

Palau Legal

Access to Palau's Laws and Other Legal Materials

RPPL No. 5-17

FIFTH OLBIIL ERA KELULAU

Seventh Special Session, November 1997 RPPL NO. 5-17
(Intro.as H.B.No.5-123-7S,HD4, SD2)

AN ACT

To establish a non-profit public corporation, to be named the Palau International Coral Reef Center, to conduct coral reef and related marine research and education.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIIL ERA KELULAU DO ENACT AS FOLLOWS:

Section 1. Short title. This Act may be cited as the "Palau International Coral Reef Center Act of 1998."
"

Section 2. Legislative purpose. For generations, the coral reefs surrounding the islands of Palau have protected and sustained the people of Palau by providing sheltered harbors, food, building materials, shells for jewelry and utensils, and even betelnut lime. Traditionally, Palau's chiefs have enforced conservation practices in managing the reefs. Recent economic expansion and interaction with regional neighbors and political allies, especially the United States and Japan, however, has led to greater exploitation of the coral reefs for tourism, the harvesting of marine life for food and other products, research into the development of pharmaceuticals, and the gathering of aquarium fishes and invertebrates. As a result of this expanded use of our natural marine resources, some areas of Palau's coral reef system are already severely degraded. This disturbance to our marine environment is critical, because damage to one part of our ecosystem can cause unknown imbalances that upset and negatively impact other areas of our natural environment.

In addition to recognizing the importance of maintaining the quality of the marine environment for Palauan citizens and their children, the Olbiil Era Kelulau recognizes that the Republic is in a position to play an active role in the international and regional community efforts to study, manage and protect the marine environment. The purpose of this Act is to establish a self-sustaining, non-profit coral reef center and marine park that will provide a forum for coral reef studies, research and education. The Center is designed to assist in improving the management, use and conservation of Palau's and the world's marine environment, in addition to serving as a tourist attraction. In cooperation with Japan, the United States and other countries, the Center will insure that future generations will enjoy the reefs as this and prior generations have.

Section 3. Mission statement and objectives. The mission of the Center is to create a self-sustaining center of excellence for marine research, training and education activities. The Center's primary

objectives will be to:

- (a) Carry out research that will enhance the state of knowledge in Palau and the world about coral reef systems (and associated marine environments), and the conservation and management thereof, especially for the Asia/Pacific region;
- (b) Educate the public about the ecological, economic and cultural importance of coral reefs and their associated marine habitats;
- (c) Provide facilities to support research, professional training, workshops and conferences in coral reef/marine environment research, sustainable management and related activities;
- (d) Generate revenues which will be utilized in a manner that allows the Center to become financially self-sustaining over time;
- (e) Collaborate and exchange information with other coral reef/marine environment research, education, and training institutions and organizations, and disseminate information to the public and to interested individuals and private businesses;
- (f) Provide information, expertise, assistance and other relevant support to any local government or private agency or non-government organization whose mission requires operating in the marine environment;
- (g) Establish a training program directed towards integrating sustainable coral reef/marine environment management and tourism, with an emphasis on ecotourism;
- (h) Within 120 days after the effective date of this Act, develop a marine science and technology certification program in collaboration with Palau Community College; and to assist the College on an ongoing basis to develop and implement related college programs, particularly through the College's Continuing Education and extension programs;
- (i) Provide educational resources and assistance for development of marine environment studies programs for the entire Palau education system; and
- (j) Provide information and technical support to Palau's traditional chiefs in their role of managing the reefs and implementing traditional conservation practices.

Section 4. Definitions. As used in this Act:

- (a) "Board" means the Center's Board of Directors. (b) "Center" means the Palau International Coral Reef Center created by this Act.
- (c) "CEO" means the Chief Executive Officer of the Center.
- (d) "Director" means a member of the Board.
- (e) "Foreign entity" means any person who is not a citizen of the Republic and not authorized to do business in the Republic, or any other legally cognizable entity in which a person who is not a citizen of the Republic owns any interest and which is not authorized to do business in the Republic.
- (f) "Non-profit Public Corporation" means a public corporation which may enter into income-generating activities but is not designed to pay dividends on invested capital nor to fund other public sector activities.
- (g) "President" means the President of the Republic of Palau.
- (h) "Public Corporation" means an autonomous entity wholly-owned by the National Government.
- (i) "Republic" means the Republic of Palau.
- (j) "Technical Working Group" means the Palau Aquarium and Research Center Advisory Group as established by Executive Order No. 144, or its successor.

Section 5. Establishment of non-profit corporation.

- (a) The Palau International Coral Reef Center is established as a non-profit public corporation which shall operate in the form and manner prescribed by this Act.
- (b) The Center shall be subject to the corporate laws of the Republic to the extent such laws do not conflict with this Act or in any manner distort the public character of the Center.
- (c) The existence of the Center shall be perpetual.
- (d) The Center is not organized for profit and shall be strictly limited to scientific, research and educational purposes. The Center may not issue any stock. No part of the Center's assets, income or earnings may be distributed to any Director, Officer, employee or any private individual, except that reasonable compensation may be paid for services rendered to or for the Center. No Director, Officer

or employee of the Center, or any private individual, may receive any share of the distribution of any of the Center's assets on the dissolution of the Center. No part of the activities of the Center may include (i) carrying on propaganda, (ii) attempting to influence legislation, except that members of the Center's Board and personnel of the Center may testify or make other appropriate communications where formally requested to do so by a legislative body or a committee or a member thereof in matters concerning legislation relating to the public purposes of the Center or public appropriations to programs and activities of the Center, or (iii) participating or intervening in (including the publication or distribution of statements), or contributing to, any political campaign on behalf of any candidate for public office. All fees and charges collected and contributions received from public or private donors shall be used by the Center for the purposes set forth in this Act.

(e) To the extent consistent with the overall purposes of the Center, the provisions of this Act, and other applicable law, the Center shall be established, administered, and operated in such a way as to qualify as a "private foundation" within the meaning of that term in Section 509 of the United States Internal Revenue Code. If the Center is determined to have private foundation status under Section 509 of the United States Internal Revenue Code, then:

(1) The Center shall distribute its proceeds for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent U. S. Federal tax laws;

(2) The Center shall not engage in any act of self-dealing as defined in section 494(d) of the U. S. Internal Revenue Code of 1986 or corresponding provisions of any subsequent U.S. Federal tax laws;

(3) The Center shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent U. S. Federal tax laws;

(4) The Center shall not make any investments in such manner as to subject it to taxation under Section 4944 of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent U. S. Federal tax laws; and

(5) The Center shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent U.S. Federal tax laws.

(f) Notwithstanding any other provisions of this Act, the Center shall not carry on any other activities not permitted to be carried on: (1) by a corporation exempt from U.S. Federal income taxation under Section 501(c)(3) of the U. S. Internal Revenue Code of 1986 or the corresponding provision of any subsequent U. S. Federal tax laws; or

(2) by a corporation, contributions to which are deductible under Section 170(c)(2) of the U. S. Internal Revenue Code of 1986 or the corresponding provision of any subsequent U. S. Federal tax laws.

Section 6. Corporate status; powers. To achieve the purposes and subject to the other provisions of this Act, the Center shall possess and exercise the following powers through its Board of Directors to:

(a) operate and manage the Center and related facilities and marine parks, and to adopt, alter, and use a corporate seal;

(b) adopt, amend, and repeal bylaws governing the conduct of its business and the exercise of its authority;

(c) sue and be sued in its corporate name;

(d) acquire in any lawful manner, real, personal or mixed property, either tangible or intangible, and to hold, maintain, use, sell, lease or otherwise dispose of such property. No property transferred from the national government shall be mortgaged or otherwise encumbered without the prior approval of the Olbiil Era Kelulau;

(e) retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as it deems appropriate;

(f) borrow or raise any sum of money needed to achieve the Center's objectives, and to issue bonds or notes for that purpose, provided, however, that the Center may not issue a bond except pursuant to a law expressly authorizing such bond issue;

(g) make any lawful contracts;

(h) appoint the Chief Executive Officer;

(i) charge reasonable fees for the use and enjoyment of the Center;

- (j) accept, receive, disburse and expend moneys from foreign governments and other moneys, public or private, made available by grant, loan or endowment, to accomplish, in whole or in part, any of the purposes of this Act; (k) foster economic activities and to cooperate with other institutions within or without the Republic in supporting activities for the preservation and study of coral reefs or the responsible cultivation and harvesting of marine organisms;
- (l) promote the education of Palauan citizens in matters related to the intrinsic value, conservation and efficient usage of the coral reefs and other marine organisms;
- (m) educate tourists in the non-destructive enjoyment and observation of the coral reef environment;
- (n) engage in all lawful commercial activities which will further the development of the preservation and study of the coral reefs and other marine organisms;
- (o) adopt procurement policies substantially similar to those set forth in 40 PNC Chapter 6; and
- (p) have and exercise all powers necessary and lawful to effectuate the purposes of this Act.

Section 7. Board of Directors; selection, terms, vacancies, quorums and compensation.

- (a) All powers vested in the Center shall be exercised by the Board of Directors, except to the extent that this Act delegates powers to other persons or the Board lawfully delegates powers to other persons by majority resolution.
- (b) The Board shall consist of: 9 voting directors; the Chief Executive Officer, who shall be a non-voting director; and, for the first two years of the existence of the Center, the Director of the Bureau of Natural Resources and Development and the Minister of Administration, who shall be ex-officio, non-voting directors. Each voting director shall be appointed by the President with the advice and consent of the Senate. Appointment and confirmation shall be subject to the following criteria and guidelines:
 - (1) A majority of the voting directors shall be Palauan;
 - (2) At least 3 of the voting directors shall be non-Palauan in order to assure that links with other countries and non-profit institutions are established;
 - (3) At least 1 director shall be a member of the Technical Working Group, as long as the Group may continue to exist;
 - (4) Voting directors must have a college degree in the field of business, marine science, education or equivalent experience in the specified fields;
 - (5) No voting director may simultaneously serve as an employee of the Center;and
- (6) Each voting director shall also have experience in one or more of the following areas:
 - (A) Tropical marine education or research;
 - (B) Public or private fundraising;
 - (C) Conservation of marine resources;
 - (D) Aquarium or marine park management; and
 - (E) Employment by or association with multi-lateral donors that focus on sustainable development in the region.
- (c) The Board shall organize by electing one of its voting directors as Chairman and another as Vice Chairman. The Chairman and the Vice Chairman may be removed from office by a vote of not less than 5 directors. The Board shall designate a Secretary, who may be a member of the Board, to keep accurate minutes and records of the Board.
- (d) Voting directors shall initially serve terms as follows: three for four years, three for three years and three for two years; thereafter, all voting directors shall serve four-year terms. No director may serve beyond the expiration of his term. The President shall assign initial terms to directors as he chooses, prior to the Senate confirmation process. The President shall make his initial appointments to the Board within 30 days after the effective date of this Act. All subsequent appointments must be made within 30 days after a preceding appointment is rejected or a vacancy occurs. Any director appointed to fill a vacancy on the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed by the President, with the advice and consent of the