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SEVENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH SPECIAL SESSION, 1993

C. B. NO. 7-461

A BILL FOR AN ACT

To further amend title 20 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-25, by repealing title 20 in its entirety, and enacting a new title 20 in lieu thereof, to establish the Federated States of Micronesia Civil Aeronautics Code, and for other purposes.

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

1 Section 1. Title 20 of the Code of the Federated States of
2 Micronesia is hereby repealed in its entirety.

3 Section 2. Title 20 of the Code of the Federated States of
4 Micronesia is hereby further amended by adding a new section 101
5 of chapter 1 to read as follows:

6 "Section 101. Definitions. As used in this title,
7 unless the context otherwise requires:

8 (1) 'Air carrier' means any citizen of the
9 Federated States of Micronesia who undertakes, whether
10 directly or indirectly or by a lease or any other
11 arrangement to engage in air transportation; PROVIDED
12 that the Secretary may by order relieve air carriers who
13 are not directly engaged in the operation of aircraft in
14 air transportation from the provisions of this title to
15 the extent and for such period as may be in the public
16 interest.

17 (2) 'Air commerce' means interstate, intrastate,
18 or foreign air commerce or the transportation of mail by
19 aircraft or any operation or navigation of aircraft
20 within the limits of any FSM airway or any operation or
21 navigation of aircraft which directly affects, or which
22 may endanger safety in interstate, intrastate or foreign
23 air commerce.

24 (3) 'Aircraft' means any contrivance now known or
25 hereafter invented, used, or designed for navigation of

1 or flight in the air.

2 (4) 'Aircraft engine' means an engine used, or
3 intended to be used for propulsion of aircraft and
4 includes all parts, appurtenances, and accessories
5 thereto other than propeller.

6 (5) 'Airman' means any individual who engages, as
7 the person in command or as pilot, mechanic, or member
8 of the crew, in the navigation of aircraft while under
9 way.

10 (6) 'Air navigation facility' means any facility
11 used in, available for use in, or designed for use in,
12 aid of air navigation, including landing areas, lights,
13 any apparatus or equipment for disseminating weather
14 information, for signaling, for radio-directional
15 finding, or for radio or other electrical communication,
16 and any other structure or mechanism having a similar
17 purpose of guiding or controlling flight in the air or
18 the landing and take-off of aircraft.

19 (7) 'Airport' means a landing area used regularly
20 by aircraft for receiving or discharging passengers or
21 cargo.

22 (8) 'Air transportation' means interstate,
23 intrastate or foreign air transportation or the
24 transportation of mail by aircraft.

25 (9) 'Civil aircraft' means any aircraft other than

1 a public aircraft.

2 (10) 'Civil aircraft of the FSM' means any aircraft
3 registered as provided in section of this title.

4 (11) 'Conditional sale' means any contract for the
5 sale of an aircraft, aircraft engine, propeller,
6 appliance, or spare part under which possession is
7 delivered to the buyer and the property is to vest in
8 the buyer at a subsequent time, upon the payment of part
9 or all of the price, or upon the performance of any
10 other condition or the happening of any contingency.

11 (12) 'Conveyance' means a bill of sale, contract of
12 conditional sale, mortgage, assignment of mortgage, or
13 other instrument affecting title to, or interest in
14 property.

15 (13) 'FSM airway' means a portion of the navigable
16 airspace of the FSM designated by the Secretary as an
17 FSM airway.

18 (14) 'FSM' means the Federated States of
19 Micronesia.

20 (15) 'Foreign air carrier' means any person, not a
21 citizen of the FSM, who undertakes, whether directly or
22 indirectly or by lease or any other arrangement, to
23 engage in foreign air transportation.

24 (16) 'Interstate air commerce', 'intrastate air
25 commerce', and 'foreign air commerce', respectively,

1 mean the carriage by aircraft of persons or property for
2 compensation or hire, or the carriage of mail by
3 aircraft, or the operation or navigation of aircraft in
4 the conduct or furtherance of a business or vocation, in
5 commerce between, respectively:

6 (a) A State in the FSM and another State in
7 the FSM;

8 (b) A place in any State in the FSM and
9 another place in the same FSM State; and

10 (c) A place in the FSM and any place outside
11 thereof.

12 (17) 'Interstate air transportation', 'intrastate
13 air transportation', and 'foreign air transportation',
14 respectively, mean the carriage by aircraft of persons
15 or property as a common carrier for compensation or hire
16 or the carriage of mail by aircraft, in commerce
17 between, respectively:

18 (a) A State in the FSM and another State in
19 the FSM;

20 (b) A place in any State in the FSM and
21 another place in the same FSM State; and

22 (c) A place in the FSM and any place outside
23 thereof.

24 (18) 'Mail' means FSM mail and foreign-transit
25 mail.

1 (19) 'Navigable airspace' means airspace above the
 2 minimum altitudes of flight prescribed by regulation
 3 issued under this title, and shall include airspace
 4 needed to insure safety in take-off and landing of
 5 aircraft.

6 (20) 'Navigation of aircraft' includes the piloting
 7 of aircraft.

8 (21) 'Operation of aircraft' means the use of
 9 aircraft for the purpose of air navigation and includes
 10 the navigation of aircraft. Any person who causes or
 11 authorizes the operation of aircraft, whether with or
 12 without the right of legal control (in the capacity of
 13 owner, lessee, or otherwise) of the aircraft, shall be
 14 deemed to be engaged in the operation of aircraft within
 15 the meaning of this title.

16 (22) 'Person' means any individual, firm,
 17 copartnership, corporation, company, association, joint-
 18 stock association, or body politic; and includes any
 19 trustee, receiver, assignee, or other similar
 20 representative thereof.

21 (23) 'Propeller' includes all parts, appurtenances,
 22 and accessories thereof.

23 (24) 'Public aircraft' means an aircraft used
 24 exclusively in the service of any government or any
 25 political subdivision thereof, but not including any

1 government-owned aircraft engaged in carrying persons or
2 property for commercial purposes.

3 (25) 'Secretary' means the Secretary of the
4 Department of Transportation and Communication.

5 (26) 'Spare parts' means parts, appurtenances and
6 accessories of aircraft (other than aircraft engines and
7 propellers), of aircraft engines (other than
8 propellers), of propellers and of appliances maintained
9 for installation or use in an aircraft, aircraft engine,
10 propeller, or appliance, but which at the time are not
11 installed therein or attached thereto.

12 (27) 'Ticket agent' means any person, not an air
13 carrier or a foreign air carrier and not a bona fide
14 employee of an air carrier or foreign air carrier, who,
15 as principal or agent, sells or offers for sale any air
16 transportation, or negotiates for, or holds himself out
17 by solicitation, advertisement, or otherwise as one who
18 sells, provides, furnishes, contracts or arranges for,
19 such transportation."

20 Section 3. Title 20 of the Code of the Federated States of
21 Micronesia is hereby further amended by adding a new section 201
22 of chapter 2 to read as follows:

23 "Section 201. Registration required,

24 (1) It shall be unlawful for any person to operate
25 or navigate any aircraft eligible for registration if

1 such aircraft is not registered by its owner as provided
2 in this section, or to operate or navigate within the
3 FSM any aircraft not eligible for registration, except
4 as provided in section 502 of this title. The Secretary
5 may, by regulation, permit the operation and navigation
6 of aircraft without registration by the owner for such
7 reasonable periods after transfer of ownership thereof
8 as he may prescribe.

9 (2) An aircraft shall be eligible for registration
10 if, but only if:

11 (a) It is owned by a citizen of the Federated
12 States of Micronesia and it is not registered under the
13 laws of any foreign country; or

14 (b) It is an aircraft of the National
15 Government or of a State of the FSM or of a political
16 subdivision thereof.

17 (3) Upon request of the owner of any aircraft
18 eligible for registration, such aircraft shall be
19 registered by the Secretary and the Secretary shall
20 issue to the owner thereof a certificate of
21 registration.

22 (4) Applications for such certificates shall be in
23 such form, be filed in such manner, and contain such
24 information as the Secretary may require.

25 (5) Any such certificate may be suspended or

1 revoked by the Secretary for any cause which renders the
2 aircraft ineligible for registration.

3 (6) Such certificate shall be conclusive evidence
4 of nationality for international purposes, but not in
5 any proceedings under the laws of the FSM. Registration
6 shall not be evidence of ownership of aircraft in any
7 proceedings in which such ownership by a particular
8 person is, or may be an issue."

9 Section 4. Title 20 of the Code of the Federated States of
10 Micronesia is hereby further amended by adding a new section 202
11 of chapter 2 to read as follows:

12 "Section 202. Registration of engines, propellers, and
13 appliances. The Secretary may establish reasonable
14 rules and regulations for registration and
15 identification of aircraft engines, propellers, and
16 appliances, in the interest of safety, and no aircraft
17 engines, propellers, or appliances shall be used in
18 violation of any such rule or regulation."

19 Section 5. Title 20 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section 203
21 of chapter 2 to read as follows:

22 "Section 203. Recordation of aircraft ownership.

23 (1) The Secretary shall establish and maintain a
24 system for the recording of each and all of the
25 following:

1 (a) Any conveyance which affects the title to,
2 or any interest in any civil aircraft of the FSM;

3 (b) Any lease, and any mortgage, equipment
4 trust, contract of conditional sale, or other instrument
5 executed for security purposes which lease or other
6 instrument affects the title to, or any interest in any
7 specifically identified aircraft engine or engines of
8 750 or more rated take-off horsepower for each such
9 engine or the equivalent of such horsepower, and also
10 any assignment or amendment thereof or supplement
11 thereto;

12 (c) Any lease, and any mortgage, equipment
13 trust, contract of conditional sale, or other instrument
14 executed for security purposes, which lease or other
15 instrument affects the title to, or any interest in, any
16 aircraft engines, propellers, or appliances maintained
17 by or on behalf of an air carrier certificated under
18 section 304(2) of this title for installation or use in
19 aircraft, aircraft engines or propellers, or any spare
20 parts maintained by or on behalf of such an air carrier,
21 which instrument need only describe generally by types
22 the engines, propellers, appliances, and spare parts
23 covered thereby and designate the location or locations
24 thereof; and also any assignment or amendment thereof or
25 supplement thereto.

1 (2) The Secretary shall also record under the
2 system provided for in subsection (1) of this section
3 any release, cancellation, discharge, or satisfaction
4 relating to any conveyance or other instrument recorded
5 under said system.

6 (3) No conveyance or instrument the recording of
7 which is provided for by section 203(1) shall be valid
8 in respect of such aircraft, aircraft engine or engines,
9 propeller, appliances, or spare parts against any person
10 other than the person by whom the conveyance or other
11 instrument is made or given, his heir or devisee, or any
12 person having actual notice thereof, until such
13 conveyance or other instrument is filed for recordation
14 in the Office of the Secretary.

15 (4) No conveyance or other instrument shall be
16 recorded unless it shall have been acknowledged before a
17 notary public or other officer authorized by the law of
18 the FSM to take acknowledgement of deeds.

19 (5) The Secretary shall keep a record of the time
20 and date of the filing of conveyances and other
21 instruments with him and of the time and date of
22 recordation thereof. He shall record conveyances and
23 other instruments filed with him in the order of their
24 reception in files to be kept for that purpose, and
25 indexed according to:

1 property interest in such aircraft and the nature and
2 extent of such interest."

3 Section 6. Title 20 of the Code of the Federated States of
4 Micronesia is hereby further amended by adding a new section 204
5 of chapter 2 to read as follows:

6 "Section 204. Limitation of security owners liability.
7 No person having a security interest in, or security
8 title to, any civil aircraft under a contract of
9 conditional sale, equipment trust, chattel or corporate
10 mortgage, or other instrument of similar nature, and no
11 lessor of any such aircraft under a bona fide lease of
12 30 days or more, shall be liable by reason of such
13 interest or title, or by reason of his interest as
14 lessor or owner of the aircraft so leased, for any
15 injury to or death of persons, or damage to or loss of
16 property on the surface of the earth (whether on land or
17 water) caused by such aircraft, or by the ascent,
18 descent, or flight of such aircraft or by the dropping or
19 falling of an object therefrom, unless such aircraft is
20 in the actual possession or control of such person at
21 the time of such injury, death, damage, or loss."

22 Section 7. Title 20 of the Code of the Federated States of
23 Micronesia is hereby further amended by adding a new section 301
24 of chapter 3 to read as follows:

25 "Section 301. Minimum standards, rules and regulations.

1 (1) The Secretary is empowered and it shall be his
2 duty to promote safety of flight of civil aircraft in
3 air commerce, by prescribing and revising from time to
4 time as the Secretary may find necessary to provide
5 adequately for safety in air commerce:

6 (a) Minimum standards governing the
7 construction of airports and airport facilities;

8 (b) Reasonable rules and regulations and
9 minimum standards governing, in the interest of safety:

10 (i) the inspection, servicing, and
11 overhaul of aircraft, aircraft engines, propellers, and
12 appliances;

13 (ii) the equipment and facilities for such
14 inspection, servicing, and overhaul; and

15 (iii) in the discretion of the Secretary,
16 the periods for, and the manner in which such
17 inspection, servicing, and overhaul shall be made,
18 including provision for examinations and reports by
19 properly qualified private persons whose examinations or
20 reports the Secretary may accept in lieu of those made
21 by his officers and employees;

22 (c) Reasonable rules and regulations governing
23 the reserve supply of aircraft, aircraft engines,
24 propellers, appliances and aircraft fuel and oil,
25 required in the interest of safety, including the

1 reserve supply of aircraft fuel and oil which shall be
2 carried in flight;

3 (d) Reasonable rules and regulations
4 governing, in the interest of safety, the maximum hours
5 or periods of service of airmen, and other employees of
6 air carriers; and

7 (e) Reasonable rules and regulations, or
8 minimum standards governing other practices, methods,
9 and procedures."

10 Section 8. Title 20 of the Code of the Federated States of
11 Micronesia is hereby further amended by adding a new section 302
12 of chapter 3 to read as follows:

13 "Section 302. Hazard to air commerce. The Secretary
14 shall by rules, regulations, or by order where
15 necessary, require all persons to give adequate public
16 notice in the form and manner prescribed by him of the
17 construction or alteration, or, of the proposed
18 construction or alteration of any structure where notice
19 will promote safety in air commerce."

20 Section 9. Title 20 of the Code of the Federated States of
21 Micronesia is hereby further amended by adding a new section 303
22 of chapter 3 to read as follows:

23 "Section 303. Airman certificates.

24 (1) The Secretary is empowered to issue airman
25 certificates specifying the capacity in which the

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1 holders thereof are authorized to serve as airmen in
2 connection with aircraft.

3 (2) Any person may file with the Secretary an
4 application for an airman certificate. If the Secretary
5 finds, after investigation, that such person possesses
6 proper qualifications for, and is physically able to
7 perform the duties pertaining to, the position for which
8 the airman certificate is sought, he shall issue such
9 certificate, containing such terms, conditions, and
10 limitations as to duration thereof, periodic or special
11 examinations, tests of physical fitness, and other
12 matters as the Secretary may determine to be necessary
13 to assure safety in air commerce.

14 (3) Each certificate shall be numbered and recorded
15 by the Secretary; shall state the name and address of,
16 and contain a description of, the person to whom the
17 certificate is issued, and shall be entitled with the
18 designation of the class covered thereby. Certificates
19 issued to all pilots serving in scheduled air
20 transportation shall be designated 'airline transport
21 pilot' of the proper class."

22 Section 10. Title 20 of the Code of the Federated States of
23 Micronesia is hereby further amended by adding a new section 304
24 of chapter 3 to read as follows:

25 "Section 304. Airworthiness certificate. The

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1 registered owner of any aircraft may file with the
2 Secretary an application for an airworthiness
3 certificate for such aircraft. If the Secretary finds
4 that the aircraft conforms to the type certificate
5 thereof, and after inspection, that the aircraft is in
6 condition for safe operation, he shall issue an
7 airworthiness certificate. The Secretary may prescribe
8 in such certificate the duration of such certificate,
9 the type of service for which the aircraft may be used,
10 and such other terms, conditions and limitations as are
11 required in the interest of safety. The certificate
12 number or such other individual designation as may be
13 required by the Secretary shall be displayed upon each
14 aircraft in accordance with regulations prescribed by
15 the Secretary."

16 Section 11. Title 20 of the Code of the Federated States of
17 Micronesia is hereby further amended by adding a new section 305
18 of chapter 3 to read as follows:

19 "Section 305. Air carrier operating certificate.

20 (1) The Secretary is empowered to issue air carrier
21 operating certificates and to establish minimum safety
22 standards for the operation of the air carrier to whom
23 any such certificate is issued.

24 (2) Any person desiring to operate as an air
25 carrier may file with the Secretary an application for

1 an air carrier operating certificate. If the Secretary
2 finds, after investigation, that such person is properly
3 and adequately equipped and able to conduct a safe
4 operation in accordance with the requirements of this
5 title and the rules, regulations and standards
6 prescribed thereunder, he shall issue an air carrier
7 operating certificate to such person. Each air carrier
8 operating certificate shall prescribe such terms,
9 conditions, and limitations, and specify the points to
10 and from which such person is authorized to operate as
11 an air carrier under an air carrier operating
12 certificate."

13 Section 12. Title 20 of the Code of the Federated States of
14 Micronesia is hereby further amended by adding a new section 306
15 of chapter 3 to read as follows:

16 "Section 306. Duties of carriers and airmen. It shall
17 be the duty of each air carrier to make, or cause to be
18 made, such inspection, maintenance, overhaul, and repair
19 of all equipment used in air transportation as may be
20 required by this title, or the orders, rules and
21 regulations issued by the Secretary pursuant to this
22 title. It shall also be the duty of every person
23 engaged in operating, inspecting, maintaining, or
24 overhauling equipment to observe and comply with the
25 requirements of this title relating thereto, and the

1 orders, rules and regulations issued thereunder."

2 Section 13. Title 20 of the Code of the Federated States of
3 Micronesia is hereby further amended by adding a new section 307
4 of chapter 3 to read as follows:

5 "Section 307. Form of applications. Applications for
6 certificates under this title shall be in such form,
7 contain such information and be filed and served in such
8 manner as the Secretary may prescribe, and shall be
9 under oath whenever the Secretary so requires."

10 Section 14. Title 20 of the Code of the Federated States of
11 Micronesia is hereby further amended by adding a new section 308
12 of chapter 3 to read as follows:

13 "Section 308. Amendment, suspension and revocation of
14 certificates. The Secretary may issue an order
15 amending, modifying, suspending, or revoking, in whole
16 or in part, any certificates issued under this title in
17 the interest of safety of air commerce and the public
18 interest."

19 Section 15. Title 20 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section 309
21 of chapter 3 to read as follows:

22 "Section 309. Aircraft accident investigation. It
23 shall be the duty of the Secretary to:

24 (1) Make rules and regulations governing
25 notification and report of accidents involving civil

1 aircraft;

2 (2) Investigate such accidents and report the
3 facts, conditions and circumstances relating to each
4 accident and the probable cause thereof;

5 (3) Make such reports public in such form and
6 manner as may be deemed to be in the public interest;
7 and

8 (4) Ascertain what will best tend to reduce or
9 eliminate the possibility of, or recurrence of,
10 accidents, by conducting special studies and
11 investigations on matters pertaining to safety in air
12 navigation and the prevention of accident."

13 Section 16. Title 20 of the Code of the Federated States of
14 Micronesia is hereby further amended by adding a new section 310
15 of chapter 3 to read as follows:

16 "Section 310. Use of records and reports as evidence.
17 No part of any report or reports of the Secretary
18 relating to any accident or the investigation thereof,
19 shall be admitted as evidence or used in any suit or
20 action for damages growing out of any matter mentioned
21 in such report or reports."

22 Section 17. Title 20 of the Code of the Federated States of
23 Micronesia is hereby further amended by adding a new section 401
24 of chapter 4 to read as follows:

25 "Section 401. Certificate of public convenience and

1 necessity. No air carrier shall engage in any air
2 transportation unless there is in force a certificate
3 issued by the Secretary authorizing such air carrier to
4 engage in such transportation."

5 Section 18. Title 20 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new section 402
7 of chapter 4 to read as follows:

8 "Section 402. Application for certificate. Application
9 for a certificate shall be made in writing to the
10 Secretary and shall be so verified, shall be in such
11 form and contain such information and shall be
12 accompanied by such proof of service upon such
13 interested persons as the Secretary shall by regulation
14 require."

15 Section 19. Title 20 of the Code of the Federated States of
16 Micronesia is hereby further amended by adding a new section 403
17 of chapter 4 to read as follows:

18 "Section 403. Notice of application. Upon the filing
19 of any such application, the Secretary shall give due
20 notice to the public by posting a notice of such
21 application in the Office of the Secretary and the
22 offices of the Governors of each of the FSM States and
23 of such other persons as the Secretary may by regulation
24 specify. Any interested person may file with the
25 Secretary a protest or memorandum of opposition to or in

1 support of the issuance of a certificate. Such
2 application shall be set for public hearing and the
3 Secretary shall dispose of such application as speedily
4 as possible."

5 Section 20. Title 20 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new section 404
7 of chapter 4 to read as follows:

8 "Section 404. Issuance of certificate.

9 (1) The Secretary shall issue a certificate
10 authorizing the whole or any part of the transportation
11 covered by the application, if he finds that the
12 applicant is fit, willing, and able to perform such
13 transportation properly, and to conform to the
14 provisions of this title and the rules, regulations and
15 requirements hereunder and that such transportation is
16 required by the public convenience and necessity;
17 otherwise such application shall be denied.

18 (2) In the case of an application for a certificate
19 to engage in temporary air transportation, the Secretary
20 may issue a certificate authorizing the whole or any
21 part thereof for such limited periods as may be required
22 by the public convenience and necessity, if he finds
23 that the applicant is fit, willing and able properly to
24 perform such transportation and to conform to the
25 provisions of this title and the rules, regulations and

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1 requirements thereunder."

2 Section 21. Title 20 of the Code of the Federated States of
3 Micronesia is hereby further amended by adding a new section 405
4 of chapter 4 to read as follows:

5 "Section 405. Terms and conditions of certificates.

6 (1) Each certificate issued under this section
7 shall specify the terminal points and intermediate
8 points, if any, between which the air carrier is
9 authorized to engage in air transportation and the
10 service to be rendered; and there shall be attached to
11 the exercise of the privileges granted by the
12 certificate, or amendment thereto, such reasonable
13 terms, conditions and limitations as the public interest
14 may require.

15 (2) A certificate issued under this section to
16 engage in foreign air transportation shall, insofar as
17 the operation is to take place without the FSM,
18 designate the terminal and intermediate points only
19 insofar as the Secretary shall deem practicable, and
20 otherwise shall designate only the general route or
21 routes to be followed."

22 Section 22. Title 20 of the Code of the Federated States of
23 Micronesia is hereby further amended by adding a new section 406
24 of chapter 4 to read as follows:

25 "Section 406. Effective date and duration of

1 certificate. Each certificate shall be effective from
2 the date specified therein, and shall continue in effect
3 until suspended or revoked as hereinafter provided, or
4 until the Secretary shall certify that operation
5 thereunder has ceased, or, if issued for a limited
6 period of time under section 404(2), shall continue in
7 effect until the expiration thereof, unless, prior to
8 the date of expiration, such certificate shall be
9 suspended or revoked as provided herein, or the
10 Secretary shall certify that operations thereunder have
11 ceased; PROVIDED, that if any service authorized by a
12 certificate is not inaugurated within a period of 90
13 days after the date of the authorization, the Secretary
14 may by order direct that such certificate shall
15 thereupon cease to be effective to the extent of such
16 service."

17 Section 23. Title 20 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 407
19 of chapter 4 to read as follows:

20 "Section 407. Authority to modify, suspend, or revoke.
21 The Secretary upon petition or complaint or upon his own
22 initiative, after notice and hearings, may alter, amend,
23 modify, or suspend any such certificate, in whole or in
24 part, if the public convenience and necessity so
25 require, or may revoke any such certificate, in whole or

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1 in part, for intentional failure to comply with any
2 provision of this title or any order, rule, or
3 regulations issued hereunder or any terms, conditions,
4 or limitations of such certificate."

5 Section 24. Title 20 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new section 408
7 of chapter 4 to read as follows:

8 "Section 408. Transfer of certificate. No certificate
9 may be transferred unless such transfer is approved by
10 the Secretary as being consistent with the public
11 interest."

12 Section 25. Title 20 of the Code of the Federated States of
13 Micronesia is hereby further amended by adding a new section 409
14 of chapter 4 to read as follows:

15 "Section 409. Certain rights not conferred by
16 certificate. No certificate shall confer any
17 proprietary, property, or exclusive right in the use of
18 any airspace, airways, landing area or air navigation
19 facility."

20 Section 26. Title 20 of the Code of the Federated States of
21 Micronesia is hereby further amended by adding a new section 410
22 of chapter 4 to read as follows:

23 "Section 410. Application for abandonment. No air
24 carrier shall abandon any route, or part thereof, for
25 which a certificate has been issued by the Secretary,

1 unless upon the application of such air carrier, after
2 notice and hearing, the Secretary finds such abandonment
3 to be in the public interest. The Secretary may, by
4 regulations or otherwise, authorize such temporary
5 suspension of service as may be in the public interest."

6 Section 27. Title 20 of the Code of the Federated States of
7 Micronesia is hereby further amended by adding a new section 411
8 of chapter 4 to read as follows:

9 "Section 411. Requirement as to carriage of mail.
10 Whenever so authorized by its certificate, any air
11 carrier shall provide necessary and adequate facilities
12 and service for the transportation of mail, and shall
13 transport mail whenever required by the Postmaster
14 General. Such air carrier shall be entitled to receive
15 reasonable compensation in accordance with rates
16 approved by the Postmaster General."

17 Section 28. Title 20 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 412
19 of chapter 4 to read as follows:

20 "Section 412. Transportation of mail. The Postmaster
21 General is authorized to make such rules and
22 regulations, not inconsistent with the provisions of
23 this title, or any order, rule or regulation made by the
24 Secretary thereunder, as may be necessary for the safe
25 and expeditious carriage of mail by aircraft."

1 Section 29. Title 20 of the Code of the Federated States of
2 Micronesia is hereby further amended by adding a new section 413
3 of chapter 4 to read as follows:

4 "Section 413. Permit to foreign air carrier. No
5 foreign air carrier shall engage in foreign air
6 transportation unless there is in force a permit issued
7 by the Secretary authorizing such carriers to so
8 engage."

9 Section 30. Title 20 of the Code of the Federated States of
10 Micronesia is hereby further amended by adding a new section 414
11 of chapter 4 to read as follows:

12 "Section 414. Issuance of permit. The Secretary is
13 empowered to issue such permit if he finds that such
14 carrier is fit, willing, and able properly to perform
15 such air transportation and to conform to the provisions
16 of this title and the rules, regulations and
17 requirements hereunder and that such transportation will
18 be in the public interest."

19 Section 31. Title 20 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section 415
21 of chapter 4 to read as follows:

22 "Section 415. Application for permit. Application for
23 a permit shall be made in writing to the Secretary, and
24 shall be so verified, shall be in such form, and shall
25 contain such information and shall be accompanied by

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1 such proof of service upon such interested persons, as
2 the Secretary shall by regulation require."

3 Section 32. Title 20 of the Code of the Federated States of
4 Micronesia is hereby further amended by adding a new section 416
5 of chapter 4 to read as follows:

6 "Section 416. Notice of application. Upon the filing
7 of an application for a permit the Secretary shall give
8 due notice thereof to the public by posting a notice of
9 such application in the Office of the Secretary and the
10 offices of the Governors of each of the States and such
11 other persons as the Secretary may by regulation
12 determine. Any interested person may file with the
13 Secretary a protest or memorandum of opposition to or in
14 support of the issuance of a permit. Such application
15 shall be set for public hearing and the Secretary shall
16 dispose of such application as speedily as possible."

17 Section 33. Title 20 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 417
19 of chapter 4 to read as follows:

20 "Section 417. Terms and conditions. The Secretary may
21 prescribe the duration of any permit and may attach to
22 such permit such reasonable terms, conditions, or
23 limitations as, in his judgment, the public interest may
24 require."

25 Section 34. Title 20 of the Code of the Federated States of

1 Micronesia is hereby further amended by adding a new section 418
2 of chapter 4 to read as follows:

3 "Section 418. Transfer of permit. No permit may be
4 transferred unless such transfer is approved by the
5 Secretary as being in the public interest."

6 Section 35. Title 20 of the Code of the Federated States of
7 Micronesia is hereby further amended by adding a new section 419
8 of chapter 4 to read as follows:

9 "Section 419. Authority to modify, suspend, or revoke.
10 Any permit issued under the provisions of section 414
11 may, after notice and hearing, be altered, modified,
12 amended, suspended, canceled, or revoked by the
13 Secretary whenever he finds such action to be in the
14 public interest. Any interested person may file with
15 the Secretary a protest or memorandum in support of or
16 in opposition to the alteration, modification,
17 amendment, suspension, cancellation, or revocation of a
18 permit."

19 Section 36. Title 20 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section 420
21 of chapter 4 to read as follows:

22 "Section 420. Tariffs of air carrier. Every air
23 carrier and every foreign air carrier shall file with
24 the Secretary, and print and keep open to public
25 inspection, tariffs showing all rates, fares, and

charges for air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and through rates shall have been established, and showing to the extent required by regulations all classifications, rules, regulations, practices, and services in connection with such air transportation. Tariffs shall be filed, posted and published in such form and manner and shall contain such information, as the Secretary shall by regulation prescribe; and the Secretary is empowered to reject any tariff so filed which is not consistent with this section and such regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariff may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may in the case of foreign air transportation, contain such information as may be required under the laws of any country in which or to which an air carrier or foreign air carrier is authorized to operate."

Section 37. Title 20 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 421 of chapter 4 to read as follows:

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1 "Section 421. Observation of tariff. No air carrier or
2 foreign air carrier shall charge, demand, collect or
3 receive greater or less or different compensation for
4 air transportation, or for any service in connection
5 therewith, than the rates, fares, and charges specified
6 in its currently effective tariff. Nothing in this
7 title shall prohibit such air carrier or foreign air
8 carrier, under such terms and conditions as the
9 Secretary may prescribe, from issuing or interchanging
10 tickets or passes for free or reduced-rate
11 transportation to their directors, officers, agents and
12 employees and their immediate families."

13 Section 38. Title 20 of the Code of the Federated States of
14 Micronesia is hereby further amended by adding a new section 422
15 of chapter 4 to read as follows:

16 "Section 422. Notice of tariff change. No change shall
17 be made in any rate, fare, or charge, or any
18 classification, rule, regulations or practice affecting
19 such rate, fare, or charge, or the value of the service
20 thereunder, specified in any effective tariff of any air
21 carrier or foreign air carrier, except after 90 days'
22 notice of the proposed change filed, posted and
23 published in accordance with section 420 of this
24 chapter. Such notice shall plainly state the change
25 proposed to be made and the time such change will take

1 effect. The Secretary may in the public interest by
2 regulation or otherwise, allow such change upon notice
3 less than that herein specified, or modify the
4 requirements of this section with respect to filing and
5 posting of tariff, either in particular instances or by
6 general order applicable to special or peculiar
7 circumstances and conditions."

8 Section 39. Title 20 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new section 423
10 of chapter 4 to read as follows:

11 "Section 423. Power to prescribe rates and practices of
12 air carriers. Whenever, after notice and hearing, upon
13 complaint, or upon his own initiative, the Secretary
14 shall be of the opinion that any individual or joint
15 rate, fare or charge demanded, charged, collected or
16 received by any air carrier for interstate or intrastate
17 air transportation, or any classification, rule,
18 regulation, or practice affecting such rate, fare, or
19 charge, or the value of the service thereunder, is or
20 will be unjust or unreasonable, or unjustly
21 discriminatory, or unduly preferential, or unduly
22 prejudicial, the Secretary shall determine and prescribe
23 the lawful rate, fare, or charge thereafter to be
24 demand, charged, collected or received or the lawful
25 classification, rule, regulation or practice thereafter

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1 to be made effective."

2 Section 40. Title 20 of the Code of the Federated States of
3 Micronesia is hereby further amended by adding a new section 424
4 of chapter 4 to read as follows:

5 "Section 424. Rules of rate-making. In exercising and
6 performing his powers and duties with respect to the
7 determination of rates for the carriage of persons or
8 property, the Secretary shall take into consideration,
9 among other factors:

10 (1) The effect of such rates upon the movement of
11 traffic;

12 (2) The need in the public interest of adequate and
13 efficient transportation of persons and property by air
14 carrier at the lowest cost consistent with the
15 furnishing of such service;

16 (3) Such standards respecting the character and
17 quality of service to be rendered by air carriers as may
18 be prescribed by or pursuant to law;

19 (4) The inherent advantages of transportation by
20 aircraft; and

21 (5) The need of each air carrier for revenue
22 sufficient to enable such air carrier, under honest,
23 economical, and efficient management, to provide
24 adequate and efficient air carrier service."

25 Section 41. Title 20 of the Code of the Federated States of

1 Micronesia is hereby further amended by adding a new section 425
2 of chapter 4 to read as follows:

3 "Section 425. Suspension of rates. Whenever any air
4 carrier shall file with the Secretary a tariff stating a
5 new individual or joint rate, fare, or charge for
6 interstate and intrastate air transportation, the
7 Secretary is empowered, upon complaint or upon his own
8 initiative, at once, and, if he so orders, without
9 answer or other formal pleading by the air carrier, but
10 upon reasonable notice, to enter upon a hearing
11 concerning the lawfulness of such rate, fare, and
12 charge; and pending such hearing and the decision
13 thereon, the Secretary, by filing with such tariff, and
14 delivering to the air carrier affected thereby, a
15 statement in writing of his reasons for such suspension,
16 may suspend the operation of such tariff and defer the
17 use of such rate, fare, or charge for a period of 90
18 days; and if the proceeding has not been concluded and a
19 final order made within such period, the Secretary may
20 from time to time extend the period of suspension, but
21 not for a longer period in the aggregate than 180 days
22 beyond the time when such tariff should otherwise go
23 into effect. If the proceedings have not been concluded
24 and an order of extension has not been issued within the
25 period of suspension, the proposed rate, fare, or charge

1 shall go into effect at the end of such period. This
2 section shall not apply to any initial tariff filed by
3 any air carrier."

4 Section 42. Title 20 of the Code of the Federated States of
5 Micronesia is hereby further amended by adding a new section 426
6 of chapter 4 to read as follows:

7 "Section 426. Carriers duty to provide service, rates
8 and divisions. It shall be the duty of every air
9 carrier to provide and furnish interstate and overseas
10 air transportation as authorized by its certificate,
11 upon reasonable request therefore and to provide
12 reasonable through service in such air transportation in
13 connection with other air carriers; to provide safe and
14 adequate service, equipment and facilities in connection
15 with such transportation; to establish, observe and
16 enforce just and reasonable individual and joint rates,
17 fares and charges and just and reasonable
18 classifications, rules and regulations and practices
19 relating to such air transportation; and in case of such
20 joint rates, fares, and charges to establish just,
21 reasonable and equitable division thereof between air
22 carriers participating therein which shall not unduly
23 prefer or prejudice any of such participating carriers."

24 Section 43. Title 20 of the Code of the Federated States of
25 Micronesia is hereby further amended by adding a new section 427

1 of chapter 4 to read as follows:

2 "Section 427. Discrimination. No air carrier or
3 foreign air carrier shall make, give or cause any undue
4 or unreasonable preference or advantage to any
5 particular person, port, locality or description of
6 traffic in air transportation in any respect whatsoever
7 or subject any particular person, port, locality or
8 description of traffic in air transportation to any
9 unjust discrimination or any undue or unreasonable
10 prejudice or disadvantage in any respect whatsoever."

11 Section 44. Title 20 of the Code of the Federated States of
12 Micronesia is hereby further amended by adding a new section 428
13 of chapter 4 to read as follows:

14 "Section 428. Account records and reports. The
15 Secretary is empowered to require annual, monthly,
16 periodical and special reports from any air carrier; to
17 prescribe the manner and form in which such reports
18 shall be made; and to require from any air carrier
19 specific answers to all questions upon which the
20 Secretary may deem information to be necessary. Such
21 reports shall be under oath whenever the Secretary so
22 requires. The Secretary may also require any air
23 carrier to file with him a true copy of each or any
24 contract, agreement, understanding, or arrangement,
25 between such air carrier and any other air carrier or

1 person, in relation to any traffic affected by the
2 provisions of this title."

3 Section 45. Title 20 of the Code of the Federated States of
4 Micronesia is hereby further amended by adding a new section 429
5 of chapter 4 to read as follows:

6 "Section 429. Disclosure of stock ownership. Each air
7 carrier shall submit annually, and at such times as the
8 Secretary shall require, a list showing the names of
9 each of its stockholders or members holding more than
10 five percent of the entire capital stock or capital, as
11 the case may be, of such air carrier, together with the
12 name of any person for whose account, if other than the
13 holder, such stock is held; and a report setting forth a
14 description of the shares of stock or other interest
15 held by such air carrier, or for its account, in persons
16 other than itself."

17 Section 46. Title 20 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 430
19 of chapter 4 to read as follows:

20 "Section 430. Inspection of accounts and property. The
21 Secretary or his duly authorized representative shall at
22 all times have access to all lands, buildings, and
23 equipment of any air carrier and to all accounts,
24 records and memoranda, including all documents, papers
25 and correspondence, now or hereafter existing and kept

1 or required to be kept by air carriers; and he may
2 employ special agents or auditors, who shall have
3 authority to inspect and examine any and all such lands,
4 buildings, equipment, accounts, records, and memoranda.
5 The provisions of this section shall apply to the extent
6 found by the Secretary to be reasonably necessary for
7 the administration of this title."

8 Section 47. Title 20 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new section 431
10 of chapter 4 to read as follows:

11 "Section 431. Methods of competition. The Secretary
12 may upon his own initiative or upon complaint by any air
13 carrier, foreign air carrier or ticket agent, if he
14 considers that such action by him would be in the
15 interest of the public, investigate and determine
16 whether any air carrier, foreign air carrier or ticket
17 agent has been or is engaged in unfair or deceptive
18 practices or unfair methods of competition in air
19 transportation or the sale thereof. If the Secretary
20 shall find after notice and hearing that such air
21 carrier, foreign air carrier or ticket agent is engaged
22 in such unfair or deceptive practices or unfair methods
23 of competition, he shall order such air carrier, foreign
24 air carrier or ticket agent to cease and desist from
25 such practices or methods of competition."

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1 Section 48. Title 20 of the Code of the Federated States of
2 Micronesia is hereby further amended by adding a new section 432
3 of chapter 4 to read as follows:

4 "Section 432. Classification and exemption of carriers.

5 (1) The Secretary may from time to time establish
6 such just and reasonable classifications or groups of
7 air carriers for the purposes of this title as the
8 nature of the services performed by such air carriers
9 shall require; and such just and reasonable rules and
10 regulations, pursuant to and consistent with the
11 provisions of this title, to be observed by each such
12 class or group as the Secretary finds necessary in the
13 public interest.

14 (2) The Secretary may from time to time and to the
15 extent necessary, exempt from the requirements of this
16 title or any provisions thereof, or any rule,
17 regulation, term, condition, or limitation prescribed
18 thereunder, any air carrier or class of air carriers, if
19 he finds that the enforcement of this title or such
20 provision, or such rule, regulation, term, condition, or
21 limitation is or would be an undue burden on such air
22 carrier or class of air carriers by reason of the
23 limited extent of, or unusual circumstances affecting,
24 the operations of such air carrier or class of air
25 carriers and is not in the public interest."

1 Section 49. Title 20 of the Code of the Federated States of
2 Micronesia is hereby further amended by adding a new section 501
3 of chapter 5 to read as follows:

4 "Section 501. International agreements. In exercising
5 and performing the powers and duties conferred under
6 this title, the Secretary shall do so consistently with
7 any obligation assumed by the FSM in any treaty,
8 convention, or agreement that may be in force between
9 the FSM and any foreign country or foreign countries,
10 and shall take into consideration any applicable law and
11 requirements of foreign countries; and the Secretary
12 shall not, in exercising and performing his powers and
13 duties with respect to certificates of convenience and
14 necessity, restrict compliance by any air carrier with
15 any obligation, duty, or liability imposed by any
16 foreign country; PROVIDED that this section shall not
17 apply to any obligation, duty, or liability arising out
18 of a contract or other agreement, heretofore or
19 hereafter entered into between an air carrier and any
20 foreign country, if such contract or agreement is
21 disapproved by the Secretary as being contrary to the
22 public interest."

23 Section 50. Title 20 of the Code of the Federated States of
24 Micronesia is hereby further amended by adding a new section 502
25 of chapter 5 to read as follows:

1 "Section 502. Foreign aircraft.

2 (1) The FSM is hereby declared to possess and
3 exercise complete and exclusive national sovereignty in
4 the airspace of the FSM, including the airspace above
5 all those portions of the adjacent marginal high seas,
6 over which by international law or treaty or convention
7 the FSM exercises national jurisdiction. Aircraft of
8 the armed forces of any foreign nation shall not be
9 navigated in the FSM except in accordance with an
10 authorization granted by treaty or agreement.

11 (2) Foreign aircraft which are not a part of the
12 armed forces of a foreign nation may be navigated in the
13 FSM by airmen holding certificates or licenses issued or
14 rendered valid by the FSM or the nation in which the
15 aircraft is registered, if such foreign nation grants a
16 similar privilege with respect to aircraft of the FSM,
17 and only if such navigation is authorized by permit,
18 order, or regulation issued by the Secretary hereunder
19 and in accordance with the terms, conditions and
20 limitations thereof."

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Section 51. This act shall become law upon approval by the

President of the Federated States of Micronesia or upon its

becoming law without such approval.

Date: 3/26/93

Introduced by

Joseph C. Urusemal
(by request)