

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:

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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 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 amended by inserting a new section 201  
17          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

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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 amended by inserting a new section 202 of  
11          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 amended by adding a new section 203 of  
23          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

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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 amended by inserting a new section 204 of

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1 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 amended by inserting a new section 205 of  
15 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 amended by inserting a new section 206 of  
25 chapter 2, to read as follows:

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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 amended by inserting a new section 207 of  
10          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

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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 amended by inserting a new section 208 of  
12 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

1 conform to the requirements set out in section 207 of  
2 this chapter."

3 Section 14. Title 13 of the Code of the Federated States of  
4 Micronesia is hereby amended by inserting a new section 209 of  
5 chapter 2, to read as follows:

6 "Section 209. Costs of proceedings.

7 The costs in all cases brought under this title shall  
8 be paid by the plaintiff."

9 Section 15. This act shall become law upon approval by the  
10 President of the Federated States of Micronesia or upon it  
11 becoming law without such approval.

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13 Date: 12/4/17

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

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