

AN ACT

To clarify, safeguard and preserve the right to vote for all citizens of the Republic of Palau, to establish procedures for voter qualifications and court review, and for other purposes.

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

1 Section 1. Short title; legislative findings and
2 purposes.

3 (a) This Act shall be known and may be cited as the
4 "Voting Rights Act of 1981."

5 (b) The National Congress (Olbiil Era Kelulau) hereby
6 finds and declares the public policy of the nation to be, as
7 follows:

8 (1) The right of suffrage is a fundamental
9 right in a free and democratic society, particularly
10 since the right to exercise the franchise in a free
11 and unimpaired manner is preservative of other basic
12 fundamental and political rights.

13 (2) Any unjustified discrimination in determining
14 who may participate in political affairs or in the
15 selection of public officials undermines the legitimacy
16 of representative government.

17 (3) Under the Constitution of the Republic of
18 Palau it is within the power of the national government
19 to prescribe and define elector qualifications for the
20 participation of citizens in all elections, provided
21 that states may establish minimum periods of residency
22 for state elections.

23 (4) The purpose of this Act is to prevent any
24 activity by the national, state or other political
25 subdivision or government from denying or acting in
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1 such a way as to have the effect of denying any
2 qualified citizen, on account of race, creed, clan,
3 color, status, financial circumstance, political
4 affiliation or sex from exercising the right to
5 vote.

6 (5) It is in the national interest that
7 uniform standards be established for the exercise
8 of the right to vote.

9 Section 2. Definitions.

10 (a) The words and phrases, as used in this Act or any
11 regulation issued pursuant thereto, shall be read with their
12 context and shall be construed according to the common and
13 approved usage of the English language.

14 (1) The term "person" means any natural
15 individual, clan, association, group, corporation,
16 the national government of the Republic of Palau,
17 all states and political subdivisions thereof, and
18 all entities legally cognizable.

19 (2) The term "color of law" means the appearance
20 or semblance, without substance, of legal right,
21 clothed with authority of state.

22 (3) The term "residency" means domicile in that
23 it is the place where one has his true, fixed and
24 permanent home and to which he intends to eventually
25 return.

26 (4) The term "knowingly" means that a person
27 acts knowingly when, if the element of an offense
28 involves the nature of his conduct, he is aware that
29 his conduct is of that nature; if the element involves
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1 a result of his conduct, he is aware that it is
2 practically certain that his conduct will cause
3 such a result; if the element involves an attendant
4 circumstance, he is aware of the existence of such
5 circumstance.

6 Section 3. Applicability of the Act.

7 (a) This Act in its entirety shall apply without excep-
8 tion, to all persons and political subdivisions of and to the
9 national government of the Republic of Palau.

10 (b) The national government, all state governments,
11 and any political subdivisions of the national or state govern-
12 ments which establish any form of voter qualifications shall
13 conform in all respects to provisions of this Act.

14 (c) Title 43 of the Trust Territory Code where not in
15 conflict with this Act shall remain in full force and effect.

16 Section 4. Voting rights.

17 (a) All citizens of the Republic of Palau who are other-
18 wise qualified by law to vote at national elections shall be
19 entitled and allowed to vote at all state, municipal or other
20 political or territorial subdivision elections without
21 distinction of race, sex, color, financial circumstance, clan,
22 custom, literacy, residency except as otherwise provided by this
23 Act, religion, or previous condition of servitude within the
24 state, municipality or other political or territorial subdivision
25 in which they reside; any constitution, charter, ordinance, law,
26 custom, usage or regulation of any state or other political
27 subdivision to the contrary notwithstanding.

28 (b) No person acting under color of law shall:

29 (1) in determining whether any individual is
30 qualified under state or municipal law or laws to
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1 vote in any election, apply any standard, qualifica-
2 tion, practice, regulation, or procedure different
3 from the standards, or procedures applied under such
4 law or laws within the same state municipality
5 or political subdivision to those who have been
6 found by state or municipal officials to be qualified
7 to vote;

8 (2) deny the right of any person to vote in
9 any election because of error or omission on any
10 record or paper relating to any application,
11 registration, or any act requisite to voting, if
12 such error is not material in determining whether
13 such individual is qualified; or

14 (3) require any payment or literacy test as
15 a qualification for voting.

16 (c) No person, whether acting under color of law or
17 otherwise, shall intimidate, threaten, coerce, or attempt to
18 intimidate, threaten, or coerce any other person for the purpose
19 of interfering with the right of such person to vote or to vote
20 as he may choose, or of causing such other person to vote for
21 or not to vote for any candidate for office.

22 (d) No person acting under color of law shall fail or
23 refuse to permit any person to vote who is entitled to vote
24 under this Act or is otherwise qualified to vote, or knowingly
25 fail or refuse to tabulate, count, and report such person's vote.

26 Section 5. Courts; proceedings for preventative relief.

27 (a) The Supreme Court of the Republic of Palau shall have
28 juri diction over all proceedings instituted pursuant to this Act
29 and shall exercise the same without regard to whether the party
30 aggrieved shall have exhausted any administrative or other
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1 remedies that may be provided by law.

2 (b) Whenever any person has engaged or there are reason-
3 able grounds to believe that any person is about to engage in
4 any act or privilege secured by this Act, the Attorney General
5 of the Republic of Palau shall, without delay, institute for the
6 Republic of Palau or in the name of the Republic of Palau, a
7 civil action or other proper proceeding for preventive relief,
8 including but not limited to, an application for a permanent or
9 temporary injunction, restraining order, or other order. Nothing
10 in this Act shall affect the right of any private person, except
11 corporations, to bring his own cause of action pursuant to this
12 Act. The Attorney General of the Republic of Palau shall have
13 an affirmative duty to act in all cases brought to his attention
14 regarding any violations or possible violations of this Act.

15 (c) The Supreme Court of the Republic of Palau may issue
16 any order, suspend any election, void any election, reorganize
17 any procedures for elections or take any actions excluding
18 reapportionment as may be necessary to insure conformity with
19 the requirements of this Act.

20 Section 6. Qualified voters, residency requirements.

21 (a) A citizen of the Republic of Palau eighteen (18)
22 years of age or older may register and vote in any national,
23 state, municipal or other election or referendum provided he has
24 satisfied the minimum periods of residency established by law
25 and is not in jail serving a sentence for a felony or mentally
26 incompetent as determined by a court.

27 (b) States may establish minimum periods of residency
28 for state elections and referenda provided such residency
29 requirements are not in excess of fifty (50) days.

30 (c) The minimum period of residency for national elections
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1 shall be thirty (30) days.

2 (d) Residency shall be determined for all elections
3 according to the following guidelines:

4 (1) The residence of a person is that place
5 in which his domicile or habitation is fixed, and
6 to which, whenever he is absent, he has the
7 intention to return.

8 (2) A person does not gain residence in any
9 state into which he comes without the present intention
10 of establishing his permanent dwelling place within
11 such state.

12 (3) If a person resides with his family in one
13 place, and does business in another, the former is
14 his place of residence; but any person having a
15 family who establishes his dwelling place somewhere
16 other than with his family, with the intention of
17 permanently remaining there shall be considered a
18 resident where he has established such dwelling place.

19 (4) The mere intention to acquire a new residence
20 without physical presence at such place, does not
21 establish residency, neither does mere physical presence
22 without the concurrent present intention to establish
23 such place as his residence.

24 (5) A person does not gain or lose a residence
25 solely by reason of his presence or absence while
26 employed somewhere other than his residence, or while
27 a student of an institution of learning, or while
28 confined to a hospital or prison, or while serving as
29 an elected or appointed official in the national
30 government.

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1 (6) For purposes of registering to vote in
2 elections and referenda a person may have only one
3 residence.

4 (7) For purposes of registering to vote in
5 elections and referenda, the term of residence is
6 computed by including the day on which the person's
7 residence commences, and by excluding the day of
8 election.

9 (8) In every case the determination of
10 residency should be construed, if possible, in a
11 manner most favorable to the applicant for residency.

12 Section 7. Retroactivity; balloting procedures.

13 (a) This Act shall be applicable upon appeal to those
14 trial court decisions made final prior to the effective date of
15 its enactment.

16 (b) All votes cast in all elections shall be by secret
17 ballot.

18 Section 8. Duties of the President.

19 (a) The President of the Republic of Palau or his duly
20 authorized representative(s) shall certify as lawful and valid,
21 all election procedures and voter qualifications of any state,
22 municipality or political subdivision prior to their effective
23 date. Any such procedure or qualification not so certified
24 shall be void ab initio.

25 (b) The President of the Republic of Palau or his duly
26 authorized representative(s) shall assist the states and
27 political subdivisions in establishing lawful election
28 procedures and requirements.

29 (c) The President shall send observers to all elections
30 within the Republic of Palau.

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1 Section 9. Prohibitions, penalties.

2 (a) Whoever knowingly gives false information as to his
3 name, address or period of residence in the voting state for
4 the purpose of establishing his eligibility to register to vote,
5 or conspires with another person for the purpose of encouraging
6 his false registration to vote or illegal voting, or pays or
7 offers to pay or accepts payment either for registration to
8 vote or for voting in any election or referendum shall upon
9 conviction thereof, be fined not less than two thousand dollars
10 (\$2,000.00) nor more than ten thousand dollars (\$10,000.00) or
11 shall be imprisoned not more than five (5) years, or both.

12 (b) Whoever votes more than once in an election or
13 referendum shall upon conviction thereof be fined not more than
14 ten thousand dollars (\$10,000.00) or imprisoned not more than
15 five (5) years, or both.

16 (c) As used in this subsection, the term "votes more
17 than once" does not include the casting of an additional ballot
18 if all prior ballots of that voter were invalidated.

19 (d) Whoever, whether under color of law or otherwise,
20 shall coerce, intimidate, or threaten, or attempt to coerce,
21 intimidate, or threaten any person for voting or attempting to
22 vote, or coerce, intimidate, or threaten any person for urging
23 or aiding any persons to vote or attempt to vote, or coerce,
24 intimidate, or threaten any person for exercising any lawful
25 right, power or duty pursuant to this Act shall upon conviction
26 thereof, be fined not less than five thousand dollars (\$5,000.00)
27 nor more than twenty thousand dollars (\$20,000.00) or imprisoned
28 not more than ten (10) years, or both.

29 (e) Whoever, whether under color of law or otherwise,
30 knowingly shall fail or refuse to permit any person to vote who
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1 is entitled to vote under this Act or is otherwise qualified to
2 vote, or knowingly fails or refuses to tabulate, count and report
3 such person's vote shall upon conviction thereof, be fined not
4 more than ten thousand dollars (\$10,000.00) or imprisoned not
5 more than one year, or both.

6 Section 10. Separability, conflict of laws.

7 (a) If any provision of this Act or the application
8 thereof to any person or circumstances is held invalid, the
9 remainder of the Act and the application of the provision to
10 other persons not similarly situated or to other circumstances
11 shall not be affected thereby.

12 (b) Any other provisions of law which conflict with this
13 Act shall be deemed superceded and void to the extent of the
14 conflict.

15 Section 11. Effective Date. This Act shall take effect
16 upon its approval by the President of the Republic of Palau,
17 or upon its becoming law without such approval, except as other-
18 wise provided by law.

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PASSED: November 6, 1981

/s/ Carlos H. Salii
Carlos H. Salii, Speaker
House of Delegates

/s/ Kaleb Udui
Kaleb Udui, President
The Senate

Approved this 25th day of November, 1981.

NOT SUSPENDED, PER SECRETARIAL
ORDER 3039
DATE: DECEMBER 21, 1981

/s/ Haruo I. Remeliik
Haruo I. Remeliik, President
Republic of Palau