



REPORT FOR THE LEGISLATIVE ASSEMBLY

“Land Titles Registration Amendment Bill 2015”

Works, Transport and Environment Committee

1. RECOMMENDATION:

The Works, Transport and Environment Committee recommends that the Assembly take note of its Report.

2. BILL CONSIDERED:

(Presented 30/06/2015)

Land Titles Registration Amendment Bill 2015.

The Works, Transport and Environment Committee¹ considered the Land Titles Registration Amendment Bill 2015 pursuant to the Instructions issued by the Legislative Assembly on the 30th of June 2015, for considerations and to report back.

3. PROCEEDINGS:-

The Works, Transport and Environment Committee called for oral and/or written public submissions on the Bill through a public notice broadcast on radio (2AP) and television (S.Q.B. TV 1).

The Committee sought the assistance from the following officials during the course of its investigations.

ASSISTANCE (S.O. 156)

Office of the Attorney General:

Tuatagaloa Aumua Ming.C.Leung Wai	-	Attorney General
Meiapo Faasau	-	Associate Drafter
Lizatalei Hakai	-	Drafting Clerk
Steffany Meredith	-	Drafting Solicitor

Ministry of Natural Resources and Environment

Salā Josephine Stowers	-	Legal Consultant
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Land Transport Authority

Leasi Galuvao Vainalepa	-	Chief Executive Officer.
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¹ SO 176, TUSA Misi Tupuola, AFOAFOUVALE John Moors, PESETA Vaifou Tevaga, LEALAILEPULE Rimoni Aiafi, LEVAOPOLO Talatonu, TOEOLESULUSULU C.P.S.Schuster, FAGAIVALU Kenrick Samu.

4. FINDINGS:-

This Bill seeks to amend the Land Titles Registration Act 2008, to provide extra clarification that customary lands are not registered with other type of lands under the Land Register kept under section 10 of the Act². Whilst a “record” of customary land can be maintained by the Registrar of Lands, such record is not to be treated as being part of the ordinary folio where freehold and Government lands are registered. This includes leasehold interests in customary lands.

The Office of the Attorney General clearly stated during the discussion of the Bill that, whenever the Land and Titles Court finalizes its decision on Land Titles Registrations or Land boundaries, the Court shall submit its decision to the Land Register. Thus, the Courts decision will be registered to make customary land titles registrations and boundaries noticeable on maps.

The Office of the Attorney General is concerned regarding a statement that’s in the Land Registration which stated that, the decision by the Court is given to be registered. Hence, they are trying to use the term “record” rather than the term “register” to avoid people from thinking that it is for sale. This attempt is to avoid any assumptions that these customary lands registered in the Land Register are for sale, which is why it is very appropriate to use the term “record” to avoid any conflicts that may arises.

There is a Consequential Amendment to Section 76 of the Property Law Act 1952 which conflicts with section 44 of the Land Titles Registration Act 2008³

5. CONSIDERATION IN DETAIL OF THE BILL:-

The Committee considered the Lands Titles Registration Amendment Bill 2015 in detail and was satisfied with all the provisions except for an insertion to the following Clause:-

Clause 5: CONSEQUENTIAL AMENDMENT:

(2) In section 76 of the Property Law Act 1952, for subsection (2) substitute:

“(2) A mortgage in that form has effect as a security but does not operate as a transfer of the land mortgage”.

² **10. Folios of the Register-**(1) The Registrar shall maintain a record of all dealings recorded in, or actions taken in respect of, a computer folio and such other information, if any, relating to the computer folio as the Registrar thinks fit.

³ **44. Lands under this Ac: how mortgaged or encumbered-**(1) Whenever any land or estate or interest in land under the provisions of this Act is intended to be charged with , or made security for, the payment of a debt, the proprietor shall execute and caused to be registered a mortgage in the approved form.

(2) A mortgage under this Act has effect as a security but does not operate as a transfer of the land mortgaged.

6. RESOLUTION:

At the conclusion of its consideration, the Committee resolved to recommend the Assembly:

That the Land Titles Registration Amendment Bill 2015 progress without amendments.

7. COMMITTEE SIGNATURES:

TUSA Misi Tupuola
CHAIRPERSON

AFOAFOUVALE John Moors
DEPUTY CHAIRPERSON

LEALAILEPULE Rimoni Aiafi
Member

LEVAOPOLO Talatonu
Member

PESETA Vaifou Tevaga
Member

TOEOLESULUSULU C.P.S. Schuster
Member

FAGAAIVALU Kendrick Samu
Member