

# (Draft of) **AN ACT** (proposed)

**To Promote Privately Funded Space Exploration and Settlement by implementing, in part, the President’s Commission on Implementation of United States Space Exploration Policy Recommendation 5-2: “...to provide incentives for entrepreneurial investment in space...” “...by assuring appropriate property rights for those who seek to develop space resources and infrastructure.”**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## **SECTION 1. SHORT TITLE**

This Act may be cited as "The Space Settlement Prize Act" or "An Act to Promote Privately Financed Space Settlement".

## **SEC. 2. FINDINGS**

The Congress finds that —

- (1) The expansion of the human habitat through the establishment of space settlements is a normal continuation of the age-old human drive to explore and settle unknown territory and will be of inestimable value for America and all mankind;
- (2) Privately financed space exploration and settlement is preferable to taxpayer financing, because the government needs to limit its own expenditures;
- (3) Space exploration and settlement with private financing will produce new tax revenues for the United States;
- (4) A new, additional, incentive is needed because the potential short-term profit sources are currently much too small to attract the billions of dollars of private capital necessary;

- (5) The potential value of land on the Moon, Mars, or an asteroid can provide an additional economic incentive for privately funded space settlement at no cost to the government;
- (6) Prizes such as the Orteig Prize and the Ansari X Prize have an excellent record of promoting privately funded innovation, so Congress wishes to establish a "Space Settlement Prize" to promote the human settlement of the Moon and Mars.
- (7) At some time in the future Congress may be in a position to add an appropriately large monetary award, but, for now at least, the tremendous economic value of land claims recognition should be more than sufficient.
- (8) There is currently no international law on private land ownership in space, because most major nations have deliberately refused to ratify "The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, 1979, (hereafter called the "Moon Treaty"). The U.S. Senate's refusal to ratify means that the Moon Treaty's provisions are not "the law of the land" in U.S. courts, and therefore do not inhibit the actions of U.S. citizens or legislators;
- (9) More importantly, the framers of the Moon Treaty found it necessary to attempt to write a rule forbidding private ownership of land on the Moon, clearly confirming that such an objective had not already been accomplished by "The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies", 1967, (hereafter known as the "Outer Space Treaty"), nor by U.N. resolution GA/res/1962;
- (10) The ratification failure of the Moon Treaty means there is no legal prohibition in force against private ownership of land on the Moon, Mars, etc., as long as the ownership is not derived from a claim of national appropriation or sovereignty (which is prohibited by the Outer Space Treaty);
- (11) Presumably it is only a matter of time until new treaties are negotiated, establishing a functional private property regime and granting suitable land ownership incentives for privately funded space settlements. The U.S. will, of course, abide by such new international law when it has ratified such a new treaty. But, given the urgent need for privately funded human expansion into space, as soon as possible, something must be done immediately, on a provisional basis, to correct the present inefficiencies in the international standard on property rights in space and to promote privately funded space exploration and settlement;

(12) For property rights on the Moon, Mars, etc., the U.S. will have to recognize natural law's "use and occupation" standard, rather than the common law standard of "gift of the sovereign", because sovereignty itself is barred by existing international treaty;

(13) U.S. courts already recognize, certify, and defend private ownership and sale of land which is not subject to U.S. national appropriation or sovereignty, such as a U.S. citizen's ownership (and right to sell to another U.S. citizen, both of whom are within the U.S.) a deed to land which is actually located in another nation. U.S. issuance of a document of recognition of a settlement's claim to land on the Moon, Mars, etc., can be done on a basis analogous to that situation;

(14) This legislation concerns only the issuance of such a U.S. recognition and acceptance of a settlement's claim of *private* land ownership based on use and occupation, regardless of the nationality of the owner, and nothing in it is to be considered a claim of national appropriation of, nor sovereignty over, any outer space body, or any part thereof;

(15) The U.S. does not claim the right to "confer" private land ownership, and the U.S. states it is most definitely not making any claim of "national appropriation by claim of sovereignty, by means of use or occupation, or any other means" as prohibited by the Outer Space Treaty.

### **SEC. 3. DEFINITION**

Private entity: An individual, corporation, or consortium of companies and individuals or a consortium of individuals that is not controlled by any sovereign state or government.

### **SEC. 4. RECOGNIZING EXTRATERRESTRIAL PRIVATE PROPERTY**

(1) All U.S. courts and agencies shall immediately give recognition, certification, and full legal support to land ownership claims based on use and occupation, of up to the size specified in Sections 6.1, 6.2, and 6.3 below, for any private entity which has, in fact, established a permanently inhabited settlement on the Moon, Mars, or an asteroid, with regular transportation between the settlement and the Earth open to any paying passenger.

(2) For a land claim to receive such recognition and certification, the settlement must be permanently and continuously inhabited. The location and the population of the settlement may

change, as long as there continues to be an inhabited settlement within the original claim.

(3) Deliberate abandonment of the settlement shall be grounds for invalidating land ownership recognition derived from that settlement, but there shall be no penalty for brief unintentional absences caused by accident, emergency, or aggression.

(4) Recognized ownership of land under this law shall include all rights normally associated with land ownership, including but not limited to the exclusive right to subdivide the property and sell portions to others, to mine any minerals or utilize any resources on or under the land, as long as it is done in a responsible manner which does not cause unreasonable harm to the environment or other people;

(5) If the requirements of this law continue to be met, all rights, privileges, and responsibilities shall be immediately transferable by sale, lease, or other appropriate means to any other private entity.

(6) As long as the required conditions continue to be met, U.S. recognition documents shall remain valid for 100 years or until the U.S. ratifies a treaty that establishes an international property rights regime which gives comparable reward to privately funded settlement, whichever comes sooner;

(7) The U.S. pledges to defend recognized extraterrestrial properties by imposing appropriate sanctions against aggressors, whether public or private. It pledges never to allow the sale to U.S. citizens of any extra terrestrial land which was seized by aggression. But it makes no pledge of military defense of recognized extraterrestrial properties.

(8) If, after ten years, these limits prove to have been insufficient to get privately funded settlement efforts started, Congress, or some national or international authority it delegates, shall consider whether the maximum size of claims should be enlarged.

## **SEC. 5. CLAIMANTS' OBLIGATIONS**

(1) The claimant must commit to consistently make good faith efforts to promptly offer, or arrange for, safe and reliable transportation to and from the settlement to all, regardless of nationality, who are willing to pay a fare sufficient to cover expenses and a reasonable profit.

(2) The claimant may not unreasonably deny landing rights, and the right to transport passengers and cargo, to any other safe and peaceful vehicle willing to pay a reasonable fee for such landing rights.

(3) The claimant may set appropriate standards of behavior and safety, etc., for passengers and cargo and the use of its facilities, but it may not act in an anti-competitive manner.

(4) If demand for transport exceeds supply, and the claimant is making a good faith effort to increase the availability of transport, it may give preference to passengers and cargo offering the largest financial inducement.

## **SEC. 6. RECOGNIZED CLAIM SIZE**

On Earth's Moon:

(1) The private entity that establishes the first such settlement on the Moon and meets the other conditions of this law shall be entitled to receive full and immediate U.S. recognition and certification of its claim of ownership of up to 600,000 square miles in a contiguous, reasonably compact shape which includes its base.

On Mars:

(2) Given the greater distance, higher costs and larger amount of available land on Mars, the private entity that establishes the first such settlement on Mars shall be entitled to receive full and immediate U.S. recognition and certification of its claim of ownership of up to 3,600,000 square miles in a contiguous, reasonably compact shape which includes its base.

On Asteroids:

(3) The private entity that establishes a permanently inhabited base on an asteroid shall be entitled to receive full and immediate U.S. recognition and certification of its claim of ownership of up to 600,000 square miles in a contiguous, reasonably compact shape that includes its base, or the entire asteroid if its surface area is smaller than 1,000,000 square miles.

## **SEC. 7. SUCCESSIVE CLAIMS**

(1) No entity (nor two entities which are effectively under the same control) shall receive recognition for a controlling interest in two land claims on the same body;

(2) Each successive settlement on a body may receive recognition for a claim of up to fifteen percent less than the preceding one was entitled to;

(3) An entity in control of one settlement may sell services, such as transport, to a

genuinely independent entity which establishes a different settlement and makes a second claim on that body.

## **SEC. 8. CONCURRENT CLAIMS**

(1) In the event it cannot be established which of two settlements on the same body was established first, each may claim seven and one half percent less territory than it would have been entitled to if it were clearly the first of the two.

(2) If, in such a case, the land claims of the two settlements overlap, and the claimants are unable to divide the land between them through negotiation, a U.S. court shall allocate the land between the two settlements as seems fitting, before recognizing the claims.

## **SEC. 9. INTERNATIONAL RELATIONS**

(1) The U.S. urges other countries to adopt similar laws, and the State Department is hereby instructed to try to negotiate a new multi-lateral treaty, or bi-lateral treaties with individual like-minded nations, making the same land claims recognition rules into international law.

(2) All rights and privileges conferred by this law shall be available equally to the citizens (individual and/or corporate) of any nation which passes laws or ratifies a treaty offering similar rights to U.S. citizens.

(3) If need be to secure international agreement, the State Department is authorized to agree to treaties which require that all claimants must be consortia which include companies or citizens from several different countries. It can even be required that at least one of the partners in each consortium be from a developing country.