



**Republic of Palau**  
*Office of the President*

Tommy E. Remengesau, Jr.  
*President*

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February 11, 2016  
Serial No. 16-3355

The Honorable Sabino Anastacio  
Speaker of the House of Delegates  
9<sup>th</sup> Olbiil Era Kelulau  
Ngerulmud, Palau National Capitol  
Republic of Palau 96939

**Re: House Bill No. 9-159-8, HD1, SD6, CD1 – Extending the operation of the Land Court and other amendments**

Dear Speaker Anastacio:

Although I am happy to sign into law today the extension of the statutory deadline for the operation of the Land Court contained in House Bill No. 9-159-8, HD1, SD6, CD1, the situation is alarming due to the manner in which this necessary piece of legislation was passed. First, the Land Court is an important institution of the Republic and should not be subjected to eleventh-hour decision-making.

Second, and perhaps more troubling, what could and should have been an uncontroversial, straightforward amendment to the Land Court statute has been buried in a multitude of wholly unrelated amendments to the Palau National Code. With the pressing deadline for the extension of the Land Court's operations, I fear these additional changes and additions to the law have not received the type of due and careful consideration on which sound democratic governance depends.

The enactment of new legislation ought to involve a collaborative process between the two houses and the executive, which ensures the development of the best possible law, one which adequately reflects the needs and wants of all affected groups. It is a deliberative process that rests on transparency, public hearings and spirited debate. It is a process that prioritizes public participation, accountability and quality over expediency. When adhered to, this process ensures, to the furthest extent practicable, that every eventuality is contemplated, that every impact of a new or amended law is considered and weighed against the others, and that every interested group or individual has the opportunity to voice their opinions and concerns.

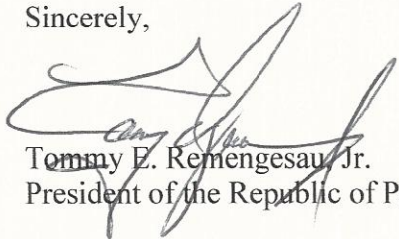


The Honorable Sabino Anastacio  
Serial No. 16-3355  
February 11, 2016  
Page 2

Now today, in order to ensure the continued existence of the Land Court, I am beholden to sign into law a number of provisions that have to some degree bypassed this process. Included among these are: new labelling requirements for all imported commodities; changes to the local ownership constraints set forth in Title 28, the Foreign Investment Act, which include new limitations, exemptions and fees; new conditions on the licensing of boat owners who transport passengers, including a newly created duty to maintain liability insurance; and a new random drug testing requirement for tour bus and taxi drivers. As this abridged recitation of the many amendments contained in this bill suggests, this new law affects a broad segment of civil society and a wide array of commercial activities. These are not changes to be implemented rashly, without adequate deliberation and consideration.

Due to the hurried nature of the process in this instance, I have little doubt that these new laws will require further revaluation, amendment and revision. We may have to revisit immediately the ramifications of some of these amendments, especially those which have substantial attendant costs or impose significant burdens on the public and private sectors. I hope that in the future the OEK will adhere more reasonably to the deliberative and participatory process on which good governance depends.

Sincerely,



Tommy E. Remengesau, Jr.  
President of the Republic of Palau





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February 11, 2016  
Serial No. 16-3355

The Honorable Camsek E. Chin  
President of the Senate  
9<sup>th</sup> Olbiil Era Kelulau  
Ngerulmud, Palau National Capitol  
Republic of Palau 96939

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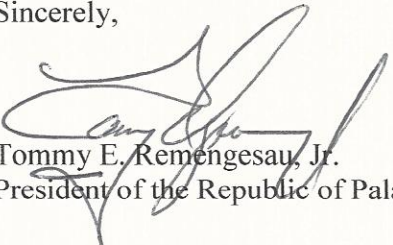


The Honorable Camsek E. Chin  
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Sincerely,



Tommy E. Remengesau, Jr.  
President of the Republic of Palau





# NINTH OLBIIIL ERA KELULAU

TWENTY-FOURTH SPECIAL SESSION  
FEBRUARY 2016

HOUSE BILL NO. 9-159-8, HD1, SD6, CD1

## A BILL FOR AN ACT

SEE INSIDE TITLE

OFFERED BY DELEGATE(S) Masasinge Arurang, Gibson Kanai,

Mario Gulibert, Marino O. Ngemaes, Lentcer Basilius ET AL,

DATE INTRODUCED October 22, 2014

### HOUSE ACTION

FIRST READING: October 22, 2014  
REFERRED TO: Health, Social and Cultural Affairs  
STANDING COMMITTEE REPORT NO: 9-141  
DATE ADOPTED: June 03, 2015  
SECOND READING: June 03, 2015  
LEGAL FORMAT: Proper  
REVIEW: June 03, 2015  
THIRD READING: June 24, 2015  
FINAL ACTION: February 10, 2016

### SENATE ACTION

FIRST READING: June 25, 2015  
REFERRED TO: Resources and Development  
STANDING COMMITTEE REPORT NO: 9-258  
DATE ADOPTED: October 29, 2015  
SECOND READING: October 29, 2015  
LEGAL FORMAT: Proper  
REVIEW: October 29, 2015  
THIRD READING: November 09, 2015  
FINAL ACTION: February 10, 2016

### CONFERENCE COMMITTEE ACTION

DATE: February 10, 2016  
COMMITTEE REPORT: 9-11  
DATE PASSED: February 10, 2016

Mrcello Ncirkelau  
HOUSE CLERK

Ann L. Pedro  
SENATE CLERK



## AN ACT

To establish labeling requirements for imported packages of food, medicine products, and other products; to amend the requirement for foreign investment approval certificates; to amend the business activities which require local ownership; to amend Title 28 to provide new definitions relating to taxis and tour operation; to amend and heighten the regulatory requirements for tour operation; to require drug testing for tour operators; to create tour operation exemptions and corresponding fees; to amend the Land Court operation deadline; and for other related purposes.

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

1           Section 1. Legislative Findings.

2           The Olbiil Era Kelulau finds that consumers in the Republic have been  
3 detrimentally affected by ingesting imported products labeled in foreign languages, such  
4 as medicines, harmful substances and food products, simply because they could not read  
5 the package label. The labels on packages should inform consumers by providing  
6 accurate information regarding their content and quantity in a language consumers  
7 understand. This way, consumers and medical professionals will be able to make the  
8 proper choice in regards to the products they wish to purchase. Informed consumers are  
9 essential to the fair and efficient functioning of a free market economy. It is the policy of  
10 the Olbiil Era Kelulau to require that persons involved in the packaging and labeling of  
11 imported consumer commodities provide proper labeling for such commodities.

12           Section 2. Short title.

13           This act shall be known and may be cited as the "Republic of Palau Labeling  
14 Act."

15           Section 3. Definitions.

16           In this chapter,

17           (a) "Consumer commodity" means a food, drug, harmful chemical or biological  
18 substance, or cosmetic product and any other article, product, or commodity of any kind  
19 or class which is customarily produced or distributed for sale through retail sales  
20 agencies or instrumentalities for consumption by individuals, or use by individuals for  
21 purposes of personal care or in the performance of services ordinarily rendered within  
22 the household.

(b) "Harmful biological substance" means a bacteria, virus or other microorganism or a toxic substance derived from or produced by an organism that can be used to cause death, injury or disease in humans, animals or plants.

(c) "Harmful chemical substance" means a solid, liquid, or gas that through its chemical or physical properties, along or in combination with one or more other chemical substances, can be used to cause death, injury or disease in humans, animals or plants.

(d) "Label" means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing on a package containing any consumer commodity.

(e) "Package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include:

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retain distributors thereof; or

(2) shipping containers or outer wrappings used by retainers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity.

(f) "Person" includes any firm, corporation, or association.

(g) "Principal display panel" means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

#### Section 4. Nonconforming labels prohibited.

It shall be unlawful for any person to import or cause to be imported into the Republic a packaged consumer commodity unless it conforms to the provisions of this Act and regulations promulgated under the authority of this Act.

#### Section 5. Contents of label.

(a) Any imported, packaged consumer commodity sold or distributed in the Republic, except to the extent exempted under regulations promulgated by the Bureau



of Customs & Border Protection pursuant to Section 6(b) of this Act, shall bear a label that specifies at a minimum:

(1) the identity of the commodity including a detailed statement of content, such as nutrition facts, and composition of medicine products or harmful chemical and biological substances;

(2) the name and place of business of the manufacturer, packer, or distributor;

(3) the net quantity of contents (in terms of weight or mass, measure, or numerical count), which shall be separately and accurately stated in a uniform location upon the principal display panel of that label, using the most appropriate units and which shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package.

(b) The label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall bear a statement of the net quantity (in terms of weight or mass, measure, or numerical count) of each such serving.

(c) The contents of any label of any package of a consumer commodity required by this Act shall be written in Palauan or English.

**Section 6. Local relabeling.**

(a) If goods arrive at the point of importation into the Republic of Palau with labels not in compliance with Section 5 above, the person importing or causing the goods to be imported may provide a sworn affidavit attesting to his intent to re-label the goods in such a manner to bring the goods into compliance with Section 5. The affidavit will include a description of the non-conforming goods and the names and locations of any retail establishment where the non-conforming goods will be offered for sale after re-labeling. Upon provision of this affidavit to the Bureau of Customs & Border Protection, the goods will be released by the Bureau to the importer.

(b) Affidavits completed under section (a) above will be provided by the Bureau of Customs & Border Protection to the Division of Environmental Health within the



Ministry of Health's Bureau of Public Health. The Division of Environmental Health will have the authority to inspect the retail establishments listed in the affidavit to ensure the nonconforming goods have been relabeled so as to comply with the requirements listed in Section 5.

**Section 7. Rules and regulations.**

(a) The Bureau of Customs & Border Protection shall promulgate regulations with respect to any consumer commodity as defined by this Act within six (6) months of the enactment of this Act.

(b) If the Bureau of Customs & Border Protection finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all otherwise applicable requirements of this Act is impracticable or is not necessary for the adequate protection of consumers, the Bureau of Customs & Border Protection shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the Bureau of Customs & Border Protection determines to be consistent with this Act.

(c) In carrying into effect the provisions of this Act, the Bureau of Customs & Border Protection will consult with the Ministry of Health in regards to promulgating rules, and may further cooperate with any department or agency of the Republic as needed.

**Section 8. Enforcement.**

Imports into the Republic of any consumer commodity covered by this Act shall be enforced by the Bureau of Customs & Border Protection.

**Section 9. Penalties.**

(a) The Bureau of Customs & Border Protection shall seize any consumer commodity covered by this Act and not in compliance with Section 5 of this Act or regulations promulgated pursuant to the Bureau of Customs & Border Protection's authority in Section 6.

(b) Any person found in violation of this Act shall be liable for a civil fine equal to the retail value of the consumer commodity, as assessed by the Bureau of Customs & Border Protection, in addition to the seizure and forfeiture of the goods.



1           Section 10. Amendment. 28 PNC § 103 is hereby amended to state as follows:

2           “§ 103. Requirement of foreign investment approval certificate.

3           ...

4           (b) No non-citizen shall acquire any ownership interest or make any investment  
5 in an existing business enterprise in the Republic owned wholly by citizens until that  
6 business enterprise obtains a foreign investment approval certificate approving such  
7 acquisition. For the purposes of this subsection, “ownership interest” or “investment”  
8 shall not include the lending of money by a non-citizen to a business enterprise or  
9 individual so long as that non-citizen lender has no ownership interest in, management  
10 authority or control over, or employment relationship to the borrower.

11           ...”

12           Section 11. Amendment. 28 PNC § 105 is hereby amended to state as follows:

13           “§ 105. Local ownership requirement.

14           The following business activities are reserved exclusively for citizens and business  
15 enterprises in which citizens have an ownership interest and shall not be permitted to be  
16 undertaken by any business enterprise in which no citizen has an ownership interest;  
17 provided, however, that business activities described in subsections (a), (b), (f), (g), (j),  
18 and (k), with the exception of fishing for farm-raised fish and maricultured species, are  
19 reserved exclusively for citizens and provided further, that the provisions of this chapter  
20 shall apply only prospectively, and that non-citizens currently holding business permits  
21 issued under 28 PNCA Chapter 1 or investment approval certificates for any of the  
22 business activities listed below, either solely or jointly with citizens, shall be permitted to  
23 continue such business activities only for the current term of their present business  
24 permits, with no renewal thereof except in accordance with the provisions of this  
25 chapter that do not conflict with any terms regarding extension or renewal included in  
26 such permits:

27           ...

28           (f) tour guides, fishing guides, diving guides, and any other form of water  
29 transportation services, including rentals of any land or water transportation vehicle.

30           ...



(i) equipment rentals for both land and water within the Republic, including equipment for purpose of tourism, but not including rentals of land or water transportation vehicles.

(j) ...

(k) surfing businesses.

(l) any such other business as the Board may determine.”

Section 12. Amendment. Section 102 of Title 28 of the Palau National Code is amended as follows:

“(a) ...

...

(m) “operator” means any individual who is in direct control of the mechanical and/or electrical operation of a vehicle or vessel.

(n) “President” means the President of the Republic.

(o) “Republic” means the Republic of Palau.

(p) “Secretary” means the Secretary to the Foreign Investment Board established under Section 104 of this chapter.

(q) “taxi” means any motorized vehicle driven upon any street or highway within the Republic of Palau for the purpose of transporting passengers in exchange for remuneration in cash, cash equivalent, or other property. This definition does not include tour buses as defined in subsection (s) of this section.

(r) “tour boat” means any motorized water craft, vehicle, or vessel, including, but not limited to, sport-fishing, and dive vessels, used to transport passengers in exchange for remuneration in cash, cash equivalent, or other property.

(s) “tour bus” means any motorized vehicle designed to carry six or more passengers and used to transport passengers for profit.

(t) “water excursion” means any trip, on any vessel transporting passengers within the waters of the Republic of Palau, including but not limited to trips for the purpose of, diving or snorkeling, marine sightseeing, watersports, fishing, sailing, kayaking, jet-skiing, and surfing or windsurfing in exchange for remuneration in cash, cash equivalent, or other property.



1 (u) ...”

2 Section 13. Amendment. The following will be inserted into the code as Section  
3 122 of Title 28:

4 “(a) No non-citizen may operate a tour boat, tour bus, or taxi, except as provided  
5 for in Section 124 of Title 28.

6 (b) No owner of a tour boat, tour bus, or taxi may employ, direct, authorize or  
7 allow a non-citizen to operate any tour boat, tour bus, or taxi, except as provided for in  
8 Section 124 of Title 28.”

9 Section 14. Amendment. 7 PNC § 124 is hereby amended to read as follows:

10 “§ 124. Licensing of master and engineer.

11 (a) The Ministry shall make such rules and regulations as it may deem necessary  
12 concerning the examination and licensing of masters and engineers and the complement  
13 of licensed officers and crew of vessels licensed to operate within the waters of the  
14 Republic pursuant to this title. The Ministry shall further promulgate rules and  
15 regulations, in accordance with 6 PNC Chapter 1, concerning the examination and  
16 licensing of all tour boat operators, as defined in Title 28 Section 102, including fees  
17 thereof.

18 (b) Applicants for licenses issued pursuant to subsection (b) of this section shall  
19 be required to be eighteen (18) years of age or older, and the employer or owner of the  
20 tour boat shall also be required to provide proof of adequate liability insurance for the  
21 operation of a tour boat.

22 (c) Tour boat operator licenses shall be valid for a period of three years from the  
23 date of issue.

24 (d) . . . .”

25 Section 15. Amendment. The following will be inserted into the code as Section  
26 127 of Title 7:

27 “§ 127. Tour boat operators.

28 All tour boat operators shall be in full compliance with all rules and applicable  
29 regulations promulgated by the Ministry of Public Infrastructure, Industries,  
30 Commerce, and Trade.”



Section 16. Amendment. 42 PNC Section 404 is hereby amended to read as follows:

“§ 404. Classes; age requirements.

(a) The following classes of operators’ licenses are established:

(1) ...

...

(7) all vehicles designed to carry six or more passengers and used, primarily in connection to transport passengers for profit, or as part of the services provided by an established business.

(b) ...

(1) ...

(A) ...

(B) twenty-one years, in the case of an operator’s license or learner’s permit issued under paragraphs (5), (6), or (7) of subsection (a) of this section; and

(2) in the case of an operator’s license or learner’s permit issued under paragraphs (4), (5), (6), or (7), of subsection (a) of this section, all applicants shall also be the holder of an operator’s license issued under paragraph (3) of subsection (a) of this section, all applicants for an operator’s license issued under paragraphs (6) or (7) of subsection (a) of this section.

(c) ...”

Section 17. Amendment. 42 PNC Section 410 is hereby amended to read as follows:

“§ 410. Term.

Every operator’s license shall be valid for five years from the date of issue unless suspended or revoked as provided for in this chapter.”

Section 18. Amendment. The following will be inserted into the code as Section 123 of Title 28:

“§ 123. Drug testing for tour bus and taxi operators.



1           (a) All operators of tour buses and taxis shall be required to undergo random  
2 testing for the use of illegal drugs. Rules and regulations for such drug testing shall be  
3 promulgated by the Bureau of Public Safety, in accordance with 6 PNC Chapter 1, and  
4 shall include provisions for the payment for such testing by the tour bus or taxi  
5 operator's employer, or him or herself should the operator be self-employed. The cost  
6 of such testing shall not be deducted by an employer from the operator's salary. The  
7 tests shall be conducted by a physician, medical officer, laboratory technician, or  
8 certified nurse approved to conduct such testing by the Bureau of Health Services and  
9 the Bureau of Public Safety.

10           (b) In addition to the rules and regulations contained in and issued pursuant to  
11 this chapter, any tour bus, or taxi operator who tests positive for the use of illegal drugs  
12 or who refuses to submit to drug testing, shall have his or her license immediately  
13 suspended pending further criminal proceedings pursuant to this Act.

14           (c) In addition to the other penalties provided for in 42 PNC 514, in the case of  
15 any person operating a tour bus or taxi, who is convicted of violating 42 PNC 514, for an  
16 offense while on duty, that person's operator's license shall be revoked for not less than  
17 three (3) years and not more than ten (10) years. Also, that person shall be fined in an  
18 amount of \$500.00 for the first violation, and not less than \$500.00 and not more than  
19 \$2,000.00 for any subsequent violation. In addition, any tour bus or taxi operator who is  
20 convicted of violating 42 PNC 514, for an offense while on duty, shall also be imprisoned  
21 for not less than forty eight (48) hours and not more than one (1) year for a first  
22 violation, and imprisoned for not less than seven (7) days and not more than one (1) year  
23 for any subsequent violation. Imprisoned tour bus and taxi operators shall not be  
24 eligible for the work release program if it entails being a tour bus or taxi operator."

25           Section 19. Amendment. The following will be inserted into the code as Section  
26 124 of Title 28:

27           "§ 124. Exemptions.

28           (a) The restrictions set forth in Section 2(a) and (b) of this Act shall not apply to  
29 an operator of a live aboard vessels registered outside of the Republic of Palau, who has



1 a valid permit to operate a live aboard vessel in Palau prior to the effective date of this  
2 Act.

3 (b) Any non-citizen who currently holds a valid work permit issued by the  
4 Division of Labor for employment as a tour boat, tour bus, or taxi operator, shall be  
5 exempt from the restrictions set forth in Section 122 of Title 28 until the expiration of his  
6 or her current work permit or operator's license, within one year after the enactment of  
7 this Act, or whichever comes first.

8 (c) Any person or entity seeking to employ a non-citizen as a tour boat, tour bus,  
9 or taxi operator shall not be bound by the restrictions set forth in Section 122 (b) of Title  
10 28 if that person or entity can prove that, after making every reasonable effort to find  
11 and to employ a Palauan citizen, there is no Palauan citizen who is able and willing to be  
12 employed as a tour boat, tour bus, or taxi driver. Any individual employed pursuant to  
13 this subsection shall be known as an "exempt operator" and shall be employed on the  
14 same or substantially similar terms and conditions as a Palauan citizen in the same or  
15 comparable position, except as otherwise provided by law. The Division of Labor shall,  
16 within 180 days after the effective date of this Act, promulgate rules and regulations, in  
17 accordance with 6 PNC Chapter 1, which provide for a suitable application process for  
18 any employer wishing to employ an exempt operator. The application procedure shall  
19 include provisions through which the employer can demonstrate that a person or entity  
20 has satisfied the requirements of this subsection."

21 Section 20. Amendment. The following will be inserted into the code as Section  
22 125 of Title 28:

23 "§ 125. Fees applicable to exempt operators and training of tour boat operators.

24 Every person or entity that employs an exempt operator under Section 124 (c) of  
25 this Act shall be required to pay an annual fee of \$2,000.00 per year for the first year;  
26 \$3,000 per year for the second year; \$4,000 per year for the third year; and \$5,000 per  
27 year for the fourth year with 50% (fifty percent) to the Palau Community College  
28 Tourism and Hospitality School of Excellence and 50% (fifty percent) to the Ministry of  
29 Public Infrastructure, Industries, and Commerce for every exempt operator that a  
30 person or entity hires, or whose contract of employment that a person or entity renews



1 after having satisfied the requirements of Section 123(c). Such annual fees shall be paid  
2 upon the date of the approval of the employer's application, pursuant to Section 124(c),  
3 for the employment of an exempt operator, and on an annual basis."

4 Section 21. Amendment. The following will be inserted into the code as Section  
5 126 of Title 28:

6 "§ 126. Penalties.

7 (a) Any person or entity that violates the provisions of Section 122 or Section 124,  
8 or the rules and regulations promulgated to implement this Act, shall be fined not less  
9 than \$2,000.00 for the first violation, and not less than \$4,000.00 and not more than  
10 \$6,000.00 for any subsequent violations.

11 (b) Any person or entity that violates Section 125 of this Title 28 shall be fined in  
12 an amount of double the fees it has failed to pay."

13 Section 22. Amendment. Section 1304 of Title 35 of the Palau National Code is  
14 hereby amended to read as follows:

15 "§ 1304. Land Court responsibilities; Supreme Court.

16 (a) The Land Court, within a reasonable period of time not to extend beyond  
17 August 11, 2016, shall proceed on a systematic basis to hold hearings and make  
18 determinations with respect to the ownership of all land within the Republic.

19 (b) The Land Court shall award ownership of public land, or land claimed as  
20 public land, to any citizen or citizens of the Republic who prove:

21 (1) that the land became part of the public land, or became claimed as  
22 part of the public land, as a result of the acquisition by previous occupying  
23 powers or their nationals prior to January 1, 1981, through force, coercion, fraud  
24 or without just compensation or adequate consideration, and

25 (2) that prior to that acquisition the land was owned by the citizen or  
26 citizens or that the citizen or citizens are the proper heirs to the land. Except in  
27 cases where claims of Palauan citizens, clans or lineages prevailed over the claim  
28 of the Trust Territory Government, its Land Title Officer and all of its political  
29 subdivisions, the statute of limitations, laches or stale demand, waiver, res  
30 judicata or collateral estoppel as to matters decided before January 1, 1981, and



1       adverse possession, may not be asserted against and shall not apply to claims for  
2       public land by citizens of the Republic. The record of proceedings of the District  
3       Land Title Officer or the Palau Land Commission may be introduced as evidence  
4       in land ownership proceedings before the Land Court. The record shall be given  
5       such weight as the Land Court or Trial Division, in the exercise of its discretion,  
6       deems appropriate. All claims for public land by citizens of the Republic must  
7       have been filed on or before January 1, 1989. All determinations of ownership  
8       pursuant to this section shall be made by August 11, 2016.

9       ..."

10       Section 23. Effective date.

11       This Act shall take effect upon its approval by the President of the Republic of  
12       Palau, or upon its becoming law without such approval.

PASSED: February 10, 2016

Approved this 10<sup>th</sup> day of February, 2016

  
\_\_\_\_\_  
H. E. Tommy E. Remengesau, Jr.  
President of the Republic of Palau