

A BILL FOR AN ACT

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:

1 Section 1. Section 104 of title 50 of the Code of the
2 Federated States of Micronesia, as amended by Public Law No. 12-
3 65, is hereby further amended to read as follows:

4 "Section 104. Entry permits - Duration; Habitual
5 residence; Change of status.

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

14 (2) *Habitual residence.*

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

1 as a habitual resident.

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

8 (3) *Change of Status.*

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

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

1 immigration status.

2 (c) The amount of the fee required by subsection
3 (b) of this section, which shall not be less than
4 \$~~[1,000]~~ 2,000, and the circumstances under which a
5 change in immigration status may be granted shall be set
6 forth in regulations issued pursuant to section 102(1)
7 of title 17 of the Code of the Federated States of
8 Micronesia. Payment of such fee is required in addition
9 to, and not as a substitute for, any requirements of the
10 desired new status.

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

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

15 Section 2. Section 113 of title 50 of the Code of the
16 Federated States of Micronesia, as amended by Public Laws Nos. 10-
17 14, 10-35 and 12-65, is hereby further amended to read as follows:

18 "Section 113. Entry Permit Revolving Fund.

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

22 (2) The purpose of the Entry Permit Revolving Fund is
23 to establish an ongoing revolving fund to allow revenue
24 from the issuance and renewal of entry permits and other
25 relevant fees to be used ~~[for]~~ to meet the cost of:

1 (a) entry permit issuance and renewal when
2 so designated by the Congress of the Federated States of
3 Micronesia;~~[r]~~

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

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

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

20 (4) The Entry Permit Revolving Fund shall be
21 administered by the Chief of the Division of
22 Immigration, under the supervision of the Secretary of
23 the Department of Justice. The Chief shall, not later
24 than 30 days after the close of each governmental fiscal
25 year, submit to the Secretary a complete report of the

1 activities and condition of the Entry Permit Revolving
2 Fund for the fiscal year just closed, and any plans for
3 use of the Fund for the fiscal year just started. The
4 Secretary shall, within 30 days of receipt of the report
5 from the Chief, forward the report to the President and
6 the Congress of the Federated States of Micronesia.

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

10 Section 3. Section 114 of title 50 of the Code of the
11 Federated States of Micronesia, as amended by Public Laws Nos. 10-
12 14, and 11-21, is hereby further amended to read as follows:

13 "Section 114. Penalties.

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

24 (2) In lieu of subsection (1) of this section or in
25 addition thereto, any person who unlawfully enters the

1 Federated States of Micronesia or having lawfully
2 entered, willfully and unlawfully remains after
3 expiration or revocation of his entry permit shall be
4 subject to deportation [~~after hearing upon application~~
5 ~~by the President or his designee to any competent court~~
6 ~~in the Federated States of Micronesia]~~ after
7 determination of the matter in accordance with section
8 116 of this chapter.

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

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

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

1 citation issued or the fee charged.”

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

5 "Section 116. Hearing and appeal.

6 (1) Any person aggrieved by a decision of the Division
7 of Immigration and Labor shall be entitled to a hearing,
8 as set forth in regulations issued pursuant to section
9 111 of this chapter. Unless otherwise required to
10 preserve national security, hearings shall be conducted
11 in accordance with the administrative procedures set
12 forth in title 17 of the Code of the Federated States of
13 Micronesia, except that hearings may be conducted on an
14 expedited basis when provided for by regulation.

15 (2) Regulations implementing subsection (1) of this
16 section shall provide for an informal hearing before the
17 officer in charge of the local immigration office.
18 Appeals from the decision of the officer in charge of
19 the local immigration office shall be heard by [~~a~~
20 ~~committee consisting of~~]the Chief of Immigration or, in
21 the event of a conflict of interest on the part of the
22 Chief, his designee [~~, the Secretary of the Department of~~
23 ~~Justice or his designee, and a representative of the~~
24 ~~Department of Foreign Affairs~~]. The Department of
25 Foreign Affairs shall have the right to be heard on any

1 matters that have a bearing on the foreign relations of
2 Federated States of Micronesia at any such hearing. The
3 decisions of the [~~appeal committee~~] Chief, or his
4 designee shall constitute final agency action for the
5 purposes of title 17 of the Code of the Federated States
6 of Micronesia."

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

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11 Date: 9/13/05

Introduced by: /s/ Dohsis Halbert
Dohsis Halbert

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