

A BILL FOR AN ACT

To further amend title 33 of the Code of the Federated States of Micronesia, as amended, by repealing sections 921 through 933 in their entirety, by renaming Chapter 9 "Real Property Security Investments," by enacting a new chapter 10 named "The Secured Transactions Act," by enacting new sections 1001 through 1072 setting forth a law of secured transactions; to further amend title 53, as amended, by amending section 607 to make social security liens subject to the Secured Transactions Act; to further amend title 54, as amended, by amending sections 135, 152, 224 and 226 to make tax liens subject to the Secured Transactions Act; and for other purposes.

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

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3 No. 9-136, are hereby repealed in their entirety.

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

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

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

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

16           Section 5. Title 33 of the Code of the Federated States of

1 Micronesia is hereby amended by enacting a new subchapter 1  
2 entitled "General Provisions" of new Chapter 10 entitled "The  
3 Secured Transactions Act."

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

7 "Section 1001. Purpose; construction; authority; title.

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

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

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

23 (4) This Act may be cited as 'The Secured Transactions  
24 Act.'

25 Section 7. Title 33 of the Code of the Federated States of

1 Micronesia is hereby amended by enacting a new section 1002 to  
2 read as follows:

3 "Section 1002. Definitions.

4 (1) "Account" means any right to payment for goods  
5 sold or leased or for services rendered which is not  
6 evidenced by an instrument or chattel paper.

7 (2) "Account debtor" means the person who is obligated  
8 on an account, chattel paper, or other intangible  
9 property.

10 (3) "Assignee" means a person who takes an assignment.

11 (4) "Assignment" means the transfer from one person to  
12 another, in whole or in part, of any right in an  
13 account, chattel paper, document, instrument, or other  
14 right to payment.

15 (5) "Assignor" means the person who makes an  
16 assignment.

17 (6) "Authenticate" means to execute or adopt a name or  
18 symbol by any means, with present intent to identify the  
19 signing party or to adopt or establish the authenticity  
20 of a record. The term does not require a manual  
21 signature.

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

1 violates the rights of another person in the goods.

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

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

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

22 (11) "Consumer goods" means goods used primarily for  
23 personal, family, or household purposes.

24 (12) "Debtor" means the person who owes payment or  
25 other performance of the secured obligation, whether or

1 not the person owns or has rights in the collateral, and  
2 includes the seller of accounts or chattel paper, and  
3 the lessee or consignee of goods.

4 (13) "Department" means the Department of Economic  
5 Affairs of the Federated States of Micronesia.

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

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

15 (16) "Equipment" means goods that are not farm  
16 products, inventory, or consumer goods.

17 (17) "Farm products" means goods of a debtor engaged in  
18 farming, other than standing timber, which are:

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

20 (b) aquatic goods produced in aquacultural  
21 operations;

22 (c) livestock, including the unborn;

23 (d) supplies used or produced in a farming  
24 operation; or

25 (e) products of crops or livestock in their

1 unmanufactured state.

2 (18) "Filing office" means the secured transactions  
3 filing office established in subchapter 4 of this Act.

4 (19) "Fixture" means goods that are fixed to real  
5 property, or are intended to become fixed to real  
6 property, in a manner that causes a property right to  
7 arise in the goods under the prevailing law. Readily  
8 removable factory machines, office machines, and  
9 domestic appliances are not fixtures.

10 (20) "Goods" means all things that are movable when a  
11 security interest attaches. The term includes fixtures,  
12 timber to be cut and removed for sale, and farm  
13 products. The term does not include accounts or chattel  
14 paper, money, documents, or instruments.

15 (21) "Guarantee" means a secondary obligation that  
16 consists of an obligation to pay, or an issuer's  
17 obligation to pay under a letter of credit, and that  
18 supports the payment on an account, chattel paper,  
19 document, instrument, or other intangible property.

20 (22) "Instrument" means a writing that evidences a  
21 right to the payment of money, that is not itself a  
22 security agreement or lease, and that is of a type which  
23 is in the ordinary course of business transferred by  
24 delivery with any necessary endorsement or assignment.  
25 The term includes a certificated security.

1           (23) "Inventory" means goods held for sale or lease, or  
2 goods that are raw materials, work in process, or  
3 materials used or consumed in a business.

4           (24) "Investment property" means a security other than  
5 a certificated security.

6           (25) "Lease of goods for a period greater than one  
7 year" means:

8                   (a) a lease of goods for a stated duration of  
9 more than one year;

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

11                   (c) a lease of goods for an initial term of one  
12 year or less if the lessee, with the consent of the  
13 lessor, retains uninterrupted or substantially  
14 uninterrupted possession of the leased goods for more  
15 than one year after the lessee first acquired possession  
16 of the goods, but the lease does not become a lease for  
17 a term of more than one year until the lessee's  
18 possession extends beyond one year; or

19                   (d) a lease of goods for a term of one year or  
20 less where the lease provides that it is renewable for a  
21 period that may exceed one year.

22           (26) "Lessee in the ordinary course of business" means  
23 a person who, in good faith and without actual or  
24 constructive knowledge that the lease is in violation of  
25 the ownership rights or security interest or leasehold

1 interest of a third party in the goods, leases in the  
2 ordinary course from a person in the business of selling  
3 or leasing goods of that kind.

4 (27) "Lien holder" means:

5 (a) a person who obtains a right in a secured  
6 party's collateral, or a right to seize a secured  
7 party's collateral, by order of a court or by order of  
8 any authority under prevailing law, or by the authority  
9 of an administrator in an insolvency proceeding; or

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

13 (28) "Motor vehicle" means the following, when not held  
14 as inventory of a debtor: a motor vehicle, a trailer, an  
15 aircraft, an outboard motor, or a motorized boat.

16 (29) "Notice" means a record filed or presented for  
17 filing in the filing office. The term includes  
18 amendments, continuation statements, and termination  
19 statements that are filed or presented for filing. An  
20 "initial notice" is the notice to which an amendment,  
21 continuation statement, termination statement, or  
22 correction statement may relate.

23 (30) "Other intangible property" means any movable  
24 property other than goods, accounts, chattel paper,  
25 documents, instruments, and money.



1           (31) "Person" means an individual, a corporation  
2           whether for profit or not for profit, a joint venture,  
3           and all national, state and municipal governments of the  
4           Federated States of Micronesia.

5           (32) "Proceeds" means

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

8                   (b) whatever is collected on, or distributed with  
9                   respect to, collateral;

10                  (c) rights arising out of collateral;

11                  (d) to the extent of the value of collateral,  
12                  claims arising out of the loss or nonconformity of,  
13                  defects in, or damage to the collateral;

14                  (e) to the extent of the value of collateral and  
15                  to the extent payable to the debtor or the secured  
16                  party, insurance payable by reason of the loss or  
17                  nonconformity of, defects in, or damage to the  
18                  collateral.

19           "Cash proceeds" means proceeds that are money, checks,  
20           funds on deposit in banks, and the like.

21           (33) "Purchase" means to take collateral as a buyer, a  
22           donee, a person receiving security such as a secured  
23           party, consignor, lessor, or mortgagee, or by any other  
24           voluntary transaction creating an interest in property.  
25           A person who takes by purchase is a "purchaser."

1           (34) "Purchase money security interest." A security  
2 interest is a purchase money security interest to the  
3 extent that it is:

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

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

9           (35) "Record" means information that is inscribed on a  
10 tangible medium or that is stored in an electronic or  
11 other medium and is retrievable in perceivable form.  
12 The term includes a photocopy, facsimile copy, and  
13 electronic mail.

14           (36) "Secondary obligor" means an obligor to the extent  
15 that:

16           (a) the obligor's obligation is secondary; or

17           (b) the obligor has a right of recourse with  
18 respect to an obligation secured by collateral against  
19 the debtor, another obligor, or property of either.

20           (37) "Secured party" means a lender, seller or other  
21 person in whose favor a security interest is created  
22 under a security agreement, including a person to whom  
23 accounts or chattel paper have been sold, and a lessor  
24 of goods. The term includes a consignor of goods.

25           (38) "Security agreement" means an agreement that

1 creates or provides for a security interest.

2 (39) "Security interest" means a property right in  
3 collateral that secures performance of an obligation.

4 (40) "Unless otherwise agreed" means unless the secured  
5 party and the debtor agree otherwise.

6 (41) "Value" A person gives value for rights if the  
7 person acquires the rights

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

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

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

14 (d) in return for anything given in exchange, or  
15 for any promise."

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

19 "Section 1003. Scope.

20 (1) This Act applies to:

21 (a) all transactions where the effect is to  
22 secure an obligation with collateral, including pledge,  
23 conditional sale, chattel mortgage, and assignment;

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

25 (c) consignments;

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

3                   (e) the interest of a lien holder in collateral.

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

10                  (3) Notwithstanding subsection (1), this Act does not  
11                  apply to:

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

15                   (b) the transfer of a claim for compensation of  
16                   an employee;

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

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

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

24                   (f) the transfer of an interest in a flagged  
25                   vessel subject to the maritime and admiralty law of the

1 Federated States of Micronesia;

2 (g) the transfer of an interest in investment  
3 property."

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

7 "Section 1004. Security interest.

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

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

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

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

21 "Section 1005. Secured obligation.

22 (1) A security interest may secure one or more  
23 obligations.

24 (2) Secured obligations may be described specifically  
25 or in general terms.

1           (3) Secured obligations may be monetary or non-  
2           monetary obligations.

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

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

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

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

12                 "Section 1006. Collateral description.

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

15                 (2) A description of collateral may be expressed in  
16                 general terms, except as may be required in this Act  
17                 with respect to motor vehicles.

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

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

25                 "Section 1007. Effectiveness of security agreement.

1           (1) A security agreement must be in the form of a  
2           record.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24                   (b) shall apply money or funds received from the  
25 collateral to reduce the secured obligation, unless



1           remitted to the debtor.

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

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

7           "Section 1009. Assignment.

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

11          (2) An assignment under this section may be a specific  
12          or general assignment.

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

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

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

22          (6) If an account debtor is given information about an  
23          assignment, the information shall be in writing, shall  
24          identify the rights assigned, and shall be signed by the  
25          assignor or the assignee, but need not disclose any of

1 the terms or conditions of the assignment.

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

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

13 (a) all terms of the agreement between the  
14 account debtor and assignor and any defense or claim in  
15 recoupment arising from the transaction that gave rise  
16 to the contract; and

17 (b) any other defense or claim of the account  
18 debtor against the assignor which accrues before the  
19 account debtor receives a notification of the assignment  
20 authenticated by the assignor or the assignee;

21 Provided, however, that the claim of an account debtor  
22 against an assignor may be asserted against an assignee  
23 only to reduce the amount the account debtor owes."

24 Section 15. Title 33 of the Code of the Federated States of  
25 Micronesia is hereby amended by enacting a new section 1010 to

1 read as follows:

2 "Section 1010. Restriction on sale or assignment.

3 An agreement between a secured party and a debtor is  
4 unenforceable if it prohibits or restricts the sale or  
5 assignment of an account, lease, or chattel paper."

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

9 "Section 1011. Attachment of security interest to  
10 collateral.

11 (1) A security interest attaches to collateral and  
12 becomes enforceable against the debtor and third parties  
13 with respect to the collateral only if:

14 (a) the debtor has authenticated a security  
15 agreement that provides a description of the collateral;

16 (b) value has been given by the secured party to  
17 the debtor; and

18 (c) the debtor has rights in the collateral or  
19 the power to transfer rights in the collateral to a  
20 secured party.

21 (2) Unless otherwise agreed, the attachment of a  
22 security interest in collateral gives the secured party  
23 the right to a security interest in proceeds as provided  
24 in this Act.

25 (3) Goods shall be determined to be equipment,

1           inventory, farm products, or consumer goods at the time  
2           that a security interest attaches to the goods."

3           Section 17. Title 33 of the Code of the Federated States of  
4 Micronesia is hereby amended by enacting a new subchapter 2  
5 entitled "Priority of security interests" of new Chapter 10  
6 entitled "The Secured Transactions Act."

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

10           "Section 1012. Perfection of security interest.

11           (1) A security interest is perfected when it has  
12 attached to the collateral and a means of perfection has  
13 been completed. There are four means of perfecting a  
14 security interest:

15                   (a) the filing of a notice in the filing office;

16                   (b) possession of the collateral by the secured  
17 party;

18                   (c) control of the collateral by the secured  
19 party; and

20                   (d) perfection upon attachment of the security  
21 interest to collateral, without further action.

22           (2) A notice must be filed in the filing office to  
23 perfect a security interest, unless this section  
24 provides otherwise.

25           (3) The following security interests are perfected

1           when they attach to the collateral and without the  
2           filing of a notice:

3                   (a) a purchase money security interest in  
4           consumer goods;

5                   (b) a security interest in proceeds, if the  
6           underlying security interest is perfected;

7                   (c) an assignment for the benefit of all  
8           creditors of the transferor and subsequent transfers by  
9           the assignee thereunder.

10           (4) A security interest in goods, instruments,  
11           documents, or chattel paper may be perfected by the  
12           secured party's taking possession, and without filing a  
13           notice.

14                   (a) A security interest is perfected by  
15           possession from the time possession is taken and  
16           continues only so long as possession is retained.

17                   (b) A security interest perfected by possession  
18           under this subsection may also be perfected by filing a  
19           notice before, during, or after a period of possession  
20           by a secured party.

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

24           (6) A security interest in a deposit account may be  
25           perfected by the secured party's taking control of the

1 deposit account, as provided in subpart (B), and without  
2 filing a notice.

3 (7) A security interest in a motor vehicle may be  
4 perfected by filing a notice that describes the motor  
5 vehicle generally or by serial number.

6 (8) While goods are in the possession of a bailee that  
7 has issued a document covering the goods, a security  
8 interest in the goods may be perfected by perfecting a  
9 security interest in the document. Any security  
10 interest in the goods perfected by filing a notice  
11 during the period that goods are in the possession of  
12 the bailee is subordinate to a security interest  
13 perfected in the document.

14 (9) Perfection of a security interest in collateral  
15 also perfects a security interest in a guarantee  
16 supporting the collateral. The filing of a notice is  
17 not necessary to perfect a security interest in a  
18 guarantee.

19 (10) Perfection of a security interest in a right to  
20 payment or performance also perfects a security interest  
21 in a mortgage on real property securing the right to  
22 payment.

23 (11) The filing of a notice is not necessary to perfect  
24 a security interest in property subject to a treaty  
25 under which the requirements for perfecting a security

1 interest vary from the requirements of this Act.  
2 Compliance with the requirements of the treaty to  
3 perfect a security interest is equivalent to the filing  
4 of a notice under this Act."

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

8 "Section 13. Continuity of perfection.

9 (1) A security interest is perfected continuously if  
10 it is first perfected in one manner and later perfected  
11 in another manner, without a period when it is not  
12 perfected.

13 (2) If a secured party assigns a perfected security  
14 interest, a notice need not be filed under this Act to  
15 continue perfection of the security interest against  
16 creditors of the debtor, transferees from the debtor,  
17 and lien holders."

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

21 "Section 1014. Priority among security interests in the  
22 same collateral.

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

1           (2) Priority is measured from the time the first  
2 notice is filed covering the collateral, or the time the  
3 security interest is first perfected, whichever is  
4 earlier, if there is no time after the first time of  
5 filing or perfection at which the notice was ineffective  
6 or the continuity of perfection was interrupted.

7           (3) The first security interest to attach to  
8 collateral has priority among security interests for  
9 which no effective notice covers the collateral and for  
10 which there is no perfection.

11           (4) A date of filing or perfection as to collateral is  
12 deemed to be the date of filing or perfection of a  
13 security interest in proceeds."

14           Section 21. Title 33 of the Code of the Federated States of  
15 Micronesia is hereby amended by enacting a new section 1015 to  
16 read as follows:

17           "Section 1015. Priority of lien holder. A security  
18 interest has priority over the rights of a lien holder  
19 unless a notice of the rights of the lien holder is  
20 filed in accordance with this Act:

- 21           (1) before the security interest is perfected; and  
22           (2) before a notice covering the collateral is filed."

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



1           "Section 1016. Purchasers of collateral.

2           (1) A purchaser takes collateral free of a security  
3 interest if the purchaser gives value for the collateral  
4 without actual or constructive knowledge of the security  
5 interest and before it is perfected. If the collateral  
6 is tangible, the purchaser must also take delivery of  
7 the collateral without actual or constructive knowledge  
8 of the security interest and before it is perfected.

9           (2) Notwithstanding subsection (1), a buyer in the  
10 ordinary course of business takes goods free of a  
11 security interest in the goods, even if the security  
12 interest is perfected and even if the buyer has actual  
13 or constructive knowledge of its existence.

14           (3) Notwithstanding subsections (1) and (2), a buyer  
15 of goods that are consumer goods of the seller takes the  
16 goods free of a security interest whether or not the  
17 security interest is perfected, if the person buys and  
18 takes delivery of the goods without actual or  
19 constructive knowledge of the security interest.

20           (4) Notwithstanding subsections (1), (2), and (3), a  
21 person who buys a motor vehicle or who takes a security  
22 interest in a motor vehicle, takes the motor vehicle or  
23 security interest free of a prior security interest only  
24 if:

25           (a) the person bought without actual knowledge of

1 the security interest; and

2 (b) the motor vehicle was not described, or was  
3 incorrectly described, by serial number in a filed  
4 notice.

5 (5) Notwithstanding subsections (1) and (2) a person  
6 who buys farm products takes the farm products free of  
7 any security interest."

8 Section 23. Title 33 of the Code of the Federated States of  
9 Micronesia is hereby amended by enacting a new section 1017 to  
10 read as follows:

11 "Section 1017. Lessees of collateral.

12 (1) A lessee of goods takes its leasehold interest  
13 free of a security interest in the goods if the lessee  
14 receives delivery of the goods:

15 (a) without actual or constructive knowledge of  
16 the security interest; and

17 (b) before the security interest is perfected.

18 (2) Notwithstanding subsection (1), a lessee in the  
19 ordinary course of business takes the leasehold interest  
20 free of a security interest in the goods even if the  
21 security interest is perfected and even if the lessee  
22 has actual or constructive knowledge of its existence.

23 (3) Notwithstanding subsection (1), a lessee takes a  
24 motor vehicle free of a security interest only if the  
25 lessee leased:

1 (a) without actual knowledge of the security  
2 interest; and

3 (b) the motor vehicle was not described, or was  
4 incorrectly described, by serial number in a filed  
5 notice."

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

9 "Section 1018. Disposition of collateral and proceeds.

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

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

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

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

1                   (b) the security interest in the proceeds is  
2                   perfected before the expiration of the twenty day  
3                   period.

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

7                   "Section 1019. Notice of purchase money security  
8                   interest. If a person files a notice with respect to a  
9                   purchase money security interest in goods before or  
10                  within 5 days after the debtor receives delivery of the  
11                  goods, the security interest has priority over the  
12                  rights in the goods of a buyer, lessee, or lien holder  
13                  which arise between the time the security interest  
14                  attaches and the time of filing of the notice."

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

18                  "Section 1020. Priority of purchase money security  
19                  interest in equipment. A perfected purchase money  
20                  security interest in equipment has priority over a  
21                  conflicting security interest in the same collateral and  
22                  the interest of a lien holder, and also has priority in  
23                  its proceeds, if the purchase money security interest is  
24                  perfected when the debtor receives possession of the  
25                  equipment, or within five days thereafter."

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

4           "Section 21. Priority of purchase money security  
5 interest in inventory or livestock. A perfected  
6 purchase money security interest in inventory or  
7 livestock has priority over a conflicting security  
8 interest in the same inventory or livestock if:

9           (1) the purchase money security interest is perfected  
10 when the debtor receives possession of the inventory or  
11 livestock; and

12           (2) the purchase money secured party notifies in  
13 writing the holder of the conflicting security interest  
14 if the holder had filed a notice covering the same types  
15 of inventory or livestock before the time of a notice  
16 filed by the purchase money secured party. The  
17 notification must describe the inventory or livestock  
18 and state that the person giving the notification has or  
19 expects to acquire a purchase money security interest in  
20 inventory or livestock of the debtor."

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

24           "Section 22. Priority of lien arising by operation of  
25 law. A lien or right of retention arising by operation

1 of law in goods has priority over a perfected security  
2 interest while the goods are in the possession of the  
3 person holding the right of retention if:

4 (1) the right of retention is created in favor of a  
5 person in possession of the goods to secure payment for  
6 materials or services with respect to the goods; and

7 (2) the materials or services are provided in the  
8 ordinary course of business."

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

12 "Section 1023. Fixtures.

13 (1) A security interest may be created in goods that  
14 are fixtures. A security interest may continue in goods  
15 that become fixtures.

16 (2) Notwithstanding subsection (1), a security  
17 interest in ordinary building materials is unenforceable  
18 when the building materials are incorporated into real  
19 property.

20 (3) This section does not determine priority in  
21 readily removable factory machines, office machines, and  
22 domestic appliances.

23 (4) A security interest in fixtures is subordinate to  
24 all other real rights in real property, except as  
25 provided in this section.

1           (5) A perfected security interest in fixtures has  
2 priority over the interest of the owner of real  
3 property, or a mortgagee notwithstanding any provision  
4 in the mortgage, if a notice is filed before the  
5 interest of the owner or the mortgagee is registered in  
6 the land registry.

7           (6) A perfected security interest in fixtures has  
8 priority over the interest of a lien holder if a notice  
9 is filed before the filing of a notice of the interest  
10 of the lien holder as required by this Act.

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

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

4           "Section 1024. Crops. A perfected security interest in  
5 crops growing on real property has priority over a  
6 conflicting interest of the owner or a mortgagee if the  
7 debtor is in possession of the real property or has an  
8 interest in the real property that is registered in  
9 accordance with the real property law."

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

13          "Section 1025. Accessions.

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

17           (2) A security interest may be created in an accession  
18 and continues in collateral that becomes an accession.  
19 If a security interest is perfected when the collateral  
20 becomes an accession, the security interest remains  
21 perfected in the accession.

22           (3) On default, a secured party may remove an  
23 accession from other goods if the security interest in  
24 the accession has priority over the claims of every  
25 person having an interest in the whole.



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

5           (a) A secured party that removes accessions shall  
6 promptly reimburse any other secured party for the cost  
7 of repair of any damage to the property.

8           (b) The secured party need not reimburse the  
9 debtor or other secured party for any diminution in  
10 value caused by the absence of the goods removed or by  
11 any necessity for replacing them.

12           (c) A person entitled to reimbursement may refuse  
13 permission to remove until the secured party gives  
14 adequate assurance for the performance of the obligation  
15 to reimburse."

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

19           "Section 1026. Commingled goods.

20           (1) In this section, "commingled goods" means goods  
21 that are physically united with other goods in such a  
22 manner that their identity is lost in a product or mass.

23           (2) A security interest may not be created in  
24 commingled goods. However, a security interest may  
25 attach to a product or mass that results when goods

1           become commingled goods.

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

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

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

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

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

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

24          Section 33. Title 33 of the Code of the Federated States of  
25          Micronesia is hereby amended by enacting a new section 1027 to

1 read as follows:

2 "Section 1027. Purchase of chattel paper and  
3 instruments. A purchaser of chattel paper or  
4 instruments has priority over a conflicting security  
5 interest in the chattel paper or instruments and also  
6 has priority with respect to the proceeds of the chattel  
7 paper or instruments if:

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

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

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

17 "Section 1028. Control of deposit account.

18 (1) A secured party has control of a deposit account  
19 if:

20 (a) the secured party is the bank with which the  
21 deposit account is maintained;

22 (b) the debtor, secured party, and bank have  
23 agreed in an authenticated record that the bank will  
24 comply with instructions originated by the secured party  
25 directing disposition of the funds in the deposit

1 account without further consent by the debtor; or

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

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

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

11 "Section 1029. Priority of conflicting security  
12 interests in deposit accounts.

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

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

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

25 (4) A security interest perfected by control has

1 priority over a security interest held by the bank with  
2 which the deposit account is maintained if the secured  
3 party has become the customer of the bank with respect  
4 to the deposit account.

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

8 "Section 1030. Transfers of money and funds from  
9 deposit accounts. A transferee of money, including  
10 funds from a deposit account, takes the money free of a  
11 security interest unless the transferee acts in  
12 collusion with the debtor in violating the rights of the  
13 secured party."

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

17 "Section 1031. Right of recoupment or setoff against  
18 deposit account.

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

24 (2) A setoff by a bank based on a claim against a  
25 debtor is ineffective against a secured party that has

1           established control of a deposit account by becoming the  
2           bank's customer with respect to the deposit account."

3           Section 38. Title 33 of the Code of the Federated States of  
4 Micronesia is hereby amended by enacting a new section 1032 to  
5 read as follows:

6           "Section 1032. Inter-bank transactions. Nothing in  
7 this Act limits any special priorities, protections or  
8 preferences under the banking law, held by banks that  
9 acquire instruments or documents in a manner or under  
10 circumstances that entitles them to such priorities,  
11 protections or preferences. These interests take  
12 preference over an earlier security interest, even if  
13 perfected, to the extent provided by the banking law."

14          Section 39. Title 33 of the Code of the Federated States of  
15 Micronesia is hereby amended by enacting a new subchapter 3  
16 entitled "Filing" of new Chapter 10 entitled "The Secured  
17 Transactions Act."

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

21          "Section 1033. Filing office.

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

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

1 required of the filing office.

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

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

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

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

24 (4) The secured transactions filing office is the  
25 place to file

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

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

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

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

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

13                   "Section 1034. Regulations.

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

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

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

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

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

25                   (d) There shall be no fee for a search of filing



1 office records.

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

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

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

9 "Section 1035. Notice of the interest of a lien holder.

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

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

22 "Section 1036. Access to filing office records.

23 (1) A notice is a public record.

24 (2) Indexes and other records created by the filing  
25 office with respect to notices, in any form or medium,

1           are public records.

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

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

7           "Section 1037. Contents of initial notice.

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

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

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

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

22          (2) A person is entitled to file an initial notice  
23          only if the debtor authorizes the filing in an  
24          authenticated record. The debtor's authorization need  
25          not be contained in the notice.

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

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

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

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

18                 "Section 1038. Name of debtor and secured party.

19                 (1) A notice sufficiently provides the name of the  
20                 debtor when:

21                         (a) the debtor is a natural person and a citizen  
22                         of the Federated States of Micronesia and the notice  
23                         contains the name of the person as it appears on the  
24                         records of the Social Security Administration;

25                         (b) the debtor is a corporation organized under

1 law enacted by the Federated States of Micronesia or a  
2 state of the Federated States of Micronesia, and the  
3 notice contains the name of the debtor as shown on the  
4 registry established by that law;

5 (c) the debtor is a foreign corporation qualified  
6 to do business under law enacted by the Federated States  
7 of Micronesia or a state of the Federated States of  
8 Micronesia and the notice provides the name of the  
9 debtor as shown in the registry established under that  
10 law;

11 (d) the debtor is a foreign corporation not  
12 registered under the law enacted by the Federated States  
13 of Micronesia or any state of the Federated States of  
14 Micronesia, and the notice contains the name of the  
15 debtor as shown on the appropriate registry in the  
16 country where the foreign corporation is organized.

17 (2) A notice that sufficiently provides the name of  
18 the debtor is not rendered ineffective by the presence  
19 or absence of a trade name or other name of the debtor.  
20 A notice that provides only the debtor's trade name does  
21 not sufficiently provide the name of a debtor.

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

24 (4) The failure to indicate on a notice that a person  
25 is an agent of the secured party does not affect the

1           sufficiency of a notice."

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

5           "Section 1039. Effect of changes in circumstance.

6           (1) A filed notice remains effective with respect to  
7 collateral that is sold, exchanged, leased, licensed, or  
8 otherwise disposed of and in which a security interest  
9 continues, even if the secured party has actual or  
10 constructive knowledge of or consents to the  
11 disposition.

12          (2) If a debtor changes its name so that a filed  
13 notice becomes seriously misleading, the notice is  
14 effective to perfect a security interest in collateral  
15 acquired by the debtor before or within four months  
16 after the change. The notice is effective to perfect a  
17 security interest in collateral acquired by the debtor  
18 more than four months after the change only if an  
19 amendment to the notice is filed within four months of  
20 the change to correct the name.

21          (3) Except as provided for a change of debtor name  
22 under subsection (2), a notice remains effective if,  
23 after the notice is filed, a change of circumstances  
24 renders the notice seriously misleading.

25          Section 47. Title 33 of the Code of the Federated States of

1 Micronesia is hereby amended by enacting a new section 1040 to  
2 read as follows:

3 "Section 1040. Duration of notice and effect of lapse.

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

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

9 (3) Upon lapse, a notice becomes ineffective and any  
10 security interest that was perfected by the notice  
11 becomes unperfected, unless the security interest is  
12 perfected without filing.

13 (4) If the security interest becomes unperfected upon  
14 lapse, it is deemed never to have been perfected against  
15 a prior or subsequent purchaser of the collateral for  
16 value."

17 Section 48. Title 33 of the Code of the Federated States of  
18 Micronesia is hereby amended by enacting a new section 1041 to  
19 read as follows:

20 "Section 1041. Amendment of notice.

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

23 (a) identify the initial notice by its file  
24 number;

25 (b) identify the secured party on the notice who

1           authorizes the amendment;

2                   (c) indicate that it is an amendment to the  
3 notice; and

4                   (d) provide all of the information required of an  
5 initial notice, completely restating the notice in a  
6 manner that reflects the amended state of the notice.

7           (2) If an amendment adds collateral covered by a  
8 notice, or adds a debtor to a notice, it is effective if  
9 the debtor authorizes the filing in an authenticated  
10 record. By signing a security agreement, a debtor  
11 authorizes the filing of an amendment, covering the  
12 collateral described in the security agreement, and  
13 proceeds of the collateral, whether or not the security  
14 agreement expressly covers proceeds.

15           (3) If there is more than one secured party on the  
16 notice, the amendment is effective if a secured party  
17 authorizes the filing in an authenticated record.

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

21           (5) An amendment that adds a debtor is effective as to  
22 the added debtor only from the date of the filing of the  
23 amendment.

24           (6) An amendment other than an amendment to add  
25 collateral or add a debtor is effective only if a

1           secured party on the notice authorizes the filing of the  
2           amendment in an authenticated record.

3           (7) An amendment is ineffective if it purports to  
4           delete all secured parties and fails to provide the name  
5           of a new secured party, or purports to delete the names  
6           of all debtors and fails to provide the name of a debtor  
7           not previously named on the notice.

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

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

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

16                 "Section 1042. Continuation of notice.

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

19                         (a) identifies the initial notice by its file  
20                         number;

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

23                         (c) indicates that the effectiveness of the  
24                         notice, with respect to the secured party who authorized  
25                         the filing, is to be continued.



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

4           (a) Upon timely filing of a continuation  
5           statement, the effectiveness of the notice continues for  
6           a period of five years commencing on the day on which  
7           the notice would have become ineffective in the absence  
8           of the filing.

9           (b) The effectiveness of a notice is continued  
10          only with respect to the secured party who authorized  
11          the filing of the continuation statement.

12          (c) Upon the expiration of the new five-year  
13          period, the notice lapses with respect to the secured  
14          party unless, before the lapse, another continuation  
15          statement authorized by that secured party is filed.  
16          Succeeding continuation statements may be filed in the  
17          same manner to continue the effectiveness of the  
18          notice."

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

22                 "Section 1043. Termination of notice.

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

25                         (a) identifies the initial notice by its file

1           number;

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

4                   (c) indicates that the notice is no longer  
5           effective with respect to the interest of the secured  
6           party who authorized the filing of the termination  
7           statement.

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

11                   (a) there is no outstanding secured obligation  
12          and no commitment to make an advance, incur an  
13          obligation, or otherwise give value; or

14                   (b) the debtor did not authorize the filing of  
15          the initial notice; or

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

19          (3) A termination statement effectively terminates the  
20          interest of a secured party on the notice only if the  
21          termination statement is authorized in an authenticated  
22          record by that secured party. Upon the filing of an  
23          effective termination statement, the notice to which the  
24          termination statement relates becomes ineffective with  
25          respect to the authorizing secured party."

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

4           "Section 1044. Effectiveness of notice.

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

9           (2) The filing office may refuse to file a record  
10 because:

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

13           (b) in the case of an amendment, the record does  
14 not provide the name of a debtor, does not provide the  
15 file number of the initial notice, or the record  
16 identifies an initial notice whose effectiveness has  
17 lapsed;

18           (c) in the case of a continuation statement, the  
19 record does not provide the file number of the initial  
20 notice, or was not delivered within the permitted six-  
21 month time period; or

22           (d) in the case of a termination statement, the  
23 record does not provide the file number of the initial  
24 notice, or the record relates to an initial notice that  
25 has lapsed with respect to each secured party on the

1 notice.

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

5 (3) A record that the filing office refuses to accept  
6 for a reason other than one set forth in this section is  
7 effective as a filed record except against a purchaser  
8 of the collateral that gives value in reasonable  
9 reliance upon the absence of the record from the files.

10 (4) If a filing office refuses to accept a record for  
11 filing, it shall promptly communicate the fact of and  
12 reason for its refusal to the person that presented the  
13 record.

14 (5) A notice authorized by one secured party on the  
15 notice does not affect the rights of another secured  
16 party on the notice.

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

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

23 "Section 1045. Filing office duties.

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

25 (a) assign a unique file number in the case of an

1 initial notice;

2 (b) assign a unique number to notices other than  
3 the initial notice;

4 (c) create a record that bears the number  
5 assigned to the filed record and the date and time of  
6 filing; and

7 (d) maintain the filed record for public  
8 inspection.

9 (2) The filing office shall index an initial notice by  
10 the name of the debtor and shall index all filed records  
11 relating to an initial notice in a manner that  
12 associates the initial notice and all filed records  
13 relating to the initial notice. For notices containing  
14 serial numbers of motor vehicles, the filing office  
15 shall maintain an index of serial numbers.

16 (3) The filing office shall maintain the capability to  
17 retrieve a record by the name of the debtor and by the  
18 file number assigned to the initial notice to which the  
19 record relates, and that associates an initial notice  
20 and all records relating the initial notice with one  
21 another. For notices containing the serial number of a  
22 motor vehicle, the filing office shall maintain the  
23 capability to retrieve a record by the serial number of  
24 the motor vehicle.

25 (4) The filing office shall maintain records of lapsed

1 notices for a period of ten years beyond the date of  
2 lapse."

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

6 "Section 1046. Information from filing office.

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

9 (a) whether there is on file on a date and time  
10 specified by the filing office, any notice that  
11 designates a particular debtor and has not lapsed with  
12 respect to all secured parties;

13 (b) the file number, and the date and time of  
14 filing of each notice;

15 (c) the name and address of each debtor and  
16 secured party on each notice;

17 (d) all of the information contained in each  
18 notice.

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

21 (a) the file number of a notice;

22 (b) the name of a debtor; or

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

24 (3) In complying with its duty, the filing office may  
25 communicate information in any medium. However, if

1 requested, the filing office shall communicate  
2 information by issuing a written certificate that can be  
3 admitted into evidence in the courts without extrinsic  
4 evidence of its authenticity."

5 Section 54. Title 33 of the Code of the Federated States of  
6 Micronesia is hereby amended by enacting a new section 1047 to  
7 read as follows:

8 "Section 1047. Filing Office Revolving Fund.

9 (1) There is established a Filing Office Revolving  
10 Fund, hereinafter referred to as the 'Fund,' separate  
11 from the General Fund of the Federated States of  
12 Micronesia and all other funds.

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

17 (3) All future appropriations for, and revenues  
18 received from, the filing of notices shall be deposited  
19 in the Fund. Any unexpended monies in the Fund shall  
20 not revert to the General Fund nor lapse at the end of  
21 the fiscal year; provided that at the end of each fiscal  
22 year, funds in excess of fifty percent of the actual  
23 operating costs of the filing system during the fiscal  
24 year just closed shall be deposited in the General Fund.

25 (4) The Fund shall be administered by the Secretary of

1 the Department of Economic Affairs. The Secretary  
2 shall, not later than 30 days after the close of each  
3 governmental fiscal year, submit a complete report of  
4 the activities and condition of the Fund for the fiscal  
5 year just closed to the President and the Congress of  
6 the Federated States of Micronesia.

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

9 Section 55. Title 33 of the Code of the Federated States of  
10 Micronesia is hereby amended by enacting a new subchapter 4  
11 entitled "Enforcement of security interests" of new Chapter 10  
12 entitled "The Secured Transactions Act."

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

16 "Section 1048. Rights after default--judicial  
17 enforcement--consignor or buyer of accounts, chattel  
18 paper, payment intangibles, or promissory notes.

19 (1) After default a secured party has the rights  
20 provided in this part and those provided by agreement of  
21 the parties.

22 (2) After default, a secured party may reduce a claim  
23 to judgment, foreclose, or otherwise enforce the claim,  
24 or security interest by any available judicial  
25 procedure.



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

4           (4) A secured party in possession of collateral or  
5 control of collateral has the rights and duties provided  
6 in section 8.

7           (5) Rights under this section are cumulative and may  
8 be exercised simultaneously.

9           (6) Except as otherwise provided in this part with  
10 respect to an unknown debtor, after default, a debtor  
11 and an obligor have the rights provided in this part and  
12 by agreement of the parties.

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

17                   (a) the date of perfection of the security  
18 interest in the collateral; or

19                   (b) the date of filing a notice covering the  
20 collateral.

21           (8) A secured party may purchase at any execution sale  
22 or sale pursuant to judicial foreclosure upon collateral  
23 and thereafter hold the collateral free of any other  
24 requirements of this Act.

25           (9) This part imposes no duties upon a secured party

1           that is a consignor or a buyer of accounts, chattel  
2           paper, or other intangible property."

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

6           "Section 1049. Procedure if security agreement covers  
7 real property or fixtures.

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

11                   (a) under this part; or

12                   (b) in accordance with the rights with respect to  
13 real property.

14           (2) Subject to the other provisions of this part, if a  
15 secured party holding a security interest in fixtures  
16 has priority over all owners and encumbrancers of the  
17 real property, the secured party, after default, may  
18 remove the collateral from the real property.

19           (3) A secured party that removes collateral shall  
20 promptly reimburse any encumbrancer or owner of the real  
21 property, other than the debtor, for the cost of repair  
22 of any physical injury caused by the removal. The  
23 secured party need not reimburse the encumbrancer or  
24 owner for any diminution in value of the real property  
25 caused by the absence of the goods removed or by any

1           necessity of replacing them. A person entitled to  
2           reimbursement may refuse permission to remove until the  
3           secured party gives adequate assurance for the  
4           performance of the obligation to reimburse."

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

8           "Section 1050. Unknown debtor or secondary obligor. A  
9           secured party does not owe a duty based on its status as  
10          secured party:

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

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

14                   (b) the identity of the person; and

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

16           (2) to a secured party or lien holder that has filed a  
17          notice naming the person as a debtor, unless the secured  
18          party actually knows:

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

20                   (b) the identity of the person."

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

24           "Section 1051. Collection and enforcement by secured  
25          party.

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

3           (a) may notify an account debtor or other person  
4 obligated on collateral to make payment or otherwise  
5 render performance to or for the benefit of the secured  
6 party;

7           (b) may take any proceeds to which the secured  
8 party is entitled;

9           (c) may enforce the obligations of an account  
10 debtor or other person obligated on collateral and  
11 exercise the rights of the debtor with respect to the  
12 obligation of the account debtor or other person  
13 obligated on collateral to make payment or otherwise  
14 render performance to the debtor, and with respect to  
15 any property that secures the obligations of the account  
16 debtor or other person obligated on the collateral.

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

19           (a) if a secured party holds a security interest  
20 in a deposit account perfected by control pursuant to  
21 section 1028(1)(a), the secured party may apply the  
22 balance of the deposit account to the obligation secured  
23 by the deposit account; or

24           (b) if a secured party holds a security interest  
25 in a deposit account perfected pursuant to section

1           1028(1)(b) or (c), the secured party may instruct the  
2           bank to pay the balance of the deposit account to or for  
3           the benefit of the secured party.

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

6                   (a) undertakes to collect from or enforce an  
7                   obligation of an account debtor or other person  
8                   obligated on collateral; and

9                   (b) is entitled to charge back uncollected  
10                  collateral or otherwise to full or limited recourse  
11                  against the debtor or a secondary obligor.

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

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

20           "Section 1052. Secured party's right to possession.

21                   (1) Upon default, a secured party with a right to  
22                   possession of collateral under the Secured Transactions  
23                   Act shall be entitled to a special, expedited order from  
24                   the court having jurisdiction granting the secured party  
25                   possession or control over the collateral.

1           (2) The secured party shall file a verified  
2           application under oath with the court having in rem  
3           jurisdiction over the collateral requesting a hearing  
4           and an order to take control of the collateral; attached  
5           to the application shall be a copy of the security  
6           agreement and evidence of default thereunder, and a  
7           detailed identification of the collateral and its  
8           present location.

9           (3) The secured party shall serve notice of the  
10          application upon the debtor and shall include a copy of  
11          the application and the attached documents; such notice  
12          may be given personally to the debtor or by leaving it  
13          as his usual place of abode or business with some person  
14          not less than 18 years of age and sound mind then  
15          residing or employed there, and if the person with whom  
16          the notice is left states that he is unable to read it,  
17          by also orally explaining the substance of it to him, if  
18          practical, in a language understood by him, or otherwise  
19          in a language generally understood in the locality. The  
20          notice shall also include a proposed stipulation whereby  
21          the debtor can agree to the secured party taking  
22          possession of the collateral without further legal  
23          proceedings. Such stipulation must be acknowledged by a  
24          notary public and must be in the language of the debtor,  
25          or certified as having been translated and explained to

1 the debtor.

2 (4) If within five days after such notice the debtor  
3 does not agree in writing to allow the secured party to  
4 take possession of the collateral without further legal  
5 proceedings, the secured party shall notify the court in  
6 writing that the debtor has not agreed and that a  
7 hearing is requested.

8 (5) The court shall set a hearing within ten days  
9 after filing of the application by the secured party and  
10 service of notice to the debtor, unless the debtor has  
11 agreed in writing as provided in subparagraph (b) above  
12 to the secured party taking possession of the collateral  
13 without further legal proceedings.

14 (6) At anytime before the hearing the debtor can file  
15 a response to the application. However, the failure to  
16 file a response shall not constitute a waiver of any  
17 defenses which the debtor may present at the hearing.

18 (7) The court shall not grant any enlargements of time  
19 or extensions of time to either party for any reason;  
20 however, the secured party may withdraw the application  
21 without prejudice at any time.

22 (8) Issues at the hearing are limited to the existence  
23 of a security agreement covering the collateral, and the  
24 existence of at least one event of default under the  
25 terms of the security agreement.

1           (9) The court shall issue an order within five days  
2           after the hearing either granting or denying the  
3           application. A denial of an application shall be  
4           without prejudice to the secured party to refile.

5           (10) An order to dispossess the debtor under this  
6           section may be appealed by the debtor but no court shall  
7           stay the dispossession order or prevent the disposal of  
8           the collateral during the appeal process.

9           (11) An order denying the application may be appealed  
10          by the secured party; during the pendency of the appeal  
11          the debtor shall not sell, transfer, or otherwise  
12          dispose of the collateral and shall maintain the  
13          collateral for the benefit of the secured party, unless  
14          the court finds that the collateral is not covered by  
15          the terms of the security agreement.

16          (12) Any appeal filed under this section shall be  
17          expedited.

18          (13) Proceedings under this section are informal and  
19          the rules of evidence shall not apply.

20          (14) If the service of a court official or police  
21          official or other government official is required for  
22          the dispossession of the collateral from the debtor, the  
23          secured party shall pay the costs of enforcement.

24          (15) If the security agreement so provides, the secured  
25          party may require the debtor to assemble the collateral



1           and make it available to the secured party at a place to  
2           be designated by the secured party which is reasonably  
3           convenient to both parties.

4           (16) If the security agreement so provides, a secured  
5           party may render equipment unusable without removing it  
6           from its location, and may dispose of collateral on the  
7           debtor's place of business, residence, or any other  
8           location where the collateral is found. A debtor shall  
9           not have any right to a claim of trespass, or  
10          interference with the debtor's property, or damage to  
11          property, or any other claim relating to or as a  
12          consequence of a secured party exercising its rights  
13          under this section, regardless of the location of the  
14          collateral. Nothing contained herein shall be construed  
15          to authorize a violation of any criminal law by any  
16          secured party, debtor or person acting on behalf of  
17          either.

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

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

1           "Section 1053. Application of proceeds of collection or  
2           enforcement--liability for deficiency and right to  
3           surplus.

4           (1) If a security interest secures payment or  
5           performance of an obligation, the following rules apply:

6                   (a) a secured party shall apply or pay over for  
7           application the cash proceeds of collection or  
8           enforcement in the following order to:

9                           (i) the reasonable expenses of collection  
10           and enforcement and, to the extent provided for by  
11           agreement and not prohibited by law, reasonable  
12           attorney's fees and legal expenses incurred by the  
13           secured party;

14                           (ii) the satisfaction of obligations secured  
15           by a superior security interest in or other lien on the  
16           collateral subject to the security interest under which  
17           the collection or enforcement is made if the secured  
18           party receives an authenticated demand for proceeds  
19           before distribution of the proceeds is completed;

20                           (iii )the satisfaction of obligations secured  
21           by the security interest under which the collection or  
22           enforcement is made; and

23                           (iv) the satisfaction of obligations secured  
24           by any subordinate security interest in or other lien on  
25           the collateral subject to the security interest under

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

5                   (b) if requested by a secured party, a holder of  
6           a subordinate security interest or other lien shall  
7           furnish reasonable proof of the interest or lien within  
8           a reasonable time. Unless the holder complies, the  
9           secured party need not comply with the holder's demand.

10                   (c) a secured party need not apply or pay over  
11           for application noncash proceeds of collection and  
12           enforcement unless the failure to do so would be  
13           commercially unreasonable. A secured party that applies  
14           or pays over for application noncash proceeds shall do  
15           so in a commercially reasonable manner.

16                   (d) a secured party shall account to and pay a  
17           debtor for any surplus, and the obligor is liable for  
18           any deficiency.

19                   (2) If the underlying transaction is a sale of  
20           accounts, chattel paper, payment intangibles, or  
21           promissory notes, the debtor is not entitled to any  
22           surplus, and the obligor is not liable for any  
23           deficiency."

24           Section 62. Title 33 of the Code of the Federated States of  
25           Micronesia is hereby amended by enacting a new section 1054 to

1 read as follows:

2 "Section 1054. Secured party's right to take possession  
3 after default.

4 (1) After default, a secured party:

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

6 (b) without removal, may render equipment  
7 unusable and dispose of collateral on a debtor's  
8 premises.

9 (2) A secured party may proceed under subsection (1):

10 (a) pursuant to judicial process; or

11 (b) without judicial process, if it proceeds  
12 without breach of the peace.

13 (3) If so agreed, and in any event after default, a  
14 secured party may require the debtor to assemble the  
15 collateral and make it available to the secured party at  
16 a place to be designated by the secured party which is  
17 reasonably convenient to both parties."

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

21 "Section 1055. Disposition of collateral after default.

22 (1) After default, a secured party may sell, lease,  
23 license, or otherwise dispose of any or all of the  
24 collateral in its present condition or following any  
25 commercially reasonable preparation or processing.

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

8           (3) A secured party may purchase collateral:

9                 (a) at a public disposition; or

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

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

19           (5) A secured party may disclaim or modify warranties  
20 under subsection (4):

21                 (a) in a manner that would be effective to  
22 disclaim or modify the warranties in a voluntary  
23 disposition of property of the kind subject to the  
24 contract of disposition; or

25                 (b) by communicating to the purchaser a record

1           evidencing the contract for disposition and including an  
2           express disclaimer or modification of the warranties.

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

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

11           "Section 1056. Notification before disposition of  
12           collateral.

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

15                   (a) a secured party sends to the debtor and any  
16                   secondary obligor an authenticated notification of  
17                   disposition; or

18                   (b) the debtor and any secondary obligor waive  
19                   the right to notification.

20           (2) Except as otherwise provided in subsection (4), a  
21           secured party that disposes of collateral under section  
22           1055 shall send to the persons specified in subsection  
23           (3) a reasonable authenticated notification of  
24           disposition. This subsection does not apply if the  
25           collateral is perishable or threatens to decline

1           speedily in value or is of a type customarily sold on a  
2           recognized market.

3           (3) To comply with subsection (2), the secured party  
4           shall send an authenticated notification of disposition  
5           to:

6                     (a) the debtor;

7                     (b) any secondary obligor; and

8                     (c) if the collateral is other than consumer  
9           goods:

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

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

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

22                    (a) not later than twenty days or earlier than  
23           thirty days before the notification date, the secured  
24           party requests, in a commercially reasonable manner,  
25           information concerning notices indexed under the

1 debtor's name in the filing office; and

2 (b) before the notification date, the secured  
3 party:

4 (i) did not receive a response to the  
5 request for information; or

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

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

14 "Section 1057. Timeliness of notification before  
15 disposition of collateral.

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

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

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



1 read as follows:

2 "Section 1058. Contents of notification before  
3 disposition of collateral--general. Except in a  
4 consumer-goods transaction, the following rules apply:

5 (1) The contents of a notification of disposition are  
6 sufficient if the notification:

7 (a) describes the debtor and the secured party;  
8 (b) describes the collateral that is the subject  
9 of the intended disposition;

10 (c) states the method of intended disposition;

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

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

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

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

23 "Section 1059. Application of proceeds of disposition--  
24 liability for deficiency and right to surplus.

25 (1) A secured party shall apply or pay over for

1 application the cash proceeds of disposition under  
2 section 1055 in the following order to:

3 (a) the reasonable expenses of retaking, holding,  
4 preparing for disposition, processing, and disposing,  
5 and, to the extent provided for by agreement and not  
6 prohibited by law, reasonable attorney's fees and legal  
7 expenses incurred by the secured party;

8 (b) the satisfaction of obligations secured by  
9 the security interest under which the disposition is  
10 made;

11 (c) the satisfaction of obligations secured by  
12 any subordinate security interest in or other  
13 subordinate lien on the collateral if:

14 (i) the secured party receives from the  
15 holder of the subordinate security interest or other  
16 lien an authenticated demand for proceeds before  
17 distribution of the proceeds is completed; and

18 (ii) in a case in which a consignor has an  
19 interest in the collateral, the subordinate security  
20 interest or other lien is senior to the interest of the  
21 consignor; and

22 (d) a secured party that is a consignor of the  
23 collateral if the secured party receives from the  
24 consignor an authenticated demand for proceeds before  
25 distribution of the proceeds is completed.

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

7           (3) A secured party need not apply or pay over for  
8 application noncash proceeds of disposition under  
9 section 1055 unless the failure to do so would be  
10 commercially unreasonable. A secured party that applies  
11 or pays over for application noncash proceeds shall do  
12 so in a commercially reasonable manner.

13           (4) If the security interest under which a disposition  
14 is made secures payment or performance of an obligation,  
15 after making the payments and applications required by  
16 subsection (1) and permitted by subsection (3):

17                 (a) unless subsection (1), paragraph (d),  
18 requires the secured party to apply or pay over cash  
19 proceeds to a consignor, the secured party shall account  
20 to and pay a debtor for any surplus; and

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

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

24                 (a) the debtor is not entitled to any surplus;  
25 and

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

2 (6) The surplus or deficiency following a disposition  
3 is calculated based on the amount of proceeds that would  
4 have been realized in a disposition complying with this  
5 part to a transferee other than the secured party, a  
6 person related to the secured party, or a secondary  
7 obligor if:

8 (a) the transferee in the disposition is the  
9 secured party, a person related to the secured party, or  
10 a secondary obligor; and

11 (b) the amount of proceeds of the disposition is  
12 significantly below the range of proceeds that a  
13 complying disposition to a person other than the secured  
14 party, a person related to the secured party, or a  
15 secondary obligor would have brought.

16 (7) A secured party that receives cash proceeds of a  
17 disposition in good faith and without actual or  
18 constructive knowledge that the receipt violates the  
19 rights of the holder of a security interest or other  
20 lien that is not subordinate to the security interest  
21 under which the disposition is made:

22 (a) takes the cash proceeds free of the security  
23 interest or other lien;

24 (b) is not obligated to apply the proceeds of the  
25 disposition to the satisfaction of obligations secured

1 by the security interest or other lien; and

2 (c) is not obligated to account to or pay the  
3 holder of the security interest or other lien for any  
4 surplus."

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

8 "Section 1060. Rights of transferee of collateral.

9 (1) A secured party's disposition of collateral after  
10 default:

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

13 (b) discharges the security interest under which  
14 the disposition is made; and

15 (c) discharges any subordinate security interest  
16 or other subordinate lien.

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

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

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

25 (b) the security interest under which the

1 disposition is made; and

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

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

6 "Section 1061. Rights and duties of certain secondary  
7 obligors.

8 (1) A secondary obligor acquires the rights and  
9 becomes obligated to perform the duties of the secured  
10 party after the secondary obligor:

11 (a) receives an assignment of a secured  
12 obligation from the secured party;

13 (b) receives a transfer of collateral from the  
14 secured party and agrees to accept the rights and assume  
15 the duties of the secured party; or

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

18 (2) An assignment, transfer, or subrogation described  
19 in subsection (1):

20 (a) is not a disposition of collateral under  
21 section 1055; and

22 (b) relieves the secured party of further duties  
23 under this Act."

24 Section 70. Title 33 of the Code of the Federated States of  
25 Micronesia is hereby amended by enacting a new section 1062 to

1 read as follows:

2 "Section 1062. Transfer of record or legal title.

3 (1) In this section, "transfer statement" means a  
4 record authenticated by a secured party stating:

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

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

9 (c) that, by reason of the exercise, a transferee  
10 has acquired the rights of the debtor in the collateral;  
11 and

12 (d) the name and mailing address of the secured  
13 party, debtor, and transferee.

14 (2) A transfer statement entitles the transferee to  
15 the transfer of record of all rights of the debtor in  
16 the collateral specified in the statement in any  
17 official filing, recording, registration, or  
18 certificate-of-title system covering the collateral. If  
19 a transfer statement is presented with the applicable  
20 fee and request form to the official or office  
21 responsible for maintaining the system, the official or  
22 office shall:

23 (a) accept the transfer statement;

24 (b) promptly amend its records to reflect the  
25 transfer; and

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

3                   (3) A transfer of the record or legal title to  
4                   collateral to a secured party under subsection (2) or  
5                   otherwise is not of itself a disposition of collateral  
6                   under this Act and does not of itself relieve the  
7                   secured party of its duties under this Act."

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

11                  "Section 1063. Acceptance of collateral in full or  
12                  partial satisfaction of obligation--compulsory  
13                  disposition of collateral.

14                  (1) Except as otherwise provided in subsection (7), a  
15                  secured party may accept collateral in full or partial  
16                  satisfaction of the obligation it secures only if:

17                         (a) the debtor consents to the acceptance under  
18                         subsection (3);

19                         (b) the secured party does not receive, within  
20                         the time set forth in subsection (4), a notification of  
21                         objection to the proposal authenticated by:

22                                 (i) a person to which the secured party was  
23                                 required to send a proposal under section 1064; or

24                                 (ii) any other person, other than the debtor,  
25                                 holding an interest in the collateral subordinate to the



1 security interest that is the subject of the proposal;

2 (iii) if the collateral is consumer goods, the  
3 collateral is not in the possession of the debtor when  
4 the debtor consents to the acceptance; and

5 (iv) subsection (5) does not require the  
6 secured party to dispose of the collateral or the debtor  
7 waives the requirement.

8 (2) A purported or apparent acceptance of collateral  
9 under this section is ineffective unless:

10 (a) the secured party consents to the acceptance  
11 in an authenticated record or sends a proposal to the  
12 debtor; and

13 (b) the conditions of subsection (1) are met.

14 (3) For purposes of this section:

15 (a) a debtor consents to an acceptance of  
16 collateral in partial satisfaction of the obligation it  
17 secures only if the debtor agrees to the terms of the  
18 acceptance in a record authenticated after default; and

19 (b) a debtor consents to an acceptance of  
20 collateral in full satisfaction of the obligation it  
21 secures only if the debtor agrees to the terms of the  
22 acceptance in a record authenticated after default or  
23 the secured party:

24 (i) sends to the debtor after default a  
25 proposal that is unconditional or subject only to a

1 condition that collateral not in the possession of the  
2 secured party be preserved or maintained;

3 (ii) in the proposal, proposes to accept  
4 collateral in full satisfaction of the obligation it  
5 secures; and

6 (iii) does not receive a notification of  
7 objection authenticated by the debtor within twenty days  
8 after the proposal is sent.

9 (4) To be effective under subsection (1), paragraph  
10 (b), a notification of objection must be received by the  
11 secured party:

12 (a) in the case of a person to which the proposal  
13 was sent pursuant to section 1064, within twenty days  
14 after notification was sent to that person; and

15 (b) in other cases:

16 (i) within twenty days after the last  
17 notification was sent pursuant to section 1064; or

18 (ii) if a notification was not sent, before  
19 the debtor consents to the acceptance under subsection  
20 (3).

21 (5) A secured party that has taken possession of  
22 collateral shall dispose of the collateral pursuant to  
23 section 1055 within the time specified in subsection (6)  
24 if sixty percent of the cash price has been paid.

25 (6) To comply with subsection (5), the secured party

1 shall dispose of the collateral:

2 (a) within ninety days after taking possession;

3 or

4 (b) within any longer period to which the debtor  
5 and all secondary obligors have agreed in an agreement  
6 to that effect entered into and authenticated after  
7 default.

8 (7) In a consumer transaction, a secured party may not  
9 accept collateral in partial satisfaction of the  
10 obligation it secures."

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

14 "Section 1064. Notification of proposal to accept  
15 collateral.

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

19 (a) any person from which the secured party has  
20 received, before the debtor consented to the acceptance,  
21 an authenticated notification of a claim of an interest  
22 in the collateral;

23 (b) any other secured party or lien holder that,  
24 ten days before the debtor consented to the acceptance,  
25 held a security interest in or other lien on the

1 collateral perfected by the filing of a notice that:

2 (i) identified the collateral;

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

5 (c) any other secured party that, ten days before  
6 the debtor consented to the acceptance, held a security  
7 interest in the collateral perfected by compliance with  
8 a statute or treaty.

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

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

16 "Section 1065. Effect of acceptance of collateral.

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

19 (a) discharges the obligation to the extent  
20 consented to by the debtor;

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

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

1 (d) terminates any other subordinate interest.

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

5 Section 74. Title 33 of the Code of the Federated States of  
6 Micronesia is hereby amended by enacting a new section 1066 to  
7 read as follows:

8 "Section 1066. Right to redeem collateral.

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

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

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

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

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

17 (a) has collected collateral under section 1051;

18 (b) has disposed of collateral or entered into a  
19 contract for its disposition under section 1055; or

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

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

1           "Section 1067. Waiver.

2           (1) A debtor or secondary obligor may waive the right  
3           to notification of disposition of collateral under  
4           section 1056 only by an agreement to that effect entered  
5           into and authenticated after default.

6           (2) A debtor may waive the right to require  
7           disposition of collateral under section 1064, subsection  
8           (5), only by an agreement to that effect entered into  
9           and authenticated after default.

10          (3) A debtor or secondary obligor may waive the right  
11          to redeem collateral under section 1066 only by an  
12          agreement to that effect entered into and authenticated  
13          after default."

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

17          "Section 1068. Remedies for secured party's failure to  
18          comply with Act.

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

24          (2) Subject to subsections (3), a person is liable for  
25          damages in the amount of any loss caused by a failure to

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

4           (3) A debtor whose deficiency is eliminated under  
5           section 1069 may recover damages for the loss of any  
6           surplus. However, a debtor or secondary obligor whose  
7           deficiency is eliminated or reduced under section 1069  
8           may not otherwise recover under subsection (2) for  
9           noncompliance with the provisions of this part relating  
10          to collection, enforcement, disposition, or acceptance.

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

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

22                 "Section 1069. Action in which deficiency or surplus is  
23                 in issue. In an action arising from a transaction,  
24                 other than a consumer transaction, in which the amount  
25                 of a deficiency or surplus is in issue, the following

1 rules apply:

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

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

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

19 (a) the proceeds of the collection, enforcement,  
20 disposition, or acceptance; or

21 (b) the amount of proceeds that would have been  
22 realized had the noncomplying secured party proceeded in  
23 accordance with the provisions of this part relating to  
24 collection, enforcement, disposition, or acceptance.

25 (4) for purposes of subsection (3), paragraph (2), the



1 amount of proceeds that would have been realized is  
2 equal to the sum of the secured obligation, expenses,  
3 and attorney's fees unless the secured party proves that  
4 the amount is less than that sum.

5 (5) if a deficiency or surplus is calculated under  
6 section 1059, subsection (6), the debtor or obligor has  
7 the burden of establishing that the amount of proceeds  
8 of the disposition is significantly below the range of  
9 prices that a complying disposition to a person other  
10 than the secured party, a person related to the secured  
11 party, or a secondary obligor would have brought."

12 Section 78. Title 33 of the Code of the Federated States of  
13 Micronesia is hereby amended by enacting a new section 1070 to  
14 read as follows:

15 "Section 1070. Determination of whether conduct was  
16 commercially reasonable.

17 (1) The fact that a greater amount could have been  
18 obtained by a collection, enforcement, disposition, or  
19 acceptance at a different time or in a different method  
20 from that selected by the secured party is not of itself  
21 sufficient to preclude the secured party from  
22 establishing that the collection, enforcement,  
23 disposition, or acceptance was made in a commercially  
24 reasonable manner.

25 (2) A disposition of collateral is made in a

1           commercially reasonable manner if the disposition is  
2           made:

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

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

6                   (c) otherwise in conformity with reasonable  
7           commercial practices among dealers in the type of  
8           property that was the subject of the disposition.

9           (3) A collection, enforcement, disposition, or  
10          acceptance is commercially reasonable if it has been  
11          approved:

12                   (a) in a judicial proceeding;

13                   (b) by a bona fide creditors' committee;

14                   (c) by a representative of creditors; or

15                   (d) by an assignee for the benefit of creditors.

16          (4) Approval under subsection (3) need not be  
17          obtained, and lack of approval does not mean that the  
18          collection, enforcement, disposition, or acceptance is  
19          not commercially reasonable."

20          Section 79. Title 33 of the Code of the Federated States of  
21          Micronesia is hereby amended by enacting a new subchapter 5  
22          entitled "Transition provisions" of new Chapter 10 entitled "The  
23          Secured Transactions Act."

24          Section 80. Title 33 of the Code of the Federated States of  
25          Micronesia is hereby amended by enacting a new section 1071 to

1 read as follows:

2           "Section 1071. Effective date of this Act. This Act  
3 shall come into effect upon the date certified by the  
4 Department to the President of the Federated States of  
5 Micronesia as the date on which the filing office is  
6 prepared to perform the duties required in subchapter 3  
7 of this Act."

8           Section 81. Title 33 of the Code of the Federated States of  
9 Micronesia is hereby amended by enacting a new section 1072 to  
10 read as follows:

11           "Section 1072. Transactions concluded prior to  
12 effective date of this Act. This section applies to  
13 transactions concluded prior to the effective date of  
14 this Act that would be subject to this Act if this Act  
15 had been in effect at the time the transactions were  
16 concluded. In this section, such a transaction is  
17 referred to as a "prior transaction."

18           (1) The validity, effect and enforcement of a prior  
19 transaction shall be determined by reference to the law  
20 in effect when the agreement was concluded, except as  
21 provided otherwise in this section.

22           (2) The provisions of this Act on filing, priority,  
23 and enforcement apply to a property interest created by  
24 a prior transaction to the extent the interest in the  
25 prior transaction conflicts with a security interest

1 created under this Act.

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

13 Section 82. Section 607 of title 53 of the Code of the  
14 Federated States of Micronesia, is hereby amended to read as  
15 follows:

16 "Section 607. Lien for taxes. All taxes, including  
17 penalties and interest accrued thereon, imposed or  
18 authorized under this subtitle shall be a lien upon any  
19 property of the employer, having priority over all other  
20 claims and liens including liens for other taxes, except  
21 as provided in the Secured Transactions Act, and may be  
22 collected by levy upon such property in the same manner  
23 as the levy of an execution."

24 Section 83. Section 135 of title 54 of the Code of the  
25 Federated States of Micronesia, is hereby amended to read as

1 follows:

2 "Section 135. Employer's responsibility for withheld  
3 taxes.

4 (1) All taxes withheld by any employer under section  
5 131 of this chapter shall be held in trust by such  
6 employer for the Government and for payment to the  
7 Secretary in the manner and at the time required by this  
8 chapter.

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

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

25 Section 84. Section 152 of title 54 of the Code of the

1 Federated States of Micronesia, is hereby amended to read as  
2 follows:

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

4 (1) Upon the failure of any person, business, or  
5 employer to make and file a return required by this  
6 chapter within the time and in the manner and form  
7 prescribed, or upon failure to pay any amount due, the  
8 Secretary may notify such person, business, or employer  
9 of such failure and demand that a return be made and  
10 filed and the tax paid as required by this chapter.

11 (2) If such person, business, or employer upon notice  
12 and demand by the Secretary fails or refuses within 30  
13 days after receipt of said notice and demand to make and  
14 file a return and pay the tax required by this chapter,  
15 the secretary may make a return for such person,  
16 business, or employer from any information and records  
17 obtainable, may file a notice of lien pursuant to the  
18 Secured Transactions Act, and may levy and assess the  
19 appropriate amount of tax.

20 (3) Such assessment shall be presumed to be correct  
21 unless and until it is proved incorrect by the person,  
22 business, or employer disputing the amount of the  
23 assessment."

24 Section 85. Section 224 of title 54 of the Code of the  
25 Federated States of Micronesia, is hereby amended to read as

1 follows:

2 "Section 224. Lien on imported goods. All duties  
3 imposed on goods under this chapter, together with any  
4 penalties and interest thereon, shall constitute a lien  
5 on those goods having priority over all other claims and  
6 liens, except as provided in the Secured Transactions  
7 Act, and may be collected by levy upon those goods in  
8 the same manner as the levy of an execution."

9 Section 86. Section 226 of title 54 of the Code of the  
10 Federated States of Micronesia, is hereby amended to read as  
11 follows:

12 "Section 226. Lien on importer's property. The  
13 personal liability of an importer provided for in this  
14 chapter shall be secured by a lien on any personal  
15 property of that importer, having priority over all  
16 other claims and liens, except as provided in the  
17 Secured Transactions Act, and with the exception of  
18 liens imposed pursuant to subsection (2) of section 135  
19 of this title, and may be collected by levy upon such  
20 property in the same manner as the levy of an  
21 execution."

22 Section 87. This act shall become law upon approval by the  
23 President of the Federated States of Micronesia or upon its  
24 becoming law without such approval.

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1 Date: 5/25/05

Introduced by: /s/ Simiram Sipenuk

Simiram Sipenuk

(by request)

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