October 6, 2011

The Honorable Lyndon P. Abraham
Speaker
Tenth Kosrae State Legislature
Tofol, Kosrae FM  96944

Dear Mr. Speaker:

Pain kom a kulo nu sin God ke moul lasr.

Nga sim in tukakin la L.B. No. 10-03, L.D.1, el inge masap se lun State su orala Kosrae State Law No. 10-15, su sifwa u fawak ouinge:

“To amend Title 11 of the Kosrae State Code by enacting a new Chapter 18 entitled Overhanging Trees Act” to provide a procedure for the protection of the public from the danger of overhanging trees and of coconuts fallings from trees growing on land that overhangs the public roads of Kosrae; to amend Title 13 by enacting a new Section 13.559; and for other purposes.”

Oana ke nga sulkakin ke veto message luk ah, ke lemlem se inge masap la u, enenu in oasr akola mwowo lasr in akfasrye enenu lun masap se inge. Elya luk ke equipments a capacity lun mwet orekma lasr ke executive inge enenu in oasr karinginya ke sie budget, su tia orekla oana ke nga tafu ke message luk ah.

Nga srumun ma inge in oan in nunak lomwos, pal fototo kut a communicate enenu lasr inge komwos in kasre kut ka.

Sincerely,

Lyndon H. Jackson
Governor

/mia
August 30, 2011

The Honorable Lyndon H. Jackson
Governor, State of Kosrae
Kosrae, FM 96944

Dear Governor Jackson:

I have the honor to transmit herewith for your consideration and action L.B. NO. 10-03, L.D. 1, TO AMEND TITLE 11 OF THE KOSRAE STATE CODE BY ENACTING A NEW CHAPTER 18 ENTITLED “OVERHANGING TREES ACT” TO PROVIDE A PROCEDURE FOR THE PROTECTION OF THE PUBLIC FROM THE DANGER OF OVERHANGING TREES AND OF COCONUTS FALLING FROM TREES GROWING ON LAND THAT OVERHANGS THE PUBLIC ROADS OF KOSRAE; TO AMEND TITLE 13 BY ENACTING A NEW SECTION 13.559; AND FOR OTHER PURPOSES., which passed the Legislature, Second Regular Session, by two-thirds of the members of the Legislature, a quorum being present.

Respectfully yours,

Tosie K. Elle
Chief Clerk
Tenth Kosrae State Legislature

Enclosures
A BILL FOR AN ACT

TO AMEND TITLE 11 OF THE KOSRAE STATE CODE BY ENACTING A NEW CHAPTER 18 ENTITLED “OVERHANGING TREES ACT” TO PROVIDE A PROCEDURE FOR THE PROTECTION OF THE PUBLIC FROM THE DANGER OF OVERHANGING TREES AND OF COCONUTS FALLING FROM TREES GROWING ON LAND THAT OVERHANGS THE PUBLIC ROADS OF KOSRAE; TO AMEND TITLE 13 BY ENACTING A NEW SECTION 13.559; AND FOR OTHER PURPOSES.

INTRODUCED Senator Chang B. William +1

DATE: February 14, 2011

ACTION BY THE LEGISLATURE

PASSED FIRST READING: August 11, 2011

REFERRING TO: Joint Committees on J&GO & R&D

PASSED SECOND READING: August 26, 2011

Tosie K. Elley
Chief Clerk
KOSRAE STATE LEGISLATURE
LEGISLATIVE BILL NO. 10-03, L.D. 1

We hereby certify that the foregoing Bill has passed Second and Final Readings in the Legislature, Second Regular Session, 2011, by two-thirds of the members of the Tenth Kosrae State Legislature, a quorum being present.

Lyndon P. Abraham
Speaker
Tenth Kosrae State Legislature

Posie K. Elley
Chief Clerk
Tenth Kosrae State Legislature
A BILL FOR AN ACT

To amend Title 11 of the Kosrae State Code by enacting a new Chapter 18 entitled "Overhanging Trees Act" to provide a procedure for the protection of the public from the danger of overhanging trees and of coconuts falling from trees growing on land that overhangs the public roads of Kosrae; to amend Title 13 by enacting a new Section 13.559; and for other purposes.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE

Section 1. Findings and Purpose. The Legislature finds that there are many instances of trees growing on private land that have grown in such a way that they overhang public roads in Kosrae causing a potential danger to all users of the roads. The Legislature further finds that it is very common for example for heavy coconuts to fall from a great height and that falling coconuts present a real danger of serious or fatal injury to passing pedestrians and drivers using the public road as well as damage to property. The purpose of this bill is to provide for a procedure whereby the owners of land will be required to remove trees that are overhanging the public road and presenting a danger to the public or to allow the State to remove the trees and to reimburse the state for expenses thereby incurred.

Section 2. Amendment. Title 11 of the Kosrae State Code is hereby amended to read as follows:

Chapter 18 – Overhanging Trees Act

Section 11.1801. Short Title. This act shall be known as the "Overhanging Trees Act of 2011."

Section 11.1802. Definitions. For the purpose of this Chapter the following definitions apply:

(1) "Overhanging Tree" means a tree that has grown in such a manner that a part of the tree including but not limited to leaves, branches, fruits, coconuts etc breaks the plane of
an imaginary line drawn perpendicular to the boundary of the right way or easement for any public road in Kosrae State.

Section 11.1803. **Strict liability of the owner of land for personal injury.** The owner of land where an overhanging tree is growing shall be strictly liable in a civil lawsuit to any person who suffers personal injury resulting from the fall of a coconut from an overhanging tree on to any part of the road or right of way or easement for the road.

Section 11.1804. **Removal of Overhanging Trees.** If the owner of land where an overhanging tree, or trees is/are growing receives notice from an officer of the Office of the Attorney General that the tree or trees is/are overhanging the road and that it presents a danger to the public, then the owner of the land shall have twenty (20) days from the date that the notice is received to remove the tree or trees.

(1) Notice to an owner shall be delivered personally by leaving it at his usual place of abode or business with a person of sound mind not less than eighteen years of age. If the person who receives the notice is unable to read the notice, the deliverer orally explains it to him, if practicable, in a language understood by the receiver.

(2) If personal service does not occur despite a good faith effort, then mailing a copy of the notice to the address of the owner or his successor in interest, or, if such address is not known, to the address of the property; and providing that removal by completed at twenty days after the date of receipt shall be deemed to be delivery of the notice.

Section 11.1805. **Failure to Comply with Notice of Remove.** If the owner of land where an overhanging tree, or trees is/are growing fails to remove the tree within twenty (20) days of personally receiving the notice, or within forty (40) days after the date of receipt the notice then
employees or authorized agents of the Kosrae State Government may enter on to the owner's land and cut down or trim the tree or trees.

Section 11.1806. Liability for damages caused by government employees or agent. Except in the case of gross negligence on the part of a government employee or agent, the State of Kosrae shall not be liable for any damages to property or person caused while engaged in cutting or trimming overhanging trees.

Section 11.1807. Compensation. The owner of land where an overhanging tree, or trees is/are growing shall not be entitled to any compensation from the government for the removal of the tree or trees.

Section 3. Amendment. Title 13, Chapter 5 of the Kosrae State Code is hereby amended by the enactment of a new Section 13.559 to read as follows:

Section 13.559. Failure to Remove Overhanging Trees. A land owner who fails to either cut down or trim an overhanging tree or trees as defined in Section 11.1802(1) within the time specified by Section 11.1804(2) shall be guilty of an offense.

Failure to remove overhanging trees is a Category 3 misdemeanor."

Section 4. Effective Date. This act takes effect upon the approval of the Governor or upon its becoming law without such approval.
PASSED BY THE TENTH KOSRAE STATE LEGISLATURE ON THE 26TH DAY OF AUGUST, 2011.

Lyndon P. Abraham  
Speaker, 10th Kosrae State Legislature

Attested by:  
Chief Clerk

Lyndon H. Jackson  
Governor, State of Kosrae

Date: ______________________