

SIXTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 1989

CONGRESSIONAL BILL No. 6-22, C.D.1, C.D.2

Public Law No. 6 - 32

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AN ACT

To amend sections 513 and 562 of title 58 of the Code of the Federated States of Micronesia, as established by Public Law No. 5-121 and amended by Public Law No. 5-136, for the purpose of requiring indemnification between participating and nonparticipating States and the National Government, providing for limited personal liability on the part of persons participating in the issuance of Bonds, providing conditions for the defense of such persons and the payment of costs of defense, and for other purposes.

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

1           Section 1. Section 513 of title 58 of the Code of the Federated  
2 States of Micronesia, as established by Public Law No. 5-121 and  
3 amended by Public Law No. 5-136, is hereby further amended to read as  
4 follows:

5           "Section 513. Purpose; Bonds; Costs of Issuance.

6                   (1) The purpose of this chapter is to authorize  
7 borrowing by the FSM for the benefit of itself and/or any  
8 one or more of its constituent States in anticipation of  
9 receipt from the United States of America of grant funds  
10 under the Compact of Free Association. Any such borrowing  
11 may be from any commercially reasonable source whatsoever,  
12 and may be accomplished through the issuance of Bonds in  
13 any commercially reasonable manner, including, without  
14 limitation, Bonds publically offered in the United States  
15 of America or elsewhere, Bonds or other evidences of  
16 indebtedness issued in private placements, bank borrowings,  
17 and other types of financings, so long as the procedures  
18 set forth herein are followed. It is necessary and  
19 appropriate that the FSM, in cooperation with the State  
20 governments of the FSM, use all practical means to enhance  
21 the benefits derived from moneys payable to the FSM and the  
22 State governments pursuant to the Compact of Free

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1 Association by participating in a financing secured by all  
2 or a portion of such payments due from the United States of  
3 America. This method of financing is in the public  
4 interest and serves a public purpose.

5 (2) The securities evidencing this indebtedness may  
6 be general or limited obligations of the FSM, entitled  
7 'Federated States of Micronesia Compact Financing Bonds,'  
8 may bear additional designations indicating the purpose of  
9 the financing as the committee may determine, may be issued  
10 in one or more series (including refundings), and may be  
11 secured by the full faith and credit of the FSM, a pledge  
12 of grant funds under the Compact of Free Association,  
13 Credit Enhancement, or other moneys, all as specified in  
14 the resolution.

15 (3) The costs of issuance of such Bonds, including  
16 printing, filing fees with regulatory agencies, such as the  
17 United States Securities and Exchange Commission, legal,  
18 rating agency, financing advisors', placement agent's,  
19 underwriters', Trustee's and similar fees and expenses, and  
20 fees or premiums for Credit Enhancement, may also be paid  
21 from the proceeds of sales of the Bonds. The costs of  
22 issuance may also include prior expenditures incurred in  
23 connection with such issuance.

24 (4) In the event Bonds that are obligations of the  
25 FSM are issued in a financing in which the FSM and/or

1 any State does not participate in the proceeds therefrom,  
2 the participating State or States or the FSM, if partici-  
3 pating, shall provide assurance satisfactory to the  
4 Secretary that the non-participating States or the FSM,  
5 if not participating, will be protected from any loss  
6 arising in connection with such Bonds before such Bonds  
7 may be issued."

8 Section 2. Section 562 of title 58 of the Code of the Federated  
9 States of Micronesia, as established by Public Law No. 5-121 and  
10 amended by Public Law No. 5-136, is hereby further amended to read as  
11 follows:

12 "Section 562. Liability of committee members, officers and  
13 employees.

14 (1) No member of the committee, officer or employee  
15 of the committee, or any officer or employee of the FSM or  
16 any political subdivision thereof, including, without  
17 limitation, the FSM Attorney General or any person  
18 executing any Bonds shall be subject to any personal  
19 liability or accountability by reason of the issuance  
20 thereof. If, despite the foregoing, any action is brought  
21 against any member of the committee, any officer or  
22 employee of the committee, or any officer or employee of  
23 the FSM, then the FSM shall indemnify, hold harmless and  
24 defend such individual against any personal liability or  
25 accountability by reason of the issuance of any Bonds.

1           (2) Subsection (1) of this section shall not apply to  
2           any person covered by subsection (1) of this section who  
3           has engaged in fraud or other wanton misconduct relating  
4           to the issuance of any Bonds. However, where any person  
5           covered in subsection (1) of this section is alleged to  
6           have engaged in fraud or other wanton misconduct relating  
7           to the issuance of any Bonds, the FSM, upon written request  
8           by the person covered in subsection (1) of this section and  
9           directed to the FSM Office of the Attorney General, shall  
10          provide legal counsel and legal defense for such person at  
11          the expense of the FSM. If, upon final judgment, it is  
12          established that the person covered by subsection (1) of  
13          this section did engage in fraud or other wanton misconduct  
14          relating to the issuance of any Bonds, then such person  
15          shall reimburse the FSM for costs incurred by the FSM in  
16          providing legal counsel and legal defense. If the FSM  
17          fails, upon written request, to provide such person with  
18          legal counsel and legal defense at FSM expense then the FSM  
19          shall be liable to such person for any liability incurred  
20          by such person, the cost to such person of legal counsel  
21          and legal defense, and subsection (1) of this section shall  
22          apply fully to such person.

23               (3) Notwithstanding subsection (2) of this section,  
24          subsection (1) of this section shall not apply to any  
25          person covered by subsection (1) of this section in the

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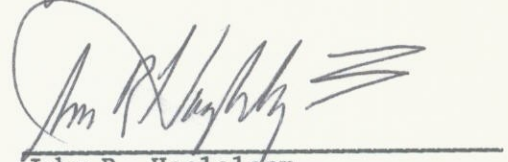
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1 case of a claim for judicial relief in a civil action  
2 against such person brought in the name of the Federated  
3 States of Micronesia."

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

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January 2, <sup>1990</sup>~~1989~~



John R. Haglelgam  
President  
Federated States of Micronesia