

REPUBLIC OF KIRIBATI

(No. 12 of 2001)

I assent,

Beretitenti.
2001

**AN ACT TO AFFORD KIRIBATI A PRE-EMPTIVE RIGHT TO PURCHASE
CERTAIN LAND FOR LAND PLANNING PURPOSES**

Commencement:
2001

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Short title and commencement

1.(1) This Act may be cited as the State Pre-Emptive Right of Purchase Act 2001.

(2) This Act shall come into operation on such date as the Beretitenti, acting in accordance with the advice of the Cabinet may, by notice, appoint.

Interpretation

2. In this Act, unless the context otherwise requires –

“land” means –

- (a) any of the lands described in Schedule 1, and any alienable interest therein; and any reference to land refers only to such land or interest, and it also includes any other land on Tabuaeran (Fanning Island) and Teraina (Washington Island) which was given to settlers to occupy under deed or licence during the period 1988 to 1992; and
- (b) the Beretitenti, acting in accordance with the advice of the Cabinet may, by order, from time to time, but only within 12 months of the coming into operation of this Act, amend Schedule 1 by adding only the particulars of lands situated in Tabuaeran, Teraina and Kiritimati to which this Act shall apply;

“owner” means any one or more of the owners of any land, their agents, successors or assigns; and

“State” means the Republic of Kiribati.

Right of purchase pre-emption

3. Upon the coming into operation of this Act no land may be alienated –

- (a) to any person not among the next-of-kin of the transferring owner; or
- (b) whether the person is next-of-kin or not, to any person for valuable consideration;

without first providing an opportunity to the State, in accordance with the procedures provided under sections 4 and 5 to acquire such land.

Exercise of the right

4.(1) No owner shall –

- (a) unconditionally [**without reserving the State's right under this Act, agree to enter into a sale of land**] accept an offer to purchase land; or
- (b) cause an alienation governed by section 3 to be effected,

without first providing notice to the State in a form set out in Schedule 2.

(2) Where an owner proposes to enter into a transaction to which this Act applies such owner shall deliver a written notice, in a form set out in Schedule 2 to this Act, to the State through the Office of the Director of Lands, Bairiki.

(3) The notice under subsection (2) shall be in substantial compliance with the form set out in Schedule 2.

(4) Where the State elects to exercise its rights under this Act, the State shall give written notice as follows –

- (a) within 21 clear days of the date of delivery of the notice referred to in subsection (3); or
- (b) within the period ending the day before the last day for the owner's accepting the offer under subsection (1), pursuant to its terms;

whichever is later.

(5) The notice to be issued by the State under subsection (4) –

- (a) shall be delivered in the quickest manner for physical delivery of messages in accordance with the address provided for in Schedule 2; and
- (b) shall be deemed to have been delivered to the addressees accordingly on the date that it is sent.

Purchase by the State

5.(1) A purchase by the State pursuant to section 4(4) shall be on terms no less favourable to the owner than those available on the transaction described in section 4(2).

(2) In exercise of its pre-emption the State may, without affecting the efficacy of its election –

- (a) notify the owner of; and
- (b) complete the pre-emption on

such reasonable adjustment of the time for payment terms, as accords with the current administrative processes for payment of Government liabilities.

(3) In completing the pre-emptive purchase, any payment by the State later than the date for payment in the subsection (2), shall bear interest at the rate paid by the Bank of Kiribati, or its successor, on 30 day investments, or their next closest equivalent investment instrument.

Offences

6.(1) Any person who deliberately, by any means –

- (a) perverts;
- (b) circumvents; or
- (c) renders artificially more costly,

the exercise by the State of its rights under this Act, commits an offence and shall be liable on conviction to a fine not exceeding \$5000 or imprisonment for a term not exceeding 5 years or both.

(2) The owner and any person claiming an interest in the land derived through criminal conduct shall, on the application of the State to the High Court, in addition to any criminal sanction imposed, forfeit their interest in the land to the State.

(3) Where there is more than one owner of land subject to forfeiture under subsection (2), on an application under subsection (2) the High Court may, where the order of forfeiture has the effect of leaving an interest in the land in private ownership -

- (a) direct that the State may exercise an option to purchase the interest on payment of such reasonable compensation as to the court appears just; and
- (b) direct that in no event shall such compensation, excluding costs, be greater than -
 - (i) the commercial or market value of that land considered as a unit; and
 - (ii) minus the proportionate share of that value owned, or to be owned by the State under subsection (2).

Claims for compensation if any

7.(1) Any owner having an interest in or right over land, who claims that a compensational interest over such land of assessable value, has been compulsorily acquired by the coming into operation of this Act, may apply to the High Court for the fixing of compensation, if any, within 12 months of the coming into operation of this Act.

- (2) The claim for compensation shall be delivered to the Minister, by way of the Director of Lands, Bairiki, naming the amount demanded.
- (3) The period of time referred to in subsection (1) shall run regardless of whether the land in question is to be marketed or sold, within that time or at all.
- (4) All rights to claim, or to have considered or paid, any compensation, are extinguished if the claim is not filed in accordance with subsection (1).
- (5)(a) The Minister shall have 60 days to respond in writing to the claim, either accepting the amount demanded, or offering another amount.
- (b) Where the Minister makes no response to the claim after 60 days the Minister is deemed to have rejected the claim.
- (6)(a) Within 60 days from receipt of the Minister's response; or
- (b) where there is no response, within 120 days from the delivery of the claim,
- the owner may apply to the High Court for review of the Minister's decision, and the fixing of compensation, if any.
- (7) On the review, the amount of compensation to be paid, if any, exclusive of costs, shall be no more than the amount claimed under subsection (1).
- (8) Nothing in this section may be construed as a proof that a compensational property interest has been compulsorily acquired by the State under this Act.

SCHEDULE 1

List of Land to which the Act is Applicable

A. Tabuaeran/Fanning IslandBeing the details found in the Director of Land's Register entitled
"Fanning Is. Conveyances (Resettlement)"

Plot No	Name of Owner	Deed Number
96/1, 96/2	Mr. Willie Yee-On	1/89
31/1, 31/2	Eriu Eriu	2/89
68/1, 68/2	Tokaia Tiemruti	3/89
54/1,54/2	Tue Marakia	4/89
33/1,33/2	Biriata Teem	5/89
51/1,51/2	Biribo Rakoroa	6/89
38/1,38/2	Teikaua Ioteba	7/89
64/1,64/2	Kokoria Arioka	8/89
43/1,43/2	Kouratake Taribo	9/89
53/1,53/2	Berenato Ioteba	10/89
82/1,82/2	Tekabwere King	11/89
92/1,92/2	Taboia Teikarawa	12/89
75/1,75/2	Baraniko Baraki	13/89
82	Maeri Teaiwa	14/89
91/1,91/2	Tioti kaota	15/89
76/1,76/2	Mauta Marakia	16/89
59/1,59/2	Karibauriri Temaui	17/89
89/1,89/2	Ioana Tangibi	18/89
67/1,67/2	Tioti Teteki	19/89
34/1,34/2	Teaitao Biriata	20/89
63/1,63/2	Perry Tomari	21/89
95/1,95/2	Biribi Willie	22/89
27/1,27/2	Teetau Tebanei	23/89
83/1,83/2	Oben Arikitoun	24/89
62/1,62/2	Turi Teia	25/89
41/1,41/2	Naare Bakarere	26/89
WA/2,05/2	Teritebono Teritebono	27/89
29/1,29/2	Maritan Teruka	28/89
74/1,74/2	Merekite Ioram	29/89
86/1,86/2	Mewati Teweru	30/89
37/1,37/2	Teete Ioane	31/89
73/1,73/2	Anatore Ioteba	32/89
57/1,57/2	Eriki Marakia	33/89
77/1,77/2	Ioteba Mweretaka	34/89

66/1,66/2	Teboutabu Terikaua	35/89
65/1,65/2	Takirua Babaka	36/89
48/1,48/2	Neeti Nakara	37/89
28/1,28/2	Nera Tebungata	38/89
84/1,84/2	Batiku Terawa	39/89
Plot Number	Name of Owner	Deed Number
78/1,78/2	Timwa Teikarawa	40/89
71/1,71/2	Bureikia Tokaia	41/89
42/1,42/2	Tautara Teitao	42/89
30/1,30/2	Abimaere Arioka	43/89
50/1,50/2	Tekaibo Beniati	44/89
56/1,56/2	Maritino Ioteba	45/89
45/1,45/2	Teubaitoi Tio	46/89
85/1,85/2	Reere Temauri	47/89
87/1,87/2	Taibereti Bitakarawa	48/89
49/1,49/2	Taniera Tabanga	49/89
90/1,90/2	Barairai Karabung	50/89
39/1,39/2	Nakori Tebungata	51/89
47/1,47/2	Abitai Teitao	52/89
EA/1,LS/1	Namanoku Atauea	53/89
EC/2,LS/2	Taratau Tekitanga	54/89
WA/1,OS/1	Kamchou Yee-on	55/89
9/1,9/2	Kaiboia Iotua	56/89
25/1,25/2	Teekabu Tangibi	57/89
3/1,3/2	Tabuareroa Tabanga	58/89
14/1,14/2	Temauri	59/89
4/1,4/2	Tewarawara Ioane	60/89
15/1,15/2	Tiemruti Tokaia	61/89
5/1,5/2	Tabia Baraniko	62/89
19/1,19/2	Kaiboboki Tentaku	63/89
8/1,8/2	Kaaterire Turi	64/89
6/1,6/2	Eteri Moaniba	65/89
11/1,11/2	Nakara Matanga	66/89
10/1,10/2	Banewa Teatu	67/89
18/1,18/2	Baitongo Bateriki	68/89
21/1,21/2	Kaitu Tebukaiti	69/89
7/1,7/2	Erene Ioteba	70/89
22/1,22/2	Bobai Kaiboboki	71/89
17/1,17/2	Benti Baraam	72/89
26/1,26/2	Temaia Takaua	73/89
23/1,23/2	Taukoriri Temauri	74/89
Aontena No.6	Terere Temauri	75/90
32/2	Tabanga Tabuareroa	76/90
WB/5	Teakatu Iambere	77/90

B/19	Tiben Koteka	78/90
A/20	Torite Kotii	79/90
WA/5	Tiroa Bebeia	80/90
B/20	Kautabuki Tannang	81/90
WA/3	Ieremia Baka	82/90
Plot Number	Name of Owner	Deed Number
A4	Nareau Rawata	83/90
WA/4	Ioaa Ioane	84/90
B4	Taboia Tewita	85/90
88/1,88/2	Kaitara Tamaeri	86/90
44/1,44/2	Teiturangi Rakaroa	87/90
94/1,94/2	Taia Rakoroa	88/90
6/1,6/2	Erite Tamaeri	89/90
81/1,81/2	Teinai Tebatia	90/90
20/1,20/2	Orea Baraniko	91/90
52/1,52/2	Tebaka Temauri	92/90
2	Arioka Rakoroa	93/90
A8	Ubanaba Taraniman	94/90
B6	Bekua Ruoikabuti	95/90
40/1,40/2	Timau Tioa	96/91
Napari, Fanning EB/2	Raitai Utimawa	97/91
A14 (Napunairoa)	Boaa Tebano	98/91
(Napunairoa, Fanning)	Teereti Teuta	99/91
A13		
3 (Napunairoa)	Ubanaba Taraniman	100/91
2 (Napunairoa)	Torite Kotii	101/91
1 (Napunairoa)	Taboia Tewita	102/91
17/A (Napunairoa, Fanning)	Tatoa Koteti	103/91
12/B (Napunairoa, Fanning)	Kaua Itemaere	104/91
24/A (Napunairoa, Fanning)	Reewi Kiriati	105/91
A7 Napunairoa Fanning Is.)	Turai Natanga	106/91
EC.5,LS.3 Napari, Fanning	Buautoa Rabanna	107/91
36/1,36/2	Rakoroa Biribo	108/91
EB/6	Tanako Tiaon	109/91
16/1,16/2 Paelau, Fanning	Kaitu Teetau	110/91
9B Napunairoa, Fanning	Ratiang Naunieta	111/91
52 Towiriwiri, Fanning	Ariera Nokite	112/91
49 Towiriwiri, Fanning	Etera Etera	113/91

B. Teraina/Washington Island

Being the details found in the Director of Land's Register entitled
"Licences for Resettlement Washington Is"

Plot Number	Name of Owner	License Number
A.14	Teannaki Maungatabu	LN.WA: 1/90
A.13	Kantera Beiaun	LN.WA: 2/90
A.17	Veronika Teata	LN.WA: 3/90
	Tabanga Tematenako	LN.WA: 4/90
A.12	Rouben Teawanei	LN.WA: 5/90
A.3	Ionatan Arikita	LN.WA: 6/90
A.6	Naunta Teburea	LN.WA: 7/90
A.8	Tamoa Itibo	LN.WA: 8/90
A.11	Aroboti Tiaon	LN.WA: 9/90
A.10	Nabakai Nimarebu	LN.WA: 10/90
A.5	Teeta Tiaon	LN.WA: 11/90
A.4	Raiwan Airam	LN.WA: 12/90
A.2	Ioteba Teeta	LN.WA: 13/90
A.7	Tamaro Erene	LN.WA: 14/90
A.1	Tienang Bauteiti	LN.WA: 15/90
A.15	Betati Tewita	LN.WA: 16/90
A.9	Tanoa Bonebatio	LN.WA: 17/90
A.18	Touaiti kaitu	LN.WA: 18/90
	Takenibeia Mamara	LN.WA: 19/90
	Tominiko Imarena	LN.WA: 20/91
	Kiaua Teteki	LN.WA: 21/91
	Inga Moiwa	LN.WA: 22/91
	Timon Monguea	LN.WA: 23/91
	Kiaben Tara	LN.WA: 24/91
	Vakaliki Malolonga	LN.WA: 25/91
	Atanibuariki katanga	LN.WA: 26/91
	Erene Tawita	LN.WA: 27/91
	Tetaake Kautirake	LN.WA: 28/91
	Tutu Tibau	LN. WA: 29/91
	Birirake Kaimemeri	LN.WA: 30/91
	Bauro Tataua	LN.WA: 31/92
	Rurunga Terukaio	LN.WA: 32/91
	Tarangutu Tokiara	LN.WA: 33/91
	Ritang Rutia	LN.WA: 34/91
	Iotia Ribabaiti	LN.WA: 35/91

	Neemia Tetia	LN.WA: 36/91
	Takabea Iebeta	LN.WA: 37/91
	Taiiau Iuta	LN.WA: 38/91
	Tongarua Tetaake	LN.WA: 39/91
	Abineru Akeriba	LN.WA:40/91
Plot Number	Name of Owner	License Number
	Mikaio Amten	LN.WA: 41/91
	Roete Robati	LN.WA: 42/91
	Biribo Atema	LN.WA : 43/91
	Ionatan Wikiribi	LN.WA : 44/91
155	Raatu Kaiteie	LN.WA : 45/91
13B	Uaieta Kaibeau	LN.WA : 46/91
141	Tibwere Bwato	LN.WA : 47/91
140	Teitibo Tawitiana	LN.WA : 48/91
139	Ieremo Kuarawete	LN.WA : 49/91
145	Aboki Winiuea	LN.WA : 50/91
156	Wanikaie Nauoko	LN.WA : 51/91
143	Rawata Teriakai	LN.WA : 52/91
142	Taburimai Beabu	LN.WA : 53/91
146	Tione Kotao	LN.WA : 54/91
148	Auatabu Tebaatau	LN.WA : 55/91
147	Tabotabo Teekea	LN.WA : 56/91
144	Teitintarawa Maata	LN.WA : 57/91
149	Tetuai Boruru	LN.WA : 58/91
150	Wiibo Tirikai	LN.WA : 59/91
151	Maiki Barao	LN.WA : 60/91
153	Baiteke Tatonu	LN.WA : 61/91
152	Ueue Bio	LN.WA : 62/91
154	Tiira Matata	LN.WA : 63/91
109	Tanua Uria	LN.WA : 64/91
102	Teweiaatau Koina	LN.WA : 65/91
106	Mango Aretana	LN.WA : 66/91
107	Maerere Koina	LN.WA : 67/91
111	Morei Bataka	LN.WA : 68/91
105	Tannang Teuarai	LN.WA : 69/91
124	Itimweara	LN.WA : 70/91
131	Utimawa Beia	LN.WA : 71/91
125	Bwena Teuea	LN.WA : 72/91
136	Makaua Tekabwebwere	LN.WA : 73/91
127	Titaake Biteiti	LN.WA : 74/91
137	Rateti Aretania	LN.WA : 75/91
121	Biremon Ieita	LN.WA : 76/91
122	Tooma kabobouea	LN.WA : 77/91
120	Tebarine Makata	LN.WA : 78/91

123	Burentarawa Binauea	LN.WA : 89/91
128	Teata Taeuea	LN.WA : 80/91
129	Tarerei Tautua	LN.WA : 81/91
126	Nangita Biteiti	LN.WA : 82/91
130	Bureka Temoone	LN.WA : 83/91
Plot Number	Name of Owner	License Number
134	Barekiau Teakin	LN.WA : 84/91
135	Matibei Iabo	LN.WA : 85/91
135	Mataio Terubea	LN.WA : 86/91
103	Emita Tianuare	LN.WA : 87/91
108	Teawaki Teitiba	LN.WA : 88/91
104	Terakau Teamangu	LN.WA : 89/91
110	Moriti Tonga	LN.WA : 90/91
114	Tereke Teema	LN.WA : 91/91
112	Nateri Nateri	LN.WA : 92/91
113	Metara Taramon	LN.WA : 93/91
132	Betero Teangauba	LN.WA : 94/91
116	Atiberi Babeia	LN.WA : 95/91
115	Titiona Tebati	LN.WA : 96/91
118	Rubemaaki Riannaba	LN.WA : 97/91
117	Aberata Miita	LN.WA : 98/91
119	Tenuata Tioneri	LN.WA : 99/91

REPUBLIC OF KIRIBATI

STATE PRE-EMPTIVE RIGHT OF PURCHASE ACT 2001

SCHEDULE 2

(Section 4)

NOTICE BY THE OWNER TO THE REPUBLIC TO ALIENATE LAND

Name of owner

Address/Phone/fax of owner

Name of lawyer or representative of owner

Address/phone/fax

Legal description of plot to be sold

Name of proposed purchaser

Address/Phone/fax

Name of lawyer or representative of purchaser

Address/Phone/fax

Terms of the proposed purchaser's offer [including all payment terms]_____

And attached is a copy of the offer.

DATE:

SIGNED:

*Note: The owner understands that under section 6 of the Act, it is a serious offence to present a false offer. In addition to being subject to a \$5,000 fine and 5 years imprisonment, an owner who presents a false offer, may forfeit the land to the State.

STATE PRE-EMPTIVE RIGHT OF PURCHASE ACT 2001

EXPLANATORY MEMORANDUM

The Government wishes to establish strategic plans for settlement of State lands on the Line Islands and perhaps also the Phoenix Islands later on. These are lands on which there was no permanent pre-European settlement. This Government policy is one of the purposes for the State Lands Act.

In the last few years some State land on Kiritimati, Tabueran and Teraina Islands, (section 2(1)) have been made available for settlement. The Government at that time transferred these lands in fee simple ownership estate. This land estate gives power to owners to transfer the land without reference to or consent of the State.

This right of transfer without Government approval is inconsistent with the present Government's philosophy, on the appropriate way to settle these islands. The Government wants these lands to be made available for families with too little, or no land. The owners of land on these islands, in fee simple estate, are entitled to sell the land to any adult I Kiribati. This means purchasers can accumulate a number of plots of land, or they can let the land sit idle.

This is unsatisfactory because Kiribati has finite land resources, and the Republic sees crowded and unhealthy living situations developing in some places like South Tarawa. It is Government policy to safeguard against these conditions being allowed to develop at the Line Islands. Furthermore Kiribati wants these fee simple lands to be subject to some land planning controls similar to the controls proposed under the State Lands Act.

The pre-emptive purchase law allows government to take back these lands by way of purchase, whenever the owner tries to sell the land to a private purchaser. The present owner will receive the same payment when Government buys the land as would have been paid by the prospective private purchaser (sections 3 & 4).

Government is also concerned that an owner of land that becomes subject to the State's pre-emptive purchase right may try to take improper advantage of the State's desire to buy the land back.. For this reason severe penalties have been devised, including forfeiture of the land where an owner is found to have tried to cheat the Government (section 6).

Section 7 of the Act provides for a process for owners to claim compensation if an owner suggests that an interest in land has been compulsorily acquired, and that the owner has lost real value as a result. The Government is of the view that, because the proposed Bill does not compulsorily acquire anything [it only provides for a right of first refusal on the sale], and because the owner will get the same price from the State purchaser as it would from a *bona fide* private purchaser, that there is no compulsory taking, and no loss to owners affected by the Act.

Michael N. Takabwebwe
Attorney General
6 October 1999