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A BILL FOR AN ACT

To amend section 1415 of title 6 of the Code of the Federated States of Micronesia and sections 135, 153 and 801 of title 54 of the Code of the Federated States of Micronesia to authorize the creation and prioritizing of tax liens, and by staying the enforcement of tax liens upon business property for such time as the taxpayer obligated to pay taxes shall be able to demonstrate a positive net profit in its operations for the 2 years immediately preceding the year in which enforcement of the tax lien is sought, and for other purposes.

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

1 Section 1. Section 1415 of title 6 of the Code of the Federated  
2 States of Micronesia is hereby amended to read as follows:

3 "Section 1415. Exemptions. The following described  
4 property shall be exempt from attachment and execution:

5 (1) Personal and household goods. All necessary house-  
6 hold furniture, cooking and eating utensils, and all  
7 necessary wearing apparel, bedding, and provisions for  
8 household use sufficient for four months.

9 (2) Necessities for trade occupation or business.  
10 All tools, implements, utensils, two work animals, and  
11 equipment, including, without limitation, such vehicles,  
12 essential furniture and fixtures, and minimum inventories  
13 or supplies, as may be necessary to enable the person  
14 or corporation against whom the attachment or execution is  
15 issued to carry on his usual occupation or its principal  
16 business.

17 (3) Land and interests in land. All interests in land,  
18 but any interest owned solely by a judgment debtor, in his  
19 own right, may be ordered sold or transferred under an order  
20 in aid of judgment if the court making the order deems that  
21 justice so requires and finds as a fact that after the sale  
22 or transfer, the debtor will have sufficient land remaining  
23 to support himself and those persons directly dependent  
24 on him according to recognized local custom and the law of  
25 the ~~Trust Territory~~ Federated States of Micronesia. No

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1 profit in the operations of such business for the two tax  
2 years immediately preceding the year in which the tax lien  
3 is sought to be enforced."

4 (3) Any employer may recover from an employee any  
5 amount which he should have withheld but did not withhold  
6 from such employee's wages and salaries, if he has been  
7 required to pay and has paid the amount to the Government  
8 out of his own funds pursuant to this section."

9 Section 3. Section 153 of title 54 of the Code of the Federated  
10 States of Micronesia is hereby amended to read as follows:

11 "Section 153. Lien on property. All taxes imposed or  
12 authorized under this chapter shall be a lien upon any  
13 property of the person or business obligated to pay said  
14 taxes. Such lien shall have priority over all other claims  
15 and liens, except those liens created pursuant to title 53  
16 of the Code of the Federated States of Micronesia and  
17 section 135(2) of this chapter, and may be collected by levy  
18 upon such property in the same manner as the levy of an  
19 execution; PROVIDED, however, that no lien authorized  
20 under this section shall be executed against that property  
21 which is essential to the conduct of a taxpayer's principal  
22 business, so long as the taxpayer shall provide evidence, in  
23 a form and substance satisfactory to the Secretary of  
24 Finance, of a positive net profit in the operations of such  
25 business for the two tax years immediately preceding the

1           *person not an indigenous inhabitant of the Trust Territory*  
2           *may acquire any interest in such land, by sale, transfer, or*  
3           *otherwise, except with the prior approval of the High*  
4           *Commissioner."*

5           Section 2. Section 135 of title 54 of the Code of the Federated  
6 States of Micronesia is hereby amended to read as follows:

7           "Section 135. Employer's responsibility for withheld taxes.

8                     (1) All taxes withheld by any employer under section  
9                     131 of this chapter shall be held in trust by such employer  
10                    for the Government and for payment to the Secretary in the  
11                    manner and at the time required by this chapter.

12                   (2) If any employer shall fail, neglect, or refuse to  
13                    deduct and withhold from the compensation paid to an  
14                    employee, or to pay over, the amount of the tax imposed by  
15                    this chapter, such employer shall, moreover, be liable to  
16                    pay to the Government the amount of the tax, which amount  
17                    shall (whether or not tax withholdings constituting trust  
18                    funds have been commingled with said employer's assets) form  
19                    a lien on the employer's entire assets, having priority over  
20                    all other claims and liens; PROVIDED, however, that no lien  
21                    authorized under this subsection shall be executed  
22                    against that property which is essential to the conduct or  
23                    operation of a taxpayer's principal business, so long as the  
24                    taxpayer shall provide evidence, in a form and substance  
25                    satisfactory to the Secretary of Finance, of a positive net

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1 year in which the tax lien is sought to be enforced."

2 Section 4. Section 801 of title 54 of the Code of the Federated  
3 States of Micronesia is hereby amended to read as follows:

4 "Section 801. Tax liens. Any taxes imposed or authorized  
5 under this title upon property shall be a lien upon the  
6 property. Such liens shall have priority over all other  
7 claims and liens, except those liens created pursuant to  
8 title 53 of the Code of the Federated States of Micronesia  
9 and sections 135(2) and 153 of chapter 1 of this title, and  
10 may be collected by levy upon it in the same manner as the  
11 levy of an execution; PROVIDED, however, that no lien authorized  
12 under this section shall be executed against that property  
13 which is essential to the conduct of a taxpayer's principal  
14 business, so long as the taxpayer shall provide evidence, in a  
15 form and substance satisfactory to the Secretary of Finance, of  
16 a positive net profit in the operations of such business for  
17 the two tax years immediately preceding the year in which  
18 the tax lien is sought to be enforced."

19 Section 5. This act shall become law upon approval by the  
20 President of the Federated States of Micronesia or upon its becoming  
21 law without such approval.

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23 Date: 5/23/81

Introduced by: Jacob Nena  
Jacob Nena

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