A BILL FOR AN ACT

To further amend title 32 of the Code of the Federated States of Micronesia, as amended, by amending section 216 to make changes to the Foreign Investment Act, and for other purposes.

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

1 Section 1. Section 216 of title 32, as enacted by Public Law No. 10-49, is hereby amended to read as follows:

   (1) [The National Government guarantees that] [t]here shall be no compulsory acquisition or expropriation of the property of any [foreign investment] business entity as to which a Foreign Investment [Certificate] Permit has been issued, except under the following circumstances:

      (a) in order to apply sanctions for violations of laws or regulations, as provided for in section 220 of this chapter; or

      (b) in [extraordinary] cases in which

         (i) such compulsory acquisition or expropriation is consistent with existing FSM law governing eminent domain;

         (ii) such compulsory acquisition or expropriation is necessary to serve overriding national interests; and
(iii) the conditions of subsection (2) below are met; or

(c) pursuant to generally applicable laws and regulations of the FSM or any State.

(2) Compulsory acquisition or expropriation of a type described in subsection (1)(b) above may be undertaken only after:

(a) the National Congress has, following a recommendation to this effect by the Secretary, taken official action to identify in writing:

(i) the property to be acquired or expropriated; and

(ii) the overriding national interests that make such acquisition or expropriation necessary; and

(b) the Secretary has issued a notification to any holder of a Foreign Investment Permit whose property is to be acquired or expropriated, indicating:

(i) what property is affected by the action;

(ii) what compensation will be paid for the acquisition or expropriation of the property; and

(iii) what appeal or other forms of legal recourse are available to the holder of the Foreign Investment Permit affected by the action.

(3) Payment of compensation pursuant to subsection (2)(b) above shall be promptly made and adequate in amount.
[(4) The National Government shall not take action, or permit action to be taken by any State or other entity within the FSM, that, although not formally designated or acknowledged as compulsory acquisition or expropriation, indirectly has the same injurious effect ("creeping expropriations"). If such action nevertheless takes place, the National Government shall be responsible for the prompt and adequate compensation of any injured noncitizen.]

Section 2. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 10/21/03 Introduced by: /s/ Henry C. Asugar
Henry C. Asugar (by request)