

AN ACT

To further amend title 36 of the Code of the Federated States of Micronesia (Annotated), as amended, by enacting a new Chapter 7 to establish the incorporation requirements for non-profit corporations operating in the FSM, to establish the fee structure associated with the filing requirements of non-profit corporations, to set the mechanisms for dissolution of non-profit corporations, to require non-profit corporation to maintain articles of incorporation, by-laws and financial records for 6 years and make available the records for inspection by the Registrar of Corporations, to require non-profit corporations to submit annual reports to the Registrar of Corporations, to authorize the Secretary of Justice with rulemaking authority to implement the Act, and for other purposes.

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

1 Section 1. Title 36 of the Code of the Federated States of
2 Micronesia (Annotated), as amended, is hereby further amended by
3 enacting a new Chapter 7 entitled: "Chapter 7. Non-Profit
4 Corporations."

5 Section 2. Chapter 7 of Title 36 of the Code of the
6 Federated States of Micronesia (Annotated), as amended, is hereby
7 further amended by enacting a new section 701 to read as follows:

8 "Section 701. Purpose. The purpose of this chapter is
9 to provide the legal framework for the incorporation,
10 regulation, dissolution of a non-profit corporation under
11 national law."

12 Section 3. Chapter 7 of Title 36 of the Code of the
13 Federated States of Micronesia (Annotated), as amended, is hereby
14 further amended by enacting a new section 702 to read as follows:

1 "Section 702. Definitions. For purposes of this
2 chapter:

3 (1) "Non-Profit" means any lawful purpose other than
4 for profit, including:

5 (a) charitable;

6 (b) social;

7 (c) recreational;

8 (d) public benefit; and

9 (e) religious purposes.

10 (2) "Entity" means any organization created by one or
11 more individuals to carry out business.

12 (3) "Non-profit corporation" means entity incorporated
13 under Chapter 7 of Title 36 of the Code of the Federated
14 States of Micronesia (Annotated).

15 (4) "Registrar" means the Registrar of Corporations
16 of the Federated States of Micronesia.

17 (5) "Secretary" means the Secretary of the Department
18 of Justice of the Federated States of Micronesia."

19 Section 4. Chapter 7 of Title 36 of the Code of the
20 Federated States of Micronesia (Annotated), as amended, is hereby
21 further amended by enacting a new section 703 to read as follows:

22 "Section 703. Authority of the Registrar of
23 Corporations.

24 (1) The Registrar may grant a charter to a non-
25 profit corporation if an application is filed in

1 conformity with this chapter.

2 (2) If the application for a charter is not in
3 conformity with the requirements of this chapter, the
4 Registrar shall, within 15 days of receipt of the
5 application, return the same to the petitioners
6 specifying wherein it fails to conform with this
7 chapter. The petitioners may amend the application to
8 comply with the requirements of this chapter."

9 Section 5. Chapter 7 of Title 36 of the Code of the Federated
10 States of Micronesia (Annotated), as amended, further is hereby
11 amended by enacting a new section 704 to read as follows:

12 "Section 704. Incorporation Requirements. In order to
13 operate as a nationally recognized non-profit corporation
14 within the Federated States of Micronesia an entity must
15 be granted a charter from the Registrar under the
16 provisions of this chapter."

17 Section 6. Chapter 7 of Title 36 of the Code of the Federated
18 States of Micronesia (Annotated), as amended, is hereby further
19 amended by enacting a new section 705 to read as follows:

20 "Section 705. Articles of Incorporation and Bylaws. An
21 application for a charter as a non-profit corporation
22 shall include the following documents:

23 (1) Articles of Incorporation, which shall include the
24 following information:

25 (a) names and addresses of incorporators, a

1 majority of whom must be residents in the Federated States
2 of Micronesia;

3 (b) the location of the proposed non-profit
4 corporation and the address of its initial office;

5 (c) names and addresses of the officers and
6 directors;

7 (d) the purpose or purposes for which the
8 proposed non-profit corporation is organized;

9 (e) the period of duration, which may be
10 perpetual;

11 (f) provision that the proposed non-profit
12 corporation is not organized for profit and that it will
13 not issue any stock and no part of its assets income or
14 earnings shall be distributed to its members, directors,
15 or officers, except for compensation to directors and
16 officers for services actually rendered or upon
17 liquidation of its property in case of dissolution; and

18 (g) any provision not inconsistent with law,
19 which the incorporators may elect to set forth in the
20 Articles of Incorporation.

21 (2) By-laws that regulate the internal affairs, which
22 shall include the following:

23 (a) provisions relating to the activities of the
24 proposed non-profit corporation;

25 (b) the rights and powers of the members,

1 officer, and directors;

2 (c) procedures for the election, installation,
3 and removal of officers and directors;

4 (d) a policy to determine whether a conflict of
5 interest exists and how any conflict of interest shall be
6 handled by the proposed non-profit corporation;

7 (e) procedures for amendment of the By-laws by
8 the members, officers, or directors; and

9 (f) any provisions as determined by the members,
10 officers, or directors for guiding the day-to-day actions
11 of the proposed non-profit corporation.”

12 Section 7. Chapter 7 of Title 36 of the Code of the
13 Federated States of Micronesia (Annotated), as amended, is hereby
14 further amended by enacting a new section 706 to read as follows:

15 “Section 706. Fees. The following fees shall be paid to
16 the Registrar of Corporations office for deposit into the
17 General Fund upon the filing of corporate documents:

18 (1) \$50 filing fee for Articles of Incorporation;

19 (2) \$15 filing fee for Articles of Amendment;

20 (3) \$15 filing fee for Articles of Dissolution; and

21 (4) \$5 filing fee for Annual Report.”

22 Section 8. Chapter 7 of Title 36 of the Code of the Federated
23 States of Micronesia (Annotated), as amended, is hereby further
24 amended by enacting a new section 707 to read as follows:

25 “Section 707. Compensation to Members, Directors, and

1 Officers. A non-profit corporation may pay compensation
2 in a reasonable amount to its members, directors, or
3 officers, for services rendered, and may confer benefits
4 upon its members in conformity with its purposes.”

5 Section 9. Chapter 7 of title 36 of the Code of the Federated
6 States of Micronesia (Annotated), as amended, is hereby further
7 amended by enacting a new section 708 to read as follows:

8 “Section 708. Powers Prohibited to Non-Profit
9 Corporations.

10 (1) A non-profit corporation may not have or issue shares
11 of stock, and dividends may not be paid;

12 (2) The income of a non-profit corporation, or any
13 portion thereof, may not be distributed to its members,
14 directors, or officers, except upon the liquidation of the
15 property of the non-profit corporation upon dissolution;
16 Loans may not be made by a non-profit corporation to its
17 directors or officers.

18 (3) The directors of a non-profit corporation who vote
19 for or assent to the making of a loan to a director or
20 officer of the non-profit corporation, and any officer or
21 officers participating in the making of the loan, shall be
22 jointly and severally liable to the non-profit corporation
23 for the amount of the loan until repayment thereof.”

24 Section 10. Chapter 7 of Title 36 of the Code of the
25 Federated States of Micronesia (Annotated), as amended, is hereby

1 further amended by enacting a new section 709 to read as follows:

2 "Section 709. Duties of Directors and Officers.

3 Directors and Officers shall discharge their duties in
4 good faith and in the best interests of the non-profit
5 corporation, this includes a duty to disclose any
6 information that may represent a conflict of interest of
7 the director or officer."

8 Section 11. Chapter 7 of Title 36 of the Code of the
9 Federated States of Micronesia (Annotated), as amended, is hereby
10 further amended by enacting a new section 710 to read as follows:

11 "Section 710. Record-Keeping. A non-profit corporation
12 shall keep a record of its Articles of Incorporation,
13 bylaws, and financial statements for a period of 6 years.
14 Records shall be made available for inspection by the
15 Registrar of Corporations Office and members of the non-
16 profit corporation within a reasonable time period upon
17 request."

18 Section 12. Chapter 7 of Title 36 of the Code of the
19 Federated States of Micronesia (Annotated), as amended, is hereby
20 further amended by enacting a new section 711 to read as follows:

21 "Section 711. Annual Report to Registrar.

22 A non-profit corporation shall submit an annual report to
23 the Registrar of Corporations Office within 90 days after
24 the end of each fiscal year. The annual report shall be
25 signed by the President, treasurer, or equivalent

1 position attesting to the validity of the statements in
2 the report, and shall include the following information:

3 (1) Any changes to the corporation's address, officers,
4 or directors;

5 (2) Any changes to the bylaws of the non-profit
6 corporation; and

7 (3) A financial statement and balance sheet for the most
8 recently completed fiscal year that was prepared under
9 generally accepted accounting principles."

10 Section 13. Chapter 7 of Title 36 of the Code of the
11 Federated States of Micronesia (Annotated), as amended, is hereby
12 further amended by enacting a new section 712 to read as follows:

13 "Section 712. Dissolution. A non-profit corporation may
14 be terminated by dissolution. Dissolution may occur as
15 follows:

16 (1) Voluntary Corporate Dissolution. Voluntary
17 Corporate Dissolution occurs when a meeting is called for
18 the specific purpose of dissolution, by a majority vote of
19 its members or directors, or in any other manner set out
20 by the bylaws of the corporation.

21 (2) Administrative Dissolution. The Registrar may
22 proceed with an administrative dissolution when a non-
23 profit corporation does not comply with the requirements
24 under this Chapter, regulations promulgated pursuant to
25 Section 711, and any other applicable laws, after giving

1 the non-profit corporation 90 days to demonstrate its
2 compliance.

3 (3) Dissolution through National Court Proceedings.
4 The FSM Supreme Court may commence the process of
5 judicial dissolution by appointing a receiver to manage
6 the affairs of the non-profit corporation including its
7 wind-up and liquidation, when a non-profit corporation is
8 found to have engaged in activities outside the scope of
9 its Articles of Incorporation, or that do not comply with
10 the requirements of the laws in force."

11 Section 14. Chapter 7 of Title 36 of the Code of the
12 Federated States of Micronesia (Annotated), as amended, is hereby
13 further amended by enacting a new section 713 to read as follows:

14 "Section 713. Rulemaking and Promulgation.
15 Upon the recommendation of the Registrar, the Secretary of
16 Justice may issue such regulations as are necessary to
17 implement this Chapter in accordance with Title 17 of the
18 Code of the Federated States of Micronesia. Such
19 regulations may include but are not limited to prescribing
20 the forms and formality for charter applications, annual
21 reporting requirements, dissolution procedures, inspection
22 requirements."

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1 Section 15. This Act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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November 27 _____, 2024

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/s/ Wesley W. Simina _____

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Wesley W. Simina

President

Federated States of Micronesia

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