
AN ACT

To implement Section 2, Article XI of the Chuuk State Constitution by enacting procedures for taking of private land by the Government for a specific public purpose, repealing TSL No. 2-1 in its entirety, and for other purposes.

Be it enacted by the Chuuk State Legislature:

1 Section 1. Purpose. The purpose of this Act is to implement Section 2, Article XI
2 of the Chuuk State Constitution by providing summary procedures for taking of private
3 lands for a specific public purpose provided that negotiations with the owner for
4 voluntary lease, sale, or exchange shall be fully exhausted and provided that payment of
5 just compensation shall be fully tendered before the taking, and provided further that
6 private land shall not be taken from one owner and transfer to another for private
7 commercial enterprise, for economic development, to raise tax, or on the grounds that the
8 public will benefit from a more profitable private use except by a joint resolution passed
9 by two thirds votes of the membership of each house of the legislature and upon the
10 termination of the specific public purpose of which an interest in land is taken, Chuuk
11 State Government shall quit claim and return the land to the owner or the owner's
12 successors.

13 Section 2. Procedure for Condemnation:

14 (1) When the Chuuk State Government desires to acquire any land,
15 easement, right-of-way or any other interest in land, the Governor
16 shall file a complaint through the Attorney General in the trial division
17 of the Chuuk State Supreme Court. The Complaint signed by the
18 Attorney General shall contain the following:

- 19 (i) A provision naming the specific public purpose;
- 20 (ii) A certification that, negotiations in good faith with the
21 landowner for voluntary lease, sale, or exchange have been
22 fully exhausted;
- 23 (iii) Just compensation shall be deposited for the benefit of the
24 landowner;

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- (iv) A certification that the land to be taken is the best suitable real property for that specific public purpose;
- (v) The declaration of taking shall contain the following:
 - (a) A statement of the interest in the real property that is taken;
 - (b) A description of the land taken sufficient for identification;
 - (c) A map showing the land taken.
 - (d) A statement of the sum of money estimated by the government to be just compensation for the land to be taken in accordance with prevailing land valuation, appraisal or assessment system approved by law.

- (2) When the government desires to take possession of the land after the service of notice, any damage sustained by the occupant, lessee, lessor or owner of such land by reason of the occupancy by the government shall be included in the compensation to the aggrieved parties.
- (3) Along with the declaration of taking, the government shall deposit in the court, for the benefit of the landowners entitled thereto, the amount of just compensation stated in the declaration.
- (4) Upon the application of the parties in interest, the court may order that the money deposited in the court, or any part thereof, be paid forthwith on account of the just compensation to be awarded in the proceeding.

Section 3. Vesting of title, and of right to compensation. After the filing of the complaint for taking and after determination and full payment of just compensation, the title to the lands in fee simple absolute or such lessor estate or interest therein as specified in the complaint, shall vest in the Government of the State of Chuuk, and the lands shall be deemed to be condemned and taken for the specified public purpose. The right to just compensation for the lands taken shall vest in the persons entitled thereto.

Section 4. Determination and award of compensation. Just compensation shall be calculated and awarded in accordance with prevailing land valuation, appraisal or

1 assessment system approved by law. No sum so deposited into the court shall be charged
 2 with commissions.

3 Section 5. Failure of Interested parties to Appear. When the parties interested in
 4 the land involved in the condemnation proceedings fail to appear within the time set by
 5 this Act, the court may proceed to award the amount of just compensation in accordance
 6 with the prevailing land valuation, appraisal or assessment system approved by law and
 7 also determine the ownership of the land. Such award and determination shall be as
 8 effective as though the parties had appeared and answered. Any sums ordered to be paid
 9 by the government shall be held by the court until paid to the proper claimant on demand.

10 Section 6. Court Costs. The costs of litigation shall not be assessed against any
 11 party.

12 Section 7. Title Disputes; Determination. The procedure for title dispute shall be:

- 13 (1) when a dispute as to the ownership of the land prevents the amicable
 14 settlement of and payment for the land, the Attorney General shall so
 15 certify to the trial division of the Chuuk State Supreme Court,
 16 requesting that the court determine the ownership of such disputed
 17 land.
 18 (2) When a dispute is so certified by the Attorney General, the court shall
 19 hear the same as a civil matter and shall, after proper hearing, enter its
 20 order and judgment determining ownership of the land, which shall be
 21 good against all persons.

22 Section 8. Determining of Compensation. If the parties disagree, just
 23 compensation shall be finally determined y the Court which shall not be more or less than
 24 10% of the prevailing land valuation, appraisal or assessment system approved by law.
 25 To arrive at its final determination, the court shall consider the following factors:

- 26 (a) Whether the landowner's refusal to sell is because the land has
 27 historical or cultural significance;
 28 (b) Whether the landowner has no other land; or
 29 (c) Any other reasonable factors determined by the court;

30 Section 9. Legal Capacity of Claimant. When a question arises as to the legal
 31 capacity of any claimant for compensation to execute a discharge or release upon

1 payment of the sum agreed to be paid, rendered, or awarded, the court shall appoint a
2 guardian or take such action as may be required by law.

3 Section 10. Summary Proceedings. The Chuuk State Supreme Court shall in the
4 condemnation proceedings in according with this Act resolve and dispose the case within
5 a period of not more than 120 days.

6 Section 11. Applicability of Chuuk State Supreme Court rules. Unless otherwise
7 provided herein, the applicable Rules of Civil Procedures for the Chuuk State Supreme
8 Court shall govern the procedure for the condemnation of private lands under the power
9 of eminent domain, except as otherwise provided in this Act.

10 Section 12. Complaint; Caption and Contents; Names of Defendants; special
11 Rules.

- 12 (1) The complaint shall contain a caption setting forth the name of the
13 court, the title of the action, the file number, and the designation of the
14 complaint.
- 15 (2) The government shall name as defendants the land, designated
16 generally by kind, quantity, size and location, and at least one of the
17 owners of some part or interest in the land.
- 18 (3) The complaint shall contain a short and plain statement of the
19 authority for the taking, the specific purpose for which the land is to
20 be taken, a description of the land sufficient for its identification, the
21 interests to be acquired, and as to each separate piece of land, a
22 designation of the defendants who have been joined as owners thereof
23 or of some interest therein.
- 24 (4) Upon the commencement of the action, the government needs join as
25 defendants only those persons having or claiming an interest in the
26 land whose names are then known, but prior to any hearing involving
27 the compensation to be paid for a piece of property land the
28 government shall add as defendants all persons having or claiming to
29 have an interest in the property land whose names have otherwise
30 been learned. All others may be made defendants under the
31 designation "unknown owners".

1 Section 13. Filing Complaint. When a complaint is filed with the court, the
 2 government shall furnish to the court at least one copy thereof for the use of the
 3 defendants and additional copies at the request of the clerk of the court or a defendant.

4 Section 14. Jointer of Properties to be taken. The government may join in the
 5 same action one or more separate pieces of land, whether in the same or different
 6 ownership, and whether or not sought for the same specific public purpose.

7 Section 15. Order For Distribution Of Deposit. Except as otherwise provided
 8 herein, following the filing of the complaint, the court may order such distribution of any
 9 deposit of the just compensation in accordance with prevailing valuation, appraisal or
 10 assessment system approve by law for the land taken as the facts warrant.

11 Section 16. Notice to Defendant; Delivery to Court; For: Notice.

12 (1) Upon filing of the complaint, the government shall forthwith
 13 deliver to the clerk of the court joint or several notices along
 14 with copies of the complaint directed to the defendants named
 15 and designated in the complaint. Additional notices directed to
 16 the defendant subsequently added shall also be delivered.

17 (2) The delivery of the notices and its service shall be the same
 18 effect as the delivery and service of a summons under the
 19 Chuuk State Supreme Court Rules.

20 (3) Each notice shall state the court, the title of the action, the
 21 name of the defendant to whom it is directed, that the action is
 22 to condemn land, a description of the land sufficient for its
 23 identification, the interest to be taken, the authority for the
 24 taking, the specific purpose for which the land is to be taken,
 25 that the defendant may serve upon the Attorney General an
 26 answer within 30 days after the service of the notice, and that
 27 the failure to so serve an answer constitute a consent to the
 28 taking and the authority of the court to hear the action and to
 29 award the just compensation. The notice shall conclude with
 30 the address of the Attorney General where he may be served.

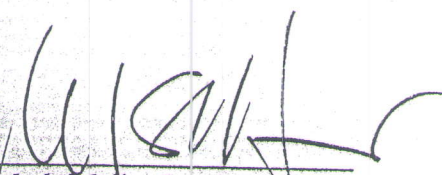
1 The notice shall contain a description of no other land than that
 2 to be taken from the defendants to whom it is directed.

3 Section 17. Duties of Land Commission. Notwithstanding any appeal, upon
 4 receipt of notice by the court that that taking of land has occurred and just compensation
 5 has been awarded to the landowner pursuant to the provisions of this Act, the Land
 6 Commission shall within five (5) days upon receipt thereof, issue the certificate of title in
 7 favor of the Chuuk State Government with all the easements provided therein. Provided
 8 that upon the termination of the specific public purpose for which and interest in land is
 9 taken the Chuuk State Government shall within 90 days quitclaim and return the land to
 10 the owner or the owner's successor in accordance with Section 2, Article XI of the Chuuk
 11 State Constitution. Provided further, that a certification by the Governor declaring that
 12 the specific public purpose of the said Government land ceases and will no longer be
 13 needed for any other public purposes provided furthermore, that the disposition by the
 14 Governor of any public lands not acquired by eminent domain shall required consent of
 15 the Legislature.

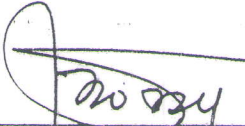
16 Section 18. Land Valuation Rates. Except as otherwise provided in Section 8
 17 herein for the purpose of this Act, the finalized Chuuk State Valuation Zone Table Rate
 18 as adopted pursuant to Executive Order No. 04-2007 is hereby recognized as the
 19 prevailing land valuation system for all government land transactions provided further
 20 that the rates therein shall be subject to adjustment every 10 years to account for
 21 prevailing fair market value of real properties and general socio-economic conditions in
 22 the state.

23 Section 19. Repealing Clause. Truk State Law No. 2-1 is hereby repealed in its
 24 entirety.

25 Section 20. Effective Date. This Act shall become law upon approval by the
 26 Governor or upon its becoming law without such approval.

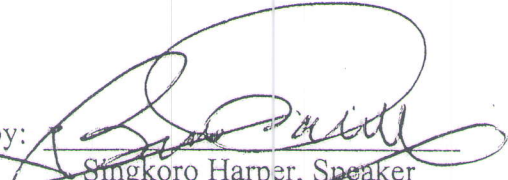
Signed by: 
 Mark Maño, President
 Senate
 Chuuk State Legislature

Attested:



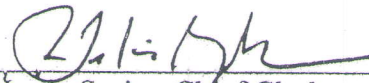
Songkinita Bossy, Chief Clerk
Senate
Chuuk State Legislature

Date: April 7, 2010

Signed by: 

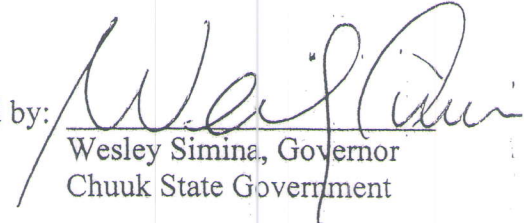
Singkoro Harper, Speaker
House of Representatives
Chuuk State Legislature

Attested:



Herter Sorim, Chief Clerk
House of Representatives
Chuuk State Legislature

Date: April 7, 2010

Approved by: 

Wesley Simina, Governor
Chuuk State Government

Date: 09 April 2010

History : S.B.NO: 10-24;SD1
: S.S.C.R.NO: None
: H.S.C.R.NO: None