

A BILL FOR AN ACT

To amend various sections of Title 30 and Chapter 10 of Title 13, in order to move responsibility for authorizing the entry of nonresident workers into the Republic from the Division of Labor to the Bureau of Immigration, and to secure additional revenue to develop the human resources of the Republic, and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIIL ERA KELULAU DO ENACT AS FOLLOWS:

1 **Section 1. Legislative Findings.**

2 The Olbiil Era Kelulau finds that the low cost of foreign labor and relative higher
3 cost of resident workers has deterred businesses from hiring Palauan citizens. Many
4 Palauans remain unemployed or underemployed, affecting the strength of our economy.
5 Reliance on foreign workers has dramatically increased in the last twenty years. In 1990,
6 there were fewer than two thousand foreign workers employed in Palau, with twice as
7 many citizens employed as compared to foreign workers. By 2000, the number of foreign
8 workers employed had grown to almost five thousand, a number that exceeded the number
9 of citizens employed in Palau. Today, the number of citizens employed is greater than the
10 number of foreign workers employed, however, the ratio is close to one to one. Palau is
11 relying heavily on foreign labor at the expense of our own human resources.

12 As well, the process through which employers hire foreign labor is inefficient and
13 not cost effective. Efforts are duplicated by the Division of Labor and the Bureau of
14 Immigration. A lack of uniformity exists between Labor and Immigration with respect to
15 standards for entry. These functions should be consolidated, with the Bureau of
16 Immigration taking responsibility for authorizing workers for entry, allowing the Division
17 of Labor focus on the enforcement of labor and employment laws.

18 The Olbiil Era Kelulau funds that a consolidated foreign worker visa program,
19 overseen by the Bureau of Immigration, will serve the goals of streamlining the entry
20 permit process and ensuring quality control. As well, requiring all workers to obtain a
21 work visa, both public and private, the Republic can seek to recoup the high cost of hiring
22 foreign workers. The work visa fee will provide a new source of revenue that can be used

1 to support and strengthen human resources in Palau, by funding the General Fund, the
2 Ministry of Education, Health Insurance, and the Palau Community College to provide job
3 training and certification programs. For these reasons, the Olbiil Era Kelulau finds that the
4 laws addressing labor and immigration should be amended.

5 **Section 2. Amendment.** Title 13, Chapter 10, of the Palau National Code is
6 hereby amended as follows:

7 **“DIVISION 2**
8 **IMMIGRATION**
9 **Chapter 10**
10 **Immigration Control**
11 **Subchapter 1**
12 **General Provisions**

13 ...

14 **§ 1002.** ~~Entry permits~~ Visas; required; issuance.

15 (a) No person, vessel or aircraft, unless specifically exempted by applicable
16 law and regulations, shall enter the Republic without having been issued an
17 appropriate visa~~entry permit~~.

18 (b) “Visa”, for purposes of Immigration, shall mean a passport stamp or
19 document that authorizes the passport-holder to enter a country for specific
20 purposes for a particular time period. A visa may also be referred to as an entry
21 permit.

22 ~~(b) (c) Entry permits~~ Visas to visit, ~~or reside or work~~ in the Republic shall
23 be issued in accordance with this title and regulations issued pursuant thereto. ~~by~~
24 ~~the President and approved by the Secretary of the Interior of the United States.~~

25 ~~(c) Entry may be issued in conjunction with a nonresident workers’~~
26 ~~identification certificate issued under the provisions of Title 30 of this Code. Entry~~
27 ~~permits issued under the provisions of this subsection shall carry the notation that~~
28 ~~they are issued in conjunction with a nonresident workers’ identification certificate,~~
29 ~~and shall expire upon the date on which such nonresident workers’ identification~~

1 ~~certificate expires.~~

2 (d) Provisions of law and regulations implementing this section ~~shall~~ may,
3 pursuant to ~~article 3, paragraph 1 of the trusteeship agreement for the former~~
4 ~~Japanese Mandated Islands~~ Section 142 of the Compact of Free Association, accord
5 ~~the United States citizens and nationals treatment more~~ no less favorable than is
6 ~~accorded persons other than United States citizens and nationals. With respect to~~
7 ~~the subject matter of this Section, the Government of Palau shall~~ accord to citizens
8 and nationals of the United States treatment no less favorable than that accorded to
9 citizens of other countries; any denial of entry to or deportation of a citizen or
10 national of the United States as an undesirable alien must be pursuant to reasonable
11 statutory grounds.

12 ~~.....~~

13 **§1005.** Same; standards for exclusion.

14 The Director of Immigration ~~President~~ may deny entry or an entry permit to
15 any person or revoke an entry permit upon substantial evidence of any of the
16 following:

17 (a) the willful furnishing of false, incomplete, or misleading information in
18 an application for a visa ~~an entry permit~~;

19 (b)

20 ~~.....~~

21 (k) the applicant or entry permit holder has been convicted of committing,
22 attempting to commit, or conspiring to commit an offense which would be a felony
23 if committed in the Republic or a crime of moral turpitude.

24 (l) a finding by the Director of Immigration ~~President~~ that such denial or
25 revocation is in the best interest of the Republic.

26 **§ 1006.** Same; revocation.

27 Visas ~~Permits to enter the Republic~~ may be revoked or renewal of such
28 permits refused by the Director of Immigration ~~President~~ at any time upon a

1 finding that:

2 (a) . . .

3 . . .

4 (c) ~~...;~~ or

5 (d) ~~the nonresident workers' identification certificate issued in conjunction~~
6 ~~with such entry permit~~ employment contract forming the basis for the noncitizen's
7 work visa has been cancelled or terminated for reasons other than the breach of the
8 employer; or

9 (e) the noncitizen has violated the terms of his visa; or

10 (f) the noncitizen is inadmissible or deportable pursuant to Section 1005 of
11 this Chapter or Section 4231 of Title 17 of the Palau National Code; or

12 (g) the noncitizen does not possess a valid health certificate certifying
13 that the noncitizen is free from communicable diseases, or the Director of the
14 Bureau of Public Health has determined that there are medical reasons sufficient to
15 find that the visa holder's continued presence in the Republic would not be in the
16 best interests of the Republic; or

17 (h) the noncitizen has been convicted of a felony that has not been
18 timely appealed or has been affirmed on appeal; or

19 (i) the basis for the visa, including dependent, diplomatic, work, or
20 other visa, is no longer applicable.

21 . . .”

22 **Section 3. Amendment.** Chapter 10 of Title 13 of the Palau National Code is
23 hereby amended to add a new subchapter 2 as follows:

24 **“Subchapter 2**

25 **Foreign Worker Program**

26 **“§ 1021. Work visa required to work in the Republic.**

27 (a) No noncitizen may be employed by a person or business located in
28 the Republic, including government employers, unless such person has first

1 obtained a work visa from the Bureau of Immigration. Notwithstanding the
2 foregoing, this subchapter shall not apply to spouses of Palauan citizens employed
3 as noncitizen workers.

4 (b) Visa fees shall be as follows for noncitizens seeking to enter or
5 remain in the Republic for work: The Bureau of Immigration shall establish fees
6 for a work visa in an amount not less than \$500.00 per annum. This amount shall
7 increase to \$750.00 on October 1, 2009, and shall increase to \$1,000.00 on October
8 1, 2010. Work visa fees for noncitizens who hold passports from the Federated
9 States of Micronesia, the Republic of the Marshall Islands, or the United States of
10 America shall be \$100.00 per annum.

11 **§ 1022.** Work visa; entry requirements.

12 No noncitizen shall be granted a work visa pursuant to this subchapter until
13 the following requirements have been met:

14 (a) Each noncitizen worker shall present to the Director or his
15 representative a sworn affidavit, on a form issued by the national government,
16 executed by him, and such other evidence as the Director may require, which
17 indicates that none of the grounds for exclusion set forth in Section 1005 of this
18 Chapter or Section 4231 of Title 17 apply.

19 (b) The noncitizen worker, or his employer, shall submit to the Director or
20 his representative a copy of the noncitizen worker's contract of employment. All
21 such contracts of employment shall conform to the requirements of Title 30, and
22 shall state that the contract contingent upon the noncitizen worker obtaining and
23 maintaining a valid work visa.

24 (c) The noncitizen worker shall submit to the Director a certificate that
25 the applicant is free from communicable diseases, pursuant to Chapter 2 of Title
26 30. Such certification shall be executed and validated not more than thirty days
27 preceding the visa application date by a physician licensed to practice medicine in
28 the Republic of Palau or in the country of origin of that person.

1 **§1023.** Work visa, term.

2 A work visa may be granted for an initial period of one year, subject to
3 renewal for further periods of employment of one year with the same employer
4 pursuant to a valid contract.

5 **§ 1024.** Outside employment by noncitizen worker prohibited; deportation.

6 (a) It shall be unlawful for any noncitizen worker admitted into or
7 remaining in the Republic pursuant to a work visa to engage in any other
8 employment for compensation or for profit other than pursuant to the contract
9 submitted with his application for a work visa. However, a noncitizen worker
10 holding a work visa is not prohibited from performing tasks outside his stated
11 profession or occupation, so long as such tasks are reasonably related to the main
12 job for which he is employed.

13 (b) Any contract extension or any new contract for any private employer
14 shall require authorization from the Division of Labor to hire a noncitizen worker
15 for the position and approval of a new work visa by the Bureau of Immigration.

16 (c) It shall be unlawful for any noncitizen admitted under any other type of
17 visa to engage in any employment for compensation or for profit.

18 (d) Violation of the provisions of this section by an employer or noncitizen
19 worker shall be subject to the penalties prescribed by Section 187 of Title 30 and
20 shall be sufficient grounds for deportation of the noncitizen.

21 **§1025.** Restriction on change of employer.

22 A noncitizen worker shall be ineligible for employment by any other
23 employer in the Republic for five years following the date of termination of any
24 previous employment in the Republic, unless the noncitizen worker meets the
25 requirements below. For purposes of this section, this provision shall not apply to
26 spouses of Palauan citizens employed as noncitizen workers. A noncitizen worker
27 maybe eligible for employment by another employer for the duration of the term in
28 his or her contract, and any eventual renewal after the duration of the term if

1 applicable, if the noncitizen worker is otherwise eligible to be hired by another
2 employer, and:

3 (a) his or her current employer has died and the employer's legal successor
4 agrees to retain the employment of the noncitizen worker; or

5 (b) his or her current employer sells the company or business that the
6 noncitizen worker is employed at or otherwise transfers the management of the
7 company or business that the noncitizen worker is employed at to another
8 employer, and the seller or transferor and the buyer or transferee agree that the
9 buyer or transferee shall retain the noncitizen worker as an employee, or when a
10 sole proprietor incorporates the business that the noncitizen worker is employed at;
11 or

12 (c) his or her employer is found guilty by a court of law for any crime
13 where the noncitizen worker, or a dependent of the noncitizen worker, is a victim;
14 or

15 (d) the business dissolves.

16 **§ 1026.** Recovery of costs from noncitizen workers.

17 Notwithstanding any other provision of law, an employer may recover from
18 a noncitizen worker the cost of obtaining any health examination of and police
19 clearance for the worker required as a condition of renewing the worker's work
20 permit. An employer may recover up to \$100.00 of the total work visa fee from a
21 noncitizen worker, provided the employer provided written notice of his intent to
22 recover such fees to the noncitizen worker before the noncitizen worker departed
23 from his home country. The recovery of such fees shall be through deductions
24 from the salary of the noncitizen worker, provided that the deductions may not
25 exceed ten percent of the noncitizen worker's gross monthly income.

26 **§1027.** Dependents of noncitizen workers.

27 (a) Notwithstanding any other provision of law, no dependent of a
28 noncitizen worker may obtain a dependent entry permit to enter into the Republic

1 unless:

2 (1) the noncitizen worker’s annual income is \$15,000 or more, and

3 (2) the noncitizen worker’s employer consents to the issuance of the
4 dependent entry permit.

5 For purposes of this section, dependents shall be limited to spouses and
6 children. The \$15,000 income requirement may be satisfied by combining the
7 income of a husband and wife who desire to bring in a minor child or children.

8 **§1028. Deportation.**

9 Whenever there are sufficient grounds and cause for deportation, the
10 Director shall communicate to the Attorney General any violation of this
11 subchapter and the Attorney General shall institute deportation proceedings against
12 the noncitizen worker if in the opinion of the President such would be in the best
13 interest of the public. The cost of any deportation may be ordered to be paid by the
14 noncitizen or by his employer, at the discretion of the court.”

15 **Section 4. Amendment.** Chapter 1 of Title 30 of the Palau National Code is
16 hereby amended as follows:

17 **“ TITLE 30**
18 **LABOR**
19 **Chapter 1**
20 **Protection of Resident Workers**
21 **Subchapter I**
22 **General Provisions**

23 ...

24 **§ 103. Definitions.**

25 Unless it is otherwise provided or the context requires a different
26 construction, application, or meaning, in this chapter:

27 ...

1 workers.

2 (a) Upon receipt of notice from the employment service officer of those
3 positions which the employer requires, and for which no resident workers are
4 available, the Chief shall determine whether the employment of such nonresident
5 workers will be in the best interest of the Republic, shall determine under what
6 conditions the employer should be authorized to hire nonresident workers for those
7 positions, ~~and for each authorized nonresident worker shall issue an employment~~
8 ~~permit and identification certificate valid for a maximum period of two years,~~
9 ~~subject to renewal for further periods of two years employment of the worker with~~
10 ~~the same employer. A nonresident worker shall be ineligible for employment by~~
11 ~~any other employer in the Republic for five years following the date of termination~~
12 ~~of any previous employment in the Republic, unless the nonresident worker meets~~
13 ~~the requirements below. For purposes of this section, this provision shall not~~
14 ~~apply to spouses of Palauan citizens employed as nonresident workers. A~~
15 ~~nonresident worker may be eligible for employment by another employer for the~~
16 ~~duration of the term in his or her contract, and any eventual renewal after the~~
17 ~~duration of the term if applicable, if the nonresident worker is otherwise eligible to~~
18 ~~be hired by another employer, and:~~

19 (i) ~~his or her current employer has died and the employer's legal~~
20 ~~successor agrees to retain the employment of the nonresident worker; or~~

21 (ii) ~~his or her current employer sells the company or business that~~
22 ~~the nonresident worker is employed at or otherwise transfers the~~
23 ~~management of the company or business that the nonresident worker is~~
24 ~~employed at to another employer, and the seller or transferor and the buyer~~
25 ~~or transferee agree that the buyer or transferee shall retain the nonresident~~
26 ~~worker as an employee, or when a sole proprietor incorporates the business~~
27 ~~that the nonresident worker is employed at; or~~

~~(iii) his or her employer is found guilty by a court of law for any crime where the nonresident worker, or a dependent of the nonresident worker, is a victim; or~~

~~(iv) the business dissolves.~~

~~(b) A nonresident worker holding an employment permit and identification certificate is not prohibited from performing tasks outside his or her stated profession or occupation, so long as such tasks are reasonably related to the main job for which he or she is employed.~~

~~(c)~~(b) Within seven days after the receipt of notice from the employment service officer, the Chief shall notify the employer of his findings. The Chief shall inform the employer of the number of nonresident workers the employer has been authorized to employ and the positions the employer has been authorized to fill with nonresident workers.

§ 165. Nonresident employment agreements.

(a)

(b)

(c) The agreement shall contain the following provisions, in addition to any other provisions the Chief deems necessary in the circumstances:

(1) a statement that . . .

. . .

(6) a statement that the term of the nonresident worker's employment contract shall be no longer than two (2) years from the date that the nonresident enters the Republic and may be renewed upon consent of both parties, provided that the Chief of the Division of Labor has authorized the continued employment of a nonresident worker for the

1 position, but under no circumstances may the nonresident worker accept
2 employment from any other employer during the term of the agreement;
3 ~~and~~

4 (7) a statement that the nonresident worker shall be ineligible for
5 employment by any other employer within the Republic for a period of five
6 (5) years following the termination or expiration of the nonresident
7 worker's agreement, except as provided for in 13 PNC §1025; and

8 (8) a statement that the agreement shall be immediately terminated
9 if the employee fails to maintain a valid work visa pursuant to 13 PNC
10 Chapter 10.

11 (d) ... term of any ~~work permit~~ visa issued pursuant to such agreement...

12 (e) ... the Chief shall notify the Bureau of Immigration of the number of
13 nonresident workers the employer has been authorized to employ and the positions
14 the employer has been authorized to fill with nonresident workers.

15 ...

16 **§ 168. [Repealed].** ~~Entry requirements:~~

17 ~~Prior to the entry. . . by the Chief.~~

18 **§ 169. [Repealed].** ~~Outside employment by nonresident worker prohibited;~~
19 ~~deportation.~~

20 (a) ~~It shall be unlawful . . . section 187 of this title.~~

21 **§ 170. [Repealed]**

22 **§ 171. [Repealed].** ~~Mandatory deportation upon conviction of felony.~~

23 ~~Any nonresident worker convicted of a felony . . . discretion of the court.~~

24 **§ 172. [Repealed].** ~~Fees for employment of nonresident workers.~~

25 (a) ~~For each new nonresident worker . . . has expired.~~

