

AN ACT

To amend Section 115 of Title 8 of the Palau National Code to adapt the procedures by which the President can enter into agreements for the renovation of the Palau International Airport; to appropriate funds for the 25<sup>th</sup> Annual Conference of Mechesil Belau; and for other related purposes.

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

Section 1. Legislative findings.

The Olbil Era Kelulau finds that the President of the Republic has made great strides in advancing the construction of sorely needed new airport facilities. Therefore, the Olbil Era Kelulau finds it desirable to update the Palau National Code so that the President is affirmatively empowered to take certain steps necessary for the project to proceed.

Section 2. Amendment. Section 115 of Title 8 of the Palau National Code is amended to read as follows:

“§ 115. Authorization to enter into airport terminal building financing and construction agreement.

(a) The President is hereby authorized to negotiate and execute an agreement or agreements on behalf of the national government with a private contractor or contractors, or foreign government agency or agencies, to finance and to construct a new airport terminal building and related facilities or renovate the existing airport terminal building and related facilities in accordance with completed design and engineering specifications. Any such agreements must comply with the requirements of Title 40 PNC Chapter 5. Methods of financing the construction may include, but need not be limited to, any one or more of the following:

(1) Partnership agreements with prospective airport facilities users, including airline carriers and concessionaires, by which the outside partners contribute a portion of the capital needed for terminal building construction in exchange for offsetting future fees and charges for use of the facilities, and/or loan agreements. Any offsetting credit of future fees and charges to partners who are facilities users, and the aggregate of loan payments allowed in subsection (2), shall

1 be within the airport's financial ability to absorb such reduced fees and charges,  
2 and/or to repay such loans;

3 (2) Borrowing from any bank or lending institution or from any  
4 reputable financing agency, in a principal amount not to exceed twenty-four  
5 million five hundred thousand dollars" (\$24,500,000) less any partnership loan  
6 agreements that might be established pursuant to subsection (a)(1) of this section;

7 (3) A build, operate and transfer ("BOT") agreement or similar  
8 agreement under which a private contractor or agency ("private entity") carries  
9 out the financing, construction, operation, and maintenance of the airport  
10 terminal, with the private entity operating the facility over a fixed term during  
11 which it is allowed to charge facility users appropriate fees, rentals, and charges,  
12 not exceeding those specified in its agreement with the government. Such fees  
13 and charges would be reasonably calculated to enable the private entity to recover  
14 construction costs and to cover operating and maintenance expenses in the  
15 project. The facility would be transferred to the national government at the end  
16 of a fixed term specified in the agreement.

17 (4) A grant or grant aid from another government or other foreign  
18 agency for a portion or the entire cost of construction of the airport terminal  
19 building and related facilities.

20 (5) An agreement or agreements, such as a joint venture, concession  
21 agreement, public private partnership, or hybrid arrangement, which facilitates  
22 the financing, construction, renovation, expansion, operation, and maintenance of  
23 the airport terminal and related facilities.

24 (b) Any agreement negotiated and executed by the President on behalf of the  
25 national government shall establish payments to the private entity (contractor) that are  
26 within the airport's ability to pay from its own revenues. Subject to the foregoing  
27 limitation, payments may vary during the period of the agreement in accordance with  
28 projected annual revenues of the airport over the period of the agreement. The duration  
29 of any such agreement may not exceed twenty (20) years, and the interest rate paid under



1 the agreement may not exceed prevailing commercial loan interest rates in Palau and the  
2 region. In all cases, such agreements must comply with the requirements of Title 40 PNC  
3 Chapter 5.

4 (c) Any loan agreement negotiated by the President on behalf of the national  
5 government, subject to approval by law in subsection (f), with a financial institution or  
6 other lender shall ensure that all debt service shall be within the airport's ability to pay  
7 from its own revenues. Subject to the foregoing limitation, periodic payments may vary  
8 during the period of the agreement in accordance with projected annual revenues of the  
9 airport over the loan period. In the event the airport is unable to reasonably meet its  
10 loan payment obligations during the life of the loan agreement, the President is  
11 authorized to renegotiate the terms of the loan, subject to approval by law in subsection  
12 (f), as necessary to avoid a general default of the loan; provided, however, that the  
13 duration of the loan agreement may not exceed twenty (20) years, and the interest rate  
14 paid may not exceed prevailing commercial loan interest rates in Palau and the region. In  
15 all cases, loan agreements and terms must comply with the requirements of Title 40 PNC  
16 Chapter 5.

17 (d) Any agreement negotiated pursuant to this section shall be exempt from the  
18 government procurement provisions of Title 40 PNC Chapter 6.

19 (e) Subject to constitutional limitations, an agreement negotiated pursuant to this  
20 section may delegate the statutory powers of the executive relating to management of the  
21 Palau International Airport to a private concession company, and no other section of this  
22 code shall be read to countermand any such constitutional delegation of authority.

23 (f) In this section, "subject to approval by law" shall mean:

24 (1) both houses of the Olbiil Era Kelulau have passed a resolution of  
25 approval for agreements under this section which shall designate the specific  
26 agreements being approved, or

27 (2) enactment of a bill into law, including but not limited to a budget or  
28 appropriations bill, which shall designate the specific agreements being  
29 approved."

1 Section 3. Amendment. Section 2030 of Title 33 of the Palau National Code is  
2 amended to add a new subsection (d) as follows:

3 “§ 2030. Contributions.

4 ...

5 (d) Notwithstanding subsections (a) and (b), the concession company for  
6 the renovation, expansion, and management of Palau International Airport may elect to  
7 become a Plan contributor for former government employees transferred or seconded to  
8 the airport concession company. The employment contract of a transferred or seconded  
9 employee may define the duration in which the employee may be considered a covered  
10 employee while employed with the airport concession company, and the airport  
11 concession company may make matching contributions during this prescribed period.”

12 Section 4. Appropriation for the Mechesil Belau Annual Conference.

13 The sum of \$35,000 is authorized for appropriation and is hereby appropriated to  
14 Mechesil Belau, for the purpose of funding the operational and contingent expenses  
15 relating to Mechesil Belau’s 25th Annual Conference. The entire amount of funds  
16 authorized and appropriated in this section shall come from local revenues and shall be  
17 non-lapsing.

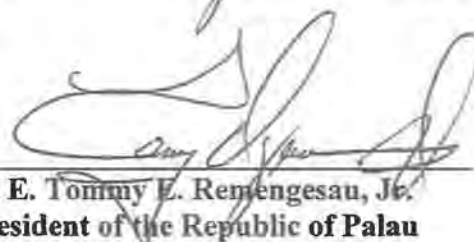
18 Section 5. Effective date.

19 This Act shall take effect upon its approval by the President of the Republic of  
20 Palau, or upon its becoming law without such approval.

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PASSED: August 5, 2017

Approved this 7<sup>th</sup> day of August, 2017.

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