

4
5 P.L. 2003-92
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7
8 **AN ACT**
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10 to create the Land Registration Authority and provide for its operation and procedures; to provide for
11 recording of all land interests, registration of certain land interests, and guarantee of title to registered interest
12 and to establish legal requirements for land leases in the Republic.
13

14 **BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS**

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16 **PART I - GENERAL PROVISIONS**
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18 **Section 1. Short title.**

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20 This Act may be cited as the "Land Recording and Registration Act 2003"
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22 **Section 2. Interpretation.**

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24 (1) In this Act, unless the context otherwise requires:

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26 (2) "Authority" means the Land Registration Authority established in
27

28 Part II of this Act.

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30 (3) "Board" means the Board of Directors of the Authority.

31 (4) "Court order" or reference to an order by a court means an order, decree, writ,
32 judgment, or the like issued by a court of competent jurisdiction.

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34 (5) "Encumbrance" means any interest in land except ownership of the land.

35 (6) "Interest" in land means any and all right, title, and interest
36 in and to the land, or any part of it, including but not limited to ownership; leaseholds;
37 deeds of trust, mortgages, and other charges or liens; rights-of-ways and easements; real
38 covenants and restrictions; remainders, reversions, and other future interests; and any other

1 encumbrances or interests of whatever sort, whether under custom and tradition, common law,
2 statute, or otherwise.

3 (7) Government interests in land shall include ownership, leaseholds, easements,
4 mortgagee's interests, licences and statutory interests under any Act.

5 (8) "Leasehold" means the lessee's interest in a lease and in the property subject to the
6 lease.

7 (9) "Notice" with respect to an interest in land means actual, constructive, or inquiry
8 notice.

9 (a) "Constructive notice" means notice provided by any recorded document
10 from the date of its recording, whether or not the person to be charged with notice
11 actually knows about the document.

12 (b) "Inquiry notice" means notice of what the person to be charged with notice
13 would reasonably have become aware of from a survey and physical inspection of the
14 property and a reasonably diligent investigation as to the nature of any interest in the land
15 thereby revealed. Inquiry notice may exist whether or not actual or constructive notice
16 exists.

17 (10) "Ownership" of land means outright ownership of specific land, sometimes also
18 known as title to the land.

19 (11) "Person" means any individual, corporation, partnership, national or local
20 government, statutory body, or other legal entity.

(12) "Registration" of an interest in land means a process that goes beyond just recording the interest, results in a certificate of registration, and confers additional benefits with respect to the quality and security of title to that interest as provided more particularly in this Act.

(13) "Senior land interest holders" means the individuals currently holding the traditional title and interest of Iroijlaplap, Iroijerik where necessary, Alab, and Senior Dri Jerbal, respectively, whose approval is necessary to create a valid conveyance of land interests pursuant to Article X, Section 1(2) of the Constitution. Reference to Iroijlaplap includes Leroij where applicable. In cases where no Iroij interests exist those rights are deemed to be exercised by the Alab and the Senior Dri Jerbal acting together."

(14) "Term" of a lease means the total period of time during which the lease remains or may remain in effect without any further agreement by the lessor, including the initial fixed term and any options to renew or extend which are within the lessee's control.

(15) "Title determination date" with respect to a recorded certificate of registration means the time and date on which the application for that certificate of registration was recorded.

(16) "Weto" means a parcel of land in accordance with Marshallese custom and tradition.

PART II - THE AUTHORITY

Section 3. Establishment of the Authority.

The Land Registration Authority is hereby established.

Section 4. Incorporation of the Authority.

(1) The Authority:

(a) is a corporation;

(b) has perpetual succession;

(c) shall have a seal;

(d) may enter into contracts;

(e) may acquire, hold, charge and dispose of property;

(f) may sue and be sued in its corporate name; and

(g) for the purposes of its functions, has all the powers, functions, duties and responsibilities of a corporation.

(2) The provisions of the Corporations, Partnership and Associations Act do not apply to or in relation to the Authority.

Section 5. Management of the Authority.

(1) Subject to this Act and to the Regulations made under this Act, the Authority shall be controlled and managed by a Board of Directors.

(2) Subject to this Act and to the Regulations made under this Act, the Board has and may exercise and perform all the powers of the Authority under this Act.

Section 6. The Board of Directors.

(1) There shall be a Board of Directors of the Authority which shall consist of five (5) members;

(2) The Members of the Board shall be:

(a) a member appointed by the Cabinet upon recommendation of the Council of Iroij;

(b) a member appointed by the Cabinet on the nomination of the Bar Association of the Republic;

(c) a member appointed by the Cabinet from among the business community of the Republic; and

(d) two other members appointed by the Cabinet.

(3) The member appointed by the Cabinet on the nomination of the Bar Association shall serve as the initial Chairman of the Board and shall call the first meeting of the Board of Directors within thirty (30) days from the effective date of this Act. Letters of Appointment or nomination for the Members appointed under Subsection (2) (a) and (b) of this Section shall be presented to the Cabinet within twenty (20) days after the effective date of this Act.

Section 7. Compensation.

No Member of the Board who receives a salary from the national government or a local government of the Republic shall be entitled to compensation. Other Members of the Board may be paid fees for attendance at meetings as provided in the Regulations made under this Act.

Section 8. Term of office.

(1) The term of office for Members of the Board shall be three (3) years, and Members shall be eligible for reappointment.

(2) Notwithstanding the provisions of Subsection (1) of this Section, any of Member may be removed for cause by the Cabinet.

Section 9. Vacation of office.

A Member of the Board vacates his office upon:

- (1) death;
- (2) expiration of the term of appointment;
- (3) resignation from office by writing addressed to the Cabinet; or
- (4) removal from office under Section 8 (2) of this Act.

Section 10. Procedures of the Board.

Subject to this Act and the Regulations made under this Act, the Board shall determine its own procedures.

Section 11. Disclosure of, and disqualification for, interest.

(1) If a Member of the Board has a personal interest in the subject matter of any question before a meeting of the Board:

- (a) the Member shall disclose the interest at the meeting; and
- (b) shall take no part in the deliberations (except as directed by the Board), or in the decision of the Board on the question.

(2) A disclosure under Subsection (1) of this Section shall be recorded in the minutes of the meeting at which the disclosure is made.

Section 12. Misconduct in public office.

A failure to comply with Section 11 of this Act is misconduct in public office within the meaning of Section 146 of the Criminal Code.

Section 13. Quorum at meetings.

1 At any meeting of the board three members present together and able to take part in
2 deliberations shall be a quorum.

3 Section 14. Registrar and other staff of the Authority.

4 (1) Subject to the provisions of this Act, the Authority:

5 (a) shall employ a Registrar who shall be the chief executive of the
6 Authority and the Secretary to the Board; and

7 (b) may employ such other employees as the Board in consultation
8 with the Registrar thinks necessary for the performance and proper functioning of the
9 Authority.

10 (2) Persons referred to in Subsection (1) of this Section shall be employed on such
11 terms and conditions as the Board determines after consultation with the Public Service
12 Commission.

13 (3) Article VII (Public Service) of the Constitution does not apply to or in relation to
14 the Authority and no employee of the Authority will be an employee of the Public Service.

15 Section 15. Funding the Authority

16 (1) The Authority shall be funded for all of its work and functions by an annual
17 appropriation to be made by the Nitijela, which appropriation shall be paid to the bank account of
18 the Authority in quarterly installments.

19 (2) The Authority may open and operate an account with any bank in the Republic of
20 the Marshall Islands.

21 (3) The Accounts of the Authority shall be audited annually by the Auditor General

PART III – PURPOSES AND POWERS OF THE AUTHORITY

Section 16. Purposes of the Authority.

The primary purposes of the Authority under this Act shall be:

(1) to provide a legal framework for the people of the Marshall Islands to voluntarily register their interests in land in order to produce certainty of the identity of the legal owners of land and interests in land and to facilitate investment in and development of land in the Republic;

(2) to provide a legal regime satisfactory to land owners, lessees, investors and lending institutions in order to facilitate investment and long term real estate financing;

(3) to provide for standards and criteria for land leases in the Republic in order to protect land interest holders and investors; and

(4) to maintain and keep records of land and land transactions open to the public and to facilitate bringing land into the economic marketplace in the Republic.

Section 17. Powers of the Authority.

(1) Subject to this Act and any other law, the Authority and the Registrar shall have any powers necessary and convenient for carrying out their purposes.

(2) Without prejudice to the generality of the powers conferred by Subsection (1) of this Section, the Authority shall:

(a) consistent with the provisions of this Act, provide for the registration process and objections to registration;

1 (b) establish a land database with the names and points of contact for
2 registered senior land interest holders; and

3 (c) provide suggested lease forms and negotiation or mediation assistance
4 between senior land interest holders and investors when requested.

5 (3) Without prejudice to the generality of the powers conferred by Subsection (1) of
6 this Section, the Registrar shall:

7 (a) accept applications in the prescribed form;

8 (b) give notice to the public of applications for registration of land in
9 accordance with the provisions of this Act;

10 (c) issue certificates of registration;

11
12 (d) make provision for successors in interest for duly registered land interests;

13 (e) consistent with the provisions of this Act, provide for the registration
14 process and objections to registration;

15 (f) issue certificates of registration and make provision for successors in
16 interest for duly registered land interests;

17 (g) establish a land database with the names and points of contact for
18 registered senior land interest holders;

19 (h) provide suggested lease forms and negotiation or mediation assistance
20 between senior land interest holders and investors when requested; and

(i) maintain on file copies of all recorded leases in the Marshall Islands to ascertain the prevailing market rental values of land.

Section 18. Regulations.

Subject to the Marshall Islands Administrative Procedure Act, 1979, the Authority may make reasonable regulations consistent with the provisions of this Act which are necessary or convenient to carry out the purposes and provisions of this Act.

PART IV - RECORDING

Section 19. Recording system.

(1) Beginning on the effective date of this Act, all land recordings shall be effected and maintained by the Registrar at the offices of the Authority. Documents previously recorded with the Clerk of the Courts shall be transferred to the Authority as soon as practicable, but in no event later than the 30th day after the aforesaid date.

(2) The Authority may charge reasonable fees for recording documents or performing its other duties under this Act in accordance with such schedule of fees as the Board may announce from time to time. Fees collected shall be deposited in the General Fund.

(3) The Registrar shall maintain a permanent record of all documents heretofore or hereafter submitted for recording in the land records. Where practicable, the Registrar shall maintain a copy of a recorded document and make the original available for return to the person who submitted it for recording.

(4) The Registrar shall index such documents in a consistent and transparent manner. As part of the records maintained by the Registrar there shall be an authoritative index listing and

1 showing the location of every weto in the Republic and all the recorded documents purporting to
2 affect land in the weto.

3 (5) The Authority shall cause to be created an electronic version of every recorded
4 document and document index by scanning or otherwise. At least one complete electronic file of
5 recorded documents and indexes shall be maintained in a secure location away from the offices of
6 the Authority.

7 (6) The land records shall be open for review by any person during normal business
8 hours of the Authority.

9 Section 20. What may be recorded.

10 (1) Any document affecting any interest in land may be recorded by any person.

11 (2) Documents affecting an interest in land may include but are not limited to deeds,
12 bills of sale, leases, mortgagees, assignments, grants, and other forms of conveyance; surveys,
13 plats, plans, and maps identifying or describing parcels of land; releases or discharges of charges
14 or liens; court orders and arbitration awards; powers of attorney showing the authority of one
15 person to sign a document affecting land on behalf of another person; wills, death certificates,
16 probate determinations, and other documents showing successorship upon death of a person;
17 certificates of registration under this Act; tax lien claims and other claims to an interest in land;
18 and any and all other documents or instruments necessary or useful in establishing, creating,
19 evidencing, transferring, extending, amending, claiming, resolving, or terminating an interest in
20 land or the chain of title thereto.

21 Section 21. Failure to record.

No unrecorded document shall be valid against any person with an interest in the land who first records, or against those holding rights under such person, except as:

- (1) between the parties to such unrecorded document;
- (2) against those having notice thereof prior to recording such interest;
- (3) against unrecorded tax or other statutory liens to the extent they take priority as provided in the relevant statute; and
- (4) otherwise provided in this Act with respect to registered land interests.

Section 22. Recording of court orders.

(1) A court order affecting an interest in land shall, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been entered that an appeal shall not stay the judgment, operate the release or transfer of any interest in land in accordance with the terms of the order when a copy thereof, certified by the Clerk of Courts or any judge of the court, is recorded in the land records.

(2) The Clerk of Courts shall cause a certified copy of all such courts orders to be recorded in the land records without payment of any fee. Failure of the Clerk of Courts to comply with this section shall not subject the Clerk of the Courts to any liability.

Section 23. Government interests in land.

The priority of any interest in land held by the national Government or a local government of the Republic or by a statutory body before the effective date of this Act shall be unaffected by this Act. From and after the effective date of this Act, however, such Government interests shall

be subject to the same rules as other interests in land, including the right to record and the effects of failing to do so.

PART V - REGISTRATION OF LAND INTERESTS

Section 24. Interests which may be registered.

Any of the following interests in land may be registered:

- (1) an ownership owned by the senior land interest holders;
- (2) an ownership owned by one senior land interest holder who claims to own the land free and clear of the rights of any other senior land interest holders;
- (3) an ownership owned by any other person who is qualified to own land in the Republic;
- (4) a leasehold granted by an owner with a certificate of registration;
- (5) a mortgage granted by an owner or lessee with a certificate of registration; and
- (6) an easement granted by an owner or lessee with a certificate of registration.

Section 25. Application for registration.

(1) The holder of the interest to be registered shall complete and submit to the Registrar a registration application.

(2) A registration application for the original registration of an interest in land shall be made in the form prescribed by the Authority and shall contain the following information:

- (a) the type of land interest to be registered (ownership, leasehold, mortgage, or easement);

1 (b) a description of the affected land, including the name of the weto, island,
2 and atoll, along with a survey map of the land approved by the Chief, Division of Lands
3 and Survey, and a legal description of the land in metes and bounds;

4 (c) the name and address of each person claiming to own the subject interest
5 (including all the senior land interest holders in the case of an ownership registration in
6 favour of the senior land interest holders);

7 (d) in the case of an ownership registration in favour of the senior land interest
8 holders, the names and addresses of all successors in interest to the named senior land
9 interest holders to the extent that such successors are known as of the date of the
10 application;

11 (e) a list of all recorded documents affecting the subject land in any way,
12 including the recording data for each such document;

13 (f) copies of any unrecorded documents of which the applicant is aware and
14 which affect title to the subject land in any way, including if applicable any lease,
15 mortgage, or easement under which the applicant claims the interest sought to be
16 registered;

17 (g) the name and (if known) address of every person who has a claim affecting
18 the interest in land sought to be registered if any applicant knows of that person or if that
19 person is readily ascertainable from a reasonably diligent review of the land records; and

20 (h) notarially attested signatures of each person in Subsection (2) (c) of this
21 Section.

1 (3) The registration application shall also contain a representation that the surveyed
2 boundaries of the affected land have been clearly and physically marked on the ground and an
3 undertaking that, upon the written request of any interested person at any time during the
4 objections period, the applicant or the applicant's surveyor will provide reasonable assistance to
5 the requester in identifying or reestablishing those boundary markings. This representation and
6 undertaking shall not be required if:

7
8 (a) the interest to be registered is a leasehold or a mortgage covering land with
9 respect to which a certificate of registration of the underlying ownership or (in the case of
10 a leasehold mortgage) the underlying leasehold has already been recorded; and

11 (b) the land affected by the interest to be registered has the same legal
12 description as the affected land in that recorded certificate of registration.

13 (4) If the application is for an original ownership certificate of registration by a person
14 other than one or more senior land interest holders, the application must be accompanied by
15 deeds, affidavits, or some other written support for the claim of ownership.

16 (5) Applications to register different interests in the same land may be processed
17 simultaneously but must be registered sequentially, with no certificate of registration being issued
18 for any one interest until a certificate of registration has issued for each underlying interest.

19 Section 26. Notice of registration application.

20 (1) Within fourteen (14) days after receiving a properly completed registration
21 application, the Registrar shall issue notice of and afford an opportunity to object to the proposed

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1 registration within the following period after the posting, recording, and mailing of the
2 registration application:

3 (a) ninety (90) days in the case of the original ownership registration with
4 respect to particular land located on Majuro, Ebeye, Arno or Jaluit and one hundred and
5 eighty (180) days with respect to land located elsewhere;

6 (b) sixty (60) days in the case of an ownership registration amending a prior
7 ownership registration;

8 (c) sixty (60) days in the case of an original leasehold or mortgage registration
9 or any amendment thereof.

10 (2) A public notice shall be given in the following manner:

11 (a) Posting -- by posting a copy of the registration application, including its
12 attachments, during the objection period in a conspicuous place at:

13 (i) the offices of the Authority;

14 (ii) the Chief Secretary's Office in Majuro and Ebeye;

15 (iii) the High Court in Majuro and Ebeye;

16 (iv) the offices of the Public Service Commission;

17 (v) the offices of the local government where the land is located;

18 (vi) overseas embassies and consulates of the Republic; and

19 (vii) such other overseas locations as the Board may prescribe in order
20 to give notice to as many overseas Marshallese residents as reasonably possible;

(b) Radio -- by announcing the registration application on public radio on a radio station heard throughout the Marshall Islands not less than twice a week during the objection period specified in Subsection (1) of this Section;

(c) Publication -- by publishing the registration application in a newspaper publication of general circulation in the Marshall Islands not less than twice a month during the objection period specified in Subsection (1) of this Section;

(d) Recording -- by recording the registration application, including its attachments, in the land records; and

(e) by any additional means that the Authority may decide is appropriate.

(3) In addition to the public notice, the Registrar shall mail a copy of the application to each person identified by the applicant under Subsection (2) (g) of Section 25 if the address of that person has been provided by the applicant or is known to the Registrar.

Section 27. Objections to registration.

(1) An objection to registration may be made by any interested person on the grounds that such objector is the holder of an interest in the affected land which the objector claims is prior in right to the interest sought to be registered even though it was not recorded before the interest to be registered was recorded.

(2) Objections shall be filed with the Registrar within the objection period set forth in Subsection (1) of Section 26 and shall contain the following information:

(a) name and address of each objector;

1 (b) statement of objection and reasons therefor;

2 (c) copies of any documents supporting the objection; and

3 (d) notarially attested signatures of each objector, certifying that all statements
4 made in the objection are true.

5 (3) The Registrar shall send to the applicant any objection which meets the
6 requirements of this Section within seven (7) days after receiving it. The applicant shall have
7 thirty (30) days after receiving the objection to inform the Registrar whether applicant wishes to:

8 (a) suspend the registration pending resolution of the objection, in which case
9 the registration process shall be suspended and shall resume upon resolution of the
10 objection; or

11 (b) withdraw the registration, in which case it shall be deemed immediately
12 withdrawn.

13 (4) The Registrar shall inform the objector of the applicant's decision. If the applicant
14 decides to suspend the registration pending resolution of the objection, the objection shall be
15 considered by the Authority, with the applicant and the objector being heard in the presence of
16 one another on an inquisitorial basis. Such consideration shall be commenced within fourteen
17 (14) days after the date the Registrar informs the objector of the applicant's decision and
18 thereafter diligently prosecuted to completion, but in no event shall the Authority permit more
19 than thirty (30) days to elapse between the date the applicant informs the Registrar of the
20 applicant's decision under Subsection (4) of this Section and the date the Authority issues its
21 determination on the objection.

(5) If the Authority fails to issue a timely determination on the objection, the objector may bring an action in the High Court within thirty (30) days after the due date for issuing that determination. If a timely action is not so commenced, the objection shall be rendered null and void for purposes of registration under the provisions of this Act.

(6) If either the applicant or the objector is dissatisfied with a determination of the Authority under Subsection (4) of this Section, the applicant or objector may bring an action in the High Court within thirty (30) days after receipt of that determination. The court shall hear the matter as an original application, but it may give such weight to the determination of the Authority as it deems appropriate. If neither party has filed a timely appeal, the determination of the Authority shall be final and binding on the parties.

(7) At any time during the process, the parties are encouraged to resolve their differences amicably in accordance with Marshallese custom and tradition.

(8) An objection is resolved by:

- (a) written withdrawal of the objection by the objector;
- (b) written agreement of the applicant and the objector;
- (c) Authority determination which is no longer appealable;
- (d) final and unappealable judgment of a court of competent jurisdiction.

(9) The Registrar shall retain a record of all objections timely filed and their resolution.

Section 28. Certificate of registration.

1 (1) Upon completion of the procedures specified in Sections 24 through 27, and at the
2 request of the applicant, the Registrar shall issue a certificate of registration if no timely objections
3 were filed or if, with respect to each objection which was timely filed:

4 (a) the objection was withdrawn by the objector;

5 (b) the objection was resolved against the objector; or

6 (c) the objection was resolved against the applicant, in which case the
7 objection, along with reference to any recorded document reflecting the resolution of the
8 objection, shall be noted on the certificate of registration.

9 (2) In the case of an original ownership registration in favour of the senior land
10 interest holders, the certificate of registration shall note the names of the known successors in
11 interest provided on the registration application.

12 (3) Based on the list of such documents provided in the registration application and on
13 a diligent search of the land records by the Registrar, the Registrar shall also note on the
14 certificate of registration the recording data of any document recorded in the land records before
15 the registration application was recorded which affects or potentially affects the interest in land
16 covered by the certificate of registration.

17 (4) A certificate of registration shall be signed by the Registrar over the seal of the
18 Authority. No further proof of authenticity shall be required.

19 (5) Subject to section 27 The Registrar may refuse to issue a certificate of registration
20 to any applicant if the Registrar personally believes that the applicant is not the owner of the

1 interest sought to be registered or has been so informed by the Board based upon the personal
2 knowledge belief of one or more members of the Board.

3 (6) The Registrar shall record a certificate of registration before issuing it to the
4 applicant.

5 Section 29. Amending a certificate of registration.

6 (1) An original certificate of registration may be amended, or an amended certificate of
7 registration may be further amended, upon application of a person who claims to have succeeded
8 to all or part of the interest in the land covered by the certificate to be amended.

9 (2) A registration application for the amended registration of an interest in land shall
10 be made in the form prescribed by the Authority and shall contain the following information:

11 (a) copy of the certificate of registration to be amended;

12 (b) whether the affected land is different in any way from the affected land in
13 the certificate of registration to be amended and, if so, a description of the land to be
14 affected by the amended registration, including the name of the weto, island, and atoll,
15 along with a survey map of the land approved by the Chief, Division of Lands and Survey,
16 and a legal description of the land in metes and bounds;

17 (c) the person named on the certificate to be amended whose interest the
18 applicant has succeeded to or is claiming under;

19 (d) name and address of each applicant;

20 (e) copy of any final court order or other document supporting the asserted
21 change in ownership of the affected land interest;

1 (f) name and (if known) address of every person who has a claim affecting the
2 interest in land sought to be registered which arose since the title determination date of the
3 most recent prior registration of that interest if any applicant knows of that person or if
4 that person is readily ascertainable from a reasonably diligent review of the land records;
5 and

6 (g) notarially attested signature of each applicant.

7 (3) If the application is to amend an ownership registration in favour of the senior land
8 interest holders, all the senior land interest holders must join and sign as applicants.

9 (4) If a new description of the affected land is provided in the application, the
10 application must also contain a representation that the surveyed boundaries of the affected land
11 have been clearly and physically marked on the ground and an undertaking that, upon the written
12 request of any potential objector at any time during the objections period, the applicant or the
13 applicant's surveyor will provide reasonable assistance to the requester in identifying or
14 reestablishing those boundary markings.

15 (5) Except as otherwise provided in this Section, the application shall be made, notice
16 shall be given, objections shall be received and dealt with, and the new certificate of registration
17 shall be issued as provided in Sections 24 through 28 of this Act.

18 (6) An amended certificate of registration shall:

- 19 (a) state that it is an amendment;
20 (b) identify the prior certificate being amended;
21 (c) and include any objection noted on that prior certificate.

(7) An amended certificate of registration shall be in favour of the applicant and any person named on the prior certificate whose interest in the land has not been succeeded to by the applicant.

Section 30. Quality of title to registered land.

(1) At the title determination date, title to the interest in land which is the subject of a recorded certificate of registration shall be good and marketable title, free and clear of all other interests except the following:

(a) objections and other matters noted on the certificate of registration;

(b) unrecorded road, electricity, natural gas, water, sewage, telephone, cable, or other rights of way or easements in favour of the government or a public utility company of which the holder of the interest covered by the certificate of registration had inquiry notice at the time that holder's interest was recorded; and

(c) unrecorded tax or other statutory liens to the extent they take priority as provided in the relevant statute.

(2) After the title determination date, title to the interest in land which is the subject of a recorded certificate of registration may be affected only by the following additional interests:

(a) interests in the affected land which are recorded after the title determination date, but only from and after the date they are recorded;

(b) interests first disclosed in a subsequent amended certificate of registration, but only from and after the recording of that amended certificate; and

1 (c) unrecorded tax or other statutory liens to the extent they take priority as
2 provided in the relevant statute.

3 Section 31. Limitation of remedies.

4 The sole and exclusive remedy available to a person challenging the rights of any senior
5 land interest holder or successor thereto with respect to a lease which was executed thereby and
6 as to which a leasehold certificate of registration has been recorded is, if so ordered by a court of
7 competent jurisdiction, to be substituted in the lease for the person whose rights were successfully
8 challenged. From and after the recording of that court order, the successful challenger shall be
9 subject to all the obligations under the lease and entitled to all the rights under the lease of the
10 person whose rights were successfully challenged, including but not limited to the right to receive
11 rent; provided that the substitution shall not be binding upon the lessee until the lessee has
12 received actual notice of the court order.

13 **PART VI - GUARANTEE OF TITLE**

14 Section 32. Nature of guarantee.

15 (1) A recorded certificate of registration shall carry with it, without the need for any
16 further assurances, a guarantee by the Republic that the title was as stated in Section 30 when the
17 application for registration was recorded.

18 (2) The guarantee shall be backed by the Republic and shall consist of the payment of
19 any and all valid claims which may arise under the guarantee which are brought within 6 years
20 from the date on which it is discovered that the quality of the title at the time of registration is not
21 as stated in section 30 .

1 Section 33. Beneficiaries of guarantee.

2 The guarantee shall be for the benefit of:

3 (1) in the case of an ownership certificate of registration in favour of the senior land
4 interest holders or any one of them, persons claiming thereunder as lessees, mortgagees, or
5 easement holders if the lease, mortgage, or easement arose and is recorded after the recording of
6 the certificate of registration;

7 (2) in the case of any other certificate of registration, persons shown on the certificate
8 as holding the land interest covered by the certificate and persons claiming under them as lessees,
9 mortgagees, or easement holders; and

10 (3) the heirs, successors, and assignees of the foregoing benefited persons.

11 Section 34. Claims against guarantee.

12 (1) One or more claims may be made by one or more beneficiaries at one or more
13 times, but in no event shall the aggregate amount of claims payable with respect to the guarantee
14 or guarantees related to particular land exceed the value of the unencumbered value of the
15 ownership interest in that land, including improvements upon the land, at the time of filing of the
16 claim at issue. Once a guarantee has been exhausted, it shall not be revived by any future
17 circumstance.

18 (2) A claim may be brought only if the state of title is claimed to be different from the
19 state of title being guaranteed. No claimant shall be permitted to recover more than:

20 (a) the actual value of that claimant's loss or damage resulting from or
21 otherwise arising out of that difference in the state of title; and

(b) all attorney and other professional fees and expenses reasonably incurred by the claimant in:

(i) defending the guaranteed state of title; and

(ii) collecting on the guarantee.

(3) In order to assure a fair distribution of the amounts remaining unpaid and uncommitted under any guarantee, the claimant shall notify any other known beneficiary of the guarantee and afford that beneficiary a reasonable opportunity to file a separate claim.

(4) A claim shall be filed with the Authority in the first instance. The Authority shall conduct such investigations and hold such hearings as it deems appropriate and, within sixty (60) days after the claim was filed, determine the amount, if any, to recommend on the claim. The Authority shall promptly transmit that determination to the Cabinet. Within sixty (60) days thereafter, the Cabinet shall notify the Authority and the claimant whether the Cabinet accepts the determination and, if not, why not. A notice from the Cabinet accepting the determination shall be binding upon the Republic in the same manner and with the same force as a final and unappealable order of a court of competent jurisdiction, and the Republic shall pay the claim, within ninety (90) days of accepting the amount of the claim, from the General Fund without further appropriation than this Act.

(5) If the Authority fails to make and transmit a timely determination as provided above, or if the Cabinet fails to provide a timely notice accepting that determination without conditions, the claimant may commence an action in the High Court against the Republic. The

1 court shall try the matter as an originating application and shall not be constrained in the amount
2 of any judgment rendered by the amount of the original Authority determination.

3 (6) No claim shall be allowed if the title defect giving rise to the claim results from:

4 (a) a conveyance by or arising under the claimant; or

5 (c) a fraud or forgery in which the claimant participated or of which the claimant
6 had notice prior to obtaining the claimant's interest in the land.

7 (7) Nothing in the Government Liability Act, 1980 shall apply to this Act or any
8 claims made against the guarantee under this Act

9 **PART VII - MISCELLANEOUS**

10 Section 35. Correction of errors.

11 Upon recommendation of the Registrar, the Authority is authorized to correct any errors
12 which may be discovered with respect to a certificate of registration, including but not limited to
13 errors with respect to land surveys, legal descriptions, overlooked prior recorded interests, and
14 characterisation of objections or other matters noted on the certificate. No such correction shall
15 operate to invalidate a right to any claim under the guarantee which accrued before the correction,
16 but from and after recording of the corrected certificate, no new rights shall arise because of the
17 error.

18 Section 36. Liability limitation.

19 Neither the Authority nor any of its members or employees shall be liable to any person
20 for an error made in good faith except to the extent that it results from gross negligence.

21 Section 37. Writing required.

No contract with respect to land which is not to be performed within one year after the making thereof and no conveyance of a ownership, leasehold for a term of more than one year, mortgage, or easement interest shall be valid against the parties thereto or any third party unless the contract or conveyance is in writing. This section shall not operate to invalidate any unwritten interest in land or conveyance thereof which was valid before the effective date of this Act.

Section 38. Advance rental payments.

(1) No lease shall require the payment of rent more than three (3) years before the end of the portion of the term for which it is payable.

(2) Except for the damages that the lessor is entitled to recover as a result of a default by the lessee, no rent payable under a lease shall be paid more than one year in advance of the due date provided in the lease. A payment in violation of this subsection shall be void as against any heirs or successors of the lessor who acquired their interest in the land between the date the rent was paid and one year before it was due.

Section 39. Powers of attorney.

(1) An individual person purporting to represent and act on behalf of another individual person with respect to land must be authorized to do so in a written power of attorney which contains the following information in English:

(a) Names and addresses of the representative (attorney-in-fact) and the person being represented (principal);

(b) statement of the scope of authority granted to the attorney-in-fact;

(c) legal description or other legally sufficient reference to the land with respect to which the power is granted;

(d) notarially attested signature of the principal granting the power; and

(e) notarially attested signature of the attorney-in-fact accepting the power.

(2) Where a recorded document affecting land has been signed by an attorney-in-fact, the document is not notice of the authority under which the attorney-in-fact signed unless the power of attorney is also recorded.

(3) All acts done by an attorney-in-fact pursuant to a power of attorney have the same effect and inure to the benefit of and bind the principal and the heirs, successors, and assigns thereof as if done by the principal.

(4) To revoke a recorded power of attorney, the principal must record a signed and notarized attested notification of revocation and personally serve the attorney-in-fact with that notice.

(5) A power of attorney used to apply for or process an ownership registration in favor of one or more senior land interest holders may only be granted to a Marshallese citizen who is in the line of succession, as determined by the Authority, to the subject land.

Section 40. Notice of pending litigation.

(1) Upon or any time after the filing of a judicial action which may affect land, the court or any party to the action may record in the land records a notice of pending litigation containing:

(a) the name and identifying case number of the action;

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(b) a brief statement of the issues potentially affecting land; and

(c) a description of the land potentially affected.

(2) A notice of pending litigation shall constitute constructive notice of the action, the contents of the case file(s) at the court, and the eventual outcome of the action from and after the date of recording. The notice shall cease to constitute such constructive notice upon the sooner of thirty (30) days after final and unappealable disposition of the action or recording of the final and unappealable court order disposing of the action.

(3) Except as provided in this Section, no person seeking to determine the state of title to land or improvements upon the land shall be on constructive notice of any pending judicial action or the contents of any court file.

Section 41. Offences and penalties.

(1) Every person who files or prosecutes an application for registration under this Act without a good faith belief that the applicant is the rightful holder of the interest sought to be registered shall be guilty of false filing and shall upon conviction be liable to a fine not exceeding one thousand dollars (\$1,000) or six months imprisonment, or both.

(2) Every person who files or prosecutes an objection to registration under this Act without a good faith belief that the objection is valid shall be guilty of malicious objection to registration and shall upon conviction be liable to a fine not exceeding one thousand dollars (\$1,000) or six months imprisonment or both.

(3) Every person who offers any document, testimony, or other information to the Authority or its staff, whether for recording, in connection with a registration procedure, or

otherwise, knowing it to be forged, fabricated, false, or misleading in any material respect shall be guilty of providing false information and shall upon conviction be liable to a fine not exceeding (\$1,000) six months imprisonment or both

(4) Every person who willfully and without authorization removes, destroys, alters, falsifies, conceals, mutilates, or obliterates any document in the land records or submitted in connection with a registration procedure under this Act shall be guilty of tampering with land records and upon conviction be liable to a fine not exceeding two thousand five hundred dollars (\$2,500) or one year imprisonment or both.

(5) Offences specified in this Section shall have the same status as offenses specified in Title 31 of MIRC for all purposes, including but not limited to applying the provisions therein regarding accessories, attempts, and conspiracies.

Section 42. Repeals.

The following laws are hereby repealed in their entirety:

(1) the Marshall Islands Development Land Registration Authority Act 2000, Public Law No. 2001-26;

(2) 24 MIRC, Chapter 1, Part IV ("Recording of Land Transfers"), except that section 117 thereof shall remain effective until the records referred to therein have been transferred from the Clerk of Court to the Authority as provided in Section 19 of this Act;

(3) the following section of 24 MIRC, Chapter 3 ("Real Property Mortgage Act 1987"), also known as P.L. 1987-13: sections 2 (b), 4 through 7, and 16;

(4) 30 MIRC, Chapter 1, Part 1, section 3 ("Judgments affecting land"); and

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(5) the Land Lease Commission Act of 1993.

(6) Section 119 of 24 MIRC chapter 1

Section 43. Effective Date

This Act shall take effect on a date to be decided by the Cabinet and publicly notified by circular, newspaper and radio notices, after certification, in accordance with Article IV Section 21 of the Constitution and the Rules and Procedures of the Nitijela.

CERTIFICATE

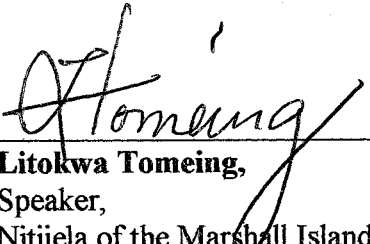
I hereby certify:


(1) that Nitijela Bill No. ~~147 ND2~~ was passed by the Nitijela of the Marshall Islands on the 22nd day of September, 2003; and

(2) that I am satisfied that Nitijela Bill No. 147 ND2 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk of the Nitijela this 3rd day of December, 2003.

Attest:


Litokwa Tomeing,
Speaker,
Nitijela of the Marshall Islands


Joe E. Riklon
Clerk,
Nitijela of the Marshall Islands