

**AN ACT**

To establish a procedure for the issuance of a declaration of presumed death for an absent person, and for other related purposes.

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

1           Section 1. Amendment. Title 25 is hereby amended to add a Chapter 4 which  
2 will state as follows:

3                                   **“Chapter 4**

4   **Declaration of Presumed Death**

5           § 401. Petition for declaration of presumed death of absent person exposed to  
6 specific peril.

7           (a) A petition may be filed in the Supreme Court for a declaration of  
8 presumed death of an absent person who:

9                                   (1) Is domiciled in Palau;

10                                  (2) Has real or personal property located in Palau;

11                                  (3) Has been absent or missing from Palau for a period of no less than  
12 90 days; and

13                                  (4) Was exposed to a specific peril that presumably resulted in the  
14 death of the absent person.

15           (b) The following individuals may file a petition for a declaration of presumed  
16 death pursuant to this section:

17                                  (1) The spouse or domestic partner of the absent person;

18                                  (2) A relative of the absent person; or

19                                  (3) Any other person or friend of the absent person with an interest in  
20 the real or personal property of the absent person.

21           (c) A petition for a declaration of presumed death of an absent person shall  
22 include the following:

23                                  (1) Name, address, and phone number of the absent person;

24                                  (2) Evidence of the absent person’s domicile in Palau;

1                   (3) Name, address, and phone number of the petitioner;

2                   (4) Evidence of the family relationship, if any, between the petitioner  
3 and the absent person;

4                   (5) Where there is no family relationship between the petitioner and the  
5 absent person, evidence of the petitioner's interest in the real or personal  
6 property of the absent person;

7                   (6) A declaration that a diligent effort was undertaken to locate the  
8 absent person, or that a diligent effort would have been futile; and

9                   (7) A declaration detailing the date at which the person disappeared  
10 and the circumstances of the specific peril that the petitioner believes caused  
11 the death of the absent person.

12                   § 402. Adjudication of petition.

13                   (a) The court shall take any measures it deems necessary to determine whether  
14 the absent person is dead by reason of exposure to a specific peril, including ordering  
15 the testimony of persons with direct or indirect knowledge regarding the  
16 circumstances of the disappearance of the absent person.

17                   (b) The court shall take such measures it deems necessary to ensure that the  
18 spouse or domestic partner, and family members, of the absent person are notified of  
19 a petition for a declaration of presumed death and are given an opportunity to offer  
20 testimony regarding the petition.

21                   (c) The court shall hear testimony from any person regarding the  
22 circumstances of the absent person's disappearance regardless of the family  
23 relationship between the witness and the absent person and without regard to  
24 whether the testimony is hearsay. However, the court may determine the weight to  
25 grant any testimony.

26                   (d) The court shall grant a petition for a declaration of presumed death where  
27 it finds that it is more likely than not that the absent person was exposed to a specific  
28 peril that caused the death of the absent person.

29                   (e) The denial of a petition for a declaration of presumed death shall be  
30 without prejudice to a subsequent petition for a declaration of presumed death where

1 the petitioner submits with the later petition material evidence regarding the  
2 disappearance of the absent person that was unavailable at the time of the  
3 adjudication of the denied petition.

4 § 403. Effect of a declaration of presumed death.

5 All agencies and departments of the national government and the state  
6 governments shall recognize a declaration of presumed death issued pursuant to this  
7 Chapter as conclusive proof of the death of that person.

8 § 404. Reappearance.

9 (a) Any person with evidence that the absent person has reappeared may at  
10 any time petition the court to repeal the declaration of presumed death.

11 (b) The Court shall upon determination that the absent person has reappeared  
12 make such order, if any, in relation to any rights or any property acquired as a result  
13 of the declaration of presumed death as it considers fair and reasonable under the  
14 circumstances of the case.”

15 Section 2. Effective date. This Act shall take effect upon its approval by the  
16 President of the Republic, or upon becoming law without such approval, except as  
17 otherwise provided by law.

PASSED: July 30, 2014

Approved this 13<sup>th</sup> day of August, 2014.

/s/  
HE Tommy E. Remengesau, Jr.  
President  
Republic of Palau