

SECOND NORTHERN MARIANAS CONSTITUTIONAL CONVENTION

SAIPAN, CM 96950

Telephone

6517/6572

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Herman T. Guerrero, President
Vicente M. Calvo, 1st Vice President
David M. Cing, 2nd Vice President
Maria T. Pangelinan, 3rd Vice President
William B. Nabors, Convention Secretary
Juan T. Lizama, Floor Leader

REPORT TO THE CONVENTION BY THE
COMMITTEE ON LOCAL GOVERNMENT

Members

Lorenzo I. Deleon Guerrero
Alonzo Igisomar
David L. Igitol
Rita H. Inos
Benusto R. Kalpat
Estevan M. King
Luis M. Limes
Jesus P. Mafnas
Paul A. Manglona
James M. Mendiola
Aniceto H. Mundo
Felicidad T. Ogunoro
Karl T. Reyes
Joaquin A. Tenorio
Francisco Tomokane
William S. Torres
Ramon G. Villagomez
Ignacio Villanueva

Subject: Committee Recommendation No. 40

The Committee on Local Government finds that Article XII, Section 5 and 6 is not doing what it was originally intended to accomplish; that is, to protect the local people from being exploited by shrewd foreign investors. The Committee believes that the present provisions are inadequate, and if anything, they provide the mechanism for circumventing the land alienation clause in the CNMI Constitution and in the Covenant. For this reason, the committee strongly recommends amending section 5 and 6 of Article XII of the Constitution. The committee agrees that the indigenous rights to ownership in real property in the Commonwealth should be fully protected against "exploitation from aggressive and economically more advanced outside groups."

While your committee fully supports and recommends unanimous approval of the intent of the amendment it also recognizes the potential economic disadvantage of the restriction. Outside investors may be hesitant to invest substantially in the CNMI because of perceived high-risk factor under the proposed amendment. The reason is that investors normally expect to maximize profits, minimize costs, and depart for greener pastures elsewhere. On the other hand, your committee recognizes the painful reality of our scarce resources in terms of land, water, electricity, skilled labor force, etc. The CNMI is easily swamped by ruthless, rugged, and unscrupulous investors if lawmakers are not careful in the disposition of our limited resources.

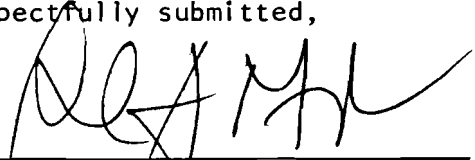
To balance the competing and often conflicting interests between economic development and political and economic subjugation your committee finds it highly imperative to reach a compromise. Your committee has no desire to stifle economic development. Your committee also has no intent to disenfranchise or disinherit the indigenous people of their rightful ownership to their land. For these reasons, your committee strongly agrees that corporations shall be considered persons of Northern Marianas descent if and only if the corporation has one-hundred percent (100%) directors of whom are persons of Northern Marianas descent and has one-hundred (100%) voting shares actually owned by persons of Northern Marianas descent for purposes of acquiring freehold and/or leasehold interests in real property in the CNMI. At the same time, your committee

fully supports increasing leasehold rights for non-Northern Marianas descent from forty years (40) to fifty-five (55) years. Increasing the leasehold term would enable foreign investors to amortize their capitalization cost and maximize profits at the same time.

Clearly, the arrangement above is economically advantageous not only to foreign investors but also to the local population. Your committee believes that both the local people and outside investors would maximize their returns on their investments: outside investors lease real property long enough to amortize initial capitalization cost and maximize profits while the lessor or land owner benefits from the lease agreement and any concomitant improvement that results from the leasehold agreement thereof.

Delegate Proposal: The only delegate proposal relating to Corporations of Northern Marianas descent referred to your Committee on Local Government was Delegate Proposal 162-85. This Committee Recommendation carries the full intent of that delegate proposal. Therefore, your Committee on Local Government recommends unanimous support and endorsement on the attached recommendation.


Respectfully submitted,




Delegate Paul A. Manglona
Chairman



Delegate William S. Torres
Vice-Chairman



Delegate Luis M. Limes
Member



Delegate William B. Nabors
Member



Delegate Francisco Tomokane
Member

COMMITTEE ON LOCAL GOVERNMENT

COMMITTEE RECOMMENDATION NUMBER: 40

The Committee on Local Government finds that Article XII, Section 5 and 6 is not doing what it is originally intended to accomplish; that is, to protect the local people from being exploited by shrew foreign investors. The Committee believes that the present provisions are inadequate, and if anything, they provide the mechanism for circumventing the land alienation clause in the CNMI Constitution and in the Covenant. For this reason, the committee strongly recommends amending section 5 and 6 of Article XII of the Constitution. The committee agrees that the indigenous rights to ownership in real property in the Commonwealth should be fully protected against "exploitation from aggressive and economically more advanced outside groups."

While your committee fully supports and recommends unanimous approval of the intent of the amendment it also recognizes the potential economic disadvantage of the restriction. Outside investors may be hesitant to invest substantially in the CNMI because of perceived high-risk factor under the proposed amendment. The reason is that investors normally expect to maximize profits, minimize costs, and depart for greener pastures elsewhere. On the other hand, your committee recognizes the painful reality of our scarce resources in terms of land, water, electricity, skilled labor force, etc. The CNMI is easily swamped by ruthless, rugged, and unscrupulous investors if lawmakers are not careful in the disposition of our limited resources.

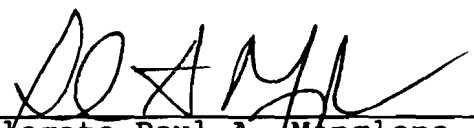
To balance the competing and often conflicting interests between economic development and political and economic subjugation your committee finds it highly imperative to reach a compromise. Your committee has no desire to stifle economic development. Your committee also has no intent to disenfranchise or disinherit the indigenous people of their rightful ownership to their land. For these reasons, your committee strongly agrees that corporations shall be considered persons of Northern Marianas descent if and only if the corporation has one-hundred percent (100%) directors of whom are persons of Northern Marianas descent and has one-hundred (100%) voting shares actually owned by persons of Northern Marianas descent for purposes of acquiring freehold and/or leasehold interests in real property in the CNMI. At the same time, your committee

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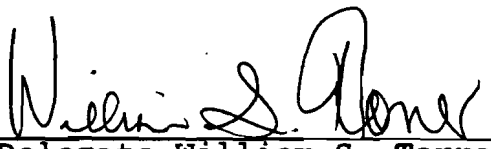
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Delegate Proposal: The only delegate proposal relating to Corporations of Northern Marianas descent referred to your Committee on Local Government was Delegate Proposal 162-85. This Committee Recommendation carries the full intent of that delegate proposal. Therefore, your Committee on Local Government recommends unanimous support and endorsement at the attached recommendation.

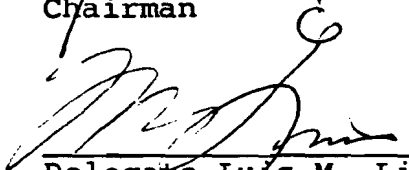
Respectfully submitted,



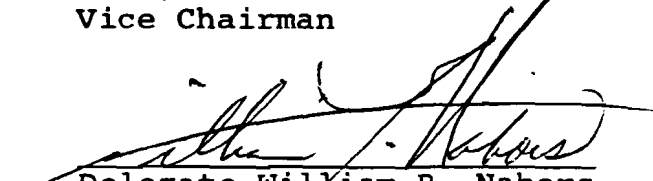
Delegate Paul A. Manglona
Chairman




Delegate William S. Torres
Vice Chairman



Delegate Luis M. Limes
Member



Delegate William B. Nabors
Member



Delegate Francisco Tomokane
Member

A PROPOSED CONSTITUTIONAL AMENDMENT

To amend Sections 5 and 6 of Article XII of the Northern Marianas Constitution to prevent corporations from fraudulently qualifying as persons of Northern Marianas descent.

BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth of the Northern Mariana Islands Constitution and Public Law No. 4-30, the Constitution of the Commonwealth of the Northern Mariana Islands is amended to read as follows:

1 Effective upon ratification, Sections 5 and 6, of Article XII are amended to read:

2 "Section 5: Corporations.

3 A corporation shall be considered to be a person of Northern
4 Marianas descent so long as it is incorporated in the Commonwealth,
5 has its principal place of business in the Commonwealth, has
6 directors one-hundred percent of whom are persons of Northern
7 Marianas descent and has voting shares one-hundred percent of
8 which are persons of Northern Marianas descent as defined in
9 Section 4. Minors, as defined by applicable laws of the
10 Commonwealth, shall not be eligible to become directors of a
11 corporation. No voting by proxy shall be permitted."

12 "Section 6: Enforcement.

13 Any transaction made in violation of Section 1 shall be void
14 ab initio. Whenever a corporation ceases to be qualified under
15 Section 5, a permanent or long-term interest in land in the
16 Commonwealth acquired by the corporation after the effective date
17 of this Constitution shall be forfeited to the government of the
18 Commonwealth of the Northern Mariana Islands. The Registrar of
19 Corporations shall issue regulations to ensure compliance."

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Committee on Local Government

*Adopted by
Vote of the
whole 7/13/85*

A PROPOSED CONSTITUTIONAL AMENDMENT

TO AMEND SECTIONS 5 AND 6 OF ARTICLE XII OF THE NORTHERN MARIANAS
CONSTITUTION TO PREVENT CORPORATIONS FROM FRAUDULENTLY QUALIFYING
AS PERSONS OF NORTHERN MARIANAS DESCENT.

BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

Upon ratification pursuant to Section 5 of Article XVIII of the Commonwealth
of the Northern Mariana Islands Constitution and Public Law No. 4-30, the
Constitution of the Commonwealth of the Northern Mariana Islands is amended
to read as follows:

- 1 1. Effective upon ratification, Sections 5 and 6, of Article XII are
2 amended to read:

3 "Section 5: Corporations.

4 A corporation shall be considered to be a person of Northern
5 Marianas descent so long as it is incorporated in the Commonwealth,
6 has its principal place of business in the Commonwealth, has
7 directors one-hundred percent of whom are persons of Northern
8 Marianas descent and has voting shares one-hundred percent of which
9 are persons of Northern Marianas descent as defined in Section 4.
10 Minors, as defined by applicable laws of the Commonwealth, shall
11 not be eligible to become directors of a corporation."

12 "Section 6: Enforcement.

13 Any transaction made in violation of Section 1 shall be void
14 ab initio. Whenever a corporation ceases to be qualified under
15 Section 5, a permanent or long-term interest in land in the
16 Commonwealth acquired by the corporation after the effective date
17 of this Constitution shall be forfeited to the government of the
18 Commonwealth of the Northern Mariana Islands.

19 Date: 7/11/85

Offered by:

COMMITTEE ON LOCAL GOVERNMENT

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A PROPOSAL

TO AMEND SECTION 5 and SECTION 6 OF ARTICLE XII OF THE NORTHERN
MARIANAS CONSTITUTION TO PREVENT CORRUPTION IN CORPORATIONS
REGISTERED AS PERSONS OF NORTHERN MARIANAS DESCENT.

BE IT ADOPTED BY THE SECOND CONSTITUTIONAL CONVENTION:

1 Section 1. Section 5 of Article XII of the Constitution of the Northern
2 Mariana Islands is hereby amended to read as follows:

3 Section 2. Corporations. A corporation shall be considered to be a
4 person of Northern Marianas descent so long as it is incorporated in
5 the Commonwealth, has its principal place of business in the Common-
6 wealth, has directors at least fifty-one percent of whom are persons
7 of Northern Marianas descent and has voting shares at least fifty-one
8 percent of which are actually owned in fact and ^{not} simply in name only by
9 persons of Northern Marianas descent as defined by section 4. Minors
10 as defined in applicable laws in the Commonwealth shall not be directors
11 and voting shares in the corporation shall not be transferable to minors
12 except under compelling circumstances.

13 Section 3. Section 6 of Article XII of the Constitution of the Northern
14 Mariana Islands is hereby amended to read as follows:

15 Section 4. Enforcement. Any transaction made in violation of section 1
16 shall be void ab initio. Whenever a corporation ceases to be qualified
17 under section 5, a permanent or long-term interest in land in the Common-
18 wealth acquired by the corporation after the effective date of this
19 Constitution shall be forfeited to the government of the Commonwealth of
20 the Northern Mariana Islands. The public auditor shall make annual audits
21 on corporations registered to be persons of Northern Marianas descent and

shall forward findings to the Attorney General for appropriate action.

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Date: June 25, 1985

Introduced by: William S. Torres
DELEGATE WILLIAM S. TORRES, SAIPAN

Lorenzo I. Guerrero
Delegate Lorenzo I. Guerrero,
Saipan

David L. Igitol
Delegate David L. Igitol, Saipan

Alonzo Igisomar
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Francisco Tomokane
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Ramon G. Villagomez
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Saipan

Ignacio Villanueva
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