

AN ACT

To repeal Chapter 4 of Title 33 of the Trust Territory Code (relating to Usury), to establish a usury law for the Republic of Palau, 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 "Usurious Interest Act of 1981."

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

8 (1) It is in the national interest that rates
9 charged for the use of capital shall be within those
10 levels commonly accepted throughout the world, and
11 that any rate of interest exceeding those established
12 by this Act is violative of the national interest in
13 promoting the economic development of the Republic and
14 in safeguarding the health, welfare and safety of the
15 people of the Republic of Palau.

16 (2) It is in the national interest to provide
17 for diverse rates of interest for differing financial
18 transactions which occur in the Republic of Palau so
19 as to promote the economic development, health, welfare
20 and safety of the people of the Republic of Palau.

21 Section 2. Definitions.

22 (a) As used in this Act the words and phrases have the
23 meaning ascribed to them unless the context clearly indicates
24 otherwise.

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1 (1) The term "interest rate" means the percentage
2 of an amount of money or extension of credit which is
3 paid for its use for a specified time.

4 (2) The term "person" means any natural person,
5 individual, corporation foreign or domestic, clan,
6 association, partnership, governmental body,
7 unincorporated entity or other entity cognizable under
8 law.

9 (3) The term "prime rate" means the most favorable
10 interests rates charged by commercial banks on short-
11 term loans to their best or most credit worthy customers,
12 as published in the most recent available money rates
13 section of the Wall Street Journal.

14 (4) The term "annual percentage rate" means the
15 actual cost of borrowing money expressed in the form
16 of an annual rate.

17 Section 3. Applicability of the Act.

18 (a) This Act shall apply to all persons who lend money,
19 extend credit or provide money to another, including but not
20 limited to banks, savings and loans, credit unions and all other
21 financial institutions doing business in the Republic of Palau.

22 (b) The provisions of this Act shall apply only to loans
23 made after the effective date of this Act.

24 Section 4. Maximum Rate of Interest.

25 (a) Except as provided in this Act, no person shall
26 charge, take, receive, or reserve on any loan or discount made, or
27 upon any note, bill of exchange or other evidence or debt,
28 negotiable or otherwise, interest as computed pursuant to this
29 Section at a rate greater than prescribed herein. Such interest
30 may be taken in advance, reckoning the days for which the note,
31 bill or evidence of debt has to run. A reasonable charge for the
32 collection of a bona fide bill of exchange or note in a place
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1 other than the place where purchased, discounted or sold, in
2 addition to the interest, shall not be considered interest for
3 the purpose of this Act.

4 (b) The maximum rate of interest charged, taken or
5 received by any person on an amount of money or line of credit
6 lent equal to Five hundred dollars (\$500.00) or less shall be no
7 greater than an eighteen (18) percent annual percentage rate.

8 (c) The maximum rate of interest charged, taken or
9 received by any person on an amount of money or line of credit
10 lent greater than Five hundred dollars (\$500.00) and equal to or
11 less than fifteen thousand dollars (\$15,000.00) shall be no
12 greater than a twelve (12) percent annual percentage rate.

13 (d) The maximum rate of interest charged, taken or
14 received by any person on an amount of money or line of credit
15 lent in excess of fifteen thousand dollars (\$15,000.00) shall be
16 no greater than 2¼ percent over the prevailing and most recently
17 available prime interest rate on an annual percentage rate.

18 (e) Nothing in this Act shall be construed as to prevent
19 any person from charging, taking or receiving, in addition to
20 lawful interest, a late charge or payment penalty on all or a
21 portion of any payment due on a loan which is unpaid after fifteen
22 (15) days from the due date of such payment; provided that, such
23 late charge does not exceed five (5) percent per annum on the
24 amount overdue.

25 Section 5. Usurious interest; penalty for taking; statute
26 of limitations.

27 (a) The taking, receiving, reserving or charging of a
28 rate of interest greater than is allowed pursuant to Section 4 of
29 this Act shall be deemed a forfeiture of the entire interest which
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1 the note, bill, or other evidence of debt carries with it, or
2 which has been agreed to be paid thereon. In case the greater
3 rate of interest has been paid, the person by whom it has been
4 paid, or his legal representatives may recover back, in an action
5 in the nature of an action of debt twice the amount of the
6 interest thus paid from the person taking, receiving or charging
7 the same, along with reasonable attorney's fees; provided that,
8 such action is commenced within three (3) years from the time
9 the usurious transactions occurred.

10 (b) In any action pursuant to this Act, parties may allege
11 any matter which would entitle them to relief or defense in equity
12 in whole or in part, and appropriate equitable principles shall
13 be applied in accordance with applicable rules of civil procedure.

14 Section 6. Trust Territory Code provisions repealed.

15 (a) Chapter 4, Title 33 of the Trust Territory Code
16 (relating to Usury) is hereby repealed in its entirety.

17 Section 7. Effective Date. This Act shall take effect
18 upon its approval by the President of the Republic of Palau or
19 upon its becoming law without such approval, except as otherwise
20 provided by law.

21 PASSED: November 5, 1981

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

/s/ Kaleb Udui
Kaleb Udui, President
The Senate

Approved this 25 day of November, 1981.

NOT SUSPENDED, PER SECRETARIAL ORDER 3039, /s/ Haruo I. Remeliik
DATE: DECEMBER 18, 1981 Haruo I. Remeliik, President
Republic of Palau