

AN ACT

To further amend title 50 of the Code of the Federated States of Micronesia, as amended, by amending sections 103, 104, 112 and 113 of chapter 1, by enacting a new section 116 of chapter 1, and to amend title 51 of the Code of the Federated States of Micronesia by amending sections 141 and 142 of chapter 1, to modify the entry and/or work permit process for foreign workers, long term residents and spouses of citizens of the Federated States of Micronesia, and for other purposes.

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

1 Section 1. Section 103 of title 50 of the Code of the
2 Federated States of Micronesia, as amended by Public Law No. 10-
3 14, is hereby further amended to read as follows:

4 "Section 103. Entry permits - Types.

5 (1) A permit is not required for a person visiting for
6 thirty days or less. For a visit in excess of thirty
7 days, a permit may be issued for an additional period
8 not to exceed sixty days; except that, with respect to
9 citizens and nationals of the United States of America,
10 for the effective period of the Compact of Free
11 Association, and with respect to citizens and nationals
12 of the Republic of the Marshall Islands and the Republic
13 of Palau, a permit is not required for the duration of
14 the visit, which shall not exceed 365 days.

15 (2) A visitor's permit for any lawful purpose,
16 including performance of necessary services on a short-
17 term contractual basis, may be issued for a period of

1 specified duration reflecting the time necessary to
2 accomplish the purpose.

3 (3) A student permit shall be issued for a specified
4 duration reflecting a student's enrollment in a school
5 or educational program.

6 (4) A foreign government official's permit may be
7 issued to any official, employee, or contractual
8 personnel of a foreign government or governmental
9 regional or international organization who wishes to
10 enter the Federated States of Micronesia for purposes of
11 official governmental activities and who is not entitled
12 to enter the Federated States of Micronesia without a
13 permit under section 102 of this chapter.

14 (5) Notwithstanding any provision of subsections (1)
15 and (2) of this section, a person entering the Federated
16 States of Micronesia for the purpose of engaging in
17 wholesale or retail sales of goods or services, or for
18 the purpose of taking orders for the purchase of goods
19 or services, without establishing a place of habitation
20 or a place of business within the Federated States of
21 Micronesia, shall be issued a salesperson's permit;
22 PROVIDED, however, that this subsection shall not apply
23 to any person who has a foreign investor's permit
24 pursuant to subsection (7) of this section.

25 (6) An alien worker's permit shall be issued to a

1 noncitizen entering the Federated States of Micronesia
2 upon compliance with all National laws relating to
3 private or governmental employment for the period in
4 which the employment of the alien worker is authorized
5 by contract. The permit shall be renewed upon extension
6 or renewal of the alien's lawful employment status.

7 (7) A foreign investor's entry permit shall be issued
8 for a specified duration and may be renewed upon renewal
9 or extension of such foreign investor's business permit.

10 (8) A researcher's entry permit shall be issued for
11 research in the fields of endeavor that the President
12 deems in the best interest of and for the well-being of
13 the citizens of the Federated States of Micronesia;
14 PROVIDED that the President receives from the
15 researcher's intended place of stay prior permission for
16 his entry. The President may attach thereto such
17 conditions or restrictions as he deems necessary.

18 (9) A missionary's permit shall be issued to a duly
19 ordained, licensed, and certified minister or clergyman.

20 (10) An entry permit shall be issued to a lawful spouse
21 of a citizen.

22 (a) A spouse permit may be revoked or denied, in
23 accordance with the provisions of this chapter, upon a
24 finding that (i) the parties are divorced, the parties
25 are irreconcilably separated, or the citizen-spouse is

1 deceased; and (ii) the revocation or denial is in the
2 best interests of the Federated States of Micronesia.

3 (b) Except in extraordinary circumstances, no
4 action to revoke or deny a spouse permit on the grounds
5 of death of the citizen-spouse shall be taken for a
6 period of six months from the date of death of the
7 citizen-spouse.

8 (11) A dependent's entry permit may be issued to an
9 unmarried child, under the age of 18, of a citizen or a
10 noncitizen spouse, subject to the conditions in
11 subsection (10) of this section.

12 (12) A spouse or unmarried child under the age of
13 eighteen of any noncitizen principal listed in this
14 section, except subsection (11), may be issued an entry
15 permit for the duration of the principal's entry permit
16 and may be renewed upon renewal of the principal's entry
17 permit."

18 Section 2. Section 104 of title 50 of the Code of the
19 Federated States of Micronesia is hereby amended to read as
20 follows:

21 "Section 104. Entry permits - Duration; Habitual
22 residence; Change of status.

23 (1) *Duration.* Unless otherwise specified, all entry
24 permits are limited to one year maximum period, with
25 provision for renewal; except that, entry permits may be

1 issued for a period not to exceed 5 years for citizens
2 and nationals of the United States of America who,
3 immediately prior to issuance of the permit, have
4 resided continuously in the Federated States of
5 Micronesia for at least 5 years.

6 (2) *Habitual residence.*

7 (a) A noncitizen who remains in the Federated
8 States of Micronesia as a visitor under section 103(1)
9 of this chapter for one year or more shall be classified
10 as a habitual resident.

11 (b) A habitual resident may be present in the
12 Federated States of Micronesia only for 30 day visits as
13 permitted by section 103(1) of this chapter or for a
14 longer period of time as permitted by section 103(2),
15 (3), (4), (5), (6), (7), (8), (9), (10), (11) or (12) of
16 this chapter.

17 (3) *Change of Status.*

18 (a) The immigration status of a noncitizen
19 entering the Federated States of Micronesia as a visitor
20 under section 103(1) or 103(2) of this chapter may not
21 be changed during his stay in the Federated States of
22 Micronesia. The immigration status of any noncitizen
23 entering or residing in the Federated States of
24 Micronesia under any other provision of this chapter may
25 not be changed during his stay in the Federated States

1 of Micronesia, except in accordance with the provisions
2 of this title.

3 (b) For a noncitizen to change status, he shall
4 be required to apply for a permit reflecting his changed
5 status and pay a fee, except that citizens and nationals
6 of the United States of America, for the duration of the
7 Compact of Free Association, and citizens and nationals
8 of the Republic of the Marshall Islands or the Republic
9 of Palau shall not be required to pay a fee to change
10 immigration status.

11 (c) The amount of the fee required by subsection
12 (b) of this section, which shall not be less than
13 \$1,000, and the circumstances under which a change in
14 immigration status may be granted shall be set forth in
15 regulations issued pursuant to section 102(1) of title
16 17 of the Code of the Federated States of Micronesia.
17 Payment of such fee is required in addition to, and not
18 as a substitute for, any requirements of the desired new
19 status.

20 (d) The President may impose additional
21 conditions for such change of status.

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

24 Section 3. Section 112 of title 50 of the Code of the
25 Federated States of Micronesia, as enacted by Public Law No. 10-

1 14, is hereby amended to read as follows:

2 "Section 112. Fees.

3 In addition to any other fee required by the provisions
4 of this chapter, each application for an entry permit or
5 an entry permit renewal shall be accompanied by the
6 payment of a fee. The President shall, by executive
7 order or regulation, establish the amount of such fee
8 and may establish different fees for application or
9 renewal."

10 Section 4. Section 113 of title 50 of the Code of the
11 Federated States of Micronesia, as amended by Public Law No. 10-
12 35, is hereby further amended to read as follows:

13 "Section 113. Entry Permit Revolving Fund.

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

17 (2) The purpose of the Entry Permit Revolving Fund is
18 to establish an ongoing revolving fund to allow revenue
19 from the issuance and renewal of entry permits and other
20 relevant fees to be used for entry permit issuance and
21 renewal, when so designated by the Congress of the
22 Federated States of Micronesia, and for training FSM
23 citizens to assume positions in the FSM workforce
24 currently held by noncitizen workers.

25 (3) All revenues received from the issuance and

1 renewal of entry permits and from the payment of any fee
2 required under this chapter or chapter 1 of title 51 of
3 the Code of the Federated States of Micronesia shall be
4 deposited in the Entry Permit Revolving Fund. Any
5 unexpended monies in the Entry Permit Revolving Fund
6 shall not revert to the General Fund, nor lapse at the
7 end of the fiscal year.

8 (4) The Entry Permit Revolving Fund shall be
9 administered by the Chief of the Division of
10 Immigration, under the supervision of the Secretary of
11 the Department of Justice. The Chief shall, not later
12 than 30 days after the close of each governmental fiscal
13 year, submit to the Secretary a complete report of the
14 activities and condition of the Entry Permit Revolving
15 Fund for the fiscal year just closed, and any plans for
16 use of the Fund for the fiscal year just started. The
17 Secretary shall, within 30 days of receipt of the report
18 from the Chief, forward the report to the President and
19 the Congress of the Federated States of Micronesia.

20 (5) The Public Auditor shall audit the Entry Permit
21 Revolving Fund at such times as the Public Auditor deems
22 appropriate."

23 Section 5. Title 50 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-14, 10-35, 10-140
25 and 11-21, is hereby further amended by enacting a new section 116

1 to read as follows:

2 "Section 116. Hearing and appeal.

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

12 (2) Regulations implementing subsection (1) of this
13 section shall provide for an informal hearing before the
14 officer in charge of the local immigration office.
15 Appeals from the decision of the officer in charge of
16 the local immigration office shall be heard by a
17 committee consisting of the Chief of Immigration or, in
18 the event of a conflict of interest on the part of the
19 Chief, his designee, the Secretary of the Department of
20 Justice or his designee, and a representative of the
21 Department of Foreign Affairs. The decisions of the
22 appeal committee shall constitute final agency action
23 for the purposes of title 17 of the Code of the
24 Federated States of Micronesia."

25 Section 6. Section 141 of title 51 of the Code of the

1 Federated States of Micronesia is hereby amended to read as
2 follows:

3 Section 141. Outside employment for compensation.

4 (1) It shall be unlawful for any nonresident worker
5 admitted into the Trust Territory under the provisions
6 of this title to engage in any other employment for
7 compensation or for profit other than for the employer
8 who has contracted with the chief for the employment of
9 such nonresident worker in the Trust Territory, except
10 in accordance with the provisions of this section.

11 (2) A nonresident worker who is under a labor contract
12 with an employer may work for or be employed by a second
13 employer during the term of such contract if all of the
14 following conditions are met:

15 (a) the nonresident worker has filed an
16 'Application for Permission to Engage in Additional
17 Employment for Compensation or Profit' with the Chief,
18 which application shall be in the form required by the
19 Chief in regulations issued pursuant to section 102(1)
20 of title 17 of the Code of the Federated States of
21 Micronesia;

22 (b) the original employer and the prospective
23 second employer have entered into a 'Contract for
24 Services' whereby the first employer agrees to allow the
25 second employer to use the services of the nonresident

1 worker. Such contract shall be filed with the Chief and
2 shall contain, at a minimum, such provisions as the
3 Chief shall, by regulation, require; and

4 (c) the second employer has met all of the
5 requirements of this chapter for hiring nonresident
6 workers and has paid a fee, the amount of which shall
7 not be less than \$1,000 and shall be set forth in
8 regulations issued pursuant to section 102(1) of title
9 17 of the Code of the Federated States of Micronesia.

10 (3) Any employment of a nonresident worker in a manner
11 not provided for by this section shall constitute
12 sufficient ground and cause for deportation and the
13 Chief of the Division of Labor shall communicate to the
14 Secretary of the Department of Justice any violation of
15 this section and the Secretary shall institute
16 deportation proceedings against the alien worker if in
17 the opinion of the District Administrator such would be
18 in the best interest of the public.

19 (4) Violation of the provisions of this section by an
20 employer or nonresident worker shall also be subject to
21 penalties prescribed by section 167 of this title."

22 Section 7. Section 142 of title 51 of the Code of the
23 Federated States of Micronesia is hereby amended to read as
24 follows:

25 "Section 142. Change of employment.

1 (1) A nonresident worker who is under a labor contract
2 with an employer shall not change his employer during
3 the term of such contract, except in accordance with the
4 provisions of this section.

5 (2) Before a nonresident worker can work for or be
6 employed by an employer different than his previous
7 employer, he shall first be required to apply for a
8 permit reflecting his change of employment and pay a
9 fee, except that citizens and nationals of the United
10 States, for the duration of the Compact of Free
11 Association, and citizens and nationals of the Republic
12 of the Marshall_Islands or the Republic of Palau shall
13 not be required to pay a fee.

14 (3) The amount of the fee required by subsection (b)
15 of this section, which shall not be less than \$1,000,
16 and the circumstances under which a change in employment
17 status may be granted shall be set forth in regulations
18 issued pursuant to section 102(1) of title 17 of the
19 Code of the Federated States of Micronesia. Fees
20 collected as a result of this section shall be deposited
21 into the fund established by section 113 of title 50 of
22 the Code of the Federated States of Micronesia."
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Section 8. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

December 26, 2002

/s/ Leo A. Falcam
Leo A. Falcam
President
Federated States of Micronesia

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