A BILL FOR AN ACT

To further amend title 50 of the Code of the Federated States of Micronesia, as amended, by further amending sections 103 and 104, by adding a new section 104, by renumbering sections 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115 and 116, for the purpose of deleting the term "habitual resident", exempting certain non-citizen spouses of deceased citizens from the change of status fee, creating a new "permanent resident" status, 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 Laws Nos.
3 5-105, 10-14, 12-65 and 14-33, is hereby further amended to read
4 as follows:

"Section 103. Entry permits - Types.

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

(2) A visitor's permit for any lawful purpose,
including performance of necessary services on a short-
term contractual basis, may be issued for a period of specified duration reflecting the time necessary to accomplish the purpose.

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

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

(5) Notwithstanding any provision of subsections (1) and (2) of this section, a person entering the Federated States of Micronesia for the purpose of engaging in wholesale or retail sales of goods or services, or for the purpose of taking orders for the purchase of goods or services, without establishing a place of habitation or a place of business within the Federated States of Micronesia, shall be issued a salesperson's permit; PROVIDED, however, that this subsection shall not apply to any person who has a foreign investor's permit pursuant to subsection (7) of this section.
(6) An alien worker's permit shall be issued to a noncitizen entering the Federated States of Micronesia upon compliance with all National laws relating to private or governmental employment for the period in which the employment of the alien worker is authorized by contract. The permit shall be renewed upon extension or renewal of the alien's lawful employment status.

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

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

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

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

(a) Subject to this section and any requirements set out in regulations issued pursuant to section [112] of this chapter, a spouse permit holder shall be
permitted to undertake paid employment in the Federated States of Micronesia. In the absence of any regulations on this subject, a spouse permit holder shall be permitted to undertake paid employment in the Federated States of Micronesia only if he or she has been a resident of the Federated States of Micronesia for the 5 years prior to commencing employment and/or has been married to a citizen of the Federated States of Micronesia for the 5 years prior to commencing employment. For the avoidance of doubt, a spouse permit holder may undertake paid employment without obtaining a change of status approval pursuant to section [104] 105 of this chapter, however, such employment must be obtained in accordance with the requirements for hiring non-resident workers contained in title 51 of the Code of the Federated States of Micronesia.

(b) A spouse permit may be revoked or denied, in accordance with the provisions of this chapter, upon a finding that (i) the parties are divorced, the parties are irreconcilably separated, or the citizen-spouse is deceased; and (ii) the revocation or denial is in the best interests of the Federated States of Micronesia.

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

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

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

Section 2. Title 50 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 104 to read as follows:

"Section 104. Permanent Resident Status.

(1) A non-citizen individual who holds permanent resident status has the right to enter, re-enter and remain in the Federated States of Micronesia, subject to the provisions of this title. A non-citizen individual who holds permanent resident status shall be permitted to undertake paid employment in the Federated States of Micronesia, in accordance with title 51.

(2) A non-citizen individual who has held a spouse entry permit for not less than 5 years and who has
resided in the Federated States of Micronesia for not
less than 5 consecutive years shall be eligible to apply
for permanent resident status. The Secretary of Justice
shall promulgate regulations regarding the application
process for permanent resident status.

(3) A non-citizen individual who holds permanent
resident status may maintain his or her permanent
resident status by meeting a residency requirement of
physical presence in the FSM of not less than six months
in every calendar year.

(4) An application for permanent resident status does
not require payment of a change of immigration status
fee pursuant to section 105 of this chapter.

(5) The President may deny an application for, or
revoke, permanent residence status for any of the
reasons enumerated in section 108 of this title.

Section 2. Section 104 of title 50 of the Code of the
Federated States of Micronesia, as amended by Public Laws Nos. 5-
105, 7-23 and 12-65, is hereby renumbered as section 105 and
further amended to read as follows:

"Section [104] 105. Entry permits – Duration; Habitual
residence]; Change of status; Waiver.

(1) Duration. Unless otherwise specified, all entry
permits are limited to one year maximum period, with
provision for renewal; except that, entry permits may be
issued for a period not to exceed 5 years for individuals renewing spouse permits issued pursuant to subsection 103(10) of this chapter.

[(2) Habitual residence.

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

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

[(3)] (2) Change of Status.

(a) The immigration status of a noncitizen entering the Federated States of Micronesia as a visitor under section 103(1) or 103(2) of this chapter may not be changed during his stay in the Federated States of Micronesia. The immigration status of any noncitizen entering or residing in the Federated States of Micronesia under any other provision of this chapter may not be changed during his stay in the Federated States of Micronesia, except in accordance with the provisions of this title.
(b) For a noncitizen to change status, he shall be required to apply for a permit reflecting his changed status and pay a fee, except that the following shall not be required to pay a fee for a change of immigration status:

(i) citizens and nationals of the United States of America, for the duration of the Compact of Free Association[7];

(ii) citizens and nationals of the Republic of the Marshall Islands;

(iii) citizens and nationals of the Republic of Palau;

(iv) the noncitizen spouse of a deceased citizen when the surviving spouse has resided in the Federated States of Micronesia for at least 20 years;

and

(v) an applicant for permanent resident status. [shall not be required to pay a fee to change immigration status.]

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

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

[(4)] (3) Waiver. The provisions of this section shall not be waived by the President or his designee."


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

Date: 11/6/06 Introduced by: /s/ Dohsis Halbert
Dohsis Halbert