

SEVENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

THIRD REGULAR SESSION, 1992

CONGRESSIONAL BILL NO. 7-299

Public Law No. 7 - 9 2

AN ACT

To further amend title 17 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-34, by amending sections 101, 102, 103, 111, and 112 to delete various references to the Trust Territory, and for other purposes.

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

1 Section 1. Section 101 of title 17 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 101. Definitions. As used in this chapter:

4 (1) 'Agency' means each authority of the Government
5 of the Federated States of Micronesia whether or not it is
6 within or subject to review by another agency, but does not
7 include:

8 (a) the Congress of the Federated States of
9 Micronesia; or

10 (b) the courts of the Federated States of
11 Micronesia; or

12 (c) the Micronesian Maritime Authority.

13 (2) 'Agency action' includes the whole or part of an
14 agency regulation, order, decision, license, sanction,
15 relief, or the equivalent or denial thereof, or a failure
16 to act.

17 (3) 'Hearing officer' means the administrative
18 official authorized to conduct a hearing pursuant to
19 section 108 of this chapter.

20 (4) 'License' includes the whole or part of any
21 agency permit, certificate, approval, registration,
22 charter, or similar form of permission required by law, but



1 does not include a license required solely for revenue
2 purposes.

3 (5) 'Licensing' includes the agency process
4 respecting the grant, denial, renewal, revocation,
5 suspension, annulment, withdrawal, limitation, amendment,
6 modification, or condition of a license.

7 (6) 'Order' means the whole or part of a final
8 disposition, whether affirmative, negative, injunctive, or
9 declaratory in form, of an agency in a matter.

10 (7) 'Party' means each person or agency named or
11 admitted as a party, or properly seeking and entitled as of
12 right to be admitted as a party, to an agency proceeding.

13 (8) 'Person' means an individual, partnership,
14 corporation, association, clan, lineage, State or local
15 Government, or public or private organization of any
16 character other than an agency.

17 (9) 'Regulation' means each agency statement of
18 general applicability that establishes policy, implements,
19 interprets, or prescribes law, or describes the
20 organization, procedure, or practice requirements of any
21 agency and which has the force and effect of law. The term
22 includes the amendment or repeal of a prior regulation.

23 (10) 'Regulation making' means the process for
24 formulating, amending, or repealing a regulation.

25 (11) 'Relief' includes the whole or a part of an

1 agency:

2 (a) grant of money, assistance, license,
3 authority, exemption, exception, privilege, or remedy;

4 (b) recognition of a claim, right, immunity,
5 privilege, exemption, or exception; or

6 (c) taking of other action on the application or
7 petition of, and beneficial to, a person.

8 (12) 'Sanction' includes the whole or a part of an
9 agency:

10 (a) prohibition, requirement, limitation, or
11 other condition affecting the freedom of a person;

12 (b) withholding or denial of relief;

13 (c) imposition of penalty or fine;

14 (d) destruction, taking, seizure, or withholding
15 of property;

16 (e) assessment of damages, reimbursement,
17 restitution, compensation, costs, charges, or fees;

18 (f) revocation, modification, or suspension of a
19 license; or

20 (g) taking other compulsory or restrictive
21 action."

22 Section 2. Section 102 of title 17 of the Code of the Federated
23 States of Micronesia is hereby amended to read as follows:

24 "Section 102. Procedure for adoption of regulations.

25 (1) Prior to adoption, amendment, or repeal of any

1 regulation, the agency shall:

2 (a) publish notice of its intended action for at
3 least thirty days by posting copies of the proposed
4 regulation in convenient public places in the State
5 capitals including at least the principal National
6 Government office in each State, each State Governor's
7 office, the office of the clerk of courts of the State and
8 National courts and in each State capital post office. The
9 notice shall include:

10 (i) a statement of either the terms or
11 substance of the proposed regulation or a description of
12 the subjects and issues involved;

13 (ii) reference to the authorities under
14 which the action is proposed;

15 (iii) the time when, the place where, and the
16 manner in which interested persons may present their views
17 thereon; and

18 (iv) the proposed effective date;

19 (b) communicate the general nature of the
20 proposed regulations and the place where the regulations
21 are available for review by radio announcements in each
22 State in English and in the language or languages of the
23 State;

24 (c) transmit copies of the proposed regulations
25 to the Speaker of the Congress, to the chairman of each

1 standing committee thereof, and to the Legislative Counsel;

2 (d) afford all interested persons reasonable
3 opportunity to submit data, views, or arguments, in writing.
4 In all proceedings under this section, an opportunity for
5 an oral hearing must be granted if requested by the
6 Congress of the Federated States of Micronesia or a
7 committee thereof, a Government subdivision or agency, or a
8 State or local government. Hearings afforded pursuant to
9 this provision shall be conducted in accordance with
10 section 108 of this chapter. The agency shall consider
11 fully all written and oral submissions respecting the
12 proposed regulation.

13 (2) If the President, or in his absence, the Vice
14 President, finds that the public interest so requires, or
15 that an imminent peril to the public health, safety, or
16 welfare requires adoption of a regulation upon fewer than
17 thirty days' notice, and states in writing his reasons for
18 that finding, an emergency regulation may be adopted
19 without prior notice or hearing upon any abbreviated notice
20 and hearing that is found to be practicable. The
21 regulation may be effective for a period of not longer than
22 one hundred twenty days, but the adoption of an identical
23 regulation under subsection (1) of this section is not
24 precluded.

25 (3) Regulations must be adopted in compliance with

1 this section. A judicial challenge on the basis of
2 noncompliance with the procedural requirements of this
3 section must be commenced within one year from the
4 effective date of the regulation, unless good cause is
5 shown justifying an inability to bring the action timely."

6 Section 3. Section 103 of title 17 of the Code of the Federated
7 States of Micronesia is hereby amended to read as follows:

8 "Section 103. Filing and availability of regulations.

9 (1) Each agency shall file in the Office of the
10 Registrar of Corporations, the office of each State
11 Governor and with the Clerks of Court of both the State and
12 National courts, a certified copy of each regulation adopted
13 by it, including all regulations existing on the effective
14 date of this chapter.

15 (2) The Registrar of Corporations and the Clerk and
16 assistant clerks of the Supreme Court shall keep a
17 permanent register of regulations open to public
18 inspection. Each such official shall provide, promptly
19 upon request to him, copies of all regulations requested.
20 Copies shall be provided without charge to agencies and
21 officials of the National and State Governments and to
22 other persons at reasonable prices to cover costs of
23 copying and postage."

24 Section 4. Section 111 of title 17 of the Code of the Federated
25 States of Micronesia is hereby amended to read as follows:

1 "Section 111. Judicial review of contested cases.

2 (1) This section applies, according to the provisions
3 hereof, except to the extent that statutes enacted by the
4 Congress of the Federated States of Micronesia explicitly
5 limit judicial review.

6 (2) A person adversely affected or aggrieved by
7 agency action is entitled to judicial review thereof in the
8 Supreme Court of the Federated States of Micronesia. The
9 Court shall conduct a de novo trial of the matter and may
10 receive in evidence any or all of the record from the
11 administrative hearing that is stipulated to by the parties.

12 (3) To the extent necessary to decision and when
13 presented, the reviewing Court shall decide all relevant
14 questions of law and fact, interpret constitutional and
15 statutory provisions, and determine the meaning or
16 applicability of the terms of an agency action. The
17 reviewing Court shall:

18 (a) compel agency action unlawfully withheld or
19 unreasonably delayed; and

20 (b) hold unlawful and set aside agency actions
21 and decisions found to be:

22 (i) arbitrary, capricious, an abuse of
23 discretion, or otherwise not in accordance with law;

24 (ii) contrary to constitutional right,
25 power, privilege, or immunity;

- 1 (iii) in excess of statutory jurisdiction,
2 authority, or limitations, or a denial of legal rights;
3 (iv) without substantial compliance with the
4 procedures required by law; or
5 (v) unwarranted by the facts."

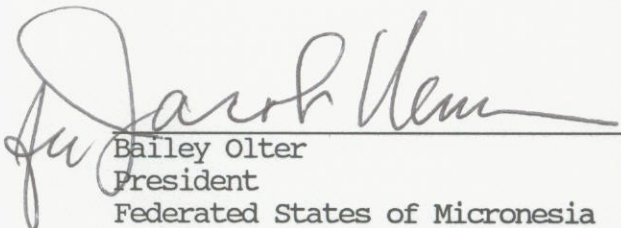
6 Section 5. Section 112 of title 17 of the Code of the Federated
7 States of Micronesia is hereby amended to read as follows:

8 "Section 112. Appeals. An aggrieved party may obtain a
9 review of any final judgment of the Trial Division of the
10 Supreme Court under this chapter by appeal to the Appellate
11 Division of the Supreme Court. The appeal shall be taken as
12 in other civil cases, and the judgment be reviewed by
13 considering the finding of the Trial Division in light of
14 whether it was justified by substantial evidence of record."

15 Section 6. This act shall become law upon approval by the
16 President of the Federated States of Micronesia or upon its becoming
17 law without such approval.

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Nov. 16, 1992


Bailey Olter
President
Federated States of Micronesia

