

**39TH LEGISLATURE
1st REGULAR SESSION**

**S.B. NO. 39-01
IN THE SENATE**

16 JANUARY 2025

INTRODUCED BY: Sen. Togiola T. A. Tulafono, D-5

REFERRED TO COMMITTEE ON:

SUBJECT: PROPERTY – ALIENATION OF LAND

SUMMARY:

This bill is to prohibit the conversion of communal land to individually owned land.

OWN VOTE			LEGISLATIVE VOTE		
YES	NO		YES	NO	DATE
<input type="checkbox"/>	<input type="checkbox"/>	1ST READING			
<input type="checkbox"/>	<input type="checkbox"/>	COMMITTEE REPORT			
<input type="checkbox"/>	<input type="checkbox"/>	2ND READING			
<input type="checkbox"/>	<input type="checkbox"/>	3RD READING			
<input type="checkbox"/>	<input type="checkbox"/>	AMENDED - SEE CALENDAR DATED			
<input type="checkbox"/>	<input type="checkbox"/>	AMENDED - SEE JOURNAL DATED			
<input type="checkbox"/>	<input type="checkbox"/>	AMENDED - SEE JOURNAL DATED			
<input type="checkbox"/>	<input type="checkbox"/>	RECOMMITTED			
<input type="checkbox"/>	<input type="checkbox"/>	ORDERED TO LIE			
<input type="checkbox"/>	<input type="checkbox"/>	WITHDRAWN			

1 WHEREAS, the Senate Select Investigation Committee dealt with an issue
2 regarding individuals who cleared “virgin bush” and attempted to register this
3 “virgin bush” as individually owned land; and

4
5 WHEREAS, in an effort to conserve our lands and our culture for future generations,
6 this bill prohibits the transfer of communal land to individually owned land. In
7 addition, this bill will also prohibit any persons who clears uncultivated land from
8 registering such land as their own; and

9
10 WHEREAS, prohibiting the transfer of communal lands to individually owned land
11 is imperative to preserving the longevity of Samoan traditions and cultures. This
12 serves not only to prevent the loss of indigenous land but also to avert harmful
13 motives and unlawful procedures. As leaders of the territory, it is our duty and
14 responsibility to safeguard the strong and abiding culture and traditions, the land
15 and our people.

16
17 BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

18
19 Section 1. Section 37.0201 is amended to read:

20 “37.0201 Definitions.

21 As used in this chapter:

22 (a) "Alienation" means the sale, gift, exchange, or any other method of
23 disposal of property.

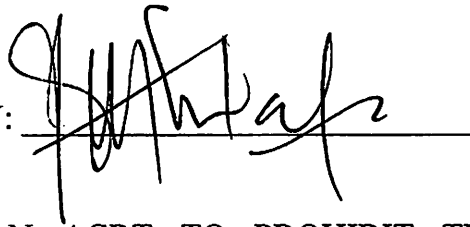
24 (b) “Freehold lands”, means all those lands included in court grants prior
25 to 1900 which have not at the request of the owner, been returned to the status of
26 other land in American Samoa surrendering their freehold characteristics.

27 (c) "Native" means a full-blooded Samoan person of Tutuila, Manu’a,
28 Aunu’u, or Swains Island.

29 (d) “Native land” means communal land.

1 S.B. NO. 39-01

2 INTRODUCED BY:



3
4 A BILL FOR AN ACT ENTITLED; “AN ACRT TO PROHIBIT THE
5 CONVERSION OF COMMUNAL LAND TO INDIVIDUAL OWNED LAND;
6 AMENDING SECTIONS 37.0201 AND 37.0204, A.S.C.A.”

7
8 Preamble:

9 WHEREAS, for centuries, the Samoan people and culture have thrived, with land
10 tenure playing a crucial role in their social organization. The communal land
11 system is deeply intertwined with both the kinship system (family/aiga) and village
12 organization. It is through the stewardship of the communal land system that has
13 enabled those who live on that land to share their lineage and serve others; and

14
15 WHEREAS, as evident in our Deeds of Cession, the United States Government
16 “shall respect and protect the individual rights of all people dwelling in Tutuila to
17 their ideas and other property (Deeds of Cession Page 2, section 2);” and

18
19 WHEREAS, it has been the duty and responsibility of the American
20 Samoa Government (“ASG”) to protect “persons of Samoan ancestry against
21 alienation of their lands and the destruction of the Samoan way of life and
22 language...” (AS Revised Constitution, Section 3). Our bonds to our lands, created
23 through blood, sweat, and tears, define us as a people and a culture. It is our
24 communal lands that carry our beliefs, our values, our culture, our traditions. It
25 defines who we are and plays an important role in perpetuating our culture and
26 traditions; and

1 (e) "Nonnative" means any person who is not a native under subsection
2 (c) above.

3 (f) "Convert" does not apply to leases or lease agreements."
4
5

6 Sec 2. 37.0204 is amended to read as follows:

7 "37.0204 Restrictions on alienation of land.

8 (a) It is prohibited for any matai of a Samoan family who is, as such, in
9 control of the communal family lands or any part thereof, to alienate such family
10 lands or any part thereof to any person without the written approval of the Governor
11 of American Samoa.

12 (b) It is prohibited to alienate any lands except freehold lands to any
13 person who has less than one-half native blood, and if a person has any nonnative
14 blood whatever, it is prohibited to alienate any native lands to such person unless he
15 was born in American Samoa, is a descendant of a Samoan family, lives with
16 Samoans as a Samoan, lived in American Samoa for more than 5 years and has
17 officially declared his intention of making American Samoa his home for life.

18 (c) If a person who has any nonnative blood marries another person who
19 has any nonnative blood, the children of such marriage cannot inherit land unless
20 they are of at least one-half native blood.

21 (d) This section does not prohibit the conveyance and transfer of native
22 land for governmental purposes to the United States Government or to the
23 Government of American Samoa or to a lawful agent or trustee thereof, or the
24 conveyance and transfer, in the discretion and upon the approval of the Governor, to
25 an authorized, recognized religious society, of sufficient land for erection thereon of
26 a church, or dwelling house for the pastor, or both; provided, that the reconveyance
27 and retransfer of such land shall be to native Samoans only and in the discretion and
28 upon the approval of the Governor.

1 (e) It is prohibited for any person to convert communal land or family
2 land into individually owned land.

3 (f) It is prohibited for any person or entity to clear any village land or virgin
4 forest and claim it as individually owned land.

5 ~~(e)~~(g) The true children of the present record titleholder of Swains Island,
6 which became a part of American Samoa some 25 years subsequent to the original
7 enactment of this section and is not under the matai system, and their lineal
8 descendants born in American Samoa, shall, notwithstanding any other provision of
9 this section, be deemed to have heritable blood with respect to said island or any
10 part thereof, and an otherwise valid devise of said island or any part thereof to any
11 such true child of such descendant shall not be construed to be alienation in
12 violation of this section.

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16

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**NOFOA'IGA TOLUSEFULU-IVA
FONO TELE MUAMUA**

**PMM NU. 39-01
I LE MAOTA MAUALUGA**

16 JANUARY 2025

FA'AULUFALEINA E: Senatoa Togiola T. A. Tulafono, Itumalo-5

TU'UINA ATU I LE KOMITI:

MATA'UPU: MEATOTINO – TUUESEINA O FANUA

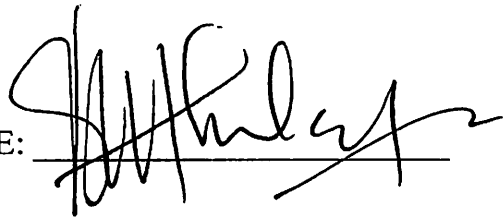
'OTO'OTOGA:

O lenei pili e fa'asa ai le suia o fanua faitele e avea ma fanua pulea e se tagata toatasi.

LANA PALOTA MONI			PALOTAGA A FAIPULE		
IOE	LEAI		IOE	LEAI	ASO
<input type="checkbox"/>	<input type="checkbox"/>	FAITAUGA MUAMUA			
<input type="checkbox"/>	<input type="checkbox"/>	RIPOTI A LE KOMITI			
<input type="checkbox"/>	<input type="checkbox"/>	FAITAUGA FA'ALUA			
<input type="checkbox"/>	<input type="checkbox"/>	FAITAUGA FA'ATOLU			
<input type="checkbox"/>	<input type="checkbox"/>	SUI – VA'AI ASO I LE KALENA			
<input type="checkbox"/>	<input type="checkbox"/>	SUI – VA'AI ASO TALA 'OTO'OTO			
<input type="checkbox"/>	<input type="checkbox"/>	SUI – VA'AI ASO TALA 'OTO'OTO			
<input type="checkbox"/>	<input type="checkbox"/>	TU'U ATU LE ISI KOMITI			
<input type="checkbox"/>	<input type="checkbox"/>	FA'ATONU E FA'ATA'ATIA			
<input type="checkbox"/>	<input type="checkbox"/>	TOE TAOFI			

1 P.M.M.NU. 39-01

2 FAAULUFALEINA E:



3
4 O SE PILI MO SE TULAFONO E FA'AULUTALAINA: "O SE PILI MO SE
5 TULAFONO E FA'AULUTALAINA: "O SE TULAFONO E FAASA AI ONA SUIA
6 FANUA FAITELE FAALEAIGA E AVEA MA FANUA 6 PULEA TAITOATASI;
7 SUIA AI MAGA 37.0201 MA LE 37.0204 T.T.A.S."

8
9 Fa'atomuaga:

10 TALUAI, mo le faitau senituri o loo soifua pea tagata Samoa ma o loo olaola
11 pea foi ana aga ma tu i le faaaogaina o ona fanua. O le faiga o fanua
12 tau aiga faitele e lotolotoi ma mili faatasi i totonu o aiga ma afioaga.
13 O le vaaia ma le tausia o fanua tau aiga, ua mafai ai e i latou o loo
14 nonofo i luga o fanua ia e faasoa atu ai o latou i o latou aiga ma
15 tautua ai isi; ma

16
17 TALUAI, e pei ona faamaonia i la tatou Feagaiga o le Tuuina Atua, o loo faapea mai,
18 "o le a faaaloaloga ma puipuia e le Malo o le Iunaita Setete aia o tagata
19 uma e alaala i Tutuila i o latou fanua ma isi meatotino (Feagaiga o le
20 Tuuina atu Itulau 2, maga 2);" ma

21
22 TALUAI, o le tiute lava ma le matafaioi o le Malo o Amerika Samoa na sau ai o le
23 puipui o "tagata tupuga Samoa faasaga i le tuueseina o latou fanua ma le
24 faaleagaina o le soifuaga faasamoa ma le gagana..." (Faavae Toe Teuteu
25 Amerika Samoa, Maga 3). O lo tatou sootaga ma o tatou fanua, na
26 faavaeina i le toto, afu ma loimata, o loo faailoaina ai tatou o se tagata ma
27 se agaifanua. O tatou fanua faitele faaleaiga e tauavea o tatou talitonuga, o
28 mea e pele ia i tatou, o a tatou tu ma aga. E faailoa ai tatou ma tauavea se
29 matafaioi taua i le faaauau pea o tatou tu ma agaifanua; ma

1
2 TALUAI, sa tulai mai se mataupu i le Komiti Suesue a le Maota Maualuga i nisi
3 sa faamamaina se “togavao e lei asa muamua” ma taumafai ai e
4 lesitala faapena, “togavao e lei asa muamua” ina ia avea ma fanua
5 pulea toatasi; ma
6
7 TALUAI, i se taumafaiga e faasao o latou fanua ma a tatou tu mo tupulaga i le
8 lumanai, o lenei pili e faasa ai le liliu o fanua faitele faaleaiga e fai ma
9 fanua umia/pulea taitoatasi. E le gata i lea, o lenei pili o le a faasa ai
10 soo se tagata poo se vaega latou te faamamaina se fanua e lei
11 faato’aina, se togavao e lei asa muamua poo se eleele lava foi i le
12 togavao mai le lesitalaina o ia fanua e fai mo latou lava; ma
13
14 TALUAI, e matua alagatau le faasaina o le suia o fanua faitele ma fai ma fanua
15 umia toatasi mo le faasaoina ma faatumauiina o tu ma agaifanua a
16 Samoa. E le gata ina puipui ai i le tafea ese atu o fanua tau Samoa, ae
17 o le a taofia ai foi ni faiga faasolitulafono ma nisi mafuaaga le tusa ai,
18 i le avea ai ma ta’ita’i o le teritori, o lo tatou tiute ma le matafaioi o le
19 tagai totoa ina ia malosi le malupuipua o tatou tu ma agaifanua, o
20 fanua ma o tatou tagata; ma
21
22 TALUAI, o lenei pili faatatau i le aveeseina o fanua e tatau, i lalo o le Vaega 1,
23 Maga 3, ma le Vaega II, Maga 9 ona pasia e le 2/3 o sui uma lava o
24 maota e lua ma sainia e le Kovana i Tauaofiaga sosoo e lua a le
25 Fonofaitulafono; ma
26
27 TALUAI, e i ai moomooga o le Fonofaitulafono o le tulafono lenei e faatatau i le
28 tuueseina o fanua e pei ona o loo i ai i le Tusi Tulafono a Amerika
29 Samoa, ia ogatasi lea ma le Faavae Toe Teuteu o Amerika Samoa.

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4 IA FAATULAFONOINA E LE FONOFAITULAFONO O AMERIKA SAMOA:

5

6 **Maga 1. 37.0201 ua suia e faitauina faapea:**

7 **“37.0201 Uiga**

8 **E pei ona faaaogaina i lenei mataupu:**

9 (a) “Tuueseina” o lona uiga o le faatau atu, faameaalofa, faafesuia’i, poo se
10 isi lava auala e tuuese ai se meatotino.

11 (e) “Fanua umia saoloto” o lona uiga o fanua uma lava o loo aofia i fanua sa
12 faaigoaina faapena e le faamasinoga i tua atu o le 1900 e lei toe faafoia i le tulaga e
13 pei o isi fanua i Amerika Samoa, e ala i se talosaga a le tagata o loo umia saoloto ia
14 fanua.

15 (i) “Tagatanuu moni” o lona uiga o se tagata toto Samoa moni o Tutuila,
16 Manu’a, Aunuu poo le Motu o Swains.

17 (o) “Fanua tau Samoa” o lona uiga o fanua faitele o aiga Samoa.

18 (u) “Tagata e le o se Samoa moni” o lona uiga o se tagata e le o lavea i lalo o
19 soamaga o loo i luga.

20 (f) “Suia” e le faaaogaina lea mo lisi ma maliliega o lisi.”

21

22 **Maga 2. 37.0204 ua suia e faitaiuna faapea:**

23 **“37.0204 Tapulaa i le tuueseina o fanua.**

24 (a) E faasa soo se matai o se aiga Samoa o loo ia pulea fanua tau aiga poo
25 soo se vaega lava o ia fanua mai le tuueseina o ni fanua tau aiga poo se vaega lava o
26 ia fanua i soo se tagata e aunoa ma le faamaoniga tusitusia a le Kovana o Amerika
27 Samoa.

28 (e) E faasa ona tuueseina soo se fanua vagana ai fanua umia saoloto i soo
29 se tagata e ititi ifo i le ‘afa lona toto Samoa moni, ma afai e i ai lava se toto ese mai

1 o se tasi, e faasa ona tuueseina ni fanua tau Samoa ia tagata vagana ai sa fanau i
2 Amerika Samoa, e tupuga mai se aiga Samoa, soifua i Samoa o se Samoa, nofo i
3 Amerika Samoa mo le silia i le 5 tausaga, ma ua faailoa aloa'ia lona mana'o e nofo i
4 Amerika Samoa e fai mona aiga i le olaga atoa.

5 (i) Afai o se tagata e leai sona toto Samoa ae faaipoipo i se tagata foi e
6 leai se toto Samoa, (e pei ona faauigaina muamua) e le mafai e fanau a lena ulugalii
7 ona umia se fanua sei vagana ai e 'afa lona toto Samoa moni.

8 (o) E le faasaina e lenei maga le tuueseina poo le tuuina atu o se fanua
9 Samoa mo ni faamoemoega o le malo i le Malo o le Iunaita Setete, poo le Malo o
10 Amerika Samoa poo se sui faaletulafono poo se tausimavaega foi, poo le tuuina atu
11 pe tuueseina i le faitalia ma le faamaoniga a le Kovana i se sosaiete faatagaina
12 faalelotu, se fanua mo le fausia o se falesa, poo se falenofo o le faife'au, poo mea
13 uma e lua; pe afai e tuuina atu ia fanua i ni Samoa moni i le pule ma le faamaoniga
14 a le Kovana.

15 (u) e faasa soo se tagata ona ia faaliliu se fanua faitele poo se fanua tau
16 aiga e ave'a ma fanua umia toatasi.

17 f E faasa soo se tagata poo se vaega ona latou faamama se fanua o se
18 nuu poo se togavao e lei taina/asa ma faia ma fanua umia toatasi.

19 e(g) O fanau moni a le o loo ia umia le suafa o le Motu o Swains, lea na
20 ave'a ma vaega o Amerika Samoa i le 25 tausaga talu ona faatulafono o lenei maga,
21 ma e le o i ai i latou i le faiga faamatai, ma, o latou tupuga na fanau i Amerika
22 Samoa, e le afaina ai nisi aiaiga o lenei maga, o le a vaai lava latou o tagata e i ai le
23 toto i le motu o Swains ma o lo latou umia o fanua, o le a le ta'ua lena o se
24 tuueseina o se fanua.

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