

## TITLE 36

# CORPORATIONS AND BUSINESS ASSOCIATIONS

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### CHAPTER 1

#### General Provisions

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**§ 101. Authority of President to grant corporate charters and establish public corporations.**

The President of the Federated States of Micronesia or his designee may grant charters of incorporation for the

establishment and functioning of business organizations, associations of persons for any lawful purpose other than pecuniary profit, cooperatives, and credit unions. The President of the Federated States of Micronesia may create and establish public corporations subject to approval and consent of the Congress of the Federated States of Micronesia.

**Source:** TT Code 1966 § 1116, COM PL 3-31 § 1; TT Code 1970, 37 TTC 1; TT Code 1980, 37 TTC 1; PL 1-135 § 1.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

The statutory provisions on Business Regulation are found in title 32 of this code.

**Case annotations:** Power to regulate the incorporation and operation of corporations falls within the constitutional power of the national government to regulate foreign and interstate commerce. *Mid-Pacific Constr. Co. v. Senda*, 4 FSM R. 376, 380 (Pon. 1990).

## **§ 102. Scope and application of chapter; Exceptions.**

(1) The provisions of this chapter are applicable to every private corporation, profit or nonprofit, stock or nonstock, now existing or hereafter formed, and to the outstanding and future securities thereof, unless such corporation be expressly excepted from the operation thereof, or there be a special provision in relation to any class thereof inconsistent with some provision of this chapter, in which case the special provision prevails.

(2) The existence of corporations heretofore formed or existing shall not be affected by the enactment of this chapter nor by any change in the requirements for the formation of corporations nor by amendment or repeal of the laws under which they were formed or created.

**Source:** TT Code 1966 §§ 1133, 1134; TT Code 1970, 37 TTC 2; TT Code 1980, 37 TTC 2.

## **§ 103. Application for charter—Articles of incorporation.**

(1) An association of persons seeking a charter as a corporation shall submit for approval of the President of the Federated States of Micronesia, or his designee, articles of incorporation which shall provide at least the following information:

- (a) proposed name of the corporation;
- (b) principal office or place of business;

- (c) proposed duration;
- (d) purposes;
- (e) powers;
- (f) capitalization;
- (g) names of incorporators, which shall be one or more;
- (h) number of directors, which shall be one or more, and proposed officers;
- (i) name(s) of director(s) and officers to serve until first election;
- (j) provisions of management, if any;
- (k) provisions for voting by members;
- (l) provisions for shareholding, if any;
- (m) disposition of financial surplus;
- (n) provisions for liquidation;
- (o) provisions for amendment of articles of incorporation.

(2) A major corporation as defined under chapter 3 of title 54 of this code must submit an affidavit of stock or institutionalized financial report or document to the Office of the Registrar by the President and Secretary of the corporation as named in the articles of incorporation not later than 60 days from the date of receipt of the certificate of incorporation.

(3) The affidavit of stock referred to under subsection (2) of this section, articles of incorporation and subsequent amendments, dissolution, liquidation and merger documents shall be notarized by an authorized FSM notary or a notary public accredited by the Registrar of Corporations pursuant to Public Law No. 16-47.

**Source:** TT Code 1966 § 1118(a); TT Code 1970, 37 TTC 3(1); TT Code 1980, 37 TTC 3(1); PL 1-135 § 2(1); PL 15-75 § 1; PL 16-47 § 1; 17-27 § 1.

**Cross-reference:** Title 54 of this code is on Taxation and Customs. Chapter 3 of title 54 is on Income Tax Regime for FSM Corporations.

The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

#### **§ 104. Application for charter—Bylaws.**

In addition to articles of incorporation, persons seeking a charter as a corporation may, at the discretion of the corporation, submit for approval of the President of the Federated States of Micronesia, or his designee, proposed bylaws governing the operation of the corporation.

**Source:** TT Code 1966 § 1118(b); TT Code 1970, 37 TTC 3(2); TT Code 1980, 37 TTC 3(2); PL 1-135 § 2(2); PL 15-75 § 2.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

### **§ 105. Voting at meetings.**

(1) At any meeting of any corporation, it shall be unlawful for the members or shareholders to prohibit any member or shareholder who is otherwise qualified to vote, to vote either in person or by proxy.

(2) A personal representative, guardian or trustee may vote, in person or by proxy, the stock of any corporation held by him in such capacity at all meetings of the corporation whether or not the stock has been transferred into his name on the books of the corporation; but, in case the stock has not been so transferred into his name, he shall, as a prerequisite to so voting, if the corporation so requires, file with the corporation a certified copy of his letters or proxy statement as such personal representative or guardian or his appointment or authority as trustee.

**Source:** PL 10-104 § 1.

### **§ 106. Audits and inspections authorized; Application to nonprofit corporations.**

(1) The President of the Federated States of Micronesia or his designee may appoint officers to audit and report on the accounts of corporations authorized to do business within the Federated States of Micronesia and such officers shall have the right at any and all times to inspect, examine, and audit the books and accounts of such corporations.

(2) Any members of a nonprofit corporation shall have the right to inspect and examine the books and accounts of the corporation of which he is a member; provided, that such inspection and examination shall be held at the place where such books and accounts are normally kept, and shall take place on weekdays during normal business hours in such a manner as not to interfere with usual conduct of business or corporate affairs.

**Source:** TT Code 1966 § 1119; TT Code 1970, 37 TTC 4; TT Code 1980, 37 TTC 4; PL 1-135 § 3; renumbered by PL 10-104 § 2.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

### **§ 107. Use of the terms “cooperative” and “credit union” restricted.**

No person, firm, corporation, or association hereafter organized or doing business in the Federated States of

Micronesia shall be entitled to use the terms “cooperative” or “credit union” as part of its corporate name or other business name or title, or otherwise represent itself to the public to be a nonprofit cooperative association or credit union or cooperative savings and loan association unless it has complied with the with the provisions of this chapter, except as provided in section 102 of this chapter.

**Source:** TT Code 1966 § 1117; TT Code 1970, 37 TTC 5; TT Code 1980, 37 TTC 5; PL 1-135 § 4; renumbered by PL 10-104 § 2.

### **§ 108. Enjoinder of violations.**

Violations of the provisions of this chapter or regulations promulgated hereunder are hereby declared to be enjoinderable, and the Attorney General of the Federated States of Micronesia, or a State attorney in the name of said Attorney General, shall have the power to seek appropriate relief from such violations or from other corporate practices in violation of the law of the Federated States of Micronesia or contrary to the public interest.

**Source:** TT Code 1966 § 1135; TT Code 1970, 37 TTC 6; TT Code 1980, 37 TTC 6; PL 1-135 § 5; renumbered by PL 10-104 § 2.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.