

AN ACT

To establish the Chuuk State Judiciary Act of 1990, to repeal TSL Nos. 3-12, 5-32, 5-60, 5-73, 5-89 and 5-123, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

1 Section 1. Short Title. This Act is known and may be
2 cited as the Chuuk State Judiciary Act of 1990.

3 Section 2. Purpose. The purpose of this Act is to:

4 (1) provide for the organization and jurisdiction
5 of the State Supreme Court in a manner consistent with
6 the Constitution of the Federated States of Micronesia
7 and the Constitution of Chuuk State;

8 (2) establish a unified judicial system that
9 gives due recognition to the traditions and customs
10 of the people of the State in the resolution of disputes
11 and provides for a means of resolving disputes where
12 traditional and customary means are not satisfactory,
13 and

14 (3) facilitate cooperation between the State
15 Supreme Court and the Supreme Court of the Federated
16 States of Micronesia.

17 Section 3. Judicial Powers. The judicial power of the
18 State Government is vested in a unified judiciary, consisting
19 of the State Supreme Court, and inferior courts as established
20 by law, and the municipal courts.

21 Section 4. General Powers of State and Municipal Courts.
22 Each court shall have power to issue all writs for equitable
23 and legal relief, except the power of attachment, execution
24 and garnishment of public property, and to issue other process,
25 make rules and orders, and do all acts, consistent with law
26 and with the rules established by the Chief Justice of the
27 State Supreme Court, as may be necessary for due administra-
28 tion of justice; and, without limiting the generality of the

1 foregoing, may grant bail, accept and cause forfeit of
2 security therefor, make orders for the attendance of wit-
3 nesses with or without documents, and make orders for the
4 disposal of exhibits.

5 Section 5. Territorial Jurisdiction of the State
6 Supreme Court. The jurisdiction of the State Supreme Court shall
7 extend to the whole of the State.

8 Section 6. Jurisdiction over Persons; Civil. The
9 State Supreme Court may exercise personal jurisdiction in
10 civil cases only over persons residing or found in the State
11 and who have been duly summoned or voluntarily appear, except
12 as provided in Sections 7(1) through (10) of this Act.

13 Section 7. Jurisdiction over Acts of Nonresidents.
14 Any person, corporation or legal entity, whether or not a
15 resident of the State, who in person or through an agent does
16 any of the acts enumerated in this Section thereby submits
17 himself or its personal representative to the jurisdiction
18 of the courts of the State as to any cause of action arising
19 from:

- 20 (1) the transaction of any business within
21 the territory of the State;
- 22 (2) the operation of a motor vehicle within
23 the territory of the State;
- 24 (3) the operation of a vessel or craft within
25 the territory of the State;
- 26 (4) the commission of a tortious act within
27 the territory of the State;
- 28 (5) contracting to insure any person, property
29 or risk located within the territory of the State at
30 the time of contracting;
- 31 (6) the ownership, use, or possession of any
32 property within the territory of the State;
- 33 (7) entering into an express or implied contract,
34 by mail or otherwise, with a resident of the State,

to be performed in whole or in part by either party in the territory of the State;

(8) acting within the territory of the State as director, manager, trustee, or other officer of any corporation organized under the laws of, or having a place of business within, the territory of the State, or as executor or administrator of any estate within the territory of the State;

(9) causing injury to persons or property within the territory of the State arising out of an act or omission outside of the territory of the State by the defendant, provided in addition, that at the time of the injury either:

(a) the defendant was engaged in the solicitation or sales activities within the territory of the State; or

(b) products, materials, or things possessed, serviced or manufactured by the defendant anywhere were used or consumed within the territory of the State; and

(10) living in the marital relationship within the State notwithstanding subsequent departure from the State as to all obligations arising for alimony, child support, or property rights under the law of the State, if the other party to the marital relationship continues to reside in the State.

Section 8.

(1) Personal Service Outside the State. Service of process may be made upon any person subject to the jurisdiction of the courts of the State under this Act by personally serving the summons upon the defendant outside the State or with the consent of the court, mailing the summons to the person by registered mail at his last known address, and such service shall have the

1 the same force and effect as though service had been
2 personally made within the State.

3 (2) Judgment may be set Aside. Any defendant not
4 so personally notified may, at any time within one year
5 after final judgment, enter his appearance and there-
6 upon the court shall set aside the judgment and permit
7 such defendant to plead on payment of such costs as
8 the court deems best; provided; however, that this
9 right shall not extend to decrees of annulment, divorce
0 or adoption.

1 Section 9. Manner of Service. Service of summons out-
2 side the State shall be made under this Act in like manner
3 as service within the State by any officer or person authorized
4 by law or order of the court to make service of summons in
5 the state or jurisdiction where the defendant is served. An
6 affidavit of the server shall be filed with the State Court
7 issuing said summons stating the time, manner and place of
8 service. The Court may consider the affidavit or any other
9 competent proof in determining whether service has been pro-
0 perly made.

1 Section 10. Default. No default judgment shall be
2 entered until the expiration of at least thirty days after
3 service. A default judgment rendered on service made under
4 this Act may be set aside only on a showing which would be
5 timely and sufficient to set aside a default judgment entered
6 upon service within the State.

7 Section 11. Effect of Act on the Methods of Service.
8 Nothing contained in this Act limits or affects the right to
9 serve any process in any other manner now or hereafter provided
0 by law or rule of court.

1 Section 12. Composition and Division of the State
2 Supreme Court.

(1) The composition of the State Supreme Court
shall conform to the provisions of Article VII of the

Chuuk State Constitution, except that there shall be five Associate Justices. The Chief Justice shall assign each of the five Associate Justices to serve as Circuit Justice for each of the five senatorial regions. For the purpose of this Section, a Circuit Justice shall be responsible to his assigned region and shall perform such judicial duties and functions as prescribed by rule promulgated by the Chief Justice.

Section 13. Qualifications of the State Supreme Court Justices. No person is eligible to serve as a State Supreme Court Justice unless he meets the requirements of Article VII, Section 9 of the Constitution and;

(1) is a graduate from an accredited law school in that jurisdiction and is admitted to the practice of law in any jurisdiction; or

(2) has at least twenty years experience in practicing law or service as a judge.

Section 14. Disability of a Justice.

(1) A justice of the State Supreme Court is temporarily disabled if he has a mental or physical condition or a combination thereof, which renders him unable to discharge the duties of his office for not more than six months;

(2) If an associate justice is disabled for more than six months, the office is deemed vacant and the Chief Justice shall certify this vacancy to the Governor. The Governor shall, within one month of the certification of a vacancy, appoint an associate justice subject to confirmation of the Senate.

(3) If the Chief Justice is disabled for more than six months, the office is deemed vacant and the most senior Associate Justice shall certify this vacancy to the Governor. The Governor shall, within one month upon receipt of such certification, appoint a new Chief

1 Justice subject to confirmation of the Senate.

2 (4) If the Chief Justice is disabled, the most
3 senior Associate Justice shall serve as Chief Justice
4 until the Chief Justice's disability is removed, or
5 until a new Chief Justice is confirmed by the Senate.
6 For the purpose of this Section, an Associate Justice
7 is most senior according to the seniority of his
8 commission but if two or more Associate Justices have
9 commissions bearing the same date, the one most senior
10 in age is the most senior Associate Justice.

11 (5) If an Associate Justice is disabled, the
12 Chief Justice may appoint a temporary justice, who shall
13 have the same qualifications of an associate justice
14 to serve until the disability of the Associate Justice
15 is removed, or until a new Associate Justice is con-
16 firmed by the Senate. A temporary justice who has
17 served for more than two months may be removed by
18 a joint resolution of the Legislature, or by the
19 Governor, or by the Chief Justice. A temporary justice
20 shall receive the same salary as the Associate Justice
21 he replaced.

22 Section 15. ^{Compensation} Composition of State Supreme Court Justices.

23 The State Supreme Court Chief Justice shall be entitled to
24 an annual salary of \$34,000. A State Supreme Court Associate
25 Justice shall be entitled to an annual salary of \$32,000.

26 Section 16. Declaratory Judgments. In a case of actual
27 controversy within its jurisdiction, any court of this State,
28 upon the filing of an appropriate pleading, may declare the
29 rights and other legal relations of any interested party
30 seeking such declaration, whether or not further relief is
31 or could be sought. Any such declaration shall have the force
32 and effect of a final judgment or decree and shall be review-
33 able as such. Further necessary or proper relief based on a
34 declaratory judgment or decree may be granted, after reasonable

1 notice and hearing against any adverse party whose rights
 2 have been determined by such judgment.

3 Section 17. State Supreme Court Review of Administrative
 4 Action.

5 (1) The Trial Division shall have the authority to
 6 review all actions of an agency of the Government of
 7 this State in accordance with this Act and the pro-
 8 visions of the Chuuk State Constitution;

9 (2) For the purposes of this Act, an agency
 10 means each authority of the Government of this State,
 11 but does not include the State Legislature or the
 12 courts of this State. The reviewing court shall decide
 13 all relevant questions of law, interpret constitutional
 14 and statutory provisions, and determine the meaning or
 15 applicability of the terms of an agency action. The
 16 reviewing court shall:

17 (a) compel agency action unlawfully with-
 18 held or unreasonably delayed; and

19 (b) declare unlawful and set aside agency
 20 action, findings and conclusions found to be:

21 (1) arbitrary, capricious, an abuse
 22 of discretion, or otherwise not in accordance
 23 with law;

24 (2) contrary to constitutional right,
 25 power privilege, or immunity;

26 (3) in excess of statutory juris-
 27 diction, authority, or limitations, or short
 28 of statutory rights;

29 (4) without observance of procedure
 30 required by law;

31 (5) unsupported by substantial evidence
 32 in a case reviewed on the record of an agency
 33 hearing provided by statute; or

34 (6) unwarranted by the facts to the
 35 extent that the facts are subject to trial

1 de novo by the reviewing court. In making the
2 foregoing determinations, the court shall review
3 the whole record or those parts of it cited by
4 a party, and due account shall be taken of the
5 rule of prejudicial error.

6 Section 18. Right of Review. A person adversely
7 affected or aggrieved by an agency action, is entitled to jud-
8 icial review thereof by the State Supreme Court. The action
9 may be for relief in addition to or other than money damages
10 and may state a claim that an agency or an officer or employee
11 thereof acted, or failed to act, unlawfully in an official
12 capacity or under color of legal authority. The State Govern-
13 ment may be named as a defendant in any such action, and
14 a judgment or decree may be entered against the State
15 Government. Any mandatory or injunctive decree shall
16 specify the officer or officers (by name or by title), or
17 their successors in office, personally responsible for
18 compliance. The court may dismiss any action or deny relief
19 on any appropriate legal or equitable ground.

20 Section 19. Transfer of Cases. Any case pending in a
21 municipal court may be transferred to the Trial Division
22 of the State Supreme Court upon the request of any party and
23 by order of the Trial Division of the State Supreme Court.
24 Upon making such transfer, the court in which the case was
25 pending shall take no further action on the merits of the
26 case, but may make orders of a transferring nature which
27 justice may require and which are not inconsistent with the
28 order of the Trial Division of the State Supreme Court.

29 Section 20. Administration of Courts.

30 (1) The State Personnel Office or the Public
31 Service Commission when it is in operation, is authorized
32 and directed to assist the Chief Justice, upon request,
33 to establish a personnel classification system for
34 the state court system, to administer examinations,

1 to advertise for personnel, and to provide such other
2 services as are normally rendered to an agency of the
3 Executive Branch;

4 (2) The Chief Justice may remove any clerk,
5 officer or employee of courts in this State for good
6 cause. Any court employee so removed may appeal his
7 removal to the State Supreme Court Appellate Division
8 pursuant to appellate rules of procedure of the Court;

9 (3) The Chief Justice is the chief administrator
10 of the unified judicial system of the State.

11 Section 21. Assessors. Any justice or municipal judge
12 may appoint one or more Assessors to advise him at the trial
13 of any case with respect to tradition and custom or other
14 matters of law.

15 Section 22. Disqualification of Justices and Judges.

16 (1) A justice or a municipal judge may not hear
17 any proceeding in which his impartiality might reason-
18 ably be questioned;

19 (2) A justice or a municipal judge may not hear
20 any proceeding in any of the following circumstances:

21 (a) where he has a personal bias or pre-
22 judice concerning a party or his counsel, or
23 personal knowledge of disputed evidentiary facts
24 concerning the proceeding;

25 (b) where in private practice he served as
26 lawyer or a trial assistant in the matter in
27 controversy, or a lawyer or a trial assistant
28 with whom he previously practiced law served
29 during such association as lawyer or trial
30 assistant concerning the matter, or the Justice
31 or municipal judge or such lawyer or trial
32 assistant has been a material witness concerning
33 it. The term private practice shall include
34 practice with legal services or public defender

1 organization;

2 (c) where he knows that he, individually
3 or as fiduciary or his spouse or minor child
4 residing in his household has a financial interest
5 in the subject matter in controversy or is a
6 party to the proceeding, or any other interest
7 that could be substantially affected by the out-
8 come of the proceeding; or

9 (d) where he or his spouse, or a person
10 within a close relationship to either of them,
11 or the spouse of such person is:

12 (i) a party to the proceeding, or an
13 officer, director, or trustee of a party;

14 (ii) acting as lawyer or trial
15 assistant in the proceeding;

16 (iii) known by the Justice or municipal
17 judge to have an interest that could be sub-
18 stantially affected by the outcome of the
19 proceeding; or

20 (iv) to the Justice's or municipal
21 judge's knowledge likely to be a material
22 witness in the proceeding.

23 (3) For the purposes of this Section the following
24 phrases shall have the meaning indicated:

25 (a) "proceeding" includes pretrial, trial
26 appellate review or other stage of litigation;

27 (b) "financial interest" means ownership of
28 a legal or equitable interest, however, small, or
29 a relationship as a director, advisor, or other
30 active participant in the affairs of a party, ^{except} except
31 that:

32 (i) ownership in a mutual or common
33 investment fund that holds securities is not
34 a "financial interest" in such securities

1 unless the judge participates in the management
2 of the fund or if the outcome of the proceeding
3 could substantially affect the value of the fund;

4 (ii) an office or membership in an educa-
5 tional, religious, charitable, or civic organiza-
6 tion is a "financial interest" in securities held
7 by the organization only if the outcome of the
8 proceeding could substantially affect the value
9 of the securities;

10 (iii) the proprietary interest of a policy
11 holder in a mutual insurance company, of a member
12 of a cooperative association or credit union, or
13 a similar proprietary interest, is a "financial
14 interest" in the organization only if the outcome
15 of the proceeding could substantially affect the
16 value of the interest; and

17 (iv) ownership of government securities is
18 a "financial interest" in the issuer only if the
19 outcome of the proceeding could substantially
20 affect the value of the securities.

21 (4) No justice shall accept from the parties to the
22 proceeding a waiver of any ground for disqualification enumerated
23 in subsection (2) of this Section. Where the ground for
24 disqualification arises only under subsection (1) of this
25 Section, waiver may be accepted provided it is preceded by
26 a full disclosure on the record of the basis for disqualifica-
27 tion.

28 (5) A party may move to disqualify a Justice or a
29 municipal judge for one of the reasons stated in subsection
30 (1) or (2) of this Section. The motion shall be accompanied
31 by an affidavit stating the reasons for the belief that
32 grounds for disqualification exist, and shall be filed before
33 the trial or hearing unless good cause is shown for filing
34 it at a later time. Upon receipt of such motion, the Justice

1 shall refer the motion to another Justice, to hear the
2 motion and rule upon it.

3 Section 23. Authority to Administer Oaths and Take
4 Acknowledgements. Each Justice, municipal judge, the Admini-
5 strative Director, Clerk and Assistant Clerks of Courts and
6 Officers of the State and Municipal Courts so designated by
7 the Chief Justice or as prescribed by law, shall have the
8 power to administer oaths and affirmations, take acknow-
9 ledgments and exercise all power of a notary public.

10 Section 24. Oath of Office. Each Justice, municipal
11 judge, the Administrative Director and Officers of the State
12 and Municipal Courts shall take and subscribe to an oath of
13 office prescribed by statute.

14 Section 25. Judicial Ethics. Justices, and municipal
15 judges shall adhere to the standards of the Code of Judicial
16 Conduct of the American Bar Association except as otherwise
17 provided by law or rule. The Chief Justice may by rule pre-
18 scribe stricter or additional standards.

19 Section 26. Practice of Law Prohibited. Each Justice,
20 judge, municipal judge, the Administrative Director, Clerk
21 and Assistant Clerks, Officers, and employees of the State
22 Supreme Court, Municipal Courts and Inferior Courts shall
23 not practice law.

24 Section 27. Contempt.

25 (1) Any Justice shall have the power to punish
26 contempt of court. Contempt of Court is:

27 (a) any intentional obstruction by any
28 person of the administration of justice, or of
29 any officer of the court acting in his official
30 capacity, or any intentional disobedience or
31 resistance to the court's lawful writ, process,
32 order, rule, decree or command.

33 (2) All adjudication of contempt shall be pursuant
34 to the following practices and procedures:

1 (a) any person accused of committing a
2 civil contempt shall have a right to notice a
3 defense and mitigation. A person found in
4 civil contempt may be imprisoned until such time
5 as he complies with a court order or pays an
6 amount necessary to compensate the injured
7 party, or both;

8 (b) any person accused of committing a
9 criminal contempt shall have a right to notice
10 of the charges and an opportunity to present
11 a defense and mitigation; provided that no
12 punishment of a fine of more than \$100.00 or
13 imprisonment shall be imposed unless the
14 accused is given a right to notice of the
15 charges, to a speedy public trial, to confront
16 the witnesses against him, to compel the
17 attendance of witnesses in his behalf, to have
18 the assistance of counsel, and to be released
19 on bail pending adjudication of the charges.
20 He shall have a right to be charged within
21 three months of the contempt and a right not to
22 be charged twice for the same contempt; and a
23 person found to be in criminal contempt of court
24 shall be fined not more than \$1,000 or imprisoned
25 for not more than six months or both.

26 (3) Any adjudication of contempt is subject to
27 appeal to the Appellate Division of the State Supreme Court.
28 Any punishment of contempt may be stayed pending appeal,
29 but a punishment of imprisonment shall be stayed on appeal
30 automatically, unless the court finds that a stay of
31 imprisonment will cause an immediate obstruction of justice,
32 which finding must be supported by written findings of
33 fact. A denial of a stay of imprisonment is subject
34 to review.

1 Section 28. Cooperation with National Judiciary. The
2 Chief Justice of the State Supreme Court may establish suit-
3 able arrangements and procedures for joint utilization by
4 the State Supreme Court and national judiciary of facilities,
5 clerks, officers, and employees.

6 Section 29. Sessions and Records to be Public.

7 (1) All sessions and records of the courts shall
8 be public, except as otherwise ordered by the court for
9 good cause;

10 (2) Any person desiring to attend any session
11 that has been closed or to view any record that has
12 been closed or to view any record that has been
13 suppressed may petition the court closing the session
14 or suppressing the record. Any person may appeal the
15 action of the court on the petition to the Appellate
16 Division of the State Supreme Court.

17 Section 30. Publication of Decision. All decisions of
18 the Appellate Division of the State Supreme Court, including
19 concurring and dissenting opinions, shall be published. The
20 Trial Division of the State Supreme Court may order one or
21 more of its decisions to be published.

22 Section 31. Disposition of Fines and Fees. The Admini-
23 strative Director of the State Supreme Court shall period-
24 ically transmit to the State Director of Finance fines and
25 fees collected in the State Supreme Court for deposit in the
26 General Fund of the State.

27 Section 32. Costs; Allocation of Costs.

28 (1) All fees and expenses paid or incurred under
29 this Act, for the service of process, witness fees,
30 or filing fees on appeal, by any party prevailing in
31 any matter other than a criminal proceeding, shall be
32 taxed as part of the costs against the losing party
33 or parties unless the court shall otherwise order;
34 provided, that no fees paid to a witness who is a

1 party in interest and is called and examined on his
 2 own behalf or on behalf of another jointly interested
 3 with him shall be allowed or taxed as costs;

4 (2) The court may allow and tax any additional
 5 items of cost of actual disbursement, other than fees
 6 of counsel, which it deems just and finds to have
 7 been necessarily incurred for services which were
 8 actually and necessarily performed.

9 (3) Where there is more than one prevailing
 10 or losing party, costs may be apportioned by the court
 11 as it deems just.

12 Section 33. Budget. The Chief Justice of the State
 13 Supreme Court shall prepare and submit through the Governor,
 14 as a separate item, to the Legislature an annual consolidated
 15 budget with supporting justification for the entire unified
 16 judicial system for the State of Chuuk.

17 Section 34. Municipal Courts.

18 (1) The Municipal Court for each Municipality
 19 shall consist of one full-time judge; provided that
 20 a Municipality may have more than one judge, and in
 21 such a case the municipality shall be responsible for
 22 the costs of such additional judges. Appointment of a
 23 municipal court judge shall be made by the municipal
 24 mayor with the advice and consent of the council of the
 25 Municipality. A person appointed to serve as a
 26 municipal court judge shall have the following qualifi-
 27 cations:

28 (a) Be a citizen of the Federated States
 29 of Micronesia for 25 years and a Chuukese by
 30 birth;

31 (b) Be a resident of the municipality for
 32 which appointed, for a period of not less than 5
 33 years; and

34 (c) Be 30 years of age and be learned in

1 the law, by formal training or by at least two
2 years experience associated with the practice of
3 law.

4 (2) Municipal court judges shall serve for six
5 years, subject to reappointment, and may be removed
6 for cause after hearing by the Trial Division of the
7 Chuuk State Supreme Court. Appeal from removal shall
8 be with the Appellate Division of the Chuuk State Supreme
9 Court.

10 (3) The jurisdiction of the municipal court shall
11 extend to the whole of the municipality, in civil cases
12 in which the parties are natural persons and when the
13 cause of action arose in the municipality, or when the
14 defendant resided in the municipality or in any case
15 where the parties voluntarily appear. The municipal
16 court may not adjudicate a case in which the amount
17 in controversy exceeds one thousand dollars, or a
18 criminal case where the maximum punishment which may
19 be imposed exceeds a fine of one thousand dollars, or
20 imprisonment for more than one year or both.

21 (4) The procedures and conduct of business of
22 municipal courts may, by rule, be consistent with
23 traditional and customary means of resolving disputes.
24 All processes and reports of service of process of a
25 municipal court may be in writing. The Chief Justice
26 shall promulgate uniform rules of the municipal courts.
27 The rules may permit proceedings without simultaneous
28 recording, but as promptly as possible after the final
29 decision of a case in a municipal court, the presiding
30 judge shall make, or cause to be made, a record of the
31 case.

32 (5) A case or dispute in a municipal court may
33 be appealed to the Trial Division of the State Supreme
34 Court, when requiring interpretation of a municipal
35 constitution, as of right in a criminal case or by

1 certiorari in a civil case.

2 Section 35. Appellate Division; Jurisdiction.

3 (1) The Appellate Division of the State Supreme
4 Court has jurisdiction to review decisions of the
5 trial division, of inferior state courts, and of the
6 municipal courts. A decision of a municipal court
7 or inferior state court may be appealed directly to
8 the Appellate Division only if the case involves a
9 substantial question requiring the interpretation
10 of the Constitution or state laws. On application of
11 a party or on its own motion, the municipal court
12 or inferior state court shall certify the question to
13 the Appellate Division. The Appellate Division may
14 order the municipal court or inferior state court to
15 so certify the question.

16 (2) The Appellate Division may reject the certifi-
17 cation of a case to it, may decide it, or may remand
18 it for further proceedings in accordance with its instruc-
19 tion.

20 Section 36. Appellate Division; Appeals.

21 (1) All appeals shall be heard by three justices.

22 (2) The three justices hearing an appeal shall
23 be composed of only one Justice of the State Supreme
24 Court and two other justices, who are appointed as
25 temporary justices for the limited purposes of hearing
26 the appeal. A justice of the Supreme court of the
27 Federated States of Micronesia, a judge of a court of
28 another state of the Federated States of Micronesia
29 or a qualified attorney in the State of Chuuk may be
30 appointed to complete the appellate panel. A temporary
31 justice appointed under this Section shall meet the
32 requirements of Section 13 of this Act and Section 9
33 of Article VII of the Constitution except for the
34 "birth" and "residency" requirements of Section 9 of

1 Article VII of the Constitution.

2 (3) The Chief Justice shall appoint the Justice
3 of the State Supreme Court who may sit on the appellate
4 panel and the temporary justices. If the Chief Justice
5 appoints himself a member of the appellate panel,
6 the most senior Associate Justice shall appoint the
7 two temporary justices. If the Chief Justice is
8 removed or disqualified, the most senior Associate
9 Justice who has not been removed or disqualified from
10 the case shall appoint the Associate Justice who may
11 sit on the appellate panel and the temporary justices.

12 Section 37. Appellate Division; Orders. The Justice
13 of the State Supreme Court appointed to sit on the appellate
14 panel shall be responsible for making necessary orders
15 concerning any appeal for want of jurisdiction, failure to
16 take or prosecute the appeal in accordance with applicable
17 law and procedure, or other orders or notices as may be
18 necessary to the disposition of the appeal; PROVIDED, that
19 a decision to hear or not to hear an appeal made on
20 certiorari shall be made by a majority of the full appellate
21 panel.

22 Section 38. Appellate Division; Decision.

23 (1) A decision of the appellate panel shall be
24 by the concurrence of a majority of the Justices
25 sitting on the appellate panel. Any concurring and
26 dissenting opinions shall be included in the decision
27 so rendered.

28 (2) Written decisions and opinions of an
29 appellate panel shall be rendered no later than six
30 months after the appellate panel has completed all
31 such hearings or proceedings necessary to a well-
32 informed decision.

33 Section 39. Appeal to the Supreme Court of the Federated
34 States of Micronesia. A party to an appeal in which the


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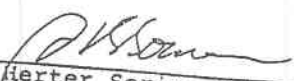
State Supreme Court Appellate Division has rendered an appellate decision may appeal such decision to the Appellate Division of the Supreme Court of the Federated States of Micronesia by certiorari, except in a criminal case in which the defendant may appeal as of right. All appeals to the Appellate Division of the Supreme Court of the Federated States of Micronesia shall be taken in accordance with applicable rules of the Supreme Court of the Federated States of Micronesia.

Section 40. Repeal. TSL Nos. 3-12, 5-32, 5-60, 5-73, 5-89 and 5-123 are repealed in their entirety.

Section 41. Severability. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity of the Act does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 42. Effective Date. This Act shall take effect upon approval by the Governor, or upon its becoming law without such approval.

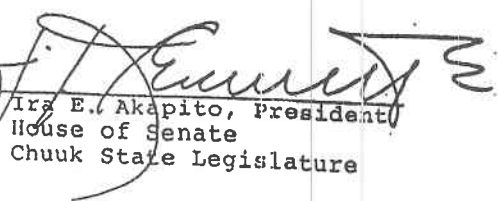
Signed by: 
 Visande K. Sos, Speaker
 House of Representatives
 Chuuk State Legislature

Attested to: 
 Herbert Sorim, Chief Clerk
 House of Representatives
 Chuuk State Legislature

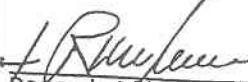
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Signed by:


Ira E. Akapito, President
House of Senate
Chuuk State Legislature

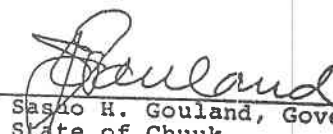
Attested to:


Datasi Albert, Chief Clerk
House of Senate
Chuuk State Legislature

Date:

9/19/90

Approved by:


Sasao H. Gouland, Governor
State of Chuuk

Date:

Sept 20, 1990

History: H.B. No. 1-55, HD.2; SD-1
House S.C.R. No. 1-17 & No. 1-17(a)
Senate S.C.R. No. 1-41