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DRAFT: JAN. 22, 1974

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FIFTH CONGRESS OF MICRONESIA
SECOND REGULAR SESSION, 1974

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
2 the "Public Land Transfer Act of 1974."

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

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

1 (1) "District" means any of the six admin-
2 istrative districts of the Trust Territory of the
3 Pacific Islands as described in Section 1, Title 3,
4 of the Trust Territory Code.

5 (2) "District Legislature" means any of the
6 six chartered district legislatures of the Trust
7 Territory of the Pacific Islands.

8 (3) "Public Lands" means:

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

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

16 (4) "Legal Entity" means any chartered district
17 government, non-profit corporation [(either public or
18 private), individual, association, partnership, [or
19 any lawful person (whether natural or artificial),]
20 legally competent to receive and hold title to real
21 and personal property pursuant to law.

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

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

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or other interests in land

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

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

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

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

(2) To establish an adjudicatory body, or to designate the district's Land Commission, to resolve claims and disputes to land transferred to such legal entity or entities, provided however, that no such body shall ever endeavor to redetermine any matter already decided between the same parties or those under whom the present parties claim, by a court judgment, Land Title Officer's determination of ownership or Land Commission determination of ownership. Such bodies shall accept such prior determinations as binding on such parties without further evidence than the judgment

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subject to laws of district

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1 or determination of ownership. All adjudications
2 of the body shall be recorded with the District
3 Registrar and with the Clerk of Courts.

4 (3) To establish procedures for the operation
5 of ^{an} ~~such~~ adjudicatory body established pursuant to subsection (2) hereof which may include tradi-
6 tional means not in conflict with existing law,
7 provided however, that requirements of due process
8 are incorporated therein which shall include trial
9 de novo upon appeal to the High Court by any party
10 to such a dispute aggrieved by the adjudication of
11 the district adjudicatory body.

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

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

22 Section 5. Authority of the High Commissioner.

23 Subject to the other provisions of this act, the High Com-
24 missioner is authorized and directed to convey or to cause to be conveyed to the legal
25 entity or entities created or designated pursuant to section

→ 1 4(1) in any district all right, title and interest of
2 the Trust Territory of the Pacific Islands, [including
3 the right to receive rents, royalties and other similar
4 payments, in and to all public lands and other lands in
5 such district. All rents, royalties and other revenues
6 derived from such land, accrued from the effective date
→ 7 hereof until the date of conveyance, shall be payable on
8 the date of conveyance to the legal entity or entities
9 to which the lands are transferred.

10 Section 6. Reservations. Notwithstanding the pro-
11 visions of Section 5 of this act, the High Commissioner
12 shall not convey any interest in lands in the following
13 categories to a district's legal entity or entities:

✓ 14 (1) All interests in public lands and interests
15 reasonably found by the High Commissioner to be in active use
16 in other lands actively used by the central govern-
17 ment of the Trust Territory of the Pacific Islands
18 or by agencies or instrumentalities thereof as of
19 the effective date of this act. Such interests in
20 land in a district shall be transferred to that [This act]
21 district's legal entity or entities in accordance with section 8 ↓
22 immediately upon
23 a determination by the High Commissioner that such
24 interests are no longer ~~needed~~ for active use by the
25 central government.

⊙ 24 (2) Interests in public lands specifically
25 determined by the High Commissioner to be reasonably needed

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1 within a period of five years from the effective
2 date hereof for capital improvement projects

3 (announced before the effective date hereof.) Such

4 interests in a district shall be transferred to
5 that district's legal entity or entities ~~immedi~~

[this act]
in accordance with section 8

6 ~~diately~~ upon a determination by the High Commis-
7 sioner that such interests are no longer ^{reasonably} needed
8 for capital improvement projects.

9 (3) Public lands to which there are unper-
10 fected homestead claims as of the effective date
11 hereof ~~based~~ based on applications for homesteads
12 approved prior to January 1, 1974, provided however,
13 that if such claims are not perfected within the
14 time periods prescribed by sections 207 and 208 of
15 title 67 of the Trust Territory Code, such lands in
16 a district shall ~~immediately~~ be transferred ^{in accordance with section 8} to that
17 district's legal entity or entities. ||

[this act]
in accordance with section 8

18 [Alt. 1] (4) All public lands in a district identified
19 by the United States as required to meet defense
20 needs under the terms of proposed future political
21 status arrangements with the United States, unless
22 that district's legal entity or entities agree to
23 enter into a covenant with the United States to
24 provide for the accommodation of such needs in the
25 future.

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1 [Alt. 2] (4) All public lands in a district identified
2 by the United States as required to meet defense
3 needs under the terms of proposed future status
4 agreements with the United States, unless that dis-
5 trict's legal entity or entities provide a formal
6 commitment to accommodate those needs in good faith
7 on terms to be mutually agreed with United States
8 authorities.

9 Section 7. Limitations. Notwithstanding the pro-
10 visions of section 5 of this act, the High Commissioner
11 shall not convey any ^{interests} public land or interest in other
12 land to any district entity or entities unless ~~the dis-~~
13 trict's legal entity or entities agree ^{to} or the district
14 legislature enacts legislation providing, until the
15 termination of the Trusteeship, for:

*changed
-satisfactory to High
Comm.*

16 (1) reservation of the paramount and ultimate
17 power of eminent domain in the central government
18 of the Trust Territory of the Pacific Islands;

19 (2) reservation of the right of the central
20 government of the Trust Territory of the Pacific
21 Islands to regulate all activities affecting the
22 ~~public interest~~ in and to tidelands, filled lands,
23 submerged lands and lagoons;

24 (3) compliance with all valid and enforceable ^{existing}
25 provisions of leases, and land use agreements with

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1 respect to such lands previously entered by the
2 Government of the Trust Territory of the Pacific
3 Islands, its agencies, or its political subdivisions;
4 (4) continuation of possession by tenants at
5 will and of tenants by sufferance occupying public
6 land as of the date of the conveyance thereof for a
7 reasonable period of time to be determined by the
8 High Commissioner;

→ OLD 7(5) re revenues; see new 4(1)(b); 5

9 (5) all transfers and conveyances to be subject
10 to all unresolved claims relating to such land; and

11 (6) holding the United States Government and
12 the Government of the Trust Territory of the Pacific
13 Islands and their agencies or political subdivisions
14 harmless from any and all claims with respect to the
15 conveyed land, other than those claims resulting
16 directly from the actions of the United States Govern-
17 ment, the Government of the Trust Territory of the

~~(8) re construction~~
18 Pacific Islands or from the agents of either.

(8) re construction; (9) re knowledging [see 6(3)]

19 Section 8. Time of Transfer and Conveyance. The High
20 Commissioner shall convey or cause to be conveyed all right,
21 title and interest of the Trust Territory of the Pacific
22 Islands to all public ^{lands} and other lands not required to be
23 reserved by section 6 ^{in a district to that district's} to the legal entity or entities ~~in~~
24 ~~each district~~ created or designated pursuant to section 4(1)
25 within 60 days after the High Commissioner determines that

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including the right to receive rents, royalties and
other similar payments, in and

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1 the district legislature and such entity or entities
2 have complied with the provisions of section 7; and
3 such transfer shall not be dependent upon compliance
4 in any of the other districts. Within 60 days after
5 any ^{interest} land subject to section 6 is no longer required to
6 be reserved by the terms thereof, the High Commissioner
7 shall convey ~~such land~~ or cause ~~it~~ to be conveyed ^{such interest} to
8 the respective district's legal entity or entities,
9 if he determines that the district legislature and the
10 entity or entities have complied with the provisions of
11 section 7 of this act.

12 Section 9. Amendments.

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

15 "Section 2. Power denied private corpora-
16 tions. No private corporation except as autho-
17 ri- zed by a district legislature pursuant to the
18 provisions of the Public Land Transfer Act of
19 1974 shall have the right of eminent domain in
20 the Trust Territory."

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

23 "Section 112. Conduct of hearings. In con-
24 ducting hearings, each Land Commission and each
25 land registration team shall be guided by, but need

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definition

1 not conform to, the Trust Territory Rules of
2 Civil Procedure and the Rules of Evidence.
3 Each Commission and each registration team is
4 authorized to consider such evidence as will
5 be helpful in reaching a just decision.
6 Neither a Commission nor a land registration
7 team, however, shall endeavor to redetermine
8 any matter already decided between the same
9 parties or those under whom the present parties
10 claim, by a court judgment, Land Title Officer's
11 Determination of Ownership or adjudication of any
12 other statutorily established land adjudicatory
13 body. All Commissions and land registration
14 teams shall accept such prior determinations as
15 binding on such parties without further evidence
16 than the judgment or determination of ownership.
17 All hearings shall be public and every person
18 claiming an interest in land under consideration
19 shall be given an opportunity to be heard. Hear-
20 ings must be held in the municipality in which
21 the land involved lies and when practicable shall
22 be held in the village in which or near which the
23 land lies. All parties, including any repre-
24 sentative (appointed under Section 113 of this
25 Chapter or by a court or other proper authority)

changed

1 of a minor or incompetent, may be represented
2 and assisted by counsel."

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

6 "§ 11101. Restrictions upon land ownership.
7 Only citizens of the Trust Territory or corpora-
8 tions owned wholly by, or nonprofit membership
9 corporations all of whose members are, citizens
10 of the Trust Territory may hold title to land in
11 the Trust Territory; PROVIDED, that nothing herein
12 shall be construed to divest or impair the right,
13 title, or interest of noncitizens or their heirs
14 or devisees, in lands in the Trust Territory held
15 by such persons prior to December 8, 1941, and
16 which have not been vested in the Alien Property
17 Custodian by Vesting Order dated September 27,
18 1951, or, if vested, are released from the terms
19 of said order by direction of the High Commissioner;
20 PROVIDED FURTHER, that nothing herein shall be
21 construed to prevent the Government of the Trust
22 Territory from holding title to lands in the Trust
23 Territory; AND PROVIDED FURTHER, that this Section
24 shall not apply to cooperative associations and
25 credit unions duly organized and incorporated

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1 pursuant to the laws of the Trust Territory."

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

20 Section 11. Protection of Rights and Powers.

21 No officer or employee of the Trust Territory of the
22 Pacific Islands shall take any action in derogation
23 of the legislative and contractual rights and powers
24 of the district legislatures or the district legal
25 entities or adjudicatory bodies designated or created

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1 under this act.

2 Section 12. Effective Date. This act shall
3 take effect upon approval by the High Commissioner,
4 or upon its becoming law without such approval.