

THE TWENTIETH LEGISLATURE OF AMERICAN SAMOA

Fourth Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the eleventh day of July
one thousand nine hundred and eighty eight

AN ACT FACILITATING MORTGAGES OF LEASED NATIVE LAND; PROVIDING FOR TRANSFER OF MORTGAGE INTERESTS IN INDIVIDUALLY OWNED LAND; AND AMENDING SECTION 37.0221 ASCA; AND CREATING NEW SECTIONS 37.1110 AND 37.1111 ASCA.

PREAMBLE:

This bill dealing with the alienation of land must, under Article I, § 3, and Article II of the Revised Constitution of American Samoa of 1967, § 9, be passed by a two-thirds (2/3) vote of the entire membership of both Houses in two successive Legislatures, and must be signed by the Governor.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 37.0221 is amended to read:

"37.0221 Leasing of native land.

(a) Native land may, with the approval of the Governor, be leased to any person for any term not exceeding 55 years for any purpose, except for the working of minerals and cutting of timber.

(b) Provisional agreements for the leasing of native land as provided in subsection (a) may be entered into with the native proprietor or proprietors. Every such provisional agreement, stating in full its terms and conditions, shall be submitted with a plan showing the situation of the land to the Governor for approval, and it shall have no validity until such approval has been signified in writing.

(c) All leases of native land approved under this section shall be conditioned on the occupation or cultivation of at least 1/10 of the area of the land leased, by the lessee within a period of 2 years from the date of approval. Upon failure of this condition or failing the continuous occupation or cultivation of the land for any period of 5 years after the date of approval, the Governor may, if he deems it necessary and expedient, cancel the lease, and the land shall revert immediately to the native lessor. Land leased pursuant to this section shall be deemed occupied by the lessee if the lessee is a party to a mortgage of such land granted in connection with the acquisition or erection of improvements

situated thereon.

(d) The lessee must, within 12 calendar months after any provisional agreement to lease has been approved by the Governor, deposit in the office of the Governor a properly drawn and legally attested lease for confirmation under the hand and seal of the Governor, and such lease shall be registered in a book to be styled registrar of titles.

(e) If a lessee enters into a mortgage of land lease pursuant to this section to finance the acquisition or construction of housing or other improvements of any type situated thereon, the lease of such land shall not be subject to cancellation or reverter under subsection (c) of this section during the original stated term of such mortgage or any renewal or extension thereof."

Sec 2. There is created a new section 37.1110 which reads:

"37.1110 Transfer of mortgaged interests--Individually owned land--Marketability.

Any person who is a mortgagee, or a federal mortgage insurer or other person which succeeds to the interest of a mortgagee, including persons not qualified to acquire title under section 37.0204, to whom by deed or other instrument title to individually owned land is transferred by means of or after the foreclosure of a mortgage on such land shall have the power to receive and hold title to such land for the unexpired term of such mortgage plus an additional period of up to ten years and to transfer title to the entire interest which was pledged as security for the mortgage to any person qualified to acquire title to such interest. No title received, held, or transferred in accordance with this section shall be deemed unmarketable merely because of the restrictions on alienation in section 37.0204."


Sec 3. There is created a new section 37.1111 which reads:


"37.1111 Definitions.

As used in this chapter:

(a) "Federal mortgage insurer" means any agency or instrumentality of the Government of the United States of America which insures or guarantees mortgages or other loans for residential housing.

(b) "Individually owned land" means land registered as individual property of a person or determined to be individual property of a person by a final decision of the court of American Samoa."


LETULI TOLOA
President of the Senate


TUANA'ITAU F. TUIĀ
Speaker of the House

NOFOAIGA LUASEFULU FONOFAITULAFONO O AMERIKA SAMOA

Fono Tele Lona Fa

Nofioia ma usua i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulutasi o Iulai
tasi le afe iva selau valusefulu valu

O SE TULAFONO FA'AFAGOFIEINA MOKESI O FANUA LISIINA TAU
TAGATANU'U; SAUNIA MO LE FA'AUI ATU O AIA TAU MOKESI I
FANUA PULEA TO'ATASI; MA SUIA MAGA 37.0221 TFAS; MA FA'A-
VAEINA MAGA FOU 37.1110 MA LE 37.1111 TFAS.

FA'ATOMUAGA:

O lenei pili e feagai ma le avemotusia o fanua ia, i
lalo Vaega I, M 3, ma le Vaega II o le Fa'avae Toeteuteuina
o Amerika Samoa o le 1967, M 9, ia pasia e se palota lua o
vaetolu (2/3) o faipule uma o Maota e lua i nofoaiga soso'o
e lua o le Fonofaitulafono, ma ia sainia e le Kovana.

IA FAATULAFONOINA E LE FONOFAITULAFONO O AMERIKA SAMOA:

Maga 1. 37.0221 ua suia e faitauina:

"37.0221 Lisiina o fanua tau tagatanu'u.

(a) Fanua tau tagatanu'u e mafai fa'atasi ma le fa'amaoniga a le Kovana, ona lisiina i so'o se tagata mo so'o se umi e le silia le 55 tausaga mo so'o se autu, vagana mo le galueaina o minerale ma le taina o laau.

(e) Maliliega fa'atuaoci mo le lisiina o fanua tau tagatanu'u pei ona aiaia i soamaga (a) e mafai ona faia ma le pule po'o pule tagatanu'u. O ia maliliega fa'atuaoci, ta'uina ai i lona atoa tu'utu'uga ma tulaga, ia tu'uina atu ma se fuafuaga fa'aalia le tulaga o le fanua i le Kovana mo le fa'amaoniga, ma ia le taualoa vagana o sea fa'amaoniga ua fa'aalia tusitusia.

(i) O lisi uma o fanua tau tagatanu'u ua fa'amaonia i lalo o lenei maga ia fa'ailoa i le umia po'o le fa'ato'aina e le itiiti le 1/10 o le vaega o le fanua lisiina, e le ua lisiina i totonu o le vaitaimi e 2 tausaga mai le aso o le fa'amaoniga. O le le faia o nei tulaga po'o le le umia fa'asoso'o po'o le fa'ato'aina o le fanua mo so'o se vaitaimi e 5 tausaga tuana'i le aso o le fa'amaoniga, e mafai e le Kovana, pe afai ua silafia ua talafeagai ma tusa ai, soloia le lisi, ma o le fanua e toe fo'i loa i le tagatanu'u sa lisi mai ai. O fanua lisiina tusa o lenei maga ua fa'auigaina ua umia e le ua lisiina pe afai o le ua lisiina o se itu i se mokesi o lea fanua fa'atagaina e tusa ma le mauaina mai po'o fauina o fa'aleleiga o i ai.

(o) O le tagata ua lisiina ia, i totonu o le 12 masina kalena tuana'i so'o se maliliega fa'atua'oi e lisiina ua fa'amaonia e le Kovana, tu'uina i le Ofisa o le Kovana se lisi fa'amaonia i ala o le tulafono i lalo o le lima ma le fa'amaufa'ailoga a le Kovana, ma o sea lisi ua fa'amauina i se tusi fa'aigoaina o le resitara o suafa.

(u) Afai o se tagata ua i ai se lisi ua faia se mokesi o le fanua lisiina tusa ai o lenei maga e fa'atupeina le mauaina mai po'o le fauina o fale po'o isi fa'aleleiga o so'o se ituaiga o i ai, o le lisi o sea fanua ia le soloia pe toe fa'afo'i i lalo o soamaga (i) o lenei maga a'o i ai pea ulua'i tu'utu'uga o sea mokesi po'o so'o se fa'a-fouga po'o le fa'aauuina."

Maga 2. Ua fa'avaeina se maga fou 37.1110 e faitauina:

"37.1110 Fa'aui atu aiā o mokesi--Fanua pulea to'atasi--Tulaga tau maketi.

So'o se tagata ua faia se mokesi, po'o se inisiua mokesi o le malo tele po'o isi tagata suitulaga i aiā o se mokesi, aofia ai tagata ua le agava'a e maua aiā i lalo soamaga 37.0204, mai feagaiga po'o isi tulaga ua fa'aui atu i ai aiā i fanua pulea to'atasi ona o po'o tuana'i tapunia o se mokesi o se fanua ia i ai le malosia e maua ma umia le pule i sea fanua mo le taimi totoe o sea mokesi fa'atasi ma vaitaimi fa'aopopo e o'o i le sefulu tausaga ma e fa'aui atu le pule i le aiā atoa sa folafolaina fa'amauina ai le mokesi i so'o se tagata agava'a e mauaina le pule i sea aiā. Leai se pule e mauaina, taofia po'o le fa'aui atu tusa ai ma lenei maga ia fa'aigaina e leai se tulaga tau maketi ona talu'ai o fa'atua'oi i le avemotusia i maga 37.0204."

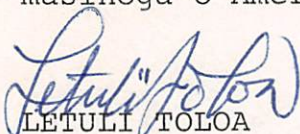
Maga 3. Ua fa'avaeina se maga fou 37.1111 e faitauina:

"37.1111 Uiga.

Pei ona fa'aaogaina i lenei mataupu.

(a) "Inisiua tau mokesi o le malo tele" uiga i so'o se ofisa po'o vaega o le Malo o le Iunaite Setete o Amerika e inisiuaina pe fa'amalumu i mokesi po'o isi nogatupe mo falenonofo.

(e) "Fanua pulea to'atasi" uiga i fanua fa'amauina o meatotino pulea to'atasi a se tagata po'o ua iloiloaina o meatotino to'atasi a se tagata i i'uga fa'aui a le fa'amasinoga o Amerika Samoa."

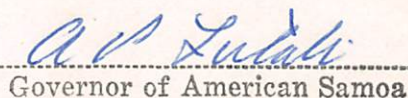

LETULI TOLOA

Peresetene, Maota Maualuga


TUANA'ITAU F. TUIA

Fofoga Fetalai, Maota o Sui

Hereby Approved this 29th day of September, 1988


Governor of American Samoa