EIGHTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 1993

C. B. NO. 3-84

A BILL FOR AN ACT

To further amend title 20 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-25, by repealing title 20 in its entirety, and enacting a new title 20 in lieu thereof, to establish the Federated States of Micronesia Civil Aeronautics Code, and for other purposes.

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

1. Section 1. Title 20 of the Code of the Federated States of Micronesia is hereby repealed in its entirety.

2. Section 2. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 101 of chapter 1 to read as follows:

"Section 101. Definitions. As used in this title, unless the context otherwise requires:

(1) 'Air carrier' means any citizen of the Federated States of Micronesia who undertakes, whether directly or indirectly or by a lease or any other arrangement to engage in air transportation; PROVIDED that the Secretary may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this title to the extent and for such period as may be in the public interest.

(2) 'Air commerce' means interstate, intrastate, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any FSM airway or any operation or navigation of aircraft which directly affects, or which may endanger safety in interstate, intrastate or foreign air commerce.

(3) 'Aircraft' means any contrivance now known or hereafter invented, used, or designed for navigation of
or flight in the air.

(4) 'Aircraft engine' means an engine used, or intended to be used for propulsion of aircraft and includes all parts, appurtenances, and accessories thereto other than propeller.

(5) 'Airman' means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way.

(6) 'Air navigation facility' means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose of guiding or controlling flight in the air or the landing and take-off of aircraft.

(7) 'Airport' means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(8) 'Air transportation' means interstate, intrastate or foreign air transportation or the transportation of mail by aircraft.

(9) 'Civil aircraft' means any aircraft other than
a public aircraft.

(10) 'Civil aircraft of the FSM' means any aircraft registered as provided in section 201 of this title.

(11) 'Conditional sale' means any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency.

(12) 'Conveyance' means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in property.

(13) 'FSM airway' means a portion of the navigable airspace of the FSM designated by the Secretary as an FSM airway.

(14) 'FSM' means the Federated States of Micronesia.

(15) 'Foreign air carrier' means any person, not a citizen of the FSM, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation.

(16) 'Interstate air commerce,' 'intrasate air commerce,' and 'foreign air commerce,' respectively.
mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively:

(a) A State in the FSM and another State in the FSM;

(b) A place in any State in the FSM and another place in the same FSM State; and

(c) A place in the FSM and any place outside thereof.

(17) 'Interstate air transportation,' 'intragrain air transportation,' and 'foreign air transportation,' respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively:

(a) A State in the FSM and another State in the FSM;

(b) A place in any State in the FSM and another place in the same FSM State; and

(c) A place in the FSM and any place outside thereof.

(18) 'Mail' means FSM mail and foreign-transit mail.
(19) 'Navigable airspace' means airspace above the minimum altitudes of flight prescribed by regulation issued under this title, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(20) 'Navigation of aircraft' includes the piloting of aircraft.

(21) 'Operation of aircraft' means the use of aircraft for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this title.

(22) 'Person' means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(23) 'Propeller' includes all parts, appurtenances, and accessories thereof.

(24) 'Public aircraft' means an aircraft used exclusively in the service of any government or any political subdivision thereof, but not including any
government-owned aircraft engaged in carrying persons or
property for commercial purposes.

(25) 'Secretary' means the Secretary of the
Department of Transportation and Communication.

(26) 'Spare parts' means parts, appurtenances and
accessories of aircraft (other than aircraft engines and
propellers); of aircraft engines (other than
propellers); of propellers and of appliances maintained
for installation or use in an aircraft, aircraft engine,
propeller, or appliance, but which at the time are not
installed therein or attached thereto.

(27) 'Ticket agent' means any person, not an air
carrier or a foreign air carrier and not a bona fide
employee of an air carrier or foreign air carrier, who,
as principal or agent, sells or offers for sale any air
transportation, or negotiates for, or holds himself out
by solicitation, advertisement, or otherwise as one who
sells, provides, furnishes, contracts or arranges for,
such transportation."

Section 3. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 201 of
chapter 2 to read as follows:

"Section 201. Registration required.

(1) It shall be unlawful for any person to operate
or navigate any aircraft eligible for registration if

6 of 41
such aircraft is not registered by its owner as provided in this section, or to operate or navigate within the FSM any aircraft not eligible for registration, except as provided in section 502 of this title. The Secretary may, by regulation, permit the operation and navigation of aircraft without registration by the owner for such reasonable periods after transfer of ownership thereof as he may prescribe.

(2) An aircraft shall be eligible for registration if, but only if:

(a) It is owned by a citizen of the Federated States of Micronesia and it is not registered under the laws of any foreign country; or

(b) It is an aircraft of the National Government or of a State of the FSM or of a political subdivision thereof.

(3) Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Secretary and the Secretary shall issue to the owner thereof a certificate of registration.

(4) Applications for such certificates shall be in such form, be filed in such manner, and contain such information as the Secretary may require.

(5) Any such certificate may be suspended or
revoked by the Secretary for any cause which renders the aircraft ineligible for registration.

(6) Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceedings under the laws of the FSM. Registration shall not be evidence of ownership of aircraft in any proceedings in which such ownership by a particular person is, or may be an issue."

Section 4. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 202 of chapter 2 to read as follows:

"Section 202. Registration of engines, propellers, and appliances. The Secretary may establish reasonable rules and regulations for registration and identification of aircraft engines, propellers, and appliances, in the interest of safety, and no aircraft engines, propellers, or appliances shall be used in violation of any such rule or regulation."

Section 5. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 203 of chapter 2 to read as follows:

"Section 203. Recordation of aircraft ownership.

(1) The Secretary shall establish and maintain a system for the recording of each and all of the following:
(a) Any conveyance which affects the title to, or any interest in any civil aircraft of the FSM;

(b) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in any specifically identified aircraft engine or engines of 750 or more rated take-off horsepower for each such engine or the equivalent of such horsepower, and also any assignment or amendment thereof or supplement thereto;

(c) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any aircraft engines, propellers, or appliances maintained by or on behalf of an air carrier certificated under section 305(2) of this title for installation or use in aircraft, aircraft engines or propellers, or any spare parts maintained by or on behalf of such an air carrier, which instrument need only describe generally by types the engines, propellers, appliances, and spare parts covered thereby and designate the location or locations thereof; and also any assignment or amendment thereof or supplement thereto.
(2) The Secretary shall also record under the system provided for in subsection (1) of this section any release, cancellation, discharge, or satisfaction relating to any conveyance or other instrument recorded under said system.

(3) No conveyance or instrument the recording of which is provided for by section 203(1) shall be valid in respect of such aircraft, aircraft engine or engines, propeller, appliances, or spare parts against any person other than the person by whom the conveyance or other instrument is made or given, his heir or devisee, or any person having actual notice thereof, until such conveyance or other instrument is filed for recordation in the Office of the Secretary.

(4) No conveyance or other instrument shall be recorded unless it shall have been acknowledged before a notary public or other officer authorized by the law of the FSM to take acknowledgement of deeds.

(5) The Secretary shall keep a record of the time and date of the filing of conveyances and other instruments with him and of the time and date of recordation thereof. He shall record conveyances and other instruments filed with him in the order of their reception in files to be kept for that purpose, and indexed according to:
(a) The identifying description of the aircraft or aircraft engine, or in the case of an instrument referred to in section 203(1)(c), the locations specified therein; and

(b) The names of the parties to the conveyance or other instrument.

(6) The Secretary is authorized to provide by regulations for the endorsement upon certificates of registration, or aircraft certificates, of information with respect to the ownership of the aircraft for which each certificate is issued, the recording of discharges and satisfactions of recorded instruments, and other transactions affecting title to or interest in aircraft, aircraft engines, propellers, appliances, or parts, and for such other records, proceedings and details as may be necessary to facilitate the determination of the rights of parties dealing with civil aircraft of the FSM, aircraft engines, propellers, appliances, or parts.

(7) The person applying for the issuance or renewal of an airworthiness certificate for an aircraft, with respect to which there has been no recordation of ownership as provided for in this section, shall present with his application such information with respect to the ownership of the aircraft as the Secretary shall deem necessary to show the persons who are holders of
property interest in such aircraft and the nature and extent of such interest."

Section 6. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 204 of chapter 2 to read as follows:

"Section 204. Limitation of security owners liability.
No person having a security interest in, or security title to, any civil aircraft under a contract of conditional sale, equipment trust, chattel or corporate mortgage, or other instrument of similar nature, and no lessor of any such aircraft under a bona fide lease of 30 days or more, shall be liable by reason of such interest or title, or by reason of his interest as lessor or owner of the aircraft so leased, for any injury to or death of persons, or damage to or loss of property on the surface of the earth (whether on land or water) caused by such aircraft, or by the ascent, descent, or flight of such aircraft or by the dropping or falling of an object therefrom, unless such aircraft is in the actual possession or control of such person at the time of such injury, death, damage, or loss."

Section 7. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 301 of chapter 3 to read as follows:

"Section 301. Minimum standards, rules and regulations.
(1) The Secretary is empowered and it shall be his duty to promote safety of flight of civil aircraft in air commerce, by prescribing and revising from time to time as the Secretary may find necessary to provide adequately for safety in air commerce:

(a) Minimum standards governing the construction of airports and airport facilities;

(b) Reasonable rules and regulations and minimum standards governing, in the interest of safety:

(i) the inspection, servicing, and overhaul of aircraft, aircraft engines, propellers, and appliances;

(ii) the equipment and facilities for such inspection, servicing, and overhaul; and

(iii) in the discretion of the Secretary, the periods for, and the manner in which such inspection, servicing, and overhaul shall be made, including provision for examinations and reports by properly qualified private persons whose examinations or reports the Secretary may accept in lieu of those made by his officers and employees;

(c) Reasonable rules and regulations governing the reserve supply of aircraft, aircraft engines, propellers, appliances and aircraft fuel and oil, required in the interest of safety, including the
reserve supply of aircraft fuel and oil which shall be carried in flight:

(d) Reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service of airmen, and other employees of air carriers; and

(e) Reasonable rules and regulations, or minimum standards governing other practices, methods, and procedures."

Section 8. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 302 of chapter 3 to read as follows:

"Section 302. Hazard to air commerce. The Secretary shall by rules, regulations, or by order where necessary, require all persons to give adequate public notice in the form and manner prescribed by him of the construction or alteration, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce."

Section 9. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 303 of chapter 3 to read as follows:

"Section 303. Airman certificates. (1) The Secretary is empowered to issue airman certificates specifying the capacity in which the
holders thereof are authorized to serve as airmen in connection with aircraft.

(2) Any person may file with the Secretary an application for an airman certificate. If the Secretary finds, after investigation, that such person possesses proper qualifications for, and is physically able to perform the duties pertaining to, the position for which the airman certificate is sought, he shall issue such certificate, containing such terms, conditions, and limitations as to duration thereof, periodic or special examinations, tests of physical fitness, and other matters as the Secretary may determine to be necessary to assure safety in air commerce.

(3) Each certificate shall be numbered and recorded by the Secretary; shall state the name and address of, and contain a description of, the person to whom the certificate is issued, and shall be entitled with the designation of the class covered thereby. Certificates issued to all pilots serving in scheduled air transportation shall be designated 'airline transport pilot' of the proper class."

Section 10. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 304 of chapter 3 to read as follows:

"Section 304. Airworthiness certificate. The
registered owner of any aircraft may file with the
Secretary an application for an airworthiness
certificate for such aircraft. If the Secretary finds
that the aircraft conforms to the type certificate
thereof, and after inspection, that the aircraft is in
condition for safe operation, he shall issue an
airworthiness certificate. The Secretary may prescribe
in such certificate the duration of such certificate,
the type of service for which the aircraft may be used,
and such other terms, conditions and limitations as are
required in the interest of safety. The certificate
number or such other individual designation as may be
required by the Secretary shall be displayed upon each
aircraft in accordance with regulations prescribed by
the Secretary."

Section 11. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 305 of
chapter 3 to read as follows:

"Section 305. Air carrier operating certificate.
(1) The Secretary is empowered to issue air carrier
operating certificates and to establish minimum safety
standards for the operation of the air carrier to whom
any such certificate is issued.

(2) Any person desiring to operate as an air
carrier may file with the Secretary an application for
an air carrier operating certificate. If the Secretary finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this title and the rules, regulations and standards prescribed thereunder, he shall issue an air carrier operating certificate to such person. Each air carrier operating certificate shall prescribe such terms, conditions, and limitations, and specify the points to and from which such person is authorized to operate as an air carrier under an air carrier operating certificate."

Section 12. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 306 of chapter 3 to read as follows:

"Section 306. Duties of carriers and airmen. It shall be the duty of each air carrier to make, or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in air transportation as may be required by this title, or the orders, rules and regulations issued by the Secretary pursuant to this title. It shall also be the duty of every person engaged in operating, inspecting, maintaining, or overhauling equipment to observe and comply with the requirements of this title relating thereto, and the
orders, rules and regulations issued thereunder."

Section 13. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 307 of chapter 3 to read as follows:

"Section 307. Form of applications. Applications for certificates under this title shall be in such form, contain such information and be filed and served in such manner as the Secretary may prescribe, and shall be under oath whenever the Secretary so requires."

Section 14. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 308 of chapter 3 to read as follows:

"Section 308. Amendment, suspension and revocation of certificates. The Secretary may issue an order amending, modifying, suspending, or revoking, in whole or in part, any certificates issued under this title in the interest of safety of air commerce and the public interest."

Section 15. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 309 of chapter 3 to read as follows:

"Section 309. Aircraft accident investigation. It shall be the duty of the Secretary to:

(1) Make rules and regulations governing notification and report of accidents involving civil
aircraft:

(2) Investigate such accidents and report the facts, conditions and circumstances relating to each accident and the probable cause thereof;

(3) Make such reports public in such form and manner as may be deemed to be in the public interest;

and

(4) Ascertain what will best tend to reduce or eliminate the possibility of, or recurrence of, accidents, by conducting special studies and investigations on matters pertaining to safety in air navigation and the prevention of accident."

Section 16. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 310 of chapter 3 to read as follows:

"Section 310. Use of records and reports as evidence. No part of any report or reports of the Secretary relating to any accident or the investigation thereof shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports."

Section 17. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 401 of chapter 4 to read as follows:

"Section 401. Certificate of public convenience and
necessity. No air carrier shall engage in any air
transportation unless there is in force a certificate
issued by the Secretary authorizing such air carrier to
engage in such transportation."

Section 18. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 402 of
chapter 4 to read as follows:

"Section 402. Application for certificate. Application
for a certificate shall be made in writing to the
Secretary and shall be so verified, shall be in such
form and contain such information and shall be
accompanied by such proof of service upon such
interested persons as the Secretary shall by regulation
require."

Section 19. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 403 of
chapter 4 to read as follows:

"Section 403. Notice of application. Upon the filing
of any such application, the Secretary shall give due
notice to the public by posting a notice of such
application in the Office of the Secretary and the
offices of the Governors of each of the FSM States and
of such other persons as the Secretary may by regulation
specify. Any interested person may file with the
Secretary a protest or memorandum of opposition to or in
support of the issuance of a certificate. Such
application shall be set for public hearing and the
Secretary shall dispose of such application as speedily
as possible."

Section 20. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 404 of
chapter 4 to read as follows:

"Section 404. Issuance of certificate.

(1) The Secretary shall issue a certificate
authorizing the whole or any part of the transportation
covered by the application, if he finds that the
applicant is fit, willing, and able to perform such
transportation properly, and to conform to the
provisions of this title and the rules, regulations and
requirements hereunder and that such transportation is
required by the public convenience and necessity;
otherwise such application shall be denied.

(2) In the case of an application for a certificate
to engage in temporary air transportation, the Secretary
may issue a certificate authorizing the whole or any
part thereof for such limited periods as may be required
by the public convenience and necessity, if he finds
that the applicant is fit, willing and able properly to
perform such transportation and to conform to the
provisions of this title and the rules, regulations and
requirements thereunder."

Section 21. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 405 of chapter 4 to read as follows:

"Section 405. Terms and conditions of certificates.

(1) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions and limitations as the public interest may require.

(2) A certificate issued under this section to engage in foreign air transportation shall, insofar as the operation is to take place outside the FSM, designate the terminal and intermediate points only insofar as the Secretary shall deem practicable, and otherwise shall designate only the general route or routes to be followed."

Section 22. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 406 of chapter 4 to read as follows:

"Section 406. Effective date and duration of
certificate. Each certificate shall be effective from
the date specified therein, and shall continue in effect
until suspended or revoked as hereinafter provided, or
until the Secretary shall certify that operation
thereunder has ceased, or, if issued for a limited
period of time under section 404(2), shall continue in
effect until the expiration thereof, unless, prior to
the date of expiration, such certificate shall be
suspended or revoked as provided herein, or the
Secretary shall certify that operations thereunder have
ceased; PROVIDED, that if any service authorized by a
certificate is not inaugurated within a period of 90
days after the date of the authorization, the Secretary
may by order direct that such certificate shall
thereupon cease to be effective to the extent of such
service;"

Section 23. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 407 of
chapter 4 to read as follows:

"Section 407. Authority to modify, suspend, or revoke.
The Secretary upon petition or complaint or upon his own
initiative, after notice and hearings, may alter, amend,
modify, or suspend any such certificate, in whole or in
part, if the public convenience and necessity so
require, or may revoke any such certificate, in whole or
in part, for intentional failure to comply with any
provision of this title or any order, rule, or
regulations issued hereunder or any terms, conditions,
or limitations of such certificate."

Section 24. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 408 of
chapter 4 to read as follows:

"Section 408. Transfer of certificate. No certificate
may be transferred unless such transfer is approved by
the Secretary as being consistent with the public
interest."

Section 25. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 409 of
chapter 4 to read as follows:

"Section 409. Certain rights not conferred by
certificate. No certificate shall confer any
proprietary, property, or exclusive right in the use of
any airspace, airways, landing area or air navigation
facility."

Section 26. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 410 of
chapter 4 to read as follows:

"Section 410. Application for abandonment. No air
carrier shall abandon any route, or part thereof, for
which a certificate has been issued by the Secretary.
unless upon the application of such air carrier, after
notice and hearing, the Secretary finds such abandonment
to be in the public interest. The Secretary may, by
regulations or otherwise, authorize such temporary
suspension of service as may be in the public interest."

Section 27. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 411 of
chapter 4 to read as follows:

"Section 411. Requirement as to carriage of mail.
Whenever so authorized by its certificate, any air
carrier shall provide necessary and adequate facilities
and service for the transportation of mail, and shall
transport mail whenever required by the Postmaster
General. Such air carrier shall be entitled to receive
reasonable compensation in accordance with rates
approved by the Postmaster General."

Section 28. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 412 of
chapter 4 to read as follows:

"Section 412. Transportation of mail. The Postmaster
General is authorized to make such rules and
regulations, not inconsistent with the provisions of
this title, or any order, rule or regulation made by the
Secretary thereunder, as may be necessary for the safe
and expeditious carriage of mail by aircraft."
Section 29. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 413 of chapter 4 to read as follows:

"Section 413. Permit to foreign air carrier. No foreign air carrier shall engage in foreign air transportation unless there is in force a permit issued by the Secretary authorizing such carriers to so engage."

Section 30. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 414 of chapter 4 to read as follows:

"Section 414. Issuance of permit. The Secretary is empowered to issue such permit if he finds that such carrier is fit, willing, and able properly to perform such air transportation and to conform to the provisions of this title and the rules, regulations and requirements hereunder and that such transportation will be in the public interest."

Section 31. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 415 of chapter 4 to read as follows:

"Section 415. Application for permit. Application for a permit shall be made in writing to the Secretary, and shall be so verified, shall be in such form, and shall contain such information and shall be accompanied by
such proof of service upon such interested persons, as
the Secretary shall by regulation require."

Section 32. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 416 of
chapter 4 to read as follows:

"Section 416. Notice of application. Upon the filing
of an application for a permit the Secretary shall give
due notice thereof to the public by posting a notice of
such application in the Office of the Secretary and the
offices of the Governors of each of the States and such
other persons as the Secretary may by regulation
determine. Any interested person may file with the
Secretary a protest or memorandum of opposition to or in
support of the issuance of a permit. Such application
shall be set for public hearing and the Secretary shall
dispose of such application as speedily as possible."

Section 33. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 417 of
chapter 4 to read as follows:

"Section 417. Terms and conditions. The Secretary may
prescribe the duration of any permit and may attach to
such permit such reasonable terms, conditions, or
limitations as, in his judgment, the public interest may
require."

Section 34. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 418 of chapter 4 to read as follows:

"Section 418. Transfer of permit. No permit may be transferred unless such transfer is approved by the Secretary as being in the public interest."

Section 35. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 419 of chapter 4 to read as follows:

"Section 419. Authority to modify, suspend, or revoke. Any permit issued under the provisions of section 414 may, after notice and hearing, be altered, modified, amended, suspended, canceled, or revoked by the Secretary whenever he finds such action to be in the public interest. Any interested person may file with the Secretary a protest or memorandum in support of or in opposition to the alteration, modification, amendment, suspension, cancellation, or revocation of a permit."

Section 36. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 420 of chapter 4 to read as follows:

"Section 420. Tariffs of air carrier. Every air carrier and every foreign air carrier shall file with the Secretary, and print and keep open to public inspection, tariffs showing all rates, fares, and
charges for air transportation between points served by
it, and between points served by it and points served by
any other air carrier or foreign air carrier which
through service and through rates shall have been
established, and showing to the extent required by
regulations all classifications, rules, regulations,
practices, and services in connection with such air
transportation. Tariffs shall be filed, posted and
published in such form and manner and shall contain such
information as the Secretary shall by regulation
prescribe; and the Secretary is empowered to reject any
tariff so filed which is not consistent with this
section and such regulations. Any tariff so rejected
shall be void. The rates, fares, and charges shown in
any tariff shall be stated in terms of lawful money of
the United States, but such tariff may also state rates,
fares, and charges in terms of currencies other than
lawful money of the United States, and may in the case
of foreign air transportation, contain such information
as may be required under the laws of any country in
which or to which an air carrier or foreign air carrier
is authorized to operate."

Section 37. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 421 of
chapter 4 to read as follows:
"Section 421. Observation of tariff. No air carrier or foreign air carrier shall charge, demand, collect or receive greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in its currently effective tariff. Nothing in this title shall prohibit such air carrier or foreign air carrier, under such terms and conditions as the Secretary may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, agents and employees and their immediate families."

Section 38. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 422 of chapter 4 to read as follows:

"Section 422. Notice of tariff change. No change shall be made in any rate, fare, or charge, or any classification, rule, regulations or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier or foreign air carrier, except after 90 days' notice of the proposed change filed, posted and published in accordance with section 420 of this chapter. Such notice shall plainly state the change proposed to be made and the time such change will take
effect. The Secretary may in the public interest by
regulation or otherwise, allow such change upon notice
less than that herein specified, or modify the
requirements of this section with respect to filing and
posting of tariff, either in particular instances or by
general order applicable to special or peculiar
circumstances and conditions:"

Section 39. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 423 of
chapter 4 to read as follows:

"Section 423. Power to prescribe rates and practices of
air carriers. Whenever, after notice and hearing, upon
complaint, or upon his own initiative, the Secretary
shall be of the opinion that any individual or joint
rate, fare or charge demanded, charged, collected or
received by any air carrier for interstate or intrastate
air transportation, or any classification, rule,
regulation, or practice affecting such rate, fare, or
charge, or the value of the service thereunder, is or
will be unjust or unreasonable, or unjustly
discriminatory, or unduly preferential, or unduly
prejudicial, the Secretary shall determine and prescribe
the lawful rate, fare, or charge thereafter to be
demanded, charged, collected or received or the lawful
classification, rule, regulation or practice thereafter
to be made effective."

Section 40. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 424 of chapter 4 to read as follows:

"Section 424. Rules of rate-making. In exercising and performing his powers and duties with respect to the determination of rates for the carriage of persons or property, the Secretary shall take into consideration, among other factors:

(1) The effect of such rates upon the movement of traffic;

(2) The need in the public interest of adequate and efficient transportation of persons and property by air carrier at the lowest cost consistent with the furnishing of such service;

(3) Such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;

(4) The inherent advantages of transportation by aircraft; and

(5) The need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service."

Section 41. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 425 of chapter 4 to read as follows:

"Section 425. Suspension of rates. Whenever any air carrier shall file with the Secretary a tariff stating a new individual or joint rate, fare, or charge for interstate and intrastate air transportation, the Secretary is empowered, upon complaint or upon his own initiative, at once, and, if he so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, and charge; and pending such hearing and the decision thereon, the Secretary, by filing with such tariff, and delivering to the air carrier affected thereby, a statement in writing of his reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge for a period of 90 days; and if the proceeding has not been concluded and a final order made within such period, the Secretary may from time to time extend the period of suspension, but not for a longer period in the aggregate than 180 days beyond the time when such tariff should otherwise go into effect. If the proceedings have not been concluded and an order of extension has not been issued within the period of suspension, the proposed rate, fare, or charge
shall go into effect at the end of such period. This
section shall not apply to any initial tariff filed by
any air carrier."

Section 42. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 426 of
chapter 4 to read as follows:

"Section 426. Carriers duty to provide service, rates
and divisions. It shall be the duty of every air
carrier to provide and furnish interstate and overseas
air transportation as authorized by its certificate.
upon reasonable request therefore and to provide
reasonable through service in such air transportation in
connection with other air carriers; to provide safe and
adequate service, equipment and facilities in connection
with such transportation; to establish, observe and
enforce just and reasonable individual and joint rates,
fares and charges and just and reasonable
classifications, rules and regulations and practices
relating to such air transportation; and in case of such
joint rates, fares, and charges to establish just,
reasonable and equitable division thereof between air
carriers participating therein which shall not unduly
prefer or prejudice any of such participating carriers."

Section 43. Title 20 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 427 of
chapter 4 to read as follows:

"Section 427. Discrimination. No air carrier or foreign air carrier shall make, give or cause any undue or unreasonable preference or advantage to any particular person, port, locality or description of traffic in air transportation in any respect whatsoever or subject any particular person, port, locality or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever."

Section 44. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 428 of chapter 4 to read as follows:

"Section 428. Account records and reports. The Secretary is empowered to require annual, monthly, periodical and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Secretary may deem information to be necessary. Such reports shall be under oath whenever the Secretary so requires. The Secretary may also require any air carrier to file with him a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other air carrier or
person, in relation to any traffic affected by the provisions of this title."

Section 45. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 429 of chapter 4 to read as follows:

"Section 429. Disclosure of stock ownership. Each air carrier shall submit annually, and at such times as the Secretary shall require, a list showing the names of each of its stockholders or members holding more than five percent of the entire capital stock or capital, as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held; and a report setting forth a description of the shares of stock or other interest held by such air carrier, or for its account, in persons other than itself."

Section 46. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 430 of chapter 4 to read as follows:

"Section 430. Inspection of accounts and property. The Secretary or his duly authorized representative shall at all times have access to all lands, buildings, and equipment of any air carrier and to all accounts, records and memoranda, including all documents, papers and correspondence, now or hereafter existing and kept
or required to be kept by air carriers; and he may employ special agents or auditors, who shall have authority to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda. The provisions of this section shall apply to the extent found by the Secretary to be reasonably necessary for the administration of this title."

Section 47. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 431 of chapter 4 to read as follows:

"Section 431. Methods of competition. The Secretary may upon his own initiative or upon complaint by any air carrier, foreign air carrier or ticket agent, if he considers that such action by him would be in the interest of the public, investigate and determine whether any air carrier, foreign air carrier or ticket agent has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof. If the Secretary shall find after notice and hearing that such air carrier, foreign air carrier or ticket agent is engaged in such unfair or deceptive practices or unfair methods of competition, he shall order such air carrier, foreign air carrier or ticket agent to cease and desist from such practices or methods of competition."
Section 48. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 432 of chapter 4 to read as follows:

"Section 432. Classification and exemption of carriers.

(1) The Secretary may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this title as the nature of the services performed by such air carriers shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this title, to be observed by each such class or group as the Secretary finds necessary in the public interest.

(2) The Secretary may from time to time and to the extent necessary, exempt from the requirements of this title or any provisions thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any air carrier or class of air carriers, if he finds that the enforcement of this title or such provision, or such rule, regulation, term, condition, or limitation is or would be an undue burden on such air carrier or class of air carriers by reason of the limited extent of, or unusual circumstances affecting, the operations of such air carrier or class of air carriers and is not in the public interest."
Section 49. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 501 of chapter 5 to read as follows:

"Section 501. International agreements. In exercising and performing the powers and duties conferred under this title, the Secretary shall do so consistently with any obligation assumed by the FSM in any treaty, convention, or agreement that may be in force between the FSM and any foreign country or foreign countries, and shall take into consideration any applicable law and requirements of foreign countries; and the Secretary shall not, in exercising and performing his powers and duties with respect to certificates of convenience and necessity, restrict compliance by any air carrier with any obligation, duty, or liability imposed by any foreign country; PROVIDED that this section shall not apply to any obligation, duty, or liability arising out of a contract or other agreement, heretofore or hereafter entered into between an air carrier and any foreign country, if such contract or agreement is disapproved by the Secretary as being contrary to the public interest."

Section 50. Title 20 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 502 of chapter 5 to read as follows:
"Section 502. Foreign aircraft.  

(1) The FSM is hereby declared to possess and exercise complete and exclusive national sovereignty in the airspace of the FSM, including the airspace above all those portions of the adjacent marginal high seas, over which by international law or treaty or convention the FSM exercises national jurisdiction. Aircraft of the armed forces of any foreign nation shall not be navigated in the FSM except in accordance with an authorization granted by treaty or agreement.  

(2) Foreign aircraft which are not a part of the armed forces of a foreign nation may be navigated in the FSM by airmen holding certificates or licenses issued or rendered valid by the FSM or the nation in which the aircraft is registered, if such foreign nation grants a similar privilege with respect to aircraft of the FSM, and only if such navigation is authorized by permit, order, or regulation issued by the Secretary hereunder and in accordance with the terms, conditions and limitations thereof."
Section 51. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 06-03-93

Introduced by: [Signature]

(Joseph J. Urusmal by request)