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A BILL FOR AN ACT

To amend Public Law No. 1-31 regarding service of process outside the territorial jurisdiction of the Supreme Court by repealing section 28 and enacting a new section 28, and for other purposes.

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

1 Section 1. Section 28 of Public Law No. 1-31 is hereby repealed and
2 a new section 28 is hereby enacted to read as follows:

3 "Section 28. Service of process outside the territorial
4 jurisdiction of the Supreme Court.

5 (1) Any person, corporation, or legal entity, whether
6 or not a citizen or resident of the Federated States of
7 Micronesia, who in person or through an agent does any of the
8 acts enumerated in this act thereby submits himself or its personal
9 representative to the jurisdiction of the Supreme Court as to
10 any cause of action arising from:

11 (a) The transaction of any business within the
12 Federated States of Micronesia;

13 (b) The operation of a motor vehicle within the
14 Federated States of Micronesia;

15 (c) The operation of a vessel or craft within
16 the territorial waters, extended fishery zone, or airspace of the
17 Federated States of Micronesia;

18 (d) The commission of a tortious act within the
19 Federated States of Micronesia;

20 (e) Contracting to insure any person, property,
21 or risk located within the Federated States of Micronesia at
22 the time of contracting;

23 (f) The ownership, use, or possession of any
24 real estate within the Federated States of Micronesia;

25 (g) Entering into an express or implied

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2-97

1 contract, by mail or otherwise, with a resident of the
2 Federated States of Micronesia;

3 (h) Acting within the Federated States of
4 Micronesia as director, manager, trustee, or other officer of
5 any corporation organized under the laws of or having a place of
6 business within the Federated States of Micronesia, or as
7 executor or administrator of any estate within the Federated
8 States of Micronesia;

9 (i) Causing injury to persons or property within
10 the Federated States of Micronesia arising out of an act or
11 omission outside of the Federated States of Micronesia by the
12 defendant, provided in addition, that at the time of the injury
13 either:

14 (i) the defendant was engaged in solicitation
15 or sales activities within the Federated States of Micronesia; or

16 (ii) products, materials, or things
17 processed, serviced, or manufactured by the defendant anywhere were
18 used or consumed within the Federated States of Micronesia; and

19 (j) Living in a marital relationship within the
20 Federated States of Micronesia, notwithstanding subsequent departure
21 from the Federated States of Micronesia, as to all obligations
22 arising from alimony, child support, or property rights under
23 applicable laws, if the other party to the marital relationship
24 continues to reside in the Federated States of Micronesia.

25 (2) Any person, corporation, or legal entity subject to

1 the jurisdiction of the Supreme Court pursuant to subsection (1)
2 (b) or (1) (c) of this section shall be deemed to have appointed
3 the Secretary of External Affairs of the Federated States of
4 Micronesia as his true and lawful agent for service of process,
5 upon whom may be served all lawful process in any cause of
6 action arising therefrom; and any such process against each of
7 such person, corporation, or legal entity which is so served
8 shall be of the same legal force and effect as if served on
9 him personally in the Federated States of Micronesia.

10 (a) Service of process shall be made by leaving
11 one copy of the summons and complaint in the hands of the
12 Secretary of External Affairs of the Federated States of
13 Micronesia or in his office, or by mailing either by certified
14 or registered mail, addressee only, return receipt requested, the
15 copy of the summons and complaint to the Office of the Secretary
16 of External Affairs. In the event of mailing, service shall be
17 effective as of the date of receipt of the summons and complaint
18 by the Office of External Affairs. A fee of \$2 for each
19 person to be served shall be paid to the Secretary of External
20 Affairs at the time of service of the copy of the summons and
21 complaint and such service shall be a sufficient service
22 subject to compliance with paragraph (b) of this subsection.

23 (b) A copy of the summons and complaint shall
24 be forthwith sent by certified or registered mail, addressee
25 only, return receipt requested, by the plaintiff to the defendant.

J:GO

1 Such mailing, together with service as provided in
2 paragraph (a) of this subsection, shall have the same force and
3 effect as though personal service had been made within the
4 Federated States of Micronesia.

5 (c) Proof of compliance with paragraphs (a) and
6 (b) of this subsection shall be made by affidavit. No evidence
7 of actual receipt by any defendant is required provided
8 plaintiff has complied in all respects with paragraphs (a) and
9 (b) of this subsection. The affidavit shall be appended to the
10 original summons, which shall be filed with the court issuing
11 said summons.

12 (d) In the event of service of process pursuant
13 to this subsection, no default shall be entered until 45 days
14 after service has been made as provided in paragraph (a) of this
15 subsection and the defendant has been mailed a copy of the
16 summons and complaint as provided in paragraph (b) of this
17 subsection.

18 (e) Nothing in this subsection shall be construed
19 as to prevent service of process as otherwise provided for in
20 this act.

21 (3) Service of process may be made upon any person,
22 corporation, or legal entity subject to the jurisdiction of the
23 Supreme Court under this act, outside the Federated States of
24 Micronesia, in any manner now or hereafter provided by law for
25 the service of process upon any person, corporation, or legal

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entity found within the Federated States of Micronesia, and such service shall have the same force and effect as though personal service had been made within the Federated States of Micronesia.

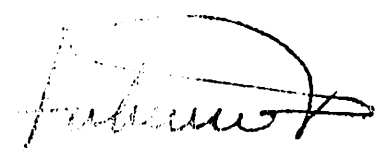
(4) An affidavit of personal service shall be filed with the court stating the date, manner, and place of service. The court may consider the affidavit or any other competent proof in determining whether service was properly made.

(5) Except as provided in subsection (2) of this act, no default shall be entered until the expiration of at least 30 days after service. A default judgment rendered on service made under any subsection of this act shall not be set aside except upon a showing of good cause.

(6) Only causes of action arising from acts or omissions enumerated in this act may be asserted against a defendant in an action in which jurisdiction over him is based upon this act."

Section 2. This act shall be approved and signed by the President of the Federated States of Micronesia before it becomes law without such approval.

Date: 7/6/81



M. Tman
(Request)