
A BILL FOR AN ACT

To amend Title 30 of the Palau National Code to clarify the employer's obligation to provide for return transportation of nonresident workers, and to create a procedure to fairly resolve disputes arising out of termination of employment of nonresident workers, and for other related purposes.

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

1 **Section 1. Legislative Findings.** The Olbiil Era Kelulau finds that it is necessary to
2 create a fair and equitable system for resolving disputes arising from the termination of
3 employment of non-resident workers. The Protection of Resident Workers Act, in 30 PNC
4 section 165, requires any employer who seeks to hire a non-Palauan to file a nonresident
5 employment agreement. This is an agreement between the employer and the Chief of the
6 Division of Labor within the Ministry of Commerce and Trade that contains certain
7 requirements, one of which is for the employer to pay the costs of returning the worker to
8 his or her place of origin at the conclusion of the employment, regardless of the reason for
9 that conclusion. The Olbiil Era Kelulau hereby finds that the purpose of this provision is to
10 prevent the government from having to absorb the expense of repatriating a nonresident
11 worker. The Olbiil Era Kelulau further finds that this requirement is not intended to
12 disadvantage employers, who in some instances have had to repatriate workers who have
13 terminated their contract shortly after arrival. The Olbiil Era Kelulau finds that creating a
14 stable workplace requires the creation of a process whereby any dispute can be resolved by
15 a neutral party. Any dispute resolution process must be fair both to employers and
16 employees, and no party should be placed in a situation whereby it can take advantage of
17 the other.

18 Currently, the Chief of the Division of Labor, in 30 PNC, sections 181-188, has the
19 authority to conduct investigations and hold hearings for alleged violations of the
20 Protection of Resident Workers Act. The Olbiil Era Kelulau finds that this subchapter
21 should be amended to explicitly include the authority to adjudicate disputes arising from

1 the termination of a nonresident worker’s employment contract. The goal in this process
 2 will be to determine which party is at fault when a contract is terminated, and to determine
 3 who should be responsible for the cost of repatriation. Therefore, the Chief of the Division
 4 of Labor shall, upon request from either an employee or employer, conduct investigations
 5 to determine which party is at fault for ending a nonresident worker’s contract. The Chief
 6 of the Division of Labor will then issue an opinion on an appropriate remedy. The order of
 7 the Chief of the Division of Labor may also state conditions for restitution, but damages
 8 shall not exceed the actual cost of either party’s financial injury. The determination of the
 9 Chief of the Division of Labor is subject to appeal through current law governing
 10 enforcement of Title 30 of the Palau National Code.

11 **Section 2. Amendments.** 30 PNC is amended as follows:

12 “. . . .

13 § 165. Nonresident employment agreements.

14 (a)

15

16 (5) a statement of the employer’s responsibility for return
 17 transportation to the place of origin of each nonresident worker so
 18 employed, if the employee completes the term specified in his or her
 19 employment contract or if the employee is terminated due to the fault of the
 20 employer. This statement shall also include a clause specifying that the
 21 employer acknowledges that no entity of the government of the Republic of
 22 Palau shall be responsible for the costs of returning nonresident workers to
 23 the place of origin, other than nonresident workers employed by the
 24 government of the Republic of Palau when such transportation costs are
 25 provided for in an employment contract;

26 (6) a statement that either party may submit to the Chief of the
 27 Division of Labor any dispute regarding the termination of the contract;

28 (~~6~~7) a statement that the term....

1 (78) a statement that the nonresident worker...

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3 Subchapter V Enforcement of Chapter.

4 §181. Authorization to conduct hearings and investigations.

5 (a) The Chief of the Division of Labor or his representative is hereby
6 authorized to conduct hearings....

7 (b) This authority shall include contract termination disputes between a
8 nonresident worker and that nonresident worker's employer. In the event of such a
9 dispute, either party may request the Chief of the Division of Labor or his
10 representative to conduct hearings or investigations as he may deem appropriate
11 and necessary to determine which party is at fault in terminating the contract.

12 § 182. Procedures for hearings and investigations.

13 (a) The Chief of the Division of Labor or his representative shall....

14 (b) Adequate notice shall be given....

15 (c) The Chief of the Division of Labor upon conclusion....

16 (d) The Chief of the Division of Labor shall have the power and authority to
17 issue an order determining fault in nonresident worker contract termination
18 disputes requested through section 181(b) this chapter.

19 (1) Any order determining fault requested pursuant to § 181(b) shall
20 include the following:

21 (a) a statement of which party is at fault for the termination
22 of the contract agreement; and

23 (b) a finding of appropriate financial restitution to be paid to
24 the party not at fault, which may include an award of return
25 transportation costs to an employee or a reimbursement of arrival
26 transportation and other actual expenses and losses to the employer
27 stemming from early termination. Such a finding may include

