
AN ACT

To further amend title 33 of the Code of the Federated States of Micronesia, as amended, by repealing sections 921 through 933 in their entirety, by renaming Chapter 9 "Real Property Security Investments," by enacting a new chapter 10 named "The Secured Transactions Act," by enacting new sections 1001 through 1071 setting forth a law of secured transactions; to further amend title 53, as amended, by amending section 607 to make social security liens subject to the Secured Transactions Act; to further amend title 54, as amended, by amending sections 135, 152, 224 and 226 to make tax liens subject to the Secured Transactions Act; and for other purposes.

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

1 Section 1. Sections 921 through 933 of Title 33 of the
2 Code of the Federated States of Micronesia, as amended by Public
3 Law No. 9-136, are hereby repealed in their entirety.

4 Section 2. Chapter 9 of Title 33 of the Code of the
5 Federated States of Micronesia is hereby renamed "Real Property
6 Security Instruments."

7 Section 3. Section 901 of Title 33 of the Code of the
8 Federated States of Micronesia is hereby amended to read as
9 follows:

10 "Section 901. Short title. This chapter is known and
11 may be cited as the "Real Property Security
12 Instruments Act of 1977."

13 Section 4. Title 33 of the Code of the Federated States of
14 Micronesia is hereby amended by enacting a new Chapter 10
15 entitled "The Secured Transactions Act."

1 Section 5. Title 33 of the Code of the Federated States of
2 Micronesia is hereby amended by enacting a new subchapter 1
3 entitled "General Provisions" of new Chapter 10 entitled "The
4 Secured Transactions Act."

5 Section 6. Title 33 of the Code of the Federated States of
6 Micronesia is hereby amended by enacting a new section 1001 to
7 read as follows:

8 "Section 1001. Purpose; construction; authority;
9 title.

10 (1) The purpose of this Act is to promote commerce
11 through a unified set of rules on personal property as
12 security, consignments, the sale and assignment of
13 accounts and chattel paper, and on leasing of goods.
14 This Act shall be liberally construed to effectuate
15 its purpose.

16 (2) If there is a conflict between a provision of
17 this Act and a provision of any other law enacted by
18 the Congress of the Federated States of Micronesia,
19 this Act shall govern unless the other law
20 specifically cites or amends the conflicting provision
21 of this Act.

22 (3) This Act is adopted pursuant to the power of the
23 Congress to regulate interstate commerce, banking, and
24 bankruptcy under article IX, section 2(g) of the
25 Constitution of the Federated States of Micronesia.

1 (4) This Act may be cited as 'The Secured
2 Transactions Act'."

3 Section 7. Title 33 of the Code of the Federated States of
4 Micronesia is hereby amended by enacting a new section 1002 to
5 read as follows:

6 "Section 1002. Definitions.

7 (1) 'Account' means any right to payment for goods
8 sold or leased or for services rendered which is not
9 evidenced by an instrument or chattel paper.

10 (2) 'Account debtor' means the person who is
11 obligated on an account, chattel paper, or other
12 intangible property.

13 (3) 'Assignee' means a person who takes an
14 assignment.

15 (4) 'Assignment' means the transfer from one person
16 to another, in whole or in part, of any right in an
17 account, chattel paper, document, instrument, or other
18 right to payment.

19 (5) 'Assignor' means the person who makes an
20 assignment.

21 (6) 'Buyer in the ordinary course of business'
22 means a person who buys goods from a person in the
23 business of selling goods of that kind, if the buyer
24 buys in good faith and without actual knowledge that
25 the sale violates the rights of another person in the

1 goods.

2 (7) 'Chattel paper' means a record that creates
3 a debt and a security interest in, or a lease of,
4 goods.

5 (8) 'Collateral' means the property subject to a
6 security interest, and may include personal property,
7 including tangible and intangible property, of any
8 nature, farm products, fixtures, timber to be cut, and
9 minerals to be extracted. The term includes
10 collateral that arises in the future and collateral
11 located in or outside of the Federated States of
12 Micronesia. The term includes goods subject to
13 consignment. The term includes accounts and chattel
14 paper that have been sold, leased goods, and proceeds
15 of collateral.

16 (9) 'Consignment' means a transaction, regardless of
17 the form or terminology used in the agreement, in
18 which a person (the consignor) delivers goods for the
19 purpose of sale to a merchant (the consignee) who
20 deals in goods of that kind under a name other than
21 that of the consignor and who is not an auctioneer.
22 The term excludes transactions involving goods that
23 are consumer goods of the consignor.

24 (10) 'Consumer goods' means goods used primarily
25 for personal, family, or household purposes.

1 (11) 'Debtor' means the person who owes payment
2 or other performance of the secured obligation,
3 whether or not the person owns or has rights in the
4 collateral, and includes the seller of accounts or
5 chattel paper, and the lessee or consignee of goods.

6 (12) 'Department' means the Department of
7 Economic Affairs of the Federated States of
8 Micronesia.

9 (13) 'Deposit account' means a demand, time,
10 savings, or similar account maintained with an
11 institution licensed under any law. The term does not
12 include investment property or accounts evidenced by
13 chattel paper or an instrument.

14 (14) 'Document' means a document of title or a
15 receipt, such as a bill of lading or warehouse
16 receipt, issued by a person in the business of
17 transporting or storing goods.

18 (15) 'Equipment' means goods that are not farm
19 products, inventory, or consumer goods.

20 (16) 'Farm products' means goods of a debtor
21 engaged in farming, other than standing timber, which
22 are:

23 (a) crops grown, growing, or to be grown;

24 (b) aquatic goods produced in aquacultural
25 operations;

1 (c) livestock, including the unborn;

2 (d) supplies used or produced in a farming
3 operation; or

4 (e) products of crops or livestock in their
5 unmanufactured state.

6 (17) 'Filing office' means the secured
7 transactions filing office established in subchapter 4
8 of this Act.

9 (18) 'Fixture' means goods that are fixed to real
10 property, or are intended to become fixed to real
11 property, in a manner that causes a property right to
12 arise in the goods under the prevailing law. Readily
13 removable factory machines, office machines, and
14 domestic appliances are not fixtures.

15 (19) 'Goods' means all things that are movable
16 when a security interest attaches. The term includes
17 fixtures, timber to be cut and removed for sale, and
18 farm products. The term does not include accounts or
19 chattel paper, money, documents, or instruments.

20 (20) 'Guarantee' means a secondary obligation
21 that consists of an obligation to pay, or an issuer's
22 obligation to pay under a letter of credit, and that
23 supports the payment on an account, chattel paper,
24 document, instrument, or other intangible property.

25 (21) 'Instrument' means a writing that evidences

1 a right to the payment of money, that is not itself a
2 security agreement or lease, and that is of a type
3 which is in the ordinary course of business
4 transferred by delivery with any necessary endorsement
5 or assignment. The term includes a certificated
6 security.

7 (22) 'Inventory' means goods held for sale or
8 lease, or goods that are raw materials, work in
9 process, or materials used or consumed in a business.

10 (23) 'Investment property' means a security other
11 than a certificated security.

12 (24) 'Lease of goods for a period greater than
13 one year' means:

14 (a) a lease of goods for a stated duration of
15 more than one year;

16 (b) a lease of goods for an indefinite term;

17 (c) a lease of goods for an initial term of one
18 year or less if the lessee, with the consent of the
19 lessor, retains uninterrupted or substantially
20 uninterrupted possession of the leased goods for more
21 than one year after the lessee first acquired
22 possession of the goods, but the lease does not become
23 a lease for a term of more than one year until the
24 lessee's possession extends beyond one year; or

25 (d) a lease of goods for a term of one year or

1 less where the lease provides that it is renewable for
2 a period that may exceed one year.

3 (25) 'Lessee in the ordinary course of business'
4 means a person who, in good faith and without actual
5 knowledge that the lease is in violation of the
6 ownership rights or security interest or leasehold
7 interest of a third party in the goods, leases from a
8 person in the business of selling or leasing goods of
9 that kind.

10 (26) 'Lien holder' means:

11 (a) a person who obtains a right in a secured
12 party's collateral, or a right to seize a secured
13 party's collateral, by order of a court or by order of
14 any authority under prevailing law, or by the
15 authority of an administrator in an insolvency
16 proceeding; or

17 (b) any other person who obtains a right in a
18 secured party's collateral by operation of law, except
19 a person with a right of retention.

20 (27) 'Motor vehicle' means an automobile or
21 truck, except that, this term does not include a
22 vehicle held as inventory of a debtor.

23 (28) 'Notice' means a record filed or presented
24 for filing in the filing office. The term includes
25 amendments, continuation statements, and termination

1 statements that are filed or presented for filing. An
2 'initial notice' is the notice to which an amendment,
3 continuation statement, termination statement, or
4 correction statement may relate.

5 (29) 'Obligor' means a person that, with respect to
6 an obligation secured by a security interest on the
7 collateral, (a) owes payment or other performance of
8 the obligation, (b) has provided property other than
9 the collateral to secure payment or other performance
10 of the obligation, or (c) is otherwise accountable, in
11 whole or in part, for payment or performance of the
12 obligation.

13 (30) 'Other intangible property' means any movable
14 property other than goods, accounts, chattel paper,
15 documents, instruments, and money.

16 (31) 'Person' means an individual, a corporation
17 whether for profit or not for profit, a partnership or
18 joint venture, a trust and all national, state and
19 municipal governments of the Federated States of
20 Micronesia.

21 (32) 'Proceeds' means

22 (a) whatever is acquired upon the sale, lease,
23 license, exchange, or other disposition of collateral;

24 (b) whatever is collected on, or distributed
25 with respect to, collateral;

1 (c) rights arising out of collateral;

2 (d) to the extent of the value of collateral,
3 claims arising out of the loss or nonconformity of,
4 defects in, or damage to the collateral;

5 (e) to the extent of the value of collateral
6 and to the extent payable to the debtor or the secured
7 party, insurance payable by reason of the loss or
8 nonconformity of, defects in, or damage to the
9 collateral.

10 (33) 'Cash proceeds' means proceeds that are money,
11 checks, funds on deposit in banks, and the like.

12 (34) 'Purchase' means to take collateral as a buyer,
13 a donee, a person receiving a security interest such
14 as a secured party, consignor, lessor, or mortgagee,
15 or by any other voluntary transaction creating an
16 interest in property. A person who takes by purchase
17 is a 'purchaser'.

18 (35) 'Purchase money security interest'. A security
19 interest is a purchase money security interest to the
20 extent that it is:

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

23 (b) taken by a person other than the seller who
24 gives value to enable the debtor to acquire rights in
25 or the use of goods, if such value is in fact so used.

1 (36) 'Record' means information that is inscribed on
2 a tangible medium or that is stored in an electronic
3 or other medium and is retrievable in perceivable
4 form. The term includes a photocopy, facsimile copy,
5 and electronic mail.

6 (37) 'Secondary obligor' means an obligor to the
7 extent that:

- 8 (a) the obligor's obligation is secondary; or
9 (b) the obligor has a right of recourse with
10 respect to an obligation secured by collateral against
11 the debtor, another obligor, or property of either.

12 (38) 'Secured party' means a lender, seller or other
13 person in whose favor a security interest is created
14 under a security agreement, including a person to whom
15 accounts or chattel paper have been sold, and a lessor
16 of goods. The term includes a consignor of goods.

17 (39) 'Security' shall be given the same meaning set
18 forth in section 801 of title 33 of the Code of the
19 Federated States of Micronesia.

20 (40) 'Security agreement' means an agreement that
21 creates or provides for a security interest.

22 (41) 'Security interest' means a property right
23 in collateral that secures performance of an
24 obligation.

25 (42) 'Unless otherwise agreed' means unless the

1 secured party and the debtor agree otherwise.

2 (43) 'Value' A person gives value for rights if
3 the person acquires the rights

4 (a) in return for a binding commitment to give
5 credit, whether or not drawn upon; or

6 (b) as security for or satisfaction of a pre-
7 existing claim, in whole or in part; or

8 (c) by accepting delivery pursuant to a pre-
9 existing contract for purchase; or

10 (d) in return for anything given in exchange,
11 or for any promise."

12 Section 8. Title 33 of the Code of the Federated States
13 of Micronesia is hereby amended by enacting a new section 1003
14 to read as follows:

15 "Section 1003. Scope.

16 (1) This Act applies to:

17 (a) all transactions where the effect is to
18 secure an obligation with collateral, including
19 pledge, conditional sale, chattel mortgage, and
20 assignment;

21 (b) the sale of accounts and chattel paper;

22 (c) consignments;

23 (d) the lease of goods for a period greater
24 than one year; and

25 (e) the interest of a lien holder in

1 collateral.

2 (2) This Act applies without regard to the form of
3 an agreement or the terminology used in an agreement,
4 and whether ownership of the collateral is held by the
5 secured party or the debtor. The retention of title
6 by a seller of goods has no effect other than the
7 taking of a security interest in the goods.

8 (3) Notwithstanding subsection (1), this Act does
9 not apply to:

10 (a) the transfer of an interest in real
11 property, except as provided with respect to fixtures,
12 crops, timber to be cut, or minerals to be extracted;

13 (b) the transfer of a claim for compensation of
14 an employee;

15 (c) a sale of accounts or chattel paper as part
16 of a sale of a business out of which they arose;

17 (d) an assignment of accounts, chattel paper,
18 or instruments for the purpose of collection only;

19 (e) an assignment of a right to payment under a
20 contract to an assignee that is also obligated to
21 perform under the contract;

22 (f) the transfer of an interest in a flagged
23 vessel subject to the maritime and admiralty law of
24 the Federated States of Micronesia;

25 (g) the transfer of an interest in investment

1 property."

2 Section 9. Title 33 of the Code of the Federated States
3 of Micronesia is hereby amended by enacting a new section 1004
4 to read as follows:

5 "Section 1004. Security interest.

6 (1) Any person may give a security interest in
7 collateral, and any person may take a security
8 interest in collateral.

9 (2) Notwithstanding subsection (1), no security
10 interest other than a purchase money security interest
11 may be given or taken in consumer goods.

12 (3) A security interest may not be deemed invalid
13 because the debtor has the right to use, possess,
14 sell, exchange, commingle, or otherwise dispose of the
15 collateral."

16 Section 10. Title 33 of the Code of the Federated States
17 of Micronesia is hereby amended by enacting a new section 1005
18 to read as follows:

19 "Section 1005. Secured obligation.

20 (1) A security interest may secure one or more
21 obligations.

22 (2) Secured obligations may be described
23 specifically or in general terms.

24 (3) Secured obligations may be monetary or non-
25 monetary obligations.

1 (4) Secured obligations may be governed by foreign
2 law.

3 (5) A security interest may secure future
4 obligations, whether mandatory, conditional, or
5 optional.

6 (6) A security interest may secure pre-existing
7 obligations."

8 Section 11. Title 33 of the Code of the Federated States
9 of Micronesia is hereby amended by enacting a new section 1006
10 to read as follows:

11 "Section 1006. Collateral description.

12 (1) A description of collateral is sufficient if it
13 reasonably identifies what is described.

14 (2) A description of collateral may be expressed in
15 general terms, except that a motor vehicle may be
16 described generally or by serial number.

17 (3) A description such as "all assets" or "all
18 movable property" of the debtor is sufficient, except
19 with respect to a security interest in consumer goods
20 of a debtor."

21 Section 12. Title 33 of the Code of the Federated States
22 of Micronesia is hereby amended by enacting a new section 1007
23 to read as follows:

24 "Section 1007. Effectiveness of security agreement.

25 (1) A security agreement must be in the form of a

1 writing signed by the debtor and the secured party,
2 provided that the agreement may be signed in
3 counterparts.

4 (2) A security agreement may be found in multiple
5 writings when read together.

6 (3) A security agreement is effective according to
7 its terms between the parties, against purchasers of
8 the collateral, and against creditors and lien
9 holders, except as otherwise provided in this Act."

10 Section 13. Title 33 of the Code of the Federated States
11 of Micronesia is hereby amended by enacting a new section 1008
12 to read as follows:

13 "Section 1008. Collateral in secured party's
14 possession or control.

15 (1) A secured party shall use reasonable care in the
16 custody and preservation of collateral in the secured
17 party's possession. In the case of chattel paper or an
18 instrument, reasonable care includes taking necessary
19 steps to preserve rights against prior parties unless
20 otherwise agreed.

21 (2) Unless otherwise agreed, if collateral is in the
22 secured party's possession:

23 (a) reasonable expenses shall be charged to the
24 debtor and secured by the collateral, including the
25 cost of any insurance, and the payment of taxes or

1 fees associated with the collateral;

2 (b) the risk of accidental loss or damage is
3 born by the debtor to the extent of a deficiency in
4 any insurance coverage;

5 (c) the secured party may hold as additional
6 security any increases received from the collateral
7 except money, and shall apply money to reduce the
8 secured obligation unless the money is remitted to the
9 debtor;

10 (d) the secured party shall keep the collateral
11 identifiable, but fungible collateral may be
12 commingled; and

13 (e) the secured party may use or operate the
14 collateral:

15 (i) for the purpose of preserving the
16 collateral or its value;

17 (ii) as permitted by an order of a court
18 having competent jurisdiction; or

19 (iii) in the manner and to the extent agreed
20 by the debtor.

21 (3) A secured party having possession or control of
22 collateral:

23 (a) may hold as additional security any
24 proceeds, except money or funds, received from the
25 collateral; and

1 (b) shall apply money or funds received from
2 the collateral to reduce the secured obligation,
3 unless remitted to the debtor.

4 (4) This section does not apply to a buyer of
5 accounts, chattel paper, or other intangible
6 property."

7 Section 14. Title 33 of the Code of the Federated States
8 of Micronesia is hereby amended by enacting a new section 1009
9 to read as follows:

10 "Section 1009. Assignment.

11 (1) A person may assign all or part of the person's
12 rights in accounts, chattel paper, instruments, or
13 other intangible property.

14 (2) An assignment under this section may be a
15 specific or general assignment.

16 (3) An assignment may include accounts, chattel
17 paper, instruments, or other intangible property that
18 have not been created at the time of the assignment.

19 (4) The assignee is subject to all the terms of the
20 agreement between the account debtor and assignor.

21 (5) No communication to the account debtor shall be
22 required for attachment, perfection or enforcement of
23 a security interest arising from an assignment, except
24 as provided in this section.

25 (6) If an account debtor is given information about

1 an assignment, the information shall be in writing,
2 shall identify the rights assigned, and shall be
3 signed by the assignor or the assignee, but need not
4 disclose any of the terms or conditions of the
5 assignment.

6 (7) After being informed of an assignment of a right
7 to payment, the account debtor shall perform the
8 obligation by paying the assignee, and not the
9 assignor. However, if requested by the account
10 debtor, the assignee shall furnish timely and
11 sufficient evidence of the assignment, and unless the
12 assignee complies, the account debtor may perform the
13 obligation by paying the assignor.

14 (8) Unless an account debtor has made an enforceable
15 agreement not to assert defenses or claims, the rights
16 of an assignee are subject to:

17 (a) all terms of the agreement between the
18 account debtor and assignor and any defense or claim
19 in recoupment arising from the transaction that gave
20 rise to the contract; and

21 (b) any other defense or claim of the account
22 debtor against the assignor which accrues before the
23 account debtor receives a notification of the
24 assignment authenticated by the assignor or the
25 assignee;

1 Provided, however, that the claim of an account debtor
2 against an assignor may be asserted against an
3 assignee only to reduce the amount the account debtor
4 owes."

5 Section 15. Title 33 of the Code of the Federated States
6 of Micronesia is hereby amended by enacting a new section 1010
7 to read as follows:

8 "Section 1010. Restriction on sale or assignment.
9 An agreement between a secured party and a debtor is
10 unenforceable if it prohibits or restricts the sale or
11 assignment of an account, lease, or chattel paper."

12 Section 16. Title 33 of the Code of the Federated States
13 of Micronesia is hereby amended by enacting a new section 1011
14 to read as follows:

15 "Section 1011. Attachment of security interest to
16 collateral.

17 (1) A security interest attaches to collateral and
18 becomes enforceable against the debtor and third
19 parties with respect to the collateral only if:

20 (a) the debtor has signed a security agreement
21 that provides a description of the collateral;

22 (b) value has been given by the secured party
23 to the debtor; and

24 (c) the debtor has rights in the collateral or
25 the power to transfer rights in the collateral to a

1 secured party.

2 (2) Unless otherwise agreed, the attachment of a
3 security interest in collateral gives the secured
4 party the right to a security interest in proceeds as
5 provided in this Act.

6 (3) Goods shall be determined to be equipment,
7 inventory, farm products, or consumer goods at the
8 time that a security interest attaches to the goods."

9 Section 17. Title 33 of the Code of the Federated States
10 of Micronesia is hereby amended by enacting a new subchapter 2
11 entitled "Perfection and priority of security interests" of new
12 Chapter 10 entitled "The Secured Transactions Act."

13 Section 18. Title 33 of the Code of the Federated States
14 of Micronesia is hereby amended by enacting a new section 1012
15 to read as follows:

16 "Section 1012. Perfection of security interest.

17 (1) Means of perfection. A security interest is
18 perfected when it has attached to the collateral and a
19 means of perfection has been completed. There are
20 four means of perfecting a security interest:

21 (a) the filing of a notice in the filing
22 office;

23 (b) perfection upon attachment of the security
24 interest to collateral, without further action;

25 (c) possession of the collateral by the secured

1 party; and

2 (d) control of the collateral by the secured
3 party.

4 (2) Perfection by filing of notice. A notice must
5 be filed in the filing office to perfect a security
6 interest, unless this section provides otherwise.

7 (3) Perfection by attachment. The following
8 security interests are perfected when they attach to
9 the collateral and without the filing of a notice:

10 (a) a purchase money security interest in
11 consumer goods;

12 (b) a security interest in proceeds, if the
13 underlying security interest is perfected;

14 (c) an assignment for the benefit of all
15 creditors of the transferor and subsequent transfers
16 by the assignee thereunder.

17 (4) Perfection by possession.

18 (a) A security interest in goods, instruments,
19 documents, or chattel paper may be perfected by the
20 secured party's taking possession, and without filing
21 a notice.

22 (b) A security interest in money may be
23 perfected only by the secured party's taking
24 possession of the money, except for cash proceeds.

25 (c) A security interest is perfected by

1 possession from the time possession is taken and
2 continues only so long as possession is retained.

3 (d) A security interest perfected by possession
4 under this subsection may also be perfected by filing
5 a notice before, during, or after a period of
6 possession by a secured party.

7 (5) Perfection by control of collateral. A
8 security interest in a deposit account may be
9 perfected by the secured party's taking control of the
10 deposit account, as provided in section 1027 of this
11 chapter and without filing a notice.

12 (6) Bailment. While goods are in the possession
13 of a bailee that has issued a document covering the
14 goods, a security interest in the goods may be
15 perfected by perfecting a security interest in the
16 document. Any security interest in the goods
17 perfected by filing a notice during the period that
18 goods are in the possession of the bailee is
19 subordinate to a security interest perfected in the
20 document.

21 (7) Guarantees. Perfection of a security interest
22 in collateral also perfects a security interest in a
23 guarantee supporting the collateral. The filing of a
24 notice is not necessary to perfect a security interest
25 in a guarantee.

1 (8) Right to payment secured by real property
2 mortgage. Perfection of a security interest in a
3 right to payment or performance also perfects a
4 security interest in a mortgage on real property
5 securing the right to payment.

6 (9) Property subject to a treaty. The filing of
7 a notice is not necessary to perfect a security
8 interest in property subject to a treaty under which
9 the requirements for perfecting a security interest
10 vary from the requirements of this Act. Compliance
11 with the requirements of the treaty to perfect a
12 security interest is equivalent to the filing of a
13 notice under this Act."

14 Section 19. Title 33 of the Code of the Federated States
15 of Micronesia is hereby amended by enacting a new section 1013
16 to read as follows:

17 "Section 1013. Continuity of perfection.

18 (1) A security interest is perfected continuously if
19 it is first perfected in one manner and later
20 perfected in another manner, without a period when it
21 is not perfected.

22 (2) If a secured party assigns a perfected security
23 interest, a notice need not be filed under this Act to
24 continue perfection of the security interest against
25 creditors of the debtor, transferees from the debtor,

1 and lien holders."

2 Section 20. Title 33 of the Code of the Federated States
3 of Micronesia is hereby amended by enacting a new section 1014
4 to read as follows:

5 "Section 1014. Priority among security interests in
6 the same collateral.

7 (1) Security interests in the same collateral have
8 priority according to time of filing of a notice or
9 perfection, except as otherwise provided in this Act.

10 (2) Priority is measured from the time the first
11 notice is filed covering the collateral, or the time
12 the security interest is first perfected, whichever is
13 earlier, if there is no time after the first time of
14 filing or perfection at which the notice was
15 ineffective or the continuity of perfection was
16 interrupted.

17 (3) The first security interest to attach to
18 collateral has priority among security interests for
19 which no effective notice covers the collateral and
20 for which there is no perfection.

21 (4) A date of filing or perfection as to collateral
22 is deemed to be the date of filing or perfection of a
23 security interest in proceeds."

24 Section 21. Title 33 of the Code of the Federated States
25 of Micronesia is hereby amended by enacting a new section 1015

1 to read as follows:

2 "Section 1015. Priority of lien holder. A security
3 interest has priority over the rights of a lien holder
4 unless a notice of the rights of the lien holder is
5 filed in accordance with this Act:

6 (1) before the security interest is perfected; and

7 (2) before a notice covering the collateral is
8 filed."

9 Section 22. Title 33 of the Code of the Federated States
10 of Micronesia is hereby amended by enacting a new section 1016
11 to read as follows:

12 "Section 1016. Purchasers of collateral.

13 (1) Generally. A purchaser takes collateral free of
14 a security interest if the purchaser gives value for
15 the collateral without actual or constructive
16 knowledge of the security interest and before it is
17 perfected. If the collateral is tangible, the
18 purchaser must also take delivery of the collateral
19 without actual or constructive knowledge of the
20 security interest and before it is perfected.

21 (2) Buyer in the ordinary course of business.

22 Notwithstanding subsection (1), a buyer in the
23 ordinary course of business takes goods free of a
24 security interest in the goods, even if the security
25 interest is perfected and even if the buyer has actual

1 or constructive knowledge of its existence.

2 (3) Purchaser of consumer goods. Notwithstanding
3 subsections (1) and (2), a buyer of goods that are
4 consumer goods of the seller takes the goods free of a
5 security interest whether or not the security interest
6 is perfected, if the person buys and takes delivery of
7 the goods without actual or constructive knowledge of
8 the security interest.

9 (4) Purchaser of a motor vehicle. Notwithstanding
10 subsections (1) and (3), a person who buys a motor
11 vehicle or who takes a security interest in a motor
12 vehicle, other than a buyer in the ordinary course of
13 business, takes the motor vehicle or security interest
14 free of a prior security interest only if:

15 (a) the person bought without actual knowledge
16 of the security interest; and

17 (b) the motor vehicle was not described, or was
18 incorrectly described, by serial number in a filed
19 notice.

20 (5) Purchaser of farm products. Notwithstanding any
21 other provision of this section, a person who buys
22 farm products takes the farm products free of any
23 security interest."

24 Section 23. Title 33 of the Code of the Federated States
25 of Micronesia is hereby amended by enacting a new section 1017

1 to read as follows:

2 "Section 1017. Lessees of collateral.

3 (1) Generally. A lessee of goods takes its
4 leasehold interest free of a security interest in the
5 goods if the lessee receives delivery of the goods:

6 (a) without actual or constructive knowledge of
7 the security interest; and

8 (b) before the security interest is perfected.

9 (2) Lessee in the ordinary course of business.

10 Notwithstanding any other provision of this section, a
11 lessee in the ordinary course of business takes the
12 leasehold interest free of a security interest in the
13 goods even if the security interest is perfected and
14 even if the lessee has actual or constructive
15 knowledge of its existence.

16 (3) Lessee of a motor vehicle. Notwithstanding
17 any other provision of this section, a lessee, other
18 than a lessee in the ordinary course of business,
19 takes a motor vehicle free of a security interest only
20 if the lessee leased:

21 (a) without actual knowledge of the security
22 interest; and

23 (b) the motor vehicle was not described, or was
24 incorrectly described, by serial number in a filed
25 notice."

1 Section 24. Title 33 of the Code of the Federated States
2 of Micronesia is hereby amended by enacting a new section 1018
3 to read as follows:

4 "Section 1018. Disposition of collateral and
5 proceeds.

6 (1) A security interest continues in collateral
7 notwithstanding sale, lease, license, exchange, or
8 other disposition of the collateral, except as
9 otherwise provided in this Act or agreed upon by the
10 parties.

11 (2) Upon the disposition of collateral, a security
12 interest attaches to proceeds of the collateral,
13 except as otherwise provided in this Act or agreed
14 upon by the parties.

15 (3) A security interest in proceeds is a
16 continuously perfected security interest if the
17 security interest in the original collateral was
18 perfected. The security interest in proceeds becomes
19 unperfected twenty days after the debtor receives the
20 proceeds unless:

21 (a) a filed notice covers the original
22 collateral, and the proceeds are cash proceeds or
23 proceeds of a nature described in the notice; or

24 (b) the security interest in the proceeds is
25 perfected before the expiration of the twenty day

1 period.

2 Section 25. Title 33 of the Code of the Federated States
3 of Micronesia is hereby amended by enacting a new section 1019
4 to read as follows:

5 "Section 1019. Priority of purchase money security
6 interest in goods. Subject to the provisions of
7 section 1020 relating to security interests in
8 inventory and livestock, a purchase money security
9 interest in goods, perfected by the filing of a
10 notice, has priority over a conflicting security
11 interest in the same collateral and the interest of a
12 lien holder, and also has priority in its proceeds, if
13 the purchase money security interest is perfected when
14 the debtor receives possession of the goods, or within
15 five days thereafter."

16 Section 26. Title 33 of the Code of the Federated States
17 of Micronesia is hereby amended by enacting a new section 1020
18 to read as follows:

19 "Section 1020. Priority of purchase money security
20 interest in inventory or livestock. A perfected
21 purchase money security interest in inventory or
22 livestock has priority over a conflicting security
23 interest in the same inventory or livestock if:

24 (1) the purchase money security interest is
25 perfected when the debtor receives possession of the

1 inventory or livestock; and

2 (2) the purchase money secured party notifies in
3 writing the holder of the conflicting security
4 interest if the holder had filed a notice covering the
5 same types of inventory or livestock before the time
6 of a notice filed by the purchase money secured party.
7 The notification must describe the inventory or
8 livestock and state that the person giving the
9 notification has or expects to acquire a purchase
10 money security interest in inventory or livestock of
11 the debtor."

12 Section 27. Title 33 of the Code of the Federated States
13 of Micronesia is hereby amended by enacting a new section 1021
14 to read as follows:

15 "Section 1021. Priority of lien arising by operation
16 of law. A lien or right of retention arising by
17 operation of law in goods has priority over a
18 perfected security interest while the goods are in the
19 possession of the person holding the right of
20 retention if:

21 (1) the right of retention is created in favor of a
22 person in possession of the goods to secure payment
23 for materials or services with respect to the goods;
24 and

25 (2) the materials or services are provided in the

1 ordinary course of business."

2 Section 28. Title 33 of the Code of the Federated States
3 of Micronesia is hereby amended by enacting a new section 1022
4 to read as follows:

5 "Section 1022. Fixtures.

6 (1) A security interest may be created in goods that
7 are fixtures. A security interest may continue in
8 goods that become fixtures.

9 (2) Notwithstanding subsection (1), a security
10 interest in ordinary building materials is
11 unenforceable when the building materials are
12 incorporated into real property.

13 (3) This section does not determine priority in
14 readily removable factory machines, office machines,
15 and domestic appliances.

16 (4) A security interest in fixtures is subordinate
17 to all other real rights in real property, except as
18 provided in this section.

19 (5) A perfected security interest in fixtures has
20 priority over the interest of the owner of real
21 property, or a mortgagee notwithstanding any provision
22 in the mortgage, if a notice is filed before the
23 interest of the owner or the mortgagee is registered
24 in the land registry.

25 (6) A perfected security interest in fixtures has

1 priority over the interest of a lien holder if a
2 notice is filed before the filing of a notice of the
3 interest of the lien holder as required by this Act.

4 (7) A perfected security interest in fixtures has
5 priority over the interest of the owner of real
6 property, a lien holder, or a mortgagee
7 notwithstanding any provision in the mortgage, if the
8 security interest is a purchase money security
9 interest given by the debtor before the goods become
10 fixtures, and a notice is filed before the goods
11 become fixtures or within five days thereafter. The
12 priority established in this subsection is not
13 effective against a person who holds a construction
14 mortgage. A mortgage is a construction mortgage to
15 the extent that it secures an obligation to pay for
16 the construction of an improvement on real property,
17 if the mortgage is registered in accordance with the
18 land law and if the mortgage indicates that it secures
19 such an obligation."

20 Section 29. Title 33 of the Code of the Federated States
21 of Micronesia is hereby amended by enacting a new section 1023
22 to read as follows:

23 "Section 1023. Crops. A perfected security interest
24 in crops growing on real property has priority over a
25 conflicting interest of the owner or a mortgagee if

1 the debtor is in possession of the real property or
2 has an interest in the real property that is
3 registered in accordance with the real property law."

4 Section 30. Title 33 of the Code of the Federated States
5 of Micronesia is hereby amended by enacting a new section 1024
6 to read as follows:

7 "Section 1024. Accessions.

8 (1) "Accession" means goods that are physically
9 united with other goods in a manner such that the
10 identity of the goods is not lost.

11 (2) A security interest may be created in an
12 accession and continues in collateral that becomes an
13 accession. If a security interest is perfected when
14 the collateral becomes an accession, the security
15 interest remains perfected in the accession.

16 (3) On default, a secured party may remove an
17 accession from other goods if the security interest in
18 the accession has priority over the claims of every
19 person having an interest in the whole.

20 (4) A secured party that removes an accession shall
21 promptly reimburse the holder (other than the debtor)
22 of any interest in the whole or the other goods for
23 the cost of repair of any physical injury to the
24 whole.

25 (a) A secured party that removes accessions

1 shall promptly reimburse any other secured party for
2 the cost of repair of any damage to the property.

3 (b) The secured party need not reimburse the
4 debtor or other secured party for any diminution in
5 value caused by the absence of the goods removed or by
6 any necessity for replacing them.

7 (c) A person entitled to reimbursement may
8 refuse permission to remove until the secured party
9 gives adequate assurance for the performance of the
10 obligation to reimburse."

11 Section 31. Title 33 of the Code of the Federated States
12 of Micronesia is hereby amended by enacting a new section 1025
13 to read as follows:

14 "Section 1025. Commingled goods.

15 (1) In this section, 'commingled goods' means goods
16 that are physically united with other goods in such a
17 manner that their identity is lost in a product or
18 mass.

19 (2) A security interest may not be created in
20 commingled goods. However, a security interest may
21 attach to a product or mass that results when goods
22 become commingled goods.

23 (3) If collateral becomes commingled goods, a
24 security interest in the collateral attaches to the
25 product or mass.

1 (4) If a security interest in collateral is
2 perfected before the collateral becomes commingled
3 goods, the security interest that attaches to the
4 product or mass is perfected without the need for
5 filing a notice. The priority of the security
6 interest in the product or mass is measured from the
7 time of perfection of the security interest in the
8 collateral that became commingled.

9 (5) If more than one security interest attaches to
10 the product or mass, the following rules determine
11 priority.

12 (a) A security interest that is perfected has
13 priority over a security interest that is unperfected
14 at the time the collateral becomes commingled goods;

15 (b) The first security interest to attach to
16 the product or mass has priority among unperfected
17 security interests; and

18 (c) If more than one security interest is
19 perfected, the security interests rank equally in
20 proportion to the value of the collateral at the time
21 it became commingled goods."

22 Section 32. Title 33 of the Code of the Federated States
23 of Micronesia is hereby amended by enacting a new section 1026
24 to read as follows:

25 "Section 1026. Purchase of chattel paper and

1 instruments. A purchaser of chattel paper or
2 instruments has priority over a conflicting security
3 interest in the chattel paper or instruments and also
4 has priority with respect to the proceeds of the
5 chattel paper or instruments if:

6 (1) in the ordinary course of the purchaser's
7 business, the purchaser gives new value and takes
8 possession of the chattel paper or instruments; and

9 (2) the chattel paper or instruments do not indicate
10 an assignment to the person holding the conflicting
11 security interest."

12 Section 33. Title 33 of the Code of the Federated States
13 of Micronesia is hereby amended by enacting a new section 1027
14 to read as follows:

15 "Section 1027. Control of deposit account.

16 (1) A secured party has control of a deposit account
17 if:

18 (a) the secured party is the bank with which
19 the deposit account is maintained;

20 (b) the debtor, secured party, and bank have
21 agreed in an authenticated record that the bank will
22 comply with instructions originated by the secured
23 party directing disposition of the funds in the
24 deposit account without further consent by the debtor;
25 or

1 (c) the secured party becomes the bank's
2 customer with respect to the deposit account.

3 (2) A secured party that has satisfied subsection
4 (1) has control, even if the debtor retains the right
5 to direct the disposition of funds from the deposit
6 account."

7 Section 34. Title 33 of the Code of the Federated States
8 of Micronesia is hereby amended by enacting a new section 1028
9 to read as follows:

10 "Section 1028. Priority of conflicting security
11 interests in deposit accounts.

12 (1) A security interest held by a secured party
13 having control of a deposit account has priority over
14 a conflicting security interest held by a secured
15 party that does not have control.

16 (2) Except as otherwise provided in subsections (3)
17 and (4), Security interests perfected by control have
18 priority according to the time of obtaining control.

19 (3) Except as otherwise provided in subsection (4),
20 a security interest held by the bank with which the
21 deposit account is maintained has priority over a
22 conflicting security interest held by another secured
23 party.

24 (4) A security interest perfected by control has
25 priority over a security interest held by the bank

1 with which the deposit account is maintained if the
2 secured party has become the customer of the bank with
3 respect to the deposit account.

4 Section 35. Title 33 of the Code of the Federated States
5 of Micronesia is hereby amended by enacting a new section 1029
6 to read as follows:

7 "Section 1029. Transfers of money and funds from
8 deposit accounts. A transferee of money, including
9 funds from a deposit account, takes the money free of
10 a security interest unless the transferee acts in
11 collusion with the debtor in violating the rights of
12 the secured party."

13 Section 36. Title 33 of the Code of the Federated States
14 of Micronesia is hereby amended by enacting a new section 1030
15 to read as follows:

16 "Section 1030. Right of recoupment or setoff against
17 deposit account.

18 (1) Except as otherwise provided in subsection (2),
19 a bank with which a deposit account is maintained may
20 exercise any right of recoupment or setoff against a
21 secured party that holds a security interest in the
22 deposit account.

23 (2) A setoff by a bank based on a claim against a
24 debtor is ineffective against a secured party that has
25 established control of a deposit account by becoming

1 the bank's customer with respect to the deposit
2 account."

3 Section 37. Title 33 of the Code of the Federated States
4 of Micronesia is hereby amended by enacting a new section 1031
5 to read as follows:

6 "Section 1031. Inter-bank transactions. Nothing in
7 this Act limits any special priorities, protections or
8 preferences under the banking law, held by banks that
9 acquire instruments or documents in a manner or under
10 circumstances that entitles them to such priorities,
11 protections or preferences. These interests take
12 preference over an earlier security interest, even if
13 perfected, to the extent provided by the banking law."

14 Section 38. Title 33 of the Code of the Federated States
15 of Micronesia is hereby amended by enacting a new subchapter 3
16 entitled "Filing" of new Chapter 10 entitled "The Secured
17 Transactions Act."

18 Section 39. Title 33 of the Code of the Federated States
19 of Micronesia is hereby amended by enacting a new section 1032
20 to read as follows:

21 "Section 1032. Filing office.

22 (1) A secured transactions filing office is
23 established in the Department.

24 (a) The Department may contract with any person
25 for the performance of some or all of the duties

1 required of the filing office.

2 (b) The Department shall provide electronic
3 means for filing notices and searching notices, and
4 the electronic records of the filing office shall be
5 the official records. All notices shall be filed and
6 searches shall be performed by electronic means.

7 (c) All obligations of the Department under
8 this Act shall be fully discharged by the creation and
9 businesslike maintenance of an electronic information
10 system that provides for the filing of notices of
11 security interests and notices of the interests of
12 lien holders, and for the search of such notices by
13 any person.

14 (2) The filing of a notice complying with the
15 requirements of this chapter provides constructive
16 knowledge of its contents to all persons. The filing
17 of a notice does not create a security interest in
18 collateral and does not provide evidence that a
19 security interest in collateral exists.

20 (3) The duties of the filing officer are merely
21 administrative. By filing a notice or refusing to
22 file a notice, the filing office does not determine
23 the sufficiency, correctness, authenticity, or
24 validity of any information contained in the notice.

25 (4) The secured transactions filing office is the

1 place to file

2 (a) a notice of a security interest in
3 collateral;

4 (b) a notice of the interest of a lien holder;
5 and

6 (c) a notice of the interest of a secured party
7 in a transaction concluded prior to the effective date
8 of this Act as provided in this Act.

9 (5) Records of the filing office shall be maintained
10 in the English language."

11 Section 40. Title 33 of the Code of the Federated States
12 of Micronesia is hereby amended by enacting a new section 1033
13 to read as follows:

14 "Section 1033. Regulations.

15 (1) The Department has power to issue regulations
16 only as provided in this section.

17 (2) Regulations may prescribe filing fees not to
18 exceed the reasonable estimation of costs necessary to
19 operate the filing office.

20 (a) Regulations may prescribe the fee for
21 filing of a notice.

22 (b) Regulations may prescribe the fee for
23 filing of a certified search report.

24 (c) There shall be no fee for filing a notice
25 of the interest of a lien holder.

1 (d) There shall be no fee for a search of
2 filing office records.

3 (e) There shall be no fee for any other
4 services of the filing office.

5 (3) Regulations may prescribe the means by which
6 fees authorized by this Act may be paid."

7 Section 41. Title 33 of the Code of the Federated States
8 of Micronesia is hereby amended by enacting a new section 1034
9 to read as follows:

10 "Section 1034. Notice of the interest of a lien
11 holder. The Department shall adopt an electronic form
12 for the submission of notice of the interest of a lien
13 holder. The notice of the interest of a lien holder
14 shall be limited to identification of the lien holder,
15 identification of the person owing payment or
16 performance to the lien holder, and a description of
17 movable property against which the lien holder claims
18 a right, in the same manner as provided in this Act
19 for the filing of a notice of a security interest."

20 Section 42. Title 33 of the Code of the Federated States
21 of Micronesia is hereby amended by enacting a new section 1035
22 to read as follows:

23 "Section 1035. Access to filing office records.

24 (1) A notice is a public record.

25 (2) Indexes and other records created by the filing

1 office with respect to notices, in any form or medium,
2 are public records.

3 (3) Any person has a right to inspect and make
4 copies of the records of the filing office."

5 Section 43. Title 33 of the Code of the Federated States
6 of Micronesia is hereby amended by enacting a new section 1036
7 to read as follows:

8 "Section 1036. Contents of initial notice.

9 (1) An initial notice is sufficient if it:

10 (a) identifies the debtor and provides a
11 mailing address;

12 (b) identifies the secured party or an agent of
13 the secured party and a mailing address; and

14 (c) describes the collateral covered by the
15 notice, as provided in section 1006 of this title. In
16 addition, a notice must provide a description of the
17 relevant real property if it covers timber to be cut,
18 minerals to be extracted, or fixtures. A description
19 of real property need only reasonably describe the
20 real property, and need not satisfy the requirements
21 of a description necessary to create a mortgage in
22 real property or to establish ownership rights in real
23 property.

24 (2) A person is entitled to file an initial notice
25 only if the debtor authorizes the filing in a signed

1 writing. The debtor's authorization need not be
2 contained in the notice.

3 (3) By signing a security agreement, a debtor
4 authorizes the filing of an initial notice covering
5 the collateral described in the security agreement,
6 and proceeds of the collateral, whether or not the
7 security agreement expressly covers proceeds.

8 (4) A notice may be filed before a security
9 agreement is concluded or before a security interest
10 attaches to collateral.

11 (5) A notice substantially complying with the
12 requirements of this Act is effective, even if it is
13 insufficient under this section, unless the
14 insufficiency makes the notice seriously misleading.
15 A notice that insufficiently provides the name of the
16 debtor is seriously misleading."

17 Section 44. Title 33 of the Code of the Federated States
18 of Micronesia is hereby amended by enacting a new section 1037
19 to read as follows:

20 "Section 1037. Name of debtor and secured party.

21 (1) A notice sufficiently provides the name of the
22 debtor when:

23 (a) the debtor is a natural person and a
24 citizen of the Federated States of Micronesia and the
25 notice contains the name of the person as it appears

1 on the records of the Social Security Administration;

2 (b) the debtor is a natural person and not a
3 citizen of the Federated States of Micronesia and the
4 notice contains the name of the person as it appears
5 on the person's passport and identifies the country
6 that issued the passport;

7 (c) the debtor is a corporation organized under
8 law enacted by the Federated States of Micronesia or a
9 state of the Federated States of Micronesia, and the
10 notice contains the name of the debtor as shown on the
11 registry established by that law;

12 (d) the debtor is a foreign corporation
13 qualified to do business under law enacted by the
14 Federated States of Micronesia or a state of the
15 Federated States of Micronesia and the notice provides
16 the name of the debtor as shown in the registry
17 established under that law;

18 (e) the debtor is a foreign corporation not
19 registered under the law enacted by the Federated
20 States of Micronesia or any state of the Federated
21 States of Micronesia, and the notice contains the name
22 of the debtor as shown on the appropriate registry in
23 the country where the foreign corporation is
24 organized.

25 (2) A notice that sufficiently provides the name of

1 the debtor is not rendered ineffective by the presence
2 or absence of a trade name or other name of the
3 debtor. A notice that provides only the debtor's
4 trade name does not sufficiently provide the name of a
5 debtor.

6 (3) A notice may provide the name of more than one
7 debtor and the name of more than one secured party.

8 (4) The failure to indicate on a notice that a
9 person is an agent of the secured party does not
10 affect the sufficiency of a notice."

11 Section 45. Title 33 of the Code of the Federated States
12 of Micronesia is hereby amended by enacting a new section 1038
13 to read as follows:

14 "Section 1038. Effect of changes in circumstance.

15 (1) A filed notice remains effective with respect to
16 collateral that is sold, exchanged, leased, licensed,
17 or otherwise disposed of and in which a security
18 interest continues, even if the secured party has
19 actual or constructive knowledge of or consents to the
20 disposition.

21 (2) If a debtor changes its name so that a filed
22 notice becomes seriously misleading, the notice is
23 effective to perfect a security interest in collateral
24 acquired by the debtor before or within four months
25 after the change. The notice is effective to perfect

1 a security interest in collateral acquired by the
2 debtor more than four months after the change only if
3 an amendment to the notice is filed within four months
4 of the change to correct the name.

5 (3) Except as provided for a change of debtor name
6 under subsection (2), a notice remains effective if,
7 after the notice is filed, a change of circumstances
8 renders the notice seriously misleading.

9 Section 46. Title 33 of the Code of the Federated States
10 of Micronesia is hereby amended by enacting a new section 1039
11 to read as follows:

12 "Section 1039. Duration of notice and effect of
13 lapse.

14 (1) A filed notice is effective for a period of five
15 years after the date of filing.

16 (2) The effectiveness of a filed notice lapses on
17 the expiration of the five year period unless, before
18 the lapse, a continuation statement is filed.

19 (3) Upon lapse, a notice becomes ineffective and any
20 security interest that was perfected by the notice
21 becomes unperfected, unless the security interest is
22 perfected without filing.

23 (4) If the security interest becomes unperfected
24 upon lapse, it is deemed never to have been perfected
25 against a prior or subsequent purchaser of the

1 collateral for value."

2 Section 47. Title 33 of the Code of the Federated States
3 of Micronesia is hereby amended by enacting a new section 1040
4 to read as follows:

5 "Section 1040. Amendment of notice.

6 (1) An initial notice may be amended by one or more
7 amendments. An amendment must:

8 (a) identify the initial notice by its file
9 number;

10 (b) identify the secured party on the notice
11 who authorizes the amendment;

12 (c) indicate that it is an amendment to the
13 notice; and

14 (d) provide all of the information required of
15 an initial notice, completely restating the notice in
16 a manner that reflects the amended state of the
17 notice.

18 (2) If an amendment adds collateral covered by a
19 notice, or adds a debtor to a notice, it is effective
20 if the debtor authorizes the filing in a signed
21 writing. By signing a security agreement, a debtor
22 authorizes the filing of an amendment, covering the
23 collateral described in the security agreement, and
24 proceeds of the collateral, whether or not the
25 security agreement expressly covers proceeds.

1 (3) If there is more than one secured party on the
2 notice, the amendment is effective if a secured party
3 authorizes the filing.

4 (4) An amendment that adds collateral is effective
5 as to the added collateral only from the date of the
6 filing of the amendment.

7 (5) An amendment that adds a debtor is effective as
8 to the added debtor only from the date of the filing
9 of the amendment.

10 (6) An amendment other than an amendment to add
11 collateral or add a debtor is effective only if a
12 secured party on the notice authorizes the filing of
13 the amendment in an authenticated record.

14 (7) An amendment is ineffective if it purports to
15 delete all secured parties and fails to provide the
16 name of a new secured party, or purports to delete the
17 names of all debtors and fails to provide the name of
18 a debtor not previously named on the notice.

19 (8) If there is more than one secured party on the
20 notice, each secured party may authorize the filing of
21 an amendment.

22 (9) The filing of an amendment does not extend the
23 period of effectiveness of a notice."

24 Section 48. Title 33 of the Code of the Federated States
25 of Micronesia is hereby amended by enacting a new section 1041

1 to read as follows:

2 "Section 1041. Continuation of notice.

3 (1) The period of effectiveness of a notice may be
4 continued by filing a continuation statement that:

5 (a) identifies the initial notice by its file
6 number;

7 (b) identifies a secured party on the notice
8 who authorizes the continuation statement; and

9 (c) indicates that the effectiveness of the
10 notice, with respect to the secured party who
11 authorized the filing, is to be continued.

12 (2) A continuation statement may be filed only
13 within six months before the expiration of the five-
14 year period of the notice.

15 (a) Upon timely filing of a continuation
16 statement, the effectiveness of the notice continues
17 for a period of five years commencing on the day on
18 which the notice would have become ineffective in the
19 absence of the filing.

20 (b) The effectiveness of a notice is continued
21 only with respect to the secured party who authorized
22 the filing of the continuation statement.

23 (c) Upon the expiration of the new five-year
24 period, the notice lapses with respect to the secured
25 party unless, before the lapse, another continuation

1 statement authorized by that secured party is filed.
2 Succeeding continuation statements may be filed in the
3 same manner to continue the effectiveness of the
4 notice."

5 Section 49. Title 33 of the Code of the Federated States
6 of Micronesia is hereby amended by enacting a new section 1042
7 to read as follows:

8 "Section 1042. Termination of notice.

9 (1) The effectiveness of a notice may be terminated
10 by filing a termination statement that:

11 (a) identifies the initial notice by its file
12 number;

13 (b) identifies a secured party on the notice
14 who authorizes the termination statement; and

15 (c) indicates that the notice is no longer
16 effective with respect to the interest of the secured
17 party who authorized the filing of the termination
18 statement.

19 (2) Within 20 days after the secured party receives
20 a written demand by the debtor, the secured party on a
21 notice shall file a termination statement if:

22 (a) there is no outstanding secured obligation
23 and no commitment to make an advance, incur an
24 obligation, or otherwise give value; or

25 (b) the debtor did not authorize the filing of

1 the initial notice; or

2 (c) the notice covers accounts or chattel paper
3 that have been sold but as to which the account debtor
4 or other person obligated has discharged its
5 obligation.

6 (3) A termination statement effectively terminates
7 the interest of a secured party on the notice only if
8 the termination statement is authorized in a writing
9 signed by that secured party. Upon the filing of an
10 effective termination statement, the notice to which
11 the termination statement relates becomes ineffective
12 with respect to the authorizing secured party."

13 Section 50. Title 33 of the Code of the Federated States
14 of Micronesia is hereby amended by enacting a new section 1043
15 to read as follows:

16 "Section 1043. Effectiveness of notice.

17 (1) An initial notice, amendment, continuation
18 statement, or termination statement is effective at
19 the time it becomes public by means of a search of the
20 records of the filing office as provided in this Act.

21 (2) The filing office may refuse to file a record
22 because:

23 (a) in the case of an initial notice, the
24 record does not provide the name of a debtor;

25 (b) in the case of an amendment, the record

1 does not provide the name of a debtor, does not
2 provide the file number of the initial notice, or the
3 record identifies an initial notice whose
4 effectiveness has lapsed;

5 (c) in the case of a continuation statement,
6 the record does not provide the file number of the
7 initial notice, or was not delivered within the
8 permitted six-month time period;

9 (d) in the case of a termination statement, the
10 record does not provide the file number of the initial
11 notice, or the record relates to an initial notice
12 that has lapsed with respect to each secured party on
13 the notice; or

14 (e) less than the full filing fee is tendered,
15 or no arrangement has been made for the periodic
16 payment of fees.

17 (3) A record that the filing office refuses to
18 accept for a reason other than one set forth in this
19 section is effective as a filed record except against
20 a purchaser of the collateral that gives value in
21 reasonable reliance upon the absence of the record
22 from the files.

23 (4) If a filing office refuses to accept a record
24 for filing, it shall promptly communicate the fact of
25 and reason for its refusal to the person that

1 presented the record.

2 (5) A notice authorized by one secured party on the
3 notice does not affect the rights of another secured
4 party on the notice.

5 (6) The failure of the filing office to index a
6 record correctly does not affect the effectiveness of
7 the record."

8 Section 51. Title 33 of the Code of the Federated States
9 of Micronesia is hereby amended by enacting a new section 1044
10 to read as follows:

11 "Section 1044. Filing office duties.

12 (1) For each notice filed, the filing office shall:

13 (a) assign a unique file number in the case of
14 an initial notice;

15 (b) assign a unique number to notices other
16 than the initial notice;

17 (c) create a record that bears the number
18 assigned to the filed record and the date and time of
19 filing; and

20 (d) maintain the filed record for public
21 inspection.

22 (2) The filing office shall index an initial notice
23 by the name of the debtor and shall index all filed
24 records relating to an initial notice in a manner that
25 associates the initial notice and all filed records

1 relating to the initial notice. For notices
2 containing serial numbers of motor vehicles, the
3 filing office shall maintain an index of serial
4 numbers.

5 (3) The filing office shall maintain the capability
6 to retrieve a record by the name of the debtor and by
7 the file number assigned to the initial notice to
8 which the record relates, and that associates an
9 initial notice and all records relating the initial
10 notice with one another. For notices containing the
11 serial number of a motor vehicle, the filing office
12 shall maintain the capability to retrieve a record by
13 the serial number of the motor vehicle.

14 (4) The filing office shall maintain records of
15 lapsed notices for a period of ten years beyond the
16 date of lapse."

17 Section 52. Title 33 of the Code of the Federated States
18 of Micronesia is hereby amended by enacting a new section 1045
19 to read as follows:

20 "Section 1045. Information from filing office.

21 (1) The filing office shall communicate the
22 following information to any person that requests it:

23 (a) whether there is on file on a date and time
24 specified by the filing office, any notice that
25 designates a particular debtor and has not lapsed with

1 respect to all secured parties;

2 (b) the file number, and the date and time of
3 filing of each notice;

4 (c) the name and address of each debtor and
5 secured party on each notice;

6 (d) all of the information contained in each
7 notice.

8 (2) A request may be made to search the records of
9 the filing office by any of the following criteria:

10 (a) the file number of a notice;

11 (b) the name of a debtor; or

12 (c) the serial number of a motor vehicle.

13 (3) In complying with its duty, the filing office
14 may communicate information in any medium. However,
15 if requested, the filing office shall communicate
16 information by issuing a written certificate that can
17 be admitted into evidence in the courts without
18 extrinsic evidence of its authenticity."

19 Section 53. Title 33 of the Code of the Federated States
20 of Micronesia is hereby amended by enacting a new section 1046
21 to read as follows:

22 "Section 1046. Filing Office Revolving Fund.

23 (1) There is established a Filing Office Revolving
24 Fund, hereinafter referred to as the 'Fund,' separate
25 from the General Fund of the Federated States of

1 Micronesia and all other funds.

2 (2) The purpose of the Fund is to establish an
3 ongoing revolving fund to allow appropriations for,
4 and revenues from, the filing of notices to be used
5 for the costs of maintenance of a filing office.

6 (3) All future appropriations for, and revenues
7 received from, the filing of notices shall be
8 deposited in the Fund. Any unexpended monies in the
9 Fund shall not revert to the General Fund nor lapse at
10 the end of the fiscal year; provided that at the end
11 of each fiscal year, funds in excess of fifty percent
12 of the actual operating costs of the filing system
13 during the fiscal year just closed shall be deposited
14 in the General Fund.

15 (4) The Fund shall be administered by the Secretary
16 of the Department of Economic Affairs. The Secretary
17 shall, not later than 30 days after the close of each
18 governmental fiscal year, submit a complete report of
19 the activities and condition of the Fund for the
20 fiscal year just closed to the President and the
21 Congress of the Federated States of Micronesia.

22 (5) The Public Auditor shall audit the Fund at such
23 times as the Public Auditor deems appropriate."

24 Section 54. Title 33 of the Code of the Federated States
25 of Micronesia is hereby amended by enacting a new subchapter 4

1 entitled "Enforcement of security interests" of new Chapter 10
2 entitled "The Secured Transactions Act."

3 Section 55. Title 33 of the Code of the Federated States
4 of Micronesia is hereby amended by enacting a new section 1047
5 to read as follows:

6 "Section 1047. Rights after default—General
7 provisions.

8 (1) After default a secured party has the rights
9 provided in this subchapter and those provided by
10 agreement of the parties.

11 (2) After default, a secured party may reduce a
12 claim to judgment, foreclose, or otherwise enforce the
13 claim, or security interest by any available judicial
14 procedure.

15 (3) After default, if the collateral is documents,
16 the secured party may proceed either as to the
17 documents or as to the goods they cover.

18 (4) A secured party in possession of collateral or
19 control of collateral has the rights and duties
20 provided in section 1008.

21 (5) Rights under this section are cumulative and may
22 be exercised simultaneously.

23 (6) Except as otherwise provided in this subchapter
24 with respect to an unknown debtor, after default, a
25 debtor and an obligor have the rights provided in this

1 subchapter and by agreement of the parties.

2 (7) If a secured party has reduced its claim to
3 judgment, the lien of any levy that may be made upon
4 the collateral by virtue of an execution based upon
5 the judgment relates back to the earliest of:

6 (a) the date of perfection of the security
7 interest in the collateral; or

8 (b) the date of filing a notice covering the
9 collateral.

10 (8) A secured party may purchase at any execution
11 sale or sale pursuant to judicial foreclosure upon
12 collateral and thereafter hold the collateral free of
13 any other requirements of this Act.

14 (9) This subchapter imposes no duties upon a secured
15 party that is a consignor or a buyer of accounts,
16 chattel paper, or other intangible property."

17 Section 56. Title 33 of the Code of the Federated States
18 of Micronesia is hereby amended by enacting a new section 1048
19 to read as follows:

20 "Section 1048. Procedure if security agreement covers
21 fixtures.

22 (1) Subject to subsection (2), if a security
23 agreement covers goods that are or become fixtures, a
24 secured party may proceed:

25 (a) under this subchapter; or

1 (b) in accordance with the rights with respect
2 to real property.

3 (2) Subject to the other provisions of this
4 subchapter, if a secured party holding a security
5 interest in fixtures has priority over all owners and
6 encumbrancers of the real property, the secured party,
7 after default, may remove the collateral from the real
8 property.

9 (3) A secured party that removes collateral shall
10 promptly reimburse any encumbrancer or owner of the
11 real property, other than the debtor, for the cost of
12 repair of any physical injury caused by the removal.
13 The secured party need not reimburse the encumbrancer
14 or owner for any diminution in value of the real
15 property caused by the absence of the goods removed or
16 by any necessity of replacing them. A person entitled
17 to reimbursement may refuse permission to remove until
18 the secured party gives adequate assurance for the
19 performance of the obligation to reimburse."

20 Section 57. Title 33 of the Code of the Federated States
21 of Micronesia is hereby amended by enacting a new section 1049
22 to read as follows:

23 "Section 1049. Unknown debtor or secondary obligor.
24 A secured party does not owe a duty based on its
25 status as secured party:

1 (1) to a person that is a debtor or obligor, unless
2 the secured party actually or constructively knows:

3 (a) that the person is a debtor or obligor;

4 (b) the identity of the person; and

5 (c) how to communicate with the person; or

6 (2) to a secured party or lien holder that has filed
7 a notice naming the person as a debtor, unless the
8 secured party actually or constructively knows:

9 (a) that the person is a debtor; and

10 (b) the identity of the person."

11 Section 58. Title 33 of the Code of the Federated States
12 of Micronesia is hereby amended by enacting a new section 1050
13 to read as follows:

14 "Section 1050. Collection and enforcement of debt or
15 obligation by secured party.

16 (1) If so agreed by the debtor, and in any event
17 after default, a secured party:

18 (a) may notify an account debtor or other
19 obligor to make payment or otherwise render
20 performance to or for the benefit of the secured
21 party;

22 (b) may take any proceeds to which the secured
23 party is entitled;

24 (c) may enforce the obligations of an account
25 debtor or other obligor and exercise the rights of the

1 debtor with respect to the obligation of the account
2 debtor or other obligor to make payment or otherwise
3 render performance to the debtor, and with respect to
4 any property that secures the obligations of the
5 account debtor or other obligor.

6 (2) If so agreed by the debtor, and in any event
7 after default:

8 (a) if a secured party holds a security
9 interest in a deposit account perfected by control
10 pursuant to section 1027 (1) (a), the secured party may
11 apply the balance of the deposit account to the
12 obligation secured by the deposit account; or

13 (b) if a secured party holds a security
14 interest in a deposit account perfected pursuant to
15 section 1027(1) (b) or (c), the secured party may
16 instruct the bank to pay the balance of the deposit
17 account to or for the benefit of the secured party.

18 (3) A secured party shall proceed in a commercially
19 reasonable manner if the secured party:

20 (a) undertakes to collect from or enforce an
21 obligation of an account debtor or other person
22 obligated on collateral; and

23 (b) is entitled to charge back uncollected
24 collateral or otherwise to full or limited recourse
25 against the debtor or a secondary obligor.

1 (4) A secured party may deduct from the collections
2 made pursuant to subsection (3) reasonable expenses of
3 collection and enforcement, including reasonable
4 attorney's fees and legal expenses incurred by the
5 secured party."

6 Section 59. Title 33 of the Code of the Federated States
7 of Micronesia is hereby amended by enacting a new section 1051
8 to read as follows:

9 "Section 1051. Application of proceeds of collection
10 or enforcement-liability for deficiency and right to
11 surplus.

12 (1) The following rules apply with respect to
13 proceeds from enforcement or collection under section
14 1050:

15 (a) a secured party shall apply or pay over for
16 application the cash proceeds of collection or
17 enforcement in the following order to:

18 (i) the reasonable expenses of collection
19 and enforcement and, to the extent provided for by
20 agreement and not prohibited by law, reasonable
21 attorney's fees and legal expenses incurred by the
22 secured party;

23 (ii) the satisfaction of obligations
24 secured by a superior security interest in or other
25 lien on the collateral subject to the security

1 interest under which the collection or enforcement is
2 made if the secured party receives an authenticated
3 demand for proceeds before distribution of the
4 proceeds is completed;

5 (iii) the satisfaction of obligations
6 secured by the security interest under which the
7 collection or enforcement is made; and

8 (iv) the satisfaction of obligations
9 secured by any subordinate security interest in or
10 other lien on the collateral subject to the security
11 interest under which the collection or enforcement is
12 made if the secured party receives an authenticated
13 demand for proceeds before distribution of the
14 proceeds is completed.

15 (b) if requested by a secured party, a holder
16 of a subordinate security interest or other lien shall
17 furnish reasonable proof of the interest or lien
18 within a reasonable time. Unless the holder complies,
19 the secured party need not comply with the holder's
20 demand.

21 (c) a secured party need not apply or pay over
22 for application noncash proceeds of collection and
23 enforcement unless the failure to do so would be
24 commercially unreasonable. A secured party that
25 applies or pays over for application noncash proceeds

1 shall do so in a commercially reasonable manner.

2 (d) a secured party shall account to and pay a
3 debtor for any surplus, and the obligor is liable for
4 any deficiency.

5 (2) If the underlying transaction is a sale of
6 accounts, chattel paper, payment intangibles, or
7 promissory notes, the debtor is not entitled to any
8 surplus, and the obligor is not liable for any
9 deficiency."

10 Section 60. Title 33 of the Code of the Federated States
11 of Micronesia is hereby amended by enacting a new section 1052
12 to read as follows:

13 "Section 1052. Secured party's right to take
14 possession after default.

15 (1) After default, a secured party:

16 (a) may take possession of the collateral; and

17 (b) without removal, may render equipment
18 unusable and dispose of collateral on a debtor's
19 premises.

20 (2) A secured party may proceed under subsection

21 (1):

22 (a) pursuant to judicial process; or

23 (b) without judicial process, if it proceeds
24 without breach of the peace.

25 (3) If so agreed, and in any event after default, a

1 secured party may require the debtor to assemble the
2 collateral and make it available to the secured party
3 at a place to be designated by the secured party which
4 is reasonably convenient to both parties."

5 Section 61. Title 33 of the Code of the Federated States
6 of Micronesia is hereby amended by enacting a new section 1053
7 to read as follows:

8 "Section 1053. Judicial enforcement of right to
9 possession--Pre-judgment orders.

10 (1) Upon default, a secured party, in connection
11 with any judicial proceeding to enforce rights under
12 section 1052 of this title, shall be entitled to an
13 expedited hearing upon application for a pre-judgment
14 order granting the secured party possession of the
15 collateral. Such application shall include a statement
16 by the secured party, under oath, verifying the
17 existence of the security agreement attached to the
18 application and identifying at least one event of
19 default by the debtor under the security agreement.

20 (2) The secured party shall serve a copy of the
21 application upon the debtor, including a copy of all
22 documents and evidence submitted to the court in
23 support thereof. The court shall schedule the hearing
24 under subsection (1) at the earliest available time,
25 provided that no hearing shall be conducted without

1 service on the debtor of the application and
2 reasonable notice of the hearing unless (i) the court
3 finds that the secured party has made reasonable
4 efforts to make service on the debtor and that such
5 efforts have not been successful; or (ii) the court
6 finds that the hearing should be conducted without
7 delay to prevent damage to the collateral, substantial
8 loss of the collateral's value or the secured party's
9 right to possession.

10 (3) If the court finds, after hearing, that it is
11 probable that a default has occurred under the
12 security agreement and that the secured party has a
13 right to take possession of the collateral, the court
14 shall enter a pre-judgment order granting the secured
15 party possession of the collateral pending final
16 judgment or further order of the court. The order may
17 direct the debtor to take such action as the court
18 deems necessary and appropriate so that the secured
19 party may take possession.

20 (4) If the court enters an order under subsection
21 (3) granting the secured party pre-judgment possession
22 of the collateral, it shall also, upon application by
23 the secured party, enter an order permitting the
24 prejudgment sale or other disposition of the
25 collateral under section 1054 of this title unless the

1 collateral is rare or unique, or otherwise of such a
2 nature that it is unlikely to be replaceable. In the
3 event of a disposition under this subsection, the
4 secured party shall retain possession of the proceeds
5 of the disposition pending final judgment or further
6 order of the court.

7 (5) A secured party who takes possession of
8 collateral under an order issued pursuant to
9 subsection (3) hereof shall hold such collateral
10 subject to the rights and duties set forth in section
11 1008 of this title, pending disposition under
12 subsection (4) hereof, final judgment or further order
13 of the court.

14 (6) Nothing contained herein shall affect the right
15 of a secured party to proceed under sections 1405 and
16 1406 of title 6 of this Code at any time with respect
17 to collateral or to bring any civil action for
18 foreclosure in such manner as may be authorized under
19 any other law.

20 Section 62. Title 33 of the Code of the Federated States
21 of Micronesia is hereby amended by enacting a new section 1054
22 to read as follows:

23 "Section 1054. Disposition of collateral after
24 default.

25 (1) After default, a secured party may sell, lease,

1 license, or otherwise dispose of any or all of the
2 collateral in its present condition or following any
3 commercially reasonable preparation or processing.

4 (2) Every aspect of a disposition of collateral,
5 including the method, manner, time, place, and other
6 terms, must be commercially reasonable. If
7 commercially reasonable, a secured party may dispose
8 of collateral by public or private proceedings, by one
9 or more contracts, as a unit or in parcels, and at any
10 time and place and on any terms.

11 (3) A secured party may purchase collateral:

12 (a) at a public disposition; or

13 (b) at a private disposition only if the
14 collateral is of a kind that is customarily sold on a
15 recognized market or the subject of widely distributed
16 standard price quotations.

17 (4) A contract for sale, lease, license, or other
18 disposition includes the warranties relating to title,
19 possession, quiet enjoyment, and the like which by
20 operation of law accompany a voluntary disposition of
21 property of the kind subject to the contract.

22 (5) A secured party may disclaim or modify
23 warranties under subsection (4):

24 (a) in a manner that would be effective to
25 disclaim or modify the warranties in a voluntary

1 disposition of property of the kind subject to the
2 contract of disposition; or

3 (b) by including in the contract for
4 disposition an express disclaimer or modification of
5 the warranties.

6 (6) A contract is sufficient to disclaim warranties
7 under subsection (5) if it indicates "There is no
8 warranty relating to title, possession, quiet
9 enjoyment, or the like in this disposition" or uses
10 words of similar import."

11 Section 63. Title 33 of the Code of the Federated States
12 of Micronesia is hereby amended by enacting a new section 1055
13 to read as follows:

14 "Section 1055. Notification before disposition of
15 collateral.

16 (1) In this section, "notification date" means the
17 earlier of the dates on which:

18 (a) a secured party sends to the debtor and any
19 secondary obligor written notification of disposition;
20 or

21 (b) the debtor and any secondary obligor waive
22 the right to notification.

23 (2) Except as otherwise provided in subsection (4),
24 a secured party that disposes of collateral under
25 section 1054 shall send to the persons specified in

1 subsection (3) reasonable notification of disposition.
2 This subsection does not apply if the collateral is
3 perishable or threatens to decline speedily in value
4 or is of a type customarily sold on a recognized
5 market.

6 (3) To comply with subsection (2), the secured party
7 shall send notification of disposition to:

8 (a) the debtor;

9 (b) any secondary obligor; and

10 (c) if the collateral is other than consumer
11 goods:

12 (i) any other person from which the
13 secured party has received, before the notification
14 date, notification of a claim of an interest in the
15 collateral; and

16 (ii) any other secured party or lien holder
17 that, ten days before the notification date, held a
18 security interest in or other lien on the collateral
19 perfected by the filing of a notice that identified
20 the collateral and was indexed under the debtor's name
21 as of that date.

22 (4) A secured party complies with the requirement
23 for notification prescribed by subsection (3) (c) (ii)
24 if:

25 (a) not later than twenty days or earlier than

1 thirty days before the notification date, the secured
2 party requests, in a commercially reasonable manner,
3 information concerning notices indexed under the
4 debtor's name in the filing office; and

5 (b) before the notification date, the secured
6 party:

7 (i) did not receive a response to the
8 request for information; or

9 (ii) received a response to the request for
10 information and sent notification of disposition to
11 each secured party or other lien holder named in that
12 response whose notice covered the collateral."

13 Section 64. Title 33 of the Code of the Federated States
14 of Micronesia is hereby amended by enacting a new section 1056
15 to read as follows:

16 "Section 1056. Timeliness of notification before
17 disposition of collateral.

18 (1) Except as otherwise provided in subsection (2),
19 whether a notification is sent within a reasonable
20 time is a question of fact.

21 (2) In a transaction other than a consumer
22 transaction, a notification of disposition sent after
23 default and ten days or more before the earliest time
24 of disposition set forth in the notification is sent
25 within a reasonable time before the disposition."

1 Section 65. Title 33 of the Code of the Federated States
2 of Micronesia is hereby amended by enacting a new section 1057
3 to read as follows:

4 "Section 1057. Contents of notification before
5 disposition of collateral--general. Except in a
6 consumer-goods transaction, the following rules apply:

7 (1) The contents of a notification of disposition
8 are sufficient if the notification:

9 (a) describes the debtor and the secured party;

10 (b) describes the collateral that is the
11 subject of the intended disposition;

12 (c) states the method of intended disposition;

13 (d) states that the debtor is entitled to an
14 accounting of the unpaid indebtedness and states the
15 charge, if any, for an accounting; and

16 (e) states the time and place of a public
17 disposition or the time after which any other
18 disposition is to be made.

19 (2) Whether the contents of a notification that
20 lacks any of the information specified in subsection
21 (1) are nevertheless sufficient is a question of
22 fact."

23 Section 66. Title 33 of the Code of the Federated States
24 of Micronesia is hereby amended by enacting a new section 1058
25 to read as follows:

1 "Section 1058. Application of proceeds of
2 disposition--liability for deficiency and right to
3 surplus.

4 (1) A secured party shall apply or pay over for
5 application the cash proceeds of disposition under
6 section 1054 in the following order to:

7 (a) the reasonable expenses of retaking,
8 holding, preparing for disposition, processing, and
9 disposing, and, to the extent provided for by
10 agreement and not prohibited by law, reasonable
11 attorney's fees and legal expenses incurred by the
12 secured party;

13 (b) the satisfaction of obligations secured by
14 the security interest under which the disposition is
15 made;

16 (c) the satisfaction of obligations secured by
17 any subordinate security interest in or other
18 subordinate lien on the collateral if:

19 (i) the secured party receives from the
20 holder of the subordinate security interest or other
21 lien an authenticated demand for proceeds before
22 distribution of the proceeds is completed; and

23 (ii) in a case in which a consignor has an
24 interest in the collateral, the subordinate security
25 interest or other lien is senior to the interest of

1 the consignor; and

2 (d) a secured party that is a consignor of the
3 collateral if the secured party receives from the
4 consignor an authenticated demand for proceeds before
5 distribution of the proceeds is completed.

6 (2) If requested by a secured party, a holder of a
7 subordinate security interest or other lien shall
8 furnish reasonable proof of the interest or lien
9 within a reasonable time. Unless the holder does so,
10 the secured party need not comply with the holder's
11 demand under subsection (1), paragraph (c).

12 (3) A secured party need not apply or pay over for
13 application noncash proceeds of disposition under
14 section 1054 unless the failure to do so would be
15 commercially unreasonable. A secured party that
16 applies or pays over for application noncash proceeds
17 shall do so in a commercially reasonable manner.

18 (4) If the security interest under which a
19 disposition is made secures payment or performance of
20 an obligation, after making the payments and
21 applications required by subsection (1) and permitted
22 by subsection (3):

23 (a) unless subsection (1), paragraph (d),
24 requires the secured party to apply or pay over cash
25 proceeds to a consignor, the secured party shall

1 account to and pay a debtor for any surplus; and

2 (b) the obligor is liable for any deficiency.

3 (5) If the underlying transaction is a sale of
4 accounts, chattel paper, or other intangible property:

5 (a) the debtor is not entitled to any surplus;
6 and

7 (b) the obligor is not liable for any
8 deficiency.

9 (6) The surplus or deficiency following a
10 disposition in conformance with this subchapter shall
11 be calculated based on the amount of proceeds actually
12 received from the disposition, except that if:

13 (a) the transferee in the disposition is the
14 secured party, a person related to the secured party,
15 or a secondary obligor; and

16 (b) the amount of proceeds of the disposition
17 is significantly below the range of proceeds that a
18 complying disposition to a person other than the
19 secured party, a person related to the secured party,
20 or a secondary obligor would have brought, the surplus
21 or deficiency shall be calculated based upon the
22 proceeds that would have been received through a
23 disposition to a transferee other than the secured
24 party, a person related to the secured party or a
25 secondary obligor.

1 (7) A secured party that receives cash proceeds of a
2 disposition in good faith and without actual or
3 constructive knowledge that the receipt violates the
4 rights of the holder of another security interest or
5 lien:

6 (a) takes the cash proceeds free of the
7 security interest or other lien;

8 (b) is not obligated to apply the proceeds of
9 the disposition to the satisfaction of obligations
10 secured by the security interest or other lien; and

11 (c) is not obligated to account to or pay the
12 holder of the security interest or other lien for any
13 surplus."

14 Section 67. Title 33 of the Code of the Federated States
15 of Micronesia is hereby amended by enacting a new section 1059
16 to read as follows:

17 "Section 1059. Rights of transferee of collateral.

18 (1) A secured party's disposition of collateral
19 after default:

20 (a) transfers to a transferee for value all of
21 the debtor's rights in the collateral;

22 (b) discharges the security interest under
23 which the disposition is made; and

24 (c) discharges any subordinate security
25 interest or other subordinate lien.

1 (2) A transferee that acts in good faith takes free
2 of the rights and interests described in subsection
3 (1), even if the secured party fails to comply with
4 this Act or the requirements of any judicial
5 proceeding.

6 (3) If a transferee does not take free of the rights
7 and interests described in subsection (1), the
8 transferee takes the collateral subject to:

9 (a) the debtor's rights in the collateral;

10 (b) the security interest under which the
11 disposition is made; and

12 (c) any other security interest or other lien."

13 Section 68. Title 33 of the Code of the Federated States
14 of Micronesia is hereby amended by enacting a new section 1060
15 to read as follows:

16 "Section 1060. Rights and duties of certain secondary
17 obligors.

18 (1) A secondary obligor acquires the rights and
19 becomes obligated to perform the duties of the secured
20 party after the secondary obligor:

21 (a) receives an assignment of a secured
22 obligation from the secured party;

23 (b) receives a transfer of collateral from the
24 secured party and agrees to accept the rights and
25 assume the duties of the secured party; or

1 (c) is subrogated to the rights of a secured
2 party with respect to collateral.

3 (2) An assignment, transfer, or subrogation
4 described in subsection (1):

5 (a) is not a disposition of collateral under
6 section 1054; and

7 (b) relieves the secured party of further
8 duties under this Act."

9 Section 69. Title 33 of the Code of the Federated States
10 of Micronesia is hereby amended by enacting a new section 1061
11 to read as follows:

12 "Section 1061. Transfer of record or legal title.

13 (1) In this section, 'transfer statement' means a
14 writing signed by a secured party stating:

15 (a) that the debtor has defaulted in connection
16 with an obligation secured by specified collateral;

17 (b) that the secured party has exercised its
18 post-default remedies with respect to the collateral;

19 (c) that, by reason of the exercise, a
20 transferee has acquired the rights of the debtor in
21 the collateral; and

22 (d) the name and mailing address of the secured
23 party, debtor, and transferee.

24 (2) A transfer statement entitles the transferee to
25 the transfer of record of all rights of the debtor in

1 the collateral specified in the statement in any
2 official filing, recording, registration, or
3 certificate-of-title system covering the collateral.
4 If a transfer statement is presented with the
5 applicable fee and request form to the official or
6 office responsible for maintaining the system, the
7 official or office shall:

8 (a) accept the transfer statement;

9 (b) promptly amend its records to reflect the
10 transfer; and

11 (c) if applicable, issue a new appropriate
12 certificate of title in the name of the transferee.

13 (3) A transfer of the record or legal title to
14 collateral to a secured party under subsection (2) or
15 otherwise is not of itself a disposition of collateral
16 under this Act and does not of itself relieve the
17 secured party of its duties under this Act."

18 Section 70. Title 33 of the Code of the Federated States
19 of Micronesia is hereby amended by enacting a new section 1062
20 to read as follows:

21 "Section 1062. Acceptance of collateral in full or
22 partial satisfaction of obligation--compulsory
23 disposition of collateral.

24 (1) After default, a secured party may propose to
25 accept collateral in full or partial satisfaction of

1 the obligation secured, provided that the secured
2 party shall dispose of the collateral under section
3 1054 if more than sixty percent of the debt secured by
4 the collateral has been paid at the time of default.
5 Notice of the proposal to accept the collateral shall
6 be provided to the debtor and each person described in
7 section 1063 of this subchapter. The notice shall set
8 forth the terms of the proposal, advise the recipient
9 of the right to object as set forth in subsection (2)
10 hereof, and designate an address where notice of
11 objection may be provided during regular business
12 hours.

13 (2) If any person entitled to notice of the proposal
14 under subsection (1) hereof provides to the secured
15 party notice of objection to the proposal within
16 twenty days after being given notice under subsection
17 (1), the security party shall dispose of the
18 collateral under section 1054 of this title.

19 (3) If the secured party receives no notice within
20 the period provided in subsection (2), the secured
21 party shall be deemed, at the end of such period, to
22 have accepted the collateral according to the terms of
23 the proposal.

24 (4) Any party with an interest in the collateral may
25 agree in writing to a proposal for a secured party's

1 acceptance of the collateral and such agreement shall
2 be deemed a waiver of the rights to notice and to
3 object provided in subsections (1) and (2) except as
4 may be expressly stated in the agreement."

5 Section 71. Title 33 of the Code of the Federated States
6 of Micronesia is hereby amended by enacting a new section 1063
7 to read as follows:

8 "Section 1063. Notification of proposal to accept
9 collateral.

10 (1) A secured party that desires to accept
11 collateral in full or partial satisfaction of the
12 obligation it secures shall send its proposal to:

13 (a) any person from which the secured party has
14 received, before notice of the proposal under section
15 1062(1) has been given to the debtor, written
16 notification of a claim of an interest in the
17 collateral;

18 (b) any other secured party or lien holder
19 that, ten days before notice of the proposal under
20 section 1062(1) has been given to the debtor, held a
21 security interest in or other lien on the collateral
22 perfected by the filing of a notice that:

23 (i) identified the collateral;

24 (ii) was indexed under the debtor's name as
25 of that date.

1 (c) any other secured party that, ten days
2 before notice of the proposal under section 1062(1)
3 has been given to the debtor, held a security interest
4 in the collateral perfected by compliance with a
5 statute or treaty.

6 (2) A secured party that desires to accept
7 collateral in partial satisfaction of the obligation
8 it secures shall send its proposal to any secondary
9 obligor in addition to the persons described in
10 subsection (1)."

11 Section 72. Title 33 of the Code of the Federated States
12 of Micronesia is hereby amended by enacting a new section 1064
13 to read as follows:

14 "Section 1064. Effect of acceptance of collateral.

15 (1) A secured party's acceptance of collateral in
16 full or partial satisfaction of the obligation it
17 secures:

18 (a) discharges the obligation to the extent
19 specified in the proposal;

20 (b) transfers to the secured party all of a
21 debtor's rights in the collateral;

22 (c) discharges the security interest that is
23 the subject of the debtor's consent and any
24 subordinate security interest or other subordinate
25 lien; and

1 (d) terminates any other subordinate interest.

2 (2) A subordinate interest is discharged or
3 terminated under subsection (1), even if the secured
4 party fails to comply with this Act."

5 Section 73. Title 33 of the Code of the Federated States
6 of Micronesia is hereby amended by enacting a new section 1065
7 to read as follows:

8 "Section 1065. Right to redeem collateral.

9 (1) A debtor, any secondary obligor, or any other
10 secured party or lien holder may redeem collateral.

11 (2) To redeem collateral, a person shall tender:

12 (a) fulfillment of all obligations secured by
13 the collateral; and

14 (b) reasonable expenses and attorney's fees.

15 (3) A redemption may occur at any time before a
16 secured party:

17 (a) has collected collateral under section
18 1050;

19 (b) has disposed of collateral or entered into
20 a contract for its disposition under section 1054; or

21 (c) has accepted collateral in full or partial
22 satisfaction of the obligation it secures under
23 section 1064."

24 Section 74. Title 33 of the Code of the Federated States
25 of Micronesia is hereby amended by enacting a new section 1066

1 to read as follows:

2 "Section 1066. Waiver.

3 (1) A debtor or secondary obligor may waive the
4 right to notification of disposition of collateral
5 under section 1055 only by an agreement to that effect
6 entered into and executed after default.

7 (2) A debtor may waive the right to require
8 disposition of collateral under section 1062,
9 subsection (1), only by an agreement to that effect
10 entered into and executed after default.

11 (3) A debtor or secondary obligor may waive the
12 right to redeem collateral under section 1065 only by
13 an agreement to that effect entered into and executed
14 after default."

15 Section 75. Title 33 of the Code of the Federated States
16 of Micronesia is hereby amended by enacting a new section 1067
17 to read as follows:

18 "Section 1067. Remedies for secured party's failure
19 to comply with Act.

20 (1) If it is established that a secured party is not
21 proceeding in accordance with this Act, a court may
22 order or restrain collection, enforcement, or
23 disposition of collateral on appropriate terms and
24 conditions.

25 (2) Subject to subsections (3), a person is liable

1 for damages in the amount of any loss caused by a
2 failure to comply with this Act. Loss caused by a
3 failure to comply may include loss resulting from the
4 debtor's inability to obtain, or increased costs of,
5 alternative financing.

6 (3) A debtor whose deficiency is eliminated under
7 section 1068 may recover damages for the loss of any
8 surplus. However, a debtor or secondary obligor whose
9 deficiency is eliminated or reduced under section 1068
10 may not otherwise recover under subsection (2) for
11 noncompliance with the provisions of this part
12 relating to collection, enforcement, disposition, or
13 acceptance.

14 (4) In addition to damages recoverable under
15 subsection (2), a person named as a debtor in a filed
16 record may recover five hundred dollars in each case
17 from a person that files a record that the person is
18 not entitled to file under subchapter 3 of this Act,
19 and an additional five hundred dollars in each case
20 where failure is part of a pattern, or consistent with
21 a practice, of noncompliance."

22 Section 76. Title 33 of the Code of the Federated States
23 of Micronesia is hereby amended by enacting a new section 1068
24 to read as follows:

25 "Section 1068. Action in which deficiency or surplus

1 is in issue. In an action arising from a transaction,
2 other than a consumer transaction, in which the amount
3 of a deficiency or surplus is in issue, the following
4 rules apply:

5 (1) a secured party need not prove compliance with
6 the provisions of this part relating to collection,
7 enforcement, disposition, or acceptance unless the
8 debtor or a secondary obligor places the secured
9 party's compliance in issue.

10 (2) if the secured party's compliance is placed in
11 issue, the secured party has the burden of
12 establishing that the collection, enforcement,
13 disposition, or acceptance was conducted in accordance
14 with this part.

15 (3) If a secured party fails to prove that the
16 collection, enforcement, disposition, or acceptance
17 was conducted in accordance with the provisions of
18 this part relating to collection, enforcement,
19 disposition, or acceptance, the liability of a debtor
20 or a secondary obligor for a deficiency is limited to
21 an amount by which the sum of the secured obligation,
22 expenses, and attorney's fees exceeds the greater of:

23 (a) the proceeds of the collection,
24 enforcement, disposition, or acceptance; or

25 (b) the amount of proceeds that would have been

1 realized had the noncomplying secured party proceeded
2 in accordance with the provisions of this part
3 relating to collection, enforcement, disposition, or
4 acceptance.

5 (4) for purposes of subsection (3), paragraph (2),
6 the amount of proceeds that would have been realized
7 is equal to the sum of the secured obligation,
8 expenses, and attorney's fees unless the secured party
9 proves that the amount is less than that sum.

10 (5) if a deficiency or surplus is calculated under
11 section 1058, subsection (6), the debtor or obligor
12 has the burden of establishing that the amount of
13 proceeds of the disposition is significantly below the
14 range of prices that a complying disposition to a
15 person other than the secured party, a person related
16 to the secured party, or a secondary obligor would
17 have brought."

18 Section 77. Title 33 of the Code of the Federated States
19 of Micronesia is hereby amended by enacting a new section 1069
20 to read as follows:

21 "Section 1069. Determination of whether conduct was
22 commercially reasonable.

23 (1) The fact that a greater amount could have been
24 obtained by a collection, enforcement, disposition, or
25 acceptance at a different time or in a different

1 method from that selected by the secured party is not
2 of itself sufficient to preclude the secured party
3 from establishing that the collection, enforcement,
4 disposition, or acceptance was made in a commercially
5 reasonable manner.

6 (2) A disposition of collateral is made in a
7 commercially reasonable manner if the disposition is
8 made:

9 (a) in the usual manner on any recognized
10 market;

11 (b) at the price current in any recognized
12 market at the time of the disposition; or

13 (c) otherwise in conformity with reasonable
14 commercial practices among dealers in the type of
15 property that was the subject of the disposition.

16 (3) A collection, enforcement, disposition, or
17 acceptance is commercially reasonable if it has been
18 approved:

19 (a) in a judicial proceeding or

20 (b) by an assignee for the benefit of
21 creditors.

22 (4) Approval under subsection (3) need not be
23 obtained, and lack of approval does not mean that the
24 collection, enforcement, disposition, or acceptance is
25 not commercially reasonable."

1 Section 78. Title 33 of the Code of the Federated States
2 of Micronesia is hereby amended by enacting a new subchapter 5
3 entitled "Transition provisions" of new Chapter 10 entitled "The
4 Secured Transactions Act."

5 Section 79. Title 33 of the Code of the Federated States
6 of Micronesia is hereby amended by enacting a new section 1070
7 to read as follows:

8 "Section 1070. Effective date of this Act. This Act
9 shall come into effect upon the date certified by the
10 Department to the President of the Federated States of
11 Micronesia as the date on which the filing office is
12 prepared to perform the duties required in subchapter
13 3 of this Act."

14 Section 80. Title 33 of the Code of the Federated States
15 of Micronesia is hereby amended by enacting a new section 1071
16 to read as follows:

17 "Section 1071. Transactions concluded prior to
18 effective date of this Act. This section applies to
19 transactions concluded prior to the effective date of
20 this Act that would be subject to this Act if this Act
21 had been in effect at the time the transactions were
22 concluded. In this section, such a transaction is
23 referred to as a "prior transaction."

24 (1) The validity, effect and enforcement of a prior
25 transaction shall be determined by reference to the

1 law in effect when the agreement was concluded, except
2 as provided otherwise in this section.

3 (2) The provisions of this Act on filing, priority,
4 and enforcement apply to a property interest created
5 by a prior transaction to the extent the interest in
6 the prior transaction conflicts with a security
7 interest created under this Act.

8 (3) A secured party under a prior transaction may
9 file a notice of the property interest created by the
10 prior transaction within sixty days of the effective
11 date of this Act, in the same manner as provided for a
12 notice of a security interest. The secured party
13 shall deliver a copy of the notice to the debtor. If
14 a notice establishes priority in a property right
15 created in collateral under a prior transaction, the
16 priority of the property right over a perfected
17 security interest under this Act shall be measured
18 from the effective date of this Act."

19 Section 81. Section 607 of title 53 of the Code of the
20 Federated States of Micronesia is hereby amended to read as
21 follows:

22 "Section 607. Lien for taxes. All taxes, including
23 penalties and interest accrued thereon, imposed or
24 authorized under this subtitle shall be a lien upon
25 any property of the employer, having priority over all

1 other claims and liens including liens for other
2 taxes, except as provided in the Secured Transactions
3 Act, and may be collected by levy upon such property
4 in the same manner as the levy of an execution."

5 Section 82. Section 135 of title 54 of the Code of the
6 Federated States of Micronesia is hereby amended to read as
7 follows:

8 "Section 135. Employer's responsibility for withheld
9 taxes.

10 (1) All taxes withheld by any employer under section
11 131 of this chapter shall be held in trust by such
12 employer for the Government and for payment to the
13 Secretary in the manner and at the time required by
14 this chapter.

15 (2) If any employer shall fail, neglect, or refuse
16 to deduct and withhold from the compensation paid to
17 an employee, or to pay over, the amount of the tax
18 imposed by this chapter, such employer shall,
19 moreover, be liable to pay to the Government the
20 amount of the tax, which amount shall (whether or not
21 tax withholdings constituting trust funds have been
22 commingled with said employer's assets) form a lien on
23 the employer's entire assets, having priority over all
24 other claims and liens, except as provided by the
25 Secured Transactions Act.

1 (3) Any employer may recover from an employee any
2 amount which he should have withheld but did not
3 withhold from such employee's wages and salaries, if
4 he has been required to pay and has paid the amount to
5 the Government out of his own funds pursuant to this
6 section."

7 Section 83. Section 152 of title 54 of the Code of the
8 Federated States of Micronesia is hereby amended to read as
9 follows:

10 "Section 152. Tax assessment on failure to file or
11 pay.

12 (1) Upon the failure of any person, business, or
13 employer to make and file a return required by this
14 chapter within the time and in the manner and form
15 prescribed, or upon failure to pay any amount due, the
16 Secretary may notify such person, business, or
17 employer of such failure and demand that a return be
18 made and filed and the tax paid as required by this
19 chapter.

20 (2) If such person, business, or employer upon
21 notice and demand by the Secretary fails or refuses
22 within 30 days after receipt of said notice and demand
23 to make and file a return and pay the tax required by
24 this chapter, the secretary may make a return for such
25 person, business, or employer from any information and

1 records obtainable, may file a notice of lien pursuant
2 to the Secured Transactions Act, and may levy and
3 assess the appropriate amount of tax.

4 (3) Such assessment shall be presumed to be correct
5 unless and until it is proved incorrect by the person,
6 business, or employer disputing the amount of the
7 assessment."

8 Section 84. Section 224 of title 54 of the Code of the
9 Federated States of Micronesia is hereby amended to read as
10 follows:

11 "Section 224. Lien on imported goods. All duties
12 imposed on goods under this chapter, together with any
13 penalties and interest thereon, shall constitute a
14 lien on those goods having priority over all other
15 claims and liens, except as provided in the Secured
16 Transactions Act, and may be collected by levy upon
17 those goods in the same manner as the levy of an
18 execution."

19 Section 85. Section 226 of title 54 of the Code of the
20 Federated States of Micronesia is hereby amended to read as
21 follows:

22 "Section 226. Lien on importer's property. The
23 personal liability of an importer provided for in this
24 chapter shall be secured by a lien on any personal
25 property of that importer, having priority over all

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/s/ Joseph J. Urusemal
Joseph J. Urusemal
President
Federated States of Micronesia