

A BILL FOR AN ACT

To allow the transfer and conveyance of certain public lands from the Government of the Trust Territory of the Pacific Islands to legal entities in each of the six districts; to empower the High Commissioner to effectuate such transfers and conveyances; to prescribe certain limitations, reservations, and conditions to such transfers and conveyances; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

1 Section 1. Short Title. This act shall be known as the "Public
2 Land Transfer Act of 1974."

3 Section 2. Purpose. The purpose of this act is to effectuate the
4 provisions of the Public Land Policy Paper of the United States Government
5 dated November 2, 1974; to authorize and empower each of the six district
6 legislatures to create or to designate a legal entity or entities within
7 its district to hold title to public lands within that district in trust
8 for the people thereof and to manage and to control the same; to authorize
9 and empower each district legislature to establish adjudicatory bodies
10 which may utilize traditional means, when desired, for settlement of title
11 to lands transferred; and to authorize and direct the High Commissioner
12 to convey permanently certain public lands within a district to such legal
13 entity or entities.

14 Section 3. Definitions. As used in this act, unless it is otherwise
15 provided or the context requires a different construction, application or
16 meaning:

17 (1) "District" means any of the six administrative districts
18 of the Trust Territory of the Pacific Islands as described in Section 1,
19 Title 3, of the Trust Territory Code.

20 (2) "District Legislature" means any of the six chartered
21 district legislatures of the Trust Territory of the Pacific Islands.

22 (3) "Public Lands" means:

23 (a) Those lands defined as public lands by Sections 1
24 2, Title 67, of the Trust Territory Code, and,

25 (b) Those lands placed under control of the "Alli"

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1 Custodian" as defined by Section, Title 27, of the Trust Territory Code.

2 (4) "Legal Entity" means any chartered district government,
3 non-profit corporation (either public or private), individual, association,
4 partnership, or any lawful person (whether natural or artificial), legally
5 competent to receive and hold title to real and personal property pursuant
6 to law.

7 S Section 4. Authority of District Legislatures. Each district legis-
8 lature is hereby empowered to enact laws:

9 (1) To create or designate a legal entity or entities which shall
10 have the powers and duties of:

11 (a) Receiving and holding title to public lands in trust
12 for the people of the district;

13 (b) Administering, managing, and controlling such public
14 lands and income arising therefrom in trust for the people of the district,
15 including the sale, lease, exchange, use, dedication for public purposes,
16 or other disposition of such public lands; and

17 (c) Entering into contracts, bringing suit, being sued, and
18 exercising such other powers as may be necessary or appropriate in
19 furthering the purposes of this act;

20 and to establish reasonable procedures of general applicability for the
21 exercise of such powers and duties.

22 (2) To establish an adjudicatory body to resolve claims and
23 disputes to land transferred to such legal entity or entities, provided
24 however, that no such body shall ever endeavor to redetermine any matter
25 already decided between the same parties or those under whom the present

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1 parties claim, by a court judgment, Land Title Officer's determination of
2 ownership or Land Commission determination of ownership. Such bodies shall
3 accept such prior determinations as binding on such parties without further
4 evidence than the judgment or determination of ownership. All adjudications
5 of the body shall be recorded with the District Registrar and with the Clerk
6 of Courts.

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7 (3) To establish procedures for the operation of such adjudica-
8 tory body which may include traditional means not in conflict with existing
9 law, provided however, that requirements of due process are incorporated
10 therein which shall include trial de novo upon appeal to the High Court by
11 any party to such a dispute aggrieved by the adjudication of the district
12 adjudicatory body.

13 (4) To authorize the legal entity or entities created or designated
14 pursuant to subsection (1) hereof to exercise the right of eminent domain
15 for public use pursuant to district law and to establish procedures therefor.

16 (5) To establish a program for homesteading on the land trans-
17 ferred to the legal entity or entities created or designated pursuant to
18 subsection (1) hereof and to authorize such legal entity or entities to
19 administer such program.

20 Section 5. Authority of the High Commissioner. Subject to the other
21 provisions of this act, the High Commissioner is authorized and directed to
22 convey to the legal entity or entities created or designated pursuant to
23 section 4(1) in any district all right, title and interest of the Trust
24 Territory of the Pacific Islands, including the right to receive rents,
25 royalties and other similar payments, in and to all public lands and other

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1 lands in such district. All rents, royalties and other revenues
2 derived from such land, accrued from the effective date hereof until
3 the date of conveyance, shall be payable on the date of conveyance
4 to the legal entity or entities to which the lands are transferred.

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5 **Section 6. Reservations.** Notwithstanding the provisions of
6 Section 5 of this act, the High Commissioner shall not convey any
7 interest in lands in the following categories to a district's legal
8 entity or entities:

9 (1) All interests in public lands and interests in other
10 lands actively used by the central government of the Trust Territory
11 of the Pacific Islands or by agencies or instrumentalities thereof
12 as of the effective date of this act. Such interests in land in a
13 district shall be transferred to that district's legal entity or
14 entities immediately upon a determination by the High Commissioner
15 that such interests are no longer needed for active use by the
16 central government.

17 (2) Interests in public lands specifically determined by the
18 High Commissioner to be needed within a period of five years from
19 the effective date hereof for capital improvement projects
20 announced before the effective date hereof. Such interests in a
21 district shall be transferred to that district's legal entity or
22 entities immediately upon a determination by the High Commissioner
23 that such interests are no longer needed for capital improvement
24 projects.

25 (3) Public lands to which there are unperfected homestead

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1 claims as of the effective date hereof based on applications for
 2 homesteads approved prior to January 1, 1974, provided however,
 3 that if such claims are not perfected within the time periods
 4 prescribed by sections 207 and 208 of title 67 of the Trust
 5 Territory Code, such lands in a district shall immediately be
 6 transferred to that district's legal entity or entities.

7 [Alt. 1] (4) All public lands in a district identified by the
 8 United States as required to meet defense needs under the terms
 9 of proposed future political status arrangements with the United
 10 States, unless that district's legal entity or entities agree to
 11 enter into a covenant with the United States to provide for the
 12 accommodation of such needs in the future.

13 [Alt. 2] (4) All public lands in a district identified by the United
 14 States as required to meet defense needs under the terms of
 15 proposed future status agreements with the United States, unless
 16 that district's legal entity or entities provide a formal commitment
 17 to accommodate those needs in good faith on terms to be mutually agreed
 18 with United States authorities.

19 Section 7. Limitations. Notwithstanding the provisions of section
 20 5 of this act, the High Commissioner shall not convey any public land or
 21 interest in other land to any district entity or entities unless the
 22 district's legal entity or entities agree to/or the district legislature
 23 enacts legislation providing, until the termination of the Trusteeship,
 24 for:

25 (1) reservation of the paramount and ultimate power of eminent

1 domain in the central government of the Trust Territory of the
2 Pacific Islands;

3 (2) reservation of the right of the central government of
4 the Trust Territory of the Pacific Islands to regulate all
5 activities affecting the public interest in and to tidelands,
6 filled lands, submerged lands and lagoons;

7 (3) compliance with all valid and enforceable provisions
8 of leases, and land use agreements with respect to such lands
9 previously entered by the Government of the Trust Territory of
10 the Pacific Islands, its agencies, or its political subdivisions;

11 (4) continuation of possession by tenants at will and of
12 tenants by sufferance occupying public land as of the date of the
13 conveyance thereof for a reasonable period of time to be determined
14 by the High Commissioner;

15 (5) All transfers and conveyances to be subject to all
16 unresolved claims relating to such land; and

17 (6) holding the United States Government and the Government
18 of the Trust Territory of the Pacific Islands and their agencies
19 or political subdivisions harmless from any all claims with respect
20 to the conveyed land, other than those claims resulting directly
21 from the actions of the United States Government, the Government of
22 the Trust Territory of the Pacific Islands or from the agents of
23 either.

24 Section 8. Time of Transfer and Conveyance. The High Commissioner
25 shall convey or cause to be conveyed all right, title and interest of the

1 Trust Territory of the Pacific Islands to all public and other lands
 2 not required to be reserved by section 6 to the legal entity or entities
 3 in each district created or designated pursuant to section 4 within 60
 4 days after the High Commissioner determines that the district legislature
 5 and such entity or entities have complied with the provisions of section
 6 7; and such transfer shall not be dependent upon compliance in any of
 7 the other districts. Within 60 days after any land subject to section
 8 6 is no longer required to be reserved by the terms thereof, the High
 9 Commissioner shall convey such land or cause it to be conveyed to the
 10 respective district's legal entity or entities, if he determines that
 11 the district legislature and the entity or entities have complied with
 12 the provisions of section 7 of this act.

13 Section 9. Amendments.

14 (1) Section 2 of title 10 of the Trust Territory Code is
15 amended to read as follows:

16 "Section 2. Power denied private corporations. No private
17 corporation except as authorized by a district legislature pursuant
18 to the provisions of the Public Land Transfer Act of 1974 shall
19 have the right of eminent domain in the Trust Territory."

20 (2) Section 112 of title 67 of the Trust Territory Code is
21 hereby amended to read as follows:

22 "Section 112. Conduct of hearings. In conducting hearings,
23 each Land Commission and each land registration team shall be
24 guided by, but need not conform to, the Trust Territory Rules of
25 Civil Procedure and the Rules of Evidence. Each Commission and

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1 each registration team is authorized to consider such evidence
2 as will be helpful in reaching a just decision. Neither a
3 Commission nor a land registration team, however, shall endeavor
4 to redetermine any matter already decided between the same parties
5 or those under whom the present parties claim, by a court judgment,
6 Land Title Officer's Determination of Ownership or adjudication of
7 any other statutorily established land adjudicatory body. All
8 Commissions and land registration teams shall accept such prior
9 determinations as binding on such parties without further evidence
10 than the judgment or determination of ownership. All hearings shall
11 be public and every person claiming an interest in land under
12 consideration shall be given an opportunity to be heard. Hearings
13 must be held in the municipality in which the land involved lies
14 and when practicable shall be held in the village in which or near
15 which the land lies. All parties, including any representative
16 (appointed under Section 113 of this Chapter or by a court or other
17 proper authority) of a minor or incompetent, may be represented and
18 assisted by counsel."

19 (3) Section 11101 of title 57 of the Trust Territory Code is
20 hereby amended to read as follows:

21 "§ 11101. Restrictions upon land ownership. Only citizens of
22 the Trust Territory or corporations owned wholly by, or nonprofit
23 membership corporations all of whose members are, citizens of the
24 Trust Territory may hold title to land in the Trust Territory; PROVIDED,
25 that nothing herein shall be construed to divest or impair the right,

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1 title, or interest of noncitizens or their heirs or devisees,
2 in lands in the Trust Territory held by such persons prior
3 to December 8, 1941, and which have not been vested in the
4 Alien Property Custodian by Vesting Order dated September 27, 1951,
5 or, if vested, are released from the terms of said order by direction
6 of the High Commissioner; PROVIDED FURTHER, that nothing herein
7 shall be construed to prevent the Government of the Trust Territory
8 from holding title to lands in the Trust Territory; AND PROVIDED
9 FURTHER, that this Section shall not apply to cooperative associations
10 and credit unions duly organized and incorporated pursuant to the
11 laws of the Trust Territory."

12 Section 10. Other Laws. Lands held by any district legal entity
13 or entities created or designated pursuant to section 4(1) shall not be
14 deemed "public lands" or "alien property" for purposes of the Trust
15 Territory Code; provided however, that the Chief of Lands and Surveys
16 shall complete the cadastral program referred to in the Public Land
17 Policy Paper of the United States Government dated November 2, 1973,
18 with respect to such lands; and provided further, that for a period
19 of two years after the date on which land is first transferred to
20 a district's legal entity or entities pursuant to this act, the
21 District Land Office in that district shall, at the request of the
22 district legislature, and under the direction of the district's legal
23 entity or entities, continue to perform land management functions with
24 respect to any land held by the district's legal entity or entities.

25 Section 11. Protection of Rights and Powers. No officer or

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1 employee of the Trust Territory of the Pacific Islands shall take
2 any action in derogation of the legislative and contractual rights
3 and powers of the district legislatures or the district legal
4 entities or adjudicatory bodies designated or created under this
5 act.

6 Section 12. Effective date. This act shall take effect upon
7 approval by the High Commissioner, or upon its becoming law without
8 such approval.

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10 Date: 1-31-74

Introduced by: Edward Pangelian
Edward D.G. Pangelian
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A BILL FOR AN ACT

To allow the transfer and conveyance of certain public lands from the Government of the Trust Territory of the Pacific Islands to legal entities in each of the six districts; to empower the High Commissioner to transfer and convey such lands; to prescribe certain limitations, reservations, and conditions to such transfer and conveyances; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

1 Section 1. Short Title. This act shall be known as the "Public Land
2 Transfer Act of 1974."

3 Section 2. Purpose. The purpose of this act is to implement the provisions
4 of the Micronesian Public Land Policy of November 2, 1973; to authorize and
5 empower each of the six district legislatures to create or to designate a legal
6 entity or entities within each district to hold title to public lands within
7 that district in trust for the peoples thereof and to manage or dispose of the
8 same; to authorize and empower each district legislature to enact laws providing
9 for the exercise of the power of eminent domain and to establish adjudicatory
10 bodies which may utilize traditional means, when desired, for settlement of
11 claims to title or rights in the lands transferred; and to authorize the High
12 Commissioner to convey certain public lands within each district to such legal
13 entity or entities.

14 Section 3. Definitions. As used in this act, unless it is otherwise
15 provided or the context requires a different construction, application or
16 meaning:

17 (1) "District" means any of the six administrative districts of the
18 Trust Territory of the Pacific Islands as described in Section 1, Title 3, of
19 the Trust Territory Code.

20 (2) "District Legislature" means any of the six chartered district

1 legislatures of the Trust Territory of the Pacific Islands.

2 (3) "Public Lands" means:

3 (a) Those lands defined as public lands by Sections 1 and
4 2, Title 67, of the Trust Territory Code, except those lands designated as military
5 retention lands leased by the United States and not returned to the public domain,
6 and,

7 (b) Those lands placed under control of the "Alien Property
8 Custodian" as defined by Section 1, Title 27, of the Trust Territory Code, except
9 those lands designated as military retention lands leased by the United States
10 and not returned to the public domain.

11 (4) "Legal Entity" means any chartered district government, non-
12 profit corporation, association, partnership, or individual established or
13 designated by a district legislature to receive and hold title to real property.

14 Section 4. Authority of District Legislatures. Each district legislature
15 is hereby empowered to enact laws to:

16 (1) create or designate a legal entity or entities which shall have
17 the following powers and duties:

18 (a) to receive and hold title to public lands in trust for
19 the people of the district,

20 (b) to administer, manage, and regulate the use of lands and
21 income arising therefrom in trust for the people of the district,

22 (c) to sell, lease, exchange, use, dedicate for public purposes,
23 or make other disposition of such public lands pursuant to the laws of the dis-
24 trict in which the land is located,

25 (d) to enter into contracts, sue or be sued, and have such

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1 other powers and duties as may be necessary or appropriate to further the purposes
2 of this act, and

3 (e) to make formal agreements upon mutually satisfactory
4 terms to meet the land requirements of the United States as designated under the
5 terms of a future status agreement;

6 (2) establish an adjudicatory body to resolve claims and disputes
7 as to titles or rights in land transferred to such legal entity or entities;
8 provided, however, that no such body shall have the authority to redetermine any
9 claim or dispute as to right or title to land between parties or their successors
10 or assigns where such claim or dispute has been finally determined or is in the
11 process of being finally determined either by a Land Title Officer, a Land
12 Commission or a court of competent jurisdiction, and all final determinations
13 arising therefrom shall be res judicata; provided further that a certified copy
14 of all determinations of such adjudicatory bodies as to title of lands within
15 a district shall be recorded with the District Registrar and with the Clerk of
16 Courts;

17 (3) establish procedural rules and regulations for such adjudicatory
18 body which may include use of local, traditional rules not in conflict with ap-
19 plicable law; provided however, that the requirements of due process shall be
20 incorporated therein which shall include the right to a trial de novo upon appeal
21 to the High Court by any party to a dispute involving a claim or right to lands
22 and who has been aggrieved by the adjudication of the district adjudicatory body;

23 (4) authorize a district legal entity to exercise the power of
24 eminent domain to take land for public purposes and enact laws and establish
25 procedures therefor;

1 (5) establish a program for homesteading on the land transferred to
2 the legal entity or entities created or designated pursuant to this act and
3 authorize such legal entity or entities to administer such program.

4 Section 5. Authority of the High Commissioner. The High Commissioner is
5 authorized and directed to convey, pursuant to the provisions of this act, to a
6 district legal entity or entities all right, title and interest of the Government
7 of the Trust Territory of the Pacific Islands in public lands.

8 Section 6. Reservations. Notwithstanding the provisions of Section 5 of
9 this act, the High Commissioner shall not convey to a district legal entity or
10 entities any right, title or interest to public lands in the following categories:

11 (1) Public lands actively used by the central government of the
12 Trust Territory of the Pacific Islands or by agencies or instrumentalities thereof
13 as of the effective date of this act; provided, that such public lands in a dis-
14 trict shall be transferred to the district's legal entity or entities upon a
15 determination by the High Commissioner that such lands are no longer needed for
16 use by the central government;

17 (2) Public lands specifically determined by the High Commissioner
18 to be needed for capital improvement projects extending five years from the
19 effective date hereof; provided, that such public lands in a district shall be
20 transferred to the respective district's legal entity or entities upon determina-
21 tion by the High Commissioner that the lands are no longer needed by the central
22 government;

23 (3) Public lands on which there are valid and existing homestead
24 claims as of the effective date hereof.

25 Section 7. Limitations. Notwithstanding the provisions of Section 5 of

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1 this act, the High Commissioner shall not convey any right, title or interest in
2 public land to any district legal entity or entities until the district legis-
3 lature shall enact laws satisfactory to the High Commissioner, for:

4 (1) reservation of the paramount power of eminent domain in the
5 central government of the Trust Territory of the Pacific Islands to take lands
6 for public purposes pursuant to applicable law;

7 (2) reservation of the right of the central government of the Trust
8 Territory of the Pacific Islands to regulate all activities affecting conser-
9 vation, navigation, or commerce in and to tidelands, filled lands, submerged lands
10 and lagoons;

11 (3) compliance with all provisions of existing leases and land
12 use agreements previously entered by the central or district government of the
13 Trust Territory of the Pacific Islands, their agencies or political subdivisions;

14 (4) continued possession of public land occupied at the effective
15 date of this act, with the concurrence of the Government of the Trust Territory
16 of the Pacific Islands, by tenants at will and tenants by sufferance for a reason-
17 able period of additional years to be determined by the High Commissioner;

18 (5) receipt of all revenues derived from public lands transferred
19 under this act by a district legal entity or entities once title to such lands
20 has been conveyed to that district entity or entities to be used and disposed
21 of pursuant to district law for public purposes;

22 (6) all transfers and conveyances to be made subject to all valid
23 and existing claims relating to such land;

24 (7) holding the United States Government and the central Govern-
25 ment of the Trust Territory of the Pacific Islands and their agencies or politic-

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1 subdivisions harmless from any and all claims arising after the conveyance of
2 public land other than those resulting directly from the actions of the United
3 States Government, the Government of the Trust Territory of the Pacific Islands
4 or their duly authorized agents.

5 Section 8. Time of Transfer and Conveyances. Conveyance of rights, titles
6 or interests to public lands under this act to any particular district legal
7 entity or entities may be made, at any time, after a district legislature has
8 complied with all the applicable provisions of this act; provided, however, that
9 such conveyance shall be made without unreasonable delay.

10 Section 9. Amendments.

11 (1) Section 2, Title 10, Trust Territory Code, is amended to read
12 as follows:

13 "Section 2. Power denied private corporations. No private
14 corporation except as may be authorized by a district legislature pursuant to the
15 provisions of the Public Land Transfer Act of 1974 shall have the right of eminent
16 domain in the Trust Territory."

17 (2) Section 3, Title 10, Trust Territory Code, is amended to read
18 as follows:

19 "Section 3. Definitions. As used in this Chapter, the fol-
20 lowing terms shall have the meanings set forth below:

21 (1) (V) Eminent Domain (V).

22 (a) "Eminent domain" is the right of the central government
23 to condemn private property for public ~~use~~ purposes and to appropriate the
24 ownership and possession of such property for such public ~~use~~ purposes upon
25 paying the owner a just compensation to be ascertained according to the law.

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1 (b) "Eminent domain" is the right of a district government
2 or of a district legal entity as may be provided for by district law in accordance
3 with the terms of the Public Land Transfer Act of 1974 to condemn private property
4 for public purposes and to appropriate the ownership and possession of such pro-
5 perty for such public purposes upon paying the owner a just compensation to be
6 ascertained according to the law.

7 (2) (7) Public Use Purposes (7). "Public use purpose" shall
8 be construed to cover any use purpose determined by the High Commissioner to be
9 a public use purpose wherein the right of eminent domain is sought to be exercised
10 by the central government of the Trust Territory of the Pacific Islands or any
11 purpose determined to be a public purpose by a district government or a district
12 legal entity as may be appropriate wherein the right of eminent domain is sought
13 to be exercised pursuant to district law or the provisions of the Public Land
14 Transfer Act of 1974.

15 (3) Section 112, Title 67, Trust Territory Code, is hereby amended
16 to read as follows:

17 "Section 112. Conduct of hearings. In conducting hearings,
18 each Land Commission and each land registration team shall be guided by, but
19 need not conform to, the Trust Territory Rules of Civil Procedures and the Rules
20 of Evidence. Each Commission and each registration team is authorized to consider
21 such evidence as will be helpful in reaching a just decision. Neither a Commis-
22 sion nor a land registration team, however, shall endeavor to redetermine any
23 matter already decided between the same parties or those under whom the present
24 parties claim, by a court judgment, Land Title Officer's Determination of Owner-
25 ship or a determination made in accordance with the authority provided by Sub-

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1 sections (2) and (3) of Section 4 of the Public Land Transfer Act of 1974. All
2 Commissions and land registration teams shall accept such prior determination as
3 binding on such parties without further evidence than the judgment or determination
4 of ownership. All hearings shall be public and every person claiming an interest
5 in land under consideration shall be given an opportunity to be heard. Hearings
6 must be held in the municipality in which the land involved lies and when practi-
7 cable shall be held in the village in which or near which the land lies. All
8 parties, including any representative (appointed under Section 113 of this Chapter
9 or by a court or other proper authority) of a minor or incompetent, may be repre-
10 sented and assisted by counsel."

11 Section 10. Powers and duties of Chief of Lands and Surveys. The statutory
12 powers and duties of the Chief of Lands and Surveys shall not extend to public
13 lands transferred to district legal entities pursuant to this act.

14 Section 11. Effective date. This act shall take effect upon the date of
15 its approval by the High Commissioner or upon its becoming law without such
16 approval.

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18 Date: _____ Introduced By: _____

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