

JGR

Feb 11, 1974

A. B. NO. 298 <sup>17/a</sup>

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

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

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 political

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) (Y) Eminent Domain (Y).

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.

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) (V) Public ~~Use~~ Purposes (V). " Public ~~Use~~ purpose" shall  
8 be construed to cover any purpose determined by the High Commissioner to be  
9 a public 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-

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.

17  
 18 Date: Feb. 11, 1974

Introduced By: H. A. Jernard

By REQUEST

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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) (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 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  
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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-