

~~PRESIDENTIAL COMM. NO.~~ 7-365
FSM CONGRESS

AN ACT

To further amend title 2 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-2, 5-21, 5-50, 6-62 and 7-6, by repealing section 210 and by amending sections 104, 105, 201, 202 and 207 to make technical and cleanup corrections, and for other purposes.

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

1 Section 1. Section 210 of title 2 of the Code of the Federated
2 States of Micronesia is hereby repealed in its entirety.

3 Section 2. Section 104 of title 2 of the Code of the Federated
4 States of Micronesia is hereby amended to read as follows:

5 "Section 104. Declaration of the President's inability to
6 serve.

7 (1) If two-thirds of all Members of Congress transmit
8 to the Speaker of the Congress their written declaration
9 that the President is unable to discharge the powers and
10 duties of his or her office, the Vice President shall
11 immediately assume the powers and duties of the President
12 as Acting President.

13 (2) If the President transmits to the Speaker of the
14 Congress his or her written declaration that no inability
15 exists, he or she shall four days thereafter resume the
16 powers and duties of his or her office, unless
17 three-fourths of all Members of Congress shall sooner
18 transmit to the Speaker of the Congress their written
19 declaration that the President is unable to discharge the
20 powers and duties of his or her office.

21 (3) Thereupon the Supreme Court shall convene within
22 three days to decide the issue, shall hear evidence for a



1 period not to exceed seven days, and shall issue its
2 decision within three days after the close of evidence. If
3 the Supreme Court determines by majority or tie vote that
4 the President is unable to discharge the powers and duties
5 of his or her office, the Vice President shall become
6 President. Otherwise, the President shall resume the
7 powers and duties of his or her office.

8 (4) If the President does not transmit the
9 declaration provided for in subsection (2) of this section
10 within one hundred eighty days after the declaration
11 provided for in subsection (1) of this section, the Vice
12 President shall become President."

13 Section 3. Section 105 of title 2 of the Code of the Federated
14 States of Micronesia is hereby amended to read as follows:

15 "Section 105. Disappearance, kidnapping, or total
16 disability of the President.

17 (1) If the majority of the principal officers of the
18 executive departments appointed by the President pursuant
19 to article X, section 2(d) of the Constitution transmit to
20 the Speaker of the Congress their written declaration that
21 the President has disappeared or has been kidnapped or has
22 become totally disabled, the Vice President shall
23 immediately assume the powers and duties of the President
24 as Acting President.

25 (2) The President shall resume the powers and duties of

1 his or her office if his or her disappearance or kidnapping
2 or total disability shall cease, as certified by his or her
3 written declaration transmitted to the Speaker of the
4 Congress, within one hundred eighty days after the Vice
5 President has assumed the powers and duties of the
6 President as Acting President; otherwise, the Vice
7 President shall become President.

8 (3) For purposes of this section, the term 'total
9 disability' shall mean the inability of the President to
10 transmit the written declaration provided for in subsection
11 (2) of section 104 of this chapter."

12 Section 4. Section 201 of title 2 of the Code of the Federated
13 States of Micronesia is hereby amended to read as follows:

14 "Section 201. Definitions. As used in this chapter:

15 (1) 'Appointment' means an appointment by the President
16 which requires, and to which has been given, the advice and
17 consent of the Congress.

18 (2) 'Nominee' means a person nominated by the President
19 for an appointment which requires, but to which has not
20 been given, the advice and consent of the Congress.

21 (3) 'Position' and 'regular employee' have the meaning and
22 definitions stated in section 112 of title 52 of this code."

23 Section 5. Section 202 of title 2 of the Code of the Federated
24 States of Micronesia is hereby amended to read as follows:

25 "Section 202. Executive authority. The executive

1 authority of the Government of the Federated States of
2 Micronesia is vested by, and in accordance with, the
3 Constitution of the Federated States, subject to the
4 provisions of section 207 of this chapter. The executive
5 branch of the Government of the Federated States of
6 Micronesia shall be organized in the manner set forth in
7 this chapter, and as may be provided elsewhere in the law
8 of the Federated States of Micronesia."

9 Section 6. Section 207 of title 2 of the Code of the Federated
10 States of Micronesia, as amended by Public Laws Nos. 5-2, 5-50 and
11 7-6, is hereby further amended to read as follows:

12 "Section 207. Appointment authority.

13 (1) The President shall nominate and, with the advice
14 and consent of the Congress, as provided in article X,
15 section 2(d), of the Constitution, shall appoint the
16 secretaries of departments and their deputies, if any, and
17 the heads of the offices of the Attorney General, Budget,
18 Planning and Statistics, Administrative Services,
19 and the Public Defender, and their deputies, if any,
20 including the secretaries, deputies, and heads of
21 departments and offices established by subsequent law;
22 and including the chairman and the members of the Board
23 of Advisors for the Investment Development Fund to be
24 appointed by the President; and including the Federated
25 States of Micronesia members of the Board of Regents of the

1 College of Micronesia; provided that nothing herein shall
2 be construed to require the appointment of the deputies
3 named above.

4 (2) The President or his or her designee may appoint
5 officers and employees not included in subsection (1) of this
6 section, without advice and consent of the Congress; provided
7 that such appointments are not inconsistent with the
8 provisions of this chapter or other laws of the Federated
9 States.

10 (3) The President shall not resubmit the nomination of
11 any person to the Congress for its action if the same Congress
12 shall have previously rejected such nomination, unless the
13 Congress shall by resolution authorize such resubmission.

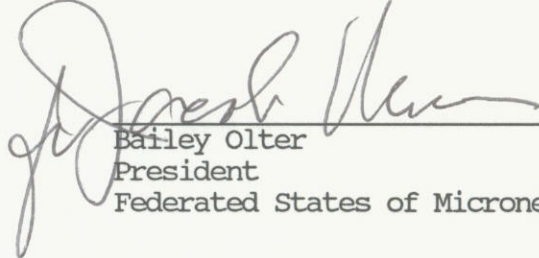
14 (4) With the exception of the Chief Justice and
15 Associate Justices of the Supreme Court, the Public Auditor,
16 ambassadors, members of boards, commissions, and other entities
17 with fixed terms, a public official whose appointment is
18 subject to the advice and consent of the Congress shall
19 submit his or her resignation no later than 90 days after
20 the President of the Federated States of Micronesia takes
21 the oath of office, or at the time a new nominee for such
22 position is confirmed by the Congress, whichever is earlier.
23 The President may renominate the same public official for
24 the same position subject to the advice and consent of the
25 Congress."

7-365

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1 Section 7. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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5 Nov. 16, 1992

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9 Bailey Olter
10 President
11 Federated States of Micronesia

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