

Twenty-Second Northern Marianas Commonwealth Legislature

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2021

H. B. 22- 22

A BILL FOR AN ACT

To establish laws to regulate bioprospecting activities within the Commonwealth of the Northern Mariana Islands in order to ensure prior, informed consent and equitable sharing of benefits.

**BE IT ENACTED BY THE 22nd NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Short Title.** This act may be cited as the Richard B. Seman
2 Bioprospecting Act of 2021.

3 **Section 2. Findings and Purpose.** The Legislature believes that the time
4 has come to safeguard both our ownership of as well as our rights to the use of
5 our local natural and biological resources, including biological processes, organic
6 compounds, living and dead organisms, genetic information and DNA, and any
7 other naturally occurring substances, processes and outputs found in the
8 Commonwealth of the Northern Mariana Islands, hereinafter, "CNMI".

9 **Section 3. Enactment.** The following is hereby enacted, subject to
10 codification by the CNMI Law Revision Commission:

11 **"Section 101. Definitions.**

12 (a) "Bioprospecting" means any search, analysis or study of
13 naturally occurring biological processes, organic compounds, living or

1 dead organisms, genetic information and DNA, and any other naturally
2 occurring substances, processes and outputs found in the CNMI, for
3 purposes of discovering something useful or commercially valuable,
4 whether or not the search, analysis or study is conducted on-site or if
5 materials were removed for off-site investigative processing.

6 (b) "Bioprospecting" does not include:

7 (i) horticultural cultivation, except for horticultural genetic
8 engineering conducted in a manner otherwise constituting
9 bioprospecting;

10 (ii) an agricultural enterprise;

11 (iii) a forest and range management practice;

12 (iv) invasive weed management; or

13 (v) incidental removal of materials while engaged in bona
14 fide research or commercial enterprises provided removed
15 materials are not used for bioprospecting.

16 (2) "Non-federal lands and waters" means above-water and
17 submerged lands and natural bodies of water in the CNMI that is not
18 owned by the federal government or within the exclusive and permanent
19 jurisdiction of the federal government.

20 **Section 102. Scope of Act.**

21 (1) This Act does not modify or replace any other requirement
22 under federal, state, or local law related to an act that under this Act is

1 considered bioprospecting, including any requirement to obtain the
2 permission of a landowner.

3 (2) This Act applies only to non-federal lands and waters.

4 **Section 103. Regulations.**

5 Within 180 days after the enactment of this Act or as soon as
6 possible thereafter, the Secretary of the CNMI Department of Lands and
7 Natural Resources (DLNR) shall promulgate rules and regulations
8 necessary to carry out the intent of this Act.

9 **Section 104. Registration for bioprospecting.**

10 (1) Beginning immediately upon the promulgation of rules and
11 regulations by DLNR, DLNR shall create a registration form for purposes
12 of this Act that includes:

13 (a) notice of the state's reservation of economic interests
14 provided in Section 105;

15 (b) a statement to be signed by a person who registers that
16 states that the person agrees to negotiate as described in Section
17 105; and

18 (c) a requirement that the person lists the locations at which
19 the person anticipates bioprospecting during the 12-month period
20 of the registration.

21 (d) a requirement that the person reports the results of the
22 bioprospecting within 12 months after the end of the registration

1 period. Results must identify any findings identified as being
2 potentially valuable and state whether or not any further action
3 will be taken in regards to the potentially valuable findings.

4 (e) a requirement that the person report to DLNR of any
5 subsequent actions taken in regards to any findings.

6 (f) a requirement that DLNR be advised in a timely manner
7 of any assignment of the findings to another party.

8 (g) a requirement that all obligations under this Act of the
9 person confer to subsequent assignees of the findings.

10 (2) Before engaging in an act of bioprospecting, a person shall
11 register with the DLNR.

12 (a) A registration under this Act expires twelve months
13 after issuance of the registration.

14 (3) To register with the division or renew a registration, a person
15 shall:

16 (a) submit a registration form created by the DLNR in
17 accordance with this Act;

18 (b) pay a fee established by DLNR.

19 **Section 105. Reservation of economic interests --Agreement to**
20 **negotiate in good faith.**

1 (1) The right of a person to engage in an act of bioprospecting in
2 this Commonwealth is subject to the CNMI's reservation of any right it
3 may have to an economic benefit derived from the act of bioprospecting.

4 (2) A person may not engage in an act of bioprospecting in the
5 CNMI if the person, as part of the registration required herein, does not
6 agree in writing to negotiate in good faith with the CNMI if the CNMI
7 asserts an economic interest described in Subsection (1).

8 **Section 106. Economic benefits of bioprospecting denied.**

9 (1) A person who engages in an act of bioprospecting in violation
10 of this Act is guilty of criminal trespass.

11 (2) If found guilty of a violation under this Act, a court may in
12 addition to a penalty imposed herein, order restitution that is proportional
13 to the economic interests the CNMI may have.”

14 **Section 4. Severability.** If any provision of this Act or the application of
15 any such provision to any person or circumstance should be held invalid by a
16 court of competent jurisdiction, the remainder of the Act or the application of its
17 provisions to persons or circumstances other than those to which it is held invalid
18 shall not be affected thereby.

19 **Section 5. Savings clause.** This Act and any repealer contained herein
20 shall not be construed as affecting any existing right acquired under contract or
21 acquired under statutes repealed or under any rule, regulation or order adopted
22 under the statutes. Repealers contained in this Act shall not affect any proceeding

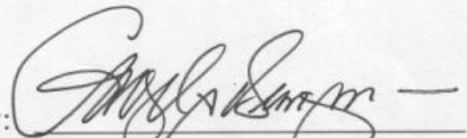
1 instituted under or pursuant to prior law. The enactment of the Act shall not have
2 the effect of terminating, or in any way modifying, any liability, civil or criminal,
3 which shall already be in existence on the date this Act becomes effective.

4 **Section 6. Effective date.** This Act shall take effect upon its approval by
5 the Governor or upon its becoming law without such approval.

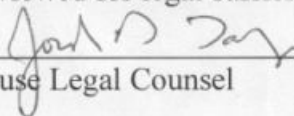
Prefiled: 2/12/2021

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Introduced By:


Rep. Angel A. Demapan

Reviewed for legal sufficiency by:


House Legal Counsel

