
A BILL FOR AN ACT

To amend chapter 7 of title 6 of the Code of the Federated States of Micronesia (Annotated), by creating subchapters I and II under chapter 7, in order to set out substantive and procedural rules prohibiting punitive damages from being awarded against the National Government, providing legal protection to officials and employees of the National Government acting within the scope of public duties and employment, requiring the Department of Justice to provide legal representation to the National Government and its employees, including in reference to their actions and omissions that may have been done in connection with a national emergency declaration, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Chapter 7 of title 6 of the Code of the Federated
2 States of Micronesia (Annotated), is hereby amended by creating a
3 new subchapter I of chapter 6, entitled, "General Provisions".
4 The existing sections 701, 702, 703, 704, 705, 706, and 707 of
5 title 7 shall comprise subchapter I of chapter 7.

6 Section 2. Chapter 7 of title 6 of the Code of the Federated
7 States of Micronesia (Annotated) is hereby amended by creating a
8 new subchapter II under chapter 7, entitled, "Substantive and
9 Procedural Rules".

10 Section 3. Chapter 7 of title 6 of the Code of the Federated
11 States of Micronesia (Annotated), is hereby amended by inserting a
12 new section 708 under subchapter II to read as follows:

13 "Section 708. No punitive damages may be awarded
14 against the National Government in any civil action
15 brought against it."

1 Section 4. Chapter 7 of title 6 of the Code of the
2 Federated States of Micronesia (Annotated), is hereby amended
3 by inserting a new section 709 under subchapter II to read as
4 follows:

5 "Section 709. (a) An official or employee of the
6 National Government of the Federated States of
7 Micronesia acting within the scope of public duties or
8 employment, and regardless of whether he or she is being
9 sued in the official or personal capacity, shall not be
10 held civilly liable for official acts performed or
11 omissions made in connection with such public duties or
12 employment.

13 (b) The Secretary of Justice, or his or her
14 assistant attorneys, shall provide for the defense,
15 including the defense of crossclaims and counterclaims,
16 of any officials or employees in any civil action
17 brought against them, during their employment or
18 thereafter, based on any alleged act or omission
19 relating to their public duties or employment, if:

20 (1) Within 20 days after service of a copy of the
21 summons and complaint or other legal document commencing
22 the action, they submit a written request to the
23 Secretary of Justice for their defense; PROVIDED THAT,
24 the Secretary of Justice shall accept later requests for
25 defense upon a showing of good cause; and

1 (2) The Secretary of Justice has determined that the
2 act or omission on which the action taken is based
3 appears to be within the scope of public duty or
4 employment and appears to have been performed or omitted
5 in good faith.”

6 Section 5. Chapter 7 of title 6 of the Code of the
7 Federated States of Micronesia (Annotated), is hereby amended
8 by inserting a new section 710 under subchapter II to read as
9 follows:

10 “Section 710. During a national emergency declared
11 by the President of the Federated States of
12 Micronesia, regardless of whether or not it is
13 amended or extended by the Congress, no civil damages
14 may be awarded by reason of personal injury, damage
15 to property, lost profit or business opportunity, and
16 other causes of action of civil nature, against the
17 National Government, or against its agencies,
18 departments, branches or offices, or against any
19 national officials or employees, when sued in their
20 official or personal capacities in connection with or
21 by reason of, the implementation of the emergency
22 declaration or any decree, implementing order,
23 protocols, regulation or guidelines issued pursuant
24 to the emergency. Neither shall a criminal action be
25 allowed against national officials and employees for

1 any action or omission on their part done in good
2 faith in order to carry out the emergency
3 declaration.”

4 Section 6. Chapter 7 of title 6 of the Code of the
5 Federated States of Micronesia (Annotated), is hereby amended
6 by inserting a new section 711 under subchapter II to read as
7 follows:

8 “Section 711. (1) No action arising out of an act or
9 omission within the scope of his or her public duties or
10 employment may be brought against any employee, either
11 in his or her official capacity or as an individual,
12 unless the National Government is named as a party
13 defendant under this subchapter. Such employee shall be
14 entitled to all exceptions in liability, defenses, and
15 limitations in awards, penalties, and fees available to
16 the National Government unless otherwise provided by
17 this subchapter.

18 (2) The complaint, summons or other legal document
19 commencing the action against the employee shall contain
20 a statement in a form approved by the Secretary of
21 Justice informing the employee of his or her rights and
22 responsibilities under this subchapter. A copy of such
23 document shall be served on the Secretary of Justice
24 within three days following its service on the employee.
25 Upon receipt of such service, the Secretary of Justice

1 shall by every means practical seek to personally
2 contact the employee and verbally explain to the
3 employee his or her rights and responsibilities under
4 this subchapter."

5 Section 7. Chapter 7 of title 6 of the Code of the
6 Federated States of Micronesia (Annotated), is hereby amended
7 by inserting a new section 712 under subchapter II to read as
8 follows:

9 "Section 712. (1) The Secretary of Justice shall
10 determine as promptly as possible whether or not to
11 tender the defense of the person submitting the request.
12 Until the decision is made, the Secretary of Justice
13 shall take appropriate action to defend or otherwise
14 protect the time of the person submitting the request to
15 file a responsive pleading.

16 (2) In any case in which the Secretary of Justice
17 determines not to defend, the Secretary of Justice shall
18 give written notice, with reason for the decision stated
19 therein, to the person who requested the defense,
20 either:

21 (a) Ten days before the date an answer or other
22 responsive pleading must be filed with court; or

23 (b) If the defense has been commenced, 20 days
24 before the time an application is made with the court to

