

Marshall Islands Consolidated Legislation

Land Lease Commission Act 1993 [Title 24 Cap 4]

LAWS OF THE REPUBLIC OF MARSHALL ISLANDS

TITLE 24. PROPERTY

CHAPTER 4.

LAND LEASE COMMISSION

Section

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An Act to establish a commission to review all land leases to safeguard the rights of landowners and successors in interest and to ensure compliance with the rules of customary law applicable thereto.

Commencement: October 8, 1993
Source: P.L. 1993-54

§ 401. Short Title

This Chapter may be cited as the Land Lease Commission Act of 1993. [*P.L. 1993-54, § 1.*]

§ 402. Purpose.

(1) The Nitijela recognizes that, with respect to land leases with foreign investors, there has been a problem in properly safeguarding the rights of all relevant landowners and successors in interest. This problem is due, in part, to the fact that not all interest holders are always aware of the existence of a land lease which may, or actually does, affect their rights, nor do all such interest holders, upon learning of the existence of any such land lease, always acknowledge and approve such leases prior to execution.

(2) This, in turn, has resulted in many complicated and protracted land disputes which, to the disadvantage of all citizens, act to discourage foreign investment in the Republic.

(3) With this Chapter, the Nitijela intends to stop this problematic trend by establishing a commission to review all land leases prior to execution to ensure that the interests of all relevant landowners and successors in interest are adequately safeguarded and protected. [*P.L. 1993-54, § 2.*]

§ 403. Establishment of the Commission.

(1) There is hereby established a commission called the Land Lease Commission (the Commission), which shall consist of three (3) members, one of which shall be the Attorney General.

(2) The Attorney General shall appoint the other two members of the Commission, each of which shall serve under the general direction of the Attorney General.

(3) As far as practicable, the persons appointed to the Commission by the Attorney General shall be persons of Marshallese descent with wide experience and knowledge in customary law and traditional practice of the land, and may include members of the Customary Law Commission (as defined in 39 MIRC 5). *[P.L. 1993-54, § 3(19).]*

§ 404. Function of the Commission.

(1) The function of the Commission shall be to review all leases and/or documents which may be construed as leases (and all materials relevant thereto), prior to the execution thereof, to ensure that:

(a) the rights of the relevant landowners and interest holders under customary law, including Iroijlaplap, Iroijedrick, where applicable, and the relevant alab and dri jerbals rights, are safeguarded and protected in accordance with customary law, traditional practices of the land, and otherwise; and

(b) the names of the relevant landowners and interest holders under customary law, including the Iroijlaplap, Iroijedrik, where applicable, and the relevant alabs and dri jerbals, are included in the body of the lease or in an attachment thereto; and

(c) all such persons, and the relevant foreign investor(s), have signified in writing (in a manner and form prescribed by the Commission) their acknowledgment and acceptance of the lease, including the amount, timing and method of payment thereunder, as fair and reasonable.

(2) Notwithstanding the foregoing, it is recognized that it is the current practice of the Office of Attorney General and the Ministry of Internal Affairs to jointly review and approve all governmental leases with respect to all matters except customary and traditional law. Consequently, the Commission shall, for the purpose of administrative efficiency, coordinate with the Office of Attorney General and the Ministry of Internal Affairs prior to conducting its review of any governmental lease hereunder. *[P.L. 1993-54, § 3(20).]*

§ 405. Filing of land leases; Presumption of Validity.

(1) The Commission shall approve by official stamp, and submit to the Clerk of Court for filing, only those land leases which are in compliance with the provisions of Section 404.

(2) The Clerk of Court shall file for recording only those leases which have been affixed with the official seal of the Commission.

(3) Each lease properly filed under this Section 405 shall be presumed legally valid and enforceable and the legal burden of proof shall be on any person alleging or claiming otherwise. *[P.L. 1993-54, § 3(21).]*

§ 406. Existing Land Leases.

This Chapter shall not affect the validity of land leases in effect as of the effective date of this Chapter, which, in accordance with Article IV, Section 21 of the Constitution, shall be the date of certification. *[P.L. 1993-54, § 3(22).]*
