A BILL FOR AN ACT

To enact a new chapter 1 of Title 36 of the Code of the Federated States of Micronesia (Annotated), and to repeal the existing chapter 1 in its entirety, to renumber chapter 2 of Title 36 of the Code of the Federated States of Micronesia as chapter 3, for the purpose of creating a new FSM national corporations law, and for other purposes.

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

Section 1. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by repealing chapter 1 in its entirety.

Section 2. Title 36, of the Federated States of Micronesia (Annotated), is hereby amended by creating a new chapter 1 of title 36, entitled: “Business Organization Act of 2016”.

Section 3. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 101 of chapter 1, to read as follows:

"Section 101. Short Title. This chapter shall be known and may be cited as the “Business Organization Act of 2016”."

Section 4. Section 102 of Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 102 of chapter 1, to read
as follows:

"Section 102. Application. This chapter applies to Major Corporations as defined by 54 FSMC (312)(2) and to corporations permitted or required to be formed under the national laws of the Federated States of Micronesia. This chapter does not apply to any corporation formed under the laws of any State of the Federated States of Micronesia. Corporations formed under the national laws of the Federated States of Micronesia in existence on the effective date of this Act remain in existence and henceforth are to be governed by the provisions of this Act."

Section 5. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 103 of chapter 1, to read as follows:

"Section 103. Definitions. As used in this chapter:

(1) "Articles of Incorporation" means articles of incorporation including amended and restated articles of incorporation and articles of merger;

(2) "Authorized Shares" means the shares of all classes a domestic corporation is authorized
to issue;

(3) "Certificate of Incorporation" means the certificate issued by the Registrar at the time of filing the articles of incorporation signifying the corporation’s existence;

(4) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous;

(5) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to this chapter;

(6) "Deliver" includes mail;

(7) "Distribution" means a direct or indirect transfer of money or other property except its own shares or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or
otherwise;

(8) "Effective date of notice" is defined in section 104.

(9) "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process;

(10) "Employee" includes an officer, but not a director. A director may accept duties that make the director also an employee;

(11) "Entity" includes domestic and foreign corporations, domestic professional corporations, domestic and foreign limited liability companies, domestic and foreign nonprofit corporations, domestic and foreign business trusts, estates, domestic and foreign partnerships, domestic and foreign limited partnerships, domestic and foreign limited liability partnerships, trusts, two or more persons having a joint or common economic interest, associations and cooperative associations, and state, national, and foreign governments;
(12) “Foreign corporation” means a corporation for profit incorporated under a law other than the laws of the Federated States of Micronesia or any State thereof;

(13) “Governmental subdivision” includes any State or municipality;

(14) “Includes” denotes a partial definition;

(15) “Individual” means a natural person;

(16) “Means” denotes an exhaustive definition;

(17) “Notice” is defined in section 104;

(18) “Person” includes individual and entity;

(19) “Principal Office” means the office designated in the annual report where the principal executive officers of a domestic or foreign corporation are located.

(20) “Proceeding” includes civil suit and criminal, administrative and investigatory action;

(21) “Record date” means the date established under this chapter on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is
fixed;

(22) "Registrar" means the Registrar of Corporations of the Government of the Federated States of Micronesia and includes Assistant Registrars;

(23) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility for preparation and custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation;

(24) "Shareholder" means the person is whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation;

(25) "Shares" means the units into which the proprietary interests in a corporation are divided;

(26) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation;

(27) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this chapter are entitled to
vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.”

Section 6. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 104 of chapter 1, to read as follows:

“Section 104. Notice.

(1) Notice under this chapter shall be in writing unless oral notice is reasonable under the circumstances.

(2) Notice is effective if communicated in person; by telephone, telegraph, teletype, electronic transmission or other form of wire or wireless communication; or by mail or private carrier. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(3) Written notice by a domestic or foreign corporation to its shareholders, if in a comprehensible form, is effective five days after
it is mailed, if mailed postpaid and correctly addressed to the shareholder’s address shown in the corporation’s current record of shareholders.

(4) Written notice to a domestic or foreign corporation authorized to transact business in the Federated States of Micronesia may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(5) Except as provided in subsection (3) above and (5)(c) below, written notice, if in a comprehensible form, is effective at the earliest of the following:

(a) When received;

(b) Five days after its deposit in the Federated States of Micronesia mail, as evidenced by a postmark, if mailed postpaid and correctly addressed; or

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the
(6) Oral notice is effective when communicated if communicated in a comprehensible manner.

(7) If this chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this chapter, those requirements govern.

(8) Without limiting the manner by which notice otherwise may be given to shareholders, notice to shareholders given by the corporation under this chapter, the articles of incorporation, or the bylaws shall be effective if provided by electronic transmission consented to by the shareholder by written notice to the corporation. Any consent shall be deemed revoked if:

(a) The corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent; and

(b) The inability to deliver becomes known to the secretary or an assistant secretary of the corporation, to the transfer agent, or
other person responsible for giving notice;
provided that the inadvertent failure to treat
such inability as a revocation shall not
invalidate any meeting or other action.

(9) Notice given pursuant to subsection (8)
shall be deemed given:

(a) If by facsimile telecommunication,
when directed to a number at which the shareholder
has consented to receive notice;

(b) If by electronic mail, when
directed to an electronic mail address at which
the shareholder has consented to receive notice;

(c) If by posting on an electronic
network together with separate notice to the
shareholder of such specific posting, upon the
later of the posting and the giving of such
separate notice; and

(d) If by any other form of electronic
transmission, when directed to the shareholder.

An affidavit of the secretary, assistant
secretary, transfer agent, or other agent of the
corporation that the notice has been given by a
form of electronic transmission, in the absence of
fraud, shall be prima facie evidence of the facts
stated therein.”
Section 6. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 104 of chapter 1, to read as follows:

"Section 105. Shareholders.

(1) For purposes of this chapter, the following identified as a shareholder in a corporation’s current record of shareholders constitute one shareholder if it is reasonable to believe that the names represent the same person.

(a) An individual;

(b) A corporation, partnership, trust, estate, or other entity; or

(c) The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

(2) For purposes of this chapter, shareholdings registered in substantially similar names constitute one shareholder if it is reasonable to believe that the names present the same person."

Section 7. Title 36 of the Code of the Federated States (Annotated), is hereby amended by inserting a new section 106 of chapter 1, to read as follows:

"Section 106. Registrar of Corporations. The
Registrar of Corporations has the power reasonably necessary to perform the duties required of the Registrar by this chapter, and to administer this chapter efficiently. The Registrar of Corporations with the approval of the Secretary of the Department of Justice and the President of the Federated States of Micronesia shall have the power to prescribe such rules and regulations as are deemed advisable to administer and carry into effect the provisions of this chapter. The duties of the Registrar may be delegated to such Assistant Registrars as the Registrar may deem appropriate including Assistant Registrars who carry out the functions of the Registrar in embassies of the Federated States of Micronesia situated in foreign countries. Assistant Registrars shall perform their duties under the direction and supervision of the Registrar. Wherever the term “Registrar” is used in this chapter, it shall be deemed to include all Assistant Registrars, if any.”

Section 8. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 107 of chapter 1, to read as follows:
“Section 107. Filing requirements.

(1) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the Registrar.

(2) This chapter must require or permit filing the document in the office of the Registrar.

(3) The documents must contain the information required by this chapter. It may contain other information as well.

(4) The document must be typewritten or printed.

(5) The document must be in English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of good standing required of foreign corporations need not be in English if accompanied by an English translation under oath of a translator.

(6) The document must be certified and executed:

(a) By the chairperson of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;
(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The person executing the document shall sign it and print beneath or opposite that person’s signature the person’s name and the capacity in which the person signs. The document may but need not contain:

(a) The corporate seal;

(b) An attestation by the secretary or an assistant secretary; or

(c) An acknowledgement, verification, notarization or proof.

(8) If the Registrar has prescribed a mandatory form for the document under Section 108, the document must be in or on the prescribed form.

(9) The document must be delivered to the office of the Registrar for filing and must be accompanied by the correct filing fee and any penalty required by this chapter.”

Section 9. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by
inserting a new section 108 of chapter 1, to read as follows:

"Section 108. Forms.

(1) The Registrar may prescribe and furnish on request forms for:

(a) An application for a certificate of good standing;

(b) A foreign corporation’s application for a certificate of authority to transact business in the Federated States of Micronesia;

(c) A foreign corporation’s application for a certificate of withdrawal; and

(d) The annual report.

If the Registrar so requires, use of these forms is mandatory.

(2) The Registrar may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter but their use is not mandatory.

(3) Upon request the Registrar shall promptly, and in no case more than five business days, issue certificates of incorporation, certificates of good standing, certificates of authority and certificates of withdrawal to corporations entitled thereto."

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Section 10. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 109 of chapter 1, to read as follows:

"Section 109. Filing, service and copying fees.

(1) The following fees shall be paid to the Registrar upon the filing of corporate documents:

(a) Articles of Incorporation, $100;

(b) Articles of Amendment, $25;

(c) Restated articles of incorporation, $25;

(d) Articles of conversion or merger, $100;

(e) Articles of merger (subsidiary corporation), $50;

(f) Articles of dissolution, $25;

(g) Annual report of domestic and foreign corporations organize for profit, $25;

(h) Agent’s statement of change of registered office, $25 for each affected domestic corporation or foreign corporation, except if simultaneous filings are made, the fee is reduced to $1 for each affected domestic corporation or foreign corporation in excess of two hundred;

(i) Any other statement, report,
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1. certificate, application, or other corporate document, except an annual report, of a domestic or foreign corporation, $25;

2. (j) Application for a certificate of authority, $100;

3. (k) Application for a certificate of withdrawal, $25;

4. (l) Reservation of corporate name, $10;

5. (m) Transfer of reservation of corporate name, $10;

6. (n) Good standing certificate, $5.

(2) All fees shall be paid to the Federated States of Micronesia Treasurer for deposit in the General Fund.

(3) The Registrar may adjust the fees assessed under this section, as necessary from time to time, through regulation adopted pursuant to section 106.

(4) The Registrar shall charge and collect:

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, $10 for the certificate and affixing the seal thereto; and

(b) at the time of any services of process on the Registrar as agent for service of
process of a corporation, $10, which amount may be
recovered as taxable costs by the party to the
suit or action causing the service to be made if
the party prevails in suit or action.”

Section 12. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 110 of chapter 1, to read as
follows:

“Section 110. Effective time and date of
document.

(1) Except as provided in subsection (2)
below and section 111, a document accepted for
filing is effective at the time of filing on the
date it is filed, as evidenced by the Registrar
and time endorsement on the original document.

(2) Articles of dissolution, articles of
conversion, and articles of merger or share
exchange may specify a delayed effective time and
date, and if it does so the document becomes
effective at the time and date specified. If a
delayed effective date but not time is specified,
the document is effective at the close of business
on that date. A delayed effective date for a
document may not be later than the thirtieth day
after the date it is filed.”
Section 13. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 111 of chapter 1, to read as follows:

“Section 111. Correcting filed document.

(1) A domestic or foreign corporation may correct a document filed by the Registrar if the document:

(a) Contains an incorrect statement; or

(b) Was defectively executed, attested, sealed, verified, or acknowledged.

(2) A document is corrected by:

(a) Preparing articles of correction that:

(i) Describe the document including its filing date or attach a copy of it to the articles;

(ii) Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and

(iii) Correct the incorrect statement or defective execution; and

(b) Delivering the articles of correction to the Registrar for filing.

(3) Articles of correction are effective on
the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.”

Section 14. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 112 of chapter 1, to read as follows:

“Section 112. Filing duty of Registrar.

(1) If a document delivered to the Registrar for filing satisfies the requirement of section 107, the Registrar shall file it.

(2) The Registrar files a document by stamping or otherwise endorsing the document including the date and time of receipt.

(3) If the Registrar refuses to file a document, the Registrar shall return it to the domestic or foreign corporation or its representative together with a brief, written explanation of the reason for the Registrar’s refusal.

(4) The Registrar’s duty to file documents under this section is ministerial. The Registrar’s filing or refusing to file a document
does not:

(a) Affect the validity or invalidity of the document in whole or part;
(b) Relate to the correctness or incorrectness of information contained in the document; and
(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect."

Section 15. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 113 of chapter 1, to read as follows:

"Section 113. Appeal from Registrar’s refusal to file document.

(1) If the Registrar refuses to file a document delivered to the Registrar for filing, the domestic or foreign corporation may appeal the refusal within thirty days after the return of the document in the Supreme Court of the Federated States of Micronesia. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Registrar’s explanation of the
Registrar’s refusal to file.

(2) The court shall summarily order the Registrar to file the document or take other action the court considers appropriate.

(3) The court’s final decision may be appealed as in other civil proceedings.”

Section 16. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 114 of chapter 1, to read as follows:

“Section 114. Evidentiary effect of copy of filed document. A certificate attached to a copy of a document filed by the Registrar bearing the Registrar’s signature which may be in facsimile and the seal of the Registrar is conclusive evidence that the original document is on file with the Registrar.”

Section 17. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 115 of chapter 1, to read as follows:

“Section 115. Certificates and certified copies to be received in evidence. All certificates issued by the Registrar pursuant to this chapter, and all copies of documents filed with Registrar
pursuant to this chapter when certified by the Registrar, shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the facts therein stated. A certificate by the Registrar under the seal of Registrar as to the existence or nonexistence of the facts relating to corporations, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.”

Section 18. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 116 of chapter 1, to read as follows:

“Section 116. Incorporators. One or more individuals may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the Registrar for filing.”

Section 19. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 117 of chapter 1, to read as follows:

“Section 117. Articles of incorporation.
1 (1) The articles of incorporation shall set forth:
2
3 (a) A corporate name for the corporation that satisfies the requirements of
4 section 127;
5
6 (b) The number of shares the corporation is authorized to issue;
7
8 (c) The mailing address of the corporation’s initial principal office, the street
9 address of the corporation’s initial registered office, and the name of its initial registered
10 agent at its initial registered office; and
11
12 (d) The name and address of each incorporator.
13
14 (2) The articles of incorporation may set forth:
15
16 (a) The names and addresses of the individuals who are to serve as initial directors;
17
18 (b) Provisions not inconsistent with law regarding:
19
20 (i) The purpose or purposes for which the corporation is organized;
21
22 (ii) Managing the business and regulating the affairs of the corporation;
23
24 (iii) Defining, limiting, and
regulating the powers of the corporation, its board of directors, and shareholders;

(iv) A par value for authorized shares or classes of shares; and

(v) The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(c) Any provision that under this chapter is required or permitted to be set forth in the bylaws;

(d) A provision eliminating or limiting the liability of a director or officer to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director or officer, subject to section 195;

(e) A provision permitting or making obligatory indemnification of a director for liability as defined in section 202 to any person for any action taken, or any failure to take any action, as a director, except liability for:

(i) Receipt of a financial benefit to which the director is not entitled;
(ii) An intentional infliction of harm on the corporation or its shareholders;

(iii) A violation of section 196.

(iv) An intentional violation of criminal law.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.”

Section 20. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 118 of chapter 1, to read as follows:

“Section 118. Incorporation.

(1) The corporate existence begins when the articles of incorporation are filed.

(2) The Register’s filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the Federated States of Micronesia to cancel or revoke the incorporation or involuntarily dissolve the corporation.”

Section 21. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 119 of chapter 1, to read as
Section 119. Liability for pre-incorporation transactions. All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this chapter, are jointly and severally liable for all liabilities created while so acting."

Section 22. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 120 of chapter 1, to read as follows:

"Section 120. Organization of corporation.

(1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the
incorporators to elect:

   (i) Directors and complete the

organization of the corporation; or

   (ii) A board of directors who shall

complete the organization of the corporation.

(2) Action required or permitted by this

chapter to be taken by incorporators at an

organizational meeting may be taken without a

meeting if the action taken is evidenced by one or

more written consents describing the action taken

and signed by each incorporator.

(3) An organizational meeting may be held in

or out of the Federated States of Micronesia.”

Section 23. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 121 of chapter 1, to read as
follows:

"Section 121. Bylaws.

   (1) The incorporators or board of directors

of a corporation may adopt initial bylaws for the

corporation.

   (2) The bylaws of a corporation may contain

any provision for managing the business and

regulating the affairs of the corporation that is

not inconsistent with law or the articles of
incorporation."

Section 24. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 122 of chapter 1, to read as follows:

"Section 122. Emergency bylaws.

(1) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (4) below. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

(a) Procedures for calling a meeting of the board of directors;

(b) Quorum requirements for the meeting; and

(c) Designation of additional or substitute directors.

(2) All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(3) Corporate action taken in good faith in
accordance with the emergency bylaws:

(a) Binds the corporation; and

(b) May not be used to impose liability

on a corporate director, officer, employee, or

agent.

(4) An emergency exists for purposes of this

section if a quorum of the corporation’s directors

cannot readily be assembled because of some

catastrophic event.”

Section 26. Title 36 of the Code of the Federated

States of Micronesia (Annotated), is hereby amended by

inserting a new section 123 of chapter 1, to read as

follows:

“Section 123. Purposes. Every corporation

incorporated under this chapter has the purpose of

engaging in any lawful business unless a more

limited purpose is set forth in the articles of

incorporation.”

Section 27. Title 36 of the Code of the Federated

States of Micronesia (Annotated), is hereby amended by

inserting a new section 124 of chapter 1, to read as

follows:

“Section 124. General powers.

(1) Unless its articles of incorporation

provide otherwise, every corporation has perpetual
duration and succession in its corporate name and
has the same powers as an individual to do all
things necessary or convenient to carry out its
business and affairs, including without
limitation, the power:

   (a) To sue and be sued, complain and
defend in its corporate name;

   (b) To have a corporate seal, which may
be altered at will, and to use it, or a facsimile
of it, by impressing or affixing it or in any
other manner reproducing it;

   (c) To make and amend bylaws, not
inconsistent with its articles of incorporation or
with the laws of the Federated States of
Micronesia, for managing the business and
regulating the affairs of the corporation;

   (d) To lawfully purchase, receive,
lease, or otherwise acquire, and own, hold,
improve, use, and otherwise deal with, real or
personal property, or any legal or equitable
interest in property, wherever located;

   (e) To sell, convey, mortgage, pledge,
lease, exchange, and otherwise dispose of all or
any part of its property;

   (f) to purchase, receive, subscribe
for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;

(g) To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations which may be convertible into or include the option to purchase other securities of the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

(h) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

(i) To be a promoter, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(j) To conduct its business, locate offices, and exercise the powers granted by this chapter within or without the Federated States of Micronesia;

(k) To elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;
(l) To pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;

(m) To make donations for the public welfare or for charitable, scientific, or educational purposes;

(n) To transact any lawful business that will aid governmental policy; and

(o) To make payments or donations, or do any other acts, not inconsistent with law, that furthers the business and affairs of the corporation.”

Section 27. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 125 of chapter 1, to read as follows:

“Section 125. Emergency powers.

(1) In anticipation of or during an emergency defined in subsection (4), the board of directors of a corporation may:

(a) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and
(b) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(2) During an emergency defined in subsection (4), unless emergency bylaws provide otherwise:

(a) Notice of a meeting of the board of directors need to be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio; and

(b) One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and with the same rank in order of seniority, as necessary to achieve a quorum.

(3) Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation:

(a) Binds the corporation; and

(b) May not be used to impose liability on a corporate director, officer, employee, or agent.
(4) An emergency exists for purposes of this section if a quorum of the corporation’s directors cannot readily be assembled because of some catastrophic event.”

Section 28. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 126 of chapter 1, to read as follows:

“Section 126. Ultra vires.

(1) Except as provided in subsection (2) the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

(2) A corporation’s power to act may be challenged:

(a) In a proceeding by a shareholder against the corporation to enjoin the act;

(b) In a proceeding by the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation; or

(c) In a proceeding by the Secretary of the Department of Justice under section 267.

(3) In a shareholder’s proceeding under
subsection (2)(a) to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss other than anticipated profits suffered by the corporation or another party because of enjoining the unauthorized act."

Section 29. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 127 of chapter 1, to read as follows:

"Section 127. Corporate name.

(1) A corporate name:

(a) Must contain the word "corporation", "incorporated", or "limited", or the abbreviation "corp.", "inc.", or "ltd."; and

(b) May not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 123 and its articles of incorporation.

(2) Except as authorized by subsections (3) and (4), a corporate name may not be the same as or substantially identical to:

(a) The name of any entity registered

or authorized to transact business or conduct
affairs under the laws of the Federated States of Micronesia;

(b) A name the exclusive right to which is, at the time, reserved in the Federated States of Micronesia;

(c) The fictitious name adopted by a foreign corporation authorized to transact business in the Federated States of Micronesia because its real name is unavailable; and

(d) Any trade name, trademark, or service mark registered in the Federated States of Micronesia.

(3) A corporation may apply to the Registrar for authorization to use a name that is substantially identical, based upon the Registrar’s records, to one or more of the names described in subsection (2). The Registrar shall authorize use of the name applied for if:

(a) The other entity or holder of a reserved or registered name consents to the use in writing and one or more words are added to make the name distinguishable from the name of the applying corporation; or

(b) The applicant delivers to the Registrar a certified copy of the final judgment
of a court of competent jurisdiction establishing
the applicant’s right to use the name applied for
in the Federated States of Micronesia.

(4) A corporation may use the name including
the fictitious name of another domestic or foreign
corporation that is used in the Federated States
of Micronesia if the other corporation is
incorporated or authorized to transact business in
the Federated States of Micronesia and the
proposed user corporation:

(a) Has merged with the other
corporation;
(b) Has been formed by reorganization
of the other corporation; or
(c) Has acquired all or substantially
all of the assets, including the corporate name,
of the other corporation.

(5) This chapter does not control the use of
fictitious names.”

Section 30. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 128 of chapter 1, to read as
follows:

“Section 128. Reserved name.

(1) A person may reserve the exclusive use
of a domestic or foreign corporate name including a fictitious name for a foreign corporation whose corporate name is not available by delivering an application to the Registrar for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the Registrar finds that the corporate name applied for is available, the Registrar shall reserve the name for the applicant’s exclusive use for a one hundred twenty day period.

(2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the Registrar a signed notice of the transfer that states the name and address of the transferee.”

Section 31. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 129 of chapter 1, to read as follows:

“Section 129. Administrative order of abatement for infringement of corporate name.

(1) Any domestic corporation in good standing or foreign corporation authorized to do business in the Federated States of Micronesia
claiming that the name of any entity registered or
authorized to transact business under the laws of
the Federated States of Micronesia is
substantially identical to, or confusingly similar
to, its name may file a petition with the
Registrar for an administrative order of abatement
to address the infringement of its name. The
petition shall set forth the facts and authority
that support the petitioner’s claim that further
use of the name should be abated. The petitioner,
at the petitioner’s expense, shall notify the
registrant of the hearing in the manner prescribed
by law.

(2) In addition to any other remedy or
sanction allowed by law, the order of abatement
may:

(a) Allow the entity to retain its
registration name, but:

(i) Require the entity to register a
new trade name with the Registrar; and

(ii) Require the entity to conduct
business in the Federated States of Micronesia
under this new trade name; or

(b) (i) Require the entity to change
its registered name;
(ii) Require the entity to register the new name with the Registrar; and

(iii) Require the entity to conduct business in the Federated States of Micronesia under its new name.

If the entity fails to comply with the order of abatement within sixty days, the Registrar may involuntarily dissolve or terminate the entity, or cancel or revoke the entity’s registration or certificate of authority; after the time to appeal has lapsed and no appeal has been timely filed. The Registrar shall mail notice of the dissolution, termination, or cancellation to the entity at its last known mailing address. The entity shall wind up its affairs in accordance with this chapter.

(3) Any person aggrieved by the Registrar’s order under this section may obtain judicial review in accordance with Title 17 of the Code of the Federated States of Micronesia.”

Section 32. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 130 of chapter 1, to read as follows:

“Section 130. Registered office and registered
agent. Each corporation shall continuously maintain in

the Federated States of Micronesia:

(1) A registered office that may be the same

as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in the

Federated States of Micronesia and whose business

office is identical with the registered office;

(b) A domestic entity authorized to

transact business or conduct affairs in the

Federated States of Micronesia whose business

office is identical with the registered office; or

(c) A foreign entity authorized to

transact business or conduct affairs in the

Federated States of Micronesia whose business

office is identical with the registered office.”

Section 33. Title 36 of the Code of the Federated

States of Micronesia (Annotated), is hereby amended by

inserting a new section 131 of chapter 1, to read as

follows:

“Section 131. Designation or change of registered

office or registered agent.

(1) A corporation that does not already have

a registered office and registered agent shall

designate its registered office and registered
agent by delivering to the Registrar for filing a statement of designation that sets forth:

   (a) The name of the corporation;
   (b) The street address of its initial registered office in the Federated States of Micronesia and the name of its initial registered agent at its initial registered office; and
   (c) That the street addresses of its registered office and agent shall be identical.

(2) A corporation may change its registered office or its registered agent by delivering to the Registrar for filing a statement of change that sets forth:

   (a) The name of the corporation;
   (b) The street address of its current registered office, the name of its current registered agent at its registered office, and any changes required to keep the information current; and
   (c) That after the change or changes are made, the street addresses of its registered office and agent shall be identical.

(3) If the registered agent’s street address changes, the registered agent may change the street address of the corporation’s registered
office by notifying the corporation in writing of
the change and signing either manually or in
facsimile and delivering to the Registrar for
filing a statement that complies with the
requirements of subsection (1) and recites that
the corporation has been notified of the change.”

Section 34. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 132 of chapter 1, to read as
follows:

“Section 132. Resignation of registered agent.

(1) A registered agent may resign from the
registered agent’s appointment by signing and
delivering to the Registrar for filing the signed
statement of resignation. The statement may
include a statement that the registered office is
also discontinued.

(2) The registered agent shall mail one copy
to the registered office (if not discontinued) and
the other copy to the corporation at its principal
office.

(3) The appointment of the agent is
terminated, and the registered office discontinued
if so provided, on the thirty-first day after the
date on which the statement was filed.”
Section 35. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 133 of chapter 1, to read as follows:

"Section 133. Service on corporation.

(1) Service of any notice or process authorized by law issued against any corporation, whether domestic or foreign, by any court, judicial or administrative office, or board, may be made in the manner provided by law upon any registered agent, officer, or director of the corporation who is found within the jurisdiction of the court, officer, or board; or if any registered agent, office, or director cannot be found, upon the manager or superintendent of the corporation or any person who is found in charge of the property, business, or office of the corporation within the jurisdiction.

(2) If no officer, director, manager, superintendent, or other person in charge of the property, business, or office of the corporation can be found within the Federated States of Micronesia, and the corporation has not filed with the Registrar, pursuant to this chapter, the name of a registered agent upon whom legal notice and
process from the courts of the Federated States of Micronesia may be served, or the person named is not found within the Federated States of Micronesia, service may be made upon the corporation by registered or certified mail, return receipt requested, addressed to the corporation at its principal office.

(3) Service using registered or certified mail is perfected at the earliest of:

(a) The date the corporation receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the corporation;

or

(c) Five days after its deposit in the Federated States of Micronesia mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(4) Nothing contained in this section shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a corporation in any other manner permitted by law.”

Section 36. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by
inserting a new section 134 of chapter 1, to read as follows:

"Section 134. Authorized shares.

(1) The articles of incorporation must prescribe the classes of shares and the number of shares of each class that the corporation is authorized to issue. If more than one class of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class, and, prior to the issuance of shares of a class, the preferences, limitations, and relative rights of that class must be described in the articles of incorporation. All shares of a class must have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by section 135.

(2) The articles of incorporation must authorize:

(a) One or more classes of shares that together have unlimited voting rights; and

(b) One or more classes of shares which may be the same class or classes as those with voting rights that together are entitled to
receive the net assets of the corporation upon
dissolution.

(3) The articles of incorporation may authorize one or more classes of shares that:

(a) Have special, conditional, or
limited voting rights, or no right to vote, except
to the extent prohibited by this chapter;

(b) Are redeemable or convertible as
specified in the articles of corporation:

(i) At the option of the
corporation, the shareholder, or another person or
upon the occurrence of a designated event;

(ii) For cash, indebtedness,
securities, or other property; and

(iii) In a designated amount or in
an amount determined in accordance with a
designated formula or by reference to extrinsic
data or events;

(c) Entitle the holders to
distributions calculated in any manner, including
dividends that may be cumulative, noncumulative,
or partially cumulative; or

(d) Have preference over any other
classes of shares with respect to distributions,
including dividends and distributions upon the
(4) The description of the designations, preferences, limitations, and relative rights of share classes in subsection (3) is not exhaustive."

Section 37. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 135 of chapter 1, to read as follows:

"Section 135. Terms of class or series determined by board of directors.

(1) If and to the extent that articles of incorporation so provide, the board of directors may determine, in whole or part, the preferences, limitations, and relative rights within the limits set forth in section 134 of:

(a) Any class of shares before the issuance of any shares of that class; or

(b) One or more series within a class before the issuance of any shares of that series.

(2) Each series of a class must be given a distinguishing designation.

(3) All shares of a series must have preferences, limitations, and relative rights identical with those of other shares of the same
series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

(4) Before issuing any shares of a class or series created under this section, the corporation must deliver to the Registrar for filing an articles of amendment, or a resolution, which is effective without shareholder action, that sets forth:

(a) The name of the corporation;

(b) The text of the amendment or resolution determining the terms of the class or series or shares;

(c) The date it was adopted; and

(d) A statement that the amendment or resolution was duly adopted by the board of directors. Upon filing of the articles of amendment or resolution by the Registrar, it shall constitute an amendment of the articles of incorporation."

Section 38. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 136 of chapter 1, to read as follows:

"Section 136. Issued and outstanding shares.
(1) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted, or cancelled.

(2) The reacquisition, redemption, or conversion of outstanding shares is subject to the limitations of subsection (3) and section 149.

(3) At all times that shares of the corporation are outstanding, one or more shares that together have unlimited voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.”

Section 39. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 137 of chapter 1, to read as follows:

“Section 137. Fractional shares.

(1) A corporation may:

(a) Issue fractions of a share or pay in money the value of fractions of a share;

(b) Arrange for disposition of fractional shares by the shareholders; or

(c) Issue scrip in registered or bearer
form entitling the holder to receive a full share
upon surrendering enough scrip to equal a full
share.

(2) Each certificate representing scrip
must be conspicuously labeled “scrip” and must
contain the information required by section 143.

(3) The holder of a fractional share is
entitled to exercise the rights of a shareholder,
including the right to vote, to receive dividends,
and to participate in the assets of the
corporation upon liquidation. The holder of scrip
is not entitled to any of these rights unless the
scrip provides for them.

(4) The board of directors may authorize the
issuance of scrip subject to any condition
considered desirable, including:

(a) That the scrip will become void if
not exchanged for full shares before a specified
date; and

(b) That the shares for which the scrip
is exchangeable may be sold and the proceeds paid
to the scripholders.”

Section 40. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 138 of chapter 1, to read as
follows:

"Section 138. Subscription for shares before incorporation.

(1) A subscription for shares entered into before incorporation is irrevocable for six months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

(2) The board of directors may determine the payment terms of subscription for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(3) Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

(4) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt."
Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid for more than twenty days after the corporation sends written demand for payment to the subscriber.

(5) A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to section 139.”

Section 41. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 139 of chapter 1, to read as follows:

“Section 139. Issuance of shares.

(1) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(2) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.
(3) Before the corporation issues shares, the board of directors must determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares related to whether the shares are validly issued, fully paid, and nonassessable.

(4) The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the note is paid, or the benefits received. If the services are not performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be cancelled in whole or part."

Section 42. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 140 of chapter 1, to read as follows:
"Section 140. Liability of shareholders.

(1) A purchaser from a corporation of the corporation’s own shares is not liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued or specified in the subscription agreement.

(2) Unless otherwise provided in the articles of incorporation a shareholder of a corporation is not personally liable for the acts or debts of the corporation except that such shareholder may become personally liable by reason of such shareholder’s own acts or conduct."

Section 43. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 141 of chapter 1, to read as follows:

"Section 141. Share dividends.

(1) Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation’s shareholders or to the shareholders of one or more classes or series. An issuance of shares under this subsection is a share dividend.

(2) Shares of one class or series may not be
issued as a share dividend in respect of shares of another class or series unless:

(a) The articles of incorporation so authorize;

(b) A majority of the votes entitled to be cast by the class or series to be issued approves the issue; or

(c) There are no outstanding shares of the class or series to be issued.

(3) If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, it is the date the board of directors authorizes the share dividend.”

Section 44. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 142 of chapter 1, to read as follows:

“Section 142. Share Options. A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for which the shares are to be issued. The documents evidencing such rights, options, or warrants may
include conditions that preclude the holder or
holders, including any subsequent transferees, of
at least a specified percentage of the common
shares of a corporation from exercising such
rights, options, or warrants.”

Section 45. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 143 of chapter 1, to read as
follows:

“Section 143. Form and content of certificates.

(1) Shares may but need not be represented
by certificates. Unless this chapter or another
statute expressly provides otherwise, the rights
and obligations of shareholder are identical
whether or not their shares are represented by
certificates.

(2) At a minimum each share certificate must
state on its face:

(a) The name of the issuing corporation
and that it is organized under the laws of the
Federated States of Micronesia;

(b) The name of the person to whom
issued; and

(c) The number and class of shares and
the designation of the series, if any, the
(3) If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series and the authority of the board of directors to determine variations for future series must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

(4) Each share certificate:

   (a) Must be signed either manually or in facsimile by two officers designated in the bylaws or by the board of directors; and

   (b) May bear corporate seal or its facsimile.

(5) If the person who signed either manually or in facsimile a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.”
Section 46. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 144 of chapter 1, to read as follows:

"Section 144. Shares without certificates.

(1) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issuance of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the corporation.

(2) Within a reasonable time after the issuance or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by Section 143(2) and (3), and, if applicable, section 145."

Section 47. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 145 of chapter 1, to read as follows:

"Section 145. Restriction on transfer of shares and other securities."
(1) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(2) A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by Section 144. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

(3) A restriction on the transfer or registration of transfer of shares is authorized:

(a) To maintain the corporation’s status when it is dependent on the number or identity of its shareholders;
(b) To preserve exemptions under securities law; or

(c) For any other reasonable purpose.

(4) A restriction on the transfer or registration of transfer of shares may:

(a) Obligate the shareholder first to offer the corporation or other persons separately, consecutively, or simultaneously an opportunity to acquire the restricted shares;

(b) Obligate the corporation or other persons separately, consecutively, or simultaneously to acquire the restricted shares;

(c) Require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(d) Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

(5) For purposes of this section, “shares” includes a security convertible into or carrying a right to subscribe for or acquire shares.”

Section 48. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by inserting a new section 146 of chapter 1, to read as follows:

"Section 146. Expense of issue. A corporation may pay the expenses of selling or underwriting its shares, and of organizing or reorganizing the corporation, from the consideration received for shares."

Section 49. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 147 of chapter 1, to read as follows:

"Section 147. Shareholders’ preemptive rights.

(1) The shareholders of a corporation do not have a preemptive right to acquire the corporation’s unissued shares except to the extent the articles of incorporation so provide.

(2) A statement included in the articles of incorporation that “the corporation elects to have preemptive rights” or words of similar import means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(a) The shareholders of the corporation have a preemptive right, granted on uniform terms
and conditions prescribed by the board of
directors to provide a fair and reasonable
opportunity to exercise the right, to acquire
proportional amounts of the corporation’s unissued
shares upon the decision of the board of directors
to issue them;

(b) A shareholder may waive the
shareholder’s preemptive right. A waiver
evidenced by a writing is irrevocable even though
it is not supported by consideration;
(c) There is no preemptive right with
respect to:

(i) Shares issued as compensation
to directors, officers, agents, or employees of
the corporation, its subsidiaries or affiliates;
(ii) Shares issued to satisfy
conversion or option rights created to provide
compensation to directors, officers, agents, or
employees of the corporation, its subsidiaries or
affiliates;
(iii) Shares authorized in articles
of incorporation that are issued within six months
from the effective date of incorporation; or
(iv) Shares sold otherwise than for
money;
(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets have no preemptive rights with respect to shares of any class;

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights;

or

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders’ preemptive rights.

(3) For purposes of this section, “shares”
includes a security convertible into or carrying a right to subscribe for or acquire shares.”

Section 50. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 148 of chapter 1, to read as follows:

“Section 148. Corporation’s acquisition of its own shares.

(1) A corporation may acquire its own shares and shares so acquired constitute authorized but unissued shares.

(2) If the articles of incorporation prohibit the reissuance of acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon delivery to the Registrar for filing, a statement of cancellation showing the reduction in the authorized shares.

(3) The statement of cancellation must set forth:

(a) The name of the corporation;

(b) The number of acquired shares cancelled, itemized by class and series; and

(c) The total number of authorized shares, itemized by class and series, remaining

...
Section 51. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 149 of chapter 1, to read as follows:

"Section 149. Distributions to shareholders.

(1) A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (3).

(2) If the board of directors does not fix the record date for determining shareholders entitled to a distribution other than one involving a purchase, redemption, or other acquisition of the corporation’s shares, it is the date the board of directors authorizes the distribution.

(3) No distribution may be made if, after giving it effect:

(a) The corporation would not be able to pay its debts as they become due in the usual course of business; or

(b) The corporation’s total assets would be less than the sum of its total
liabilities plus (unless the articles of incorporation permit otherwise) the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(4) The board of directors may base a determination that a distribution is not prohibited under subsection (3) either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(5) Except as provided in subsection (7), the effect of a distribution under subsection (3) is measured.

(a) In the case of distribution by purchase, redemption, or other acquisition of the corporation’s shares, as of the earlier of:

(i) The date money or other property is transferred or debt incurred by the corporation; or

(ii) The date the shareholder
ceases to be a shareholder with respect to the acquired shares.

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed;

(c) In all other cases, as of:

(i) The date the distribution is authorized if the payment occurs within one hundred twenty days after the date of authorization; or

(ii) The date the payment is made if it occurs more than one hundred twenty days after the date of authorization.

(6) A corporation’s indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation’s indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

(7) Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection (3) if its terms provide that payment of principal and interest are made only if and to the extent that payment of a
distribution to shareholders could then be made
under this section. If the indebtedness is issued
as a distribution, each payment of principal or
interest is treated as a distribution, the effect
of which is measured on the date the payment is
actually made.”

Section 52. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 150 of chapter 1, to read as
follows:

“Section 150. Annual meeting.

(1) A corporation shall hold a meeting of
shareholders annually at a time stated in or fixed
in accordance with the bylaws.

(2) Annual shareholders’ meetings may be
held in or out of the Federated States of
Micronesia at the place stated in or fixed in
accordance with the bylaws. If no place is stated
in or fixed in accordance with the bylaws, annual
meetings shall be held at the corporation’s
principal office. Notwithstanding the foregoing,
the bylaws may authorize the board of directors,
in its sole discretion, to determine that the
annual meeting shall not be held at any place, but
may instead be held solely by means of remote
communication as authorized under subsection (3).

(3) If authorized by the board of directors in its sole discretion, and subject to guidelines and procedures adopted by the board, shareholders and proxies of the shareholders not physically present at a meeting of shareholders, by means of remote communication, may:

(a) Participate in a meeting of shareholders; and

(b) Be deemed present in person and vote at a meeting of shareholders whether the meeting is held at a designated place or solely by means of remote communication; provided that the corporation shall:

(i) Implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxy of a shareholder;

(ii) Implement reasonable measures to provide shareholders and proxies of shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the
meeting concurrently with the proceedings; and

(iii) Maintain a record of voting or action by any shareholder or proxy of a shareholder that votes or takes other action at the meeting by means of remote communication.

(4) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation’s bylaws shall not affect the validity of any corporate action.”

Section 53. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 151 of chapter 1, to read as follows:

“Section 151. Special meeting.

(1) A corporation shall hold a special meeting of shareholders:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) If the holders of at least ten percent of all of the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation’s secretary one or more written demands for the meeting describing the purpose or
purposes for which it is to be held.

(2) If not otherwise fixed under section 152 or 156, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

(3) Special shareholders’ meetings may be held in or out of the Federated States of Micronesia at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, special meetings shall be held at the corporation’s principal office. Notwithstanding the foregoing, the bylaws may authorize the board of directors, in its sole discretion, to determine that the special meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by section 150(3).

(4) Only business within the purpose or purposes described in the meeting notice required by section 154(3) may be conducted at a special shareholders’ meeting.”

Section 54. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 152 of chapter 1, to read as
"Section 152. Court-ordered meeting.

(1) The Supreme Court of the Federated States of Micronesia may summarily order a meeting to be held:

(a) On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held within the earlier of six months after the end of the corporation’s fiscal year or fifteen months after its last annual meeting; or

(b) On application of a shareholder who signed a demand for a special meeting valid under section 151, if:

(i) Notice of a special meeting was not given within thirty days after the date the demand was delivered to the corporation’s secretary; or

(ii) The special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of the meeting or determine that the meeting shall be held solely by means of remote communication as authorized by Section 150(3), determine the shares entitled to participate in the meeting, specify a
record date for determining shareholders entitled
to notice of and to vote at the meeting, prescribe
the form and content of the meeting notice, fix
the quorum required for specific matters to be
considered at the meeting or direct that the votes
represented at the meeting constitute a quorum for
action on those matters, and enter other orders
necessary to accomplish the purpose or purposes of
the meeting.”

Section 55. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 153 of chapter 1, to read as
follows:

“Section 153. Action without meeting.

(1) Action required or permitted by this
chapter to be taken at a shareholders’ meeting may
be taken without a meeting if the action is taken
by all the shareholders entitled to vote on the
action. The action shall be evidenced by one or
more written consents describing the action taken,
signed before or after the intended effective date
of the action by all the shareholders entitled to
vote on the action, and delivered to the
corporation for inclusion in the minutes for
filing with the corporate records.
(2) If not otherwise fixed under Section 152 or 156, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (1).

(3) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(4) If this chapter requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by unanimous consent of the voting shareholders, the corporation shall give its nonvoting shareholders written notice of the proposed action at least ten days before the action is taken. The notice shall contain or be accompanied by the same material that, under this chapter, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(5) An electronic transmission consenting to an action to be taken and transmitted by a shareholder, proxy of a shareholder, or person or persons authorized to act for a shareholder or proxy of a shareholder, shall be deemed to be
written, signed, and dated for the purposes of this section; provided that the electronic transmission sets forth or is delivered with information from which the corporation may determine:

(a) That the electronic transmission was transmitted by the shareholder, proxy of the shareholder, or person or persons authorized to act for the shareholder or proxy of the shareholder; and

(b) The date on which the shareholder, or authorized person or persons transmitted the electronic transmission.

The date on which the electronic transmission is transmitted shall be deemed to be the date on which the consent is signed. No consent given by electronic transmission shall be deemed to have been delivered until the consent is reproduced in paper form and delivered to the corporation.

(6) Any copy, facsimile, or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used; provided that the copy, facsimile, or other reproduction shall be a
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Section 56. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 154 of chapter 1, to read as follows:

"Section 154. Notice of meeting.

(1) A corporation shall notify shareholders of the date, time, and place, if any, of each annual and special shareholders’ meeting no fewer than ten nor more than sixty days before the meeting date. If means of remote communication are authorized for use in a meeting, regardless of whether the meeting is held at a designated place or solely by means of remote communication, the notice shall also inform shareholders of the means of remote communication by which shareholders may be deemed to be present in person and allowed to vote. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting.

(2) Unless this chapter or the articles of incorporation require otherwise, notice of an annual meeting need not include a description of
the purpose or purposes for which the meeting is called.

(3) Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

(4) If not otherwise fixed under Section 152 or 156, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders’ meeting is the day before the first notice is delivered to shareholders.

(5) Unless the bylaws require otherwise, if an annual or special shareholders’ meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time or place if the new date, time, or place is announced at the meeting before adjournment. In addition, if the annual or special shareholders’ meeting was held solely by means of remote communication, and the adjourned meeting will be held by a means of remote communication by which shareholders may be deemed to be present in person and vote, notice need not be given of the new means of remote communication if the new means of remote communication is announced at the meeting before
adjournment. If a new record date for the
adjourned meeting is or must be fixed under
Section 156, however, notice of the adjourned
meeting shall be given under this section to
shareholders who are entitled to notice of the new
record date.”

Section 57. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 155 of chapter 1, to read as
follows:

“Section 155. Waiver of notice.

(1) A shareholder may waive any notice
required by this chapter, the articles of
incorporation, or bylaws before or after the date
and time stated in the notice. The waiver shall
be in writing and be signed by the shareholder
entitled to the notice or shall be by electronic
transmission by the shareholder entitled to
notice, and delivered to the corporation for
inclusion in the minutes or filing with the
corporate records; provided that the electronic
transmission sets forth, or is delivered with
information from which the corporation may
determine that the electronic transmission was
transmitted by the shareholder.
(2) A shareholder’s attendance at a meeting:
   (a) Waives objection to lack of notice
   or defective notice of the meeting, unless the
   shareholder at the beginning of the meeting
   objects to holding the meeting or transacting
   business at the meeting; and
   (b) Waives objection to consideration
   of a particular matter at the meeting that is not
   within the purpose or purposes described in the
   meeting notice, unless the shareholder objects to
   considering the matter when it is presented.”

Section 58. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 156 of chapter 1, to read as
follows:

“Section 156. Record date.
   (1) The bylaws may fix or provide the manner
   of fixing the record date for one or more voting
   groups to determine the shareholders entitled to
   notice of a shareholders’ meeting, to demand a
   special meeting, to vote, or to take any other
   action. If the bylaws do not fix or provide for
   fixing a record date, the board of directors of
   the corporation may fix a future date as the
   record date.
(2) A record date fixed under this section may not be more than seventy days before the meeting or action requiring a determination of shareholders.

(3) A determination of shareholders entitled to notice of or to vote at a shareholders’ meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.

(4) If a court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.”

Section 59. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 157 of chapter 1, to read as follows:

“Section 157. Shareholders’ list for meeting.

(1) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a
shareholders’ meeting. The list shall be arranged by voting group and within each voting group by class or series of shares and show the address of and number of shares held by each shareholder.

(2) The shareholders’ list shall be available for inspection by any shareholder, beginning two business days after notice of the meeting for which the list was prepared is given and continuing through the meeting, at the corporation’s principal office or at a place identified in the meeting notice in the city where the meeting will be held, or on a reasonably accessible electronic network; provided that the information required to gain access to the shareholders’ list is provided with the notice of the meeting. A shareholder, the shareholder’s agent, or the shareholder’s attorney, shall be entitled on written demand to inspect and to copy the list, during regular business hours and at the shareholder’s expense, during the period it is available for inspection. If the corporation determines that the list will be made available on an electronic network, the corporation shall take reasonable steps to ensure that such information is available only to shareholders of the
corporation.

(3) The corporation shall make the shareholders' list available at the meeting, and any shareholder, the shareholder's agent, or shareholder's attorney, is entitled to inspect the list at any time during the meeting or any adjournment.

(4) If the corporation refuses to allow a shareholder, the shareholder's agent, or the shareholder's attorney, to inspect the shareholders' list before or at the meeting or copy the list as permitted by subsection (2), the FSM Supreme Court, on application of the shareholder, may summarily order the inspection or copying at the corporations' expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(5) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.”
Section 158. Voting entitlement of shares.

(1) Except as provided in subsections (2) and (4) or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote.

(2) Absent special circumstances, the shares of a corporation are not entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(3) Subsection (2) does not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

(4) Redeemable shares are not entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.”
States of Micronesia (Annotated), is hereby amended by inserting a new section 159 of chapter 1, to read as follows:

"Section 159. Proxies.

(1) A shareholder may vote the shareholder’s shares in person or by proxy.

(2) A shareholder may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form. The appointment form shall be signed by either the shareholder personally or by the shareholder’s attorney-in-fact.

(3) Alternatively, a shareholder may authorize another person to act as a proxy for the shareholder by:

(a) Executing a writing authorizing another person or persons to act as a proxy for the shareholder, which may be accompanied by the shareholder or the shareholder’s authorized attorney-in-fact, officer, director, employee, or agent signing the writing or causing the shareholder’s signature to be affixed to the writing by any reasonable means, including without limitation the use of a facsimile signature; or

(b) Transmitting or authorizing the
transmission of an electronic transmission
authorizing the person or persons to act as a
proxy for the shareholder to the person or persons
who will be the holder of the proxy or to a proxy
solicitation firm, proxy support service
organization, or similar agent duly authorized by
the person who will be the holder of the proxy to
receive the transmission; provided that any such
transmission shall specify that the transmission
was authorized by the shareholder. A copy,
facsimile telecommunication, or other reliable
reproduction of the writing or transmission
created pursuant to the foregoing may be used in
lieu of the original writing or transmission for
any and all purposes for which the original
writing or transmission could be used; provided
that any such copy, facsimile telecommunication,
or other reproduction shall be a complete
reproduction of the entire original writing or
transmission.

(4) An appointment of a proxy is effective
when received by the secretary or other officer or
agent authorized to tabulate votes. An
appointment is valid for eleven months unless a
longer period is expressly provided in the
appointment document.

(5) An appointment of a proxy is revocable by the shareholder unless the appointment document conspicuously states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

(a) A pledgee;

(b) A person who purchased or agreed to purchase the shares;

(c) A creditor of the corporation who extended it credit under terms requiring appointment;

(d) An employee of the corporation whose employment contract requires the appointment; or

(e) A party to a voting agreement created under Section 167.

(6) The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy’s authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.
(7) An appointment made irrevocable under subsection (5) is revoked when the interest with which it is coupled is extinguished.

(8) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when the transferee acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(9) Subject to Section 161 and to any express limitation on the proxy’s authority appearing on the face of the appointment document, a corporation is entitled to accept the proxy’s vote or other action as that of the shareholder making the appointment.”

Section 62. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 160 of chapter 1, to read as follows:

“Section 160. Shares held by nominees.

(1) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of the nominee is
recognized by the corporation as the shareholder.
The extent of this recognition may be determined in the procedure.

(2) The procedure may set forth:
   (a) The types of nominees to which it applies;
   (b) The rights or privileges that the corporation recognizes in a beneficial owner;
   (c) The manner in which the procedure is selected by the nominee;
   (d) The information that must be provided when the procedure is selected;
   (e) The period for which selection of the procedure is effective; and
   (f) Other aspects of the rights and duties created."

Section 62. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 161 of chapter 1, to read as follows:

"Section 161. Corporation’s acceptance of votes, etc.

(1) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation, acting in
good faith, is entitled to accept the vote, consent, waiver, or proxy appointment and to give it effect as the act of the shareholder.

(2) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and to give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the
vote, consent, waiver, or proxy appointment;

(d) The name signed purports to be that
of a pledgee, beneficial owner, or attorney-in-
fact of the shareholder and, if the corporation
requests, evidence acceptable to the corporation
of the signatory’s authority to sign for the
shareholder has been presented with respect to the
vote, consent, waiver, or proxy appointment; or

(e) Two or more persons are the
shareholder as cotenants or fiduciaries and the
name signed purports to be the name of at least
one of the co-owners and the person signing
appears to be acting on behalf of all the co-
owners.

(3) The corporation is entitled to reject a
vote, consent, waiver, or proxy appointment if the
secretary or other officer or agent authorized to
tabulate votes, acting in good faith, has
reasonable basis to doubt the validity of the
signature on the vote, consent, waiver, or proxy
appointment or the signatory’s authority to sign
for the shareholder.

(4) The corporation and its officer or agent
who accepts or rejects a vote, consent, waiver, or
proxy appointment in good faith and in accordance
with the standards of this section are not liable
in damages to the shareholder for the consequences
of the acceptance or rejection.

(5) Corporate action based on the acceptance
or rejection of a vote, consent, waiver, or proxy
appointment under this section is valid unless a
court of competent jurisdiction determines
otherwise.”

Section 64. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 162 of chapter 1, to read as
follows:

“Section 162. Quorum and voting requirements for
voting groups.

(1) Shares entitled to vote as a separate
voting group may take action on a matter at a
meeting only if a quorum of those shares exists
with respect to that matter. Unless the articles
of incorporation or this chapter provide
otherwise, a majority of the votes entitled to be
cast on the matter by the voting group constitutes
a quorum of that voting group for action on that
matter.

(2) Once a share is represented for any
purpose at a meeting, it is deemed present for
quorum purposes for the remainder of the meeting
and for any adjournment of that meeting unless a
new record date is or must be set for that
adjourned meeting.

(3) If a quorum exists, action on a matter
other than the election of directors by a voting
group is approved if the votes cast within the
voting group favoring the action exceed the votes
cast opposing the action, unless the articles of
incorporation or this chapter require a greater
number of affirmative votes.

(4) An amendment of articles of
incorporation adding, changing, or deleting a
quorum or voting requirement for a voting group
greater than specified in subsection (1) or (3) is
governed by section 164.

(5) The election of directors is governed by
section 165.”

Section 65. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 163 of chapter 1, to read as
follows:

“Section 163. Action by single and multiple
voting groups.

(1) If the articles of incorporation or this
chapter provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in Section 162.

(2) If the articles of incorporation or this chapter provide for voting by two or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in Section 162. Action may be taken by one voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.”

Section 66. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 164 of chapter 1, to read as follows:

“Section 164. Greater quorum or voting requirements.

(1) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders or voting groups of shareholders than is provided for by this chapter.

(2) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement must meet the
same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater."

Section 67. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 164 of chapter 1, to read as follows:

"Section 165. Voting for directors; cumulative voting.

(1) Unless otherwise provided in the articles of incorporation, directors shall be elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

(2) If, not less than forty-eight hours prior to the time fixed for any annual or special meeting, any shareholder or shareholders deliver to any officer of the corporation, a request that the election of directors to be elected at the meeting be by cumulative voting, then the directors to be elected at the meeting shall be chosen as follows:

(a) Each shareholder present in person
or represented by proxy at the meeting shall have
a number of votes equal to the number of shares of
capital stock owned by the shareholder multiplied
by the number of directors to be elected at the
meeting;

(b) Each shareholder shall be entitled
to cumulate the votes of a shareholder and to give
all of the votes to one nominee or to distribute
the votes among any or all of the nominees; and

(c) The nominees receiving the highest
number of votes on the foregoing basis, up to the
total number of directors to be elected at the
meeting, shall be the successful nominees.

The right to have directors elected by cumulative
voting as provided in this section shall exist
notwithstanding that provision therefor is not
included in the articles of incorporation or
bylaws, and this right shall not be restricted,
qualified, or eliminated by a provision of the
articles of incorporation or bylaws. This section
shall not prevent the filling of vacancies in the
board of directors, which vacancies may be filled
in any manner that may be provided in the articles
of incorporation or bylaws.”

Section 68. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by inserting a new section 166 of chapter 1, to read as follows:

"Section 166. Voting trusts.

(1) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust which may include anything consistent with its purpose and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all owners of beneficial interests in the trust, together with the number and class of shares each shareholder transferred to the trust, and deliver copies of the list and agreement to the corporation’s principal office.

(2) A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee’s name. A voting trust is valid for not more than ten years after its effective date unless extended under subsection (3).

(3) All or some of the parties to a voting trust may extend it for additional terms of not
more than ten years each by signing written consent to the extension. An extension is valid for ten years from the date the first shareholder signs the extension agreement. The voting trustee must deliver copies of the extension agreement and list of beneficial owners to the corporation’s principal office. An extension agreement binds only those parties signing it.”

Section 69. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 167 of chapter 1, to read as follows:

“Section 167. Voting agreements.

(1) Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section is not subject to Section 166.

(2) A voting agreement created under this section is specifically enforceable.”

Section 70. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 168 of chapter 1, to read as follows:

“Section 168. Shareholder agreements.
(1) An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this chapter in that it:

(a) Eliminates the board of directors or restricts the discretion or powers of the board of directors;

(b) Governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to limitations in section 149, including without limitation the elimination, restriction, or expansion of dissenter’s rights;

(c) Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

(d) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including without limitation, the use of weighted voting rights or director proxies, or the validity and enforceability of actions that are approved by the
directors or shareholders of a corporation, as applicable, in writing, without a meeting and with written consent of less than all the directors or shareholders entitled to vote on any such action.

An agreement covered under this paragraph may include an agreement to permit any action required or permitted by this chapter to be taken at a shareholders’ meeting to be taken without a meeting; provided that consents in writing, setting forth the action so taken, shall be signed or given by electronic transmission by the holders of the outstanding shares entitled to vote on the action having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted, notwithstanding section 153.

(e) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among any of them;

(f) Transfers to one or more shareholders or other persons all or part of the
authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders;

(g) Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency; or

(h) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy.

(2) An agreement authorized by this section shall be:

(a) Set forth:

(i) In the articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement; or

(ii) In a written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the
corporation;

(b) Subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise;

c) Valid for ten years; unless the agreement provides otherwise, in which case the agreement may be valid for a longer or shorter term than ten years, or perpetually; and

d) Enforceable against the corporation and all present and future shareholders of the corporation, including persons who become shareholders subsequent to the approval or execution of the agreement and who did not approve or execute the agreement.

(3) The existence of an agreement authorized by this section shall be noted conspicuously in the corporation’s articles of incorporation, on the front or back of each certificate for outstanding shares, or on the information statement required by section 144 (2). If, at the time of the agreement, the corporation has shares outstanding represented by certificates and the existence of the agreement is not noted in the corporation’s articles of incorporation in
compliance with this subsection, the corporation
shall recall the outstanding certificates and
issue substitute certificates that comply with
this subsection. The failure to note the
existence of the agreement in the articles of
incorporation, on the certificate, or on the
information statement shall not affect the
validity of the agreement or any action taken
pursuant to it. Any purchaser of shares who, at
the time of the purchase did not have knowledge of
the existence of the agreement shall be entitled
to rescission of the purchase. A purchaser shall
not be entitled to rescission as described in the
preceding sentence if, at the time of purchase,
the existence of the agreement is noted in the
articles of incorporation, on the certificate for
the shares, or on the information statement for
the shares, in compliance with this subsection
and, if the shares are not represented by a
certificate and the existence of the agreement is
not noted in the articles of incorporation in
compliance with this subsection, the information
statement is delivered to the purchaser at or
prior to the time of purchase of the shares. An
action to enforce the right of rescission
authorized by this subsection must be commenced
within the earlier of ninety days after discovery
of the existence of the agreement or two years
after the time of purchase of the shares.

(4) An agreement authorized by this section
shall cease to be effective when shares of the
corporation are listed on a national securities
exchange or regularly traded in a market
maintained by one or more members of a national or
affiliated securities association. If the
agreement ceases to be effective for any reason,
the board of directors, if the agreement is
contained or referred to in the corporation’s
articles of incorporation or bylaws, may adopt an
amendment to the articles of incorporation or
bylaws, without shareholder action, to delete the
agreement and any references to it.

(5) An agreement authorized by this section
that limits the discretion or powers of the board
of directors shall relieve the directors of, and
impose upon the person or persons in whom the
discretion or powers are vested, liability for
acts or omissions imposed by law on directors to
the extent that the discretion or powers of the
directors are limited by the agreement.
(6) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in the failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(7) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.”

Section 71. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 169 of chapter 1, to read as follows:

“Section 169. Definitions — Derivative Actions. As used herein “Derivative proceeding” means a civil suit in the right of a domestic corporation or, to the extent provided in section 176, in the right of a foreign corporation. “Shareholder” includes a beneficial owner whose shares are held in a voting trust or held by a nominee on the beneficial owner’s behalf.”
Section 72. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 170 of chapter 1, to read as follows:

"Section 170. Standing.

(1) A shareholder may not commence or maintain a derivative proceeding unless the shareholder:

(a) Was a shareholder of the corporation at the time of the act or omission complained of or became a shareholder through transfer by operation of law from one who was a shareholder at that time; and

(b) Fairly and adequately represents the interests of the corporation in enforcing the right of the corporation."

Section 73. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 171 of chapter 1, to read as follows:

"Section 171. Demand.

(1) No shareholder may commence a derivative proceeding until:

(a) A written demand has been made upon the corporation to take suitable action; and
(b) Ninety days have expired from the date the demand was made unless the shareholder has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the ninety-day period.”

Section 74. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 172 of chapter 1, to read as follows:

“Section 172. Stay of proceedings. If the corporation commences an inquiry into the allegations made in the demand or complaint, the court may stay any derivative proceeding for a period that the court deems appropriate.”

Section 75. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 173 of chapter 1, to read as follows:

“Section 173. Dismissal.

(1) A derivative proceeding shall be dismissed by the court on motion by the corporation if one of the groups specified in subsection (2) or (6) has determined in good faith after conducting a reasonable inquiry upon which
its conclusions are based that the maintenance of
the derivative proceeding is not in the best
interest of the corporation.

(2) Unless a panel is appointed pursuant to
subsection (6), the determination in subsection
(1) shall be made by:

(a) A majority vote of independent
directors present at a meeting of the board of
directors if the independent directors constitute
a quorum; or

(b) A majority vote of a committee
consisting of two or more independent directors
appointed by majority vote of independent
directors present at a meeting of the board of
directors, whether or not the independent
directors constituted a quorum.

(3) None of the following by itself shall
cause a director to be considered not independent
for purposes of this section:

(a) The nomination or election of the
director by persons who are defendants in the
derivative proceeding or against whom action is
demanded;

(b) The naming of the director as a
defendant in the derivative proceeding or as a
persons against whom action is demanded; or

  (c) The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

(4) If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing either:

  (a) That a majority of the board of directors did not consist of independent directors at the time the determination was made; or

  (b) That the requirements of subsection (1) have not been met.

(5) If a majority of the board of directors does not consist of independent directors at the time the determination is made, the corporation shall have the burden of proving that the requirements of subsection (1) have been met. If a majority of the board of directors consists of independent directors at the time the determination is made, the plaintiff shall have the burden of proving the requirements of subsection (1) have not been met.
(6) The court may appoint a panel of one or more independent persons upon motion by the corporation to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In the case, the plaintiff shall have the burden of proving that the requirements of subsection (1) have not been met.”

Section 76. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 174 of chapter 1, to read as follows:

“Section 174. Discontinuance or settlement. A derivative proceeding may not be discontinued or settled without the court’s approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation’s shareholders or a class of shareholders, the court shall direct that notice be given to the shareholders affected.”

Section 77. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 175 of chapter 1, to read as follows:

“Section 175. Payment of expenses.
(1) On termination of the derivative proceeding the court may:

(a) Order the corporation to pay the plaintiff’s reasonable expenses including reasonable attorney’s fees incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation;

(b) Order the plaintiff to pay any defendant’s reasonable expenses including reasonable attorney’s fees incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

(c) Order a party to pay an opposing party’s reasonable expenses including reasonable attorney’s fees incurred because of the filing of a pleading, motion, or other paper, if it finds that the pleading, motion, or other paper was not well-grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost
Section 78. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 176 of chapter 1, to read as follows:

"Section 176. Applicability to foreign corporations. In any derivative proceeding with respect to a foreign corporation, matters related to derivative proceedings shall be governed by the laws of the jurisdiction of the incorporation of the foreign corporation except for sections 174 and 175."

Section 79. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 177 of chapter 1, to read as follows:

"Section 177. Requirement for and duties of board of directors.

(1) Except as provided in section 168, each corporation must have a board of directors.

(2) All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in the articles of
incorporation or in an agreement authorized under section 168."

Section 80. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 178 of chapter 1, to read as follows:

"Section 178. Qualifications of directors. The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a citizen or resident of the Federated States of Micronesia or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe."

Section 81. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 179 of chapter 1, to read as follows:

"Section 179. Number and election of directors.

(1) A board of directors must consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) If a board of directors has power to fix or change the number of directors, the board may increase or decrease by thirty percent or less the
(3) The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or the board of directors. After shares are issued, only the shareholders may change the range for the size of the board or change from a fixed to a variable-range size board or vice versa.

(4) Directors are elected at the first annual shareholders’ meeting and at each annual meeting therefore unless their terms are staggered under section 182.”
classes of shareholders. If the articles of incorporation authorize dividing the shares into classes, the articles may also authorize the election of all or a specified number of directors by the holders of one or more authorized classes of shares. A class or classes of shares entitled to elect one or more directors is a separate voting group for purposes of the election of directors."

Section 83. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 181 of chapter 1, to read as follows:

"Section 181. Terms of directors generally."

(1) The terms of the initial directors of a corporation expire at the first shareholders’ meeting at which directors are elected.

(2) The terms of all other directors expire at the next annual shareholders’ meeting following their election unless their terms are staggered under section 182.

(3) A decrease in the number of directors does not shorten an incumbent director’s term.

(4) The term of a director elected to fill a vacancy expires at the next shareholders’ meeting
at which directors are elected.

(5) Despite the expiration of a director’s term, the director continues to serve until the director’s successor is elected and qualified or until there is a decrease in the number of directors.”

Section 84. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 182 of chapter 1, to read as follows:

“Section 182. Staggered terms for directors. If there are nine or more directors, the articles of incorporation may provide for staggering their terms by dividing the total number of directors into two or three groups, with each group containing one-half or one-third of the total, as near as may be. In that event, the terms of directors in the first group expire at the first annual shareholders’ meeting after their election, the terms of the second group expire at the second annual shareholders’ meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders’ meeting after their election. At each annual shareholders’ meeting held thereafter, directors shall be chosen
for terms of two years or three years, as the case may be, to succeed those whose terms expire.”

Section 85. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 183 of chapter 1, to read as follows:

“Section 183. Resignation of directors.

(1) A director may resign at any time by delivering notice given in writing or by electronic transmission to the board of directors, its chairperson, or the corporation.

(2) A resignation is effective when the notice is delivered unless the notice specifies a later effective date.”

Section 86. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 184 of chapter 1, to read as follows:

“Section 184. Removal of directors by shareholders.

(1) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by a voting
group of shareholders, only the shareholders of
that voting group may participate in the vote to
remove the director.

(3) If cumulative voting is authorized, a
director may not be removed if the number of votes
sufficient to elect the director under cumulative
voting is voted against the director’s removal.
If cumulative voting is not authorized, a director
may be removed only if the number of votes cast to
remove the director exceeds the number of votes
cast not to remove the director.

(4) A director may be removed by the
shareholders only at a meeting called for the
purpose of removing the director and the meeting
notice must state that the purpose, or one of the
purposes, of the meeting is removal of the
director.”

Section 87. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 185 of chapter 1, to read as
follows:

“Section 185. Removal of directors by judicial
proceeding.

(1) The Supreme Court of the Federated
States of Micronesia may remove a director of the
corporation from office in a proceeding commenced either by the corporation or by its shareholders holding at least ten percent of the outstanding shares of any class if the court finds that:

(a) The director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation; and

(b) Removal is in the best interest of the corporation.

(2) The court that removes a director may bar the director from reelection for a period prescribed by the court.

(3) If shareholders commence a proceeding under subsection (1), they shall make the corporation a party defendant."

Section 88. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 186 of chapter 1, to read as follows:

"Section 186. Vacancy on board.

(1) Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:
(a) The shareholders may fill the vacancy;

(b) The board of directors may fill the vacancy; or

(c) If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(2) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders.

(3) A vacancy that will occur at a specific later date by reason of a resignation effective at a later date under section 183 (2) or otherwise may be filled before the vacancy occurs.”

Section 89. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 187 of chapter 1, to read as follows:

“Section 187. Compensation of directors. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the
compensation of directors."

Section 90. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 188 of chapter 1, to read as follows:

"Section 188. Meetings.

(1) The board of directors may hold regular or special meetings in or out of the Federated States of Micronesia.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting."

Section 91. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 189 of chapter 1, to read as follows:

"Section 189. Action without meeting.

(1) Unless the articles of incorporation or
bylaws provide otherwise, action required or permitted by this chapter to be taken at a board of directors’ meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one or more consents describing the action taken, given either in writing and signed before or after the intended effective date of the action by each director, or by electronic transmission, and included in the minutes or filed with the corporate records reflecting the action taken. In the case of a consent by electronic transmission, the electronic transmission shall set forth or be submitted with information from which it may be determined that the electronic transmission was authorized by the director who sent the electronic transmission.

(2) Action taken under this section shall be effective when the last director signs the consent or gives a consent by electronic transmission, unless the consent specifies a different effective date.

(3) A consent signed or given by electronic transmission under this section has the effect of a meeting vote and may be described as such in any
Section 92. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 190 of chapter 1, to read as follows:

"Section 190. Notice of meeting.

(1) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(2) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting. The notice need not described the purpose of the meeting unless required by the articles of incorporation or bylaws."

Section 93. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 191 of chapter 1, to read as follows:

"Section 191. Waiver of notice of meeting.

(1) A director may waive any notice required by this chapter, the articles of incorporation, or
bylaws before or after the date and time stated in
the notice. Except as provided by subsection (2),
the waiver shall be in writing, signed by the
director entitled to the notice or by electronic
transmission by the director entitled to notice,
and filed with the minutes or corporate records.

(2) A director’s attendance at or
participation in a meeting waives any required
notice to the director of the meeting unless the
director at the beginning of the meeting or
promptly upon the director’s arrival objects to
holding the meeting or transacting business at the
meeting and does not thereafter vote for or assent
to action taken at the meeting.”

Section 94. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 192 of chapter 1, to read as
follows:

“Section 192. Quorum and voting.

(1) Unless the articles of incorporation or
bylaws require a greater number or unless
otherwise specifically provided in this chapter,
a quorum of a board of directors consists of:

(a) A majority of the fixed number of
directors if the corporation has a fixed board
size; or

(b) A majority of the number of
directors prescribed, or if no number is
prescribed the number in office immediately before
the meeting begins, if the corporation has a
variable-range size board.

(2) The articles of incorporation or bylaws
may authorize a quorum of a board of directors to
consist of no fewer than one-third of the fixed or
prescribed number of directors determined under
subsection (1).

(3) If a quorum is present when a vote is
taken, the affirmative vote of a majority of
directors present is the action of the board of
directors unless the articles of incorporation or
bylaws require the vote of a greater number of
directors.

(4) A director who is present at a meeting
of the board of directors or a committee of the
board of directors when corporate action is taken
is deemed to have assented to the action taken
unless:

(a) The director objects at the
beginning of the meeting or promptly upon the
director’s arrival to holding it or transacting
business at the meeting;

(b) The director’s dissent or abstention from the action taken is entered in the minutes of the meeting; or

(c) The director delivers written notice of the director’s dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.”

Section 94. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 193 of chapter 1, to read as follows:

“Section 193. Committees.

(1) Unless the articles of incorporation or bylaws provide otherwise, a board of directors may create one or more committees and appoint members of the board of directors to serve on them. Each committee must have two or more members, who serve at the pleasure of the board of directors.

(2) The creation of a committee and appointment of members to it must be approved by the greater of:
(a) A majority of all the directors in the office when the action is taken; or

(b) The number of directors required by the articles of incorporation or bylaws to take action under section 192.

(3) Sections 188 to 192, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, apply to committees and their members as well.

(4) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the authority of the board of directors under section 177.

(5) A committee may not, however:

(a) Authorize distributions;

(b) Approve or propose to shareholders action that this chapter requires to be approved by shareholders;

(c) Fill vacancies on the board of directors or on any of its committees;

(d) Amend articles of incorporation pursuant to section 220;

(e) Adopt, amend, or repeal bylaws;

(f) Approve a plan of merger not
requiring shareholder approval;

(g) Authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors; or

(h) Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences, and limitations of a class or series of shares, except that the board of directors may authorize a committee or a senior executive officer of the corporation to do so within limits specifically prescribed by the board of directors.

(6) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 194.”

Section 96. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 194 of chapter 1, to read as follows:

“Section 194. General standards for directors.

(1) A director shall discharge the director’s duties as a director, including the director’s duties as a member of a committee:

(a) In good faith;
(b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(c) In a manner the director reasonably believes to be in the best interests of the corporation.

(2) In determining the best interests of the corporation, a director, in addition to considering the interests of the corporation’s shareholders, may consider, in the director’s discretion, any of the following factors:

(a) The interests of the corporation’s employees, customers, suppliers, and creditors;

(b) The economy of the nation;

(c) Community and societal considerations, including, without limitation, the impact of any action upon the communities in or near which the corporation has offices or operations; and

(d) The long-term as well as short-term interests of the corporation and its shareholders, including without limitation, the possibility that these interests may be best served by the continued independence of the corporation.

(3) In discharging duties as a director, the
director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
(b) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person’s professional or expert competence; or
(c) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(4) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) unwarranted.

(5) A director is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director’s office in compliance with this section.”
Section 97. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 195 of chapter 1, to read as follows:

"Section 195. Limitation of liability of directors; shareholder approval required.

(1) A corporation may eliminate or limit the personal liability of its directors in any action brought by the shareholders or the corporation for monetary damages against any director of the corporation for any action taken, or any failure to take any action, as a director; provided that:

(a) The elimination or limitation shall be authorized, directed, or provided for in:

(i) The articles of incorporation of the corporation; or

(ii) Any duly adopted amendment of the articles of incorporation; and

(b) If the provision eliminating or limiting the personal liability of a corporation’s directors is authorized, directed, or provided for by amendments to the articles of incorporation, it shall be adopted upon the affirmative vote of the holders of two-thirds of the shares represented at the shareholders’ meeting and entitled to vote;
provided that the vote also constitutes a majority of the shares entitled to vote.

(2) A corporation shall not eliminate or limit the personal liability of a director for:

(a) The amount of a financial benefit received by a director to which the director is not entitled;

(b) An intentional infliction of harm on the corporation or the shareholders’

(c) A violation of section 196; or

(d) An intentional violation of criminal law.

(3) The shareholders of the corporation shall receive written notice of any proposal by the corporation to eliminate or limit the personal liability of the directors under subsection (1)(b), and the corporation shall in such cases submit the duly adopted amendment to the articles of incorporation to the Registrar.

(4) Nothing in this section shall impair or affect the validity of any provisions of the bylaws of a corporation eliminating or limiting the personal liability of the directors, which were authorized, directed, or provided for and approved by the shareholders of the corporation in
compliance with then existing law prior to the
effective date of this chapter.”

Section 98. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 196 of chapter 1, to read as
follows:

“Section 196. Liability for unlawful
distributions.

(1) A director who votes for or assents to a
distribution made in violation of section 149 or
the articles of incorporation is personally liable
to the corporation for the amount of the
distribution that exceeds what could have been
distributed without violating section 149 or the
articles of incorporation, if it is established
that the director did not perform the director’s
duties in compliance with section 194. In any
proceeding commenced under this section, a
director has all of the defenses ordinarily
available to a director.

(2) A director held liable under subsection
(1) for an unlawful distribution is entitled to
contribution:

(a) From every other director who could
be held liable under subsection (1) for the
unlawful distribution; and

(b) From each shareholder for the amount the shareholder accepted knowing the distribution was made in violation of section 1 or the articles of incorporation.

(3) A proceeding under this section is barred unless it is commenced within two years after the date on which the effect of the distribution was measured under section 149(5) or (7)."

Section 99. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 197 of chapter 1, to read as follows:

“Section 197. Required officers.

(1) A corporation has the officers described in its articles of incorporation or bylaws or appointed by the board of directors in accordance with the bylaws.

(2) A duly appointed officer may appoint one or more officers or assistant officers if authorized by the bylaws or the board of directors.

(3) The bylaws or the board of directors shall delegate to one of the officers
responsibility for preparation and custody of 
minutes of the directors’ and shareholders’ 
meetings and for authenticating records of the 
corporation. In the absence of a specific 
delegation in the bylaws or by the board of 
directors, the secretary shall have this 
responsibility.

(4) The same individual may simultaneously 
hold more than one office in a corporation.”

Section 100. Title 36 of the Code of the Federated 
States of Micronesia (Annotated), is hereby amended by 
inserting a new section 198 of chapter 1, to read as 
follows:

“Section 198. Duties of officers. Each officer 
has the authority and shall perform the duties set 
forth in the bylaws or, to the extent consistent 
with the bylaws, the duties prescribed by the 
board of directors or by direction of an officer 
authorized by the board of directors to prescribe 
the duties of other officers.”

Section 101. Title 36 of the Code of the Federated 
States of Micronesia (Annotated), is hereby amended by 
inserting a new section 199 of chapter 1, to read as 
follows:

“Section 199. Standards of conduct for officers. 
(1) An officer with discretionary authority shall discharge the officer’s duties under that authority:

(a) In good faith;

(b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(c) In a manner the officer reasonably believes to be in the best interests of the corporation.

(2) In discharging the duties of an officer, the officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented; or

(b) Legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person’s professional or expert competence.

(3) An officer is not acting in good faith if the officer has knowledge concerning the matter
in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) An officer is not liable for any action taken as an officer, or any failure to take any action, if the officer performed the duties of the officer's office in compliance with this section."

Section 102. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 200 of chapter 1, to read as follows:

"Section 200. Resignation and removal of officers.

(1) An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a late effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date.

(2) Any officer may be removed by the board of directors whenever in its judgment the best interests of the corporation will be served
Section 103. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 201 of chapter 1, to read as follows:

“Section 201. Contract rights of officers.  

(1) The appointment or election of an officer does not itself create contract rights.  

(2) An officer’s removal does not affect the officer’s contract rights, if any, with the corporation. An officer’s resignation does not affect the corporation’s contract rights, if any, with the officer.”

Section 104. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 202 of chapter 1, to read as follows:


As used herein:  

(1) “Corporation” includes any domestic or foreign predecessor entity of a corporation in a merger.  

(2) “Director” or “officer” means an
individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation’s request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer is considered to be serving an employee benefit plan at the corporation’s request if the duties of the director or officer to the corporation also impose duties on, or otherwise involve services by, the director or officer to the plan or to participants in or beneficiaries of the plan. “Director” or “officer” includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

(3) “Disinterested director” means a director who, at the time of a vote referred to in section 205(3) or a vote or selection referred to in section 206 or 207, is not:

(a) A party to the proceeding; or
(b) An individual having a familial, financial, professional, or employment
relationship with the directors whose indemnification or advance for expenses is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director’s judgment when voting on the decision being made.

(4) “Expenses” includes attorney’s fees.

(5) “Liability” means the obligation to pay a judgment, settlement, penalty, fine including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

(6) “Official capacity” means:

(a) When used with respect to a director, the office of director in a corporation; and

(b) When used with respect to an officer, as contemplated in section 208, the office in a corporation held by the officer.

(i) “Official capacity” does not include service for any other domestic or foreign corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

(7) “Party” means an individual who was, is
or is threatened to be made, a defendant or respondent in a proceeding.

(8) “Proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administration, arbitral, or investigative and whether formal or informal.”

Section 105. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 203 of chapter 1, to read as follows:

“Section 203. Permissible indemnification.

(1) Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if:

(a) The individual conducted the individual’s self in good faith; and

(b) The individual reasonably believed:

(i) In the case of conduct of official capacity, that the individual’s conduct was in the best interests of the corporation;

(ii) In all other cases, that the individual’s conduct was at least not opposed to
the best interests of the corporation; and

(c) In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual’s conduct was unlawful;

or

(d) The individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation as authorized by section 117(2)(e).

(2) A director’s conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in, and the beneficiaries of, the plan is conduct that satisfies the requirement of subsection (1)(b)(ii).

(3) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

(4) Unless ordered by a court under section 206(1)(c), a corporation may not indemnify a director:
(a) In connection with a proceeding by or in the right of the corporation, except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection (1); or

(b) In connection with any proceeding with respect to conduct for which the director was adjudged liable on the basis that the director received a financial benefit to which the director was not entitled, whether or not involving action in the director’s official capacity.”

Section 106. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 204 of chapter 1, to read as follows:

“Section 204. Mandatory indemnification. A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding.”

Section 107. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by inserting a new section 205 of chapter 1, to read as follows:

"Section 205. Advance for expenses.

(1) A corporation, before final disposition of a proceeding, may advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because the director is a director if the director delivers to the corporation:

(a) A written affirmation of the director's good faith belief that the director has met the relevant standard of conduct described in section 203 or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by section 117(2)(d); and

(b) The director's written undertaking to repay any funds advanced if the director is not entitled to mandatory indemnification under section 204 and it is ultimately determined under section 206 or 207 that the director has not met the relevant standard of conduct described in section 203.

(2) The undertaking required by subsection (1)(b) must be an unlimited general obligation of
the director but need not be secured and may be accepted without reference to the financial liability of the director to make repayment.

(3) Authorization under this section shall be made:

(a) By the board of directors:

(i) If there are two or more disinterested directors, by a majority vote of all the disinterested directors a majority of whom for this purpose, shall constitute a quorum or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote; or

(ii) If there are fewer than two disinterested directors, by the vote necessary for action by the board in accordance with section 192(3), in which authorization directors who do not qualify as disinterested directors may participate; or

(b) By the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the authorization."

Section 108. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by inserting a new section 206 of chapter 1, to read as follows:

"Section 206. Court-ordered indemnification and advance for expenses.

(1) A director who is a party to a proceeding because the director is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall:

(a) Order indemnification if the court determines that the director is entitled to mandatory indemnification under section 204;

(b) Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorization by section 210(1); or

(c) Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable:

(i) To indemnify the director; or

(ii) To advance expenses to the
director, even if the director has not met the relevant standard of conduct set forth in section 203(1), failed to comply with section 205 or was adjudged liable in a proceeding referred to in section 203(4)(a) or (b), but if the director was adjudged so liable the director’s indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

(2) If the court determines that the director is entitled to indemnification under subsection (1)(a) or to indemnification or advance for expenses under subsection (1)(b), it shall also order the corporation to pay the director’s reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection (1)(c), it may also order the corporation to pay the director’s reasonable expenses to obtain court-ordered indemnification or advance for expenses.”

Section 109. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 206 of chapter 1, to read as follows:

“Section 206. Determination and authorization of
indemnification.

(1) A corporation may not indemnify a director under section 203 unless authorized by a specific proceeding after a determination has been made that indemnification of the director is permissible because the director has met the relevant standard of conduct set forth in section 203.

(2) The determination shall be made:

(a) If there are two or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors a majority of whom for this purpose shall constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote;

(b) By special legal counsel:

(i) Selected in the manner prescribed in subsection (2)(a); or

(ii) If there are fewer than two disinterested directors, selected by the board of directors in which selection directors who do not qualify as disinterested directors may participate or;

(c) By the shareholders, but shares
owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the determination.

(3) Authorization of indemnification shall be made in the same manner as a determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled under subsection (2)(b)(ii) to select special legal counsel.”

Section 110. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 208 of chapter 1, to read as follows:

“Section 208. Officers.

(1) A corporation may indemnify and advance expenses to an officer of the corporation who is a party to a proceeding because the officer is an officer of the corporation:

(a) To the same extent as a director;

and

(b) If the person is an officer but not a director, to such further extent as may be provided by the articles of incorporation, the
bylaws, a resolution of the board of directors, or contract except for:

(i) Liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding; or

(ii) Liability arising out of conduct that constitutes:

(a) Receipt by the officer of a financial benefit to which the officer is not entitled;

(b) An intentional infliction of harm on the corporation or the shareholders; or

(C) an intentional violation of criminal law.

(2) Subsection (1)(b) shall apply to an officer who is also a director if the basis on which the officer is made a party to the proceeding is an act or omission solely as an officer.

(3) An officer of a corporation who is not a director, is entitled to mandatory indemnification under section 204, and may apply to a court under section 206 for indemnification or an advance for expenses, in each case to the same extent to which
a director may be entitled to indemnification or
advance for expenses under those provisions.”

Section 111. Title 36 of the Code of the Federated States of
Micronesia (Annotated), is hereby amended by inserting a new
section 209 of chapter 1, to read as follows:

“Section 209. Insurance. A corporation may
purchase and maintain insurance on behalf of an
individual who is a director or officer of the
corporation, or who, while a director or officer
of the corporation, serves at the corporation’s
request as a director, officer, partner, trustee,
employee, or agent of another domestic or foreign
corporation, partnership, joint venture, trust,
employee benefit plan, or other entity, against
liability asserted against or incurred by the
director or officer in that capacity or arising
from the director’s or officer’s status as a
director or officer, whether or not the
corporation would have power to indemnify or
advance expenses to the director or officer
against the same liability under other provisions
of this act.”

Section 112. Title 36 of the Code of the Federated States of
Micronesia (Annotated), is hereby amended by inserting a new
section 210 of chapter 1, to read as follows:
“Section 210. Advance obligation by corporate action.

(1) A corporation, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by its board of directors or shareholders, may obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 203 or advance funds to pay for or reimburse expenses in accordance with section 205. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 205(3) and 207(3). Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 205 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

(2) Any provision pursuant to subsection (1) shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with
respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 238(1)(c).

(3) A corporation, by a provision in its articles or incorporation, may limit any of the rights to indemnification or advance for expenses created by or pursuant to this chapter.

(4) This chapter does not limit a corporation’s power to pay or reimburse expenses incurred by a director or an officer in connection with the director’s or officer’s appearance as a witness in a proceeding at a time when the officer or director is not a party.

(5) This chapter does not limit a corporation’s power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.”

Section 113. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new
section 211 of chapter 1, to read as follows:

"Section 211. Nonexclusively of subpart.

(1) The indemnification provided by this chapter shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of shareholders, or disinterested directors or otherwise, both as to action in a person's official capacity and as to action in another capacity while holding the office, and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs and personal representatives of that person.

(2) These indemnification provisions do not apply to any proceeding against any trustee, investment manager, or other fiduciary of an employee benefit plan in that person's capacity, though the person may also be a director or officer of the employer corporation. Nothing contained in this section shall limit any right to indemnification to which a trustee, investment manager, or other fiduciary may be entitled by contract or otherwise."

Section 113. Title 36 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further by creating
a new section 212 of chapter 1, to read as follows:

"Section 212. Definitions—Directors' Conflicting Interest Transactions. As used herein:

(1) “Conflicting interest” with respect to a corporation means the interest a director of the corporation has respecting a transaction effected or proposed to be effected by the corporation or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest if:

(a) Whether or not the transaction is brought before the board of directors of the corporation for action, the director knows at the time of commitment that the director or a related person is a party to the transaction or has a beneficial financial interest in or so closely linked to the transaction and of such financial significance to the director or related person that the interest would reasonably be expected to exert an influence on the director’s judgment if the director were called upon to vote on the transaction; or

(b) The transaction is brought or is of such character and significance to the corporation that it would in the normal course be brought
before the board of directors of the corporation for action, and the director knows at the time of commitment that any of the following persons is either a party to the transaction or has a beneficial financial interest in or so closely linked to the transaction and of such financial significance to the person that the interest would reasonably be expected to exert an influence on the director’s judgment if the director were called upon to vote on the transaction:

(i) An entity other than the corporation of which the director is a director, general partner, agent, or employee;

(ii) A person that controls one or more of the entities specified in subparagraph (i) or an entity that is controlled by, or is under common control with, one or more of the entities specified in subparagraph (i); or

(iii) An individual who is a general partner, principal, or employer of the director.

(2) “Director’s conflicting interest transaction” with respect to a corporation means a transaction effected or proposed to be effected by the corporation or by a subsidiary of the
corporation or any other entity in which the corporation has a controlling interest respecting which a director of the corporation has a conflicting interest.

(3) "Related person" of a director means:

   (a) The spouse or a parent or sibling thereof of the director, or a child, grandchild, sibling, parent or spouse of any thereof of the director, or an individual having the same home as the director, or a trust or estate of which an individual specified in this paragraph is a substantial beneficiary; or

   (b) A trust, estate, incompetent, conservatee, or minor of which the director is a fiduciary.

(4) "Required disclosure" means disclosure by the director who has a conflicting interest of:

   (a) The existence and nature of the director's conflicting interest; and

   (b) All facts known to the director respecting the subject matter of the transaction that an ordinarily prudent person would reasonably believe to be material to a judgment about whether or not to proceed with the transaction.

(5) "Time of commitment" respecting a
transaction means the time when the transaction is consummated or, if made pursuant to contract, the time when the corporation or its subsidiary or the entity in which it has a controlling interest becomes contractually obligated so that its unilateral withdrawal from the transaction would entail significant loss, liability, or other damage.”

Section 115. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 213 of chapter 1, to read as follows:

“Section 213. Judicial action.

(1) A transaction effected or proposed to be effected by a corporation or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest that is not a director’s conflicting interest transaction may not be enjoined, set aside, or give rise to an award of damages or other sanctions, in a proceeding by a shareholder or by or in the right of the corporation, because a director of the corporation, or any person with whom or which the director has a personal, economic, or other association, has an interest in the transaction.

(2) A director’s conflicting interest
transaction may not be enjoined, set aside, or
give rise to an award of damages or other
sanctions, in a proceeding by a shareholder or by
or in the right of the corporation, because the
director, or any person with whom or which the
director has a personal, economic, or other
association, has an interest in the transaction,
if:

(a) Directors’ action respecting the
transaction was at any time taken in compliance
with section 214;

(b) Shareholders’ action respecting the
transaction was at any time taken in compliance
with section 215; or

(c) The transaction, judged according
to the circumstances at the time of commitment, is
established to have been fair to the corporation."

Section 116. Title 36 of the Code of the Federated States of
Micronesia (Annotated), is hereby amended by inserting a new
section 214 of chapter 1, to read as follows:

“Section 214. Directors’ action.

(1) The action of directors respecting a
transaction is effective for purposes of section
213(2)(a) if the transaction received the
affirmative vote of a majority but no fewer than
two of those qualified directors on the board of directors or on a duly empowered committee of the board who voted on the transaction after either required disclosure to them to the extent the information was now known by them or compliance with subsection (2); provided however that action by a committee is so effective only if:

(a) All its members are qualified directors; and

(b) Its members are either all the qualified directors on the board or are appointed by the affirmative vote of a majority of the qualified directors on the board.

(2) If a director has a conflicting interest respecting a transaction, but neither the director nor a related person of the director, as set forth in the definition of “related person”, in section 212, is a party to the transaction, and if the director has a duty under law or professional canon, or a duty of confidentiality to another person, respecting information relating to the transaction such that the director may not make the required disclosure described in subsection (b) of the definition of “required disclosure” in section 212, then disclosure is sufficient for
purposes of subsection (1) if the director:

   (a) Discloses to the directors voting
   on the transaction the existence and nature of the
   directors’ conflicting interest and informs them
   of the character and limitations imposed by that
   duty before their vote on the transaction; and

   (b) Plays no part, directly or
   indirectly, in their deliberations or vote.

   (3) A majority but not fewer than two of all
   of the qualified directors on the board of
   directors, or on the committee, constitutes a
   quorum for purposes of action that complies with
   this section. The action of directors that
   otherwise complies with this section is not
   affected by the presence or vote of a director who
   is not a qualified director.

   (4) For purposes of this section, “qualified
   director” means, with respect to a director’s
   conflicting interest transaction, any director who
   does not have either:

   (a) A conflicting interest respecting
   the transaction; or

   (b) A familial, financial,
   professional, or employment relationship with a
   second director who does have a conflicting
interest respecting the transaction, which
relationship would, in the circumstances,
reasonably to be expected to exert an influence on
the first director’s judgment when voting on the
transaction.”

Section 117. Title 36 of the Code of the Federated States of
Micronesia (Annotated), is hereby amended by inserting a new
section 215 of chapter 1, to read as follows:

“Section 215. Shareholders’ action.

(1) Shareholders’ action respecting a
transaction is effective for purposes of section
213 (2)(b) if a majority of the votes entitled to
be cast by the holders of all qualified shares
were cast in favor of the transaction after:

(a) Notice to shareholders describing
the director’s conflicting interest transaction;

(b) Provision of the information
referred to in subsection (4); and

(c) Required disclosure to the
shareholders who voted on the transaction to the
extent the information was not known by them.

(2) For purposes of this section, “qualified
shares” means any shares entitled to vote with
respect to the director’s conflicting interest
transaction except shares that, to the knowledge,
before the vote, of the secretary or other officer
or agent of the corporation authorized to tabulate
votes, are beneficially owned or the voting of
which is controlled by a director who has a
conflicting interest respecting the transaction or
by a related person of the director, or both.

(3) A majority of the votes entitled to be
cast by the holders of all qualified shares
constitutes a quorum for purposes of action that
complies with this section. Subject to
subsections (4) and (5), shareholders’ action that
otherwise complies with this section is not
affected by the presence of holders, or the
voting, of shares that are not qualified shares.

(4) For purposes of compliance with
subsection (1), a director who has a conflicting
interest respecting the transaction, before the
shareholders’ vote, shall inform the secretary or
other officer or agent of the corporation
authorized to tabulate votes of the number, and
the identity of persons holding or controlling the
vote, of all shares that the director knows are
beneficially owned or the voting of which is
controlled by the director or by a related person
of the director, or both.
(5) If a shareholders’ vote does not comply with subsection (1) solely because of a failure of a director to comply with subsection (4), and if the director establishes that the director’s failure did not determine and was not intended by the director to influence the outcome of the vote, the court, with or without further proceedings respecting section 213 (2)(c), may take such action respecting the transaction and the director, and give such effect, if any, to the shareholders’ vote, as it considers appropriate in the circumstances.”

Section 118. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 216 of chapter 1, to read as follows:

“Section 216. Conversion into and from corporations.

(1) A domestic corporation may adopt a plan of conversion and convert to a foreign corporation or any other entity if:

(a) The board of directors and shareholders of the domestic corporation approve a plan of conversion in the manner prescribed by section 235 and the conversion is treated as a merger to which the converting entity is a party
and not the surviving entity;

(b) The conversion is permitted by, and complies with the laws of the state or country in which the converted entity is to be incorporated, formed, or organized; and the incorporation, formulation, or organization of the converted entity complies with those laws;

(c) At the time the conversion becomes effective, each shareholder of the domestic corporation, unless otherwise agreed to by that shareholder, owns an equity interest or other ownership interest in, and is a shareholder, partner, member, owner, or other security holder of, the converted entity;

(d) The shareholders of the domestic corporation, as a result of the conversion, shall not become liable, without the shareholders’ consent, for the liabilities or obligations of the converted entity;

(e) The converted entity is incorporated, formed, or organized as part of or pursuant to the plan of conversion.

(2) Any foreign corporation or other entity may adopt a plan of conversion and convert to a domestic corporation if the conversion is
permitted by and complies with the laws of the states or country in which the foreign corporation or other entity is incorporated, formed, or organized.

(3) A plan of conversion shall set forth:

(a) The name of the converting entity and the converted entity;

(b) A statement that the converting entity is continuing its existence in the organizational form of the converted entity;

(c) A statement describing the organizational form of the converted entity and the state or country under the laws of which the converted entity is to be incorporated, formed, or organized; and

(d) The manner and basis of converting the shares or other forms of ownership of the converting entity into shares or other forms of ownership of the converted entity; or any combination thereof.

(4) A plan of conversion may set forth any other provisions relating to the conversion that are not prohibited by law, including without limitation the initial bylaws and officers of the converted entity.
(5) After a conversion of a domestic or foreign corporation is approved, and at any time before the conversion becomes effective, the plan of conversion may be abandoned by the converting entity without shareholder action and in accordance with the procedures set forth in the plan of conversion or, if these procedures are not provided in the plan, in the manner determined by the board of directors. If articles of conversion have been filed with the Registrar, but the conversion has not become effective, the conversion may be abandoned if a statement, executed on behalf of the converting entity by an officer or other duly authorized representative and stating that the plan of conversion has been abandoned in accordance with applicable law, is filed with the Registrar prior to the effective date of the conversion. If the Registrar finds the statement satisfied the requirements provided by law, the Registrar, after all fees have been paid shall:

(a) Stamp the statement and include the date of the filing;

(b) File the document with the Registrar; and;
(c) Issue a certificate of abandonment
to the converting entity or its authorized
representatives.

(6) Once the statement provided in
subsection (5) is filed with the Registrar, the
conversion shall be deemed abandoned and shall not
be effective.”

Section 119. Title 36 of the Code of the Federated States
of Micronesia (Annotated), is hereby amended by inserting a new
section 217 of chapter 1, to read as follows:

“Section 217. Articles of conversion.

(1) If a plan of conversion has been
approved in accordance with section 216 and has
not been abandoned, articles of conversion shall
be executed by an officer or other duly authorized
representative of the converting entity and shall
set forth:

(a) A statement certifying the
following:

(i) The name, type of entity, and state
or country of incorporation, formation, or
organization of the converting and converted
entities;

(ii) That a plan of conversion has been
approved in accordance with section 216;
(iii) That an executed plan of conversion is on file at the principal place of business of the converting entity and stating the address thereof; and

(iv) That a copy of the plan of conversion shall be furnished by the converting entity prior to the conversion or by the converted entity after the conversion on written request and without cost, to any shareholder, partner, member, or owner of the converting entity or the converted entity;

(b) If the converting entity is a domestic corporation, the number of shares outstanding and, if the shares of any class or series are entitled to vote as a class, the designation and number of outstanding shares of each class or series;

(c) If the converting entity is a domestic corporation, the number of shares outstanding that voted for and against the plan, and, if the shares of any class or series are entitled to vote as a class, the number of shares of each class or series that voted for and against the plan; and

(d) If the converting entity is a
foreign corporation or other entity, a statement that the approval of the plan of conversion was duly authorized and complied with the laws under which it was incorporated, formed, or organized.

(2) The articles of conversion shall be delivered to the Registrar. The converted entity, if a domestic corporation, domestic professional corporation, domestic nonprofit corporation, domestic general partnership, domestic limited partnership, or domestic limited liability company shall attach a copy of its respective registration documents with the articles of conversion.

(3) If the Registrar finds that the articles of conversion satisfy the requirements provided by law, and that all required documents are filed, the Registrar, after all fees have been paid, shall:

(a) Stamp the articles of conversion and include the date of the filing;

(b) File the document with the Registrar; and

(c) Issue a certificate of conversion to the converted entity or its authorized representatives.”

Section 120. Title 36 of the Code of the Federated States of
Micronesia (Annotated), is hereby amended by inserting a new section 218 of chapter 1, to read as follows:

"Section 218. Effect of conversion.

(1) When conversion become effective:

(a) The converting entity shall continue to exist without interruption, but in the organizational form of the converted entity;

(b) Subject to restrictions on the ownership of real property by non citizens of the Federated States of Micronesia all rights, title, and interest in all real estate and other property owned by the converting entity shall automatically be owned by the converted entity without reversion or impairment, subject to any existing liens or other encumbrances thereon;

(c) All liabilities and obligations of the converting entity shall automatically be liabilities and obligations of the converted entity without impairment or diminution due to the conversion;

(d) The rights of creditors of the converting entity shall continue against the converted entity and shall not be impaired or extinguished by the conversion;

(e) Any action or proceeding pending by
or against the converting entity may be continued by or against the converted entity without any need for substitution of parties;

(f) The shares and other forms of ownership in the converting entity that are to be converted into shares, and other forms of ownership, in the converted entity as provided in the plan of conversion shall be converted, and if the converting entity is a domestic corporation, the former shareholders of the domestic corporation shall be entitled only to the rights provided in the plan of conversion or to the rights to dissent under section 243.

(g) A shareholder, partner, member, or other owner of the converted entity shall be liable for the debts and obligations of the converting entity that existed before the conversion takes effect only to the extent that the shareholder, partner, member, or other owner:

(i) Agreed in writing to be liable for the debts or obligations;

(ii) Was liable under applicable law prior to the effective date of the conversion, for the debts and obligations; or

(iii) Becomes liable under
applicable law for existing debts and obligations
of the converted entity by becoming a shareholder,
partner, member, or other owner of the converted
dentity;

(h) If the converted entity is a
foreign corporation or other business entity
incorporated, formed, or organized under a law
other than the National or State laws of the
Federated States of Micronesia, the converted
dentity shall file with the Registrar:

(i) An agreement that the
converted entity may be served with process in the
Federated States of Micronesia in any action or
proceeding for the enforcement of any liability or
obligation of the converting domestic corporation;

(ii) An irrevocable appointment of
a resident of the Federated States of Micronesia
including the street address, as its agent to
accept service of process in any such proceeding;
and

(iii) An agreement for the
enforcement, as provided in this chapter, of the
right of any dissenting shareholder, partner,
member, or other owner to receive payment for
their interest against the converted entity; and
If the converting entity is a domestic corporation, sections 242 through 253 shall apply as if the converted entity were the survivor of a merger with the converting entity."

Section 120. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 219 of chapter 1, of to read as follows:

"Section 219. Authority to amend – Articles of Incorporation.

(1) A corporation may amend its articles of incorporation at any time and add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment.

(2) A shareholder of the corporation does not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend, entitlement, or purpose or duration of the corporation."

Section 122. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new
section 220 of chapter 1, to read as follows:

“Section 220. Amendment by board of directors.

(1) Unless the articles of incorporation provide otherwise, a corporation’s board of directors may adopt one or more amendments to the corporation’s articles of incorporation without shareholder action:

(a) To delete the names and addresses of the initial directors;

(b) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the Registrar; or

(c) To make any other change expressly permitted by this chapter to be made without shareholder action.”

Section 123. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 221 of chapter 1, to read as follows:

“Section 221. Amendment by board of directors and shareholders.

(1) A corporation’s board of directors may propose one or more amendments to the articles of incorporation for submission to the shareholders.

(2) For the amendment to be adopted:
(a) The board of directors must recommend the amendment to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates with the basis for its determination to the shareholders with the amendment; and

(b) The shareholders entitled to vote on the amendment must approve the amendment as provided in section (5).

(3) The board of directors may condition its submission of the proposed amendment on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders’ meeting in accordance with section 154. The notice of meeting must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(5) Unless this chapter, the articles of incorporation, or the board of directors acting pursuant to subsection (3) require a greater vote or a vote by voting groups, the amendment to be adopted must be approved by a vote of the
section of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 222 of chapter 1, to read as follows:

"Section 222. Voting on amendments by voting groups.

(1) The holders of the outstanding shares of a class are entitled to vote as a separate voting group if shareholder voting is otherwise required by this chapter on a proposed amendment if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of the class;

(b) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;
(c) Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;

(d) Change the designation, rights, preferences, or limitations of all or part of the shares of the class;

(e) Change the shares of all or part of the class into a different number of shares of the same class;

(f) Create a new class of shares having rights or preferences with respect to distribution or to dissolution that are prior, superior, or substantially equal to the shares of the class;

(g) Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class;

(h) Limit or deny an existing preemptive right of all or part of the shares of the class; or

(i) Cancel or otherwise affect rights to distributions or dividends that have
accumulated but not yet been declared on all or part of the shares of the class.

(2) If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection (1), the shares of that series are entitled to vote as a separate voting group on the proposed amendment.

(3) If a proposed amendment that entitled two or more series of shares to vote as separate voting groups under this section would affect those two or more series in the same or a substantially similar way, the shares of all the series so affected must vote together as a single voting group on the proposed amendment.

(4) A class or series of shares is entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.”

Section 125. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 223 of chapter 1, to read as follows:

“Section 223. Amendment before issuance of shares. If a corporation has not yet issued shares, its incorporators or board of directors
may adopt one or more amendments to the corporations’ articles of incorporation.”

Section 126. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 224 of chapter 1, to read as follows:

“Section 224. Articles of amendment.

(1) A corporation amending its articles of incorporation shall deliver to the Registrar for filing articles of amendment setting forth:

(a) The name of the corporation;

(b) The text of each amendment adopted;

(c) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, a statement that provisions necessary to effect the exchange, reclassification, or cancellation have been made;

(d) the date of each amendment’s adoption;

(e) If an amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required; and

(f) If an amendment was approved by the shareholders:
(i) The designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment, and number of votes of each voting group indisputably represented at the meeting; and

(ii) Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group."

Section 127. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 225 of chapter 1, to read as follows:

“Section 225. Restated and amended and restated articles of incorporation.

(1) A corporation’s board of directors may restate its articles of incorporation at any time with or without shareholder action.

(2) If the board of directors submits a restatement for shareholder action, the
corporation shall notify each shareholder, whether
or not entitled to vote, of the proposed
shareholders’ meeting in accordance with section
154. The notice shall also state that the
purpose, or one of the purposes, of the meeting is
to consider the proposed restatement and contain
or be accompanied by a copy of the restatement.

(3) A corporation restating its articles of
incorporation shall deliver to the Registrar for
filing articles of restatement setting forth the
name of the corporation and the text of the
restated articles of incorporation together with a
statement that the restatement of incorporation
correctly sets forth without change the
corresponding provisions of the articles of
incorporation as theretofore amended and that the
restated articles of incorporation supersede the
original articles of incorporation and any
amendments thereto.

(4) Duly adopted restated articles of
incorporation supersede the original articles of
incorporation and all amendments to them.

(5) The Registrar may certify restated
articles of incorporation as the articles of
incorporation currently in effect, without
including the information required by subsection (3). Certification by the Registrar is not a condition of the restated articles of incorporation taking effect.

(6) A domestic corporation, at any time, may amend and restate its articles of incorporation by complying with the procedures and requirements of this part.”

Section 128. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 226 of chapter 1, to read as follows:

“Section 226. Amendment pursuant to reorganization.

(1) A corporation’s articles of incorporation may be amended without action by the board of directors or shareholders to carry out of a plan of reorganization ordered or decreed by the Supreme Court of the Federated States of Micronesia under a national statute, if the articles of incorporation after amendment contain only provisions required or permitted by section 117.

(2) The individual or individuals designated by the court shall deliver to the Registrar for
filing articles of amendment setting forth:

(a) The name of the corporation;

(b) The text of each amendment approved by the court;

(c) The date of the court’s order or decree approving the articles of amendment;

(d) The title of the reorganization proceeding in which the order or decree was entered; and

(e) A statement that the court had jurisdiction of the proceeding under the Federated States of Micronesia statute.

(3) Shareholders of a corporation undergoing reorganization do not have dissenter’s rights except as and to the extent provided in the reorganization plan.

(4) This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.”

Section 129. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 227 of chapter 1, to read as follows:
“Section 227. Effect of amendment. An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation’s name does not abate a proceeding brought by or against the corporation in its former name.”

Section 130. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 228 of chapter 1, to read as follows:

“Section 228. Amendment by board of directors or shareholders - bylaws.

(1) A corporation’s board of directors may amend or repeal the corporation’s bylaws unless:

(a) The articles of incorporation or this chapter reserve this power exclusively to the shareholders in whole or part; or

(b) The shareholders in amending or repealing a particular bylaw provide expressly that the board of directors may not amend or repeal that bylaw.”
(2) A corporation’s shareholders may amend or repeal the corporation’s bylaws even though the bylaw may also be amended or repealed by its board of directors.”

Section 131. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 229 of chapter 1, to read as follows:

“Section 229. Bylaw increasing quorum or voting requirement for shareholders.

(1) If authorized by the articles of incorporation, the shareholders may adopt or amend a bylaw that fixes a greater quorum or voting requirement for shareholders or voting groups of shareholders than is required by this chapter. The adoption or amendment of a bylaw that adds, changes, or deletes a greater quorum or voting requirement for shareholders must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

(2) A bylaw that fixes a greater quorum or voting requirement for shareholders under subsection (1) may not be adopted, amended, or
Section 132. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 230 of chapter 1, to read as follows:

"Section 230. Bylaw increasing quorum or voting requirement for directors.

(1) A bylaw that fixes a greater quorum or voting requirement for the board of directors may be amended or repealed:

(a) If originally adopted by the shareholders, only by the shareholders;

(b) If originally adopted by the board of directors; either by the shareholders or by the board of directors.

(2) A bylaw adopted or amended by the shareholders that fixes a greater quorum or voting requirement for the board of directors may provide that it may be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(3) Action by the board of directors under subsection (1)(b) to adopt or amend a bylaw that changes the quorum or voting requirement must meet the same quorum requirement and be adopted by the
same vote required to take action under the quorum
and voting requirement then in effect or proposed
to be adopted, whichever is greater.”

Section 133. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 231 of chapter 1, to read as
follows:

“Section 231. Definitions – Merger and Share
Exchange. As used herein:

(1) ‘Merger’ means the procedure authorized
by this chapter in which one domestic or foreign
entity combines with one or more domestic or
foreign entities resulting in either one surviving
entity or one new entity.

(2) ‘Organizing articles’ means:

(a) For an association, corporation, or
nonprofit corporation, the articles of
incorporation;

(b) For a general partnership or
limited partnership, the registration statement;

(c) For a limited partnership, the
certificate of limited partnership; and

(d) For a limited liability company,
the articles of organization.

(3) ‘Other business entity’ means a
Section 134. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 232 of chapter 1, to read as follows:

"Section 232. Merger

(1) Pursuant to a plan of merger adopted by the board of directors, and approved by the shareholders if required under section 235, a domestic or foreign corporation may merge with one or more domestic corporations, or with one or more corporations or other business entities formed or organized under the laws of any state of the Federated States of Micronesia, any foreign jurisdiction, or any combination thereof, with one of the domestic corporations, being the surviving entity, as provided in the plan; provided that the merger is permitted by the laws of the jurisdiction under whose law each foreign entity that is a party to the merger is organized.

(2) The plan of merger shall set forth:

(a) The name and jurisdiction of formation or organization of each entity that is a
party to the merger;

(b) The name of the surviving entity
with or into which the other entity or entities
will merge;

(c) The terms and conditions of the
merger;

(d) The manner and basis of converting
the shares of each corporation into shares,
obligations, or other securities of the surviving
entity, or into cash or other property in whole or
in part;

(e) The street address of the surviving
entity’s principal place of business or, if no
street address is available, the post office
number; and

(f) Amendments, if any, to the
organizing articles of the surviving entity or, if
no amendments are desired, a statement that the
organizing articles of the surviving entity shall
not be amended pursuant to the merger.

(3) A plan of merger may set forth other
provisions relating to the merger.

(4) If a foreign entity survives a merger
and intends to do business in the Federated States
of Micronesia it shall comply with all laws of the
Federated States of Micronesia with respect to doing business in the Federated States of Micronesia.

(5) The surviving entity shall furnish a copy of the plan of merger, on request and without cost, to any member, shareholder, or partner of any entity that is a party to the merger.”

Section 135. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 233 of chapter 1, to read as follows:

“Section 233. Foreign mergers.

(1) Whenever a foreign entity authorized to transact business in the Federated States of Micronesia shall be a party to statutory merger permitted by the laws of the jurisdiction in which it is organized, and the foreign entity shall be the surviving entity, it shall, within sixty days after the merger becomes effective, file with the Registrar a certificate evidencing the merger, duly authenticated by the proper officer of the jurisdiction under the laws of which the statutory merger was effectuated. The certificate evidencing the merger shall be evidence of a change of name if the name of the surviving entity
is changed thereby. If the certificate is in a foreign language, a translation under oath of the translator shall accompany the certificate.

(2) Whenever a foreign entity authorized to transact business in the Federated States of Micronesia shall be a party to a statutory merger permitted by the laws of the jurisdiction in which it is organized, and that entity shall not be the surviving entity, the surviving entity shall, within sixty days after the merger becomes effective, file with the Registrar a certificate evidencing the merger in the form prescribed by subsection (1).”

Section 136. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 234 of chapter 1, to read as follows:

“Section 234. Share Exchange

(1) A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts, and its shareholders if required by section 235 approve, the exchange.

(2) The plan of exchange shall set forth:
(a) The name of the corporation whose shares will be acquired and the name of the acquiring corporation;

(b) the terms and conditions of the exchange; and

(c) The manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring corporation or any other corporation or for cash or other property in whole or in part.

(3) The plan of exchange may set forth other provisions relating to the exchange.”

Section 235. Action Plan

(1) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan for approval by its shareholders.

(2) For a plan of merger or share exchange to be approved:
(a) The board of directors shall recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(b) The shareholders entitled to vote shall approve the plan.

(3) The board of directors may condition its submission of the proposed merger or share exchange on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders’ meeting in accordance with section 154. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.

(5) A vote of the shareholders shall be taken on the proposed plan. The plan shall be approved upon receiving the affirmative vote of the holders of a majority of each class of the
shares entitled to vote thereon as a class and of
the total shares entitled to vote thereon. Any
class of shares of any such corporation shall be
entitled to vote as a class if any such plan
contains any provision that, if contained in a
proposed amendment to articles of incorporation,
would entitle that class of shares to vote as a
class and, in the case of an exchange, if the
class is included in the exchange.

(6) Separate voting by voting groups is
required:

(a) On a plan of merger if the plan
contains a provision that, if contained in a
proposed amendment to articles of incorporation,
would require action by one or more separate
voting groups on the proposed amendment under
section 222; or

(b) On a plan of share exchange by each
class or series of shares included in the
exchange, with each class or series constituting a
separate voting group.

(7) Action by the shareholders of the
surviving corporation on a plan of merger is not
required if:

(a) The articles of incorporation of
the surviving corporation will not differ except
for amendments enumerated in section 220 from the
articles of incorporation before the merger;

(b) Each shareholder of the surviving
corporation whose shares were outstanding
immediately before the effective date of the
merger will hold the same number of shares, with
identical designation, preferences, limitations,
and relative rights, immediately after the merger;

(c) The number of voting shares
outstanding immediately after the merger, plus the
number of voting shares issuable as a result of
the merger either by the conversion of securities
issued pursuant to the merger or the exercise of
rights and warrants issued pursuant to the merger,
will not exceed by more than twenty per cent the
total number of voting shares of the surviving
corporation outstanding immediately before the
merger; and

(d) The number of participating shares
outstanding immediately after the merger, plus the
number of participating shares issuable as a
result of the merger either by the conversion of
securities issued pursuant to the merger or
exercise of rights and warrants issued pursuant to
the merger, will not exceed by more than twenty per cent the total number of participating shares outstanding immediately before the merger.

(8) As used in subsection (7):

(a) 'Participating shares' means shares that entitle their holders to participate without limitations in distributions.

(b) 'Voting shares' means shares that entitle their holders to vote unconditionally in elections of directors.

(9) After a merger or share exchange is authorized, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned without prejudice to contractual rights, if any, without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors. A plan of merger may provide that at any time prior to the time that the plan becomes effective, the plan may be terminated by the board of directors of any constituent corporations notwithstanding approval of the plan by the stockholders of all or any of the constituent corporations. If the plan of
merger is terminated after the filing of the
articles but before the plan has become effective,
a certificate of termination shall be filed with
the Registrar. A plan of merger may allow the
boards of directors of the constituent
corporations to amend the plan at any time prior
to the time that the plan becomes effective;
provided that an amendment made subsequent to the
adoption of the plan by the stockholders of any
constituent corporation shall not:

(a) Alter or change the amount or kind
of shares, securities, cash, property, or rights
or any of them to be received in exchange for or
on conversion of all or any of the shares of any
class or series thereof of the constituent
corporation;

(b) Alter or change any term of the
organizing articles of the surviving entity to be
effected by the merger; or

(c) Alter or change any of the terms
and conditions of the plan if the alteration or
change would adversely affect the holders of any
class or series of shares thereof of the
constituent corporation.

(10) If the plan of merger is amended after
the articles are filed with the Registrar but
before the plan has become effective, articles of
amendment shall be filed with the Registrar.

(11) A merger or share exchange takes effect
on the filing date of the articles of merger or
share exchange, or on the date subsequent to the
filing as set forth in the articles of merger or
share exchange; provided that the effective date
shall not be more than thirty days from the filing
date.”

Section 138. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 236 of chapter 1, to read as
follows:

“Section 236. Merger of subsidiary.

(1) A parent corporation owning at least
ninety per cent of the outstanding shares of each
class of a subsidiary corporation may merge the
subsidiary into itself without approval of the
shareholders of the parent or subsidiary.

(2) The board of directors of the parent
corporation shall adopt a plan of merger that sets
forth:

(a) The names of the parent and

subsidiary; and
(b) The manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or in part.

(3) The parent corporation shall mail a copy of the plan of merger to each shareholder of the subsidiary corporation who does not waive the mailing requirement in writing.

(4) Articles of merger shall be delivered to the Registrar for filing and shall set forth:

(a) The name and jurisdiction of incorporation of the subsidiary corporation, and the name and jurisdiction of incorporation of the corporation owning at least ninety percent of its shares, which is hereinafter designated as the surviving corporation;

(b) A statement that the plan or merger has been approved by the board of directors of the surviving corporation;

(c) The number of outstanding shares of each class of the subsidiary corporation and the number of shares of each class owned by the surviving corporation;

(d) The date a copy of the plan of
merger was mailed to shareholders of the subsidiary corporation entitled to receive the plan; and

(e) A statement that includes:

(i) An agreement that the surviving entity may be served with process in the Federated States of Micronesia in any action or proceeding for the enforcement of any liability or obligation of any entity previously subject to suit in the Federated States of Micronesia that is to merge;

(ii) An irrevocable appointment of a resident of the Federated States of Micronesia as its agent to accept service of process in a proceeding under subparagraph (i), that includes the resident’s street address in the Federated States of Micronesia; and

(iii) An agreement for the enforcement, as provided in this chapter, of the right of any dissenting member, shareholder, or partner to receive payment for their interest against the surviving entity.

(5) The parent may not deliver articles of merger to the Registrar for filing until at least thirty days after the date it mailed a copy of the
plan of merger to each shareholder of the
subsidiary corporation who did not waive the
mailing requirement.

(6) Articles of merger under this section
may not contain amendments to the articles of
incorporation of the parent corporation except for
amendments enumerated in section 220."

Section 139. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 237 of chapter 1, to read as
follows:

"Section 237. Articles of merger or share
exchange.

(1) After a plan of merger or share exchange
is approved by the shareholders, or adopted by the
board of directors if shareholder approval is not
required, articles of merger or share exchange
shall be signed on behalf of each corporation and
each other entity that is a party to the merger or
share exchange and shall be delivered to the
Register for filing. The articles of merger or
share exchange shall set forth:

(a) For a merger, the name and
jurisdiction of each entity that is a party to the
merger, and the name, address, and jurisdiction of
the surviving entity;

(b) For a share exchange, the name, address, and jurisdiction of both the corporation whose shares will be acquired and the acquiring corporation;

(c) A statement that the plan of merger or share exchange has been approved by each entity involved in the merger or share exchange;

(d) If a merger, a statement indicating any changes in the organizing articles of the surviving entity to be given effect by the merger; provided that if no changes are made, a statement that the organizing articles of the surviving entity shall not be amended pursuant to the merger; and

(e) A statement that includes:

(i) An agreement that the surviving entity may be served with process in the Federated States of Micronesia in any action or proceeding for the enforcement of any liability or obligation of any entity previously subject to suit in the Federated States of Micronesia that is to merge;

(ii) An irrevocable appointment of a resident of the Federated States of Micronesia
as its agent to accept service of process in a proceeding under subparagraph (i), that includes the resident’s street address in the Federated States of Micronesia; and

(iii) An agreement for the enforcement, as provided in this chapter, of the right of any dissenting member, shareholder, or partner to receive payment for their interest against the surviving entity.

(2) If the articles of merger provide for a future effective date, and:

(a) The plan of merger is amended to change the future effective date;

(b) The plan of merger permits the amendment of the articles of merger to change the future effective date without an amendment to the plan of merger; or

(c) The plan of merger is amended to change any other matter contained in the articles of merger so as to make the articles of merger inaccurate in any material respect, prior to the future effective date;

Then the articles of merger shall be amended by filing with the Registrar articles of amendment that identify the articles of merger and set forth
the amendment to the articles of merger. If the articles of merger provide for a future effective date and if the plan of merger is terminated prior to the future effective date, the articles of merger shall be terminated by filing with the Registrar a certificate of termination that identifies the articles of merger and states that the plan of merger has been terminated.

(3) Articles of merger operate as an amendment to the corporation’s articles of incorporation.”

Section 140. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 238 of chapter 1, to read as follows:

“Section 238. Effect of merger or share exchange.

(1) When a merger takes effect:

(a) Every other entity that is a party to the merger merges into the surviving entity and the separate existence of every entity except the surviving entity ceases;

(b) The title to all lawfully owned real estate and other property owned by each entity that is a party to the merger is vested in the surviving entity to the extent permitted by
law without reversion or impairment;

(c) The surviving entity has all liabilities of each entity that is a party to the merger;

(d) A proceeding pending against any entity that is a party to the merger may be continued as if the merger did not occur or the surviving entity may be substituted in the proceeding for the entity whose existence ceased;

(e) The organizing articles of the surviving entity are amended to the extent provided in the plan of merger and indicated in the articles of merger; and

(f) The shares of each corporation party to the merger that are to be converted into shares, obligations, or other securities of the surviving entity or into cash or other property are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under section 242 through 255.

(2) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan, and the former holder of the shares are entitled only to the exchange
rights provided in the articles of share exchange or to their rights under section 242 through 255.

(3) If a surviving entity fails to appoint or maintain an agent designated for service of process in the Federated States of Micronesia or the agent for service of process cannot with reasonable diligence be found at the designated office, service of process may be made upon the surviving entity by sending a copy of the process by registered or certified mail, return receipt requested, to the surviving entity at the address set forth in the articles of merger. Service is effected under this subsection at the earliest of:

(a) The date of the surviving entity receives the process, notice, or demand;

(b) The date shown on the return receipt, if signed on behalf of the surviving entity; or

(c) Five days after its deposit in the mail, if mailed postpaid and correctly addressed.”

Section 141. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 226 of chapter 1, to read as follows:

“Section 226. Merger of subsidiary corporations.
(1) Any corporation owning at least ninety percent of the outstanding shares of each class of two or more corporations may adopt a plan of merger pursuant to section 236 that shall be delivered to the Registrar for filing including articles of merger. The articles of merger shall be signed by the parent corporation and the surviving subsidiary corporation. The plan of merger shall set forth:

   (a) The name of the parent corporation owning at least ninety percent of the shares of the subsidiary corporations, the name of any nonsurviving subsidiary corporation, and the name of the surviving corporation; and

   (b) The manner and basis of converting the shares of any nonsurviving subsidiary corporation into shares, obligations, or other securities of the surviving subsidiary corporation or of any other corporation or, in whole or in part, into cash or other property.

(2) A copy of the plan of merger shall be mailed to each shareholder of record of any nonsurviving subsidiary corporation.

(3) On or after the thirtieth day after the mailing of a copy of the plan of merger to

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shareholders of any nonsurviving subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares, the articles of merger shall be delivered to the Registrar for filing. Articles of merger shall set forth:

(a) A statement that the plan of merger has been approved by the board of directors of the parent corporation;

(b) The number of outstanding shares of each class of any nonsurviving subsidiary corporation and the number of the shares of each class owned by the parent corporation; and

(c) The date a copy of the plan of merger is mailed to shareholders of any nonsurviving subsidiary corporation entitled to receive the plan of merger."

Section 142. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 240 of chapter 1, to read as follows:

"Section 240. Sale of assets in regular course of business and mortgage of assets.

(1) A corporation, on the terms and conditions and for the consideration determined by the board of directors, may:
(a) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business;

(b) Mortgage, pledge, dedicate to the repayment of indebtedness whether with or without recourse, or otherwise encumber any or all of its property whether or not in the usual and regular course of business; or

(c) Transfer any or all of its property to a corporation all the shares of which are owned by the corporation.

(2) Unless the articles of incorporation require it, approval by the shareholders of a transaction described in subsection (1) is not required.”

Section 143. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 241 of chapter 1, to read as follows:

“Section 241. Sale of assets other than in regular course of business.

(1) A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property with or without the goodwill,
otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by the corporation’s board of directors, if the board of directors proposes and its shareholders approve the proposed transaction.

(2) For a transaction to be authorized:

(a) The board of directors must recommend the proposed transaction to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the submission of the proposed transaction; and

(b) The shareholders entitled to vote must approve the transaction.

(3) The board of directors may condition its submission of the proposed transaction on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders’ meeting in accordance with section 154. The notice must also state that the purpose, or one of the purposes, of the
meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property of the corporation and contain or be accompanied by a description of the transaction.

(5) The shareholders may authorize the sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefore. The authorization shall require the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the authorization shall require the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon.

(6) After a sale, lease, exchange, or other disposition of property is authorized, the transaction may be abandoned subject to any contractual rights without further shareholder action.

(7) A transaction that constitutes a
distribution to shareholders is governed by section 149 and not by this section.

(8) A sale, lease, exchange, or other disposition of the property of a corporation shall not be deemed to be the sale, lease, exchange, or other disposition of all or substantially all the property of the corporation if the corporation is retaining sufficient property to continue one or more significant business segments or lines of the corporation after the sale, lease, exchange, or other disposition. Furthermore, the business segments or lines retained must not be only temporary operations or merely a pretext to avoid shareholders’ rights which might otherwise arise under this chapter.”

Section 144. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 242 of chapter 1, to read as follows:

“Section 242. Definitions – Dissenters Rights. As used herein:

(1) ‘Beneficial shareholder’ means the person who is a beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.
(2) ‘Corporation’ means the issuer of the shares held by a dissenter before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer.

(3) ‘Dissenter’ means a shareholder who is entitled to dissent from corporate action under section 243 and who exercises that right when and in the manner required by section 245 to 253.

(4) ‘Fair value’, with respect to a dissenter’s shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable.

(5) ‘Interest’ means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(6) ‘Record shareholder’ means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee.
Certificate on file with a corporation.

(7) ‘Shareholders’ means the record shareholder or beneficial shareholder.”

Section 145. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 243 of chapter 1, to read as follows:

“Section 243. Right to dissent.

(1) A shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder’s shares in the event of, any of the following corporate actions:

(a) Consummation of a plan of merger to which the corporation is a party:

(i) If shareholder approval is required for the merger by section 235 or the articles of incorporation; provided that the shareholder is entitled to vote on the merger; or

(ii) If the corporation is a subsidiary that is merged with its parent under section 236;

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan;
(c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one year after the date of sale;

(d) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter’s shares because it:

   (i) Alters or abolishes a preferential right of the shares;

   (ii) Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;

   (iii) Alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities;

   (iv) Excludes or limits the right
of the shares to vote on any matter, or to cumulate votes, other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

(v) Reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under section 137;

(e) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares; or

(f) Consummation of a plan of conversion to which the corporation is the converting entity, if the shareholder is entitled to vote on the plan.

(2) A shareholder entitled to dissent and obtain payment for the shareholder’s shares under this part may not challenge the corporate action creating the shareholder’s entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.”

Section 146. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by inserting a new section 244 of chapter 1, to read as follows:

"Section 244. Dissent by nominees and beneficial owners.

(1) A record shareholder may assert dissenter’s rights as to fewer than all the shares registered in the shareholder’s name only if the shareholder dissents with respect to all shares beneficially owned by any one person and notifies the corporation in writing of the name and address of each person on whose behalf the record shareholder asserts dissenters’ rights. The rights of a partial dissenter under this subsection are determined as if the shares to which the partial dissenter dissents and the partial dissenter’s other shares were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenter’s rights as to shares held on the beneficial shareholder’s behalf only if:

(a) The beneficial shareholder submits to the corporation the record shareholder’s written consent to the dissent not later than the time the beneficial shareholder asserts
dissenters’ rights; and

(b) The beneficial shareholder does so with respect to all shares of which the beneficial shareholder is the beneficial shareholder or over which the beneficial shareholder has power to direct the vote.”

Section 147. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 245 of chapter 1, to read as follows:

“Section 245. Notice of dissenters’ rights.

(1) If proposed corporate action creating dissenters’ rights under section 243 is submitted to a vote at a shareholders’ meeting, the meeting notice must state that shareholders are or may be entitled to assert dissenters’ rights under this part and be accompanied by a copy of this part.

(2) If corporate action creating dissenters’ rights under section 243 is taken without a vote of shareholders, the corporation shall notify in writing all shareholders entitled to assert dissenters’ rights that the action was taken and send them the dissenters’ notice described in section 247.”

Section 148. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by inserting a new section 246 of chapter 1, to read as follows:

"Section 246. Notice of intent to demand payment.

(1) If proposed corporate action creating dissenters' rights under section 243 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights:

(a) Must deliver to the corporation before the vote is taken written notice of the shareholder's intent to demand payment for the shareholder's shares if the proposed action is effectuated; and

(b) Must not vote the shareholder's shares in favor of the proposed action.

(2) A shareholder who does not satisfy the requirements of subsection (1) is not entitled to payment for the shareholder's shares under this part."

Section 149. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 247 of chapter 1, to read as follows:

"Section 247. Dissenters' notice."
(1) If proposed corporate action creating dissenters' rights under section 243 is authorized at a shareholders' meeting, the corporation shall deliver a written dissenters' notice to all shareholders who satisfied the requirements of section 246.

(2) The dissenters' notice must be sent no later than ten days after the corporate action was taken, and must:

(a) State where the payment demand must be sent and where and when certificates for certificated shares must be deposited;

(b) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether or not the person acquired beneficial ownership of the shares before that date;

(d) Set a date which the corporation must receive the payment demand, which date may
not be fewer than thirty nor more than sixty days
after the date the subsection (1) notice is
delivered; and
(e) Be accompanies by a copy of this
part."

Section 150. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 248 of chapter 1, to read as
follows:

"Section 248. Duty to demand payment.

(1) A shareholder sent a dissenters’ notice
described in section 247 must demand payment,
certify whether the shareholder acquired
beneficial ownership of shares before the date
required to be set forth in the dissenters’ notice
pursuant to section 247(2) and deposit the
shareholder’s certificates in accordance with the
terms of the notice.

(2) The shareholder who demands payment and
deposits the shareholder’s share certificates
under subsection (1) retains all other rights of a
shareholder until these rights are canceled or
modified by the taking of the proposed corporate
action.

(3) A shareholder who does not demand
payment or deposit the shareholder’s share certificates where required, each by the date set in the dissenters’ notice, is not entitled to payment for the shareholder’s shares under this part.”

Section 151. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 249 of chapter 1, to read as follows:

“Section 249. Share restrictions.

(1) The corporation may restrict the transfer of uncertificated shares from the date the demand for their payment is received until the proposed corporate action is taken or the restrictions released under section 251.

(2) The person for whom dissenters’ rights are asserted as to uncertificated shares retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action.”

Section 152. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 250 of chapter 1, to read as follows:

“Section 250. Payment.
(1) Except as provided in section 252, as soon as the proposed corporate action is taken, or upon receipt of a payment demand, the corporation shall pay each dissenter who complied with section 248 the amount the corporation estimates to be the fair value of the dissenters’ shares, plus accrued interest.

(2) The payment must be accompanied by:
   (a) The corporation’s balance sheet as of the end of a fiscal year ending not more than sixteen months before the date of payment, an income statement for that year, a statement of changes in shareholders’ equity for that year, and the latest available interim financial statements, if any;
   (b) A statement of the corporation’s estimate of the fair value of the shares;
   (c) An explanation of how the interest was calculated;
   (d) A statement of the dissenter’s right to demand payment under section 253; and
   (e) A copy of this part.”

Section 153. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 251 of chapter 1, to read as
follows:

"Section 251. Failure to take action.

(1) If the corporation does not take the proposed action within sixty days after the date set for demanding payment and depositing share certificates, the corporation shall return the deposited certificates and release the transfer restrictions imposed on uncertificated shares.

(2) If after returning deposited certificates and releasing transfer restrictions, the corporation takes the proposed action, it must send a new dissenters' notice under section 2437 and repeat the payment demand procedure."

Section 154. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 252 of chapter 1, to read as follows:

"Section 252. After-acquired shares.

(1) A corporation may elect to withhold payment required by section 250 from a dissenter unless the dissenter was the beneficial owner of the shares before the date set forth in the dissenters' notice as the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action."
(2) To the extent the corporation elects to withhold payment under subsection (1), after taking the proposed corporate action, it shall estimate the fair value of the shares, plus accrued interest, and shall pay this amount to each dissenter who agrees to accept it in full satisfaction of the dissenter’s demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter’s right to demand payment under section 253.”

Section 155. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 253 of chapter 1, to read as follows:

“Section 253. Procedure if shareholder dissatisfied with payment or offer.

(1) A dissenter may notify the corporation in writing of the dissenter’s own estimate of the fair value of the dissenter’s shares and amount of interest due, and demand payment of the dissenter’s estimate less any payment under section 250, or reject the corporation’s offer under section 252 and demand payment of the fair
value of the dissenter’s shares and interest due, if:

(a) The dissenter believes that the amount paid under section 250 or offered under section 252 is less than the fair value of the dissenter’s shares or that the interest due is incorrectly calculated;

(b) The corporation fails to make payment under section 250 within sixty days after the date set for demanding payment; or

(c) The corporation, having failed to take the proposed action, does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares within sixty days after the date set for demanding payment.

(2) A dissenter waives the dissenter’s right to demand payment under this section unless the dissenter notifies the corporation of the dissenter’s demand in writing under subsection (1) within thirty days after the corporation made or offered payment for the dissenter’s shares.”

Section 156. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 254 of chapter 1, to read as
Section 254. Court action.

(1) If a demand for payment under section 253 remains unsettled, the corporation shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The corporation shall commence the proceeding in the Federated States of Micronesia Supreme Court. If the corporation is a foreign corporation without a registered office in the Federated States of Micronesia, it shall commence the proceeding in the trial division of the Federated States of Micronesia Supreme Court in the State where the registered office of the domestic corporation merged with or whose shares were acquired by the foreign corporation was located or, if no such registered office exists, in the trial division of Pohnpei State.

(3) The corporation shall make all dissentsers whether or not resident of the
Federated States of Micronesia whose demands remain unsettled parties to the proceeding as in an action against their shares and all parties must be served with a copy of the petition.

Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The jurisdiction of the court in which the proceeding is commenced under subsection (2) is plenary and exclusive. The court may appoint one or more person as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the power described in the order appointing them, or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(5) Each dissenter made a party to the proceeding is entitled to judgment:

(a) For the amount, if any, by which the court finds the fair value of the dissenter’s shares, plus interest, exceeds the amount paid by the corporation; or

(b) For the fair value, plus accrued interest, of the dissenter’s after-acquired shares
for which the corporation elected to withhold
payment under section 252.”

Section 157. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 255 of chapter 1, to read as
follows:

“Section 255. Court costs and counsel fees.

(1) The court in an appraisal proceeding
commenced under section 254 shall determine all
costs of the proceeding, including the reasonable
compensation and expenses of appraisers appointed
by the court. The court shall assess the costs
against the corporation, except that the court may
assess cost against all or some of the dissenters,
in amount the court finds equitable, to the extent
the court finds the dissenters acted arbitrarily,
vexatiously, or not in good faith in demanding
payment under section 253.

(2) The court may also assess the fees and
expenses of counsel and experts for the respective
parties, in amounts the court finds equitable:

(a) Against the corporation and in
favor of any or all dissenters if the court finds
the corporation did not substantially comply with
the requirements of sections 245 and 253; or
(b) Against either the corporation or a
dissenter, in favor of any other party, if the
court finds that the party against whom the fees
and expenses are assessed acted arbitrarily,
vexatiously, or not in good faith with respect to
the rights provided herein.

(3) If the court finds that the services of
counsel for any dissenter were of substantial
benefit to other dissenters similarly situated,
and that the fees for those services should not be
assessed against the corporation, the court may
award to these counsel reasonable fees to be paid
out of the amounts awarded the dissenters who were
benefited."

Section 158. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 247 of chapter 1, to read as
follows:

"Section 247. Dissolution by incorporators or
initial directors.

(1) A majority of the incorporators or
initial directors of a corporation that has not
issued shares or has not commenced business may
dissolve the corporation by delivering to the
Registrar for filing articles of dissolution that
set forth:

(a) The name of the corporation;

(b) The date of its incorporation;

(c) Either:

   (i) That none of the corporation’s shares has been issued; or

   (ii) That the corporation has not commenced business;

(d) That no debt of the corporation remains unpaid;

(e) That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and

(f) That a majority of the incorporators or initial directors authorized the dissolution.”

Section 159. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 257 of chapter 1, to read as follows:

“Section 257. Dissolution by board of directors and shareholders.

(1) A corporation’s board of directors may propose dissolution for submission to the
For a proposal to dissolve to be adopted:

(a) The board of directors must recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders; and

(b) The shareholders entitled to vote must approve the proposal to dissolve as provided subsections (5) and (6).

(3) The board of directors may condition its submission of the proposal for dissolution on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders’ meeting in accordance with section 154. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

(5) At a meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. The
resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon."

Section 160. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 258 of chapter 1, to read as follows:

"Section 258. Articles of dissolution.

(1) At any time after dissolution is authorized, the corporation may dissolve by delivering to the Registrar for filing articles of dissolution setting forth:

(a) The name of the corporation;

(b) The date dissolution was authorized;

(c) If dissolution was approved by the shareholders;

(i) The number of votes entitled to be cast on the proposal to dissolve; and

(ii) Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast
for dissolution was sufficient for approval; and

(d) If voting by voting groups was required, the information required by paragraph (1)(c) must be separately provided for each voting group entitled to vote separately on the plan to dissolve.

(2) A corporation is dissolved upon the effective date of its articles of dissolution. The articles of dissolution may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document may not be later than the thirtieth day after the date it is filed."

Section 161. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 259 of chapter 1, to read as follows:

"Section 259. Revocation of dissolution.

(1) A corporation may revoke its dissolution within one hundred twenty days of its effective date."
(2) Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

(3) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the Registrar for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

   (a) The name of the corporation;
   (b) The effective date of the dissolution that was revoked;
   (c) The date that the revocation of dissolution was authorized;
   (d) If the corporation’s board of directors or incorporators revoked the dissolution, a statement to that effect;
   (e) If the corporation’s board of directors revoked the dissolution, the information required by section 258(1)(c) or (d).

(4) Within the applicable revocation of
dissolution period, should the name of the corporation, or a name substantially identical thereto be registered or reserved by another corporation, partnership, limited partnership, or should the name or a name substantially identical thereto be registered as a trade name, trademark, or service mark, then revocation of dissolution shall be allowed only upon the registration of a new name by the dissolved corporation pursuant to the amendment provisions of this chapter.

(5) Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

(6) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred."

Section 162. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 260 of chapter 1, to read as follows:

"Section 260. Effect of dissolution.

(1) A dissolved corporation continues its corporate existence but may not carry on any
business except that appropriate to wind up and
liquidate its business and affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that
will not be distributed in kind to its
shareholders;

(c) Discharging or making provision for
discharging its liabilities;

(d) Distributing its remaining property
among its shareholders according to their
interests; and

(e) Doing every other act necessary to
wind up and liquidate its business affairs.

(2) Dissolution of a corporation does
not:

(a) Transfer title to the corporation’s
property;

(b) Prevent transfer of its shares or
securities, although the authorization to dissolve
may provide for closing the corporation’s share
transfer records;

(c) Subject its directors or officers
to standards of conduct different from those
prescribed in sections 177 through 215;

(d) Change quorum or voting
requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;

(e) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(f) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(g) Terminate the authority of the registered agent of the corporation.”

Section 162. Title 36 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby amended by inserting a new section 261 of chapter 1, to read as follows:

“Section 261. Known claims against dissolved corporation.

(1) A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

(2) The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written
notice must:

(a) Describe information that must be included in a claim;

(b) Provide a mailing address where a claim may be sent;

(c) State the deadline, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(d) State that the claim will be barred if not received by the deadline.

(3) A claim against the dissolved corporation is barred:

(a) If a claimant who was given written notice under subsection (b) does not deliver the claim to the dissolved corporation by the deadline;

(b) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

(4) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective
Section 164. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 262 of chapter 1, to read as follows:

"Section 262. Unknown claims against dissolved corporation.

(1) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(2) The notice must:

(a) Be published one time in a newspaper of general circulation in the Federated States of Micronesia;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within five years after the publication of the notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (b), the claim of each of the following claimants
is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within five years after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under section 261;

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on;

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the dissolved corporation, to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the shareholder claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section may not exceed the total amount of assets distributed to such shareholder.”
Section 165. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 263 of chapter 1, to read as follows:

"Section 263. Grounds for administrative dissolution.

(1) The Registrar may commence a proceeding under section 264 to administratively dissolve a corporation if the corporation fails to:

(a) Pay any fees prescribed by law;
(b) File its annual report for a period of two years;
(c) Appoint and maintain an agent for service of process as required; or
(d) File a statement of a change in the name or business address of the agent as required under this chapter."

Section 166. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 264 of chapter 1, to read as follows:

"Section 264. Procedure for and effect of administrative dissolution and effect of expiration.

(1) If the Registrar determines that one or
more grounds exist under section 263 for
dissolving a corporation, the Registrar shall give
written notice of the Registrar's determination by
mailing the notice to the corporation at its last
known address appearing in the records of the
Registrar.

(2) If the corporation does not correct each
ground for dissolution or demonstrate to the
reasonable satisfaction of the Registrar that each
ground determined by the Registrar does not exist
within sixty days after the date of mailing of the
Registrar's written notice, the Registrar shall
administratively dissolve the corporation by
signing a decree of dissolution that recites any
grounds for dissolution and its effective date.
The decree shall be filed in the Registrar's
office.

(3) A corporation administratively dissolved
continues its corporate existence but may not
carry on any business except that necessary to
wind up and liquidate its business and affairs
under section 260 and notify claimants under
sections 261 and 262.

(4) The administrative dissolution of a
corporation does not terminate the authority of
its registered agent.

(5) If a corporation's period of duration specified in its articles of incorporation has expired, the corporation may continue its corporate existence but may not carry on any business except as necessary to wind up and liquidate its business and affairs under section 260 and notify claimants under sections 261 and 262.

(6) The corporation, at any time within two years of the expiration of its period of duration, may amend its articles of incorporation to extend its period of duration, and upon the amendment, the corporation may resume carrying on its business as if the expiration had never occurred; provided that if the name of the corporation, or a name substantially identical is registered or reserved by another entity, or if that name or a name substantially identical is registered as a trade name, trademark, or service mark, the extension of its period of duration shall be allowed only upon the registration of a new name by the corporation pursuant to the amendment provisions of this chapter.”

Section 167. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by inserting a new section 247 of chapter 1, to read as follows:

"Section 265. Reinstatement following administrative dissolution.

(1) A corporation administratively dissolved under section 264 may apply to the Registrar for reinstatement within two years after the effective date of dissolution. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution;

(b) Contain all reports due and unfiled;

(c) Contain the payment of all delinquent fees and penalties; and

(d) Contain a certificate from the Department of Finance indicating that all taxes owed by the corporation have been paid, a payment arrangement has been entered into, or the unpaid tax liabilities are being contested in an administrative or judicial appeal with the Department of Finance.

(2) Within the applicable reinstatement period, should the name of the corporation, or a
name substantially identical thereto be registered
or reserved by another corporation, partnership,
limited partnership, limited liability company, or
limited liability partnership, or should the name
or a name substantially identical thereto be
registered as a trade name, trademark, or service
mark, then reinstatement shall be allowed only
upon the registration of a new name by the
involuntarily dissolved corporation pursuant to
the amendment provisions of this chapter.

(3) When the reinstatement is effective, it
relates back to and takes effect as of the
effective date of the administrative dissolution
and the corporation resumes carrying on its
business as if the administrative dissolution had
never occurred."

Section 168. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 266 of chapter 1, to read as
follows:

“Section 266. Appeal from denial of
reinstatement.

(1) If the Registrar denies a corporation's
application for reinstatement following
administrative dissolution, the Registrar shall
mail a written notice to the corporation or its
designated representative that explains the reason
or reasons for denial.

(2) The corporation may appeal the denial of
reinstatement to the Supreme Court of the
Federated States of Micronesia within thirty days
after the notice of denial is mailed. The
corporation may appeal by petitioning the court to
set aside the dissolution and attaching to the
petition copies of the Registrar's certificate of
dissolution, the corporation's application for
reinstatement, and the Registrar's notice of
denial.

(3) The court may summarily order the
Registrar to reinstate the dissolved corporation
or may take other action the court considers
appropriate.

(4) The court's final decision may be
appealed as in other civil proceedings.”

Section 169. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 267 of chapter 1, to read as
follows:

“Section 267. Grounds for judicial dissolution.

(1) The Supreme Court of the Federated
States of Micronesia may dissolve a corporation:

(a) In a proceeding by the Secretary of the Department of Justice if it is established that:

(i) The corporation obtained its articles of incorporation through fraud; or

(ii) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(b) In a proceeding by a shareholder if it is established that:

(i) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(ii) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(iii) The shareholders are deadlocked in voting power and have failed, for a
period that includes at least two consecutive
annual meeting dates, to elect successors to
directors whose terms have expired; or

(iv) The corporate assets are being
misapplied or wasted;

(c) In a proceeding by a creditor
if it is established that:

(i) The creditor's claim has been
reduced to judgment, the execution on the judgment
returned unsatisfied, and the corporation is
insolvent; or

(ii) The corporation has admitted
in writing that the creditor's claim is due and
owing and the corporation is insolvent; or

(d) In a proceeding by the corporation
to have its voluntary dissolution continued under
court supervision.”

Section 268. Procedure for judicial dissolution.

(1) Jurisdiction for a judicial proceeding
to dissolve a corporation lies in the Supreme
Court of the Federated States of Micronesia.
Venue for a proceeding brought by any party named in section 267 lies in the Trial Division of the Supreme Court in the state where a corporation's principal office is located or, if none, where its registered office is or was last located.

(2) It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

(4) Within ten days after the commencement of a proceeding under section 267 to dissolve a corporation that has no shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association, the corporation must send to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution
of the corporation by electing to purchase the
petitioner's shares under section 271 and
accompanied by a copy of section 271.”

Section 171. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 269 of chapter 1, to read as
follows:

“Section 269. Receivership or custodianship.

(1) A court in a judicial proceeding brought
to dissolve a corporation may appoint one or more
receivers to wind up and liquidate, or one or more
custodians to manage, the business and affairs of
the corporation. The court shall hold a hearing,
after notifying all parties to the proceeding and
any interested persons designated by the court,
before appointing a receiver or custodian. The
court appointing a receiver or custodian has
exclusive jurisdiction over the corporation and
all of its property wherever located.

(2) The court may appoint an individual or a
domestic or foreign corporation authorized to
transact business in the Federated States of
Micronesia as a receiver or custodian. The court
may require the receiver or custodian to post
bond, with or without sureties, in an amount the
court directs.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a) The receiver:

   (i) May dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and

   (ii) May sue and defend in the receiver's own name as receiver of the corporation; and

(b) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

(4) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its shareholders, and creditors.

(5) The court from time to time during the receivership or custodianship may order
compensation paid and expense disbursements or
reimbursements made to the receiver or custodian
and the receiver's or custodian's counsel from the
assets of the corporation or proceeds from the
sale of the assets."

Section 172. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 270 of chapter 1, to read as
follows:

"Section 270. Decree of dissolution.

(1) If after a hearing the court determines
that one or more grounds for judicial dissolution
described in section 267 exist, it may enter a
decree dissolving the corporation and specifying
the effective date of the dissolution, and the
clerk of the court shall deliver a certified copy
of the decree to the Registrar, who shall file it.

(2) After entering the decree of
dissolution, the court shall direct the winding up
and liquidation of the corporation's business and
affairs in accordance with section 260 and the
notification of claimants in accordance with
sections 261 and 262."

Section 173. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 271 of chapter 1, to read as follows:

"Section 271. Election to purchase in lieu of dissolution.

(1) In a proceeding under section 267(1)(b) to dissolve a corporation that has no shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

(2) An election to purchase pursuant to this section may be filed with the court at any time within ninety days after the filing of the petition under section 267(1)(b) or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation, within ten days thereafter, shall give written notice to all
shareholders, other than the petitioning shareholder. The notice shall state the name and number of shares owned by the petitioning shareholder and the name and number of shares owned by each electing shareholder and shall advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders who wish to participate shall file notice of their intention to join in the purchase no later than thirty days after the effective date of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under section 267(1)(b) may not be discontinued or settled, nor may the petitioning shareholder sell or otherwise dispose of the shareholder’s shares, unless the court determines that it would be equitable to the corporation and
the shareholders, other than the petitioning shareholder, to permit the discontinuance, settlement, sale, or other disposition.

(3) If, within sixty days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioning shareholder's shares, the court shall enter an order directing the purchase of the petitioning shareholder's shares upon the terms and conditions agreed to by the parties.

(4) If the parties are unable to reach an agreement as provided for in subsection (3), the court, upon application of any party, shall stay the section 267(1)(b) proceedings and determine the fair value of the petitioning shareholder's shares as of the day before the date on which the petition under section 267(1)(b) was filed or as of any other date the court deems appropriate under the circumstances.

(5) Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon the terms and conditions that the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity,
provision for security to assure payment of the purchase price and any additional costs, fees, and expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating the petitioning shareholder's shares among holders of different classes of shares, the court shall attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under section 267(1)(b)(ii), it may award to the petitioning shareholder reasonable fees and expenses of counsel and of any experts employed by the petitioning shareholder.

(6) Upon entry of an order under subsection (3) or (5), the court shall dismiss the petition
to dissolve the corporation under section 267, and
the petitioning shareholder shall no longer have
any rights or status as a shareholder of the
corporation, except the right to receive the
amounts awarded to the petitioning shareholder by
the order of the court that shall be enforceable
in the same manner as any other judgment.

(7) The purchase ordered pursuant to
subsection (5), shall be made within ten days
after the date the order becomes final unless
before that time the corporation files with the
court a notice of its intention to adopt articles
of dissolution pursuant to sections 257 and 258,
which articles shall then be adopted and filed
within fifty days thereafter. Upon filing of the
articles of dissolution, the corporation shall be
dissolved in accordance with sections 260 to 262,
and the order entered pursuant to subsection (5)
shall no longer be of any force or effect, except
that the court may award the petitioning
shareholder reasonable fees and expenses in
accordance with the provisions of the last
sentence of subsection (5) and the petitioning
shareholder may continue to pursue any claims
previously asserted on behalf of the corporation.
Any payment by the corporation pursuant to an order under subsection (3) or (5), other than an award of fees and expenses pursuant to subsection (5), is subject to section 149.”

Section 174. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 272 of chapter 1, to read as follows:

“Section 272. Deposit with Secretary of Finance.

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the Secretary of Finance for disposition by order of court.”

Section 175. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 273 of chapter 1, to read as follows:

“Section 273. Trustees or receivers for dissolved corporations; appointment; powers; duties.

(1) When any corporation organized and authorized to issue shares under the laws of the Federated States of Micronesia shall be or shall have
ceased to exist, the Supreme Court of the Federated States of Micronesia, upon application of any creditor, stockholder, or director of the corporation, or any other person who shows good cause therefore, and upon a finding that the persons responsible for settling the unfinished business and winding up the affairs of the corporation either are not diligently pursuing such obligations, or cannot be found or otherwise are not available, may either appoint one or more of the directors of the corporation to be trustees or appoint one or more persons to be receivers of and for the corporation, to do all acts that are necessary for the final settlement of the unfinished business of the corporation. The powers of the trustees or receivers shall be effective for the time period determined by the Supreme Court of the Federated States of Micronesia.

(2) The relief provided in this section shall be in addition to, and shall not limit or diminish, any remedies otherwise available under the common law or other laws or regulations of the Federated States of Micronesia. In the event of a conflict between this section and any common law,
statute, or rule on the subject, the more
beneficial provisions favoring the applicant shall
prevail."

Section 176. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 274 of chapter 1, to read as
follows:

"Section 274. Authority to transact business
required.

(1) A foreign corporation may not transact
business in the Federated States of Micronesia
until it obtains a certificate of authority from
the Registrar and has complied with the State and
National foreign investment and other similar laws
applicable to it.

(2) The following activities, among others,
do not constitute transacting business within the
meaning of subsection (1):

(a) Maintaining, defending, or settling
any proceeding;

(b) Holding meetings of the board of
directors or shareholders or carrying on other
activities concerning internal corporate affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for
the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside of the Federated States of Micronesia before they become contracts;

(g) Creating as borrower or lender, or acquiring, as borrower or lender, indebtedness, mortgages, and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, personal property or leasing real property;

(j) Conducting an isolated transaction that is completed within fourteen days and that is not one in the course of repeated transactions of a like nature; and

(k) Transacting business in
international commerce.

(3) The list of activities in subsection (2) is not exhaustive."

Section 177. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 275 of chapter 1, to read as follows:

"Section 275. Consequences of transacting business without authority.

(1) A foreign corporation transacting business in the Federated States of Micronesia without a certificate of authority may not maintain a proceeding in any court in the Federated States of Micronesia until it obtains a certificate of authority.

(2) The successor to a foreign corporation that transacted business in the Federated States of Micronesia without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in the Federated States of Micronesia until the foreign corporation or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced
by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(4) A foreign corporation that transacts business in the Federated States of Micronesia without a certificate of authority shall be liable to the Federated States of Micronesia, for the years or parts thereof during which it transacted business in the Federated States of Micronesia without a certificate of authority, in an amount equal to all fees that would have been imposed by this chapter upon the corporation had it duly applied for and received a certificate of authority to transact business in the Federated States of Micronesia as required by this chapter and thereafter filed all reports required by this chapter, plus all penalties imposed by this chapter for failure to pay the fees. The attorney general shall bring proceedings to recover all amounts due the Federated States of Micronesia under this section.
(5) Notwithstanding subsections (1) and (2), the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in the Federated States of Micronesia.”

Section 178. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 276 of chapter 1, to read as follows:

“Section 276. Application for certificate of authority.

(1) A foreign corporation may apply for a certificate of authority to transact business in the Federated States of Micronesia by delivering an application to the Registrar for filing. The application shall set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in the Federated States of Micronesia, a corporate name that satisfies the requirements of section 279;

(b) The name of the jurisdiction under whose law it is incorporated;

(c) Its date of incorporation;

(d) The mailing address of the
corporation's principal office, the street address
of its registered office in the Federated States
of Micronesia, and the name of its registered
agent at its registered office in the Federated
States of Micronesia; and

(e) The names and usual business
addresses of its current directors and officers.

(2) The foreign corporation shall deliver
with the completed application a certificate of
good standing or other similar record duly
authenticated by the secretary of state or other
official having custody of corporate records in
the state or country under whose law it is
incorporated; provided that the certificate shall
be dated not earlier than sixty days prior to the
filing of the application. If the certificate is
in a foreign language, a translation attested to
under oath by the translator shall accompany the
certificate.”

Section 179. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 277 of chapter 1, to read as
follows:

“Section 277. Change of name by foreign
corporation.
(1) Whenever the name of a foreign corporation authorized to transact business in the Federated States of Micronesia is changed by the amendment of its articles of incorporation, the foreign corporation, within sixty days after the amendment becomes effective, shall deliver to the Registrar a certificate evidencing the name change, duly authenticated by the proper officer of the state or country under the laws of which it is incorporated. If the certificate is in a foreign language, a translation under oath of the translator shall accompany the certificate.

(2) Whenever a foreign corporation that is authorized to transact business in the Federated States of Micronesia shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the foreign corporation shall not thereafter transact any business in the Federated States of Micronesia until it has changed its name to a name that is available to it under the laws of the Federated States of Micronesia or has otherwise complied with this chapter.

(3) If a foreign corporation is unable to change its name to a name that is available to it
under the laws of the Federated States of Micronesia, it may deliver to the Registrar a copy
of a certificate of registration of a trade name
and thereafter shall become authorized to transact
business in the Federated States of Micronesia
under that name."

Section 180. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 271 of chapter 1, to read as follows:

"Section 278. Effect of certificate of authority.

(1) A certificate of authority together with compliance with all State and National foreign investment and similar laws authorizes the foreign corporation to which it is issued to transact business in the Federated States of Micronesia subject to the right of the Federated States of Micronesia to revoke the certificate as provided in this chapter.

(2) With respect to Federated States of Micronesia Corporations law, a foreign corporation with a valid certificate of authority has the same but no greater rights and has the same but no greater privileges as, and except as otherwise provided by this chapter is subject to the same
duties, restrictions, penalties, and liabilities now or later imposed on, a domestic corporation of like character.

(3) This chapter does not authorize the Federated States of Micronesia to regulate the organization or internal affairs of a foreign corporation authorized to transact business in the Federated States of Micronesia.”

Section 181. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 279 of chapter 1, to read as follows:

“Section 279. Corporate name of foreign corporation.

(1) If the corporate name of a foreign corporation does not satisfy the requirements of section 127(2), (3) and (4), the foreign corporation to obtain or maintain a certificate of authority to transact business in the Federated States of Micronesia may use a fictitious name to transact business in the Federated States of Micronesia if its real name is unavailable and it delivers to the Registrar for filing a copy of a certificate of registration of a trade name by the foreign corporation under which the foreign
corporation will transact business in the Federated States of Micronesia.

(2) Except as authorized by subsections (c) and (d), the corporate name including a fictitious name of a foreign corporation may not be the same as, or substantially identical to:

(a) The name of any domestic corporation, partnership, limited partnership, limited liability company, or limited liability partnership existing or registered under the laws of the Federated States of Micronesia, or any foreign corporation, partnership, limited partnership, limited liability company, or limited liability partnership authorized to transact business in the Federated States of Micronesia;

(b) A name the exclusive right to which is, at the time, reserved in the Federated States of Micronesia;

(c) The fictitious name of another foreign corporation authorized to transact business in the Federated States of Micronesia; and

(d) Any trade name, trademark, or service mark registered in the Federated States of Micronesia.
(3) A foreign corporation may apply to the Registrar for authorization to use in the Federated States of Micronesia the name of another corporation incorporated or authorized to transact business in this State that is substantially identical based upon the Registrar's records to the name applied for. The Registrar shall authorize use of the name applied for if:

(a) The other entity or holder of a reserved or registered name consents to the use in writing and one or more words are added to the other entity's name to make the name distinguishable from the name of the applicant; or

(b) The applicant delivers to the Registrar a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

(4) A foreign corporation may use in the Federated States of Micronesia the name including the fictitious name of another domestic or foreign corporation that is used in the Federated States of Micronesia if the other corporation is incorporated or authorized to transact business in the Federated States of Micronesia and the foreign
corporation:

(a) Has merged with the other corporation;

(b) Has been formed by reorganization of the other corporation; or

(c) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.”

Section 182. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 280 of chapter 1, to read as follows:

“Section 280. Registered office and registered agent of foreign corporation.

(1) Each foreign corporation authorized to transact business in the Federated States of Micronesia must continuously maintain in the Federated States of Micronesia:

(a) A registered office that may be the same as any of its places of business; and

(b) A registered agent, who may be:

(i) An individual who resides in the Federated States of Micronesia and whose business office is identical with the registered office;
(ii) A domestic entity authorized to transact business in the Federated States of Micronesia whose business office is identical with the registered office; or

(iii) A foreign entity authorized to transact business in the Federated States of Micronesia whose business office is identical with the registered office."

Section 183. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 281 of chapter 1, to read as follows:

"Section 281. Change of registered office or registered agent of foreign corporation.

(1) A foreign corporation authorized to transact business in the Federated States of Micronesia may change its registered office or its registered agent by delivering to the Registrar for filing a statement of change that sets forth:

(a) Its name;

(b) The street address of its current registered office, the name of its current registered agent at its registered office, and any changes required to keep the information current; and
(c) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent shall be identical.

(2) If a registered agent changes the street address of the agent's business office, the agent may change the street address of the registered office of any foreign corporation for which the agent is the registered agent by notifying the corporation in writing of the change and signing either manually or in facsimile and delivering to the Registrar for filing a statement of change that complies with the requirements of subsection (1) and recites that the corporation has been notified of the change.”

Section 184. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 282 of chapter 1, to read as follows:

“Section 282. Resignation of registered agent of foreign corporation.

(1) The registered agent of a foreign corporation may resign from the registered agent's appointment by signing and delivering to the Registrar for filing a statement of resignation.
The statement of resignation may include a statement that the registered office is also discontinued.

(2) The registered agent shall attach the filing receipt to a copy of the statement of resignation and mail the copy and receipt to the registered office if not discontinued. The registered agent shall mail a second copy to the foreign corporation at its principal office address shown in its most recent annual report.

(3) The appointment of the agent is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.”

Section 185. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 283 of chapter 1, to read as follows:

“Section 283. Service on foreign corporation.

(1) Service of any notice or process authorized by law that is issued against any foreign corporation by any court, judicial or administrative officer, or board, may be made in the manner provided by law upon any registered agent, officer, or director of the foreign
corporation who is found within the jurisdiction of the court, officer, or board; or if any registered agent, officer, or director cannot be found, upon the manager or superintendent of the foreign corporation or any person who is found in charge of the property, business, or office of the foreign corporation within the jurisdiction.

(2) If no officer, director, manager, superintendent, or other person in charge of the property, business, or office of the foreign corporation can be found within the Federated States of Micronesia, and if the foreign corporation has not filed with the Registrar pursuant to this chapter the name of a registered agent upon whom legal notice and process from the courts of the Federated States of Micronesia may be served, and likewise if the person named is not found within the Federated States of Micronesia, service may be made upon the foreign corporation by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report.

(3) Service using registered or certified
mail is perfected at the earliest of:

(a) The date the foreign corporation receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the foreign corporation; or

(c) Five days after its deposit in the mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(d) Nothing contained herein shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign corporation in any other manner permitted by law.”

Section 186. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 284 of chapter 1, to read as follows:

“Section 284. Application to corporations heretofore authorized to transact business in the Federated States of Micronesia. Foreign corporations that are duly authorized to transact business in the Federated States of Micronesia on the effective date of this act, for a purpose or purposes for which a corporation might secure the
authority under this chapter, shall be entitled to all of the rights and privileges applicable to foreign corporations procuring certificates of authority to transact business in the Federated States of Micronesia under this chapter, and from the effective date of this act, the corporations shall be subject to all of the limitations, restrictions, liabilities, and duties prescribed herein for foreign corporations procuring certificates of authority to transact business in the Federated States of Micronesia under this chapter.”

Section 187. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 285 of chapter 1, to read as follows:


(1) A foreign corporation or branch authorized to transact business in the Federated States of Micronesia under this chapter may not withdraw from the Federated States of Micronesia until it obtains a certificate of withdrawal from the Registrar which certificate shall be issued within five business days of request; provided however, if the certificate of withdrawal is not
issued within the time required by this subsection
the corporation seeking withdrawal shall be deemed
to have lawfully withdrawn upon expiration of the
time limit for issuance of the certificate.

(2) A foreign corporation or branch
authorized to transact business in the Federated
States of Micronesia may apply for a certificate
of withdrawal by delivering an application to the
Registrar for filing. The application shall set
forth:

(a) The name of the foreign corporation
and the name of the state or country under whose
law it is incorporated;

(b) That it is not transacting business
in the Federated States of Micronesia and that it
surrenders its authority to transact business in
the Federated States of Micronesia;

(c) That it revokes the authority of
its registered agent to accept service on its
behalf and consents that service of process in any
action or proceeding based upon any cause of
action arising in the Federated States of
Micronesia during the time the corporation was
authorized to transact business in the Federated
States of Micronesia may thereafter be made on
such corporation by service thereof on the Registrar; and

(d) A mailing address to which the Registrar may mail a copy of any process served on the Registrar under paragraph (c).

(e) After the withdrawal of the corporation is effective, service of process on the Registrar under this section is service on the foreign corporation. Upon receipt of process, the Registrar shall mail a copy of the process to the foreign corporation at the mailing address set forth under subsection (2).

(f) After the filing of the application of withdrawal, the Registrar shall issue a certificate of withdrawal that shall be effective as of the date of the filing of the application of withdrawal, and the authority of the foreign corporation to transact business in the Federated States of Micronesia shall cease.”

Section 188. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 286 of chapter 1, to read as follows:

“Section 286. Grounds for revocation.

(1) The Registrar may commence a proceeding
under section 287 to revoke the certificate of
authority of a foreign corporation authorized to
transact business in the Federated States of
Micronesia if:

(a) The corporation fails to:

   (i) Pay any fees prescribed by

   law;

   (ii) File its annual report for a

   period of two years;

   (iii) Appoint and maintain an agent

   for service of process as required; or

   (iv) File a statement of a change

   in the name or business address of the agent as

   required; or

(b) A misrepresentation has been made

of any material matter in any application, report,
affidavit, or other record or document submitted
by the corporation.”

Section 189. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 287 of chapter 1, to read as
follows:

“Section 287. Procedure for and effect of
revocation.

(1) If the Registrar determines that one or
more grounds exist under section 286 for revocation of a certificate of authority, the Registrar shall give written notice of the Registrar's determination by mailing the notice to the foreign corporation at its last known address appearing in the records of the Registrar.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Registrar that each ground determined by the Registrar does not exist within sixty days after the date of mailing of the Registrar's written notice, the Registrar may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date.

(3) Upon revoking any certificate of authority, the Registrar shall issue a certificate of revocation that shall be filed in the Registrar's office, and the authority of a foreign corporation to transact business in this State shall immediately cease thereafter.

(4) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the
Section 190. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 288 of chapter 1, to read as follows:

"Section 288. Appeal from revocation.

(1) A foreign corporation may appeal the Registrar's revocation of its certificate of authority to the Supreme Court of the Federated States of Micronesia within thirty days after the certificate of revocation is signed. The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the Registrar's certificate of revocation.

(2) The court may summarily order the Registrar to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings."

Section 191. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 289 of chapter 1, to read as follows:
“Section 289. Books and records.

(1) Each corporation shall keep accurate and complete books and records of account and shall keep and maintain at its principal office, or other place as its board of directors may order, minutes of the proceedings of its shareholders and board of directors. The books and records of account shall include accounts of the corporation’s assets, liabilities, receipts, disbursements, gains, and losses. The minutes of the proceedings of the shareholders and board of directors of the corporation shall show, as to each meeting of the shareholders or the board of directors, the time and place, if any, thereof, whether regular or special, whether notice thereof was given, and if so in what manner, the names of those present at directors’ meetings, the number of shares present or represented at shareholders’ meetings, and the proceedings at each meeting.

Any of the books and records described in this subsection may be kept on, or by means of, or be in the form of, any information storage device or method; provided that the books and records can be converted into clearly legible paper form within a reasonable time. Upon the request of any person
entitled to inspect the books and records pursuant to any provision of this chapter, a corporation, at its own expense, shall convert the requested stored books and records. When books and records are kept pursuant to this subsection, a clearly legible paper form produced from or by means of the information storage device or method shall be admissible as evidence, and accepted for all other purposes, to the same extent as an original paper record of the same information would have been; provided that the paper form accurately portrays the record.

(2) In every corporation incorporated under this chapter, the board of directors of the corporation shall cause a book to be kept for registering the names of all persons who are or shall become shareholders of the corporation, showing the number of shares of stock held by them respectively, and the time when they respectively became the owner of the shares. The book shall be open at all reasonable times for the inspection of the shareholders. The secretary or the person having the charge thereof shall give a certified transcript of anything therein contained to any shareholder applying therefor; provided that the
shareholder pays a reasonable charge for the preparation of the certified transcript. The transcript shall be legal evidence of the facts therein set forth in any suit by or against the corporation."

Section 192. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by inserting a new section 290 of chapter 1, to read as follows:

"Section 290. Annual report.

(1) Each domestic corporation, and each foreign corporation authorized to transact business in the Federated States of Micronesia, shall deliver to the Registrar for filing an annual report that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The mailing address of its principal office, the address of its registered office in the Federated States of Micronesia, and the name of its registered agent at its registered office in the Federated States of Micronesia;

(c) The names and business addresses of its directors and officers; and
(d) A brief description of the nature of its business.

(2) Domestic corporations shall also provide the total number of authorized shares, itemized by class and series, if any, within each class, and the total number of issued and outstanding shares, itemized by class and series, if any, within each class.

(3) Notwithstanding any of the provisions of this chapter to the contrary, annual reports reflecting the previous fiscal or calendar year shall be filed not later than June 30 of each year.

(4) If an annual report does not contain the information required by this section, or no annual report is filed, the Registrar shall promptly notify the reporting domestic or foreign corporation in writing. If the report is provided or corrected to contain the information required by this section as the case may be and delivered to the Registrar within thirty days after the effective date of notice, it is deemed to be timely filed."

Section 193. Title 36 of the Code of the Federated States of Micronesia (Annotated), is hereby amended by
inserting a new section 291 of chapter 1, to read as
follows:

"Section 291. Penalties imposed upon
corporations. Subject to the provisions of section
290, each corporation, domestic or foreign, that
fails or refuses to file its annual report for any
year within the time prescribed by this part shall
be subject to a forfeiture of an amount to be
determined by the Registrar not exceeding $100 for
every violation, neglect, or failure, to be
recovered by action brought in the name of the
Federated States of Micronesia by the Registrar.
A continuance of a failure to file the required
report shall be a separate offense for each thirty
days of the continuance. The Registrar, for good
cause shown, may reduce or waive the penalty
imposed by this section."

Section 194. Title 36 of the Code of the Federated
States of Micronesia (Annotated), is hereby amended by
inserting a new section 292 of chapter 1, to read as
follows:

"Section 292. Severability. If any provision of
this chapter or its application to any person or
circumstance is held invalid by a court of
competent jurisdiction, the invalidity shall not
affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.”

Section 195. Amendment of chapter 2. Chapter 2 of title 36 of the Code of the Federated States of Micronesia is hereby renamed “Chapter 3: Registrar of Corporations”.

Sections 196. 201 through 209 of title 36 of the Code of the Federated States of Micronesia are hereby renumbered sections 301 through 309, respectively.

Section 197. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 5/24/17 Introduced by: /s/ for Joseph J. Urusemal
Florencio S. Harper (by request)