

AN ACT

To amend Public Law 6-8-41, and for related purposes.

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

1           Section 1.     Amendment.   Public Law 6-8-41 is hereby  
2           amended as follows:

3                     "Section 1.   Short title.   This Act may be  
4                     cited as the Palau Health Care Certificate of Need  
5                     Act.

6                     Section 2.   Public Policy.   The people of Palau  
7                     are dependent upon the existence of an efficient,  
8                     effective,   and well coordinated program of health  
9                     care services   and disease   prevention activities.  
10                    In order to achieve the necessary level of efficiency,  
11                    effectiveness and coordination there is a continuous,  
12                    compelling need for a rational program for the  
13                    determination of allocations of scarce health  
14                    resources.     In addition, the impending termination  
15                    of the Trusteeship Agreement and the probable change  
16                    in resources available for the delivery of health  
17                    care and environmental protection require a care-  
18                    ful analysis of the proposed allocation of funds,  
19                    the need for the adequate resources to be used to  
20                    provide health care, related services, and environ-  
21                    mental health protection services to insure that  
22                    those funds and resources will be utilized in  
23                    accordance with the needs of the people of Palau.  
24                    Therefore, it is declare to be the public policy of  
25                    Palau to develop and operate a program which will  
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1 identify the health needs of the residents of Palau  
2 to insure that resources which are proposed for  
3 health programs or services meet those needs in the  
4 most efficient and effective manner possible. It  
5 is not the intent of this Act to prohibit or in  
6 any way curtail the development of private practice  
7 of medicine in Palau.

8 Section 3. Definitions. Unless the context  
9 otherwise requires, the words and phrases appearing  
10 herein under, as used in this Act, shall have the  
11 following meaning:

12 (1) "Certificate of Need" means an authoriza-  
13 tion, when required under this Act, to construct,  
14 expand, alter, or convert a health care facility  
15 or to initiate, expand, or modify a health care  
16 service or to acquire major medical equipment.

17 (2) "Director" means the Director of the  
18 Trust Territory of Health Services in his capacity  
19 as the Director of the Micronesia Health Planning  
20 and Development Agency.

21 (3) "Micronesia Health Coordinating Council"  
22 means that health coordinating council created by  
23 proclamation of the High Commissioner, October 6,  
24 1976, and comprised of the Micronesia Regional  
25 Executive Committee and Sub-Area Councils for the  
26 Republic of Palau, Republic of the Marshall Islands,  
27 and the Federated States of Micronesia, as described  
28 in the Council's by-laws.

29 (4) "Agency" means the Trust Territory Office  
30 of Health Services in its designated capacity as the  
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1           Micronesia Health Planning and Development Agency  
2           which was created by designation agreement between  
3           the High Commissioner and the United States Secre-  
4           tary of Health, Education, and Welfare as the Trust  
5           Territory's designated agency to administer territo-  
6           rial health planning and development functions. The  
7           term "Micronesia Health Planning and Development  
8           Agency" is further defined to be synonymous with  
9           the terms "Territorial Health Planning and Development  
10          Agency"; or "State Health Planning and Development  
11          Agency". These terms may be used interchangeably  
12          to mean the same in this Act or in the regulations  
13          adopted under this Act.

14                 (5) The "territorial health plan" is that  
15                 comprehensive five-year health plan prepared and  
16                 established by the Micronesia Health Coordinating  
17                 Council which shall be based upon state health  
18                 plans from the Republic of Palau, the Republic of  
19                 the Marshall Islands and from the several states  
20                 of the Federated States of Micronesia, and shall  
21                 include a medical facilities plan with appropriate  
22                 consideration given to the development of facilities  
23                 and services in the private sector, and an environ-  
24                 mental health section.

25                 (6) "Institutional Health Services" means  
26                 health services provided in or through health care  
27                 facilities or health maintenance organizations and  
28                 includes the entities in or through which such  
29                 services are provided.

30                 (7) "Health Care Facilities" means hospitals,  
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1 psychiatric hospitals, tuberculosis hospitals,  
2 skilled nursing facilities, kidney disease treat-  
3 ment centers including freestanding hemodialysis  
4 units, intermediate care facilities, ambulatory  
5 surgical facilities, rehabilitation facilities,  
6 dispensaries, and such other facilities as the  
7 Agency by regulation shall so designate: PROVIDED,  
8 that "health care facilities" shall not include  
9 recognized Christian Science Sanatoriums or  
10 facilities owned and operated by the United States  
11 Federal Government.

12 (8) "Person" means an individual, a trust or  
13 estate, a partnership, a corporation, a State, the  
14 National Government of the Republic of Palau, a  
15 political subdivision, or any legal entity  
16 recognized by the Palau Government.

17 (9) "Major medical equipment" means a single  
18 unit of medical equipment or a single system of  
19 components with related functions which is used  
20 to provide medical and other health care services  
21 and which costs more than \$50,000.

22 (10) "Obligation" means entry into a contract  
23 enforceable under the laws of this government; taking  
24 of formal action to commit funds within the appli-  
25 cant's own organization so as to serve as an in-  
26 house contractor; or in the case of donated property,  
27 the date the gift transaction is completed.

28 (11) "Health Maintenance Organization" means a  
29 public or private organization which is qualified  
30 under Section 1310(d) of the United States Public  
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1 Health Services Act or which

2 (a) provides or otherwise makes avail-  
3 able to enrolled participants health care  
4 services, including at least health care  
5 services, usual physician services, hospi-  
6 talization, laboratory, x-ray, emergency  
7 and preventive services and out-of-area  
8 coverage; and

9 (b) is compensated (except for  
10 co-payments) for the provision of the above-  
11 listed services to enrolled participants by  
12 a payment which is paid on a periodic basis  
13 without regard to the date the health care  
14 services are provided and which is fixed  
15 without regard to the frequency, extent, or  
16 kind of health services actually provided;  
17 and

18 (c) provides physician services through  
19 physicians who are employees or partners in  
20 the organization or through arrangements with  
21 individual physicians or groups of physicians.

22 (12) "Date activity undertaken" means the date  
23 on which services are actually started to be offered  
24 by or in a new institutional health service.

25 (13) "Affected persons" means the applicant;  
26 the Sub-area Health Council; persons residing in the  
27 geographic area to be served by the applicant; any  
28 person who regularly uses health services or  
29 facilities within the area to be served by the  
30 proposed project; health care facilities and HMOs

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1 located in the service area which provide similar  
2 services to those under review; health care  
3 facilities and HMOs which have previously indicated  
4 their intention to provide similar services in the  
5 future; third party payers who reimburse health  
6 care facilities in the service area; rate review  
7 organizations in the service area.

8 (14) For the purposes of determining whether  
9 a proposed project is subject to review under this  
10 Act, "cost" shall be defined as the fair market  
11 value or the amount actually paid to acquire a  
12 facility or equipment or to initiate a service,  
13 whichever is higher.

14 Section 4. Certificate of Need Program. There  
15 is hereby established the Palau Certificate of Need  
16 Program which shall prescribe the means, procedures,  
17 and requirements by and through which health care  
18 providers may apply and obtain a certificate of need  
19 prior to undertaking construction, expansion, or  
20 modification of certain health care services and  
21 facilities, including acquisition of equipment.

22 Section 5. Certificate of Need.

23 (1) Commencing on the effective date of this  
24 law no person whether public or private, shall make  
25 capital expenditures for activities enumerated in  
26 Subsection (2) of this section without first  
27 obtaining a certificate of need or an exemption as  
28 required under this Act.

29 (2) A certificate of need shall be required  
30 prior to:  
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1           (a) The development of all new  
2           institutional health services including,  
3           but not limited to, the construction,  
4           development, or other establishment of any  
5           new health facility;

6           (b) Any obligation for a capital  
7           expenditure by or on behalf of a health  
8           care facility, other than to acquire an  
9           existing health care facility, in excess of  
10          \$50,000, including the costs of surveys,  
11          designs, plans, working drawings, specifica-  
12          tions, and other activities essential to the  
13          acquisition, improvement, expansion, replace-  
14          ment, or construction of any plant or equip-  
15          ment;

16          (c) The offering by a health care  
17          facility of health services which were not  
18          offered on a regular basis in or through  
19          such health care facility within the twelve-  
20          month period next preceding the time such  
21          services would be offered, if

22                  (i) the obligation of any capital  
23                  expenditure is entailed by the  
24                  addition of services; or

25                  (ii) regardless of whether a  
26                  capital expenditure is entailed, if  
27                  the annual operating costs for such  
28                  services will exceed \$10,000.00.

29          (d) The termination of a health service  
30          which was offered in or through a health care  
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1 facility if that termination is associated  
2 with obligation of any capital expenditure.

3 (e) The obligation of any capital  
4 expenditure by or on behalf of a health care  
5 facility which changes the bed capacity of  
6 a health care facility by increasing or  
7 decreasing the total number of beds (or  
8 distributing beds among various categories,  
9 or relocating such beds from one physical  
10 facility or site to another) by ten (10)  
11 beds or ten percent of total bed capacity,  
12 whichever is less, over a two-year period;

13 (f) The acquisition by any person of  
14 major medical equipment to be owned by or  
15 located in a health care facility or, regard-  
16 less of ownership or location, if equipment  
17 is to be used to provide patient care services,  
18 to inpatients or outpatients, unless such  
19 services are provided on an occasional basis  
20 in the event of natural disaster, major  
21 accident or equipment failure.

22 (g) If any person acquires an existing  
23 health care facility, that person shall file  
24 a notice of intent with the Agency as  
25 prescribed under Section (8) of this Act.  
26 A certificate of need shall be required for  
27 such acquisition unless the Agency finds that  
28 the acquirer is a Health Maintenance Organiza-  
29 tion; or that no changes will result in  
30 facilities or services rendered due to the  
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1 acquisition.

2 (h) In the event that the Agency  
3 issues a Certificate of Need for a project  
4 and within one year of the date the project  
5 was undertaken there is a change in that  
6 project associated with a capital expendi-  
7 ture, regardless of the amount of the  
8 expenditure, that change will be subject to  
9 Certificate of Need review.

10 (3) A certificate of need which would normally  
11 be required under Section (5) (2) of this Act will  
12 not be required if:

13 (a) A health care facility is being  
14 acquired by a Health Maintenance Organization  
15 or if the acquisition will not result in a  
16 change of services or modification of the  
17 facility, including the organizational  
18 structure;

19 (b) The applicant is a Health Mainte-  
20 nance Organization if:

21 (i) it has a current enrollment  
22 or reasonable anticipated future enroll-  
23 ment of at least 50,000 persons the  
24 the service area;

25 (ii) the proposed facility or  
26 service will be reasonably accessible  
27 to the enrolled population;

28 (iii) at least seventy-five (75)  
29 percent of the persons to be served  
30 will be enrollees; and

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1 (iv) if an acquisition of a  
2 facility or equipment by lease is  
3 concerned if the lease will be for  
4 at least fifteen years duration.

5 In the case of both (a) and (b) above, a Notice  
6 of Intent must be filed with the Agency and findings  
7 that one of the above conditions apply must be  
8 rendered within thirty days of receipt of such notice.

9 (c) Major medical equipment is acquired  
10 by or on behalf of a clinical laboratory to  
11 provide clinical laboratory services, if

12 (i) the clinical laboratory is in-  
13 dependent of a physician's office and  
14 a hospital and

15 (ii) it is determined under Title  
16 XVIII of the U.S. Social Security Act  
17 to meet the requirements of paragraphs  
18 (10) and (11) of 1861(s) of that Act.

19 (4) Applications for certificates of need shall  
20 be filed with the Agency on application forms provided  
21 by the Agency and shall contain such information and  
22 be in such forms as the Director may require.

23 (5) (a) The Agency must issue a certificate  
24 of need for a capital expenditure necessary to: (i)  
25 eliminate or prevent a safety hazard; (ii) comply  
26 with licensure standards; or (iii) comply with  
27 accreditation or certification standards required  
28 for the applicant to receive reimbursement under  
29 Title XVIII or XIX of the United States Social  
30 Security Act; provided that  
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1 prior to issuance of such a certificate of need  
2 the Agency finds that (i) the facility or service  
3 for which the capital expenditure is proposed  
4 is needed; and (ii) the obligation of the capital  
5 expenditure is consistent with the State Health  
6 Plan.

7 (b) For capital expenditure not  
8 meeting the criteria set forth in Section  
9 (5) (a), the Agency shall issue a certificate  
10 of need, if it is found that the proposed  
11 facility, service, or equipment is needed  
12 by the population to be served, that such  
13 facility, service, or equipment is consistent  
14 with the Trust Territory Health Plan, and  
15 that the project complies with this Act  
16 and regulations adopted under this Act.  
17 The criteria to be used by the Agency in  
18 determining need for the facility, service,  
19 or equipment shall be as set forth in  
20 Section (7) of this Act.

21 (6) The Agency shall act upon any application  
22 submitted pursuant to this Act within 90 days of  
23 receipt of such application; provided, that for  
24 reasonable cause and upon notice to the applicant,  
25 the Agency may extend its time for review for a  
26 specific period not to exceed 30 additional days.  
27 In cases where the Agency requests the applicant  
28 to provide additional information subsequent to  
29 submission of the application, the Agency must,  
30 at the request of the applicant, extend the review  
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1 period for no less than an additional fifteen (15)  
2 days. Failure to act upon the application within  
3 the time period herein prescribed shall be deemed  
4 grounds for the applicant to seek judicial remedy  
5 but shall not be deemed an approval or denial of  
6 that application by the Agency.

7 (7) Any person, for good cause may request  
8 in writing, a public hearing by the Agency for  
9 the purpose of reconsideration of a Certificate  
10 of Need decision. If the applicant's written  
11 request demonstrates good cause, the Agency shall  
12 provide the applicant with a public hearing con-  
13 sistent with Title 17 of the Trust Territory Code,  
14 1980 edition, and such regulations as the Director  
15 may promulgate.

16 Section 6. Dissemination and Publication of  
17 Certificate of Need Programs. Upon enactment of  
18 this Act or amendments thereto and regulations  
19 promulgated pursuant hereto the Agency shall  
20 disseminate to all health care facilities or health  
21 care programs within Palau the requirements of the  
22 certificate of need program under this Act and  
23 regulations and shall publish in at least one  
24 newspaper of general circulation notice of such  
25 dissemination.

26 Section 7. Review Criteria for Certificate  
27 of Need Application.

28 (1) The Agency shall adopt regulations  
29 under this Act which shall prescribe specific  
30 criteria for the reviewing of certificate of  
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1           need applications which criteria shall include at  
2           least the following general considerations; provided,  
3           that criteria adopted for review may vary according  
4           to the purpose for which a particular review is  
5           being conducted or the type of health service  
6           reviewed; and provided further that such regulations  
7           shall be adopted in accordance with Section (9) (1)  
8           of this Act:

9                   (a)    The relationship of services  
10                   reviewed to the territorial health plan and  
11                   annual implementation plans;

12                   (b)    The relationship of services  
13                   rendered to the long-range development plan  
14                   (if any) of the person providing or  
15                   proposing such services;

16                   (c)    The need that the population  
17                   served or to be served by such services  
18                   has for such services and the extent to  
19                   which residents of the area, and in  
20                   particular low-income persons, racial and  
21                   ethnic minorities, women, handicapped, and  
22                   other underserved groups, and the elderly,  
23                   are likely to have access to those services.  
24                   In the case of a reduction or elimination  
25                   of service, including relocation of a  
26                   facility or service, the extent to which  
27                   the alternative arrangements, and the  
28                   effect of the reduction, elimination, or  
29                   relocation on the ability of low-income  
30                   persons, racial and ethnic minorities,  
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1 women, handicapped persons and other under-  
2 served groups and the elderly, to obtain  
3 the needed health care.

4 (d) The availability of less costly  
5 or more effective alternative methods of  
6 providing such services;

7 (e) The immediate and long-term  
8 financial feasibility of the proposal, as  
9 well as the probable impact of the proposal  
10 on the cost of and charges for providing  
11 health services by the people proposing  
12 the new institutional health services; and

13 (f) The relationship of the services  
14 proposed to be provided to the existing  
15 health care system of the area in which  
16 such services are proposed to be provided  
17 and the probable impact of the proposal on  
18 the economic and social development of  
19 Palau.

20 (g) The contribution of the proposed  
21 service or facility to meeting the health  
22 needs of medically underserved groups which  
23 have traditionally experienced difficulties  
24 in obtaining equal access to health services,  
25 particularly those needs identified in the  
26 Trust Territory Health Plan as priorities.  
27 For the purpose of determining the extent  
28 the proposed service or facility will be  
29 accessible, the Agency shall consider

30 (i) The extent to which medically  
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1 underserved populations currently  
2 use the applicant's services in  
3 comparison to the percentage of the  
4 population in the service area which  
5 is underserved and the extent to which  
6 medically underserved populations are  
7 expected to use the proposed services  
8 if approved;

9 (ii) The performance of the appli-  
10 cant in meeting its obligations, if  
11 any, under applicable Federal regula-  
12 tions requiring provision of uncompen-  
13 sated care, community service, or  
14 access by minorities and handicapped  
15 persons to programs receiving Federal  
16 financial assistance; and

17 (iii) The extent to which the  
18 applicant offers a range of means by  
19 which a person will have access to  
20 its services, (e.g. outpatient  
21 services, hospital privileges, etc).

22 (h) The availability of resources,  
23 (including health personnel, management person-  
24 nel, and funds for capital and operating needs)  
25 for the provision of the services proposed to  
26 be provided and the need for alternative uses  
27 of those resources as identified by the  
28 Territorial Health Plan;

29 (i) The relationship, including organi-  
30 zational relationship, of the health services  
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1 proposed to be provided to ancillary or  
2 support services;

3 (j) The effect of the means proposed  
4 for the delivery of health services on the  
5 clinical needs of health professional  
6 training programs in the area in which  
7 services are to be provided;

8 (k) If proposed health services are  
9 to be available in a limited number of  
10 facilities, the extent to which the health  
11 professions schools in the area will have  
12 access to the services for training purposes;

13 (l) Special needs and circumstances of  
14 those entities which provide a substantial  
15 portion of their services or resources or  
16 both to individuals not residing in the health  
17 service areas in which the entities are  
18 located or in adjacent health service areas;

19 (m) The special needs and circumstances  
20 of biomedical or behavioral research projects  
21 which are designed to meet a national need  
22 and for which local conditions offer special  
23 advantages;

24 (n) In the case of a construction project,

25 (i) The costs and methods of the  
26 proposed construction, including the  
27 cost and methods of energy provision, and

28 (ii) The probable impact of the  
29 construction project on the costs of  
30 providing health services by the person  
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1           proposing the construction project  
2           and on the costs and charges to the  
3           public of providing health services by  
4           other persons;

5           (o) The special circumstances of health  
6           care facilities with respect to the need for  
7           conserving energy;

8           (p) Factors which affect the effect of  
9           competition on the supply of health services  
10          being reviewed;

11          (q) Improvements and innovations in  
12          the financing and delivery of health services  
13          which foster competition and serve to promote  
14          quality assurance and cost effectiveness;

15          (r) The efficiency and appropriateness  
16          of the use of existing services and facilities  
17          similar to those proposed;

18          (s) In the case of existing services  
19          or facilities, the quality of care provided  
20          by those facilities in the past;

21          (t) When an application is made by an  
22          osteopathic or allopathic facility to  
23          construct, expand, or modernize a health  
24          care facility, or add services, or acquire  
25          major medical equipment, the need will be  
26          considered on the basis of the need for and  
27          the availability in the community of services  
28          and facilities for osteopathic and allopathic  
29          physicians and their patients.

30          (u) In the case of applications by  
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1 Health Maintenance Organizations, the only  
2 criteria to be applied for determination or  
3 need shall be:

4 (i) The needs of enrolled members  
5 and reasonably anticipated new members  
6 of the Health Maintenance Organization  
7 for the health services proposed to  
8 be provided; and

9 (ii) The availability of the new  
10 health services from non-HMO providers  
11 or other HMOs in a reasonable and cost-  
12 effective manner which is consistent  
13 with the basic method of operation of  
14 the HMO. In assessing the availability  
15 of these services from other providers,  
16 the Agency shall consider only whether  
17 the services from these providers;

18 (A) Would be available  
19 under a contract of at least  
20 five years duration;

21 (B) Would be available and  
22 conveniently accessible through  
23 physicians and other health pro-  
24 fessionals associated with the  
25 HMO;

26 (C) Would cost no more than  
27 if the services were provided by  
28 the applicant HMO; and

29 (D) Would be available in a  
30 manner which is administratively  
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1 for adoption; and

2 (b) Distribute copies of its proposed,  
3 adopted and revised or amended review proce-  
4 dures to public and private health organiza-  
5 tions, the Micronesia Health Coordinating  
6 Council, the President of the Republic of  
7 Palau, the High Commissioner, the Secretary  
8 of Health, and Human Service, and to such  
9 other interested persons as shall request  
10 them; including rate setting agencies and  
11 Health Maintenance Organizations should  
12 such be established within the Republic of  
13 Palau.

14 (c) The Agency shall notify the general  
15 public of its intent to adopt procedures and  
16 criteria, or revisions thereof, through  
17 publication in at least one newspaper of  
18 general circulation in the Republic of Palau.

19 (3) The Agency shall distribute copies of its  
20 proposed, adopted, and revised or amended review  
21 procedures to the persons, agencies and organizations  
22 specified in paragraph (2) (b) of this Section.

23 (4) The regulations adopted and promulgated by  
24 the Agency in July of 1979 in accordance with the  
25 Act are hereby confirmed and shall remain in effect  
26 until amended, repealed, or superseded by the Agency  
27 acting pursuant to and in accordance with this Act.

28 Section 10. Withdrawal of Certificate of Need.

29 (1) The Agency may withdraw a certificate of  
30 need if:  
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1           (a) The applications contain false  
2           or misleading information or intentionally  
3           omit material facts; or

4           (b) Circumstances based upon which  
5           the certificates of need were issued have  
6           changed or new circumstances have developed  
7           which alter the need for the projects, provided  
8           that said changes or new circumstances occur  
9           prior to the commencement of construction or  
10          substantial expenditure or obligation of funds.

11          (c) All applications for a certificate  
12          of need shall include a timetable for  
13          implementing the project. The SHPDA shall  
14          periodically evaluate the progress of the  
15          applicant towards implementing the project  
16          according to the timetable submitted. Failure  
17          of the applicant to make a good faith effort  
18          toward implementation may constitute grounds  
19          for withdrawal of the certificate of need.

20          (d) Any holder of a certificate of need  
21          shall be entitled to an administrative hearing  
22          prior to the withdrawal of its certificate of  
23          need.

24          Section 11.    Certificate of need not transferable.

25          A certificate of need issued under this Act is not  
26          transferable without the prior written approval of the  
27          Agency.

28          Section 12.    Civil penalties. Any person  
29          violating any of the provisions of Section 5 of this  
30          Act shall be subject to the imposition of a civil  
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1 fine in the amount of \$500.00 for each violation;  
2 provided, that for the purposes of determining  
3 the amount of fine to be imposed under this Act,  
4 violations shall be deemed recurring within each  
5 week that it continues after a person has been  
6 given notice of the violation, and shall thereby  
7 be construed as a separate violation.

8 Section 13. Reporting. The Director shall  
9 submit an annual report to the Olbiil Era Kelulau  
10 on or before January 10 of each year on all activities  
11 of the Agency and all funds received by the Agency  
12 pursuant to, or by virtue of this Act.

13 Section 14. Reconsideration of Application  
14 Hearings.

15 (1) The agency shall order a public hearing  
16 on an application upon written request by any person  
17 for the purposes of reconsidering an Agency decision,  
18 PROVIDED: (a) that the request is received within  
19 thirty (30) days after the decision was rendered,  
20 and (b) that a good cause is shown. A request for  
21 public hearing shall be deemed to have shown good  
22 cause if it (1) presents significant relevant  
23 information not previously considered by the Agency;  
24 (2) demonstrates that there have been significant  
25 changes in factors or circumstances relied upon by  
26 the Agency in making its decision; (3) demonstrates  
27 that the Agency failed to follow appropriate procedures  
28 prescribed in these regulations; or (4) that the  
29 Agency acted without regard for a conflict of interest  
30 situation.  
31

1           (2) The Agency shall provide public notice  
2 of reconsideration hearings and adopt hearing proce-  
3 dures in accordance with this Act and Regulations  
4 adopted under the provisions of Section (9) of this  
5 Act.

6           Section 15. Judicial Review. Any person  
7 adversely affected by a final decision of the Agency  
8 with respect to a certificate of need or an applica-  
9 tion for exemption may, within a reasonable time  
10 after the decision is made, obtain judicial review  
11 in accordance with Title 17 of the Trust Territory  
12 Code, 1980 edition.

13           (1) The court shall affirm the decision of the  
14 Agency unless it finds it to be arbitrary or capri-  
15 cious or not made in compliance with applicable law.

16           (2) For the purpose of this section, "person  
17 adversely affected" shall include the Agency, any  
18 person previously defined as "affected" in Section 3  
19 (13) of this law, and any person who participated in  
20 the review proceedings before the Agency."

21           Section 2. Effective Date. This Act shall take effect  
22 upon its approval by the President of the Republic of Palau, or  
23 upon its becoming law without such approval, except as other-  
24 wise provided by law.

PASSED: August 5, 1982

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

Approved this 27 day of August, 1982.

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