

A BILL FOR AN ACT

To set up procedures to be followed by Koror State Government in the exercise of its inherent power to acquire real property by eminent domain.

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

Section 1. Title. This Act shall be known as "Eminent Domain Act."

Section 2. Purpose. It is the purpose of this Act to set up procedures to be followed by Koror

Sate Government in the exercise of its inherent power to acquire real property by eminent domain.

The power of eminent domain is authorized by Article XIII, Section 7, of the National Constitution

and Article X, Section 2, of the Koror State Constitution.

Section 3. Definition. As used in this Act:

(a) "Eminent domain" means the right of Koror State Government to condemn property for public use or purposes and to appropriate the ownership and possession of such property for such public use upon paying the owner a just compensation to be ascertained according to the law.

(b) "Public use" shall be construed to cover any use determined by the State of Koror to be a public use, or for any other public purpose.

Section 4. Procedures. The power of eminent domain may be exercised as follows:

(A) 35 PNCA 401 - 410 shall be complied with before the complaint is filed as contemplated by this Act.

(B) A complaint must be brought in the Trial Division of the Supreme Court in the

name of

and on behalf of Koror State Government as plaintiff. The complaint must contain:

1. the names of all owners and claimants of the property, if known, or a statement

that they are unknown, who must be called defendants;

2. a statement of the right or authority of the plaintiff;

3. a description of each parcel of land to be acquired and a statement of what interest

in the land is desired by the plaintiff; and

4. a general statement of the purpose of the taking.

(C) In the event of the failure of any of the parties specified in Section 3(A) of this Act to

appear in the proceedings, the court shall, nevertheless, proceed to fix the amount of compensation

SIXTH KOROR STATE LEGISLATURE
Third Regular Session, January-March 1999

KSPL NO. K6-96-99
(Intro. as Bill No. 6-27, LD1)

and order that the amount be paid by Koror State Government, without interest, to the rightful

claimants on demand at any time within seven years from the date of the final judgment.

(D) The Clerk of Courts shall issue a summons which shall contain:

1. the names of the parties;

2. a general description of the whole property, or a reference to the complaint for the description of the land; and

3. a notice to the defendants to appear in the proceedings.

(E) When the defendants are known the summons shall be served by delivering to them a

copy thereof along with a copy of the complaint.

1. If the defendants, whether known or unknown, cannot be found, then a copy of the summons and complaint shall be posted as follows:

- (a) on the property;
- (b) at the courthouse;
- (c) at a public place in a village located near the property; and
- (d) by posting at the Koror State Government Office.

2. The service of the summons and the complaint or the posting thereof as provided herein shall be sufficient to give the Trial Division of the Supreme Court jurisdiction to proceed with and finally determine the case.

(F) Upon a prima facie showing by the Koror State Government that the property desired to be purchased by Koror State Government is for public use, the court must hear the parties, and establish a fair value for the land. The court may appoint three assessors to assist in the proceedings and perform such functions as the court may direct. In the event assessors are appointed by the court, they shall take and subscribe an oath before the judge or justice that they will faithfully perform their duties as assessors.

(G) In the event there is a dispute over the ownership of the property which is the subject of an eminent domain proceeding, the court shall adjudicate and determine the ownership of the property as part of the proceedings.

(H) The record of the final judgment in the proceedings shall state the particular land or

SIXTH KOROR STATE LEGISLATURE
Third Regular Session, January-March 1999

KSPL NO. K6-96-99
(Intro. as Bill No. 6-27, LD1)

interest in land which Koror State Government has acquired and the compensation to be paid to the defendants. The Clerk of Courts shall issue a certificate of title in accordance with the judgment.

(I) In the event Koror State Government desires to enter into immediate

possession of the property, it shall file a declaration of taking and pay a sum of money which is considered to be the fair value of the property to the Clerk of Courts.

(J) If Koror State Government desires immediate possession pursuant to subsection (I), then in addition to the requirements set out in Section 4 (D) of this Act, the summons shall also state the following:

(1) that the plaintiff requires immediate possession of the property;

(2) that a sum of money which is considered to be the fair value of the property has been paid to the Clerk of Courts, which sum shall draw interest at the rate of the three percent per annum from the date of the summons until claimed by the defendant or ordered paid to the defendant by the court; and

(3) that the defendant may at any time claim and receive the money which has been deposited with the Clerk of Courts upon the execution of a quitclaim deed in favor of the plaintiff.

Payment to the Clerk of Courts in accordance with this section shall entitle Koror State Government to take immediate possession of the land.

(K) In the event Koror State Government determines that it requires immediate possession of the property after eminent domain proceedings have been commenced, but before the rights of the parties and the amount of compensation are determined, a declaration of taking shall be filed in the court and a sum of money which is considered to be the fair value of the land shall be paid to the Clerk of Courts.

A summons shall be issued and served in the same manner of the summons in

Section 4(D) and 4(J) of this Act. The summons shall refer to the original summons already served on the defendants, and shall otherwise conform to the requirements set out in Section 4(D) of this Act.

(L) The costs in all cases brought under this Act shall be paid by the plaintiff.

(M) The court may determine or resolve any matter that is not provided for under this Act.

SIXTH KOROR STATE LEGISLATURE
Third Regular Session, January-March 1999

KSPL NO. K6-96-99
(Intro. as Bill No. 6-27, LD1)

Suction 5. Severability. In the event that a court of competent jurisdiction determines that any 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[SIC]. Effective date. This Act shall become effective upon its becoming law pursuant to the Koror State Constitution.

PASSED: March 11, 1999

CERTIFIED BY:

ATTESTED TO BY:

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

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

APPROVED ON THIS 19th DAY OF March, 1999.

/s/
John Gibbons, Governor
Koror State

APPROVED ON THIS 19 DAY OF March, 1999.

/s/

Ibedul Y. M. Gibbons, Chairman
House of Traditional Leaders