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AN ACT

To establish a Chuuk State Foreign Investment Act consistent with the FSM Foreign Investment Act of 1997, enacted as FSM Public Law No. 10-49; to repeal Truk State Law No. 5-108, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

1 Section 1. Short Title. This act is known and may be cited as the "Chuuk State
2 Foreign Investment Act of 1998."

3 Section 2. Purpose. The purpose of this act is to encourage foreign investment
4 within the territory of Chuuk State in a manner that serves the economic, social and
5 cultural interests of Chuuk State. This purpose shall be borne in mind in the
6 implementation and interpretation of the provisions of this act.

7 Section 3. Definitions. When used in this act, the following words shall have
8 meanings as defined below, unless otherwise required by the context:

- 9 (1) 'business entity' means any sole proprietorship, partnership, company,
10 corporation, joint venture, government, government entity, or other
11 association of persons engaging in business;
- 12 (2) 'citizen' means a citizen of the FSM;
- 13 (3) 'Director' means the Director of the Chuuk State Department of
14 Commerce and Industry;
- 15 (4) 'Eco-tourism' means the business of engaging in tourism that is
16 focused on bringing visitors to Chuuk to view its cultures, traditions,
17 land and marine environment with a minimal negative or intrusive
18 effect. Eco-tourism is subject to all appropriate governmental
19 regulations;
- 20 (5) 'engaging in business' means carrying out any activity relating to the
21 conduct of a business, and shall include the activities enumerated in
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1 subsection (5) (a) below but shall not include the activities enumerated
2 in subsection (5) (b) below:

3 (a) 'engaging in business' shall include:

4 (i) buying, selling, leasing, or exchanging goods, products,
5 or property of any kind for commercial purposes;

6 (ii) buying, selling or exchanging services of any kind for
7 commercial purposes;

8 (iii) conducting negotiations for transactions of the types
9 described in items (i) or (ii) above; provided, however,
10 that negotiations with licensed importers for periods of
11 less than fourteen (14) days per calendar year shall not
12 be considered 'engaging in business';

13 (iv) appointing a representative, agent, or distributor by a
14 noncitizen to perform any of the acts described in items
15 (i) through (iii) above, unless said representative, agent,
16 or distributor has an independent status and transacts
17 business in its name for its own account and not in the
18 name of or for the account of any noncitizen principal;

19 (v) maintaining a stock of goods in the FSM for the
20 purpose of having the same processed by another
21 person in the FSM;

22 (vi) establishing or operating a factory, workshop,
23 processing plant, warehouse, or store, whether
24 wholesale or retail;

25 (vii) mining or exploring for minerals, or the commercial
26 exploitation or extraction of other natural resources;

- 1 (viii) providing services as a management firm or
2 professional consultant in the management, supervision,
3 or control of any business entity; and
4 (ix) providing professional services as an attorney, physician,
5 dentist, engineer, surveyor, accountant, auditor, computer
6 consultant or other professional providing service for a
7 fee; provided, however, that such a professional shall
8 not be considered to be 'engaging in business' unless he
9 or she, while present in the FSM, performs his or her
10 respective professional services for more than fourteen
11 (14) days in any calendar year.

12 (b) engaging in business does not include:

- 13 (i) the publication of general advertisements through
14 newspapers, brochures, or other publications, or through
15 radio or television;
16 (ii) the conducting of scientific research or investigation, if a)
17 the research or investigation is sponsored by a university,
18 college, agency, or institution normally engaged in such
19 activities primarily for purposes other than commercial
20 profit and b) the particular research or investigation at issue
21 is not for purposes of, or expected to yield, commercial
22 profit;
23 (iii) the collection of information by a bona fide journalist for
24 news publication or broadcast; and
25 (iv) the lawful sale of corporate shares or other interest or
26 holdings in a business entity acquired not for speculation or
27 profit;
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- 1 (6) 'foreign investment' means any activity in the FSM by a noncitizen
2 that amounts to 'engaging in business' as defined above;
- 3 (7) 'foreign investor' means a noncitizen who is 'engaging in business' in
4 the FSM, as defined above;
- 5 (8) 'FSM' means the Federated States of Micronesia;
- 6 (9) 'FSM Foreign Investment Act' means the Foreign Investment Act of
7 1997 enacted by the Congress of the Federated States of Micronesia as
8 FSM Public Law No. 10-49, and codified in the FSM Code, Title 32,
9 Chapter 2;
- 10 (10) 'Foreign Investment Permit' means an FSM Foreign Investment
11 Permit, a Chuuk State Foreign Investment Permit, or a Pre-Existing
12 Foreign Investment Permit;
- 13 (11) 'FSM Foreign Investment Permit' means a permit issued by the
14 Secretary in accordance with the provisions of the FSM Foreign
15 Investment Act;
- 16 (12) 'FSM Foreign Investment Regulations' means regulations
17 promulgated by the Secretary in accordance with the provision of the
18 FSM Foreign Investment Act;
- 19 (13) 'FSM R&D Department' means the Department of Resources and
20 Development of the FSM or Department of Economic Affairs;
- 21 (14) 'holder' or 'holder of the permit' means:
22 (a) any person or entity that appears on the application for a
23 Foreign Investment Permit; or
24 (b) the business on Chuuk which is described in the application, as
25 deemed appropriate by the Director;
- 26 (15) 'Chuuk State' means the State of Chuuk;

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2 (16) 'Chuuk State Foreign Investment Permit' means a permit issued
3 by the Director in accordance with the provisions of this act.

4 (17) 'Chuuk State Foreign Investment Regulations' means regulations
5 promulgated by the Director in accordance with the provisions of
6 this act;

7 (18) 'local product' means any product locally grown, harvested,
8 created, produced, assembled or manufactured in Chuuk;

9 (19) 'noncitizen' means any person who is not a citizen of the FSM
10 or any business entity in which any ownership interest is held by
11 a person who is not a citizen of the FSM;

12 (20) 'ownership interest' in a business entity means ownership of or
13 control over, either directly or indirectly, some or all of the shares
14 of, property or assets of, voting rights in, or rights to profits or
15 revenue from, that business entity; provided, however, that:

16 (a) 'ownership interest shall not include a security interest in
17 real or personal property for the purpose of securing a loan; and

18 (b) any interest held by the spouse, minor child, or other
19 dependent of a person shall be counted as owned by that
20 person in determining whether he or she has an ownership
21 interest in a business entity;

22 (21) 'person' includes both individuals and legal entities;

23 (22) 'Preexisting Foreign Investment Permit' means a permit issued by the
24 Secretary of FSM R&D Department or by Chuuk State prior to the date
25 on which this act took effect and which has not expired according to its
26 terms or been suspended, or canceled;

27 (23) 'Professional Services' means an attorney, physician, dentist,
28 engineer, surveyor, accountant, auditor, computer consultant or other

1 types of professionals providing service for a fee. The Director may
 2 designate additional categories in the Chuuk State Foreign Investment
 3 Regulations;

4 (24) 'real property brokering' means the business of procuring the
 5 purchase and sale of land or acting as intermediary between vendor
 6 and purchaser; and

7 (25) 'Secretary' means the Secretary of the FSM R&D Department.

8 Section 4. Requirement that a foreign investor obtain a Foreign Investment
 9 Permit. A non-citizen may not conduct any activity in the territory of Chuuk State that
 10 amounts to 'engaging in business', as defined in section 3 of this act and section 203 of
 11 the FSM Foreign Investment Act, unless that non-citizen holds a currently valid Foreign
 12 Investment Permit authorizing that non-citizen to conduct that activity.

13 Section 5. Categories of economic sectors. In administering the system of Chuuk
 14 State Foreign Investment Permits established in this act, and in regulating foreign
 15 investment generally within the territory of Chuuk State, the Director shall be guided by
 16 the system of categories of economic sectors established in section 205 of the FSM
 17 Foreign Investment Act, as follows:

18 (1) Categories for National Regulations - those economic sectors
 19 identified by the FSM Foreign Investment Act or FSM Foreign
 20 Investment Regulations as categories A, B and C.

21 (2) Categories for State Regulations- economic sectors that are not
 22 identified by the FSM Foreign Investment Act or the FSM Foreign
 23 Investment Regulations. The categories in Chuuk State are:

24 (a) Category D ('Chuuk State Red List') - the set of economic
 25 sectors that are closed to foreign investment within the
 26 territory of Chuuk State:

1 (i) such other economic sectors as the Director may
2 designate in the Chuuk State Foreign Investment
3 Regulations as being on the Chuuk State Red List.

4 (b) Category E ('Chuuk State Amber List') - the set of economic
5 sectors as to which certain criteria specified in the Chuuk State
6 Foreign Investment Regulations must be met before a Chuuk
7 State Foreign Investment Permit will be issued include any
8 economic sector that is not included on any other list (Category A
9 through D and F). The economic sectors on the Chuuk State
10 Amber List include the following:

- 11 (i) Casinos
12 (ii) Lotteries
13 (iii) Such other economic sectors as the Director may
14 designate in the Chuuk State Foreign Investment
15 Regulations as being on the Chuuk State Amber List;
16 and

17 (c) Category F ('Chuuk State Green List') - the set of economic
18 sectors which no special criteria need to be met before a
19 Chuuk State Foreign Investment Permit will be issued,
20 except for the minimum value standards that may be
21 established under section 6 (4)(c) of this act. The
22 economic sectors on the Chuuk State Green List include the
23 following:

- 24 (i) Eco-tourism;
25 (ii) Professional services;
26 (iii) Intrastate airline services;
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(iv) Exportation of local products; and

(v) such other economic sectors as the Director may designate in the Chuuk State Foreign Investment Regulations as being on the Chuuk State Green List.

Section 6. Relationship between the Chuuk State Government and the National Government regarding the regulation of foreign investment within the territory of Chuuk State. The Director shall be guided by the provisions of section 206 of the FSM Foreign Investment Act, and in particular shall:

- (1) take all action necessary and within the Director's power to prohibit foreign investment within the territory of Chuuk State falling within economic sectors designated pursuant to section 205 (1) of the FSM Foreign Investment Act for inclusion on the National Red List (Category A);
- (2) participate, or nominate someone from his or her office to participate, in meetings convened by the FSM National Government to review sector developments and to add economic sectors to, or remove them from, Categories A, B and C under section 205(1) of the FSM Foreign Investment Act;
- (3) cooperate in other ways with the FSM R&D Department, and with responsible authorities from other States, regarding the regulation of foreign investment; and
- (4) subject to section 16 (3) of this act, take responsibility for regulating foreign investment within the territory of Chuuk State, including:
 - (a) determining what, if any, additional economic sectors shall be designated for inclusion in Categories D, E and F pursuant to section 5(2) of this act;

- 1 (b) determining what Chuuk State criteria, if any, shall be specified
2 for foreign investments in Category E economic sectors;
- 3 (c) determining whether foreign investments in Category E or
4 Category F economic sectors shall be subjected to a minimum
5 value standard and, if so, what that minimum value standard
6 should be. Minimum value standard may be required in order
7 to prevent abuse of the system of Chuuk State Foreign
8 Investment Permits as a vehicle for gaining entry to Chuuk State
9 without a bona fide intention of engaging in business;
- 10 (d) the issuance of Chuuk State Foreign Investment Permits
11 pursuant to section 7 of this act in respect of foreign investment
12 taking place or proposed to take place within the territory of
13 Chuuk State in all economic sector categories other than those
14 designated for inclusion in A, B, C or D pursuant to this act and
15 the FSM Foreign Investment Act.

16 Section 7. Application procedures for Chuuk State Foreign Investment Permits.

- 17 (1) An application for a Chuuk State Foreign Investment Permit shall
18 be made on the form or forms prescribed in the Chuuk State
19 Foreign Investment Regulations, as may be supplemented in
20 particular cases by order of the Director in accordance with section
21 16(3) of this act. Such application form or forms shall be made
22 publicly available by the Director. The application form shall
23 require the applicant to identify clearly the person(s) residing in
24 Chuuk State who are designated as agent(s) for service of process.
- 25 (2) Submission of an application for a Chuuk State foreign Investment
26 Permit shall be made to the Director. Upon receiving an
27 application for a Chuuk State Foreign Investment Permit, the
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Director shall, within such periods of time as may be prescribed for this purpose in the Chuuk State Foreign Investment Regulations, take one or more of the following actions, as appropriate:

- (a) determine whether the application relates to foreign investment in an economic sector included in Category A, B or C, as described in section 205 of the FSM Foreign Investment Act, or in an economic sector included in Category D, E or F, as described in section 5 above;
- (b) deny the application if it relates to:
 - (i) foreign investment in an economic sector of Category D (Chuuk State Red List);
 - (ii) foreign investment in an economic sector of Category E (Chuuk State Amber List) or a Category F (Chuuk State Green List) when the application is incomplete or the Foreign Investor does not meet a minimum value standards established pursuant to section 6(4)(C) of this act: or
 - (iii) foreign investment in an economic sector in category E (Chuuk State Amber List) economic sector but does not satisfactorily demonstrate that the investment meets all of the applicable Chuuk State criteria established in the Chuuk State Foreign Investment Regulations pursuant to section 6 (4) (b) of this act;
- (c) forward the application to the Secretary if it relates to foreign investment in an economic sector included in Category A, B or C, as described in section 205 of the

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- 1 FSM Foreign Investment Act;
- 2 (d) require the applicant to submit further information if the
- 3 application is incomplete or does not provide enough
- 4 information for the Director to determine (i) what economic
- 5 sector(s) is(are) involved, or (ii) whether the requirements for a
- 6 Chuuk State Foreign Investment Permit have been or will be
- 7 met;
- 8 (e) hold a public hearing for the review of any new or renewal
- 9 application submitted which falls under Category E (Chuuk
- 10 State Amber List), if, in the Director's discretion he determines
- 11 one is appropriate. Any required hearing shall be held pursuant
- 12 to provisions of the Chuuk State Foreign Investment
- 13 Regulations;
- 14 (f) issue a Chuuk State Foreign Investment Permit if:
- 15 (i) the application:
- 16 A) relates to a foreign investment in a Category E
- 17 (Chuuk State Amber List) economic sector;
- 18 B) is complete; and
- 19 C) demonstrates that the foreign investment meets all
- 20 of the applicable Chuuk State criteria established in
- 21 the Chuuk State Foreign Investment Regulations
- 22 pursuant to section 6 (4)(b) and (c) of this act; or
- 23 (ii) the application:
- 24 A) relates to foreign investment in a Category F
- 25 (Chuuk State Green List) economic sector;
- 26 B) is complete; and
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1 (C) meets any minimum value standards established
2 pursuant to section 6 (4) (c) of this act.

3 (g) Place conditions or restrictions on the issuance of the Chuuk
4 State Foreign Investment Permit as deemed appropriate.

5 (3) Upon taking any action described in section 7 (2) (b), (2) (d), or (2) (f)
6 above, the Director shall, within such periods of time as may be
7 prescribed for this purpose in the Chuuk State Foreign Investment
8 Regulations, advise the applicant of the action and the reasons therefor.

9 (4) The amount of the application fee to be paid by an applicant seeking a
10 Chuuk State Foreign Investment Permit shall be established in the
11 Chuuk State Foreign Investment Regulations.

12 (5) If the Director issues a Chuuk State Foreign Investment Permit
13 pursuant to section 7 (2) (f) above, the Chuuk State Foreign
14 Investment Permit will be sent to the applicant and copies of any
15 Foreign Investment Permit shall be:

16 (a) inserted into a register to be maintained by the Director for this
17 purpose; and

18 (b) sent to the Secretary, for insertion in a register to be maintained
19 by the FSM R&D Department for this purpose.

20 (6) If the Director denies an application for a Chuuk State Foreign
21 Investment Permit pursuant to section 7 (2) (b) (ii) or (iii) above,
22 the applicant may:

23 (a) resubmit the application with modifications designated to meet
24 any applicable criteria established in the Chuuk State Foreign
25 Investment Regulations; or

26 (b) provide to the Director additional information or explanation to
27 indicate how, in the applicant's opinion, the foreign investment
28 would satisfy such criteria. On receipt of such modifications or
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1 additional information, the Director shall review the application
2 and make a determination under the procedures prescribed in
3 section 7 above. There is no limit to the number of times an
4 applicant may modify an application in order to meet the
5 requirements for a Chuuk State Foreign Investment Permit.

6 Section 8. Form, fees, renewal, modification, and cancellation of a Chuuk State
7 Foreign Investment Permit.

- 8 (1) A Chuuk State Foreign Investment Permit shall be in the form
9 prescribed in the Chuuk State Foreign Investment Regulations.
- 10 (2) In the application for a Chuuk State Foreign Investment Permit, the
11 holder shall fulfill the requirements, if any, included in the Chuuk
12 State Foreign Investment Regulations for the payment of an
13 application fee.
- 14 (3) Upon the issuance of a Chuuk State Foreign Investment Permit, the
15 holder shall fulfill the requirements, if any, included in the Chuuk
16 State Foreign Investment Regulations for the payment of an annual
17 permit fee.
- 18 (4) A Chuuk State Foreign Investment Permit shall be valid for one year,
19 and, unless it has been canceled, suspended or surrendered pursuant to
20 section 8 (8)-(11) below, it shall be automatically renewable on an
21 annual basis upon the fulfillment of the requirements, if any, included
22 in the Chuuk State Foreign Investment Regulations for the payment of
23 an annual fee.
- 24 (5) A Chuuk State Foreign Investment Permit shall not be transferable
25 between investments or investors and shall not be assignable to any
26 investment or investor other than the one for which it was issued.
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1 (6) The holder of a Chuuk State Foreign Investment Permit may not
2 make a change in the business for which the holder has obtained a
3 Chuuk State Foreign Investment Permit without obtaining their
4 new Chuuk State Foreign Investment Permit for that purpose under
5 section 7 of this act or, if applicable, a new FSM Foreign
6 Investment Permit under section 207 of the FSM Foreign
7 Investment Act or obtaining a modification in the terms of their
8 present Chuuk State Foreign Investment Permit. Such a
9 modification may be requested by the holder, and granted by the
10 Director, in accordance with such procedures and requirements as
11 the Director may establish in the Chuuk State Foreign Investment
12 Regulations.

13 (7) For purposes of section 8 (6) above, a 'change in the business' occurs
14 if the holder either:

15 (a) begins operation in a different economic sector from the one(s)
16 for which the Chuuk State Foreign Investment Permit was
17 issued; or

18 (b) alters, changes, modifies or transfers the amount of the
19 ownership interest which the non-citizen retains.

20 (8) The Director may cancel a Chuuk State Foreign Investment Permit
21 only if the Director determines, following the procedural
22 requirements of section 8 (10) below, that one or more of the
23 following circumstances exist:

24 (a) the annual fee required under either section 8(2) or 8(3) above
25 has not been paid;

26 (b) the holder of the permit requests its cancellation;

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- (c) the permit application is found to have contained false or fraudulent information;
 - (d) if any person bribes or otherwise exercises, or attempts to exercise, undue influence upon the application process for the Permit;
 - (e) the holder of the permit fails or refuses to comply with the reporting requirements under section 10 of this act or with any other requirements of this act or of the Chuuk State Foreign Investment Regulations;
 - (f) the holder of the permit fails or refuses to comply with any restrictions or conditions included in the Permit, or engages in activities not authorized by the Permit; and
 - (g) the holder fails to comply with any applicable State or National laws.
- (9) If a Chuuk State Foreign Investment Permit is canceled pursuant to section 8(8) above, the noncitizen holding that canceled Permit shall:
- (a) immediately stop engaging in business in Chuuk State;
 - (b) take such steps as the Director shall direct in order to dispose of that noncitizen's interest in any applicable business entity; and
 - (c) pay any fines or other penalties that may be imposed under section 13 of this act or under Chuuk State Foreign Investment Regulations.
- (10) If it appears to the Director that one or more of the grounds for cancellation of a Chuuk State Foreign Investment Permit, as enumerated in section 8 (8) above, may exist, the Director

1 may temporarily suspend the validity of that Chuuk State
2 Foreign Investment Permit and shall commence the following
3 procedures leading to cancellation:

4 (a) The Director, or the Director's designee, may schedule a
5 hearing on the matter before the Director, or the Director's
6 designee. At least 21 days written notice of the hearing, stating
7 the alleged ground for cancellation, shall be given to the
8 holder of the Chuuk State Foreign Investment Permit, at the
9 address designated on the application for such notice. If during
10 that time the holder of the Chuuk State Foreign Investment
11 Permit takes action satisfactory to the Director to disprove the
12 allegations or otherwise remedy the situation, the Director may
13 cancel the hearing and reinstate the Chuuk State Foreign
14 Investment Permit if it was temporarily suspended.

15 (b) Hearing procedures shall be prescribed by the Director in the
16 Chuuk State Foreign Investment Regulations and shall include
17 the right of the holder of the Chuuk State Foreign Investment
18 Permit to participate and to be represented by counsel, to call
19 witnesses, and to cross-examine witnesses called against the
20 holder of the Chuuk State Foreign Investment Permit.

21 (c) Within the ten days after a hearing, the Director shall issue a
22 written decision including reasons for the action taken and the
23 remedy to be imposed pursuant to section 8(9) above, and shall
24 transmit that decision immediately to the holder of the Chuuk
25 State Foreign Investment Permit.

26 (d) If a decision has not been issued pursuant to section 8(10)(c)

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1 above, within the ten days specified, any temporary suspension
2 ordered by the Director shall automatically end, and the
3 validity of the Chuuk State Foreign Investment Permit
4 shall automatically be reinstated.

5 (e) Within 20 days after receiving the notice of the decision of
6 the Director, the holder of the Chuuk State Foreign Investment
7 Permit may appeal the decision to the Chuuk State Court. Copies
8 of any notice of appeal shall be served on the Director and the
9 Attorney General of Chuuk State.

10 (11) A holder of a Chuuk State Foreign Investment Permit may surrender
11 it by meeting requirements specified for this purpose in the Chuuk
12 State Foreign Investment Regulations. Mere cessation of engaging in
13 business in Chuuk State, without meeting such requirements, does not
14 relieve the holder of Chuuk State Foreign Investment Permit from the
15 requirements incident thereto.

16 Section 9. Expatriate Worker Authorizations and Entry Permits. Sections 210,
17 211 and 212 of the FSM Foreign Investment Act and the provisions of the FSM Foreign
18 Investment Regulations issued pursuant to those sections, set forth the entitlements to
19 expatriate worker authorization (EWAs') and entry permits. The Director will work with
20 the FSM Immigration Division, as needed, to assist the holder to obtain any necessary
21 EWA.

22 Section 10. Reports by holders of Chuuk State Foreign Investment Permits.

23 (1) The holder of any Chuuk State Foreign Investment Permit shall submit
24 to the Director such reports concerning the foreign investment as the
25 Director may prescribe in the Chuuk State Foreign Investment
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1 Regulations. Details of the information required, the reasons for
2 the requirements, and the frequency and form of such reports shall be
3 set forth in the Chuuk State Foreign Investment Regulations.

4 (2) Any change in foreign ownership of an investment for which a Chuuk
5 State Foreign Investment Permit has been issued shall be reported
6 immediately to the Director, who may take such action as the Director
7 considers appropriate in respect of the Chuuk State Foreign
8 Investment Permit, including its cancellation if appropriate under the
9 provisions of section 8 of this act.

10 Section 11. Reports by the Director.

11 (1) The Director shall publish information annually, in such form and
12 detail as may be prescribed in the Chuuk State Foreign Investment
13 Regulations, concerning the extent of foreign investment in Chuuk
14 State.

15 (2) The Director shall be guided by the provisions of section 215 of the
16 FSM Foreign Investment Act and by the provisions of the FSM
17 Foreign Investment Regulations issued thereunder, concerning reports
18 to be submitted by States to the FSM National Government regarding
19 foreign investment.

20 Section 12. Guarantees and entitlements regarding foreign investments.

21 (1) The Director shall be guided by and shall take no action inconsistent
22 with the provisions of sections 216 and 217 of the FSM Foreign
23 Investment Act or with any provisions of the FSM Foreign Investment
24 Regulations issued thereunder concerning compulsory acquisition of
25 foreign investment property and transfers of earnings and capital
26 relating to foreign investments.

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1 (2) Upon payment of such additional fees as the Director may
2 prescribe for this purpose, the holder of a Chuuk State Foreign
3 Investment Permit shall be entitled, for 5 years, to an exemption
4 from any future changes in the Chuuk State transaction and sales
5 tax rates and similar rules applicable to the business entity to which
6 the Permit applies.

7 (3) Subject to the provisions of both the FSM Foreign Investment Act and
8 this act, and subject to regulations promulgated pursuant to those
9 provisions, the Government of Chuuk State shall not take action, or
10 permit any subsidiary political unit within Chuuk State to take action,
11 that would result in a foreign investor being given treatment that is less
12 favorable than the treatment given to citizens engaging in business in
13 Chuuk State.

14 Section 13. Injunction and penalties.

15 (1) Where, on application by the Chuuk State Attorney General, the
16 Chuuk State Court is satisfied that a noncitizen has acted, or is about to
17 act, in contravention of the provisions of the FSM Foreign Investment
18 Act, the provisions of this act, the provisions of the FSM Foreign
19 Investment Regulations, or the provisions of the Chuuk State Foreign
20 Investment Regulations, the court may impose an injunction on any
21 such action. The Attorney General shall provide to the concerned
22 noncitizens(s) at least two business days prior notice of an intention to
23 file such an application with the court.

24 (2) If the Director determines that any person has failed or refused to
25 comply with requirements imposed under or pursuant to the FSM
26 Foreign Investment Act, this act, the FSM Foreign Investment
27 Regulations, or the Chuuk State Foreign Investment Regulations, the
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1 Director may, in addition to the action initiated under subsection (1)
2 above:

3 (a) suspend or cancel a Chuuk State Foreign Investment Permit
4 pursuant to section 8 of this chapter;

5 (b) impose such administrative fines and penalties as may be
6 prescribed in the FSM Foreign Investment Regulations or in
7 the Chuuk State Foreign Investment Regulations; or

8 (c) initiate measures for the imposition of criminal or civil
9 penalties as described in section 13 (3) and (4) below or in
10 other laws of Chuuk State.

11 (3) Any person guilty of willfully contravening the provisions of section 4
12 of this act commits a crime as set forth in section 220 of the FSM
13 Foreign Investment Act, and upon conviction shall be subject to the
14 penalties provided for in said section.

15 (4) Any person who fails to comply with any of the provisions of this act
16 is subject to the following civil penalties:

17 (a) in the case of an individual, the imposition of a civil fine in an
18 amount up to \$10,000 per incident;

19 (b) in the case of a legal entity, the imposition of a civil fine in an
20 amount up to \$50,000 per incident;

21 (c) in any case, the forfeiture to the Chuuk State Government of
22 assets or property rights in any business entity engaging in
23 business in contravention of this act; provided, however, that
24 the value of such assets or property so forfeited shall not be
25 unreasonable in relation to the illegal behavior and injury it
26 caused. The Attorney General shall file and prosecute an

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1 action for the imposition of civil penalties in the appropriate
2 court.

3 Section 14. Judicial Review. A decision by the Director pursuant to section 7 of
4 this act regarding an application for a Chuuk State Foreign Investment Permit may be
5 appealed by the applicant. The notice of any such appeal shall be filed with the Chuuk
6 State Court within 30 days of receipt of notice of the Director's decision. A copy of any
7 such notice shall also be served on the Attorney General of Chuuk State and the Director.
8 Such appeals shall be made under applicable rules of civil procedures.

9 Section 15. Confidentiality. In carrying out the responsibilities imposed by this
10 act regarding the regulation of foreign investment in Chuuk State, the Director shall
11 maintain the confidentiality of any sensitive business information relating to a particular
12 foreign investor or prospective foreign investor, if so requested by such person; provided,
13 however, that this provision shall not prevent the Director from disclosing information
14 upon order of a court or pursuant to other laws and regulations of Chuuk State or of the
15 FSM.

16 Section 16. Enforcement.

- 17 (1) Primary responsibility for the enforcement of this act shall be placed in
18 the Attorney General of Chuuk and, as to criminal sanctions provided
19 in section 17 of this act, in appropriate law enforcement authorities
20 within Chuuk State.
- 21 (2) In carrying out the responsibility imposed by this act, the Director may
22 require the attendance of any citizen or noncitizen at a meeting or
23 hearing conducted by the Director and may require such persons to
24 testify or to produce at, before, or after such meeting or hearing
25 documents, information, and things relevant to enforcement of the
26 provisions of this act.
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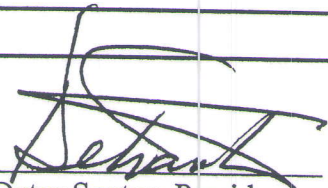
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1 (3) The Director shall promulgate regulations necessary to implement this
2 act and any amendments or modifications thereto the Director deems
3 necessary, subject to legislative approval of said regulations and
4 amendments or modifications thereto, which regulations and amendments
5 or modifications shall have the force and effect of law.


6 Section 17. Unauthorized foreign business. Unauthorized foreign business is
7 engaging in business as defined in section 3(5) of this act without having complied with
8 section 4 of this act, or engaging in business not authorized by a Foreign Investment
9 Permit issued by the FSM or Chuuk State, or failing to comply with the provisions of the
10 Chuuk State Foreign Investment Regulations. Unauthorized foreign business is a
11 category one misdemeanor.

12 Section 18. Repeal. Truk State Law No. 5-108 is hereby repealed.

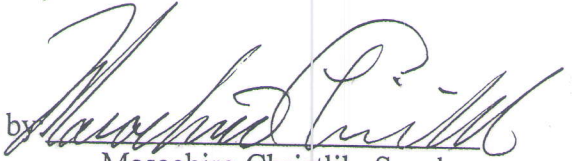
13 Section 19. Effectiveness; transition This act shall take effect upon its
14 approval by the Governor, or upon its becoming law without such approval. For a period
15 of twelve (12) months after the date on which this act becomes effective, any Preexisting
16 Foreign Investment Permit applicable within the territory of Chuuk State shall continue to
17 be valid in accordance with its terms, subject to the provisions of this act and the
18 provisions of the FSM Foreign Investment Act. Notwithstanding the provisions of
19 section 4 of this act, any noncitizen who was, as of the date on which this act becomes
20 effective, conducting any activity that amounts to 'engaging in business', as defined in
21 section 3 of this act, but who was not required, under the law in effect immediately prior
22 to that date, to obtain a foreign investment permit for that activity, shall have a period of
23 three months from that date in which to either (a) apply for and obtain a foreign
24 investment permit or (b) cease conducting the activity.

Signed by: 
Detor Santos, President
Senate
Chuuk State Legislature

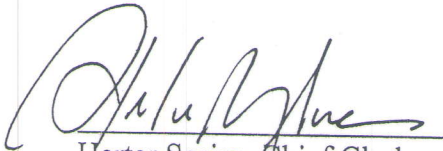
Attested:


Ismael Dobich, Chief Clerk
Senate
Chuuk State Legislature

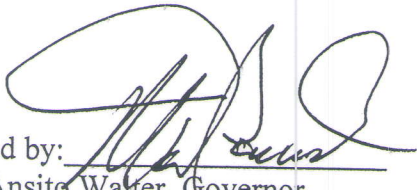
Date: Feb. 10, 1999

Signed by: 
Masachiro Christlib, Speaker
House of Representatives
Chuuk State Legislature

Attested:


Herter Sorim, Chief Clerk
House of Representatives
Chuuk State Legislature

Date: Feb. 8, 1999

Approved by: 
Ansito Warter, Governor
Chuuk State Government

Date: Feb. 17, 1999

History : S.B.No: 4-123;HD1
: S.C.R.No: None
: H.C.R.No:None