

A BILL FOR AN ACT

To amend title 56 of the Code of the Federated States of Micronesia (Annotated) by creating a new subtitle I consisting of existing chapters 1 through 4, by creating a new subtitle II for the purpose of establishing the procedures to be followed by the National Government of the Federated States of Micronesia in exercising its inherent power of eminent domain, and for other purposes.

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

1           Section 1. Title 56 of the Code of the Federated States of  
2           Micronesia (Annotated) is hereby amended by creating a new  
3           subtitle I entitled "Trust Territory Eminent Domain Procedures",  
4           consisting of existing chapters 1 through 4.

5           Section 2. Title 56 of the Code of the Federated States of  
6           Micronesia (Annotated) is hereby amended by creating a new  
7           subtitle II entitled "FSM National Government Eminent Domain  
8           Procedures."

9           Section 3. Title 56 of the Code of the Federated  
10          States of Micronesia (Annotated) is hereby amended by  
11          inserting a new chapter 5 to subtitle II entitled  
12          "General Provisions."

13          Section 4. Title 56 of the Code of the Federated  
14          States of Micronesia (Annotated) is hereby amended by  
15          inserting a new section 501 of chapter 5, to read as  
16          follows:

17                 "Section 501. Short title. This Act may be referred

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1           to  
2           as the "FSM Eminent Domain Act."

3           Section 5. Title 56 of the Code of the Federated  
4 States of Micronesia (Annotated) is hereby amended by  
5 inserting a new section 502 of chapter 5, to read as  
6 follows:

7           "Section 502. Purpose.  
8           The purpose of this subtitle is to establish eminent  
9           domain procedures for the National Government of the  
10           Federated States of Micronesia in the exercise of its  
11           inherent power to acquire real property by eminent  
12           domain."

13           Section 6. Title 56 of the Code of the Federated States of  
14 Micronesia (Annotated) is hereby amended by inserting a new  
15 section 503 of chapter 5, to read as follows:

16           "Section 503. Definitions.  
17           For the purposes of this title, the following terms  
18           shall be given the meanings described herein:

19           (1) "Court" means the Supreme Court of the Federated  
20           States of Micronesia.

21           (2) "Eminent domain" means the right of the National  
22           Government to condemn property for public use, and  
23           appropriate the ownership and possession of such  
24           property for such public use upon paying the owner a  
25           just compensation to be ascertained according to the

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1           law.

2           (3) "Attorney General" means the attorney general or  
3           equivalent title of Secretary of Justice for the  
4           National Government of the Federated States of  
5           Micronesia.

6           (4) "Public use" shall be construed to mean any use  
7           determined by the President to be a public use, or for  
8           a public benefit or public purpose."

9           Section 7. Title 56 of the Code of the Federated States of  
10          Micronesia (Annotated) is hereby amended by inserting a new  
11          chapter 6 to subtitle II entitled "Procedures and Proceedings."

12          Section 8. Title 56 of the Code of the Federated States  
13          of Micronesia (Annotated) is hereby amended by inserting a new  
14          section 601 of chapter 6, to read as follows:

15               "Section 601. Complaint.

16               The Attorney General shall initiate eminent domain  
17               proceedings by filing a complaint in the trial division  
18               of the Supreme Court of the Federated States of  
19               Micronesia in the name of and on behalf of the National  
20               Government of the Federated States of Micronesia as  
21               plaintiff. The complaint filing shall include:

22                   (1) The names of all owners of the property and  
23                   persons with possessory interest in the property, if  
24                   known, or a statement that they are unknown, who must  
25                   be called defendants.

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1           (2) A statement of the right or authority of the  
2           plaintiff.

3           (3) A description of each parcel of land to be  
4           acquired and a statement of what interest in the land  
5           is desired by the plaintiff.

6           (4) A general statement of the purpose of the taking  
7           and proposed public use.”

8           Section 9. Title 56 of the Code of the Federated States of  
9           Micronesia (Annotated) is hereby amended by inserting a new  
10          section 602 of chapter 6, to read as follows:

11          “Section 602. Failure of parties to appear at  
12          proceedings.

13               (1) In the event of the failure of any of the parties  
14               specified in section 601 of this chapter to appear in  
15               the proceedings, the Court shall, nevertheless, proceed  
16               to fix the amount of just compensation and order that  
17               the amount be paid by the National Government, without  
18               interest, to the rightful claimants on demand at any  
19               time within seven years from the date of the final  
20               judgment.

21               (2) If any Court order is issued under subsection  
22               (1), the clerk of the Court shall serve the Court order  
23               on known parties by delivering to them a copy of the  
24               Court order with a copy of the summons and complaint.  
25               If the defendants, whether known or unknown, cannot be

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1           found, then a copy of the Court order, summons and  
2           complaint shall be publicly posted as follows:

3                   (a) On the property;

4                   (b) On the administration building or such other  
5           place where public notices are usually posted in the  
6           state center;

7                   (c) At a public place in a village located near  
8           the property; and

9                   (d) By delivering one copy of the summons and  
10          complaint to the magistrate of the municipality in  
11          which the property is situated."

12           Section 10. Title 56 of the Code of the Federated States of  
13    Micronesia (Annotated) is hereby amended by inserting a new  
14    section 603 of chapter 6, to read as follows:

15                   "Section 603. Issuance and service of summons.

16                   (1)The clerk of Courts shall issue a summons that  
17           shall contain the names of the parties, a general  
18           description of the whole property, or a reference to  
19           the complaint for the description of the land, and a  
20           notice to the defendants to appear in the proceedings.  
21           When the defendants are known the summons shall be  
22           served by delivering to them a copy thereof along with  
23           a copy of the complaint. If the defendants, whether  
24           known or unknown, cannot be found, then a copy of the  
25           summons and complaint shall be posted as follows:

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1                   (a) On the property;

2                   (b) On the administration building or such other  
3 place where public notices are usually posted in the  
4 state center;

5                   (c) At a public place in a village located near  
6 the property; and

7                   (d) By delivering one copy of the summons and  
8 complaint to the magistrate of the municipality in  
9 which the property is situated.

10                  (2) The service of the summons and the complaint or  
11 the posting thereof as provided herein shall be  
12 sufficient to give the trial division of the Court  
13 jurisdiction. The service of the summons and the  
14 complaint shall comply with all rules and procedures  
15 set by the trial division of the Court."

16                  Section 11. Title 56 of the Code of the Federated States of  
17 Micronesia (Annotated) is hereby amended by inserting a new  
18 section 604 of chapter 6, to read as follows:

19                  "Section 204. Establishment of land value.  
20 Upon a *prima facie* showing by the FSM Attorney General  
21 that the property desired to be purchased by the  
22 National Government is for public use, the Court must  
23 hear the parties and establish a fair market value for  
24 the land. The Court may appoint three assessors to  
25 assist in the proceedings and perform such functions

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1           as the Court may direct. In the event assessors are  
2           appointed by the Court, they shall take and subscribe  
3           an oath before the judge that they will faithfully  
4           perform their duties as assessors."

5           Section 12. Title 56 of the Code of the Federated States of  
6           Micronesia (Annotated) is hereby amended by inserting a new  
7           section 605 of chapter 6, to read as follows:

8           "Section 605. Determination of ownership in  
9           event of dispute.

10          In the event there is a dispute over the  
11          ownership of the property that is the subject of  
12          an eminent domain proceeding, the Court shall  
13          adjudicate and determine the ownership of the  
14          property as part of the proceedings."

15          Section 13. Title 56 of the Code of the Federated States of  
16          Micronesia (Annotated) is hereby amended by inserting a new  
17          section 606 of chapter 6, to read as follows:

18          "Section 606. Final judgment.

19          The record of the final judgment in the Court  
20          proceedings shall state the particular land or interest  
21          in land that the National Government has acquired and  
22          the compensation to be paid to the defendants, and the  
23          clerk of Courts shall issue a certificate of title in  
24          accordance with said judgment."

25          Section 14. Title 56 of the Code of the Federated States of

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1 Micronesia (Annotated) is hereby amended by inserting a new  
2 section 607 of chapter 6, to read as follows:

3 "Section 607. Immediate possession Procedures;  
4 generally.

5 (1) Immediate Possession Prior to Eminent Domain  
6 Proceedings. In the event the National Government  
7 engages in the immediate taking of property prior to a  
8 hearing and final judgment by the Court, the Attorney  
9 General shall file a declaration of taking and pay a  
10 sum of money that is considered to be the fair market  
11 value of the property to the clerk of Courts. In  
12 addition to the requirements set out in section 603 of  
13 this chapter, the declaration shall state the  
14 following:

15 (a) The reason the plaintiff requires immediate  
16 possession of the property and the public interest  
17 being protected.

18 (b) That a sum of money that is considered to be  
19 the fair market value of the property has been paid to  
20 the clerk of Courts, which sum shall draw interest at  
21 the rate of three percent per annum from the date of  
22 the summons until claimed by the defendant or ordered  
23 paid to the defendant by the Court.

24 (c) That the defendant may at any time claim and  
25 receive the money that has been deposited with the



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1 clerk of Courts upon the execution of a quitclaim deed  
2 in favor of the plaintiff.

3 (d) The Attorney General or his designee shall  
4 post one copy of the filed declaration and notice of  
5 immediate possession on the physical property. The  
6 Attorney General or his designee shall deliver one copy  
7 of the filed declaration and notice of immediate  
8 possession to the magistrate of the municipality in  
9 which the property is situated.

10 (e) Payment to the clerk of Courts in accordance  
11 with this subsection (b) and notice of the immediate  
12 possession in accordance with subsection (d) shall  
13 entitle the National Government to take immediate  
14 possession of the land.

15 (2) Immediate Possession After Proceedings  
16 Commenced. In the event the National Government  
17 determines that it requires immediate possession of the  
18 property after eminent domain proceedings have  
19 commenced, but before the rights of the parties and the  
20 amount of compensation are determined in a final  
21 judgment by the Court, the Attorney General shall file  
22 a declaration of taking with the Court and a sum of  
23 money that is considered to be the fair market value of  
24 the land shall be paid to the clerk of Courts in  
25 conformance with requirements under subsection(1). A

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1           summons shall be issued and served in the same manner  
2           as the summons in section 603 of this chapter, which  
3           shall refer to the original summons already served on  
4           the defendants, and shall otherwise conform to the  
5           requirements set out in Section 603."

6           Section 15. Title 56 of the Code of the Federated States of  
7 Micronesia (Annotated) is hereby amended by inserting a new  
8 section 608 of chapter 6, to read as follows:

9           "Section 608. Immediate Possession Post-Taking  
10          Hearing.

11           (1) The owner(s) of the property subject to  
12          immediate possession under Section 607 shall  
13          have the right to a hearing post-taking before  
14          the trial division of the Supreme Court of the  
15          Federated States of Micronesia.

16           (2) The property owner shall file a petition  
17          for a post-taking hearing and complaint with the  
18          trial division of the Court. The service of the  
19          petition and the complaint shall comply with all  
20          rules and procedures set by the trial division  
21          of the Court.

22           (3) The Court proceeding requirements under  
23          Sections 204, 205, and 206 shall apply to  
24          immediate possession post-taking hearings.

25           (4) In the event, the Court finds that the

1           taking of the property was not valid, the Court  
2           may order just compensation for the taking based  
3           on fair market value of the property from the  
4           date of immediate possession up to final  
5           judgment.”

6           Section 16. Title 56 of the Code of the Federated States of  
7 Micronesia (Annotated) is hereby amended by inserting a new  
8 section 609 of chapter 6, to read as follows:

9           “Section 609. Public Notice of Final judgments.  
10          In the event, where the defendants fail to appear before  
11          final judgment proceedings, the clerk of Courts shall  
12          serve notice of the final judgment and publicly post the  
13          final judgment in conformance with the notice and public  
14          posting requirements under Section 603.”

15          Section 17. Title 56 of the Code of the Federated States of  
16 Micronesia is hereby amended by inserting a new section 610 of  
17 chapter 6, to read as follows:

18          “Section 610. Costs of proceedings.  
19          The costs in all cases brought under this title shall  
20          be paid by the plaintiff except in cases brought under  
21          section 608 where final judgment by the Court that the  
22          taking was invalid.”

23          Section 18. Title 56 of the Code of the Federated States of  
24 Micronesia is hereby amended by inserting a new chapter 7 to  
25 subtitle II entitled “Savings Provisions.”

1 Section 19. Title 56 of the Code of the Federated States of  
2 Micronesia is hereby amended by inserting a new section 701 of  
3 chapter 7, to read as follows:

4 “Section 701. Saving subtitle I for historical  
5 purposes.

6 (1) The provisions of subtitle II of this title  
7 apply notwithstanding the provisions of chapter 1 of  
8 subtitle I of this title.

9 (2) The provisions of subtitle I of this title are  
10 not repealed.”

11 Section 20. This act shall become law upon approval by the  
12 President of the Federated States of Micronesia or upon it  
13 becoming law without such approval.

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15 Date: 7/18/22

Introduced by: /s/ Wesley W. Simina  
Wesley W. Simina

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