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Office of the President

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No 9-079

Tommy E. Remengesau, Jr.  
President

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January 21, 2014  
Serial No. 14-468

The Honorable Camsek E. Chin  
Senate President  
Senate  
Ninth Olbiil Era Kelulau  
P.O. Box 8  
Koror, PW 96940

The Senate  
Olbiil Era Kelulau  
Koror, Republic of Palau 96940  
PRES. COM. 9-166

Re: Signing Statement for Senate Bill No. 9-18, SD3, HD5, PD1.

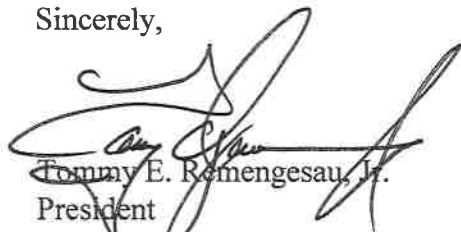
Dear Senate President Chin:

Thank you to your colleagues for re-passing this bill in accordance with my recommendations in a timely manner. As you and your colleagues know, our Compact of Free Association Trust Fund is amongst our most valuable financial assets. The prudent management of the Trust Fund is critical to our future. Accordingly, I thank you and your colleagues for this visionary legislation that places the discretion for the management of our Trust Fund in the hands of a board of qualified individuals who will work closely with the President in setting the investment policy for the Trust Fund.

In addition, the bill's modest extension of the Capitol Free Zone around the Capitol in Melekeok is a welcome measure. In order for the Capitol to become the thriving and bustling community that we know that it has the potential to be we need to entice more businesses to establish their headquarters there. This modest extension will provide a longer window of opportunity for that to occur.

I thank you and your colleagues for your hard work and I am pleased to be signing this bill into law. I look forward to continuing to work with the esteemed members of the Olbiil Era Kelulau to make Palau a better place for us all.

Sincerely,

  
Tommy E. Remengesau, Jr.  
President  
Republic of Palau



**The Senate**  
**NINTH OLBIIL ERA KELULAU**  
**P.O. Box 8, Ngerulmud**  
**Republic of Palau 96939**

FIFTH REGULAR Session

January 2014

INTRODUCED AS SENATE BILL NO. 9-18, SD3, HD5, PD1

**AN ACT**

( See Title Inside)

INTRODUCED BY SENATOR (S) Surangel Whipps, Jr., Camsek E. Chin, Hokkons Baules,

Mason N. Whipps, Rukebai K. Inabo, Raynold B. Oilouch, Phillip P. Reklai, ET, AL.,  
 J. Uduch Sengebau Senior

DATE INTRODUCED February 13, 2013

**SENATE ACTION**

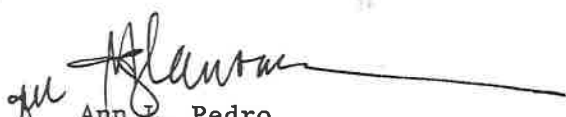
**FIRST READING:** February 13, 2013  
**REFERRED TO:** Judiciary and Governmental Affairs  
**STANDING COMMITTEE REPORT NO.:** 9-27/ Special CR 9-5  
**DATE ADOPTED:** May 1, 2013  
**SECOND READING:** May 1, 2013  
**LEGAL FORMAT:** Proper  
**REVIEW:** May 2, 2013  
**THIRD READING:** May 3, 2013  
**FINAL READING:** December 18, 2013/January 15, 2014


**HOUSE ACTION**

**FIRST READING:** May 20, 2013  
**REFERRED TO:** Ways and Means  
**STANDING COMMITTEE REPORT NO.:** 9-59  
**DATE ADOPTED:** December 5, 2013  
**SECOND READING:** December 5, 2013  
**LEGAL FORMAT:** Proper  
**REVIEW:** December 10, 2013  
**THIRD READING:** December 10, 2013  
**FINAL READING:** January 7, 2014

**CONFERENCE COMMITTEE ACTION**

**DATE:** None  
**COMMITTEE REPORT NO.:** None  
**DATE PASSED:** None  
**FINAL READING:** None

  
 Ann L. Pedro  
 CLERK OF THE SENATE

  
 Marcello Ngirkelau  
 Acting HOUSE OF DELEGATES CLERK

**NINTH OLBIL ERA KELULAU**

**First Regular Session, January 2013**

**RPPL No. 9-20**

**Passed as Senate Bill No. 9-18, SD3, HD5, PD1**

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**AN ACT**

**To re-establish the Compact of Free Association Board of Trustees, to amend chapter 4 of Title 40 of the Palau National Code, to amend RPPL No. 9-15 to supplement Fiscal Year 2014 budget to provide funding for the Compact of Free Association Board of Trustees, to amend 40 PNC § 2404 to extend the Capitol Free Tax Zone tax break, and for other related purposes.**

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

1           **Section 1. Legislative findings. The Olbil Era Kelulau finds that to fund the**  
2 **National Government in the coming years, the National Government of the Republic of**  
3 **Palau will become increasingly dependent on the Compact of Free Association Trust**  
4 **Fund established pursuant to Section 211(f) of the Improved Compact of 1986, and**  
5 **originally encoded at 40 PNC §§ 407 – 408. Given the high importance of this Trust Fund**  
6 **to Palau’s future financial security, it is imperative that the Fund be administered in a**  
7 **transparent, fiscally responsible manner. Previously, this was done by way of a Compact**  
8 **of Free Association Board of Trustees; however, the Board of Trustees was disbanded,**  
9 **and 40 PNC § 407 was repealed, when RPPL No. 7-29 was enacted into law. The Olbil**  
10 **Era Kelulau finds that a Board of Trustees is the best way to achieve the goals of**  
11 **transparency and fiscal responsibility in the Compact Trust Fund’s administration.**  
12 **Therefore, the Board should be reinstated, in accordance with this Act.**

13           **Section 2. Amendment. Section 407 of Title 40 of the Palau National Code is**  
14 **amended as follows:**

15           **§ 407. Compact of Free Association Board of Trustees.**

16           **(a) There shall be a five (5) member Board of Trustees to administer the Trust**  
17 **Fund created in section 211(f) of the January 10, 1986 Improved Compact of Free**  
18 **Association.**

19           **(b) The President of the Republic shall appoint five members to the Board of**  
20 **Trustees subject to the advice and consent of the Senate. Members of the Board shall**  
21 **serve terms of four years. The President may terminate a member of the Board of**  
22 **Trustees for cause only.**

1           **(c) To be appointed to the Board of Trustees, candidates must either –**

2                   **(1) have demonstrated five years of direct work experience in financial**  
3                   **matters; or**

4                   **(2) have received a recognized four-year degree from an accredited**  
5                   **institution of post-secondary education, preferably in such relevant fields as**  
6                   **investments, law, business administration or management, accounting, public**  
7                   **finance, or corporate finance, prior to their appointment; or,**

8                   **(3) successfully complete, within three months of appointment to the Board,**  
9                   **a recognized training program that directly addresses the prudent process of**  
10                  **administering and managing such trust funds, such as through the Chartered**  
11                  **Institute of Management Accountants, the Asian Institute of Finance, or others.**

12                  **(d) Board terms will be staggered to ensure continuity of the Board of Trustees.**

13           **Therefore, upon re-establishment of the Board of Trustees, two members shall be**  
14           **appointed to an initial two year term, and three members shall be appointed to a four**  
15           **year term. All subsequent appointments shall be for a four year term except as provided**  
16           **in paragraph (e).**

17                  **(e) In the event a Board member is terminated for cause, resigns, or is otherwise**  
18                  **unable to complete the remainder of a four (4) year term appointment, a replacement will**  
19                  **be promptly made, with the advice and consent of the Senate of the Olbil Era Kelulau, to**  
20                  **serve for the remainder of the four (4) year term. At all times, a full complement of the**  
21                  **five (5) members of the Board of Trustees will be maintained. If the President fails to**  
22                  **nominate a qualified individual to a vacant seat within fifteen (15) days of the seat being**  
23                  **vacated or the Senate fails to confirm the President's appointment, then the remaining**  
24                  **members of the Board shall appoint an interim member to serve until such time as a**  
25                  **permanent member is appointed by the President and confirmed by the Senate. In the**  
26                  **event of a tie vote between the remaining Board members with regard to the appointment**  
27                  **of an interim member, then the Minister of Finance shall temporarily break his ex officio**  
28                  **role on the Board to cast the tie breaking vote.**

29                  **(f) The Board shall provide recommendations for action to the President of the**  
30                  **Republic, with respect to investment of the funds in the 211(f) Trust Fund. To discharge**

1 these duties, the Board may employ financial consultants as needed. A formal investment  
2 policy statement shall be adopted by the Board in which the specific qualifications for all  
3 service providers will be stated.

4 (g) The Minister of Finance, and the Chairmen of the Committee on Ways and  
5 Means in the Senate and the House of Delegates, shall serve as ex-officio members of the  
6 Board. The ex-officio members may attend any meetings or hearings of the Board. No  
7 action or recommendation of the Board will require the approval of the ex-officio  
8 members, except that the Minister of Finance may break his ex officio role to cast the tie  
9 breaking vote, if necessary, to appoint an interim member to the Board in accordance  
10 with subsection (e).

11 Section 3. Amendment. Title 40 of the Palau National Code is hereby amended to  
12 read as follows:

13 “§ 408. Trust Fund Administration.

14 (a) The Compact of Free Association Board of Trustees shall be responsible for the  
15 administration of the Trust Fund created by section 211(f) of the Compact of Free  
16 Association. Prior to taking any action with regard to the Trust Fund, the Board shall  
17 provide fifteen (15) days of written notice to the President of the Republic with respect to  
18 any changes related to the prudent investment of the funds in the Trust Fund. Such  
19 written notice shall include a detailed description of the changes proposed, which may  
20 include changes to matters such as investment policy statement change, selection and  
21 replacement of investment service providers including custodians, investment consultants,  
22 investment managers, and other investment related matters.

23 (b) To ensure the timely and prudent management of the Trust Fund, the  
24 President shall have fifteen (15) days in which to respond in writing to the written notice  
25 provided by the Board pursuant to subsection (a) and either concur with the  
26 recommendations of the Board, or to provide cause to not adopt any particular  
27 recommended change proposed in the written notice submitted by the Board of Trustees.  
28 If the President provides written cause to not adopt a particular proposed action by the  
29 Board, then the Board shall not implement the proposed action. If no such written  
30 communication from the President is received by the Board of Trustees within the fifteen

1 (15) day period, then the Board of Trustees may proceed with implementation of its  
2 proposed action.

3 (c) It is hereby authorized that all funds received by the Republic of Palau  
4 pursuant to sections 211(b), 211(c), 211(d), 211(e), 211(f), 212(b), 213, 215, and 221(b) of  
5 the January 10, 1986 Compact of Free Association, and any additional funds received  
6 pursuant to any subsequent extension of, or amendment to the Compact of Free  
7 Association, may be commingled into the 211(f) Trust Fund for investment purposes;  
8 however, those funds and the income derived therefrom shall remain segregated for  
9 appropriation and accounting purposes. No funds shall be withdrawn from the 211(f)  
10 Trust Fund, any investment account containing funds received pursuant to any Compact  
11 section, or any investment account containing funds from the General Fund Reserve,  
12 except through the constitutional appropriation process.

13 (d) No later than the fifteenth day after the end of each fiscal quarter, the Compact  
14 of Free Association Board of Trustees shall submit to the President of the Republic of  
15 Palau, and to the Olbiil Era Kelulau a written summary report of the current value of all  
16 invested compact funds that includes any contributions or withdrawals that occurred,  
17 excluding investment related fees.

18 (e) The Board of Trustees is empowered to enter into any and all agreements  
19 needed pertaining to the investment management of the compact funds, including the  
20 hiring and firing of service providers such as custodians, investment consultants,  
21 investment managers, and others. The Board of Trustees shall adopt an investment  
22 policy to set procedures for the management of the compact funds and to properly  
23 designate persons authorized to transact business on behalf of the Board.

24 (f) Of the funds received by the Republic under Compact section 211(b), twenty-  
25 five percent (25%) shall be devoted to the energy needs of those parts of Palau not served  
26 by the central power-generating facility in Aimeliik.

27 (g) The sum of sixty-six million dollars (\$66,000,000) is hereby authorized to be  
28 appropriated for the purposes set forth in Compact section 211(f). The amount  
29 authorized to be appropriated shall, upon receipt from the United States Government, be  
30 invested in a Trust Fund under the terms and conditions of the Compact, including that

1 distributions (withdrawals) of Trust Fund interest or principal shall not begin earlier  
2 than the fifth anniversary after the effective date of the Compact; distributions  
3 (withdrawals) of principal and interest from the Trust Fund may only be done upon  
4 subsequent authorization and appropriation by law. The Trust Fund Management shall  
5 be under the Compact of Free Association Board of Trustees.

6 (h) All funds derived from the Compact Section 213 Investment Account Pursuant  
7 to the Fiscal Year 2007 Supplemental Budget Authorization and Appropriation Act shall  
8 be reimbursed in the future so that the purpose of the Compact 213 Investment Account  
9 funds shall be maintained.”

10 Section 4. Amendment. RPPL No. 9-15 is amended with an additional section to  
11 supplement the Fiscal Year 2014 budget as follows:

12 “Section 32. Compact of Free Association Board of Trustees. The sum of \$25,000  
13 is hereby authorized to be appropriated and is hereby appropriated for the Fiscal Year  
14 2014 for the Compact of Free Association Board of Trustees; the sum of \$25,000 shall  
15 come from local revenue.”

16 Section 5. Amendment. Amend 40 PNC § 2404 as follows:

17 “§ 2404. Incentives to persons owning existing business or establishing new  
18 businesses within the Capitol TFZ.

19 (a) ...

20 (b) Notwithstanding any other provision of law, any person who establishes a new  
21 business within the boundaries of the Capitol TFZ (such a business hereafter also  
22 referred to as a “Capitol TFZ Enterprise”) within three (3) years of the effective date of  
23 this Act, shall be, for a period of five (5) years from the commencement date or dates  
24 stated by the Certificate of Qualification issued to the Capitol TFZ Enterprise, exempt  
25 from the payment of the taxes specified below.

26 (1) ...

27 ...”

28 Section 6. Effective date. This Act shall take effect upon its approval by the  
29 President of Palau, or upon its becoming law without such approval, except that the  
30 President shall retain administrative authority over the Compact Trust Fund in

1 accordance with 40 PNC §§ 407 and 408 as they read prior to being amended by this Act,  
2 until the Compact of Free Association Board of Trustees has a full complement of five (5)  
3 Board members that has been appointed in accordance with this Act.

PASSED: January 15, 2014

Approved this 21<sup>st</sup> day of January, 2014.



~~HE~~ Tommy E. Remengesau, Jr.  
President  
Republic of Palau