

TITLE 9.

PUBLIC LANDS AND RESOURCES

CHAPTER 1.

PUBLIC LANDS

ARRANGEMENT OF SECTIONS

Section

§101. Short title.

§101A. Interpretation.

§102. “Public lands” defined.

§103. Rights in areas below high watermark.

§104. Grant of public lands in exchange for use of privately owned lands.

An Act to establish procedures for the administration of public lands and for related matters.[Section numbering style modified to conform to code format]

Commencement:

Source:

TTC 1966

67 TTC 1970

67 TTC 1980

P.L. - 2008-2

§101. Short title.

This Chapter may be cited as the “Public Lands and Resources Act.”

§101A. Interpretation.

In this Chapter , unless the context otherwise requires:

(a) “Adjoining land” refer to the land adjacent, abutting or connected to, and, or share a land boundary with a reclaimed land;

(b) “Land-fill” means any new land created in the manner described in paragraph (c) below and includes lands reclaimed from in-land ponds and lakes;

(c) “Land reclaimed from Marine areas below the ordinary high water mark” or “reclaimed lands” refer to new land created where there was once water, by land fill, or through other land reclamation processes, and which adjoin a beach frontage or foreshore, or share a land boundary with an existing land;

(d) “Marine area below the ordinary high water mark” refers to area that is usually submerged at mean high tide and is located seaward of the ordinary high water mark;

(e) “Ordinary high water mark” is that mark that will be found by examining the sand or rocks on the beach frontage and foreshore and ascertaining where the presence and action of waters are so common and usual, as to mark upon the sand or rocks a character distinct from that of the abutting land.[§101A inserted by P.L.2008-2]

§102. “Public land” defined.

Public land is defined as land situated within the Republic which was owned or maintained by the Japanese government during the Japanese administration of the islands presently comprising the Republic, as government or public land, and such other lands as the government of the Republic has acquired or may hereafter, acquire for public purposes. [TTC 1966, §925; 67 TTC 1970, §1; 67 TTC 1980, §1, modified.]

§103. Rights in areas below high watermark.

(1) That portion of the law established during the Japanese administration of the area which is now the Republic, that all marine areas below the ordinary high watermark belong to the government, is hereby confirmed as part of the law of the Republic, with the following exceptions:

(a) Such rights in fish weirs or traps (including both types erected in shallow water and those sunk in deep water) and such rights to erect, maintain and control the use of these weirs or traps as were recognized by local customary law at the time the Japanese administration abolished them, are hereby reestablished; provided, that no weirs or traps or other obstruction shall be erected in such locations as to interfere with established routes of water travel or those routes which may hereafter be established.

(b) The right of the owner of abutting land to claim ownership of all materials, coconuts, or other small objects deposited on the shore or beach by action of the water or falling from trees located on the abutting land, and such fishing rights on, and in waters over reefs where the general depth of water does not exceed four feet at mean low water as were recognized by local customary law at the time the Japanese administration abolished them, are hereby reestablished where such rights are not in conflict with the inherent rights of the government as the owner of all marine areas below the ordinary high watermark; provided however, that this Section shall not be construed to apply to any vessel wrecked or stranded on any part of the reefs or shores of the Republic.

(c) The owner of land abutting the ocean or lagoon shall have the right to fill in, erect, construct and maintain piers, buildings, or other construction on or over the water or reef abutting his land and shall have the ownership and control of such construction; provided, that said owner first obtains written permission of the Chief Secretary before beginning such construction.

(d) Each of the rights described in Paragraphs (a), (b) and (c) of this Subsection (1) are hereby granted to the person or group of persons who held the right at the time it was abolished by the Japanese administration, or to his or their successor or successors in interest. The extent of each right shall be governed by the local customary law in effect at the time it was abolished.

(e) Nothing in the foregoing Paragraphs of this Subsection (1) shall withdraw or disturb the traditional and customary right of the individual land owner, clan, family or municipality to control the use of, or material in, marine areas below the ordinary high watermark, subject only to, and limited by, the inherent rights of the Government of the Marshall Islands as the owner of such marine areas. The foregoing Paragraphs of this Subsection (1) shall create no right in the general public to misuse, abuse, destroy or carry away mangrove trees or the land abutting the ocean or lagoon, or to commit any act causing damage to such mangrove trees or abutting land.

(f) Any legal interest or title in marine areas below the ordinary high watermark specifically granted to an individual or group of individuals by the Republic or any previous administering authority, or recognized as a legal right or rights, shall not be affected by this Section.

(2) Written notice of any legal interest or title must be filed with the land office within two (2) years from January 8, 1958. The validity of the claimed legal interest or title shall be determined by the land officer after notice to the person making the claim or any other known parties in interest, and an opportunity for hearing, in the same manner and with the same rights of appeal as in the case of claims to land which the government had possession of under claim of ownership. [TTC 1966, §32; 67 TTC 1970, §2; 67 TTC 1980, §2, modified.]

§104. Grant of public lands in exchange for use of privately owned lands.

Public lands not reserved for other purposes may be granted by the Cabinet in payment or exchange for the use and occupation of privately owned lands within the Republic by the government of the Republic. The Chief Secretary is authorized, subject to the approval of the Cabinet, to designate areas of public lands within the Republic subject to disposal under the provisions of this Section. [TTC 1966, § 990; 67 TTC 1970, §3; 67 TTC 1980]

§105. Title to land-filled and land reclaimed from marine areas.

Notwithstanding the provisions of any law to the contrary, title to new land created through “land-fill” or other land reclamation processes, from marine areas below the ordinary high water mark, by the government, or by any other person, corporation or other legal entity, for any purpose whatsoever, shall vest in the owners of the adjoining land or lands. [§105 inserted by P.L. 2008-2]