny must be marked on the ear by the permit holder (the permittee will supply the marking device) and accurate records kept of births and deaths. The Enforcement Section of DFW will impound any unmarked captive animals. Records on captive

animals may be inspected on demand by DFW Enforcement Officers, but in any case will be inspected once a year by DFW at the time of license renewal. Captive permit holders will be responsible for any expenses incurred to property if their captive animals escape (including costs of rehabilitating habitat damaged by released animals) and for the costs to DFW (including salaries, overtime and equipment) of recapturing the animals.

(e) Captive deer impounded by DFW Enforcement Officers will be humanely euthanized. Meat from such animals may be sold or distributed to the elderly (manamko) at the discretion of the Director. Money from the sale of such meat will be used to buy equipment useful to DFW Enforcement Officers at deer inspection stations and for keeping track of captive deer.

(f) Deer must be maintained in humane and clean holding facilities. Should holding pens be deemed inappropriate by DFW Enforcement Officers, the captive rearing permit will be revoked and must not be reissued until such time as the facility has been improved to meet minimum standards (see below). If improvements are not made within one month from the time the license is revoked, captive animals will be impounded by DFW.

(g) Holding/rearing facilities for captive deer must meet the following minimum standards (or the captive rearing permit will be revoked):

(1) a pen of at least 5 m on each side will be constructed for a single animal,

(2) for each additional deer in captivity (including progeny), 3 m on each side will be added to the pen (i.e., for 2 animals, the pen will measure 8 m on each side, for 3 animals the pen will measure 11 m on each side, etc.),

(3) pens will be constructed of materials with sufficient strength to withstand the destructive force of a typhoon,

(4) pens will be at least 2 m in height,

(5) holders of permits are responsible for the safety of their animals, therefore, pen gates will be secured in such a way as to prevent theft of or malicious mischief to the animals,

(6) holders of permits are responsible for the costs of damage to the environment and to property by escaped or released animals,

(7) permit holders will be given 5 working days to recapture animals that have been accidently released, after that, escaped animals are subject to collection by DFW Enforcement Officers and the costs of capture will be borne by the permit holder.

(h) Sufficient fodder and water will be provided by the permit holder to maintain the captive animals in good health (natural fodder and water may need to be augmented by the permit holder). The health of the captive animals will be judged by inspection (e.g., physical appearance). DFW Enforcement Officers will perform regular inspections of both the physical state of captive animals and the state of the holding facility on at least an annual basis and prior to renewal of captive rearing license. DFW Enforcement Officers may be accompanied by a licensed veterinarian to help adjudge the health of captive animals.

(i) Purposeful release of captive deer, especially domesticated progeny, into the wild is prohibited. Penalties for purposeful release of captive animals will be imposed and set by the Director but will not exceed $1,000 per animal. A person who has previously held a captive rearing permit and purposefully released animals into the wild will not be eligible to renew or obtain another permit.

**Source:** PL 17-23 § 5 (October 19, 2010), modified.

**Commission Comment:** The commission changed capitalization pursuant to 1 CMC § 3806(f).

### § 5804. Rules and Regulations.

The Secretary of the Department of Lands and Natural Resources may promulgate additional rules and regulations to carry out the purpose and intent of this article.

**Source:** PL 17-23 § 6 (October 19, 2010), modified.

**Commission Comment:** The commission changed "this Act" to "this article" pursuant to 1 CMC § 3806(d).

**§ 5805. Amnesty.**

Those individuals who are in possession of captive Sambar Deer (Binado) that are unregistered or noncompliance with existing regulation shall comply with the provision of this article without being penalized within 365 days following the approval of this article into law.

**Source:** PL 17-23 § 7 (October 19, 2010), modified.

**Commission Comment:** The commission changed capitalization and changed "this Act" to "this article" and "those individual" to "those individuals" pursuant to 1 CMC § 3806(f), (d) and (g).

# DIVISION 6: UNIFORM CONDOMINIUM ACT

## CHAPTER 1. GENERAL PROVISIONS.

**§ 6103. Definitions.**

. . .

**Commission Comment:** Public Law 15-49, which created "Article XII Condominiums" (codified at 2 CMC § 6701 *et seq.*), was enacted on March 14, 2007. For more information regarding PL 15-49, see comment to 2 CMC § 4921.

## CHAPTER 7. ARTICLE XII CONDOMINIUMS. [New chapter]

**§ 6701. Applicability.**

. . .

**Commission Comment:** Public Law 15-49, which created "Article XII Condominiums," was enacted on March 14, 2007. The commission assigned different section numbers to this new article than what was designated in the original text pursuant to its authority by 1 CMC § 3806. For more information regarding PL 15-49, see comment to 2 CMC § 4921.

## CHAPTER 12. HOLDOVER TENANCY.

### § 40201. Application of this Chapter.

**Case Annotations:** *Merci Corp. v. World Int'l Corp.,* 2005 MP 10, 7 N.M.I. 170 (2005).

# DIVISION 7 BUILDING AND ZONING CODES

## CHAPTER 1. BUILDING SAFETY CODE.

### § 7101. Short Title.

**Case Annotations:** *Manglona v. Commonwealth,* 2005 MP 15, 7 N.M.I. 192 (2005).

## Article 2. Enforcement Requirements.

### § 7126. Violations of the Code.

**Case Annotations:** *Manglona v. Commonwealth,* 2005 MP 15, 7 N.M.I. 192 (2005).