

A BILL FOR AN ACT

To provide for legislative review of permits issued by the national government Division of Cultural Affairs as provided by 19 PNCA 134, to charge an application fee of \$100.00 for such permit, and for related purposes.

THE PEOPLE OF KOROR REPRESENTED IN THE LEGISLATURE OF THE STATE OF KOROR DO ENACT AS FOLLOWS:

SECTION 1. FINDINGS.

The Eighth Koror State Legislature hereby finds that the "Historic and Cultural Preservation Act" (19 PNCA 101 et seq.) delegates to the State of Koror exclusive ownership and control over historical sites and tangible cultural property located on lands or waters owned or "controlled" by the State of Koror (19 PNCA 134). Section 134 of Title 19 of the Palau National Code also requires State Legislature approval of any permit issued by the Division of Cultural Affairs of the national government relating to historical sites and tangible cultural property, including restrictions and covenants controlling permitted activities for the preservation of historical sites and tangible cultural property.

The Legislature further finds that costs and expenses will be incurred by Koror State Government to adequately review permit applications, and to make an informed decision relating to the grant of a permit.

It is in the best interests of the people of the State of Koror to provide a mechanism for the approval by the Koror State Legislature of permits issued by the Division of Cultural Affairs and its agencies and offices, and to charge a fee to help defray the costs and expenses of the permit application process.

SECTION 2. DEFINITIONS.

A. As used in this Act:

(1) "Division" means the Division of Cultural Affairs of the national government, and all bureaus and agencies and personnel of the Division including the Historical Preservation Office.

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(2) "public lands" means land owned or controlled by the State of Koror, including all public lands owned by Koror State Government pursuant to Article I, section 4 of the Koror

1 State constitution, and all land owned, administered, maintained, or otherwise managed by the
2 Koror State Public Lands Authority, and any other land that Koror State Government or the
3 Koror State Public Lands Authority may own or control even if no acts of ownership or
4 control are currently exercised by the State of Koror or the Koror State Public Lands
5 Authority.

6 (3) "public waters" includes all ocean and fresh water, including marine lakes,
7 freshwater lakes, rivers, streams, springs, pools, tidal wetlands, and all other wetlands, and all
8 of which are owned or controlled by the State of Koror or the Koror State Public Lands
9 Authority, including all such waters within the territory of the State of Koror as defined in
10 Article I, sections 1-4 of the Koror State constitution.

11 B. The definitions of the terms "historical sites" and "tangible cultural
12 property" shall have the same meanings as found in Title 19 of the Palau National Code, the
13 "Historic and Cultural Preservation Act" (19 PNCA 101 et seq.).

14 **SECTION 3. REVIEW OF PERMIT ACTIVITY UNDER 19 PNCA 134;**
15 **PRIVATE ATTORNEY GENERAL PROVISIONS; INJUNCTIVE RELIEF.**

16 A. When the Division desires to issue any permit relating to historical sites and
17 tangible cultural property on or in public lands and/or public waters of Koror, a written request
18 for the approval of such permit shall be provided by the Division to the Speaker of the Koror
19 State Legislature and to the House of Traditional Leaders of Koror State Government and to
20 the Department of Social and Cultural Affairs in advance of the effectiveness of any permit.
21 No permit will be valid or effective until approved by the Legislature in accordance with this
22 Act. A non-refundable application fee of \$100.00 shall be paid to Koror State Government by
23 the builder or owner who is seeking the permit before the Legislature will consider the written
24 request by the Division.

25 B. The application shall be referred to the Committee on Social and Cultural Affairs,

26 which shall work in consultation with the House of Traditional Leaders and the Department of
27 Social and Cultural Affairs in reviewing and considering the application. The Committee on
28 Social and Cultural Affairs shall report to the Legislature with findings and recommendations

1 relating to the application.

1 C. The Legislature may approve, disapprove, refer back with comments or
2 suggestions for any permit activity, or take any other action relating to the approval or
3 consideration of the request by the Division, all within fifteen (15) days of receipt of the request
4 made by the Division. The Legislature may extend this period for an additional fourteen (14)
5 days, and the Legislature may also defer consideration and action of a request if further studies,
6 archaeological digging, consultation, expert or semi-expert examination, or other site inspection
7 needs to be made. If the Legislature is satisfied and desires to approve a request for permit, the
8 permit may be approved by a majority of a lawful quorum present and voting.

9 D. Any permit activity request that is referred by the Legislature back to the Division,
10 and thereafter presented again to the Legislature, shall be treated as an initial request for permit
11 activity as described above, and shall go through the same review and consideration processes
12 as described herein above.

13 E. Any permit issued by the Division shall be null and void ab initio unless and until
14 approved by the Legislature. Any citizen of Koror, and any person who has physically resided
15 in the State of Koror for more than thirty (30) consecutive days, the House of Traditional
16 Leaders, and the Legislature may file suit to enforce the provisions of this Act, and to prevent
17 any activity purportedly authorized by permit issued by the Division if such permit is not
18 approved by the Legislature in advance. If such individual succeeds on his or her claim as
19 determined by the court, then the court shall award reasonable attorney's fees, costs, and
20 expenses, all as may be incurred by the successful plaintiff, including pre-litigation costs and
21 expenses.

22 F. The court in any action may issue any injunctive relief appropriate to prevent a
23 violation of this Act, and to protect and preserve historical sites and tangible cultural property
24 of the State of Koror. Damage to historical sites and tangible cultural property of the State of
25 Koror shall be deemed "irreparable".

26 **SECTION 4. APPLICATION FEE; USES OF FEES; SUNSET DATE.**

27 A. The person seeking to do or perform any work that requires the issuance of a
28 permit as required by this Act shall pay a non-refundable application fee of \$100.00 to Koror

1 State Government. The application fee shall be paid at or before the time the application is
2 initially

1 submitted to the Legislature. The timing for the processing of the application as described in
2 Section 3 does not begin to run until the fee is paid to Koror State, and the Legislature is not
3 obligated to act on the application until the fee is paid.

4 B. The fees collected for applications shall be used for the following purposes:

5 (1) to pay costs and expenses of reviewing, considering, and acting upon
6 applications, including field observations, hiring experts or consultants, Committee expenses,
7 communications costs and expenses, and matters relating to investigation of the merits of the
8 application and the historical site or tangible cultural property involved.

9 (2) to pay for the maintenance and preservation of Koror State historical sites
10 and tangible cultural property, including objects from the National Lagoon Monument;

11 (3) to pay for the display of tangible cultural property.

12 D. The application fees collected by this Act shall be collected until December 31,
13 2017.

14 **SECTION 5. SEVERABILITY.**

15 In the event that a court of competent jurisdiction determines that any part or portion
16 of this law is invalid, then the offending portion or portions may be stricken, and the
17 remaining portions shall continue in full force and effect to the greatest extent possible.

18 **[sic] SECTION 6. EFFECTIVE DATE.**

19 This Act shall become effective upon its becoming law by operation of the Koror State
20 constitution, and thereafter upon approval by the Minister of Justice pursuant to 40 PNC
21 21012105..

PASSED ON: May 1, 2007

[sic]

CERTIFIED BY:

ATTESTED TO BY:

EIGHTH KOROR STATE LEGISLATURE

KSPL No. K8-183-2007

Tenth Day Third Regular Session, May 11 , 2007

Bill No.: 8-20

Timothy "Tero" Uehara
Speaker
Eighth Koror State Legislature

Pasquana Flowers
Assistant Clerk
Eighth Koror State Legislature

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Pasquana Flowers
Assistant Clerk
Eighth Koror State Legislature

APPROVED ON THIS 28th DAY OF May, 2007

/s/
Yositaka Adachi
Governor Koror State