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P.L. 2006-67

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**AN ACT**

to amend the "Local Government Act, 1980" in order to ensure that any member of a Local Government who is suspected of having committed or of committing criminal activities is investigated and if appropriate, prosecuted; and for related matters.

**BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:**

**Section 1. Short Title.**

This Act may be cited as the Local Government (Amendment) Act, 2006.

**Section 2. Amendments.**

(1) Section 140 of the Local Government Act, 1980 is hereby amended to read as follows:

**§140. Audit.**

(1) The Minister may arrange for an audit inspection of the funds and accounts of a local government to be carried out by the Auditor-General or a person authorized by him in the following circumstances:

- (a) on the petition of not less than twenty-five percent (25%) of the registered voters in the local government area; or
- (b) of his own motion, if he has reason to suspect any fiscal irregularity in the conduct of the affairs and operations of the local government.

(2) For the purpose of an audit inspection under Subsection (1) of this Section, the Auditor-General or authorized person has the powers and rights specified in

1 Article VIII, Section 15 of the Constitution of the Marshall Islands.

2 (3) The report on the audit inspection shall be sent to the Minister (who may, if he  
3 thinks it proper to do so, publish it), and to the local government. [P.L. 1981-2, §40.]

4 (4) Where the Minister has been provided with evidence that any member  
5 of a Local Government has committed or is committing illegal activities, the  
6 Minister shall refer the matter to the Attorney General's office for further  
7 investigation or prosecution.

8 (5) For the purposes of subsection (4), evidence provided to the Minister may  
9 include-

10 (a) findings of the Auditor-General in the report provided under subsection  
11 (3); or

12 (b) reliable evidence from any other source.

13 (6) Any member of a Local Government who is convicted of an offense under this  
14 Act or any other enactment of the Marshall Islands or under the Constitution of a  
15 Local Government shall –

16 (a) in the case of an elected official, if convicted of a felony, be required to  
17 stand down from office; or

18 (b) in the case of an employee, if convicted of a felony, be terminated from  
19 employment.

20 (7) Where an elected official has been required to stand down from office under

1 subsection 6(b), a new officer shall be elected or appointed in accordance with  
2 the provisions of the Constitution of that Local Government.

3  
4 (2) Section 141 of the Local Government Act, 1980 is hereby amended to read as follows:

5 **§141. Inquiries.**

6 (1) The Minister may appoint, in writing, a person to inspect the affairs of a local  
7 government under the following circumstances:

- 8 (a) on the petition of not less than twenty-five percent (25%) of the registered  
9 voters in the local government area; or  
10 (b) of his own motion, if he has reason to suspect any irregularity,  
11 mismanagement or failure to comply with the law in the conduct of the  
12 affairs and operations of the local government.

13 (2) An inspector:

- 14 (a) shall be allowed, by the local government and other persons, full and free  
15 access to all records of or relating to the local government,  
16 (b) may take evidence, orally or in writing, from any person, on oath or  
17 affirmation;  
18 (c) may require any person to attend and give evidence, or to produce any  
19 document; and  
20 (d) generally, shall make full and impartial inquiry into the affairs and

1 operations of the local government.

2 (3) For the purposes of his inquiry an inspector may administer oaths and  
3 affirmations.

4 (4) A person who hinders or obstructs an inspector in the performance of his  
5 functions, or subject to Subsection (5) of this Section, fails to comply with a  
6 requirement under Subsection (2)(c) of this Section, shall be guilty of a  
7 misdemeanor and shall upon conviction be liable to a fine not exceeding \$500 or  
8 to a term of imprisonment not exceeding six (6) months, or both.

9 (5) It is a defense to a charge of an offense against Subsection (4) of this Section if  
10 the accused person proves that the evidence or document was not relevant to the  
11 inquiry.

12 (6) The report of the inquiry shall be sent to the local government and to the Minister  
13 who may, if he thinks it proper to do so, publish it. [P.L. 1981-2, §41.]

14 (7) Where the Minister has been provided with evidence that any member of  
15 a Local Government has committed or is committing illegal activities, the  
16 Minister shall refer the matter to the Attorney General's office for further  
17 investigation or prosecution.

18 (8) For the purposes of subsection (7), evidence provided to the Minister may  
19 include-

20 (a) findings of the inspector in the report provided under subsection (6); or

1 (b) reliable evidence from any other source.

2 (9) Any member of a Local Government who is convicted of an offense under this  
3 Act or any other enactment of the Marshall Islands or under the Constitution of a  
4 Local Government, shall -

5 (a) if convicted of a misdemeanor offense, be suspended; or

6 (b) if convicted of a felony, be terminated from employment.

7 (10) Where an elected official has been required to stand down from office under  
8 subsection 9(b), a new officer shall be elected or appointed in accordance with  
9 the provisions of the Constitution of that Local Government.

10  
11 (3) Section 142 Subsections (4) and (5) of the Local Government Act, 1980 are hereby  
12 deleted in their entirety; and Subsections (6) and (9) are amended to read as follows:

13 **§142. Suspension of local government.**

14 (1) If the operation, administration or financial condition of a local government  
15 endangers the health, safety or economic well being of a local government area, or  
16 if suspension is recommended in a report under Section 140 or 141 of this  
17 Chapter, the Cabinet may, by written order served on the local government:

18 (a) suspend the operation of a local government; and

19 (b) appoint an Administrator-Receiver for the local government and vest in  
20 him some or all of the powers and functions of the local government.

- 1           (2)    In relation to powers and functions vested in him under Subsection (1 )(b) of this  
2            Section, the Administrator-Receiver shall be deemed to be, and shall act in the  
3            name of, the local government.
- 4           (3)    The suspension and the appointment of an Administrator-Receiver shall be  
5            immediately communicated to the local government and promulgated in the local  
6            government area.
- 7           (4)    Nothing prevents an action for a declaratory judgment in the High Court or other  
8            remedy by any member of the Council arising out of the same issues, or out of the  
9            suspension or of the appointment or actions of the Administrator Receiver.
- 10          (5)    The suspension of a local government and the appointment of an Administrator  
11          Receiver terminates automatically upon the occurrence of either of the following,  
12          but in any case upon termination by the Cabinet:
- 13           (a)    if the High Court advises or declares that the appointment was not  
14            justified;
- 15           (b)    at the end of the period of one year:
- 16           (c)    immediately after the next general election to the Council; or
- 17           (d)    when the Administrator-Receiver advises the Minister, in writing, that the  
18            danger is past or the other cause of the suspension has been eliminated.
- 19          (6)    An Administrator-Receiver may, by notice in writing to the Minister, resign his  
20          office, and the Cabinet may terminate his appointment at any time without

1 terminating the suspension.

- 2 (7) Prior to the end of the term of appointment of the Administrator-Receiver, or in  
 3 the case of a termination under Subsections (5) or (6), on the termination of his or  
 4 her appointment, an Administrator-Receiver shall account to -  
 5 (a) the Minister; and  
 6 (b) through the Minister, to the Cabinet and the local government -  
 7 for his activities (including his financial and property operations). [P.L. 1981-2, §42.]  
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9 **Section 3. Effective Date**

10 This Act shall take effect on the date of certification, in accordance with the Constitution  
 11 and the Rules of Procedures of the Nitijela.  
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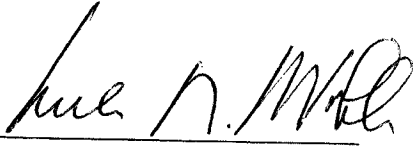
14 **CERTIFICATE**

15 **I hereby certify:**

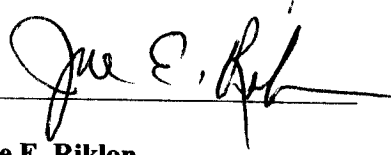
- 16  
 17 (1) That Nitijela Bill No: 113ND2 was passed by the Nitijela of the Republic of the Marshall  
 18 Islands on the 6<sup>th</sup> day of November, 2006; and  
 19 (2) That I am satisfied that Nitijela Bill No.: 113ND2 was passed in accordance with the  
 20 relevant provisions of the Constitution of the Republic of the Marshall Islands and the  
 21 Rules of Procedures of the Nitijela.

1  
2 I hereby place my signature before the Clerk this 5<sup>th</sup> day of December, 2006.

3 Attest:

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6 **Ruben R. Zackhras**  
7 Vice-Speaker  
8 Nitijela of the Marshall Islands

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5

6 **Joe E. Riklon**  
7 Clerk  
8 Nitijela of the Marshall Islands