FOURTEENTH CHUUK STATE LEGISLATURE CSL NO. 14-17-06

FIRST REGULAR SESSION

FIRST SPECIAL SESSION, APRIL, 2017 ACT NO. 14-06

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**AN ACT**

To modernize the system for administering foreign investments in Chuuk, repealing Section 1051 of 37 TTC § 51 and Chuuk State Law No. 4-99-03 as amended by CSL No. 6-02-03, in their entireties and for other purposes.

Be it enacted by the Chuuk State Legislature:

Section 1. Short Title. This Act may be cited as the “Chuuk State Foreign Investment Act of 2017”.

Section 2. Purpose. The purpose of this Act is to modernize the system of administering foreign investment in Chuuk within a legal and policy framework that allows joint ventures or wholly owned foreign companies to conduct their businesses without undue administrative or regulatory impediments. In 1998 the Legislature passed CSL No. 4-99-03 also known as the “Chuuk State Foreign Investment Act of 1998” to encourage foreign investment in a manner that serves the economic, social and cultural interests of Chuuk State. After seventeen years of stagnation in foreign investment, it become necessary to update the system to align with fluctuating regional and global economic trends.

This Act improves the process of reviewing foreign investment applications and issuance of foreign investment permits by establishing the Office of the Registrar of Corporation as a semi-autonomous government entity and designating the Registrar of Corporation to implement the provisions of this Act. Concurrently, a review panel for oversight purpose is hereby created to ensure transparency and accountability in the activities of the Office of the Registrar of Corporation. It is the intent of this Act to encourage foreign investors to establish joint ventures with local citizens in accordance with the principles of equality and mutual benefits and to undertake measures that will increase local participation in their businesses by taking in citizen as partners or board member and to fill management level positions with trained local citizens.

Section 3. Definitions. For the purpose of this Act the following terms shall have the meaning ascribed to each, unless the context deems otherwise:

1. “business entity” means any sole proprietorship, partnership, corporation, association, or joint venture a government, government entity or other association of person or business engaging in business under this Act.
2. “Chief” means the Chief of the Division of Commerce and Industry (C&I), Chuuk State Government.
3. “citizen”means a citizen of the FSM.
4. “Chuuk State Foreign Investment Regulations” means the regulations promulgated by the Registrar of Corporation pursuant to this Act that set forth the requirements for obtaining a foreign investment permit, and specify the compliance and enforcement mechanism of this Act.
5. “eco-tourism” means the business of engaging in tourism that is focused on bringing visitors to Chuuk to view, study, or record its cultures traditions, land and environment with numerical negative or intrusive effect; and is subject to all government laws and regulations and renumber subsequent numbers.
6. “engaging in business” means performing any activity relating to the conduct of a business with the object of gain, benefit or advantageand shall include the activities enumerated in paragraph (a) of this Subsection but shall not include the activities enumerated in paragraph (b) of this Subsection:
7. “Engaging in business” shall include:
8. Buying, selling, leasing or exchanging goods, products or property of any kind for commercial purposes;
9. Buying, selling or exchanging services of any kind for commercial purposes;
10. Conducting negotiations for transactions of the types described in Subparagraph (i) or (ii) of this; provided, however, that negotiations with licensed importers for periods less than 14 days per calendar year shall not be considered as "engaging in business";
11. Appointing a representative, agent, or distributor by a non-citizen to perform any of the acts described in subparagraphs (i) and (ii) above unless said representative, agent or distributor has an independent status and transacts business in its name for its own account of any non-citizen principal by a representative, agent, or distributor of a noncitizen;
12. maintaining a stock of goods in the State for the purpose of having the same processed or distributed by another person in the FSM;
13. establishing or operating a factory, processing plant, warehouse, workshop or store, whether wholesale or retail;
14. exploring or mining for minerals, or the extraction of other natural resources;
15. providing services as a management firm or professional consultant in the management, supervision, or control of any business entity;
16. providing professional services as defined by this Act that are offered for a fee as an attorney, physician, dentist, engineer, surveyor, accountant and for computer or other professional services;
17. scientific research or investigation by any organization, institution, university, college or agency, joint venture or partnership for commercial purpose or technical or scientific improvement;
18. “Engaging in business” shall not include:
19. publication of general advertisements through newspapers, brochures, and other publications, or through radio, television or the Internet;
20. scientific research or investigation sponsored by a university, college, agency, or institution that normally engages in such activities primarily for purposes educational other than funded research for education and commercial profit or technical or scientific improvements.
21. collection of information by a bona fide journalist for news publication or broadcast;
22. lawful sale of corporate shares or other interest or holdings in a business entity acquired not for speculation or profit;
23. “foreign investment” means an equity investment made by a noncitizen in the form of cash and/or other assets actually transferred into Chuuk and duly appraised and registered by the Registrar of Corporation.
24. “foreign investor” means a noncitizen who is 'engaging in business' in Chuuk as defined above.
25. “foreign investment permit” means the Foreign Investment Permit approved and issued by the Registrar of Corporation in accordance with this Act and its implementing regulations.
26. “FSM” means the Federated States of Micronesia
27. “Investment” means equity participation to produce income in any business entity organized or existing under the laws of the Chuuk State or the FSM.
28. “Local Citizen” means a Chuukese and or a person who is a citizen of the FSM by birth or naturalization residing in the Chuuk State; a sole proprietorship business, domestic partnership, corporation or association of which 100% of the ownership interest is held by a local citizen(s).
29. “Local Product” means any product locally grown, harvest, created, produced, assembled, or manufactured in the Chuuk State.
30. “Manufacturing” means engaging at any stage in the production of goods by hand or machine. For purposes of this Act, manufacturing includes the assemblage and packaging partially assembled goods, and the processing and/or packaging or marine and agricultural products for sale at wholesale or retail.
31. “Noncitizen” means:
    1. A person who is not a citizen of the FSM.
    2. Any business entity in which any ownership interest is held by a person who is not a citizen of the FSM.
    3. A business entity that will disburse to a non-citizen through a profit sharing or other financial arrangement of its net profit.
32. “Ownership interest” in a business entity means ownership of or control over, either directly or indirectly, some or all of the shares of, property or assets of, voting rights in, or rights to profits or revenue from, that business entity; provided, that:
33. ownership interest shall not include an interest in real or personal property to secure a loan for the benefit of a business entity; and
34. any interest held by the spouse, children, or other dependents of a person shall be deemed owned or controlled by that person in determining whether he or she has an ownership in a business entity; provided that this subparagraph shall not apply to a noncitizen spouse who is married to a citizen and who does not hold an ownership interest in his or her own right.
35. “Professional Services” means the services of a licensed medical practitioner, physician, dentist, attorney, certified public accountant, architect, engineer, surveyor,

auditor, consultants or similar category of occupation found by the Registrar of Corporation to require advanced professional training.

1. “Registrar of Corporation” means the Registrar of Corporation who shall issue foreign investment permits and hold as custodian all certificates, papers, statements, or other records of documents require under this Act or its implementing regulations.
2. “Retail Trade” means engaging in the activity of selling merchandise directly to consumers within Chuuk State.
3. “Service Industry” means that category of business that earns its revenue primarily through the provision of services to other businesses or consumers. It includes, but not limited to, restaurants, beauty parlors, healthcare, tailor shops, automotive services, amusement and recreation establishments, machine shops, apartment and office rentals, commercial properties and equipment leasing. For the purpose of this Act, “service industry” does not include professional services or tourist services. The Registrar of Corporation shall maintain a list of businesses that falls under the category of service industry. In case a prospective business not on the list, the applicant may request and the Registrar of Corporation shall immediately issue a written respond whether such business is in the “service industry” category.
4. “Tourist services” means the operation of hotels, lodges, dive shops, sightseeing or leisure tours, and other recreational facilities determined by the Registrar of Corporation to primarily serve the tourists industry.
5. “Wholesale trade” means engaging in the activity of selling merchandise to other merchants who intend to resell a substantial amount of the merchandise to consumers within Chuuk State.

Section 4. Foreign Investment Permit Required. A noncitizen may not conduct any activity within the Chuuk State that amounts to “engaging in business” as defined in Section 3(4)(a) of this Act, unless that noncitizen, a holds a currently valid Chuuk State Foreign Investment Permit authorizing that noncitizen to conduct that activity. An unexpired foreign investment permit issued prior to the effective date of this Act with less than one year before its expiration date shall remain valid subject to renewal as provide for by this Act. The Registrar of Corporation shall inform by written notice all holders of such foreign investment permits of this requirement.

Section 5. Establishment of the Office of Registrar of Corporation. There is hereby established within the Chuuk State Government, a semi-autonomous Office of the Registrar of Corporation responsible for receiving, and approving businesses names, incorporate all businesses corporations and ensure due diligence and compliance of all business and corporations including receiving, issuing and having custody of all certificates, permits, statements, papers or other records or documents pertaining to business and foreign investment by proprietorships, partnerships, corporations, associations, or joint ventures in Chuuk State.

Section 6. Powers and Duties of the Registrar of Corporation. The powers and duties of the Registrar of Corporation shall be as follows:

1. To receive and review application for foreign investment permit, and as may be necessary obtain opinions and recommendations from the relevant department officials responsible for developing the natural resources of the Chuuk State and the local workforce, community leaders and residents that may be impacted from such business undertaking, relevant non-government organizations (NGOs) or other interest groups, and to conduct studies, inquiries or investigations relevant to the application;
2. To issue foreign investment permits as provided for under this Act and its implementing regulations;
3. To ensure compliance with this Act and its implementing regulations, and foreign investment permits issued pursuant to this Act, including the incorporation and business laws and regulations and the carrying out, in cooperation with the Office of the Attorney General, investigations based on sworn affidavit from any person or a determination on his own initiative for alleged violations of any provision of this Act or its regulations and the incorporation and business laws and regulation applicable to Chuuk. The Registrar of Corporation may subpoena witnesses, records, books or documents in connection with such investigation.
4. To conduct in the concerned municipality at least one public hearing on any project that would involved substantial impact or altering of the natural environment by giving a 30-day notice which notice shall state the purpose of the meeting, date, time and venue. The Registrar of Corporation shall not have interest or equity in any business entity operating in Chuuk State.
5. To receive and approve business names and incorporate and perform due diligence and ensure compliance of all businesses corporations, organizations including service industries in the Chuuk State.
6. To promulgate within 120 days after the effective date of this Act a set of foreign regulations necessary for effective implementation of this Act. The Foreign Investment Review Panel established under Section 7 of this Act shall endorse the regulations or any changes thereto. The regulations, to be cited as the Chuuk State Foreign Investment Regulations, shall have the force and effect of law upon approval or no approval by the Governor within 10 days.
7. To hire, if and when necessary, the services of professional consultants to carry out the purpose of this Act and its implementing regulations.
8. The Registrar of Corporation may on his own initiative or through the voluntary assistance from any business, or corporation, apply to the Chuuk State Supreme Court to wind up the operation or engaging in businesses of a business, corporation or foreign investment in the Chuuk State;
9. Provide Secretariat Support, monthly, quarterly and yearly reports and yearly audited Account;
10. Submit a yearly budget for the operation of the Secretariat of the Governor.

Section 7. Foreign Investment Review Panel.

1. There is hereby established a foreign investment review panel for oversight purpose that shall meet as may be necessary to review the activities of the Office of the Registrar of Corporation to ensure transparency and accountability in performing his or her duties pursuant to this Act.
2. Within 30 days after the Review Panel has been duly constituted, it shall begin the process of hiring a qualified person for the position of Registrar of Corporation. The panel shall set the qualifications which shall include a BA degree in business administration or finance from a US accredited institution; provided, that the contract shall not exceed $25,000 per year for a period of two years subject to renewal.
3. The panel shall consist of seven (7) voting members consisting of:
4. Two citizen nominated by members of the Chuuk Chamber of Commerce appointed by the Governor for a term of four years subject to advise and consent of the senate
5. Two members with education background in business, finance or economic representing consumers from the general public nominated by the House ofRepresentatives and appointed by the Governor with the advice and consent of the Senate for a term of four years. The member shall not be a state government employee nor has financial, relationship or ownership interest in a business entity that has a valid foreign investment permit or is applying for such a permit;
6. The Chief of the Division of Commerce and Industries by virtue of his official position, or his designee;
7. The Director of the Department of Marine Resources by virtue of his official position, or his designee; and
8. The Director of the Department of Agriculture by virtue of his official position, or his designee.
9. The member representing the Chuuk State Chamber of Commerce and the general public may be removed by the Governor for good cause but in case of dispute only after being heard and found guilty through written charges are served on the member affected and given the right to a grievance hearing by an ad hoc committee consisting of the three most senior members of the Public Service Commission, and to be represented by counsel at such hearing. Such an action may be appealed to the Trial Division of the Chuuk State Supreme Court.
10. A vacancy on the panel under Subsections (a) and (b) shall be filled by the Governor after nominated by the Chuuk State Chamber of Commerce and the House of Representatives with the advice and consent of the Senate but only for the balance of the term for such vacancy. The Governor shall submit to the Senate the nominee for the vacancy within 30 after the position has been vacant by the Registrar of Corporation.
11. The Foreign Investment Review panel shall organize not later than 30 days after all appointed members have been confirmed, to elect a Chairman and a Vice Chairman, from among its members. The Chief of Commerce and Industries shall serve as temporary chairman at the initial organizational meeting of the panel to elect its officers. The

chairmanship shall rotate among the members through a meeting and collective decision of the panel every two years. The panel shall adopt its own rules of procedure. The Registrar of Corporation Secretarial shall serve as the secretarial of the panel and shall prepare panel papers, reports and certify and keep official minutes and records of each meeting of the panel that shall be available for public inspection upon formal written request.

1. The members of the panel shall be compensated at $20.00 per meeting day, except that those members who are employees of the Chuuk State Government shall instead be on administrative leave while attending meetings of the panel.

Section 8. Categories of Economic Sectors. The Registrar of Corporation shall be guided by the following categories of economic sectors in reviewing and approving of foreign investment applications:

1. Categories for National Regulations - those economic sectors identified by the FSM Foreign Investment Act of 1997, as enacted as FSM Public Law No. 10-49, or FSM Foreign Investment Regulations as categories A, B and C.
2. Categories for State Regulation - economic sectors that are not identified by the FSM Foreign Investment Act or the FSM Foreign Investment Regulations. The categories in Chuuk are:
3. Category D ("Chuuk State Red List") - the set of economic sectors that are closed to foreign investment within the Chuuk State :
4. RESERVED
5. Such other economic sectors as the Registrar of Corporation may designate in the Chuuk State Foreign Investment Regulations as being on the “Chuuk State Red List”
6. Category E (“Chuuk State Amber List”) - the set of economic sectors as to which certain criteria specified in the Chuuk Foreign Investment Regulations must be met before a foreign investment permit will be issued including any economic sector that is not included on any other list (Category A through D and F). The economic sectors on the Chuuk State Amber List include the following:
7. Casinos;
8. Lotteries;
9. Telecommunication and Internet Service; and
10. Such other economic sectors as the registrar of corporation may designate in the Chuuk State Foreign Investment Regulations as being on the Chuuk State Amber List.
11. Category F (“Chuuk State Green List”) The set of economic sectors which no special criteria need to be met before a Chuuk State Foreign Investment permit will be issued, except for the minimum value standards that may be established under this Act. The economic sectors on the given list include the following:
12. Joint Venture.
13. Any joint venture with citizen partners falls within the Chuuk Green List sectors shall be considered on a case by case basis, taking into account the anticipated social and economic benefits, and its impact on the natural environment. A joint venture must be incorporated in the FSM. The local partners may own up 49% of the total equity of the business. The joint venture contract and articles of association or similar documents evidencing the joint venture and equity share must be submitted along with the foreign investment application. The timing of investments must be indicated in the joint venture contract and failure to invest in the time indicated draws a penalty, suspension or revocation of the foreign investment permit, as may be determined by the Registrar of Corporation.
14. Alternative Energy
15. Eco-tourism
16. Export of local products
17. Extracting of land-based mineral resources
18. Fishing and processing plants
19. Health Care Facilities
20. Hotel Development
21. Intrastate airline and shipping services
22. Mining of seabed resources within 12 mile territorial waters
23. Professional Services
24. Wholesale and retail
25. Processing and exportation of local products; and
26. Such economic sectors as the Registrar of Corporation may designate in the Chuuk State Foreign Investment Regulations as being on the Chuuk State Green List.

Section 9. Relationship between Chuuk State Government and the FSM National Government regarding the regulation of foreign investment in Chuuk. The Registrar of Corporation shall be guided by provisions of Section 206 of the FSM Foreign Investment Act, and Incorporation Laws and in particular shall:

1. Take all action necessary and within the power of the Registrar of Corporation to prohibit foreign investment in the Chuuk State falling within the 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 in meetings convened by the FSM National Government to review sector developments and to add or remove economic sectors from Category A, B, and C under Section 205(1) of the FSM Foreign Investment Act;
3. Cooperate in any way possible with the FSM Department of Resources and Development, and with responsible authorities from other FSM states regarding the regulation of foreign investment; and
4. Subject to Section 8(2) of this Act, takes responsibility to regulate and promote foreign investment in the Chuuk State including:
5. Determining what additional sectors shall be designated for inclusion in Categories D, E and F pursuant to Section 8(2) of this Act;
6. Determining what criteria shall be specified for foreign investments in Category E economic sectors;
7. Determining whether foreign investments in Category E or Category F economic sectors shall be subject to minimum value standard and, if so, what the minimum standard should be in accordance with the Chuuk State Foreign Investment Regulations*.* Minimum value standard may be required in order to prevent abuse of the system of foreign investment permits as a vehicle for gaining entry into the Chuuk State without a bona fide intention to engage in business;
8. Issuance of foreign investment permits pursuant to Section (4) of this Act with respect to foreign investment taking place or proposed to take place in all economic sectors categories in the Chuuk State other than those designated for inclusion in Sectors A, B, C or D pursuant to this Act and the FSM Foreign Investment Act.

Section 10. Procedure for applying for Chuuk Foreign Investment Permit.

1. A non-citizen applying for a Chuuk State Foreign Investment Permit under this Act shall

submit an application to the Registrar of Corporation with the prescribed fee. The application form shall be prescribed in the Chuuk State Foreign Investment Regulations, and may be supplemented with other documents required in particular cases by order of the Registrar of Corporation in accordance with Section 11(2) of this Act. The application form shall identify the specific person residing in the Chuuk State who is designated as agent for service of process.

1. Within five days after receiving an application for the Chuuk State Foreign Investment Permit, the Registrar of Corporation shall take one or more of the following actions:
   1. 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
   2. In an economic sector included in Category D, E, or F, as described in Section 9(4) of this Act.
   3. Deny the application if it relates to:
2. Foreign investment in an economic sector of Category D (Chuuk State Red List);
3. Foreign investment in an economic sector of Category E (Chuuk State Amber list or category F(Chuuk) Green List when the application is incomplete or the Foreign Investor does not meet a minimum value standards established pursuant to Section 9(4)(c) of this Act.
4. 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 criteria established in the Chuuk State Foreign Investment Regulations pursuant to Section 9(4)(b) of this Act.
   1. Forward the application to the Secretary of the FSM Department of Resources and Development if it 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;
   2. Require the applicant to submit further information if the application is incomplete or does not provide adequate information for the registrar of corporations to determine:
5. What economic sector(s) is or are involved, or
6. Whether the requirements for a Chuuk State Foreign Investment Permit have been or will be met.
   1. Schedule a public hearing to review any new or renewal application submitted which falls under Category E (Chuuk State Amber List) if such a hearing is necessary. Any required hearing shall be held pursuant to the provisions of the Chuuk State Foreign Investment Regulations.
   2. Issue a foreign investment permit if:
7. The application:
   * + 1. Relates to a foreign investment in a Category E (Chuuk State Amber List) economic sector.
       2. Is complete, and
       3. Demonstrates that the foreign investment meets all of the applicable criteria established in the Act and the Chuuk State Foreign Investment Regulations pursuant to Section 9(4)(b) and (c) of this Act; or
8. The application:
   1. Relates to foreign investment in a Category F (Chuuk State Green List) economic sector;
   2. Is complete; and
   3. Meets any minimum value standards established pursuant to Section 9(4)(c) of this Act.
   4. Place conditions or restrictions on the issuance of the foreign investment permit as deemed appropriate.
9. Within ten days after taking any action described in Subsection 10(2) above, the Registrar of Corporation shall inform the applicant of the action and the reasons therefore.
10. Within five days after the foreign permit application is approved, the Registrar of Corporation shall issue to the applicant a foreign investment permit and shall register the permit in his**/**her office register and send a copy to the Secretary of the FSM Department of Resources and Development.
11. Within five days after an application for foreign investment is denied, the Registrar of Corporation shall inform the applicant of the decision pursuant to Section 10(2)(b)(ii)(iii) above, the applicant may:
12. Resubmit the application with modifications to meet any applicable criteria established in the Chuuk State Foreign Investment Regulations; or
13. Provide to the Registrar of Corporation additional information or explanation to indicate how the foreign investment would satisfy such criteria. On receipt of such modifications or additional information, the Registrar of Corporation shall review the application and make a determination under the procedures described under Section 10. There is no limit to the number of times an applicant may modify an application in order to meet the requirements for a Chuuk State FOREIGN INVESTMENT permit.

Section 11. Form, fees, renewal, modification, or cancellation of a foreign investment permit.

1. The form for the Chuuk State Foreign Investment Permit shall be designed as prescribed in the regulations.
2. In the application for a Chuuk State Foreign Investment Permit, the applicant shall fulfill the requirement, if any, included in the Chuuk State Foreign Investment Regulations and payment of a $50non-refundable application fee. The fee shall be paid at the Division of Finance, DAS and deposited into the General Fund of the State.
3. Upon issuance of the permit, the holder of the foreign investment permit shall fulfill the requirements, if any, included in the Chuuk State Foreign Investment Regulations and for payment of a $300.00annual permit fee. The fee shall be paid at the Division of Finance, DAS and deposited into the General Fund of the State.
4. This fee may be reviewed by the Panel every year.
5. A Chuuk State Foreign Investment Permit shall be valid for an initial period of two years and unless it has been cancelled, suspended or surrendered pursuant to Section 11(8) of this Act or its implementing regulations, it shall be automatically renewable on an annual basis upon payment of the annual permit fee and fulfillment of the requirements set forth in this Act and its implementing regulations.
6. A Chuuk State Foreign Investment Permit shall not be transferrable between investments or investors and shall not be assignable to any investment or investor other than the one for which it was issued.
7. A holder of a Chuuk State Foreign Investment Permit may not make a change in the business for which the permit was approved without obtaining a new Chuuk State Foreign Investment Permit for that purpose under Section 10 of this Act or, if applicable, a new FSM Foreign Investment Permit under Section 207 of the FSM Foreign Investment Act or obtaining a modification in the terms of their present Chuuk State Foreign Investment Permit. Such a modification may be requested by the holder of the permit, and granted by the Registrar of Corporation, in accordance with this Act and its implementing regulations.
8. For purpose of Subsection 11(6) above, a "change in the business" occurs if the holder of a foreign investment permit either:
9. Begins operation in a different economic sector from the one(s) for which the foreign investment was issued; or
10. Alters, changes, modifies or transfers the amount of the ownership interest which the non-citizen retains.
11. The Registrar of Corporation may cancel Chuuk State Foreign Investment Permit only if he or she determines, following the procedural requirements of Section 11(10) below that one or more of the following circumstances exist:
12. The annual fee required under Subsection of the Section 11(3) has not been paid;
13. The holder of the foreign investment permit requests in writing for its cancellation;
14. The application for the foreign investment permit is found to have contained false or fraudulent information;
15. If any person bribes or otherwise exercises, or attempts to exercise, undue influence upon the application process for the foreign investment permit;
16. The holder of the foreign investment permit fails or refuses to comply with the reporting requirements under Section 13 of this Act or with any other requirements in the Chuuk State Foreign Investment Regulations;
17. The holder of the foreign investment permit fails or refuses to comply with any restrictions or conditions included in the permit; and
18. The holder of the foreign investment permit fails to comply with any applicable Chuuk State or FSM laws.
19. If a foreign investment permit is canceled pursuant to Section 11(8) above, the noncitizen holding that cancelled permit shall:
20. Immediately stop engaging in business within the Chuuk State;
21. Take such actions as the Registrar of Corporation shall direct in order to dispose of that noncitizen's interest in any applicable business entity within Chuuk State; and
22. Pay any fines and other penalties imposed under Section 16 of this Act or the Regulations.
23. If it appears to the Registrar of Corporation that one or more of the grounds for cancellation of a Chuuk State Foreign Investment Permit exist, the Registrar of Corporation may temporarily suspend the validity of that permit, as enumerated in Section 11(8), and commence the following procedure leading to cancellation:
24. Schedule a hearing by issuing a 30-day written notice to the holder of the permit or his local agent at the address designated on the application stating the alleged ground for cancellation. If during that time the holder of the foreign investment permit takes action satisfactory to the Registrar of Corporation to disprove the allegations or otherwise remedy the situation, the Registrar of Corporation may cancel the hearing and reinstate the permit if it was temporarily suspended. The regulations shall set forth hearing procedure and the holder of the foreign investment permit shall have the right to participate and to be represented by counsel, to call witnesses, and to cross-examine witnesses called against him or her.
25. Within the ten days after the conclusion of such hearing, the Registrar of Corporation shall issue a written decision including reasons for the action taken and any fines or penalties imposed by the regulations and shall immediately transmit that decision to the holder of the permit.
26. If a decision has not been issued within the ten days specified, any temporary suspension ordered by the Registrar of Corporation shall automatically end, and the validity of the Chuuk State Foreign Investment Permit shall automatically reinstated unless the Registrar of Corporation within the ten days specified informed the holder of the permit in writing citing the reason for the delay.

(d) Within thirty days after receiving the notice of the decision of the Registrar of

Corporation, the holder of the permit may appeal the decision to the Chuuk State State Court. Copies of any notice of appeal shall be served on the Registrar of

Corporation and the Attorney General of Chuuk State.

1. The holder of a Chuuk State Foreign Investment Permit may surrender it by meeting the requirements specified in the regulations. A mere cessation of “engaging in business” in the Chuuk State without meeting those requirements does not relieve the holder of the permit from the requirements incidental thereto.

Section 12. Expatriate Worker Authorization and Entry Permit. Sections 210, 211 and 212 of the FSM Foreign Investment Act and the provisions of the FSM Foreign Investment Regulations issued pursuant to those sections set forth the entitlements to expatriate worker authorization (EWA's) and entry permits. The Registrar of Corporation shall work with the Chuuk State Division of Commerce and Industries, and the FSM Immigration Division as needed to assist the holder of a foreign investment permit as may be necessary to obtain any necessary EWA.

Section 13. Reports by the holder of Chuuk Foreign Investment Permit.

1. The holder of a permit shall submit to the Registrar of Corporation such yearly financial returns and investment reports concerning the foreign investment. The Chuuk Foreign Investment Regulations shall set forth the details of the information required, reasons for the requirements, frequency and the formats of such reports.
2. The holder of permit shall immediately report to the Registrar of Corporation any change in foreign ownership and management of an investment for which the permit has been issued. The Registrar of Corporation shall take whatever action necessary including cancellation of the permit, if warranted, under the relevant provisions of this Act if the holder of a permit fails to submit such report on time.

Section 14. Annual Report by the Registrar of Corporation.

1. The Registrar of Corporations shall, through the foreign investment review panel, publish an annual report within 45 days after the close of each calendar year that include detail information concerning its operation and funds, all foreign investment activities in Chuuk State, the number of permits granted under this Act for the preceding calendar year, and other information deemed necessary by the Registrar of Corporation. The report shall be submitted to the Governor and the Legislature within the time period specified above.
2. The Registrar of Corporations shall be guided by the provisions of Section 215 of the FSM Foreign Investment Act and by the provisions of the FSM Foreign Investment Regulations issued thereunder, concerning reports to be submitted to the FSM National Government regarding foreign investment in Chuuk State.

Section 15. Guarantees and entitlements regarding foreign investments.

1. The Registrar of Corporation shall be guided by and shall take no action inconsistent with the provisions of Sections 216 and 217 of the FSM Foreign Investment Act or with any provisions of the FSM Foreign Investment Regulations issued thereunder concerning compulsory acquisition of foreign investment property and transfers of earnings and capital relating to foreign investments.
2. A noncitizen may not conduct any activity that amounts to “engaging in business” unless that noncitizen utilizes the services of at least one of the banking institutions located in Chuuk State by establishing financial accounts therein during the effective period of the foreign investment permit. Violation of this requirement shall be grounds for revocation or rejection for renewal of a valid foreign investment permit.
3. The Registrar of Corporation may, on a case by case basis, grant to a joint venture, who is a holder of a Chuuk State Foreign Investment Permit, certain tax exemptions for the first five years of business operation provided that the holder of the foreign investment permit shall first certify to the Registrar of Corporation a verifiable minimum amounts of initial investment in cash equity and fixed capital assets set in the Regulations for each economic sector, number of jobs to be created within and after the exemption period as a result of the foreign investment, and other benefits to the economic sector.
4. Subject to the provisions of both the FSM Foreign Investment Act and this Act and their implementing regulations, Chuuk State Government shall not take action, or permit any subsidiary political unit within Chuuk State to take action that would result in a foreign investor being given less favorable treatment than citizens engaging in business within Chuuk State.

Section 16. Injunction and Penalties.

1. Where, on application by the Chuuk State Attorney General, the Chuuk State Court is satisfied that a non-citizen has acted, or is about to act, in contravention of the provision of the FSM Foreign Investment Act and this Act or their implementing regulations, the court may impose an injunction on any such action. The Attorney General shall provide to the concerned noncitizen at least two business days prior notice of an intention to file such an application with the court.
2. If the Registrar of Corporation determines that any person has failed or refused to comply with requirements imposed under or pursuant to the FSM Foreign Investment Act or this Act, or their implementing regulations, the Registrar of Corporation may, in addition to the action initiated under Subsection (1) of this Section:
3. Suspend or cancel the Chuuk State Foreign Investment Permit issued pursuant to Section 11(8) of this Act;
4. Impose such administrative fines and penalties as may be prescribed in the FSM Foreign Investment Act or this Act, or their implementing regulations; or
5. Initiate measures for the imposition of criminal or civil penalty as described in Section 16(4) below or in other laws of Chuuk State.
6. Any person guilty of willfully contravening the provisions of Section 4 of this Act commits a crime, as set forth in Section 220 of the FSM Foreign Investment Act, and upon conviction shall be subject to the penalties provided for in that section.
7. Any person who fails to comply with any of the provisions of this Act is subject to following civil penalties:
8. In the case of an individual, the imposition of a civil fine in an amount up to $1,000 per incident:
9. In case of a legal entity, the imposition of a civil fine in an amount up to $5,000 per incident;
10. In any case, the forfeiture to Chuuk State Government of assets or property rights in any business entity engaging in business in contravention of this Act; provided, however, that the value of such assets or property so forfeited shall not be

unreasonable in relation to the illegal behavior and injury it caused. The Attorney General shall file and prosecute an action for the imposition of civil penalties in the appropriate court.

Section 17. Judicial Review. The applicant may appeal a decision by the Registrar of Corporation pursuant to Section 11(10)(d) of this Act. The notice of such appeal shall be filed with the Chuuk State Supreme Court within 30 days of receipt of notice of the Registrar of Corporation's decisions. A copy of any such notice shall be served on the Attorney General of Chuuk State and the Registrar of Corporation. Such appeals shall be made under applicable rules of civil procedures.

Section 18. Confidentiality. In carrying out the responsibilities imposed by the Act regarding the regulations of foreign investment in Chuuk, the Registrar of Corporation shall maintain the confidentiality of any sensitive business information relating to a particular investor or prospective foreign investor, if so requested by such person in writing; provided, however, that this provision shall not prevent the Registrar of Corporation from disclosing information upon order of a court pursuant to other laws and regulations of Chuuk State or the FSM.

Section 19. Enforcement.

1. Primary responsibility for the enforcement of this Act shall be placed in the Attorney General of Chuuk State and, as to criminal sanctions provided in Section 16 of this Act, the appropriate authorities within Chuuk State.
2. In carrying out the responsibilities imposed by this Act, the Registrar of Corporation may require the attendance of any citizen or noncitizen at a meeting or hearing conducted by the Registrar of Corporation and may require such persons to testify or to produce at, before, or after such meeting or hearing documents, information, and things relevant to enforcement of the provisions of this Act.

Section 20. Unauthorized Foreign Business. Unauthorized foreign person is engaging in business as defined in Section 3(6)(a) of this Act or without having complied with this Act or engaging in business not authorized by a foreign investment permit issued by the Chuuk State or the FSM, or failing to comply with provisions of both Chuuk State Foreign Investment Regulations and the FSM Foreign Investment Regulations. Unauthorized foreign business is a category one misdemeanor.

Section 21. Repealed. Section 1051 of 37 TTC § 51 and Chuuk State Law No. 4-99-03, as amended by CSL No. 6-02-03 are hereby repealed in their entireties.

Section 22. Effective Date. This Act shall take effect upon approval of the Governor, or upon its becoming law without such approval.

Signed by: /s/ Mark Mailo

Sen. Mark Mailo, President

House of Senate

Chuuk State Legislature

Attested by:

/s/ Songkinita Bossy Date:­

Songkinita Bossy, Chief Clerk

House of Senate

Chuuk State Legislature

Signed by: /s/ Innocente I. Oneisom

Rep. Innocente I. Oneisom, Speaker

House of Representative

Chuuk State Legislature

Attested by:

/s/ Florence P. Stanely Date:­

Florence P. Stanley, Chief Clerk

House of Representatives

Chuuk State Legislature

Approved by: /s/ Johnson Elimo

Hon. Johnson Elimo, Governor

Chuuk State Government

Date:­

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**History**  S.B. NO. : 14-04;SD1;HD1;JCC1

Introducer : Sen. Mark Mailo, President

Introduced Date : April 26, 2017

Committee : R&D

S.C.R. No. : 14-1R-24

H.C.R. No. : 14-1R-24(A)

J.C.C.R. No. : 14-1R-05