

17
215

POL

REVISED

FOURTH MARIANA ISLANDS DISTRICT LEGISLATURE

FIFTH REGULAR SESSION

ACT NO. 100- 1975

INTRODUCED BY: HON. JUAN LG. CABRERA, SAIPAN

AN ACT EXPRESSING THE WILL OF THE PEOPLE OF THE MARIANA ISLANDS WITH RESPECT TO ALL PUBLIC LANDS, IMPLEMENTING THE REQUIREMENTS OF ORDER NO. 2969 OF THE SECRETARY OF THE INTERIOR OF THE UNITED STATES OF AMERICA, DATED DECEMBER 26, 1974, AND DESIGNATING THE ENTITY TO RECEIVE, HOLD AND ADMINISTER THE PUBLIC LANDS TO BE RETURNED BY THE HIGH COMMISSIONER

BE IT ENACTED BY THE FOURTH MARIANA ISLANDS DISTRICT LEGISLATURE, THAT:

WHEREAS, the people of the Mariana Islands District desire the return of all right, title and interest in and to all public lands presently held by the Government of the Trust Territory of the Pacific Islands; and

WHEREAS, the people of the Mariana Islands District seek the return of all right, title and interest in and to such public lands ~~AS SOON AS THE RETURN OF THE TERRITORY~~ at the earliest possible time; and

WHEREAS, the United States, as the Administering Authority, now proposes to return certain of the public lands of the Mariana Islands District, subject to certain conditions, all as set forth in Order No. 2969 of the Secretary of the Interior dated December 26, 1974 (hereinafter called the Public Land Secretarial Order).

2/19/75
03-023352

NOW THEREFORE, BE IT ENACTED BY THE FOURTH MARIANA ISLANDS DISTRICT
LEGISLATURE THAT:

Section 1. Purpose. The purpose of this Act is to satisfy the conditions precedent set forth in Section 6 of the Secretarial Order to the return by the Administering Authority of certain public lands of the Mariana Islands District in trust for the people of the Mariana Islands District; to create the legal entity to receive such public lands in trust for the people of the Mariana Islands District; to designate such legal entity to receive, hold and administer such public lands in trust for the people of the Mariana Islands; to reserve the power of the Mariana Islands District Legislature to enact laws providing for the exercise of the power of eminent domain and the establishment of adjudicatory bodies for settlement of claims to title or rights in the lands transferred; and formally to request the High Commissioner to convey to the legal entity created hereby the public lands to be returned pursuant to the Secretarial Order.

Section 2. Reservation of Powers by the Trust Territory of the Pacific Islands. The Mariana Islands District Legislature hereby recognizes that the Secretarial Order reserves to the Central Government of the Trust Territory of the Pacific Islands, until separate administration or termination of the Trusteeship whichever shall sooner occur, (a) the paramount power of eminent domain to take lands for public purposes pursuant to law and (b) the right to regulate all activities affecting conservation, navigation, or commerce in and to the navigable waters, tidelands, filled lands, submerged lands and lagoons;

provided that, in the exercise of such right, the Central Government does not unnecessarily interfere with the exercise of all prior traditional rights in and to such lands.

Section 3. Creation of the Entity to Receive, Hold and Administer the Public Lands.

(a) There is hereby created a corporation to be known as the Marianas Public Land Corporation (hereinafter called the Corporation). Pursuant to the Secretarial Order, the Corporation shall have perpetual juridical existence.

(b) The Corporation is a legal person created to receive in trust for the benefit of the people of the Mariana Islands all right, title and interest in and to public lands to be returned pursuant to the Secretarial Order or any order or law hereinafter returning additional public lands (hereinafter called the Trust Lands). Accordingly, the Corporation shall not be operated for the pecuniary gain or profit, direct or indirect, or any person but rather for the pecuniary gain or other benefit to the people of the Mariana Islands. ~~THE CORPORATION SHALL NOT HAVE THE POWER TO ISSUE ANY EQUITY SECURITIES OR OTHER EVIDENCE OF PARTICIPATION OR OWNERSHIP OF THE ASSETS, REVENUES OR PROFITS OF THE CORPORATION TO ANY PERSON.~~

(c) The Corporation shall be a membership corporation composed of members who agree to participate in the activities of the Corporation for the benefit of the people of the Mariana Islands. The following public officials and individuals are eligible to be the first members of the Corporation:

- (1) The Mayors of Saipan, Rota and Tinian;
- (2) Sixteen persons appointed by the Marianas District Legislature, no more than eight of whom shall be members of the legislature and at least two of whom shall be representatives of the United Carolinian Association;
- (3) Fifteen persons appointed by the Municipal Council of Saipan, no more than seven of whom shall be members of the Council;
- (4) Nine persons appointed by the Municipal Council of Rota, no more than four of whom shall be members of the Council; and
- (5) Seven persons appointed by the Municipal Council of Tinian, no more than three of whom shall be members of the Council.

~~The reasonable expenses incurred by the members of the Corporation in performing their responsibilities as members shall be borne by the appropriate appointing entity or by the Corporation.~~

The office of the Legislative Counsel for the Mariana Islands District Legislature shall provide all legal services as may be required by the Corporation.

- (d) The following individuals are hereby designated the incorporators of the Corporation:
 - (1) Two persons appointed by the Marianas District Legislature;
 - (2) Two persons appointed by the Marianas Political Status Commission;

- (3) Two persons appointed by the Municipal Council of Tinian;
- (4) Two persons appointed by the Municipal Council of Rota; and
- (5) Two persons appointed by the Municipal Council of Saipan;

Provided, however, that if any incorporator named pursuant to this Act becomes unwilling or unable to serve as an incorporator, then the remaining incorporators designated hereby are hereby empowered to elect, by majority vote, the successor to any such named incorporator.

- (e) The incorporators are hereby authorized and directed to take the steps required by this Act to organize the Corporation promptly in order that the return of the Trust Lands for the benefit of the people of the Mariana Islands shall be expedited.
- (f) The incorporators are directed to review the draft Articles of Incorporation submitted to the District Legislature and to make such modifications thereto as the incorporators shall deem necessary to carry out the purposes of this Act and the Secretarial Order and to benefit the people of the Mariana Islands;

Provided, however, that the incorporators are not authorized to make any charges in the draft Articles which diminish the authority of the District Legislature or any popularly elected legislative successor thereto with respect to the Corporation.

(g) The Corporation shall have the powers enumerated in this Act, the Secretarial Order and the Articles of Incorporation adopted by the incorporators; provided, however, that the powers of the Corporation shall be subject to the limitations set forth in subsections (d), (e) and (f) of Section 6 of the Secretarial Order.

(h) After the incorporators have approved the Articles of Incorporation and the By-laws of the Corporation, the incorporators are hereby directed to file the Articles of Incorporation and the By-laws in the office of the Clerk of the District Court of the Mariana Islands District and, upon such filing, the organization of the Corporation shall proceed in the manner contemplated by the Articles of Incorporation and the By-laws.

(i) The activities of the Corporation shall be conducted in accordance with its Articles of Incorporation and By-laws, each as amended from time to time.

(j) After the organization of the Corporation is complete, the Corporation is hereby authorized to receive from the High Commissioner all right, title and interest of the Government of the Trust Territory of the Pacific Islands in the Trust Lands. In connection with the transfer of title from the High Commissioner to the Corporation, the Corporation is hereby authorized to agree to hold the United States Government and the Central Government of the Trust Territory of the Pacific Islands and their respective agencies or political subdivisions harmless from any and all claims relating to the lands conveyed arising after the date of conveyance other than claims resulting directly from the actions of the United States Government, the Government of the Trust Territory of the Pacific Islands, their respective agencies or political subdivisions or any of their duly authorized agents.

Section 4. Guidelines Concerning Use and Disposition of the Trust Lands.

The members of the Corporation shall adopt policy guidelines setting forth limitations on land dispositions and outlining the procedures to be followed in connection therewith (hereinafter called the Trust Policy Guidelines). Until the Trust Policy Guidelines shall have been adopted, the

Corporation shall not have any power to dispose of any interest in the Trust Lands except for the power to execute on behalf of the people of the Mariana Islands binding agreements to meet land requirements of the United States designated in a future status agreement approved by the people of the Mariana Islands.

Section 5. Revenues.

(a) The corporation is hereby directed to appoint a firm of independent certified public accountants to advise in the organization of the financial records of the Corporation and to audit its financial statements at the end of each fiscal year of the Corporation.

(a) All revenues generated from the use and administration of the public lands pursuant to this Act shall be deposited in the General Fund of the Mariana Islands District Legislature.

(b) Subject to the limitations set forth in its Articles of Incorporation, the Trust Policy Guidelines or in resolutions adopted by its members, the Corporation is hereby authorized to use revenues derived from the Trust Lands to pay the expenses of the Corporation related to the use, sale and administration of the Trust Lands, the payment of which is hereby designated as an expenditure for a public purpose.

(b) At the end of each fiscal year, the Corporation shall prepare and submit to the legislature for its consideration and funding, for the next fiscal year, funds necessary to conduct its activities.

(c) // At the end of each fiscal year, the Corporation
 shall prepare budget projections, including cash
 flow statements indicating the timing of receipts
 and disbursements, for the next fiscal year and
 shall determine the amount allocated by the
 Corporation to conduct its activities in the next
 fiscal year. The net income, computed in accordance
 with generally accepted accounting principles
 consistently applied, of the Corporation in any
 fiscal year less the amount allocated for the
 operations of the Corporation in the next fiscal
 year shall constitute distributable proceeds of the
 trust funds hereinafter called distributable trust funds).
 (d) The Corporation shall pay distributable trust funds to
 the Mariana Islands District Legislature, or any properly
 elected legislative successor thereof, and the
 distributable trust funds shall be hereafter appropriated
 for public purposes.

Section 6. Annual Report to the People. The Corporation shall prepare
 an annual report to the people of the Mariana Islands setting
 forth (i) a summary of its activities and proposed activities,
 (ii) its financial statements for the past fiscal year and
 (iii) its budget projections for the current fiscal year.
 The Corporation shall publish its report in a manner selected
 to reach the broadest segment of the people of the Mariana
 Islands. The Corporation's annual report shall be sent to the
 Mariana Islands District Legislature.

Section 7. Reservation of Power to Enact Certain Laws.

Pursuant to the Secretarial Order, the Mariana Islands District Legislature is empowered to enact laws providing for the exercise of the power of eminent domain, creating adjudicatory bodies for the settlement of claims to title or rights in the lands transferred, and establishing a program for homesteading on the land transferred to the district legal entity. The power to enact such laws is hereby reserved. Until the District Legislature shall establish or designate an adjudicatory body for the settlement of claims to title or rights in the Trust Lands, the Corporation is hereby empowered to settle title in any portion of the Trust Lands in proceedings in the High Court of the Trust Territory of the Pacific Islands.

Section 8. Formal Request to High Commissioner. On behalf of the people, the Mariana Islands District Legislature hereby formally requests, as required by Section 1 of the Secretarial Order, the High Commissioner to convey to the Corporation the public lands to be returned pursuant to the Secretarial Order.

~~Section 9. Approval. There is hereby appropriated from the General Fund of the Mariana Islands District Legislature the sum of \$100,000.00 to cover reasonable expenses incurred by the Corporation in implementing the provisions of this Act.~~

~~The Corporation shall pay all other reasonable expenses
incurred before its incorporation from revenues and other
funds available to the Corporation~~

Section 9. Effective Date. This Act shall take effect upon approval by the District Administrator, or upon its becoming law without such approval.