

§ 2806. Public Lands: Fundamental Policies.

(a) The Department shall follow the fundamental policies set forth in this section in the performance of its responsibilities.

(b) The Department shall make available some portion of the public lands for a homestead program. A person is not eligible for more than one agricultural and one village homestead. A person shall receive a freehold interest in a homestead that the person has met or complied with all the requirements, terms and conditions of the homestead permit. In the case of a village homestead, a person shall receive a freehold interest in the homestead upon approval by the Department when a habitable dwelling has been constructed on the homestead. A person may not transfer a freehold interest in a homestead for 10 years after receipt except that these requirements are waived for persons who have established a continuous use of public lands for at least 15 years as of the effective date of the Constitution. Upon receiving a homestead permit, the permittee may mortgage the land provided that all funds received from the mortgage shall be devoted to the improvement of the land.

(c)(1) The Department may not transfer a leasehold interest in public lands that exceeds 40 years including renewal rights. An extension of not more than 15 years may be given upon approval of three-fourths of the members of the Legislature sitting in joint session.

(2) The amendment to extend public land leases up to 40 years does not automatically extend the terms of existing public land leases. Only existing public land leases with an existing school, religious organization, hotel, or golf course on the leased property may be amended to extend the existing lease term up to 40 years plus an additional 15-year extension subject to negotiated new terms and consideration based on at least two new appraisals. Any amendment to extend the term of existing public land leases up to 40 years must comply with the provisions of this chapter and be approved by the legislature sitting in joint session.

(d) The Department may not transfer an interest in more than five hectares of public land for use for commercial purposes without approval of the Legislature in a joint session. The Department may not transfer an interest in less than five hectares of public land for use for commercial purposes to a holder of an interest in contiguous or adjoining public land if the combination of the interests in public land would be more than five hectares, without recommendation by the Advisory Board to the Legislature, and approval of the Legislature in a joint session. The Department may not approve a sublease, assignment, or transfer of any interest in public land for use for commercial purposes to a holder of an interest in contiguous or adjoining public land if the combination of the interests in public land would be more than five hectares, approval of the Legislature in a joint session. The term "holder of interest" as used herein shall be broadly construed to include all real parties in interest.

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(e) Except as provided in the subsections* below, the Department may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the high water mark of a sandy beach:

(1) Except that the Department may authorize the construction of facilities for public purposes;

(2) The Department may grant encroachment permits, provided the use does not interfere with the public's access to the public lands;

(3) Encroachment permits may be issued to persons who have a legal interest in adjoining property, and who are currently maintaining an encroaching structure, improvement, or other item, in exchange for a fee. The encroachment must have been in place prior to October 25, 2021. Any such permit may have a term of up to five years and may be renewed at the discretion of the Department. The annual fee for any such permit shall not be less than one percent (1%) or not be greater than four percent (4%) of the fair market value of the public land on which the encroaching structure, improvement, or other item sits. If the Department issued permits for encroachments prior to the effective date of this amendment, such prior permits, and the consideration paid for such prior permits, are ratified and deemed sufficient. The Department may promulgate regulations consistent with this provision.

(f) No later than one year after the effective date of this Act, the Department shall adopt and promulgate a comprehensive land use plan with respect to public lands. During development of the plan, the Secretary shall report the substance and the progress of the Comprehensive Land Use Plan to the Advisory Board, and regularly keeping them up to date. Before approving the plan, the Secretary shall consult with the Advisory Board. This plan may be amended as appropriate, and shall be updated every five years, shall be consistent with comprehensive land use plans and zoning laws approved for each senatorial district, and shall be developed in consultation, coordination and cooperation with other permitting, development, zoning, and land management agencies. The plan shall have the following objectives and components:

(1) Coordinate use and development of public lands with the plans, programs, and requirements of other Commonwealth agencies;

(2) Identify all public lands and priority of uses;

(3) Identify and reserve suitable lands for homesteads;

(4) Identify and reserve lands that contain resources critical to the Commonwealth, such as but not limited to, springs suitable for producing potable water, groundwater aquifers that need protection, potential sites of municipal quarries, current and future sites for government buildings, habitat mitigation areas, wetlands, prime public recreation areas, potential school sites, potential hospital sites, and potential transportation corridors;

(5) Identify and reserve lands that should be made available to private developers for generation of revenue;

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(6) Identify lands that should be made available for exchange in order to improve the manageability and value of the public land holdings and other public purposes such as the acquisition of rights of way; and

(7) Identify lands that need special handling due to the presence of hazardous materials, dangerous structures, or other special circumstances.

(8) Encompass all the lands of the Commonwealth of the Northern Mariana Islands.

(g) Public lands transferred to other government agencies that are not in compliance with the specific non-commercial use approved by Department of Public Lands will revert back to the authority of the department unless the public land is being used by that government agency for commercial use that is related to, physically or structurally connected to, or associated in any way with the agency's mandate or for a legitimate public purpose as defined herein. Public purpose means lands currently held by any government agency whose anticipated business investment or operation on the property will promote, in any way, a government agency's mandate. For the purposes of property conveyed by Public Lands to the Commonwealth Ports Authority, the definitions of "industrial port use," "port-related operation," and "seaport expansion and operation" shall include all leases or commercial operations, physically or structurally connected to a port activity and related in any way to ensure, enhance, augment, help finance, support, promote the possibility of, increase or improve shipping transportation, ferryboat operation, or other transportation operations related to the port. The definitions of "industrial port use," "port-related operations," and "seaport expansion and operation" provided herein, shall be interpreted liberally in favor of allowing proposed developments on all ports in the Commonwealth.

* So in original. Probably should be "paragraphs".

Source: PL 12-33, § 3 (105); repealed and re-enacted by PL 15-2, § 3 (105), modified; renumbered by PL 16-8, § 2(b); (g) amended by PL 20-01, § 4 (Mar. 9, 2017), modified; (c) amended by PL 20-84, § 2 (Dec. 31, 2018), modified; PL 22-11, § 2 (Oct. 25, 2021), modified.

Commission Comment: The Board of Public Lands, which succeeded the Marianas Public Lands Corporation, was abolished by PL 12-71, § 2 (a) and replaced with the Marianas Public Lands Authority without conforming amendments to other sections of the act as enacted by PL 12-33. See comment to [1 CMC § 2801](#) regarding other technical deficiencies contained in PL 12-71.

The Commission deleted figures that were repetitions of written words in subsection (f) above pursuant to the authority granted by [1 CMC § 3806\(e\)](#).

In codifying PL 20-01, the Commission inserted serial commas in (g) pursuant to 1 CMC § 3806(g).

In codifying PL 20-84, the Commission numbered the subsections of (c) pursuant to 1 CMC § 3806(a). The Commission removed all drafting marks;

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changed “forty” to “40” and “fifteen” to “15” in (c); and inserted a comma after “hotel” in (c) pursuant to 1 CMC § 3806(g).

Legislative Findings of 2021 Amendment.— In addition to severability and savings clause provisions, PL 22-11 included the following Findings section:

Section 1. Findings.

The Department of Public Lands does not have the statutory authority to charge for the use of the public lands located within 150 feet of the high water mark. The department only has the authority to prohibit the erection of permanent structures. Under 1 CMC § 2803(a), “The Department’s authority does not extend to the issuance of land use permits and licenses, except as specifically provided for in this Act.” The purpose of this Bill is to specifically authorize the Department to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high water mark.

Modifications.— In codifying PL 22-11, the Commission changed capitalization in paragraphs (e)(1) and (e)(2) for the purpose of uniformity, pursuant to 1 CMC § 3806(f), and substituted “October 25, 2021” for “the effective date of this legislation Act” in (e)(3), pursuant to 1 CMC § 3806(d).