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A BILL FOR AN ACT

To amend chapter 9 of title 33 of the Code of the Federated States of Micronesia, regarding secured transactions, by repealing subchapters I and II thereof, and by adding new subchapters I, II, III, IV, and V, and for other purposes.

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

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2 Code of the Federated States of Micronesia are hereby repealed in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

4 Section 2. Chapter 9 of title 33 of the Code of the Federated
5 States of Micronesia is hereby amended by adding a new subchapter I,
6 entitled "Short Title, Applicability and Definitions," by adding a
7 new subchapter II, entitled "Validity of Security Agreement and
8 Rights of Parties Thereto," by adding a new subchapter III, entitled
9 "Rights of Third Parties; Perfected and Unperfected Security
10 Interests; Rules of Priority," by adding a new subchapter IV,
11 entitled "Filing," and by adding a new subchapter V, entitled
12 "Default."

13 Section 3. Chapter 9 of title 33 of the Code of the Federated
14 States of Micronesia is hereby amended by adding a new section 901
15 of subchapter I to read as follows:

16 "Section 901. Short title. This chapter shall be known
17 and may be cited as the 'Secured Transactions Code of 1991.'"

18 Section 4. Chapter 9 of title 33 of the Code of the Federated
19 States of Micronesia is hereby amended by adding a new section 902
20 of subchapter I to read as follows:

21 "Section 902. Policy and subject matter of chapter.

22 (1) Except as otherwise provided in section 904 on
23 excluded transactions, this chapter applies:

24 (a) to any transaction (regardless of its form)
25 which is intended to create a security interest in personal

1 property or fixtures including goods, documents,
2 instruments, general intangibles, chattel paper or
3 accounts; and also

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

5 (2) This chapter applies to security interests
6 created by contract including pledge, assignment, chattel
7 mortgage, chattel trust, trust deed, factor's lien,
8 equipment trust, conditional sale, trust receipt, other
9 lien or title retention contract and lease or consignment
10 intended as security. This chapter does not apply to
11 statutory liens except as provided in section 930.

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

16 Section 5. Chapter 9 of title 33 of the Code of the Federated
17 States of Micronesia is hereby amended by adding a new section 904
18 of subchapter I to read as follows:

19 "Section 904. Transactions excluded from chapter. This
20 chapter does not apply:

21 (1) to a security interest subject to any statute of
22 the Federated States of Micronesia, to the extent that such
23 statute governs the rights of parties to and third parties
24 affected by transactions in particular types of property; or

25 (2) to a landlord's lien; or

- 1 (3) to a lien given by statute or other rule of law
2 for services or materials except as provided in section
3 930 on priority of such liens; or
- 4 (4) to a transfer of a claim for wages, salary or
5 other compensation of an employee; or
- 6 (5) to a transfer by a government or governmental
7 subdivision or agency; or
- 8 (6) to a sale of accounts or chattel paper as part of
9 a sale of the business out of which they arose, or an
10 assignment of accounts or chattel paper which is for the
11 purpose of collection only, or a transfer of a right to
12 payment under a contract to an assignee who is also to do
13 the performance under the contract or a transfer of a
14 single account to an assignee in whole or partial
15 satisfaction of a preexisting indebtedness; or
- 16 (7) to a transfer of an interest in or claim in or
17 under any policy of insurance, except as provided with
18 respect to proceeds (section 926) and priorities in
19 proceeds (section 932); or
- 20 (8) to a right represented by a judgment (other than
21 a judgment taken on a right to payment which was
22 collateral); or
- 23 (9) to any right of setoff; or
- 24 (10) except to the extent that provision is made for
25 fixtures in section 933, to the creation or transfer of an

1 interest in or lien on real estate, including a lease or
2 rents thereunder; or

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

5 (12) to a transfer of an interest in any deposit
6 account (subsection (1) of section 905), except as
7 provided with respect to proceeds (section 926) and
8 priorities in proceeds (section 932)."

9 Section 6. Chapter 9 of title 33 of the Code of the Federated
10 States of Micronesia is hereby amended by adding a new section 905
11 of subchapter I to read as follows:

12 "Section 905. Definitions.

13 (1) In this chapter unless the context otherwise
14 requires:

15 (a) 'Account' means any right to payment for
16 goods sold or leased or for services rendered which is not
17 evidenced by an instrument or chattel paper, whether or
18 not it has been earned by performance;

19 (b) 'Account debtor' means the person who is
20 obligated on an account, chattel paper or general
21 intangible;

22 (c) 'Chattel paper' means a writing or writings
23 which evidence both a monetary obligation and a security
24 interest in or a lease of specific goods, but a charter or
25 other contract involving the use or hire of a vessel is not

1 chattel paper. When a transaction is evidenced both by
2 such a security agreement or a lease and by an instrument
3 or a series of instruments, the group of writings taken
4 together constitutes chattel paper;

5 (d) 'Collateral' means the property subject to a
6 security interest, and includes accounts and chattel paper
7 which have been sold;

8 (e) 'Debtor' means the person who owes payment
9 or other performance of the obligation secured, whether or
10 not the person owns or has rights in the collateral, and
11 includes the seller of accounts or chattel paper. Where
12 the debtor and the owner of the collateral are not the same
13 person, the term 'debtor' means the owner of the collateral
14 in any provision of this chapter dealing with the
15 collateral, the obligor in any provision dealing with the
16 obligation, and may include both where the context so
17 requires;

18 (f) 'Deposit account' means a demand, time,
19 savings, passbook or like account maintained with a bank,
20 savings and loan association, credit union or like
21 organization, other than an account evidenced by a
22 certificate of deposit;

23 (g) 'Document' means document of title and
24 includes bill of lading, dock warrant, dock receipt,
25 warehouse receipt or order for the delivery of goods, and

1 also any other document which in the regular course of
2 business or financing is treated as adequately evidencing
3 that the person in possession of it is entitled to receive,
4 hold and dispose of the document and the goods it covers;
5 to be a document of title a document must purport to be
6 issued by or addressed to a bailee and purport to cover
7 goods in the bailee's possession which are either
8 identified or are fungible portions of an identified mass;

9 (h) 'Encumbrance' includes real estate mortgages
10 and other liens on real estate and all other rights in real
11 estate that are not ownership interests;

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

19 (j) 'Goods' includes all things which are
20 movable at the time the security interest attaches or which
21 are fixtures (section 933), but does not include money,
22 documents, instruments, accounts, chattel paper, general
23 intangibles, or minerals or the like (including oil and
24 gas) before extraction. 'Goods' also includes standing
25 timber which is to be cut and removed under a conveyance or

1 contract for sale, the unborn young of animals, and growing
2 crops;

3 (k) 'Instrument' means a negotiable instrument,
4 or a certificated security or any other writing which
5 evidences a right to the payment of money and is not itself
6 a security agreement or lease and is of a type which is in
7 ordinary course of business transferred by delivery with
8 any necessary indorsement or assignment;

9 (l) 'Mortgage' means a consensual interest
10 created by a real estate mortgage, a trust deed on real
11 estate, or the like;

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

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

16 (ii) taken by a person who by making
17 advances or incurring an obligation gives value to enable
18 the debtor to acquire rights in or the use of collateral if
19 such value is in fact so used;

20 (n) An advance is made 'pursuant to commitment'
21 if the secured party has bound himself or herself to make
22 it, whether or not a subsequent event of default or other
23 event not within the party's control has relieved or may
24 relieve such party from his or her obligation;

25 (o) 'Security agreement' means an agreement

1 which creates or provides for a security interest;

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

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

14 Section 7. Chapter 9 of title 33 of the Code of the Federated
15 States of Micronesia is hereby amended by adding a new section 906 of
16 subchapter I to read as follows:

17 "Section 906. When after-acquired collateral is not
18 security for antecedent debt. Where a secured party makes
19 an advance, incurs an obligation, releases a perfected
20 security interest, or otherwise gives new value which is to
21 be secured in whole or in part by after-acquired property
22 such party's security interest in the after-acquired
23 collateral shall be deemed to be taken for new value and
24 not as security for an antecedent debt if the debtor
25 acquires rights in such collateral either in the ordinary

1 course of business or under a contract of purchase made
2 pursuant to the security agreement within a reasonable time
3 after new value is given."

4 Section 8. Chapter 9 of title 33 of the Code of the Federated
5 States of Micronesia is hereby amended by adding a new section 907
6 of subchapter I to read as follows:

7 "Section 907. Classification of goods: 'consumer goods';
8 'equipment'; 'farm products'; 'inventory'. Goods are:

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

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

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

25 (4) 'inventory' if they are held by a person who

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

6 Section 9. Chapter 9 of title 33 of the Code of the Federated
7 States of Micronesia is hereby amended by adding a new section 908
8 of subchapter I to read as follows:

9 "Section 908. Sufficiency of description. For the
10 purposes of this chapter any description of personal
11 property or real estate is sufficient whether or not it is
12 specific if it reasonably identifies what is described."

13 Section 10. Chapter 9 of title 33 of the Code of the Federated
14 States of Micronesia is hereby amended by adding a new section 909
15 of subchapter I to read as follows:

16 "Section 909. Where collateral is not owned by debtor.
17 Unless otherwise agreed, when a secured party knows that
18 collateral is owned by a person who is not the debtor, the
19 owner of the collateral is entitled to receive from the
20 secured party any surplus under section 952(2) or under
21 section 954(1), and is not liable for the debt or for any
22 deficiency after resale, and has the same right as the
23 debtor:

24 (1) to receive statements under section 918;

25 (2) to receive notice of and to object to a secured

1 party's proposal to retain the collateral in satisfaction
2 of the indebtedness under section 955;

3 (3) to redeem the collateral under section 956;

4 (4) to obtain injunctive or other relief under

5 section 957(1); and

6 (5) to recover losses caused to the secured party

7 under section 918(2)."

8 Section 11. Chapter 9 of title 33 of the Code of the Federated
9 States of Micronesia is hereby amended by adding a new section 910
10 of subchapter I to read as follows:

11 "Section 910. Consignment.

12 (1) A person who delivers goods under a consignment
13 which is not a security interest and who files under this
14 chapter has priority over a secured party who is or becomes
15 a creditor of the consignee and who would have a perfected
16 security interest in the goods if they were the property of
17 the consignee, and also has priority with respect to
18 identifiable cash proceeds received on or before delivery
19 of the goods to a buyer, if:

20 (a) the consignor gives notification in writing
21 to the holder of the security interest if the holder has
22 filed a financing statement covering the same types of
23 goods before the date of the filing made by the consignor;
24 and

25 (b) the holder of the security interest receives

1 the notification within five years before the consignee
2 receives possession of the goods; and

3 (c) the notification states that the consignor
4 expects to deliver goods on consignment to the consignee,
5 describing the goods by item or type.

6 (2) In the case of a consignment which is not a
7 security interest and in which the requirements of the
8 preceding subsection have not been met, a person who
9 delivers goods to another is subordinate to a person who
10 would have a perfected security interest in the goods if
11 they were the property of the debtor."

12 Section 12. Chapter 9 of title 33 of the Code of the Federated
13 States of Micronesia is hereby amended by adding a new section 911
14 of subchapter II to read as follows:

15 "Section 911. General validity of security agreement.
16 Except as otherwise provided by this act a security
17 agreement is effective according to its terms between the
18 parties, against purchasers of the collateral and against
19 creditors. Nothing in this chapter validates any charge or
20 practice illegal under any statute or regulation thereunder
21 governing usury, small loans, retail installment sales, or
22 the like, or extends the application of any such statute or
23 regulation to any transaction not otherwise subject
24 thereto."

25 Section 13. Chapter 9 of title 33 of the Code of the Federated

1 States of Micronesia is hereby amended by adding a new section 912
2 of subchapter II to read as follows:

3 "Section 912. Title to collateral immaterial. Each
4 provision of this chapter with regard to rights,
5 obligations and remedies applies whether title to
6 collateral is in the secured party or in the debtor."

7 Section 14. Chapter 9 of title 33 of the Code of the Federated
8 States of Micronesia is hereby amended by adding a new section 913
9 of subchapter II to read as follows:

10 "Section 913. Attachment and enforceability of security
11 interest; Proceeds; Formal requisites.

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

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

21 (b) value has been given; and

22 (c) the debtor has rights in the collateral.

23 (2) A security interest attaches when it becomes
24 enforceable against the debtor with respect to the
25 collateral. Attachment occurs as soon as all of the events

1 specified in subsection (1) have taken place unless
2 explicit agreement postpones the time of attaching.

3 (3) Unless otherwise agreed a security agreement
4 gives the secured party the rights to proceeds provided by
5 section 926."

6 Section 15. Chapter 9 of title 33 of the Code of the Federated
7 States of Micronesia is hereby amended by adding a new section 914
8 of subchapter II to read as follows:

9 "Section 914. After-acquired property; Future advances.

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

14 (2) No security interest attaches under an
15 after-acquired property clause to consumer goods other than
16 accessions (section 934) when given as additional security
17 unless the debtor acquires rights in them within 10 days
18 after the secured party gives value.

19 (3) Obligations covered by a security agreement may
20 include future advances or other value whether or not the
21 advances or value are given pursuant to commitment
22 (subsection (1) of section 905)."

23 Section 16. Chapter 9 of title 33 of the Code of the Federated
24 States of Micronesia is hereby amended by adding a new section 915
25 of subchapter II to read as follows:

1 "Section 915. Use or disposition of collateral without
2 accounting permissible. A security interest is not invalid
3 or fraudulent against creditors by reason of liberty in the
4 debtor to use, commingle or dispose of all or part of the
5 collateral (including returned or repossessed goods) or to
6 collect or compromise accounts or chattel paper, or to
7 accept the return of goods or make repossessions, or to
8 use, commingle or dispose of proceeds, or by reason of the
9 failure of the secured party to require the debtor to
10 account for proceeds or replace collateral. This section
11 does not relax the requirements of possession where
12 perfection of a security interest depends upon possession
13 of the collateral by the secured party or by a bailee."

14 Section 17. Chapter 9 of title 33 of the Code of the Federated
15 States of Micronesia is hereby amended by adding a new section 916
16 of subchapter II to read as follows:

17 "Section 916. Agreement not to assert defenses against
18 assignee. Subject to any statute or decision which
19 establishes a different rule for buyers or lessees of
20 consumer goods, an agreement by a buyer or lessee that he or
21 she will not assert against an assignee any claim or defense
22 which he or she may have against the seller or lessor is
23 enforceable by an assignee who takes assignment for
24 value, in good faith and without notice of a claim or
25 defense, except as to defenses of a type which may be

1 asserted against a holder in due course of a negotiable
2 instrument under common law principles or applicable law.
3 A buyer who as part of one transaction signs both a
4 negotiable instrument and a security agreement makes such
5 an agreement."

6 Section 18. Chapter 9 of title 33 of the Code of the Federated
7 States of Micronesia is hereby amended by adding a new section 917
8 of subchapter II to read as follows:

9 "Section 917. Rights and duties when collateral is in
10 secured party's possession.

11 (1) A secured party must use reasonable care in the
12 custody and preservation of collateral in that party's
13 possession. In the case of an instrument or chattel paper
14 reasonable care includes taking necessary steps to preserve
15 rights against prior parties unless otherwise agreed.

16 (2) Unless otherwise agreed, when collateral is in
17 the secured party's possession:

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

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

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

6 (d) the secured party must keep the collateral
7 identifiable but fungible collateral may be commingled;

8 (e) the secured party may repledge the
9 collateral upon terms which do not impair the debtor's
10 right to redeem it.

11 (3) A secured party is liable for any loss caused by
12 that party's failure to meet any obligation imposed by the
13 preceding subsections but does not lose his or her security
14 interest.

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

21 Section 19. Chapter 9 of title 33 of the Code of the Federated
22 States of Micronesia is hereby amended by adding a new section 918
23 of subchapter II to read as follows:

24 "Section 918. Request for statement of account or list of
25 collateral.

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

10 (2) The secured party must comply with such a request
11 within two weeks after receipt by sending a written
12 correction or approval. If the secured party claims a
13 security interest in all of a particular type of collateral
14 owned by the debtor the secured party may indicate that
15 fact in his or her reply and need not approve or correct an
16 itemized list of such collateral. If the secured party
17 without reasonable excuse fails to comply such party is
18 liable for any loss caused to the debtor thereby; and if
19 the debtor has properly included in the request a good
20 faith statement of the obligation or a list of the
21 collateral or both the secured party may claim a security
22 interest only as shown in the statement against
23 persons misled by a failure to comply. If the secured
24 party no longer has an interest in the obligation or
25 collateral at the time the request is received the secured

1 party must disclose the name and address of any successor
2 in interest known to him or her and is liable for any loss
3 caused to the debtor as a result of failure to disclose. A
4 successor in interest is not subject to this section until
5 a request is received by him or her.

6 (3) A debtor is entitled to such a statement once
7 every 6 months without charge. The secured party may
8 require payment of a charge not exceeding \$10 for each
9 additional statement furnished."

10 Section 20. Chapter 9 of title 33 of the Code of the Federated
11 States of Micronesia is hereby amended by adding a new section 921
12 of subchapter III to read as follows:

13 "Section 921. Persons who take priority over unperfected
14 security interests; Rights of 'lien creditor'.

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

18 (a) persons entitled to priority under section
19 932;

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

22 (c) in the case of goods, instruments,
23 documents, and chattel paper, a person who is not a secured
24 party and who is a transferee in bulk or other buyer not in
25 ordinary course of business or is a buyer of farm products

1 in ordinary course of business, to the extent that such
2 person gives value and receives delivery of the collateral
3 without knowledge of the security interest and before it is
4 perfected;

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

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

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

22 (4) A person who becomes a lien creditor while a
23 security interest is perfected takes subject to the
24 security interest only to the extent that it secures
25 advances made before becoming a lien creditor or within

1 45 days thereafter, or made without knowledge of the lien or
2 pursuant to a commitment entered into without knowledge of
3 the lien."

4 Section 21. Chapter 9 of title 33 of the Code of the Federated
5 States of Micronesia is hereby amended by adding a new section 922
6 of subchapter III to read as follows:

7 "Section 922. When filing is required to perfect security
8 interest; Security interests to which filing provisions of
9 this chapter do not apply.

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

12 (a) a security interest in collateral in
13 possession of the secured party under section 925;

14 (b) a security interest temporarily perfected in
15 instruments or documents without delivery under section
16 924 or in proceeds for a 10-day period under section 926;

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

19 (d) a purchase money security interest in
20 consumer goods; but filing is required for a motor vehicle
21 required to be registered; and fixture filing is required
22 for priority over conflicting interests in fixtures to the
23 extent provided in section 933;

24 (e) an assignment of accounts which does not
25 alone or in conjunction with other assignments to the same

1 assignee transfer a significant part of the outstanding
2 accounts of the assignor; and

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

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

11 Section 22. Chapter 9 of title 33 of the Code of the Federated
12 States of Micronesia is hereby amended by adding a new section 923
13 of subchapter III to read as follows:

14 "Section 923. When security interest is perfected;
15 Continuity of perfection.

16 (1) A security interest is perfected when it has
17 attached and when all of the applicable steps required for
18 perfection have been taken. Such steps are specified in
19 sections 922, 924, 925 and 926 of this chapter. If
20 such steps are taken before the security interest attaches,
21 it is perfected at the time when it attaches.

22 (2) If a security interest is originally perfected in
23 any way permitted under this chapter and is subsequently
24 perfected in some other way under this chapter, without an
25 intermediate period when it was unperfected, the

1 security interest shall be deemed to be perfected
2 continuously for the purposes of this
3 chapter."

4 Section 23. Chapter 9 of title 33 of the Code of the
5 Federated States of Micronesia is hereby amended by adding a new
6 section 924 of subchapter III to read as follows:

7 "Section 924. Perfection of security interest in
8 instruments, documents, and goods covered by
9 documents; Perfection by permissive filing; Temporary
10 perfection without filing or transfer of possession.

11 (1) A security interest in chattel paper or
12 negotiable documents may be perfected by filing. A
13 security interest in money or instruments (other than
14 certificated securities or instruments which
15 constitute part of chattel paper) can be perfected
16 only by the secured party's taking possession, except
17 as provided in subsections (4) and (5) of this section
18 and subsections (2) and (3) of section 926 on proceeds

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

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

7 (4) A security interest in instruments (other than
8 certificated securities) or negotiable documents is
9 perfected without filing or the taking of possession for a
10 period of 21 days from the time it attaches to the extent
11 that it arises for new value given under a written security
12 agreement.

13 (5) A security interest remains perfected for a
14 period of 21 days without filing where a secured party
15 having a perfected security interest in an instrument
16 (other than a certificated security), a negotiable document
17 or goods in possession of a bailee other than one who has
18 issued a negotiable document therefor:

19 (a) makes available to the debtor the goods or
20 documents representing the goods for the purpose of ultimate
21 sale or exchange or for the purpose of loading, unloading,
22 storing, shipping, transshipping, manufacturing, processing
23 or otherwise dealing with them in a manner preliminary to
24 their sale or exchange, but priority between conflicting
25 security interests in the goods is subject to subsection

1 (3) of section 932; or

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

6 (6) After the 21-day period in subsections (4) and
7 (5) perfection depends upon compliance with applicable
8 provisions of this chapter."

9 Section 24. Chapter 9 of title 33 of the Code of the Federated
10 States of Micronesia is hereby amended by adding a new section 925
11 of subchapter III to read as follows:

12 "Section 925. When possession by secured party perfects
13 security interest without filing. A security interest in
14 letters of credit and advices of credit, goods, instruments
15 (other than certificated securities), money, negotiable
16 documents, or chattel paper may be perfected by the secured
17 party's taking possession of the collateral. If such
18 collateral other than goods covered by a negotiable
19 document is held by a bailee, the secured party is deemed
20 to have possession from the time the bailee receives
21 notification of the secured party's interest. A security
22 interest is perfected by possession from the time
23 possession is taken without a relation back and continues
24 only so long as possession is retained, unless otherwise
25 specified in this chapter. The security interest may be

1 otherwise perfected as provided in this chapter before or
2 after the period of possession by the secured party."

3 Section 25. Chapter 9 of title 33 of the Code of the Federated
4 States of Micronesia is hereby amended by adding a new section 926
5 of subchapter III to read as follows:

6 "Section 926. 'Proceeds'; Secured party's rights on
7 disposition of collateral.

8 (1) 'Proceeds' includes whatever is received upon the
9 sale, exchange, collection or other disposition of
10 collateral or proceeds. Insurance payable by reason of
11 loss or damage to the collateral is proceeds, except to the
12 extent that it is payable to a person other than a party to
13 the security agreement. Money, checks, deposit accounts
14 and the like are 'cash proceeds.' All other proceeds are
15 'non-cash proceeds.'

16 (2) Except where this chapter otherwise provides, a
17 security interest continues in collateral notwithstanding
18 sale, exchange or other disposition thereof unless the
19 disposition was authorized by the secured party in the
20 security agreement or otherwise, and also continues in any
21 identifiable proceeds including collections received by
22 the debtor.

23 (3) The security interest in proceeds is a
24 continuously perfected security interest if the interest in
25 the original collateral was perfected but it ceases to be a

1 perfected security interest and becomes unperfected 10
2 days after receipt of the proceeds by the debtor unless:
3 (a) a filed financing statement covers the
4 original collateral and the proceeds are collateral in
5 which a security interest may be perfected by filing in the
6 office or offices where the financing statement has been
7 filed and, if the proceeds are acquired with cash proceeds,
8 the description of collateral in the financing statement
9 indicates the types of property constituting the proceeds;
10 or
11 (b) a filed financing statement covers the
12 original collateral and the proceeds are identifiable cash
13 proceeds; or
14 (c) the security interest in the proceeds is
15 perfected before the expiration of the 10-day period.
16 Except as provided in this section, a security interest in
17 proceeds can be perfected only by the methods or under the
18 circumstances permitted in this chapter for original
19 collateral of the same type.
20 (4) In the event of insolvency proceedings instituted
21 by or against a debtor, a secured party with a perfected
22 security interest in proceeds has a perfected security
23 interest only in the following proceeds:
24 (a) in identifiable non-cash proceeds and in
25 separate deposit accounts containing only proceeds;

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

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

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

11 (i) subject to any right to setoff; and

12 (ii) limited to an amount not greater than
13 the amount of any cash proceeds received by the debtor
14 within 10 days before the institution of the insolvency
15 proceedings less the sum of:

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

19 b) the cash proceeds received by the
20 debtor during such period to which the secured party is entitled
21 under paragraphs (a) through (c) of this subsection (4).

22 (5) If a sale of goods results in an account or
23 chattel paper which is transferred by the seller to a
24 secured party, and if the goods are returned to or are
25 repossessed by the seller or the secured party, the

1 following rules determine priorities:

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

12 (b) An unpaid transferee of the chattel paper
13 has a security interest in the goods against the
14 transferor. Such security interest is prior to a security
15 interest asserted under paragraph (a) to the extent that
16 the transferee of the chattel paper was entitled to
17 priority under section 928.

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

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

1 Section 26. Chapter 9 of title 33 of the Code of the Federated
2 States of Micronesia is hereby amended by adding a new section 927
3 of subchapter III to read as follows:

4 "Section 927. Protection of buyers of goods.

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

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

16 (3) A buyer other than a buyer in ordinary course of
17 business (subsection (1) of this section) takes free of a
18 security interest to the extent that it secures future
19 advances made after the secured party acquires knowledge of
20 the purchase, or more than 45 days after the purchase,
21 whichever first occurs, unless made pursuant to a
22 commitment entered into without knowledge of the purchase
23 and before the expiration of the 45-day period."

24 Section 27. Chapter 9 of title 33 of the Code of the Federated
25 States of Micronesia is hereby amended by adding a new section 928

1 of subchapter III to read as follows:

2 "Section 928. Purchase of chattel paper and instruments.
3 A purchaser of chattel paper or an instrument who gives new
4 value and takes possession of it in the ordinary course of
5 business has priority over a security interest in the
6 chattel paper or instrument:

7 (a) which is perfected under section 924
8 (permissive filing and temporary perfection) or under
9 section 926 (perfection as to proceeds) if the purchaser
10 acts without knowledge that the specific paper or
11 instrument is subject to a security interest; or

12 (b) which is claimed merely as proceeds of
13 inventory subject to a security interest (section 926)
14 even though the purchaser knows that the specific paper or
15 instrument is subject to the security interest."

16 Section 28. Chapter 9 of title 33 of the Code of the Federated
17 States of Micronesia is hereby amended by adding a new section 929
18 of subchapter III to read as follows:

19 "Section 929. Protection of purchasers of instruments,
20 documents, and securities. Nothing in this chapter limits
21 the rights of a holder in due course of a negotiable
22 instrument or a holder to whom a negotiable document of
23 title has been duly negotiated or a bona fide purchaser of
24 a security and the holders or purchasers take priority over
25 an earlier security interest even though perfected. Filing

1 under this chapter does not constitute notice of the
2 security interest to such holders or purchasers."

3 Section 29. Chapter 9 of title 33 of the Code of the Federated
4 States of Micronesia is hereby amended by adding a new section 930
5 of subchapter III to read as follows:

6 "Section 930. Priority of certain liens arising by
7 operation of law. When a person in the ordinary course of
8 business furnishes services or materials with respect
9 to goods subject to a security interest, a lien upon goods
10 in the possession of such person given by statute or rule
11 of law for such materials or services takes priority over a
12 perfected security interest unless the lien is statutory
13 and the statute expressly provides otherwise."

14 Section 30. Chapter 9 of title 33 of the Code of the Federated
15 States of Micronesia is hereby amended by adding a new section 931
16 of subchapter III to read as follows:

17 "Section 931. Alienability of debtor's rights; Judicial
18 process. The debtor's rights in collateral may be
19 voluntarily or involuntarily transferred (by way of sale,
20 creation of a security interest, attachment, levy,
21 garnishment or other judicial process) notwithstanding a
22 provision in the security agreement prohibiting any
23 transfer or making the transfer constitute a default."

24 Section 31. Chapter 9 of title 33 of the Code of the Federated
25 States of Micronesia is hereby amended by adding a new section 932

1 of subchapter III to read as follows:

2 "Section 932. Priorities among conflicting security
3 interests in the same collateral.

4 (1) The rules of priority stated in other sections of
5 this subchapter and in section 909 shall govern when
6 applicable.

7 (2) A perfected security interest in crops for new
8 value given to enable the debtor to produce the crops
9 during the production season and given not more than 3
10 months before the crops become growing crops by planting or
11 otherwise takes priority over an earlier perfected security
12 interest to the extent that such earlier interest secures
13 obligations due more than 6 months before the crops
14 become growing crops by planting or otherwise, even though
15 the person giving new value had knowledge of the earlier
16 security interest.

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

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

25 (b) the purchase money secured party gives

1 notification in writing to the holder of the conflicting
2 security interest if the holder had filed a financing
3 statement covering the same types of inventory:

4 (i) before the date of the filing made by
5 the purchase money secured party, or:

6 (ii) before the beginning of the 21-day
7 period where the purchase money security interest is
8 temporarily perfected without filing or possession
9 (subsection (5) of section 924); and

10 (c) the holder of the conflicting security
11 interest receives the notification within 5 years before
12 the debtor receives possession of the inventory; and

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

17 (4) A purchase money security interest in collateral
18 other than inventory has priority over a conflicting
19 security interest in the same collateral or its proceeds if
20 the purchase money security interest is perfected at the
21 time the debtor receives possession of the collateral or
22 within 10 days thereafter.

23 (5) In all cases not governed by other rules stated
24 in this section (including cases of purchase money security
25 interests which do not qualify for the special priorities

1 set forth in subsections (3) and (4) of this section),
2 priority between conflicting security interests in the same
3 collateral shall be determined according to the following
4 rules:

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

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

14 (6) For the purposes of subsection (5) a date of
15 filing or perfection as to collateral is also a date of
16 filing or perfection as to proceeds.

17 (7) If future advances are made while a security
18 interest is perfected by filing or the taking of
19 possession, the security interest has the same priority for
20 the purposes of subsection (5) with respect to the future
21 advances as it does with respect to the first advance. If
22 a commitment is made before or while the security interest
23 is so perfected, the security interest has the same
24 priority with respect to advances made pursuant thereto.
25 In other cases a perfected security interest has priority

1 from the date the advance is made."

2 Section 32. Chapter 9 of title 33 of the Code of the Federated
3 States of Micronesia is hereby amended by adding a new section 933
4 of subchapter III to read as follows:

5 "Section 933. Priority of security interests in fixtures.

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

9 (a) goods are 'fixtures' when they become so
10 related to particular real estate that an interest in them
11 arises under real estate law;

12 (b) a 'fixture filing' is the filing in the
13 office where a mortgage on the real estate would be filed
14 or recorded of a financing statement covering goods which
15 are or are to become fixtures and conforming to the
16 requirements of subsection (5) of section 942;

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

22 (2) A security interest under this chapter may be
23 created in goods which are fixtures or may continue in
24 goods which become fixtures, but no security interest
25 exists under this chapter in ordinary building materials

1 incorporated into an improvement on land.

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

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

7 (a) the security interest is a purchase money
8 security interest, the interest of the encumbrancer or
9 owner arises before the goods become fixtures, the security
10 interest is perfected by a fixture filing before the goods
11 become fixtures or within 10 days thereafter, and the
12 debtor has an interest of record in the real estate or is
13 in possession of the real estate; or

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

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

25 (d) the conflicting interest is a lien on the real

1 incorporated into an improvement on land.

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

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

7 (a) the security interest is a purchase money
8 security interest, the interest of the encumbrancer or
9 owner arises before the goods become fixtures, the security
10 interest is perfected by a fixture filing before the goods
11 become fixtures or within 10 days thereafter, and the
12 debtor has an interest of record in the real estate or is
13 in possession of the real estate; or

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

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

25 (d) the conflicting interest is a lien on the real

1 estate obtained by legal or equitable proceedings after the
2 security interest was perfected by any method permitted by
3 this chapter.

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

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

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

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

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

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

14 Section 33. Chapter 9 of title 33 of the Code of the Federated
15 States of Micronesia is hereby amended by adding a new section 934
16 of subchapter III to read as follows:

17 "Section 934. Accessions.

18 (1) A security interest in goods which attaches
19 before they are installed in or affixed to other goods
20 takes priority as to the goods installed or affixed (called
21 in this section 'accessions') over the claims of all
22 persons to the whole except as stated in subsection (3) and
23 subject to section 935(1).

24 (2) A security interest which attaches to goods after
25 they become part of a whole is valid against all persons

1 subsequently acquiring interests in the whole except as
2 stated in subsection (3) but is invalid against any person
3 with an interest in the whole at the time the security
4 interest attaches to the goods who has not in writing
5 consented to the security interest or disclaimed an
6 interest in the goods as part of the whole.

7 (3) The security interests described in subsections
8 (1) and (2) do not take priority over:

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

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

13 (c) a creditor with a prior perfected security
14 interest in the whole to the extent that the creditor makes
15 subsequent advances;

16 if the subsequent purchase is made, the lien by judicial
17 proceedings obtained or the subsequent advance under the
18 prior perfected security interest is made or contracted for
19 without knowledge of the security interest and before it is
20 perfected. A purchaser of the whole at a foreclosure sale
21 other than the holder of a perfected security interest
22 purchasing at the holder's own foreclosure sale is a
23 subsequent purchaser within this section.

24 (4) When under subsections (1) or (2) and (3) a
25 secured party has an interest in accessions which has

1 priority over the claims of all persons who have interests
2 in the whole, such party may on default subject to the
3 provisions of subchapter V remove his or her collateral
4 from the whole but the secured party must reimburse any
5 encumbrancer or owner of the whole who is not the debtor
6 and who has not otherwise agreed for the cost of repair of
7 any physical injury but not for any diminution in value of
8 the whole caused by the absence of the goods removed or by
9 any necessity for replacing them. A person entitled to
10 reimbursement may refuse permission to remove until the
11 secured party gives adequate security for the performance
12 of this obligation."

13 Section 34. Chapter 9 of title 33 of the Code of the Federated
14 States of Micronesia is hereby amended by adding a new section 935
15 of subchapter III to read as follows:

16 "Section 935. Priority when goods are commingled or
17 processed.

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

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

25 (b) a financing statement covering the original

1 goods also covers the product into which the goods have
2 been manufactured, processed or assembled.

3 In a case to which paragraph (b) applies, no separate
4 security interest in that part of the original goods which
5 has been manufactured, processed or assembled into the
6 product may be claimed under section 934.

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

12 Section 35. Chapter 9 of title 33 of the Code of the Federated
13 States of Micronesia is hereby amended by adding a new section 936
14 of subchapter III to read as follows:

15 "Section 936. Priority subject to subordination. Nothing
16 in this chapter prevents subordination by agreement by any
17 person entitled to priority."

18 Section 36. Chapter 9 of title 33 of the Code of the Federated
19 States of Micronesia is hereby amended by adding a new section 937
20 of subchapter III to read as follows:

21 "Section 937. Secured party not obligated on contract of
22 debtor. The mere existence of a security interest or
23 authority given to the debtor to dispose of or use
24 collateral does not impose contract or tort liability upon
25 the secured party for the debtor's acts or omissions."

1 Section 37. Chapter 9 of title 33 of the Code of the Federated
2 States of Micronesia is hereby amended by adding a new section 938
3 of subchapter III to read as follows:

4 "Section 938. Defenses against assignee; Modification of
5 contract after notification of assignment; Term prohibiting
6 assignment ineffective; Identification and proof of assignment.

7 (1) Unless an account debtor has made an enforceable
8 agreement not to assert defenses or claims arising out of a
9 sale as provided in section 916 the rights of an assignee
10 are subject to:

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

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

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

1 modification or substitution is a breach by the assignor.

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

11 (4) A term in any contract between an account debtor
12 and an assignor is ineffective if it prohibits assignment
13 of an account or prohibits creation of a security interest
14 in a general intangible for money due or to become due or
15 requires the account debtor's consent to such assignment or
16 security interest."

17 Section 38. Chapter 9 of title 33 of the Code of the Federated
18 States of Micronesia is hereby amended by adding a new section 941
19 of subchapter IV to read as follows:

20 "Section 941. Place of filing; Erroneous filing; Removal
21 of collateral.

22 (1) The proper place to file in order to perfect a
23 security interest is as follows:

24 (a) when the collateral is timber to be cut or
25 is minerals or the like (including oil and gas), or when

1 the financing statement is filed as a fixture filing
2 (section 933) and the collateral is goods which are or
3 are to become fixtures, then in the office where a mortgage
4 on the real estate would be filed or recorded;

5 (b) in all other cases, in the office of the
6 Registrar of Corporations in the Department of Resources
7 and Development.

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

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

20 (4) Notwithstanding the preceding subsections, and
21 subject to subsection (3) of section 922, the proper place
22 to file in order to perfect a security interest in
23 collateral, including fixtures, of a transmitting utility
24 is the office of the Registrar of Corporations in the
25 Department of Resources and Development. This filing

1 constitutes a fixture filing (section 933) as to the
2 collateral described therein which is or is to become
3 fixtures."

4 Section 39. Chapter 9 of title 33 of the Code of the Federated
5 States of Micronesia is hereby amended by adding a new section 942
6 of subchapter IV to read as follows:

7 "Section 942. Formal requisites of financing statement;
8 Amendments; Mortgage as financing statement.

9 (1) A financing statement is sufficient if it gives
10 the names of the debtor and the secured party, is signed by
11 the debtor, gives an address of the secured party from
12 which information concerning the security interest may be
13 obtained, gives a mailing address of the debtor and
14 contains a statement indicating the types, or describing
15 the items, of collateral. A financing statement may be
16 filed before a security agreement is made or a security
17 interest otherwise attaches. When the financing statement
18 covers crops growing or to be grown, the statement must
19 also contain a description of the real estate concerned.
20 When the financing statement covers timber to be cut or
21 covers minerals or the like (including oil and gas), or
22 when the financing statement is filed as a fixture filing
23 (section 933) and the collateral is goods which are or are
24 to become fixtures, the statement must also comply with
25 subsection (5). A copy of the security agreement is

1 sufficient as a financing statement if it contains the
2 above information and is signed by the debtor. A carbon,
3 photographic or other reproduction of a security agreement
4 or a financing statement is sufficient as a financing
5 statement if the security agreement so provides or if the
6 original has been filed in the Federated States of
7 Micronesia.

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

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

20 (b) proceeds under section 926 if the security
21 interest in the original collateral was perfected. Such a
22 financing statement must describe the original collateral; or

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

25 (d) collateral acquired after a change of name,

1 identity or corporate structure of the debtor (subsection
2 (7)).

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

5 Name of debtor (or assignor):.....

6 Address:.....

7 Name of secured party (or assignee):.....

8 Address:.....

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

11 2. (If collateral is crops) The above described crops are
12 growing or are to be grown on: (Describe Real Estate).....

13 3. (If applicable) The above goods are to become fixtures
14 on: (Describe Real Estate).....and this financing
15 statement is to be filed in the real estate records. (If
16 the debtor does not have an interest of record) The name of
17 a record owner is:.....

18 4. (If products of collateral are claimed) Products of the
19 collateral are also covered.

20 (use

21 whichever Signature of Debtor (or Assignor)

22 is

23 applicable) Signature of Secured Party (or Assignee)

24 (4) A financing statement may be amended by filing a
25 writing signed by both the debtor and the secured party. An

1 amendment does not extend the period of effectiveness of a
2 financing statement. If any amendment adds collateral, it
3 is effective as to the added collateral only from the
4 filing date of the amendment. In this chapter, unless the
5 context otherwise requires, the term 'financing statement'
6 means the original financing statement and any amendments.

7 (5) A financing statement covering timber to be cut
8 or covering minerals or the like (including oil and gas),
9 or a financing statement filed as a fixture filing (section
10 933) where the debtor is not a transmitting utility, must
11 show that it covers this type of collateral, must recite
12 that it is to be filed in the real estate records, and the
13 financing statement must contain a description of the real
14 estate sufficient if it were contained in a mortgage of the
15 real estate to give constructive notice of the mortgage
16 under the laws of the State in which the real estate is
17 located. If the debtor does not have an interest of record
18 in the real estate, the financing statement must show the
19 name of a record owner.

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

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

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

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

5 (d) the mortgage is duly recorded.

6 (7) A financing statement sufficiently shows the name
7 of the debtor if it gives the individual, partnership or
8 corporate name of the debtor, whether or not it adds other
9 trade names or names of partners. Where the debtor so
10 changes his or her name or in the case of an organization
11 its name, identity or corporate structure that a filed
12 financing statement becomes seriously misleading, the
13 filing is not effective to perfect a security interest in
14 collateral acquired by the debtor more than 4 months
15 after the change, unless a new appropriate financing
16 statement is filed before the expiration of that time. A
17 filed financing statement remains effective with respect to
18 collateral transferred by the debtor even though the
19 secured party knows of or consents to the transfer.

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

24 Section 40. Chapter 9 of title 33 of the Code of the Federated
25 States of Micronesia is hereby amended by adding a new section 943

1 of subchapter IV to read as follows:

2 "Section 943. What constitutes filing; Duration of
3 filing; Effect of lapsed filing; Duties of filing
4 officer.

5 (1) Presentation for filing of a financing
6 statement and tender of the filing fee or acceptance of
7 the statement by the filing officer constitutes filing
8 under this chapter.

9 (2) Except as provided in subsection (6) a filed
10 financing statement is effective for a period of 5 years
11 from the date of filing. The effectiveness of a filed
12 financing statement lapses on the expiration of the 5-
13 year period unless a continuation statement is filed
14 prior to the lapse. If a security interest perfected by
15 filing exists at the time insolvency proceedings are
16 commenced by or against the debtor, the security
17 interest remains perfected until termination of the
18 insolvency proceedings and thereafter for a period of 60
19 days or until expiration of the 5-year period, whichever
20 occurs later. Upon lapse the security interest becomes
21 unperfected, unless it is perfected without filing. If
22 the security interest becomes unperfected upon lapse, it
23 is deemed to have been unperfected as against a person
24 who became a purchaser or lien creditor before lapse.

25 (3) A continuation statement may be filed by the

1 secured party within 6 months prior to the expiration of
2 the 5-year period specified in subsection (2). Any such
3 continuation statement must be signed by the secured party,
4 identify the original statement by file number and state
5 that the original statement is still effective. A
6 continuation statement signed by a person other than the
7 secured party of record must be accompanied by a separate
8 written statement of assignment signed by the secured party
9 of record and complying with subsection (2) of section
10 945, including payment of the required fee. Upon timely
11 filing of the continuation statement, the effectiveness of
12 the original statement is continued for 5 years after
13 the last date to which the filing was effective whereupon
14 it lapses in the same manner as provided in subsection (2)
15 unless another continuation statement is filed prior to
16 such lapse. Succeeding continuation statements may be
17 filed in the same manner to continue the effectiveness of
18 the original statement. Unless a statute on disposition of
19 public records provides otherwise, the filing officer may
20 remove a lapsed statement from the files and destroy it
21 immediately if the filing officer has retained a microfilm or
22 other photographic record, or in other cases after 1 year after
23 the lapse. The filing officer shall so arrange matters by
24 physical annexation of financing statements to continuation
25 statements or other related filings, or by other means,

1 that if the officer physically destroys the financing
2 statements of a period more than 5 years past, those
3 which have been continued by a continuation statement or
4 which are still effective under subsection (6) shall be
5 retained.

6 (4) Except as provided in subsection (7) a filing
7 officer shall mark each statement with a file number and
8 with the date and hour of filing and shall hold the
9 statement or a microfilm or other photographic copy thereof
10 for public inspection. In addition the filing officer
11 shall index the statement according to the name of the
12 debtor and shall note in the index the file number and the
13 address of the debtor given in the statement.

14 (5) The uniform fee for filing and indexing and for
15 stamping a copy furnished by the secured party to show the
16 date and place of filing for an original financing
17 statement or for a continuation statement shall be \$25 if
18 the statement is in the standard form prescribed by the
19 Secretary of Resources and Development and otherwise shall
20 be \$50, plus in each case, if the financing statement is
21 subject to subsection (5) of section 942, \$50. The
22 uniform fee for each name more than one required to be
23 indexed shall be \$10. The secured party may at his or her
24 option show a trade name for any person and an extra uniform
25 indexing fee of \$10 shall be paid with respect thereto.

1 (6) If the debtor is a transmitting utility
2 (subsection (5) of section 941) and a filed financing
3 statement so states, it is effective until a termination
4 statement is filed. A real estate mortgage which is
5 effective as a fixture filing under subsection (6) of
6 section 942 remains effective as a fixture filing until
7 the mortgage is released or satisfied of record or its
8 effectiveness otherwise terminates as to the real estate.

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

23 Section 41. Chapter 9 of title 33 of the Code of the Federated
24 States of Micronesia is hereby amended by adding a new section 944
25 of subchapter IV to read as follows:

1 "Section 944. Termination statement.

2 (1) If a financing statement covering consumer goods
3 is filed on or after the effective date of this chapter,
4 then within 1 month or within 10 days following written
5 demand by the debtor after there is no outstanding secured
6 obligation and no commitment to make advances, incur
7 obligations or otherwise give value, the secured party must
8 file with each filing officer with whom the financing
9 statement was filed, a termination statement to the effect
10 that the secured party no longer claims a security interest under
11 the financing statement, which shall be identified by file
12 number. In other cases whenever there is no outstanding
13 secured obligation and no commitment to make advances,
14 incur obligations or otherwise give value, the secured
15 party must on written demand by the debtor send the debtor,
16 for each filing officer with whom the financing statement
17 was filed, a termination statement to the effect that the
18 secured party no longer claims a security interest under the
19 financing statement, which shall be identified by file number.
20 A termination statement signed by a person other than the
21 secured party of record must be accompanied by a separate
22 written statement of assignment signed by the secured party
23 of record complying with subsection (2) of section 945,
24 including payment of the required fee. If the affected
25 secured party fails to file such a termination statement as

required by this subsection, or to send such a termination statement within 10 days after proper demand therefore, the secured party shall be liable to the debtor for \$100, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement the filing officer must note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, the filing officer may remove the originals from the files at any time after receipt of the termination statement, or if there is no such record, the filing officer may remove them from the files at any time after 1 year after receipt of the termination statement.

(3) If the termination is in the standard form prescribed by the Secretary of Resources and Development, the uniform fee for filing and indexing the termination statement shall be \$25, and otherwise shall be \$50, plus in each case an additional fee of \$10 for each name more than one against which the termination statement is required to be indexed."

Section 42. Chapter 9 of title 33 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 945

1 of subchapter IV to read as follows:

2 "Section 945. Assignment of security interest; Duties of
3 filing officer; Fees.

4 (1) A financing statement may disclose an assignment
5 of a security interest in the collateral described in the
6 financing statement by indication in the financing
7 statement of the name and address of the assignee or by an
8 assignment itself or a copy thereof on the face or back of
9 the statement. On presentation to the filing officer of
10 such a financing statement the filing officer shall mark
11 the same as provided in section 943(4). The uniform fee
12 for filing, indexing and furnishing filing data for a
13 financing statement so indicating an assignment shall be
14 \$10 if the statement is in the standard form prescribed by
15 the Secretary of Resources and Development and otherwise
16 shall be \$25, plus in each case an additional fee of \$10
17 for each name more than one against which the financing
18 statement is required to be indexed.

19 (2) A secured party may assign of record all or part
20 of his or her rights under a financing statement by the
21 filing in the place where the original financing statement
22 was filed of a separate written statement of assignment
23 signed by the secured party of record and setting forth the
24 name of the secured party of record and the debtor, the
25 file number and the date of filing of the financing

1 statement and the name and address of the assignee and
2 containing a description of the collateral assigned. A
3 copy of the assignment is sufficient as a separate
4 statement if it complies with the preceding sentence. On
5 presentation to the filing officer of such a separate
6 statement, the filing officer shall mark such separate
7 statement with the date and hour of the filing. The filing
8 officer shall note the assignment on the index of the
9 financing statement, or in the case of a fixture filing, or
10 a filing covering timber to be cut, or covering minerals
11 or the like (including oil and gas), the filing officer
12 shall index the assignment under the name of the assignor
13 as grantor and, to the extent that the law of the State in
14 which the related real estate is located provides for
15 indexing the assignment of a mortgage under the name of the
16 assignee, the filing officer shall index the assignment of
17 the financing statement under the name of the assignee.
18 The uniform fee for filing, indexing and furnishing filing
19 data about such a separate statement of assignment shall be
20 \$10 if the statement is in the standard form prescribed by
21 the Secretary of Resources and Development and otherwise
22 shall be \$25, plus in each case an additional fee of \$10
23 for each name more than one against which the statement of
24 assignment is required to be indexed. Notwithstanding the
25 provisions of this subsection, an assignment of record of

1 a security interest in a fixture contained in a mortgage
2 effective as a fixture filing (subsection (6) of section
3 942) may be made only by an assignment of the mortgage in
4 the manner provided by the law of the State in which the
5 related real estate is located other than as provided in
6 this act.

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

10 Section 43. Chapter 9 of title 33 of the Code of the Federated
11 States of Micronesia is hereby amended by adding a new section 946
12 of subchapter IV to read as follows:

13 "Section 946. Release of collateral; Duties of filing
14 officer; Fees. A secured party of record may by signed
15 statement release all or a part of any collateral described
16 in a filed financing statement. The statement of release
17 is sufficient if it contains a description of the
18 collateral being released, the name and address of the
19 debtor, the name and address of the secured party, and the
20 file number of the financing statement. A statement of
21 release signed by a person other than the secured party of
22 record must be accompanied by a separate written statement
23 of assignment signed by the secured party of record and
24 complying with subsection (2) of section 945, including
25 payment of the required fee. Upon presentation of such a

1 statement of release to the filing officer the filing officer
2 shall mark the statement with the hour and date of filing
3 and shall note the same upon the margin of the index of the
4 filing of the financing statement. The uniform fee for
5 filing and noting such a statement of release shall be \$10
6 if the statement is in the standard form prescribed by the
7 Secretary of Resources and Development and otherwise shall
8 be \$25, plus in each case an additional fee of \$10 for each
9 name more than one against which the statement of release
10 is required to be indexed."

11 Section 44. Chapter 9 of title 33 of the Code of the Federated
12 States of Micronesia is hereby amended by adding a new section 948
13 of subchapter IV to read as follows:

14 "Section 948. Financing statements covering consigned or
15 leased goods. A consignor or lessor of goods may file a
16 financing statement using the terms 'consignor,' 'consignee,'
17 'lessor,' 'lessee' or the like instead of the terms specified
18 in section 942. The provisions of this subchapter shall
19 apply as appropriate to such a financing statement but its
20 filing shall not of itself be a factor in determining whether
21 or not the consignment or lease is intended as security.
22 However, if it is determined for other reasons that the
23 consignment or lease is so intended, a security interest of
24 the consignor or lessor which attaches to the consigned or
25 leased goods is perfected by such filing."

1 Section 45. Chapter 9 of title 33 of the Code of the Federated
2 States of Micronesia is hereby amended by adding a new section 951
3 of subchapter V to read as follows:

4 "Section 951. Default; Procedure when security agreement
5 covers both real and personal property.

6 (1) When a debtor is in default under a security agreement,
7 a secured party has the rights and remedies provided in this
8 subchapter and except as limited by subsection (3) those provided in
9 the security agreement. The debtor may reduce his or her claim to
10 judgment, foreclose or otherwise enforce the security interest
11 by any available judicial procedure. If the collateral is
12 documents the secured party may proceed either as to the
13 documents or as to the goods covered thereby. A secured party
14 in possession has the rights, remedies and duties provided in
15 section 927. The rights and remedies referred to in this
16 subsection are cumulative.

17 (2) After default, the debtor has the rights and
18 remedies provided in this subchapter, those provided in the
19 security agreement and those provided in section 917.

20 (3) To the extent that they give rights to the debtor
21 and impose duties on the secured party, the rules stated in
22 the subsections referred to below may not be waived or
23 varied except as provided with respect to compulsory
24 disposition of collateral (subsection (3) of section 954
25 and section 955) and with respect to redemption of

1 collateral (section 956) but the parties may by agreement
2 determine the standards by which the fulfillment of these
3 rights and duties is to be measured if such standards are
4 not manifestly unreasonable:

5 (a) subsection (2) of section 952 and
6 subsection (2) of section 954 insofar as they require
7 accounting for surplus proceeds of collateral;

8 (b) subsection (3) of section 954 and
9 subsection (1) of section 955 which deal with disposition
10 of collateral;

11 (c) subsection (2) of section 955 which deals
12 with acceptance of collateral as discharge of obligation;

13 (d) section 956 which deals with redemption of
14 collateral; and

15 (e) subsection (1) of section 957 which deals
16 with the secured party's liability for failure to comply
17 with this subchapter.

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

25 (5) When a secured party has reduced his or her claim to

1 judgment the lien of any levy which may be made upon the
2 secured party's collateral by virtue of any execution based
3 upon the judgment shall relate back to the date of the
4 perfection of the security interest in such collateral. A
5 judicial sale, pursuant to such execution, is a foreclosure of
6 the security interest by judicial procedure within the meaning
7 of this section, and the secured party may purchase at the
8 sale and thereafter hold the collateral free of any other
9 requirements of this chapter."

10 Section 46. Chapter 9 of title 33 of the Code of the Federated
11 States of Micronesia is hereby amended by adding a new section 952
12 of subchapter V to read as follows:

13 "Section 952. Collection rights of secured party.

14 (1) When so agreed and in any event on default the
15 secured party is entitled to notify an account debtor or
16 the obligor on an instrument to make payment to the secured
17 party whether or not the assignor was theretofore making
18 collections on the collateral, and also to take control of any
19 proceeds to which the secured party is entitled under section 926.

20 (2) A secured party who by agreement is entitled to
21 charge back uncollected collateral or otherwise to full or
22 limited recourse against the debtor and who undertakes to
23 collect from the account debtors or obligors must proceed
24 in a commercially reasonable manner and may deduct
25 reasonable expenses of realization from the collections.

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

8 Section 47. Chapter 9 of title 33 of the Code of the Federated
9 States of Micronesia is hereby amended by adding a new section 953
10 of subchapter V to read as follows:

11 "Section 953. Secured party's right to take possession
12 after default. Unless otherwise agreed a secured party has
13 on default the right to take possession of the collateral.
14 In taking possession a secured party may proceed without
15 judicial process if this can be done without breach of the
16 peace or may proceed by action. If the security agreement
17 so provides the secured party may require the debtor to
18 assemble the collateral and make it available to the
19 secured party at a place to be designated by the secured
20 party which is reasonably convenient to both parties.
21 Without removal a secured party may render equipment
22 unusable, and may dispose of collateral on the debtor's
23 premises under section 954."

24 Section 48. Chapter 9 of title 33 of the Code of the Federated
25 States of Micronesia is hereby amended by adding a new section 954

1 of subchapter V to read as follows:

2 "Section 954. Secured party's right to dispose of
3 collateral after default; Effect of disposition.

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

9 (a) the reasonable expenses of retaking,
10 holding, preparing for sale or lease, selling, leasing and
11 the like and, to the extent provided for in the agreement
12 and not prohibited by law, the reasonable attorneys' fees
13 and legal expenses incurred by the secured party;

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

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

24 (2) If the security interest secures an indebtedness,
25 the secured party must account to the debtor for any

1 surplus, and, unless otherwise agreed, the debtor is liable
2 for any deficiency. But if the underlying transaction was
3 a sale of accounts or chattel paper, the debtor is entitled
4 to any surplus or is liable for any deficiency only if the
5 security agreement so provides.

6 (3) Disposition of the collateral may be by public or
7 private proceedings and may be made by way of one or more
8 contracts. Sale or other disposition may be as a unit or
9 in parcels and at any time and place and on any terms but
10 every aspect of the disposition including the method,
11 manner, time, place and terms must be commercially
12 reasonable. Unless collateral is perishable or threatens
13 to decline speedily in value or is of a type customarily
14 sold on a recognized market, reasonable notification of the
15 time and place of any public sale or reasonable
16 notification of the time after which any private sale or
17 other intended disposition is to be made shall be sent by
18 the secured party to the debtor, if the debtor has not signed
19 after default a statement renouncing or modifying his or
20 her right to notification of sale. In the case of consumer
21 goods no other notification need be sent. In other cases
22 notification shall be sent to any other secured party from
23 whom the secured party has received (before sending his
24 or her notification to the debtor or before the debtor's
25 renunciation of his rights) written notice of a claim of an

interest in the collateral. The secured party may buy at
any public sale and if the collateral is of a type
customarily sold in a recognized market or is of a type
which is the subject of widely distributed standard price
quotations the secured party may buy at private sale.

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

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

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

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

1 under this chapter."

2 Section 49. Chapter 9 of title 33 of the Code of the Federated
3 States of Micronesia is hereby amended by adding a new section 955
4 of subchapter V to read as follows:

5 "Section 955. Compulsory disposition of collateral;
6 Acceptance of the collateral as discharge of obligation.

7 (1) If the debtor has paid 60 percent of the cash
8 price in the case of a purchase money security interest in
9 consumer goods or 60 percent of the loan in the case of
10 another security interest in consumer goods, and has not
11 signed after default a statement renouncing or modifying
12 his or her rights under this subchapter a secured party who
13 has taken possession of collateral must dispose of it under
14 section 954 and if such party fails to do so within 90 days
15 after taking possession the debtor, at the debtor's option,
16 may recover in conversion or under section 957(1) on
17 secured party's liability.

18 (2) In any other case involving consumer goods or any
19 other collateral a secured party in possession may, after
20 default, propose to retain the collateral in satisfaction
21 of the obligation. Written notice of such proposal shall
22 be sent to the debtor if the debtor has not signed after default
23 a statement renouncing or modifying his or her rights under
24 this subsection. In the case of consumer goods no other
25 notice need be given. In other cases notice shall be sent to any

1 other secured party from whom the secured party has
2 received (before sending notice to the debtor or before
3 the debtor's renunciation of rights) written notice of
4 a claim of an interest in the collateral. If the secured
5 party receives objection in writing from a person entitled
6 to receive notification within 21 days after the
7 notice was sent, the secured party must dispose of the
8 collateral under section 954. In the absence of such
9 written objection the secured party may retain the
10 collateral in satisfaction of the debtor's obligation."

11 Section 50. Chapter 9 of title 33 of the Code of the Federated
12 States of Micronesia is hereby amended by adding a new section 956
13 of subchapter V to read as follows:

14 "Section 956. Debtor's right to redeem collateral. At
15 any time before the secured party has disposed of
16 collateral or entered into a contract for its disposition
17 under section 954 or before the obligation has been
18 discharged under section 955(2) the debtor or any other
19 secured party may unless otherwise agreed in writing after
20 default redeem the collateral by tendering fulfillment of
21 all obligations secured by the collateral as well as the
22 expenses reasonably incurred by the secured party in
23 retaking, holding and preparing the collateral for
24 disposition, in arranging for the sale, and to the extent
25 provided in the agreement and not prohibited by law,

1 reasonable attorneys' fees and legal expenses."

2 Section 51. Chapter 9 of title 33 of the Code of the Federated
3 States of Micronesia is hereby amended by adding a new section 957
4 of subchapter V to read as follows:

5 "Section 957. Secured party's liability for failure to
6 comply with this subchapter.

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

21 (2) The fact that a better price could have been
22 obtained by a sale at a different time or in a different
23 method from that selected by the secured party is not of
24 itself sufficient to establish that the sale was not made
25 in a commercially reasonable manner. If the secured party

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1 either sells the collateral in the usual manner in any
2 recognized market therefore or if the secured party
3 sells at the price current in such market at the time
4 of sale or if he or she has otherwise sold in conformity with
5 reasonable commercial practices among dealers in the type of
6 property sold he or she has sold in a commercially reasonable
7 manner. The principles stated in this subsection with respect
8 to sales also apply as may be appropriate to other types of
9 disposition. A disposition which has been approved in any
10 judicial proceeding or by any bona fide creditors' committee
11 or representative of creditors shall conclusively be deemed
12 to be commercially reasonable, but this sentence does not
13 indicate that any such approval must be obtained in any
14 case nor does it indicate that any disposition not so
15 approved is not commercially reasonable."

16 Section 52. This act shall become law upon approval by the
17 President of the Federated States of Micronesia or upon its becoming
18 law without such approval.

19
20 Date: Nov. 4, 1993

Introduced by: 
Nishima Yleizah

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