

A BILL FOR AN ACT

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

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

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

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

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

12 (b) in [~~extraordinary~~] cases in which

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

16 (ii) such compulsory acquisition or
17 expropriation is necessary to serve overriding national
18 interests; and

1 (iii) the conditions of subsection (2) below
2 are met; or

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

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

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

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

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

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

18 (i) what property is affected by the action;

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

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

24 (3) Payment of compensation pursuant to subsection
25 (2)(b) above shall be promptly made and adequate in
26 amount.

1 ~~[(4) The National Government shall not take action, or~~
2 ~~permit action to be taken by any State or other entity~~
3 ~~within the FSM, that, although not formally designated~~
4 ~~or acknowledged as compulsory acquisition or~~
5 ~~expropriation, indirectly has the same injurious effect~~
6 ~~("creeping expropriations"). If such action~~
7 ~~nevertheless takes place, the National Government shall~~
8 ~~be responsible for the prompt and adequate compensation~~
9 ~~of any injured noncitizen.]"~~

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

14 Date: 10/21/03

Introduced by: /s/ Henry C. Asugar

Henry C. Asugar
(by request)