
AN ACT

To amend Chapter 1 of Title 24 of the Palau National Code, the Environmental Quality Protection Act, to include additional permit requirements unique to hotels and other lodging facilities; to amend Chapter 1 of Title 28 of the Palau National Code, the Foreign Investment Act, to require hotel and other short term lodging facility projects to address their infrastructure needs, including reporting their need for workers in construction or operations of new hotels, and providing increased tax incentives for such projects when they include off-site infrastructure developments; to further clarify recent amendments made to the Foreign Investment Act pursuant to RPPL 9-64; to amend Chapter 5 of Title 28 of the Palau National Code, the Tourism Reorganization Act, to create additional duties for the Palau Visitors Authority; and for other related purposes.

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

1 Section 1. Amendment. Section 129 of Title 24 of the Palau National Code is
2 amended to read as follows:

3 “§ 129. Powers and duties.

4 ...

5 (b) The Board shall establish and provide for the continuing administration of a
6 permit system, whereby a permit shall be required for the discharge by any person of any
7 pollutant in the air, land, or water, or for the conduct by any person of any activity,
8 including, but not limited to, the operation, construction, expansion, or alteration of any
9 installation which results in or may result in the discharge of any pollutant in the air,
10 land, or water. The Board shall also provide for the issuance, modification, suspension,
11 revocation, and termination of such permits, and for the posting of an appropriate bond.

12 (1) Where the activity for which a permit is sought under the preceding
13 clause includes the operation, construction, expansion, or alteration of a motel, hotel,
14 hotel complex, guesthouse, or other lodging facility that offers sleeping accommodations
15 to guests in exchange for remuneration, the Board shall, in addition to any other
16 generally applicable factor, consider:

17 (A) the infrastructure needs of the proposed activity, particularly
18 electricity, water, wastewater/sewage, and any need to refurbish, expand,
19 or construct new roads;

20 (B) any proposed means of mitigating the activity’s strain on

1 existing infrastructure, such as the development or utilization of renewable
2 energy sources; and

3 (C) whether the proposed activity is in line with the Republic's
4 official policy and strategy of encouraging high-end and high-value
5 tourism."

6 Section 2. Amendment. Chapter 1 of Title 28 of the Palau National Code, as
7 amended by RPPL No. 9-64, is amended to read as follows:

8 "§ 102. Definitions.

9 ...

10 (o) "Owner" or "part-owner" means any person or member of a group of persons,
11 natural or legal, that owns a business enterprise in a bona fide attempt to profit from its
12 successful operation. Elements of ownership generally include decision-making abilities
13 and first right to profit. For the purpose of this definition, "group of persons" includes
14 family members. Bare legal title or nominal ownership is not determinative of ownership
15 or part ownership.

16 ...

17 (s) "Short term lodging facility" means a hotel or other business enterprise which
18 provides sleeping or lodging accommodations averaging stays of thirty days or fewer in
19 exchange for remuneration.

20 (t) ...

21 (u) ...

22 (v) ...

23 (w) ...

24 § 103. Requirement of foreign investment approval certificate.

25 (a) No non-citizen shall be an owner or part-owner of a business enterprise, either
26 directly or indirectly, without first obtaining approval in accordance with the provisions
27 of this chapter.

28 ...

1 (d) Notwithstanding subsections (a) through (c) of this section, a foreign
2 investment approval certificate is not required for:

3 ...

4 (20) any business enterprise that is regulated by Title 8 of the Palau
5 National Code and is engaged in the business of operating aircraft for the purpose of
6 transporting persons or property for compensation or hire between a place in the
7 Republic and any place outside thereof.

8 (21) a non-citizen engaging in any type of business or making a foreign
9 investment exclusively to fulfil the terms of a contract or agreement, either as a party or
10 as a subcontractor pursuant to such contract or agreement, with a state government of
11 the Republic, provided that the state government provides the Board with notice, in
12 writing, of the contract, the non-citizen(s) involved, and the services to be performed.
13 Once notice has been provided to the Board, such business activity or foreign investment
14 shall be governed and regulated by the laws of the Republic, applicable state laws, and
15 the rules and regulations of the Environmental Quality Protection Board.

16 ...

17 § 104. Foreign Investment Board.

18 (a) There is hereby established within the executive branch of the national
19 government of the Republic a Foreign Investment Board with the following functions:

20 (1) ...

21 ...

22 (9) to investigate suspected front businesses, irrespective of nominal
23 ownership, including but not limited to the initiation of proceedings under section 120(d);

24 ...

25 (12) to promulgate regulations setting the minimum employment
26 requirement applicable under section 106(a)(2), either generally or on a sector-by-sector
27 basis;

28 (13) to select and publicly endorse one or more reputable and independent

1 accommodations rating or classification system(s) for use in evaluating applications for
2 foreign investment approval certificates that are subject to section 107(b) of this
3 Chapter; and

4 (14) to perform such other duties and functions falling within the purview
5 of this chapter, or as may be entrusted to it by the President.

6 ...

7 (e) The Board shall meet whenever required by the Chairman or the President,
8 but in any event, no less than once every month. In any Board meeting, the attendance of
9 at least four appointed members shall be required to constitute a quorum. The assents of
10 at least four appointed members shall be required for all decisions requiring a vote.

11 ...

12 § 106. Requirements for grantee.

13 (a) A grantee must:

14 (1) make and maintain a foreign investment in the Republic of no less than
15 five hundred thousand dollars (\$500,000) or, in the case of a hotel or other short-term
16 lodging facility, five million dollars (\$5,000,000); or

17 (2) maintain a work force of which at least twenty percent (20%) are
18 citizens of the Republic or such other percentage as may be fixed by the Board through
19 regulation, either generally or on a sector-by-sector basis, provided that each grantee has
20 the right to challenge in an administrative hearing the application of the citizen
21 employment percentage to its business based on evidence of the availability of citizens for
22 hire. The ruling of the Board shall be subject to appeal in the Trial Division of the
23 Supreme Court of the Republic. The grantee must give preference in hiring to citizens
24 of the Republic in all jobs and occupations for which such citizens are qualified and
25 available and shall pay all of its employees no less than the minimum wage established by
26 law. If the grantee is permitted to construct a new hotel or other short-term lodging
27 facility, the grantee must report to the Board when it is ready to begin construction of
28 said hotel or lodging facility, including but not limited to, the number and type of workers

1 the grantee requires to construct the facility, and upon completion of construction, the
2 number and type of workers needed to operate the facility.

3 ...

4 § 107. Criteria for evaluation of applications; special considerations for new
5 hotels or other short-term lodging facilities.

6 (a) ...

7 ...

8 (14) whether the capital investment and technical and managerial skills
9 required for a business activity are such as to be available from citizens.

10 (b) No foreign investment approval certificate that permits the construction of a
11 new hotel or other short-term lodging facility shall be issued unless:

12 (1) The hotel or other short-term lodging facility's infrastructure needs,
13 including, but not limited to electricity, water, wastewater/sewage, and roadways,
14 will be addressed through:

15 (A) the employment of means for reducing the hotel or other
16 short-term lodging facility's overall strain on public infrastructure, such as
17 the use of renewable energy sources, self-contained wastewater treatment
18 systems with no discharge, water recycling mechanisms, rainwater
19 collection, and/or like technologies that have the effect of making the hotel
20 or other short-term lodging facility more self-sustaining; and/or

21 (B) contributions to off-site infrastructure improvements, in a
22 manner that would entitle the business enterprise to a tax exemption under
23 section 119 of this chapter, and in a kind and/or amount commensurate
24 with the character and size of the hotel or other short-term lodging facility,
25 as determined by the Board on a case-by-case basis; and

26 (2) The proposed hotel or other short-term lodging facility is of a kind that
27 would further the Republic's official policy and strategy of encouraging high-end
28 and high-value tourism.

1 (A) The Board shall promulgate rules and regulations to encourage
2 and incentivize foreign investment in high-end facilities, including facilities
3 which would likely qualify for the highest possible ranking (e.g., "5 Stars")
4 under reputable and independent accommodation rating systems adopted
5 pursuant to § 104 (a)(13).

6 (B) The Board shall promulgate regulations to discourage or
7 prohibit foreign investment in low-quality facilities, budget facilities, or
8 facilities which would likely only qualify for a low rating under reputable
9 and independent accommodation rating systems adopted pursuant to § 104
10 (a)(13).

11 ...

12 § 108. Application and procedures.

13 (a) An application for a foreign investment approval certificate shall be made to
14 the Chairman of the Foreign Investment Board, and shall be accompanied by a
15 non-refundable five hundred dollars (\$500) filing fee or, in the case of a hotel or other
16 short-term lodging facility, a two thousand five hundred dollars (\$2,500) filing fee,
17 payable to the National Treasury.

18 ...

19 (e) ...

20 (1) a certificate of an authorized official, showing that the company is authorized
21 to transact business in the state, territory, possession, or country under whose laws the
22 company is organized; and

23 ...

24 § 112. Modification, suspension, or revocation.

25 (a) The Board may modify, suspend, or revoke a foreign investment approval
26 certificate if it is found that:

27 ...

28 (8) a beneficial interest in the grantee has been sold, assigned, encumbered,

1 or transferred within one (1) year of receiving its foreign investment approval certificate
2 in violation of section 106(b)(5).

3 (9) a beneficial interest in the grantee has been sold, assigned, encumbered,
4 or transferred in violation of section 106(b)(6).

5 (10) the grantee's business license has expired or been revoked.

6 (d) If the Board decides that action under subsection (a) of this section is
7 warranted, the Board shall notify the Attorney General.

8 §113. Penalties.

9 (a) Without prejudice to any action that may be taken under subsection (a) of
10 section 112, any non-citizen:

11 (1) who violates, causes, or permits to be violated, or fails to or refuses to
12 comply with any provision of subsections (a), (b) or (c) of section 103 or any provision of
13 section 105, or subsection (b) of section 106 of this chapter, shall be guilty of a
14 misdemeanor. In addition to any criminal penalties, such person may also be subject to a
15 civil fine not to exceed twenty-five thousand dollars (\$25,000), as determined by the
16 Board;

17 (2) who obtains or attempts to obtain a foreign investment approval
18 certificate by fraud, misrepresentation, bribery, unlawful influence, or coercion shall be
19 guilty of a misdemeanor. In addition to any criminal penalties, such person may also be
20 subject to a civil fine not to exceed twenty-five thousand dollars (\$25,000), as determined
21 by the Board;

22 (3) who continues to engage in business after their foreign business permit
23 or foreign investment approval certificate has expired or has been suspended or revoked
24 shall be guilty of a misdemeanor. In addition to any criminal penalties, such person may
25 also be subject to a civil fine not to exceed twenty-five thousand dollars (\$25,000), as
26 determined by the Board;

27 ...

28 §114. Penalty for aiding and abetting.

1 Any person who knowingly aids or assists in any manner whatsoever, in a
2 violation of subsections (a), (b) or (c) of section 103 or any provision of section 105 of this
3 chapter shall be guilty of a misdemeanor. In addition to any criminal penalties, such
4 person may also be subject to a civil fine not to exceed twenty-five thousand dollars
5 (\$25,000), as determined by the Board.

6 ...

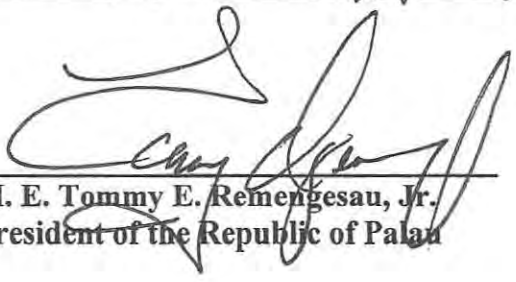
7 § 119. Tax Credit.

8 A Grantee or person authorized to do business under Section 127 of this Chapter
9 that constructs a facility in the Republic shall be eligible, at the discretion of and subject
10 to regulations promulgated by the Ministry of Finance, for a tax credit of up to forty
11 percent (40%) of the costs of any off-site road, electrical power, water, and/or sewer
12 infrastructure improvements made to service such facility. Said credit shall be for the tax
13 year the costs were incurred, may be applied to any taxes levied against gross revenues
14 pursuant to Chapter 12 of Title 40 of the Palau National Code, and may be carried
15 forward at the discretion of and subject to regulations promulgated by the Ministry of
16 Finance.”

17 Section 3. Effective Date. This Act will take effect upon its approval by the
18 President of the Republic of Palau, or upon becoming law without such approval.

PASSED: March 14, 2018

Approved this 29th day of MARCH, 2018.



H. E. Tommy E. Remengesau, Jr.
President of the Republic of Palau