

NITIJELA OF THE MARSHALL ISLANDS

21<sup>ST</sup> CONSTITUTIONAL REGULAR SESSION, 2000

BILL NO. 4

P. L. 2000-5

An Act

1 To amend the Foreign Investment Business License Act of 1990, 10 MIRC, Chapter 5, Section 502,  
2 503, 504, 505, 506, 507, 508, 510 and 511, and to add new Sections 503.5 and 504.5.

3 BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

4 Section 1. Short Title.

5 This Act may be cited as the Foreign Investment Business License  
6 (Amendment) Act, 2000.

7 Section 2. Amendments.

8 (1) Section 502 of the Foreign Investment Business License Act is hereby  
9 amended to read as follows:

10 Section 502. Interpretation.

11 (1) For the purposes of this Act, unless it is otherwise provided or the context  
12 requires a different meaning,

13 (a) "Registrar" means the Registrar of Foreign Investment appointed  
14 under Section 503;

15 (b) "noncitizen" means:

16 (i) any person who is not a citizen of the Republic; or

17 (ii) any corporation, joint venture, partnership, association, or  
18 other legal entity in which a person or persons who are not citizens of the Republic own an equity

1 interest.”

2 (2) Section 503 is amended by adding new Subsections “c” and “d” and to  
3 read as follows:

4 **“Section 503. License required.”**

5 Except as provided for in this Act and the regulations promulgated thereunder:

6 (a) no noncitizen shall be permitted to do business in the Republic without first  
7 obtaining a foreign investment business license under this Act; and

8 (b) no noncitizen shall be permitted to acquire an interest in any business previously  
9 owned entirely by citizens of the Republic until the business obtains a foreign investment business  
10 license under this Act;

11 (c) a license shall be in the form set out in the Schedule 1 to this Act; and

12 (d) the issuance of a license does not, in any way, provide, implicitly or explicitly, any  
13 sort of guarantee by the Government with respect to the investment, nor does the license provide any  
14 privileges to the foreign investor other than allowing the license holder to be treated equally with  
15 resident investors, subject to the laws of the Republic.”

16 (3) A new Section 503.5 is inserted to read as follows:

17 **“Section 503. 5 Registrar of Foreign Investment.”**

18 There shall be established a position in the Public Service entitled Registrar of  
19 Foreign Investment. Subject to the other provisions of this Act, the Registrar of Foreign Investment  
20 shall be responsible for the regulation of foreign investment in the Republic.

1 (4) Section 504 of the Act is amended by amending Subsection (a), deleting  
2 Subsections (b) and (c), and adding a new Subsection (d) and to read as follows:

3 **“Section 504 . Duties and powers of the Registrar.**

4 For the purposes of this Act, the Registrar shall have the following duties and  
5 powers:

6 (a) to receive applications for and issue foreign investment business licenses  
7 under the provisions of this Act;

8 (b) to insure compliance with this Act, the regulations promulgated and  
9 licenses issued under this Act. In this connection, the Registrar may investigate any alleged or  
10 suspected violation of this Act, the regulations or the licenses and, in cooperation with the Office of  
11 the Attorney General, enforce the provisions of this Act, the regulations and the licenses. In hearings  
12 or investigations permitted or required under this Act or the regulations made thereunder, the  
13 Registrar may administer oaths and subpoena witnesses, records, books and documents.

14 (c) to provide advice to the Government on policy matters related to foreign  
15 investment either at the request of the Cabinet or as an initiative to the Minister.”

16 (5) A new Section 504.5 entitled “Reserved List” is added to read as follows:

17 **“Section 504. 5 Reserved List.**

18 (1) A Reserved List consisting of economic sectors, subsectors or  
19 activities in which investment is reserved solely for citizen investors shall be maintained and publicly  
20 displayed by the Registrar.

1 (2) The economic sectors, subsectors or activities included on the  
2 Reserved List shall be approved by the Cabinet on the advice of the sectoral Ministries. The Reserved  
3 List, as approved by the Cabinet, together with detailed reasons for inclusion of said sectors or  
4 activities, shall be published in the Government Gazette and once in any newspaper published in the  
5 Republic.

6 (6) Section 505 of the Act is amended by replacing the term "Clerk" with "Registrar"  
7 and by deleting all words after "Registrar", and to read as follows:

8 **"Section 505. Application.**

9 Every non-citizen required to obtain a foreign investment business license under  
10 this Act shall submit an application to the Registrar."

11 (7) Section 506 of the Act is amended by replacing the term "Cabinet" with  
12 "Registrar", deleting Sections 2, 3, and 4 and inserting a new Section 2 and to read as follows: read  
13 as follows:

14 **"Section 506. Procedure for granting foreign investment business**  
15 **licenses.**

16 (1) The Registrar shall review all applications and require and collect any further  
17 information.

18 (2) If it is unclear whether the application is for an investment in a sector included on  
19 the Reserved List or not, then the Registrar shall clarify the position by seeking the written opinion  
20 of the Secretaries of appropriate Ministries. If such opinion is conflicting, the Registrar shall obtain

1 a ruling from the Cabinet.

2 (3) When the investment sector has been determined, the Registrar shall:

3 (a) issue a foreign investment business license if the investment application is  
4 for a sector or activity not included on the Reserved List; or

5 (b) advise the applicant that the application has been denied if the proposed  
6 foreign investment is in sector included on the Reserved List.

7 (8) Section 507 of the Act, entitled "Commencement of business" is deleted and a new  
8 Section 507 entitled "Register" is inserted in lieu thereof to read as follows:

9 **"Section 507. Register.**

10 (1) The Registrar shall maintain a register of foreign investment in the Republic  
11 in the form set out in Schedule 3 to this Act, and such register shall be a public document.

12 (2) Any foreign investment business license holder shall advise the Registrar of  
13 any change in circumstances that necessitates a change to the data contained in the register."

14 (9) Section 508 of the Act is amended by deleting the term "Cabinet" and inserting "Registrar"  
15 in lieu thereof, and to read as follows:

16 **"Section 508. Modification, suspension, or revocation.**

17 (1) A foreign investment business license granted under this Act shall at all  
18 times be subject to modification, suspension or revocation by the Registrar in accordance with the  
19 Marshall Islands Administrative Procedure Act, 6 MIRC, Chapter 1, if:

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

3 (b) the grantee bribed or otherwise unlawfully influenced any government  
4 official or Registrar other than on the merits of the application;

5 (c) the grantee presented false evidence or fraudulent information to the  
6 Registrar in support of his application;

7 (d) the grantee violates any of the laws of the Republic;

8 (e) the grantee engages in business activities which are in violation of any  
9 condition or term imposed in the license; and

10 (f) the grantee engages in business activities outside of the scope of the license.

11 (2) An existing foreign investment license cannot be revoked or canceled once the  
12 investment has commenced, if the reason is that the investment activity it was issued for had been  
13 added, subsequently, to the Reserved List.”

14 (10) Section 510 of the Act is amended by deleting the term “Cabinet” and inserting “Minister”  
15 in lieu thereof and to read as follows:

16 **“Section 10. Regulations.**

17 The Minister may promulgate such rules and regulations as are necessary and  
18 appropriate for the implementation of this Act, which rules and regulations shall have the force of  
19 law.”

20 (11) Section 511 entitled “Exemptions” is deleted in its entirety, and Section 512 entitled

1 "Prohibited acts", and Section 513 entitled "Transitional provisions" are renumbered accordingly as  
2 Sections 511 and 512.

3 Section 3. **Effective Date.**

4 This Act shall take effect on the date of certification in accordance with Article  
5 IV, Section 21 of the Constitution.

6 **Certificate**

7 I hereby certify:

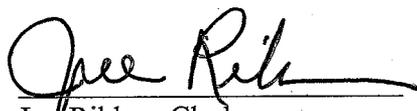
8 (1) that the above Nitijela Bill No. 4 has been passed by the Nitijela of the  
9 Marshall Islands on the 17<sup>th</sup> day of February 2000; and

10 (2) that I am satisfied that Nitijela Bill No. 4 has been passed in  
11 accordance with the Constitution of the Marshall Islands and the Rules of the Nitijela.

12 I hereby place my signature before the Clerk of the Nitijela this 20<sup>th</sup> day of  
13 March, 2000.

14 ATTEST:

15   
16 Litokwa Speaker  
17 Nitijela of the Marshall Islands

18   
19 Joe Riklon, Clerk  
20 Nitijela of the Marshall Islands