

AN ACT

To authorize the President of the Federated States of Micronesia, or his designee, to negotiate a sovereign guarantee to secure an Asian Development Bank loan in the amount of \$16.4 million, to fund the Pohnpei Port Development Project, and for other purposes.

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

1 Section 1. Purpose. The State of Pohnpei plans to upgrade
2 its port facilities in Dekehtik located in the Pohnpei
3 Transportation Zone. The facilities are managed and controlled by
4 the Pohnpei Port Authority (PPA), a Pohnpei State agency. The
5 total project cost is \$17.1 million proposed to be financed
6 through loans from the Asian Development Bank (ADB). Of the total
7 project cost, \$4.5 million will be funded out of ADB's Ordinary
8 Capital Resources (OCR) and \$11.9 million out of ADB's Special
9 Fund (ADF). Pohnpei State will be required to fund the remaining
10 portion of the project cost.

11 Section 2. Authorization to negotiate sovereign guarantee.
12 The President of the Federated States of Micronesia is hereby
13 authorized to enter into negotiations with the State of Pohnpei,
14 PPA, and the Asian Development Bank for the purpose of having
15 Pohnpei State guarantee in turn a guarantee by the National
16 Government of \$16.4 million loan by the Asian Development Bank to
17 the Pohnpei Port Authority. For the protection of the National
18 Government the guarantee negotiated with Pohnpei State shall
19 contain the terms found in section 1401 of title 55 of the Code of
20 the Federated States of Micronesia. The guarantee agreement shall

1 be submitted to Congress for ratification and become effective
2 upon ratification.

3 Section 3. Authorization for appropriation. There is hereby
4 authorized to be appropriated out of the General Fund of the
5 Federated States of Micronesia the sum of not more than
6 \$16,400,000 to guarantee the repayment of the Pohnpei Port
7 Development Project loan.

8 Section 4. Terms of the guarantee. The guarantee shall be
9 executed upon such terms as may be set by the President of the
10 Federated States of Micronesia consistent with the provisions of
11 this act to include the following conditions:

12 (a) The State of Pohnpei is primarily responsible for
13 repayment of the Asian Development Bank loan.

14 (b) The FSM National Government's obligation as
15 guarantor extends only to disbursements of the Asian Development
16 Bank Pohnpei Port Development Project loan after execution of an
17 appropriate guarantee agreement.

18 (c) The FSM National Government's obligation applies
19 only if the State of Pohnpei is in default of its repayment
20 obligations.

21 (d) The State of Pohnpei pledges its state revenues
22 and agrees to an offset of its national revenue in the event of
23 default by the State of Pohnpei.

24 (e) The State of Pohnpei provides full indemnity to the
25 FSM National Government whenever the latter becomes obligated to pay

1 under the guarantee.

2 (f) The FSM National Government shall have subrogation
3 rights in the event it becomes liable under its guarantee.

4 Section 5. Duties of the Secretary of Finance and
5 Administration. Upon default of the State of Pohnpei on its payment
6 obligations to the Asian Development Bank, the FSM Secretary of
7 Finance and Administration shall submit to the President an
8 appropriation bill for consideration of the Congress of the
9 Federated States of Micronesia for fulfillment of the sovereign
10 guarantee.

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

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August 20, 2015

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/s/ Peter M. Christian
Peter M. Christian
President
Federated States of Micronesia

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