

3
4
5 P.L. 2001-26
6

7 AN ACT
8

9 To create the Marshall Islands Development Land Registration Authority; to provide for
10 its operation and procedures; and to establish legal requirements for valid land leases in
11 the Marshall Islands.
12

13 BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

14 **PART I – PRELIMINARY**

15 **Section 1. Short Title.**

16 This act may be cited as the Marshall Islands Development Land Registration
17 Authority Act 2000.

18 **Section 2. Interpretation.**

19 In this Act:

20 (1) “the Authority” means the Marshall Islands Development Land
21 Registration Authority established in Section 4 of this Act;

22 (2) “the Board” means the Board of Directors established in Section 7
23 of this Act;

24 (3) “Certificate of Registration” shall have the meaning ascribed to it
25 by Section 23 of this Act;
26

27 (4) “Land interest” means a recognized interest and right in and to
28 land in the Marshall Islands under Marshallese custom and tradition;
29
30
31

(5) “land interest holder” means an individual who holds a land interest in a particular parcel or parcels of land in the Marshall Islands;

(6) “senior land interest holders” refers to individuals currently holding the traditional title and interest of Iroijlaplap, Iroijerik, where necessary, Alab, 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.

(7) “successors in interest” means the individual person(s) who will immediately succeed the senior land interest holders in their respective positions on the death of the current senior interest holders, and may refer to subsequent senior land interest holders to the extent that such individuals are known.

(8) “weto” refers to a parcel of land in accordance with Marshallese custom and tradition.

PART II – THE AUTHORITY

Section 3. Establishment of the Authority.

A Marshall Islands Development 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;

- 1 (e) may acquire, hold, charge and dispose of property;
- 2 (f) may sue and be sued in its corporate name; and
- 3 (g) for the purposes of its functions, has all the powers, functions,
- 4 duties and responsibilities of a corporation.

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

7 **Section 5. Management of the Authority.**

- 8 (1) Subject to this Act and to the regulations made under Section 40, the
- 9 Authority shall be controlled and managed by a Board of Directors.

- 10 (2) Subject to this Act and to the regulations made under Section 40, the
- 11 Board has and may exercise and perform all the powers of the Authority under this Act.

12 **Section 6. The Board of Directors.**

- 13 (1) There shall be a Board of Directors of the Authority which shall consist of
- 14 three (3) members;

- 15 (2) The Members of the Board shall be:

- 16 (a) a member appointed by the Council of Iroij;
- 17 (b) a member appointed by the Ministry of Internal Affairs;
- 18 (c) the Attorney General.

- 19 (3) The Attorney General shall serve as the initial Chairman of the Board and
- 20 shall call the first meeting of the Board of Directors within thirty (30) days from the
- 21 effective date of this Act. Letters of Appointment for the Members appointed under
- 22 Subsection (2) (a) and (b) of this Section shall be presented to the Attorney General
- 23 within twenty (20) days after the effective date of this Act.

Section 7. Compensation.

The Members of the Board appointed under Section 7 shall not be entitled to compensation.

Section 8. Term of Office.

(1) The term of office for the Members appointed under Section 7 (2) (a) and (b) of this Act shall be three (3) years and those Members shall be eligible for reappointment.

(2) Notwithstanding the provisions of Subsection (1) of this Section, the Members appointed under Section 7 (2) (a) and (b) of this Act may be removed for cause by the Cabinet.

Section 9. Vacation of Office.

A Member of the Board appointed under Section 7 (2) (a) and (b) of this Act vacates his office:

- (a) on death;
- (b) resigns from office by writing addressed to the Cabinet;
- (c) is removed from office under Section 9 (2) of this Act.

Section 10. Procedures of the Board.

Subject to this Act and the by-laws made under Section 14 of 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.

Section 12. Misconduct in Public Office.

A failure to comply with Section 12 of this Act is misconduct in public office within the meaning of Section 146 of the Criminal Code.

Section 13. By-laws.

(1) Subject to this Act and to regulations made under Section 40 of this Act, the Board shall make by-laws to govern and regulate the operation of the Authority and the Board.

(2) The by-laws shall provide for:

- (a) the quorum at and the conduct of meetings of the Board;
- (b) the appointment and duties of a Secretary to the Board; and
- (c) any other matters relating to the Board and the operations of the Authority that the Board thinks appropriate.

Section 14. Staff of the Authority.

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

- (a) shall employ and Executive Officer; and
- (b) may employ such other employees as the Board in consultation with the Executive Officer thinks necessary for the performance and proper functioning of the Authority.

(2) Persons referred to in Subsection (1) of this Section shall be employed on

such terms and conditions as the Board, after consultation with the Public Service Commission, determines.

Section 15. Delegation.

The Board may delegate its functions under Part IV of this Act to the Executive Officer.

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:

- (a) to provide a legal framework for the people of the Marshall Islands to register their interests in land in order to promote investment and development in the Republic; and
- (b) to provide a legal regime satisfactory to investors and lending institutions in order to encourage investment and long term real estate financing; and
- (c) to provide for standards and criteria for land leases in the Marshall Islands in order to protect land interest holders and investors; and
- (d) to maintain and keep records of land and land transactions open to the public and to bring land into the economic marketplace in the Marshall Islands.

Section 17. Powers of the Authority.

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

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

- 3 (a) accept applications in the prescribed form from senior land interest
4 holders for the registration of land that would be available for lease
5 by investors;
- 6 (b) give notice to the public of applications for registration of land in
7 accordance with the provisions of this Act;
- 8 (c) consistent with the provisions of this Act, provide for the
9 registration process, objections to registration, and tracking
10 resolution to such objections;
- 11 (d) issue Certificates of Registration to senior land interest holders in
12 accordance with the provisions of this Act and make provision for
13 successors in interest for duly registered land interests.
- 14 (e) establish a land database for investors who are seeking land with
15 the names and points of contact for registered senior land interest
16 holders;
- 17 (f) guarantee and underwrite leases to entered into between registered
18 senior land interest holders and investors and lending institutions
19 with respect to assuring uninterrupted use of leased land;
- 20 (g) provide suggested lease forms and negotiation or mediation
21 assistance between senior land interest holders and investors when
22 requested; and

- 1 (h) maintain on file copies of all leases in the Marshall Islands to
2 ascertain the prevailing market values of land.

3 **PART IV – LAND INTEREST REGISTRATION**

4 **Section 18. Application for Registration.**

- 5 (1) All senior interest holders seeking registration of their land interests shall
6 complete and submit to the Authority an Application for Registration of Land.

- 7 (2) An Application for Registration of Land shall be made in the form
8 prescribed by the Authority by way of regulation and shall contain the following
9 information:

- 10 (a) a description of the land to be registered including the name(s) of
11 the weto(s) , island(s) and atoll(s) along with a survey map of the
12 land and a description of the land in meters and bounds;
- 13 (b) the names and addresses of all senior land interest holders
14 identifying the Iroijlaplap, Iroijerik, where necessary, Alab and
15 Senior Dri Jerbal for the land;
- 16 (c) the names and addresses of all successors in interest to the senior
17 land interest holders to the extent that such successors are known
18 as of the date of the application;
- 19 (d) copies of any final court judgments or land title determinations
20 concerning the land to be registered;
- 21 (e) setting forth the procedure to file objections to the proposed
22 registration and designation of the Authority to receive service of

any objections to the registration made during the registration
notice period;

- (f) notarially executed signatures of each senior land interest holder
and any successors in interest subject to the registration certifying
that the application is true and correct.

Section 19. Prohibition, application by less than all senior interest holders.

The Authority shall not accept for registration, and no land may be registered
under the provisions of this Act where an application for registration is not made by all
senior land interest holders of the land to be registered.

Section 20. Public Notice of Registration.

(1) Upon receipt of a duly executed Application for Registration of Land, the
Authority shall, within fourteen (14) days of the date of receipt, issue public notice of and
afford an opportunity to object to the proposed land registration for a period of not less
than one hundred and eighty (180) days from the date notice is first given as set forth in
Subsection (2) of this Section.

(2) The Authority shall give public notice of a duly executed Application for
Registration of Land in the following manner:

- (a) Posting- by posting a copy of the Application for Land
Registration continuously for a period not less than one hundred
and eighty (180) days in a conspicuous place at:

- (i) the offices of the Authority;
(ii) the Chief Secretary's Office in Majuro and Ebeye;
(iii) the High Court in Majuro and Ebeye; and

(iv) the offices of the Public Service Commission.

(v) Overseas embassies and consulates of the Republic, and such other overseas location as the Board may prescribe in order to give notice to as many overseas Marshallese residents as is reasonably possible.

(b) Radio- by announcing the Application for Land Registration on public radio on a radio station heard throughout the Marshall Islands not less than twice a week for a period of not less than 180 days;

(c) Publication- by publishing the Application for Land Registration in a newspaper publication of general circulation in the Marshall Islands not less than two (2) times a month for a period of not less than 180 days.

Section 21. Objections to Registration, Grounds, Standing, Form, and Effect.

(1) Objections to land registration may be made by interested parties solely on the grounds that the individual (s) seeking registration of land are not the senior land interest holders of the land to be registered and may be made only by individuals who claim that they are the respective senior land interest holder (s) over the right and title claimed by the individual (s) seeking registration.

(2) Objections made to an Application for Land Registration which are based on grounds other than those provided in Subsection (1) of this Section shall be null and void with respect to the proposed registration under the provisions of this Act.

1 (3) Objections to an Application for Land Registration shall be filed within
2 the 180 day public notice period set forth in Subsection (1) of Section 21 and shall
3 contain the following information:

- 4 (a) the names and addresses of the objectors to the land registration;
5 (b) the particular land interest (s) to which the objection applies stating
6 the reason (s) for the objection;
7 (c) copies of any final court judgments or land title determinations in
8 support of the objection;
9 (d) notarially executed signatures of each objector subject to the
10 objection certifying that the statements made therein are true and
11 correct.

12 (4) Objections timely filed with the Authority and in a form consistent with
13 the provisions of Subsection (3) of this Section shall be served within seven (7) days
14 from the date received by the Authority on the senior land interest holders and designated
15 successors in interest making the Application for Registration of Land. The senior land
16 interest holders making the application shall have fourteen (14) days from the date on
17 which the Objection is served on them to:

- 18 (a) inform the Authority in writing that they wish to proceed with the
19 registration notwithstanding the Objection; or
20 (b) inform the Authority in writing that they wish to withdraw their
21 Application for Registration of Land which shall be deemed
22 withdrawn as of the date of the writing;

1 the Authority an Application for Registration of Land in accordance with the provisions
2 of this Act; and:

3 (a) public notice has been given in accordance with Section 21; and
4 either

5 (i) no Objection has been filed pursuant to Section 22; or

6 (ii) an Objection was filed, but has lapsed in accordance with
7 Subsection (5) of Section 22, or has otherwise been
8 withdrawn;

9 (b) a Certificate of Registration shall be issued by the Authority in the
10 names of the senior land interest holders and successors in interest
11 for the parcels of land subject to the registration.

12 (2) A duly issued Certificate of Registration made in accordance with the
13 provisions of this Act shall constitute a presumption of good and marketable land
14 interests in and to the land registered.

15 **Section 23. Land Leases made by holders of a Certificate of Registration,**
16 **Limitation of Remedies.**

17 (1) Land leases made by holders of a Certificate of Registration as Lessors
18 and otherwise in accordance with the provisions of this Act shall be deemed conclusively
19 valid and enforceable in accordance with the terms of the lease.

20 (2) The sole and exclusive remedy available to a person challenging the rights
21 of senior land interest holders and registered successors in interest to a land lease
22 executed by the holders of a Certificate of Registration is, if successful in a court of law,
23 to be substituted in the lease for the senior land interest holder or registered successor in

Certified copies of all documents filed with the Authority pursuant to Sections 21, 22, 23, and 25 of this Act shall be filed with the Clerk of Court in accordance with Section 17 of the Real and Personal Property Act.

PART V – GUARANTEES OF LEASES

Section 26. Guarantee of Land Leases.

(1) With the approval of the Minister of Finance, the Authority may issue a written guarantee of any lease agreement for the benefit of a third party investor lessee or any financing agency including banks extending credit for the purpose of improving the land and using the leased land as collateral to secure the loan provided:

(a) that the lessors of the lease are holders of a valid Certificate of Registration for the leased land; and

(b) the guarantee will be limited to the validity of the lease agreement.

(2) Any guarantee issued under this section shall be in a form approved by the Board.

PART VI – LAND LEASES

Section 27. Parties Required.

(1) No lease of land in the Republic of the Marshall Islands shall be valid unless it is executed by all senior land interest holders of the particular parcel of land to wit:

(a) the Iroijlaplap;

(b) the Iroijerik, where necessary

(c) the Alab; and

(d) the Senior Dri Jerbal

1 (c) the Authority shall serve any written responses made to the
2 registration on the Objectors within seven (7) days of receipt by
3 the Authority.

4 Nothing herein shall prevent the parties seeking registration and the objectors from
5 attempting to resolve their differences amicably in accordance with Marshallese custom
6 and tradition, provided however, that the public notice of the registration will be
7 suspended as of the date the registering parties responses are due in accordance with
8 Subsection (4) (a) or (b) until received by the Authority.

9 (5) In the event that an Objection is timely filed in Accordance with the
10 provisions of Subsection (2) and (3) of this Section and the senior land interest holders
11 elect to proceed with the registration notwithstanding the Objection in accordance with
12 Subsection (4) (a) of this Section, the Objectors shall have forty-five (45) days from the
13 receipt of the senior land interest holders decision to bring an action in the High Court to
14 resolve the dispute.

15 (6) The filing of an action in the High Court by Objectors will suspend the
16 land registration process until such time as the High Court has rendered a final decision
17 on the matter.

18 (7) Failure to file an action in the High Court by Objectors within the time
19 provided in Subsection (5) of this Section will render the Objection null and void for
20 purposes of registration under the provisions of this Act.

21 **Section 22. Certificate of Registration.**

22 (1) Senior land interest holders and successors in interest who have filed with

1 interest successfully challenged and to receive future lease proceeds in accordance with
2 the terms of the lease.

3 **Section 24. Unregistered Successors in Interest.**

4 (1) When after a Certificate of Registration has been issued by the Authority
5 in accordance with the provisions of this Act, the registered senior land interest holders
6 and all registered successors in interest are deceased, the heirs and unnamed successors in
7 interest to such deceased land interest holders may file with the Authority a Certification
8 of Successor naming the successor(s) in interest in such form as the Authority may
9 prescribe. Such Certification of Successor shall be duly acknowledged by the Iroijlaplap
10 for the land in question.

11 (2) The Authority shall give public notice of any duly filed Certification of
12 Successor and receive Objections in the same matter as set forth in Sections 21 and 22 of
13 this Act provided that the time prescribed for giving public notice in section 21 shall be
14 shortened from 180 days to 60 days.

15 (3) The Authority shall issue an Amended Certificate of Registration to the
16 new senior land interest holders and their successors in interest at the close of the public
17 notice period in accordance with the provisions of Section 23 of this Act.

18 (4) Notwithstanding anything to the contrary, nothing in this section shall be
19 construed to invalidate any lease made by the original senior land interest holders or their
20 registered successors during their lifetimes which is still in force and effect.

21 **Section 25. Filing of Documents with the Clerk of Courts.**

(2) A senior land interest holder may grant another person a power of attorney provided the requirements of Section 29 are met.

Section 28. Power of Attorney.

To be valid a power of attorney shall:

- (1) be in writing in the Marshallese and English languages;
- (2) be subscribed and sworn to by the principal before:
 - (a) the Clerk of Court of the High Court; or
 - (b) a Community Court Judge if the principal is a resident in other than Majuro or Kwajalein; or
 - (c) if made outside the Republic of the Marshall Islands, a duly licensed notary public in the jurisdiction where the power of attorney is made.
- (3) contain the date of its execution;
- (4) name the attorney-in-fact;
- (5) describe the powers of the attorney-in-fact;
- (6) describe the land affected;
- (7) be accepted by the attorney-in-fact; and
- (8) be recorded with the Clerk of Courts.

Section 29. Effect on Principal.

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 his or her successors as if done by the Principal.

Section 30. Revocation.

To revoke a power of attorney, the principal must record a notice of revocation with the Clerk of Courts and personally serve the attorney-in-fact with that notice.

Section 31. Leases Binding on Heirs, Successors, and Assigns.

A lease executed by a senior interest land holder shall be binding on his or her heirs, successors, assigns, or any one claiming an interest through him or her.

Section 32. Recording.

A lease, memorandum of lease, power of attorney, or any other instrument affecting land, shall be recorded by filing a duly executed copy with the Clerk of Court.

Section 33. Maximum Terms of Leases.

No lease providing a term in excess of fifty (50) years inclusive of renewal rights shall be valid and enforceable.

Section 34. Restrictions on Advance Rental Payments.

No lease exceeding a term of ten (10) years shall make provision for the advance payment of rent to lessors for more than five (5) years in lump sum.

Section 35. Description of Leased Land.

All leases of land shall contain an adequate description of the land subject to the lease which shall include:

- (1) a survey of the land including a metes and bounds description; or
- (2) a map of the land prepared by a registered survey or clearly marking the land subject to the lease.

PART VII – MISCELLANEOUS

Section 36. Fees.

- (1) The Authority may charge reasonable fees in respect to carrying out it

duties and responsibilities under this Act.

(2) Any fees or costs charged by third parties in the registration process shall be borne by the individuals seeking registration of land.

(3) All fees collected by the Authority under Subsection of this Section shall be deposited in the General Fund.

Section 37. Application of Article VII of the Constitution.

Article VII (Public Service) of the Constitution does not apply to or in relation to the Authority.

Section 38 Repeal.

The Land Lease Commission Act of 1993 is hereby repealed in its entirety.

Section 39. Rules and Regulations.

The Authority may make rules and regulations consistent with the provisions of this Act as may be reasonable and necessary to carry out the purposes and provisions of this Act.

Certificate

I hereby certify:

(1) that the above Nitijela Bill No. 28 has been passed by the Nitijela of the Marshall Islands on the 6th day of April, 2001; and

(2) that I am satisfied that Nitijela Bill No. 28 has been passed in accordance with the Constitution of the Republic of the Marshall Islands and the Rules of the Nitijela.

I hereby place my signature before the Clerk of the Nitijela this 11th day of June, 2001.

Attest:



Litokwa Tomeing, Speaker
Nitijela of the Marshall Islands



Joe Riklon, Clerk
Nitijela of the Marshall Islands