

PRESIDENTIAL COMM. NO. 7-493
FSM CONGRESS

Public Law No. 7-135

AN ACT

To amend title 34 of the Code of the Federated States of Micronesia by amending sections 202, 203, and 204; by repealing section 207 in its entirety, and enacting a new section 207 in lieu thereof; by adding a new section 208 for the purpose of increasing the permissible rate of interest charged by lending institutions; to delete the definition of net yield rate; to expressly allow fees for processing loans; to authorize the use of "floating interest rates," and require the posting of interest paid on deposits and the prime rate; and for other purposes.

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

1 Section 1. Section 202 of title 34 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 202. Definitions. As used in this chapter:

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

9 (2) 'Cardholder' means any person to which a credit
10 card is issued.

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

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

19 (5) 'Consumer credit' means credit extended to a
20 natural person in which the money, property, or service
21 which is the subject of the transaction is primarily for
22 personal, family, household, or agricultural purposes,



1 excluding those credit transactions in which real property
2 is the primary security interest.

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

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

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

13 (9) 'Customer' means:

14 (a) a person to whom credit is extended, and
15 includes a comaker, endorser, guarantor, or surety for such
16 person who is or may be obligated to repay the extension of
17 credit; or

18 (b) a cardholder.

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

22 (11) 'Person' includes individuals, corporations,
23 partnerships, unincorporated associations, as well as banks,
24 savings and loan associations, credit unions, and
25 other institutional lending organizations.

1 (12) 'Prime rate' means the rate of interest charged
2 on loans by large United States money-center commercial
3 banks to their best business borrowers, as published in the
4 Money Rates section of the Wall Street Journal.

5 (13) 'Real property' means property which is real
6 property under the law of the Federated States of
7 Micronesia.

8 (14) 'Security interest' means any interest in
9 property which secures payment or performance of any
10 obligation in the credit transaction.

11 (15) 'Usury' is the exacting, taking, or receiving of
12 an interest charge in an amount or at a rate in excess of
13 that allowed by law for the use of money or extension
14 of credit."

15 Section 2. Section 203 of title 34 of the Code of the Federated
16 States of Micronesia is hereby amended to read as follows:

17 "Section 203. Consumer credit transactions.

18 (1) In consumer credit transactions, no person may
19 directly or indirectly receive or charge interest which
20 exceeds an annual percentage rate of 15 percent.

21 (2) Nothing contained in this section shall prevent a
22 creditor from charging and receiving, in addition to
23 interest permitted by this section, a processing fee with
24 respect to the transaction, not to exceed \$25, or a late
25 charge on all or any portion of any payment due on a

1 consumer credit transaction which is unpaid after fifteen
2 days from the due date of the payment, provided that such
3 late charge shall not exceed five dollars or five percent
4 of the amount overdue, whichever is less, on any payment."

5 Section 3. Section 204 of title 34 of the Code of the Federated
6 States of Micronesia is hereby amended to read as follows:

7 "Section 204. Commercial credit transactions.

8 (1) In commercial credit transactions in which the
9 principal amount is less than \$1,000,000, no person may
10 directly or indirectly receive or charge interest which
11 exceeds the prime rate in effect on the date of the
12 transaction plus four percent.

13 (2) The provisions of subsection (1) of this section
14 notwithstanding, in commercial credit transactions in which
15 the principal amount is \$1,000,000 or less, no person may
16 directly or indirectly receive or charge interest which
17 exceeds an annual percentage rate of 24 percent per annum,
18 or if the lender is a commercial bank or savings
19 institution, no person may directly or indirectly receive
20 or charge interest which exceeds by more than 8 percent the
21 lowest rate paid by the lender on any savings deposits or
22 savings account, not including certificates of deposit.

23 (3) In commercial credit transactions, a reasonable
24 commitment fee, not to exceed one percent of the amount of
25 the loan may be charged by the lender in addition to any

1 interest rate permitted by this section.

2 (4) The provisions of subsections (1), (2) and
3 (3) of this section notwithstanding, nothing in this
4 section shall be construed to prohibit the use of an
5 adjustable interest rate in a consumer or commercial loan
6 transaction, so that the interest rate of a transaction may
7 be adjusted from time to time to reflect changes in the
8 prime rate."

9 Section 4. Section 207 of title 34 of the Code of the Federated
10 States of Micronesia is hereby repealed in its entirety and a new
11 section 207 is hereby enacted to read as follows:

12 "Section 207. Remedies. No credit transaction in which the
13 annual percentage rate exceeds those limits established in
14 sections 203 and 204 of this chapter shall for that reason
15 be void, but:

16 (1) The creditor in such transaction shall have no
17 right to collect or receive any interest;

18 (2) The debtor shall within two years of maturity of
19 the loan be entitled to bring suit to recover two times
20 any interest paid to the creditor, plus costs of the suit
21 and reasonable attorney's fees; and

22 (3) The debtor shall also be entitled, at any time,
23 to assert the remedies of this section by way of a defense
24 or counterclaim to any action by the creditor."

25 Section 5. Title 34 of the Code of the Federated States of

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1 Micronesia is hereby amended by adding a new section 208 to read as
2 follows:

3 "Section 208. Current interest rates. Every bank shall
4 post in a public place within each of its branches located
5 in the Federated States of Micronesia the current rate of
6 interest paid on deposits held, including demand deposits,
7 savings deposits, and certificates of deposit, by such bank
8 and the prime rate currently in effect for loans. In any
9 loan in which an adjustable interest rate is used, the
10 lender shall notify the borrower by mail of any changes in
11 the rate of interest applicable to the loan, at least 10
12 days in advance of such changes taking effect."

13 Section 6. This act shall become law upon approval by the
14 President of the Federated States of Micronesia or upon its becoming
15 law without such approval.

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Bailey Olter
President
Federated States of Micronesia