

CHAPTER 7 FOREIGN INVESTMENT

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§7-101. Short title. — This chapter is known and may be cited as the “Pohnpei Foreign Investors Permit Act of 1986.”

Source: S.L. No. 1L-85-86 §1, 9/16/86

§7-102. Definitions. — For the purposes of this chapter, unless it is otherwise provided or the context requires a different construction, application or meaning:

(1) “Engaging in business” means carrying out any activity relating to the conduct of a business, and shall include the activities enumerated in Subsections (1)(a) and (1)(b) of this section but shall not include the activities enumerated in Subsection (1)(c) of this section:

(a) “Engaging in business” shall include:

- (i) Buying, selling, leasing, or exchanging goods, products, or property of any kind for commercial purposes;
- (ii) Buying, selling, or exchanging services of any kind for commercial purposes;
- (iii) Conducting negotiations for transactions of the types described in Subparagraphs (i) and (ii) of this paragraph; PROVIDED, HOWEVER, that conducting such negotiations within this jurisdiction for periods of less than fourteen (14) days per calendar year shall not be considered “engaging in business”;
- (iv) Appointing a representative, agent, or distributor by a noncitizen to perform any of the acts described in Subparagraphs (i) through (iii) of this paragraph, unless said representative, agent, or distributor has an independent status and transacts business in its name for its own account and not in the name of or for the account of any noncitizen principal;
- (v) Maintaining a stock of goods for the purpose of having the same processed by another person;
- (vi) Establishing or operating a factory, workshop, processing plant, warehouse, or store, whether wholesale or retail;

- (vii) Mining or exploring for minerals, or the commercial exploitation or extraction of other natural resources;
 - (viii) Providing services as a management firm or professional consultant in the management, supervision, or control of any business entity;
 - (ix) Providing professional services as defined by this chapter which are offered for a fee; PROVIDED, HOWEVER, that such a professional shall not be considered to be “engaging in business” unless he or she, while present in this jurisdiction, performs his or her respective professional services for more than fourteen (14) days in any calendar year;
- (b) “Engaging in business” shall include:
- (i) Exercising primary managerial control over any person or entity carrying out any activity relating to the conduct of a business, including the activities enumerated in Subsection (1)(a) of this chapter;
 - (ii) Exercising primary financial control over any person or entity carrying out any activity relating to the conduct of a business, including the activities enumerated in Subsection (1)(a) of this chapter; and
- (c) “Engaging in business” does not include:
- (i) The publication of general advertisements through newspapers, brochures and other publications, or through radio or television;
 - (ii) The conducting of scientific research or investigation, if:
 - (aa) the research or investigation is sponsored by a university, college, agency, or institution normally engaged in such activities primarily for purposes other than commercial profit; and
 - (bb) the particular research or investigation at issue is not for purposes of, or expected to yield, commercial profit;
 - (iii) The collection of information by a bona fide journalist for news publication or broadcast; and
 - (iv) The lawful sale of corporate shares or other interest or holdings in a business entity acquired not for speculation or profit.
- (2) “Foreign investment” means any activity in the state by a noncitizen that amounts to “engaging in business” as defined in Subsection (1) of this section.
- (3) “Manufacturing” means engaging at any stage in the production, preparation or processing of goods by hand or by machine, and includes any packaging, repackaging, labeling or relabeling, except that this term does not include the production, preparation or processing of goods by an individual for the individual’s own use. For purposes of this chapter, manufacturing includes the assemblage and packaging of partially assembled goods, and the processing and/or packaging of marine and agricultural products.
- (4) “Noncitizen” means:
- (a) Any person who is not a citizen of the Federated States of Micronesia;
 - (b) Any sole proprietorship, partnership, company, corporation, joint venture, or association in which any interest is owned by a person who is not a citizen of the Federated States of Micronesia; or
 - (c) Any sole proprietorship, partnership, company, corporation, joint venture, or association that will disburse to a noncitizen through a profit-sharing arrangement more than ten percent (10%) of its annual net profit.
- (5) “Omnibus development statute” within the context of this chapter, means a statute enacted by the Pohnpei Legislature, which statute prescribes the terms and incentives for the establishment and operation of one or more businesses within a particular area designated as a state economic development priority project under the provisions of Subsection (10) of this section, and which statute, upon acceptance thereof by a noncitizen developer or owner of such business or businesses, shall

exempt said noncitizens and their respective business activities within the project that are specifically listed in the omnibus development statute from the provisions of this chapter and one or more other statutory or regulatory requirements of this state for the period or periods prescribed in the omnibus development statute.

(6) “Professional services” means engaging in occupational services of a medical practitioner, dentist, lawyer, certified public accountant, architect, engineer or similar category of occupational service found by the Board to require advanced professional training.

(7) “Retail trade” means engaging in the activity of selling merchandise directly to consumers situated within the state of Pohnpei; PROVIDED that, solely for purposes of this chapter, a manufacturing business which is authorized to do business within this state shall not be deemed to be engaged in a retail trade for the sale at its factory outlet directly to consumers of products wholly manufactured within the state by that business or with at least fifty percent (50%) value added by the manufacturing processes of that business within the state.

(8) “Service industry” means that category of business which derives its principal economic benefit from the work performed by those engaged or associated with the business, notwithstanding that some part of the economic benefit is gained from the sale of a commodity associated with the performance or delivery of the service. The category of service industry is distinguished from the category of manufacturing in that in the manufacturing category, the principal economic benefit is derived from the sale of the completed product rather than the service performed. The term “service industry” includes, but is not limited to, such businesses as rental of apartments, office space or other commercial properties, beauty parlors, barber shops, tailor shops, restaurants, machine shops, marine repair facilities, and vehicle repair shops, but, solely for the purposes of this chapter, the term “service industry” does not include professional services or tourist services as defined by this section. The Board shall maintain a comprehensive list of businesses which fall under the category of service industry. In the event that a prospective business does not appear directly on the list, an applicant may request and shall receive from the Board a prompt response whether the prospective business is within the category of service industry.

(9) “State Attorney” means the Attorney General.

(10) “State economic development priority project” means a project site dedicated to certain development endeavors found by the Legislature to be in accordance with 3 PC 6-102 – 6-105, the Pohnpei Development Plan, as of statewide importance for the economic well-being of the state, and which project is designated as such under state law.

(11) “Tourist services” means the operation of hotels, visitors’ lodges, golf courses, marinas or other recreational facilities found by the Board to principally serve the visitor industry.

Source: S.L. No. 1L-85-86 §2, 9/16/86; S.L. No. 4L-98-99 §2, 6/6/99; S.L. No. 5L-14-00 §3-12, 10/1/00; S.L. No. 6L-86-06 §1, 12/20/06

Note: S.L. No. 4L-98-99 §1, 6/6/99 finding provision reads:

The Legislature finds that the encouragement of foreign investment is vital to the future economic welfare and prosperity of this state, and that the liberalization of the Pohnpei Foreign Investors Permit Act of 1986 is in the best interest of the people of Pohnpei. The purpose of this act is to provide for a more favorable economic climate within this state for investment from abroad by rendering the procedures for foreign investment in Pohnpei less burdensome and through forging a partnership with the national government on foreign investment.

§7-103. Permit required. —

(1) Prior to engaging in any business in Pohnpei, a foreign investment permit must first be obtained by the following:

- (a) Noncitizen sole proprietorships; and
- (b) Noncitizen corporations or other business associations.

(2) Prior to engaging in any business in Pohnpei, a foreign investment permit must first be obtained by each noncitizen voting member of the following:

- (a) Noncitizen partnerships;
- (b) Noncitizen joint ventures; and

(c) Each noncitizen owning more than twenty percent (20%) of the outstanding capital shares issued by a corporation required under this chapter to hold a foreign investment permit.

Source: S.L. No. 1L-85-86 §3, 9/16/86

§7-104. Pohnpei Foreign Investment Board. —

(1) There is hereby established a Pohnpei Foreign Investment Board composed of five members appointed by the Governor with the advice and consent of the Legislature. Members shall be appointed for terms of three years; PROVIDED that members of the Foreign Investment Board created by the Ponape State Foreign Investors Permit Act of 1979 shall serve as the initial members of the Pohnpei Foreign Investment Board for the remainder of their terms as provided under said act.

(2) All appointments to the Board shall be of persons registered to vote in Pohnpei gubernatorial elections. Vacancies shall be filled in the manner of original appointments for the remainder of the unexpired term.

(3) No more than two members of the Board may be businessmen, defined as one who possesses over a twenty-five percent (25%) ownership interest in any business or combination of related businesses which in the aggregate grossed over \$40,000 a year averaged over the last three calendar years, or who is engaged full-time in a managerial capacity in any such business or businesses.

(4) The Administrator of the Office of Economic Affairs shall serve as an ex-officio member of the Board without the right to vote.

(5) The first meeting of the Board shall be called within 30 days following the effective date of this chapter [*effective date is September 16, 1986*] by the Chairman of the Foreign Investment Board. Meetings shall be held not less than once every three months thereafter, and may be called by the Chairman or the Governor. A quorum of the Board shall be four appointed members, and unless otherwise provided by this chapter, the assent of three members shall be required for all decisions requiring a vote. The Board may adopt bylaws for its own organization and operation.

(6) Members of the Board shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually performing functions of the Board at the direction of the Chairman, except that those members who are Pohnpei Government employees shall instead be granted administrative leave from their regular duties while performing functions of the Board. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

(7) The Office of Economic Affairs and the Office of the Attorney General shall offer technical and legal assistance to the Board in the performance of its duties. The Governor shall provide clerical and administrative assistance as requested by the Board. The Board may hire its own staff to the extent that additional assistance is required and may seek assistance from any other source.

Source: S.L. No. 1L-85-86 §4, 9/16/86

§7-105. Board: powers and duties. —

(1) For the purposes of this chapter, and without limitation on the scope or responsibilities vested in it by other laws of Pohnpei, the powers and duties of the Board shall be as follows:

(a) To receive applications for foreign investment permits under this chapter, obtain opinions and recommendations from officers of the Pohnpei Government and other interested groups and leaders concerning these applications, make studies, investigations and inquiries relevant to the applications, evaluate the applications according to the standards of this chapter and decide which applicants shall be granted foreign investment permits.

(b) To ensure compliance of all noncitizens doing business in Pohnpei with this chapter and all rules, regulations, and foreign investment permits issued pursuant to this chapter, including the performance of investigatory functions as appropriate thereto and may, upon a sworn affidavit from any person or a determination on its own initiative that there is reason to believe

that any provision of this chapter or any regulation issued pursuant hereto has been violated, investigate such alleged violation, and, in cooperation with the Office of the Attorney General, enforce this chapter and rules and regulations issued hereunder. In connection with any hearings or investigations required by this chapter or rules or regulations issued hereunder, the Board may subpoena witnesses, records, books, and documents.

(2) The Board shall administer this chapter under rules and regulations promulgated by the Board, which, with the approval of the Governor, shall have the force and effect of law, and shall be issued as provided by Title 8 Chapter 1, the Administrative Procedures Act.

Source: S.L. No. 1L-85-86 §5, 9/16/86; S.L. No. 4L-98-99 §3, 6/6/99; S.L. No. 5L-14-00 §3-12, 10/1/00; S.L. No. 6L-86-06 §2, 12/20/06

§7-106. Application for a foreign investment permit. —

(1) Every noncitizen required to obtain a foreign investment permit under this chapter shall submit an application to the Foreign Investment Board. Every application shall be accompanied by a filing fee of \$250, which fee shall accrue to the general fund of the Pohnpei Treasury and shall not be refundable.

(2) The application for a foreign investment permit shall contain the following information:

(a) The name of the applicant's business, the form of the business organization under which the applicant proposes to do business, its officers, directors, and proposed and existing stockholders, and their citizenship, or the citizenship of the owners of the applicant's business if it is in a form of business other than a corporation;

(b) The location of the proposed principal office in Pohnpei;

(c) The purpose, scope, and objective of the business activity to be conducted by the applicant;

(d) The employment preference to be accorded citizens, the initial number of citizens to be employed, and the training programs to be offered to citizens in managerial and other positions;

(e) A listing of total capital anticipated to be invested initially, identifying borrowed funds and their sources for each of the five years prior to and after receipt of the foreign investment permit, and from where such capital funds have been or will be obtained; and

(f) Any additional information the Board may prescribe for the category of investment for which the application is being filed or that the Board may deem necessary to evaluate the application being filed, and any other information that the applicant may deem appropriate.

(3) In addition to the information required for noncitizen applications under Subsection (2) of this section, the application of a noncitizen that is a corporation (including a joint stock company) shall contain the following:

(a) A duly-certified copy of the articles of incorporation, charter, and bylaws of the corporation;

(b) An affidavit sworn by an authorized officer of the corporation stating the amount of its authorized capital stock on or within 60 days before the date of filing; and

(c) A designation of a person residing within Pohnpei upon whom process may be served, and the person's place of business or residence, and a certified copy of the minutes of the board of directors of the corporation authorizing the designation.

Source: S.L. No. 1L-85-86 §6, 9/16/86; S.L. No. 4L-98-99 §4, 6/6/99; S.L. No. 6L-86-06 §3, 12/20/06

§7-107. Local ownership requirement. — The following business activities are reserved exclusively for citizens and business enterprises in which citizens have the entire ownership interest and shall not be permitted to be undertaken by any business enterprise in which a non-citizen has an ownership interest; PROVIDED, that the provisions of this section shall apply only prospectively, and that non-citizens currently holding business permits issued under predecessors to this section or otherwise approved by the state of Pohnpei, for any of the business activities listed below, either solely or jointly with citizens, shall be permitted to continue such business activities:

- (1) wholesale or retail sale of goods; PROVIDED that wholesale of petroleum, oil, lubrication, and gasoline products shall be exempt from this subsection;
- (2) all land transportation including bus services, taxi services, and car rentals;
- (3) handicraft and gift shops; PROVIDED, HOWEVER, that handicraft or gift shops located on the premises of hotels or at the Pohnpei International Airport; or a duty-free gift shop at the Pohnpei International Airport; shall be exempt from the prohibition of this subsection;
- (4) beauty shops and barber shops, except within a hotel of 12 rooms or more;
- (5) bakeries;
- (6) bar services not associated and contained within a restaurant or a hotel having at least 12 rooms for the accommodation of guests;
- (7) tour guides, fishing guides, diving guides, and any other form of water transportation services;
- (8) travel and tour agencies;
- (9) hotels of less than 12 rooms;
- (10) operations manufacturing products being produced by locally-owned enterprises; except where the Board finds that the potential economic benefit of the applicant's business outweighs the need to protect the locally-owned enterprise;
- (11) equipment rentals for both land and water within the state, including rentals related to tourism; and
- (12) commercial fishing for other than highly migratory species.

Source: S.L. No. 1L-85-86 §6A, 9/16/86

Notes: 1. §6A was inserted by S.L. No. 4L-98-99 §5, 6/6/99. 2. S.L. No. 6L-86-06 §4, 12/20/06 repealed S.L. No. 1L-85-86 §6A in its entirety and inserted a new §6A.

§7-107A. Minimum requirements. — No foreign investment approval certificate shall be issued for carrying on a business enterprise which involves a foreign investment in the state of less than \$50,000 or which will maintain a work force of which less than 20 percent (20%) of such work force shall be citizens of the Federated States of Micronesia; PROVIDED, HOWEVER, that foreign investment in an apartment building must be at least \$500,000.

Source: S.L. No. 1L-85-86 §6A1, 9/16/86

Note: §6A1 was added by S.L. No. 6L-86-06 §5, 12/20/06.

§7-108. Criteria for review of application: conditions of certain permits granted to applicants. — In addition to such requirements as may be prescribed by law, the Board, by regulations issued pursuant to this chapter, shall prescribe the criteria for the review of applications and conditions that may be attached for permits granted under §7-105(1)(b).

Source: S.L. No. 1L-85-86 §6B, 9/16/86

Note: §6B was inserted by S.L. No. 4L-98-99 §6, 6/6/99.

§7-109. Duration of permits. —

(1) Foreign investment permits issued under the authority of this chapter shall be valid for the following extent of time:

(a) Businesses principally providing professional services: 10 years;

(b) Businesses, not listed in Paragraph (a) of this subsection, which meet the capital investment criteria for the receipt of a development leasehold under Title 41, Chapter 5, as amended or superseded by state law: 55 years; and

(c) All other businesses: 25 years; PROVIDED that a business which later meets the criteria of Paragraph (b) of this subsection may apply to and receive from the Board an amended term of the permit of 55 years from the date of the initial issuance of the permit.

(2) A business in good standing under this chapter, as it may be amended or superseded by state law in the future, may apply, at any time during the last trimester of its current foreign investment permit, for an extension of that permit for such time, under the terms and conditions and subject to

such restrictions that may apply thereto under this chapter or its successor then in place, which extension, if granted, shall be applied from the date that the current permit would have expired.

Source: S.L. No. 1L-85-86 §6C, 9/16/86; S.L. No. 6L-79-06 §2-104, 11/1/06

Note: §6C was inserted by S.L. No. 4L-98-99 §7, 6/6/99.

§7-110. Exemptions. — The following businesses are exempt from this chapter:

(1) Any business situated within a state economic development priority project, for which an omnibus development statute has been enacted waiving the requirements of a foreign investment permit for that business; and

(2) Businesses within such economic sectors as the Board shall find, following consultation with the appropriate officers and agencies of the national government, are subject to principal regulation by the national government under the FSM Constitution.

Source: S.L. No. 1L-85-86 §6D, 9/16/86

Note: §6D was inserted by S.L. No. 4L-98-99 §8, 6/6/99.

§7-111. Filings with government agencies. — Following the awarding of a foreign investment permit under this chapter, the Board shall cause copies of the permit to be recorded in the permanent files of the Board, the Office of Economic Affairs, and the Department of Treasury and Administration, and shall further transmit copies thereof to the business records and immigration agencies of the national government.

Source: S.L. No. 1L-85-86 §6E, 9/16/86; S.L. No. 5L-14-00 §3-12, 10/1/00

Note: §6E was inserted by S.L. No. 4L-98-99 §9, 6/6/99.

§7-112. Procedure for granting foreign investment permits. —

(1) Upon receipt of an application, the Foreign Investment Board shall first determine that an application will not lead to a permit in violation of §7-107. Any application not passing this determination shall be returned to the applicant.

(2) Thereafter, the Board shall undertake such investigations and consultations as it deems appropriate under the regulations of the Board issued pursuant to this chapter.

(3) When the Board is satisfied that it has sufficient information and opinion, the Board shall determine whether a permit should be granted to the applicant to do business in the state.

(4) Upon reaching a determination, the Board shall grant or deny the applicant a permit and so notify the applicant, with courtesy copies thereof provided to the Administrator of the Office of Economic Affairs and to the Secretary of the FSM Department of Resources and Development.

(5) A decision of the Board to grant or deny a permit and, where appropriate, to prescribe the conditions thereof shall be final, subject to judicial review as prescribed by Title 8 Chapter 3 of the Code, as amended or superseded by state law; PROVIDED that an applicant, within 60 days following receipt of the Board's decision, or of the court's decision, should judicial review be sought, may submit a supplemental application containing additional information, which supplemental application shall be filed and reviewed in the same manner as an original application; PROVIDED FURTHER that a supplemental application under this subsection shall require a filing fee of \$250, which fee shall accrue to the general fund of the Pohnpei Treasury and shall not be refundable.

(6) If the Board's actions are not completed within a reasonable time, but not less than 45 working days, the applicant may submit a show-cause demand to the Board to determine why the action has not been completed in the time prescribed. The Board shall answer the demand for explanation within five working days of the receipt thereof.

Source: S.L. No. 1L-85-86 §7, 9/16/86; S.L. No. 4L-98-99 §10, 6/6/99; S.L. No. 5L-14-00 §3-12, 10/1/00; S.L. No. 6L-86-06 §6, 12/20/06

§7-113. Service of process on noncitizen corporations. — In the case of all noncitizen corporations doing business in Pohnpei under a foreign investment permit granted under this chapter, process

served on the person designated by the corporation in its application for a foreign investment permit, or, if he cannot be found at the place designated, on the Attorney General, is valid service on the corporation. When the Attorney General is served with process, he shall send, by registered mail, a notice of service and a copy of the summons and complaint to the corporation concerned at its last known address. A default judgment may not be entered against the corporation in an action in which process is served on the Attorney General until at least 60 days after the date of service.

Source: S.L. No. 1L-85-86 §8, 9/16/86

§7-114. Duty to report on an annual basis. — Every noncitizen doing business in Pohnpei under a foreign investment permit granted under this chapter shall file, within 90 days immediately following the end of each calendar year, an original copy with the Administrator of the Office of Economic Affairs, and in duplicate original with the Chairman of the Board, a full and accurate exhibit of business activities undertaken in Pohnpei, a profit and loss statement, and an up-to-date listing of information as set forth in §7-106(2) undertaken by the noncitizen business during the past calendar year.

Source: S.L. No. 1L-85-86 §9, 9/16/86

§7-115. Duty to report changes in documents previously filed. — A noncitizen business that has been issued a permit pursuant to this chapter shall also file with the Attorney General and the Board any changes in the provisions of its original charter, articles of incorporation or bylaws within 30 days of such change.

Source: S.L. No. 1L-85-86 §10, 9/16/86

§7-116. Investigation by Office of Attorney General. — The Attorney General or a person authorized by him for the purposes of this chapter, may upon his own initiative at any time, with probable cause, and shall, upon request of the Board, call for the production of books and papers of any noncitizen doing business in Pohnpei, and examine its officers, members of its Board of Directors, its agents or its employees, under oath concerning its business activities; and the Attorney General shall submit to the Board copies of all such documents or examinations.

Source: S.L. No. 1L-85-86 §11, 9/16/86; S.L. No. 5L-14-00 §3-12, 10/1/00

§7-117. Application for amendment of permit. —

(1) A noncitizen seeking an amendment to a permit issued by the Board shall comply with the provisions set forth in §7-106.

(2) The application shall be processed in accordance with the procedure set forth in §7-112.

(3) Except as sought by the application for amendment of permit, the terms of the original permit shall not be altered as a result of Board action on the application.

Source: S.L. No. 1L-85-86 §12, 9/16/86

§7-118. Abridgment, modification, suspension or revocation of foreign investment permit. —

(1) *Basis.* A foreign investment permit granted under this chapter shall, at all times, be subject to abridgment, modification, suspension or revocation by the Board upon a majority vote of its members, if:

(a) The application of the grantee is found to have contained false or fraudulent information;

(b) The grantee bribed or otherwise unlawfully influenced any member of the Board to issue the permit other than on the merits of the application;

(c) The grantee presented false or fraudulent information to the Board in support of his application;

(d) The grantee violated any provisions of Pohnpei, national or local government law, or of any rules or regulations issued thereunder which substantially relate to the conduct of business under the foreign investment permit;

- (e) The grantee engaged in business activities which are in violation of any condition or term imposed in the foreign investment permit; or
- (f) The grantee engaged in business activities outside the scope of the foreign investment permit or charter.

(2) *Procedure.* The Governor or the Chairman of the Board shall, upon receipt of information that a foreign investment permit should be abridged, modified, suspended or revoked, call a meeting of the Board. Advance written notice of at least three weeks shall be given to the holder of the permit in question, or his authorized representative, of the alleged violations and of the time and date set for the hearing. At any such hearing, the Board may by vote of at least four-fifths of its members, abridge, modify, suspend or revoke said permit. In such cases, the Board shall notify the holder of said permit or his authorized representative, in writing, of the decision of the Board and the reasons for the action taken. Action of the Board may be appealed to a court of competent jurisdiction within 20 days following receipt by the permit holder, or his authorized representative, of notification of the action so taken by the Board that the action of the Board is improper or that the action taken is excessive for the infraction upon which it is based. Action of the Board may not take effect until the expiration of 20 days following receipt of said notification by the permit holder or his authorized representative, unless the Board shall determine by unanimous vote of its membership that irreparable damage may occur if the action is not made effective sooner.

Source: S.L. No. 1L-85-86 §13, 9/16/86

§7-119. Compliance with laws and regulations. — An individual, partnership, corporation or business association granted a foreign investment permit under this chapter shall be subject to all present or future laws of the national government, the Pohnpei Government or any local government and rules and regulations issued thereunder unless exempted therefrom by the appropriate jurisdiction.

Source: S.L. No. 1L-85-86 §14, 9/16/86

§7-120. Chapter One of Title 33 of the Trust Territory Code: when not applicable: permits issued thereunder. — Chapter One of Title 33 of the Trust Territory Code, as amended, shall not be applicable to Pohnpei; PROVIDED that permits and licenses issued thereunder and conditions established relative thereto shall continue in force and effect under the terms so stated on the effective date of this chapter [*September 16, 1986*], until they expire by their own terms, or are abridged, modified, suspended or revoked by the Board pursuant to this chapter.

Source: S.L. No. 1L-85-86 §15, 9/16/86; S.L. No. 6L-79-06 §2-103, 11/1/06

§7-121. Permits granted under the Ponape State Foreign Investors Act of 1979. — Business permits issued under the Ponape State Foreign Investors Act of 1979 shall continue in force and effect under terms so stated on the effective date of this chapter [*September 16, 1986*], until they expire by their own terms, or are abridged, modified, suspended or revoked by the Board pursuant to this chapter.

Source: S.L. No. 1L-85-86 §16, 9/16/86

Note: Language pertaining to applications pending on the effective date of the chapter (September 16, 1986) has been deleted.

§7-122. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei such sums as are determined annually in the Comprehensive Budget Act for the administration of this chapter. All such sums so appropriated shall be administered and expended by the Chairman of the Pohnpei Foreign Investment Board solely for the purposes specified in this chapter. The Chairman shall submit an annual report on or before October 15 each year on the administration and expenditure of monies appropriated for the previous fiscal year. All sums appropriated for any fiscal year remaining unexpended or unobligated on September 30 thereof shall revert to the general fund of Pohnpei. The Pohnpei Foreign Investment

Board shall be the successor of all funds appropriated and assets assigned in Pohnpei to the former Foreign Investment Board.

Source: S.L. No. 1L-85-86 §17, 9/16/86

§7-123. Conflict of interest. —

(1) If any member of the Board, advisor thereto or government employee servicing the Board shall be interested, either directly or indirectly, through his business holdings, by an agent disclosed or undisclosed or by a marital relationship, in any application with the Board or consideration by the Board of an existing permit, such interest shall be disclosed to the Board and shall be set forth in the minutes of the meeting of the Board, and the person having such interest therein shall not participate in any further actions of the Board or discussion with Board members relative thereto outside of formal meetings wherein such person is requested by the Board to appear.

(2) No member of the Board, advisor thereto or government employee servicing the Board shall obtain any interest, either directly or indirectly, through his business holdings, by an agent disclosed or undisclosed or by undue influence within a marital relationship, in any business which is granted a foreign business permit by this chapter within three years following a decision of the Board to grant the permit or to amend the permit to substantially expand the scope of permitted activities thereunder.

(3) No member of the Board, advisor thereto or government employee servicing the Board shall at any time suggest an arrangement with a potential foreign investor or permit holder not personally initiated by said Board member, advisor or employee, which would result in a direct or indirect business relationship therewith, whether in person, through his business holdings, by disclosed or undisclosed agent or by marital relationship.

Source: S.L. No. 1L-85-86 §18, 9/16/86

§7-124. Criminal penalties. — Any person:

(1) Who intentionally engages in business activities in Pohnpei for which a foreign investment permit is required without first obtaining that permit; or

(2) Who, after obtaining a foreign investment permit, intentionally fails to comply with the limitations, if any, stated in the permit; or

(3) Who obtains a foreign investment permit by fraud or misrepresentation; or

(4) Who violates any other provision of this chapter; shall be deemed guilty of a criminal offense and, upon conviction thereof by a court of competent jurisdiction within Pohnpei, shall be imprisoned for a period of less than one year, or fined less than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 1L-85-86 §19, 9/16/86

§7-125. State economic development priority projects. —

(1) The following project sites are deemed to fulfill the criteria of the Pohnpei Development Plan, Title 3 Chapter 6, and are designated “state economic development priority projects” for the purposes of this chapter:

(a) Premier hotel/resort complex at Lukop, Madolenihmw;

(b) Light industrial park at Palikir, Sokehs;

(c) Five-star hotel complex in Kolonia;

(d) Coconut products development complex at Pohnlangas, Madolenihmw; and

(e) Projects within the Planned Development Zone at Dekehtik, Nett.

(2) Additional projects, on either public or private land, may be added to the preceding subsection at any time through appropriate legislation.

(3) It shall be a function of the Governor, and the appropriate agencies, commissions, and offices of the executive branch, to promote state economic development priority projects.

Source: S.L. No. 1L-85-86 §§23 – 25, 9/16/86

Notes: 1. §§23 – 25 were inserted by S.L. No. 4L-98-99 §11, 6/6/99. 2. S.L. No. 1L-85-86 §20 transition provision has been omitted. 3. S.L. No. 1L-85-86 §21, 9/16/86 supersedes D.L. No. 4L-205-79, 8/28/79, in its entirety.

4. S.L. No. 4L-98-99 §12, 6/6/99 transition provision has been omitted.