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## 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  
2       "Public Land Act of 1974."

3       Section 2. Purpose. The purpose of this act is to provide  
4       for the return of public lands to the people of Micronesia, who are  
5       the rightful owners thereof; to authorize and empower each of the  
6       district legislatures to create or to designate a legal entity or  
7       entities within its district to hold title to public lands within that  
8       district in trust for the peoples thereof and to manage or dispose of the  
9       same; to authorize and empower each district legislature to enact laws  
10      providing for the exercise of the power of acquiring land for public  
11      purposes, and to establish adjudicatory bodies which may utilize traditional  
12      means, when desired, for settlement of claims of title to or rights in  
13      the lands transferred; and to authorize the High Commissioner to convey  
14      certain public lands within each district to such 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 administrative districts  
19      of the Trust Territory of the Pacific Islands as described in Section 1,  
20      Title 3, of the Trust Territory Code.

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

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1 (3) "Public Lands" means:

2 (a) those lands defined as public lands by Sections  
3 1 and 2, Title 67, of the Trust Territory Code and,

4 (b) those lands placed under control of the "Alien  
5 Property Custodian" as defined by Section 1, Title 27, of the Trust  
6 Territory Code.

7 (4) "Legal Entity" means any municipal government, district  
8 government, nonprofit corporation, or individual established or designated  
9 by a district legislature to receive and hold title to real property.

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

12 (1) create or designate a legal entity or entities which  
13 shall have as its primary purpose, to which all other powers and duties  
14 are subordinate, the return of public lands transferred to it under the  
15 authority of this act to the rightful owners thereof, and shall have the  
16 following powers and duties:

17 (a) to receive and hold title to public lands in trust  
18 for citizens of the Trust Territory,

19 (b) to administer, manage, and regulate the use of  
20 lands and income arising therefrom in trust for citizens of the Trust  
21 Territory,

22 (c) to sell, lease, exchange, use, dedicate for public  
23 purposes, or make other disposition of such public lands pursuant to the  
24 laws of the district in which the land is located; PROVIDED, HOWEVER,  
25 that the laws of the Trust Territory regarding ownership of land shall

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

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

10 (e) to negotiate in good faith to meet the land  
11 requirements of the United States;

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

25 (3) establish procedural rules and regulations for such

1 adjudicatory body which may include use of local, traditional rules not  
2 in conflict with applicable law; PROVIDED, HOWEVER, that the requirements  
3 of due process shall be incorporated therein which shall include the  
4 right to a trial de novo upon appeal to the High Court by any party to a  
5 dispute involving a claim or right to lands and who has been aggrieved  
6 by the adjudication of the district adjudicatory body;

7 (4) authorize a district legal entity to exercise the  
8 power of acquiring land for public purposes and to this end, the district  
9 legislature is authorized to enact laws and establish procedures therefor; and  
10 (5) establish a program for homesteading on the land  
11 transferred to the legal entity or entities created or designated pursuant  
12 to this act and authorize such legal entity or entities to administer  
13 such program.

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

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

23 (1) Public lands actively used by the Government  
24 of the Trust Territory of the Pacific Islands, or by agencies,  
25 instrumentalities, or political subdivisions thereof, as of the effective

1 date of this act, PROVIDED, that title to such public lands in a district  
2 shall be conveyed to the district's legal entity or entities upon  
3 the cessation of active use of such public lands by the Government as  
4 determined by Resolution of the district legislature; EXCEPT, HOWEVER,  
5 the High Commissioner shall have one year prior to passage of title  
6 to demonstrate to the district legislature the Government's active  
7 use, after which the district legislature may rescind its prior determination.

8 (2) Public lands specifically determined by the High Commissioner,  
9 with concurrence of the district legislature, to be needed for capital  
10 improvement projects extending five years from the effective date hereof;  
11 PROVIDED, that such public lands in a district shall be transferred to  
12 the respective district's legal entity or entities upon the expiration of  
13 such five-year period if at such time they are not in active use by the  
14 Government, as determined by Resolution of the district legislature;  
15 EXCEPT, HOWEVER, the High Commissioner shall have one year prior to  
16 passage of title to demonstrate to the district legislature the Government's  
17 active use, after which the district legislature may rescind its prior  
18 determination; and

19 (3) Public lands as to which there are valid homestead entry  
20 permits, or certificates evidencing compliance with such permits, and  
21 as to which deeds have not been issued, as of the effective date hereof.

22 Section 7. Limitations. Notwithstanding the provisions of  
23 Section 5 of this act, the High Commissioner shall not convey any right,  
24 title or interest in public land to any district legal entity or entities  
25 until the district legislature shall enact laws complying with the criteria

1 of this section as follows:

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

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

17 (3) receipt of all revenues derived from public lands  
18 transferred under this act by a district legal entity or entities upon  
19 the conveyance of title to such lands to that district entity or entities,  
20 which revenues shall be used and disposed of pursuant to district law  
21 for public purposes; and

22 (4) all transfers and conveyance to be made subject  
23 to all valid and existing claims relating to such lands.

24 Section 8. Time of Transfer and Conveyances. Conveyances of  
25 rights, titles or interests to public lands under this act to any particular

1 district legal entity or entities shall be made within one hundred and  
2 twenty days after a district legislature has complied with all the  
3 applicable provisions of this act.

4 Section 9. Compilation of Information. Within ninety days of  
5 the effective date of this act, the High Commissioner shall compile  
6 and publish, as to each district of the Trust Territory, information  
7 as to the size and location of each parcel of public land which:

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

10 (2) is the subject of a lease or land use agreement as  
11 set forth in Section 7(1) of this act, or of a tenancy at will or by  
12 sufferance as set forth in Section 7(2) of this act, together with  
13 the lessee, user, or tenant thereof, and together with a summary  
14 of the provisions of any agreement, whether written or unwritten,  
15 concerning such lease, land use, or tenancy; and

16 (3) has been conveyed by the High Commissioner pursuant to  
17 the authority of Section 5 of this act; and

18 (4) is subject to conveyance under Section 5 and 6  
19 of this act, but has not been conveyed.

20 The publication required by this Section shall be made  
21 available to the Congress of Micronesia, to each district legislature  
22 and legal entity, and to the general public, and shall be revised and  
23 updated not less frequently than once every three months.

24 Section 10. Amendments.

25 (1) Chapter 1 of Title 10 of the Trust Territory Code

1 is repealed in its entirety, and a new Chapter 1 is added to Title  
2 10 to read as follows:

3 "ACQUIRING LAND FOR PUBLIC PURPOSES"

4 Chapter 1

5 GENERAL PROVISIONS - DEFINITIONS

6 Sections

7 1. Purpose.

8 2. Power denied private corporations.

9 3. Definitions.

10 Section 1. Purpose. The purpose of this Title is to establish procedures  
11 to be followed by the Government of the Trust Territory and district  
12 governments to exercise their powers to acquire real property for public  
13 purposes.

14 Section 2. Power denied private corporations. No private corporation  
15 except as may be authorized by a district legislature pursuant to  
16 the provisions of the Public Land Act of 1974 shall have the right  
17 to acquire real property for public purposes.

18 Section 3. Definitions. As used in this Chapter, the following  
19 terms shall have the meaning set forth below:

20 (1) "Acquiring Land for Public Purposes" is the right  
21 of the Government of the Trust Territory, or a district government  
22 or a district legal entity as may be provided for by district  
23 law in accordance with the Public Land Act of 1974 to acquire  
24 private property for public purposes and to appropriate the owner-  
25 ship and possession of such property for such public purposes

1 upon paying the owner a just compensation to be ascertained  
2 according to the law. The right may be exercised by the  
3 Government of the Trust Territory only after a district government  
4 or a district legal entity has refused to exercise the power, or has  
5 failed to act upon a request by the High Commissioner to exercise the  
6 power within one year of the date of such request.

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

15 Section 4. Limitation of Power. Prior to exercising the power  
16 of acquiring land for public purposes the Trust Territory Government,  
17 or a district government or a district legal entity as may be provided  
18 for by district law in accordance with the Public Land Act of 1974 shall:

19 (1) negotiate in good faith with the land owners for the  
20 purchase of the real property determined to be necessary for public purposes;

21 (2) attempt to acquire the real property, determined to be  
22 necessary for public purposes by using the traditional and customary methods  
23 prevailing in that district."

24 (2) The chapter title of Chapter 3 of Title 10 of the  
25 Trust Territory Code is amended to read as follows:

" Chapter 3.

2 ACQUIRING LAND FOR PUBLIC PURPOSES -- PROCEDURE AND PROCEEDINGS"

3 (3) Section 112 of Title 67 of the Trust Territory Code

4 is hereby amended to read as follows:

5 "Section 112. Conduct of hearings. In conducting hearings,

6 each Land Commission and each land registration team shall be guided by, but

7 need not conform to, the Trust Territory Rules of Civil Procedures and the

8 Rules of Evidence. Each Commission and each registration team is

9 authorized to consider such evidence as will be helpful in reaching a

10 just decision. Neither a Commission nor a land registration team, however,

11 shall endeavor to redetermine any matter already decided between the same

12 parties or those under whom the present parties claim, by judgment of

13 a court of competent jurisdiction on the merits of such claim and not

14 on the basis of a prior determination by a Land Title Officer or by any

15 other agency or official prior to the establishment of the Land Commission

16 for the district, or a determination made in accordance with the authority

17 provided by Subsections (2) and (3) of Section 4 of the Public Land Act

18 of 1974. All Commissions and land registration teams shall accept such

19 prior determination as binding on such parties without further evidence

20 than the judgment or determination of ownership. All hearings shall be

21 public and every person claiming an interest in land under consideration

22 shall be given an opportunity to be heard. Hearings must be held in the

23 municipality in which the land involved lies and when practicable shall be

24 held in the village in which or near which the land lies. All parties,

25 including any representative (appointed under Section 113 of this Chapter

1 or by a court or other proper authority) of a minor or incompetent,  
2 may be represented and assisted by counsel."

3 Section 11. Citizenship of district entity. A district entity  
4 shall be deemed to be a citizen of the Trust Territory for the purposes  
5 of Section 11101 of Title 57 of the Trust Territory Code.

6 Section 12. Powers and duties of Chief of Lands and Surveys.  
7 The statutory powers and duties of the Chief of Lands and Surveys shall  
8 not extend to public lands transferred to district legal entities pursuant  
9 to this act, however the Division shall furnish technical assistance upon  
10 request of the district legal entity or entities.

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

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16 \_\_\_\_\_, 1974

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20 Edward E. Johnston  
High Commissioner  
Trust Territory of the Pacific Islands  
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