NITIJELA OF THE MARSHALL ISLANDS

25TH CONSTITUTIONAL REGULAR SESSION, 2004 **BILL NO: 9ND1**

P.L. 2004-4

AN ACT

to amend the Probate Code, 25 MIRC Chp.1, to streamline the procedures for probating estates and for related matters.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS

SECTION 1. Short Title

This Act may be cited as the Probate (Amendment) Act, 2004

SECTION 2. Amendments

(1) Section 111 of the Probate Code, 25 MIRC Chp.1 (Probate Code) is amended to read as follows;

§111. Complaints for transfer of decedent's personalty to beneficiaries and creditors; when authorized.

When a decedent leaves personal property, including but not limited to cash, bank or other accounts, wages or salary due, shares of stock or other interest in any business enterprise, and goods and chattels of any nature, and the person or persons entitled to the personal property left by the decedent cannot readily obtain possession thereof, the surviving spouse, any adult child, including an adopted child, or if none of the above persons survived the decedent, the nearest surviving relative may file a sworn complaint in the High Court asking for the issuance of an order that such personal property be transferred to the complainant. If none of the persons named in this Section file such complaint within ninety

(90) days of the death of the decedent, then any creditor of the decedent may file a sworn complaint as set forth herein.

(2) Section 112 of the Probate Code is amended to read as follows:

§112. Same; contents.

Such sworn complaint shall set forth the name, residence and date of death of the decedent, and the names and addresses of the surviving spouse, and children or if none of the above persons survived the decedent, the name, address, and relationship of the nearest surviving relative. The complaint shall also state the total value of the personal property, and the property, if any, that passed or is to pass under either intestate or under a will, and to whom it went or is to go, and shall contain the promise of the complainant to pay, as far as the assets of the estate permit, the debts of the decedent,and to distribute the balance, if any, to the person or persons entitled thereto.

(3) Section 116 of the Probate Code is amended to read as follows;

§116. Settling small estates.

When decedent leaves an estate of personal property valued at less than two thousand and five hundred dollars ($2,500), the next closest surviving relative, as defined in Section 118, may obtain possession of any such award or awards by affidavit, duly notarized, stating his or her authority.

(4) **Section 117 of the Probate Code is amended to read as follows;**

§117. Contents of the affidavit.

The affidavit referred to in Section 116 shall state:

(a) the name, last residence, and date of death of the decedent;

(b) the relationship claimed by the affiant and, if not the closet surviving relative, the authority under which the affiant claims;

(c) the names and addresses of any surviving spouse, children, and any survivor of the decedent who is more closely related to the decedent than the affiant;

(d) nature and the value of the assets of the estate;

(e) whether or not the decedent left a will and, if so, to whom the decedent gave the assets of the estate;

(f) an undertaking of the affiant to pay any debts of the decedent to the extent of the assets; and

(g) the names of persons entitled to a distribution of the assets and the share to which each is entitled.

(5) Section 120 of the Probate Code is amended to read as follows;

§120. Settling estates consisting of nuclear claim proceeds.

When a decedent leaves an estate consisting in whole or majority part (over fifty percent of the total value of such estate) of a right to proceeds of an award or awards made

be the Marshall Islands Nuclear Claims Tribunal the claimant or petitioner may use the services of the Office of the Public Defender or the Micronesian Legal Services Corporation.

(6) Section 121 of the Probate Code is deleted

Section 3. **Effective Date**

This Act shall take effect upon certification in accordance with Article IV Section 21 of the Constitution.

CERTIFICATE

I hereby Certify:

(2) that the above Nitijela Bill no:**9ND1** was passed by the Nitijela of the Marshall Islands on the 29th day of SEPTEMBER, 2004; and

(3) that I am satisfied that Nitijela Bill No:**9ND1** was passed in accordance with the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela..

I hereby place my signature before the Clerk of the Nitijela this 5th day NOVEMBER 2004.

Attest:

Lifokwa Tomeing
Speaker
Nitijela o f the Marshall Islands

Joe E Riklon
Clerk
Nitijela of the Marshall Islands