

A BILL FOR AN ACT

To amend the Code of the Federated States of Micronesia by creating a new title 13 thereof, for the purpose of establishing the procedures to be followed by the National Government of the Federated States of Micronesia in exercising its power of eminent domain, and for other purposes.

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

1 Section 1. The Code of the Federated States of Micronesia
2 is hereby amended by creating a new title 13 entitled: "Eminent
3 Domain."

4 Section 2. Title 13 of the Code of the Federated
5 States of Micronesia is hereby amended by inserting a new
6 chapter 1 entitled: "General Provisions".

7 Section 3. Title 13 of the Code of the Federated
8 States of Micronesia is hereby amended by inserting a new
9 section 101 of chapter 1, to read as follows:

10 "Section 101. Purpose.
11 It is the purpose of this title to set up procedures to
12 be followed by the National Government of the Federated
13 States of Micronesia in the exercise of its inherent
14 power to acquire real property by eminent domain."

15 Section 4. Title 13 of the Code of the Federated States of
16 Micronesia is hereby further amended by inserting a new section
17 102 of chapter 1, to read as follows:

1 "Section 102. Definitions.

2 For the purposes of this title, the following terms
3 shall be given the meanings described herein:

4 (1) 'Eminent domain' is the right of the National
5 Government to condemn property for public use or
6 purposes and to appropriate the ownership and
7 possession of such property for such public use upon
8 paying the owner a just compensation to be ascertained
9 according to the law.

10 (2) 'Public use' shall be construed to cover any use
11 determined by the President to be a public use."

12 Section 5. Title 13 of the Code of the Federated States of
13 Micronesia is hereby further amended by inserting a new chapter 2
14 entitled "Procedures and Proceedings".

15 Section 6. Title 13 of the Code of the Federated States
16 of Micronesia is hereby further amended by inserting a new
17 section 201 of chapter 2, to read as follows:

18 "Section 201. Complaint.

19 A complaint must be brought in the trial division of
20 the Supreme Court in the name of and on behalf of the
21 National Government of the Federated States of
22 Micronesia as plaintiff by the Attorney General and
23 must contain:

24 (1) The names of all owners and claimants of the
25 property, if known, or a statement that they are

1 unknown, who must be called defendants.

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

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

7 (4) A general statement of the purpose of the
8 taking."

9 Section 7. Title 13 of the Code of the Federated States of
10 Micronesia is hereby further amended by inserting a new section
11 202 of chapter 2, to read as follows:

12 "Section 202. Failure of parties to appear at
13 proceedings.

14 In the event of the failure of any of the parties
15 specified in section 201 of this chapter to appear in
16 the proceedings, the court shall, nevertheless, proceed
17 to fix the amount of compensation and order that the
18 amount be paid by the government, without interest, to
19 the rightful claimants on demand at any time within
20 seven years from the date of the final judgment."

21 Section 8. Title 13 of the Code of the Federated States of
22 Micronesia is hereby further amended by adding a new section 203
23 of chapter 2, to read as follows:

24 "Section 203. Issuance and service of summons.

25 (1) The clerk of courts shall issue a summons that

1 shall contain the names of the parties, a general
2 description of the whole property, or a reference to
3 the complaint for the description of the land, and a
4 notice to the defendants to appear in the proceedings.
5 When the defendants are known the summons shall be
6 served by delivering to them a copy thereof along with
7 a copy of the complaint. If the defendants, whether
8 known or unknown, cannot be found, then a copy of the
9 summons and complaint shall be posted as follows:

10 (a) On the property;

11 (b) On the administration building or such other
12 place where public notices are usually posted in the
13 state center;

14 (c) At a public place in a village located near
15 the property; and

16 (d) By delivering one copy of the summons and
17 complaint to the magistrate of the municipality in
18 which the property is situated.

19 (2) The service of the summons and the complaints or
20 the posting thereof as provided herein shall be
21 sufficient to give the trial division of the Supreme
22 Court jurisdiction to proceed with and finally
23 determine the case."

24 Section 9. Title 13 of the Code of the Federated States of
25 Micronesia is hereby further amended by inserting a new section

1 204 of chapter 2, to read as follows

2 "Section 204. Establishment of land value.
3 Upon a prima facie showing by the Attorney General
4 that the property desired to be purchased by the
5 government is for public use, the court must hear the
6 parties and establish a fair value for the land. The
7 court may appoint three assessors to assist in the
8 proceedings and perform such functions as the court
9 may direct. In the event assessors are appointed by
10 the court, they shall take and subscribe an oath
11 before the judge that they will faithfully perform
12 their duties as assessors.

13 Section 10. Title 13 of the Code of the Federated States of
14 Micronesia is hereby further amended by inserting a new section
15 205 of chapter 2, to read as follows:

16 "Section 205. Determination of ownership in
17 event of dispute.
18 In the event there is a dispute over the
19 ownership of the property that is the subject of
20 an eminent domain proceeding, the court shall
21 adjudicate and determine the ownership of the
22 property as part of the proceedings."

23 Section 11. Title 13 of the Code of the Federated States of
24 Micronesia is hereby further amended by inserting a new section
25 206 of chapter 2, to read as follows:

1 "Section 206. Final judgment.
2 The record of the final judgment in the proceedings
3 shall state the particular land or interest in land
4 that the government has acquired and the compensation
5 to be paid to the defendants, and the clerk of courts
6 shall issue a certificate of title in accordance with
7 said judgment."

8 Section 12. Title 13 of the Code of the Federated States of
9 Micronesia is hereby further amended by inserting a new section
10 207 of chapter 2, to read as follows:

11 "Section 207. Immediate possession procedure;
12 generally.

13 In the event the government desires to enter into
14 immediate possession of the property, the government
15 shall file a declaration of taking and pay a sum of
16 money that is considered to be the fair value of the
17 property to the clerk of courts. In addition to the
18 requirements set out in section 203 of this chapter,
19 the summons shall state the following:

20 (1) That the plaintiff requires immediate possession
21 of the property.

22 (2) That a sum of money that is considered to be the
23 fair value of the property has been paid to the clerk
24 of courts, which sum shall draw interest at the rate of
25 three percent per annum from the date of the summons

1 until claimed by the defendant or ordered paid to the
2 defendant by the court.

3 (3) That the defendant may at any time claim and
4 receive the money that has been deposited with the
5 clerk of courts upon the execution of a quitclaim deed
6 in favor of the plaintiff.

7 (4) Payment to the clerk of courts in accordance with
8 this section shall entitle the government to take
9 immediate possession of the land."

10 Section 13. Title 13 of the Code of the Federated States of
11 Micronesia is hereby further amended by inserting a new section
12 208 of chapter 2, to read as follows:

13 "Section 208. Same; possession after
14 proceedings commenced.

15 In the event the government determines that it requires
16 immediate possession of the property after eminent
17 domain proceedings have been commenced, but before the
18 rights of the parties and the amount of compensation
19 are determined, a declaration of taking shall be filed
20 in the court and a sum of money that is considered to
21 be the fair value of the land shall be paid to the
22 clerk of courts. A summons shall be issued and served
23 in the same manner as the summons in section 203 of
24 this chapter, which shall refer to the original summons
25 already served on the defendants, and shall otherwise

