

AN ACT

To prohibit the entry, operation, or maintenance of floating hotels within the waters of the State of Koror, to declare a moratorium of two (2) years on the operation of new live-board dive boats and thereafter to ban live-aboard operations, to provide for penalties for violations of this Act, and for related purposes.

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

SECTION 1. DEFINITIONS. As used in this Act, the following words shall have the meaning set forth herein:

(1) "floating hotel" means any ocean vessel, barge, building, structure, or facility, -which is intended or used for human occupancy, and which is propelled, floats or may be transported over or on a body of water, and the original foundation of which is not permanently built into the ground, sea bed, reef, or other land. This definition does not include ocean-going cruise line vessels which do not operate within the waters of the state of Koror for more than five (5) days in any one month, and which travels to and from international ports as part of its normal operations. A floating hotel as defined above shall also be a lodging facility intended primarily for human occupancy by persons who enter Palau under a "tourist" visa, but shall not include live-aboards as defined below, and shall not include research, religious or educational vessels. It shall include self-propelled vessels, other than those exempt by this definition, which remain at one mooring or location for seven (7) days or more in any month, and which have more than thirty (30) rooms intended for human occupancy.

(2) "live aboard" means any vessel, other than a floating hotel or a cruise ship as described above, which has thirty (30) vessel cabins or less, and which carries people who enter Palau under a "tourist" visa for the purpose of engaging in recreational activities, and which anchors or moors at locations within the waters of Koror other than Malakal Harbor. It shall not include sail boats in which there are no scuba diving activities for commercial gain.

(3) "person" means any individual, corporation, partnership, association, co-op, joint venture, trust, sole proprietorship, or other association or entity recognized at law, and shall not include the national and state governments of the Republic of Palau.

(4) "human occupancy" means actual occupancy or intended occupancy by any person as a hotel room, or overnight guest or motel accommodations, and includes but is not limited to any area where people sleep and where the owner, proprietor, or operator is required to pay the hotel room tax pursuant to 40 PNCA 1401 or the vessel cabin tax pursuant to 40 PNCA 1407.

(5) "building" includes but is not limited to any structure, house, barge, residence, dwelling, or other commercial structure that includes quarters or facilities for human occupancy and that floats upon or may be moved upon a body of water.

(6) "body of water" means any fresh or salt water which is part of or mixed with the Pacific Ocean and which is within the territorial boundary of the State of Koror, and includes any pond, lake river, creek mangrove swamp, or other standing or flowing water that flows directly into the Pacific Ocean that is within the territory of the State of Koror, or any fresh or salt water that is located in, originates in, or passes through, the State of Koror.

SECTION 2. MORATORIUM DECLARED, PROHIBITIONS.

A. It shall be unlawful for any person to establish, erect, operate, or maintain a floating hotel in any body of water of the State of Koror. It shall be unlawful for any person to bring, transport into, or deliver a floating hotel, into any body of water.

B. There is hereby established a moratorium on the establishment or operation of live-aboard operations other than those live-aboards actually operating in the waters of the State of Koror as of the effective date of this Act; such moratorium shall remain in effect for a period of two (2) years after the effective date of this Act. During such moratorium, it shall be unlawful to bring a live-aboard into any body of water other than a live-aboard that was actually operating lawfully within the State of Koror as of the effective date of this Act, and it shall be unlawful for any live-aboard, other than a live-aboard actually operating lawfully in the waters of the State of Koror as of the effective date of this Act, to carry passengers for overnight lodging on any body of water.

On and after the second (2nd) anniversary date of this Act, it shall be unlawful for any live-aboard to anchor or moor, or to allow or permit any human occupancy, on any body of water. Live-aboards may transit or pass through any body of water, but such live-aboard may only anchor within Malakal Harbor in such area or areas designated by the Governor of the State of Koror. It shall also be unlawful for any person to permit or allow any person, who stays one (1) night or more on a live-aboard, to scuba dive on or in any body of water. It shall also be unlawful to operate, maintain, own, establish, or otherwise navigate a live-aboard in violation of this Act.

C. The provisions of this section are not intended to replace, modify, change, affect, or repeal any existing Koror State building or zoning requirements or other applicable law, and are intended to supplement and act in conjunction with any other applicable Koror State building and zoning requirements or other applicable law.

SECTION 3. PENALTIES; PERSONS AUTHORIZED TO ENFORCE THIS ACT; REGULATIONS.

A. Any person who violates any provision of this Act shall, upon conviction of a first offense, pay a fine in the amount of \$100.00 to the Koror State Treasury and shall serve thirty (30) days in jail. Upon conviction of a second offense, the penalty shall be a \$100.00 fine and the guilty person shall spend sixty (60) days in jail. Upon conviction of a third or subsequent offense, the penalty shall be a \$100.00 fine and the guilty person shall spend ninety (90) days in jail. Each day that a floating hotel or live-aboard is owned, operated, maintained, or allowed to be owned, operated, or maintained, in violation of this Act, shall constitute a separate offense, and may be separately punished.

B. It shall be unlawful for any person to assist, attempt, conspire, or otherwise participate in any activity or conduct which violates any prohibition, restriction or provision of this Act; the criminal penalties of this Act may apply to owners, operators, agents, corporate officers and directors, and any other person. The penalties of this Act shall not apply to any government employee who processes any application or who issues any permit or license, or provides similar assistance to any person, while acting within the course and the scope of such government employment.

C. The provisions of this Act may be enforced by Bureau of Public Safety and the Attorney General of the national government provided that all revenues derived from violations are deposited into the Koror State Treasury, and any other person or entity authorized by the Koror State Governor to enforce this Act.

D. The Governor shall promulgate rules and regulations necessary and proper for the enforcement and implementation of this Act. Such regulations may be amended as

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necessary, and shall designate areas within Malakal Harbor where anchoring or mooring of live-aboards and ocean going cruise line vessels shall be permitted.

SECTION 4. 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 5. EFFECTIVE DATE. This Act shall become effective upon its becoming law by operation of the Koror State Constitution.

PASSED: March 4, 1998

CERTIFIED BY:

ATTESTED TO BY:

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

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

APPROVED THIS 2 DAY OF April, 1998.

/s/
IBEDUL YUTAKA M. GIBBONS
THE HOUSE OF TRADITIONAL
LEADERS