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A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia (Annotated), as amended, by amending section 801 thereof, to make any fishing vessel and property thereon used in or connected with a commission of a crime within the exclusive economic zone of FSM to be subject to forfeiture and for other purposes.

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

1           Section 1. Section 801 of Title 24 of the Code of the  
2 Federated States of Micronesia, is hereby amended to read as  
3 follows:

4           **Section 801. Forfeiture of property.**

5           (1) Any fishing vessel, including its fishing gear,  
6 furniture, appurtenances, stores and cargo used in or  
7 connected with the commission of any act prohibited by  
8 this subtitle, with the territorial sea, ~~[or]~~ internal  
9 waters or the exclusive economic zone of the Federated  
10 States of Micronesia shall be subject to forfeiture to  
11 the Government of the Federated States of Micronesia  
12 pursuant to a civil proceeding under this section.

13           (2) Any fishing vessel including its fishing gear,  
14 furniture, appurtenances or stores used in or connected  
15 with the commission of any act prohibited by this  
16 subtitle, within the internal waters, territorial seas  
17 of the exclusive economic zone [~~outside the territorial~~

1        ~~seas~~] of the Federated State of Micronesia, shall be  
2        released upon the posting of a bond or other surety.

3            (3) Any vehicle or aircraft, all or any part of any  
4        fish or fish product and the proceeds of the sale of any  
5        fishing seized in connection with a violation of this  
6        subtitle, shall be subject to forfeiture to the  
7        Government of the Federated States of Micronesia  
8        pursuant to a civil proceeding under this section.

9            (4) The Supreme Court of the Federated State of  
10        Micronesia shall have jurisdiction, upon application by  
11        the Secretary of the Department of Justice on behalf of  
12        the Federated State of Micronesia, to order any  
13        forfeiture authorized under subsection (1) of this  
14        section.

15           (5) If a judgement is entered for the Government of  
16        the Federated States Micronesia in a civil forfeiture  
17        proceeding under this section, the Secretary of the  
18        Department of Justice shall seize any property or other  
19        interested declared forfeited to the Government of the  
20        Federated States of Micronesia, which has not previously  
21        been seized pursuant to this subtitle.

22           (6) The forfeited item or items shall be sold and the  
23        proceeds deposited into the General Fund of the  
24        Federated States of Micronesia and distributed in  
25        accordance with subsection (7) of this section.

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1           (7) Fifty percent of the revenues from fines and  
2 forfeitures shall be distributed to an FSM State(s)  
3 which may be affected by the situation which has given  
4 rise to the fine and/or forfeiture.

5           (8) Pending completion of the civil forfeiture  
6 proceeding, the item or items subject to forfeiture, or  
7 any part thereof, may be released at the discretion of  
8 the Court upon deposit with the Court of a satisfactory  
9 bond, surety or other security at least equal to the  
10 fair market value of the seized property. Exoneration  
11 of such bond, surety or other security shall be  
12 conditional upon return of the released property to the  
13 appropriate court upon order, without any impairment of  
14 its value, or by paying the monetary value of the  
15 released property to the General Fund of the Federated  
16 States of Micronesia upon order of the Court. Such  
17 bond, surety or other security shall be forfeited in the  
18 event that any condition is beached as shall be  
19 determined by the Court, and judgment shall be  
20 recoverable by the Court against the principal of any  
21 surety for any such breach.

22           (9) In the event there is an appeal from an order for  
23 forfeiture, the Court may continue any such bond, surety  
24 or other security deposited in accordance with  
25 subsection (8) of this section during the pendency of

1 the appeal and any retrial or rehearing on remand or may  
2 require additional security to be deposited with the  
3 Court."

4 Section 2. This act shall become law upon approval by the  
5 President of the Federated States of Micronesia or upon becoming  
6 law without such approval.

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8 Date: 9/24/21 Introduced by: /s/ Florencio S. Harper  
9 Florencio S. Harper  
(by request)

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