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RPPL No. 5-45

FIFTH OLBIIL ERA KELULAU

Fourteenth Regular Session, April 2000 RPPL No. 5-45

(House Bill No. 5-252-14, HD1, SD3)

AN ACT

To enact a new Chapter 14 of Title 11 of the Palau National Code to provide for virtual pachinko and internet digits lottery game businesses; to amend 17 PNC 1601 to permit a virtual pachinko and an internet digits lottery game; to enact 40 PNC 2002 to provide for a tax exemption for the virtual pachinko and internet digits lottery game businesses ; to provide for the earmarking of certain funds derived therefrom; and for other purposes.

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

Section 1. Amendments.

(a) Title 11 of the Palau National Code is amended by adding the following new chapter:

“Chapter 14

Gaming Businesses

§1401. Definitions.

(a) “Internet Digits Lottery Game Business” means a business which maintains and operates a lottery game in which players pay money via a credit card, enter a wager amount, and choose numbers in sequence through the internet or other interactive computer service.

(b) “Virtual Pachinko Business” means a business which maintains and operates on a computer software program that simulates a pachinko game and that may be accessed by multiple users through the internet or other interactive computer service.

§1402. Authority of President to grant exclusive concession. The President is expressly authorized and has sole discretion on behalf of the Republic to grant an experimental exclusive Virtual Pachinko Concession (“Pachinko Concession”) to and execute a Pachinko Concession agreement with any person or entity (“Operator”) to organize and operate a Virtual Pachinko Business, and an exclusive Internet Digits Lottery Game Concession (“Internet Digits Concession”) to Paragon Investment International Incorporated (“Paragon”) for the operation of an internet digits lottery game within the Republic, provided that:

(a) The President shall have the authority to grant an exclusive Pachinko Concession to one Operator if he deems it in the best interest of the Republic;

(b) The term of each Concession agreement shall not exceed 7 years, provided the term may be extended for up to an additional 7 years upon agreement by the President and Operator or Paragon;

(c) Each Concession agreement shall provide for a minimum Concession fee of 4% of the total gross receipts realized from the operation of each Virtual Pachinko Business or Internet Digits Lottery Game Business in Palau, plus a minimum of \$2.5 million per year payable semi-annually or pursuant to a schedule of payment to be mutually agreed upon, provided that the first payment of this fee shall be made six months from the date the business operation commences. For the purposes of this section, total gross receipts" means the total amount of money received by the Operator from the Pachinko Concession or Paragon from the Internet Digits Concession less any payouts to pachinko or internet digits lottery winners, estimated to be seventy percent of the total gross revenues received. The Operator from the Pachinko Concession and Paragon agree to provide the Republic statements on a monthly basis certified under penalty of perjury attesting to the gross revenues and payout amounts for each concession;

(d) The Operator or Paragon shall maintain the financial capability to pay its obligations;

(e) There shall be established by each Concession Agreement a limit on the amount of money (expressed in U.S. Dollars) each player may spend during each session of play;

(f) The Operator or Paragon shall comply with all licensing and permitting requirements;

(g) The Operator or Paragon shall offer no games other than Pachinko or Internet Digits Lottery Game respectively;

(h) The Operator and Paragon must agree to implement appropriate controls to make it impossible for a computer located in Palau to access the internet site or sites of the Virtual Pachinko Business and the Internet Digits Lottery Game Business. Palau National Communication Corporation is required to block the internet site or sites of the Virtual Pachinko Business and the Internet Digits Lottery Game Business from access from any computer located in Palau.

§1403. Mandatory terms of Concession Agreements. The President in negotiating the terms of a Concession Agreement pursuant to this chapter shall obtain substantially the following terms:

(a) Payments due to the Republic under the Agreement shall be made six months after the commencement of operations pursuant to the Agreement and every six months thereafter. The President shall negotiate reasonable terms regarding default. When a payment to the Republic is made, the operator of the Concession shall provide a full written accounting of revenues and expenses relating to the Concession for the period for which payment is made. (b) The courts of the Republic of Palau shall have exclusive jurisdiction of all claims arising under the Concession Agreement and all claims made by players of internet pachinko or the internet digits lottery game.

(c) The Republic of Palau shall be immune from liability for any claim made by a player of any gambling game authorized pursuant to a Concession Agreement under this chapter or by any government within the jurisdiction of which the gambling games authorized pursuant to this chapter are prohibited. The operator of a Concession shall provide a legal defense of the Republic and hold the Republic harmless regarding all claims made by players against the operator of a Concession under this chapter or by any government. The Republic shall have the right to retain legal counsel of its own choosing to defend any claims.

(d) The operator of a Concession granted under this chapter shall provide annual reports to the President regarding all details of operations, revenues, payouts, and pending and potential legal claims against the operator. The operator shall further provide complete annual financial statements on the game authorized under a Concession Agreement, and such financial statements shall be audited by an independent auditor who is a certified public accountant licensed in the United States or the Republic. Reports under this subsection shall be delivered to the President not later than the beginning of the Republic's fiscal year.

(e) The President shall report to the Olbiil Era Kelulau in writing at least every two years regarding all details of operations, revenues, payouts, and pending and potential legal claims against the operator. The President's report shall further include an evaluation of the benefits to the Republic of the games authorized pursuant to a Concession Agreement and an assessment of whether the restrictions against participation by Palauan citizens are effective. (f) After granting a Concession under this chapter, the President shall submit complete copies of the Concession Agreement to the presiding officers of the Olbiil Era Kelulau, and such copies are deemed to be public documents. (g)