

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:

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2 Territory Code is hereby repealed and a new Section 251 is hereby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

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

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12 Territory Code is hereby repealed and a new Section 252 is hereby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

14 "Section 252. Definitions.

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

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

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

24 (4) "Commercial credit" means credit extended to
25 a person in which the money, property, or service which is

1 the subject of the transaction is primarily for business
2 purposes, excluding those credit transactions in which real
3 property is the primary security interest.

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

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

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

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

20 (9) "Customer" means:

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

24 (b) a cardholder.

25 (10) "Interest" is any and all compensation paid or agreed to

1 be paid by regarding the use, forbearance, or detention of
2 money or the extension of credit.

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

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

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

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

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

21 (16) "Usury" is the exacting, taking, or receiving of
22 an interest charge in an amount or at a rate in excess of that
23 allowed by law for the use of money or extension of credit."

24 Section 3. Section 253 of Chapter 7 of Title 33 of the Trust
25 Territory Code is hereby repealed and a new Section 253 is enacted

1 to read as follows:

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

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

8 (2) In consumer credit transactions in which the
9 principal amount is \$7,500 or more, no person may directly or
10 indirectly receive or charge interest which exceeds
11 21 percent annual percentage rate.

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

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

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

25 (1) In commercial credit transactions in which the

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

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

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

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

21 "Section 255. Credit transactions secured by real property:
22 maximum rates of interest.

23 (1) In credit transactions in which real property is the
24 primary security interest, and in which the principal amount
25 is less than \$500,000, no person may directly or indirectly

1 receive or charge interest which exceeds an annual
2 percentage rate 2.25 percent per annum in excess of the
3 Federal Home Loan Mortgage Corporation net yield rate published
4 on the day before the transaction. Subsequent changes in
5 the net yield rate shall not increase or decrease the maximum
6 permissible interest for the transaction.

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

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

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

22 "Section 256. Credit card, applicable law. The extension
23 of credit arising from the use of a credit card issued to
24 a resident of the Federated States of Micronesia shall
25 be subject to any applicable usury laws of the jurisdiction

1 where the principal place of business of the credit card
2 issuer is located, and not to the provisions of this
3 Chapter."

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

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

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

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

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

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

24
25 Date: May 21, 1981

Introduced by:

Sasao H. Gouland