

DRAFT

7/17/95

ARTICLE XII: RESTRICTIONS ON ALIENATION OF LAND

Section 1: Alienation of Land

The acquisition of permanent and long-term interests in real property within the Commonwealth shall be restricted to persons of Northern Marianas descent and shall require disclosure sufficient to ensure fairness and timely enforcement under this article.

[Note: This adds a requirement of disclosure that would deal with the concerns about agents, brokers, and “front” corporations. The reference to “timely enforcement” is linked to the six year statute of limitations in Section 6.]

Section 2: Acquisition

The term acquisition used in Section 1 includes acquisition by sale, lease, gift, inheritance or other means. A transfer by inheritance to a spouse or child who was adopted before six years of age is not an acquisition under this section. A transfer to a mortgagee by means of foreclosure is not an acquisition under this section if the mortgagee is a full service bank, federal agency or governmental entity of the Commonwealth and does not hold the permanent or long-term interest in real property for more than ten years after foreclosure.

[Note: This allows spouses and adopted children to inherit, but does not make them persons of Northern Marianas descent for any other purpose. The foreclosure language has been cleaned up, but the meaning is not changed.]

Section 3: Permanent and Long-Term Interest in Real Property

The term permanent and long-term interests in real property used in Section 1 includes freehold interests and leasehold interests of more than fifty-five years including renewal rights and related obligations.

[Note: This adds the term “related obligations” which will be explained in the legislative history to do away with buy-back requirements, change of law provisions, and other devices to get beyond the 55 years. This deletes the exception for condos above the first floor that was added in 1985.]

Section 4: Persons of Northern Marianas Descent

A person of Northern Marianas descent is a person who is a citizen or national of the United States and who is of at least one-quarter Northern Marianas Chamorro or Northern Marianas Carolinian blood or a combination thereof. For purposes of determining Northern Marianas descent, a person shall be considered to be a full-blooded Northern Marianas Chamorro or Northern Marianas Carolinian if that person was born or domiciled in the Northern Mariana Islands by 1960 and was a citizen of the Trust Territory of the Pacific Islands before the termination of the Trusteeship with respect to the Commonwealth.

[Note: This deals with the problem of the pool of persons of Northern Marianas descent by moving the qualifying date from 1950 to 1960, which would make many more persons 100% Chamorro or Carolinian, and thus qualify their children and grandchildren who have married persons who are not Northern Marianas descent. This is a safer course than lowering the 25% requirement. This also deletes adopted children as persons of Northern Marianas descent (although they can inherit under Section 2).]

Section 5: Corporations

A corporation shall be considered to be a person of Northern Marianas descent so long as it is incorporated in the Commonwealth, has its principal place of business in the Commonwealth, has directors one hundred percent of whom are persons of Northern Marianas descent over the age of 21 years who actually, completely, and directly govern the affairs of the corporation, and has voting shares one hundred percent of which are actually, completely, and directly owned and voted by persons of Northern Marianas descent.

[Note: The language has been cleaned up so that there will be fewer court cases, but the meaning is the same.]

Section 5: Enforcement

- a) Any transaction made in violation of Section 1 shall be voidable. The attorney general shall establish an office to monitor and enforce this article. Any action challenging a transaction shall be filed within six years of the transaction.

[Note: This changes the standard from void ab initio to voidable, which will allow the courts flexibility in remedies. This adds an enforcement office within the Attorney General's office to assist landowners, to

monitor and challenge new practices that violate Article 12, and to provide advisory opinions for parties in transactions. This adds a statute of limitations of six years.]

Schedule on Transitional Matters

Section ___:

After ratification of these amendments, the provisions of this article shall apply in all pending proceedings other than those in which a final judgment, not subject to further appeal, has been entered.

No rights under contracts existing on June 5, 1995 shall be impaired.