



ELEVENTH OLBIIL ERA KELULAU

FIFTH SPECIAL SESSION

DECEMBER ~~2021~~

HOUSE BILL NO. 11-14-1S, HD1

AN ACT

SEE TITLE INSIDE

OFFERED BY DELEGATE(S) Speaker Sabino Anastacio and

All Delegates except Floor Leader Kanai ET AL,

DATE INTRODUCED March 09, 2021

HOUSE ACTION

FIRST READING:	03/09/21
REFERRED TO:	C&T and CP&D
STANDING COMMITTEE REPORT NO:	11-27
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SECOND READING:	08/25/21
LEGAL FORMAT:	Proper
REVIEW:	08/30/21
THIRD READING:	08/30/21
FINAL ACTION:	

SENATE ACTION

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CONFERENCE COMMITTEE ACTION

DATE:	None
COMMITTEE REPORT:	None
DATE PASSED:	None


 Marcello Ngirkelau

HOUSE CLERK


 Ann L. Pedro

SENATE CLERK

1 (e) "Director" means the Director of the Bureau of Customs and Border
2 Protection.

3 (f) "Ministry" means the Ministry of Finance.

4 (g) "Minister" means the Minister of Finance.

5 (h) "License" means a document issued by the Bureau to operate a place as a
6 bonded warehouse.

7 (i) "Licensee" means a person, or corporation, who is the operator of a bonded
8 warehouse.

9 § 1202. Establishment of Bonded Warehouses

10 Buildings or parts of buildings and other enclosures may be designated by the
11 Director as a bonded warehouse, upon submission of an application and granting of a
12 license. Any such area will be considered an extension of the points of entry for
13 purposes of customs jurisdiction.

14 § 1203. Classes of Bonded Warehouses

15 The following classes of bonded warehouses are hereby created:

16 (a) Class A. A "class A" bonded warehouse is a private bonded warehouse used
17 by an importer for the storage of merchandise exclusively belonging or consigned to
18 the proprietor thereof.

19 (b) Class B. A "class B" bonded warehouse is a public bonded warehouse used
20 exclusively for the inspection and storage of merchandise from different importers, or
21 for inspection and storage by the Bureau of incompletely cleared merchandise, or
22 suspicious merchandise.

23 (c) Class C. A "class C" bonded warehouse is an in-bond manufacturing
24 warehouse used solely for production of articles made in whole or in part of imported
25 materials. Class C warehouses may not be used to manufacture or assemble garments.
26 The Director shall issue Palau country of origin certificates when necessary and
27 proper.

1 (d) Class D. A “class D” bonded warehouse is a bonded warehouse established
2 for the cleaning, sorting, re-packing, or otherwise changing the condition
3 of, but not the manufacturing of, imported merchandise, under Bureau supervision,
4 and at the expense of the proprietor. Such class D designation may be in conjunction
5 with any of the above designations.

6 § 1204. Bonding Requirement.

7 Before any imported merchandise is released from the Bureau’s custody and
8 stored in any bonded warehouse, the owner or licensee thereof shall give a bond in such
9 sum and with such sureties as may be approved by the Director to secure the
10 government against any loss of excise tax or expense connected with or arising from
11 the deposit, storage, or manipulation of merchandise in such warehouse. Such bond
12 shall conform to all legal requirements.

13 § 1205. Staffing Requirement.

14 Except as otherwise provided by law, bonded warehouses shall be used solely
15 for the storage of imported merchandise and shall be placed in the charge of an officer
16 of the Bureau, who, together with the proprietor thereof, shall have joint custody of all
17 merchandise stored in the warehouse. The officer assigned to a bonded warehouse shall
18 have total access to, without limitation, such licensee’s books, records and receipts
19 relating to the entry and withdrawal of merchandise from such customs bonded
20 warehouse. The compensation of such officer and other Bureau employees appointed
21 to supervise the receipt of merchandise into any such warehouse and deliveries
22 therefrom shall be reimbursed to the government by the proprietor of such warehouse.
23 Each bonded warehouse shall be assigned an officer by the Director. A bonded
24 warehouse shall provide all labor and management on the merchandise so stored by
25 hiring private staff. Such licensee shall also maintain all records necessary for the
26 officer assigned to that customs bonded warehouse to assess inventory levels and
27 whether merchandise is withdrawn and excise taxes payable thereon. The officer

1 assigned to that bonded warehouse may enter the premises at any time to inspect
2 operations and records.

3 **§ 1206. Accounting and Application Forms.**

4 The Director shall from time to time prescribe such forms as may be necessary
5 for application, and to account for the deposit and withdrawal of merchandise in
6 bonded warehouses.

7 **§ 1207. Licensing.**

8 The Director may issue a license to an applicant who completes an application
9 form, pays any fee required by law, and provides such security or bond as may be
10 required by the Bureau or Ministry pursuant to this chapter.

11 **§ 1208. Prohibition on Carting Company Ownership.**

12 No license shall be issued to any applicant involved directly, indirectly, or
13 through third parties in cartage, common carrier, inland trucking, unloading, or
14 transportation of the merchandise from importation point.

15 **§ 1209. Application Requirements.**

16 Any applicant who wishes to apply for a license to operate a bonded warehouse
17 shall submit a completed application on a form to be prescribed by the Director,
18 together with a detailed plan of the proposed bonded warehouse, to the Director.

19 (a) Such plan shall detail the following information:

20 (1) Whether the place proposed to be operated as a bonded warehouse
21 exists or is to be constructed;

22 (2) The type of construction of the facility regardless of whether or not
23 it already exists;

24 (3) A location and description of the area, within the facility, that is to
25 be used for the storage of goods;

26 (4) The amount and policy holder of fire and general liability insurance
27 covering the value of the merchandise to be stored;

1 (5) Whether or not the applicant intends to store any hazardous
2 materials, and what type;

3 (6) Affidavit that applicant complies with Section 1208 of this Title.

4 (b) The Director shall issue a license only upon finding:

5 (1) The applicant is of good character and has not been convicted,
6 found guilty or plead guilty to any felony or crime of dishonesty, unless
7 subsequently pardoned;

8 (2) The site of the proposed bonded warehouse is within an area served
9 by a customs office;

10 (3) The applicant has sufficient financial resources to lease or purchase
11 the facility;

12 (4) The applicant will provide conditions suitable for the safekeeping
13 of goods, including any hazardous materials;

14 (5) The Bureau is able to provide services with respect to the proposed
15 bonded warehouse; and

16 (c) All bonded warehouse facilities operating for the storage, treatment or
17 handling of hazardous waste shall also attach a copy of their permit to operate such a
18 facility issued by the Environmental Quality Protection Board.

19 (d) Any facility, warehouse, building, ports, airports and post office within the
20 Republic, that retain any imported cargo and operates with functions of a Customs
21 Bonded Warehouse, as defined in this chapter, shall be licensed and regulated by the
22 Bureau as a Customs controlled area.

23 § 1210. Bond Requirement.

24 The Director may require such bonds or other security as he, or the Minister,
25 may deem necessary for the protection of the revenue or to assure compliance with any
26 provision of law, regulation, or instruction which the Ministry or the Bureau may be
27 authorized to enforce.

28 § 1211. Conditions and Form of Bond.

1 Whenever a bond is required pursuant to this Chapter, the Minister may
2 require:

3 (a) Cash or cash equivalent in lieu of bond. The Minister is authorized to
4 permit the deposit of money, in such amount and upon such conditions as he may
5 prescribe, in lieu of sureties on any bond which the Director is authorized to enforce;

6 (b) Letter of credit issued yearly, or otherwise, by an acceptable banking
7 institution;

8 (c) Personal guarantees in a form acceptable to the Minister;

9 (d) A bond issued by a company that is licensed or otherwise authorized
10 under the laws of Palau to carry on the fidelity or surety class of insurance business
11 and that the Minister recommends in writing as acceptable as an institution whose
12 bonds may be accepted;

13 (e) Except as otherwise specifically provided by law, prescribe the
14 conditions and form of such bond and the manner in which the bond may be filed, and
15 fix the amount of penalty thereof, whether for the payment of liquidated damages or
16 of a penal sum;

17 (f) The approval of the sureties on such bond, without regard to any general
18 provision of law;

19 (g) Authorization, to the extent that s/he may deem necessary, for the taking
20 of a consolidated bond (single entry or term), in lieu of separate bonds to assure
21 compliance.

22 § 1212. Cancellation of Bond.

23 The Minister may authorize the cancellation of any bond provided for in this
24 subpart, or any charge that may have been made against such bond, in the event of a
25 breach of any condition of the bond, upon the payment of such lesser amount of penalty
26 or upon such other terms and conditions as he may deem sufficient. In order to assure
27 uniform, reasonable, and equitable decisions, the Minister shall promulgate

1 regulations establishing standards for setting the terms and conditions for cancellation
2 of bonds or charges thereunder.

3 § 1213. License Requirement.

4 All bonded warehouses shall be licensed by the Bureau prior to engaging in such
5 business.

6 § 1214. License Fee.

7 Every licensee shall pay to the Bureau an annual fee for the license, for the
8 period beginning on the day on which the license is issued and ending on September
9 30th. Annual fees will be prorated on the portions of the year remaining after the
10 license is issued. The annual fee shall be one percent (1%) of the security deposit under
11 this chapter, up to a maximum of \$5,000. The fee for each subsequent year will be paid
12 by October 1st and no license will be issued without the fee being paid.

13 § 1215. Amendment of License.

14 The Director may amend a license only where the name of the licensee has
15 changed legally, or where there has been a change of ownership and the new owner
16 meets the terms and conditions of this chapter.

17 § 1216. Causes for Cancellation of License.

18 The Director may suspend or cancel a license where the licensee:

- 19 (a) No longer owns or leases the place that is licensed as a bonded warehouse;
20 (b) Requests the Director in writing to cancel the license;
21 (c) Declares bankruptcy;
22 (d) Is the subject of a receivership in respect of the licensee's debts;
23 (e) Fails to comply with any laws enacted to prohibit, control, or regulate
24 the importation or exportation of goods;
25 (f) Has, in the course of operating the bonded warehouse, acted dishonestly
26 in business dealings with brokers, importers, carriers, and other appointed
27 officials;
28 (g) Has been incompetent in the operation of the bonded warehouse;

1 **(h) The volume of goods being received in the bonded warehouse is no longer**
2 **sufficient to warrant the continued operation of the bonded warehouse;**

3 **(i) There is no longer a need for a bonded warehouse in the area in which the**
4 **bonded warehouse is located;**

5 **(j) The Bureau is no longer able to provide services with respect to the bonded**
6 **warehouse;**

7 **(k) The licensee manipulates, unpacks, packs, alters, or combines the goods with**
8 **other goods while in the bonded warehouse other than in accordance with the terms**
9 **and conditions set out in the license.**

10 **§ 1217. Procedures for Cancellation of License.**

11 **Following the suspension or cancellation of a license:**

12 **(a) An officer may lock and seal the bonded warehouse and keep it locked and**
13 **sealed during the period of suspension.**

14 **(b) The Director shall immediately after suspending a license, give to the**
15 **licensee a notice confirming the suspension and providing all relevant information**
16 **concerning the grounds on which the Director has suspended the license.**

17 **(c) The Director shall, before canceling a license under this section, give the**
18 **licensee ninety (90) days notice of the proposed cancellation and provide the licensee**
19 **with all relevant information concerning the grounds on which the Director proposes**
20 **to cancel the license.**

21 **(d) The licensee may, within ninety (90) days after the day on which the notice**
22 **referred to in subsection (c) is given, make representation to the Director regarding**
23 **why the license should not be cancelled.**

24 **(e) Upon a final determination by the Director to cancel a license, all excise tax**
25 **on taxable merchandise stored in a bonded warehouse shall become immediately**
26 **payable.**

27 **§ 1218. Reinstatement of Suspended Licenses.**

1 **The Director may reinstate a suspended license where the cause for the**
2 **suspension no longer exists. Within ninety (90) days, the Director must either cancel or**
3 **reinstate the license.**

4 **§ 1219. Warehouse Security.**

5 **Every licensee shall provide at the bonded warehouse such facilities, equipment**
6 **and personnel as are sufficient to control access to the bonded warehouse premises and**
7 **provide secure storage of the goods in it including:**

- 8 **(a) Doors and other building components of sturdy construction;**
9 **(b) Secure locks on doors and windows;**
10 **(c) Signs that indicate the security requirements applicable to the premises; and**
11 **(d) Where the bonded warehouse will be used for the storage of hazardous or**
12 **legally restricted goods, such additional facilities and equipment as may be required**
13 **by the Director to ensure the secure storage of those goods.**

14 **§ 1220. Warehouse Facilities.**

15 **Every licensee shall provide at the bonded warehouse such facilities to provide:**

- 16 **(a) Adequate space for the examination of goods by officers; and**
17 **(b) Where a bonded warehouse forms only part of a building, the licensee shall,**
18 **if required by the Director, keep the bonded warehouse separate from the remainder**
19 **of the building by a partition or other structure.**

20 **§ 1221. Warehouse Equipment and Personnel.**

21 **Every licensee shall provide at the bonded warehouse:**

- 22 **(a) The personnel and equipment necessary to ensure that the goods to be**
23 **examined by an officer are made available to the officer for examination; and**
24 **(b) The personnel necessary to furnish information, for audit purposes, to an**
25 **officer with respect to the bonded warehouse operations and inventory system.**

26 **§ 1222. Operation and Maintenance Standards.**

- 27 **(a) Every licensee shall ensure that the goods received in the bonded warehouse**
28 **are:**

1 (1) Stored safely and securely in the area designated for that purpose in
2 the plan referred to in Section 1209 of this Title; and

3 (2) Identified in such a manner so as to enable an officer to locate the
4 goods and check them against the appropriate documentation.

5 (b) No person, other than the licensee, an employee of the licensee, or an
6 employee of a carrier engaged in the delivery of goods to, or the removal of goods from,
7 the bonded warehouse shall enter any place in it where goods are stored, without the
8 written authorization or the attendance of an officer.

9 (c) Every licensee of a bonded warehouse shall have in place:

10 (1) Procedures to maintain the security of, and restriction of access to,
11 the bonded warehouse; and

12 (2) Procedures to ensure that personnel working in the bonded
13 warehouse are aware of and follow the procedures referred to in this section.

14 § 1223. Receipt of Goods.

15 All containers shall remain under seal until they arrive at the bonded
16 warehouse. An officer shall be present to break the container seal. Every licensee shall
17 acknowledge receipt of imported goods into the bonded warehouse in respect of which
18 their license was issued by:

19 (a) Endorsing the transportation document(s) presented to the licensee by the
20 carrier (including invoices and bills of lading);

21 (b) Recording on a form to be prescribed by the Director the quantity,
22 description, value, and estimated tax of the imported goods.

23 § 1224. Incomplete Entry.

24 (a) The Bureau shall notify the bonded warehouse of unentered merchandise
25 whenever the entry of any imported merchandise is not made within the time provided
26 by law because:

27 (1) In the opinion of the Bureau, the entry of imported merchandise
28 cannot be made for want of proper documents or other cause;

1 (2) The government has probable cause to believe that contraband has
2 entered Palau; or

3 (3) The Bureau believes that any merchandise is not correctly and
4 legally invoiced.

5 (b) If the merchandise is not intended to be stored at any particular bonded
6 warehouse, such unentered, suspicious, or contraband merchandise may be stored and
7 inspected at a class B bonded warehouse.

8 (c) After notification under subsection (a) herein, the bonded warehouse shall
9 arrange for the transportation and storage of the merchandise at the risk and expense
10 of the consignee. The merchandise shall remain in the bonded warehouse until entry is
11 made or completed and the proper documents are produced, or disposed of in
12 accordance with this chapter. Such merchandise shall accrue interest on excise taxes
13 owed and storage fees.

14 § 1225. Withdrawal of Merchandise; Time; Payment of Charges.

15 (a) Any merchandise subject to excise tax (including international travel
16 merchandise), with the exception of perishable articles and explosive substances, may
17 be entered for warehousing and be deposited in a bonded warehouse at the expense
18 and risk of the owner, purchaser, importer, or consignee. Such merchandise may be
19 withdrawn, at any time within five (5) years from the date of importation, for
20 consumption upon payment of the excise tax and storage fees.

21 (b) Any merchandise so deposited may be withdrawn from a bonded warehouse
22 for exportation or for transportation and exportation to a foreign country without the
23 payment of excise tax thereon, or for transportation and re-warehousing at another
24 port or elsewhere, or for transfer to another bonded warehouse at the same port; except
25 that the total period of time for which such merchandise may remain in bonded
26 warehouse shall not exceed 5 years from the date of importation.

27 (c) Except as provided in subsection (b) herein, payment of excise tax and
28 storage fees are paid to the Bureau at the time the merchandise is withdrawn from the

1 bonded warehouse. Duties shall be paid directly to the officer assigned to that bonded
2 warehouse. The bonded warehouse shall contact the designated officer prior to
3 withdrawal.

4 § 1226. Destruction of Merchandise at Request of Consignee.

5 Merchandise entered under bond, under any provision of law and upon
6 payment of all charges other than excise tax on the merchandise, may be destroyed at
7 the request and at the expense of the consignee, within the bonded period under
8 supervision in lieu of exportation. Upon such destruction, all excise tax previously paid
9 on the destroyed merchandise shall be refunded.

10 § 1227. Transfer and Removal of Goods.

11 (a) Where there is a transfer of ownership of goods stored in a bonded
12 warehouse, the importer or owner of the goods shall submit a transfer document in the
13 prescribed form to an officer at the office where the goods were entered.

14 (b) Where the importer or owner of goods stored in a bonded warehouse wants
15 the goods removed from the bonded warehouse in smaller units, the importer or owner
16 shall submit to the Bureau:

17 (1) Where the goods are to be released, an amended accounting in a form
18 to be prescribed by the Director; or

19 (2) Where the goods are not to be released, an amended description in
20 the prescribed form.

21 § 1228. Abandoned Merchandise.

22 (a) Merchandise upon which any excise tax or storage fees are unpaid,
23 remaining in bonded warehouse beyond five (5) years from the date of importation,
24 shall be regarded as abandoned. Title in abandoned merchandise shall automatically
25 vest in the government. The Bureau may sell such merchandise pursuant to law. The
26 proceeds of sale shall be paid into the Road Maintenance Fund.

1 **(b) Merchandise upon which all excise tax and charges have been paid**
2 **remaining in bonded warehouse beyond five (5) years from the date of importation,**
3 **shall be considered unclaimed and treated according to Section 1229 of this Title.**

4 **§ 1229. Unclaimed Merchandise.**

5 **(a) Any unentered merchandise which shall remain in a bonded warehouse**
6 **for six (6) months, but less than five (5) years, from the date of importation thereof,**
7 **without all estimated taxes, fees and interest thereon having been paid, shall be**
8 **considered unclaimed and subject to divestiture of title to the government, and subject**
9 **to sale by the Director free and clear of any liens or encumbrances.**

10 **(b) Once merchandise is deemed unclaimed, the Bureau shall provide thirty (30)**
11 **days' notice to all known interested parties that the title to such merchandise is subject**
12 **to divestiture on the 30th day after the date of the notice. If no interested party is**
13 **known, such notice shall, at a minimum, include publication in one local newspaper of**
14 **general circulation once per week for three consecutive weeks, the notice period**
15 **running thirty (30) days from the first date of publication. Notice shall contain the date,**
16 **time, and location of any sale.**

17 **(c) Unclaimed merchandise may be reclaimed during the notice period provided**
18 **that:**

19 **(1) Prior to the 30th day of the notice period, the consignee or owner**
20 **pays the Bureau a reclamation penalty equal to five (5) percent of the fair**
21 **market value for such merchandise as determined by the invoice value; and**

22 **(2) Immediate payment of any excise taxes, storage fees, and interest**
23 **thereon. No unclaimed merchandise may be entered, exported, or withdrawn**
24 **by the owner or consignee until such payment is made.**

25 **(d) For purposes of this section, the computation of excise taxes, storage fees, and**
26 **interest thereon shall be subject to rates applicable at the time the merchandise is**
27 **reclaimed or sold.**

28 **§ 1230. Original Packaging Requirement.**

1 **Except by special authority of the Director, no merchandise shall be withdrawn**
2 **from a bonded warehouse in less quantity than an entire bale, cask, box, or other**
3 **package. All merchandise so withdrawn shall be withdrawn in the original packages in**
4 **which imported.**

5 **§ 1231. Manipulation Allowed for Class D Bonded Warehouses.**

6 **Every licensee shall ensure that goods are not manipulated, altered, or**
7 **combined with other goods while in a bonded warehouse, except for class D bonded**
8 **warehouses for the purpose of, or in the course of:**

9 **(a) Disassembling or reassembling goods that have been assembled or**
10 **disassembled for packing, handling, or transportation;**

11 **(b) Displaying;**

12 **(c) Inspecting;**

13 **(d) Marking, labeling, tagging, or ticketing;**

14 **(e) Packing, unpacking, packaging, or re-packing;**

15 **(f) Removing from the warehouse, for the sole purpose of soliciting order for**
16 **goods or services, a small representative quantity, a portion, a piece, or an individual**
17 **object;**

18 **(g) Storing;**

19 **(h) Testing; or**

20 **(i) Any of the following that do not materially alter the characteristics of the**
21 **goods:**

22 **(1) Cleaning;**

23 **(2) Diluting;**

24 **(3) Normal maintenance and servicing;**

25 **(4) Preserving;**

26 **(5) Separating defective goods from prime quality goods,**

27 **(6) Sorting or grading; or**

28 **(7) Trimming, filing, slitting, or cutting.**

1 **§ 1232. Allowance for Loss, Abandonment.**

2 **In no case shall there be any abatement or allowance made in the excise tax for**
3 **any injury, deterioration, loss, or damage sustained by any merchandise while**
4 **remaining in Bureau custody, except as may be authorized by the Minister upon**
5 **production of proof satisfactory to him or her of the loss or theft of any merchandise**
6 **while in the Bureau's custody. he decision of the Minister as to the abatement or refund**
7 **of duties on any such merchandise shall be final and conclusive upon all persons.**

8 **§ 1233. Liens.**

9 **Whenever an officer shall be notified in writing of the existence of a lien for**
10 **freight, charges upon any imported merchandise sent to the bonded warehouse, or**
11 **taken possession by the Bureau, he shall refuse to permit delivery thereof from the**
12 **bonded warehouse until proof shall be produced that the said lien has been satisfied or**
13 **discharged. The rights of the government shall not be prejudiced nor affected by the**
14 **filing of such lien, nor shall the Bureau or its officers be liable for losses of damages**
15 **consequently upon such refusal to permit delivery. If merchandise, regarding which**
16 **such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight,**
17 **charges, or contribution in general average due thereon shall be paid from the proceeds**
18 **of such sale in the same manner as other lawful charges and expenses are paid**
19 **therefrom.**

20 **§ 1234. Licensed and Bonded Cartage.**

21 **(a) The cartage of merchandise entered for warehouse shall be done by:**

22 **(1) Cartmen appointed and licensed by the Bureau; and**

23 **(2) Carriers designated to carry bonded merchandise.**

24 **(b) Such cartmen and carriers shall give bond, in a sum to be fixed by the**
25 **Bureau, for the protection of the government against any loss of, or damage to, the**
26 **merchandise while being so carted and necessary for the protection of the government**
27 **revenue or to assure compliance with any provision of law, regulation, or instruction**
28 **which the Ministry or the Bureau may be authorized to enforce. Such cartmen and**

1 carriers shall also be in compliance with all applicable environmental laws and
2 regulations concerning the transport of hazardous materials.

3 § 1235. Prohibition on Operating Bonded Warehouses.

4 Persons engaged in the cartage, inland freight trucking, common carrier,
5 unloading, or transportation of merchandise from importation are prohibited from
6 being bonded warehouse operators, either directly or indirectly.

7 Section 3. Effective Date. This Act shall take effect upon its approval by the
8 President of the Republic of Palau, or upon becoming law without such approval.

PASSED: December 22, 2021

Approved this 22nd day of December, 2021



H. E. Surangel Whipps, Jr.
President of the Republic of Palau