

FOURTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIFTH SPECIAL SESSION, 1987

CONGRESSIONAL BILL NO. 4-424, C.D.1

AN ACT

To amend titles 6, 10, 11, 18, 32, 52, 54 and 55 of the Code of the Federated States of Micronesia and Public Law No. 2-50 to correct certain errors therein, and for other purposes.

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

1 Section 1. Section 131 of title 6 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 131. Jurisdiction over acts of nonresidents. Any
4 person, corporation, or legal entity, whether or not a
5 citizen or resident of the Trust Territory, who in person
6 or through an agent does any of the acts enumerated in this
7 subchapter, thereby submits himself or its personal
8 representative to the jurisdiction of the courts of the
9 Trust Territory as to any cause of action arising from:

10 (1) the transaction of any business within the Trust
11 Territory;

12 (2) the operation of a motor vehicle within the Trust
13 Territory;

14 (3) the operation of a vessel or craft within
15 the territorial waters or airspace of the Trust
16 Territory;

17 (4) the commission of a tortious act within the Trust
18 Territory;

19 (5) contracting to insure any person, property, or
20 risk located within the Trust Territory at the time of
21 contracting;

22 (6) the ownership, use, or possession of any real

1 estate within the Trust Territory;

2 (7) entering into an express or implied contract, by
3 mail or otherwise, with a resident of the Trust Territory
4 to be performed in whole or in part by either party in the
5 Trust Territory;

6 (8) acting within the Trust Territory as director,
7 manager, trustee, or other officer of any corporation
8 organized under the laws of or having a place of business
9 within the Trust Territory, or as executor or administrator
10 of any estate within the Trust Territory;

11 (9) causing injury to persons or property within the
12 Trust Territory arising out of an act or omission
13 outside of the Trust Territory by the defendant, provided
14 in addition, that at the time of the injury either:

15 (a) the defendant was engaged in the
16 solicitation or sales activities within the Trust
17 Territory; or

18 (b) products, materials, or things processed,
19 serviced, or manufactured by the defendant anywhere were
20 used or consumed within the Trust Territory; and

21 (10) living in the marital relationship within the
22 Trust Territory notwithstanding subsequent departure from
23 the Trust Territory, as to all obligations arising for
24 alimony, child support or property rights under chapter 16
25 of this title, if the other party to the marital

1 relationship continues to reside in the Trust Territory."

2 Section 2. Section 703 of title 6 of the Code of the Federated
3 States of Micronesia is hereby amended to read as follows:

4 "Section 703. Extent of court's jurisdiction. The
5 jurisdiction of the court shall extend to any set-off,
6 affirmative defense, counterclaim, or other claim or demand
7 whatever pleaded by the National Government of the
8 Federated States of Micronesia, or other properly joined
9 party to such action, against any plaintiff commencing
10 an action under this chapter."

11 Section 3. Section 301 of title 10 of the Code of the Federated
12 States of Micronesia is hereby amended to read as follows:

13 "Section 301. Statement of purpose. Micronesia became an
14 observer at the United Nations Law of the Sea Conference by
15 virtue of a resolution of the General Assembly of the
16 United Nations. As an observer, the Federated States of
17 Micronesia will be expected to participate fully in the
18 deliberations and proceedings of the conference and has
19 important interests to pursue in that forum. It is
20 therefore the sense of the Congress of the Federated States
21 of Micronesia that a joint delegation of the Federated
22 States of Micronesia to the United Nations Law of the Sea
23 Conference should be established to cooperate with the
24 executive branch of the Government of the Federated States
25 in formulating policy for the conference, to attend

1 sessions of the conference, and to participate in the
2 review and consideration of any treaties or international
3 agreements which are produced by the conference."

4 Section 4. Section 917 of title 11 of the Code of the Federated
5 States of Micronesia is hereby amended to read as follows:

6 "Section 917. Sexual abuse.

7 (1) Sexual abuse. A person commits the offense of
8 sexual abuse if he intentionally has sexual contact with
9 another person who is less than thirteen years old or
10 causes such a person to have sexual contact with him.

11 (2) Definition. 'Sexual contact' means any touching of
12 the sexual or other intimate parts of a person not
13 married to the defendant, done with the intent of
14 gratifying the sexual desire of either party.

15 (3) Defense. It is an affirmative defense that the
16 defendant reasonably believed the child to be older than
17 thirteen.

18 (4) A person convicted under this section shall be
19 punished by imprisonment for not more than five years."

20 Section 5. Section 921 of title 11 of the Code of the Federated
21 States of Micronesia is hereby amended to read as follows:

22 "Section 921. Kidnapping.

23 (1) A person commits the offense of kidnapping if he
24 unlawfully removes another from his place of residence or
25 business, or a substantial distance from the vicinity

1 where he is found, or if he unlawfully confines another
2 for a substantial period in a place of isolation, with any
3 of the following purposes:

4 (a) to hold for ransom or reward, or as a shield
5 or hostage; or

6 (b) to facilitate commission of any felony or
7 flight thereafter; or

8 (c) to inflict bodily injury on or to terrorize
9 the victim or another; or

10 (d) to interfere with the performance of any
11 governmental or political function.

12 (2) A removal or confinement is unlawful under this
13 section if it is accomplished by force, threat, or
14 deception, or, in the case of a person who is under the age
15 of fourteen or incompetent, without the consent of a
16 parent, guardian, or other person responsible for general
17 supervision of his welfare.

18 (3) A person convicted under this section shall be
19 punished:

20 (a) by imprisonment for a maximum term of ten
21 years unless the person committing the offense voluntarily
22 releases the victim alive and in a safe place prior to
23 trial; or

24 (b) otherwise, by imprisonment for not more than
25 five years."

1 Section 6. Section 932 of title 11 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 932. Definitions. As used in this chapter:

4 (1) 'Deprive' means:

5 (a) to withhold property of another
6 permanently or for so extended a period as to appropriate a
7 major portion of its economic value, or with intent to
8 restore only upon payment of reward or other compensation;
9 or

10 (b) to dispose of the property so as to make it
11 unlikely that the owner will recover it.

12 (2) 'Financial institution' means a bank, insurance
13 company, credit union, building and loan association,
14 investment trust, or other organization held out to the
15 public as a place of deposit of funds or medium of savings
16 or collective investment.

17 (3) 'Government' means the Federated States of
18 Micronesia, and any department, agency, or subdivision
19 thereof, or any corporation or other association carrying
20 out the functions of Government.

21 (4) 'Movable property' means property, the location
22 of which can be changed, including things growing on,
23 affixed to, or found in land, and documents, although the
24 rights represented thereby have no physical location.

25 'Immovable property' is all other property.

1 (5) 'Obtain' means:

2 (a) in relation to property, to bring about a
3 transfer or purported transfer of a legal interest in the
4 property, whether to the obtainer or another; or

5 (b) in relation to labor or service, to secure
6 performance thereof.

7 (6) 'Property' means anything of value, including
8 real estate, tangible and intangible personal property,
9 contract rights, choses-in-action, and other interests in
10 or claims to wealth, admission or transportation tickets,
11 captured or domestic animals, food and drink, electric or
12 other power.

13 (7) 'Property of another' includes property in which
14 any person other than the defendant has an interest which
15 the actor is not privileged to infringe, regardless of the
16 fact that the defendant also has an interest in the
17 property and regardless of the fact that the other person
18 might be precluded from civil recovery because the property
19 was used in an unlawful transaction or was subject to
20 forfeiture as contraband. Property in possession of the
21 defendant shall not be deemed property of another who has
22 only a security interest therein, even if legal title is in
23 the creditor pursuant to a conditional sales contract or
24 other security agreement."

25 Section 7. Section 934 of title 11 of the Code of the Federated

1 States of Micronesia is hereby amended to read as follows:

2 "Section 934. Theft by deception.

3 (1) A person commits theft if he purposely obtains
4 property of another by deception. A person deceives if he
5 purposely:

6 (a) creates or reinforces a false impression,
7 including false impressions as to law, value, intention, or
8 other state of mind; but deception as to a person's
9 intention to perform a promise shall not be inferred from
10 the fact alone that he did not subsequently perform the
11 promise; or

12 (b) prevents another from acquiring information
13 which would affect his judgment of a transaction; or

14 (c) fails to correct a false impression which
15 the deceiver previously created or reinforced, or which the
16 deceiver knows to be influencing another to whom he stands
17 in a fiduciary or confidential relationship; or

18 (d) fails to disclose a known lien, adverse
19 claim, or other legal impediment to the enjoyment of
20 property which he transfers or encumbers in consideration
21 for the property obtained, whether such impediment is or
22 is not valid, or is or is not a matter of official
23 record.

24 (2) The term 'deceive' does not, however, include
25 falsity as to matters having no pecuniary significance, or

1 puffing by statements unlikely to deceive ordinary persons
2 in the group addressed."

3 Section 8. Section 311 of title 18 of the Code of the Federated
4 States of Micronesia is hereby amended to read as follows:

5 "Section 311. Definitions. As used in this chapter, the
6 following terms shall have the meanings respectively
7 ascribed to them in this section:

8 (1) 'Hovering vessel' means any unlicensed vessel
9 which is found or kept off any island, islet, atoll, or
10 reef of the Trust Territory, within the territorial waters
11 of the Trust Territory, if, from the history, conduct,
12 character, or location of the vessel, it is reasonable to
13 believe that such vessel is being used or may be used to
14 violate any of the provisions of this chapter or any law or
15 regulation of the Trust Territory.

16 (2) 'Innocent passage' means navigation through
17 territorial waters for the purpose either of traveling it
18 bona fide en route from one point to another on the usual
19 course for such travel, wind and weather permitting,
20 without entering inland waters, or of proceeding to inland
21 waters at a point of entry, or of making for the high sea
22 from inland waters, and includes stopping or anchoring only
23 if incidental to ordinary navigation or in an emergency.

24 (3) 'Territorial waters' means the waters of the
25 Territorial Sea as defined and described in section 102

1 of this title.

2 (4) 'Unlicensed vessel' means any vessel not operating
3 under license, grant, or express permission of the High
4 Commissioner of the Trust Territory, except public vessels
5 of the United States traveling under proper orders and not
6 engaged in commercial activities, outrigger vessels of all
7 kinds, and vessels propelled by outboard motors."

8 Section 9. Section 210 of title 32 of the Code of the Federated
9 States of Micronesia is hereby amended to read as follows:

10 "Section 210. Application - Business with interstate or
11 international character. If the Board determines that the
12 applicant's business falls within one or more of the
13 categories set out in section 209 of this chapter, the
14 procedures set forth in sections 211 through 215 of
15 this chapter shall apply."

16 Section 10. Section 166 of title 52 of the Code of the
17 Federated States of Micronesia is hereby amended to read as follows:

18 "Section 166. Performance increase. When an employee's
19 performance, as determined through an objective evaluation,
20 has met accepted standards of productivity during a
21 specified period, his base salary may be increased by one
22 step in the appropriate level of the base salary schedule.
23 For an increase to step 2, 3, or 4, the required period
24 shall be fifty-two calendar weeks; for an increase to 5, 6,
25 or 7, the required period shall be one hundred four

1 calendar weeks. No employee shall have a base salary
2 above the maximum step prescribed for his pay level unless
3 he was receiving such compensation on the effective date of
4 this section."

5 Section 11. Section 124 of title 54 of the Code of the
6 Federated States of Micronesia is hereby amended to read as follows:

7 "Section 124. Source of wages; Apportionment.

8 (1) If an employee is credited or paid salaries or
9 wages derived from, or attributable to, personal services
10 performed or rendered both within and without the Federated
11 States of Micronesia during any given month, then the whole
12 of the salaries or wages shall be presumed to have been
13 earned within the Federated States of Micronesia.

14 (2) The employer paying the tax or the employee whose
15 compensation is taxed may file for an apportionment of the
16 tax on a form prescribed by the Secretary and the tax shall
17 be levied only on that portion of the salary or wages which
18 is attributable to personal services performed or rendered
19 within the Federated States of Micronesia."

20 Section 12. Section 803 of title 54 of the Code of the
21 Federated States of Micronesia is hereby amended to read as follows:

22 "Section 803. Rules and regulations - Promulgation by
23 Secretary of Finance.

24 (1) The Secretary of Finance, with the approval of
25 the President of the Federated States of Micronesia, shall

1 prescribe such rules and regulations as are necessary to
2 collect all taxes, fees, and charges levied or imposed
3 under this title and all such taxes, fees, and charges
4 shall be deposited in the General Fund of the Federated
5 States of Micronesia for appropriation by the Congress of
6 the Federated States of Micronesia.

7 (2) Such rules and regulations shall wherever
8 practicable require payment in full of all taxes, fees, and
9 charges immediately upon assessment, and in the case of
10 import taxes, no later than fifteen days after the
11 departure of the vessel or plane on which the
12 products subject to import taxes arrived and before any
13 merchandise is released by the carrier or his agent to the
14 importer and, in the case of export taxes, before any
15 merchandise is loaded on any vessel or aircraft."

16 Section 13. Section 805 of title 54 of the Code of the
17 Federated States of Micronesia is hereby amended to read as follows:

18 "Section 805. Distribution of revenues.

19 (1) The treasurer of the Trust Territory, or his
20 successor, shall pay eighty percent of the net taxes
21 collected pursuant to section 201(9) of this title,
22 and fifty percent of all other net taxes collected pursuant
23 to sections 121, 141, and 201 of this title, into the
24 treasury of the State government to which the taxes are
25 attributable for appropriation by the State legislature.

1 (2) 'Net taxes' as used in subsection (1) of this
2 section means gross collections of taxes, penalties,
3 interest, or other related charges less refunds and less
4 the cost of administration.

5 (3) 'Cost of administration' as used in subsection
6 (2) of this section means the cost determined to be
7 allocatable to each State by the Congress of the Federated
8 States of Micronesia when making appropriations for the
9 operating expenses of the Revenue Division.

10 (4) The revenue office in each State may administer
11 the taxes of the State in which located, but those duties
12 shall not interfere with the administration of taxes
13 imposed by the laws of the Federated States of Micronesia.
14 All costs in excess of those funded by appropriations of
15 the Congress of the Federated States of Micronesia required
16 for the administration of State taxes shall be borne
17 entirely by the State."

18 Section 14. Section 216 of title 55 of the Code of the
19 Federated States of Micronesia, as amended by Public Laws Nos. 2-68,
20 3-23, 3-28 and 4-77, is hereby further amended to read as follows:

21 "Section 216. Allotment of funds - Allottees. Unless
22 otherwise specifically required by law, funds shall be
23 allotted as follows:

24 (1) The President of the Federated States of
25 Micronesia, or his designee(s), shall be the allottee of

1 all funds appropriated for the operations or activities of
2 the executive branch of the Federated States of Micronesia
3 Government.

4 (2) The Speaker of the Congress of the Federated
5 States of Micronesia, or his designee(s), shall be the
6 allottee of all funds appropriated for the operations or
7 activities of the Congress.

8 (3) The Chief Justice of the Supreme Court of the
9 Federated States of Micronesia, or his designee(s), shall
10 be the allottee of all funds appropriated for the
11 operations or activities of the judicial branch of the
12 Federated States of Micronesia Government.

13 (4) The Public Auditor shall be the allottee of all
14 funds appropriated to the Public Auditor.

15 (5) The Governor of a State, or his designee(s),
16 shall be the allottee of all funds appropriated to the
17 State.

18 (6) The President of the Federated States of
19 Micronesia, or his designee(s), shall be the allottee of
20 any funds appropriated for any activity, entity, or person
21 not included within the provisions of subsections (1)
22 through (5) of this section."

23 Section 15. Section 3 of Public Law No. 2-50 is hereby amended
24 to read as follows:

25 "Section 3. Definitions.

1 (1) The term 'chief' means the chief of the Division
2 of Education of the Federated States of Micronesia.

3 (2) The term 'institution of higher education' means
4 an educational institution which:

5 (a) Admits as regular students only persons
6 having a certificate of graduation from a school providing
7 secondary education;

8 (b) Is legally authorized to provide a program
9 of education beyond secondary education;

10 (c) Provides an educational program for which it
11 awards a bachelor's degree or provides not less than a
12 two-year program which is acceptable for full credit toward
13 such a degree;

14 (d) Is a public or other nonprofit institution;
15 and

16 (e) Is accredited by a recognized accrediting
17 agency approved by the chief or is an institution whose
18 credits are accepted on transfer by not less than three
19 institutions which are so accredited for credit on the same
20 basis as if transferred from an institution so accredited.

21 (3) The term 'full-time student' means a student who
22 is carrying a full-time academic work load in terms of
23 course work or other required activities as determined by
24 the institution.

25 (4) The term 'full-time attendance' means compliance

1 by a full-time student with policies and regulations
2 regarding attendance in effect at the institution in which
3 he or she is enrolled.

4 (5) The term 'professional' or 'graduate student' means,
5 in general, a student who is enrolled in an academic
6 program of instruction above the college level which is
7 provided at an institution of higher education. The term
8 includes:

9 (a) That portion of any program involving a
10 period of study beyond 4 academic years of study at the
11 college level; or

12 (b) Any portion of a program leading to:

13 (i) A degree beyond the bachelor's or
14 first professional degree; or

15 (ii) A first professional degree when at
16 least 3 years of study at the college level are required
17 for entrance into a program leading to such degree.

18 (6) The terms 'satisfactory standing' and 'good
19 standing' mean the eligibility of a student to continue in
20 attendance at the institution where he or she is enrolled
21 as a student in accordance with the institution's standards
22 and practices.

23 (7) The term 'academic year' or its equivalent means
24 the number of credit hours which a student must acquire
25 during any one school year in order to secure the degree or

1 certificate toward which he or she is working in the number
2 of semesters or terms normally taken therefor at the
3 institution where he is pursuing a course of study.

4 (8) The term 'fund' means the National Student
5 Loan Revolving Fund."

6 Section 16. Section 7 of Public Law No. 2-50 is hereby amended
7 to read as follows:

8 "Section 7. Establishing the Student Loan Revolving Fund.

9 There is hereby established a Student Loan Revolving Fund
10 (hereinafter the 'fund'), separate from the General Fund or
11 other funds. All appropriations for student loans shall be
12 deposited in this account. In addition all repayments of
13 principal and interest from loans made from this
14 fund shall be deposited back into the fund for the purposes
15 stated in section 2. Further, all loan repayments of
16 interest and principal for funds received from
17 appropriations made pursuant to:

18 (1) Public Law No. 1-22, as amended by Public Law No.
19 1-57;

20 (2) Public Law No. 1-106;

21 (3) Public Law No. 1-125; and

22 (4) Public Law No. 2-21, as amended by Public Laws
23 Nos. 2-26, 2-38, and 2-39;

24 shall be deposited in the fund. Any unexpended money in
25 this account shall not revert to the General Fund or lapse

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1 at the end of the fiscal year."

2 Section 17. This act shall become law upon approval by the
3 President of the Federated States of Micronesia or upon its becoming
4 law without such approval.

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May 6, 1987

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Tosiwo Nakayma
President
Federated States of Micronesia

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