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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 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 ~~Transfer~~ Act of 1974

3 Section 2. Purpose. The purpose of this act is to ~~implement the~~  
4 ~~provisions of the Micronesian Public Land Policy of November 21, 1973~~  
5 provide for the return of public lands to the people of Micronesia, who  
6 are the traditional and rightful owners thereof; to authorize and empower  
7 each of the six district legislatures to create or to designate a legal  
8 entity or entities within each its district to hold title to public lands  
9 within that district in trust for the peoples thereof and to manage or  
10 dispose of the same; to authorize and empower each district legislature  
11 to enact laws providing for the exercise of the power of eminent domain  
12 and to establish adjudicatory bodies which may utilize traditional means,  
13 when desired, for settlement of claims ~~to~~ of title to or rights in the  
14 lands transferred; and to authorize the High Commissioner to convey certain  
15 public lands within each district to such legal entity or entities.

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

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

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

24 (3) "Public Lands" means:  
(a) Those lands defined as public lands by Sections 1 and

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1 2, Title 67, of the Trust Territory Code *except those lands designated as*  
2 *military retention lands leased by the United States and not returned to the*  
3 *public domain, and,*

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

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

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

13 (1) create or designate a legal entity or entities which shall  
14 have as its primary purpose to which all other powers and duties are subordinate  
15 the return of title to public lands transferred to it under the authority of  
16 this act to the rightful owners thereof, and to that end shall have the  
17 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; PROVIDED, HOWEVER, that the laws of the  
25 Trust Territory regarding ownership of land shall apply in connection with any

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1 disposition of lands under this paragraph, and PROVIDED FURTHER, that no  
2 lands may be sold, leased, exchanged, or in any other way disposed of to the  
3 United States or any agency or political subdivision thereof except upon  
4 authority specifically granted by resolution of the Congress of Micronesia.]

5 (d) to enter into contracts, sue or be sued, and have such  
6 other powers and duties as may be necessary or appropriate to further the  
7 purposes of this act, and

8 (e) to ~~make formal agreements upon mutually satisfactory~~  
9 ~~terms~~ negotiate in good faith to meet the land requirements of the United  
10 States as designated under the terms of ~~a future status agreement~~ an  
11 agreement the Congress of Micronesia and the United States which has been  
12 ratified by the people of Micronesia;

13 (2) establish an adjudicatory body to resolve claims and disputes  
14 as to titles or rights in land transferred to such legal entity or entities;  
15 provided, however, that no such body shall have the authority to redetermine any  
16 claim or dispute as to right or title to land between parties or their successors  
17 or assigns where such claim or dispute has been finally determined ~~or is in the~~  
18 ~~process of being finally determined/divided~~ by a Land Title Officer, by a Land  
19 Commission or a court of competent jurisdiction on the merits of such claim,  
20 and not on the basis of a prior determination by a Land Title Officer or by  
21 any other agency or official prior to the establishment of the Land Commission  
22 for the district, and all final determinations arising therefrom shall be res  
23 judicata; and provided further, that a certified copy of all determinations of  
24 such adjudicatory bodies as to title of lands within a district shall be  
25 recorded with the District Registrar and with the Clerk of Courts;

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

8 (4) authorize a district legal entity to exercise the power of  
9 eminent domain to take land for public purposes, and to this end, the district  
10 legislature is authorized to enact laws and establish procedures therefor;

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

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

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

21 (1) Public lands actively used by the ~~central~~ Government of the  
22 Trust Territory of the Pacific Islands, or by agencies ~~of~~ instrumentalities,  
23 or political subdivisions thereof, as of the effective date of this act;  
24 provided, that such public lands in a district shall be transferred to the  
25 district's legal entity or entities upon a determination by the High Commissioner

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1 ~~that such lands are no longer needed for use~~ the cessation of active use  
2 of such public lands by the ~~central~~ Government;

3 (2) Public lands specifically determined by the High Commissioner,  
4 with concurrence of the district legislature, to be needed for capital  
5 improvement projects extending five years from the effective date hereof;  
6 provided, that such public lands in a district shall be transferred to the  
7 respective district's legal entity or entities upon ~~determination by the~~  
8 ~~High Commissioner that the lands are no longer needed~~ the expiration of such  
9 five-year period if at such time they are not in active use by the ~~central~~  
10 Government;

11 (3) Public lands ~~on which there are valid and existing homestead~~  
12 ~~claims~~ as to which there are valid homestead entry permits, or certificates  
13 evidencing compliance with such permits, and as to which deeds have not been  
14 issued, as of the effective date hereof.

15 Section 7. Limitations. Notwithstanding the provisions of Section 5 of  
16 this act, the High Commissioner shall not convey any right, title or interest  
17 in public land to any district legal entity or entities until the district  
18 legislature shall enact laws ~~satisfactory to the High Commissioner~~, providing for:

19 (1) reservation of the paramount power of eminent domain in the  
20 central government of the Trust Territory of the Pacific Islands to take lands/  
21 for public purposes pursuant to applicable law

22 (2) (1) reservation of the right of the central government of the  
23 Trust Territory of the Pacific Islands to regulate regulation of all activities  
24 affecting conservation, navigation, or commerce in and to tidelands, filled lands,  
25 submerged lands and lagoons;

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1           **(13) (2)** compliance with all provisions of existing leases and  
2 land use agreements previously entered into by the ~~central or district~~  
3 ~~Government of the Trust Territory of the Pacific Islands, their or its~~  
4 ~~agencies, instrumentalities, or political subdivision; PROVIDED, HOWEVER,~~  
5 that the Government, its agencies, instrumentalities, and political subdivisions  
6 may not enter into any lease or use agreement as to public lands after the  
7 effective date of this act, except leases of such lands to Trust Territory  
8 citizens for residential purposes, without the approval of the district  
9 legislature of the district in which such land is located;

10           **(14) (3)** continued possession of public land occupied at the  
11 effective date of this act, with the concurrence of the Government of the  
12 Trust Territory of the Pacific Islands, by tenants at will and tenants by  
13 sufferance for a reasonable period of additional years to be determined by  
14 the High Commissioner;

15           **(15) (4)** receipt of all revenues derived from public lands transferred  
16 under this act by a district legal entity or entities ~~once~~, upon the transfer  
17 and conveyance of title to such lands has been conveyed to that district entity  
18 or entities ~~to~~, which revenues shall be used and disposed of pursuant to  
19 district law for public purposes;

20           **(16) (5)** all transfers and conveyance to be made subject to all  
21 valid and existing claims relating to such land;

22           **(17)** ~~holding the United States Government and the central Govern~~  
23 ~~ment of the Trust Territory of the Pacific Islands and their/agencies or~~  
24 ~~political subdivisions harmless from any and all claims arising after the~~  
25 ~~conveyance of public land other than those resulting directly from the actions~~

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1 of the United States Government, the Government of the Trust Territory  
2 of the Pacific Islands or their duly authorized agents.

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

9 Section 9. Compilation of Information. Within thirty days of the  
10 effective date of this act, the High Commissioner shall compile and publish,  
11 as to each district of the Trust Territory, information as to the size and  
12 location of each parcel of public land which:

13 (1) is retained by the Government pursuant to the provisions of  
14 Section 6 of this act; and

15 (2) is the subject of a lease or land use agreement as set forth in  
16 Section 7(2) of this act, or of a tenancy at will or by sufferance as set forth  
17 in Section 7(3) of this act, together with the leasee, user, or tenant thereof,  
18 and together with a summary of the provisions of any agreement, whether written  
19 or unwritten, concerning such lease, land use, or tenancy; and

20 (3) has been transferred and conveyed by the High Commissioner  
21 pursuant to the authority of Section 5 of this act, and

22 (4) is subject to transfer and conveyance under Sections 5 and 6 of  
23 this act, but has not been transferred and conveyed.

24 The publication required by this Section shall be made available  
25 to the Congress of Micronesia, to each district legislatures and legal

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1 entity, and to the general public, and shall be revised and updated  
2 not less frequently than once every three months.

3 Section 9 10. Amendments.

4 (1) Section 2/ of Title 10/ of the Trust Territory Code/ is amended  
5 to read as follows:

6 "Section 2. Power denied private corporations. No private  
7 corporation except as may be authorized by a district legislature pursuant to the  
8 provisions of the Public Land ~~Trust~~ Act of 1974 shall have the right of  
9 eminent domain in the Trust Territory."

10 (2) Section 3/ of Title 10/ of the Trust Territory Code/ is amended  
11 to read as follows:

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

14 (1) (Y) Eminent Domain (Y).

15 ~~(A)~~ "Eminent domain" is the right of the ~~territory government~~  
16 Government of the Trust Territory, of a district government or a district  
17 legal entity as may be provided for by district law in accordance with the  
18 Public Land Act of 1974 to condemn private property for public ~~use~~ purposes  
19 and to appropriate the ownership and possession of such property for such  
20 public ~~use~~ purposes upon paying the owner a just compensation to be ascertained  
21 according to the law. The right may be exercised by the Government of the  
22 Trust Territory only after a district government or a district legal entity  
23 has refused to exercise the power, or has failed to act upon a request by  
24 the High Commissioner to exercise the power within one year of the date of  
25 such request.

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1 (b) YIELDING DOMAINS TO THE STATE OF A DISTRICT/EMPHATICALLY  
2 OR OF A DISTRICT LEGAL ENTITY AS MAY BE PROVIDED FOR BY/STRICTLY IN  
3 ACCORDANCE WITH THE TERMS/OF/THE/PUBLIC/LAND TRANSFER ACT OF 1974/AS CONSIDERED  
4 PRIVATE PROPERTY FOR PUBLIC PURPOSES AND/OR/EXERCISING THE EMINENT DOMAIN AND  
5 CONSIDERATION OF SUCH PROPERTY FOR SUCH PUBLIC PURPOSES UPON PAYING THE BEST  
6 A JUST COMPENSATION TO BE/DETERMINED ACCORDING TO THE LAW

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

15 (3) Section 112, of Title 67, of the Trust Territory Code, is hereby  
16 amended 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  
21 consider such evidence as will be helpful in reaching a just decision. Neither  
22 a Commission nor a land registration team, however, shall endeavor to  
23 redetermine any matter already decided between the same parties or those under  
24 whom the present parties claim, by a court judgment, Land Title Officer's  
25 Determination of Ownership or a determination made in accordance with the

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

12 Section 11. Citizenship of district entity. A district entity shall  
13 be deemed to be a citizen of the Trust Territory for the purposes of Section  
14 11101 of Title 67 of the Trust Territory Code.

15 Section 10 12. Powers and duties of Chief of Lands and Surveys. The  
16 statutory powers and duties of the ~~Chief~~ Division of Lands and Surveys shall  
17 not extend to public lands transferred to district legal entities pursuant  
18 to this act.

19 Section 11 13. Effective date. This act shall take effect upon the date  
20 of its approval by the High Commissioner or upon its becoming law without such  
21 approval.

22

23 Date: 2/12/74

Introduced by: /s/ Lazarus Salii  
Lazarus Salii (By Req.)

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