

AN ACT

To provide for the payment of fines to Koror State Government for the violation of any law within the territorial waters of the State of Koror, and for related purposes.

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

SECTION 1. FINDINGS.

Article XII, section 6(b) of the constitution of the Republic of Palau provides that each state shall be entitled to "fines collected for violation of any law within the marine area extending from the land to twelve (12) nautical miles seaward from the traditional baselines". The intent of this provision appeared in First Constitutional Convention Standing Committee . Report No. 42, dated March 7, 1979, where it was stated that Article XII, section 6 provides a commitment "to the fiscal autonomy and strength of the individual states. The Committee feels that this is an important commitment which was supported by the public hearings held."

Many violations of law have been committed in the waters of the State of Koror, but fines have not been paid over to the Koror State treasury. In a recent criminal case (Criminal Case No. 06-073, ROP vs. Avenal. et al.) Koror State Government filed a motion to have fines paid to Koror State Government for violations of the Palau Lagoon Monument Act (19 PNC 301 et seq.), but the Office of the Attorney General opposed the motion, and the Republic of Palau has resisted the payment of fines to Koror State Government for violations of any law.

It is in the best interests of the welfare of the people of the State of Koror to enact a law which will allow for the automatic payment of fines by the court or the national treasury to Koror State Government for the violations of any law within the territorial waters of the State of Koror.

SECTION 2. DEFINITIONS.

As used in this Act,

owned by the State under Article I, section 2 of the national constitution, and also includes any other national law, regardless of the subject matter of the law.

(B) "fines" includes fines imposed by the court, monies derived from forfeitures, bail, bonds and forfeited bond amounts, monetary penalties and settlements in criminal cases, civil monetary penalties and settlements, in *personam* and *in rem* criminal forfeitures, abandoned property subject to forfeiture, the proceeds of any forfeited property and resources, and any other criminal or civil payment or exaction to the national government as punishment for some offense.

(C) "national government" includes the national treasury, the Judiciary, the Clerk of Courts, all Ministers and their designees, and any other officer and employee, and all ministries, bureaus, divisions, and agencies of the national government.

SECTION 3. PAYMENT OF FINES BY NATIONAL GOVERNMENT TO KOROR STATE GOVERNMENT.

The national government shall pay over to Koror State Government all fines for the violation of any law committed within the area from the land to twelve (12) nautical miles seaward from the traditional baselines, and for the violation of any law within the territorial waters of the State of Koror as defined in Article I, section 2 of the national constitution, and Article I, sections 1 and 2 of the Koror State constitution.

SECTION 4. RETROACTIVITY.

The requirements of Section 3 of this Act shall apply to all fines for the violation of any law as collected by the national government on and after January 1, 1981. All fines collected by the national government on and after January 1, 1981, shall be deemed to be held in constructive trust by the national government, and shall bear interest at the rate of 9% per annum from the date of collection by the national government until the date that the fines are paid over to Koror State Government. The Governor, in consultation with the KSL, may compromise or settle any claim or demand against the national government for the fines and

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accrued interest. In the event that a court of competent jurisdiction determines that this retroactivity is declared unenforceable or otherwise ineffective, then such retroactivity shall

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9th Day of 2nd Regular Session, October 26, 2006

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apply to the earliest possible date as allowed and determined by a court of competent jurisdiction, or as of the effective date of this Act, whichever is earlier in time.

SECTION 5. SEVERABILITY.

The provisions of this Act are severable. If any part or portion of this Act is held to be invalid or unenforceable, then the offending 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 of the State of Koror by operation of the Koror State constitution.

PASSED ON: Oct 26, 2006

ATTESTED TO BY:

/s/ _____
Timothy "Tero" Uehara
Speaker

/s/
Rena Illuches
Clerk

APPROVED ON THIS 7TH DAY OF Nov., 2006

/s/
Yositaka Adachi
Governor Koror State