

Proposal No. CC-PR-4-52

Committee on Government
Structure and Functions
Assigned to Committee on General Provisions

A PROPOSAL TO AMEND THE FSM CONSTITUTION

To amend Article XI, Section 6 of the Constitution of the Federated States of Micronesia to provide the State Courts the exclusive jurisdiction of cases where interest of land is at issue.

Article XI, Section 6 of the Constitution of the Federated States of Micronesia is proposed to be amended to read as follows:

“Section 6.

- (a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.
- (b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, between a state or a citizen thereof, and a foreign state, citizen, or subject, provided however that the state courts shall have exclusive jurisdiction in cases where an interest in land is at issue.
- (c) When jurisdiction is concurrent, the proper court may be prescribed by statute.”

Intent and Purpose:

The impetus of this proposal is to confer to the state courts the exclusive jurisdiction to adjudicate cases where interest of land is at issue. As customary law and traditional values are the sources of land law in FSM, it is only appropriate and proper that land issues are handled at the state level. Since all the states have different and distinct customary values and beliefs it is pivotal that each state maintain exclusive jurisdiction to deal with its land matters, cases or disputes involving the interest of land. Moreover, the expertise and knowledge on customs and traditions are possessed at the state level. Accordingly, it is only appropriate that the jurisdiction to deal with land matters or cases be vested in the state courts.

This proposal would support the development of the jurisprudence of land law that would be consistent with the values, norms and the customs of each state. So long as the customary law of each state informs land rights, interests, ownership, distribution, succession and others, the authority to adjudicate land cases, disputes or controversies where an interest in land is at issue should remain with the states.

Introduce by:



Johnson Asher

Date:

1.17.20