To authorize the President of the Federated States of Micronesia, or his designee, to execute a sovereign guarantee to secure an Asian Development Bank loan for the Pohnpei Port Development Project, and for other purposes.

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

1. Section 1. Purpose. The State of Pohnpei plans to upgrade its port facilities in Dekehtik located in the Pohnpei Transportation Zone. The facilities are managed and controlled by the Pohnpei Port Authority (PPA), a Pohnpei State agency. The total project cost is $17.1 million proposed to be financed through loans from the Asian Development Bank (ADB). Of the total project cost, $4.5 million will be funded out of ADB’s Ordinary Capital Resources (OCR) and $11.9 out of ADB’s Special Fund (ADF). Pohnpei State will be required to fund the remaining portion of the project cost.

2. Section 2. Authorization to execute sovereign guarantee. Pursuant to the authority to appropriate funds and to borrow money on public credit under Article IX of the FSM Constitution, Congress hereby authorizes the President, or his designee, to execute a sovereign guarantee with the State of Pohnpei and the Asian Development Bank guaranteeing repayment of the Pohnpei Port Development Project loans.

3. Section 3. Authorization for appropriation. There is hereby authorized to be appropriated out of the General Fund of the Federated States of Micronesia the sum of not more than
$16,400,000 to guarantee the repayment of the Pohnpei Port Development Project loan.

Section 4. Terms of the guarantee. The guarantee shall be executed upon such terms as may be set by the President of the Federated States of Micronesia consistent with the provisions of this act to include the following conditions:

(a) The State of Pohnpei is primarily responsible for repayment of the Asian Development Bank loan.

(b) FSM National Government’s obligation as guarantor extends only to disbursements of the Asian Development Bank Pohnpei Port Development Project loan after execution of an appropriate guarantee agreement.

(c) FSM National Government’s obligation applies only if the State of Pohnpei is in default of its repayment obligations.

(d) The State of Pohnpei pledges its state revenues and agrees to an offset of its national revenue in the event of default by the State of Pohnpei.

(e) The State of Pohnpei provides full indemnity to the FSM National Government whenever the latter becomes obligated to pay under the guarantee.

(f) FSM National Government shall have subrogation rights in the event it becomes liable under its guarantee.

Section 5. Duties of the Secretary of Finance. Upon default of the State of Pohnpei on its payment obligations to the Asian Development Bank, the FSM Secretary of Finance and Administration
shall submit to the President an appropriation bill for consideration of Congress of the Federated States of Micronesia for fulfillment of the sovereign guarantee.

Section 6. 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: 7/22/13 Introduced by: /s/ Florencio S. Harper
Florencio S. Harper (by request)