

AN ACT

To further amend title 19 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-76, by amending sections 302, 304, 310, 324, 334, 619, and 1316, for the purpose of making technical corrections to the Maritime Act of 1997, and for other purposes.

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

Section 1. Section 302 of title 19 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-76, is hereby amended to read as follows:

"Section 302. Qualifications for vessel registration.

(1) For the purposes of this title, a Qualified Person is:

(a) a person who is a citizen of the Federated States of Micronesia, or a corporation which is established in accordance with the laws of the Federated States of Micronesia or any of its States, wholly owned by citizens, whose principal place of business is in the Federated States of Micronesia;

(b) a person holding a current and valid foreign investment permit duly issued by the National Government to operate a vessel in interstate or international commerce who or which has its principal place of business in the Federated States of Micronesia;
or

(c) the National and State Governments of the Federated States of Micronesia and their instrumentalities.

(2) Every vessel which is owned by a Qualified Person as defined under subsection (1)(b) shall only be registered in the Federated States of Micronesia if it operates from, and the majority of its voyages begin or end, in the Federated States of Micronesia.

(3) The Registrar shall require the production of satisfactory documentary evidence demonstrating that the owner is a Qualified Person and the vessel meets the requirements for registration.

(4) Ownership of any share of a vessel by a person who is not a Qualified Person shall constitute cause for removal of the vessel from the Register and forfeiture to the National Government.

(5) A vessel which has ceased to meet the requirements for registration under this chapter shall be struck off the Register.

(6) Any person who is not a Qualified Person who purports to be a Qualified Person for the purpose of registering a vessel under this title commits a national offense punishable by a fine not exceeding \$100,000 or imprisonment of not more than 1 year, or both."

Section 2. Section 304 of title 19 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-76, is hereby amended to read as follows:

"Section 304. Status of ownership if not a Qualified Person.

(1) If a person who is not a Qualified Person:

(a) acquires any ownership interest in a Registered Vessel other than by purchase and does not transfer that interest to a Qualified Person or become a Qualified Person within 90 days, that interest shall be struck off the Register;

(b) purchases any ownership interest in a Registered Vessel and within 90 days does not remove the vessel from the Register or become a Qualified Person, that interest shall be null and void and shall not be registered under this title.

(2) Where equity demands, the Secretary shall have discretion to extend any time period set forth in this section."

Section 3. Section 310 of title 19 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-76, is hereby amended to read as follows:

"Section 310. Recording of particulars in Register.

(1) A bill of sale, conveyance, mortgage, assignment of mortgage, or the transfer of any interest in any Registered Vessel shall not be valid with respect to such vessel against any person other than the grantor or mortgagor, his or her heirs or devisees and persons having actual notice thereof, until the instrument evidencing such transaction is recorded in the Register.

(2) The Registrar shall record in the Register the particulars contained in the instruments as soon as they are received.

(3) The Registrar shall also record in the Register:

- (a) the name of the vessel;
- (b) the names and addresses of the parties;
- (c) the time and date of receipt of the instrument;
- (d) the interest in the vessel transferred or affected;
- (e) the amount and date of maturity of any mortgage; and
- (f) any other information prescribed by regulation.

(4) After the Registrar has recorded the particulars of the instruments deposited in the

Register, the Registrar shall file the original documents in a separate file for each vessel."

Section 4. Section 324 of title 19 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-76, is hereby amended to read as follows:

"Section 324. Recording of mortgages.

(1) A Registered Vessel may be made security for a loan or other financial obligation by way of a mortgage in the prescribed form.

(2) A mortgage shall not be recorded in the Register unless it states the interest of the mortgagor in the vessel and the term and conditions of the mortgage on the vessel.

(3) Upon payment of the prescribed fee, the Registrar shall record mortgages in the order of their receipt and sign each mortgage stating the time and date that each was received.

(4) The Registrar shall endorse on the Certificate of Registry of the vessel covered by the mortgage:

- (a) the names of the mortgagor and mortgagee;
- (b) the amount and date of maturity of the mortgage; and
- (c) the time and date the mortgage was recorded."

Section 5. Section 334 of title 19 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-76, is hereby amended to read as follows:

"Section 334. Disclosure of liens and priority.

(1) Where the owner of a Registered Vessel has received a service or the vessel has caused loss of life or personal injury giving rise to a claim which creates a maritime lien against the vessel, the lien holder may require the Registrar to record the lien against the vessel in the Register.

(2) Irrespective of whether the maritime lien is registered in accordance with subsection (1), the person who provided the service or who has suffered injury, or the next of kin or executor of the estate of the person who has lost his or her life as a result of the action of the vessel or any other lien holder having a claim against a vessel can exercise that lien against the vessel while it is owned by the original debtor.

(3) A maritime lien against a Registered Vessel shall not be enforceable against the vessel subsequently purchased by a bona fide purchaser for value without notice unless it has been recorded in the Register.

(4) The failure of a lien holder to register a maritime lien against a Registered Vessel shall not

prejudice the claim against the vessel owner who received services or whose vessel caused damage giving rise to the lien in the first instance.

(5) A mortgagor, before executing a mortgage in respect of a Registered Vessel, shall disclose to the mortgagee in writing the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged, which is known to the mortgagor.

(6) After the execution of such mortgage and before the mortgagee has had a reasonable time to record it and have proper endorsements made upon the Certificate of Registry of the vessel, the mortgagor, without the consent of the mortgagee, shall not incur any contractual obligation creating a lien upon the vessel, having priority over a mortgage other than liens for wages of the crew of the vessel or for salvage.

(7) A mortgagor, including an officer, director, agent or employee of a company which owns a vessel, the financing of which is secured by a mortgage, commits a civil offense, and shall be liable to a fine not exceeding \$200,000, where such mortgagor:

(a) with intent to defraud, fails to disclose the existence of any prior mortgage, maritime lien, or other obligation or liability upon the vessel; or

(b) with intent to defraud, incurs any contractual obligation giving rise to a lien before the mortgagee has had a reasonable time to record the mortgage.

(8) Upon commission of any civil offense set forth in subsection (7) the mortgage indebtedness shall become immediately due and payable at the election of the mortgagee."

Section 6. Section 619 of title 19 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-76, is hereby amended to read as follows:

"Section 619. Wages, maintenance, and benefits for sick and injured seamen.

(1) When a seaman becomes unable to work as a result of illness or injury and is under Shipping Articles with an owner or master of a vessel, the seaman shall be entitled to:

(a) full wages, as long as he is sick or injured and remains on board the vessel;

(b) reasonable medical and surgical treatment and supply of proper and sufficient medicines and

therapeutic appliances as are reasonably available, up to a period of 30 weeks, or until declared by a physician to have reached a maximum cure or to be incurable;

(c) where it is necessary to put the seaman ashore:

(i) board and lodging of equivalent quality to that received on board the vessel up to a maximum period of 30 weeks, PROVIDED that such entitlements shall terminate prior thereto when the seaman is declared by a physician to be fit to work and return to the vessel, to have reached maximum cure, or to be incurable; and

(ii) one-third of his base wages during any portion of such period subsequent to his landing from the vessel but not to exceed a maximum period of sixteen weeks commencing from the day of injury or commencement of the sickness;

(d) repatriation to the seaman's proper return port including all expenses for transportation, accommodation, and food;

(e) other benefits as listed in the disability schedule set forth in regulations promulgated by the Secretary.

(2) The seaman shall not be entitled to any of the benefits of this section:

(a) if such illness or injury resulted from the seaman's intentional act or failure to act, or misconduct;

(b) if such illness or injury developed from a condition which the seaman intentionally concealed from the owner or master at or during the seaman's engagement under the Shipping Articles;

(c) if the seaman refuses or fails to avail himself of medical treatment for such illness or injury or is denied such treatment because of misconduct or default;

(d) if, at the time of the seaman's engagement, he refused to be medically examined when requested by the owner or master.

(3) The seaman shall have a maritime lien against the vessel for any wages due the seaman under this section.

(4) The master shall take adequate measures for safeguarding property left on board by a sick, injured, or deceased seaman and shall deliver all property of a deceased seaman to a Shipping Officer."

Section 7. Section 1316 of title 19 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 10-76, is hereby amended to read as follows:

"Section 1316. Continuity of documents.

(1) The regulations promulgated under the National Maritime Act of 1993 shall continue in force as if made under this title until repealed by the Secretary.

(2) Any certificate, license, instrument or document which was valid and current immediately prior to the effective date of the National Maritime Act, 1997, shall remain in force for a period of 12 months or until it expires, whichever is earlier."

Section 8. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

_____, 1998

Jacob Nena
President
Federated States of Micronesia