

CS2 No.
See 4-98-40
repealed by

AN ACT

To establish a Development Authority for the Mortlock Islands, and to provide for its organization, management, authority and responsibility, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

1 Section 1. Establishment of Authority: The Mortlock
2 Development Authority (MDA) is hereby established as a public
3 corporation under the laws of the State of Chuuk and the
4 Federated States of Micronesia. The principal office of the
5 authority shall be at a location determined by the Board.

6 Section 2. Area of Services. The Authority is hereby
7 established to serve the following municipalities within the
8 State of Chuuk:

- 9 (1) Nema;
- 10 (2) Losap;
- 11 (3) Piis-Emwar;
- 12 (4) Namoluk;
- 13 (5) Ettal;
- 14 (6) Moch;
- 15 (7) Kuttu;
- 16 (8) Oneop;
- 17 (9) Satowan;
- 18 (10) Ta; and
- 19 (11) Lukunoch

20 Section 3. Purposes of Authority. The Authority shall
21 identify the development needs of its area of service; and
22 shall promote, by its own activity and that of others,
23 economic development in coordination and cooperation with
24 state and National Governments, and private and cooperative
25 enterprises.

26 Section 4. Board of Directors.

27 (1) Establishment. There shall be a Board of
28 Directors of the Mortlock Development Authority which
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1 shall have general management and control over the
2 authority.

3 (2) Composition. The Board shall be composed of 12
4 members. One from each of the municipalities named in
5 Section 2 thereof, appointed by the municipal council
6 thereof; and the Governor's representative, if any, for
7 the area served by the authority as exofficio member
8 without vote. If there is no Governor's representative
9 for the area, the membership shall be 11.

10 (3) Terms of Office. Terms of office of municipal
11 representatives shall be for a period of three years,
12 except that initial terms of office and filling of
13 vacancies shall be as provided in this Act. The terms of
14 office shall commence on the day of the first meeting of
15 the Board.

16 (4) Organization Meeting. Not later than sixty
17 days after the effective date of this Act, the Board
18 shall meet to select its officers and conduct such other
19 business as it shall deem advisable. At the first such
20 meeting, the members of the Board representing the
21 municipalities shall determine by lot the length of their
22 initial terms as follows: Four for one year, four for
23 two years, and three for three years. The first meeting
24 of the Board shall be called by the Governor's
25 representative, or if there be no such official, by the
26 Chairman of the Mortlock Advisory Council, who shall
27 preside at such meeting until the officers named in
28 Subsection (7) of this Section have been elected.

29 (5) Vacancies. Each vacancy on the Board shall be
30 filled for the unexpired portion of the term in the same
31 manner as originally filled. Upon a determination that
32 a vacancy exists, the Chairman or, in his absence, the
33 presiding officers of the Board shall issue a notice of
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1 vacancy to all members of the Board and to the municipal
2 government responsible for filling the vacancy.

3 (6) Removal.

4 i) Members of the Board may be removed from
5 the Board, for failure to attend three consecutive
6 meetings of the Board, or for incompetence, neglect
7 of duty, or malfeasance in office.

8 ii) Removal of a member shall be by a three-
9 fourths majority vote of all other members of the
10 Board. Notification of intent to call for removal
11 pursuant to this section shall be made at least
12 thirty days in advance, by means which shall be
13 described in the bylaws of the Authority, and shall
14 include a summary of the basis of the charges
15 against the member and identification of the
16 witnesses to be called and evidence to be used.

17 (7) Officers. The Board shall elect from among its
18 members a Chairman, Vice-Chairman, and Secretary-
19 Treasurer. The Chairman shall ordinarily presiding
20 officer in the absence of these officers.

21 (8) Regular Meetings. Regular meeting shall be
22 held not less than once per calendar quarter, at such
23 time and place as shall from time to time be determined
24 by the Chairman upon notice as shall be provided in the
25 bylaws.

26 (9) Special Meetings. Special meeting shall be
27 called by the Chairman on his on initiative, or by
28 petition by one-third of the members, pursuant to notice
29 as shall be provided in the bylaws.

30 (10) Quorum. A quorum of all regular and special
31 meetings and business of the Board shall be six members.

32 (11) Executive Committee. The Board may, pursuant
33 to its bylaws, establish an Executive Committee,
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1 determine the membership thereof, and assign it
2 responsibilities.

3 (12) Record of Meetings. All meetings of the Board
4 and the Executive Committee shall be public except when
5 confidential matters relating to personnel are discussed.
6 The Secretary-Treasurer or in his absence another member
7 designated by the bylaws shall keep full and accurate
8 minutes of all meetings which, except for confidential
9 matters relating to personnel, shall be available for
10 public inspection at reasonable times and places, as
11 provided by laws.

12 Section 5. Powers of the Authority. The Authority,
13 through its Board of Directors, shall have the following
14 powers, obligations and duties:

15 (1) to identify the needs for the economic,
16 educational, and social development of the area served by
17 the authority, taking into account the cultural and
18 social traditions of the area;

19 (2) to formulate plans and goals for the
20 development of the resources of the area;

21 (3) to seek from all appropriate sources funds for
22 the implementation of such plans;

23 (4) to administer programs and projects in
24 furtherance of such developmental goals, either through
25 its employees or by contract, or such other means as the
26 Board deems advisable;

27 (5) to employ an Executive Director and a Budget
28 and Finance Officer, and to set the terms of employment
29 and to employ such administrative staff and other
30 employees as may be required by law or deemed by the
31 Board to be needed in furtherance of the goals of the
32 Authority;

33 (6) to acquire in any lawful manner any property,
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1 real, personal, or mixed, tangible or intangible, or any
2 interest therein, to hold, maintain and use the same; and
3 to sell, lease or otherwise dispose of the same at such
4 time, in such manner, and to the extent deemed necessary
5 to the Board to carry out its purposes;

6 (7) to establish, maintain, operate, and engage in,
7 upon its own account, any appropriate enterprise,
8 undertaking, or activities in further of the purposes of
9 the Authority; and to receive payments therefor, such
10 payments to go into the general revenues of the
11 authority;

12 (8) to enter into and perform such contracts or
13 other agreements or transactions as may be necessary in
14 the conduct of its business and on such terms as it may
15 deem appropriate;

16 (9) to borrow money from time to time; provided
17 however, that the debts of the authority shall not be
18 debts of the State of Chuuk or any of its political
19 subdivisions; the assets of the State Government or its
20 political subdivisions shall not be used as security for
21 the debts of the authority, unless otherwise provided by
22 law;

23 (10) to levy and collect charges, fees, and other
24 payments for goods sold and services rendered by the
25 authority, except that no such levy shall be in the form
26 of a tax or assessment levied against the general public,
27 the users of public facilities, or property benefitted
28 by actions of the authority, unless specifically
29 authorized by law;

30 (11) to execute, in accordance with its bylaws, all
31 instruments necessary or appropriate in the exercise of
32 its powers;

33 (12) to take such other actions and assume such
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1 other responsibilities as may be necessary or appropriate
2 to carry out the duties conferred upon it by law; and
3 (13) to approve bylaws, policies, and procedures,
4 for the guidance and operation of the authority.

5 Section 6. Suits and Legal Representation. The
6 authority may sue and be sued in its own name; provided that
7 any liability incurred by the authority, when not acting as an
8 agent of the State or other governmental entity, shall not be
9 a liability of the State or other governmental entity.

10 Section 7. Management.

11 (1) The Authority, through the Board, may receive,
12 manage, invest, and disburse funds or other property
13 which may be appropriated, granted, or in any other
14 manner received from any source for the purposes of the
15 Authority. The Authority may use governmental accounting
16 procedures or, if appropriate, such financial or
17 accounting systems as may be prescribed by law for
18 commercial companies.

19 (2) The Authority may purchase supplies, equipment
20 and materials through its own purchasing procedures or
21 governmental purchasing procedures as it may deem
22 appropriate.

23 Section 8. Annual Budget. The Board shall prepare and
24 submit a budget for the Authority for each governmental fiscal
25 year, in the manner provided by law for the preparation and
26 submission of budgets of departments and offices in the State
27 Government of Chuuk. Overobligation and overexpenditure of
28 funds are prohibited, and shall be punishable in the same
29 manner as provided by law for the State Government of Chuuk.

30 Section 9. Executive Director. There shall be an
31 Executive Director of the Authority, who shall be appointed by
32 the Board to serve at its pleasure. The Board shall establish

1 the salary of the Executive Director. The Executive Director
2 shall be responsible for the management of the programs
3 projects and other activities of the Authority, and shall
4 employ, supervise, and terminate the employees of the
5 Authority in accordance with general terms and rules of
6 employment by the Board, except as provided in Section 10
7 thereof.

8 Section 10. Budget and Finance Officer. The Executive
9 Director shall appoint, with the concurrence of the Board, a
10 Budget and Finance Officer, for such term as shall be provided
11 in the bylaws. The Budget and Finance Officer shall receive
12 and disburse all funds of the Authority. Before entering into
13 his duties, he shall execute, at the expense of the Authority,
14 a good and sufficient bond in the sum of not less than
15 \$10,000, or so much greater sum as may be established by the
16 Board. Said bond shall be made with one or more sufficient
17 sureties authorized to do business in the Federated States of
18 Micronesia; and shall be approved as to form by the Attorney
19 General of the State of Chuuk. The Budget and Finance Officer
20 shall serve at all times under the direct supervision of the
21 Executive Director.

22 Section 11. Accounts and Records. The Board and the
23 Executive Director shall be jointly responsible to ensure that
24 the Budget and Finance Officer prepares proper and complete
25 books of accounts reflecting all income, expenditures, assets,
26 and liabilities of the authority, including appropriations,
27 grants, and property. The Board, not later than sixty days
28 after the close of each governmental fiscal year, shall submit
29 to the Governor and the presiding officers of the Legislature
30 a complete report showing the activities of the Authority
31 during the fiscal year, the present condition of the
32 Authority, and such other matters as the Board shall deem
33 appropriate. The State Auditor, or if there be no such
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1 officer, a licensed accountant appointed by the Board, shall
2 inspect and audit all accounts of the Authority at least
3 annually, and report thereon to the Governor and Speaker of
4 the Legislature.

5 Section 12. Taxation of the Authority. To the extent
6 that the legislative capacity of the State of Chuuk can
7 prescribe, the authority shall be treated as a governmental
8 entity and shall be exempted from taxation in the same manner
9 as a governmental entity with regard to its functions that are
10 governmental in character. With respect to functions that the
11 Authority may undertake that are commercial in character, as
12 that function is currently exercised by the government of the
13 State of Chuuk or its subdivisions the Authority shall be
14 treated as a non-profit commercial enterprise.

15 Section 13. Personnel Administration.

16 (1) The Authority may establish its own personnel
17 system and policies, independent of the Chuuk State
18 Public Service System; or may, by appropriate resolution
19 of the Board addressed to the Governor, be included in
20 the Chuuk State Public Service System for purposes of its
21 personnel administration; provided that, if the Authority
22 chooses to be included in the State Public Service
23 System, the Board may designate from time to time such
24 positions as it deems appropriate to be exempted from
25 that system.

26 (2) All employees of the Authority, including the
27 Executive Director and the Budget and Finance Officer, if
28 members of the Chuuk State Public Service System
29 immediately prior to their employment with the Authority,
30 shall continue to accrue such rights as their seniority
31 entitles them during employment with the Authority.

32 (3) The Board may, by general rules applicable to
33 all employees, assign to such employees levels of wages
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1 and benefits that take into account, in whole or in part,
2 their prior governmental employment.

3 (4) The Chuuk State Government shall provide to all
4 former employees of the Authority, who shall have
5 terminated their employment in good standing, such rights
6 of employment and seniority as their service to the
7 Authority, as well as prior government service, would
8 entitle them as if all such service were with the Chuuk
9 State Government or the Trust Territory Government.

10 Section 14. Notification to Municipal Governments
11 Regarding Projects. The Authority shall endeavor to inform
12 affected municipal governments of any projects planned for
13 their communities at the earliest practical opportunity and
14 shall continue to inform the municipal governments and members
15 of the public of the nature of the projects and any
16 substantial changes in their plans.

17 Section 15. Land Acquisition and Relocation Assistance.

18 (1) Any activity of the Authority which requires
19 the acquisition of a right in private real property shall
20 be governed by the requirements of Chapters 16 and 17 of
21 Title 67 of the Trust Territory Code. The State
22 Government shall be responsible for such property
23 acquisition and relocation assistance.

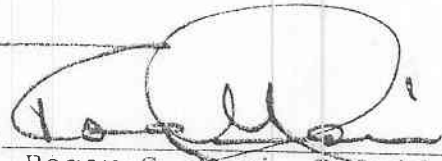
24 (2) The Authority shall promptly notify the State
25 Government whenever it requires use or acquisition of
26 private real property of the State or the Public Lands
27 Authority. The notification shall describe with
28 specificity the property to be used or acquired, the
29 reasons for its need, the extent and duration of
30 possession required, alternative possibilities that have
31 been considered and rejected and the reasons therefor,
32 and the date by which such acquisition or use is expected
33 to commence. Any rights in private property acquired for
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1 the benefit or use of the authority shall be held by the
2 State Government, except as otherwise specifically
3 provided by the law.

4 Section 16. Repeal. Chuuk State Laws Nos. 5-107, 5-110,
5 and 5-118 which created the Mid-Mortlocks Development
6 Authority, the Lower Mortlocks Development Authority and the
7 Upper Mortlocks Development Authority, respectively including
8 any and all amendments thereto are hereby repealed in their
9 entireties.

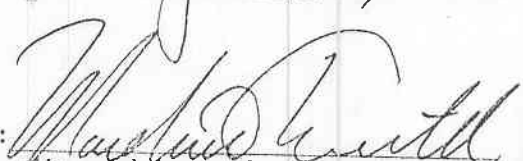
10 Section 17. Transition. Present employees and staff,
11 including members of the board of directors of Lower Mortlocks
12 Development Authority, who continue to perform their duties
13 and responsibilities of the Authority until the effective date
14 of this Act shall continue as employees and staff and members
15 of the board. All assets of the Lower Mortlocks Development
16 Authority shall become assets of the new Mortlocks Development
17 Authority.

18 Section 18. Effective Date. This Act shall take
19 effect upon approval by the Governor or upon its becoming
20 law without such approval.
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Signed by: 
Roger S. Mori, President
Senate
Chuuk State Legislature

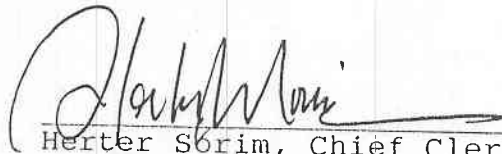
Attested: 
Datasi Albert, Chief Clerk
Senate
Chuuk State Legislature

Date: April 24, 1996

Signed by: 
Masachiro Christlib
Speaker
House of Representatives
Chuuk State Legislature

ACT NO: 3-18

Attested:


Herter Sbrim, Chief Clerk
House of Representatives
Chuuk State Legislature

Date: April 24, 1996

Approved by: _____
Marcellino Umwech
Acting Governor
Chuuk State

Date: _____

History : S.B.NO: 3-21;SD1;HD2
S.S.C.R.NO: 3-2R-01