

# AMENDMENT NO. 12

## AMENDMENT OF ARTICLE 12: RESTRICTIONS ON ALIENATION OF LAND

DESCRIPTION OF CHANGES  
PROPOSED BY THE  
CONSTITUTIONAL CONVENTION

AMENDED CONSTITUTION AS PROPOSED  
BY THE CONSTITUTIONAL CONVENTION

### ARTICLE XII: RESTRICTIONS ON ALIENATION OF LAND

Section 1: No change.

#### 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.

Section 2: Allow transfers by gift or inheritance to children or grandchildren who are do not meet the 25% Northern Marianas descent requirement. Allow transfers by gift or inheritance to adopted children who are not of Northern Marianas descent if adopted before the age of 6 years. Allow transfers to spouses who are not of Northern Marianas descent to the extent permitted by the legislature.

#### Section 2: Acquisition

The term acquisition used in section 1 includes acquisition by sale, lease, gift, inheritance or other means except a transfer by inheritance or gift to a child or grandchild or a person not of Northern Marianas descent who was adopted before age six, a transfer by inheritance to a spouse who is not of Northern Marianas descent as provided by law, and a transfer to a mortgagee by means of foreclosure 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.

Section 3: Add limitation on related obligations of a landowner to a leasehold owner that would in effect extend a lease beyond 55 years; these obligations (such as buy-back clauses and required successive leases) are not permitted.

#### Section 3: Permanent and Long-Term Interests 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.

Section 4: Delete reference to adopted children in the definition of persons of Northern Marianas descent. Adopted children do not become persons of Northern Marianas descent by reason of adoption, and are not eligible for public lands. They may inherit family lands under Section 2.

#### 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 1950 and was a citizen of the Trust Territory of the Pacific Islands before the termination of the Trusteeship with respect to the Commonwealth.

Section 5: Impose a “control” test for determining whether corporations qualify as persons of Northern Marianas descent: to qualify a corporation must have owners and directors 51% of whom are persons of Northern Marianas descent and who “actually, completely, and

#### 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 at least fifty one percent of whom are persons of Northern Marianas descent over the age of twenty-one years who actually, completely, and directly govern the affairs

directly” control the corporation.

Section 6: Change the standard from “void ab initio” to “voidable” to allow the courts discretion in determining when persons of Northern Marianas descent who bought land in good faith should be allowed to keep their land. Add a 6-year statute of limitations so that transactions may not be challenged in court after six years have passed unless there has been fraud or a disability that kept the person with the cause of action from bringing it.

Add an office in the Attorney General’s office to assist landowners, monitor land transactions, and assist in enforcing Article 12 to ensure that ownership of land remains in the hands of persons of Northern Marianas descent.

**of the corporation, and has voting shares at least fifty one percent of which are actually, completely, and directly owned and voted by persons of Northern Marianas descent.**

#### **Section 6: Enforcement**

**Any transaction made in violation of section 1 shall be voidable. If a corporation is divested of land for violation of section 1, the land shall be forfeited to the government. The attorney general shall establish an office to assist landowners, to monitor land transfers and to assist in enforcing this article. Any action challenging a transaction shall be filed within six years of the transaction.**

#### **SCHEDULE ON TRANSITIONAL AND RELATED MATTERS**

#### **Section 7: Transition with Respect to Article XII, Restrictions on Alienation of Land.**

- a) Nothing in these amendments shall impair rights in contracts existing on August 4, 1995.
- b) Upon the effective date of these amendments, article XII, section 2, shall have retroactive effect.
- c) Upon the effective date of these amendments, article XII, section 3, section 4 and section 5, shall have prospective effect.
- d) Upon the effective date of these amendments, article XII, section 6, shall apply in all pending proceedings other than those in which a final judgment, not subject to further appeal, has been entered.