
AN ACT

Repealing chapter 3 of title 67 of the Trust Territory Code, creating a Chuuk State Land Commission, defining its powers and duties, providing for the appointment and terms of office for its members, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

1 Section 1. Title. This Act may be cited as the Chuuk State Land commission Act
2 of 2004.

3 Section 2. Finding and Purpose. Finding that Chapter three of title 67 of the
4 Trust Territory Code, was enacted by the former Congress of Micronesia and approved
5 by the High Commissioner at the time Chuuk State was still a district within the former
6 Trust Territory of the Pacific Islands, finding further that essential substantive elements
7 and components of same Chapter no longer has any relevance and application now that
8 Chuuk State has become a duly constituted and component State of the Federated States
9 of Micronesia; and finding further that there is still a continuing and urgent need for the
10 service of land commission in the State; now, therefore, this Act is needed service based
11 on the present desires and circumstances of the people and Government of Chuuk State.

12 Section 3. Land Commission created; composition; appointment; terms of office;
13 There is hereby created a Chuuk State Land Commission (hereinafter "Commission"),
14 consisting of a senior commissioner and four associate commissioners representing each
15 of the State's five senatorial districts. One of the commissioners shall be selected by the
16 commissioners to be the senior commissioner and the remaining four shall be associate
17 commissioners. All the commissioners shall be appointed by the Governor with the
18 advice and consent of the Senate and all shall serve staggered terms and the first term
19 appointment shall each serve a four-year term; the other two along with the senior
20 commissioner shall serve a three year term. All subsequent appointments will be a for a
21 four year term each. The senior commissioner shall devote his or her full working time
22 to the work of the Commissioner.

23 Section 4. Primary Purpose; General Powers. The primary purpose of the
24 Commission shall be to proceed on a systematic regional basis to accomplish promptly

1 the registration of as much of the land as practical within such senatorial districts or
2 regions. The commission is authorized and empowered, subject to the provisions hereof,
3 to determine the ownership of any land in the relevant district, but it shall endeavor to
4 avoid becoming involved in such lengthy consideration of disputed claims as to seriously
5 delay the registration program.

6 Section 5. Administrative supervision; promulgation of rules and regulations;
7 supervision of land registration teams.

8 (1) The commission shall be under the administrative supervision of the Senior
9 Commissioner, but the commission as a whole shall have the power to promulgate
10 rules and regulations implementing this Act. Such rules and regulations shall have
11 the force and effect of law and a copy thereof shall be filed by the Senior
12 Commissioner with the clerk of the Chuuk State Supreme Court. The Commission
13 shall create a land registration team within each of the five senatorial districts; each
14 such team shall consist of not more than two members other than the commissioner
15 from the respective region who shall preside at any meeting of the team;

16 (2) Members of the registration teams shall be FSM citizen residents of Chuuk State and
17 their respective registration district for at least 10 years and not less than thirty five
18 years of age. Each team member shall serve for a term of three years, but may be
19 reappointed for other terms at the discretion of the commission.

20 (3) Written notice shall be given to each team member not less than five (5) days before
21 any team meeting. After a claim has been recorded by a team as provided in Section
22 8 no member of the registration team or of the Commission who has any interest in
23 the claim or is a close relative of any one having such an interest shall take any part
24 in hearing or considering that claim. If there is doubt as to whether he is disqualified
25 from taking part as to the claim, the Commission shall decide whether he may
26 participate.

27 Section 6. Designation of Registration Areas. Each registration team shall be
28 primarily responsible for the prompt registration of all lands within its region, and shall
29 designate registration areas within that region if the team believes it will be desirable and

1 practicable to register within a year most of the land, including all that concerning which
2 there are no major disputes. When work in any designated registration area has been
3 completed except for disputed cases, or when work in any designated registration area
4 cannot be completed and in the opinion of the team with the approval of the commission,
5 public interest would be served by moving to a new registration area, the team, with the
6 approval of the Commission, may designate a new registration area and so on until all
7 lands in the district or region have been so designated and registered.

8 Section 7. Filing of designation of registration area; actions concerning lands in
9 designated area. A copy of the commission's designation of any registration area shall be
10 filed with the clerk of the State Supreme Court and thereafter the court shall not entertain
11 any action with regard to interests in land within that area without a showing of special
12 cause why action by a court is desirable before it is likely a determination can be made on
13 the matter by the Commission. Any court entertaining action as to such land shall notify
14 the Commission promptly that it has decided to entertain the action, describing the land
15 involved as accurately as practicable.

16 Section 8. Survey and establishment of boundaries in designated registration
17 areas. Upon the designation of a registration area, it shall be the duty of the State
18 Surveyor to cause an accurate survey to be made of the exterior bounds of the area and
19 thereafter to make such surveys of plots and place such markers within the area as the
20 commission may direct; provided however, that after a determination is made by the
21 Commission, the boundaries of the land covered by each determination shall be shown by
22 either permanent markers or by easily recognizable, natural features.

23 Section 9. Land Registration Teams, duties generally. (1) A land registration
24 team shall:

25 (a) Upon its appointment; institute a preliminary inquiry regarding the
26 title to all lands claimed by individuals, families, lineages, clans, or
27 otherwise, within the areas for which it is responsible and if satisfied
28 that such claims are well founded, shall record the same for hearing;

29 (b) When the recording for such claims has been completed for the areas
30 for which it is responsible, proceed, after notice, to hear the parties and

1 witnesses and adjudicate such claims, subject to review by the
2 Commission any claim, record the place name, if any, of the land,
3 otherwise a brief description thereof, together with the names of
4 individuals, families, lineages, clans, or other bodies found to be the
5 rightful owners thereof and the type of ownership involved, and shall also
6 record the name of any person or group who holds either any subordinate
7 rights (such as rights of administration) or use or any encumbrance or
8 easement with respect such land.

9 (2) Where the parties to any claim agree to a settlement or compromise in the
10 presence of the team, the particular required by subsection three shall be
11 recorded and shall have the same force and effect as a decision under this
12 Section.

13 (3) Upon completion of the actions set forth in subsections (1) & (2) of this
14 Section, the teams shall submit its record concerning the claim to the
15 Commission for review and in all cases where review has arisen, the
16 substance of all pertinent testimony taken shall be included in the team's
17 record.

18 Section 10. Same; Settlement of Disputed Claims.

19 (1) Each land registration teams shall adjudicate the claims to as much land
20 within the area for which it is responsible as is practicable within a year after
21 the area has been designated. It shall avoid becoming involved in such
22 lengthy consideration of disputed claims as will seriously interfere with such
23 adjudication.

24 (2) If the land registration team deems that consideration of a disputed claim will
25 seriously interfere with accomplishment of the purpose of this Act, it may
26 refer to claim to the Commission without the team's making any decision
27 thereon.

28 (3) If the Commission deems that one of its teams is spending an undesirable
29 amount of time on a particular disputed claim, it may withdraw that claim
30 from consideration by that team and consider the claim itself.

1 (4) In either of the situation set forth in subsections (2) and (3), the team shall
2 submit to the Commission its record concerning the claim including the
3 substance of all pertinent testimony, by anyone, if any, taken by the team and
4 by the Commission, or the Commission may refer the claim to the Trial
5 Division of the State Supreme Court for adjudication without any
6 determination by Commission.

7 (5) If a claim has been referred by the Commission to the Trial Division of the
8 State Supreme Court, the Trial Division of the State Supreme Court shall,
9 after the time for appeal having been filed or after an appeal duly taken has
10 been determined, certify its decision, as modified by the Appellate Division if
11 that has happened, to the Commission. The Commission shall then issue a
12 certificate of title based on a determination of the Commission as provided in
13 Section 18.

14 Section 11. Review of Record Adjudication by Commission. Upon receipt of
15 adjudication from a land registration team and the record on which it is based, the
16 Commission shall review the record and shall:

- 17 (1) If satisfied, make a determination of ownership based on the record;
18 (2) Return the record to the land registration team with instruction concerning
19 further hearing or other action; or
20 (3) It self hold further hearings and then make determination of ownership based
21 on the record and further information obtained by the Commission.

22 Section 12. Notice of Hearing.

23 (1) Before a land registration team commence a hearing with respect to any
24 claim, it shall give notice containing a description of the claim and the date,
25 time and place of hearing, at least thirty (30) days in advance of the hearing
26 as follows:

- 27 (a) By passing such notice on the land involved in both English and
28 Chuukese in the dialect of the municipality in which the land is situated;

1 (b) By posting such notice, in the languages specified in paragraph (a) at the
2 municipal office and the principal meeting place in the village in which or
3 near to which the land is situated;

4 (c) By serving such notice upon all parties shown by the preliminary inquiry
5 to be interested either.

6 (i) By service in the same manner as a civil summons, or

7 (ii) By registered air mail, postage prepaid, to the party's last known
8 address, if outside the State; provided however, that in the case of
9 a clan or lineage, notice to the two senior male members resident
10 within the municipality where the land lies, the two senior female
11 members resident within the municipality where the land lies,
12 members resident within the municipality where the land lies, and
13 to the senior male title holder, if any, and the senior female title
14 members, residing within the municipality and over twenty five
15 (25) years of age cannot be located then to such representative(s)
16 of such clan or lineage as the commission may designate.

17 (2) Such notice and notices of determination of ownership under Section 16 shall
18 be served by any policeman without charge. During the period between the
19 giving of notice under this Act and the hearing, any person or group claiming
20 an interest in the land adverse to the claim as stated in the notice may file his
21 or their claim with either the registration team in the senatorial district where
22 the land lies or with the Commission. Notice of such adverse claims may
23 also be given orally at the hearing.

24 Section 13. Authority of Commission and Teams to administer oaths, take
25 testimony. The commission and each registration team shall have the authority to
26 administer oaths to witnesses, take testimony under oath, subpoena witnesses, order the
27 production of papers and documents, and punish for contempt committed in this
28 presence. Punishment for contempt shall be limited to a fine of not more than one
29 hundred dollars, or imprisonment for a period of not more than thirty days, or both.

1 Section 14. Conduct of Hearing. In conducting hearings, the commission or each
2 of its registration teams shall be guided by the Chuuk State Supreme Court rules of civil
3 procedure and the rules of evidence. The Commission or each registration team is
4 authorized to consider any evidence that will be helpful in reaching a just decision. But
5 the commission or the teams shall not endeavor to redetermine any matter already
6 decided by a court between the same parties or those under whom the present parties
7 claim. The Commission and registration teams shall accept such prior determination as
8 binding on such parties without further hearings shall public and every person claiming
9 an interest in land under consideration shall be given an opportunity, by actual or
10 constructive notice to be heard. Hearings must be held in the municipalities in which or
11 near which the land lies. All parties, including any representative (appointment under
12 Section 15 or by a court or other proper authority) of a minor or incompetent, may be
13 represented or assisted by counsel.

14 Section 15. Hearing involving minor or incompetents. If the Commission or a
15 land registration team finds that any party in interest is a minor or incompetent, the
16 commission or team, as the case may be, shall appoint one person to act as guardian and
17 represent such minor or incompetent unless he is already represented by a person
18 appointed by a court or other proper authority. A guardian appointed by the Commission
19 or team shall have full authority and power to act for the minor or incompetent in all
20 matters in connection with his interest in land; provided, that a guardian may not
21 encumber or in any way alienate any land under his guardianship except by an order of
22 the Trial Division of the State Supreme Court.

23 Section 16. Notice of determination of ownership. Notice of all determinations
24 of ownership by the Commission shall be given promptly in the same manner as
25 prescribed in Section 12 for notices of hearings.

26 Section 17. Appeal from determination of the Commission. A determination of
27 ownership by the Commission shall be subject to appeal by any party aggrieved thereby
28 to the Trial Division of the State Court at anytime within one hundred twenty days from
29 the date of said determination. Such appeal shall be treated and effected in the same

1 manner as an appeal from a court in a civil action shall be subject to the same fees, and
2 the powers of the State Supreme Court with regard thereto shall be the same. Final
3 decisions of the Trial Division of the State Supreme Court may be appealed to the
4 Appellate Division of the Court in the same manner and the same effect as in cases tried
5 originally in the State Supreme Court.

6 Section 18. Concurrence of majority present required for decision by
7 Commission. The Concurrence of at least four members shall be necessary to constitute
8 action by the Commission. Concurrence of at least two members of a land registration
9 team shall be necessary for a decision of the team.

10 Section 19. Issuance of certificate of title.

11 (1) After the time for appeal from a determination of ownership by the
12 Commission has expired without any notice of appeal having been filed, or
13 after an appeal duly taken has been determined, the Commission shall issue a
14 certificate of title setting for the names of all persons or groups of persons
15 holding interest in the land pursuant to the determination, either as originally
16 made or as modified by the Court, as the case may be. Such certificate of title
17 shall be conclusive upon all persons who have had actual or constructive
18 notice of the proceedings and all those claiming under them and shall be
19 prima facie evidence of such ownership shall be subject to the following
20 which need not be stated in the certificate.

- 21 (a) Any rights of way there be concerning the land in question;
22 (b) Any liens on the land in questions which have become due within two
23 years prior to the issuance of the certificate;
24 (c) Any lease or use right for a term not exceeding one year.

25 (2) Any easements or other rights appurtenant even if not mentioned in the
26 certificate shall pass with the land until cut off or extinguished in some lawful
27 manner independent of the determination covered by the certificate.

28 Section 20. Registration of titles. The original certificate of title shall be bound
29 in the State's permanent register kept by the Commission. This register shall remain in

1 the custody of and under the supervision of the Commission until such time as a separate
2 registrar is appointed by the Governor. A duplicate certificate shall be issued, marked
3 "Owner's Duplicate Certificate," and delivered to the owner or his or its authorized
4 representative.

5 Section 21. Transfer and encumbrances of interest in land registered.

6 (1) All transfers and encumbrances (other than those excepted in Section 19) of
7 any interest in the land covered by such certificate of title shall be noted
8 thereon or therewith by the Commission or by the registrar if one has been
9 appointed. It shall be the duty of the owner in requesting any transfer or upon
10 notice that any involuntary transfer has actually been effected to submit his
11 owner's duplicate certificate for proper endorsement or cancellation; it is
12 physically practicable for him or it to do so. If the owner's duplicate
13 certificate has actually been lost or destroyed, the owner may, by petition
14 under oath, request the Commission to issue him a new duplicate and the
15 Commission after such notice, if any, as it may order and a hearing, may direct
16 the issuance of a duplicate certificate which shall contain a memorandum of
17 the fact that it is issued in place of a lost certificate. Before accepting and
18 noting on the certificate of title any transfer of any interest therein, the
19 Commission the registrar, if one has been appointed, shall be responsible for
20 seeing that the document of transfer is properly executed and properly
21 describes the land affected. If the certificate holder's entire interest is
22 transferred, his certificate shall be canceled and a new certificate of title
23 issued to the transferee. If only a part of the land is transferred, the certificate
24 holder may be required, at his own expense to have the area to be transferred
25 surveyed and a map thereof submitted showing to the satisfaction of the
26 Commission, or the registrar, as the case may be, the area so transferred and a
27 new certificate of title shall then be issued for each part of the land covered by
28 the former certificate.

1 (2) When an owner of any interest in land dies and that land has been registered
2 in accordance with section 20 and a certificate of title issued in accordance
3 with Section 19 or this section and that interest in land is devised by will the
4 person or persons entitled thereto may submit to the Commission or the
5 registrar if one has been appointed, the owner's duplicate certificate issued to
6 the testator, and the Commission or registrar and the original certificate of
7 title and the Commission shall issue a new certificate to the devisee or
8 devisees entitled thereto. When an owner of any interest in land dies, without
9 having devised the same by will, the person or persons entitled thereto may
10 submit the owner's duplicate certificate, issued to the intestate's owner's
11 duplicate certificate and the original certificate of title and the Commission
12 shall issue new certificates of title. Provided that where the land is to be
13 divided the devisee or heirs shall be required, before the issuance of new
14 certificates of title, to have the area devised or inherited surveyed and a map
15 thereof submitted showing to the satisfaction of the Commission or registrar
16 the area so devised or inherited and the new certificate of title shall then be
17 issued by the Commission for each part of the land covered by the former
18 certificate.

19 (3) The Commission shall make a determination of the devisee or devisees or heir
20 or heirs and the interest or respective interests to which each are entitled in
21 accordance with the following procedure.

22 (a) Upon the death of someone the Commission shall conduct a hearing at
23 Which evidence shall be heard for the purpose of deterring the heir or
24 heirs or devisee or devisees entitled to the deceased's land. The
25 commission requested to do so by any person claiming to be an heir or
26 devisee.

27 (b) The Commission shall make finding as to the heir or heirs or devisee
28 or devisees and the respective interest or interests to which each are
29 entitled within thirty (30) days after the conclusion of such hearing.

(c) The commission shall adopt rules subject to the approval of the governor to implement the provisions of this Section including the conduct of hearings, notice to prospective heirs and devisees and regarding the other matters necessary to carry out the purposes of this Section.

Section 22. Official land gazette. All designations, appointments and determinations by the Commission and notices of hearing by either the Commission or a land registration team shall be published in the official land gazette, if and when one is established by the Commission.

Section 23. Repeal. Title 67, Chapter 3 of the Trust Territory Code is hereby repealed.

Section 24. Effective Date. This Act shall take effect upon passage.

Signed by: [Signature]
Detor Santos, President
Senate
Chuuk State Legislature

Date: 6/11/04

Signed by: [Signature]
Joe N. Suka, Speaker
House of Representatives
Chuuk State Legislature

Date: 6/14/04

Approved by: _____
Ansito Walter, Governor
Chuuk State Government

Date: _____

Attested: [Signature]
Songlinita Bossy, Chief Clerk
Senate
Chuuk State Legislature

Attested: [Signature]
Herter Sorim, Chief Clerk
House of Representatives
Chuuk State Legislature

History : S.B.No: 7-39; HD2
: S.S.C.R.No:
: H.S.C.R.No: