

Paul Land
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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 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
2 "Public Land Transfer Act of 1974."

3 Section 2. Purpose. The purpose of this act is to effectuate
4 the provisions of the Public Land Policy Paper of the United States
5 Government dated November 2, 1973, authorizing any of the six
6 district legislatures to create or to designate a legal entity
7 or entities within its district to hold title to public lands
8 within that district in trust for the people thereof and to
9 manage and to control the same, and further authorizing district
10 legislatures to establish adjudicatory bodies which may utilize
11 traditional means, when desired, for settlement of title to lands
12 transferred, and further to authorize the High Commissioner to
13 permanently convey certain public lands within a district to such
14 legal entity or entities.

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

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

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

23 (3) "Public Lands" means:

24 (a) Those lands defined as public lands by Sections 1 and
25 2, Title 67, of the Trust Territory Code, and,

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1 (b) Those lands placed under control of the "Alien
2 Property Custodian" as defined by Section 1, Title 27, of the
3 Trust Territory Code.

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

9 Section 4. Authority of District Legislatures.

10 Any district legislature may by law:

11 (1) create or designate a legal entity or entities which shall
12 have the powers and duties of:

13 (a) receiving and holding title to public lands in trust
14 for the people of the district;

15 (b) administering, managing, and controlling such public lands
16 and income arising therefrom in trust for the people of the district,
17 including the (homesteading) sale, exchange, use, dedication for public
18 purposes, and/or disposition of such public lands pursuant to the
19 laws of the Trust Territory of the Pacific Islands and of the
20 district;

21 (c) bringing suit and being sued;
22 and establish procedures for the exercise of such powers and
23 duties.

24 (2) establish an adjudicatory body to resolve claims and
25 disputes to land transferred to such legal entity or entities,

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1 provided however, that no such body shall ever endeavor to
2 redetermine any matter already decided between the same parties
3 or those under whom the present parties claim by a court
4 judgment, Land Title Officer's determination of ownership or
5 Land Commission determination of ownership. Such bodies shall
6 accept such prior determinations as binding on such parties
7 without further evidence than the judgment or determination
8 of ownership. All adjudications of the body shall be recorded
9 with the District Registrar and with the Clerk of Courts.

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

17 (4) authorize a district legal entity to exercise the right
18 of eminent domain for ^{public} district purposes pursuant to district law
19 and establish procedures therefor.

20 Section 5. Authority of the High Commissioner. Subject to
21 the other provisions of this Act, the High Commissioner is
22 authorized to convey all public lands and interests in other lands
23 not hereinafter specifically reserved to the central government to
24 any legal entity or entities created or designated pursuant to the
25 provisions of this Act.

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1 Section 6. Reservations. Notwithstanding the provisions of
2 Section 5 of this Act, the High Commissioner shall not convey any
3 interest in lands in the following categories to district legal
4 entities, to wit:

5 (1) All public lands (and interests in other lands) actively
6 used by the central government of the Trust Territory of the
7 Pacific Islands or by agencies or instrumentalities thereof as
8 of the effective date of this Act. Such public lands and
9 interests in other lands shall be transferred to district legal
10 entities when they are no longer needed for active use by the
11 central government.

12 (2) Public Lands specifically determined by the High
13 Commissioner to be needed for capital improvement projects
14 extending five years from the effective date hereof.

15 (3) Public lands to which there are unperfected homestead
16 claims as of the effective date hereof.

Alternative
No. 1

17 (4) All lands within each district required by the United
18 States Government for defense needs, provided however, that upon
19 execution of a written agreement between the United States
20 Government, the central government of the Trust Territory of the
21 Pacific Islands, and a particular district entity for acquisition
22 of such needs, the High Commissioner shall convey title to such
23 lands in that district to that district's legal entity or entities.

Alternative
No. 2

24 (4) All public lands required by the United States Government
25 for defense needs within a district until that entity or entities

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1 shall have formally committed itself or themselves to negotiate
2 terms for United States Government use thereof in good faith to
3 accommodate those needs when demand is made.

4 Section 7. Limitations. Notwithstanding the provisions of
5 Section 5 of this act, the High Commissioner shall not convey any
6 public land or interest in other land to any district entity or
7 entities until contractual and/or district legislative provision
8 has been made, as is determined to be necessary by the High
9 Commissioner, as the case may be, for:

10 (1) reservation of the paramount and ultimate power of eminent
11 domain in the central Government of the Trust Territory of the
12 Pacific Islands.

13 (2) reservation of the right of the central government of the
14 Trust Territory of the Pacific Islands to control all activities
15 affecting the public interest in and to tidelands, filled lands,
16 submerged lands and lagoons.

17 (3) compliance with all provisions of leases, and land use
18 agreements previously entered by the Government of the Trust
19 Territory of the Pacific Islands, its agencies, or its political
20 subdivisions.

21 (4) continuation of possession by tenants at will and of
22 tenants by sufferance occupying public land as of the effective
23 date hereof for a reasonable period of time to be determined by
24 the High Commissioner.

25 (5) all revenues derived from such land to be paid to

*attached
Trust Territory*

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1 and become the property of a district entity or entities once
2 title to such lands has been conveyed to that district entity
3 or entities, to be used and disposed of pursuant to district law.

4 (6) all transfers and conveyances to be subject to all
5 unresolved claims relating to such land.

6 (7) holding the United States Government and the Government
7 of the Trust Territory of the Pacific Islands and their agencies
8 or political subdivisions harmless from any and all claims other
9 than those resulting directly from the actions of the United
10 States Government, The Government of the Trust Territory of the
11 Pacific Islands or from the duly authorized agents or either.

12 (8) acquisition without cost of construction materials from
13 public lands for use by the central government for maintenance and
14 construction of public projects.

15 (9) affording persons holding homestead entry permits or
16 certificates of compliance to public lands ample opportunity as may
17 be determined by the High Commissioner pursuant to Section 211,
18 Title 67 of the Trust Territory Code to perfect title to such
19 lands. Parcels to which title is not so perfected shall be
20 conveyed by the High Commissioner to respective district legal
21 entities.

22 Section 8. Time of Transfer and Conveyances. Conveyance
23 of title to public lands affected hereby to any particular
24 district entity may occur as soon as the district legislature
25 and the entity or entities so created or designated have

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1 complied with all of the provisions hereof and shall not be
2 dependent upon compliance by any of the other five districts.

3 Section 9. Amendments.

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

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

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

13 "Section 3. Definitions. As used in this Chapter, the
14 following terms shall have the meanings set forth below:

15 (1) "Eminent Domain" Eminent domain is the right of the
16 central government of the Trust Territory of the Pacific Islands
17 or of a district legal entity as provided in the Public Land
18 Transfer Act of 1974 to condemn private property for public use,
19 and to appropriate the ownership and possession of such property for
20 such public use upon paying the owner a just compensation to be as-
21 certained according to the law.

22 (2) "Public use." Public use shall be construed to cover
23 any use determined by the High Commissioner to be a public use
24 wherain the right of eminent domain is sought to be exercised
25 by the central government of the Trust Territory of the Pacific

1 Islands or any use determined to be a public use by a district
2 legal entity wherein the right of eminent domain is sought to
3 be exercised by a district legal entity pursuant to the provi-
4 sions of the Public Land Transfer Act of 1974.

5 (3) "Government." Government shall be construed to mean
6 the central government of the Trust Territory of the Pacific
7 Islands."

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

10 "Section 112. Conduct of hearings. In conducting hearings,
11 each Land Commission and each land registration team shall be
12 guided by, but need not conform to, the Trust Territory Rules
13 of Civil Procedure and the Rules of Evidence. Each Commission
14 and each registration team is authorized to consider such
15 evidence as will be helpful in reaching a just decision.
16 Neither a Commission nor a land registration team, however,
17 shall endeavor to redetermine any matter already decided
18 between the same parties or those under whom the present
19 parties claim, by a court judgment, Land Title Officer's
20 Determination of Ownership or adjudication of any other
21 statutorily established land adjudicatory body. All Commissions
22 and land registration teams shall accept such prior determinations
23 as binding on such parties without further evidence than the
24 judgment or determination of ownership. All hearings shall be
25 public and every person claiming an interest in land under

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1 consideration shall be given an opportunity to be heard. Hearings
2 must be held in the municipality in which the land involved lies and
3 when practicable shall be held in the village in which or near
4 which the land lies. All parties, including any representative
5 (appointed under Section 113 of this Chapter or by a court or
6 other proper authority) of a minor or incompetent, may be
7 represented and assisted by counsel."

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

12 Section 11. Effective date. This act shall take effect upon
13 approval by the High Commissioner, or upon its becoming law without
14 such approval.

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