

AN ACT

To provide a copyright law for the Federated States of Micronesia, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA: 29

1 CHAPTER I - IN GENERAL CONGRESSIONAL BILL NO. 2-162, C.D.1

2 Section 101. Definitions.

3 (1) "Anonymous work" is a work on the copies or phonorecords of
4 which no natural person is identified as the author.

5 (2) The "Attorney General's Office" means the Office of the

6 produced, or otherwise communicated, either directly or with the aid of
7 Attorney General of the National Government of the Federated States of
8 a device. The term "copy" includes the material object, other than a
9 Micronesia.
10 phonorecord, in which the work is first fixed.

11 (3) "Audiovisual works" are works that consist of a series of

12 related images which are intrinsically intended to be shown by the use
13 of machines or devices such as projectors, viewers, or electronic equip-
14 ment, together with accompanying sounds, if any, regardless of the nature
15 of the material objects, such as films or tapes, in which the works are
16 embodied.
17 (4) "Collective work" is a work, such as a periodical issue,

18 anthology, or encyclopedia, in which a number of contributions, consti-
19 tuting separate and independent works in themselves, are assembled into
20 a collective whole.

21 (5) A "compilation" is a work formed by the collection and
22 production, abridgement, condensation, or any other form in which a work
23 assembling of preexisting materials or of data that are selected, coordi-
24 nated, or arranged in such a way that the resulting work as a whole
25 constitutes an original work of authorship. The term compilation in-
cludes collective works.

(6) A "derivative work" is a work based upon one or more

(7) A "display" is a work that is shown in a copy or phono-
record for the first time. Where a work is prepared over a period of
time, the portion of it that has been fixed at any particular time consti-
tutes the work as of that time, and where the work has been prepared in
different versions, each version constitutes a separate work.

(8) A "display" is a work that is shown in a copy or phono-
record for the first time. Where a work is prepared over a period of
time, the portion of it that has been fixed at any particular time consti-
tutes the work as of that time, and where the work has been prepared in
different versions, each version constitutes a separate work.

(9) A "display" is a work that is shown in a copy or phono-
record for the first time. Where a work is prepared over a period of
time, the portion of it that has been fixed at any particular time consti-
tutes the work as of that time, and where the work has been prepared in
different versions, each version constitutes a separate work.

1 (6) "Copies" are material objects, other than phonorecords, in
2 which a work is fixed by any method and from which can be perceived, re-
3 produced, or otherwise communicated, either directly or with the aid of
4 a device. The term "copies" includes the material object, other than a
5 phonorecord, in which the work is first fixed.

6 (7) "Court" means the trial or appellate division of the Su-
7 preme Court of the Federated States of Micronesia.

8 (8) A work is "created" when it is fixed in a copy or phono-
9 record for the first time. Where a work is prepared over a period of
10 time, the portion of it that has been fixed at any particular time consti-
11 tutes the work as of that time, and where the work has been prepared in
12 different versions, each version constitutes a separate work.

13 (9) A "derivative work" is a work based upon one or more
14 preexisting works, such as a translation, musical arrangement, dramatiza-
15 tion, fictionalization, motion picture version, sound recording, art re-
16 production, abridgement, condensation, or any other form in which a work
17 may be recasted, transformed, or adapted. A work consisting of editorial
18 revisions, annotations elaborations, or other modifications which, as a
19 whole, represent an original work of authorship, is a "derivative work."

20 (10) To "display" a work means to show a copy of it, either
21 directly or by means of a film, slide, television image, or any other
22 device.

23 (11) A work is "fixed" in a tangible medium of expression when
24 its embodiment in a copy or phonorecord, by or under the authority of the
25 author, is sufficiently permanent or stable to permit it to be perceived,

1 reproduced, or otherwise communicated for a period of more than transitory
2 duration.

3 (12) "Literary works" are works, other than audiovisual works,
4 expressed in words, numbers, or other verbal or numerical symbols or
5 indicia, regardless of the nature of the material objects, such as books,
6 periodicals, manuscripts, phonorecords, film, tapes, or cards, in which
7 they are embodied.

8 (13) To "perform" a work means to recite, render, play, dance,
9 or act, either directly or by means of any device or, in the case of a
10 motion picture or other audiovisual work, to show its images in any sequence
11 or to make the sounds accompanying it audible.

12 (14) "Pictorial, graphic, and sculptural works" include two-
13 dimensional and three-dimensional works of fine, graphic, and applied
14 art, photographs, prints and art reproductions, maps, globes, charts,
15 technical drawings, diagrams, and models.

16 (15) "Publication" is the distribution of copies or phonorecords
17 of a work to the public by sale or other transfer of ownership or by
18 rental, lease, or lending. The offering to distribute copies or phono-
19 records to a group of persons, for purposes of further distribution, public
20 performance, or public display constitutes publication.

21 Section 102. Subject matter of copyright.

22 (1) Copyright protection subsists, in accordance with this act,
23 in original works of authorship fixed in any tangible medium of expression
24 from which they can be perceived, reproduced, or otherwise communicated,
25 either directly or with the aid of a device. Works of authorship include

1 the following categories:

- 2 (a) Literary works;
- 3 (b) Musical works, including any accompanying words;
- 4 (c) Dramatic works, including any accompanying music;
- 5 (d) Pantomimes and choreographic works;
- 6 (e) Pictorial, graphic, and sculptural works;
- 7 (f) Motion pictures and other audiovisual works; and
- 8 (g) Sound recordings.

9 (2) In no case does copyright protection for an original work
10 of authorship extend to any idea, procedure, process, system, method of
11 operation, concept, principle, or discovery, regardless of the form in
12 which it is described, explained, illustrated, or embodied in such work.

13 Section 103. Subject matter of copyright--compilations and deriva-
14 tive works.

15 (1) The subject matter of copyright as specified by section 102
16 includes compilations and derivative works, but protection for a work
17 employing preexisting material in which copyright subsists does not extend
18 to any part of the work in which such material has been used unlawfully.

19 (2) The copyright in a compilation or derivative work extends
20 only to the material contributed by the author of such work, as distin-
21 guished from the preexisting material employed in the work, and does not
22 imply any exclusive right in the preexisting material. The copyright in
23 such work is independent of, and does not affect or enlarge the scope,
24 duration, ownership, or subsistence of any copyright protection in the
25 preexisting material.

1 Section 104. Subject matter of copyright--national origin.

2 (1) Unpublished works. The works specified by sections 102
3 and 103, while unpublished, are subject to protection under this act
4 without regard to the nationality or citizenship of the author.

5 (2) Published works. The works specified by sections 102 and
6 103, when published, are subject to protection under this act if:

7 (a) On the date of first publication, one or more of the
8 authors is a national or domiciliary of the Federated States of Micro-
9 nesia or is a national or a domiciliary of a country that is a party to
10 a copyright treaty to which the Federated States of Micronesia is also a
11 party; or

12 (b) The work comes within the scope of a Presidential
13 proclamation. Whenever the President of the Federated States of Micronesia
14 finds that a particular foreign nation extends to works by authors who
15 are nationals or domiciliaries of the Federated States of Micronesia or to
16 works that are first published in the Federated States of Micronesia,
17 copyright protection on substantially the same basis as that on which the
18 foreign nation extends protection to works of its own nationals and domi-
19 ciliaries and works first published in that nation, the President may by
20 proclamation extend protection under this act to works of which one or more
21 of the authors are, on the date of first publication, a national or domicili-
22 ary of that nation. The President may revise, suspend, or revoke any such
23 proclamation, or impose any conditions or limitations on protection under
24 a proclamation.

25 Section 105. Subject matter of copyright--Federated States of Micro-

Micronesia Government works. Copyright protection under this act is not
2 available for any work of the Federated States of Micronesia Government,
3 but the Federated States of Micronesia is not precluded from receiving
4 and holding copyrights transferred to it by assignment, or otherwise.

5 Section 106. Exclusive rights in copyrighted works. Subject to
6 sections 107, 108, and 109, the owner of copyright under this act has
7 the exclusive rights to do and to authorize any of the following:

8 (1) To reproduce the copyrighted work in copies or phono-
9 records;

10 (2) To prepare derivative works based upon the copyrighted work;

11 (3) To distribute copies or phonorecords of the copyrighted
12 work to the public by sale or other transfer of ownership, or by rental,
13 lease, or lending;

14 (4) In the case of literary, musical, dramatic, and choreo-
15 graphic works, pantomimes, and motion pictures and other audiovisual
16 works, to perform the copyrighted work publicly; and

17 (5) In the case of literary, musical, dramatic, and choreo-
18 graphic works, pantomimes, and pictorial, graphic, or sculptural works,
19 including the individual images of a motion picture or other audiovi-
20 sual work, to display the copyrighted work publicly.

21 Section 107. Limitation on exclusive rights--fair use. Notwith-
22 standing the provisions of section 106, the fair use of a copyrighted
23 work, including such use by reproduction in copies or phonorecords or by
24 any other means specified by that section, for purposes such as criticism,
25 comment, news reporting, teaching (including multiple copies for class-

1 room use), scholarship, or research, is not an infringement of copy-
2 right. In determining whether the use made of a work in any particular
3 case is a fair use the factors to be considered shall include:

4 (1) The purpose and character of the use, including whether
5 such use is of a commercial nature or is for nonprofit educational pur-
6 poses:

7 (2) The nature of the copyrighted work;

8 (3) The amount and substantiality of the portion used in re-
9 lation to the copyrighted work as a whole; and

10 (4) The effect of the use upon the potential market for or
11 value of the copyrighted work.

12 Section 108. Limitations on exclusive rights--reproduction by
13 libraries and archives. Notwithstanding the provisions of section 106,
14 it is not an infringement of copyright for a library or archives to re-
15 produce no more than one copy or phonorecord, under the conditions speci-
16 fied by this section, if:

17 (1) The reproduction or distribution is made without any pur-
18 pose of direct or indirect commercial advantage;

19 (2) The collections of the library or archives are open to the
20 public; and

21 (3) The reproduction or distribution of the work includes a
22 notice of copyright.

23 Section 109. Other limitations on exclusive rights of specific
24 works. Other limitations on exclusive rights of specific works or ex-
25 emptions of certain performances and displays may be prescribed by the

1 Attorney General in rules and regulations consistent with sections 107
2 and 108.

3 CHAPTER 2 - COPYRIGHT OWNERSHIP AND TRANSFER

4 Section 201. Ownership of copyright.

5 (1) Initial ownership. Copyright in a work protected under
6 this act vests initially in the author or authors of the work. The
7 authors of a joint work are co-owners of copyright in the work.

8 (2) Works made for hire. In the case of a work made for hire,
9 the employer is considered the author for purposes of this act and, un-
10 less the parties have expressly agreed otherwise in a written instrument
11 signed by them, owns all of the rights comprised in the copyright.

12 (3) Contributions to collective works. Copyright in each
13 separate contribution to a collective work is distinct from copyright in
14 the collective work as a whole, and vests initially in the author of the
15 contribution. In the absence of an express transfer of the copyright or
16 of any rights under it, the owner of copyright in the collective work is
17 presumed to have acquired only the privilege of reproducing and distri-
18 buting the contribution as part of that particular collective work, any
19 revision of that collective work, and any later collective work in the
20 same series.

21 (4) Transfer of ownership.

22 (a) The ownership of a copyright may be transferred in
23 whole or in part by any means of conveyance or by operation of law or may
24 be bequeathed by will: PROVIDED, that in the absence of the aforesaid
25 means of transfer, ownership of a copyright shall pass as personal pro-

1 perty by the customs of the State where the owner is domiciled.

2 (b) Any of the exclusive rights comprised in a copy-
3 right, including any subdivision of any of the rights specified by
4 section 106, may be transferred as provided by paragraph (a) and owned
5 separately. The owner of any particular exclusive right is entitled, to
6 the extent of that right, to all of the protection and remedies accorded
7 to the copyright owner by this act.

8 Section 202. Ownership of copyright as distinct from ownership of
9 material object. Ownership of a copyright, or of any of the exclusive
10 rights under a copyright, is distinct from ownership of any material
11 object in which the work is embodied. Transfer of ownership of any
12 material object, including the copy or phonorecord in which the work is
13 first fixed, does not of itself convey any rights in the copyrighted work
14 embodied in the object; nor, in the absence of an agreement, does trans-
15 fer of ownership of a copyright or of any exclusive rights under a copy-
16 right convey property rights in any material object.

17 Section 203. Recordation of transfer.

18 (1) Any transfer of copyright ownership or other document
19 pertaining to a copyright may be recorded in the Office of the Attorney
20 General if the document filed for recordation bears the actual signature
21 of the person who executed it, or if it is accompanied by a sworn or
22 official certification that it is a true copy of the original, signed
23 document.

24 (2) Recordation of a document in the Office of the Attorney
25 General gives all persons constructive notice of the facts stated in the

1 recorded document, but only if:

2 (a) The document, or material attached to it, specifi-
3 cally identifies the work to which it pertains so that, after the docu-
4 ment is indexed by the Office of the Attorney General, it would be re-
5 vealed by a reasonable search under the title or registration number of
6 the work; and

7 (b) Registration has been made for the work.

8 CHAPTER 3 - DURATION OF COPYRIGHT

9 Section 301. Duration of copyright--works created on or after the
10 effective date of this act.

11 (1) Copyright in a work created on or after the effective
12 date of this act subsists from its creation and, except as provided by
13 the following subsections, endures for a term consisting of the life of
14 the author and 50 years after the author's death.

15 (2) In the case of a joint work prepared by two or more
16 authors who did not work for hire, the copyright endures for a term
17 consisting of the life of the last surviving author and 50 years after
18 such last surviving author's death.

19 (3) In the case of an anonymous work, a pseudonymous work, or
20 a work made for hire, the copyright endures for a term of 75 years from
21 the year of its first publication, or a term of 100 years from the year
22 of its creation, whichever expires first. If, before the end of such
23 term, the identity of one or more of the authors of an anonymous or
24 pseudonymous work is revealed in the records of a registration made for
25 that work, the copyright in the work endures for the term specified by

1 subsections (1) and (2) of this section.

2 Section 302. Duration of copyright--works created but not publish-
3 ed or copyrighted before effective date of this act. Copyright in a work
4 created before the effective date of this act, but not theretofore in the
5 public domain or copyrighted, subsists beginning on the effective date of
6 this act and endures for the term provided by section 301.

7 CHAPTER 4 - COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

8 Section 401. Notice of copyright--visually perceptible copies.

9 (1) Whenever a work protected under this act is published in
10 the Federated States of Micronesia or elsewhere by authority of the copy-
11 right owner, a notice of copyright as provided by this section shall be
12 placed on all publicly distributed copies from which the work can be
13 visually perceived.

14 (2) The notice appearing on the copies shall consist of the
15 following three elements:

16 (a) The symbol © (the letter C in a circle), or the word
17 "Copyright," or the abbreviation "Copr.";

18 (b) The year of first publication of the work; in the case
19 of compilations or derivative works incorporating previously published
20 material, the year date of first publication of the compilations or
21 derivative work is sufficient. The year date may be omitted where a
22 pictorial, graphic, or sculptural work, with accompanying text matter,
23 if any, is reproduced in or on greeting cards, postcards, or any useful
24 articles; and

25 (c) The name of the owner of copyright in the work, or

1 an abbreviation by which the name can be recognized, or a generally
2 known alternative designation of the owner.

3 (3) The notice shall be affixed to the copies in such manner
4 and location as to give reasonable notice of the claim of copyright.

5 Section 402. Notice of copyright--phonorecords of sound record-
6 ings.

7 (1) Wherever a sound recording protected under this act is
8 published in the Federated States of Micronesia or elsewhere by author-
9 ity of the copyright owner, a notice of copyright as provided by this
10 section shall be placed on all publicly distributed phonorecords of the
11 sound recording.

12 (2) The notice appearing on the phonorecords shall consist
13 of the following three elements:

14 (a) The symbol (P) (the letter P in a circle);

15 (b) The year of first publication of the sound record-
16 ing; and

17 (c) The name of the owner of copyright in the sound
18 recording.

19 (3) The notice shall be placed on the surface of the phono-
20 record, or on the phonorecord label or container, in such manner and
21 location as to give reasonable notice of the claim of copyright.

22 Section 403. Notice of copyright--contributions to collective works.

23 A single notice applicable to the collective work as a whole is suffi-
24 cient to satisfy the requirements of sections 401 and 402, regardless of
25 the ownership of copyright in the contributions and whether or not they

1 have been previously published; PROVIDED, that the copyright of the
2 owner in a separate contribution that does not bear its own notice is
3 not affected.

4 Section 404. Deposit of copies or phonorecords for the Library of
5 the Congress of the Federated States of Micronesia.

6 (1) Subject to exception under this section, the owner of
7 copyright or of the exclusive right of publication in a work published
8 with notice of copyright in the Federated States of Micronesia shall
9 deposit, within four months after the date of such publication:

10 (a) Two complete copies of the best edition; or

11 (b) If the work is a sound recording, two complete
12 phonorecords of the best edition.

13 (2) The required copies or phonorecords shall be deposited
14 in the Attorney General's Office for the use or disposition of the
15 Library of the Congress of the Federated States of Micronesia.

16 (3) The Attorney General may by regulation exempt any cate-
17 gories of material from the deposit requirements of this section or
18 require deposit of only one copy or phonorecord with respect to any
19 categories.

20 Section 405. Copyright registration in general. At any time during
21 the subsistence of copyright in any published or unpublished work, the
22 owner of copyright or of any exclusive right in the work may obtain reg-
23 istration of the copyright claim by delivering to the Attorney General's
24 Office the deposit required and upon payment of fee as prescribed in re-
25 gulations. The Attorney General shall by rules and regulations prescribe

1 the material deposited for registration.

2 Section 406. Application for copyright registration. The applica-
3 tion for copyright registration shall be made on a form prescribed by
4 the Attorney General and shall include all information as prescribed
5 by rules and regulations.

6 Section 407. Registration of claim and issuance of certificate.

7 (1) When, after examination, the Attorney General determines
8 that, in accordance with the provisions of this act, the material de-
9 posited constitutes copyrightable subject matter and that the legal
10 requirements of this act have been met, he shall register the claim and
11 issue to the applicant a certificate of registration under the seal of
12 the Attorney General's Office. The certificate shall contain the in-
13 formation given in the application, together with the number and effective
14 date of the registration.

15 (2) In any case in which the Attorney General determines that,
16 in accordance with the provisions of this act, the material deposited
17 does not constitute copyrightable subject matter or that the claim is
18 invalid for any other reason, he shall refuse registration and notify
19 the applicant in writing of the reasons for such refusal.

20 CHAPTER 5 - INFRINGEMENT AND REMEDIES

21 Section 501. Infringement and remedies. Anyone who violates any
22 of the exclusive rights of the copyright as provided under this act is
23 an infringer of copyright and shall be liable:

24 (1) To an injunction restraining such infringement;

25 (2) To pay the copyright owner the actual damages suffered

1 by the owner and any profits of the infringer that are attributable to the
2 infringement and are not taken into account in computing the actual damages;
3 and

4 (3) To pay the copyright owner punitive damages, if impose by the
5 court.

6 Section 502. Criminal offense.

7 (1) Any person who infringes a copyright willfully and for purpose
8 of commercial advantage or private gain shall be fined \$10,000 or imprison-
9 ment for not more than one year, or both.

10 (2) When any person is convicted of any violation under subsection
11 (1) of this section, the court in its judgment of conviction, in addition to
12 the penalty therein prescribed, may order the forfeiture and destruction or
13 other disposition of all infringing copies or phonorecords and devices used
14 in the manufacture of such infringing copies or phonorecords.

15 (3) Any person who, with fraudulent intent, places on any article
16 a notice of copyright or words of the same purpose that such person knows
17 to be false, or who, with fraudulent intent, publicly distributes or imports
18 for public distribution any article bearing such notice or words that such
19 person knows to be false, shall be fined not more than \$2,500.

20 (4) Any person who, with fraudulent intent, removes or alters any
21 notice of copyright appearing on a copy of a copyrighted work shall be fined
22 not more than \$2,500.

23 (5) Any person who knowingly makes a false representation of a
24 material fact in the application for copyright registration or in any
25 written statement filed in connection with the application shall be fined

1 not more than \$2,500.

2 CHAPTER 6 - ATTORNEY GENERAL'S OFFICE

3 Section 601. Responsibilities and duties of the Office of the Attor-
4 ney General.

5 (1) Until the President of the Federated States of Micronesia,
6 through administrative directives, establishes a separate Copyright Office,
7 within or without the Attorney General's Office, the Office of the Attor-
8 ney General shall exercise all administrative functions and duties under
9 this act.

10 (2) The Office of the Attorney General shall adopt a seal to be
11 used to authenticate all certified documents issued by it.

12 (3) The Office of the Attorney General shall provide and keep
13 records of all deposits, registration, recordation, and other activities
14 as required by this act or rules and regulations later issued.

15 (4) The Office of the Attorney General shall compile and publish
16 annually catalogs of all copyright registration.

17 Section 602. Regulations. The Attorney General is authorized to
18 establish regulations not inconsistent with this act.

19 Section 603. Fees.


20 (1) Fees for registration, recordation, issuance of certificate,
21 and other services shall be prescribed in regulations issued by the Attor-
22 ney General.

23 (2) The Attorney General shall deposit all fees in the General
24 Fund of the Federated States of Micronesia.

25

1 Section 604. Effective date. This act shall become law upon approval
2 by the President of the Federated States of Micronesia or upon its becom-
3 ing law without such approval.

December 29, 1981


Iosiwo Nakayama
President
Federated States of Micronesia