

AN ACT

To provide for the recognition of both the economic and non-economic values inherent in all living and non-living resources contained within the coral reef ecosystems located in Koror State waters, to authorize the Governor to promulgate rules and regulations for the enforcement of this Act, 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 Sixth Koror State Legislature (the "Legislature") hereby finds that Koror State is the exclusive owner of all living and non-living resources located from the traditional baselines to twelve nautical miles seaward under Article I, Section 2 of the Republic of Palau Constitution, and that this ownership is confirmed in Article 1, Section 4 of the Koror State Constitution. Additionally, the Government of the State of Koror is charged with taking every step reasonable and necessary to promote, among other things, the well being of all of the people in the State of Koror pursuant to Article X, Section 3 of the Koror State Constitution.

The Legislature additionally finds that the living and non-living resources contained within the coral reefs located in the waters of the State of Koror constitute a fragile marine ecosystem that has developed over hundreds of thousands of years. This non-fungible ecosystem is subject to instantaneous injury or loss and degradation from a variety of negligent and willful acts or omissions of various parties, in addition to being subject to various natural stresses and threats such as bleaching and erosion, and contains natural processes that cannot be fully replicated. The Legislature also regrettably finds that the parties responsible for negligent and willful acts causing damage to the coral reef ecosystem invariably take advantage of the fact that inherent biological uncertainties mean that accurate valuations of the coral reef ecosystems are difficult and assert that the portion or portions of the coral reef ecosystem damaged due to their negligent or willful acts or omissions have no economic value to the people of Koror State.

It is in the best interests of and in promotion of the well being of the People of the State of Koror and the Republic of Palau that the Legislature delineates for all parties, including (without limitation) all courts of competent jurisdiction, the economic and non-economic values to be considered in all cases brought by the State of Koror against persons or vessels damaging

any part of coral reef ecosystems located within the State of Koror and ensures that all parties who cause damage to the coral reef ecosystems of the State of Koror are apprised of the inherent importance of the coral reef ecosystems and the value, both economic and non-economic, of the same to past, current and future generations of the people of the State of Koror and the Republic of Palau and to the people of all nations of the Earth.

SECTION 2. DEFINITION

A. As used in this Act, the following words shall have the meaning described below:

1. "coral reef ecosystem" means all of the living and non-living organisms, structures and systems inhabiting and comprising in a synergistic biological manner the outer coral reefs, coral reef flats, reef channels, marine lakes, marine bays and sea grass beds of the waters of the State of Koror.

2. "person" means any and all persons, natural or artificial, foreign or domestic, including any individual, association, firm, partnership, business, cooperative, corporation, joint venture, principal, agent, partnership, company, or any other entity cognizable in law or equity, including (without limitation) any foreign governmental entity and all political subdivisions, regions, districts, municipalities and public agencies thereof.

3. "vessel" means any all ocean going vessels powered by motor, sail or by any other method, or with no power source, regardless of tonnage or size, including (without limitation) barges and submarines, and all aircraft, including (without limitation) all jets, airplanes, helicopters, gliders and any other contrivance used or designed for navigation or flight in the air.

4. "waters of the State of Koror" means the waters within the territory of the State of Koror as described in Article I, Section 4 of the Constitution of the State of Koror, and includes all waters within the territorial boundaries of the State of Koror, and all waters from the traditional baselines to twelve nautical miles seaward.

B. The plural form shall include the singular form of the word, and the singular form shall include the plural form.

SECTION 3. ECONOMIC AND NON-ECONOMIC VALUES TO BE CONSIDERED IN ESTIMATING VALUE OF CORAL REEF ECOSYSTEMS. The various values, both economic and non-economic, inherent in the coral reef ecosystems located within the waters of the State of Koror to be recognized and included in any consideration, estimation or deliberation by any party, including (without limitation) all courts of competent jurisdiction, regarding the monetary value of any and all unlawful damage, destruction or degradation of any form whatsoever (including, without limitation, all physical damage and non-physical damage such as sub-lethal and non-lethal impacts caused by chemicals or any other hazardous waste including, without limitation, petroleum based products, sediment or pollution, that may impair the natural functions of coral reef systems in any way) to any portion of the coral reef ecosystems located within the waters of the State of Koror by any person or vessel, including, but are not limited to, the following:

A. Direct Use Values. These inherent values are related to and arise out of (among other things) ongoing or future tourism, research, education and the harvesting of natural resources from coral reef areas, and include extractive and non-extractive activities. Extractive uses creating direct use values include (but are not limited to): (i) the commercial and subsistence harvest of various fish and other aquatic life for human and animal consumption; (ii) the harvest of fish and other aquatic life for use in the aquarium and curio trades; (iii) the harvest of coral reef organisms of all types for pharmaceutical and other industrial uses; and (iv) the dredging and collection of coral for use as building blocks, aggregate and the production of lime. Non-extractive uses creating direct use values include (but are not limited to) : (a) tourism of various forms including (but not limited to) SCUBA diving, snorkeling, sport fishing, kayaking, sailing, naturalist or eco-tours, and boat tours; (b) scientific research which creates positive economic impacts upon the local populace and benefits to the entire human population; and (c) educational programs and tours.

B. Indirect Use Values. These inherent values are related to and arise from the partially inexplicable benefits that coral reef systems contribute to the life of local

ecosystems as well as to all living organisms on Earth. The various indirect uses which increase the values inherent in coral reef ecosystems include (but are not limited to): (i) local and regional biological support, or the complex ways in which coral reef systems interact with other local ecosystems like lagoons, mangroves, seabird and turtle colonies to support life; (ii) coastal zone extensions which may occur under current international law of the sea using measurements from fringing reefs in Koror State; (iii) physical protection to Palauan citizens in the form of barriers that dissipate wave energy and the production of beach materials to aid against erosion; (iv) global life support and support for biogeochemical cycles (*i.e.* the calcification in coral reefs which plays a significant role in the world calcium and carbon balances); (v) support of global biodiversity, which creates immense value, the worth of which may be immeasurable or infinite; (vi) social services in the form of the constant production of jobs and benefits to Palauans working both on and about the water and on land in variout tourist based and fishing industries.

C. Non-Use Values. These inherent values are related to and arise from the very existence of the coral reef ecosystems, not from current uses, and include (but are not limited to): (a) existence values constituted and created by the utility that people gain from simply knowing that the coral reef ecosystems exist and will continue to exist in the future, whether or not used in the future; (b) option values constituted and created by the benefit received by retaining the option of using the coral reef ecosystems in the future by protecting and preserving them it today, which such option values increase every year as bleaching and other problems beset and deplete not only Palauan coral reef ecosystems but similar ecosystems around the world; (c) rarity values which also increase every year as pristine reefs throughout the world disappear; (d) historical and cultural values, including (but not limited to) the spiritual and aesthetic benefits derived from coral reef ecosystems; (e) heirloom values, or the value to current generations of their ability to bequeath pristine coral reef ecosystems to their progeny as their ancestors have so bequeathed to them; and (f) intrinsic value, or inalienable rights of the organisms comprising the coral reef ecosystem, regardless of any existing utility.

SECTION 4. REGULATIONS. The Governor of the State of Koror may promulgate any regulations necessary for the enforcement or general publication of this Act.

SECTION 5. SEVERABILITY. In the event that a court of competent jurisdiction determines that any part or portion of this law is invalid, then the offending portion or portions may be stricken, and the remaining portions shall continue in full force and effect.

SECTION 6. EFFECTIVE DATE. This Act shall become effective upon its becoming law by operation of the Koror State Constitution.

PASSED: April 25, 2001

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____
Salvador Tellames, Speaker
6th Koror State Legislature

/s/ _____
Charlyne Uong, Clerk
6th Koror State Legislature

APPROVED ON THIS _____ DAY OF _____, 2001.

John C. Gibbons
Governor, Koror State

APPROVED ON THIS 23 DAY OF May, 2001.

/s/
Ibedul Y. M. Gibbons
Chairman
House of Traditional Leaders
Koror State