

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

THIRD REGULAR SESSION, 2001

H. B. NO. 12-371

A BILL FOR AN ACT

To terminate the submerged land lease between the CNMI and Marine Revitalization Corporation, to acquire the Outer Cove Marina, to regulate the operations of marinas on Saipan, Commonwealth of the Northern Mariana Islands; and for other purposes.

BE IT ENACTED BY THE TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Short Title.** This Act may be cited as “The Saipan Marina Act of
2 2001.”

3 **Section 2. Findings and Purpose.** The Legislature finds that it is in the interest
4 of the Commonwealth of the Northern Mariana Islands to acquire the Outer Cove Marina
5 to maintain the development of tourism infrastructure that is vital to the economic
6 development of our islands. At present, Smiling Cove Marina is the only CNMI
7 Government developed and operated marina on Saipan, which makes available slip rental
8 for pleasure boat owners. The development of the Outer Cove Marina with the Marine
9 Revitalization Corporation as a partner was for the purpose of making available a harbor
10 facility for commercial vessels. In the last year, the Outer Cove Marina has been unable
11 to operate efficiently due to the reluctance of commercial operators to transfer from the
12 Smiling Cove Marina. Commercial operators cite safety concerns and high departure
13 fees and slip rentals as the reason for not moving to the Outer Cove Marina. Instead,
14 several commercial operators have leased slip space at the Commonwealth Ports
15 Authority docks from which to operate. The departure points at the CPA harbor for small
16 vessels are not suitable for tourism as they were developed predominantly for large
17 vessels. In addition, the practice of CPA in accommodating commercial tour boat
18 operators on a discriminatory basis is not equitable for the tour boat operators in the
19 industry.

1 The purposes of this Act are: to terminate the submerged land lease between the
2 CNMI and the Marine Revitalization Corporation, to acquire the Outer Cove Marina for
3 the Commonwealth, to establish an advisory board to promulgate rules and regulations
4 for the management of marinas on Saipan and to restrict the Commonwealth Ports
5 Authority from accommodating pleasure and commercial tour boat operators at the Port
6 of Saipan.

7 **Section 3. Definitions.**

8 “CNMI” means the Commonwealth Development Authority, Marianas Public
9 Land Trust and the Department of Lands and Natural Resources.

10 “Commercial Tour Boats” means boats used directly for revenue or profit or to
11 produce revenue.

12 “CPA” means the Commonwealth Ports Authority.

13 “DFW” means the Division of Fish and Wildlife of the CNMI Department of
14 Lands and Natural Resources.

15 “DLNR” means the Department of Lands and Natural Resources.

16 “DPS” means the Department of Public Safety.

17 “DPW” means the Department of Public Works.

18 “Fast Lands” means the improved land situated within the boundaries of the
19 American Memorial Park controlled by the Federal Government.

20 “MRC” means the Marine Revitalization Corporation.

21 “NPS” means the National Park Service of the United States Department of the
22 Interior.

23 “OPL” means the Office of Public Lands of the CNMI Department of Lands and
24 Natural Resources.

25 “Outer Cove Marina” means the marina developed by the Marine Revitalization
26 Corporation identified in the submerged land lease authorized by Public Law 9-46.

27 “Smiling Cove Marina” means the marina situated on the northern premises of
28 the American Memorial Park operated by the CNMI Division of Fish and Wildlife.

29 **Section 4. Acquisition of the Outer Cove Marina.** This Act shall terminate the
30 submerged land lease between the Commonwealth of the Northern Mariana Islands and
31 the MRC under PL 9-46 pursuant to the terms and conditions stipulated below:

- 1 a. The CNMI and the Marine Revitalization Corporation shall enter into an
- 2 acquisition agreement where the CNMI will assume debts incurred by the
- 3 MRC for the development of the Outer Cove Marina not to exceed
- 4 \$3,500,000.00 and only for costs associated with the Outer Cove Marina.
- 5 Costs incurred in the development of the “Fast Lands” under the
- 6 concession contract with the National Park Service shall be omitted from
- 7 the acquisition unless the concession contract is transferred to the CNMI
- 8 Government.
- 9 b. Prior to entering in any acquisition agreement, MRC and the CNMI shall
- 10 each appraise the full value of the Outer Cove Marina.
- 11 c. Prior to entering into an acquisition agreement, MRC shall provide the
- 12 CNMI a full financial disclosure of the Outer Cove Marina construction
- 13 cost.
- 14 d. The Concession Contract between the National Park Service and the
- 15 Marine Revitalization Corporation shall continue until terminated by the
- 16 NPS or transferred to a new concessionaire under terms and conditions
- 17 agreed upon by MRC and the National Park Service.
- 18 e. The management of the Outer Cove Marina shall be transferred to the
- 19 Department of Lands and Natural Resources Division of Fish and
- 20 Wildlife. The DFW shall be responsible for development of a marina
- 21 management plan, establishment of rates for slip rentals, promulgation and
- 22 enforcement of rules and regulations, and maintenance of the Outer Cove
- 23 Marina.

24 **Section 5. Public Debt Authorization.** The Commonwealth Development
 25 Authority (CDA) is hereby authorized, subject to the approval of the board of trustees of
 26 the Marianas Public Land Trust (MPLT), to borrow up to three and a half million dollars
 27 (\$3,500,000) to be used for acquisition of the Outer Cove Marina.

- 28 a. Payments of interest and repayment of principal on such loan shall be
- 29 made solely from interest earned subsequent to the effective date of this
- 30 Act on funds presently held in the Marianas Public Land Trust arising
- 31 from Section 803(3) of the Covenant to Establish a Commonwealth of the
- 32 Northern Mariana Islands in Political Union with the United States of

1 America and Part 5(B) of the Technical Agreement and Article XI,
 2 Section 6(d) of the Commonwealth Constitution; and

3 b. The proceeds of such loan shall be expended for the purposes of this Act
 4 by the trustees of the Marianas Public Land Trust or in such manner and
 5 by such persons as the trustees may provide.

6 **Section 6. Saipan Marina Operations, Maintenance and Improvement**
 7 **Revolving Account.** This Act shall establish a Saipan Marina Operations, Maintenance
 8 and Improvement Revolving Account. Revenues received from slip rentals, fines, sale of
 9 abandoned property, or any other means generated in the management of the Smiling
 10 Cove Marina and the Outer Cove Marina shall be deposited in a special account to be
 11 used solely for operations, maintenance and improvements of the Smiling Cove and
 12 Outer Cove Marina on Saipan. The Secretary of the Department of Lands and Natural
 13 Resources shall be the expenditure authority on this account. Expenditure of funds from
 14 this account shall comply with all applicable CNMI Procurement Regulations.

15 **Section 7. Marina Advisory Board.** A Marina Advisory Board is hereby
 16 established by this Act. The Marina Advisory Board shall have membership comprised
 17 of a representative from the following government departments and organizations:

- 18 a. Division of Fish and Wildlife, DLNR
- 19 b. Coastal Resources Management, DLNR
- 20 c. Division of Environmental Quality, DPW
- 21 d. Office of Public Lands, DLNR
- 22 e. Boating Safety, DPS
- 23 f. Emergency Management Office, Office of the Governor
- 24 g. Marianas Visitors Authority
- 25 h. Commonwealth Ports Authority
- 26 i. Department of Finance
- 27 j. Saipan Fishermen’s Association
- 28 k. Saipan Boat Owners Association

29 The Marina Advisory Board shall assist the DFW in the development of a Marina
 30 Management Plan, which shall include slip rental rates, rules and regulations,
 31 maintenance and improvement plan and an operations budget for the Smiling Cove
 32 Marina and the Outer Cove Marina.

1 **Section 8. Commercial Tour Boat Restriction on CPA Ports.** Commercial
2 tour boats 85 ft. in length or less operating on Saipan shall not be permitted to moor, load
3 or unload passengers, or rent slips operated by the Commonwealth Ports Authority. This
4 shall include the Charlie Dock, Echo Dock and the Sea Plane Ramp. Any existing leases
5 for slip rentals for commercial tour boats less than 85 ft. in length at the Port of Saipan
6 shall be terminated within 90 days of enactment of this Act. Slip rentals may be made
7 available for dry-docking or boat repairs on a temporary basis.

8 **Section 9. Severability.** If any provision of this Act or the application of any
9 such provision to any person or circumstance should be held invalid by a court of
10 competent jurisdiction, the remainder of this Act or the application of its provisions to
11 persons or circumstances other than those to which it is held invalid shall not be affected
12 thereby.

13 **Section 10. Savings Clause.** This Act and any repealer contained herein shall
14 not be construed as affecting any existing right acquired under contract or acquired under
15 statutes repealed or under any rule, regulation or order adopted under the statutes.
16 Repealers contained in this Act shall not affect any proceeding instituted under or
17 pursuant to prior law. The enactment of this Act shall not have the effect of terminating,
18 or in any way modifying, any liability, civil or criminal, which shall already be in
19 existence at the date this Act, becomes effective.

20 **Section 11. Effective Date.** This Act shall take effect upon its approval by the
21 Governor or upon its becoming law without such approval.

Date: April 19, 2001

Introduced By: /s/ Rep. Heinz S. Hofschneider

/s/ Rep. Jesus T. Attao

Reviewed for Legal Sufficiency by:

House Legal Counsel