

AMENDMENT NO. 11

AMENDMENT OF ARTICLE 11: PUBLIC LANDS

DESCRIPTION OF CHANGES
PROPOSED BY THE
CONSTITUTIONAL CONVENTION

AMENDED CONSTITUTION AS PROPOSED
BY THE CONSTITUTIONAL CONVENTION

Title: The title of Article 11 has been changed from "Public Lands" to "Commonwealth Lands" to reflect the broader scope of the proposed article.

Section 1: No change.

Section 2: No change.

Section 3: No change (except conforming name change)

Section 4(a): Restore the format of the 1976 Constitution for governing public land. Use the name Marianas Land Bureau to reflect additional functions. Change term of office for director from 4 years to 5 years (so that only 4 of the 5 directors will be appointed during any Governor's first term of office) and add a limit of one term.

Section 4(b): Require directors to be selected from the private sector; directors

ARTICLE XI: COMMONWEALTH 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: Other Public Lands.

The management and disposition of public lands other than those provided for by section 2 shall be the responsibility of the Marianas Land Bureau.

Section 4: Marianas Land Bureau.

There is hereby established the Marianas Land Bureau.

a) The bureau 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 administer the public lands and the affairs of the bureau for the benefit of the people of the Commonwealth who are of Northern Marianas descent. The directors shall serve terms of five years, with one term expiring each year, and shall serve not more than one term.

b) At least one director shall be a resident of each senatorial district, at least one shall be a woman and at least one shall be a representative of the

may not hold any other government position. Change qualifications to "adequate knowledge of the landholding practices, customs and traditions in the Commonwealth." Delete provision on felony conviction; this is covered in Article 7.

Section 4(c): No change. (This is former Section 4(d).)

Section 4(d): Require the annual report in person to be made by the chair of the board of directors at a joint session of the legislature.

Section 5(a): Homestead program expanded to include homestead housing (multiple unit dwellings built on public land and distributed as homesteads). Delete 3-year waiting period to receive freehold interest in homestead property; require homesteader to hold property for 25 years before sale or commercial lease. All other requirements to be set out in regulations.

Section 5(b): Other than homesteads, a freehold interest in public lands may be transferred only to a government agency for use for a public purpose. Land exchanges must be resolved within 2 years.

Section 5(c): Leases may be up to 40 years. All leases require notice, an opportunity for competing bids and a public hearing. Leases for a commercial purpose terminate automatically after 3 years if the commercial purpose is not achieved within that time. Transfers of leasehold interests require approval of the legislature if they are more than 25 years or more than 5 hectares, but the legislature may only approve or reject; it may not alter the terms of the proposed lease and must act within 60 days, or the lease is automatically approved. (This includes former Section 5(c) and 5(d).)

Section 5(d): A comprehensive land use plan is required before public lands are

Carolinian community. Each director shall be a citizen of the United States and a resident of the Commonwealth for five years immediately prior to appointment, shall have adequate knowledge of landholding practices, customs and traditions in the Commonwealth, and shall not hold any other government position.

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

d) The chair shall make an annual report in person to the people at 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 land in the Commonwealth.

Section 5: Fundamental Policies.

The bureau shall follow certain fundamental policies in the performance of its responsibilities.

a) The bureau shall use some portion of the public lands for a homestead and homestead housing program. A freehold interest in a grant may not be sold or subjected to lease for commercial purposes for twenty-five years after receipt. Other requirements relating to the program under this subsection shall be only as provided by the bureau.

b) The bureau may transfer a freehold interest in public lands only to a government agency for use for a public purpose after reasonable notice and public hearing and within two years of the date of the request.

c) The bureau may transfer a leasehold interest in public lands for commercial or other purposes after reasonable notice, an opportunity for competing bids, and public hearing. A leasehold interest shall not exceed forty years including renewal rights and shall expire within three years if the commercial purpose is not accomplished. Leasehold interests of more than twenty five-years, or more than five hectares, shall be submitted to the legislature. The legislature acting in a joint session may approve or reject, but may not alter, the lease presented by the bureau. If the legislature fails to act within sixty calendar days, the lease is deemed approved.

d) The bureau shall administer the public lands in accordance with a comprehensive land use plan with respect to public lands including priority of uses and shall adopt or amend the plan only after reasonable notice and public hearing.

Section 7: The functions of land surveying and investigation of titles, and making administrative adjudications as to land titles, are consolidated within the Bureau. Legal questions on land titles are resolved by the courts.

Section 7: Land Titles.

The bureau is vested with jurisdiction to investigate, survey, consider, adjudicate, and resolve land titles.

Section 8: Marianas Public Land Trust.

There is hereby established the Marianas Public Land Trust.

Section 8(a): Decrease term of office of trustees from 6 to 5 years. Add term limit of two terms for trustees. Update this section by deleting transition language that applied to first selection of trustees under 1976 Constitution and to increase from 3 to 5 trustees. Delete legislative language on financial reports. (This is former Section 6(a) and Section 6(f).)

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. At least one trustee shall be a resident of each senatorial district, at least one trustee shall be a woman and at least one trustee shall be a representative of the Carolinian community. Trustees may not hold government positions while serving as trustees. The trustees shall serve terms of five years, with one term expiring each year, and shall serve not more than two terms.

Section 8(b): Trustees have sole power to invest trust assets. Add limitations to investments made by trustees: up to 40% in fixed income securities; up to 60% in high grade equities; alternatively in cash and cash equivalents when necessary. Update this section by deleting language that applied from 1976-1986. This is former Section 6(c).)

b) The trustees shall make reasonable, careful and prudent investments. Up to forty percent of the assets may be invested in fixed income securities purchased in the United States with a high rating for quality and security. Up to sixty percent of the assets may be invested in equities purchased in companies listed on the United States stock exchange with the highest requirements for listing. Investment in cash and cash equivalents is authorized if investment counsel and trustees deem it appropriate. The trustees have the sole power to approve investment of trust assets.

Delete former Section 6(c) which applied to a bank that the legislature elected not to set up.

Former Section 8(c) provided: If the legislature authorizes a Marianas development bank and provides that all United States economic assistance for economic development loans provided under article VII, section 702(c), of the Covenant shall be deposited as capital in that bank, the trust shall use up to fifty-five percent of its receipts in a year to increase the total capital available to the bank to the sum of ten million dollars. After the bank has more than ten million dollars in total capital, the bank shall pay the excess above ten million dollars to the trust until the trust has been fully repaid for its contribution to the bank.

Section 8(c): Trustees may use up to 40% of interest income for the homestead program and the maintenance of the permanent preserves; remainder of interest income goes to Council for Indigenous Affairs and capital improvement projects as appropriated by the legislature. This is new.

c) The trustees may fund or guarantee mortgages and loans permitted under section 5(a) and the maintenance of the permanent preserves authorized under section 6 to an amount not to exceed forty percent of interest income each year and may retain the amount necessary to meet reasonable expenses of administration. The remainder of the interest income shall be remitted to the general fund to be appropriated by the legislature for the council on indigenous affairs and capital improvement projects as deemed appropriate.

Section 8(d): No change. (This is former Section 6(d).)

d) The trustees shall carry out the intentions of article VIII, section 803(e), of the Covenant by using the interest on the amount received for the lease of property at Tanapag Harbor for the development and maintenance of a memorial park. The trustees shall transfer to the general fund the remaining

sold or leased; and the plan may be amended only after notice and public hearing. (This is former Section 5(f).)

Section 5(e): The bureau is required to submit a budget with respect to its annual operations in the same fashion as any other agency and may spend funds only as approved by the legislature.

Section 6(a): Establishes permanent preserves set aside for public use.

Section 6(b): Identifies Managaha, Bird Island, and Forbidden Island as permanent preserves.

Section 6(c): Identifies sandy beaches as permanent preserves. (This is former Section 5(e).)

Section 6(d): Current public lands that are contiguous to any beach are included in the preserves unless the Bureau exempts them.

Section 6(e): Current public lands that are above 500 feet in elevation are included in the preserves unless the Bureau exempts them.

Section 6(f): Current wildlife preserves are included in the permanent preserves.

Section 6(g): Current public lands in the sabana area on Rota are included in the permanent preserves.

Section 6(h): At least 100 hectares of the current military lease on Tinian will become a part of the permanent preserve when the military lease is returned to the Commonwealth.

Section 6(i): The Bureau can designate other public lands to become a part of the constitutionally protected permanent preserves.

e) The bureau shall receive all moneys from the public lands and shall transfer these moneys promptly to the Marianas Public Land Trust except that the bureau may retain and expend the amount necessary to meet reasonable expenses of administration, costs of programs under section 5(a) and maintenance of the permanent preserves under section 6 in accordance with a budget approved by the legislature and the governor.

Section 6: Permanent Preserves.

a) There are hereby established permanent preserves to be used for cultural and recreational purposes, to preserve wildlife and medicinal and other plant life, and to conserve water resources. No land designated as a preserve may be sold or dedicated to any private use in any way.

b) Managaha Island, Isleta Maigo (Bird Island), and Isleta Maigo Luao (Forbidden Island) in the third senatorial district are permanent preserves which shall be maintained as uninhabited places used only for cultural and recreational purposes.

c) Public lands located within one hundred and fifty feet of the high water mark of a sandy beach are permanent preserves which shall be maintained as uninhabited places with no structures other than facilities for public recreational purposes.

d) Public lands directly contiguous in any way to any beach are permanent preserves unless exempted by the bureau before December 31, 1997.

e) Public lands five hundred feet or more above sea level are permanent preserves unless exempted by the bureau before December 31, 1997.

f) Public lands included in the Kagman wildlife conservation area, the Naftan wildlife conservation area, the Chenchun bird sanctuary, and the Katan Afato wildlife conservation area are permanent preserves upon which no permanent structures may be built and as to which no leases may be made.

g) Public lands in the sabana area of Rota are permanent preserves to be used for community farming, conservation, bird and wildlife preservation, recreation, and as provided by the bureau under section 5(a).

h) At least one hundred contiguous hectares of any land in Tinian under military lease and returned to the Commonwealth shall be designated as a permanent preserve by the bureau.

i) Other permanent preserves may be designated by the bureau.

interest accrued on trust proceeds except that the trustees may retain the amount necessary to meet reasonable expenses of administration.

Section 8(e): None. (This is former Section 6(e).)

e) The trustees shall make an annual written report to the people accounting for the revenues received and expenses incurred by the trusts and describing the investments and other transactions authorized by the trustees.