

7/12/95

ARTICLE XI: PUBLIC LANDS

Section 1: Public Lands.

The lands as to which right, title or interest have been or hereafter are transferred from the Trust Territory of the Pacific Islands to any legal entity in the Commonwealth under Secretarial Order 2969 promulgated by the United States Secretary of the Interior on December 26, 1974, the lands as to which right, title or interest have been vested in the Resident Commissioner under Secretarial Order 2989 promulgated by the United States Secretary of the Interior on March 24, 1976, the lands as to which right, title or interest have been or hereafter are transferred to or by the government of the Northern Mariana Islands under article VIII of the Covenant, and the submerged lands off the coast of the Commonwealth to which the Commonwealth now or hereafter may have a claim of ownership are public lands and belong collectively to the people of the Commonwealth who are of Northern Marianas descent.

Section 2: Submerged Lands.

The management and disposition of submerged lands off the coast of the Commonwealth shall be as provided by law.

Section 3: Permanent Preserves

There are hereby established permanent preserves which shall be maintained as uninhabited areas for the cultural, recreational, wildlife, medicinal and other plant life, and scenic benefit of all the people. No permanent structure may be built in the preserves. No land designated as a preserve may be sold, leased, or dedicated to any private use in any way.

- a) [description of land on Saipan]
- b) [description of land on Tinian]
- c) [description of land on Rota]

[Note: This section is new. The lands to be put in the preserves are being defined by a subcommittee.]

Section 4: Other Public Lands.

The management and disposition of public lands other than those provided for by Section 2 and Section 3 shall be the responsibility of the Marianas Public Land Corporation.

Section 5: Marianas Public Land Corporation.

There is hereby established the Marianas Public Land Corporation.

a) The corporation shall have five directors, appointed by the governor with the advice and consent of the senate. The directors shall be held to strict standards of fiduciary care and shall direct the affairs of the corporation for the benefit of the people of the Commonwealth who are of Northern Marianas descent. The directors shall serve staggered terms of five years.

[Note: the former provision provided five directors served four year terms, which makes the arrangements for staggered terms more complicated. The Schedule on Transition would provide for the initial set of directors and how they would get into staggered terms.]

b) One director shall be a resident of the first senatorial district, one shall be a resident of the second senatorial district, three shall be residents of the third senatorial district; and at least one shall be a woman and at least one shall be a representative of the Carolinian community. Each director shall be a citizen of the United States and a resident of the Commonwealth for five years and may not hold any other government position.

c) The corporation shall have the powers available to a corporation under Commonwealth law and shall act only by the affirmative vote of a majority of the directors.

d) The directors shall make an annual report to the people through a joint session of the legislature describing the management of the public lands and the nature and effect of transfers of interests in public land made during the preceding year and disclosing the interests of the directors in Commonwealth land.

[Note: this section has been changed to an annual report through a joint session of the legislature to conform to other similar provisions in the Constitution.]

Section 6: Fundamental Policies.

The Marianas Public Land Corporation shall follow certain fundamental policies in

the performance of its responsibilities.

a) The corporation shall make available some portion of the public lands for a homestead program. A person is not eligible for more than one homestead. A person may not receive a freehold interest in a homestead for three years after the grant of a homestead and may not transfer a freehold interest in a homestead for ten years after receipt. At any time after receiving the freehold interest, the grantee may mortgage the land provided that all funds received from the mortgage be devoted to the improvement of the land. Other requirements relating to the homestead program shall be provided by law.

[Note: The former provision allowed more than one homestead. This provision allows only one. The former provision included an exception for those who had established 15 years of continuous use prior to January 9, 1978, i.e. beginning no later than January 9, 1963. Claims based on this waiver provision have been exhausted and it should be deleted.]

b) The corporation may not transfer a freehold interest in public lands except for homesteads as provided under Section 5(a), or for use for a public purpose by another agency of government, or for land exchanges on the same island for equivalent value to accomplish a public purpose as authorized by law. Transfers other than for homesteads may be made only after reasonable notice and public hearing.

[Note: The former provision allowed transfers of freehold interests beginning in 1998. This has been deleted. The words "on the same island for equivalent value" have been added to govern land exchanges. The legislative history will explain the intent to avoid abuses as in the past. The last sentence has been added.]

c) The corporation may not transfer a leasehold interest in public lands that exceeds twenty-five years including renewal rights. An extension of not more than fifteen years may be given upon approval by three-fourths of the member of the legislature.

d) The corporation may not transfer an interest in public land for use for commercial purposes without the approval of the legislature in a joint session.

e) The corporation may not transfer an interest in, and may not permit any permanent structure to be located on, public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize facilities for public purposes.

[Note: the former provision allowed the corporation discretion with respect to the erection of any permanent structure; this provision makes the prohibition mandatory.]

f) The corporation shall operate in accordance with a comprehensive land use plan with respect to public lands including priority of uses and may amend the plan as appropriate after reasonable notice and public hearings.

[Note: the prior provision required only that the corporation adopt a comprehensive land use plan; this section requires the corporation to operate only in accordance with the plan. The requirement for public hearings has been added.]

g) The corporation shall receive all moneys from the public lands and shall transfer these moneys promptly to the Marianas Public Land Trust except that the corporation may retain the amount necessary to meet reasonable expenses of administration and the amount necessary to maintain the permanent preserves. All operating expenditures of the corporation shall be set out in a budget approved by the legislature and the governor.

[Note: the clause with respect to funding the maintenance of the permanent preserves has been added. The provision with respect to the budget has been added.]

Section 7: Marianas Public Land Trust.

There is hereby established the Marianas Public Land Trust.

a) The trust shall have five trustees appointed by the governor with the advice and consent of the senate, who shall be held to strict standards of fiduciary care. One trustee shall be a resident of the first senatorial district, one shall be a resident of the second senatorial district, and three shall be residents of the third senatorial district; and at least one trustee shall be a woman and at least one trustee shall be a representative of the Carolinian community. The trustees shall serve staggered terms of five years.

[Note: the former provision provided for 5 trustees serving 6-year terms, which made the staggered terms somewhat complicated. This provision has 5 trustees serving 5-year terms. The phase-in to this schedule can be set out in the Schedule on Transition.]

b) The trustees shall make reasonable, careful and prudent investments. At least fifty percent of the investments shall be in obligations of the United States government.

[Note: The requirement for 50% investment in secure bonds is new. The former provision required 100% investment in U.S. obligations for a period of 10 years after the Constitution came into effect.]

e) The trustees shall make an annual report to the people at a joint session of the legislature accounting for the revenues received and expenses incurred by the trust and describing the investments and other transactions authorized by the trustees.