TENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH REGULAR SESSION, 1998

C. B. NO. 10-354

A BILL FOR AN ACT

To propose an amendment to article XIII, section 4 and 5, of the Constitution of the Federated States of Micronesia, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. The Congress of the Federated States of Micronesia, having considered the recommendations of the
2 Second National Banking Symposium as endorsed by the 1998
3 state-National Leadership Conference, hereby proposes an
4 amendment which would repeal sections 4 and 5 of article XIII
5 of the Constitution of the Federated States of Micronesia and
6 add new sections 4 and 5 to read as follows:

"Section 4: (a) Notwithstanding any other term in
this Constitution, land and interests in land in the
Federated States of Micronesia shall be freely
alienable by its owners and the persons entitled to
the beneficial interest therein, except that a
noncitizen or a corporation which is not majority-
owned and controlled by citizens may not own or
acquire a fee or other permanent or long-term
interest exceeding a term of 50 years in real
estate.

(b) A transfer of an interest to a mortgagee
or the beneficiary under a deed of trust in
foreclosure of a mortgage or in exercise of the
power of sale in a deed of trust shall not be an
acquisition of a fee or other permanent or long-term
interest in violation of this section 4 even if the
interest acquired is a fee or a lease for a term of
more than 50 years or the person acquiring the
interest is a noncitizen or a corporation owned or
controlled by noncitizens; PROVIDED, HOWEVER, that
if the person acquiring the interest at foreclosure
or under exercise of the power of sale is a
noncitizen or a corporation owned or controlled by
noncitizens such person must transfer the same to a
citizen or other person eligible to hold it within
seven years of the foreclosure or sale under the
power of sale. Failing such transfer, such interest
shall escheat to the State wherein the real estate
is located, which State may provide by law to return
such real estate interest to its prior owner or
others who may have an interest therein.

(c) No State may by its Constitution, laws, or
traditions impose a greater restriction than that
set forth in this section 4 on the alienability of
land or the persons entitled to own or acquire a
permanent or long-term interest in real estate.

Section 5: (a) No lease of real estate having a
definitely stated term of 50 years or less may be
challenged for having an excessive or indefinite
term or as being violative of section 4 of this
Article XIII as long as the rent payable under such
lease continues over the term of the lease and is
not paid in full or in substantial part at the
commencement of the term.

(b) A lease in which not more than five times
the average monthly fixed rent (exclusive of
percentage rents based on revenues or profits) for
the full term is paid in any month occurring in the
first third of the term and in which not less than
one-fifth of such average monthly fixed rent for the
full term is paid in any month occurring in the last
third of the term shall be deemed to be a lease in
which rent continues to be paid over the term and
not one in which rent is paid in substantial part at
commencement of the term.

(c) No State may by its Constitution, laws, or
traditions impose a greater restriction on the
length of leaseholds than that set forth in this
section 5.

Section 2. The proposed Constitutional amendment
contained in section 1 shall be placed on the ballot for the
March 1999 national general elections.

Section 3. This act shall become law upon approval by
the President of the Federated States of Micronesia or upon
its becoming law without such approval.

Date: 11/30/98

Introduced by: Joseph J. Urusemal
(by request)