

CHAPTER 13.**TOBOLAR COPRA PROCESSING AUTHORITY****ARRANGEMENT OF SECTIONS****Section****PART I -PRELIMINARY**

§1301. Short title.

§1302. Interpretation.

PART II-ESTABLISHMENT, BOARD OF DIRECTORS, MANAGEMENT

§1303. Establishment of Tobolar.

§1304. Application of the Associations Law.

§1305. The Board of Directors.

§1306. Meetings of the Board.

§1307. Compensation.

§1308. Disclosure of, and Disqualification for, Interest.

§1309. Management of Tobolar.

PART III-OBJECTIVES, FUNCTIONS, POWERS

§1310. Objectives of Tobolar.

§1311. Functions of Tobolar.

§1312. Powers of Tobolar.

§1313. Acquisition of assets.

Section**PART IV - TOBOLAR FUND**

§1314. The Tobolar Fund.

§1315. Payments into the Fund.

§1316. Payments out of the Fund.

§1317. Budget.

PART V - MISCELLANEOUS

§1318. Accounts and Records.

§1319. Revenue.

§1320. Privatization.

§1321. Application of bribery laws.

§1322. Liability and Expenses.

§1323. Production Incentive.

§1324. Acquisition of Land for Tobolar.

§1325. Taxation.

§1326. Rules and regulation.

An Act to provide for the establishment of a statutory authority that shall engage in copra processing and for related purposes. This Act repealed the Marshall Islands, Copra Stabilization Board Act 1976, previously codified as Title 8, MIRC, Chapter 1. [This Act was formerly codified as 8 MIRC Ch.1, more appropriate under this Title [P.L. 1992-2, §27.][section numbering style modified]

Commencement: February 17, 1992

Source: P.L. 1992-2

P.L. 1997-31

P.L. 2004-3

PART I - PRELIMINARY**§1301. Short Title.**

This Chapter may be cited as the Tobolar Copra Processing Authority Act of 1992. [P.L. 1992-2, §1.]

§1302. Interpretation.

(1) In this Chapter, unless otherwise specified

(a) “the Authority” means Tobolar Copra Processing Authority as established by Section 1303;

(b) “the Board” means the Board of Directors of Tobolar Copra Processing

Authority established by this Chapter;

(c) “copra processing” includes, without limitation, all stages of copra production, processing, and marketing;

(d) “a director” means a member of the Board;

(e) “Government” means the Government of the Republic of the Marshall Islands;

(f) “the President” means the President of the Republic of the Marshall Islands; and

(g) “Tobolar” means the Tobolar Copra Processing Authority created under this Chapter. [P.L. 1992-2, §2..]

PART II- ESTABLISHMENT, BOARD OF DIRECTORS, MANAGEMENT

§1303. Establishment of Tobolar.

(1) The Tobolar Copra Processing Authority is hereby established.

(2) The Authority:

(a) is a body corporate with perpetual succession;

(b) shall have a seal;

(c) may enter into contracts;

(d) may acquire, hold, manage, and dispose of property; and

(e) may sue and be sued in its corporate name. [P.L. 1992-2, §3.]

§1304. Application of the Associations Law.

The provisions of the Associations Law, P.L. 1990-91, that do not conflict with this Chapter shall apply to Tobolar and its activities. [P.L. 1992-2, §4.]

§1305. The Board of Directors.

(1) There shall be a Board of Directors consisting of five (5) members appointed by Cabinet.

(2) The Board may elect a Chairman from among its members.

(3) The Board may delegate any or all of its powers and duties to the

Chairman.

(4) The term of office for members appointed under subsection (1) shall be two years.

(5) The Board may act notwithstanding any vacancy in membership, provided that there is a quorum in accordance with this chapter. [P.L. 1992-2, §5; amended by P.L. 1997-31, §2, amending §1305 in its entirety. See Appendix B, Known Drafting Errors.][P.L. 2004-03 re-inserted provisions] Rev.2003]

§1306. Meetings of the Board.

(1) The Board shall meet at such times and places as may be designated by the Chairman, provided that the Board shall meet at least once every quarter.

(2) The Board shall adopt its own rules of procedure for transaction of business and the carrying out of the purposes of this Chapter.

(3) The quorum for a meeting of the Board shall be three (3) members.

[P.L. 1992-2, §6.]

§1307. Compensation.

(1) Any member of the Board, other than a member who otherwise holds a salaried Government office, shall be entitled to receive such compensation for his services as the Board may

determine.

(2) Any member of the Board shall be entitled to receive per diem and travel expenses at such rates and upon such terms and conditions as may be determined by the Board, provided, however, that such rates shall in no event exceed the rates paid to Government employees. [P.L. 1992-2, §7.]

§1308. Disclosure of, and Disqualification for Interest.

If a director has a personal interest in the subject matter of any question before a meeting of the Board, he shall disclose his interest at the meeting and shall take no part in the deliberations (except as directed by the Board) or in the decision of the Board on the question. Any such disclosure shall be recorded in the minutes. [P.L. 1992-2, §8.]

§1309. Management of Tobolar.

(1) Subject to this Chapter and to the articles of incorporation and bylaws adopted by Tobolar pursuant to this Chapter, Tobolar shall be controlled and managed by the Board of Directors.

(2) Tobolar may employ:

(a) an executive officer to be called the General Manager of Tobolar. Such executive officer shall be a person with adequate skill and experience in all aspects of copra processing; and

(b) such other officers, agents, consultants, and advisers as may be necessary for the performance of the duties and functions of Tobolar.

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

(4) Notwithstanding Subsection (3) of this Section, the Authority shall follow and be bound by the same position grading or classification system and pay scales established by regulation of the Public Service Commission for members of the Public Service. [P.L. 1992-2, §9.]

PART III - OBJECTIVES, FUNCTIONS, POWERS

§1310. Objectives of Tobolar.

The objectives of Tobolar shall be:

(1) to assume responsibility for the management, operation, and maintenance of all aspects of copra processing for the Republic;

(2) to perform in a manner that will best meet the social, economic, and political needs of the people of the Republic for copra processing and to do so as efficiently and economically as practicable;

(3) to assure a continuing market for copra from the Republic and an economically productive commodity upon which the economy of the Republic can rely; and

(4) to encourage and enlist private sector participation in Tobolar. [P.L. 1992-2, §10.]

§1311. Functions of Tobolar.

The functions of Tobolar under this Chapter are to plan, establish, manage, operate, and maintain all aspects of copra processing services for the Republic consistent with the objectives

set forth in Section 1310. [P.L. .1992-2 11]

§1312. Powers of Tobolar.

(1) Subject to this Chapter, Tobolar has, in addition to any other powers conferred by this Chapter and any other law, all powers, rights, privileges, and immunities that are necessary or convenient for carrying out its functions.

(2) Without limiting the generality of Subsection (1), but subject to this Chapter and any other law, the Authority

(a) may enter into, make, perform, and carry out contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association or corporation, government or subdivision thereof, including agreements with copra processing authorities in other countries to operate cooperatively on an international basis;

(b) may purchase, own, lease, rent, sell, mortgage, pledge, or in any other manner deal in and with property, real, personal, or mixed, as may be necessary and convenient to carry out its functions;

(c) may borrow money and issue bonds, notes, debentures or other obligations of this corporation from time to time for any of the objectives or purposes of this corporation, and may secure the same by mortgage, deed of trust, pledge, or otherwise, or may issue the same unsecured; may purchase or otherwise acquire its own bonds, debentures, or other evidences of its indebtedness or obligations; and may purchase, hold, sell, and transfer the shares of its own capital stock to the extent and in the manner provided by the laws of the Republic as the same are now in force or as may be hereafter amended;

(d) may contract for copra processing plant management services; and

(e) shall adopt articles of incorporation and bylaws to govern the operations and functions of Tobolar. [P.L. 1992-2,§ 12.]

§1313. Acquisition of assets.

The Tobolar Copra Processing Authority is specifically authorized and directed:

(1) to enter into appropriate arrangements with the Tobolar Copra Processing Plant, Inc., for the assumption of all right and title to any and all assets, equipment, contracts, liabilities, rights, obligations, functions, powers, etc., that Tobolar Copra Processing Plant, Inc. may have or control, including all rights to the use of the name “Tobolar”; and

(2) upon liquidation of the Tobolar Copra Processing Plant, Inc. in accordance with the laws of the Republic, the Tobolar Copra Processing Authority shall acquire all assets, equipment, contracts, liabilities, rights, obligations, functions, powers, etc. of Tobolar Copra Processing Plant, Inc. including all rights to the use of the name “Tobolar.” [P.L. 1992-2, §13.]

PART IV - THE TOBOLAR FUND

§1314. The Tobolar Fund.

The Tobolar Fund (the Fund) is hereby established. For purposes of Article VIII of the Constitution, the Fund is a fund other than the Marshall Islands General Fund. [P.L. 1992-2, §14.]

§1315. Payments into the Fund.

There shall be paid into the Fund:

(1) any money appropriated by the Nitijela for the purposes of the Fund; and
(2) all fees, fines, and other sums paid to and collected by the Authority; and
(3) all sums, gifts, grants, loans, or investments, from any source which may, from time to time, be available to Tobolar. [P.L. 1992-2, §15.]

§1316. Payments out of the Fund.

(1) Payments shall be made out of the Fund for or to the following purposes:
(a) with respect to monies appropriated by the Nitijela, for the purposes for which the monies were appropriated; and
(b) with respect to fees, fines, and other sums received by the Authority, for any lawful purpose within the goals of Tobolar provided, however, that sums received for a specific purpose may and shall only be used for said purpose.
(2) No money may be withdrawn from the Fund except upon the authority of the Board which shall satisfy itself that the withdrawal is made in accordance with this Chapter, the budgets prepared pursuant to Section 1317, and any other applicable law. [P.L. 1992-2, §16.]

§1317. Budget.

In advance of each financial year the Board shall cause to be prepared a budget for the withdrawal and expenditure of moneys out of the Fund for that financial year. The budget may, with the approval of the Board, be revised from time to time as the Board deems necessary. [P.L. 1992-2, §17.]

PART V - MISCELLANEOUS

§1318. Accounts and Records.

(1) In respect to its assets and transactions, Tobolar shall maintain accounts and records in accordance with generally accepted accounting principles consistently applied.
(2) Tobolar shall engage an independent auditor to complete an audit of the accounts and records of Tobolar within ninety (90) days after the end of each fiscal year.
(3) Tobolar shall, as soon as practicable after the close of each fiscal year, submit the financial statements of Tobolar and the auditor's report to the Cabinet for presentation to the Nitijela. [P.L. 1992-2, §18.]

§1319. Revenue.

The revenue of Tobolar shall not be treated as revenue of the Government for purposes of Article VIII of the Constitution and may be expended for the purposes of Tobolar pursuant to procedures adopted by the Board. [P L1992-2, §19.]

§ 1320. Privatization.

The Board may, with the approval of Cabinet, develop a plan for the privatization of Tobolar. [P.L. 1992-2, §20.]

§1321. Application of bribery laws.

Every member and employee of Tobolar shall be subject to the provisions of Section 118 of

the Criminal Code (31 MIRC I) with respect to every act in the performance of their duties under this Chapter, and any such act shall be deemed to be an official act within the meaning of Section 118 of the Criminal Code (31 MIRC 1). [P.L. 1992-2, §21.]

§1322. Liability and Expenses.

(1) No suit or prosecution shall lie:

(a) against Tobolar for any act which in good faith is done or purported to be done by Tobolar under this Chapter or any regulation made under this Chapter; or

(b) against any member, officer, servant, or agent of Tobolar for any act which in good faith is done or purported to be done by him under this Chapter or any regulation made under this Chapter or on the direction of Tobolar.

(2) Any expenses incurred in prosecuting or defending a suit or prosecution that falls under the terms of this Chapter shall be a charge upon the Tobolar Fund. [P.L. 1992-2, §22.]

§1323. Production Incentive

(1) In order to encourage increased production of copra, Tobolar shall devise a production incentive arrangement designed to assure greater rewards for higher levels of production.

(2) In devising any incentive arrangement Tobolar shall, as a minimum, take into account the following factors.

(a) past records of production;

(b) reasonable projections of potential production;

(c) land area available for production;

(d) fixed and variable costs;

(e) costs of transportation;

(f) management costs;

(g) capital expenditures; and

(h) production and processing modernization costs. [P.L. 1992-2, §23.]

§1324. Acquisition of Land for Tobolar.

(1) Where any land, or interest therein, is required for the purposes of the Authority, and the Minister responsible for land acquisition approves the proposed acquisition, the land or interest proposed to be acquired shall, for purposes of the Land Acquisition Act, be deemed to be required for public use and may be acquired under that Act and transferred to Tobolar.

(2) The compensation payable for land acquired under Subsection (1) shall be paid by Tobolar. [P.L. 1992-2, §24.]

§1325. Taxation.

Tobolar, the Fund, and related transactions are not subject to any tax, rate, charge, fee, duty, or impost under any other law. [P.L. 1992-2, §25.]

§1326. Rules and regulations.

Tobolar may, in accordance with the Marshall Islands Administrative Procedure Act 1979, adopt such rules and regulations as are deemed necessary to give effect to this Chapter, which shall have the force and effect of law. [P.L. 1992-2, §26.]