



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Ralph DLG. Torres
Governor

Victor B. Hocog
Lieutenant Governor

The Honorable Arnold I. Palacios
Senate President, The Senate
Twentieth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

The Honorable Rafael S. Demapan
Speaker, House of Representatives
Twentieth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

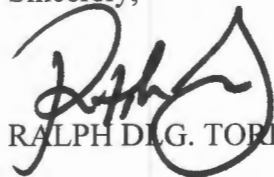


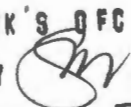
Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 20-16, SD1, entitled, "To amend 2 CMC §§ 2112 and 2122 by adding new definitions providing a grant of power to the Commonwealth Ports Authority in the Commonwealth Ports Authority Act and to amend 1 CMC § 2806(g) to define industrial port use and port related operations to lease public lands for legitimate public purpose related to their agency's mandate; and for other purposes", which was passed by the Senate and the House of Representatives of the Twentieth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 20-01**. Copies bearing my signature are forwarded for your reference.

Sincerely,


RALPH DLG. TORRES

HOUSE CLERK'S OFFICE
RECEIVED BY 
DATE 3/13/17 TIME 3:58 PM

cc: Lt. Governor; Commonwealth Ports Authority; Department of Public Lands; Public Auditor; Special Assistant for Administration; Special Assistant for Programs and Legislative Review



THE SENATE
TWENTIETH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SENATE BILL NO. 20-16, SD1

AN ACT

To amend 2 CMC §§ 2112 and 2122 by adding new definitions providing a grant of power to the Commonwealth Ports Authority in the Commonwealth Ports Authority Act and to amend 1 CMC § 2806(g) to define industrial port use and port related operations to lease public lands for legitimate public purpose related to their agency's mandate; and for other purposes.

SENATE ACTION

Offered by Senator(s): Jude U. Hofschneider, Francisco M. Borja, Francisco Q. Cruz, Arnold I. Palacios, Sixto K. Igisomar, Justo S. Quitugua, Paul A. Manglona, Steve K. Mesngon, Teresita A. Santos

Date: February 14, 2017

Referred to: Committee on Resources, Economic Development and Programs

Standing Committee Report No.: None

First and Final Reading: February 23, 2017

HOUSE ACTION

Referred to: None

Standing Committee Report No.: None

Passed: February 28, 2017

DOLORES S. BERMUDES
SENATE CLERK



THE SENATE
TWENTIETH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2017

S. B. NO. 20-16, SD1

AN ACT

To amend 2 CMC §§ 2112 and 2122 by adding new definitions providing a grant of power to the Commonwealth Ports Authority in the Commonwealth Ports Authority Act and to amend 1 CMC § 2806(g) to define industrial port use and port related operations to lease public lands for legitimate public purpose related to their agency's mandate; and for other purposes.

BE IT ENACTED BY THE TWENTIETH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Commonwealth Legislature recognizes
2 the significant responsibility of the Commonwealth through the Commonwealth Ports
3 Authority to develop, to the fullest extent possible, air and sea navigation and
4 transportation within and to and from the Commonwealth, and the important role this
5 development plays in promoting the political, cultural and economic advancement of the
6 people of the Northern Mariana Islands as set forth in Public Law 2-48. The Legislature
7 finds a need to clarify and define parameters for use of public lands by the Commonwealth
8 Ports Authority and what constitutes use of such land for a public purpose. Specifically,
9 the Legislature finds that the term "port connected purpose" used in the existing powers
10 and duties of the Commonwealth Ports Authority provided in Public Law 2-48 requires
11 specific definition. The Legislature also finds that the definition of the term "Port" needs to
12 be updated to reflect the proper names of the ports of the CNMI. Moreover, the Legislature
13 finds that the Rota West Harbor includes a marina that is currently managed by the
14 Department of Lands and Natural Resources (DLNR) under a memorandum of agreement
15 (MOA) between the CPA and DLNR in order to receive federal funds and to maintain the

1 marina at the Rota West Harbor. It is the intent of the Legislature that the MOA be
2 honored by CPA until its expiration to ensure the funding and maintenance of the marina.

3 The Legislature finds that, by necessity and design, the Commonwealth Ports
4 Authority engages in commercial activity in order to fulfill its public purpose and its
5 mandate to develop air and sea navigation in the Commonwealth to the fullest potential.
6 This commercial activity is done to expand the ports of the Commonwealth, improve port
7 operation, and develop port facilities. Achieving these ends through commercial activity
8 and noncommercial use of real property managed and controlled by the Commonwealth
9 Ports Authority is proper as its use benefits the people of the Commonwealth. Such use is
10 properly defined as use for “port-connected purposes” and “port-related operations.”
11 Notwithstanding Public Law 15-2, such use of public lands transferred to the
12 Commonwealth Ports Authority shall not be subject to reversion to the Department of
13 Public Lands. The Commonwealth Ports Authority has and should continue to have the
14 discretion as to the best use and management of its property. For example, the Authority
15 permits grazing and community activities on its properties due to the requirements for open
16 fields and restrictions on development by the FAA or other agencies.

17 The Commonwealth Legislature also finds that the definition of “industrial port
18 use” and “port related operations” have not been formally defined for public policy. It is
19 the intention of this Legislature to define “industrial port use” and “port related operations”
20 due to the lack of codified definitions and the potential for different government agencies
21 to define the terms differently. The Legislature, through its research, has noted several US
22 States, such as Mississippi, Missouri, Louisiana and our Nation’s Capital, Washington,
23 D.C., all define these terms liberally to include an interest for public policy while still
24 maintaining some sort of port operation or use. In addition, the Legislature finds that
25 numerous properties that were transferred by the Department of Public Lands (DPL) or its
26 predecessors to the Commonwealth Ports Authority (CPA) remain unused, is functionally
27 unusable, continues to diminish in value over time, diminishes other properties held by the
28 Department of Public lands, and restricts economic development.

1 The Legislature finds that in the original Grant of Public Domain Land to CPA, the
2 language is clear in allowing CPA exclusive jurisdiction to plan, establish, construct,
3 enlarge, improve, maintain, equip, operate and regulate ports within the Commonwealth.
4 Therefore, it is the Legislature's intention to allow CPA to establish such "industrial ports"
5 and "port related operations" through legislative definition. The Legislature also finds that
6 there is a legitimate public purpose to allow CPA to lease certain parcels for use as an
7 "industrial port" or for "port-related operations" which will promote a viable economy and
8 inter-island transportation of passengers and goods. The Legislature further finds that
9 there is also a legitimate public purpose to increase the value of surrounding public
10 property held by the DPL by authorizing Commonwealth Ports Authority to improve its
11 properties along the ports for revenue generating purposes under certain "port related
12 operation" circumstances.

13 Therefore, the purpose of this legislation is to add and update necessary definitions
14 in the Commonwealth Ports Authority Act and to amend the power granted to the
15 Commonwealth Ports Authority clarifying and defining parameters for use of public lands
16 by the Commonwealth Ports Authority and what constitutes use of such land for a public
17 purpose by the Commonwealth Ports Authority.

18 **Section 2. Amendment.** 2 CMC § 2112 is amended to read as follows:

19 "(a) "Authority" means the Commonwealth Ports Authority.

20 (b) "Ports" means all publicly owned sea and air ports together with all lands and
21 facilities a part thereof and adjacent waters to the extent of ~~42~~ 3 nautical miles in the
22 Commonwealth and any other lands owned by or leased to the Commonwealth Ports
23 Authority. These include, but are not limited to:

24 (1) The seaports in ~~Tanapag Harbor at Saipan, the San Jose Harbor at~~
25 ~~Tinian, and the West Harbor at Rota~~ the Port of Saipan, Port of Tinian/Tinian
26 Harbor, and Rota West Harbor; and

27 (2) The airports at Saipan (~~Kobler Field and Isley Field~~), Rota, and Tinian."

28 (c) "Board" means the board of directors of the Ports Authority.

29 (d) "Commonwealth" means the Commonwealth of the Northern Mariana Islands.

1 (e) "Government" means the government of the Northern Mariana Islands.

2 (f) "Person" means any individual, firm, partnership, corporation, company,
3 association, joint stock association, body politic, municipal corporation, including any
4 trustee, receiver, assignee, or other similar representative thereof.

5 (g) "Rules and regulations" means rules and regulations of general application
6 issued by the authority regulating the application of this division, but shall not apply to the
7 internal operation of the authority, nor to management of ports owned or operated by the
8 authority.

9 (h) "Executive director" means the executive director of the Ports Authority.

10 (i) "Port-Connected Purpose" means any lawful purpose directly relating to,
11 collateral to, or incidental to the use, development, or expansion of a port, port services, or
12 port facilities, lands, or waters. All activity occurring within the boundaries of the seaport
13 or airport facilities shall be deemed port-related use and attendant and part of the activities
14 of the Commonwealth Ports Authority jurisdiction. A port-related use or port-connected
15 purpose is not limited to merely aircraft or vessels or cargo but is defined to include all
16 commercial and non-commercial activities such as ferry service and other vessel
17 transportation services occurring with the Commonwealth Ports Authority areas. For
18 purposes of permitting and construction by federal or local agencies as to activities,
19 operations and facilities within the property of the Commonwealth Ports Authority, this
20 definition shall specifically apply.

21 (j) "Port-Related Operation" means any activity conducted within a port connected
22 purpose as defined in subsection (i) of this section."

23 **Section 3. Amendment.** 2 CMC § 2122(e) is hereby amended to read as follows:

24 "(e) In operating any ports owned, leased or controlled by it, to enter into contracts,
25 leases, and other arrangements with any persons for terms not exceeding 40 years, granting
26 the privilege of using or improving such ports, or a portion thereof or space therein for any
27 port-connected purposes and port-related operations."

28 **Section 4. Amendment.** 1 CMC § 2806(g) is hereby amended to read as follows:

1 “(g) Public lands transferred to other government agencies that are not in
2 compliance with the specific non-commercial use approved by Department of Public
3 Lands will revert back to the authority of the department, unless the public land is being
4 used by that government agency for commercial use that is related to, physically or
5 structurally connected to or associated in any way with the agency’s mandate or for a
6 legitimate public purpose as defined herein.

7 Public purpose means lands currently held by any government agency whose
8 anticipated business investment or operation on the property will promote, in any way, a
9 government agency’s mandate. For the purposes of property conveyed by Public Lands to
10 the Commonwealth Ports Authority, the definitions of “industrial port use,” “port-related
11 operation” and “seaport expansion and operation” shall include all leases or commercial
12 operations, physically or structurally connected to a port activity and related in any way to
13 ensure, enhance, augment, help finance, support, promote the possibility of, increase or
14 improve shipping transportation, ferryboat operation or other transportation operations
15 related to the port. The definitions of “industrial port use,” “port-related operations” and
16 “seaport expansion and operation” provided herein, shall be interpreted liberally in favor of
17 allowing proposed developments on all ports in the Commonwealth.”

18 **Section 5. Severability.** If any provision of this Act or the application of any such
19 provision to any person or circumstance should be held invalid by a court of competent
20 jurisdiction, the remainder of this Act or the application of its provisions to persons or
21 circumstances other than those to which it is held invalid shall not be affected thereby.

22 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not
23 be construed as affecting any existing right acquired under contract or acquired under
24 statutes repealed or under any rule, regulation or order adopted under the statutes.
25 Repealers contained in this Act shall not affect any proceeding instituted under or pursuant
26 to prior law. The enactment of this Act shall not have the effect of terminating, or in any
27 way modifying, any liability civil or criminal, which shall already be in existence at the
28 date this Act becomes effective.

SENATE BILL NO. 20-16, SD1

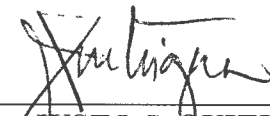
Section 7. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:



ARNOLD I. PALACIOS
PRESIDENT OF THE SENATE



JUSTO S. QUITUGUA
SENATE LEGISLATIVE SECRETARY

Approval this 9th day of March, 2018



RALPH DLG. TORRES
Governor
Commonwealth of the Northern Mariana Islands