

WGO

A BILL FOR AN ACT

To amend Rule 302 of the FSM Supreme Court Rules of Evidence for the purpose of providing for certification of issues of State law to the highest court of a State when the FSM Supreme Court has jurisdiction over a civil case or proceeding in which the claim or defense asserted arises under State law and there are no governing State statutes or decisions for the highest court of the affected State, and for other purposes.

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

1 Section 1. Rule 302 of the FSM Supreme Court Rules of Evidence
2 is hereby amended to read as follows:

3 "Rule 302. APPLICABILITY OF STATE LAW IN CIVIL ACTIONS AND
4 PROCEEDINGS.

5 (a) In civil actions and proceedings, the effect of
6 a presumption respecting a fact which is an element of a
7 claim or defense as to which State law supplies the rule
8 of decision is determined in accordance with State law.

9 (b) In any civil action or proceeding that arises
10 under State law in which the law of the affected State
11 does not have any governing statutes and the highest court
12 of the affected State has yet to decide the existence or
13 elements of a claim or defense, the FSM Supreme Court Trial
14 Division having jurisdiction over such a civil case
15 arising under State law shall certify all questions of law
16 concerning such civil action or proceeding to the highest
17 court of the affected State for a decision and that
18 decision shall supply the rule of law in determining all
19 claims and defense pending in the action."

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1 Section 2. This act shall become law upon approval by the
 2 President of the Federated States of Micronesia or upon its becoming
 3 law without such approval, and shall be retroactively applied to all
 4 cases pending at the time of its becoming law.

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6 Date: 9/14/87

Introduced by: Jack Fritz
Jack Fritz

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