NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
43RD CONSTITUTIONAL REGULAR SESSION, 2022

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

HISTORIC PRESERVATION (AMENDMENT) ACT, 2022

Index

Section **Page**

§101. Short title....3
§102. Amendments....3
§103. Effective Date....10

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HISTORIC PRESERVATION (AMENDMENT) ACT, 2022

AN ACT to amend the Historic Preservation Act 1991 in order to bring the Act up to date and renaming the office.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

§101. Short title.

This Act may be cited as the Historic Preservation (Amendment) Act, 2022.

§102. Amendments.

(1) The name of the Chapter shall be amended to the Cultural and Historic Preservation Act 1991. All references to "Historic Preservation Office" and "HPO" shall be modified accordingly.

(2) Section 202 shall be amended as follows:

§202. Declaration of Intent.

(1) The Nitijela finds and declares the following:

(a) Protection of all cultural and historic properties and place and unchanged could seriously impede the use and development of lands in the public interest, frustrate scientific research, unduly restrict the cultural use of such properties, and allow such properties to fall into disrepair through disuse.

(2) It is the intent of the Nitijela that this Chapter be implemented in a manner that balances the preservation of cultural and historic properties against the needs of development and continuing use of land and other resources.

(3) The guiding principle to be used in the implementation of the Chapter shall be to foster conditions under which modern society, prehistoric, cultural and historic resources in the Republic can exist in productive harmony and fulfil the social, economic and other requirements of present and future generations.

(3) Section 203 shall be amended as follows:

§203. Interpretation.

In this Chapter, unless the context otherwise requires:

(c) "Council" means the Council on Cultural and Historic Preservation created by Section 209 of the Chapter;

(j) "Development" means the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials, change in the density or intensity of use of land including, but not limited to, subdivision of land and any other division of land including lot parcelling; change in the intensity of use of water, ecology related thereto, or alteration of the size of any structure, including any facility of any private, public, or municipal government or utility, and the removal of any significant vegetation;

(i) "Director" means the Director of the Cultural and Historic Preservation Office directing, managing and promoting the preservation of the cultural and historic heritage of the Republic of the Marshall Islands (RMI) and providing quality anthropological and archaeological services to the people of the RMI; he/she directs the RMI Cultural and Historic Preservation Office (RMICHPO) and is responsible for the development of policy and programs under this Chapter.

(m) "Donation" means the provision of artifacts or other material derived from or related to a cultural and historic property, either permanently or for a fixed period of time, to a non-profit organization recognized by the Cultural and Historic Preservation Office on the basis of its cultural significance to the Republic of the Marshall Islands;

(n) "Fund" means the Fund established under the Section 214 of this Chapter;

(cc) "Private domestic use" includes the space designated for the construction and establishment of a privately-owned residential house (including an extension of that structure), privately-owned seawall;

(bb) "Public use" includes the space designated for the construction and establishment of a public structure such as (restaurant, apartment complex, laundromat, seawall for business premises, and any other commercial Entity);

(4) Section 205 shall be amended as follows:

§205. Director and Staff.

(1) The CHPO shall consist of the following persons:

(a) Director who is the State Historic Preservation Officer, who shall be the head of the CHPO;

(2) The Director is responsible for hiring of staff through the Public Service Commission.

(3) The Director from time to time may engage or recruit technical, legal, financial, etc assistance as deemed required to carry out and complete the function of the Office through the Public Service Commission.

(5) Section 206 shall be amended as follows:

§206. Powers and Duties of the Cultural and Historic Preservation Office.

The Cultural and Historic Preservation Office shall, as necessary, through cooperation:

(a) be responsible for the implementation of this Chapter, and carry out all laws of the Republic of the Marshall Islands pertaining to cultural and historic preservation and all other applicable laws of the Republic;

(b) issue or deny permits, after approval by the Council, for use, access, and development of land containing cultural and historic properties, and for the taking of any artefact of cultural or historical significance from the Republic of the Marshall Islands for cultural exchange, scientific identification, or donation to the bona fide non-profit organization recognized on the basis of its cultural significance to the Republic;

(6) Section 209 shall be amended as follows:

§209. Establishment of Council.

There is hereby established the Republic of the Marshall Islands Council for on Cultural and Historic Preservation (hereinafter the "Council")

(7) Section 210 shall be amended as follows:

§210. Membership. Terms. Vacancies. Compensation.

The Council shall consist of the members who shall be appointed by the Minister of Cultural and Internal Affairs and approved by the Cabinet:

(a) the following members:

(i) the Minister of Culture and Internal Affairs, who shall serve as the Chairman of the Council;

(ii) the Commissioner of the Public School System or the Commissioner's designee;

(iii) the Secretary of the Ministry of Natural Resources and Commerce, or the Secretary's designee;

(iv). the Chairperson of the Republic of the Marshall Islands Environmental Protection Authority Board or the Chairperson's designee;

(v) the Chairman of the Council of Iroij or the designee;

(vi) the Director of Alele Museum

(vii) one (1) Manit Knowledgeable Individual from Ralik;

(viii) one (1) Manit Knowledgeable Individual from Ratak;

(ix) a member from the Youth Community to be appointed by the Minister of Culture & Internal Affairs; and

(x) the CHPO Director who shall be a non-voting member and who shall be the Secretary of the Council;

(2) The Council shall select from among its voting members a Vice Chairman.

(3) The members of the Council shall serve with compensation for Council meetings and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties. Members travelling on official business shall receive per diem compensation as established Republic rates.

(8) Section 211 shall be amended as follows:

§211. Bylaws and Procedures.

Subject to this Chapter and any other law, the Council shall determine its own by-laws, which shall provide for:

(a) the number of meetings per year to be held by the Council;

(b) the quorum at and the conduct of meetings of the Council;

(c) the appointment and duties of a Secretary of the Council;

(d) sitting fees; and

(e) any other matters relating to the Council and its operations and procedures which it deems appropriate.

(9) Section 213 shall be amended as follows:

§213. Powers and Duties of the Council.

The Council shall:

(a) review and approve project proposals intended to preserve Marshallese cultural and historic heritage;

(b) review and approve the National Cultural and Historic Preservation Plan and revisions of that plan as provided in accordance with the regulations promulgated under Section 207 (a) of this Chapter;

(c) review and approve any and all regulations promulgated under this Chapter;

(d) review and approve permits under this Chapter;

(e) participate in the development of curation facilities pursuant to this Chapter;

(f) review and approve annual report submitted to and through the Minister to Cabinet and Nitijela etc.

(10) Section 214 shall be amended as follows:

§214. Historic Preservation Fund.

(1) There shall be established a fund which shall be known as the Cultural and Historic Preservation Fund, hereinafter referred to as "the Fund"

(2) The Fund is a [special revenue] in consistent with other Special Revenue Fund under the Financial Management Act of 1990.

(11) Section 215 shall be amended as follows:

§215. Payments Into the Fund.

(1) There shall be paid into the Fund:

(a) any monies appropriated by the Nitijela for the purposes of the CHPO either generally or in relation to any particular purpose;

(b) any monies received and generated through CHPO permits: land modification permit, anthropological research permit, archaeological research permit, dive expedition permit, boat tour operator permit; or, others as established/developed in guidelines as part of this Act;

(c) any monies the CHPO from other costs, penalties, fees, fines, damages or other monies in any suit, prosecution or other proceeding under this Chapter or any other law;

(d) historic preservation funding available to the Republic by the United States National Park Service;

(e) any other funds/monies/grants received in accordance to the purpose and function of this Act.

(12) Section 216 shall be amended as follows:

§216. Payments Out of the Fund.

(1) Payment may be made out of the Fund

(a) carrying out the powers and duties of the CCHP and CHPO for the purpose of cultural and historic preservation in accordance with this Chapter and regulations promulgated under this Chapter, and all other applicable laws;

(b) the costs and expenses of the CHPO, including administration;

(c) working capital and petty cash, and for similar purposes; and

(d) giving effect to the provisions of this Chapter and any regulations made under this Chapter.

(2) The operation related expenses and salaries of the Director and relevant Staff as allowed under any Funds available.

(13) Section 217 shall be amended as follows:

§217. Accounts and Records.

(1) The Secretary of Finance shall maintain, in accordance with the procedures prescribed by the Financial Management Act, 11 MIRC 1, proper accounts and records with respect to the Fund, any money paid into or out of the Fund, and any property purchased with money from the Fund.

(2) The accounts to be laid before the Nitijela by the Minister of Finance under Article VIII, Section 5(4) of the Constitution of the Republic of the Marshall Islands, shall include accounts relating to the CHPO.

(3) The accounts and records referred to in Section 208 of this Chapter and subsections (1) and (2) of this Section shall be audited by the Auditor-General as provided for in Article VIII, Section 15 of the Constitution of the Republic of the Marshall Islands.

(4) At the end of every Fiscal Year, the CHPO shall submit to the Minister and the Council on Cultural and Historic Preservation reports of the work of the CHPO including its financial statements.

(a) The financial statement audits shall be performed by the Auditor General.

(5)Notwithstanding the provisions of this Section, the Minister may at any time require the CHPO to submit to the Minister a report in such form as to such matters as the Minister deems necessary.

§103. Effective Date.

This Act shall take effect in accordance with the Constitution and the Rules of Procedures of the Nitijela.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: **77ND1** was passed by the Nitijela of the Republic of the Marshall Islands on the **25th** day of **November** 2022; and

2. That I am satisfied that Nitijela Bill No: **77ND1** was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 7th day of **December** 2022.

Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Attest:

Morean S. Watak
Clerk
Nitijela of the Marshall Islands