

CHAPTER 8

FINANCING FISHERIES PROGRAMS

Section

8-101 Finding and purpose

8-102 Financing program authorized

8-103 Selection of joint venture Board of Directors

8-104 Measurement of authorization for appropriation

8-105 Authorization for appropriation; administration.

36 PC 8-101. Finding and purpose.

(1) Pursuant to the authority and procedures of the National Compact Funds Financing Act, 58 FSMC §511 et seq., hereinafter referred to as the “National Compact Funds Financing Act,” and the Pohnpei Compact Funds Financing Act, Title 11 Chapter 4, (11 PC 4-*), hereinafter “Pohnpei Compact Funds Financing Act.” Pohnpei may borrow funds by participating in a medium-term note program or any other financing secured by the state’s share of Compact funds.

(2) The purpose of this chapter is to authorize the state to borrow money by and through the National and Pohnpei Compact Funds Financing Acts to make certain purchases and to participate in certain fisheries enterprises and programs through the Economic Development Authority, hereinafter referred to as the “EDA,” to develop and promote a comprehensive fisheries industry in Pohnpei, and to authorize an appropriation of monies to repay the loan or other borrowing and to cover the costs of such borrowing.

Source: S.L. No. 2L-152-90 §1, 3/6/90

36 PC 8-102. Financing program authorized.

The Governor is hereby authorized to enter into and accept a financing program, as defined in Pohnpei Compact Funds Financing Act, to construct, purchase, and/or operate the fisheries complex as provided in 36 PC 1-103 of this title, as amended, and to purchase and/or operate three purse seine tuna vessels. The financing program shall be in accordance with the procedures, powers, limitations, and requirements set forth in the National and State Compact Funds Financing Acts. The acquisition and operation of the three vessels shall be accomplished through a joint venture involving the EDA, the FSM National Fisheries Corporation, and a private party or company. The joint venture shall take such organizational form, and be on such terms and conditions as determined by the Governor to be in the best

interest of the state; PROVIDED that prior to participating in any joint venture the Governor shall:

- (1) Obtain a reliable appraisal or appraisals of the vessels to be purchased that report a fair market value and insurable value at least equal to the amount of the purchase price;
- (2) Obtain reasonable assurances of the private party's creditworthiness and ability to fully and adequately guarantee the repayment of its share of any loans to the joint venture;
- (3) Only agree to loan the state's money to the joint venture on generally acceptable commercial banking terms, unless deviations or lesser standards are necessary and only to the extent necessary to induce the private party to enter into the joint venture, or to create a commercially viable joint venture;
- (4) Execute the agreements and instruments attendant to the joint venture only if they are fair, balanced, and in line with commercially acceptable standards; and
- (5) Execute the agreements and instruments attendant to the joint venture only if they contain reasonable provisions designed to ensure that the joint venture undertakes commercially viable shore-based, value-adding activities in the state of Pohnpei as soon as commercially feasible.

Source: S.L. No. 2L-152-90 §2, 3/6/90

36 PC 8-103. Selection of joint venture Board of Directors.

The Governor, in consultation with the Economic Development Authority Board of Developers, and with the advice and consent of the Legislature, shall select a representative or representatives to sit on the Board of Directors of the joint venture as provided for in the Corporation's articles of incorporation and bylaws. A Pohnpei State representative on the Board of Directors of the joint venture may be removed from the Board by the Governor without cause. Vacancies shall be filled in the manner of the original appointment.

Source: S.L. No. 2L-152-90 §3, 3/6/90

Note: S.L. No. 2L-152-90 §§4 & 5, 3/6/90 were repealed by S.L. No. 3L-29-92 §§3 & 4, 11/25/92.

36 PC 8-104. Measurement of authorization for appropriation.

The maximum amount that may be pledged and used to cover the costs of implementing a financing program and the sources for such amounts shall be determined and appropriated annually in the Pohnpei Comprehensive Budget Act.

Source: S.L. No. 2L-152-90 §6, 3/6/90

36 PC 8-105. Authorization for appropriation; administration.

(1) There is hereby authorized for appropriation a sum or sums to be determined annually in the Pohnpei Comprehensive Budget Act.

(2) The sum herein authorized for appropriation shall be administered and used by the Governor of Pohnpei solely in accordance with this chapter, the appropriations act or acts, and the National and State Compact Funds Financing Acts. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sum or sums authorized for appropriation by this chapter. Any balance of the sums authorized for appropriation for any given fiscal year but not pledged, expended or obligated for expenditure for the financing program at the end of such fiscal year shall revert to such funds of the Treasury from which they were appropriated.

Source: S.L. No. 2L-152-90 §7, 3/6/90