



RALPH DLG. TORRES
Governor

VICTOR B. HOCO
Lieutenant Governor

COMMONWEALTH of the NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

02 NOV 2018

The Honorable Rafael S. Demapan
Speaker, House of Representatives
Twentieth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

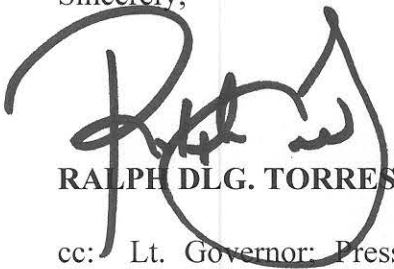
The Honorable Arnold I. Palacios
Senate President, The Senate
Twentieth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law **House Bill No. 20-79, SS1** entitled, "To protect coral reefs through recovery of monetary damages resulting from vessel groundings and anchoring-related injuries, destructive fishing practices, and non-permitted taking of threatened species.", which was passed by the House of Representatives and the Senate of the Twentieth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 20-79**. Copies bearing my signature are forwarded for your reference.

Sincerely,



RALPH DLG. TORRES

cc: Lt. Governor; Press Secretary; Attorney General's Office; Department of Lands and Natural Resources; Special Assistant for Administration; Special Assistant for Programs and Legislative Review



House of Representatives

20th NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

P.O. BOX 500586
SAIPAN, MP 96950


September 27, 2018

The Honorable Ralph DLG. Torres
Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Governor Torres:

I have the honor of transmitting herewith for your action **H. B. No. 20-79, SS1**, entitled: "To protect coral reefs through recovery of monetary damages resulting from vessel groundings and anchoring-related injuries, destructive fishing practices, and non-permitted taking of threatened species.", which was passed by the House of Representatives and the Senate of the Twentieth Northern Marianas Commonwealth Legislature.

Sincerely yours,



Linda B. Muña
House Clerk

Attachment



*Twentieth Legislature
of the
Commonwealth of the Northern Mariana Islands*

IN THE HOUSE OF REPRESENTATIVES

Third Special Session

May 5, 2017

REPRESENTATIVE ANGEL A. DEMAPAN of Saipan, Precinct 1 (*for himself*) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. NO. 20-79, SS1

AN ACT

**TO PROTECT CORAL REEFS THROUGH RECOVERY OF
MONETARY DAMAGES RESULTING FROM VESSEL
GROUNDINGS AND ANCHORING-RELATED INJURIES,
DESTRUCTIVE FISHING PRACTICES, AND NON-PERMITTED
TAKING OF THREATENED SPECIES.**

The Bill was referred to the House Committee on Natural Resources, which submitted Standing Committee Report No. 20-45; adopted 7/28/17.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, JULY 28, 2017;**
without amendments and transmitted to the
THE SENATE.

The Bill was referred to the Senate Committee on Resources, Economic Development & Programs.
THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, AUGUST 30, 2018;
with amendments in the form of H. B. No. 20-79, SS1.

H. B. NO. 20-79, SS1 WAS RETURNED TO THE HOUSE OF REPRESENTATIVES ON AUGUST 31, 2018.

The House of Representatives accepted the Senate amendments and passed H. B. No. 20-79, SS1 during its Fourth Day, Fourth Regular Session on September 25, 2018.

THE BILL WAS FINALLY PASSED ON SEPTEMBER 25, 2018.



Linda B. Muña, House Clerk



*Twentieth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

FOURTH DAY, FOURTH REGULAR SESSION

SEPTEMBER 25, 2018

H. B. No. 20-79, SS1

AN ACT

TO PROTECT CORAL REEFS THROUGH RECOVERY OF MONETARY DAMAGES RESULTING FROM VESSEL GROUNDINGS AND ANCHORING-RELATED INJURIES, DESTRUCTIVE FISHING PRACTICES, AND NON-PERMITTED TAKING OF THREATENED SPECIES.

Be it enacted by the Twentieth Northern Marianas Commonwealth Legislature:

1 **Section 1. Short Title.** This Act may be referred to as the “Coral Reef
2 Protection Act of 2017”.

3 **Section 2. Findings.** The Legislature finds that the protection of coral reefs is
4 essential to the economic, environmental, and social wellbeing of the Commonwealth. The
5 global economic value of coral reefs is estimated to be approximately \$30 billion per year. In
6 the CNMI, the total net value of coral reefs has been estimated at approximately \$68 million
7 per year. Coral reefs are crucial to the vitality of the Commonwealth’s tourism industry and
8 fisheries, and play a key role in coastline protection, a function that will become increasingly

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1 important in the face of climate change related sea level rise and increased storm frequency
2 and severity. Additionally, coral reefs are among the most biologically diverse ecosystems on
3 the planet, representing a storehouse of potential medicines and other natural resources.

4 The Legislature, therefore, asserts that it is in the best interest of the Commonwealth
5 to protect coral reefs through timely and efficient recovery of monetary damages resulting
6 from vessel groundings and anchoring-related injuries, destructive fishing practices, and non-
7 permitted taking of threatened species. The Legislature recognizes the Department of Lands
8 and Natural Resources as the lead enforcement agency to protect the coral reef resources
9 located within the waters of the Commonwealth or on sovereign submerged lands unless
10 preempted by federal law. This Act does not divest other Commonwealth agencies and
11 political entities of their interests in protecting coral reefs.

12 **Section 3. Amendment.** Title 2, Division 1, Chapter 6 of the Commonwealth Code
13 is hereby amended by adding a new Article 6 to read as follows:

14 **“Article 6. Coral Reef Protection Act.**

15 **§ 1661. Definitions.**

16 (a) “Aggravating circumstances” means operating, anchoring, or mooring a
17 vessel in a reckless or wanton manner; while under the influence of drugs or alcohol;
18 or in any other manner that demonstrates disregard of boating laws and regulations
19 concerning speed, navigation, or safe operation.

20 (b) “Coral” means species of the phylum Cnidaria including, but not limited
21 to, the following:

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(1) The class Anthozoa, including the orders Actiniaria (sea anemones) Antipatharia (black corals), Scleractinia (stony corals), among others of the subclass Hexacorallia; and the subclass Octocorallia including the orders Alcyonacea (soft corals, gorgonians, and organpipe corals) and Helioporacea (blue corals)

(2) Members of the families Milleporidae (fire corals) and Stylasteridae (lace corals) of the class Hydrozoa.

(c) "Coral reef" means:

(1) Limestone structures composed wholly or partially of living corals, coralline algae, their skeletal remains and hosting other associated benthic invertebrates, vertebrates and plants;

(2) Hard-bottom communities, also known as live bottom habitats or colonized pavements, characterized by the presence of coral and associated reef organisms, or other reef building organisms such as tube worms; and

(3) Soft-bottom communities associated with coral reefs, characterized by the presence of associated vertebrates, invertebrates, or plants, including seagrass and mangroves.

(d) "DLNR" means the Department of Lands and Natural Resources.

(e) "Damages" means moneys paid or services rendered by any person or entity, whether voluntarily or by administrative or judicial order, to the Commonwealth of the Northern Mariana Islands as compensation, restitution, civil penalty, or mitigation for injury to or destruction of coral reefs.

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1 (f) "Hazardous Material" shall mean any material or substance, which because
2 of its quantity, concentration, or physical, chemical, or infectious characteristics, may
3 cause or significantly contribute to an increase in mortality or an increase in serious
4 irreversible or incapacitating reversible illness or pose a substantial present or
5 potential hazard to human health or to the environment when improperly contained,
6 stored, transported, processed, handled, manipulated, or otherwise accidentally
7 released into the environment..

8 (g) "Threatened coral species" mean species listed in the CNMI as threatened
9 under the Endangered Species Act (16 U.S.C. 1531 et seq.)

10 (h) "Person" means any and all persons, natural or artificial, foreign or
11 domestic, including any individual, firm partnership, business, corporation, and
12 company and the United States and all political subdivision, regions, districts,
13 municipalities, and public agencies thereof.

14 (i) "Pollutant" means any substance, either man-made or natural, that is
15 discharged into the water and alters the chemical, physical, biological, or radiological
16 integrity of water.

17 (j) "Responsible Party" means the owner, operator, manager, or insurer of any
18 vessel.

19 (k) "Spill" means the accidental release of any hazardous material or pollutant.

20 (l) "Unpermitted release of pollutants" means any intentional or accidental
21 release of pollutants that is not approved by the Division of Environmental Quality.

22 **§ 1662. Designated Vessel Anchoring Site.**

HOUSE BILL 20-79, SS1

1 DLNR shall designate appropriate sites for anchoring vessels within the
2 waters of the Commonwealth or on sovereign submerged lands unless preempted by
3 federal law.

4 **§ 1663. Notification and Removal.**

5 (a) The responsible party of a vessel who knows or should know that their
6 vessel has run aground on coral reef, struck coral reef, released pollutants harming
7 any coral reef, or otherwise damaged coral reef must notify DLNR of such an event
8 within 24 hours after its occurrence.

9 (b) Unless otherwise prohibited or restricted by the United States Coast Guard,
10 the responsible party must remove or cause the removal of the grounded or anchored
11 vessel within 72 hours after the initial grounding or anchoring absent extenuating
12 circumstances such as weather, or marine hazards that would prevent safe removal of
13 the vessel. The responsible party must also remove all associated debris,
14 paraphernalia, hazardous materials, and pollutants in a manner that avoids further
15 damage to coral reefs. The responsible party shall have their plan approved by DLNR
16 prior to vessel removal to ensure that the removal avoids further damage to the coral
17 reef.

18 (c) The responsible party must cooperate with DLNR to undertake damage
19 assessment and primary restoration of the coral reef in a timely fashion.

20 (d) In the event of an injury caused by a spill or unpermitted pollutant
21 discharge, the responsible party shall remove or cause the removal of the pollutant
22 within 72 hours of the spill or discharge, absent threats posed to human health by the

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1 pollutant and absent extenuating circumstances such as weather or marine hazards
2 that would prevent safe removal. The responsible party shall submit their removal
3 plan to DLNR and obtain approval before initiating the removal of the pollutant.

4 **§ 1664. Enforcement and Damages.**

5 (a) DLNR may initiate a civil action, on behalf of the Commonwealth, to
6 enforce this article and to recover damages for the destruction of, loss of, or injury to
7 a coral reef.

8 (b) DLNR may recover all damages from the responsible party, including, but
9 not limited to, the following:

10 (1) Compensation for natural resource loss, including, but not limited
11 to, the cost of replacing, restoring, or acquiring the equivalent of the coral reef
12 injured; the value of the loss of use and services of the coral reef pending its
13 restoration, replacement, or acquisition of the equivalent coral reef; and if the
14 coral reef cannot be restored or replaced or if the equivalent cannot be
15 acquired, the value of the coral reef.

16 (2) The cost of damage assessments, including staff time.

17 (3) The cost of activities undertaken by or at the request of DLNR to
18 minimize or prevent further injury to coral or coral reefs pending restoration,
19 replacement, or acquisition of an equivalent.

20 (4) The reasonable cost of monitoring the injured, restored, or replaced
21 coral reef for at least three (3) years. Such monitoring is not required for a

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1 single occurrence of damage to a coral reef totaling less than one (1) square
2 meter.

3 (5) The cost of enforcement actions undertaken in response to the
4 destruction of, loss of, or injury to a coral reef, including court costs,
5 attorney's fees, and expert witness fees.

§ 1665. Natural Resource Analysis.

7 DLNR shall, where possible, use methods that incorporate the species
8 diversity, species abundance, species population make-up at the impact site and best
9 available science to best predict functional loss by which the compensation described
10 in §1664 is calculated. Included in the effort, consideration for loss of use (extraction
11 value, community value, environmental value and as well as replacement value) shall
12 be incorporated in the cost determination of loss. DLNR may also recover costs to
13 contract services to complete the determination of loss at the site including the
14 parameters referenced and establishing equity at mitigation sites. DLNR may use
15 existing resource recovery options to define replacement value along with any other
16 lost value. DLNR may adopt regulations to establish a calculation method.

§ 1666. Civil Penalties.

17 In addition to the compensation described in §1664, DLNR may assess, per
18 occurrence, a civil penalty according to the following schedule;

19 (a) For anchoring of a vessel on a coral reef or for any other damage to
20 a coral reef by recreational boaters, a warning shall be given for the first
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1 offense. For a second or subsequent offense, a fine of \$500 will be imposed on
2 the responsible party.

3 (b) For anchoring of a vessel on a coral reef or for any other damage to
4 a coral reef totaling less than or equal to one (1) square meter, \$500 with
5 aggravated circumstances, an additional \$500; if occurring within a marine
6 preserve, an additional \$1,000; and if occurring on a threatened coral species
7 listed under the Endangered Species Act, an additional \$1,500.

8 (c) For damage totaling more than an area of one (1) square meter but
9 less than or equal to an area of ten (10) square meters, \$1,000 per square
10 meter; with aggravating circumstances, an additional \$500 per square meter; if
11 occurring within a marine preserve, an additional \$500 per square meter; and
12 if occurring on a threatened coral species listed under the Endangered Species
13 Act, an additional \$500.

14 (d) For damage exceeding an area of ten (10) square meters, \$3,000
15 per square meter; with aggravating circumstances, an additional \$1,000 per
16 square meter; if occurring within a marine preserve, an additional \$1,000 per
17 square meter; and if occurring on a threatened coral species listed under the
18 Endangered Species Act, an additional \$1,000.

19 (e) For a second violation, the total penalty may be doubled.

20 (f) For a third violation, the total penalty may be tripled.

21 (g) For any violation after a third violation, the total penalty may be
22 quadrupled.

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1 **§ 1667. Coral Reef Restoration Fund.**

2 (a) There is hereby created a Coral Reef Restoration Fund, which shall be
3 separated from and accounted for separately from the General Fund.

4 (b) Pecuniary damages recovered by or on behalf of the Commonwealth for
5 the destruction of, loss of, or injury to the coral reefs, that would otherwise be
6 deposited in the General Fund, shall be deposited in the Coral Reef Restoration Fund
7 and appropriated by the legislature. The expenditure of these monies shall be limited
8 to the following purposes:

9 (1) To provide funds to DLNR for reasonable costs incurred in
10 obtaining payment of the damages for injury to, or destruction of, coral reefs,
11 including administrative costs and costs of experts and consultants. Such
12 funds may be provided in advance of recovery of damages

13 (2) To pay for restoration, rehabilitation, or replacement of the injured
14 or destroyed coral reefs or other natural resources by a government
15 department or agency or through a contract with a qualified person.

16 (3) To pay for educational and public outreach programs related to the
17 preservation and protection of the coral reefs.

18 (4) To pay for projects related to the protection and maintenance of the
19 coral reefs.

20 (5) To pay for studies or surveys of the coral reefs that will aid in
21 formulating policies and programs aimed at protecting the coral reefs.

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1 (c) Civil penalties that are imposed and collected under this article shall be
2 deposited in the General Fund.

3 § 1668. **Regulations.** DLNR shall promulgate rules and regulations to
4 implement the provisions of this Act.”

5 **Section 4. Severability.** If any provisions of this Act or the application of any such
6 provision to any person or circumstance should be held invalid by a court of competent
7 jurisdiction, the remainder of this Act or the application of its provisions to persons or
8 circumstances other than those to which it is held invalid shall not be affected thereby.


9 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not be
10 construed as affecting any existing right acquired under contract or acquired under statutes
11 repealed or under any rule, regulation or order adopted under the statutes. Repealers
12 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
13 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
14 any liability, civil or criminal, which shall already be in existence on the date this Act
15 becomes effective.

HOUSE BILL 20-79, SS1

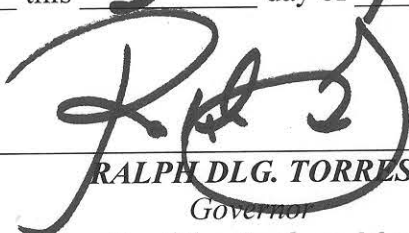
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Section 6. Effective Date. This Act shall take effect upon its approval by the Governor, or its becoming law without such approval.

Attested to by: 
Linda B. Muña, House Clerk

Certified by: 
SPEAKER RAFAEL S. DEMAPAN
House of Representatives
20th Northern Marianas Commonwealth Legislature

Approved this 2nd day of November, 2018


RALPH DLG. TORRES
Governor
Commonwealth of the Northern Mariana Islands