

AN ACT

To amend Title 5 of the Yap State Code by replacing Sections 401 through 411 with a new Chapter 4 on historic preservation, and for other purposes.

Be it enacted by the Legislature of the State of Yap.

1 Section 1. Purpose. The purpose of this Act is to provide for the
2 necessary modifications and adjustments of the State Historic
3 Preservation Act so as to be consistent with the Executive Branch
4 Reorganization Act.

5 Section 2. Repeal and supersede. Section 401 through 411 of Title
6 5 of the Yap State Code are hereby repealed in their entirety and
7 superseded by the following:

8 "CHAPTER 4. HISTORIC PRESERVATION

9 §401. Short title. This chapter shall be known and
10 may be cited as the "State Historic Preservation Act of 1989".

11 §402. Findings. The Legislature finds that:

12 (a) The people of the State have an ancient and
13 distinguished history which have played an important role in the
14 history of Micronesia.

15 (b) Sites, structures, buildings, objects and areas of
16 historic and cultural significance within the State have been damaged
17 and destroyed, and objects removed from the State.

18 (c) Traditions, arts, crafts, stories, and songs of
19 historic and cultural significance are in danger of being lost as elders
20 pass away and their knowledge with them.

21 (d) The spirit and direction of the State are founded
22 upon and reflected in its historic past.

23 §403. Declaration of policy. The State Government is
24 empowered by the Constitution of the Federated States of Micronesia and
25 the Constitution of the State of Yap to protect, conserve, and develop

1 objects and places of historic and cultural interest within the State.
2 It is the policy of the State to exercise that power to preserve the
3 sites, structures, buildings, objects, areas, traditions, arts, crafts,
4 stories, and songs of historic and cultural significance for the benefit
5 of present and future generations.

6 §404. Definitions. As used in this chapter, unless
7 the context otherwise requires, the term:

8 (a) "Director" means the Director of Youth and Civic
9 Affairs.

10 (b) "Division" means the Division of Civic Affairs
11 within the Department of Youth and Civic Affairs.

12 (c) "Historic property" means any site, structure,
13 building, object or area of significance in the history, archaeology or
14 culture of the people of the State of Yap.

15 (d) "Traditional culture" means any tradition, art,
16 craft, song, story or technology indigenous to the people of the State
17 of Yap.

18 §405. Implementation of policy.

19 (a) The State Government, including its agencies and
20 political subdivisions shall implement a program to identify, protect,
21 preserve, and develop historic properties and traditional culture. The
22 program shall be known and referred to as the "Yap Historic Preservation
23 Program".

24 (b) The State Government, including its agencies and

25 political subdivisions, prior to permitting, assisting or engaging in

1 any activity which may have an impact on historic properties shall
2 notify the Division of Civic Affairs.

3 (c) The Division shall take all steps reasonable and
4 necessary to determine the nature and magnitude of the impact such
5 activities are likely to have on historic property or traditional
6 culture. Should the Division determine that significant effects are
7 likely, it shall initiate consultation with any concerned agency,
8 political subdivisions, or person to clearly identify the historic
9 properties or traditional culture subject to impact.

10 (d) The Division shall maximize beneficial effects and
11 eliminate or mitigate any harmful effects to historic properties or
12 traditional culture.

13 (e) Any agency, political subdivision or person, upon
14 receipt of notification that consultation is necessary in the opinion of
15 the Division, shall enter into such consultation. Any activity which is
16 the subject of consultation shall cease if there is a threat of immediate
17 and irreparable harm to an historic property or traditional culture.

18 (f) If an irresolvable conflict arises between the
19 preservation of historic properties or traditional culture and the
20 activity which is the subject of consultation, all parties to the
21 consultation shall submit reports of their findings and recommendations
22 to the Director of the Department of Youth and Civic Affairs and the
23 Governor.

24 (g) The Director and Governor shall review the conflict
25 and enter a decision to resolve the conflict. The decision shall be

1 binding upon all parties to the activity which is the subject
2 consultation.

3 (h) Prior to entering a decision, the Director and
4 Governor shall consider the value of the activity to the economic and
5 social development of the State and the value of the concerned historic
6 property or traditional culture.

7 §406. Powers and duties of the Division. With the
8 approval of the Director of Youth and Civic Affairs, the Division shall
9 have these powers and duties:

10 (a) Participate in programs and activities of the
11 Institute of Micronesian History and Culture;

12 (b) Conduct and support archaeological surveys for
13 identification of historic properties;

14 (c) Acquire and preserve documents and oral statements
15 on the history and traditional culture of the State;

16 (d) Promote, conduct, and support the restoration,
17 stabilization and maintenance of historic properties;

18 (e) Conduct studies, surveys, and investigations on
19 public or private activities that may have impact on historic properties
20 or traditional culture;

21 (f) Promote the establishment of a State Museum and
22 operate or support the operation of the Museum;

23 (g) Promote the establishment of a State Historic Park
24 System and administer or support the administration of the system;

25 (h) Promote, conduct, and support education programs on

1 historic preservation;

2 (i) Coordinate public and private activities to preserve
3 historic properties and traditional culture;

4 (j) Promulgate rules and regulations, subject to the
5 approval of the Governor, necessary for the effective implementation of
6 this chapter;

7 (k) Receive and administer grants and funds; and

8 (l) Enter into contracts, to exercise powers and perform
9 duties enumerated in this section, and engage in such other activities
10 consistent with the purposes of this chapter.

11 §407. Councils of traditional leaders.

12 (a) The Council of Pilung and Council of Tamol shall
13 advise the Division on matters and activities that concern historic
14 properties and traditional culture.

15 (b) The Division shall deliver reports on the activities
16 of the Division that concern historic properties and traditional culture
17 to the Council of Pilung and the Council of Tamol upon the request of
18 the Council.

19 §408. Harming or removing historic property
20 prohibited. No person shall wilfully remove, or cause to be removed,
21 historic property from the State or the public domain, or wilfully
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1 deface, disfigure, disturb, damage or destroy such property.

2 §409. Penalties. A person who violates any provision
3 of this chapter, or rules and regulations promulgated pursuant to this
4 chapter, shall upon conviction be punished as follows:

5 (a) If the value of the historic property involved is
6 less than \$1,000, by imprisonment of not more than one year, or fined
7 not more than \$1,000, or both; or

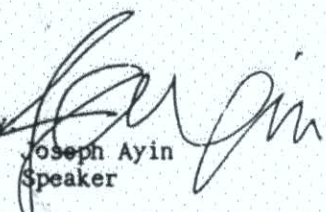
8 (b) If the value of the historic property involved is
9 \$1,000 or more, by imprisonment for not more than five years, or fined
10 not more than the value of the property, or both.


11 (c) The value of the property involved shall be deemed
12 to be the highest value, by reasonable standard, of the property.

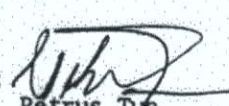
13 §410. Severability. If any provision of this chapter,
14 or amendments thereto, or application thereof to any person,
15 thing or circumstances is held invalid, the invalidity does not affect
16 the provisions or application of this chapter, or amendments, that can
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1 be given effect without the invalid provision or application, and to
2 this end the provisions of this chapter, and the amendments thereto, are
3 severable."

4 Section 3. Effective date. This Act shall take effect upon its
5 approval by the Governor, or upon its becoming law without such approval.

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11 Certified by 
12 Joseph Ayin
13 Speaker

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15 Certified by  Date: May 12, 1987
16 Aggie Kotnay
17 Chief Clerk

18 Approved by: 
19 Petrus Tun
20 Governor

21 Date: 24 May 1987
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