To amend title 33 of the Code of the Federated States of Micronesia, regarding secured transactions, by repealing subchapters I and II in their entirety, and by adding new subchapters I, II, III, IV and V, to incorporate the UCC as adopted; and for other purposes.

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

Section 1. Subchapters I and II of chapter 9 of title 33 of the Code of the Federated States of Micronesia are hereby repealed in their entirety.

Section 2. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new subchapter I, entitled "Applicability and Definitions"; by adding a new subchapter II, entitled "Validity of Security Agreement and Rights of Parties thereto"; by adding a new subchapter III, entitled "Rights of Third Parties; Perfected and Unperfected Security Interests; Rules of Priority"; by adding a new subchapter IV entitled "Filing"; and by adding a new subchapter V entitled "Default".

Section 3. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-101 of subchapter I to read as follows:

"Section 9-101. Short title. This chapter shall be known and may be cited as the 'Secured Transactions Act of 1999', or 'The Uniform Commercial Code (UCC), as adopted'."

Section 4. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-102 of subchapter I to read as follows:

"Section 9-102. Policy and subject matter of chapter. (1) Except as otherwise provided in section 9-104 this title on excluded transactions, this chapter applies:"

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(a) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper or accounts; and

(b) to any sale of accounts or chattel paper.

(2) This chapter applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This chapter does not apply to statutory liens except as provided in section 9-310 of this title.

(3) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply."

Section 5. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-104 of subchapter I to read as follows:

"Section 9-104. Transactions excluded from chapter.

This chapter does not apply:

(1) to a security interest subject to any other statute
of the Federated States of Micronesia, to the extent that
such statute governs the rights of parties to and third
parties affected by transactions in particular types of
property; or
(2) to a landlord's lien; or
(3) to a lien given by statute or other rule of law for
services or materials except as provided in section 9-310
of this title on priority of such liens; or
(4) to a transfer of a claim for wages, salary or other
compensation of an employee; or
(5) to a transfer by a government or governmental
subdivision or agency; or
(6) to a sale of accounts or chattel paper as part of a
sale of the business out of which they arose, or an
assignment of accounts or chattel paper which is for the
purpose of collection only, or a transfer of a right to
payment under a contract to an assignee who is also to do
the performance under the contract or a transfer of a
single account to an assignee in whole or partial
satisfaction of a preexisting indebtedness; or
(7) to a transfer of an interest or claim in or under
any policy of insurance, except as provided with respect
to proceeds (section 9-305 of this title) and priorities
in proceeds (section 9-312 of this title); or
(8) to a right represented by a judgment (other than a
judgment taken on a right to payment which was
collateral; or

(9) to any right of setoff; or

(10) except to the extent that provision is made for
fixtures in section 9-313 of this title, to the creation
or transfer of an interest in or lien on real estate,
including a lease or rents thereunder or a seller's or
purchaser's interest in a land sale contract and the
proceeds thereof; or

(11) to a transfer in whole or in part of any claim
arising out of tort; or

(12) to a transfer of an interest in any deposit account
(subsection (1) of section 9-105 of this title), except
as provided with respect to proceeds (section 9-306 of
this title) and priorities in proceeds (section 9-312 of
this title)."

Section 6. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-105
of subchapter I to read as follows:

"Section 9-105. Definitions.
In this chapter unless the context otherwise requires:

(1) 'Account' means any right to payment for goods sold
or leased or for services rendered which is not evidenced
by an instrument or chattel paper, whether or not it has
been earned by performance.
(2) 'Account debtor' means the person who is obligated on an account, chattel paper or general intangible.

(3) 'Chattel paper' means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a chattel or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper.

(4) 'Collateral' means the property subject to a security interest, and includes accounts and chattel paper which have been sold.

(5) 'Debtor' means the person who owes payment or other performance of the obligation secured, whether or not the person owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term 'debtor' means the owner of the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires.

(6) 'Deposit account' means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization.
other than an account evidenced by a certificate of deposit.

(7) 'Document' means document of title and includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which, in the regular course of business or financing, is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers: to be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(8) 'Encumbrance' includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interest.

(9) 'General intangibles' means any personal property (including things in action) other than goods, account, chattel paper, documents, instruments, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

(10) 'Goods' includes all things which are movable at
the time the security interest attaches or which are fixtures (section 9-313 of this title), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. 'Goods' also includes standing timber which is to be cut and removed under a conveyance or contract for sale, and the unborn young of animals, and growing crops.

(11) 'Instrument' means a negotiable instrument, or a certificated security or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course or business transferred by delivery with any necessary endorsement or assignment.

(12) 'Mortgage' means a consensual interest created by real estate mortgage, a trust deed on real estate, or the like.

(13) A security interest is a 'purchase money security interest' to the extent that it is:

(a) taken or retained by the seller of the collateral to secure all or part of its price; or

(b) taken by a person who, by making advances or incurring an obligation, gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.
(14) An advance is made 'pursuant to commitment' if the secured party has bound himself or herself to make it, whether or not a subsequent event of default or other event, not within the party's control, has relieved or may relieve such party from his or her obligation.

(15) 'Security agreement' means an agreement which creates or provides for a security interest.

(16) 'Secured party' means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper has been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(17) 'Transmitting utility' means any person primarily engaged in the electric or electronics communications transmission business, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service."

Section 7. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-108 of subchapter I to read as follows:

"Section 9-108. When after-acquired collateral is not security for antecedent debt. Where a secured party makes an advance, incurs an obligation, releases a
perfected security interest, or otherwise gives new value
which is to be secured in whole or in part by after-
aquired property, such party's security interest in the
after-acquired collateral shall be deemed to be taken for
new value and not as security for an antecedent debt if
the debtor acquires rights in such collateral either in
the ordinary course of business or under a contract of
purchase made pursuant to the security agreement within a
reasonable time after new value is given."

Section 8. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-109
of subchapter I to read as follows:

"Section 9-109. Classification of goods: 'consumer
goods'; 'equipment'; 'farm products'; 'inventory'. Goods
are:

(1) 'consumer goods' if they are used or bought for use
primarily for personal, family or household purposes;

(2) 'equipment' if they are used or bought for use
primarily in business (including farming for a
profession) or by a debtor who is a non-profit
organization or a governmental subdivision or agency or
if the goods are not included in the definitions of
inventory, farm products or consumer goods;

(3) 'farm products' if they are crops or livestock or
supplies used or produced in farming operations or if
they are products of crops or livestock in their 
unmanufactured states (such as ginned cotton, wool clip, 
maple syrup, milk and eggs), and if they are in the 
possession of a debtor engaged in raising, fattening, 
crazing or other farming operations. If goods are farm 
products they are neither equipment nor inventory. 

(4) 'inventory' if they are held by a person who holds 
them for sale or lease or to be furnished under contracts 
of service or if they have been so furnished, or if they 
are raw materials, work in process or materials used or 
consumed in a business. Inventory of a person is not to 
be classified as that person's equipment."

Section 9. Chapter 9 of title 33 of the Code of the Federated 
States of Micronesia is hereby amended by adding a new section 9-110 
of subchapter I to read as follows:

"Section 9-110. Sufficiency of description. For the 
purposes of this chapter any description of personal 
property or real estate is sufficient whether or not it 
is specific if it reasonably identifies what is 
described."

Section 10. Chapter 9 of title 33 of the Code of the Federated 
States of Micronesia is hereby amended by adding a new section 9-112 
of subchapter I to read as follows:

"Section 9-112. Where collateral is not owned by debtor. 
Unless otherwise agreed, when a secured party knows that
collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under section 9-502(2) of this title or under section 9-504(1) of this title, and is not liable for the debt or for any deficiency after resale, and the owner has the same rights as the debtor:

(1) to receive statements under section 9-208 of this title;

(2) to receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under section 9-505 of this title;

(3) to redeem the collateral under section 9-506 of this title;

(4) to obtain injunctive or other relief under section 9-507(1) of this title; and

(5) to recover losses caused to the secured party under section 9-208(2) of this title."

Section 11. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-201 of subchapter II to read as follows:

"Section 9-201. General validity of security agreement. Except as otherwise provided by this act a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this chapter validates any charge
or practice illegal under any statute or regulation
thereunder governing usury, small loans, retail
installment sales, or the like, or extends the
application of any such statute or regulation to any
transaction not otherwise subject thereto."

Section 12. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-202
of subchapter II to read as follows:

"Section 9-202. Title to collateral immaterial. Each
provision of this chapter with regard to rights,
obligations and remedies applies whether title to
collateral is in the secured party or in the debtor."

Section 13. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-203
of subchapter II to read as follows:

"Section 9-203. Attachment and enforceability of
security interest; proceeds; formal requisites.

(1) A security interest is not enforceable against the
debtor or third parties with respect to the collateral
and does not attach unless:

(a) the collateral is in the possession of the
secured party pursuant to agreement, or the debtor has
signed a security agreement which contains a description
of the collateral and in addition, when the security
interest covers crops growing or to be grown or timber to
be cut, a description of the land concerned;

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes
effective against the debtor with respect to the
collateral. Attachment occurs as soon as all of the
events specified in subsection (1) of this section have
taken place unless explicit agreement postpones the time
of attaching.

(3) Unless otherwise agreed a security agreement gives
the secured party the rights to proceed provided by
section 9-306 of this title."

Section 14. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-204
of subchapter II to read as follows:

"Section 9-204. After-acquired property; future
advances.

(1) Except as provided in subsection (2) of this
section, a security agreement may provide that any or all
obligations covered by the security agreement are to be
secured by after-acquired collateral.

(2) No security interest attaches under an after-
acquired property clause to consumer goods other than
acessions (section 9-314 of this title) when given as
additional security unless the debtor acquires rights in
them within ten days after the secured party gives value.

(3) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment.

(subsection (1) of section 9-105 of this title)."

Section 15. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-205 of subchapter II to read as follows:

"Section 9-205. Use or disposition of collateral without accounting permissible. A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee."

Section 16. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-206 of subchapter II to read as follows:
"Section 9-206. Agreement not to assert defenses against assignee. Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a buyer or lessee that he or she will not assert against an assignee any claim or defense which he or she may have against the seller or lessor is enforceable by an assignee who takes the assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under common law principles or applicable law. A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement."

Section 17. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-207 of subchapter II to read as follows:

"Section 9-207. Rights and duties when collateral is in secured party's possession.

(1) A secured party must use reasonable care in the custody and preservation of collateral in that party's possession. In the case of an instrument or chattel paper, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed."
(2) Unless otherwise agreed, when collateral is in the secured party's possession:

(a) reasonable expenses (including the cost of any insurance and payment of taxes or other charges) incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral:

(b) the risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage:

(c) the secured party may hold, as additional security, any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation:

(d) the secured party must keep the collateral identifiable but fungible collateral may be commingled:

(e) the secured party may re-pledge the collateral upon terms which do not impair the debtor's right to redeem it.

(3) A secured party is liable for any loss caused by failure to meet any obligation imposed by the preceding subsections but does not lose the security interest.

(4) A secured party may use or operate the collateral for the purpose of preserving the collateral or its value
or pursuant to the order of a court of appropriate
jurisdiction or, except in the case of consumer goods, in
the manner and to the extent provided in the security
agreement."

Section 18. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-208
of subchapter II to read as follows:

"Section 9-208. Request for statement of account or list
of collateral.

(1) A debtor may sign a statement indicating what the
debtor believes to be the aggregate amount of unpaid
indebtedness as of a specified date and may send it to
the secured party with a request that the statement be
approved or corrected and returned to the debtor. When
the security agreement or any other record kept by the
secured party identifies the collateral a debtor may
similarly request the secured party to approve or correct
a list of the collateral.

(2) The secured party must comply with such a request
within two weeks after receipt by sending a written
correction or approval. If the secured party claims a
security interest in all of a particular type of
collateral owned by the debtor the secured party may
indicate that fact in a reply and need not approve or
correct an itemized list of such collateral. If the
secured party, without reasonable excuse fails to comply, such party is liable for any loss caused to the debtor thereby; and if the debtor has properly included in the request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a security interest only as shown in the statement against persons misled by the failure of the secured party to comply. If the secured party no longer has an interest in the obligation or collateral at the time the request is received the secured party must disclose the name and address of any successor in interest known to the secured party and the secured party is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by the successor.

(3) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding ten dollars for each additional statement furnished."

Section 19. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-301 of subchapter III to read as follows.

"Section 9-301. Persons who take priority over unperfected security interest; 'lien creditor'.

(1) Except as otherwise provided in subsection (2) of
this section, an unperfected security interest is subordinate to the rights of:

(a) persons entitled to priority under section 9-312 of this title;

(b) a person who becomes a lien creditor before the security interest is perfected;

(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in the ordinary course of business or is a buyer of farm products in the ordinary course of business, to the extent that such person gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) in the case of accounts and general intangibles, a person who is not a secured party and who is a transferee to the extent that such person gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within twenty days after the debtor receives possession of the collateral, the secured party takes priority over the rights of a transferee in bulk or of a lien creditor which may arise between the time the security interest
attaches and the time of filing.

(3) A 'lien creditor' means a creditor who has acquired
a lien on the property involved by attachment, levy or
the like and includes an assignee for benefit of
creditors from the time of assignment, and a trustee in
bankruptcy from the date of the filing of the petition or
a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a
security interest is perfected takes subject to the
security interest only to the extent that it secures
advances made before the person becomes a lien creditor
or within forty-five days thereafter, or made without
knowledge of the lien or pursuant to a commitment entered
into without knowledge of the lien."

Section 20. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-302
of subchapter III to read as follows.

"Section 9-302. When filing is required to perfect
security interest; security interests to which filing
provisions of this chapter do not apply.

(1) A financing statement must be filed to perfect all
security interests except the following:

(a) a security interest in collateral in
possession of the secured party under section 9-305 of
this title:
(b) a security interest temporarily perfected in instruments, or documents without delivery under section 9-104 of this title or in proceeds for a ten day period under section 9-306 of this title;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interest in fixtures to the extent provided in section 9-313 of this title;

(e) an assignment of accounts which does not alone, or in conjunction with other assignments to the same assignee, transfer a significant part of the outstanding accounts of the assignor; and

(f) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this chapter is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor."

Section 21. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-303 of subchapter III to read as follows.

"Section 9-303. When security interest is perfected: continuity of perfection.

(1) A security interest is perfected when it has attached and when all the applicable steps required for perfection have been taken. Such steps are specified in sections 9-302, 9-304, 9-305, and 9-306 of this chapter. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(2) If a security interest is originally perfected in any way permitted under this chapter and is subsequently perfected in some other way under this chapter, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this chapter."

Section 22. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-304 of subchapter III to read as follows:

"Section 9-304. Perfection of security interest in instruments, documents, and goods covered by documents, perfection by permissive filing; temporary perfection without filing or transfer of possession.

(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security
interest in money or instruments (other than certificate securities or instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of section 9-306 of this title on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has insured a negotiable document therefor is perfected by issuance of document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments (other than certificated securities) or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period
of twenty-one days without filing where a secured party
having a perfected security interest in an instrument, a
negotiable document or goods in possession of a bailee
other than one who has issued a negotiable document
therefor:

(a) makes available to the debtor the goods or
documents representing the goods for the purpose of
ultimate sale or exchange or for the purpose of loading,
unloading, storing, shipping, transshipping,
manufacturing, processing or otherwise dealing with them
in a manner preliminary to their sale or exchange, but
priority between conflicting security interests in the
goods is subject to subsection (3) of section 9-312 of
this title; or

(b) delivers the instrument to the debtor for the
purpose of ultimate sale or exchange or of presentation,
collection, renewal or registration of transfer.

(6) After the twenty-one day period in subsections (4)
and (5) of this section, perfection depends upon
compliance with applicable provisions of this chapter."

Section 23. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-305
of subchapter III to read as follows:

"Section 9-305. When possession by secured party
perfects security interest without filing. A security
interest in letters of credit and advices of credit, goods, instruments (other than certificated securities), money, negotiable documents, or chattel paper may be perfected by the secured party taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party’s interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this chapter. The security interest may be otherwise perfected as provided in this chapter before or after the period of possession by the secured party."

Section 24. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-306 of subchapter III to read as follows:

"Section 9-306. 'Proceeds'; secured party's rights on disposition of collateral.

(1) 'Proceeds' includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a
party to the security agreement. Money, checks, deposit
accounts and the like are 'cash proceeds'. All other
proceeds are 'non-cash proceeds'.
(2) Except where this chapter otherwise provides, a
security interest continues in collateral notwithstanding
sale, exchange or other disposition thereof unless the
disposition was authorized by the secured party in the
security agreement or otherwise, and also continues in
any identifiable proceeds including collections received
by the debtor.
(3) The security interest in proceeds is a continuously
perfected security interest if the interest in the
original collateral was perfected but it ceases to be a
perfected security interest and becomes unperfected ten
days after receipt of the proceeds by the debtor unless:
(a) a filed financing statement covers the
original collateral and the proceeds are collateral in
which a security interest may be perfected by filing in
the office or offices where the financing statement has
been filed and, if the proceeds are acquired with cash
proceeds, the description of collateral in the financing
statement indicates the types of property constituting
the proceeds;
(b) a filed financing statement covers the
original collateral and the proceeds are identifiable
cash proceeds; or

(c) the security interest in the proceeds is

perfected before the expiration of the ten day period. 
Except as provided in this section, a security interest
in proceeds can be perfected only by the methods or under
the circumstances permitted in this chapter for original
collateral of the same type.

(4) In the event of insolvency proceedings instituted
by or against a debtor, a secured party with a perfected
security interest in proceeds has a perfected security
interest only in the following proceeds:

(a) in identifiable non-cash proceeds and in
separate deposit accounts containing only proceeds;

(b) in identifiable cash proceeds in the form of
money which is neither commingled with other money nor
deposited in a deposit account prior to the insolvency
proceedings;

(c) in identifiable cash proceeds in the form of
checks and the like which are not deposited in a deposit
account prior to the insolvency proceedings; and

(d) in all cash and deposit accounts of the debtor
in which proceeds have been commingled with other funds,
but the perfected security interest under this paragraph
is:

(i) subject to any right of setoff; and
(ii) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings less the sum of:

a) the payments to the secured party on account of cash proceeds received by the debtor during such period; and

b) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a) through (c) of this subsection.

If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale, for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the
returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) of this subsection to the extent that the transferee of the chattel paper was entitled to priority under section 9-308 of this title.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a) of this subsection.

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) of this subsection must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods."

Section 25. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-307 of subchapter III to read as follows


(1) A buyer in the ordinary course of business other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by the seller even though the security interest is perfected and even though the buyer knows of its
existence.

(2) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he or she buys without knowledge of the security interest, for value and for personal, family or household purposes unless, prior to the purchase, the secured party has filed a financing statement covering such goods.

(3) A buyer other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than forty-five days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five day period."

Section 26. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-308 of subchapter III to read as follows:

"Section 9-308. Purchase of chattel paper and instruments. A purchaser of chattel paper or an instrument who gives new value and takes possession of it in the ordinary course of business has priority over a security interest in the chattel paper or instrument:

(1) which is perfected under section 9-304 of this
title (permissive filing and temporary perfection) or
under section 9-306 of this title (perfection as to
proceeds) if the purchaser acts without knowledge that
the specific paper or instrument is subject to a security
interest; or

(2) which is claimed merely as proceeds of
inventory subject to a security interest under section
9-306 of this title even though the purchaser knows that
the specific paper or instrument is subject to the
security interest."

Section 27. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-309
of subchapter III to read as follows:

"Section 9-309. Protection of purchasers of instruments,
documents, and securities. Nothing in this chapter
limits the rights of a holder in due course of a
negotiable instrument or a holder to whom a negotiable
document of title has been duly negotiated or a bona fide
purchaser of a security and such holders or purchasers
take priority over an earlier security interest even
though perfected. Filing under this chapter does not
constitute notice of the security interest to such
holders or purchasers."

Section 28. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-310
of subchapter III to read as follows:

"Section 9-310. Priority of certain liens arising by operation of law. When a person in the ordinary course of business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise."

Section 29. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-311 of subchapter III to read as follows:

"Section 9-311. Alienability of debtor's rights, judicial process. The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default."

Section 30. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-312 of subchapter III to read as follows:

"Section 9-312. Priorities among conflicting security interests in the same collateral."
(1) The rules of priority stated in other sections of this subchapter and in section 9-109 of this title shall govern when applicable.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise, takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if:

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory.
(i) before the date of the filing made by the
purchase money secured party; or

(ii) before the beginning of the twenty-one
day period where the purchase money security interest is
temporarily perfected without filing or possession
(subsection (5) of section 9-304 of this title); and

(c) the holder of the conflicting security
interest receives the notification within five years
before the debtor receives possession of the inventory;
and

(d) the notification states that the person giving
the notice has or expects to acquire a purchase money
security interest in inventory of the debtor, describing
such inventory by item or type.

(4) A purchase money security interest in collateral
other than inventory has priority over a conflicting
security interest in the same collateral or its proceeds
if the purchase money security interest is perfected at
the time the debtor receives possession of the collateral
or within twenty days thereafter.

(5) In all cases not governed by other rules stated in
this section including cases of purchase money security
interests which do not qualify for the special priorities
set forth in subsections (3) and (4) of this section,
priority between conflicting security interests in the
same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purpose of subsection (5) of this section a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing or the taking of possession, the security interest has the same priority for the purposes of subsection (5) of this section with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made."
Section 31. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-313 of subchapter III to read as follows:

"Section 9-313. Priority of security interests in fixtures.

(1) In this section and in the provisions of subchapter IV of this chapter referring to fixture filing, unless the context otherwise requires:

(a) Goods are 'fixtures' when they become so related to particular real estate that an interest in them arises under real estate law.

(b) A 'fixture filing' is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of subsection (5) of section 9-304 of this title.

(c) A mortgage is a 'construction mortgage' to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this chapter may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest
exists under this chapter in ordinary building materials
incorporated into an improvement on land.

(3) This chapter does not prevent creation of an
encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has
priority over the conflicting interest of an encumbrancer
or owner of the real estate where:

(a) the security interest is a purchase money
security interest, the interest of the encumbrancer or
owner arises before the goods become fixtures, the
security interest is perfected by a fixture filing before
the goods become fixtures or within ten days thereafter,
and the debtor has an interest of record in the real
estate or is in possession of the real estate; or

(b) the security interest is perfected by a
fixture filing before the interest of the encumbrancer or
owner is of record, the security interest has priority
over any conflicting interest of a predecessor in title
of the encumbrancer or owner, and the debtor has an
interest of record in the real estate or is in possession
of the real estate; or

(c) the fixtures are readily removable factory or
office machines or readily removable replacements of
domestic appliances which are consumer goods, and before
the goods become fixtures the security interest is
perfected by any method permitted by this chapter; or

(d) the conflicting interest is a lien on the real
estate obtained by legal or equitable proceedings after
the security interest was perfected by any method
permitted by this chapter.

(5) A security interest in fixtures, whether or not
perfected, has priority over the conflicting interest of
an encumbrancer or owner of the real estate where:

(a) the encumbrancer or owner has consented in
writing to the security interest or has disclaimed an
interest in the goods as fixtures; or

(b) the debtor has a right to remove the goods as
against the encumbrancer or owner. If the debtor's right
terminates, the priority of the security interest
continues for a reasonable time.

(6) Notwithstanding paragraph (a) of subsection (4) of
this section but otherwise subject to subsections (4) and
(5) of this section, a security interest in fixtures is
subordinate to a construction mortgage recorded before
the goods become fixtures if the goods become fixtures
before the completion of the construction. To the extent
that it is given to refinance a construction mortgage, a
mortgage has this priority to the same extent as the
construction mortgage.

(7) In cases not within the preceding subsections of
this section, a security interest in fixtures is
subordinate to the conflicting interest of an
encumbrancer or owner of the related real estate who is
not the debtor.

(8) When a secured party has priority over all owners
and encumbrancers of the real estate, he or she may, on
default, subject to the provisions of subchapter V of
this title, remove the collateral from the real estate
but the secured party must reimburse any encumbrancer or
owner of the real estate who is not the debtor and who
has not otherwise agreed for the cost of repair of any
physical injury, but not for any diminution in value of
the real estate caused by the absence of the goods
removed or by any necessity of replacing them. A person
entitled to reimbursement may refuse permission to remove
until the secured party gives adequate security for the
performance of this obligation."

Section 32. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-314
of subchapter III to read as follows:

"Section 9-314. Accessions.

(1) A security interest in goods which attaches before
they are installed in or affixed to other goods takes
priority as to the goods installed or affixed (called in
this section 'accessions') over the claims of all persons
to the whole except as stated in subsection (3) of this
section and subject to section 9-315(1) of this title.

(2) A security interest which attaches to goods after
they become part of a whole is valid against all persons
subsequently acquiring interests in the whole except as
stated in subsection (3) of this section but is invalid
against any person with an interest in the whole at the
time the security interest attaches to the goods who has
not in writing consented to the security interest or
disclaimed an interest in the goods as part of the whole.

(3) The security interests described in subsections (1)
and (2) of this section do not take priority over:

(a) a subsequent purchaser for value of any
interest in the whole; or

(b) a creditor with a lien on the whole
subsequently obtained by judicial proceedings; or

(c) a creditor with a prior perfected security
interest in the whole to the extent that the creditor
makes subsequent advances if the subsequent purchase is
made, the lien by judicial proceedings obtained or the
subsequent advance under the prior perfected security
interest is made or contracted for without knowledge of
the security interest and before it is perfected. A
purchaser of the whole at a foreclosure sale other than
the holder of a perfected security interest purchasing at
the holder's own foreclosure sale is a subsequent purchaser within this section.

(4) When under subsections (1) or (2) and (3) of this section a secured party has an interest in accessions which have priority over the claims of all persons who have interests in the whole, such party may on default subject to the provisions of subchapter V of this title remove the collateral from the whole but the secured party must reimburse any encumbrancer or owner of the whole who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation."

Section 33. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-315 of subchapter III to read as follows:

"Section 9-315. Priority when goods are commingled or processed.

(1) If a security interest in goods was perfected and subsequently the goods or a part thereof have become part of a product or mass the security interest continues in
the product or mass if:

(a) the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass; or

(b) a financing statement covering the original goods also covers the product into which the goods have been manufactured, processed or assembled. In a case to which subsection (1)(b) applies, no separate security interest in that part of the original goods which has been manufactured, processed or assembled into the product may be claimed under section 9-314 of this title.

(2) When, under subsection (1) of this section more than one security interest attaches to the product or mass, they rank equally according to the ratio that the cost of the goods to which each interest originally attached bears to the cost of the total product or mass."

Section 34. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-316 of subchapter III to read as follows:

"Section 9-316. Priority subject to subordination.

Nothing in this chapter prevents subordination by agreement by any person entitled to priority."

Section 35. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-317 of subchapter III to read as follows:
"Section 9-317. Secured party not obligated on contract of debtor. The mere existence of a security interest or authority given to the debtor to dispose of or use collateral does not impose contract or tort liability upon the secured party for the debtor's acts or omissions."

Section 36. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-318 of subchapter III to read as follows:

"Section 9-318. Defenses against assignee; modification of contract after notification of assignment; term prohibiting assignment ineffective; identification and proof of assignment.

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in section 9-205 of this title the rights of an assignee are subject to:

(a) all the terms of the contract between the account of debtor and assignor and any defense or claim arising therefrom; and

(b) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment or a part thereof under an assigned contract has not been fully earned by
performance, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the amount due or to become due has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless the assignee does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor is ineffective if it prohibits assignment of an account or prohibits creation of a security interest in a general intangible for money due or to become due or requires the account debtor's consent to such assignment or security interest."
Section 37. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-401 of subchapter IV to read as follows:

"Section 9-401. Place of filing; erroneous filing; removal of collateral.

(1) The proper place to file in order to perfect a security interest is in the office of the Registrar of Corporations in the Department of Resources and Development or other place as the Secretary of Resources and Development may designate.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this chapter and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in this chapter on perfection in multiple state transactions determine whether filing is
necessary in each state,

(5) Notwithstanding the preceding subsections of this
section, and subject to subsection (3) of section 9-302
of this title, the proper place to file in order to
perfect a security interest in collateral, including
fixtures, of a transmitting utility is the office of the
Registrar of Corporations in the Department of Resources
and Development. This filing constitutes a fixture
filing (section 9-313 of this title) as to the collateral
described therein which is or is to become fixtures."

Section 38. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-402
of subchapter IV to read as follows:

"Section 9-402. Formal requisites of financing
statement; amendments; mortgage as financing statement.

(1) A financing statement is sufficient if it gives the
names of the debtor and the secured party, is signed by
the debtor, gives an address of the secured party from
which information concerning the security interest may be
obtained, gives a mailing address of the debtor and
contains a statement indicating the types, or describing
the items of collateral. A financing statement may be
filed before a security agreement is made or a security
interest otherwise attaches. When the financing
statement covers crops growing or to be grown, the
statement must also contain a description of the real
estate concerned. When the financing statement is filed
as a fixture filing (section 9-313 of this title) and the
collateral is goods which are or are to become fixtures,
the statement must also comply with subsection (5) of
this section. A copy of the security agreement is
sufficient as a financing statement if it contains the
above information and is signed by the debtor. A carbon,
photographic or other reproduction of a security
agreement or a financing statement is sufficient as a
financing statement if the security agreement or
financing statement so provides or if the original has
been filed in the Federated States of Micronesia.

(2) A financing statement which otherwise complies with
subsection (1) of this section is sufficient when it is
signed by the secured party instead of the debtor when it
is filed to perfect a security interest in:

(a) collateral already subject to a security
interest in another jurisdiction when it is brought into
the Federated States of Micronesia, or when the debtor's
location is changed to the Federated States of
Micronesia. Such a financing statement must state that
the collateral was brought into the Federated States of
Micronesia or that the debtor's location was changed to
the Federated States of Micronesia under such
circumstances: or

(b) proceeds under section 9-306 of this title if
the security interest in the original collateral was
perfected. Such a financing statement must describe the
original collateral; or

(c) collateral as to which the filing has lapsed;
or

(d) collateral acquired after a change of name,
identity or corporate structure of the debtor under
subsection (7) of this section.

(3) A form substantially as follows is sufficient to
comply with subsection (1) of this section:

Name of debtor (or assignor):
Address:

Name of secured party (or assignee):
Address:

1. This financing statement covers the following types
(or items) of property: (Describe)

2. (If collateral is crops) The above described crops
are growing or are to be grown on: (Describe real estate)

3. (If applicable) The above goods are to become
fixtures on: (Describe real estate) and this financing
statement is to be filed in the real estate records. (If
the debtor does not have an interest of record) The name
of a record owner is:
4. (If products of collateral are claimed) Products of the collateral are also covered. Signature of Debtor (or Assignor) Signature of Secured Party (or Assignee).

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party, except that a secured party may amend a financing statement without the signature of the debtor when the amendment is to change the name or address of the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

In this chapter, unless the context otherwise requires, the term 'financing statement' means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas), or a financing statement filed as a fixtures filing (section 9-313 of this title) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the laws of the
State in which the real estate is located. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:

(a) the goods are described in the mortgage by item or type; and

(b) the goods are or are to become fixtures related to the real estate described in the mortgage; and

(c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and

(d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his or her name or in the case of an organization its name, identity or corporate structure so
that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading."

Section 39. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-403 of subchapter IV to read as follows:

"Section 9-403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.

(1) Presentation for filing of a financing statement and tender of the filing fee and additional fees or acceptance of the statement by the filing officer constitutes filing under this chapter.

(2) Except as provided in subsection (6) of this section a filed financing statement is effective for a
period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five year period specified in subsection (2) of this section. Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and
complying with subsection (2) of section 9-405 of this title, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if the filing officer has retained a microfilm, photographic record, or other reproduction thereof, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if the filing officer physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) of this section shall be retained.

(4) Except as provided in subsection (7) of this
section a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement, microfilm, photographic copy or other reproduction thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement. The index may be made up of the statements themselves, copies thereof, separate cards or otherwise.

(5) The uniform fee for filing, indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be twenty-five dollars ($25), plus in each case, if the financing statement is subject to subsection (5) of section 9-402 of this title, fifty dollars ($50). The uniform fee for each name more than one required to be indexed shall be ten dollars ($10). The secured party may, at his or her option, show a trade name for any person and an extra uniform indexing fee of ten dollars ($10) shall be paid with respect thereto.

(6) If the debtor is a transmitting utility (subsection (5) of section 9-401 of this title) and a filed financing statement so states, it is effective until a termination
statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 9-402 of this title remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas), or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the name of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of the State in which the real estate is located provides for indexing of mortgages under the name of the mortgagee, under the names of the secured party as if such party were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described."

Section 40. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-404 of subchapter IV to read as follows:

"Section 9-404. Termination statement.

(1) If a financing statement covering consumer goods is
filed on or after the effective date of this chapter, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with subsection (2) of section 9-405 of this title, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such
a termination statement within ten days after proper demand therefor, the secured party shall be liable to the debtor for one hundred dollars ($100), and in addition, for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement the filing officer must note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, the filing officer may remove the originals from the files at any time after receipt of the termination statement, or if there is no such record, the filing officer may remove them from the files at any time after one year after receipt of the termination statement.

(3) The termination statement shall be in the standard form prescribed by the Secretary of Resources and Development, the fee for filing and indexing the termination statement shall be twenty-five dollars ($25), plus in each case, an additional fee of ten dollars ($10) for each name more than one against which the termination
statement is required to be indexed."

Section 41. Chapter 9 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-405 of subchapter IV to read as follows:

"Section 9-405. Assignment of security interest; duties of filing officer; fees.

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation, including payment of the required fee, to the filing officer of such a financing statement the filing officer shall mark the same as provided in section 9-403(4) of this title. The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be ten dollars ($10) plus in each case an additional fee of ten dollars ($10) for each name more than one against which the financing statement is required to be indexed.

(2) A secured party may assign of record all or part of his or her rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of
assignment signed by the secured party of record and
setting forth the name of the secured party of record and
the debtor, the file number and the date of filing of the
financing statement and the name and address of the
assignee and containing a description of the collateral
assigned. A copy of the assignment is sufficient as a
separate statement if it complies with the preceding
sentence. On presentation to the filing officer of such
a separate statement, including payment of the required
fee, the filing officer shall mark such separate
statement with the date and hour of the filing. The
filing officer shall note the assignment on the index of
the financing statement, or in the case of a fixture
filing, or a filing covering timber to be cut, or
covering minerals or the like (including oil and gas),
the filing officer shall index the assignment under the
name of the assignor as grantor and, to the extent that
the law of the State in which the related real estate is
located provides for indexing the assignment of a
mortgage under the name of the assignee, the filing
officer shall index the assignment of the financing
statement under the name of the assignee. The uniform
fee for filing data about such a separate statement of
assignment shall be ten dollars ($10) plus in each case
an additional fee of ten dollars ($10) for each name more

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than one against which the statement of assignment is
required to be indexed. Notwithstanding the provisions
of this subsection, an assignment of record of a security
interest in a fixture contained in a mortgage effective
as a fixture filing (subsection (6) of section 9-402 of
this title) may be made only by an assignment of the
mortgage in the manner provided by the law of the State
in which the related real estate is located other than as
provided in this act.

(3) After the disclosure or filing of an assignment
under this section, the assignee is the secured party of
record."

Section 42. Chapter 9 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 9-406 of
subchapter IV to read as follows:

Section 9-406. Release of collateral; duties of filing
officer; fees. A secured party of record may by signed
statement, release all or a part of any collateral
described in a filed financing statement. The statement
of release is sufficient if it contains a description of
the collateral being released, the name and address of
the debtor, the name and address of the secured party,
and the file number of the financing statement. A
statement of release signed by a person other than the
secured party of record must be accompanied by a separate
Conservancy or Lease is intended as security. However, of itself, be a factor in determining whether or not, the
or such a financing statement but the filing shall not.
provisions of this Subchapter shall apply as appropriate. The
the terms specified in Section 9-402 of this Title. The,
"Conservancy," "Lessee," "Lessor," "Lessee" or the like instead of
or Leased Goods. A Consignee or Lessor of Goods may Title
or Section 9-408. Financing Statements Covering Consigned
Section 43, Chapter 9 of Title 3 of the Code of the Federal

"Indexed."

which the statement of release is required to be

ten dollars ($10) for each name more than one applicant.

$10.00 (ten dollars) plus in each case an additional fee of

$10.00 and notting such a statement of release shall be

the financing statement. The uniform form for

shall note the same upon the margin of the index of the

mark the statement with the hour and date of filing and

the filling officer shall

required fee. Upon presentation of such a statement of

section 9-405 of this title, including paramount of the

written statement of assignment stamped by the secured

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if it is determined for other reasons that the
consignment or lease is so intended, a security interest
of the consignor or lessor which attaches to the
consigned or leased goods is perfected by such filing."
Section 44. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-501
of subchapter V to read as follows:
"Section 9-501. Default; procedure when security
agreement covers both real and personal property.
(1) When a debtor is in default under a security
agreement, a secured party has the rights and remedies
provided in this subchapter and except as limited by
subsection (3) of this section those provided in the
security agreement. The secured party may reduce his or
her claim to judgment, foreclose or otherwise enforce the
security interest by any available judicial procedure.
If the collateral is documents the secured party may
proceed either as to the documents or as to the goods
covered thereby. A secured party in possession has the
rights, remedies and duties referred to in this
subsection. The rights, remedies, and duties referred to
in this subsection are cumulative.
(2) After default, the debtor has the rights and
remedies provided in this subchapter, those provided in
the security agreement and those provided in section 9-
207 of this title.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection (3) of section 9-504 and section 9-505 of this title) and with respect to redemption of collateral (section 9-506 of this title) but the parties may, by agreement, determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) subsection (2) of section 9-502 and subsection (2) of section 9-504 of this title insofar as they require accounting for surplus proceeds of collateral;

(b) subsection (3) of section 9-504 and subsection (1) section 9-505 of this title which deals with disposition of collateral;

(c) subsection (2) of section 9-505 of this title which deals with acceptance of collateral as discharge of obligation;

(d) section 9-506 of this title which deals with redemption of collateral; and

(e) subsection (1) of section 9-507 of this title which deals with the secured party's liability for
failure to comply with this subchapter.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this subchapter as to the personal property or the secured party may proceed as to both the real and the personal property in accordance with his or her rights and remedies in respect of the real property in which case the provisions of this subchapter do not apply.

(5) When a secured party has reduced his or her claim to judgment the lien of any levy which may be made upon the secured party's collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter.'

Section 45. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-502 of subchapter V to read as follows:


(1) When so agreed and in any event on default the secured party is entitled to notify an account debtor or
the obligor on an instrument to make payment to the
secured party whether or not the assignor was theretofore
making collections on the collateral, and also to take
control of any proceeds to which the secured party is
entitled under section 9-306 of this title.

(2) A secured party who by agreement is entitled to
charge back uncollected collateral or otherwise to full
or limited recourse against the debtor and who undertakes
to collect from the account debtors or obligors must
proceed in a commercially reasonable manner and may
deduct reasonable expenses of realization from the
collections. If the security agreement secures an
indebtedness, the secured party must account to the
debtor for any surplus, and unless otherwise agreed, the
debtor is liable for any deficiency. But, if the
underlying transaction was a sale of accounts or chattel
paper, the debtor is entitled to any surplus or is liable
for any deficiency only if the security agreement so
provides."

Section 46. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-503
of subchapter V to read as follows:

"Section 9-503. Secured party's right to take possession
after default. Unless otherwise agreed a secured party
has on default the right to take possession of the
collateral. In taking possession a secured party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under section 9-504 of this title."

Section 47. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 9-504 of subchapter V to read as follows:

"Section 9-504. Secured party's right to dispose of collateral after default; effect of disposition.

(1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. The proceeds of disposition shall be applied in the order following to:

(a) the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and, to the extend provided for in the agreement and not prohibited by law, the reasonable attorney fees and
legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by
the security interest under which the disposition is
made;

(c) the satisfaction of indebtedness secured by
any subordinate security interest in the collateral if
written notification of demand therefor is received
before distribution of the proceeds is completed. If
requested by the secured party, the holder of a
subordinate security interest must seasonably furnish
reasonable proof of the holder's interest, and unless the
holder does so, the secured party need not comply with
the holder's demand.

(2) If the security interest secures an indebtedness,
the secured party must account to the debtor for any
surplus, and, unless otherwise agreed, the debtor is
liable for any deficiency. But if the underlying
transaction was a sale of accounts or chattel paper, the
debtor is entitled to any surplus or is liable for any
deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or
private proceedings and may be made by way of one or more
contracts. Sale or other disposition may be as a unit or
in parcels and at any time and place and on any terms but
every aspect of the disposition including the method.
manner, time, place and terms must be commercially
reasonable. Unless collateral is perishable or threatens
to decline speedily in value or is of a type customarily
sold on a recognized market, reasonable notification of
the time and place of any public sale or reasonable
notification of the time after which any private sale or
other intended disposition is to be made shall be sent by
the secured party to the debtor, if the debtor has not
signed after default a statement renouncing or modifying
his or her right to notification of sale. In the case of
consumer goods no other notification need be sent. In
other cases notification shall be sent to any other
secured party from whom the secured party has received
(before sending his or her notification to the debtor or
before the debtor's renunciation of his/her rights)
written notice of a claim of an interest in the
collateral. The secured party may buy at any public sale
and if the collateral is of a type customarily sold in a
recognized market or is of a type which is the subject of
widely distributed standard price quotations the secured
party may buy at private sale.

(4) When collateral is disposed of by a secured party
after default, the disposition transfers to a purchaser
for value all of the debtor's rights therein, discharges
the security interest under which it is made and any
security interest or lien subordinate thereto. The
purchaser takes free of all such rights and interests
even though the secured party fails to comply with the
requirements of this subchapter or of any judicial
proceedings:

(a) in the case of a public sale, if the purchaser
has no knowledge of any defects in the sale and does not
buy in collusion with the secured party, other bidders or
the person conducting the sale; or

(b) in any other case, if the purchaser acts in
good faith.

(5) A person who is liable to a secured party under a
guaranty, endorsement, repurchase agreement or the like
and who receives a transfer of collateral from the
secured party or is subrogated to the rights of the
secured party has thereafter the rights and duties of the
secured party. Such a transfer of collateral is not a
sale or disposition of the collateral under this
chapter."

Section 48. Chapter 9 of title 33 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-505
of subchapter V to read as follows:

"Section 9-505. Compulsory disposition of collateral;
acceptance of the collateral as discharge of obligation.

(1) If the debtor has paid sixty percent of the cash
price in the case of a purchase money security interest
in consumer goods or sixty percent of the loan in the
case of another security interest in consumer goods, and
has not signed after default a statement renouncing or
modifying his or her rights under this subchapter. A
secured party who has taken possession of collateral must
dispose of it under section 9-504 of this title and if
such party fails to do so within one hundred eighty days
after taking possession, the debtor, at the debtor’s
option, may recover in conversion or under section 9-
507(1) of this title on secured party’s liability.

(2) In any other case involving consumer goods or any
other collateral a secured party in possession may, after
default, propose to retain the collateral in satisfaction
of the obligation. Written notice of such proposal shall
be sent to the debtor if the debtor has not signed, after
default, a statement renouncing or modifying his or her
rights under this subsection. In the case of consumer
goods no other notice need be given. In other cases
notice shall be sent to any other secured party from whom
the secured party has received (before sending notice to
the debtor or before the debtor’s renunciation of rights)
written notice of a claim of an interest in the
collateral. If the secured party receives objection in
writing from a person entitled to receive notification

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within twenty-one days after the notice was sent, the
secured party must dispose of the collateral under
section 9-504 of this title. In the absence of such
written objection the secured party may retain the
collateral in satisfaction of the debtor's obligation."

Section 49. Chapter 9 of title 35 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-506
of subchapter V to read as follows:

"Section 9-506. Debtor's right to redeem collateral. At
any time before the secured party has disposed of
the collateral or entered into a contract for its disposition
under section 9-504 of this title or before the
obligation has been discharged under section 9-505(2) of
this title the debtor or any other secured party may
unless otherwise agreed in writing after default redeem
the collateral by tendering fulfillment of all
obligations secured by the collateral as well as the
expenses reasonably incurred by the secured party in
retrieving, holding and preparing the collateral for
disposition, in arranging for the sale, and to the extent
provided in the agreement and not prohibited by law, the
reasonable attorney fees and legal expenses of the
secured party."

Section 50. Chapter 9 of title 35 of the Code of the Federated
States of Micronesia is hereby amended by adding a new section 9-507
of subchapter V to read as follows:

"Section 9-507. Secured party's liability for failure to comply with this subchapter.

(1) If it is established that the secured party is not proceeding in accordance with the provisions of this subchapter, disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this subchapter. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus 10 percent of the principal amount of the debt or the time price differential plus 10 percent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if the secured party sells at the price current in such market at the time of
sale or if he or she has otherwise sold in conformity
with reasonable commercial practices among dealers in the
type of property sold, he or she has sold in a
commercially reasonable manner. The principles stated in
this subsection with respect to sales also apply as may
be appropriate to other types of disposition. A
disposition which has been approved in any judicial
proceeding or by any bona fide creditors' committee or
representative of creditors shall conclusively be deemed
to be commercially reasonable, but this sentence does not
indicate that any such approval must be obtained in any
case nor does it indicate that any disposition not so
approved is not commercially reasonable."

Section 51. This act shall take effect 90 days after becoming
law.

Section 52. 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: 1/24/06

Introduced by: Peter M. Christian