To further amend title 50 of the Code of the Federated States of Micronesia, as amended, by amending sections 104, 113, 114 and 116 to increase the fee paid by noncitizens to change their immigration status, to expand the purposes for which the funds in the Entry Permit Revolving Fund may be used, to increase the penalty for carriers that transport individuals without proper documents, to simplify procedures for deportations and the appeals from immigration decisions, and for other purposes.

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

Section 1. Section 104 of title 50 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-65, is hereby further amended to read as follows:

"Section 104. Entry permits – Duration; Habitual residence; Change of status.

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

(2) Habitual residence.

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

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

(3) Change of Status.

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

(b) For a noncitizen to change status, he shall be required to apply for a permit reflecting his changed status and pay a fee, except that citizens and nationals of the United States of America, for the duration of the Compact of Free Association, and citizens and nationals of the Republic of the Marshall Islands or the Republic of Palau shall not be required to pay a fee to change
immigration status.

(c) The amount of the fee required by subsection (b) of this section, which shall not be less than $1,000, and the circumstances under which a change in immigration status may be granted shall be set forth in regulations issued pursuant to section 102(1) of title 17 of the Code of the Federated States of Micronesia. Payment of such fee is required in addition to, and not as a substitute for, any requirements of the desired new status.

(d) The President may impose additional conditions for such change of status.

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

Section 2. Section 113 of title 50 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 10-14, 10-35 and 12-65, is hereby further amended to read as follows:

"Section 113. Entry Permit Revolving Fund.

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

(2) The purpose of the Entry Permit Revolving Fund is to establish an ongoing revolving fund to allow revenue from the issuance and renewal of entry permits and other relevant fees to be used [for] to meet the cost of:
(a) entry permit issuance and renewal when so designated by the Congress of the Federated States of Micronesia;

(b) upon a determination by the Chief that an individual cannot pay for his or her own repatriation and that funds are not available from another source, a deportation in accordance with section 107 of this chapter; and

(c) training FSM citizens to assume positions in the FSM workforce currently held by noncitizen workers.

(3) All revenues received from the issuance and renewal of entry permits and from the payment of any fee required under this chapter or chapter 1 of title 51 of the Code of the Federated States of Micronesia shall be deposited in the Entry Permit Revolving Fund. Any unexpended monies in the Entry Permit Revolving Fund shall not revert to the General Fund, nor lapse at the end of the fiscal year.

(4) The Entry Permit Revolving Fund shall be administered by the Chief of the Division of Immigration, under the supervision of the Secretary of the Department of Justice. The Chief shall, not later than 30 days after the close of each governmental fiscal year, submit to the Secretary a complete report of the
activities and condition of the Entry Permit Revolving Fund for the fiscal year just closed, and any plans for use of the Fund for the fiscal year just started. The Secretary shall, within 30 days of receipt of the report from the Chief, forward the report to the President and the Congress of the Federated States of Micronesia.

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

Section 3. Section 114 of title 50 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 10-14, and 11-21, is hereby further amended to read as follows:

"Section 114. Penalties.

(1) Any person who, not being a citizen of the Federated States of Micronesia, unlawfully enters or attempts to enter the Federated States of Micronesia or having lawfully entered, remains willfully and unlawfully after expiration or revocation of his entry authorization, or who violates by act or omission any provision of this chapter or regulations issued pursuant thereto, upon conviction thereof shall be imprisoned for a period of not more than two years, or fined not more than $10,000, or both.

(2) In lieu of subsection (1) of this section or in addition thereto, any person who unlawfully enters the
Federated States of Micronesia or having lawfully entered, willfully and unlawfully remains after expiration or revocation of his entry permit shall be subject to deportation [after hearing upon application by the President or his designee to any competent court in the Federated States of Micronesia] after determination of the matter in accordance with section 116 of this chapter.

(3) Any carrier violating the provisions of section 109 shall be fined $500 $10,000 per person for persons not allowed to disembark or returned to an aircraft.

(4) Any person who fails to comply with subsection (5) of section 103 of this chapter shall lack standing to bring an action in the Supreme Court of the Federated States of Micronesia for accounts due on sales made or contracts entered into during the period of noncompliance.

(5) Notwithstanding subsections (1) and (2) of this section, the President or his designee may issue a citation and collect a fee in such amount provided by regulations against any person who violates any provision of this chapter or regulations issued thereunder. The provisions of subsections (1) and (2) of this section shall apply if the defendant chooses to challenge the
citation issued or the fee charged.”

Section 4. Section 116 of title 50 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-65, is hereby further amended to read as follows:

"Section 116. Hearing and appeal.

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

(2) Regulations implementing subsection (1) of this section shall provide for an informal hearing before the officer in charge of the local immigration office. Appeals from the decision of the officer in charge of the local immigration office shall be heard by [a committee consisting of] the Chief of Immigration or, in the event of a conflict of interest on the part of the Chief, his designee[, the Secretary of the Department of Justice or his designee, and a representative of the Department of Foreign Affairs]. The Department of Foreign Affairs shall have the right to be heard on any
matters that have a bearing on the foreign relations of Federated States of Micronesia at any such hearing. The decisions of the [appeal committee] Chief, or his designee shall constitute final agency action for the purposes of title 17 of the Code of the Federated States of Micronesia."

Section 5. 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: 9/13/05

Introduced by: /s/ Dohsis Halbert

Dohsis Halbert