A BILL FOR AN ACT

To amend Chapter 7 of Title 33 of the Trust Territory Code as amended by Public Law No. 1-117, to establish new usury rates; and for other purposes.

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

Section 1. Section 251 of Chapter 7 of Title 33 of the Trust Territory Code is hereby repealed and a new Section 251 is hereby enacted to read as follows:

"Section 251. Statement of policy. It is hereby declared to be the policy of the Federated States of Micronesia that interest rates permitted to be charged by creditors shall be at reasonable levels while affording a competitive rate of return which will facilitate an increase in the extension of credit to the people of the Federated States of Micronesia."

Section 2. Section 252 of Chapter 7 of Title 33 of the Trust Territory Code is hereby repealed and a new Section 252 is hereby enacted to read as follows:

"Section 252. Definitions.

(1) "Annual percentage rate" means the annual percentage rate of interest. This rate shall be computed in the manner prescribed in the Truth in Lending Act, 15 U.S.C. Section 1601 et seq., and regulations promulgated thereunder, 12 C.F.R. Section 226.1 et seq.

(2) "Cardholder" means any person to whom a credit card is issued.

(3) "Card issuer" means any person who issues a credit card, or the agent of such person with respect to such card.

(4) "Commercial credit" means credit extended to a person in which the money, property, or service which is
the subject of the transaction is primarily for business purposes, excluding those credit transactions in which real property is the primary security interest.

(5) "Consumer credit" means credit extended to a natural person in which the money, property, or service which is the subject of the transaction is primarily for personal, family, household, or agricultural purposes, excluding those credit transactions in which real property is the primary security interest.

(6) "Credit" means the right granted by a creditor to a customer to defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor.

(7) "Creditor" means a person who in the ordinary course of business regularly extends credit.

(8) "Credit card" is any card, plate, coupon book, or other single credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(9) "Customer" means:

(a) A person to whom credit is extended, and includes a co-maker, endorser, guarantor, or surety for such person who is or may be obligated to repay the extension of credit; or

(b) a cardholder.

(10) "Interest" is any and all compensation paid or agreed to
be paid by regarding the use, forbearance, or detention of
money or the extension of credit.

(11) "Net yield rate" means the rate of interest established
by the Federal Home Loan Mortgage Corporation for real estate
transactions, as published in the Money Rates section of
the Wall Street Journal, under the category of noncompetitive
offers.

(12) "Person" includes individuals, corporations, partner-
ships, unincorporated associations, as well as banks, savings
and loan associations, credit unions, and other institutional
lending organizations.

(13) "Prime rate" means the rate of interest charged on
loans by large United States money center commercial banks
to their best business borrowers, as published in the
Money Rates section of the Wall Street Journal.

(14) "Real property" means property which is real property
under the law of the Federated States of Micronesia.

(15) "Security interest" means any interest in property
which secures payment or performance of any obligation in
a credit transaction.

(16) "Usury" is the exacting, taking, or receiving of
an interest charge in an amount or at a rate in excess of that
allowed by law for the use of money or extension of credit."
1 to read as follows:

"Section 253. Consumer credit transactions: maximum rates of interest.

(1) In consumer credit transactions in which the principal amount exceeds $300 and is less than $7,500, no person may directly or indirectly receive or charge interest which exceeds 18 percent annual percentage rate.

(2) In consumer credit transactions in which the principal amount is $7,500 or more, no person may directly or indirectly receive or charge interest which exceeds 21 percent annual percentage rate.

(3) Nothing contained in this Section shall prevent a creditor from charging and receiving, in addition to interest permitted by this Section, a late charge on all or any portion of any payment due on a consumer credit transaction which is unpaid after 15 days from the due date of the payment, provided that such late charge shall not exceed $5 or 5 percent annual percentage rate on the amount overdue, whichever is less, on any payment."

Section 4. Section 254 of Chapter 7 of Title 33 of the Trust Territory Code is hereby repealed and a new Section 254 is enacted to read as follows:

"Section 254. Commercial credit transactions: maximum rates of interest.

(1) In commercial credit transactions in which the
principal amount is less than $500,000, no person may directly
or indirectly receive or charge interest which exceeds an annual
percentage rate 2.25 percent per annum in excess of the prime
rate published on the day before the transaction. Subsequent
changes in the prime rate shall not increase or decrease the
maximum permissible interest for the transaction.

(2) In commercial credit transactions in which the
principal amount exceeds $500,000, but less than $1,000,000,
no person may directly or indirectly receive or charge
interest which exceeds an annual percentage rate 2.50 percent
per annum in excess of the prime rate published on the day
before the transaction. Subsequent changes in the prime rate
shall not increase or decrease the maximum permissible
interest for the transaction.

(3) In commercial credit transactions in which the
principal amount exceeds $1,000,000, no maximum interest
rate shall be imposed."

Section 5. Section 255 of Chapter 7 of Title 33 of the Trust
Territory Code is hereby repealed and a new Section 255 is enacted
to read as follows:

"Section 255. Credit transactions secured by real property;
maximum rates of interest.

(1) In credit transactions in which real property is the
primary security interest, and in which the principal amount
is less than $500,000, no person may directly or indirectly
receive or charge interest which exceeds an annual percentage rate 2.25 percent per annum in excess of the Federal Home Loan Mortgage Corporation net yield rate published on the day before the transaction. Subsequent changes in the net yield rate shall not increase or decrease the maximum permissible interest for the transaction.

(2) In credit transactions in which real estate is the primary security interest, and in which the principal amount is $500,000 or more but less than $1,000,000, no person may directly or indirectly receive or charge interest which exceeds an annual percentage rate 2.50 percent per annum in excess of the Federal Home Loan Mortgage Corporation net yield rate published on the day before the transaction. Subsequent changes in the net yield rate shall not increase or decrease the maximum permissible interest for the transaction.

(3) In credit transactions in which real estate is the primary security interest, and in which the principal amount exceeds $1,000,000, no maximum interest rate shall be imposed."

Section 6. A new Section 256 is hereby added to Chapter 7 of Title 33 of the Trust Territory Code to read as follows:

"Section 256. Credit card, applicable law. The extension of credit arising from the use of a credit card issued to a resident of the Federated States of Micronesia shall be subject to any applicable usury laws of the jurisdiction
where the principal place of business of the credit card
issuer is located, and not to the provisions of this
Chapter."

Section 7. A new Section 257 is hereby added to Chapter 7 of
Title 33 of the Trust Territory Code to read as follows:

"Section 257. Remedies. Any credit transaction in which
the annual percentage rate exceeds those limits established
in Sections 253 through 255 as amended above, is void and
furthermore:

(1) The creditor in such transaction shall have no
right to collect or receive any money, whether principal
or interest;

(2) The customer shall, within six years of the last
payment to the creditor, be entitled to bring suit to
recover any interest or principal paid to the creditor, plus
costs of suit and reasonable attorney's fees; and

(3) The customer shall also be entitled, at any time,
to assert the remedies of this Section by way of a defense
or counterclaim to the creditor's action."

Section 8. This act shall become law upon the approval of the
President of the Federated States of Micronesia or upon its becoming
law without such approval, and shall apply only to credit transactions
made after the effective date of this act.

Date: May 21, 1981          Introduced by: "Goulard
Sasso H. Goulard"

7 of 7