

RSJ 9/30

A BILL FOR AN ACT

To amend title 51 of the Code of the Federated States of Micronesia by amending sections 114 and 135 and by adding a new section 144 to prohibit nonresident workers from being employed for more than two years in any one State, to limit the number of nonresident workers for each employer, and for other purposes.

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

1 Section 1. Section 114 of title 51 of the Code of the Federated  
2 States of Micronesia is hereby amended to read as follows:

3 "Section 114. Preference. Resident workers shall be given  
4 preference in employment in the ~~Tyysy Territory~~ Federated  
5 States of Micronesia in any industry or occupation for  
6 which such workers are qualified and available.

7 Nonresident workers shall be employed only to supplement  
8 the labor force of available and qualified resident  
9 workers. A nonresident worker shall not be employed in any  
10 one State of the Federated States of Micronesia for a  
11 period of more than two years. At the end of such two year  
12 period, an employer may, upon a showing that no qualified  
13 resident workers are yet available for a position held by a  
14 nonresident worker, be granted a single extension, with  
15 respect to that nonresident, permitting continued  
16 employment in the State for a period of time not to exceed  
17 two additional years. The time limitations imposed by this  
18 section shall not apply to nonresidents engaged in  
19 engineering, accountancy, law, medicine, dentistry,  
20 optometry or other healing arts, or such other professions  
21 requiring a high degree of technical training as the chief  
22 may designate by regulation. The restrictions of this  
23 chapter shall not be interpreted to apply to citizens of  
24 the United States of America or their dependents, so as to  
25 restrict any rights afforded to such citizens pursuant to

1 section 142 of the Compact of Free Association. Except as  
2 otherwise specifically provided for, nothing in this chapter  
3 shall be construed to apply to employees of the National or  
4 State Governments."

5 Section 2. Section 135 of title 51 of the Code of the Federated  
6 States of Micronesia is hereby amended to read as follows:

7 "Section 135. Nonresident employment agreements.

8 (1) For those positions for which the chief has  
9 determined that nonresident workers may be hired, he shall  
10 require that a nonresident employment agreement be entered  
11 into between the employer and the ~~Tyap Tyap~~  
12 Government of the Federated States of Micronesia, which  
13 agreement shall authorize the employer to hire nonresident  
14 workers.

15 (2) The agreement shall be signed by the chief, as  
16 representative of the ~~Tyap Tyap~~ Federated States of  
17 Micronesia Government, and by the employer or his  
18 authorized representative.

19 (3) The agreement shall contain the following  
20 provisions, in addition to any other provisions the chief  
21 deems necessary in the circumstances:

22 (a) a statement that the employer requires such  
23 nonresident workers for immediate employment;

24 (b) a statement of the wages the employer is  
25 paying or intends to pay the nonresident workers for each

1 occupational classification he is importing an alien to  
2 fill;

3 (c) a statement that the employer agrees to  
4 comply with the minimum employment conditions and other  
5 requirements consistent with the provisions of this chapter  
6 and other applicable laws of the ~~Trust Territory~~ Federated  
7 States of Micronesia;

8 (d) a statement of the period of time for which  
9 the employer will be allowed to fill each position with a  
10 nonresident worker before he must attempt to fill the  
11 position with a resident worker by filing a new application  
12 with the Employment Service; ~~and~~

13 (e) a statement of the employer's responsibility  
14 for return transportation to the place of origin of each  
15 nonresident worker so employed/; and

16 (f) A statement that the employer acknowledges  
17 the provisions of section 114 of this title which requires  
18 that a nonresident employee shall not be employed in any  
19 one State for a period of more than two years.

20 (4) Upon execution of the agreement required under  
21 subsections (1) through (3) of this section, the chief  
22 shall notify the Office of Immigration Control.

23 (5) The chief shall provide each nonresident worker  
24 covered by this chapter with a copy of the nonresident  
25 workers' agreement which authorized his employer to hire

1           him."

2           Section 3. Title 51 of the Code of the Federated States of  
3 Micronesia is hereby amended by adding a new section 144 to read as  
4 follows:

5           "Section 144. Number of nonresident workers permitted each  
6 employer.

7           (1) Each employer who employs a total of ten  
8 employees or less shall be permitted to hire no more than  
9 one nonresident alien worker at any one time.

10          (2) Each employer who employs more than ten  
11 employees shall be permitted to employ nonresident alien  
12 workers not to exceed ten percent of the total number  
13 of employees at any one time.

14          (3) Any violation of section 144(1) or 144(2) of this  
15 title shall be treated in the same manner as prescribed in  
16 section 143(2) of this title.

17          (4) An employer may obtain a waiver of the  
18 provisions of this section upon establishing to the  
19 satisfaction of the chief of the Division of Labor that  
20 there is not a sufficient number of citizens of the  
21 Federated States of Micronesia with the necessary skills or  
22 proficiency in such skills to meet the requirements.

23          (5) The provisions of this section shall not apply to  
24 employers engaged in engineering, accountancy, law,  
25 medicine, dentistry, optometry or other healing arts, or

1 such other professions requiring a high degree of technical  
2 training as the chief may designate by regulation."

3 Section 4. This act shall take effect on July 1, 1994.  
4 Employment contracts in existence prior to this date will be  
5 unaffected by the provisions of this act.

6 Section 5. This act shall become law upon approval by the  
7 President of the Federated States of Micronesia or upon its becoming  
8 law without such approval.

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10 Date: March 03, 1994

Introduced by: Redley Killion  
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