

## CHAPTER 2

### ENDANGERED SPECIES

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26 PC 2-101. Short title.

This chapter is known and may be cited as the “Endangered Species Act of 1975.”

Source: P.L. No. 6-55 §1; 45 TTC §101 (1980)

26 PC 2-102. Findings.

The Legislature has determined that certain species of plants and animals are threatened with or in danger of becoming extinct in the state of Pohnpei.

Source: P.L. No. 6-55 §2; 45 TTC §102 (1980)

#### 26 PC 2-103. Policy.

The indigenous plants and animals of Pohnpei are of esthetic, ecological, historical, recreational, scientific, and economic value and it is the policy of the state of Pohnpei to foster the well-being of these plants and animals by whatever means necessary to prevent the extinction of any species or subspecies from our islands or the water surrounding them.

Source: P.L. No. 6-55 §3; 45 TTC §103 (1980)

#### 26 PC 2-104. Administration.

This chapter will be administered by the Director of the Department of Land and Natural Resources through the Division of Forestry and Marine Conservation. The administration of this chapter will include the authority to set up conservation programs aimed at conserving endangered and threatened species, including research programs to adequately define which species are in fact endangered or threatened, and including, when necessary, the acquisition of land or aquatic habitat or interest therein for the conservation of resident endangered or threatened species.

Source: P.L. No. 6-55 §4; 45 TTC §104 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

#### 26 PC 2-105. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Animal" means any species of organism in the animal kingdom including, but not restricted to, mammals, birds, reptiles, amphibians, fish, clams, crustaceans, and corals.
- (2) "Commercial activity" means all activities of industry and trade, including, but not limited to, buying or selling of commodities, and activities conducted for the purpose of facilitating such buying or selling.
- (3) "Director," when used alone, means the Director of the Department of Land and Natural Resources.
- (4) "Endangered species" means any species that is in danger of extinction throughout all or a significant portion of its range.
- (5) "Export" means to remove from any land or water area under the jurisdiction of Pohnpei to any other place in the world.

(6) “Import” means to land on, bring into or attempt to land on, bring into or introduce into any place subject to the jurisdiction of Pohnpei.

(7) “Or parts thereof” means, in the case of animals and fish, hide, hair, bone, skeleton, teeth, feathers, skin, scales, tissues or internal organs. In the case of plants, the term means any root, leaf, stem, trunk, bark, fiber, seed, fruit, flower, tissue or extract.

(8) “Person” means any individual, corporation, partnership, trust, association or any other private entity, or any officer, employee, agent, department or instrumentality of the Government of Pohnpei, or any local government therein.

(9) “Plant” means any species of organism in the plant kingdom including, but not restricted to, trees, shrubs, flowers, grasses, algae, and fungi.

(10) “Pohnpei” means the state of Pohnpei.

(11) “Possession” means the personal holding of any endangered or threatened species of plant or animal or parts thereof by any person, or possession of that species on his or her property, land, vehicle, home, place of business or place of work.

(12) “Species” means any species or subspecies of scientifically described plant or animal.

(13) “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such activity.

(14) “Threatened species” means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Source: P.L. No. 6-55 §5; 45 TTC §105 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

#### 26 PC 2-106. Prohibited acts.

It is prohibited for any person to take, engage in commercial activity with, hold possession of or export any threatened or endangered species of plant or animal or parts thereof, so listed in this chapter or in any regulation issued in accordance with this chapter, except in accordance with the exceptions listed in 26 PC 2-107.

Source: P.L. No. 6-55 §6; 45 TTC §106 (1980)

#### 26 PC 2-107. Exceptions.

(1) This chapter shall not apply to the taking, possession of or export of species of endangered or threatened plants and animals or parts thereof for scientific purposes, provided the person or persons involved apply for and are issued a permit for such activity by the Director of the Department of Land and Natural Resources in accordance with regulations governing the issuance of such permits.

(2) This chapter shall not apply to any species of endangered or threatened plant or animal if that plant or animal becomes a public nuisance or public safety factor, provided that any remedial action be taken only by the Pohnpei Government and in accordance with regulations issued in accordance with this chapter for this purpose.

(3) This chapter shall not apply to those species of endangered or threatened plants and animals or parts thereof which have been taken under authority of Subsection (1) of this section and raised successfully in commercial quantities under controlled conditions of aquaculture, mariculture, game farming, agriculture or horticulture, provided that the individuals or quantity lots of these species or parts thereof are identified and identifiable as having been raised under these controlled conditions, such identification to be in accordance with regulations issued under this chapter.

(4) This chapter shall not apply in those cases where the Director has determined that the taking from certain islands of certain species of endangered or threatened plants or animals for subsistence food or for old traditional uses does not further endanger the species involved; PROVIDED, that the species or parts thereof involved are not subjected to commercial activity nor exported; PROVIDED FURTHER, that this exception will only apply to the bona fide indigenous inhabitants of the islands excepted by the Director.

(5) This chapter shall not apply to any person in innocent possession of any species of endangered or threatened plant or animal or parts thereof, except that such plants or animals or parts thereof will be confiscated by the state and disposed of in accordance with regulations issued under this chapter.

(6) This chapter will not apply to any nonliving species of endangered or threatened plant or animal or parts thereof, if a person was in possession of same prior to this chapter becoming law; and PROVIDED that the person gives adequate evidence of such prior possession in accordance with criteria contained in regulations issued in accordance with this chapter.

Source: P.L. No. 6-55 §7; 45 TTC §107 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

#### 26 PC 2-108. Regulations.

The Director of the Department of Land and Natural Resources shall issue regulations, subject to the approval of the Governor, applying to this chapter and including a listing of the species of endangered and threatened plants and animals of Pohnpei. These regulations shall have the force and effect of law.

Source: P.L. No. 6-55 §8; 45 TTC §108 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

#### 26 PC 2-109. Importation of endangered species.

In anticipation of international cooperation and reciprocation, it is prohibited to import into Pohnpei any species of endangered or threatened plant or animal or parts thereof that is listed

by the convention on international trade in endangered species of wild fauna and flora. This list may be a part of the regulations applying to this chapter.

Source: P.L. No. 6-55 §9; 45 TTC §109 (1980)

#### 26 PC 2-110. Importation of exotic plants and animals.

Since exotic plants and animals not already established in Pohnpei can cause ecological upsets, compete with, prey upon, and introduce serious or devastating diseases that could further endanger our indigenous plants and animals or drive them to extinction, it is prohibited to import such exotic plants and animals or parts thereof into Pohnpei except under permit by the Director as defined in the regulations authorized by this chapter, except that beneficial insects and biological control microorganisms may be imported in accordance with Pohnpei Government plant and animal quarantine laws.

Source: P.L. No. 6-55 §10; 45 TTC §110 (1980)

#### 26 PC 2-111. Confiscation of plants, equipment, etc.

Any endangered species of plant or animal or parts thereof held by any person in contravention of any of the other sections of this chapter, may be confiscated by the Pohnpei Government and disposed of in accordance with the regulations applying to this chapter; and further, any gun, weapon, spear, knife, trap, net, fishing gear, boat, engine or vehicle used for the purpose of violating any of the provisions or regulations of this chapter may be confiscated and disposed of by the Pohnpei Government in accordance with the regulations applying to this chapter.

Source: P.L. No. 6-55 §11; 45 TTC §111 (1980)

#### 26 PC 2-112. Penalties.

Any person found guilty of violating any of this chapter shall be imprisoned for a period of time not to exceed one year, or fined not more than \$10,000, or both such fine and imprisonment.

Source: P.L. No. 6-55 §12; 45 TTC §112 (1980)