

A BILL FOR AN ACT

To further amend title 50 of the Code of the Federated States of Micronesia, as amended, by amending sections 103, 104, 112 and 113 of chapter 1, by enacting a new section 116 of chapter 1, and to amend title 51 of the Code of the Federated States of Micronesia by amending sections 141 and 142 of chapter 1, to modify the entry and/or work permit process for foreign workers, long term residents and spouses of citizens of the Federated States of Micronesia, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1           Section 1.   Section 103 of title 50 of the Code of the  
2 Federated States of Micronesia, as amended by Public Law No. 10-  
3 14, is hereby further amended to read as follows:

4           "Section 103.   Entry permits - Types.

5           (1)   A permit is not required for a person visiting  
6           for thirty days or less. For a visit in excess of  
7           thirty days, a permit may be issued for an additional  
8           period not to exceed sixty days; except that, with  
9           respect to citizens and nationals of the United States  
10          of America, for the effective period of the Compact of  
11          Free Association, and with respect to citizens and  
12          nationals of the Republic of the Marshall Islands and  
13          the Republic of Palau, a permit [~~may be issued~~] is not  
14          required for the duration of the visit, which shall not  
15          exceed 365 days.

16          (2)   A visitor's permit for any lawful purpose,  
17          including performance of necessary services on a short-

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1 term contractual basis, may be issued for a period of  
2 specified duration reflecting the time necessary to  
3 accomplish the purpose.

4 (3) A student permit shall be issued for a specified  
5 duration reflecting a student's enrollment in a school  
6 or educational program.

7 (4) A foreign government official's permit may be  
8 issued to any official, employee, or contractual  
9 personnel of a foreign government or governmental  
10 regional or international organization who wishes to  
11 enter the Federated States of Micronesia for purposes of  
12 official governmental activities and who is not entitled  
13 to enter the Federated States of Micronesia without a  
14 permit under section 102 of this chapter.

15 (5) Notwithstanding any provision of subsections (1)  
16 and (2) of this section, a person entering the Federated  
17 States of Micronesia for the purpose of engaging in  
18 wholesale or retail sales of goods or services, or for  
19 the purpose of taking orders for the purchase of goods  
20 or services, without establishing a place of habitation  
21 or a place of business within the Federated States of  
22 Micronesia, shall be issued a salesperson's permit;  
23 PROVIDED, however, that this subsection shall not apply  
24 to any person who has a foreign investor's permit  
25 pursuant to subsection (7) of this section.

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1           (6) An alien worker's permit shall be issued to a  
2 noncitizen entering the Federated States of Micronesia  
3 upon compliance with all National laws relating to  
4 private or governmental employment for the period in  
5 which the employment of the alien worker is authorized  
6 by contract. The permit shall be renewed upon extension  
7 or renewal of the alien's lawful employment status.

8           (7) A foreign investor's entry permit shall be  
9 issued for a specified duration and may be renewed upon  
10 renewal or extension of such foreign investor's business  
11 permit.

12           (8) A researcher's entry permit shall be issued for  
13 research in the fields of endeavor that the President  
14 deems in the best interest of and for the well-being of  
15 the citizens of the Federated States of Micronesia;  
16 ~~[provided]~~ PROVIDED that the President receives from the  
17 researcher's intended place of stay prior permission for  
18 his entry. The President may attach thereto such  
19 conditions or restrictions as he deems necessary.

20           (9) A missionary's permit shall be issued to a duly  
21 ordained, licensed, and certified minister or clergyman.

22           (10) An entry permit shall be issued to a lawful  
23 spouse of a citizen. ~~[The permit shall be revoked or~~  
24 ~~denied upon a finding that the parties are divorced or~~  
25 ~~irreconcilably separated, or that the citizen-spouse is~~

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1           ~~deceased. The President or his designee has the~~  
2           ~~authority to grant or reissue the permit for indefinite~~  
3           ~~duration upon a finding of hardship.]~~

4           (a) A spouse permit may be revoked or denied, in  
5           accordance with the provisions of this chapter, upon a  
6           finding that (i) the parties are divorced, the parties  
7           are irreconcilably separated, or the citizen-spouse is  
8           deceased; and (ii) the revocation or denial is in the  
9           best interests of the Federated States of Micronesia.

10           (b) Except in extraordinary circumstances, no  
11           action to revoke or deny a spouse permit on the grounds  
12           of death of the citizen-spouse shall be taken for a  
13           period of six months from the date of death of the  
14           citizen-spouse.

15           (11) A dependent's entry permit may be issued to an  
16           unmarried child, under the age of 18, of a citizen or a  
17           noncitizen spouse, subject to the conditions in  
18           subsection (10) of this section.

19           (12) A spouse or unmarried child under the age of  
20           eighteen of any noncitizen principal listed in this  
21           section, except subsection (11), may be issued an entry  
22           permit for the duration of the principal's entry permit  
23           and may be renewed upon renewal of the principal's entry  
24           permit."

25           Section 2. Section 104 of chapter 1 of title 50 of the Code

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1 of the Federated States of Micronesia is hereby amended to read as  
2 follows:

3 "Section 104. Entry permits - Duration; Habitual  
4 residence; Change of status.

5 (1) Duration. Unless otherwise specified, all entry  
6 permits are limited to one year maximum period, with  
7 provision for renewal; except that, entry permits may be  
8 issued for a period not to exceed 5 years for citizens  
9 and nationals of the United States of America who,  
10 immediately prior to issuance of the permit, have  
11 resided continuously in the Federated States of  
12 Micronesia for at least 5 years.

13 (2) Habitual residence.

14 (a) A noncitizen who remains in the Federated  
15 States of Micronesia as a visitor under section 103(1)  
16 of this chapter for [±] one year or more shall be  
17 classified as a habitual resident.

18 (b) A habitual resident may be present in the  
19 Federated States of Micronesia only for 30 day visits as  
20 permitted by section 103(1) of this chapter or for a  
21 longer period of time as permitted by section 103(2),  
22 (3), (4), (5), (6), (7), (8), (9), (10), (11) or (12) of  
23 this chapter.

24 (3) Change of Status. [~~The immigration status of any~~  
25 ~~noncitizen entering or residing in the Federated States~~

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1 ~~of Micronesia may not be changed during his stay in the~~  
2 ~~Federated States of Micronesia except upon written~~  
3 ~~authorization by the President or his designee.]~~

4 (a) The immigration status of a noncitizen  
5 entering the Federated States of Micronesia as a visitor  
6 under section 103(1) or 103(2) of this chapter may not  
7 be changed during his stay in the Federated States of  
8 Micronesia. The immigration status of any noncitizen  
9 entering or residing in the Federated States of  
10 Micronesia under any other provision of this chapter may  
11 not be changed during his stay in the Federated States  
12 of Micronesia, except in accordance with the provisions  
13 of this title.

14 (b) For [the] a noncitizen to change status, he  
15 shall be required to [leave the jurisdiction of the  
16 Federated States of Micronesia and return to his country  
17 of origin and upon re entry] apply for a permit  
18 reflecting his changed status and pay a fee, except that  
19 citizens and nationals of the United States of America,  
20 for the duration of the Compact of Free Association, and  
21 citizens and nationals of the Republic of the Marshall  
22 Islands or the Republic of Palau shall not be required  
23 to pay a fee to change immigration status.

24 (c) The amount of the fee required by subsection  
25 (b) of this section, which shall not be less than

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1           \$1,000, and the circumstances under which a change in  
2           immigration status may be granted shall be set forth in  
3           regulations issued pursuant to section 102(1) of title  
4           17 of the Code of the Federated States of Micronesia.  
5           Payment of such fee is required in addition to, and not  
6           as a substitute for, any requirements of the desired new  
7           status. [~~Departure from the jurisdiction of the~~  
8           ~~Federated States of Micronesia is required in addition~~  
9           ~~to, and not as a substitute for, any requirements of the~~  
10           ~~desired new status.~~]

11                   (d) The President may impose additional  
12           conditions for such change of status. [~~Marriage to an~~  
13           ~~FSM citizen is not a basis for waiving the requirements~~  
14           ~~of this section.~~]

15                   (4) Waiver. The provisions of this section shall not  
16           be waived by the President or his designee."

17           Section 3. Section 112 of title 50 of the Code of the  
18   Federated States of Micronesia, as enacted by Public Law No. 10-  
19   14, is hereby amended to read as follows:

20                   "Section 112. Fees.

21                   [~~An~~] In addition to any other fee required by the  
22           provisions of this chapter, each application for an  
23           entry permit or an entry permit renewal shall be  
24           accompanied by the payment of a fee. The President  
25           [~~may~~] shall, by executive order or regulation, establish

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1           the amount of such fee and may establish different fees  
2           for application or renewal."

3           Section 4. Section 113 of title 50 of the Code of the  
4 Federated States of Micronesia, as amended by Public Law No. 10-  
5 35, is hereby further amended to read as follows:

6           "Section 113. Entry Permit Revolving Fund.

7           (1) There is created and established the Entry Permit  
8 Revolving Fund separate from the General Fund of the  
9 Federated States of Micronesia and all other funds.

10          (2) The purpose of the Entry Permit Revolving Fund is  
11 to establish an ongoing revolving fund to allow  
12 ~~[appropriations for, and]~~ revenue from~~[,]~~ the issuance  
13 and renewal of entry permits and other relevant fees to  
14 be used for entry permit issuance and renewal, when so  
15 designated by the Congress of the Federated States of  
16 Micronesia, and for training FSM citizens to assume  
17 positions in the FSM workforce currently held by  
18 noncitizen workers.

19          (3) All ~~[future appropriations for, and]~~ revenues  
20 received from~~[,]~~ the issuance and renewal of entry  
21 permits and from the payment of any fee required under  
22 this chapter or chapter 1 of title 51 of the Code of the  
23 Federated States of Micronesia shall be deposited in the  
24 Entry Permit Revolving Fund~~;~~ ~~provided, that at no time~~  
25 ~~shall the total amount of monies in the Entry Permit~~



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1           ~~Revolving Fund exceed \$40,000; and provided further,~~  
2           ~~that any revenues received from the issuance and renewal~~  
3           ~~of entry permits which would cause the total amount of~~  
4           ~~monies in the Entry Permit Revolving Fund to exceed~~  
5           ~~\$40,000 shall be deposited in the General Fund of the~~  
6           ~~Federated States of Micronesia].~~ Any unexpended monies  
7           in the Entry Permit Revolving Fund shall not revert to  
8           the General Fund, nor lapse at the end of the fiscal  
9           year.

10           (4) The Entry Permit Revolving Fund shall be  
11           administered by the Chief of the Division of  
12           Immigration, under the supervision of the Attorney  
13           General. The Chief shall, not later than 30 days after  
14           the close of each governmental fiscal year, submit to  
15           the Attorney General a complete report of the activities  
16           and condition of the Entry Permit Revolving Fund for the  
17           fiscal year just closed, and any plans for use of the  
18           Fund for the fiscal year just started. The Attorney  
19           General shall, within 30 days of receipt of the report  
20           from the Chief, forward the report to the President and  
21           the Congress of the Federated States of Micronesia.

22           (5) The Public Auditor shall audit the Entry Permit  
23           Revolving Fund at such times as the Public Auditor deems  
24           appropriate."

25           Section 5. Title 50 of the Code of the Federated States of

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1 Micronesia, as amended by Public Laws Nos. 10-14, 10-35, 10-140  
2 and 11-21, is hereby further amended by enacting a new section 116  
3 to read as follows:

4 "Section 116. Hearing and appeal.

5 (1) Any person aggrieved by a decision of the Division  
6 of Immigration and Labor shall be entitled to a hearing,  
7 as set forth in regulations issued pursuant to section  
8 111 of this chapter. Unless otherwise required to  
9 preserve national security, hearings shall be conducted  
10 in accordance with the administrative procedures set  
11 forth in title 17 of the Code of the Federated States of  
12 Micronesia, except that hearings may be conducted on an  
13 expedited basis when provided for by regulation.

14 (2) Regulations implementing subsection (1) of this  
15 section shall provide for an informal hearing before the  
16 officer in charge of the local immigration office.  
17 Appeals from the decision of the officer in charge of  
18 the local immigration office shall be heard by a  
19 committee consisting of the Chief of Immigration or, in  
20 the event of a conflict of interest on the part of the  
21 Chief, his designee, the Secretary of Justice or his  
22 designee, and a representative of the Department of  
23 Foreign Affairs. The decisions of the appeal committee  
24 shall constitute final agency action for the purposes of  
25 title 17 of the Code of the Federated States of

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1           Micronesia."

2           Section 6. Section 141 of title 51 of the Code of the  
3 Federated States of Micronesia is hereby amended to read as  
4 follows:

5           Section 141. Outside employment for compensation  
6 [prohibited].

7           (1) It shall be unlawful for any nonresident worker  
8 admitted into the Trust Territory under the provisions  
9 of this title to engage in any other employment for  
10 compensation or for profit other than for the employer  
11 who has contracted with the chief for the employment of  
12 such nonresident worker in the Trust Territory, except  
13 in accordance with the provisions of this section.

14           (2) A nonresident worker who is under a labor contract  
15 with an employer may work for or be employed by a second  
16 employer during the term of such contract if all of the  
17 following conditions are met:

18           (a) the nonresident worker has filed an  
19 "Application for Permission to Engage in Additional  
20 Employment for Compensation or Profit" with the Chief,  
21 which application shall be in the form required by the  
22 Chief in regulations issued pursuant to section 102(1)  
23 of title 17 of the Code of the Federated States of  
24 Micronesia;

25           (b) the original employer and the prospective

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1           second employer have entered into a "Contract for  
2           Services" whereby the first employer agrees to allow the  
3           second employer to use the services of the nonresident  
4           worker. Such contract shall be filed with the Chief and  
5           shall contain, at a minimum, such provisions as the  
6           Chief shall, by regulation, require; and

7                   (c) the second employer has met all of the  
8           requirements of this chapter for hiring nonresident  
9           workers and has paid a fee, the amount of which shall  
10           not be less than \$1,000 and shall be set forth in  
11           regulations issued pursuant to section 102(1) of title  
12           17 of the Code of the Federated States of Micronesia.

13       ~~[(2)]~~ (3) Any employment of ~~[the]~~ a nonresident worker  
14           in ~~[the]~~ a manner ~~[prohibited under]~~ not provided for by  
15           this section shall constitute sufficient ground and  
16           cause for deportation and the Chief of the Division of  
17           Labor shall communicate to the Attorney General any  
18           violation of this section and the Attorney General shall  
19           institute deportation proceedings against the alien  
20           worker if in the opinion of the District Administrator  
21           such would be in the best interest of the public.

22       ~~[(3)]~~ (4) Violation of the provisions of this section by  
23           an employer or nonresident worker shall also be subject  
24           to penalties prescribed by section 167 of this title."

25       Section 7. Section 142 of chapter 1 of title 51 of the Code

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1 of the Federated States of Micronesia is hereby amended to read as  
2 follows:

3 "Section 142. Change of employment.

4 ~~[No nonresident worker who is under a labor contract~~  
5 ~~with an employer shall work for or be employed by any~~  
6 ~~other employer during the term of such contract except~~  
7 ~~upon written authorization by the President or his~~  
8 ~~designee.]~~

9 (1) A nonresident worker who is under a labor contract  
10 with an employer shall not change his employer during  
11 the term of such contract, except in accordance with the  
12 provisions of this section.

13 (2) Before a nonresident worker can work for or be  
14 employed by an employer different [~~that~~]than his  
15 previous employer, he shall first be required to [~~leave~~  
16 ~~the Federated States of Micronesia]~~ apply for a permit  
17 reflecting his change of employment and pay a fee,  
18 except that citizens and nationals of the United States,  
19 for the duration of the Compact of Free Association, and  
20 citizens and nationals of the Republic of the Marshall  
21 Islands or the Republic of Palau shall not be required  
22 to pay a fee.

23 (3) The amount of the fee required by subsection (b)  
24 of this section, which shall not be less than \$1,000,  
25 and the circumstances under which a change in employment

1           status may be granted shall be set forth in regulations  
2           issued pursuant to section 102(1) of title 17 of the  
3           Code of the Federated States of Micronesia. Fees  
4           collected as a result of this section shall be deposited  
5           into the fund established by section 113 of title 50 of  
6           the Code of the Federated States of Micronesia."

7           Section 8. This act shall become law upon approval by the  
8           President of the Federated States of Micronesia or upon its  
9           becoming law without such approval.

11   Date: 11/8/02

Introduced by: Dohsis Halbert  
                  Dohsis  
                  Halbert  
                  (by request)

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