

TITLE 36

ECONOMIC DEVELOPMENT

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ECONOMIC DEVELOPMENT**

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CHAPTER 1[RESERVED]

Editor's note: This chapter was formerly entitled "Economic Development Authority", but was repealed pursuant to S.L. No. 7L-20-08, 11/26/08.

CHAPTER 2 [RESERVED]

Editor's note: This chapter was formerly entitled "Pohnpei Fisheries Corporation", but was repealed pursuant to S.L. No. 7L-20-08, 11/26/08.

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CHAPTER 3 TRADE AND INVESTMENT OFFICES

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§3-101. Findings. — The Legislature has determined that trade and investment offices, established outside of Pohnpei State, can be an effective means of promoting, establishing, and facilitating trade and investment between Pohnpei and other parts of the world. Such offices can also be established and maintained, on a cost-effective basis, where the host country, or entities therein, provide assistance for the benefit of their own trade and investment. The Legislature finds that a statutory framework should be enacted, by which such offices can be established at the direction of the Governor upon concurrence of the Legislature.

Source: S.L. No. 4L-62-98 §1, 1/6/98

§3-102. Establishment of Pohnpei trade and investment offices authorized. — The Governor is hereby authorized to establish and maintain Pohnpei trade and investment offices outside of the state of Pohnpei. Such offices shall be for the purposes of promoting, establishing, and facilitating trade and investment between Pohnpei and the host country, region, or state in which the office is established. Support from the host country, region or state, for the establishment and maintenance of such office, shall be an important factor in determining whether to establish such an office, as well as the opportunities for, and existing volume of, trade and investment. Such offices shall be established by the Governor, with concurring resolution by the Legislature, and thereafter operated under the direction and guidance of the office of the Governor of Pohnpei solely for the purposes and subject to the conditions and restrictions stated in this chapter.

Source: S.L. No. 4L-62-98 §2, 1/6/98

§3-103. Authorization. — There is hereby authorized for appropriation such sums from such funds of the Treasury as are determined annually in the Comprehensive Budget Act for the purpose of establishing and operating the Pohnpei trade and investment offices. All sums appropriated under the authorization of this section shall be administered and expended by the Governor solely for the purposes stated in this chapter. Any balance of the sums appropriated in a fiscal year not expended or obligated for expenditure on or before the close of the fiscal year for which appropriated shall revert to the fund of the Treasury from which appropriated.

Source: S.L. No. 4L-62-98 §3, 1/6/98

§3-104. Additional support. — In addition to the monies appropriated pursuant to §3-103, the Governor is authorized to receive additional support in the form of monetary and in-kind contributions for the support of the offices established pursuant to §3-102.

Source: S.L. No. 4L-62-98 §4, 1/6/98

§3-105. Annual report. — The Governor shall submit a complete report to the Legislature within 30 days following the close of each fiscal year on all matters relating to the establishment and operation of Pohnpei trade and investment offices for the previous fiscal year. Such report shall include an accounting of the use and disposition of all monies and in-kind contributions received for the use of

such offices from whatever source, and shall detail the activities and accomplishments of such offices for the previous fiscal year.

Source: S.L. No. 4L-62-98 §5, 1/6/98

§3-106. Conflict of interest. —

(1) No officer or employee of the Pohnpei Government detailed to or engaged in services for the offices established pursuant to §3-102 shall obtain any interest, either directly or indirectly, through his or her business holdings, by agent disclosed or undisclosed, or by undue influence within a family relationship, in any business investment, employment or trade contract, arrangement or agreement that is promoted, coordinated or in any other way processed by or through an office established pursuant to this chapter.

(2) No officer or employee of the Pohnpei Government who shall travel on Pohnpei Government funds or monies or in-kind contributions made available to the Government of Pohnpei in an official capacity, shall at any time while on such travel or within two years following a return from said travel, and as a result thereof, suggest or obtain a business investment, employment or trade contract, arrangement or agreement with a potential investor or businessperson that would result in a direct or indirect business relationship therewith, whether in person, through his or her business holdings, by disclosed or undisclosed agent, or by family relationship; PROVIDED that this prohibition shall not apply to a Pohnpeian businessperson who is coincidentally an officer or employee of the Pohnpei Government and who is on a Pohnpei Government-funded trip under the following circumstances:

(a) He or she is traveling with a promotional group of three or more like Pohnpei businesspeople; and

(b) He or she has been chosen for inclusion in the group as a representative of the business community and not as a representative of the government.

(3) Any person who violates any provision of Subsection (1) or Subsection (2) of this section shall be guilty of a criminal offense against the state of Pohnpei and, upon conviction thereof, shall be imprisoned for a period of not more than six months, or fined not more than \$10,000, or both so fined and imprisoned.

(4) In addition to such criminal penalties as may be imposed under Subsection (3) of this section, all or any part of any business interest or profit from any business investment, employment or trade contract, arrangement or agreement entered into in violation of Subsection (1) or Subsection (2) of this section may be ordered by a court of appropriate jurisdiction to be forfeited to the Government of Pohnpei.

Source: S.L. No. 4L-62-98 §6, 1/6/98

CHAPTER 4 ECONOMIC DEVELOPMENT FUNDS

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§4-101. Emergency Relief and Rehabilitation Fund. — There is hereby created a Pohnpei fund for emergency relief and rehabilitation, hereinafter referred to as "fund," to assist developmental endeavors within the state to overcome physical and economic losses sustained from storm, flood, fire or other natural disaster.

Source: S.L. No. 2L-149-82 §1, 11/19/82

§4-102. "Developmental endeavor" defined. — For purposes of §§4-101 through 4-106, "developmental endeavor" is any activity, whether public or private, for profit or not-for-profit, which significantly contributes or holds the potential for significant contribution to the economy of this state through the employment of ten or more state residents, the influx of capital, machinery or infrastructure in amounts in excess of \$10,000, the manufacture or marketing of local products, the development of agriculture production or harvesting, or the development of fisheries, or any combination thereof; PROVIDED that the Governor, in his discretion, may include, as development endeavors, other worthy activities not otherwise included in this definition which the Governor finds to be important contributions to this state's economy.

Source: S.L. No. 2L-149-82 §2, 11/19/82

§4-103. Administration of the fund. — The fund established by §4-101 shall be administered by the Governor pursuant to §§4-101 through 4-106 and regulations of the Governor issued pursuant hereto.

Source: S.L. No. 2L-149-82 §3, 11/19/82

§4-104. Application for relief and rehabilitation. — Persons who either own or control a development endeavor, having suffered loss from a natural disaster, may make application to the Governor for relief and rehabilitation stating the cause and nature of the loss and relief and rehabilitation requested as well as such other information as the Governor shall so require. The Governor shall take prompt consideration of all applications so submitted.

Source: S.L. No. 2L-149-82 §4, 11/19/82

Note: The word "Governor" has been substituted for the word "Authority" in the last sentence.

§4-105. Award. — Upon a finding that a development endeavor has suffered loss from a natural disaster, the Governor shall provide immediate relief through emergency aid, subsidies, and technical assistance, and shall provide a plan for long-term rehabilitation through the administration of long-term loans, with or without interest, technical assistance, and other aid which the Governor deems necessary, and at such financial levels that the Governor deems advisable within the monies available within the fund. Terms of emergency relief and rehabilitation shall be as mutually agreed upon by the applicant developmental endeavor and the Governor. Assistance awarded through the Governor may be combined with other sources of assistance available to the developmental endeavor that has suffered loss.

Source: S.L. No. 2L-149-82 §5, 11/19/82

§4-106. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act to finance the fund established by §4-101.

(2) Monies within the fund shall be administered and expended by the Governor solely for the purposes stated in §§4-101 through 4-106. The Governor shall submit an annual report to the Legislature on or before October 15 on all financial activities of his office pursuant to §§4-101 through 4-106 for the last fiscal year.

(3) All revenues derived from the administration of §§4-101 through 4-106 shall be deposited in the fund created by §4-101. All monies within the fund shall remain available until fully expended.

Source: S.L. No. 2L-149-82 §6, 11/19/82

§4-107 – §4-110. [RESERVED]

CHAPTER 5 DEVELOPMENT LOAN FUND

Section

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5-104 Technical assistance

5-102 Purpose of the loan fund

5-105 Authorization for appropriation;
administration

5-103 Management of the loan fund

§5-101. Development loan fund. — There is hereby created a Pohnpei development loan fund, hereinafter referred to as the “loan fund,” which shall serve as a source of financing for development projects in line with the goals and objectives of the Pohnpei Development Plan.

Source: S.L. No. 1L-148-87 §1, 7/14/87

§5-102. Purpose of the loan fund. — It shall be the purpose of the loan fund to make loans available to the people of Pohnpei who wish to establish development projects but are unable to obtain loans from established commercial financial lending institutions. The loan fund shall be used to promote, to the greatest extent possible, the advancement of the development goals and objectives of the Pohnpei Development Plan.

Source: S.L. No. 1L-148-87 §2, 7/14/87

§5-103. Management of the loan fund. — The loan fund shall be administered and managed by the Federated States of Micronesia Development Bank, hereinafter referred to as the “Development Bank”. The terms and conditions of loans made against the loan fund shall be promulgated by the Development Bank and the Administrator of the Office of Economic Affairs and approved by the Pohnpei Legislature. The Office of Economic Affairs shall enter into an intergovernmental agreement with the Development Bank that shall specify the management role, duties, and liabilities of the Bank in regard to the administration of the loan fund.

Source: S.L. No. 1L-148-87 §3, 7/14/87; S.L. No. 5L-14-00 §3-30, 10/1/00

§5-104. Technical assistance. — The Office of Economic Affairs, in consultation with the Development Bank, shall provide to each individual applicant, group, association, partnership, corporation or joint venture the necessary technical assistance required in securing a loan.

Source: S.L. No. 1L-148-87 §4, 7/14/87; S.L. No. 5L-14-00 §3-30, 10/1/00

§5-105. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the fund of the Treasury into which the Compact of Free Association capital account monies are deposited a sum or sums to be determined and appropriated in the annual Comprehensive Budget Act of Pohnpei for the purpose of providing the capital of the loan fund. The sum herein authorized for appropriation shall be administered and expended by the Development Bank pursuant to §§5-102 and 5-103. The Development Bank shall submit to the Governor of Pohnpei and the Legislature on or before October 15 each year an annual report detailing the activities of the loan fund. The loan fund shall be subject to audit at any time by request of the Governor or the Legislature.

Source: S.L. No. 1L-148-87 §5, 7/14/87; S.L. No. 2L-41-88 §1, 10/10/88

Note: S.L. No. 1L-148-87 §6 severability provision has been omitted.

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CHAPTER 6 BUSINESS DEVELOPMENT

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§6-101. Short title. — This chapter is known and may be cited as the “Business Development Act of 1994.”

Source: S.L. No. 3L-86-95 §1, 1/18/95

§6-102. Declaration of policy. — Recognizing that cottage, small-, and medium-scale enterprises have the potential for more employment generation and economic growth and, therefore, can help provide a self-sustaining economic foundation for the state, it is hereby declared the policy of the state of Pohnpei to promote, support, strengthen, and encourage the growth and development of small- and medium-scale enterprises in all productive sectors of the economy. To this end, the state shall undertake to spur the growth and development of small and medium enterprises throughout the state and thereby attain statewide socio-economic development by:

- (1) Assuring, through the establishment of adequate support structure, the creation and promotion of an environment conducive to the viability and growth of small and medium enterprises;
- (2) Intensifying and expanding programs for training in entrepreneurship and in labor skills development;
- (3) Establishing mechanisms for the access and transfer of appropriate technology needed by these enterprises;
- (4) Facilitating their access to sources of funds;
- (5) Assuring to them access to a fair share of government contracts and related incentives and preferences;

(6) Complementing and supplementing financing programs for small and medium enterprises and doing away with stringent and burdensome collateral requirements with which small entrepreneurs invariably find extreme difficulty complying;

(7) Instituting safeguards for the protection and stability of the credit delivery system;

(8) Raising government efficiency and effectiveness in providing assistance to small and medium enterprises throughout the state, at the least cost;

(9) Promoting linkages between large and small enterprises and between foreign and local enterprises by encouraging subcontracting arrangements;

(10) Encouraging the formation of cooperatives for purchasing of materials and marketing of products, for the establishment of common service facilities, and for other productive and beneficial purposes;

(11) Making the private sector a partner in the task of developing small and medium enterprises through the promotion and participation of private voluntary organizations, viable industry associations, and cooperatives; and

(12) Assuring a balanced and sustainable development through the establishment of a feedback and evaluation mechanism that will monitor the economic contributions as well as bottlenecks and environmental effects of the development of small- and medium-scale enterprises.

Source: S.L. No. 3L-86-95 §2, 1/18/95

§6-103. Small and medium enterprises as beneficiaries. — “Small and medium enterprise” shall be defined as any business activity or enterprise engaged in industry, agribusiness, tourism, trade, and/or industrial and business services, whether single proprietorship, cooperative, partnership or corporation, whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity’s office, plant, and equipment are situated, must have value falling under the following categories:

Cottage – Less than \$5,000;

Small – \$5,001 to \$25,000; or

Medium – \$25,001 to \$250,000.

In a generic sense, all enterprises with total assets of \$250,000 and less, exclusive of land, shall be called small enterprises for the purposes of this chapter. The above definitions shall be subject to review and adjustment by the Small Enterprise Development Council created by this chapter, as the said Council deems necessary, taking into account inflation and other economic factors.

Source: S.L. No. 3L-86-95 §3, 1/18/95

§6-104. Eligibility for government assistance. — To qualify for assistance, counseling, incentives, promotion or loan or lease guarantees under this chapter, a business falling under the definition in §6-103 must meet the following criteria:

(1) It must be duly registered with the appropriate agencies as presently provided by law or as provided by rules and regulations established pursuant to this chapter;

(2) The business must be owned and capitalized, in part, by Pohnpei citizens;

(3) It must not be a branch, subsidiary or division of a large-scale enterprise nor may its policies be determined by a large-scale enterprise or by persons who are not owners or employees of the enterprise. However, this requirement shall not preclude a cottage, small or medium enterprise from accepting subcontracts from large enterprises or firms joining in cooperative activities with other cottage, small, and medium enterprises.

(4) Programs of the guarantee and finance corporation as provided in subsequent sections of this chapter shall be exclusively targeted to small enterprises.

Source: S.L. No. 3L-86-95 §4, 1/18/95; S.L. No. 4L-91-98 §1, 12/30/98

§6-105. Guiding principles. — To set the pace for small enterprise development, the state shall be guided by the following principles:

(1) Minimal set of rules and simplification of procedures and requirements. All government agencies having to do with small enterprises shall pursue the principles of minimum regulation to ensure stability of rules and to encourage entrepreneurial spirit among the citizenry. The agencies shall see to it that procedural rules and requirements, within their respective offices and in coordination with other agencies, are minimized in the act of registration, availment of financing, and accessing other government services and assistance.

(2) Enhanced role of the private sector. In order to hasten the growth and expansion of small enterprises, the private sector throughout the state shall be encouraged to assist in the effective implementation of this chapter by constantly policing their ranks, and by participating in government programs for small enterprises strictly in accordance with law, and consistent with the attainment of the purposes hereof. The government shall encourage the organization and establishment of small enterprise industry associations at the state and local levels.

(3) Coordination of government efforts. Government efforts shall be coordinated to achieve coherence in objectives, particularly those under the Office of Economic Affairs, the Department of Land and Natural Resources, the Department of Treasury and Administration, the Division of Personnel, Labor and Manpower Development, and the Office of Fisheries and Aquaculture.

Source: S.L. No. 3L-86-95 §5, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00; S.L. No. 7L-20-08 §16, 11/26/08

§6-106. Creation of a Small Enterprise Development Council. — To effectively spur the growth and development of small enterprises throughout Pohnpei, and to carry out the policy declared in this chapter, a Small Enterprise Development Council (SEDC) is hereby created. The Council shall be attached to the Office of Economic Affairs and shall be duly constituted within 60 days after the approval of this chapter. The Council shall be the primary agency responsible for the promotion, growth, and development of small enterprises in Pohnpei by way of facilitating and closely coordinating state efforts to promote the viability and growth of small enterprises, including assisting relevant agencies in the tapping of state, national, and foreign funding for small enterprise development.

Source: S.L. No. 3L-86-95 §6, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00

§6-107. Composition of Council. — The Council shall consist of seven (7) members appointed by the Governor with the advice and consent of the Legislature.

Source: S.L. No. 3L-86-95 §7, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00; S.L. No. 6L-79-06 §2-116, 11/1/06

§6-108. Meetings of Council. — Within 15 days after the SEDC is duly constituted as provided for in §6-106, the Council shall hold a meeting for the purpose of electing its other officers for the ensuing year. The Council shall meet at least once a month.

Source: S.L. No. 3L-86-95 §8, 1/18/95

§6-109. Organization of Council; quorum; compensation and expenses. — The Council shall organize by electing one of its members as Chairman, one as Vice-Chairman and one as Secretary to keep the minutes and records of the Council. Any four (4) members of the Council shall constitute a quorum, and a concurrence of four members shall be necessary for any official action taken by the Council. No vacancy in membership of the Council shall impair the right of a quorum to exercise all the rights and perform all the duties of the Council. Members of the Council shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, for members of Pohnpei Government policy boards and commissions when actually attending meetings of the Council, except that those members who are employees of the Pohnpei Government and other cooperative entities shall instead receive their regular salaries while performing functions of the Council. 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.

Source: S.L. No. 3L-86-95 §9, 1/18/95; S.L. No. 6L-79-06 §2-117, 11/1/06

§6-110. Assistance of government agencies. — The Council may, from time to time, call upon the participation of any government agency or association of local government officials in its deliberations, especially when such agency is directly or indirectly concerned with and/or affecting the growth and development of small enterprises in any particular area or manner.

Source: S.L. No. 3L-86-95 §10, 1/18/95

§6-111. Powers and functions of Council. — The Small Enterprise Development Council (SEDC) shall have the following powers, duties, and functions:

(1) To help establish the needed environment and opportunities conducive to the growth and development of the small enterprise sector:

(2) To make recommendations to the Governor and the Legislature on all policy matters affecting small enterprises;

(3) To formulate a comprehensive small enterprise development plan to be integrated into the state's five-year development plans;

(4) To coordinate and integrate various government and private sector activities relating to small enterprise development;

(5) To review existing policies of government agencies that would affect the growth and development of small enterprises and recommend changes to the Governor and/or to the Legislature whenever deemed necessary. This shall include efforts to simplify rules and regulations, as well as procedural and documentary requirements in the registration, financing, and other activities relevant to small enterprises;

(6) To monitor and determine the progress of various agencies geared towards the development of the private sector. This shall include overseeing, in coordination with local government units and private sector groups/associations, the developments among small enterprises;

(7) To promulgate implementing rules and regulations, guidelines, programs, and operating principles as may be deemed proper and necessary in the light of government policies and objectives of this chapter;

(8) To provide the appropriate policy and coordinated framework in assisting relevant government agencies in tapping of national and foreign funding for small enterprise development;

(9) To promote the productivity and viability of small enterprises by way of directing and/or assisting relevant government agencies and institutions at the state and local levels toward the:

(a) Provision of business training courses, technical training for technicians and skilled laborers, and continuing skills upgrading programs;

(b) Provision of labor-management guidance, assistance, and improvement of the working conditions of employees in small-sized firms;

(c) Provision of guidance and assistance regarding product quality, product development, and product diversification;

(d) Provision of guidance and assistance for the adoption of improved production techniques and commercialization of appropriate technologies for product development and for increased utilization of indigenous raw materials;

(e) Provision of assistance in the marketing and distribution of products of small enterprise, through local supply and demand information, industry profiles, overseas marketing promotion, domestic marketing linkaging, and the establishment of common service facilities such as common and/or cooperative bonded warehouse, food storage, agro-processing, and drying facilities, ice plants, refrigerated storage, cooperative trucking facilities, etc.;

(f) Intensification of assistance and guidance to enable greater access to credit through a simplified multi-agency financing program; to encourage development of other modes of financing such as leasing and venture capital activities; to provide credit guarantee systems, and to encourage the formation of credit guarantee associations, including setting up of credit records and information systems and to decentralize loan approval mechanisms;

(g) Provision of concessional interest rates, lower financing fees, which may include incentives for prompt credit payments, arrangements tying amortizations to business cash flows, and effective substitution of government guarantee cover on loans for the borrower's lack of collateral;

(h) Provision of bankruptcy preventive measures through the setting up of a mutual relief system for distressed enterprises, and the establishment of measures such as insurance against extraordinary disasters;

(i) Intensification of information dissemination campaigns and entrepreneurship education activities;

(j) Development of tax credits and other tax and duty incentives;

(k) Provision of support for product experimentation and research and development activities as well as access to information on commercialized technologies; and

(l) Provision of more infrastructure facilities and public utilities to support operations of small enterprises;

(10) To submit to the Governor and the Legislature a yearly report on the status of small enterprises in the state, including the progress and the impact of all relevant government policies, programs, and legislation as well as private sector activities; and

(11) Generally, to exercise all powers and functions necessary for the attainment of the objectives and purposes of this chapter.

Source: S.L. No. 3L-86-95 §11, 1/18/95

§6-112. Reorganization of the Division of Business Development of the former Department of Commerce and Industry and its designation as Council Secretariat. — The existing Division of Business Development of the *former* Department of Commerce and Industry will be reorganized as the Pohnpei Entrepreneur Development Center (PEDC). The PEDC shall have the following duties and functions:

(1) To prepare, in coordination with local governments and/or associations of local government officials, and recommend annual as well as medium-term small enterprise development plans for approval of the Council;

(2) To coordinate the preparation of position papers and background materials for discussion or approval during Council meetings;

(3) To assist the Council in coordinating and monitoring small enterprise policies, programs, and activities of all government agencies with respect to small enterprises;

(4) To prepare, collate, and integrate all input to the Council's yearly report on the status of small enterprises in Pohnpei;

(5) To submit periodic reports to the Council on the progress and accomplishment of its work programs; and

(6) To perform all such duties as prescribed by the SEDC as permitted under §6-111 and such other ad hoc functions as authorized by the Council.

Source: S.L. No. 3L-86-95 §12, 1/18/95

Note: See extended legislative history for the general organization of the Executive Branch, Title 3, Ch. 1.

§6-113. The Pohnpei Entrepreneur Development Center. — The Pohnpei Entrepreneur Development Center (PEDC), hereinafter referred to as the "Center," shall provide, promote, develop, and widen in both scope and service-reach, various modes of assisting small enterprises, including, but

not limited to, entrepreneurship training and development, business training and counseling, access to financing, and information dissemination. The Center shall:

- (1) Be attached to the Office of Economic Affairs;
- (2) Be under the policy, program, and administrative supervision of the Council;
- (3) Be the principal government agency that will formulate, implement, coordinate, and monitor all non-financing, government assistance programs for small enterprises, including fee-based services which it shall retain in its own account to support and promote small enterprises; and
- (4) Have its principal place of business in Kolonia, Pohnpei, and may have extension offices in other local jurisdictions.

Source: S.L. No. 3L-86-95 §13, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00

§6-114. Creation of entrepreneur development fund. — There is hereby created an entrepreneur development fund, separate from the general fund of Pohnpei, into which fees charged by the PEDC shall be deposited.

Source: S.L. No. 3L-86-95 §14, 1/18/95

§6-115. Creation of Small Business Guarantee and Finance Corporation. —

(1) There is hereby created a body corporate to be known as the Small Business Guarantee and Finance Corporation, hereinafter referred to as “SBGFC,” which shall provide, promote, develop, and widen in both scope and service-reach, various alternative modes of financing for small enterprises, including, but not limited to, direct and indirect project lending, venture capital, financial leasing, secondary mortgage, and/or rediscounting of loan papers to small businesses.

(2) The Corporation shall guarantee loans obtained by qualified small enterprises, local, and/or regional associations’ small enterprises and industries, private voluntary organizations and/or cooperatives, under such terms and conditions adopted by its Board. It may guarantee loans up to 100 percent (100%). It may also provide second guarantees (i.e. re-insurance) on the credit and/or investment guarantees made by credit guarantee associations and other institutions in support of small entrepreneurs.

(3) The Corporation shall become liable under its guarantees upon proof that the loan has become past due under such terms and guidelines adopted by its Board and printed on the contract of guarantee.

(4) The Small Business Guarantee and Finance Corporation shall:

- (a) Be attached to the Office of Economic Affairs and shall be under the policy, program, and administrative supervision of the SEDC;
- (b) Have its principal place of business in Pohnpei, and may have branch offices as needed;
- (c) Exercise all the general powers conferred by law upon corporations as are incidental or conducive to the attainment of this chapter, including the power to promulgate articles of incorporation, bylaws, rules, and regulations, guiding programs and policies in order to meet the policies and objectives of this chapter; and
- (d) Have a Board of Directors upon which the powers of the Corporation shall be vested, to be composed of seven members including:
 - (i) The Administrator of the Office of Economic Affairs, who shall serve as Chairman;
 - (ii) Three members from the private sector and three members from the public sector appointed by the Governor upon recommendation of the SEDC with the advice and consent of the Legislature; and
 - (iii) The Chief Executive of the Corporation will act as the Secretary of the Board.

Source: S.L. No. 3L-86-95 §15, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00

§6-116. Capitalization and funding. — The SBGFC shall have an initial authorized capital stock of \$1,000,000. Additional funding shall come from other sources as appropriated by the Legislature or as identified by the SEDC.

Source: S.L. No. 3L-86-95 §16, 1/18/95

Note: S.L. No. 3L-86-95 §17 repealing provision has been omitted.

§6-117. Loan purpose. — The loans guaranteed under this chapter shall be approved for use only for the following purposes:

- (1) Acquisition of fixed assets;
- (2) Building improvement/expansion or construction of plant facilities;
- (3) Permanent working capital; and
- (4) Credit line accommodations for temporary working capital.

Source: S.L. No. 3L-86-95 §18, 1/18/95; S.L. No. 4L-91-98 §2, 12/30/98

§6-118. Borrower eligibility criteria. — In addition to the requirements set forth in §6-104, any additional eligibility criteria established by the participating financial institution for the issuance of the loan must be met by the borrower before participation in the loan guarantee program will be approved.

Source: S.L. No. 3L-86-95 §19, 1/18/95; S.L. No. 4L-91-98 §3, 12/30/98

§6-119. Guarantee coverage/guarantee ceiling. — For all loans, whether or not covered or secured by any hard collaterals (chattels), a maximum of eighty-five percent (85%) guarantee on the principal loan balance outstanding plus interest will be available.

Source: S.L. No. 3L-86-95 §20, 1/18/95; S.L. No. 4L-91-98 §4, 12/30/98

§6-120. Amount of loan. — The amount of loan eligible for guarantee cover shall be from \$2,000 to \$250,000.

Source: S.L. No. 3L-86-95 §21, 1/18/95

§6-121. Maturity of loans. — Loan maturity for all loans guaranteed under this chapter shall be for a maximum of 15 years; PROVIDED that the participating financial institution shall have the authority to set a maturity period of less than the 15 year maximum for any borrower or loan.

Source: S.L. No. 3L-86-95 §22, 1/18/95; S.L. No. 4L-91-98 §5, 12/30/98

§6-122. Rate of interest. — The lending institution shall set the interest rate.

Source: S.L. No. 3L-86-95 §23, 1/18/95

§6-123. Guarantee fee. — The SBGFC Board shall establish a yearly guarantee fee not to exceed two percent (2%) per annum on the guaranteed loan outstanding based on the diminishing balance thereof and payable one prepayment period in advance.

Source: S.L. No. 3L-86-95 §24, 1/18/95

§6-124. Loan to equity rate. — The borrower's equity participation in the project shall be determined by the participating financial institution according to criteria and standards established in the normal course of business for such purposes.

Source: S.L. No. 3L-86-95 §25, 1/18/95; S.L. No. 4L-91-98 §6, 12/30/98

§6-125. Payment of loan. — The loan shall be paid in monthly, quarterly or semi-annual amortizations which include payment of interest and other fees during grace periods, where applicable, and principal, interest, and other fees after the grace period.

Source: S.L. No. 3L-86-95 §26, 1/18/95

§6-126. Event of default. — There is default in case the borrower fails to pay three consecutive monthly, or one quarterly, or one semi-annual amortization, as the case may be, for term loans or upon maturity of credit line availments. In the event of default, the loan and all the availments on the line shall automatically become due and demandable.

Source: S.L. No. 3L-86-95 §27, 1/18/95

§6-127. Penalty fees. —

(1) In case of failure to pay monthly, quarterly or semi-annual amortizations when due, the borrower shall pay the penalty of two percent (2%) per month or a fraction thereof, based on unpaid amortizations and computed up to the date of actual payment.

(2) Upon default, as defined in §6-126, the borrower shall pay the penalty of two percent (2%) per month or fraction thereof based on the entire amount due and demandable and computed up to the date of actual payment.

Source: S.L. No. 3L-86-95 §28, 1/18/95

§6-128. Documentary requirements: loan. — The lending financial institution shall submit the following requirements in support of its application for guarantee cover:

- (1) Bank approval of the loan;
- (2) Bank evaluation report on the project/feasibility study;
- (3) Background investigation report on the borrower;
- (4) Appraisal report on loan collaterals;
- (5) Latest audited/unaudited financial statements of the borrower;
- (6) For corporate borrowers the following additional documents are required:
 - (a) Certificate of Registration;
 - (b) Articles of Incorporation; and
 - (c) Bylaws.

Source: S.L. No 3L-86-95 §29, 1/18/95

§6-129. Lease guarantees. — As set forth in §6-115, the Corporation may guarantee leases obtained by qualified small enterprises, local, and/or regional associations' small enterprises and industries, private voluntary organizations, and/or cooperatives, under such terms and conditions as are set forth by its Board. Under this guarantee program, a small enterprise may lease single or varieties of machinery, equipment, and facilities from any of the SBGFC accredited leasing/financing institutions, either under a financial or lease purchase arrangement.

Source: S.L. No. 3L-86-95 §30, 1/18/95

§6-130. Lease term. — The lease term shall be at a maximum of seventy percent (70%) of the estimated economic life of the asset but not to exceed ten years.

Source: S.L. No. 3L-86-95 §31, 1/18/95

§6-131. Lease payments. — The lease payments shall be monthly, quarterly, semi-annually or annually, which payments shall include the principal and interest payments.

Source: S.L. No. 3L-86-95 §32, 1/18/95

§6-132. Lease guarantee deposit. — A minimum guarantee deposit of twenty percent (20%) of the asset cost is required from the lessee as security of the faithful performance of his obligations, under the lease purchase/financial lease scheme.

Source: S.L. No. 3L-86-95 §33, 1/18/95

§6-133. Lease guarantee ceiling. — The guarantee ceiling on transactions shall be ninety percent (90%) of the outstanding financial lease/lease purchase principal obligation plus unpaid lease interest payments for one lease repayment period.

Source: S.L. No. 3L-86-95 §34, 1/18/95

§6-134. Guarantee fee. — The SBGFC Board shall establish a yearly guarantee fee not to exceed two percent (2%) per annum on the guaranteed portion of the outstanding lease on the principal amount.

Source: S.L. No. 3L-86-95 §35, 1/18/95

§6-135. Lease rate. — The finance/leasing company shall set the lease rate to be charged the lessee.

Source: S.L. No. 3L-86-95 §36, 1/18/95

§6-136. Insurance. — The lessee shall insure the leased asset at his own expense for the duration of the lease period, designating the leasing company as the beneficiary.

Source: S.L. No. 3L-86-95 §37, 1/18/95

Note: Phrase “or her” has been omitted consistent with 1 PC 1-112(3).

§6-137. Event of lease default. — Default occurs when the lessee fails to pay three consecutive monthly lease rental payments, or one quarterly/semi-annual/annual rental payment, as the case may be, including all applicable fees. In the event of default, the lease amount shall immediately become due and demandable.

Source: S.L. No. 3L-86-95 §38, 1/18/95

§6-138. Penalty fees. — In case of failure to pay one lease rental, the lessor may impose a penalty fee of no more than two percent (2%) of the unpaid rental or any other amount per month of delay or fraction thereof, computed from the day payment became due.

Source: S.L. No. 3L-86-95 §39, 1/18/95

§6-139. Documentary requirements: lease. — The leasing/financing company shall submit the following requirements in support of its application for guarantee cover:

- (1) Leasing/financing company’s approval of the lease application;
- (2) Leasing/financing company’s evaluation of the project;
- (3) Background investigation report on the borrowing;
- (4) The latest audited/unaudited financial statement of the lessee;
- (5) The latest income tax return of the lessee, in the absence of Subsection (4) of this section; and
- (6) Any further documentation required by the SBGFC Board.

Source: S.L. No. 3L-86-95 §40, 1/18/95

§6-140. Monitoring of loan applications. — The SEDC, in coordination with the SBGFC, shall set up the appropriate systems to monitor all loan applications of small enterprises in order to account for the absorptive capacity of the small enterprise sector.

Source: S.L. No. 3L-86-95 §41, 1/18/95

§6-141. Technical assistance. — The Governor shall provide the SEDC and the SBGFC with necessary technical and legal assistance through the departments, offices, and agencies of the Pohnpei Government. If the Attorney General is unable to provide sufficient legal counsel, the Council may seek independent counsel.

Source: S.L. No. 3L-86-95 §42, 1/18/95

§6-142. 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 as follows:

(1) *The SEDC.* All such sums so appropriated shall be deposited into the entrepreneur development fund and administered and expended by the Chairman of the SEDC 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 appropriated funds for the previous fiscal year. All sums appropriated from the general fund for any fiscal year remaining unexpended or unobligated on September 30 thereof shall revert to the general fund of Pohnpei;

(2) *The PEDC.* All such sums so appropriated from the general fund shall be administered and expended by the Administrator of the Office of Economic Affairs solely for the purposes specified in this chapter. The Administrator shall submit an annual report on or before October 15 each year on the administration and expenditure of appropriated funds and fees charged to beneficiaries if any. All sums appropriated for any fiscal year remaining unexpended or unobligated on September 30 thereof shall revert to the general fund, except fees charged to beneficiaries and placed into the entrepreneur development fund, as provided for in §6-114, which shall be carried over into subsequent fiscal years; and

(3) *The SBGFC.* All such sums so appropriated from the general fund shall be administered and expended by the Chairman of SBGFC 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 appropriated funds for the previous fiscal year. Funds not expended in any given fiscal year shall be carried over in subsequent fiscal years.

Source: S.L. No. 3L-86-95 §43, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00

Note: S.L. No. 3L-86-95 §44 severability and §45 repealing provisions have been omitted.

CHAPTER 7 PACIFIC ISLANDS DEVELOPMENT BANK

Section

7-101 Short title	7-107 Representatives on the Bank Board of Governors
7-102 Purposes	7-108 Voting restrictions on the Board of Governors
7-103 Definitions	7-109 Immunity
7-104 Acceptance of membership	7-110 Powers of Bank
7-105 Powers of the Governor	7-111 Audit
7-106 Authorization for appropriation; administration	7-112 Legal opinion

§7-101. Short title. — This chapter is known and may be cited as the “Pacific Islands Development Bank Act.”

Source: S.L. No. 2L-109-89 §1-1, 7/5/89

§7-102. Purposes. — The Legislature has extensively reviewed the concept of the Pacific Islands Development Bank as proposed by the Association of Pacific Island Legislatures and considers this regional financial institution to represent yet another opportunity to assist the people of Pohnpei in the creation and in the maintenance of sustained expansion of private and public economic development initiatives. The Legislature further considers the Pacific Islands Development Bank operation as a non-duplicator of our present development banking activities.

Source: S.L. No. 2L-109-89 §1-2, 7/5/89

§7-103. Definitions. — For the purposes of this chapter, unless it is otherwise provided or the context requires a different construction, application or meaning:

(1) “Articles of Agreement” or “Articles” means the agreement attached to Standing Committee Report No. 142-89, L.D. 1, and referenced thereto, and any amendments to those Articles establishing the Pacific Islands Development Bank which has as its purpose the contribution to the acceleration of the process of economic and social development of the member states, individually and collectively, and the promotion of economic cooperation among them.

(2) “Bylaws” means the bylaws adopted under the authority of the Articles of Agreement establishing the Pacific Islands Development Bank and attached to Standing Committee Report No. 142-89, L.D. 1, and referenced thereto, and any amendments to those bylaws.

Source: S.L. No. 2L-109-89 §1-3, 7/5/89

§7-104. Acceptance of membership. — The Governor is hereby authorized to accept membership for Pohnpei in the Pacific Islands Development Bank, hereinafter referred to as the “Bank,” provided for by the Articles of Agreement and bylaws adopted thereunder establishing the Bank.

Source: S.L. No. 2L-109-89 §2-1, 7/5/89

§7-105. Powers of the Governor. — The Governor or his designee is hereby authorized to do the following:

- (1) Sign the Agreement on behalf of Pohnpei;
- (2) Deposit the instrument setting forth that Pohnpei has accepted or satisfied the Agreement in accordance with its laws and has taken the steps necessary to enable it to fulfill all of its obligations under the Agreement;
- (3) Sign such documents as may be necessary or desirable to permit the full participation by Pohnpei in the membership of the Bank;

- (4) Approve amendments to the Agreement and bylaws without further legislation;
- (5) Perform whatever duties are necessary to set up the Bank, gain Pohnpei's membership in the Bank, and allow Pohnpei to fully and effectively participate in the Bank; and
- (6) Implement this chapter and make regulations as to any matter relating to the implementation provisions of the Agreement and to the fulfillment of the obligations of Pohnpei thereunder.

Source: S.L. No. 2L-109-89 §2-2, 7/5/89

§7-106. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Treasury into which are deposited Compact economic development funds a sum of \$1,000,000, or so much thereof as may be appropriated from time to time in the Comprehensive Budget Act for the purpose of purchasing 1,000 shares of capital stock in the Pacific Islands Development Bank. Funds appropriated in any given fiscal year but not actually deposited into the Bank shall be carried over into subsequent fiscal years until deposit occurs.

(2) All sums appropriated under the authorization of this chapter shall be administered and expended by the Governor of Pohnpei solely for the purposes of this chapter, and who shall:

- (a) Make payment of an initial subscription to the capital stock of the Bank as appropriated by law; and
- (b) Make any additional payments which may become payable under the Agreement, and which are appropriated by law, to purchase the shares under Subsection (1) of this section.

Source: S.L. No. 2L-109-89 §3-1, 7/5/89; S.L. No. 4L-71-98 §1, 3/26/98

Note: S.L. No. 4L-71-98 §2 appropriation provision has been omitted.

§7-107. Representatives on the Bank Board of Governors. — Pohnpei State shall be represented on the Board of Governors by the executive branch through the Governor or his appointee and the legislative branch through the Director of the Department of Treasury and Administration or his appointee.

Source: S.L. No. 2L-109-89 §4-1, 7/5/89

§7-108. Voting restrictions on the Board of Governors. —

(1) In the case of private loans for business ventures in the state of Pohnpei, both representatives on the Board of Governors shall vote as directed by the Pohnpei Development Loan Fund Approval Committee.

(2) In the case of government loans to the state of Pohnpei, both representatives on the Board of Governors shall vote as directed by legislative act of the Pohnpei Legislature.

Source: S.L. No. 2L-109-89 §4-2, 7/5/89

§7-109. Immunity. — The state of Pohnpei hereby indemnifies and agrees to hold harmless and defend any officer or employee of the state who is or may be subjected to any personal liability or accountability in any court whether within or outside the Federated States of Micronesia by reason of any acts related to the creation or operation of the Bank. This indemnification does not apply to any criminal acts which may be committed by an officer or employee of the state.

Source: S.L. No. 2L-109-89 §5-1, 7/5/89

§7-110. Powers of Bank. — The Bank is empowered to provide economic assistance in the manner prescribed in the Articles of Agreement.

Source: S.L. No. 2L-109-89 §6-1, 7/5/89

§7-111. Audit. — The Bank will submit a copy of its annual audit report to the executive and legislative branches of the Government of Pohnpei. In other respects, it will not be subject to audit by any entity of the Government of Pohnpei.

Source: S.L. No. 2L-109-89 §7-1, 7/5/89

§7-112. Legal opinion. — The Governor shall designate the legal counsel who shall be responsible for rendering such legal opinions as may be required by the Bank or the government to permit the Government of Pohnpei to participate fully in the Bank.

Source: S.L. No. 2L-109-89 §7-2, 7/5/89

CHAPTER 8 [RESERVED]

CHAPTER 9 [RESERVED]

CHAPTER 10 AIRLINE INVESTMENTS

Section

10-101 Findings and purpose	10-103 Shareholder activities
10-102 Authorizing an investment in commercial airline transportation; holding of equity in trust for the Government of Pohnpei	10-104 Directorships
	10-105 Investment earnings
	10-106 Transfers of equity

§10-101 Findings and purpose. — The Pohnpei Legislature finds that regular, reliable and affordable air transportation is vital to the economic development of this state and to the health and welfare of the people of Pohnpei. Palau Rock Island Air Inc., *dba* Palau/Micronesia Air, was recently formed as a regional airline to conduct scheduled airline flights within and between the Republic of Palau, the Commonwealth of the Northern Marianas Islands, and the Federated States of Micronesia, including Pohnpei. This airline is also expected to provide vital air transport linkages to the Philippines where many critically ill Pohnpeian patients are referred and to Asian cities that hold the potential for significant tourism development for this state. The Legislature is aware that the members of the private sector within the region and other island jurisdictions have already or are anticipating investing in this regional airline. The purpose of this chapter is to provide the mechanisms for the State of Pohnpei to become an equity partner in this joint effort to advance the development of commercial airline services to, from and within this region of the Pacific.

Source: S.L. No. 6L-06-04 §1, 6/8/04

§10-102. Authorizing an investment in commercial airline transportation; holding of equity in trust for the Government of Pohnpei. —

(1) The Director of the Pohnpei Department of Treasury and Administration, in the name of the Government of Pohnpei, is hereby authorized to subscribe to, purchase and hold in trust for the Government of Pohnpei, capital stock of Palau Rock Island Air Inc., *dba* Palau/Micronesia Air, a corporation organized and existing under the laws of the Republic of Palau, or its successors in interest, hereinafter referred to as “corporation.” Any additional capital stock, in the form of common shares, or other forms or incidences of ownership, obtained by the Government of Pohnpei due to its initial investment in the corporation and/or ownership in the corporation under the authority of this chapter, whether through shareholder incentives, re-investment programs, splitting of the capital stock, or otherwise, shall be held in trust for the Government of Pohnpei in like manner as the initial investment.

(2) There is hereby authorized for appropriation from the Investment Development Fund of Pohnpei a sum of \$500,000, or so much thereof as may be appropriated in the Comprehensive Budget Act for the purpose of purchasing common shares of capital stock in the Palau Rock Island Air Inc., *dba* Palau/Micronesia Air.

(3) All sums appropriated under the authorization of this chapter shall be administered and expended by the Director of the Department of Treasury and Administration solely for the purpose of this chapter, and who shall:

(a) Make payment of an initial subscription to the capital stock of the Palau Rock Island Air Inc., *dba* Palau/Micronesia Air, as appropriated by law; and

(b) Make any additional payments which may become payable under the stock subscription agreement, and which are appropriated by law, to purchase the shares under Subsection (2) of this section.

Source: S.L. No. 6L-06-04 §2, 6/8/04

§10-103. Shareholder activities. — Shareholder voting rights and other rights and privileges of equity ownership in the corporation held by the Pohnpei Government pursuant to this chapter shall be exercised in the following manner:

(1) Fifty percent of the shares so held shall be voted and otherwise acted upon by the person designated in writing by the Governor as entitled to vote and act upon said shares. Such person shall continue to hold such rights and privileges at the pleasure of the Governor for a term consistent with the term of the Governor, and until his successor is designated. Such person may not assign to any other person or entity any proxy rights with respect to voting said shares or exercising any other rights or privileges pertaining to such shares without the written consent of the Governor.

(2) Fifty percent of the shares so held shall be voted and otherwise acted upon by the person designated in writing by the Speaker of the Pohnpei Legislature as entitled to vote and act upon said shares. Such person shall continue to hold such rights and privileges at the pleasure of the Speaker for a term consistent with the term of the then seated Legislature, and until his successor is designated. Such person may not assign to any other person or entity any proxy rights with respect to voting said shares or exercising any other rights or privileges pertaining to such shares without the written consent of the Speaker.

(3) In the event that an even division of the shares is not mathematically possible, the designee of the Speaker shall vote and otherwise act upon the final share.

Source: S.L. No. 6L-06-04 §3, 6/8/04

§10-104. Directorships. — In the event that an officer or employee of the Pohnpei Government is elected as a member of the Board of Directors of the corporation by virtue of the equity investment of the Pohnpei Government in the corporation, either alone or as a courtesy among similar public equity owners, such service on the Board of Directors of the corporation shall be deemed public service. Said officer or employee shall be accorded administrative leave with full pay while performing duties for the corporation. Any monetary compensation paid to or on behalf of said Director for membership on the Board of Directors of the corporation or for services rendered as a member of the Board of Directors of the corporation shall be paid into the Treasury of the Pohnpei Government as the realization of general revenues; PROVIDED that this requirement shall not apply to per diem, travel or airline privileges accorded generally to members of the Board of Directors of the corporation.

Source: S.L. No. 6L-06-04 §4, 6/8/04

§10-105. Investment earnings. — Any earnings received by the Pohnpei Government as the payment of dividends, or otherwise, as a result of its investment in the corporation shall be deposited in a special fund in the Treasury of the Pohnpei Government for authorization and appropriation by law for the further development of air transportation within and for the state.

Source: S.L. No. 6L-06-04 §5, 6/8/04

§10-106. Transfers of equity. — No sale, divestment or other transfer of any share in the corporation or other equity of the corporation held by the Pohnpei Government pursuant to this chapter may occur unless authorized by state law enacted specifically therefore or as a result of a corporate merger or other corporate action taken by or applied to the corporation in the normal course of business. Any monies received from such transfer shall be deposited in the Treasury of the Pohnpei Government as the realization of general revenues. Any equity in another corporation or other valuable consideration so received as a result of such transfer shall be held by the Department of Treasury and Administration in the name of the Pohnpei Government to be managed or disposed of in accordance with this chapter and other state law.

Source: S.L. No. 6L-06-04 §6, 6/8/04

Note: S.L. No. 6L-06-04 §7 appropriation provision has been omitted.

ECONOMIC DEVELOPMENT

CHAPTER 11 OFFICE OF ECONOMIC AFFAIRS

Section

11-101 Objective of the Office of Economic Affairs

11-102 Specific function of the office

§11-101. Objective of the Office of Economic Affairs. — The Office of Economic Affairs, created by 3 PC 1-105(2), shall have the objectives of implementing policy determinations with respect to economic development in the state and stimulating those agricultural, industrial and economic development efforts which offer the most immediate promise of expanding the economy of the state. The office shall endeavor to gain an understanding of those functions and activities of other governmental and of private agencies, which relate to the field of economic development. It shall, at all times, encourage initiative and creative thinking in harmony with its objectives.

Source: S.L. No. 6L-86-06 §7, 12/20/06

§11-102. Specific function of the office. Without prejudice to its general functions and duties, the Office of Economic Affairs shall have the following specific function:

Promotion. The office shall disseminate information developed for or by the office pertaining to economic development to assist present business and commerce in the state, attract new investments to the state, and assist new and emerging business with good growth potential or prospects in jobs, exports, and new products. The economic promotional activities of the office may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, films, and such other promotional and publicity devices as may be appropriate.

Source: S.L. No. 6L-86-06 §8, 12/20/06

ECONOMIC DEVELOPMENT

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