

TITLE 2: NATURAL RESOURCES
DIVISION 4: LAND RESOURCES

§ 4921. Lease Renewal Rights.

A mutual agreement by a landlord and a tenant to make a new lease to replace an existing lease shall not constitute a permanent or long-term interest, and shall constitute an independent, new lease allowable under Article XII of the Constitution where:

(a) Such new lease is not the result of the exercise of an option or other unilateral discretion granted to the tenant,

(b) The commencement of the term of the new lease follows the expiration, termination or cancellation of the term of the prior lease,

(c) The making of the agreement for the new lease, the end of the prior lease, and the commencement of the term of the new lease are reasonably close in time, and

(d) The term of the new lease does not exceed the term of leases allowed by Article XII of the Constitution,

(e) Regardless of the similarity of the property subject to the leases, the identities of the parties to the leases, or the provisions of the leases.

Source: PL 15-49, § 4 (4920), modified.

Commission Comment: Public Law 15-49, which created “Article XII Condominiums” (codified at 2 CMC § 6701 et seq.), was enacted on March 14, 2007, and contained the following findings and purpose in addition to other enactments and severability and savings provisions. The Commission assigned a different section number for the above section than what was originally designated by PL 15-49 and also changed the numbering scheme pursuant to its authority by 1 CMC § 3806.

Section 1. Findings and Purpose. The Legislature finds that a class of persons with rights specifically granted to them by the Constitution is being denied the effective enjoyment of those rights. Article XII, Section 3, of the Constitution gives persons not of Northern Marianas descent the right to acquire an interest above the first floor of a condominium building on privately owned land in the Commonwealth, and declares such an interest to be an exemption from the meaning of “permanent and long-term” interests in Commonwealth real property. The Legislature passed Public Law 15-20 to specifically declare that the economic development of the Commonwealth would be enhanced if such persons, who include many residents of the CNMI as well as United States citizens and others, would invest in condominium units above the first floor on privately owned land, and to enact provisions specifically declaring their right to do so. The Legislature finds that there are private landowners in the Commonwealth who would like to join together with their tenants or other developers to make such condominium units available to the class of persons entitled to purchase them.

The Legislature further finds that the Commonwealth Uniform Condominium Act, by which condominium interests may be created, and which is based on a uniform act designed for general usage in the United States, does not provide appropriate definitions and provisions to accommodate the contrasting interests, under Article XII, of both classes

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DIVISION 4: LAND RESOURCES

of persons of Northern Marianas descent whose land interests are protected and those persons not of Northern Marianas descent who are allowed to purchase condominium interests. The Legislature finds that this Act will implement the intent and purpose of Public Law 15-20. The Legislature finds that denying persons not of Northern Marianas descent the effective enjoyment of their right to acquire an interest above the first floor of a condominium building is fundamentally unfair to them, and injurious to the economic welfare and development of the Commonwealth. The Legislature finds that the creation of Article XII condominiums as provided for in this Act will equitably and fairly balance the interests of both classes of persons whose rights are protected by Article XII.

The Legislature further finds that the owners of private land in the Commonwealth are unfairly denied the right to make new leases of their privately owned lands to take advantage of changes in the economy which may be mutually advantageous to the owner and the tenant due to a perceived legal impediment that prevents them from doing so, and the Legislature desires to clarify this issue to assure those land owners that they do and shall have that right. The Legislature finds that this reluctance to enter into such new leases is inhibiting capital renewal, is a burden on further economic development in the Commonwealth, and an unfair disadvantage to owners of privately owned leased lands. The Legislature finds that this “renewal right” is not a permanent and long-term interest in real property under certain circumstances, and that the uncertainty surrounding such renewal rights is a consequence of failure to carefully distinguish between rights given to a tenant to unilaterally extend the term of a lease under some option or other discretion granted at the commencement of a lease, and the act of renewing or making a new lease contract during the term or upon expiration of a lease. The Legislature finds that a “renewal right”, however denominated, given in the circumstances identified in this Article, constitutes an allowable contract for a new lease term, independent from the term of any lease which may be terminated or cancelled immediately prior to the making of the new lease, or made immediately upon expiration of a prior lease.

The Legislature independently finds and determines that by this Act the Government of the Northern Mariana Islands is carefully regulating the alienation of permanent and long-term interest in Commonwealth real property so as to restrict the acquisition of such interests to persons of Northern Marianas descent. The Legislature declares that these findings shall be an integral part of the law of Article XII Condominiums.