

CODE
OF THE
STATE OF POHNPEI

Federated States of Micronesia

VOLUME ONE

Introductory Materials
Pohnpei Constitution
Division I-Division IV
(Article 1-Article 35)

2012 EDITION
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The Pohnpei Legislature
Pwihn En Kou Kosonned En Weipokon En Pohnpei

**CODE
OF THE
STATE OF POHNPEI**

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Cite the Pohnpei Code
By Title, Chapter and Section
thus
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INTRODUCTION

The year 2012 edition of the Pohnpei Code is the most recent publication of the codification of the laws of Pohnpei State to date since the establishment of constitutional government. This publication was authorized by the Pohnpei Codification Act of 1988, which was preceded by a number of acts that date back to the 1976. This Code is based upon the Ponape District Code of 1971, the Trust Territory Code of 1980, public laws enacted by the Ponape District Legislature and legislatures of the state of Pohnpei through January 8, 2012.

The inclusion of laws from the Code of the Trust Territory of the Pacific Islands (1980) stamps the jurisdictional authority of the state of Pohnpei firmly within the boundaries of the Constitution of the Federated States of Micronesia and the Constitution of the state of Pohnpei. The laws that derive from the Trust Territory Code have been updated so that references to governmental authorities of the executive, legislative and judicial branches of Pohnpei State now make sense in the context of state constitutional government.

The organization of the Pohnpei Code generally follows those established by other jurisdictions. However, its divisions and titles reflect the unique scope of legislation of the state of Pohnpei. It has been set out so as to ease research and reference as well as its primary purpose of codifying the public laws, exclusive of appropriation laws and acts either obsolete or of a temporary nature.

The source of laws have been provided for all sections, extending as far back as the Ponape District Code of 1971 and the 1966 edition of the Trust Territory Code, as well as public laws of the Ponape District Legislature from 1970. There have also been included extended legislative history notes and general notes to enhance research of original legislation. Tables have been provided so that the user may find the placement of specific sections of public laws within the Code or to confirm the omission of public laws from within the Code.

All public laws that are found within the Code, and the prior Ponape District Code provisions and Trust Territory Code provisions that make up the Pohnpei Code were first readopted and reenacted as positive law in the comprehensive codification statute of 2006, (S.L. No. 6L-79-06, 11/1/06) and have thereafter been updated through January 8, 2012. Therefore, all future laws of the state of Pohnpei that amend, supersede or repeal laws within the Code should be enacted as provisions of the Code. A program of annual updates is envisaged to keep the Pohnpei Code current with legislative changes.

The Pohnpei Code is the product of a team effort of the entire Legislative Counsel Division of the Pohnpei Legislature over a period of many years. Each member of the team contributed significantly to the final production of the Code, and words of appreciation are extended for their persistence and demand for perfection throughout the years that the Code was under construction.

These individuals include the Division lawyers and paralegal staff who researched and compiled the massive collections of district, state and territorial laws for inclusion in the Code, the code editors who were largely responsible for the structuring of the Code in its printed form and who acquired the technology necessary to produce the Code in its digital format, the proofreaders whose eyes for detail ensured the accuracy of the Code in both the text of the law and its references, and the Division secretaries who undertook the arduous task of converting statutory laws into code language.

A final word of appreciation goes to the Chairman and Members of the special Subcommittee of the Standing Committee on Judiciary and Governmental Operations of the Sixth Pohnpei Legislature, who page by page reviewed the draft Code, resolving the lingering ambiguities in form and content, and who then reported the final version of the Code to the full Committee who thereafter reported to the full Legislative Assembly for final passage of the Code into positive law.

A handwritten signature in black ink, appearing to read 'Nelson N. Pelep', with a stylized flourish at the end.

Nelson N. Pelep
Speaker
Seventh Pohnpei Legislature

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FOR THE
CODE**

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**CONSTITUTION
OF THE
STATE OF POHNPEI**

POHNPEIAN

AND

ENGLISH

CONSTITUTION OF THE STATE OF POHNPEI

POAHSOAN EN KOSONNED EN WEIPOKON EN POHNPEI

A

(In Pohnpeian)

Kahlohkpen Poahsoan en Kosonned wet
 Ire Laud 1 Weipokon en Pohnpei oh ah Manaman
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 Ire Laud 14 Government en Wehi kan oh Town
 Ire Laud 15 Wiepen Wekdekla Ong Poahsoan en
 Kosonned wet

KAHLOHKPEN POAHSOAN EN KOSONNED WET

KITAIL, ARAMAS AKAN EN WEIPOKON EN POHNPEI, me Kauno Koht wasalapalapie, ketkiongehr manamanlap en kakaun oh apwahpwalih sehd, nan wehwe oh sahpw pwukat, sang ni kalahngan wet kitail kauadahr Poahsoan en Kosonned wet.

Ni atail doadoahngki manamanlap en pein kakaun oh apwahpwalih pein kitail, kitail ahngehr ni sohpeikasal pwukoahn sinsile sapwelimatail aramas akan oh deke kan, sang met kohla oh pil rahn me pahn kohdo kan; en sinsile oh kolokol pwuhng manaman koaros en kitail aramas akan; en sinsile oh kolokol atail sohso oh wiwia kodoudoudoh kan en ehu ehu deke kan; oh en doandoare oh kairada meleilei oh mour mwahu en aramas koaros en Weipokon en Pohnpei.

Kitail kamehlele me atail kehl poahsoandahsang ni ehupenehn emen emen kitail sang kawahu, oh atail patkipene oh ehukipene lepin sed ehu, oh ni saledek en kasalehda atail men momourpene oh doadoahkpene ni meleilei oh popohl ong ni kamwaupen kitail aramas akan en wehi wet oh pil ong aramas koaros en sampah.

Ni atail kauada Poahsoan en Kosonned wet, kitail kalohkihda oh pwurehng kamehlelehda manaman unsek en Weipokon en Pohnpei.

IRE LAUD 1 WEIPOKON EN POHNPEI OH AH MANAMAN

Iretikitik 1. Wasah kan me Weipokon en Pohnpei kipe. — Weipokon en Pohnpei kipe deke kan oh paina kan en Weipokon en Pohnpei, iangahki nan sed ni mwail (nautical) riepwiki koieila sang ni kilel konehng kan, kepin sed, pwelin pahn kepin sed, pilen nan madau, nahri oh ohio kan oh deke oh sehd teikan me wia kisehn ehu ehu deke kan en Weipokon en Pohnpei sang ni pwung en poadoapoad, tiahk de kosonned.

Iretikitik 2. Manaman en Weipokon en Pohnpei. — Ihte ma e irairdi sang pwukoah kan me Weipokon en Pohnpei ahneki de sang ni pein ah koasoandi, pilen madau oh sehd me kadokepene deke kan oh paina kan en Weipokon en Pohnpei wia lepin sed en Weipokon en Pohnpei, sohte lipilipil ia ue, oh manaman en Weipokon en Pohnpei kipe Weipokon en Pohnpei unsek iangahki kepin sehd, pwelin pahn kepin sed, pilen nan madau, nahri oh ohio oh nahnwehweh pohn sahpw akan oh sehd akan.

Iretikitik 3. Wasa kapw. — Wasa kapw ehu kak kapatapat ohng Weipokon en Pohnpei nin duen kosonned, me pil kak koasoanehdi en wia ehu government ma eh konehng. Soangen kosonned wet pahn pil koasoanehdi me kapatapat wet pahn anahne kamanaman sang aramas en usuhs en Weipokon en Pohnpei nan repen kupwur ehu ni eh pahn alehdi pali moron en usuhs kan de uen usuhs ehu me mi pohnengin pali moron me pil pahn koasoandi nan kosonned me kokouwong patapat wet.

IRE LAUD 2 MANAMANLAP

Poahsoan en Kosonned wet ih kosonned me keieu ile oh manaman nan Weipokon en Pohnpei. Ire ieu nan mwekid ehu en Government me uh Wong Poahsoan en Kosonned wet sohte manaman.

IRE LAUD 3 TOWE MEHLEL OH PWELDAK

Iretikitik 1. Towe Mehlel oh Pweldak ni Poahsoan en Kosonned wet eh manamanla. —

(1) Aramas emen me ni eh ipwidi, emen rehn eh pahpa de nohno wia towe mhelel oh pweldak en Weipokon en Pohnpei, iei me wia towe mehlel oh pweldak en Weipokon en Pohnpei, ma e wiahki ah wasahn kousoan mehlel nan Weipokon en Pohnpei.

(2) Aramas emen me wia towe mehlel de pweldak en ehu ehu wehi kan oh town nan Weipokon en Pohnpei mwohnte rahn me Poahsoan en Kosonned wet tepda manaman [*Nopempe 8, 1984*], wia towe mehlel de pweldak en Weipokon en Pohnpei, ma e wiahki ah wasahn kousoan mehlel nan Weipokon en Pohnpei.

Iretikitik 2. Towe Mehlel ni rahn me Poahsoan en Kosonned wet Manamanla. — Aramas emen me wia towe manaman (naturalized citizen) en Weipokon en Pohnpei ni rahn me Poahsoan en Kosonned wet manamanla [*Nopempe 8, 1984*] wia towe mehlel en Weipokon en Pohnpei ma e wiahki ah wasahn kousoan mehlel nan Weipokon en Pohnpei.

Iretikitik 3. Wiepen Wiahla Towe Manaman. — Pwihn en Kou Kosonned pahn koasoanehdi sang ni kosonned, wiepen wiahla towe manaman oh sohla wia towe mehlel oh towe manaman.

Iretikitik 4. Towe Mehlel en Wasa Kapw. — Towe mehlel en wasa kapw ehu me kapatapatohng Weipokon en Pohnpei pahn wiahla towe mehlel en Weipokon en Pohnpei nin duen me koasoandi sang kosonned.

IRE LAUD 4 KALOHKPEN PWUHNG KAN

Iretikitik 1. Lokaia oh Inting. — Sohte mwekid ehu en government kak kasohwe de lidere pwuhng en aramas en lokaia, inting, oh en kasalehda ire sohte lipilipil ieu ni saledek, oh pwuhng en ale de pil rong audepen ireh kan koaros. Aramas emen kak en pwukoahki koasoai me sohte mehlel, me sohte ah pwungohng en wia, oh kauehla aramas de ede oh soangen koasoai me elehda irair keper oh dehde me pahn uh Wong kosonned de karehda apwal laud ong Weipokon.

Iretikitik 2. Saledek en Kapokon oh Kasalehda Insen. — Pwuhng me aramas aheni pwe en kapokon ni onepek, en wiahla pwihn, en pehsekipene arail anahn akan, oh en kasaleiong government insenarail kan, sohte pahn irairdi.

Iretikitik 3. Pwuhng Pahrek. — Sohte kosonned de mwekid ehu en government kak tiesemwehla de kerempwahla pwuhng pahrek en aramas kan, pwehki arail wia ohl de lih, arail wia kadaudok en wasahkis de menia soangen aramas, wehi me re tepsangie, ahr palien lamalam, ahr lokaia de ma re lapalap de tikitik. Sohte aramas kak irairdihsang perehreh pahrek en kosonned.

Iretikitik 4. Wiepe Pwung en Kosonned. — En aramas eh mour, saledek de dipwisou sohte kak pehdsang likin wiepe pwung en kosonned. En aramas eh dipwisou sohte kak kohsang, ihte ong ni anahn en weipokon oh ni isais pwung oh konehng.

Iretikitik 5. Pwuhng kan en Inou. — Sohte kosonned kak liderehda pwukoahn nan inou me momour ihte ma kosonnedo pahn doare anahn kesempwal en weipokon.

Iretikitik 6. Selidi Pwehki Pweipwand. — Sohte aramas kak en selidi sangete ni kahrepe me e sohte kapwaiada ah pwukoahn pwainla ah pweipwand.

Iretikitik 7. Kosonned me Mene Pwurala Mwuri oh Kalokolok Likin Koasoandi en Mwoalen Kopwung. — Sohte aramas emen pahn dipaneki eh wia mwekid ehu me kosonned sohte wiahki me dih p ehu ni ahnsou me e wiawi. Kalaulahn kalokepen dih p ehu sohte kak en doadoahk ong dih p kan me wiawi mwohn kalaulao. Sohte aramas emen kak kedierekda me e dipaniki dih p ehu de ale kalokepen dih p likin koasoandi en Mwoalen Kopwung ehu me kosonned koasoanehdi.

Iretikitik 8. Ropirop oh Pehdda. —

(1) Pwuhng me aramas ahneki me silehdi paliwararail, imwarail, neirail doaropwe kan, oh arail dipwisou kan sang mwekid soh konehng en roprop oh pehdda, likin wiepe pwuhng oh konehng sohte pahn ohla.

(2) Sohte kisin likou en mweidada ropirop, de alahldahn mehn kadehdeh, kak wiawi, ihte ma mie kahrepe mwahu me kadehdehe wiawi pahn menen kaula, oh kisin likouo kawehwehda ni dehde wasa me ropirop pahn wiawihe, oh aramas de dipwisou me pahn alahlda.

Iretikitik 9. Pwuhng me Mehn Pahn Kadip Ahneki. —

(1) Nan mwekid en kadipadip koaros, mehn pahn kadip sohte pahn dipaniki dihp ehu lau e dehdehda ni mehlel oh sohpeikasal me e dipada.

(2) Mehn pahn kadip pahn mwadang ese mour oh kahrepen kadip; e pahn aneki pwuhng en ale soun sawas; e pahn ahneki pwuhng en kopwung ni ahsou mwadang mwohn weipokon, oh kopwung sou poupoar; e pahn ahneki pwuhng en pein kilang oh rong soun kadehdeh kan me uhwong oh en kapeidak irail ni unsek, e pahn ahneki pwung en pekihda kisin likou en pehkiek ong ah mehn kadehdeh oh soun kadehde kan; oh e sohte pahn idihdiong en kadehdeh pein ih.

(3) Sohte aramas emen pahn kak mihla pahn kopwung en dihp tohtohsang pak ehu ong dihp te ieu.

(4) Pweinen kasaladekiala mehn pahn kadip me uwe nohn laud de koasoandien kalokolok ni pweipwei me nohn laud sohte kak koasoandi.

(5) Kalokolok koasukuloal de me sohte konehng sohte kak wiawi.

Iretikitik 10. Pwuhng en Kasaladakala me Selidi ni Wiepe Sapwung. —

Pwuhng en kasaladakala aramas me selidi ni wiepe sohte pwung sohte pahn kopwoupwoula, likin wiepe me koasoandi sang kosonned ni ahsou me doarepen wiepokon udahn anahn, ni ahsoun pingiping en wehi de moromor nan pwungen government oh aramas de keper karuaru en mahwin sang liki.

Iretikitik 11. Kalokolok en Kamakamala. —

Kamakamala sohte pahn wia kalokepen dihp.

Iretikitik 12. Kalidu oh Koadoadoahk ni Idihd. —

Kalidu sohte mweimwei. Koadoadoahkih aramas ni idihd sohte mweimwei, ihte ma e wia kalokepen dihp mwurin aramas emen eh dipadahr nin duwen koasoandi en kosonned.

Iretikitik 13. Saledek en Seiloak oh Kousoan. —

Likin ire kan me kekeuda pwehn apwalih oh kolokol roson mwahu, meleilei oh onepek en weipokon, towe mehlel en Weipokon en Pohnpei ahneki pwuhng oh saledek en seiloakseli oh kousoanla wasa sohte lipilpil nan Weipokon en Pohnpei.

Iretikitik 14. Mwekid en Sounpei. —

(1) Ni ansoun mweimwau, sohte sounpei kak kousoan nan ihmwi ieu ni ah sohte ale mweimwei sang aramas me imwanikio oh tohn ihmwo, de ni ahsou en mahwin, ihte nin duwen me koasoandi sang kosonned.

(2) Pweipwei pwung udahn pahn koasoandiong ni doadoahngki, alehda, de kauehla dipwisou me en aramas, oh ong ni olahn aramas oh mehla me kohsang ni mwekid en sounpei. Soangen pweipwei wet pahn wia pwukoahn pwihn en sounpei me karehda ohla pwukat.

IRE LAUD 5 TIAHK

Iretikitik 1. Perehrehn Tiahk. — Poahsoan en Kosonned wet wauneki, lirohrohki oh kolokol tiahk oh wihwia kodoudoudoh kan en ehu ehu wehi kan en Weipokon en Pohnpei.

Iretikitik 2. Perehrehn Tiahk oh Wihwia Kodoudoudo kan. — Government en Weipokon en Pohnpei pahn wauneki oh perepereh tiahk oh wihwia kodoudoudoh kan en Weipokon en Pohnpei. Kosonned kan kak kokouda pwehn doare tiahk oh wihwia kodoudoudoh kan. Ma mie me uhwongada

ehu kosonned pwukat pwehki dene eh uhwong ireh ieu me pid pwuhng en aramas me koasoandier nan Poahsoan en Kosonned wet, kosonnedo pahn wie manamante, ni kadehdeh mehleh eh kasalehda me iei tiahk oh wihwia kodoudoudowo me sansal oh kin wihwiawi, oh wiepen perehrehu konehng, nin duwen Mwoalen Kopwung Ileihle en Weipokon en Pohnpei eh pahn teneki oh koasoanehdi.

Iretikitik 3. Pwukoahn Peneinei. —

(1) Pwehn kakehlaka oh kolokol onepek mwahau oh wahu penehn nan peneinei kan en Weipokon en Pohnpei, nin duwen ahnepetail, Poahsoan en Kosonned wet pohnese oh wauneki manaman oh pwukoah me sahm akan oh ihn akan ahneki ong neirail serihkan.

(2) Poahsoan en Kosonned wet pil pohnese koasoandi pwung kan me serihkan ahneki pwehn kakair irailda ni onepek mwahu oh wahu, nin duwen ahnepetail.

IRE LAUD 6 PWUHNG EN USUHS OH USUHS

Iretikitik 1. Pwuhng en Usuhs. — Towe mehleh en Weipokon en Pohnpei me ni ahnsou en usuhs lelehr sounpar eisek-waluh oh saikinte dipkihda dihp toutou ehu me kareiong eh mihmi pahn kalokepen dihp ni selidi en liki, de selidien ahsnou, de pahn kalokolok en dihp toutou, pahn kak iang usuhs. Koasoandi teikan ong kak en aramas emen en iang usuhs kak koasoandi sang kosonned.

Iretikitik 2. Pwung en Iang Usuhs oh Alehdi Ohpis. — Sohte tenekpen uwen paien aramas, taksis de soangen isais ehu kak kokouwong pohn pwuhng en usush de towehda ohpis.

Iretikitik 3. Wiepen Usuhs. — Pwihn en Kou Kosonned pahn, sang ni kosonned, koasoanehdi wiepen kileledien tohn usuhs oh wiepen usush kan. Usuhs pahn kin wiawi ni rir.

Iretikitik 4. Ahnsoun Usuhs. —

(1) Usuhs lap kan en Kepina, Keriau en Kepina, oh tohn Pwihn en Kou Kosonned pahn kin wiawi ni ahnsouteieu ni pahr paieu koaros ni keriau en ni are en Sounpwung November.

(2) Usuhs tohrohr kan pahn kin wiawi nin duen me pahn koasoandi sang kosonned.

(3) Kamehleh en usuhs ma e pahn mie sang ni koasoandi en kosonned, pahn wiawi rahn rieisek waluh sang rahn en usuhs me elehda anahn en usuhs sapahlo.

(4) Ma ahnsou apwal karuaru ieu, me kalohkda sang Kepina, nin duen ineng en Poahsoan en Kosonned wet, irehdi usuhs ehu en wiawi ni ahnsou me e koasoandiongo, usuhs udahn pahn wiawi sohte pwandasang rahn silisek mwurin ahsnou apwal karuaruo eh imwisekla. Ihte ma e koasoandi sang kosonned, mwurin kopwoupwoulahn usuhs pwehki kalohkdahn ahnsou apwal karuaruo, rahn en usuhs kapwo pahn kin kalohkda sang Kepina.

Iretikitik 5. Pekpek me Tepsang Aramas oh Repen Kupwur. — Pwihn en Kou Kosonned pahn, sang ni kosonned, koasoanehdi wiepen kokoudahn kosonned me tepsang aramas (initiative petition) me pahn anahne sain en sohte laudsang per cent silisek limau en irail soun usuhs kan me kilikilel nan pwuken usuhs oh repen kupwur (referendum) me pahn pil anahne sohte laudsang per cent silisek en irail me usuhs pwehn kamana kamwomwada ieu.

IRE LAUD 7

PWUKOAHN GOVERNMENT EN WEIPOKON EN POHNPEI

Iretikitik 1. Pwarer en Pai oh Mour en Sahpw. — Government en Weipokon en Pohnpei pahn koasoanehdi oh ni loaloapwoat doadoahki pilahn kan me pahn oarepene ire koaros ong ni wiepen kasohtik wahn pwarer en kapai kan oh poadoarepen mour oh mwakelekel en sahpw.

Iretikitik 2. Keirda. — Government en Weipokon en Pohnpei pahn kairada pai en wehi oh kauada oh ni loaloapwoat doadoahki pilahn ehu ong keirdahn Weipokon en Pohnpei.

Iretikitik 3. Sukuhl. —

(1) Government en Weipokon en Pohnpei pahn kihda sawas en sukuhl ong weipokon. Koasoandien serihmen en iang sukuhl pahn lel pwihn ieu me kosonned pahn koasoanehdi oh koasoandi wet pahn pil ale kahkehlepe sang kosonned. Sukuhl en weipokon ong towe mehleh kan en Weipokon en Pohnpei kohda lel pwihn ieu me kosonned pahn koasoanehdi sohte pahn pueipuei. Soangen isais ieu pahn kak kokouwong sukuhl en weipokon oh pahn mihmi ni uen kak en pwain.

(2) Government en Weipokon en Pohnpei pahn koasoanehdi koasoandi en kaweid kan ong sukuhl. Sukuhl koaros en weipokon oh me kaidehn en weipokon pahn idawehn sohte tikitiksang koasoandi keiu pah en kasukuhl me pahn kin kokouda sang Government en Weipokon en Pohnpei.

(3) Government en Weipokon en Pohnpei pahn kauada oh ni loaloapwoat doadoahki pilahn kan me pahn oarepene soahng koaros ong ni kamwahula oh kalaudlahn audepen kasukuhl kan.

(4) Government en Weipokon en Pohnpei pahn kauada oh apwahpwalih wasahn pwuhk, wasahn kasale dipwisou me podepe mie, oh wasahn nekidala doaropwe kesempwal kan.

Iretikitik 4. Roson Mwahu. —

(1) Government en Weipokon en Pohnpei pahn kihda sawas akan en roson mwahu ong weipokon.

(2) Government en Weipokon en Pohnpei pahn kauada oh ni loaloapwoat doadoahki pilahn kan ong ni kamwakamwaulahn sawas akan en roson mwahu.

(3) Government en Weipokon en Pohnpei pahn koasoanehdi wiepen kaweihd sawas akan en roson mwahu.

Iretikitik 5. Poadopaod oh Mour. — Government en Weipokon en Pohnpei pahn kauada oh ni loaloapwoat doadoahki pilahn ehu me pahn oarepene ire koaros ong ni idihddahn, epwelpen, oh wiepen kolokol ire kesempwal kan en poadopaod oh mour.

Iretikitik 6. Doarepen Weipokon. —

(1) Government en Weipokon en Pohnpei pahn kauada oh ni doadoahki pilahn kan me pahn oarepene ire koaros ong ni kamwahula kan ong epwelpen aramas oh dipwisou.

(2) E pahn mie pwihn ehu nan Government en Weipokon en Pohnpei me pahn pwukoahki kolokol meleilei oh onepek ni ahsoun moromor oh pil kahpwal laud sang mwekid en sahpw, sehd de lahng.

Iretikitik 7. Kesepwillahn Manaman. — Government en Weipokon en Pohnpei kak kapwukoahki government en Wehi kan oh Town manaman en wia sawas akan me sansalehr nan Ire Laud wet, eri ahpw Government en Weipokon en Pohnpei kolokolete pwukoahn kaweid oh epwel me konehng.

Iretikitik 8. Kairada Koiek en Tohn Doadoahk. — Government en Weipokon en Pohnpei pahn pwukoahki kamwakid doadoahk en tehkada oh kairada koiek en tohn doadoahk kan, nin duen me pahn koasoandi sang kosonned.

IRE LAUD 8 PALIEN KOU KOSONNED

Iretikitik 1. Manaman en Palien Kauada Kosonned. — Manaman en kauada kosonned me aramas akan en Weipokon en Pohnpei ahneki mihmi rehn Pwihn en Kou Kosonned en Weipokon en Pohnpei nin duen eh koasoandi nan Poahsoan en kosonned wet. Manaman wet kipe soangen ire koaros me kosonned kak kokouwong me sohte uhwong Poahsoan en Kosonned wet.

Iretikitik 2. Lopidien Usuhs. — Ehu ehu Wehi kan oh Town pahn wadiki ehu lopidien usuhs ong Pwihn en Kou Kosonned. Tohtohn tohn Pwihn en Kou Kosonned pahn koasoandi sang kosonned ni ahnsoun koasoansapahl en tohtohn weliepe me pahn wiawi nan irair en pahr eisek koaros oh kak wiawi mwurin ehu wad tohtohn aramas me manaman. Koasoansapahl en tohtohn weliepe kan pahn poahsoansang ni towe mehlel en ehu ehu Wehi kan oh Town. Ehu ehu Wehi kan oh Town udahn pahn ahneki sohte malaulausang weliepehmen.

Iretikitik 3. Ahnsoun Doadoahk. — Likin towe kan me pilipilda pwehn audehda sehr tehnda kan, ahnsoun doadoahk en towe kan pahn tepda ni ehd keriau en sounpwong January mwurin arail usuhsda.

Iretikitik 4. Kak en Aramas. — Sohte aramas emen kak wia tohn Pwihn en Kou Kosonned, ihte ma e mahkier sounpar rieisek limau ni ahnsou me ah dien ahnsoun doadoahk tepda; e wiahkier towe mehlel en Weipokon en Pohnpei sohte mwotomwotasang sounpar rieisek limau ni ahnsou me ah dien ahnsoun doadoahk tepda, oh e wiahier towe mehlel en lopidi me e weliano sohte mwotomwotasang sounpar silu. Aramas emen me dipikidahr dihp toutou ehu, sohte kak wia towe men en Pwihn en Kou Kosonned, ihte ma e aledier mahk me kaopwurehiong ah pwuhng kan sohte mwotomwotsang rahn weneisek mwohn ah usuhsda. Pwihn en Kou Kosonned kelepw me ahneki manaman en teneki kak en towe men.

Iretikitik 5. Peiaidahn Pwukoah kan. — Sohte tohn Pwihn en Kou Kosonned men kak ale pwukoah tohrohr ehu en weipokon, doadoahkohng, de ale ehu pweipwei de soangen pweipwei sohte lipilipil sang government seupilipilil de pali en doadoahk kan me wia kisehn government de pwihn seupilipilil ieu me inoanden arail elen mwohni kan kohsang mwohni en weipokon. Tohn Pwihn en Kou Kosonned kak iang towehda pwihn en kou poahsoan en kosonned ehu.

Iretikitik 6. Alahldahn Ohpis Kapw. — Nan irair en ahnsou me e usuhsdahng de idihddahng, sohte tohn Pwihn en Kou Kosonned kak en usuhsdahng de idihddahng nan ehu pwukoahn Government en Weipokon en Pohnpei, de pwukoah nan ehu ehu government en Wehi kan oh Town de ong ehu pwukoah doadoahk me kokouda de pweinen doadoahkwo kokouda de kalaudla sang ni kosonned, ahnsou seupilipilil ieu nan irair en ah dien ahnsoun doadoahk me e usuhsdahng loale. Ong ni alahldahn ehu pwukoah doadoahk nan Government en Weipokon en Pohnpei, irairdi wet sohte pahn doadoahk ma kalaudlahn pweipweio doke tohn doadoahk koaros en rahn government me pwukoah doadoahko mi loale, oh ma kalaudlahko pahn pahrek de pohnapeiteieu ong pwukoah doadoahk koaros en rahn governmentwo. Irairdi wet sohte pid emen eh pahn towehda wie kupwur en Kou Poahsoan de pil alahldahn doadoahk ehu me pweine kalaudla, ma tohn Pwihn en Kou Kosonned men sohte alehdi kalaudlahn pweipweio.

Iretikitik 7. Saledek Sang Pahn Kakos en Kosonned. — Tohn Pwihn en Kou Kosonned ni irair koaros, ihte ma re mihla pahn pakaraun en dihp toutou de kaue onepek, sohte pahn kak en irairdihsang ahr saledek ni ahnsou en tiepene kan oh ni ahnsou me re kohkohlahng oh pwurupwura

sang tiepen kan de koamidi mihting kan en Pwihn en Kou Kosonned. Tohn Pwihn en Kou Kosonned men pahn pwukoahki en sapengohngete Pwihn en Kou Kosonned ah iren kasalada kan me e wia nan mihting kan en Pwihn en Kou Kosonned de koamidi ieu.

Iretikitik 8. Mwekid en Wie Kupwur kan. — Pwihn en Kou Kosonned pahn nekid oh intingiada audepen ah tiepeneh kan. Wie kupwur koaros en Pwihn en Kou Kosonned oh a koamidi kan pahn langadahng weipokon ihte ma, Pwihn en Kou Kosonned de koamidi tenekihda sang ni usuhs “ei” en towe kan koaros me sang ni anahnepen weipokon wie kupwuro konehng en ritidihsang weipokon. Sohte usuhs ehu en Pwihn en Kou Kosonned pahn wiawi ni rir ihte usuhs en ah ohpiser kan oh kamanamanlahn ohpiser teikan me idihdda sang kepina.

Iretikitik 9. Ropirop oh Karongorong. — Nin duwen eh wia kisehn ah pwukoah kan, Pwihn en Kou Kosonned oh ah koamidi kan me aledier manaman kak wia ropirop kan, wia karongorong kan ong weipokon, eker ni menen pehkier soun kadehdeh kan oh kisin likou kesempwal kan, oh kihda kauhla. Koasoandi oh wiepen kahkehlaka manaman en kaloke me kasohwe Pwihn en Kou Kosonned oh eh manaman kan pahn kin koasoandi nan wiepen kaweid doadoahk en Pwihn en Kou Kosonned.

Iretikitik 10. Tiepene Kan. —

(1) Pwihn en Kou Kosonned pahn kin tiepene nan wie kupwur ni ehd keriau en sounpwong January en pahr koaros, de mwadangete mwurinmwo ni ahsou konehng, ong erein ahsou ehu oh ni soangen ahsou kan, nin duen eh pahn kak en koasoandi sang kosonned.

(2) Wie kupwur tohrohr en Pwihn en Kou Kosonned pahn kak wiawi sang ni koasoandi en ohpiser me kakaun Pwihn en Kou Kosonned, ni pekpek en silikis ehu en towe kan koaros ni soh pohnese sehr tehnda kan, de pil sang Kepina. Ni ahsou me Pwihn en Kou Kosonned pahn tiepene nan wie kupwur sang ni koasoandi en Kepina, Pwihn en Kou Kosonned pahn tehkete ireh kan me Kepina likwerihki tiepene wet.

Iretikitik 11. Quorum. — Pakis siluh en tohn Pwihn en Kou Kosonned pahn wadiki quorum. Nempe ieu me malaulausang quorum kak kairala mihting en rahn akan, oh kak iding pwarodohn toweh kan ni soangen mwohm oh koasoandi en kalokolok kan me Pwihn en Kou Kosonned pahn kak koasoanehdi, iangahki katoktokdi en kodahn pweinarail, oh isais teikan ni lepin ahsou.

Iretikitik 12. Kamwomwadahn Kosonned kan oh Pekpek kan. —

(1) Sohte kosonned kak en kokouda ihte ma e mi ni mwomwen kamwomwadahn kosonned. Ehu ehu kamwomwadahn kosonned pahn pid irete ieu me pahn sansal ni moange. Ire ieu likin dahme sansal ni moangeu sohte manaman.

(2) Iretikitik ieu en kosonned ehu me pahn wekdekla udahn pahn sansal ni unsek nan kamwomwadahn kosonned me pahn wekidala oh ni unsek pwurehng kokouda sapahl.

(3) Moangen kamwomwadahn kosonned kan pahn kin intingda nin duen met. “E KEKEUDAHR SANG PWIHN EN KOU KOSONNED EN WEIPOKON EN POHNPEI.”

(4) Pwehn wiahla kosonned, kamwomwadahn kosonned ehu pahn kamanamanla ni wadawad riau ni rahn riau me pahn tohrohrpeseng. Kamanaman ni keieun wadawad kak wiawi ni rahn me e kapidolong. Kamanaman ni keriau en wadawad pahn anahne usuhs “ei”, ni likwor, en pali moron en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan.

(5) Pekpek ehu en Pwihn en Kou Kosonned ni eh pahn tepin kapidolong pahn adaneki kamwomwadahn pekpek (Resolution), oh kak alahlda ni eh pahn kamanaman ni wadawad teieu me kak pil wiawi ni rahn en kapidolongo. Kamanamanlahn pekpek ehu pahn anahne usuhs “ei” en pali moron en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan.

Iretikitik 13. Koasoandi ong Kamanamanlahn Kamwomwadahn Kosonned akan sang Kepina.

(1) Kamwomwadahn kosonned koaros me kamanaman ehr sang Pwihn en Kou Kosonned pahn ale kadehdepen kamanamano sang rehn ohpiser me kaun oh clerk en Pwihn en Kou Kosonned oh pekedering Kepina.

(2) Kepina pahn aheni rahn eisek, tepda wadawad sang rahn me e alehdi kamwomwadahn kosonnedo pwehn tehk, ma Pwihn en Kou Kosonned koamoaldi nan erein ahsnou ehu me sohte mwotomwotsang rahn eisek, de kairala ah wie kupwur ni ahsnou seulipilipil ehu mwohn rahn eisek me Kepina ahneki, eh pahn imwsekla. Ahsnou teikan koaros e pahn ahneki rahn silisek pwehn teneki kamwomwadahn kosonnedo.

(3) Ma Kepina pahn kamana kamwomwadahn kosonnedo e pahn sainih kamwomwadahn kosonnedo oh kamwomwadahn kosonnedo wiahla kosonned.

(4) Ma Kepina sohte kamana kamwomwadahn kosonned ehu, e pahn kapwurelahng ohpiser me kaun Pwihn en Kou Kosonned kamwomwadahn kosonnedo iangahki kahrepe kan me karehda e sohte kamana kamwomwadao. Kepina kak en sohte kamana ire ieu de ireh kei nan kamwomwadahn kosonned me pid mwohni ni eh pahn kak kihsang de katikala ire ieu de ireko, ahpw ong ni kamwomwadahn kosonned teikan e pahn kamana de sohte kamana kamwomwadahn kosonnedo ni unsek.

(5) Kamwomwadahn kosonned ehu me sohte sainla de sohte kopwur pwurlahng Pwihn en Kou Kosonned nan irair en ahsnou me koasoandier pahn wiahla kosonned duwehtehte kosonned akan me Kepina sainiala.

Iretikitik 14. Kemwekid ong Kamwomwadahn Kosonned kan me Kepina sohte Kamana. —

(1) Mwurin Pwihn en Kou Kosonned e aledier pakairpen sou kamanaman, kamwomwadahn kosonnedo, irehwo de irehko pahn wiahla kosonned ni eh pahn kamanamanla ni wadawad tehieu oh alehdi usuhs “ei” en silikis riau en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan.

(2) Ma Pwihn en Kou Kosonned alehdi pakairpen so kamanamano nan irair en rahn eisek ni keimseklahn eh wie kupwur de mwurin eh kairalahng ah wie kupwur, Pwihn en Kou Kosonned kak tehksapahliah kamwomwadahn kosonnedo, ire de ireh ko, me sohte kamanaman, nan ehu wie kupwur me pahn wiawi mwrurinte mwo, mehndahte ma ire wet sohte iang papahnggehng nan ireh kan me karehda wie kupwur wet.

Iretikitik 15. Kamanamanlahn Idihdda Kan. — Kamanamanlahn idihddah kan, sang Kepina, en ohpiser koaros en Government en Weipokon en Pohnpei, pahn anahne usuhs “ei” en pali moron en towe koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan.

Iretikitik 16. Tohtohn Towe kan. — Lau lel ahsoun koasoansapahl en tohtohn weliepen ehu ehu lupidien usuhs eh pahn wiawi, weliepe koaros ong nan Pwihn en Kou Kosonned pahn usuhsda sang nan wehi kan oh Town nin duen met: Kapingamarangi, emen; Mwokil, emen; Ngetik, emen; Nukuoro, emen; Pingelap, emen; Net, riemen, Kolonia Town, riemen; Uh, riemen; Kitti, pahmen, Madolenihmw, pahmen; oh Sokehs, pahmen. Keieuhn koasoansapahl en tohtohn weliepeh kan pahn wiawi nan irair en sounpar eisek sang ni Poahsoan en Kosonned wet eh manamanla [*kamanamanla Nopempe 8, 1984*] oh pahn kin doadoahk ohng usuhs lap akan me pahn wiawi mwurin ahsnouo.

IRE LAUD 9 PALIEN KAKAEHLAKA KOSONNED

Iretikitik 1. Kepina – Manaman en Palien Kakehlaka Kosonned. — Manaman en apwahpwalih kemwekid kan nan Palien Kakehlaka Kosonned en Government en Weipokon en Pohnpei mihmi rehn Kepina, me pahn kin usuhsda sang soun usuhs kan me wia towe mehlel en Weipokon en Pohnpei me kilikilel nan pwuken usuhs.

Iretikitik 2. Keriau en Kepina. — E pahn mie Keriau en Kepina. Keriau en Kepina pahn kin wia doadoahk kan me Kepina koasoaneiong oh doadoahk teikan me pahn koasoandi sang kosonned.

Iretikitik 3. Kak en Aramas en wia Kepina oh Keriau en Kepina. —

(1) Sohte aramas men kak en wiahla Kepina de Keriau en Kepina ihte ma e ipwidihte wia towe mehlel en Weipokon en Pohnpei, e mahkier sounpar silihsek-limau oh e saikinte dipekihda dih toutou ehu.

(2) Sohte aramas emen kak en wiahki Kepina men daulih dien ahsoun doadoahk riau ireklahte, ihte ma aramas emen me wiahki Kepina mwotomwotasang sounpar riau nan dien ahsoun doadoahk ieu me aramas tohrohr men usuhsdahng loale, kak wiahki Kepina dien ahsoun doadoahk riau ireklahte mwurinte mwo.

Iretikitik 4. Usuhs. — Kalangadahn eden kandideihd ong ohpis en Kepina de ohpis en Keriau en Kepina pahn mi nan kisin likou en pekpek me alehdi sain en soun usuhs manaman kan ni duen me koasoandi sang kosonned. Ma sohte kandideihd alehdi pali moron en usuhs en Kepina, usuhs sapahl pahn wiawi nan pwungen ira kandideihd riemen me alehdi usuhs keieu tohto. Kandideihd riemen me alehdi soangen tohtohn usuhs teieu wiepen kapwungala pahn koasoandi sang kosonned.

Iretikitik 5. Dien Ahsoun Doadoahk. — Dien ahsoun doadoahk en Kepina oh Keriau en Kepina pahn reireiki sounpar pahieu. Kepina oh Keriau en Kepina pahn tapiada ara dien ahsoun doadoahk ni souwas en ni ehd keriau en sounpwong January mwurinte ara usuhsda oh ira pahn kolokol ara ohpis lau weliopera kamanamanla.

Iretikitik 6. Tehndahn Ohpis oh Sohla kak Doadoahk. —

(1) Keriau en Kepina me pahn wiahla Kepina ni ahsoun me ohpis en Kepina tehnda.

(2) Keriau en Kepina pahn kin weliandi Kepina ni ahsoun me Kepina sohte mie Pohnpei de ni ahsoun me Kepina sohla kak wia ah pwukoah doadoahk. Pwihn en Kou Kosonned pahn koasoanehdi, sang ni kosonned, wiepeh kan me pahn kasalehda ma aramas emen sohlahr kak wia ah pwukoah doadoahk.

(3) Kosonned pahn koasoanehdi duwen weliandi en Keriau en Kepina ni ohpis wet eh pahn tehnda.

Iretikitik 7. Loaloapwoat ong ni Kakehlepen Kosonned kan. — Kepina pwukoahki en ni loaloapwoat kakehla ireh kan koaros en Poahsoan en Kosonned wet oh kosonned koaros en Weipokon en Pohnpei.

Iretikitik 8. Manaman pohn Kalokolok en Dihp kan. — Kepina kak kamwotehla, welianda de wekidala oh kihda mahk ong aramas emen me dipikidahr dih toutou, ni eh pahn idawehn kaweid me koasoandi sang kosonned likin kakoamoaldien lapalap men me aledier pakaraun, ketimpak oh lekideksangehr nan ah ohpis.

Iretikitik 9. Repwoht kan. — Kepina pahn repwohtkiong Pwihn en Kou Kosonned, ni tepin wie kupwur en nan January koaros iren Weipokon en Pohnpei oh e pil kak en wia repwoht wet ni ahsou sohte lipilipil. E kak kaweidada kamwomwadahn kosonned kei pwe Pwihn en Kou Kosonned en tehk.

Iretikitik 10. Ohpis kan nan Palien Kakehlaka Kosonned. — Tohn board kan me kin wia kaweid oh koasoanepen doadoahk kan, kaun en palien doadoahk lap kan nan Palien Kakehlaka Kosonned oh palien doadoahk teikan me wia kisehn Government oh ohpiser teikan me pahn koasoandi sang kosonned pahn kin idihdda sang Kepina oh kamanaman sang Pwihn en Kou Kosonned sang ni usuhs “ei” en pali moron en towe kan koaros ni soh pohnese sehr tehnda kan. Lapalap en palien doadoahk lap akan nan Palien Kakehlaka Kosonned oh pali en doadoahk teikan me pil wia kishen Palien Kakehlaka Kosonned pahn doadoahk pahn en Kepina eh koasoandi. Kepina kak kapidoi soangen lapalap pwukat sang nan ohpis de re pil kak lekdekla (impeached) nin duen koasoandi en Ire Laud 13 Iretikitik 6 en Poahsoan en Kosonned wet.

Iretikitik 11. Koasoansapahl en Palien Kakehlaka Kosonned. — Palien Kakehlaka Kosonned, de sohte lipilipil ohpis ehu nan pali wet, kak en koasoansapahl sang kosonned de pilahn en koasoansapahl ehu sang Palien Kakehlaka Kosonned. Pilahn en koasoansapahl sang Palien Kakehlaka Kosonned pahn kin pekederieng Pwihn en Kou Kosonned sang Kepina. Pwihn en Kou Kosonned kak sohte kamana ahn Palien Kakehlaka Kosonned pilahn en koasoansapahl de ire kei nan pilahn wet nan irair en rahn silihsek mwurin eh pekederieng.

IRE LAUD 10 PALIEN KOPWUNG

Iretikitik 1. Manaman en Palien Kopwung. — Manaman koaros me pidada kopwung nan Weipokon en Pohnpei mi nan Mwoalen Kopwung Ileihle ehu en Weipokon en Pohnpei, oh nan Mwoalen Kopwung Tikitik teikan me kosonned en Pwihn en Kou Kosonned pahn kin koasoanehdi.

Iretikitik 2. Mwoalen Kopwung Tikitik oh Pwihn en Tenek kan. — Mwoalen Kopwung Tikitik oh Pwihn en Tenek kan kak kokouda sang kosonned. Mwoal puwkat kak karonge soangen ire koaros me Mwoalen Kopwung Ileihle kak karonge nin duwen me pahn koasoandi sang kosonned. Soun Kopwung koaros oh tohn Pwihn en tenek kan pahn kin idihdda sang Kepina oh ale kamanaman en pali moron en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan.

Iretikitik 3. Mwoalen Kopwung Ileihle: Towe Kan. —

(1) Mwoalen Kopwung Ileihle en Weipokon en Pohnpei pahn audaukihda Soun Kopwung Lapalap emen oh ienge Soun Kopwung sohte tohtohsang pahmen me pahn kin idihdda sang Kepina oh ale kamanaman en pali moron en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan.

(2) Pwihn en Kou Kosonned pahn koasoanehdi sang ni kosonned, wiepen alahldahn Soun Kopwung en lepin ahsou. Ahr idihdda pahn pil ale kamanaman en Pwihn en Kou Kosonned duwehte kamanamanpen idihddahn Soun Kopwung teikan en Mwoalen Kopwung Ileihle en Weipokon en Pohnpei.

Iretikitik 4. Mwoalen Kopwung Ileihle: Manaman. —

(1) Mwoalen Kopwung Ileihle en Weipokon en Pohnpei iei Mwoalen Kopwung ehu me ah doadoahk kan pahn kin intingdi, oh ih me wia Mwoalen Kopwung me mene keieu laud nan Weipokon en Pohnpei.

(2) Palien tenek keieu en Mwoalen Kopwung Ileihle ahneki manaman en tepin karonge oh tenekihda kopwung en pwuhng oh dihp oh kopwung seu lipilipil kan me manaman en Weipokon en Pohnpei kipe, oh manaman en kapwung sapahl koasoandi kan en Mwoalen kopwung tikitik teikan koaros, oh pil Pwihn en tenek teikan.

(3) Pali en tenek sapahl en Mwoalen Kopwung Ileihle ahneki manaman en kapwung sapahl koasoandi kan koaros en Pali en tenek keieu.

(4) Pwuhng ong kopwung kapw oh repenpwung sapahl ong pwunglahng koasoandi koaros me wiawihda nan Mwoalen Kopwung teikan oh Pwihn en tenek kan ong nan Mwoalen Kopwung Ileihle en Weipokon en Pohnpei udahn pahn mie.

(5) Sohte repenpwung sapahl en ire ieu me pid Poahsoan en Kosonned wet, kosonned akan en Weipokon en Pohnpei, de tiahk kak wiawi ong ehu Mwoalen Kopwung tohrohr, likin Mwoalen Kopwung Ileihle en Weipokon en Pohnpei.

Iretikitik 5. Mwoalen Kopwung Ileihle: Palih Kan. —

(1) Ihte ma mie koasoandi tohrohr ehu sang kosonned, emen emen Soun Kopwung en Mwoalen Kopwung Ileihle pahn towe Pali en tenek keieu oh Pali en tenek sapahl en Mwoalen Kopwung Ileihle. Soun Kopwung men me iangehr kapwung ire ieu nan Pali en tenek keieu sohte kak en iang kapwung sapahl ire wo nan Pali en tenek sapahl.

(2) Soun kopwung tehmen kak en karonge oh teneki kopwung ieu nan Pali en tenek keieu. Sohte malaulausang Soun Kopwung silimen me pahn karonge oh tenekihda dahme pwungla nan kopwung en pali en tenek sapahl. Soun Kopwung tehmen kak wiahda koasoand en lepin ahnsou me pid kopwung sapahl, ahpw petehkpen koasoandi wet pahn wiawi sang irail soun kopwung kan me karonge kopwung sapahlo.

Iretikitik 6. Mwoalen Kopwung Ileihle: Me Kak wia Soun Kopwung. — Sohte aramas emen kak en wia Soun Kopwung en Mwoalen Kopwung Ileihle, ma e saikinte lel sounpar silihsek-limau. Aramas emen me dipekidahr dihp toutou ehu, sohte kak en wia Soun Kopwung.

Iretikitik 7. Mwoalen Kopwung Ileihle: Dien Ahnsoun Doadoahk. — Soun Kopwung men en Mwoalen Kopwung Ileihle pahn doadoahk nan erein sounpar eisek-riau ahpw e pahn kak uhsehla eh pwukoah lau lel ni weliepehmen me idihdahr eh kamanamanla. Soun Kopwung men pil kak pwurehng idihdda.

Iretikitik 8. Pweipwei kan. — Pweinen Soun Kopwung en Mwoalen Kopwung Ileihle, soun kopwung teikan oh tohn Pwihn en tenek kan pahn koasoandi sang kosonned. Pweinarail sohte pahn kak ketikitikla ni ahnsou me re wiwia arail pwukoah nan ohpis, ihte ma mie koasoandi ieu sang kosonned ni soangen pweipwei pahrek ehu me kipe ohpiser oh tohn doadoahk koaros en government en Weipokon en Pohnpei.

Iretikitik 9. Epwelpen Doadoahk Kan. — Soun Kopwung Lapalap me pahn kaun Palien Kopwung nan Weipokon en Pohnpei. Epwelpen Palien Kopwung, tohn doadoahk kan, dipwisou, mwohni oh budget en pali wet ong pahr en doadoahk kan pahn tohrohrsang me kin wiawi nan Palien Kou Kosonned oh Palien Kakehlaka Kosonned en Government en Weipokon en Pohnpei. Soun Kopwung Lapalap pahn kin pwukoahki kaunopada budget en ehu ehu pahr ong Palien Kopwung en

Weipokon en Pohnpei. Budget wet pahn pekederieng Pwihn en Kou Kosonned ni eh pahn weidla rehn Kepina. Kepina kak kapidelong ah kaweid ong budget en Palien Kopwung Kopwung ahpw e sohte kak en wekidala de katikala.

Iretikitik 10. Koasoandi oh Wiepen Doadoahk Kan. — Mwoalen Kopwung Ieihle ahneki pwukoah oh manaman en kauada de wekidala koasoandi en wiepen doadoahk kan en Palien Kopwung, soun doadoahk kan, oh dipwisou en Palien Kopwung. Koasoandi pwukat pahn ahneki menen kosonned, oh Pwihn en Kou Kosonned kak wekidala koasoandi pwukat ni kosonned.

Iretikitik 11. Pwunglahn Kopwung kan. — Pwunglahn kopwung kan me Mwoalen Kopwung kan oh Pwihn en tenek kan pahn koasoanehdi udahn pahn idawehn ineng en Poahsoan en Kosonned wet, oh madamadau en kopwungloal me aramas en Weipokon en Pohnpei ahneki ong ni dahme kin kasalehda me pwung oh mehlel.

IRE LAUD 11 TAKSIS OH MWOHNI EN WEIPOKON

Iretikitik 1. Manaman en Kauada Taksis. — Government en Weipokon en Pohnpei pahn ahenki manaman en kauada soangosoangen taksis oh isais seu lipilipil ieu me sohte irairdi nan Poahsoan en Kosonned wet.

Iretikitik 2. Taksis en Government en Wehi kan Oh Town. — Government en Wehi kan oh Town kak kaueng taksis en kapatapat (surtax) pohn taksis kan me Government en Weipokon en Pohnpei kauadahr. Soangen taksis wet (surtax), me pahn kekeuda sang government en Wehi kan oh Town sohte pahn daulih per cent rieisek en tax me Pwihn en Kou Kosonned koasoanehdier, ihte ma e ni dehde mweimweida sang kosonned. Pwihn en Kou Kosonned kak kamanaiong government en Wehi kan oh Town en kauada soangen taksis teikan, nin duen me kosonned pahn koasoanehdi. Government en Wehi kan oh Town kelepw me ahneki manaman en kauada isais ong pesnes license kan.

Iretikitik 3. Wiepen Doadoahkipene Mwohni. — Sohte tikitik sang per cent silihsek en taksis me Government en Weipokon en Pohnpei kin alehda sang wasah kan nan Weipokon en Pohnpei, pahn kohda nin duwen kosonned, ong government en Wehi kan oh Town, mehn sewese doadoahk kan (project) oh kamwakid government pwukat nin duwen me Pilahn kan en ehu ehu government pwukat pahn koasoanehdi. Pilahn pwukat pahn kin alahlda sang ni kosonned me Pwihn en Kou Kosonned pahn kauada mwurin karongorong me pahn alehdi kupwuren ehu ehu Wehi kan oh Town. Soangen mwohni pwukat pahn nehneseng ni duwen tohtohn towe mehlel en ehu ehu wehi kan oh town.

Iretikitik 4. Taksis ong Dipwisoun Government. — Sohte taksis pahn kokouwong pohn dipwisou kan en Government en Weipokon en Pohnpei oh government en Wehi kan oh Town.

Iretikitik 5. Taksis oh Kodahn Mwohni ong Anahn en Weipokon. — Sohte taksis ieu kak kokouda de mwohni ieu koasoandi en doadoahkla likin anahn en Weipokon.

Iretikitik 6. Wasahn Kanekid. — Pwihn en Kou Kosonned pahn, sang ni kosonned, koasoanehdi ia pahn mwomwen wasahn kanekid en Weipokon en Pohnpei. Wasahn kanekid en Weipokon en Pohnpei me pahn pwukoahki nekinekid mwohni en weipokon oh soangen neknek en mwohni teikan me kokouda sang kosonned. Mwohni kan koaros en Government en Weipokon en Pohnpei pahn

kapidolong ohng nan neknek en weipokon de neknek tohrohr ehu nin duwen me koasoandi sang kosonned.

Iretikitik 7. Inou en Doadoahkihla Mwohni oh Kapidoi Mwohni. — Inou ong doadoahkihla mwohni oh kapidohi en mwohni sang wasahn kanekid en Weipokon en Pohnpei kak wiawi nin duwen koasoandi en kosonned.

Iretikitik 8. Auditor. —

(1) Auditor men pahn mie, me pahn idihdda sang Kepina oh ale kamanaman en Pwihn en Kou Kosonned, sang ni usuhs “ei” en pali moron en towe kan koaros ni soh pohnese sehr tehnda kan, pwehn doadoahk nan irair en sounpar pahieu oh lau lel ni ahnsou me weliepe me idihddahr kamanamanla. Nan irair en rahn silihsek mwohn ni imwin ah dien ahnsou en doadoahk en sounpar pahieu koaros, auditor pahn kak en kapidohisang nan ah pwukoah sang ni usuhs “ei” en silikis riau en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan.

(2) Auditor me pahn pwukoahki dawih kemwekid oh doadoahklahn mwohni oh pwuken mwohni koaros me wiawiong ehu ehu pali en doadoahklap, ohpis kan, pall teikan me pil wia kisehn government, oh wasa teikan me pil kin doadoahk ohng Government en Weipokon en Pohnpei oh government en wehi kan oh town de me irail kin pein wihwia. Doupen ehu ehu pwuken mwohni kan pahn wiawi sohte mwotomwotasang pak ehu nan sounpar riau koaros. Repwoht koaros me pid mwohni me wiawi sang irail ohpiser kan en government, me pwukoahki tetehk mwekid en mwohni, pahn anahne ale kadehdehpen pwung oh mehleh en repwohto sang Auditor.

(3) Auditor pahn, nan pahr koaros, repwohtki dahme e diarada oh ah kaweid kan ong Kepina oh Pwihn en Kou Kosonned. Auditor pahn pil kin wia soangen repwoht tohrohr teikan oh kihda soangen ire tohrohr teikan me e pepehm konehng oh me Pwihn en Kou Kosonned pahn anahne nin duen koasoandi en kosonned.

(4) Auditor pahn kak en kaweidki government kokoudahn wiepe sonamwahu en mwekid en mwohni kan me pahn kilelehdi mwohni kan ni wiepe soanamwahu oh pwung.

(5) Auditor pahn alehda nah tohn doadoahk oh pil kak ale sawasepe ni contract, rehn irail semen en dawih doadoahklahn mwohni pwe en kak kapwaiada ah pwukoah ni soanamwahu oh pil ale soangen sawas teikan me e pepehm me e anahne.

(6) Auditor pahn nan sounpar koaros kaunopada budget en ah ohpis, oh e pahn pekederieng Pwihn en Kou Kosonned ni eh pahn weidla rehn Kepina. Kepina kak kapatahieng ah kaweid, ahpw e sohte kak wekidala de katikitikala.

Iretikitik 9. Repwoht en Mwohni. — Nan irair en ahnsou ieu me koasoandi sang kosonned, Kepina pahn nan pahr koaros kadarehng Pwihn en Kou Kosonned repwoht ehu me pahn kasalehda soangen mwohni kaoros me kesikpe mie me e pahn kak rikirikda ohng Government en Weipokon en Pohnpei ohng pahr en mwohni me pahn wad mwuhri, iangahki soangen ire tohrohr teikan me pid mwohni me Pwihn en Kou Kosonned pahn anahne nin duwen koasoandi en kosonned.

Iretikitik 10. Kapidolong en Budget. — Kepina pahn kaunopada budget en ohpis kan ohng pahr en mwohni me pahn wad mwuhri oh ohng wasahn doadoahk kan koaros me wia kisehn Government en Weipokon en Pohnpei, likin Ohpis en Auditor, Palien Kou Kosonned oh Palien Kopwung, oh ohng soahng teikan. Kepina pahn kadarehng budget wet Pwihn en Kou Kosonned nan irair en ahnsou me koasoandi sang kosonned. Kepina pahn ale oh pil kak kasalehda ah kaweid ohng budget en Auditor, Palien Kou Kosonned oh Palien Kopwung oh ni karuaru kadarehng Pwihn en Kou Kosonned. Budget kan pahn koasaondi ni mwohmw ehu oh kasalehda soangen ireh kan me pahn anahn nin duwen koasoandi en kosonned.

Iretikitik 11. Kosonned en Kihda Mwohni. —

(1) Mwurin alahdien repwoht ohng ni kesikpen uwen nwohni me pahn kak mie oh budget ong wasahn doadoahk kan nan Government en Weipokon en Pohnpei, oh petehkpen uwen mwohni kan me pahn sewese kamwahula lap akan en Weipokon, mwohni en kamwakid soangen doadoahk teikan (project) oh sawas ohng government en wehi kan oh town, Pwihn en Kou Kosonned pahn kauada kosonned ehu me pahn mweidada mwohni ohng budget ong pahr en mwohni me pahn wad mwuhri. Kosonned en mweidada mwohni wet pil kak wekdekla ni wiepen kosonned.

(2) Likin anahn me pwarada sang ahsou apwal karuaru me kalohkdahr sang Kepina nin duwen koasoandi en Poahsoan en Kosonned wet, sohte mwohni kak kamanamanla de kosonned kekeuda, me pahn kamanahla kodahn mwohni pwehn kawakid pali en doadoahk ieu nan Government en Weipokon en Pohnpei likin dahme koasoandi nan kosonned me kihda mwohni ong nan budget en Government en Weipokon en Pohnpei.

Iretikitik 12. Petehkpen Doadoahklahn Mwohni kan. — Iren koasoandih kei pahn kokouda sang Kosonned pwehn iteite doadoahklahn mwohni kan, oh en katikala doadoahklahn mwohni kan ni ahsou kan me mwohni en weipokon sohte pahn itar ong doadoahklahn mwohni en weipokon me pahn wiawi nan pahr en mwohnio.

Iretikitik 13. Pweipwand en Weipokon. — Government en Weipokon en Pohnpei sohte kak pekihda mwohni, ni pweipwand, ni eden weipokon ihte ma e mweimwida sang kosonned, ong doadoahk me pahn utungada keirdahn pai en wehi, oh kokoudahn oh kamwaula lap en dipwisou kesempwal akan en weipokon. Kosonned koaros sang Pwihn en Kou Kosonned me mweidada pweipwand en mwohni ni eden weipokon pahn idihdda wasa me uwen mwohni ieu pahn kohsangie me pahn itar, oh mwohni wet udahn pahn koasoandieng en kapwungala pweipwand pwukat.

IRE LAUD 12 SAHPW

Iretikitik 1. Irairdih kan ong Inoun Doadoahki Sahpw. — Sohte inoun doadoahki sahpw, ihte sang Government de nin duwen eh koasoandi nan Iretikitik 3 en Ire Laud wet, kak daulih sounpar reisek limau. Pwuhng ong inou sapahl oh soangen perehreh teikan pahn koasoandi sang kosonned.

Iretikitik 2. Pwungin Sapwasapw. — Pwung en kak sapwasapw pahn irairdiongete tohn wehi mehleh kan me wia pwilidak en weipokon en Pohnpei ni duwen me koasoandi pahn Ire Laud 3 en Poahsoan en kosonned wet.

Iretikitik 3. Inoun Doadoahki Sahpw me erein ahsou sohte Dehde. — Inoun doadoahki sahpw me mweidohng aramas me pahn doadoahki sahpw manaman en pein sang ni eh koasoandi poupousehla eh doadoahki sahpw ong erein ansou sohte dehde sohte mweimwei.

Iretikitik 4. Kosonned en Sahnw. — Pwihn en Kou Kosonned kak koasoanehdi, sang ni kokoudahn kosonned akan me pahn konehng, wiepeh kan me pahn kak mweidada inoun doadoahki sahpw oh soangen doadoahk teikan en sahpw me mi pahn irairdi en ahsou me sansal nan Iretikitik 1 en Ire Laud wet.

Iretikitik 5. Netin Sapw. — Sohte netin sapw pahn wiawi likin me pahn koasoandi sang kosonned.

Iretikitik 6. Alahldahn Sahpw ong Anahn en Weipokon. — Government en Weipokon en Pohnpei kak doadoahki manaman en alehda pwuhng nan sahpw ong doadoahk en weipokon. Sohte sahpw ehu pahn alahlda lau kaweid alahldi sang government en wehi kan oh Town me sahpwo mi loale oh inoupen dahme pahn pwain de welian sahpwo wiawiong aramas me ahneki pwuhng nan sahpwo, me pil pahn iangahki inou en weliankihda sahpwo soangen sahpw ehu me pweine pahn pahrekieng sahpwo de ni pweipwei pwuhng oh konehng.

Iretikitik 7. Ohpis en Sahpw. — Ong ni uen me pahn kak, pwukoah doadoahk koaros me pid sahpw pahn mi pahn ohpis teieu.

IRE LAUD 13 IRE ORALAP KAN

Iretikitik 1. Mahsen me Manaman nan Doadoahk en Government. — Mahsen en Pohnpei oh English me pahn wia mahsen me manaman nan doadoahk en Government en Weipokon en Pohnpei.

Iretikitik 2. Dipwisou Keper. —

(1) Dipwsou en mahwin keper me mahngidie pwoisin (nuclear), de wini (chemical), de engsuwed (gas), oh dipwisou keper ong paliwar me paiking pidada (biological weapons), mesihn en wiahda lioal me engin dipwisou keper me mahngidie pwoisin kin kamwakid (nuclear plants), oh pi l kiden me pwukat, tetehn ma angi kehlail de luet, sohte pahn kapidolongodo, nekinek, doadoahk, sosohngpe wiawi, de pi l lekidekla nan wasa sohte lipilipil me manaman en Weipokon en Pohnpei kipe, ihte ma soangen kemwekid ehu, ni sansal oh dehde, mweimweida sang ni pali moron en usuhs me wiawi nan repen kupwur ehu en Weipokon en Pohnpei.

(2) Pwihn en Kou Kosonned pahn kauada kosonned me pahn koasoanehdi ni kehlaihl epwelpen dipwisou keper teikan likin me sansal nan Oralap Nempe (1) en Iretikitik wet, me pahn mweidada oh iteite kapidolongodohn, nekneklahn, soasoahngpen, oh lekdeklahn dipwisou keper pwukat, nan wasah kan me manaman en Weipokon en Pohnpei kipe, ohngete soangen doadoahk kan me anahnepe mie pwehn kairada roson, doaropwen weipokon, oh keirdahn pai.

Iretikitik 3. Poasen Kaun en Weipokon en Pohnpei. — Poasen Kaun en Weipokon en Pohnpei pahn koasoandi sang kosonned. Dipwisou oh sahpw kan me Government en Weipokon en Pohnpei doadoahki pahn mi pahn epwel en Government en Weipokon en Pohnpei.

Iretikitik 4. Dipwisou en Government. — Dipwisou en Government sohte kak doadoahk, kesepwiliong pali ieu me kaidehn ahn government de lekdekla ihte ma e idawehn wiepeh kan me koasoandi sang Kosonned.

Iretikitik 5. Wihwia Mwahu en Lapalap oh Tohn Doadoahk en Government. — Pwihn en Kou Kosonned pahn kauada kosonned ehu me pahn pangengki lapalap oh tohn doadoahk en Government en Weipokon en Pohnpei en kapwaiada arail pwukoah ni pwungin kosonned oh wihwia konehng oh mwahu, oh koasoandhei kolokol kan ong irail me sohte oke audepen kosonnedo.

Iretikitik 6. Wiepen Lekdeklahn Ohpiser men. —

(1) Kepina, Keriau en Kepina, Auditor, tohn Pwihn en Kou Kosonned, Soun Kopwung kan en Mwoalen Kopwung sohte lipilipil ehu oh lapalap me idihddah kan en Government en Weipokon en Pohnpei kak en lekdeksang (impeached) nan ah pwukoah, ahpw ongete kahrepe me pahn pid wihwia

sohte konehng nan ohpis, sohte kapwaiada ah pwukoah, oh sohla kak wia ah pwukoah de dipkihda dihp ehu me pahn kandandsuedihala.

(2) Ni alahldahn pekpek ehu en lekdeklahn ohpiser men en government me aledier kamanaman en pahkis siluh (3/4) en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan, pakairpen lekdekla wet pahn ni inting wesiklahng lapalapo sang Pwihn en Kou Kosonned.

(3) Ni alahldien pakairo lapalap menet pahn koamoaldi sang ah pwukoah kan, ahpw pahn wie pweipwei awiawih pwunglahn karongorongo.

(4) Mwoalen tenek ehu me pahn audaudkihda Soun Kopwung silimen sang Mwoalen Kopwung Ileihle en Weipokon en Pohnpei pahn kokouda sang Soun Kopwung Lapalap, de sang Kepina ni ahnsou me pekpen lekdekla uh Wong Soun Kopwung Lapalap. Mwoalen tenek wet pahn idiada Soun Kadip tohrohr men me pahn ale kamanaman en pali moron en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan. Usuhs en silikis riau en towe kan nan Mwoalen tenek wet me pahn anahn pwehn kak koasoanehdi me lapalap en Government men dipadahr oh ma e pahn lekdeksang nan ah pwukoah en ohpis.

(5) Pwunglahn karongorong kan nan soangen Mwoalen tenek wet sohte pahn doula likin pwukoah en kapidoisang lapalap en government men nan ah pwukoah doadoahk, ahpw lapalap en government men me kedierekda me e dipada nan karongorong pahn kak en mihla pahn kadipadip en dihp, kopwung, alehdi pwunglahn kopwung me uh Wong oh kalokolok nin duwen koasoandi en kosonned.

Iretikitik 7. Usuhs en Kapwurehsang Ohpiser Usuhsda. —

(1) Kepina, Keriau en Kepina oh tohn Pwihn en Kou Kosonned kak kopwurpwursang nan ohpis nin duwen wiepen usuhs en kapwurehsang soangen lapalap pwukat.

(2) Pwehn kapwurehsang Kepina de Keriau en Kepina nan ara pwukoah, kisin likou en pekpek ehu me pahn sain sang per cent silihsek-limau en irail soun usuhs, me adarail kilikilel nan pwuken usuhs, udahn pahn pekederieng ohpiser me kaun Pwihn en Kou Kosonned me pahn ni ahnsouhte idiada Soun Apwalih Usuhs Tohrohr Men (Special Election Commissioner), me pahn ahneki manaman en alehda pwuken usuhs me audaudkihda eden irail soun usuhs manaman kan en Weipokon en Pohnpei. Nan irair en rahn eisek limau Soun Apwalih Usuhs Tohrohr menet pahn teneki oh kamehlelehda mehlel oh pwung en kisin likou en pekpeko (petition). Ma kisin likou en pekpeko mehlel oh pwung, usuhs en kapwurehsang lapalapo pahn wiawi nan irair en rahn silihsek mwurin kasaladahn mehlel oh pwung en pekpeko sang Soun Apwalih Usuhs Tohrohro, ni rahn ieu me e pahn koasoanehdi. Lapalap men pahn kak kapwurupwursang nan ah pwukoah ma per cent weneisek en soun usuhs manaman kan me kilikilel nan pwuken usuhs, kasalehda me re utung en kapwurpwursang.

(3) Pwehn kapwurehsang tohn Pwihn en Kou Kosonned men nan ohpis, kisin likou en pekpek ehu me sain sang per cent silihsek limau en soun usuhs kan me adarail kilikilel nan pwuken usuhs en lopidien usuhs pahn pekedereing Kepina oh ni ahnsouhte Kepina pahn kadaulullahng Soun Apwalih Usuhs (Election Commissioner). Soun Apwalih Usuhs pahn nan irair en rahn eisek limau tehk mehlel oh pwung en pekpeko. Ma pekpeko mehlel oh pwung, usuhs en kapwurehsang weliepeu pahn wiawi nan irair en rahn silihsek mwurin rahn me Soun Apwalih Usuhs kasalehda me pekpeko mehlel oh pwung, ni rahn ieu me e pahn koasoanehdi. Tohn Pwihn en Kou Kosonned men kak kapwurupwursang nan ohpis ma per cent limeisek ehu en irail soun usuhs manaman kan me kilikilel nan Pwuken Usuhs en lopidien usuhs me e weliweliano utung en kapwurupwursang.

Iretikitik 8. Pweinen Ohpiser kan en Government. —

(1) Kosonned pahn koasoanehdi pweipwei kan oh isais tohrohr teikan en tohn ohpis kan me usuhsda oh idihdda koaros.

(2) Koasoansapahl en pweipwei kan oh isais tohrohr teikan en tohn ohpis me usuhsdah kan oh me idihdda kan, pahn kak wiawi mwurin sounpar limau koaros.

(3) Ketikitiklahn pweipwei oh isais teikan en tohn ohpis me usuhsda oh idihdda kan kak wiawi ni ahsnou sohte lipilipil, ahpw ketikitikla wet pahn kipehdi tohn ohpis pwukat koaros ni uwe pahrek ehu ong emen tohn ohpis pwukat.

Iretikitik 9. Kalohkdahn Ahsnou Apwal Laud Karuaru kan. —

(1) Kepina kak en kalohkihda me mie kahpwal karuaru de apwal laud ieu, oh koasoanehdi ireh kan me konehng wiawi pwehn kolokol meleilei en weipokon, roson mwahu de doarepen weipokon ni ahsnou apwal laud oh uk mehleh me pwaradahsang pingiping en wehi, soumwahu keper me kin pwarada ni ahsnou kan nan wasah kan, engiengin sahpw, sehd de lahng, de keper karuaru en mahwin.

(2) Kalohkdahn apwal laud karuaru ieu kak en tiesemwe pwuhng en aramas ongete nan irair en ahsnou pwehn kolokol meleilei en weipokon, roson mwahu, oh doarepen weipokon. Kalohkdahn ahsnou apwal laud karuaru ieu kak en ale petehk keneinei sang Mwoalen Kopwung.

(3) Pwihn en Kou Kosonned kak wekidala de kihsang menen kalohk en ahsnou apwal laud karuaru ehu ni ahsnou sohte lipilipil sang ni wiepen pekpek. Pwihn en Kou Kosonned pahn tiepene nan irair en rahn silihsek pwe en tehk kalohk en ahsnou apwal laud karuaru wet. Ma kalohk en ahsnou apwal laud karuaru wet pein kasorehla mene, mene kasohrasang de kereireila sang Pwihn en Kou Kosonned, kalohk en ahsnou apwal laud karuaru ehu pahn reireiki rahn silihsek.

IRE LAUD 14 GOVERNMENT EN WEHI KAN OH TOWN

Iretikitik 1. Government en Wehi kan oh Town. — Government kan me poahsoanehda Government en Weipokon en Pohnpei, ni ahsnou me Poahsoan en Kosonned wet manamanla [*Nopempe 8, 1984*] iei Wein Kapingamarangi, Wein Kitti, Kolonia Town, Wein Madolenihmw, Wein Mwokil, Wein Net, Wein Ngetik, Wein Nukuoro, Wein Pingelap, Wein Sokehs, oh Wein Uh.

Iretikitik 2. Poahsoan en Kosonned en Wehi kan oh Town. — Ehu ehu government pwukat kak pein kauada ah Poahsoan en Kosonned. Soangen Poahsoan en Kosonned pwukat sohte pahn uh Wong Poahsoan en Kosonned wet oh kosonned akan en Weipokon en Pohnpei me wie manaman ahsnou me Poahsoan en Kosonned wet manaman [*Nopempe 8, 1984*] oh kak koasoanehdi pwukoahn lapalap en tiahk kan nan government.

Iretikitik 3. Manaman en Government en Wehi kan oh Town. — Government pwukat kak doadoahki manaman koaros me sohte irairdi nan Poahsoan en Kosonned wet, oh kosonned akan en Weipokon en Pohnpei.

Iretikitik 4. Irepen Government Pwukat. —

(1) Poahsoan en Kosonned wet sohte wekidala irepen ehu ehu government pwukat.

(2) Government pwukat sohte kak pwalpeseng de kapatpene.

Iretikitik 5. Wasah Kan me Sohte mi pahn Government Pwukat. — Wasah kan me mi pahn manaman en Weipokon en Pohnpei ahpw mi likin irepen government pwukat pahn mi pahn epwelpen Government en Weipokon en Pohnpei lau lel ahsnou ieu, me sang ni kosonned me Pwihn en Kou Kosonned kauada, re wiahla kisehn ehu government pwukat ni eh alehdi utuht oh kamanaman en governmento de lau lel ni ahr pahn kokouda oh wiahla ehu government tohrohr, oh ahneki soangen pwuhng duehtehte government pwukat.

IRE LAUD 15 WIEPEN WEKDEKLA ONG POAHSOAN EN KOSONNED WET

Iretikitik 1. Kamwomwadahn Wekdekla sang Pwihn en Kou Kosonned. — Pwihn en Kou Kosonned kak kamwomwehda wekdekla ieu ong Poahsoan en Kosonned wet. Soangen kamwomwadahn wekdekla wet pahn anahne kamanaman en usuhs “ei” en pahkis siluh en towe kan koaros en Pwihn en Kou Kosonned ni soh pohnese sehr tehnda kan. E pahn pekederlahng Kepina pwehn tehk, ni mwomwen wiepe me koasoandi nan Poahsoan en Kosonned wet ong kamwomwadahn kosonned akan. Ma Kepina kamana, e pahn kolahng aramas akan pwe ren usuhski. Ma Kepina sohte kamana kamwomwadahn wekdekla, e pahn kapwurelahng Pwihn en Kou Kosonned ni mwomw oh wiepe me koasoandi nan Poahsoan en Kosonned wet ong kopwurpwurlahn kosonned akan me sohte kamanaman. Pwihn en Kou Kosonned pahn pwurehng tehksapalih kamwomwadau. Ma Pwihn en Kou Kosonned pwurehng kamana kamwomwadahn wekdekla sang ni usuhs “ei” en pahkis siluh en towe kan koaros ni soh pohnese sehr tehnda kan ni wiepe me koasoandi nan Poahsoan en Kosonned wet ong kamwomwadahn kosonned akan me Kepina sohte kamana, ah kamwomwadahn wekdekla kakehr kolahng aramas akan pwe ren usuhski.

Iretikitik 2. Kamwomwadahn Wekdekla Sang Aramas. — Wekdekla ieu ong Poahsoan en Kosonned wet kak kamwomwada ni pekpek ehu eh pahn pekederieng Kepina ni inting, me pahn kasalehda ni dehde oh unsek iren wekdeklaoh oh kolokol sain en sohte tikitiksang silikis ehu en aramas me mwararail kilikilel nan pwuken usuhs. Kepina pahn tehk pekpek wet oh, nan irair en rahn duweisek mwurin eh pekederieng, e pahn kadehdehda ma e kolokol uen totohn sain en aramas en usuhs me anahn. Mwurin kadehdehpen me iei pekpeko kolokol uen totohn sain en aramas en usuhs me anahn, kamwomwadau kakehr kolahng aramas akan pwe ren usuhski.

Iretikitik 3. Ire nan Kamwomwadahn Wekdekla. — Kamwomwadahn wekdekla ieu, me sang rehn Pwihn en Kou Kosonned de pekpek ehu sang aramas akan pahn pid irehtehieu.

Iretikitik 4. Kamanaman en Kamwomwadahn Wekdekla. —

(1) Kamwomwadahn wekdeklaoh pahn kolahng aramas akan pwe ren kamana de sohte kamana nan usuhs, sohte lipilipil ma usuhs lap de usuhs tohrohr ehu, me pahn wiawi sohte mwotomwotasang rahn duweisek de sohte reireisang rahn ipwiki welihsek mwurin kamwomwadahn wekdeklaoh eh pahn koasoandier oh usuhspe kakehr en wiawi.

(2) Kamwomwadahn wekdekla ieu pahn manamanla ma e alehdi usuhs sohte tikitiksang silikis riau en me usuhski kamwomwadahn wekdeklaoh oh sohte tikitiksang per cent limeisek en soun usuhs me kilikilel nan pwuken usuhs me re kak iang usuhs en Weipokon en Pohnpei ni ahnsou me usuhs wiawi.

Iretikitik 5. Alahldahn Kamwomwada en Wekdekla. — Pwihn en Kou Kosonned pahn kauada kosonned me pahn koasoanehdi wiepen alahldahn kamwomwadahn wekdeklaoh kan oh wiepe teikan ong ni kemwekid pen Ire Laud wet.

Mehn ketemen: 1. Poahsoan en Kosonned en Pohnpei kamanamanlahr sang Pwihn en Kou Poahsoan ni mahs 5, 1984. 2. Ni September 24, 1984, usuhs en repen kupwur ohng koupoasoan en Wein Pohnpei wiawier. 3. Ni Oktobre 9, 1984, Kepina kalohkidahr me Poahsoan en Kosonned en Pohnpei kamanamanlahr. 4. Poahsoan en Kosonned wet tepida manaman ni Nopembe 8, 1984, rahn silisek mwurin en Kepina ah kalohk.

Mwomwen doadoahk wet eh tepida oh imwsekla nan pali en kou kosonned: 1. Kosonned en Pohnpei S.L. No. 2L-131-82 me kamanamanlahr ni Sulai 9, 1982, kauadahr Pwihn en Kou Poahsoan en Pohnpei oh kieng irail manaman, pwukoa, doadoahk oh pil mweidada doadoahk lahn mwohni.

2. Kosonned kei me iangahki S.L. No. 2L-137-82, 10/1/82, S.L. No. 2L-159-82, 12/10/82, S.L. No. 2L-180-83, 7/1/83, S.L. No. 2L-195-83, 9/13/83, S.L. No. 2L-213-83, 11/2/83, S.L. No. 3L-17-84, 7/9/84, and S.L. No. 3L-32-84, 9/5/84 apw wekidalahr kosonned S.L. No. 2L-131-82. 3. Kosonned en Pohnpei S.L. No. 2L-214-83, 10/1/83 mweidadahr doadoahk lahn mwohni. 4. Kosonned en Pohnpei S.L. No. 3L-18-84, 7/9/84 kauada koamidi me pahn intingihada kanengen Poahsoan en Kosonned wet me pid kasukuhl. 5. Kosonned en Pohnpei S.L. No. 3L-33-84, 9/10/84 koasoanehdi wiepen repen kupwur, mwomwen eh pahn wiawi oh dahme pahn wiawi nan erein kiewekla en kosonned sang mahs ong me kapw.

CONSTITUTION OF THE STATE OF POHNPEI

B

(In English)

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Preamble

WE, THE PEOPLE OF POHNPEI, in whom Almighty God has bestowed sovereignty over this sea, the air space, and the islands within, do now by His grace establish this Constitution.

Through the exercise of our sovereign right of self-determination, we accept without hesitation the challenge and responsibility to serve as the guardians of our people and islands, both now and in the future; to protect and uphold the inalienable rights of our people; to protect and maintain the heritage and traditions of each of our islands; and to protect and promote the harmony and prosperity of all the people of Pohnpei.

We acknowledge the strength that comes from the union of our individual cultural pasts; we are united by a common sea; and we freely express our desire to live and work together in peace and harmony for the common good of the people of Pohnpei and all mankind.

With this Constitution, we proclaim and reaffirm the sovereignty of Pohnpei.

Article 1 Territory and Jurisdiction

Section 1. Territory. — The territory of Pohnpei comprises the islands and reefs of Pohnpei, a marine space of two hundred nautical miles measured outward from appropriate baselines, the sea bed, subsoil, water column, insular and continental shelves, and any other territory and waters belonging to any island of Pohnpei by historical right, custom, or legal title.

Section 2. Jurisdiction. — Unless limited by obligations assumed by Pohnpei, or by its unilateral act, the waters connecting the islands and reefs of Pohnpei are internal waters, regardless of dimension, and the jurisdiction of Pohnpei extends to the entire territory of Pohnpei including its marine space, the seabed, subsoil, water column, insular and continental shelves, and the airspace over lands and waters.

Section 3. New Territory. — New territory may be added to Pohnpei in accordance with statute, which may provide for the local government therefore if appropriate. Such statute shall require approval by the voters of Pohnpei in a referendum in which approval is given by the majority of the registered voters of Pohnpei, or such greater number of votes as may be specified in the statute proposing such addition.

Article 2 Supremacy

This Constitution is the supreme law of Pohnpei. An act of government in conflict with this Constitution is invalid to the extent of conflict.

Article 3 Citizenship

Section 1. Citizens and Pweldak on the Effective Date of this Constitution. —

(1) A person who is a legal resident of Pohnpei is a citizen and pweldak of Pohnpei if either of his parents at the time of his birth was a citizen and pweldak of Pohnpei.

(2) A person who was a citizen or pweldak of the local governments in Pohnpei immediately prior to the effective date of this Constitution [*November 8, 1984*] is a citizen and pweldak of Pohnpei while a legal resident of Pohnpei.

Section 2. Citizens on the Effective Date of this Constitution. — A person who was a citizen or a legal resident of Pohnpei on the effective date of this Constitution [*November 8, 1984*] is a citizen of Pohnpei while a legal resident of Pohnpei.

Section 3. Naturalization. — The Legislature shall provide legislation for naturalization and loss of citizenship.

Section 4. Citizens of New Territory. — Citizens of newly acquired territory of Pohnpei shall become citizens of Pohnpei as provided by statute.

Article 4 Fundamental Rights

Section 1. Freedom of Speech. — No government action may deny or impair the right of every person to speak, write, and publish freely on any subject and the right to receive information on all subjects. A person may be held responsible for untruthful statements injuring other persons without privilege, and for statements creating a clear and immediate danger of unlawful conduct or substantial injury to the public.

Section 2. Freedom of Association and Petition. — The right of all people peaceably to assemble, to associate, to consult for their common interests, and to petition the government may not be abridged.

Section 3. Equal Rights. — No law or other government action may deny or impair the equal rights of all persons on account of gender, race, ancestry, national origin, religion, language, or social status. No person may be denied the equal protection of the law.

Section 4. Due Process of Law. — No person may be deprived of life, liberty, or property without due process of law. Private property may not be taken except for a public purpose with just compensation.

Section 5. Contract Rights. — No law may impair an existing contractual obligation, except for the protection of an essential public interest.

Section 6. Imprisonment for Debt. — No person may be imprisoned solely for failure to discharge a debt.

Section 7. Ex Post Facto and Attainder. — No person may be held criminally liable for an act that was not a legally recognized crime at the time of its commission. An increased penalty for a criminal act shall not apply to an act committed before the increase. No person may be found guilty of a crime or be punished for a crime except by a court of law.

Section 8. Searches and Seizures. —

(1) The right of all people to be secure in their persons, houses, papers, and property against unreasonable searches and seizures may not be violated.

(2) No warrant may be issued except upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

Section 9. Rights of the Accused. —

(1) In all criminal prosecutions the accused shall be presumed innocent until proven guilty beyond a reasonable doubt.

(2) The accused shall be promptly informed of the nature and cause of the accusation; he shall have the right to counsel; he shall have the right to a speedy, public, and impartial trial; he shall have the right to be confronted with the witnesses against him and to examine them fully; he shall have the right to compel the obtaining of evidence and the attendance of witnesses in his favor; and he shall not be compelled to testify against himself.

(3) No person may be put in jeopardy more than once for a single offense.

(4) Excessive bail may not be required, nor excessive fines imposed.

(5) Cruel or unusual punishment may not be inflicted.

Section 10. Habeas Corpus. — The privilege of the writ of habeas corpus shall not be suspended except in accordance with law when the public safety requires during insurrection, rebellion, or invasion.

Section 11. Death Penalty. — No crime may be punished by death.

Section 12. Slavery and Involuntary Servitude. — Slavery is prohibited. Involuntary servitude is prohibited except to punish crime after conviction in accordance with law.

Section 13. Freedom of Movement. — Subject only to the requirements of public health, order, and safety, all persons have freedom of travel and movement.

Section 14. Military Action. —

(1) In time of peace, no soldier may be quartered in any house without the consent of the owner and occupants, nor in time of war except in a manner prescribed by statute.

(2) Just compensation shall be provided for the use, taking, or destruction of the property of the people, and for personal injury and death arising from military action. Such compensation shall be the responsibility of the military force causing such damages.

**Article 5
Tradition**

Section 1. Customs and Traditions. — This Constitution upholds, respects, and protects the customs and traditions of the traditional kingdoms in Pohnpei.

Section 2. Protection of Customs and Traditions. — The Government of Pohnpei shall respect and protect the customs and traditions of Pohnpei. Statutes may be enacted to uphold customs or traditions. If such a statute is challenged as violating the rights guaranteed by this Constitution, it shall be upheld upon proof of the existence and regular practice of the custom or tradition and the reasonableness of the means established for its protection, as determined by the Pohnpei Supreme Court.

Section 3. Family Obligations. —

(1) To strengthen and retain good family relations in Pohnpei, as needed, this Constitution recognizes and protects the responsibility and authority of parents over their children.

(2) This Constitution also acknowledges the duties and rights of children in regard to respect and good family relations as needed.

**Article 6
Suffrage and Elections**

Section 1. Suffrage. — A citizen of Pohnpei who, at the time of elections, has attained the age of eighteen years and has not committed a felony for which he is on parole or probation or under a sentence shall be qualified to vote. Other qualifications may be prescribed by statute.

Section 2. Right to Vote and Hold Office. — No property qualification, tax, or fee may be imposed on the right to vote or to hold office.

Section 3. Conduct of Elections. — The Legislature shall, by statute, provide for voter registration and the conduct of elections. Voting shall be by secret ballot.

Section 4. Time of Elections. —

(1) General elections for the Governor, the Lieutenant Governor, and the Legislature shall be held simultaneously every four years, on the second Tuesday in November.

(2) Special elections shall be held as provided by statute.

(3) Runoff elections required by law shall be held twenty-eight days after the date of the election which resulted in the requirement for runoff.

(4) If a state of emergency declared by the Governor in accordance with the Constitution prevents the holding of an election when scheduled, the election shall be held not later than thirty

days after the emergency ends. Unless otherwise provided by statute, after postponement of an election due to a declared state of emergency, the new election date shall be proclaimed by the Governor.

Section 5. Initiative and Referendum. — The Legislature shall provide by statute for enactment of laws by initiative petition requiring signature of not more than thirty-five percent of the qualified voters of Pohnpei, and for referendum requiring not more than sixty percent of the votes cast for approval of a proposal.

Article 7

Responsibilities of the Government of Pohnpei

Section 1. Resources and Environment. — The Government of Pohnpei shall establish and faithfully execute comprehensive plans for the conservation of natural resources and the protection of the environment.

Section 2. Development. — The Government of Pohnpei shall promote economic development and shall establish and faithfully execute a development plan for Pohnpei.

Section 3. Education. —

(1) The Government of Pohnpei shall provide educational services for the public. Compulsory education through a grade to be set by statute shall be enforced by law. Public education of citizens of Pohnpei through a grade as prescribed by statute shall be free of fees. Any fees imposed for public education shall be limited to the ability to pay.

(2) The Government of Pohnpei shall provide for the regulation of educational services. All public and private educational institutions shall comply with minimum standards of educational achievement which shall be established by the Government of Pohnpei.

(3) The Government of Pohnpei shall establish and faithfully execute comprehensive plans for the continual improvement of educational standards and services.

(4) The Government of Pohnpei shall establish and maintain a library, museum, and archives.

Section 4. Health Services. —

(1) The Government of Pohnpei shall provide health care services for the public.

(2) The Government of Pohnpei shall establish and faithfully execute comprehensive plans for the continual improvement in health care services.

(3) The Government of Pohnpei shall provide for the regulation of health care services.

Section 5. History and Culture. — The Government of Pohnpei shall establish and faithfully execute comprehensive plans for the identification, preservation, and administration, for the benefit of the public, of places, artifacts, and information of historical and cultural importance.

Section 6. Public Safety. —

(1) The Government of Pohnpei shall establish and faithfully execute comprehensive plans for continual improvement in the protection of the safety and security of persons and property.

(2) There shall be a Pohnpei Government agency responsible for maintaining peace and order in times of crisis and natural disaster.

Section 7. Delegation of Administration. — The Government of Pohnpei may delegate to the local government the authority to administer services described in this Article, provided that the Government of Pohnpei retains responsibility for policy and proper administration.

Section 8. Skill Development. — The Pohnpei Government shall have the responsibility to promote the development and evaluation of the skills of workers, as provided by law.

Article 8 Legislative

Section 1. Legislative Power. — The legislative power of the people of Pohnpei is vested in the Pohnpei Legislature as prescribed by this Constitution. The legislative power extends to all rightful subjects of legislation not inconsistent with this Constitution.

Section 2. Apportionment. — Each local jurisdiction shall constitute an electoral district for the Legislature. The number of members of the Legislature shall be established by law at the time of reapportionment. Reapportionment shall take place at least every ten years and may take place after each official census. Apportionment shall be on the basis of local citizenship. Each local government shall be represented by at least one member.

Section 3. Terms of Office. — Except for members chosen to fill vacancies the terms of the members shall commence on the second Monday in January following their election.

Section 4. Qualifications. — No person is eligible to serve as a member of the Legislature unless he is at least twenty-five years of age at the time his term of office commences; he has been a citizen of a local government of Pohnpei for at least twenty-five years at the time his term of office commences; and he has been a citizen of the local government that he represents for at least three years. A person convicted of a felony is ineligible to serve as a member of the Legislature unless he has received a pardon restoring his civil rights at least sixty days before he is elected. The Legislature shall be the sole judge of the qualifications of its members.

Section 5. Conflict of Interest. — No member of the Legislature may hold another public office in, be employed by, or receive other compensation or remuneration from any government, governmental instrumentality, or any organization whose income is derived principally from public moneys. A member of the Legislature may be a member of a constitutional convention.

Section 6. Taking New Office. — During the term for which he is elected or appointed, no member of the Legislature may be elected or appointed to any Pohnpei Government or local government office or employment which has been created or the compensation of which is established or increased by statute at any time during such term. As to the taking of a Pohnpei Government office, this prohibition shall not apply if the increase in compensation applies to all employees of the branch of government in which the office is located, and if the increase applies equally or in an equal proportion to all positions in the branch of government. This prohibition shall not apply to membership in a constitutional convention, or to taking an office whose compensation is otherwise increased if the member of the Legislature does not receive the increase in compensation.

Section 7. Immunities. — Members of the Legislature shall in all cases, except felony or breach of the peace, be privileged from arrest during and while going to or returning from sessions or

committee meetings of the Legislature. A member is responsible only to the Legislature for his statements in the Legislature or a committee thereof.

Section 8. Proceedings. — The Legislature shall keep and publish a journal. All proceedings of the Legislature and its committees shall be open to the public, unless the Legislature or committee determines by unanimous vote that the public interest requires the proceeding to be closed. No vote of the Legislature may be by secret ballot, except for the election of its officers and confirmation of officials.

Section 9. Investigations. — As incidents of its authority, the Legislature and its duly authorized committees may conduct investigations, hold public hearings, subpoena witnesses and documents, and administer oaths. The rules of the Legislature shall provide for the enforcement of the contempt power and other incidents of legislative authority.

Section 10. Sessions. —

(1) The Legislature shall convene in regular session on the second Monday of January each year, or as soon thereafter as is practical, for such period and at such other times as may be provided by law.

(2) A special session of the Legislature may be convened either by the presiding officer of the Legislature upon a petition of one-third of its members, without regard to vacancies, or by the Governor. When the Legislature is convened by the Governor, the Legislature shall only consider the subjects stated in the convening call.

Section 11. Quorum. — Three-fourths of the members of the Legislature, without regard to vacancies, shall constitute a quorum. A smaller number than a quorum may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the Legislature may provide, including suspension of salaries and allowances.

Section 12. Bills and Resolutions. —

(1) No law may be enacted except by bill. Each bill shall embrace only one subject, which shall be expressed in its title. A provision outside the subject expressed in the title is void.

(2) Each section of a law to be amended shall be set forth in the amending bill and reenacted at full length.

(3) The enacting clause of a bill shall be: “BE IT ENACTED BY THE POHNPEI LEGISLATURE:”.

(4) To become law, a bill shall pass two readings on separate days. The first reading may be on the day of introduction. Passage on second reading shall require the affirmative vote on roll call of a majority of the members of the Legislature, without regard to vacancies.

(5) A resolution shall be introduced as a proposal for a resolution and may be adopted on the day that it is introduced. It shall be adopted upon the affirmative vote of a majority of the members of the Legislature, without regard to vacancies.

Section 13. Action on Bills by the Governor. —

(1) Every bill that has passed the Legislature shall be certified by the presiding officer and the Clerk and presented to the Governor.

(2) The Governor shall have ten days to consider bills presented to him ten or more days before a recess of at least a week’s duration or before adjournment of the Legislature. For all other bills he has thirty calendar days after they are presented to him.

(3) If the Governor approves the bill, he shall sign it, and it becomes law.

(4) If the Governor does not approve the bill, he shall return it with his objections to the presiding officer of the Legislature. The Governor may disapprove any specific item or items of appropriation, in any bill that appropriates money for specific purposes, by striking out or reducing such item or items, but he may disapprove other bills only in their entirety.

(5) Any bill neither signed nor returned by the time specified shall become law as if the Governor had signed it.

Section 14. Action by the Legislature on Disapproved Matters. —

(1) After the Legislature has received a message of disapproval, the bill, item, or items disapproved shall become law on a single reading upon the affirmative vote of two-thirds of the members of the Legislature, without regard to vacancies.

(2) If the Legislature receives a message of disapproval within the last ten days of a session or after the adjournment of a session, the Legislature may reconsider the disapproved bill, item, or items, at the next session without regard to any limitations on the call.

Section 15. Confirmation of Appointments. — The confirmation of all appointments by the Governor of officers of the Government of Pohnpei shall require the affirmative vote of a majority of the members of the Legislature, without regard to vacancies.

Section 16. Initial Apportionment of the Legislature. — Until reapportionment, the members of the Legislature shall be apportioned among the local governments as follows: Kapingamarangi, one; Mwokil, one; Ngetik, one; Nukuoro, one; Pingelap, one; Kolonia Town, two; Net, two; Uh, two; Kitti, four; Madolenihmw, four; and Sokehs, four. The first reapportionment shall be made within ten years of the effective date of this Constitution [*effective date is November 8, 1984*] and shall apply to subsequent general elections.

Article 9 Executive

Section 1. Governor: Executive Power. — The executive power of the Government of Pohnpei is vested in the Governor who shall be elected by the qualified voters of Pohnpei.

Section 2. Lieutenant Governor. — There shall be a Lieutenant Governor. The Lieutenant Governor shall perform the duties delegated to him by the Governor and such other duties as may be prescribed by statute.

Section 3. Qualifications. —

(1) No person is eligible to become Governor or Lieutenant Governor unless he is a citizen of Pohnpei by birth; he is at least thirty-five years of age; and he has never been convicted of a felony.

(2) No person may serve more than two full consecutive terms as Governor, except that a person who serves as Governor less than two years during a term to which another person was first elected, may serve two full consecutive terms thereafter.

Section 4. Election. — Nominations for the office of Governor or the office of Lieutenant Governor shall be by petitions signed by qualified voters as provided by statute. If no candidate receives a majority of the votes cast for the office of Governor or Lieutenant Governor, a run-off election shall be held between the two candidates for that office receiving the highest number of votes. Tied elections shall be resolved in the manner prescribed by statute.

Section 5. Terms of Office. — The terms of office of the Governor and the Lieutenant Governor shall be four years and shall begin at noon on the second Monday in January following their election, and they shall hold office until the qualification of their successors.

Section 6. Vacancy and Incapacity. —

(1) The Lieutenant Governor shall become Governor when the office of Governor is vacant.

(2) The Lieutenant Governor shall serve as the Acting Governor when the Governor is absent from Pohnpei or is incapacitated. The Legislature shall provide by statute for the determination of incapacity.

(3) Statute shall provide for the filling of the vacancy when the office of the Lieutenant Governor is vacant.

Section 7. Faithful Execution of Laws. — The Governor is responsible for the faithful execution of the provisions of this Constitution and of all laws of Pohnpei.

Section 8. Powers Over Criminal Penalties. — The Governor may grant reprieves, commutations, and pardons after conviction of offenses other than impeachment, subject to regulation by statute.

Section 9. Reports. — The Governor shall report to the Legislature at the beginning of each regular session in January on the condition of Pohnpei, and he may do so at other times. He may recommend legislative measures for the consideration of the Legislature.

Section 10. Executive Officers. — Members of all policy-making boards, the chief officers of all executive departments and agencies, and such other executive officers as may be provided by law, shall be appointed by the Governor with the approval of the Legislature by affirmative vote of the majority of the members, without regard to vacancies. The chief officers of the executive departments and other executive agencies shall serve at the pleasure of the Governor. Such officers may be removed by the Governor or be impeached in accordance with Article 13, Section 6, of this Constitution.

Section 11. Executive Reorganization. — The executive branch, or any part thereof, may be reorganized by statute or by executive reorganization plan. Executive reorganization plans shall be presented by the Governor to the Legislature. The Legislature may reject an executive reorganization plan or any portion of it by resolution within thirty session days after its presentation. If the Legislature is not in session at the time of presentation, the Governor shall call a special session to consider the plan.

Article 10 Judiciary

Section 1. Judicial Power. — The judicial power of Pohnpei is vested in the Pohnpei Supreme Court, and in such inferior courts as may be established by law.

Section 2. Inferior Courts and Adjudicatory Bodies. — Inferior courts and adjudicatory bodies may be established by statute. They shall have such original jurisdiction, concurrent with the Pohnpei Supreme Court, as may be established by statute. All judges and members of adjudicatory bodies shall be nominated by the Governor with approval by affirmative vote of a majority of the members of the Legislature, without regard to vacancies.

Section 3. Pohnpei Supreme Court: Membership. —

(1) The Pohnpei Supreme Court shall consist of a Chief Justice and not more than four associate justices who shall be nominated by the Governor with the approval by affirmative vote of a majority of the members of the Legislature, without regard to vacancies.

(2) The Legislature shall provide by statute for the service of temporary justices. Their nominations shall also be subject to the approval of the Legislature in the same manner as the other justices.

Section 4. Pohnpei Supreme Court: Jurisdiction. —

(1) The Pohnpei Supreme Court is a court of record and is the highest court of Pohnpei.

(2) The trial division of the Pohnpei Supreme Court has original jurisdiction over all civil and criminal cases within the jurisdiction of Pohnpei and appellate jurisdiction over the decisions of all inferior courts and adjudicatory bodies.

(3) The appellate division of the Pohnpei Supreme Court has appellate jurisdiction over all matters in the trial division.

(4) The right to a new trial and to appeal decisions of inferior courts and adjudicatory bodies to the Pohnpei Supreme Court shall be preserved.

(5) No appeal on any matter relating to the Constitution, Pohnpei law, customs and traditions may be made to any other court, except the Pohnpei Supreme Court.

Section 5. Pohnpei Supreme Court: Divisions. —

(1) Unless otherwise provided by law, each Pohnpei Supreme Court justice shall be a member of the trial division and the appellate division of the Pohnpei Supreme Court. A justice who has heard a case in the trial division may not participate in the decision of the case in the appellate division.

(2) A single justice may hear a case in the trial division. No fewer than three justices shall hear and decide cases in the appellate division. A single justice may make interlocutory appellate orders, subject to review by a full appellate panel of justices hearing the appeal.

Section 6. Pohnpei Supreme Court: Qualifications. — No person is eligible to serve as a justice of the Pohnpei Supreme Court unless he is at least thirty-five years of age. A person convicted of a felony is ineligible to serve.

Section 7. Pohnpei Supreme Court: Term. — A justice of the Pohnpei Supreme Court shall serve for a term of twelve years provided that he may continue to serve until a successor who has been nominated is confirmed. A justice may be reappointed.

Section 8. Compensation. — Compensation of all justices, judges, and members of adjudicatory bodies shall be prescribed by law. Compensation may not be diminished during their terms of office, except by general law and in the same proportion applying to all officers and employees of the Government of Pohnpei.

Section 9. Administration. — The Chief Justice is the administrative head of the judicial system of Pohnpei. The administration of the Pohnpei judicial system, including personnel, property, finance, and budget matters, is independent of the legislative and executive branches of the Government of Pohnpei. The Chief Justice shall be responsible for preparation of the annual budget of the Judiciary, which shall be submitted to the Legislature through the Governor. The Governor may submit his comments on the Judiciary budget, but he may not revise it or reduce it.

Section 10. Rules. — The Pohnpei Supreme Court shall have the authority to promulgate or to amend its rules of procedure and rules of conduct of the Judiciary and its employees, and rules governing the property of the Judiciary. Such rules shall have the effect of law, and may be amended by statute.

Section 11. Judicial Policy. — The decisions of all courts and adjudicatory bodies shall be consistent with this Constitution and the concepts of justice of the people of Pohnpei.

Article 11 Public Finance

Section 1. Taxation Power. — The Government of Pohnpei shall have the authority to levy any tax and fee not prohibited under this Constitution.

Section 2. Local Government Taxes. — Local governments may levy a surtax on a tax levied by the Government of Pohnpei. The surtax levied by the local governments shall not exceed twenty percent of the tax set by the Legislature, unless expressly authorized by statute. The Legislature may authorize the local governments to impose other taxes under such conditions as may be prescribed by statute. Local governments have the sole authority to levy business license fees.

Section 3. Revenue Sharing. — Not less than thirty percent of all taxes received by the Government of Pohnpei from sources within Pohnpei shall be appropriated to local governments for development projects and operations identified in local plans. Local plans shall be adopted by statute only after extensive public hearings in the respective local jurisdictions. Such funds shall be apportioned by population on the basis of local citizenship.

Section 4. Taxation of Government Property. — Property of the Government of Pohnpei and property of the local governments shall not be taxed.

Section 5. Taxation and Appropriation for Public Purposes. — No tax may be levied or money appropriated except for public purposes.

Section 6. Pohnpei Treasury. — The Legislature shall provide by statute for the organization of the Pohnpei Treasury. The Pohnpei Treasury shall contain a General Fund and special funds established by law. All revenues of the Government of Pohnpei shall be deposited into the General Fund or a special fund, as provided by law.

Section 7. Obligation of Funds. — The obligation for the payment of money and the withdrawal of money from the Pohnpei Treasury may only be made in accordance with law.

Section 8. Auditor. —

(1) There shall be an Auditor appointed by the Governor with the approval of the Legislature by affirmative vote of the majority of the members, without regard to vacancies, to serve for a term of four years and until his successor is appointed and confirmed. Within thirty days before the end of each four-year term, the Auditor may be removed by affirmative vote of two-thirds of the members of the Legislature, without regard to vacancies.

(2) The Auditor shall be responsible for conducting audits of all financial transactions and of all accounts kept by or for all departments, offices, agencies, and instrumentalities of the Government of

Pohnpei and of the local governments. All such accounts shall be audited at least once every two years. All financial statements issued by Government accounting officers shall require the certification of their accuracy by the Auditor.

(3) The Auditor shall annually report his findings and recommendations to the Governor and the Legislature. The Auditor shall make such additional reports and provide such additional information as he may deem appropriate and as the Legislature may require by law.

(4) The Auditor shall require the establishment of accounting systems that will ensure strict financial accountability.

(5) The Auditor may employ his own staff and may contract for professional accounting services and other services that he may deem necessary.

(6) The Auditor shall annually prepare the budget which shall be submitted to the Legislature through the Governor. The Governor may submit his comments, but he may not revise or reduce it.

Section 9. Fiscal Reports. — Within the time prescribed by statute, the Governor shall annually submit to the Legislature a report identifying the revenues and funds anticipated to be available to the Government of Pohnpei for the forthcoming fiscal year, as well as such other fiscal information as the Legislature may require by law.

Section 10. Budget Submission. — The Governor shall prepare a budget for the forthcoming fiscal year for the operations of all Pohnpei Government agencies, except the Auditor, and the legislative and judicial branches, and for other purposes. The Governor shall submit the budget to the Legislature within the time prescribed by statute. The Governor shall also receive and may comment on the budget of the Auditor, the Legislature, and the Judiciary, which he shall promptly submit to the Legislature. Budgets shall be in such form and shall provide such information as may be required by law.

Section 11. Budget Act. —

(1) After receiving the report of anticipated revenues and other funds, and after receiving the budget of all Pohnpei Government agencies, and taking into account the requirements for funding capital improvements, development projects, and assistance to local governments, the Legislature shall enact a comprehensive operations budget authorization law for the forthcoming fiscal year. Such law may subsequently be amended.

(2) Except as required by a state of emergency declared by the Governor in accordance with this Constitution, no appropriation for operations of any government agency may be made except in accordance with the comprehensive operations budget authorization law.

Section 12. Control of Expenditures. — Provision shall be made by law to control the rate of expenditures, when funds appear insufficient to meet anticipated expenditures for the fiscal year.

Section 13. Public Credit. — The Government of Pohnpei may not borrow money on public credit except as authorized by statute for economic development and the construction and major repair of public facilities. Every statute authorizing the borrowing of money on the public credit shall identify the source of adequate funds which shall be dedicated to the repayment of such obligations.

Article 12

Land

Section 1. Limitation of Leaseholds. — No lease of land, except from the Government or as provided in Section 4 of this Article, may exceed twenty-five years. The right for option to renew and other protections shall be provided by statute.

Section 2. Acquisition of Permanent Interest in Real Property. — The acquisition of permanent interest in real property shall be restricted to Pohnpeian citizens who are also pwilidak of Pohnpei, as specified under Article 3 of this Constitution.

Section 3. Indefinite Land-Use Agreements. — An agreement that grants the user of land the unilateral authority to continue use for an indefinite term is prohibited.

Section 4. Land Legislation. — The Legislature may provide, by appropriate legislation procedures to permit leases and other uses of land in excess of the limits prescribed in Section 1 of this Article.

Section 5. Land Sales. — No land shall be sold, except as authorized by statute.

Section 6. Acquisition of Land for Public Purposes. — The power to take interests in land may be exercised by the Government of Pohnpei for public purposes. No taking shall occur until after consultation with the local government concerned, good-faith negotiation with the owners of such interests, which shall include the offer to exchange the land for land of comparable value, or a payment of just compensation.

Section 7. Land Offices and Adjudicatory Bodies. — To the extent that it is practical, all administrative functions relating to land shall be under a single office.

Article 13

General Provisions

Section 1. Official Languages. — The official languages of the Pohnpei Government shall be the Pohnpei language and the English language.

Section 2. Harmful Substances. —

(1) Nuclear, chemical, gas, and biological weapons, nuclear power plants, and waste materials therefrom, including high-level and low-level radioactive waste, shall not be introduced, stored, used, tested, or disposed of within any part of the jurisdiction of Pohnpei, except if such action is specifically and expressly permitted by a majority of votes cast in a referendum by the people of Pohnpei.

(2) The Legislature shall provide by statute for the strict control of harmful substances not listed under Subsection 1 of this Section, limiting their introduction, storage, use, and disposal within the jurisdiction of Pohnpei to activities necessary for the enhancement of public health, public safety, and economic development.

Section 3. Capital of Pohnpei. — The capital of Pohnpei shall be established by statute. The properties used by the Government of Pohnpei shall be under the jurisdiction of the Government of Pohnpei.

Section 4. Government Property. — Government property may not be transferred to private use or disposed of except pursuant to procedures established by law.

Section 5. Ethical Conduct. — The Legislature shall enact a code of ethical conduct for officials and employees of the Government of Pohnpei and shall prescribe administrative and criminal penalties for violation of the code.

Section 6. Impeachment. —

(1) The Governor, Lieutenant Governor, Auditor, members of the Legislature, justices or judges of any Court, and all appointed officials of the Government of Pohnpei may be impeached, but only for misconduct in office, neglect of duty, incapacity, or conviction of an offense of moral turpitude.

(2) Upon the adoption of a resolution of impeachment by three-fourths of the members of the Legislature, without regard to vacancies, a notice of impeachment shall forthwith be served upon the official by the Legislature.

(3) Upon service of the notice of impeachment, the official shall be suspended from his duties, but with pay, pending judgment.

(4) A tribunal composed of three Justices of the Pohnpei Supreme Court shall be convened by the Chief Justice, or by the Governor in the event of impeachment of the Chief Justice. The tribunal shall appoint a special prosecutor with the approval of a majority of the members of the Legislature, without regard to vacancies. A conviction of impeachment shall require the vote of two-thirds of the members of the tribunal.

(5) Judgment in cases of impeachment shall not extend beyond removal from office; but a person so convicted may nevertheless be subject to indictment, trial, judgment, and punishment according to the law.

Section 7. Recall. —

(1) The Governor, Lieutenant Governor, and members of the Legislature may be removed from office by recall.

(2) To recall the Governor or Lieutenant Governor, a petition signed by thirty-five percent of the registered voters of Pohnpei must be submitted to the presiding officer of the Legislature, who shall forthwith appoint a Special Election Commissioner, to whom the voter registration lists of Pohnpei shall forthwith be presented. Within fifteen days, the Special Election Commissioner shall determine the validity of the petition. If the petition is valid, a recall election shall be held within thirty days of the determination of validity, on the date specified by the Special Election Commissioner. The official shall be recalled upon the affirmative vote of sixty percent of the registered voters of Pohnpei.

(3) To recall a member of the Legislature, a petition signed by thirty-five percent of the registered voters of the electoral district must be submitted to the Governor, who shall forthwith transmit the petition to the Election Commissioner. Within fifteen days, the Election Commissioner shall determine the validity of the petition. If the petition is valid, a recall election shall be held within thirty days of the determination of validity, on the date specified by the Election Commissioner. The member of the Legislature shall be recalled upon the affirmative vote of fifty-one percent of the registered voters of the electoral precinct he represents.

Section 8. Compensation of Government Officials. —

(1) The salaries and allowances for all elected and appointed officers shall be set by law.

(2) The salaries and allowances for all elected and appointed officers may be reapportioned every five years.

(3) The salaries and allowances for all elected and appointed officers may be reduced at any time, provided that such a decrease applies to all such officers in an equal amount.

Section 9. Declaration of Emergencies. —

(1) The Governor may declare a state of emergency and issue appropriate decrees, to preserve the public peace, health, or safety, at a time of extreme emergency caused by civil disturbance, epidemic, natural disaster, or immediate threat of war.

(2) A declaration of emergency may impair a civil right only to the extent actually necessary to preserve peace, health, or safety. A declaration of emergency may be subject to judicial review.

(3) The Legislature may amend or revoke a declaration of emergency at any time by resolution. Unless the declaration expires earlier, the Legislature shall convene within thirty days to consider the declaration of emergency. Unless a declaration expires earlier, is revoked, amended, or repealed, a declaration of emergency shall be in effect for thirty days.

Article 14 Local Governments

Section 1. Local Governments. — The local governments comprising the Pohnpei Government on the effective date of this Constitution [*November 8, 1984*] are Kapingamarangi, Kitti, Kolonia Town, Madolenihmw, Mwokil, Net, Ngetik, Nukuoro, Pingelap, Sokehs, and Uh.

Section 2. Constitutions of the Local Governments. — Each local government may establish its own constitution. Such constitution shall not be inconsistent with this Constitution or Pohnpei law, in effect on the effective date of this Constitution [*November 8, 1984*] and may provide a functional role for traditional leaders.

Section 3. Local Government Authority. — The local governments may exercise all authority not prohibited under this Constitution and Pohnpei law.

Section 4. Local Government Boundaries. —

(1) This Constitution does not change the boundaries of the local governments.

(2) No local government may be divided or consolidated.

Section 5. Areas Outside the Local Governments. — Areas within the jurisdiction of Pohnpei located outside the boundaries of the local governments shall be administered by the Government of Pohnpei until such time as, by statute, such areas are incorporated into existing local governments with the consent of the affected local governments or are established as separate local governments having the same rights as the other local governments.

Article 15 Amendment

Section 1. Proposal for Amendment by Legislature. — The Legislature may propose an amendment to this Constitution. Such proposed amendment shall require approval by affirmative vote of three-fourths of the members of the Legislature, without regard to vacancies. It shall be transmitted to the Governor for his consideration in the manner prescribed in this Constitution for consideration of bills. If the Governor approves the proposed amendment, it qualifies for ratification.

If the Governor disapproves the proposed amendment, he shall return it to the Legislature in the manner prescribed in this Constitution for the return of disapproved bills. The Legislature may reconsider the proposed amendment. If the Legislature again approves the proposed amendment by affirmative vote of three-fourths of the members, without regard to vacancies and in the manner prescribed in this Constitution, for disapproved bills, the proposed amendment qualifies for ratification.

Section 2. Proposal for Amendment by Petition. — An amendment to this Constitution may be proposed by presenting to the Governor a petition that sets forth the text of the proposed amendment and bears the signatures of at least one third of the registered voters of Pohnpei. The Governor shall have the petition examined and, within ninety days after presentation to him, he shall determine whether the petition has the requisite number of signatures of registered voters. Upon certification that the petition contains the requisite number of signatures, the proposed amendment qualifies for ratification.

Section 3. Subject of Proposed Amendment. — A proposed amendment, whether proposed by the Legislature or by initiative petition, shall include only one subject.

Section 4. Ratification of Proposed Amendment. —

(1) The proposed amendment shall be submitted for ratification at an election, whether general or special, held not less than ninety days nor more than one hundred eighty days after the proposed amendment qualifies.

(2) A proposed amendment shall take effect only if approved by not less than two-thirds of the vote cast on the amendment, and at least fifty percent of the registered voters of Pohnpei at the time of the election.

Section 5. Adoption of Amendment. — The Legislature shall provide procedures for the adoption of amendments and implementation of this Article.

Notes: 1. The Constitution of Pohnpei was adopted by the Constitutional Convention on March 5, 1984. 2. On September 24, 1984, a referendum on the draft Pohnpei Constitution was held. 3. On October 9, 1984, the Governor issued an official proclamation that the Pohnpei Constitution had been ratified. 4. The Constitution took effect on November 8, 1984, 30 days after proclamation by the Governor of the result.

Legislative history: 1. S.L. No. 2L-131-82, 7/9/82 created a constitutional convention for the state of Pohnpei, prescribing its powers, duties, and functions and authorizing appropriation. 2. S.L. No. 2L-131-82 was amended by S.L. No. 2L-137-82, 10/1/82, S.L. No. 2L-159-82, 12/10/82, S.L. No. 2L-180-83, 7/1/83, S.L. No. 2L-195-83, 9/13/83, S.L. No. 2L-213-83, 11/2/83, S.L. No. 3L-17-84, 7/9/84, and S.L. No. 3L-32-84, 9/5/84. 3. S.L. No. 2L-214-83, 10/1/83 authorizes funding. 4. S.L. No. 3L-18-84, 7/9/84 created a committee to draft an education component to the Constitution. 5. S.L. No. 3L-33-84, 9/10/84 prescribed the process of referendum, implementation, and transition.

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TITLE 1

GENERAL

TITLE 1 GENERAL

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CHAPTER 1 SOURCES OF LAW AND RULES OF CONSTRUCTION

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§1-101. Legislative intent of Code. —

(1) It is the intent of the Pohnpei Legislature that the Official Code of the State of Pohnpei, enacted pursuant to §1-102, shall be the official codification, revision, modernization, and re-enactment of the laws and statutory orders of the state of Pohnpei which are currently in force in the state and which have an application of a general and permanent nature.

(2) Consistent with Subsection (1) of this section, it is the intent of the Pohnpei Legislature through the enactment of this Code to resolve conflicts which exist in such laws and statutory orders and to repeal such laws and statutory orders that:

- (a) Are of Trust Territory or district origin and are no longer relevant or applicable to the constitutional government of this state or the principles of federalism embodied in the Constitution of the Federated States of Micronesia;
 - (b) Have become obsolete through the passage of time or for other causes;
 - (c) Have been declared unconstitutional or have otherwise been rendered legally invalid; or
 - (d) Have been superseded, directly or by implication, by the enactment of later laws.
- (3) Except as otherwise specifically provided in this Code, the enactment of the Code is not intended to alter the substantive law in existence on the effective date of this Code.

Source: S.L. No. 6L-79-06 §1-101, 11/1/06

Cross-reference: See [1 PC 1-103](#)

§1-102. Enactment of the Code as positive law. — The statutory portion of the codification of the laws of the state of Pohnpei, incorporated by reference as the document attached to the statute enacting the Code [*S.L. No. 6L-79-06*], is hereby enacted as the positive law of Pohnpei, which document is known and hereafter referred to as the “Official Code of the State of Pohnpei” and which shall have the full force and effect of statutory law.

Source: S.L. No. 6L-79-06 §1-102, 11/1/06

§1-103. Effective date of the Code. — The effective date of this Code shall be January 1, 2006; PROVIDED, HOWEVER, that the Code shall include the codified provisions of the codification statute [*S.L. No. 6L-79-06*].

Source: S.L. No. 6L-79-06 §1-103, 11/1/06

§1-104. Amendments, revisions, and replacements. — Subsequent versions of the Code shall include all amendments, revisions, and replacements thereof enacted by statute of the Pohnpei Legislature following the effective date of this Code.

Source: S.L. No. 6L-79-06 §1-104, 11/1/06

Cross-reference: See [1 PC 1-103](#)

§1-105. Authoritative version of Code; digital version and internet presentation. —

(1) The authoritative version of the Code shall be the printed version of the Code, and all amendments, revisions, and replacements thereof as enacted by the Pohnpei Legislature and on file in the Division of Legislative Counsel of the Pohnpei Legislature as provided by Chapter 4 of Title 2 of this Code.

(2) Digital versions of the Code may be prepared by the Division of Legislative Counsel for distribution in CD-ROM or DVD format and for presentation on the internet, which versions and presentations may vary in layout, format, citation, and numbering, consistent with the interactive nature of digital documents and presentations; PROVIDED that in the event of conflict, the printed version referred to in Subsection (1) of this section shall prevail.

Source: S.L. No. 6L-79-06 §1-105, 11/1/06

§1-106. Code classification, organization, and editorial material not to be construed as part of Code. —

(1) Code classifications, organization, and headings for units of the Code such as divisions, titles, chapters, subchapters, parts, sections, and other units are made for the purpose of convenient reference and orderly management and shall not be a part of the statutory provisions of the Code, nor shall any explanatory language separated by brackets and in italics, or any source descriptions, editorial notes, historical summaries, annotations, cross-references, headers, footers or other editorial material be construed as a statutory part of the Code. No implication, inference or presumption of a legislative construction shall be drawn therefrom.

Source: S.L. No. 6L-79-06 §1-106, 11/1/06

§1-107. Citation of Code. —

(1) Sections of the Code may be cited by the abbreviation “PC”, preceded by the title number and succeeded by the chapter number, a dash, and the section number. For example, this section would be cited as “1 PC 1-107”, representing Section 107 of Chapter 1 of Title 1 of the Official Code of the State of Pohnpei.

(2) Unless the context clearly requires otherwise, any reference in this Code or in any law, rule or regulation of this state to a provision of the Code shall be construed to refer to the Code as it now or hereafter exists.

Source: S.L. No. 6L-79-06 §1-107, 11/1/06

§1-108. Construction of Code. — The provisions of this Code shall be construed according to the fair construction of their terms, with a view to affect its object and to promote justice.

Source: S.L. No. 6L-79-06 §1-108, 11/1/06

§1-109. Conflicting provisions of the Code. — Two or more provisions of the Code which relate to the same subject matter shall be construed together in such manner as to give full effect to each provision, except in case of an irreconcilable conflict. In case of an irreconcilable conflict the provision last acted upon by the Legislature is controlling to the extent of such conflict. The provision last acted upon is determined by reference to the date of passage by the Legislature on final reading of the statute establishing or amending the provision, or if the enactment is vetoed, then upon the date of passage thereof over the Governor’s veto. An irreconcilable conflict between two or more acts which amend the same provision of the Code exists only if the amendatory acts make inconsistent changes in the provision as it theretofore existed.

Source: S.L. No. 6L-79-06 §1-109, 11/1/06

§1-110. Severability of provisions of the Code. — Except as otherwise specifically provided in this Code, in the event any title, chapter, subchapter, part, section, subsection, paragraph, subparagraph, item, sentence, clause, phrase, or word of this Code is declared or adjudged to be unconstitutional, such declaration or adjudication shall not affect the remaining portions of the Code which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Code.

Source: S.L. No. 6L-79-06 §1-110, 11/1/06

§1-111. Words and phrases generally. — Words and phrases, as used in this Code or in any regulation issued pursuant thereto, shall be read with their context and shall be construed according to the common and approved usage of the English language. Technical words and phrases and such other words and phrases as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to their peculiar and appropriate meaning.

Source: S.L. No. 6L-79-06 §1-111, 11/1/06

§1-112. Words denoting number, etc. — As used in this Code unless it is otherwise provided or the context requires a different construction, application or meaning:

- (1) Words importing the singular include and apply to several persons, parties or things;
- (2) Words importing the plural include the singular;
- (3) Words importing the masculine gender include the feminine; and
- (4) Words used in the present tense include the future.

Source: S.L. No. 6L-79-06 §1-112, 11/1/06

§1-113. English language text to prevail; exception. — Except for the official Pohnpeian version of the Pohnpei Constitution, whenever any provision of this Code, or any regulation, document or instrument adopted pursuant thereto shall have been translated in whole or in summary from English to a local language, should there be a possible difference of interpretation between the English text and the local translation, the English language text shall prevail and govern in the decision of all cases.

Source: S.L. No. 6L-79-06 §1-113, 11/1/06

§1-114. Supersession of prior laws by Code; exceptions. —

(1) All codes and statutes of the Trust Territory of the Pacific Islands (having application as the law of this state), and all codes and statutes of the district of Ponape and the state of Pohnpei, or portions of such codes and statutes, having general and permanent application, as well as orders of the Secretary of the Department of the Interior of the United States Government (having application as the law of this state), the High Commissioner of the Trust Territory of the Pacific Islands (having application as the law of this state), and the District Administrator of Ponape District (having the effect of law), which code provisions, acts, and statutory orders are codified in this Code, are hereby superseded in their entirety in the form embodied in this Code, unless such code provisions, acts or statutory orders, without regard to their appearance in this Code, are:

- (a) Expressly continued as a separate law by this Code; or
- (b) Omitted improperly or erroneously as a consequence of the compilation, revision or both, of the laws or statutory orders enacted or promulgated prior to the effective date of this Code.

(2) In the event of one of the exceptions stated in Subsection (1) of this section should be applicable, the law existing prior to the enactment of this Code shall continue to be valid, effective, and controlling.

Source: S.L. No. 6L-79-06 §1-114, 11/1/06

§1-115. Repeal of code provisions, acts, and statutory orders by the Code. —

(1) All provisions of the Trust Territory Code, orders of the Secretary of the Department of the Interior of the United States Government, and orders of the High Commissioner of the Trust Territory having the effect of the law of this state, and all enactments of the territorial Congress of Micronesia and Interim Congress of the Federated States of Micronesia having application as the law of this state and not superseded by provisions in this Code or continued as separate law

pursuant to §1-114(1)(a), are hereby repealed in their entirety with respect to their application as the law of this state.

(2) Those acts, code provisions, and statutory orders, or portions thereof, having the effect of law and enacted or promulgated in the Trust Territory, the district of Ponape and the state of Pohnpei prior to the effective date of this Code, and found by the Legislature to be inconsistent with the enactment of the Code pursuant to the codification statute [*S.L. No. 6L-79-06*], are hereby amended or repealed as provided in the codification statute.

(3) All acts and statutory orders, or portions thereof, which are repealed or abrogated by this Code, or are repugnant to any law or statutory order repealed by this Code and which have not been re-enacted or consolidated, shall continue to be so repealed or abrogated.

Source: S.L. No. 6L-79-06 §1-115, 11/1/06

§1-116. Repeal of Spanish, German, and Japanese laws. — All laws, regulations, orders, and ordinances heretofore enacted, issued, made or promulgated by Spanish, German or Japanese authority which are still in force in the state of Pohnpei are hereby repealed except as provided in §1-124; PROVIDED, HOWEVER, that nothing in this Code shall change the effect of local custom which may have been included within the scope of laws, regulations, orders or ordinances enacted, issued, made or promulgated as aforesaid.

Source: TTC §23 (1966); 1 TTC §104 (1970); 1 TTC §104 (1980)

§1-117. Enactment of Code not to validate constitutionally invalid acts. — The enactment of this Code shall not validate an act or any portion thereof, which is constitutionally invalid.

Source: S.L. No. 6L-79-06 §1-117, 11/1/06

§1-118. Enactment of Code not to invalidate or affect rules and regulations. — Unless otherwise provided, the enactment of this Code and the incorporation of law and statutory order herein, shall not invalidate or affect any rules or regulations, promulgated pursuant to laws or statutory orders so codified herein, which were in effect on the effective date of this Code. Such rules and regulations shall remain in full force and effect under the authority of the codified provisions relative thereto until otherwise provided.

Source: S.L. No. 6L-79-06 §1-118, 11/1/06

§1-119. Enactment of Code not to validate invalid, unauthorized or defective rules and regulations. — The enactment of this Code shall not validate or authorize a rule or regulation, or any part thereof, or cure any defect therein, which would otherwise be invalid, unauthorized or defective on or before the effective date of this Code.

Source: S.L. No. 6L-79-06 §1-119, 11/1/06

§1-120. Enactment of Code not to affect existing legalities. —

(1) The enactment of this Code shall not affect or impair any existing right, remedy or defense, nor affect, impair, discharge or release any existing contract, obligation, duty or liability of any kind. It shall not affect any pending suit or action, prosecution now commenced or which shall be hereafter commenced, for any action or offense committed or omitted prior to the effective date of this Code. The law in existence immediately prior to the enactment of this Code shall continue in force with respect to all such suits, actions, and prosecutions.

(2) The supersession, repeal, re-enactment, revision, amendment or consolidation of any act or statutory order, or portion thereof, by the enactment of this Code shall not release, extinguish, alter, modify or change, in whole or in part, any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such act or statutory order, or portion thereof, so affected by the enactment of this Code, unless otherwise expressly provided by this Code. The superseded, repealed,

re-enacted, revised, amended or consolidated act or statutory order, or portion thereof, shall be treated and held as remaining in force for the purpose of sustaining any and all suits, actions or prosecutions, civil or criminal, for the enforcement of any penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such suits, actions or prosecutions imposing, inflicting or declaring a penalty, forfeiture or liability.

(3) When a limitation or period of time prescribed in any act or statutory order in effect on or before the effective date of this Code, for acquiring a right, barring a remedy or for any other purpose has begun to run before the effective date of this Code, and when a limitation or period of time is prescribed in this Code for acquiring the right, barring the remedy or for any other purpose, then the time which has already run shall be deemed to be part of the time prescribed by the limitation or period in this Code.

Source: S.L. No. 6L-79-06 §1-120, 11/1/06

§1-121. Continuation of laws, ordinances, and regulations. — All laws of the government of the state of Pohnpei, local government ordinances, and administrative regulations in force immediately before the effective date of the Constitution of Pohnpei [November 8, 1984] shall, to the extent they are consistent with the Constitution, continue in force until they expire by their own limitations or are amended, superseded or repealed.

Source: S.L. No. 3L-33-84 §3, 9/10/84

Note: S.L. No. 3L-33-84 §§1, 2, 4 – 6, & 8 temporary provisions have been omitted.

§1-122. Local customs; customary law. — The customs of the inhabitants of the state of Pohnpei not in conflict with the statutory laws of the state of Pohnpei shall be preserved. The recognized customary law of the state of Pohnpei shall have the full force and effect of law so far as such customary law is not in conflict with the statutory law of the state of Pohnpei.

Source: TTC §21 (1966); 1 TTC §102 (1970); 1 TTC §102 (1980)

Note: Reference to 1 TTC §101 (1980) has been omitted.

§1-123. Applicability of common law. — The rules of the common law, as expressed in the restatements of the law approved by the American Law Institute and, to the extent not so expressed, as generally understood and applied in the United States of America, shall be the rules of decision in the courts of the state of Pohnpei in applicable cases, in the absence of written law applicable to the state of Pohnpei or local customary law applicable under §1-122 to the contrary and except as otherwise provided in §1-124; PROVIDED, that no person shall be subject to criminal prosecution except under the written laws of the state of Pohnpei or recognized local customary law not inconsistent therewith.

Source: TTC §22 (1966); 1 TTC §103 (1970); 1 TTC §103 (1980)

Note: Reference to 1 TTC §101 (1980) has been omitted.

§1-124. Land law not affected. — The law concerning ownership, use, inheritance, and transfer of land in effect in any part of the state of Pohnpei on December 1, 1941, shall remain in full force and effect to the extent that it has been or may hereafter be changed by express written enactment made under authority of the state of Pohnpei.

Source: TTC §24 (1966); 1 TTC §105 (1970); 1 TTC §105 (1980)

Note: The word "except" appears after "full force and effect" in TTC §24 (1966). See Public Law 3C-51, §1 and §3, 9/22/70.

§1-125. Amendments and revisions to the Code. —

(1) All statutes enacted after the effective date of this Code of a general and permanent nature shall be enacted as amendments and revisions of this Code. No local, private or temporary act or acts and no acts appropriating funds shall be enacted as amendments to this Code. If the subject matter of any law is already generally embodied in one or more of the titles of this Code or can be appropriately

classified therein, that new law shall be enacted as an amendment to that title or titles of the Code. If it is not possible to classify the subject matter of a new law in an existing title, a new title shall be enacted with appropriate chapter, subchapter, part, and section headings. New titles shall be given names which are broad and comprehensive in scope so that each title so created will accommodate the greatest number of new laws having related subject matter.

(2) In the enactment of new laws amending or revising this Code, the overall structure, style, format, arrangement, and classification of the Code shall be followed as closely as possible with the result that the Code and all amendments and revisions thereto will comprise a logical and harmonious entity containing all the laws of the state of a general and permanent nature.

(3) The reserved portions of the Code are for the purpose of accommodating future growth and expansion of the Code through the insertion of laws in logical places within the Code. Sections have been reserved in the initial legislation enacting this chapter for the purpose of insertion of existing code and statutory provisions and the addition of new laws having relevance to the contents of this chapter. When a unit of the Code, such as a title, chapter or subchapter, is repealed in its entirety, that unit number may be reserved for future use.

(4) Amendments or revisions to the Code which insert new units of the Code in places where reserved space is not available shall utilize an alphabetical suffix to the unit number, such as “Chapter 1A” or “Section 1-125A”. Subsequent publications of the Code may provide for the renumbering of the unit and the renumbering of its preceding and succeeding units to re-establish a direct numbering system without the necessity of further statutory enactment for the renumbering thereof.

Source: S.L. No. 6L-79-06 §1-125, 11/1/06

§1-126. Effect of repeal of repealing statutes. — No unit or provision of this Code which is repealed by statute shall be deemed to be revived by the repeal of the repealing act.

Source: S.L. No. 6L-79-06 §1-126, 11/1/06

§1-127. Code to be property of the Pohnpei Government; penalties. —

(1) The Official Code of the State of Pohnpei is the property of the Pohnpei Government, which shall have exclusive rights to the commercial publication, sale, and distribution thereof in printed, digital, and internet form. Any person who so publishes, sells or otherwise distributes copies or facsimiles thereof to the public for commercial purposes representing such printed document, digital copy or internet presentation to be the official embodiment of the general and permanent laws of the state, or who shall represent to the public that he or she has such authority, without the express permission of the Pohnpei Government as provided in Chapter 4 of Title 2 of this Code, shall be subject to a civil penalty of not more than \$1,000. In addition, any profits made from the sale or distribution in violation of this section shall be forfeit to the Government of Pohnpei.

(2) The prohibitions of Subsection (1) of this section shall not be construed to restrict the presentation of citations of portions of this Code in legal proceedings or the good faith use thereof in the administration of the law, education, research or related endeavors, nor to restrict the use of hyperlinks to web servers authorized to display the Code on the internet.

Source: S.L. No. 6L-79-06 §1-127, 11/1/06

§1-128. Tampering with Code; violations. —

(1) It shall be unlawful for any person to knowingly and willfully alter or cause to be altered any printed, digital or internet representation of any portion of the official version of the Code or to knowingly and willfully publish or distribute in printed, digital or internet form any altered facsimile thereof so as to cause any misrepresentation of such portion of the Code as enacted by the Pohnpei Legislature.

(2) Any person found guilty of a violation of Subsection (1) of this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both such fine and imprisonment. In addition, such person shall be civilly liable for damages resulting from any such misrepresentation.

Source: S.L. No. 6L-79-06 §1-128, 11/1/06

CHAPTER 2 PROCEDURE TO AMEND CONSTITUTION

Section

2-101 Short title	2-103 Format of amendment
2-102 Method of proposing constitutional amendments	2-104 Ratification of constitutional amendments
	2-105 Notice of ratification – effectiveness

§2-101. Short title. — This chapter is known and may be cited as the “Constitutional Amendment Procedure Act of 1987.”

Source: S.L. No. 1L-122-87 §1, 3/31/87

§2-102. Method of proposing constitutional amendments. — The following shall be the methods of proposing amendments to the Pohnpei Constitution:

(1) *Legislative act.* A constitutional amendment may be proposed by an act of the Pohnpei Legislature, pursuant to Article 15 §1 of the Pohnpei Constitution, setting forth the text of the amendment.

(2) *Petition.* A constitutional amendment may be proposed by presentation to the Governor of a petition, pursuant to Article 15 §2 of the Pohnpei Constitution, setting forth the text of the amendment and bearing the requisite number of signatures of registered voters of Pohnpei.

Source: S.L. No. 1L-122-87 §2, 3/31/87

§2-103. Format of amendment. — The format of proposals for constitutional amendments to be placed before the people shall be uniform, as prescribed by the Election Commissioner, according to the following basic guidelines:

(1) Proposed constitutional amendments which have been received by the Governor, pursuant to §2-102 and that qualify for ratification, shall be transmitted by him forthwith to the Election Commissioner, who shall cause the same to be printed on ballots to be voted on simultaneously by all voters of Pohnpei during a general election or special election called by the Governor specifically for that purpose within the time specified by Article 15 §4 of the Pohnpei Constitution.

(2) The printed form containing the proposed amendment shall cite the appropriate article of the Constitution by title and shall state at length the section or its subsection proposed to be amended, and the effective date for the proposed amendment if so specified in the act or petition, followed immediately by the question:

“Do you approve of this proposed amendment to the Pohnpei Constitution:

YES [] NO []?”

(3) The printed form containing the proposed constitutional amendment shall be printed in Pohnpeian, and shall also be translated into English, Nukuoran, and Kapingamarangian. The Election Commissioner shall cause the Pohnpeian version and the translated versions to be distributed to the general public, publicly aired at least three times daily on the public radio station for ten days immediately prior to the date of the election, and posted at the local government buildings and other appropriate places that the Election Commissioner deems necessary in all the local jurisdictions of Pohnpei no later than ten days prior to the date of election.

(4) The Election Commissioner shall, prior to the date of election, conduct public education programs on the proposed constitutional amendment. In enhancing the purpose of this subsection, opportunity for fair comment shall be provided to both proponents and opponents of the proposed constitutional amendment.

(5) The Election Commissioner, as provided in the General Election Law, Title 10, shall, as soon as practicable after the election, certify and transmit the results of the votes cast on the amendment to the Governor and the Legislature.

(6) The Governor shall be the judge as to the approval of an amendment to the Constitution, subject to appeal to the Pohnpei Supreme Court.

Source: S.L. No. 1L-122-87 §3, 3/31/87

§2-104. Ratification of constitutional amendments. —

(1) The amendments shall be effective only if ratified in the manner prescribed by Article 15 §4 of the Pohnpei Constitution. If fifty percent (50%) of the registered voters fail to cast ballots at a special election, unless a Legislature-enacted proposal is withdrawn by the Legislature, the proposed amendment or amendments shall be submitted at the next general election or another special election called by the Governor within a reasonable time thereafter.

(2) In the event conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of the conflict.

(3) Once ratified, an amendment becomes part of the Constitution and is as effective as all other parts of the Constitution.

Source: S.L. No. 1L-122-87 §4, 3/31/87

§2-105. Notice of ratification – effectiveness. — Upon receipt of the certified results of votes pursuant to §2-103(5) and having made the determination that an amendment has been ratified in accordance with §2-104(1), the Governor shall, not later than 15 days thereafter, issue a proclamation announcing the ratification of the amendment and its effective date. An amendment to the Constitution ratified pursuant to the Constitution and this chapter shall take effect at such time as is specified in the act or petition proposing the amendment; PROVIDED that if there be no such time specified, such amendment shall take effect retroactively to the date of the election.

Source: S.L. No. 1L-122-87 §5, 3/31/87

Note: S.L. No. 1L-122-87 §6 repealed S.L. No. 2L-162-83, 2/1/83 in its entirety.

**CHAPTERS 3 – 5
[RESERVED]**

CHAPTER 6 NAMES, EMBLEMS, SYMBOLS, AND ANTHEM

Section

6-101 “Pohnpei” is official term	6-106 Display of the flag
6-102 The great seal of the state of Pohnpei	6-107 State bird
6-103 Custody and use of the seal	6-108 State anthem: “ <i>I Sohte Kak Moanokehla Pohnpei</i> ”
6-104 Malicious or commercial use of the seal	
6-105 Flag of Pohnpei	6-109 Conduct during playing

§6-101. “Pohnpei” is official term. — Upon the effective date of the Constitution of Pohnpei [November 8, 1984] and in recognition of the implementation of the Constitution, use of the term “Pohnpei” is hereby acknowledged as the official and appropriate form of reference to this jurisdiction and to this government and all governmental branches, agencies, authorities, and instrumentalities hereof or established herefor, inclusive of those established prior to the effective date of this section [September 10, 1984] or the Constitution.

Source: D.L. No. 4L-200-79 §1, 8/28/79; S.L. No. 3L-33-84 §7, 9/10/84

Note: Original section referred to the use of the term “State” in recognition of the implementation of the FSM Constitution.

§6-102. The great seal of the state of Pohnpei. — There is hereby adopted a great seal for the state of Pohnpei. The Pohnpei State Seal shall be circular in form and when reproduced shall have the following representation:

(1) *Center.* There shall be a coconut tree centered in a representation of the main gateway to Nan Dowas of the ruins of Nan Madol. There shall be a half coconut shell on a sea below the coconut tree and the gateway.

(2) *Supporters.* The center shall be supported by two palm leaves partially surrounded by eleven stars.

(3) *Base.* The base shall have a scroll with the words “Official Seal” imprinted on it.

(4) *Edge.* The edge shall have the legends “Pohnpei State Seal” and “Federated States of Micronesia.”

Source: S.L. No. 2L-208-83 §1, 10/20/83; S.L. No. 6L-79-06 §2-101, 11/1/06

§6-103. Custody and use of the seal. — The Pohnpei state seal shall be kept and used by the Governor officially.

Source: S.L. No. 2L-208-83 §2, 10/20/83

§6-104. Malicious or commercial use of the seal. — Any person who maliciously uses or for commercial purposes, without written approval of the Governor, uses or allows to be used any reproduction or facsimile of the Pohnpei state seal in any manner whatsoever, is guilty of a misdemeanor.

Source: S.L. No. 2L-208-83 §3, 10/20/83

§6-105. Flag of Pohnpei. — There shall be and is hereby designated an official flag of Pohnpei, selected as the winning design pursuant to S.L. No. 3L-135-75, as amended, and as modified herein. The official flag shall consist of a circle of eleven white stars and a “kouwa” surrounded by palm leaves, centered on a field of blue. The width of the flag of Pohnpei shall bear a ratio to its length of one to one-and-nine-tenths. The design of the official flag of Pohnpei shall be as depicted on the first official flag flown by order of the Governor on the effective date of this section [November 8, 1991].

The flag may be reproduced for unofficial purposes with different dimensions, but the design thereof shall be an accurate depiction of the first flag.

Source: S.L. No. 2L-172-90 §1, 11/8/91

§6-106. Display of the flag. —

(1) The flag of Pohnpei shall be displayed in the open only from sunrise until sunset and during such hours shall be displayed only on buildings, flagstaffs or halyards;

(2) The flag of Pohnpei shall be hoisted briskly and lowered ceremoniously;

(3) When the flag of Pohnpei is flown or displayed together with other official flags, it shall be flown or displayed at approximately the same level and shall occupy the left-hand position when looking from the building or platform;

(4) When, by appropriate proclamation, other flags are flown at half-mast, the flag of Pohnpei shall likewise be flown at half-mast; and

(5) The Governor of Pohnpei shall establish rules and regulations for the half-mast display of the flag of Pohnpei upon the death of a government or traditional leader or distinguished citizen or friend of Pohnpei.

Source: S.L. No. 2L-172-90 §2, 11/8/91

§6-107. State bird. — *Trichoglossus rubiginosus*, also known as Pohnpei lorikeet and locally known as serehd, is hereby designated as the state bird for the state of Pohnpei.

Source: S.L. No. 2L-90-81 §1, 11/9/81

§6-108. State anthem: “*I Sohte Kak Moanokehla Pohnpei.*” — The composition consisting of the words and the music known as “*I Sohte Kak Moanokehla Pohnpei*” is hereby adopted and designated as the state anthem, which anthem may also be referred to as the official song of the state of Pohnpei.

Source: S.L. No. 4L-72-98 §1, 4/2/98

§6-109. Conduct during playing. — During the playing of the state anthem when the flag is displayed, all present, except those in uniforms of authority of the state, should stand at attention facing the flag in an attitude showing respect for the state that and the people whom these symbols represent. Each person in a uniform of authority of the state present during said playing of the state anthem should render and maintain the appropriate salute as prescribed by the highest uniformed officer of the state. When the flag is not displayed, those present should face toward the music and act in the same manner they would if the flag were displayed.

Source: S.L. No. 4L-72-98 §2, 4/2/98

Note: S.L. No. 4L-72-98 §3 appropriation and §4 superseding provisions have been omitted.

CHAPTER 7 HOLIDAYS

Section

7-101 Holidays designated

7-103 Observance of holidays falling on Sundays

7-102 Other holidays

and Saturdays

§7-101. Holidays designated. — The following days of each year are set apart and established as Pohnpei holidays:

- (1) January 1, known as New Year's Day;
- (2) March 31, known as Rahn en Kawoupen Tiahk kan;
- (3) September 11, known as Rahn en Mwei Mwahu;
- (4) November 8, known as Rahn en Poahsoan en Kosonned en Weipokon en Pohnpei;
- (5) December 25, known as Christmas Day;
- (6) Good Friday, being the Friday immediately before Easter Sunday; and
- (7) Any day designated by resolution of the Legislature and proclaimed by the Governor as an official Pohnpei holiday.

Source: S.L. No. 2L-14-80 §1, 9/8/80; S.L. No. 2L-210-83 §1, 10/20/83; S.L. No. 1L-37-85 §1, 10/8/85; S.L. No. 2L-2-88 §1, 3/29/88

§7-102. Other holidays. — Other holidays designated by proclamation by the President of the Federated States of Micronesia, or by act of Congress of the Federated States of Micronesia shall also be observed as official holidays in the state of Pohnpei, as applicable.

Source: S.L. No. 2L-14-80 §2, 9/8/80

§7-103. Observance of holidays falling on Sundays and Saturdays. — If any of the official Pohnpei holidays fall on Sunday, the following Monday shall be observed as a holiday. If the day falls on Saturday, the preceding Friday shall be observed as a holiday.

Source: S.L. No. 2L-14-80 §3, 9/8/80

GENERAL

CHAPTER 8 CENSUS

Section

8-101 Short title	8-106 Information as confidential
8-102 Definitions	8-107 Oath of employee
8-103 Authority to conduct periodic census of population	8-108 Wrongful disclosure of information
8-104 Conduct of census	8-109 Refusal or neglect to answer questions; false answers
8-105 Dissemination of statistical data; restrictions on use	8-110 Administration of chapter

§8-101. Short title. — This chapter is known and may be cited as the “Census Act of 1985.”

Source: S.L. No. 1L-33-85 §1, 9/19/85

§8-102. Definitions. — As used in this chapter, unless the context requires another meaning or unless it is otherwise provided:

(1) “Administrator” means the highest management official of the division designated for the administration of this chapter pursuant to Subsection (2) of this section.

(2) “Division” means the division within the Office of the Governor designated by the Governor for the administration of this chapter.

(3) “Governor” means the Governor of the state of Pohnpei.

(4) “Respondent” includes a corporation, company, association, firm, partnership, proprietorship, society, joint stock company, individual or other organization or entity which reported or is required to report, or on behalf of which information was reported, in response to a questionnaire, inquiry or other request of the Division.

Source: S.L. No. 1L-33-85 §2, 9/19/85

§8-103. Authority to conduct periodic census of population. —

(1) The Division shall periodically conduct a census of the population of the state of Pohnpei; PROVIDED that a periodic census of the population shall be conducted at intervals of no greater than ten years to determine the total population by local jurisdiction.

(2) In order to conduct a census, the Division shall have the authority to:

(a) Gather statistical and related information as to economic, social, and demographic characteristics of persons residing in the state of Pohnpei;

(b) Prepare questionnaires and determine the inquiries, and the number, form, and subdivisions thereof for conducting the census;

(c) Compile, analyze, and disseminate the data obtained in the census; and

(d) Do everything reasonably necessary and proper to carry out this chapter.

(3) The date on which the census of the population shall be taken shall be determined by the Administrator, who shall take appropriate measures to publicize that date.

(4) The tabulation of the results of the census shall be completed within four months after the census date and reported by the Administrator to the Governor.

Source: S.L. No. 1L-33-85 §3, 9/19/85

§8-104. Conduct of census. — In order to conduct a census as authorized in §8-103, the Administrator or any enumerator or census officer designated by the Administrator shall be empowered to supply a schedule to any respondent and require such respondent to supply to the best

of his knowledge all information requested in the schedule in accordance with instructions accompanying the schedule, and require that person to return the completed schedule to the Administrator or his designated agent by a specific date.

Source: S.L. No. 1L-33-85 §4, 9/19/85

§8-105. Dissemination of statistical data; restrictions on use. —

(1) Subject to the limitations set forth in §§8-106 and 8-108, the Administrator may furnish copies of tabulations and other statistical materials which do not disclose the information reported by, or on behalf of, any particular respondent, and may make special statistical compilations or surveys, for departments, offices, and agencies of the state government.

(2) In no case shall information furnished under this section be used to the detriment of any respondent or other person to whom such information related, except in the prosecution of alleged violations of this chapter.

Source: S.L. No. 1L-33-85 §5, 9/19/85

§8-106. Information as confidential. — The Administrator and any officer or employee of the Division, shall not:

(1) Use the information furnished under this chapter for any purpose other than for the purpose of conducting a census or for compiling tabulations or other statistical materials; or

(2) Make any publication whereby the data furnished by any particular establishment or individual under this chapter can be identified; or

(3) Permit anyone other than the Administrator and the sworn officers and employees of the Division to examine the individual reports.

Source: S.L. No. 1L-33-85 §6, 9/19/85

§8-107. Oath of employee. — The Administrator and every person involved in carrying out this chapter shall take and subscribe an oath to fulfill their duties in accordance with this chapter. The oath shall be taken, retained, and recorded by the State Chief Justice.

Source: S.L. No. 1L-33-85 §7, 9/19/85

§8-108. Wrongful disclosure of information. — Whoever, being or having been involved in carrying out any provision of this chapter, either temporary or permanent, or having taken and subscribed the oath set forth in §8-107, or otherwise having sworn to observe the limitations imposed by §8-106, willingly publishes or communicates any information, the disclosure of which is prohibited under §8-106, and which comes into his possession by reason of his employment or provisions of services under this chapter, shall be fined not more than \$1,000, or imprisoned not more than one year, or both such fine and imprisonment.

Source: S.L. No. 1L-33-85 §8, 9/19/85

§8-109. Refusal or neglect to answer questions; false answers. —

(1) Whoever, being over 18 years of age, refuses or willfully neglects, when requested by any authorized employee of the Division, to answer to the best of his knowledge any of the questions on any schedule submitted to him in connection with any census provided for under this chapter, applying to himself or to the family to which he belongs or is related, shall be fined not more than \$100 and subject to court order compelling him to answer the offered questions.

(2) Nothing in this section shall affect any law relating to the disclosure of any official, secret or confidential information, evidence or document. A person required by the Administrator to supply any information, to give any evidence or to produce any document shall be entitled in respect to such information, evidence or document to plead the same privilege before the administration as before a court of law.

(3) Whoever, being over 18 years of age, hinders or obstructs the Administrator or any authorized employee of the Division in the lawful service of powers under this chapter shall be fined not more than \$100.

(4) Whoever, being over 18 years of age, when requested by any authorized employee of the Division, to answer to the best of his knowledge any of the questions on any schedule submitted to him in connection with any census provided for under this chapter, applying to himself or to the family to which he belongs or is related, willfully gives any answer that is false, with intent to deceive, shall be fined not more than \$500.

(5) Notwithstanding any other provision of this chapter, no person shall be compelled to disclose information other than those information requested in the schedule supplied by the Administrator pursuant to §8-104.

Source: S.L. No. 1L-33-85 §9, 9/19/85

§8-110. Administration of chapter. — The Administrator shall be charged with the administration of this chapter, and shall perform such functions as are conferred upon him by this chapter. The Administrator shall have all such authority as may be reasonably necessary for the performance of any function of the Division or for the administration of this chapter including the authority to promulgate such rules and regulations as he deems necessary to conduct the periodic censuses of the population or to otherwise effect the administration of this chapter.

Source: S.L. No. 1L-33-85 §10, 9/19/85

Note: The former Office of Planning and Statistics has been repealed.

(Next page is Title 2 divider)

TITLE 2
LEGISLATURE

TITLE 2 LEGISLATURE

CHAPTER

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CHAPTER 1 GENERAL PROVISIONS

Section

<p>1-101 Legislative seal</p> <p>1-102 Session designation</p> <p>1-103 Full-time membership</p> <p>1-104 Legislative rules</p> <p>1-105 Legislature fiscal year</p> <p>1-106 Individual offices; authorization for appropriation</p> <p>1-107 Legislature Administrative Manual: established</p>	<p>1-108 Legislature Administrative Manual: contents</p> <p>1-109 Legislature Administrative Manual: documents and methods for inclusion</p> <p>1-110 Legislature Administrative Manual: Chief of Administration and Budget's responsibilities</p> <p>1-111 Attendance at sessions of other legislatures: authorization, selection, compensation</p>
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§1-101. Legislative seal. —

(1) *Description.* There is hereby adopted an official seal for the Pohnpei Legislature, which shall consist of a circle containing 11 stars, a representation of Sokehs Island, and a coconut tree, and which shall be designated as the Pohnpei Legislature Official Seal.

(2) *Custody and use.* The custody of the official seal shall be the responsibility of the Clerk of the Legislature, and the seal shall be used on certified copies of acts and resolutions of the Pohnpei Legislature. Any reproduction of the seal shall require the approval of the Speaker and shall be used only on official communications or publications and property of the Legislature. Improper use of the seal is prohibited.

Source: PDC §1-1, 3/71; S.L. No. 6L-79-06 §2-102, 11/1/06

§1-102. Session designation. — Sessions of the Ponape District Legislature are hereby redesignated and shall be known as the following:

(1) The first through the eighth regular sessions, inclusive, are respectively designated the First through the Eighth Regular Sessions of the First Ponape District Legislature.

(2) The ninth, tenth, and eleventh regular sessions are respectively redesignated the First, Second, and Third Regular Sessions of the Second Ponape District Legislature.

(3) The First Special Session is redesignated the First Special Session of the First Ponape District Legislature.

(4) The Second Special Session is redesignated the First Special Session of the Second Ponape District Legislature.

(5) Succeeding sessions until the 1971 general election for the Ponape District Legislature shall be designated as the appropriately numbered Regular or Special Session of the Second Ponape District Legislature.

(6) Sessions held following the 1971 general election for the Ponape District Legislature shall be designated the appropriately numbered Regular or Special Session of the Third Ponape District Legislature, with the numeral designation of the Ponape District Legislature to change after each general election of the Legislature.

(7) Commencing on the effective date of the Constitution of the Federated States of Micronesia [*May 10, 1979*], the Fourth Ponape District Legislature is hereby designated as the First Ponape State Legislature.

(8) The portion of the Eighth Regular Session of the Fourth Ponape District Legislature which falls on the effective date of the Constitution of the Federated States of Micronesia [*May 10, 1979*] and thereafter until it adjourns sine die is hereby designated as the First Regular Session of the First Ponape State Legislature.

(9) Sessions of the next Legislature held following the 1979 general election shall be designated the appropriate numbered regular or special session of the Second Ponape State Legislature, with numerical designation of the Ponape State Legislature to change after each general election of the Legislature.

Source: PDC §1-2, 3/71; D.L. No. 4L-194-79 §1, 8/9/79

§1-103. Full-time membership. — Every member of the Pohnpei Legislature shall serve full-time in that position from the time he assumes office by taking the oath until the time he leaves office by resignation, removal, recall or the swearing-in of his successor. Upon taking office, he shall resign from any other offices or employment in government. He may also resign from any board or committee membership in business, if it is in conflict with his Legislature duty.

Source: PDC §1-3, 3/71; S.L. No. 6L-79-06 §2-105, 11/1/06

§1-104. Legislative rules. —

(1) Each Pohnpei Legislature is hereby authorized and shall, by resolution, adopt its own rules not inconsistent with the Pohnpei Constitution or any law of Pohnpei governing its proceedings, conduct, and exercise of its powers.

(2) The permanent rules of the immediate preceding Legislature shall be the temporary rules of each new Legislature until it has adopted its own permanent rules.

Source: S.L. No. 2L-147-90 §§1 & 2, 3/6/90

§1-105. Legislature fiscal year. — The Pohnpei Legislature fiscal year is hereby declared to commence on October 1 each calendar year and to end on September 30 the following year.

Source: D.L. No. 4L-136-78 §36, 3/27/78

Note: Reference to transitional year FY 1978 has been omitted.

§1-106. Individual offices; authorization for appropriation. —

(1) Each member of the Pohnpei Legislature shall establish and/or maintain an office. The office shall be utilized in furtherance of the duties and responsibilities of the member as a representative. Such office shall be under the supervision and direction of the member for which it is established.

(2) There is hereby authorized from the general fund of Pohnpei a sum or sums as may be determined annually in the Comprehensive Budget Act for the purpose of financing the operational

costs of the offices as established pursuant to this section. For purposes of this section, “operational costs” shall be limited to expenses directly related to said office as established herein and may include salaries and benefits of employees attached to said office; purchase, lease or maintenance of equipment and furniture for said office; costs of office lease, construction or maintenance; costs of travel while undertaking the functions directly related to said office; costs of supplies and materials, utilities, communications, and petroleum, oil, and lubricant for use by said office. The sums herein authorized for appropriation shall be equally apportioned among the seats of the Legislature by the Chief of Administration and Budget of the Pohnpei Legislature and allocated to each office established pursuant to Subsection (1) of this section. The Chief of Administration and Budget of the Pohnpei Legislature shall be responsible for the administration and expenditure of all sums authorized for appropriation by this section and shall certify requests for expenditure of such sums to the Director of the Department of Treasury and Administration pursuant to the Financial Organization and Management Act, Title 11 Chapter 2, or its successor in law. For the purpose of this section, each member shall be the allottee of the sums allocated to his office. The Chief of Administration and Budget shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this section. A copy of such report shall be submitted to the Governor. Any balance of the sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to the general fund of Pohnpei.

Source: PDC §1-9, 3/71; S.L. No. 2L-77-88 §2, 12/12/88

Notes: 1. The original PDC §1-9, as established by the Ponape District Code, related to session allowances and per diem. PDC §1-9 and its original intent were completely repealed by D.L. No. 3L-104-75 §1. 2. S.L. No. 2L-77-88 §2 establishes a completely new PDC §1-9 relating to members’ office operations.

Extended legislative history: PDC §1-9(a) was amended by D.L. No. 3L-31-72 §1, 6/13/72; PDC §§1-9(a) and (b) were amended by D.L. No. 3L-58-73 §7, 5/29/73; PDC §1-9 was repealed by D.L. No. 3L-65-73 §1, 1/1/74, and new PDC §§1-9(a), (b), and (c) were established; PDC §1-9 was again repealed by D.L. No. 3L-76-73 §3, 1/1/74, and new PDC §§1-9(a) and (b) were established; PDC §1-9 was again repealed by D.L. No. 3L-104-75 §1, 1/3/76; S.L. No. 2L-77-88 §2, 12/12/88, established a new PDC §1-9.

§1-107. Legislature Administrative Manual: established. — There is hereby established a Legislature Administrative Manual, hereinafter referred to as “Manual,” which shall be adopted by resolution of the Pohnpei Legislature and shall incorporate all provisions for the administration and management of the Legislature staff. The Manual shall provide the means for disseminating in an orderly fashion, instructions from the Legislature relative to the management and administration of the Legislature staff, its organization, delegations of authority, policies, and certain procedures of general and continuous application affecting the day-to-day administrative operations of the Legislature staff.

Source: D.L. No. 4L-39-76 §2(B), 7/1/76

§1-108. Legislature Administrative Manual: contents. — The Manual shall be arranged in parts, each of which shall contain in orderly sequences chapters on specific subjects for which there is a need for organization and instruction. A table of contents will set forth in detail the subjects to be contained in the respective parts and chapters. Chapters for inclusion in the Manual will be developed on the basis of need or direction of the Pohnpei Legislature. When revisions become necessary the entire chapter or appropriate pages shall be rewritten and substituted for the existing chapter.

Source: D.L. No. 4L-39-76 §2(B)(1), 7/1/76

§1-109. Legislature Administrative Manual: documents and methods for inclusion. — All laws, resolutions, Rules of Procedure, and other directives of the Pohnpei Legislature pertaining to the management and administration of the Legislature staff shall be incorporated into the Manual. The

members of the staff shall submit to the Speaker of the Legislature, their recommendations relating to the organization, delegation of authority or changes in basic policy in the Manual. The Speaker shall review and present such recommendations to the Legislature for adoption and incorporation in the Manual; PROVIDED, HOWEVER, that if the Legislature is not in session, the Speaker shall submit such approved recommendations to the Judiciary and Governmental Operations Committee, which shall have the power to approve such recommendations for incorporation in the Manual, subject to appeal to the Legislature by any legislator.

Source: D.L. No. 4L-39-76 §2(B)(2), 7/1/76

§1-110. Legislature Administrative Manual: Chief of Administration and Budget's responsibilities. — The Chief of Administration and Budget shall be responsible for the coordination and general control over Manual issuances. The Chief of Administration and Budget shall, upon direction of the Speaker and in consultation with the Legislative Clerk and the Legislative Counsel, be responsible for incorporating in the Manual all matters pertaining to the same, and shall, upon direction of the Speaker, cause the Manual and further issuances to be printed and distributed to such persons and agencies as the Speaker deems necessary, or as may be designated by the Pohnpei Legislature.

Source: D.L. No. 4L-39-76 §2(B)(4), 7/1/76

Notes: 1. D.L. No. 4L-39-76 §1, 7/1/76 repealed PDC §1-4, as amended by D.L. No. 3L-58-73, 5/29/73. 2. D.L. No. 4L-39-76 §3, 7/1/76 repealed PDC §1-11, as amended by D.L. No. 3L-58-73, 5/29/73. 3. D.L. No. 4L-39-76 §4, 7/1/76 repealed D.L. No. 3L-84-74, 6/29/74 relating to staff training and research.

§1-111. Attendance at sessions of other legislatures: authorization, selection, compensation. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum for the purpose of providing travel, per diem, and other expenses for members and staff of the Pohnpei Legislature and other leaders of Pohnpei State to attend and observe regular sessions of the Guam Legislature, the Congress of the Federated States of Micronesia, and legislatures in other states of the Federated States of Micronesia and former districts of the Trust Territory of the Pacific Islands or to attend legislative conferences within or without the FSM. All sums herein authorized for appropriation shall be expended and administered by the Chief of Administration and Budget solely for the purposes specified in this subsection.

(2) The Speaker is hereby authorized to select members of the Legislature and other leaders of Pohnpei State to attend sessions of the aforementioned legislative bodies or other conferences. The Speaker shall select different persons to attend each of the different legislative bodies. The Speaker shall further determine which meetings or conferences and the length of time that the attendants may attend.

(3) During the time the staff members are attending or observing any of the aforementioned legislative bodies or other conferences, they are to be on full pay status.

(4) All members of the Legislature who attend and observe the designated legislative bodies are hereby required to submit written or oral reports of the activities and observations to the session of the Legislature immediately following their return.

Source: PDC §1-7, 3/71; D.L. No. 3L-58-73 §4, 5/29/73; D.L. No. 3L-64-73 §1, 10/19/73

Notes: 1. PDC §1-7(e) was repealed by D.L. No. 3L-58-73 §5. 2. Descriptions of legislative bodies in Subsection (1) have been modified to reflect the post-Trusteeship era.

CHAPTER 2 INVESTIGATIVE HEARINGS

Section

2-101 Purpose	2-110 Submission of questions
2-102 Application	2-111 Testimony
2-103 Definitions	2-112 Interested persons
2-104 Designation of an investigative hearing	2-113 Contempt of the Legislature
2-105 Holding of investigative hearings	2-114 Penalties; defenses
2-106 Issuance of subpoenas	2-115 Inherent legislative power not limited
2-107 Notice to witnesses	2-116 Powers of the Sergeant-at-arms
2-108 Conduct of investigative hearings	2-117 Injunctive relief
2-109 Right to counsel	2-118 Remedies cumulative

§2-101. Purpose. — The purpose of this chapter is to establish procedures for the conduct of investigative hearings by committees and subcommittees of the Pohnpei Legislature.

Source: S.L. No. 2L-157-90 §1, 7/18/90

§2-102. Application. — This chapter shall apply to the conduct of hearings by duly constituted committees of the Pohnpei Legislature, including standing committees, special committees, joint committees, and the Committee of the Whole, and duly constituted subcommittees and joint subcommittees of such committees.

Source: S.L. No. 2L-157-90 §2, 7/18/90

§2-103. Definitions. — As used in this chapter, unless the context clearly requires otherwise, the following words shall have the following meanings:

(1) “Chairman” means the presiding officer of a committee at the time of the hearing. The chairman at the hearing may be the duly elected or appointed chairman of the committee, or in the absence of such person, any member of the committee designated to serve as the chairman under the Legislature or committee rules, or in the absence of a rule pertaining thereto, any member so serving with consent of the members present.

(2) “Committee” means a Legislature committee formulated under the rules of procedure of the Pohnpei Legislature. For purposes of this chapter, “committee” includes duly constituted subcommittees of Legislature committees formulated under the procedural rules of the parent committee or its standard mode of operation; “committee” also includes two or more committees or subcommittees of the Legislature joined together and acting as one unit in the consideration of a matter or matters jointly referred thereto.

(3) “Investigative hearing” is any hearing of a committee designated as such under the terms of this chapter.

Source: S.L. No. 2L-157-90 §3, 7/18/90

§2-104. Designation of an investigative hearing. — Any hearing conducted by a committee may be designated as an investigative hearing by any one of the following means:

(1) By designation thereof in law or resolution authorizing or directing the committee to conduct the investigation; or

(2) By majority vote of all the members of the committee; PROVIDED that such designation may occur before the conduct of a hearing or at any time during the course of a committee review of a matter referred to it when the committee determines that the interests of the Legislature will be best

served through the conduct of a formal investigation.

Source: S.L. No. 2L-157-90 §4, 7/18/90

§2-105. Holding of investigative hearings. —

(1) A committee may hold investigative hearings appropriate to the performance of its duties, at such times and places as the committee determines.

(2) The chairman of the committee shall notify the members thereof of the conduct of an investigative hearing at least 48 hours prior thereto. Notice may be given orally by announcement on the floor of a legislative session or by written notice personally served on the member or deposited in the member's mailbox at the Legislature. The notice shall include a statement of the subject matter of the investigative hearing and the time and place for the conduct thereof. An investigative hearing, and any action taken at the hearing, shall not be deemed invalid solely because notice of the hearing was not given in accordance with this provision.

(3) A quorum must be present to conduct an investigative hearing.

Source: S.L. No. 2L-157-90 §5, 7/18/90

§2-106. Issuance of subpoenas. —

(1) Every committee may issue, by majority vote of all its members, subpoenas requiring the attendance of witnesses and subpoena duces tecum requiring the production of books, documents or other evidence at or for investigative hearings.

(2) A person subpoenaed to attend an investigative hearing of the committee may receive the same fees and allowances as a person legally required to attend a criminal case before the Pohnpei Supreme Court.

(3) A subpoena shall be issued by the chairman of the committee to the Legislature Sergeant-at-arms or any state police officer. The subpoena shall be on a form prescribed by the Speaker of the Legislature, which form shall be filed with the Clerk of the Pohnpei Supreme Court. The subpoena shall be written in both Pohnpeian and English. In the event of a conflict between the two versions, the language version most utilized by the recipient of the subpoena shall prevail. The subpoena shall be signed by the chairman in his official capacity, shall contain a reference to the legal authority for the issuance thereof, and shall set forth in general terms the matter or question with reference to which the testimony or evidence is to be taken. The subpoena shall contain a statement that the person so subpoenaed may upon written request to the chairman of the committee obtain a copy of pertinent documents relative to the establishment of the committee, the rules under which it operates, and the measure, communication or other authority under which it is conducting its investigation. The subpoena shall also contain statements to the effect that failure to comply therewith can result in penalties and sanctions, that the person so subpoenaed may not be compelled to give or provide information which may be protected by constitutional or statutory right or privilege, and that the person may be accompanied at the hearing by counsel of the person's own choosing.

(4) Any officer to whom such process is directed, if within the officer's territorial jurisdiction, shall forthwith serve or execute the same. Upon service thereof, the officer shall forthwith file a return of service with the chairman who issued the subpoena. The officer shall execute the service and return of service without charge or compensation, but shall be paid for actual and reasonable expenses incurred in connection therewith.

Source: S.L. No. 2L-157-90 §6, 7/18/90

§2-107. Notice to witnesses. — Service of a subpoena requiring the attendance of a person or the production of evidence shall be made at least five days prior to the date of the investigative hearing unless a shorter period of time is authorized by majority vote of all members of the committee in a particular instance when, in their opinion, the giving of five days notice is not practical; PROVIDED

that if a shorter time is authorized, the person subpoenaed shall be given reasonable notice of the hearing, consistent with the particular circumstances involved.

Source: S.L. No. 2L-157-90 §7, 7/18/90

§2-108. Conduct of investigative hearings. —

(1) All investigative hearings conducted under this chapter shall be public, unless the committee, or the parent committee or committees of a subcommittee, by unanimous vote decides that the public interest requires that the proceeding be closed.

(2) No investigative hearing, or part thereof, shall be televised, broadcast, filmed, photographed or electronically recorded, except pursuant to this statute and the committee rules or at the direction of the chairman, subject to appeal by the members present.

Source: S.L. No. 2L-157-90 §8, 7/18/90

§2-109. Right to counsel. — Every witness at an investigative hearing may be accompanied by counsel of the witness' own choosing, who may advise the witness as to the witness' rights, subject to reasonable limitations which the committee may prescribe to prevent obstruction of or interference with the orderly conduct of the hearing.

Source: S.L. No. 2L-157-90 §9, 7/18/90

§2-110. Submission of questions. — Any witness at an investigative hearing, or the witness' counsel, may submit to the committee proposed questions to be asked of the witness or any other witness relevant to the matters upon which there has been any questioning or submission of evidence, and the committee shall ask such questions as are appropriate to the subject matter of the hearing.

Source: S.L. No. 2L-157-90 §10, 7/18/90

§2-111. Testimony. —

(1) A committee shall cause a record (either electronic or written, or both) to be made of all proceedings relative to an investigative hearing, which record shall include rulings of the chair, questions of the committee and its staff, the testimony or responses of witnesses, sworn written statements submitted to the committee, and such other matters as the committee or its chairman may direct.

(2) All testimony given or adduced under subpoena at an investigative hearing shall be under oath or affirmation unless the requirement is dispensed with in a particular instance by majority vote of the committee members present at the hearing.

(3) Any person designated by the chairman of the committee may administer an oath or affirmation to a witness at an investigative hearing thereof. The oath or affirmation shall be in either Pohnpeian or English, whichever the witness shall prefer, shall be in a standard format prescribed by the Speaker of the Legislature, and shall contain an acknowledgment by the witness that giving testimony and providing evidence to the committee under oath at or for an investigative hearing is controlled by statute, the violation of which will subject the witness to criminal penalties. The oath shall also include an acknowledgment to the effect that the witness may not be compelled to give testimony or provide information that is protected by constitutional or statutory right or privilege.

(4) Subject to this chapter, the presiding officer at an investigative hearing may direct a witness to answer any relevant question or furnish any relevant book, paper or other document, the production of which has been required by subpoena duces tecum. Unless the direction is overruled by majority vote of the committee members present, disobedience shall constitute a contempt.

(5) Upon consent of a majority of the committee members present at the hearing, a witness at an investigative hearing, or the witness' counsel, may file with the committee for incorporation into the record of the hearing sworn written statements relevant to the purposes, subject matter, and scope of the committee's investigation or inquiry.

(6) A witness at an investigative hearing open to the public, upon the witness' advance request and at the witness' own expense, shall be furnished a transcript, certified by the Clerk of the Legislature, of the witness' testimony at the hearing.

(7) Testimony or other evidence given or adduced at an investigative hearing closed to the public shall not be made public unless authorized by unanimous consent of the committee, or parent committee or committees in the case of a subcommittee investigation. The authorization shall also specify the form and manner in which the testimony or other evidence may be released.

Source: S.L. No. 2L-157-90 §11, 7/18/90

§2-112. Interested persons. —

(1) Any person whose name is mentioned or who is otherwise identified during an investigative hearing and who, in the opinion of the committee may be adversely affected thereby, may, upon the person's request or upon request of any member of the committee, appear personally before the committee and testify in the person's own behalf, or with consent of the committee, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing.

(2) Upon consent of a majority of its members, a committee may permit any other person to appear and testify at an investigative hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance or other submission of evidence shall limit in any way the committee's power of subpoena.

(3) Any person who appears before a committee pursuant to this section shall have the rights, privileges, and responsibilities of a witness provided under this chapter.

Source: S.L. No. 2L-157-90 §12, 7/18/90

§2-113. Contempt of the Legislature. —

(1) A person shall be in contempt of the Legislature, otherwise referred to in this chapter as "contempt," if he:

- (a) Fails or refuses to appear in compliance with a subpoena or, having appeared, fails or refuses to testify under oath or affirmation;
- (b) Fails or refuses to answer any relevant question or fails or refuses to submit any relevant book, paper or other document subpoenaed by or on behalf of any committee which answer or submission is not protected by constitutional or statutory right or privilege;
- (c) Knowingly gives false testimony under oath or affirmation to the committee;
- (d) Submits false documentation under subpoena duces tecum to the committee, knowing such evidence to be false or having substantial reason to suspect the untruthfulness of such documentation without informing the committee of his suspicions thereof;
- (e) Resists or interferes with the Sergeant-at-arms or any other officer in the service of a subpoena properly issued under this chapter, or tampers with any witness, or attempts to prevent the attendance of any witness or the submission of any evidence to or at an investigative hearing of a committee, or attempts to prevent or to disrupt the conduct of an investigative hearing, or improperly attempts to tamper with the fair judgment of any member of the committee or advisor thereto;
- (f) Violates §2-111(7); or
- (g) Commits any other act or offense against the committee which, if committed against the Legislature, would constitute a contempt.

(2) A committee may, by majority vote of all its members, report to the Legislature any instance of alleged contempt. The Speaker of the Legislature shall certify a statement of such alleged contempt to the Attorney General, who shall promptly cause the offender to be prosecuted in the Trial Division of the Pohnpei Supreme Court. The action may only be taken following receipt of the certified statement

from the Speaker, shall be taken in the name of the state of Pohnpei, and the alleged contempt shall be considered as though committed against the Legislature itself.

Source: S.L. No. 2L-157-90 §13, 7/18/90; S.L. No. 5L-14-00 §3-24, 10/1/00

§2-114. Penalties; defenses. —

(1) A person guilty of contempt under this chapter shall be fined not more than \$1,000, or imprisoned not more than one year, or both; PROVIDED, HOWEVER, that any person other than the witness concerned or the witness' counsel who violates §2-111(7) shall be fined not more than \$500, or imprisoned not more than six months, or both such fine and imprisonment.

(2) If any committee fails in any material respect to comply with the requirements of this chapter, any person subject to a subpoena or a subpoena duces tecum who is injured by the failure shall be relieved of any requirement to attend the hearing for which the subpoena was issued or, if present, to testify or produce evidence therein; and the failure shall be a complete defense in any proceeding against the person for contempt or other punishment based upon the refusal to appear, testify or produce evidence.

Source: S.L. No. 2L-157-90 §14, 7/18/90

§2-115. Inherent legislative power not limited. — Nothing in this chapter shall limit the Legislature or any committee thereof in their inherent or constitutional powers of contempt or impeachment nor shall anything in this chapter limit any power which the Legislature, a committee or a member may have to discipline any member or employee thereof or to impose a penalty in the absence of action by the prosecuting officer or court.

Source: S.L. No. 2L-157-90 §15, 7/18/90

§2-116. Powers of the Sergeant-at-arms. — Whenever a committee, by majority vote of all its members, finds a person is in contempt of the Legislature for violation of any provision of this chapter, the committee, when authorized by the Legislature Rules of Procedure, at its discretion and upon majority vote of all its members, may direct that the offender be summarily taken into custody by the Sergeant-at-arms until:

- (1) A complaint has been filed and arrest made pursuant to this chapter; or
- (2) A citation for contempt has been served pursuant to the Legislature Rules of Procedure.

Source: S.L. No. 2L-157-90 §16, 7/18/90

§2-117. Injunctive relief. —

(1) If the Speaker of the Legislature, upon recommendation of a majority vote of all the members of the committee affected, finds reasonable grounds to believe that any person is in contempt of the Legislature for violating any provision of this chapter, or is about to do so, the Speaker, on behalf of the Legislature, may petition a court of competent jurisdiction for an order and the court may issue such order directing the person to cease and desist from such contemptuous behavior in the future.

(2) The petition shall set forth the facts on which it is based and the nature and extent of the relief sought.

(3) The Legislature may, by its Rules of Procedure, empower the Speaker to designate one or more members or officers of the Legislature to make the petition on his behalf. Any such designation shall be filed with the Clerk of the Legislature and, if a petition is made by any person named in such designation, a copy of such designation shall be submitted to the court together with the petition.

(4) If a court to which such a petition is presented is satisfied that the petition sets forth a prima facie case for the granting of the relief requested, in whole or in part, it may issue a temporary order relative thereto pending the ultimate determination of the matter after due notice and hearing. A copy of such temporary order and the petition upon which it is based, together with notice of the date and

place of a hearing to be held thereon, shall be given to such person within the time and in the manner as the court shall direct.

(5) A temporary injunction and any preliminary or permanent injunction which thereafter may be granted on the petition following a hearing thereon is enforceable by contempt proceeding, or other enforcement proceeding, in the same manner as other orders of such court.

(6) Except as otherwise provided, all law applicable to the granting of injunctive relief by the court to which a petition hereunder is presented apply to proceedings instituted under this section.

Source: S.L. No. 2L-157-90 §17, 7/18/90

§2-118. Remedies cumulative. — The remedies for contempt of the Legislature provided by this chapter, other laws of Pohnpei, the Legislature Rules of Procedure, individual committee procedural rules, and internal operating procedures, manuals, and systems of the Legislature and its committees are cumulative, and the application or attempted application of one does not bar any other.

Source: S.L. No. 2L-157-90 §18, 7/18/90

CHAPTER 3 OFFICE OF LEGISLATIVE INVESTIGATIONS

Section

3-101 Establishment of office of Legislative Investigations	3-109 Referral of matters
3-102 Appointment of the Commissioner for Legislative Investigations	3-110 Investigatory powers
3-103 Term of office	3-111 Disclosures
3-104 Vacancies	3-112 Records
3-105 Functions and duties of the office	3-113 Reporting
3-106 Initiation of investigations	3-114 Authorization for appropriation; administration
3-107 Committee investigations	3-115 Regulations and orders
3-108 Intergovernmental cooperation	3-116 Preparation activities
	3-117 Construction

§3-101. Establishment of office of Legislative Investigations. — There is hereby created within the staff services of the Pohnpei Legislature the office of Legislative Investigations. The office shall consist of a Commissioner for Legislative Investigations and such permanent and temporary investigators and other staff members, consultants, and advisors as provided in the Legislature Administrative Manual and as the budget shall permit.

Source: S.L. No. 3L-83-94 §1, 11/24/94

§3-102. Appointment of the Commissioner for Legislative Investigations. — The office of Legislative Investigations shall be under the leadership and guidance of the Commissioner for Legislative Investigations, who shall be appointed by the Speaker of the Legislature with the advice and consent of a majority of the total membership of the Legislature. In making his selection, the Speaker shall be mindful of the need to obtain the services of an expert in the field of government investigations whose previous work experiences indicate that the individual maintains a high degree of professionalism in his investigatory activities.

Source: S.L. No. 3L-83-94 §2, 11/24/94

§3-103. Term of office. — The Commissioner for Legislative Investigations shall serve at the pleasure of the Legislature for a term consistent with that of the appointing Speaker and until his successor is appointed, but no longer than 180 days following the conclusion of the term for which he was appointed. A commissioner may be appointed for successive terms. The Commissioner may be removed upon the affirmative vote of a majority of the total membership of the Legislature while in session at any time during the course of his term. The Speaker may suspend the services of the Commissioner for cause for a period not to exceed 90 calendar days, but may not extend that suspension beyond such period unless he shall receive the concurrence of a majority of the total membership of the Legislature during session.

Source: S.L. No. 3L-83-94 §3, 11/24/94

§3-104. Vacancies. — A vacancy in the position of Commissioner of Legislative Investigations shall be filled for the remainder of the unexpired term in the same manner as an original appointment; PROVIDED that the Speaker of the Legislature, following consultation with the members of the Legislature, may provide for temporary appointments to fill the position of Commissioner for periods not to exceed 90 calendar days following the occurrence of the vacancy; PROVIDED FURTHER that no person may serve as temporary Commissioner for more than 90 days in any 180-day period. A vacancy in the position of Commissioner shall not impair the right of the office of Legislative

Investigations to exercise all functions and duties of the office and all investigatory powers of the office granted or recognized under this chapter.

Source: S.L. No. 3L-83-94 §4, 11/24/94

§3-105. Functions and duties of the office. — When directed by resolution of the Legislature, the office of Legislative Investigations shall have the following functions and duties within the context and subject matter of the directive:

(1) The faithful execution and enforcement of the laws of Pohnpei, with particular reference to, but not limited to, the effects of criminal conduct and substance abuse on the affairs of the Pohnpei Government;

(2) The conduct of public officers and public employees, and officers and employees of public corporations and authorities, with particular reference to, but not limited to, the effects on the affairs of the Pohnpei Government of corruption in office and the commission of politically motivated crimes;

(3) The conduct, management, and affairs of any branch, department, board, bureau, commission, agency, public corporation or other instrumentality of the Pohnpei Government; and

(4) The conduct, management, and affairs of any recipient or custodian of any funds, properties or other assets of the Pohnpei Government with respect to the use and disposition thereof.

Source: S.L. No. 3L-83-94 §5, 11/24/94

§3-106. Initiation of investigations. — The Legislature shall provide in its Rules of Procedure for the form and content of resolutions as set forth in §3-105 for the office of Legislative Investigations to initiate investigations under said section and other provisions of this chapter.

Source: S.L. No. 3L-83-94 §6, 11/24/94

§3-107. Committee investigations. — At the request of any duly constituted and authorized committee of the Legislature, the office shall assist the committee in the conduct of investigations being undertaken by that committee and in the preparation of reports to be issued by that committee.

Source: S.L. No. 3L-83-94 §7, 11/24/94

§3-108. Intergovernmental cooperation. — Unless there is a conflict of interest or other good and compelling reason, the office of Legislative Investigations shall cooperate with similar legislative and executive investigatory agencies and officers of the national, state, and local governments in the investigations of any persons, agencies or activities over which the office shares jurisdiction and an investigatory interest with such agency or officer.

Source: S.L. No. 3L-83-94 §8, 11/24/94

§3-109. Referral of matters. — Whenever it shall appear to the office of Legislative Investigations that there is cause for the prosecution of a crime, or for the removal of a public officer for misconduct or neglect of duty, the office shall refer the evidence of such crime, misconduct or neglect of duty to the officials authorized to conduct the prosecution or remove the public officer.

Source: S.L. No. 3L-83-94 §9, 11/24/94

§3-110. Investigatory powers. — With respect to the exercise of its functions and duties under this chapter, the office of Legislative Investigations, inclusive of its Commissioner and each duly authorized permanent or temporary staff member, consultant, and advisor thereto, shall be authorized to:

(1) Conduct any investigation authorized by this chapter at any place within Pohnpei, and to maintain offices, hold meetings, and to function at any place within Pohnpei;

(2) Examine into matters relating to the subject's functions, duties, and powers extending beyond the territorial limits of the state and into other jurisdictions and international waters and consult with

and exchange information with similar agencies and officers of other jurisdictions with respect to such matters; and

(3) Assist the Legislature committees and the subcommittees thereof when the assistance of the office is requested by resolution of the Legislature in preparing and conducting investigatory hearings, which shall include, but need not be limited to, assistance to administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation and require the production of any books, records, documents or other evidence deemed relevant or material to an investigation; and in this respect, the chairman of the appropriate committee or subcommittee may designate the Commissioner for Legislative Investigations or any staff member or consultant or advisor attached to the office of Legislative Investigations to exercise any such powers on behalf of the committee or subcommittee, subject to the procedural restrictions and due process protections of Chapter 2 as it may be amended or superseded.

Source: S.L. No. 3L-83-94 §10, 11/24/94

§3-111. Disclosures. — Any person conducting or participating in any examination or investigation within or attached to the office of Legislative Investigations who shall disclose to any person other than the Commissioner for Legislative Investigations, an authorized representative of the office, or member, committee or subcommittee of the Legislature, the name of any witness examined, or any information obtained or given upon such examination or investigation that is confidential information, except where disclosure is required by this chapter or other law, shall be guilty of an offense against Pohnpei and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than six months, or both such fine and imprisonment; PROVIDED, HOWEVER, that duly seated members of this Legislature shall be subject to sanctions as provided in the Legislature Rules of Procedure.

Source: S.L. No. 3L-83-94 §11, 11/24/94

§3-112. Records. — Except where inspection, use or release of information is appropriate to the investigation or otherwise required by law, the Commissioner for Legislative Investigations shall maintain sealed records of all information acquired during the course of an investigation undertaken by the office under the authority of this chapter, and shall furthermore provide for the appropriate closing of the files and disposal of the records at the conclusion of the investigation.

Source: S.L. No. 3L-83-94 §12, 11/24/94

§3-113. Reporting. — The Commissioner for Legislative Investigations shall make a comprehensive report to the Legislature within the first ten days of the first regular session of the Legislature each year, which shall include an accounting of the activities of the office of Legislative Investigations for the previous year and recommendations as to improvements in the composition and operations of the office. The Commissioner shall make such additional reports to the Legislature at such times as the Legislature may prescribe.

Source: S.L. No. 3L-83-94 §13, 11/24/94

§3-114. Authorization for appropriation; administration. — The office of Legislative Investigations created by this chapter is an agency of the legislative branch of the Pohnpei Government and as such is entitled to receive such financing and is accountable pursuant to such fiscal procedures as are applicable generally for the legislative branch of the Pohnpei Government. In addition:

(1) There is hereby authorized for appropriation such sums from such Treasury funds as may be identified and allocated annually in the Comprehensive Budget Act for the purpose of financing the office of Legislative Investigations established under §3-101.

(2) In addition to the sums appropriated under the authorization of Subsection (1) of this section, the Office shall be eligible to receive financial assistance from other grants made available to the Legislature, including, but not limited to, contributions from intergovernmental legislative associations, the United States of America Government, the national government of the Federated States of Micronesia, the local governments of Pohnpei, and other sources.

(3) All financing made available to the Office established by this chapter shall be administered and expended by the Chief of Administration and Budget of the Legislature at the direction of the Speaker, in consultation with the Commissioner for Legislative Investigations, solely for the purposes specified in this chapter and subject to the terms and conditions of the granting authority which are not inconsistent with this chapter.

(4) The balance of any sums appropriated under the authorization of Subsection (1) of this section that are not expended or obligated for expenditure at the close of the fiscal year for which they were appropriated shall revert to the fund from which the appropriation was made.

(5) The Chief of Administration and Budget of the Legislature shall submit an annual report to the Legislature on all financial matters with respect to his administration of the monies made available under this chapter within 15 working days following the close of each fiscal year.

Source: S.L. No. 3L-83-94 §14, 11/24/94

§3-115. Regulations and orders. — The Commissioner for Legislative Investigations is authorized to promulgate regulations and orders for the proper administration of this chapter which shall take effect upon compliance with the procedural requirements of law and approval of the Speaker of the Legislature.

Source: S.L. No. 3L-83-94 §15, 11/24/94

§3-116. Preparation activities. — The Legislative Counsel and the Chief of Administration and Budget of the Legislature shall assist the office of the Speaker of the Legislature in preparing appropriate recommendations for amending the Legislature Rules of Procedure, the Legislature Administrative Manual, and the Comprehensive Budget Act to assist in the organization of the office of Legislative Investigations created by §3-101.

Source: S.L. No. 3L-83-94 §16, 11/24/94

§3-117. Construction. — Nothing in this chapter shall be construed to supersede, repeal or limit the investigatory powers or responsibilities of any member, committee or subcommittee of the Legislature, or of any other officer or agency of the Legislature, nor shall the office created by this chapter be construed to supersede, or in any other manner be considered to take the place of or override the responsibilities of any investigatory officer or agency otherwise created or recognized by Pohnpei law.

Source: S.L. No. 3L-83-94 §17, 11/24/94

Note: S.L. No. 3L-83-94 §18 severability provision has been omitted.

CHAPTER 4 CODE

Section

4-101 Short title	4-105 Publication and codification revolving fund; authorization for appropriation; administration
4-102 Purpose	4-106 Distribution of Code
4-103 Responsible for Pohnpei Code	4-107 Discretionary decisions
4-104 Scope of the Code	

§4-101. Short title. — This chapter is known and may be cited as the “Pohnpei Codification Act of 1988.”

Source: S.L. No. 2L-11-88 §1, 5/24/88

§4-102. Purpose. — The purpose of this chapter is to provide a means of codifying all of the laws of Pohnpei, to provide for their publication and regular update on a continuing basis.

Source: S.L. No. 2L-11-88 §2, 5/24/88

§4-103. Responsible for Pohnpei Code. — The Division of the Legislative Counsel of the Pohnpei Legislature shall be responsible for organizing, codifying, publishing, and distributing the codified Pohnpei Code.

Source: S.L. No. 2L-11-88 §3, 5/24/88

§4-104. Scope of the Code. — The scope of the Code, and any amendments or revisions thereof, shall be as prescribed in Chapter 1 of Title 1 of the Official Code of the State of Pohnpei.

Source: S.L. No. 2L-11-88 §4, 5/24/88; S.L. No. 6L-79-06 §3-102, 11/1/06

Note: S.L. No. 6L-79-06 §3-102, 11/1/06 repealed S.L. No. 2L-11-88 §4, 5/24/88 in its entirety and inserted a new §4.

§4-105. Publication and codification revolving fund; authorization for appropriation; administration. —

(1) There is hereby established a publication and codification revolving fund for the compilation and publication of laws, and for the codification, revision, and publication of the Pohnpei Code. The revolving fund herein established shall be administered and expended by the Legislative Counsel.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei such sums as may be determined annually in the Comprehensive Budget Act for deposit in the revolving fund created by Subsection (1) of this section. All sums so appropriated shall remain available until fully expended.

Source: S.L. No. 2L-11-88 §§ 5 & 6, 5/24/88

§4-106. Distribution of Code. —

(1) Interested persons and entities may acquire copies of the Official Code of the State of Pohnpei and periodic updates thereof from the Division of the Legislative Counsel of the Pohnpei Legislature upon payment of a fee of:

(a) CD-ROM Code Subscription (digital format): the CD-ROM disk plus three years of annual service updates on the Code commencing with the year following the date of purchase: \$25 plus delivery costs;

(b) Printed Code (RESERVED)

(2) Fees collected pursuant to this section shall be deposited into the publication and codification revolving fund.

(3) Notwithstanding Subsection (1) of this section, courtesy copies and updates of the Official Code of Pohnpei shall be provided without cost to the Governor of Pohnpei, the Lieutenant Governor of Pohnpei, each Justice of the Pohnpei Supreme Court, each Senator of the Pohnpei Legislature, the Pohnpei Auditor, the Attorney General and each of the eleven local jurisdictions.

(4) The Legislative Counsel may enter into agreements for the exchange of legal codes with other entities for use by the Pohnpei Legislature and other state agencies, and may, upon a finding that sufficient copies of the Code are available for said purpose and upon approval of the Speaker of the Pohnpei Legislature, waive all or a portion of the payment of fees as prescribed in this section in connection with said agreement.

(5) The Legislative Counsel, upon concurrence of the Speaker of the Legislature, may provide for access to the Official Code of the State of Pohnpei on the internet through the use of such service providers and with the assistance of such search engines as are deemed appropriate.

(6) The Legislative Counsel may request subsidies to the publication and codification fund when deemed necessary to fulfill the requirements of this section.

(7) The Legislative Counsel shall file an annual written report with the Speaker of the Legislature relating to the sale and distribution of the Code.

Source: S.L. No. 2L-11-88 §7, 5/24/88; S.L. No. 6L-90-07 §1, 2/14/07

§4-107. Discretionary decisions. — The Legislative Counsel, in executing his duty of compiling, arranging, indexing, publishing, and distributing the Code, is given broad discretionary authority so that the program can be efficiently accomplished. This includes, but is not limited to, contracting with outside entities for professional, technical, and publication services.

Source: S.L. No. 2L-11-88 §8, 5/24/88

Notes: 1. D.L. No. 4L-8-76, 2/26/76 authorized an appropriation for codification which, if not expended, would revert. It was amended by D.L. No. 4L-34-76, 5/14/76 creating a codification revolving fund to provide that funding would not revert but would go into the codification revolving fund. D.L. No. 4L-34-76, 5/14/76 was repealed by S.L. No. 2L-42-80 §1, 11/10/80. 2. S.L. No. 2L-8-80, 6/28/80 required that public laws be compiled, published, and distributed annually. Any money appropriated not expended reverted to the general fund. S.L. No. 2L-8-80, 6/28/80 did not amend any other law, nor did it reference PDC §1-400 or D.L. No. 4L-34-76. S.L. No. 2L-8-80, 6/28/80 was repealed by S.L. No. 2L-42-80 §1, 11/10/80.

Extended legislative history: PDC §1-400(b) was amended by D.L. No. 3L-47-73 §1, 5/25/73; PDC §1-400(d) was amended by D.L. No. 4L-34-76 §1, 5/14/76; PDC §1-400 was repealed by S.L. No. 2L-42-80, 11/10/80, and a new PDC §1-400 was established; PDC §1-400 was repealed in its entirety by S.L. No. 2L-11-88 §9, 5/24/88.

CHAPTERS 5 – 8 [RESERVED]

CHAPTER 9 LEGISLATURE FINANCES

Section

<p>9-101 Salaries and allowances; authorization and appropriation</p> <p>9-102 Official expense allowances; budget authorization; administration</p> <p>9-103 Travel allowances and expenses; budget authorization; administration</p> <p>9-104 Representation Fund; budget authorization; administration</p> <p>9-105 Insurance; authorization for appropriation</p> <p>9-106 Administration of compensation and benefits</p> <p>9-107 Refreshment fund; budget authorization; administration</p>	<p>9-108 Contingency fund; budget authorization; administration</p> <p>9-109 Buildings and grounds improvement fund; budget authorization; administration</p> <p>9-110 Staff operations; budget authorization; administration</p> <p>9-111 Committee operations; budget authorization; administration</p> <p>9-112 Staff housing; budget authorization; administration</p> <p>9-113 Membership in Association of Pacific Island Legislatures; budget authorization; administration</p>
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§9-101. Salaries and allowances; authorization and appropriation. —

(1) The officers and members of the Pohnpei Legislature shall receive salaries in such amounts as are determined in the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law.

(2) There is hereby authorized and continually appropriated out of the general fund of Pohnpei such sums as shall be necessary to carry out the purposes of this section.

Source: PDC §1-8(1), 3/71; S.L. No. 2L-77-88 §1, 12/12/88

Note: S.L. No. 1L-71-86 §4-1 repealed PDC §1-8 and inserted a new §1-8.

§9-102. Official expense allowances; budget authorization; administration. —

(1) Each member of the Legislature shall be entitled to expend per fiscal year a sum or sums to be determined in the Comprehensive Budget Act for official expenses of such member as a legislator. Entitlement to expenditure of the sum or sums provided under this section for each member commences with the first payment thereof subsequent to the seating of such member.

(2) There is authorized for appropriation from the general fund of Pohnpei such sum or sums to be determined annually in the Comprehensive Budget Act to carry out the purpose of this section.

(3) *Administration.*

(a) The Chief of Administration and Budget of the Legislature shall effectuate equal quarterly payments of the sum or sums allotted to each member of the Legislature per fiscal year to be due and payable to each member. Payment to members shall be made on the tenth working day of each quarter of the fiscal year.

(b) Supplemental appropriations shall be equally divided among remaining quarterly payment dates of the fiscal year. Each member shall report to the Speaker within 15 days following the close of each fiscal year concerning the expenditure of the sum allotted to him during the previous fiscal year. Any balance of the sum reported unexpended or unobligated for expenditure by such member shall be paid by him to the general fund of Pohnpei. All obligated balances not expended within three years of the date of payment shall likewise be returned to the general fund of Pohnpei.

(c) The Chief of Administration and Budget shall maintain records available for public inspection of all payments and expenditure reports under this section for at least five years from the date of payment of such allowances.

Source: PDC §1-8(4), 3/71; S.L. No. 2L-77-88 §1, 12/12/88

Note: S.L. No. 1L-71-86 §4-1 repealed PDC §1-8 and inserted a new §1-8.

§9-103. Travel allowances and expenses; budget authorization; administration. — There is authorized for appropriation such sums as may be determined from time to time in the Comprehensive Budget Act for transportation, per diem, and officers' travel premium allowances and expenses for legislators as are provided by Pohnpei law. Procedures for entitlement thereto shall be prescribed in the Legislature Rules of Procedure.

Source: PDC §1-8(3), 3/71; S.L. No. 2L-77-88 §1, 12/12/88

Note: S.L. No. 1L-71-86 §4-1 repealed PDC §1-8 and inserted a new §1-8.

§9-104. Representation Fund; budget authorization; administration. —

(1) The Speaker of the Legislature shall be entitled to expend a sum or sums to be determined annually in the Comprehensive Budget Act for official representation, entertainment, and other similar expenses during each calendar year. Such expenditure shall be for activities directly related to the Legislature or the Office of the Speaker or both.

(2) The Speaker shall submit written requests for and detailed vouchers of expenditure of the sums specified in this section supported by proper receipt or other documentation, to the Chief of the Division of Finance and Property Accountability of the Department of Treasury and Administration through the Chief of Administration and Budget of the Legislature. The Chief of Administration and Budget shall maintain, for a period of five years, a complete file of all requests and a detailed record of all expenditures under the authorization of this section, and shall make such file of requests and record of expenditures available for inspection by the general public.

(3) There is authorized for appropriation out of the general fund of Pohnpei such sums as shall be necessary to carry out the purposes of this section.

Source: PDC §1-8(2), 3/71; S.L. No. 2L-77-88 §1, 12/12/88

Note: S.L. No. 1L-71-86 §4-1 repealed PDC §1-8 and inserted a new §1-8.

§9-105. Insurance; authorization for appropriation. —

(1) The Pohnpei Legislature is authorized to solicit group life, workmen' compensation, health, and death benefits insurance, or any combination thereof, for the benefit of its members, and to contribute not more than seventy-five percent (75%) of the premium costs of such coverage.

(2) There is authorized for appropriation out of the general fund of Pohnpei an annual sum or sums to be determined in the Comprehensive Budget Act to carry out the purpose of this section.

Source: PDC §1-8(5), 3/71; S.L. No. 2L-77-88 §1, 12/12/88

Note: S.L. No. 1L-71-86 §4-1 repealed PDC §1-8 and inserted a new §1-8.

§9-106. Administration of compensation and benefits. —

(1) Subject to the presentation of their credentials to the Pohnpei Legislature for their qualification, members shall receive their salaries and be entitled to such other allowances, expenses, and benefits authorized by §§9-101 – 9-106 as of the date their term begins, and shall remain eligible therefor until they leave or are terminated from office; PROVIDED that the salaries of members appointed or elected at special elections to fill vacancies in the Pohnpei Legislature shall commence on the day after their appointment or election, subject to the presentation of their credentials as soon as reasonable.

(2) The Chief of Administration and Budget of the Legislature shall be responsible for the administration and expenditure of all sums authorized by §§9-101 – 9-106, and shall certify requests

for the expenditure of such sums to the Pohnpei Department of Treasury and Administration for payment.

Source: PDC §1-8(6), 3/71; S.L. No. 2L-77-88 §1, 12/12/88

Note: S.L. No. 1L-71-86 §4-1 repealed PDC §1-8 and inserted a new §1-8.

Extended legislative history: PDC §§1-8(a) and (b) were amended by D.L. No. 3L-58-73 §6, 5/29/73; PDC §1-8 was amended by D.L. No. 3L-59-73 §1, 1/1/74; PDC §1-8 was repealed by D.L. No. 3L-76-73 §2, 1/1/74, and new PDC §§1-8(a) and (b) were established; PDC §1-8 was again repealed by D.L. No. 3L-104-75 §1, 1/3/76, and a new PDC §1-8 was established; PDC §§1-8(1)(a) and (b) were repealed by D.L. No. 4L-103-77 §1, 10/26/77, and a new PDC §1-8(a) was inserted; PDC §1-8(1)(a) was repealed by S.L. No. 3L-10-84 §6(1), 4/1/86, and a new PDC §1-8(1)(a) was established; PDC §1-8(3)(b) was amended by D.L. No. 4L-25-76 §1, 5/14/76; PDC §1-8(3)(d) was amended by D.L. No. 4L-25-76 §2, 5/14/76; PDC §1-8(3) was repealed by S.L. No. 2L-81-81 §34, 7/15/81, and a new PDC §1-8(3) was established; PDC §1-8(4)(a) was amended by D.L. No. 4L-66-76 §1, 1/1/77; PDC §1-8(4) was repealed by D.L. No. 4L-130-78 §1, 3/7/78, and a new PDC §1-8(4) was established; PDC §1-8(4)(a) was amended by S.L. No. 2L-97-81 §1, 11/24/81; PDC §1-8(4)(c) was amended by S.L. No. 2L-97-81 §2, 11/24/81; PDC §1-8(4)(c) was again amended by S.L. No. 3L-10-84 §1, 1/3/84; PDC §1-8 was again repealed in its entirety by S.L. No. 1L-71-86 §4-1, 4/1/86; PDC §1-8, as established by S.L. No. 1L-71-86, was amended by S.L. No. 2L-77-88 §1, 12/12/88.

§9-107. Refreshment fund: budget authorization; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei a sum to be deposited in a refreshment fund. This fund shall not be distributed in cash to the members of the Pohnpei Legislature, but may be used to finance any program of the Legislature. All sums herein authorized for appropriation shall be expended and administered by the Chief of Administration and Budget solely for the purposes specified in this section.

Source: PDC §1-10, 3/71; D.L. No. 3L-39-72 §1, 11/29/72; D.L. No. 3L-58-73 §8, 5/29/73

§9-108. Contingency fund: budget authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum for the purpose of establishing a contingency fund of the Pohnpei Legislature to be administered and expended as follows:

- (a) A sum for the purpose of financing special sessions of the Legislature;
- (b) A sum for the purpose of financing expenses incurred in special elections of the Legislature; and
- (c) A sum for the purpose of such other legislative expenses that the Speaker, in his sound discretion, deems necessary.

(2) All sums herein authorized for appropriation shall be expended and administered by the Chief of Administration and Budget as directed by the Speaker of the Legislature solely for the purposes of this section. The Chief of Administration and Budget shall submit a written report of his activities under this section on the first day of each regular session of the Legislature. The report shall be signed and approved by the Speaker; PROVIDED, HOWEVER, that if the Speaker disapproves of the report, he shall note his disapproval thereon and give his reason or reasons therefor.

Source: D.L. No. 3L-66-73 §§1 & 2, 1/1/74

§9-109. Buildings and grounds improvement fund: budget authorization; administration. —

(1) There is hereby established a Legislature buildings and grounds improvement fund for the purpose of financing the construction, improvement, renovation, and repair of Pohnpei Legislature buildings and such other buildings as shall be under the jurisdiction and control of the Legislature, and the landscaping and improvement of their surrounding grounds.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined from time to time in the Comprehensive Budget Act for the Legislature buildings and grounds improvement fund. The sum herein authorized for appropriation shall be administered and expended by the Chief of Administration and Budget of the Legislature, upon the direction of the

Speaker thereof, solely for the purposes specified in Subsection (1) of this section. The Chief of Administration and Budget shall submit an annual report on or before October 15 each year on all matters relating to the administration and expenditure of the sum appropriated under the authorization of this section for the previous fiscal year. The balance of all sums appropriated under the authorization of this section, shall remain available until fully expended.

Source: D.L. No. 4L-37-76 §§1 & 2, 5/24/76; D.L. No. 4L-136-78 §32, 3/27/78; S.L. No. 2L-98-81 §1, 11/24/81; S.L. No. 5L-48-01 §6, 9/05/01

§9-110. Staff operations: budget authorization; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei a sum to be determined in the annual Comprehensive Budget Act for expenses incurred in the operation of the staff of the Pohnpei Legislature. The sum herein authorized for appropriation may include, but is not limited to, annual salaries, travel, per diem, overtime, housing, research, and training, and related materials and other benefits of the employees of the Legislature, and the purchase and rental of supplies and the operation, maintenance, and repair of the buildings, equipment, vehicles, and furniture of the Legislature. All sums herein authorized for appropriation shall be administered and expended in compliance with the Legislature Administrative Manual by the Chief of Administration and Budget of the Legislature upon approval of the Speaker.

Source: D.L. No. 4L-39-76 §2(E), 7/1/76

§9-111. Committee operations: budget authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act and allocated to specific standing and special committees and their respective subcommittees, for the purpose of defraying the cost of transportation, per diem, studies, investigations, personal contractual services, and other appropriate and incidental expenses of such committees and subcommittees as specified in this section.

(2) All claims for expenses as provided in Subsection (1) of this section shall be approved by the chairmen and transmitted to the Speaker for approval and payment in the manner set forth in Subsection (3) of this section. Travel and per diem for meetings outside of Kolonia and expenses for printing and supplies may be incurred only with prior approval of the Speaker and shall be paid on vouchers so evidenced. In no instance shall expenses be incurred by a committee or subcommittee in excess of the sum or sums appropriated in the Comprehensive Budget Act and specifically allocated to the committee or to the subcommittee either within the committee allocation or by individual allocation, unless such expenses are approved by the Speaker to be paid from the contingency fund established by §9-108.

(3) All sums authorized for appropriation by this section shall be administered and expended by the Chief of Administration and Budget of the Pohnpei Legislature, upon the direction of the Speaker thereof, solely for the purposes of this section. The Chief of Administration and Budget shall submit an annual report to the Legislature on or before October 15 of each year on the administration of this section for the previous fiscal year. All sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 of each year shall revert to the general fund of Pohnpei.

Source: D.L. No. 4L-45-76 §7, 5/25/76; D.L. No. 4L-136-78 §33, 3/27/78; S.L. No. 3L-56-94 §2, 8/6/94

Note: S.L. No. 3L-56-94 §1 repealed D.L. No. 4L-45-76 §§1 – 6.

§9-112. Staff housing: budget authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum to be determined annually in the Comprehensive Budget Act for the purpose of providing housing for the staff, who are so entitled, of the Pohnpei Legislature. The sum herein authorized may be used for, but is not limited to, housing rental, purchase of furniture and equipment or house construction.

(2) The sums herein authorized for appropriation shall be administered and expended by the Chief of Administration and Budget, upon approval of the Speaker of the Legislature and the Chairman of the Legislature Committee on Finance or an authorized Subcommittee thereof, solely for the purposes stated in Subsection (1) of this section. The Chief of Administration and Budget shall report to the Legislature within 15 days after the closing day of the previous Legislative fiscal year on all matters concerning the expenditure of the sums authorized for appropriation by this section for the previous fiscal year. Any balance of the sum not expended or obligated for expenditure on the last day of each fiscal year shall revert to the general fund of Pohnpei.

Source: D.L. No. 4L-79-77 §§1 & 2, 5/6/77; D.L. No. 4L-136-78 §2, 3/27/78

§9-113. Membership in Association of Pacific Island Legislatures: budget authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act, or so much thereof as may be necessary, for the purpose of defraying the costs of the Pohnpei Legislature's participation in activities relative to its membership in the Association of Pacific Island Legislatures.

(2) The sum herein authorized for appropriation shall be administered and expended by the Speaker of the Legislature solely for the purpose stated in Subsection (1) of this section. The Speaker shall report to the Pohnpei Legislature on or before October 15 each year on all matters concerning the expenditure of the sum authorized for appropriation by this section. Any balance of the sum appropriated for a fiscal year under the authorization of this section not expended or obligated for expenditure on September 30 of that fiscal year shall revert to the general fund of Pohnpei.

Source: S.L. No. 1L-70-86 §§1 & 2, 10/1/85

Note: S.L. No. 1L-70-86 §3 repealed S.L. No. 3L-38-84, 10/4/84 in its entirety.

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TITLE 3
EXECUTIVE

TITLE 3 EXECUTIVE

CHAPTER

- 1 GENERAL ORGANIZATION**
- 2 OFFICE OF THE GOVERNOR AND LIEUTENANT GOVERNOR**
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- 5 ECONOMIC PLANNING COMMISSION**
- 6 DEVELOPMENT PLAN**
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CHAPTER 1 GENERAL ORGANIZATION

Section

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1-103 Office of the Lieutenant Governor	1-109 Appointments
1-104 Executive departments	1-110 Supersession
1-105 Executive offices	1-111 Transition and succession
1-106 Executive authorities, commissions, and agencies	1-112 Rights and obligations of employment contracts

§1-101. Short title. — This chapter is known and may be cited as the “Executive Reorganization Act of 2000.”

Source: S.L. No. 5L-14-00 §0-1, 10/1/00

§1-102. Office of the Governor. — The Office of the Governor shall be composed of the Governor, such office divisions and functions as required by law, and such support staff as the annual Comprehensive Budget Act shall allow and who shall be employed pursuant to the Public Service System Act, Title 9 Chapter 2.

Source: S.L. No. 5L-14-00 §1-1, 10/1/00

§1-103. Office of the Lieutenant Governor. — The Office of the Lieutenant Governor shall be composed of the Lieutenant Governor and such support staff as the annual Comprehensive Budget Act shall allow and who shall be employed pursuant to the Public Service System Act, Title 9 Chapter 2.

Source: S.L. No. 5L-14-00 §1-2, 10/1/00

§1-104. Executive departments. — There is hereby provided within the executive branch of the Pohnpei Government the following executive departments. Each department shall consist of an office of the director and such divisions as are listed thereunder. Each department shall be under the administrative direction of a department director. No department shall have a deputy director or

assistant to the director. Each division, except in instances where the director maintains direct management of the division, shall have a division chief. In addition, each department shall be composed of such support staff as the annual Comprehensive Budget Act shall allow. Policy, review, and advisory boards and councils created for oversight of the department activities shall be attached to the respective department for administrative purposes.

- (1) The Department of Treasury and Administration shall include the following divisions:
 - (a) The Division of Finance and Property Accountability;
 - (b) The Division of Revenue and Taxation; and
 - (c) The Division of Personnel, Labor and Manpower Development.
- (2) The Department of Education shall include the following divisions:
 - (a) The Division of Curriculum, Instructional Development, and Specialized Education;
 - (b) The Division of Early Childhood Education;
 - (c) The Division of Primary Education; and
 - (d) The Division of Secondary Education.
- (3) The Department of Health Services shall include the following divisions:
 - (a) The Division of Administration and Health Planning;
 - (b) The Division of Medical Services;
 - (c) The Division of Primary Health Care; and
 - (d) The Division of Dental Services.
- (4) The Department of Public Safety shall include the following functions and divisions:
 - (a) The Office of the Director shall include emergency services;
 - (b) The Division of Police and Security;
 - (c) The Division of Corrections and Rehabilitation; and
 - (d) The Division of Fish and Wildlife.
- (5) The Department of Land and Natural Resources shall include the following divisions:
 - (a) The Division of Public Land;
 - (b) The Division of Surveying and Mapping;
 - (c) The Division of Forestry; and
 - (d) The Division of Historic Preservation.

Source: S.L. No. 5L-14-00 §§1-3 – 1-8, 10/1/00; S.L. No. 6L-20-04 §1, 10/26/04; S.L. No. 7L-80-11 §1, 1/14/11

§1-105. Executive offices. — There is hereby provided within the executive branch of the Pohnpei Government the following executive offices. Each office shall be under the administrative direction of an administrator. No office may have a deputy administrator or assistant to the administrator. Each office shall be composed of such support staff as the annual Comprehensive Budget Act shall allow. Policy, review, and advisory boards and councils created for oversight of office activities shall be attached to the respective offices for administrative purposes.

- (1) The Office of the Attorney General shall include the following functions:
 - (a) Law; and
 - (b) Litigation.
- (2) The Office of Economic Affairs shall include the following functions:
 - (a) Agriculture;
 - (b) Business Development, other than Fisheries and Aquaculture; and
 - (c) Project Planning and Implementation.
- (3) The Office of Social Affairs shall include the following functions:
 - (a) Senior Citizens;
 - (b) Women; and
 - (c) Youth.
- (4) The Office of Transportation and Infrastructure shall include the following functions:

- (a) Public transportation;
- (b) Field trip ship operations; and
- (c) Public works.

(5) The Office of Fisheries and Aquaculture shall be responsible for all oversight and development of fisheries and aquaculture.

Source: S.L. No. 5L-14-00 §§1-9 – 1-13, 10/1/00; S.L. No. 7L-20-08 §1, 11/26/08; S.L. No. 7L-54-09 §1, 12/23/09

§1-106. Executive authorities, commissions, and agencies. — There is also provided within the executive branch of the Pohnpei Government such executive authorities, commissions, and agencies which have been or may be created by statute and placed in, or performing functions of, the executive branch.

Source: S.L. No. 5L-14-00 §1-14, 10/1/00

§1-107. Administrative heads; supervision. — The administrative head of each executive department, executive office, and authority, commission, and agency reports to and shall be under the direct supervision of the Governor.

Source: S.L. No. 5L-14-00 §2-1, 10/1/00

§1-108. Duties, responsibilities, and functions. — Duties, responsibilities, and functions of each governmental agency and subagency listed in this chapter shall be as determined by the Pohnpei Constitution and laws of Pohnpei. The Governor may, in addition, provide for specific prescriptions of such duties, responsibilities, and functions therefor by issuance of administrative directives that are not inconsistent with the Pohnpei Constitution or the laws of Pohnpei.

Source: S.L. No. 5L-14-00 §2-2, 10/1/00

§1-109. Appointments. — Pursuant to Article 9 §10 of the Pohnpei Constitution, the Governor shall appoint the administrative heads of all executive departments, executive offices, and authorities, commissions, and agencies listed in this chapter pursuant to the Uniform Appointments and Tenure Act, Title 9 Chapter 1, or its successor. Tenure and filling of vacancies of said positions shall be as prescribed in said statute or other applicable statutes.

Source: S.L. No. 5L-14-00 §2-3, 10/1/00

§1-110. Supersession. — All memoranda, directions, charts, and other documents relating to the organization of the executive branch of the Pohnpei Government which were in effect prior to the effective date of this chapter [*October 1, 2000*] are hereby superseded.

Source: S.L. No. 5L-14-00 §4-1, 10/1/00

§1-111. Transition and succession. —

(1) The Governor shall, by executive order(s), provide for a smooth and orderly transition to complete the reorganization in accordance with this chapter, including the establishment, elimination, transfer or disposal of such functions, liabilities, budgets, personnel, and assets as are appropriate.

(2) The following officers, departments or offices created by this chapter with similar or identical divisions or functions are deemed successors to the former departments, bureaus, and commissions created by statute for the purpose of organizing or reorganizing the executive branch of the Pohnpei Government.

(a) The Department of Public Safety and the Office of the Attorney General shall be the successors to the Department of Justice.

(b) The Department of Land and Natural Resources, the Office of Transportation and Infrastructure, and the Office of Economic Affairs shall be the successors to the Department of Resource Management and Development.

(c) The Office of the Governor shall be the successor to the Bureau of Public and Governmental Relations, other than field trip ship operations.

(d) The Office of the Governor shall include the Division of Budget; PROVIDED, HOWEVER, that the Program and Budget Officer shall be separate from the person of the Governor.

(e) The Office of Transportation and Infrastructure shall be the successor to the Division of Construction Management and Property Maintenance, and to the field trip ship operations function of the Bureau of Public and Governmental Relations.

Source: S.L. No. 5L-14-00 §4-2, 10/1/00

§1-112. Rights and obligations of employment contracts. — Nothing in this chapter shall impair the rights and obligations of employment contracts in existence on the effective date of this chapter [October 1, 2000].

Source: S.L. No. 5L-14-00 §4-3, 10/1/00

Note: S.L. No. 5L-14-00 §3-1, repealing provision has been omitted.

Extended legislative history: 1. S.L. No. 1L-6-79, 10/4/79, was original legislation; S.L. No. 1L-6-79 §1(1)(d) was amended by S.L. No. 2L-99-81 §2, 11/24/81; S.L. No. 1L-6-79 §1(1)(e) was amended by S.L. No. 2L-107-82 §1, 1/28/82; S.L. No. 1L-6-79 §1(3)(a) was amended by S.L. No. 2L-99-81 §1, 11/24/81; S.L. No. 1L-6-79 §3 was amended by S.L. No. 2L-173-83 §7(1), 4/22/83 and S.L. No. 2L-177-83 §7, 5/5/83; S.L. No. 1L-6-79 §4 was amended by S.L. No. 2L-173-83 §7(2), 4/22/83 and S.L. No. 2L-177-83 §8, 5/5/83; S.L. No. 1L-6-79 was repealed by S.L. No. 1L-62-86 §6-6, 4/1/86. 2. S.L. No. 1L-62-86, 4/1/86, provided for reorganization of the executive branch; S.L. No. 1L-62-86 §2-2 was amended by S.L. No. 3L-1-92 §1, 3/12/92; S.L. No. 1L-62-86 §2-3 was amended by S.L. No. 3L-1-92 §2, 3/12/92; S.L. No. 1L-62-86 §3-1 was amended by S.L. No. 3L-1-92 §3, 3/12/92; S.L. No. 1L-62-86 §3-3 was amended by S.L. No. 3L-1-92 §4, 3/12/92 and S.L. No. 3L-32-93 §1, 3/15/93; S.L. No. 1L-62-86 §3-4 was amended by S.L. No. 3L-1-92 §5, 3/12/92; S.L. No. 1L-62-86 §3-5 was amended by S.L. No. 3L-1-92 §6, 3/12/92 and S.L. No. 3L-26-92 §19(1), 11/19/92; S.L. No. 1L-62-86 §3-6 was amended by S.L. No. 3L-6-92 §10, 5/29/92; S.L. No. 1L-62-86 §3-7 was repealed by S.L. No. 3L-1-92 §13, 3/12/92; S.L. No. 1L-62-86 §3-8 (renumbered §3-7) was amended by S.L. No. 3L-1-92 §7, 3/12/92; S.L. No. 1L-62-86 §3-8 was added by S.L. No. 3L-1-92 §8, 3/12/92; S.L. No. 1L-62-86 §4-9 was renumbered as §4-10 by S.L. No. 3L-26-92 §19(2), 11/19/92 and a new §4-9 was added by S.L. No. 3L-26-92 §19(2), 11/19/92; S.L. No. 1L-62-86 §5-3 was repealed and a new §5-3 was added by S.L. No. 3L-1-92 §9, 3/12/92; S.L. No. 1L-62-86 §5-4 was repealed by S.L. No. 3L-1-92 §14, 3/12/92; S.L. No. 1L-62-86 §5-6 (renumbered §5-4) was amended by S.L. No. 3L-1-92 §10, 3/12/92; S.L. No. 1L-62-86 §5-5 was repealed and a new §5-5 was added by S.L. No. 3L-1-92 §11, 3/12/92; S.L. No. 1L-62-86 §5-7 was repealed by S.L. No. 3L-1-92 §14, 3/12/92; S.L. No. 1L-62-86 §5-6 was added by S.L. No. 3L-1-92 §12, 3/12/92; S.L. No. 1L-62-86 §6-8 was repealed by S.L. No. 3L-1-92 §15, 3/12/92; S.L. No. 3L-1-92 §18 was amended by S.L. No. 3L-7-92 §1, 5/25/92. 3. S.L. No. 4L-01-96 §6-4(1), 1/22/96, repealed S.L. No. 1L-62-86, as amended, in its entirety; S.L. No. 4L-01-96 §2-2 was amended by S.L. No. 4L-05-96 §6(1), 3/14/96; S.L. No. 4L-01-96 §4-6 was amended by S.L. No. 4L-05-96 §6(2), 3/14/96; S.L. No. 4L-01-96 §6-6 was amended by S.L. No. 4L-05-96 §6(3), 3/14/96; S.L. No. 4L-01-96 §6-4(2), 1/22/96, repealed S.L. No. 2L-219-71, created the Pohnpei Tourist Commission; S.L. No. 4L-01-96 §6-4(3), 1/22/96, repealed D.L. No. 2L-215-83, created the Pohnpei Sports Council. 4. S.L. No. 5L-14-00 §3-1, 10/1/00, repealed S.L. No. 4L-01-96, the Executive Reorganization Act of 1996, as amended, in its entirety. Following codification on January 1, 2006, (1 PC 1-103, S.L. No. 6L-79-06 §1-101, 11/1/06) the Chapter has since been amended by S.L. No. 6L-20-04 §1, 10/26/04; S.L. No. 7L-20-08 §1, 11/26/08; S.L. No. 7L-54-09 §1, 12/23/09 and S.L. No. 7L-80-11 §1, 1/14/11.

CHAPTER 2
OFFICE OF THE GOVERNOR AND LIEUTENANT GOVERNOR

Section

2-101 Prohibition against the Governor and the
Lieutenant Governor from being temporarily absent
from the state at the same time

§2-101. Prohibition against the Governor and the Lieutenant Governor from being temporarily absent from the state at the same time. — Except where absence is necessitated by medical referral which can be supported by the testimony of a licensed physician, it is prohibited for the Governor and the Lieutenant Governor to be absent from the state of Pohnpei at the same time.

Source: S.L. No. 5L-14-00 §1-2A, 10/1/00

Note: §1-2A was added by S.L. No. 6L-69-06 §1, 5/16/06.

CHAPTERS 3 & 4
[RESERVED]

CHAPTER 5 ECONOMIC PLANNING COMMISSION

Section

5-101 Purpose	5-104 Commission powers regarding information
5-102 Economic Planning Commission	5-105 Authorization for appropriation;
5-103 Responsibilities of the Commission	administration

§5-101. Purpose. — There is a critical need for the state of Pohnpei to establish overall strategic direction and mobilization in its planning and development efforts to restructure the government and economy of the state in this time of diminishing revenues from the Compact of Free Association and the increasing cost of government. It is the priority function of the state government to: provide a suitable level of social, infrastructure, and administrative services to meet the basic needs of the people, consistent with a desirable and affordable standard of living; and, to promote and facilitate a sufficient rate of economic development and growth in order to create employment opportunities, to increase private income and investment and, thereby, the generation of government revenues through appropriate and equitable taxes and fees to meet the funding needs of the government. In order to accomplish this, an appropriate policy analysis and planning instrumentality needs to be established in the executive branch under the leadership of the Governor to provide the entire governmental institution with the appropriate broad-based, analytical background to carry out its strategic planning and development implementation functions. This chapter is therefore intended to create a permanent strategic planning and policy review and consultative forum in which leaders and technical experts in the public and private sectors can regularly convene to conceptualize, with the assistance of the relevant government departments, divisions, agencies, authorities, and commissions, the appropriate steps to be taken in developing Pohnpei's future.

Source: S.L. No. 4L-05-96 §1, 3/14/96

§5-102. Economic Planning Commission. —

(1) There is hereby established for Pohnpei State an Economic Planning Commission, hereinafter referred to as the "Commission," which shall be composed of the Governor, the Administrator of the Office of Economic Affairs, and seven members appointed by the Governor representing the development, management, financial, social, and the productive sectors. The Governor shall seek, where feasible, to achieve balanced representation on the Commission from the public and the private sectors.

(2) In addition to the appointed members of the Commission specified in Subsection (1) of this section, the Governor, from time to time and for such purposes, issues, and durations as he deems suitable, may invite other officials and experts from the private and public sectors to serve as temporary members of the Commission. In exercising his authority under this subsection, the Governor is encouraged to consider the merits of inviting officers and experts from relevant agencies, instrumentalities, and branches of the Pohnpei Government, the local governments of the state, the government of the Federated States of Micronesia, the government of the United States of America, other foreign governments and international organizations and funding institutions, academic institutions, and non-governmental organizations concerned with the development and welfare of the Pohnpeian people. Temporary members shall be eligible to participate in all activities of the Commission as invited by the Governor, except in exercising the right to vote; PROVIDED that, unless otherwise authorized by the Commission, temporary members or their sponsoring entities shall be responsible for their own costs for service on the Commission.

(3) Appointed members shall serve on the Commission for terms commensurate with the term of the appointing Governor. Unjustified absence for two consecutive meetings shall result in removal from the Commission. Vacancies shall be filled for the unexpired duration of the term in the same manner as original appointments.

(4) The first meeting of the Commission shall be called by the Governor within 15 days following the effective date of this chapter [*effective date is March 14, 1996*]. Meetings thereafter shall be convened at least once each calendar month, or more frequently at the call of the Governor, or upon written request of at least six appointed members who shall specify, in writing, the purpose for convening the meeting.

(5) A majority of the appointed members of the Commission shall constitute a quorum in order to transact business. At its initial organizational meeting, the Commission, by majority vote of the members and the concurrence of the Governor, shall establish its organizational rules and procedures including voting rules.

(6) The Governor shall serve as the Chairman of the Commission and the Commission shall select such other officers as it deems necessary.

(7) The Commission shall adopt its own rules of procedure for its organization and operation.

(8) Members of the Commission shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, for members of Pohnpei Government policy boards and commissions when actually attending meetings of the Commission, except for those members who are employees of the Pohnpei Government whose service on the Commission shall be deemed public service for which additional compensation shall not issue, but shall receive, instead, their regular salaries while performing functions of the Commission.

(9) Members of the Commission shall be entitled to receive travel expenses and per diem at standard Pohnpei Government rates when traveling on the budget of the Commission as authorized by the Commission, in instances when those amounts would be payable to Pohnpei Government employees in the same circumstances.

(10) The Governor shall provide assistance to the Commission in the performance of its duties, which assistance shall include, but need not be limited to, office space, legal assistance, technical assistance, and clerical and administrative support.

(11) The Commission shall continue in existence until otherwise provided by law.

Source: S.L. No. 4L-05-96 §2, 3/14/96; S.L. No. 5L-14-00 §3-19, 10/1/00

§5-103. Responsibilities of the Commission. — It shall be the responsibility of the Commission to:

(1) Recommend development priorities of the state government and assist in the preparation of the Integrated State Five-Year Development Plan incorporating these strategic priorities, goals, and programs;

(2) Review the short-term plans and work programs of agencies and departments in the key development sectors and make recommendations to ensure that sectoral implementation is consistent with the overall plan goals and strategies, and to ensure that such implementation is undertaken efficiently with sufficient technical and financial resources and clearly quantified outputs, sectoral goals, and time schedules of implementation; EXCEPT that it is understood that each department and office, and the appointed head thereof, shall be responsible for the formulation and implementation of short-term operational plans and all normal administrative implementation matters within the purview of the department or office, as defined by statute or executive order;

(3) Monitor plan implementation, providing policy guidance, and recommend adjustments as required to policies, organizational arrangements, priorities, and strategies to maximize the attainment of the plan goals;

(4) Provide ongoing analysis of the state's governmental services, organization, and personnel, and make recommendations to improve the same;

(5) Oversee the preparation of the annual operating and capital development budgets of the executive branch and agencies;

(6) Oversee, generally, the current and proposed major development projects within the state, providing particular analysis and recommendations on all such projects and proposals which require government funding, subsidy or policy and regulatory concessions;

(7) Recommend policies and strategies to increase the role and productive output of the private sector in the economy of the state;

(8) Recommend policies and strategies to develop the human resources of Pohnpei, commensurate with the life-style choices of the communities and individuals;

(9) Review government-funded and -operated services and operations with a view toward reducing governmental financial costs while maintaining necessary services in an economically efficient and equitable manner, emphasizing, in this effort, the revision or development of user fees and charges and the commercialization, privatization or divestiture of government services and assets;

(10) Recommend state policies and strategies with regard to national, regional, and international cooperation, both government and non-government, to increase external assistance and investment in Pohnpei in a coordinated manner and in accordance with overall state priorities, to create more efficient commercial trade and resource utilization mechanisms, and to improve the delivery of externally funded aid and investment in Pohnpei;

(11) Review existing tax and tariff laws and administration in relation to development issues, at the state, national, and local levels, and make recommendations regarding the revision of such laws and administration;

(12) Establish mechanisms for regular communication of the activities, recommendations and analyses of the Commission to the other branches of the state government, other governments, and institutions, to the Pohnpei communities and to the local foreign business communities;

(13) Coordinate the compilation and dissemination of data, statistical summaries, and information on all vital socio-economic indicators necessary for monitoring of social and economic development progress and for financial and commercial appraisal and assessment of the Pohnpei economy;

(14) Recommend appropriate legislation to implement the goals and priorities set by the Commission, and establish mechanisms for close and ongoing communications with and submissions of legislation to the Legislature; and

(15) Undertake such other reviews, functions, and tasks as are referred to the Commission by the Governor or the Pohnpei Legislature.

Source: S.L. No. 4L-05-96 §3, 3/14/96

§5-104. Commission powers regarding information. — The Governor may request any information and data that the Commission deems necessary. Requests for information shall be specific and detailed and shall establish a reasonable time frame for the production of the information requested. The Commission shall establish operational rules for the safeguarding of any confidential information or materials received by the Commission, to include disciplinary actions and procedures regarding the negligent or intentional release of such confidential information or materials.

Source: S.L. No. 4L-05-96 §4, 3/14/96

§5-105. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation such sums from such Treasury funds as may be identified and allocated annually in the Comprehensive Budget Act for the purposes of financing the compensation of members and expenses of the Economic Planning Commission.

(2) In addition to the sums appropriated under the authorization of Subsection (1) of this section, the Commission shall be eligible to receive financial assistance from other grants made available to the Pohnpei Government, including, but not limited to, contributions from intergovernmental

associations, the United States of America Government, the FSM National Government, the local governments of this state, and other sources.

(3) All financing appropriated or otherwise made available to the Commission shall be administered and expended by the Governor solely for the purposes specified in this chapter and subject to the terms and conditions of the granting authority which are not inconsistent with this chapter.

(4) Unless otherwise provided in the Comprehensive Budget Act, the balance of any sums appropriated under the authorization of Subsection (1) of this section that are not expended or obligated for expenditure at the close of the fiscal year for which they were appropriated shall revert to the fund or funds in the Pohnpei Treasury from which the appropriation was made.

(5) Sums provided to the Commission from other sources as prescribed in Subsection (2) of this section shall remain available to the Commission until fully expended on the project or program for which the grant has been received. Upon conclusion of such project or program, such sums made available under the grant shall be returned or disposed of pursuant to the terms of the grant; PROVIDED that, if there be no such terms, said balance shall be deposited in the general fund of the Treasury as the realization of public revenues.

(6) The Governor shall submit an annual report to the Legislature on all financial matters with respect to the administration and expenditure of all monies made available to the Commission for a fiscal year within 15 days following the close of the fiscal year.

Source: S.L. No. 4L-05-96 §5, 3/14/96

EXECUTIVE

CHAPTER 6 DEVELOPMENT PLAN

Section

6-101 Procedures for enactment of a state plan	6-104 Authority to transmit
6-102 Adoption of a state plan	6-105 Amendments
6-103 Construction	

§6-101. Procedures for enactment of a state plan. — Before the Governor submits the Pohnpei State Plan as this state’s component of the official economic development plan as required by §211(b) of the Compact of Free Association to the government of the United States of America through the government of the Federated States of Micronesia, the plan shall first be enacted into state law. Amendments and revisions to the state plan shall be effectuated by state law in the same manner as the original plan.

Source: S.L. No. 3L-9-84 §1, 1/31/84

§6-102. Adoption of a state plan. — The documents entitled “Proceedings of the First Pohnpei State Economic Summit (May 6-9, 1996),” and “Pohnpei State Public Sector Investment Program”, incorporated herein by reference are hereby adopted as the official Development Plan of Pohnpei and declared to be the official development policy of the Government of Pohnpei.

Source: S.L. No. 4L-28-97 §1, 2/18/97

§6-103. Construction. — The Pohnpei Development Plan adopted by §6-102 shall be deemed a planning document for the purpose of guiding Pohnpei Government officials and private sector developers as to the major goals and strategies for the development of Pohnpei. Project descriptions, detailed plans, implementation schedules, and initiation dates that are not already provided in the Pohnpei Development Plan, inclusive of subsequent amendments thereto, and authorized funding levels shall be as provided in future authorization laws of Pohnpei, and the annual Comprehensive Budget Act of this state.

Source: S.L. No. 4L-28-97 §2, 2/18/97

§6-104. Authority to transmit. — The Governor is hereby authorized to submit the Pohnpei Development Plan adopted by §6-102 to all necessary and relevant persons, associations, and organizations as the official Pohnpei component of the Overall Development Plan of the Federated States of Micronesia.

Source: S.L. No. 4L-28-97 §3, 2/18/97

§6-105. Amendments. — Amendments to the Pohnpei Development Plan shall be effectuated in the manner prescribed therefor in the Federated States of Micronesia Agreement on Internal Budget and Financial Procedures under the Compact of Free Association, as codified at 55 FSMC §§301 – 344.

Source: S.L. No. 4L-28-97 §4, 2/18/97

Note: S.L. No. 4L-28-97 §5, 2/18/97 superseded S.L. No. 1L-123-87, 4/2/87 in its entirety.

CHAPTERS 7 – 9 [RESERVED]

EXECUTIVE

CHAPTER 10 GOVERNOR'S OFFICE FINANCES

Section

10-101 Governor's representation fund: authorization; administration

10-102 Governor's contingency fund: authorization; administration

§10-101. Governor's representation fund: authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum to be determined annually in the Comprehensive Budget Act for the purpose of funding a Governor's representation fund.

(2) The sum herein authorized for appropriation shall be administered and expended by the Governor, upon concurrence with the Chief of the Division of Finance and Property Accountability, solely for the purpose stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sum authorized for appropriation by this section. Any balance of the sum appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-18-80 §§1 & 2, 9/19/80

Note: S.L. No. 1L-5-79, 10/1/79 also created a Governor's representation fund, which was, in effect, repealed by the enactment of S.L. No. 2L-18-80.

§10-102. Governor's contingency fund: authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei such sums as may be determined annually in the Comprehensive Budget Act for the purpose of establishing a Governor's contingency fund, to be administered and expended as follows:

(a) To supplement expenses of an emergency or unforeseen nature arising within the approved budget line items in the respective title of the annual Comprehensive Budget Act; PROVIDED that the sum herein authorized for appropriation shall not be used to fund any items not otherwise approved in the respective title of the Comprehensive Budget Act for the executive branch; and

(b) [*RESERVED*]

(2) All sums herein authorized for appropriation shall be expended and administered under the written direction of the Governor of Pohnpei for the purposes stated in this section. The Governor shall submit an annual written report to the Legislature concerning all expenditures from this fund. Said report shall be submitted on or before October 15 each year. Any balance of the sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-8-88 §§1 & 2, 4/26/88

EXECUTIVE

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TITLE 4
JUDICIARY

TITLE 4 JUDICIARY

CHAPTER

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- 2 GENERAL POWERS, AUTHORITY, AND JURISDICTION**
- 3 POHNPEI SUPREME COURT**
- 4 [RESERVED]**
- 5 COURT OF TRAFFIC AND MISDEMEANOR OFFENSES [PENDING]**
- 6 COURT OF LAND TENURE**
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CHAPTER 1 ESTABLISHMENT AND ORGANIZATION OF JUDICIARY

Section

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1-103 Seals	1-109 Financial administration
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1-105 Assessors	
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§1-101. Short title. — Chapters 1 to 9 are known and may be cited as the “Pohnpei Judiciary Act of 1995.”

Source: S.L. No. 3L-99-95 §1-1, 7/20/95

§1-102. Judicial authority. —

(1) The judicial authority of the state of Pohnpei is vested in the Pohnpei Supreme Court, the Court of Land Tenure, the Court of Traffic and Misdemeanor Offenses, and such other courts as may from time to time be established by statute.

(2) The courts of this state may function as, or appoint qualified persons to function as arbitration, mediation or conciliation bodies or boards, as may be prescribed by law or rule.

Source: S.L. No. 3L-99-95 §1-2, 7/20/95

§1-103. Seals. — The Pohnpei Supreme Court shall have a seal that shall be kept in the custody of the Clerk thereof. Other courts of this state may have seals, which shall be kept in the custody of their respective judges.

Source: S.L. No. 3L-99-95 §1-3, 7/20/95

§1-104. Judicial officers and personnel. —

(1) Justices and judges of the judiciary branch of the Pohnpei Government shall be appointed in the manner and shall be subject to the qualifications of office prescribed in Article 10 of the Pohnpei Constitution and Chapter 1 through Chapter 9 of this title.

(2) The compensation of justices and judges shall be as prescribed by such reapportionment statutes for the compensation of the appointed and elected officers of the Pohnpei Government as may from time to time be enacted pursuant to Article 10 §8 and Article 13 §8 of the Pohnpei Constitution. Justices and judges of the judiciary branch of the Pohnpei Government shall not be eligible to receive vacation leave, annual leave or sick leave, nor shall they be eligible to convert the same into its cash equivalent.

(3) The Chief Justice of the Pohnpei Supreme Court shall appoint a Clerk of the Supreme Court, and such other assistant clerks and employees as are needed to conduct court business. Such employees shall be subject to the personnel system and compensation plans of the judiciary branch as established by statute and court order.

(4) The personnel system for the judiciary branch and the classification of employees thereunder shall, to the extent practicable, be parallel to the personnel system and employee classifications established for the executive branch.

(5) The Chief of the Division of Personnel, Labor and Manpower Development is authorized and directed to assist the Chief Justice, upon request, to establish and periodically evaluate employee classifications within the personnel system for the judiciary branch, to administer examinations, to advertise for personnel, and to provide for such other personnel services as are normally rendered to any agency of the executive branch.

(6) The Chief Justice of the Supreme Court may, in accordance with the personnel system of the judiciary branch, appoint and assign law clerks to assist the justices and judges of the state; PROVIDED that assistance and advice given by the law clerks shall not be that required of an assessor as prescribed by §1-105. If such advice is required of a law clerk, he shall be deemed an assessor and be subjected to the law and rules pertaining thereto. Any party to a trial or hearing may request of the presiding or ruling justice or judge for an accounting of the law clerk's participation in the judicial decision-making processes to determine compliance with this provision. Law clerks shall be accountable as judges with respect to the application of judicial standards prescribed by Chapter 7.

(7) To the maximum extent practicable, the Chief Justice shall provide for the sharing of personnel among the various courts of this state and may enter into cooperative agreements with the national and local governments for the temporary assignment of judicial officers and administrative personnel to and from the judiciaries of said governments.

(8) The Chief Justice of the Supreme Court may discipline or remove any officer or employee of the judiciary branch for good cause pursuant to procedures prescribed therefor in the personnel system of the judiciary branch, subject to appeal to the full Supreme Court.

Source: S.L. No. 3L-99-95 §1-4, 7/20/95; S.L. No. 5L-14-00 §3-32, 10/1/00

§1-105. Assessors. — Any justice or judge of a court of this state may appoint one or more assessors to advise him at the trial or hearing of any case with respect to law or custom or such other matters requiring specialized knowledge. All such advice shall be of record and the assessors shall be subject to examination and cross-examination by any party.

Source: S.L. No. 3L-99-95 §1-5, 7/20/95

§1-106. Judicial administration. —

(1) The court system of this state shall be unified under the administrative supervision of the Chief Justice of the Pohnpei Supreme Court. He shall have the authority to promulgate administrative rules governing all courts and activities of the judiciary branch of this state.

(2) The Chief Justice of the Supreme Court shall establish and maintain a manual of administration for the judiciary branch that shall, among other things, provide for the assignment and description of duties for staff, direction of office responsibilities, and accountability for the attainment and management of judicial properties.

Source: S.L. No. 3L-99-95 §1-6, 7/20/95

§1-107. Judicial budget. —

(1) The budget for the judiciary branch shall be prepared by the Chief Justice independently from the budget processes of the executive branch; PROVIDED that the Chief Justice shall give due consideration to budget ceilings and recommendations issued by the Governor.

(2) The budget shall include an accounting of all expected sources of financing for the judiciary, inclusive of grants and other receipts from the national and local governments and other sources.

(3) The budget shall be submitted to the Legislature through the office of the Governor as a part of the overall budget presentation for the state and shall conform to the requirements provided by law for the submission of budget documents generally by the executive branch.

Source: S.L. No. 3L-99-95 §1-7, 7/20/95

§1-108. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such other funds of the Pohnpei Treasury as may be established to support the judiciary branch of the Pohnpei Government such sums as may be determined and allocated annually in the Comprehensive Budget Act, or so much thereof as may be necessary, to finance the operations of the judiciary branch.

(2) All sums so appropriated shall be administered and expended by the Chief Justice solely for the operations of the judiciary branch as specified by Chapter 1 through Chapter 9 of this title.

(3) Any balance of the sums appropriated under the authorization of this section for a fiscal year not expended or obligated for expenditure on September 30 each year shall revert to the respective fund of the Treasury from which it was appropriated.

(4) The Chief Justice, subject to applicable statutes controlling the request, receipt, and use of grants and other modes of financial assistance from sources within and without the state, may receive and expend such grants and assistance for the support of the activities of the judiciary branch of this state.

(5) The Chief Justice shall submit an annual report to the Legislature on or before October 15 detailing all financial activities of the judiciary branch for the preceding fiscal year.

Source: S.L. No. 3L-99-95 §1-8, 7/20/95

§1-109. Financial administration. —

(1) Subject to the availability of funds, the Financial Organization and Management Act, Title 11 Chapter 2, and the requirements of Chapter 1 through Chapter 9 of this title, the Director shall make all disbursements requested by the Chief Justice, except for disbursements for which no allotments have been made or disbursements which would cause a specific allotment to be exceeded.

(2) The Chief Justice shall be responsible for the proper expenditure of all funds appropriated to or otherwise received by the judiciary branch and is authorized to establish such administrative rules and procedures, including the retention of independent auditors, as may be necessary and as are consistent with state law to ensure the proper expenditure and accounting of such funds.

Source: S.L. No. 3L-99-95 §1-9, 7/20/95

§1-110. State of the judiciary report. — The Chief Justice of the Pohnpei Supreme Court shall, during the Governor's state of the state address and during the first regular legislative session each year at such times as may be agreed upon by the Chief Justice and the Speaker of the Pohnpei Legislature, provide a written report to the Legislature and the Governor on the state of the judiciary,

that report shall include the predominant judicial events and accomplishments for the previous year and planned developments for the judiciary branch in the present and future years. The Chief Justice shall include in the report such topics as may be required by law and such other matters as the Chief Justice deems appropriate to raise before the Legislature.

Source: S.L. No. 3L-99-95 §1-10, 7/20/95; S.L. No. 7L-53-09 §1, 12/23/09

CHAPTER 2 GENERAL POWERS, AUTHORITY, AND JURISDICTION

Section

2-101 General powers of the courts	2-106 Contempt
2-102 Rules	2-107 Right to timely action
2-103 Authority to administer oaths, take acknowledgments, and exercise powers of notary public	2-108 Territorial jurisdiction
2-104 Court sessions	2-109 Jurisdiction over persons: civil
2-105 Sessions, records, and decisions to be public; exceptions	2-110 Jurisdiction over persons by act
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§2-101. General powers of the courts. —

(1) The courts of this state shall have the power to issue all writs and other process, make rules and orders, and do all acts not inconsistent with law or with the rules established with respect to the judiciary in general or the specified court in particular.

(2) The courts of this state may, with respect to cases and persons within their jurisdiction, grant bail and writs of habeas corpus, and cause forfeit of security therefor; make orders for the attendance of witnesses with or without documents; and make orders for the disposal of exhibits, except that no exhibit shall be destroyed without the consent of the party who presented it.

Source: S.L. No. 3L-99-95 §3-1, 7/20/95

§2-102. Rules. — The Pohnpei Supreme Court, by majority vote of its justices and after public notice and hearing from all interested parties, shall promulgate rules of court and of civil and criminal procedure, evidence, and for the admission and discipline of counsel. Such rules shall, to the extent practicable, have uniform application in all courts of this state. The rules shall, among other things, provide for a single form of action for all civil cases, and shall make liberal provision for the intervention and joinder of parties and claims, and for discovery, to provide full and fair adjudication of all cases. Where authorized by statute, after public notice and hearing from all interested parties, and upon concurrence of the Chief Justice of the Supreme Court, other courts of the state may promulgate rules pertaining to their special circumstances.

Source: S.L. No. 3L-99-95 §3-2, 7/20/95

§2-103. Authority to administer oaths, take acknowledgments, and exercise powers of notary public. — Each justice, the Clerk and assistant clerks of the Pohnpei Supreme Court, and each judge of the other courts of this state shall have the authority to administer oaths and affirmations, take acknowledgments, and exercise all powers of notary public.

Source: S.L. No. 3L-99-95 §3-3, 7/20/95

§2-104. Court sessions. —

(1) The Pohnpei Supreme Court shall be in continuous session at Kolonia, subject to recess. It shall hold sessions in other areas of the state on a regular basis whenever required by the public interest.

(2) The other courts of this state shall be in session pursuant to Chapter 1 through Chapter 9 of this title, the rules established by the Supreme Court, and the rules of the particular court.

Source: S.L. No. 3L-99-95 §3-4, 7/20/95

§2-105. Sessions, records, and decisions to be public; exceptions. —

(1) All sessions and records of the courts of this state shall be public; PROVIDED that the courts may order certain sessions to be closed or specific records suppressed for good cause that shall be identified in the public record. All decisions shall be public.

(2) Any person desiring to attend any session that has been closed or view any record that has been suppressed may petition the court closing the session or having suppressed the record. Any interested person may appeal the action of the court on said petition as provided by law for appeals generally.

Source: S.L. No. 3L-99-95 §3-5, 7/20/95

§2-106. Contempt. —

(1) Any justice or judge shall have the power to punish contempt of court. Contempt of court is:

(a) Any intentional obstruction of the administration of justice by any person, including any clerk or officer of the court acting in his official capacity; or

(b) Any intentional disobedience or resistance to the court's lawful writ, process, order, rule, decree or command.

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

(a) Any person accused of committing any civil contempt shall have a right to notice of the charges and opportunity to present a defense and mitigation. A person found in civil contempt may be imprisoned until such time as he complies with the order or pays an amount necessary to compensate the injured party, or both;

(b) Any person accused of committing criminal contempt shall have a right of notice of the charges and opportunity to present a defense and mitigation; PROVIDED, HOWEVER, that no punishment of a fine of more than \$100 or any imprisonment shall be imposed unless the accused is given a right to notice of the charges; to a speedy public trial; to confront the witnesses against him; to compel the attendance of witnesses in his behalf; to have the assistance of counsel; and to be released on bail pending adjudication of the charges. He shall have a right to be charged within three months of the contempt and a right not to be charged twice for the same contempt; and

(c) A person found to be in criminal contempt of court shall be fined not more than \$500, or imprisoned not more than three months, or both such fine and imprisonment.

(3) Any adjudication of contempt is subject to appeal as provided by law. Any punishment of contempt may be stayed pending appeal, but a punishment of imprisonment shall be stayed on appeal automatically, unless the court finds that a stay of imprisonment will cause an immediate obstruction of justice, which finding must be supported by written findings of fact. A denial of a stay of imprisonment is subject to review.

Source: S.L. No. 3L-99-95 §3-6, 7/20/95

§2-107. Right to timely action. —

(1) Persons appearing before the courts of this state shall have the right to timely commencement of actions as well as timely decisions by the justice(s) or judge(s) hearing the case or appeal. Unless good cause is shown, justices and judges shall commence proceedings within 90 days of the filing of an action at the Pohnpei Supreme Court. Justices and judges shall render a decision on a matter put before them within 90 days following the close of oral proceedings in a trial and within 120 days following the close of oral arguments in an appeal.

(2) For purposes of enforcement of this section, the chief clerk of each court of this state shall file a monthly statement with the Director of the Department of Treasury and Administration and the Public Auditor. The monthly statement shall contain, but not be limited to, a complete listing of every pending action filed with the court, the date filed, the status of all trial and appeal cases active before the court without decision for more than 90 days or 120 days, respectively, following the close of oral proceedings or arguments thereon and the name of the justice(s) or judge(s) responsible for rendering a decision thereon.

Source: S.L. No. 3L-99-95 §3-7, 7/20/95; S.L. No. 5L-14-00 §3-32, 10/1/00

§2-108. Territorial jurisdiction. — The jurisdiction of the Pohnpei Supreme Court shall extend to the whole of the state. The territorial jurisdiction of other courts of the state shall be as provided by statute.

Source: S.L. No. 3L-99-95 §4-1, 7/20/95

§2-109. Jurisdiction over persons: civil. — The courts of this state may exercise personal jurisdiction in civil cases only over persons found within this state or such lesser area as may be prescribed by statute, except as provided in §2-111.

Source: S.L. No. 3L-99-95 §4-2, 7/20/95

§2-110. Jurisdiction over persons by act. — Any person, corporation or legal entity, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts enumerated in this section, thereby submits himself or its personal representative to the jurisdiction of the courts of this state as to any cause of action arising from:

- (1) The transaction of any business within the state;
- (2) The operation of a motor vehicle within the state;
- (3) The operation of a vessel or craft within the territorial waters or airspace of this state;
- (4) The commission of a tortious act within the state;
- (5) Contracting to insure any person, property or risk located within this state at the time of contracting;
- (6) The ownership, use or possession of any interest in real estate, inclusive of leasehold interests, within this state;
- (7) Entering into an express or implied contract, by mail or otherwise, with a resident of this state, to be performed in whole or in part by either party in this state;
- (8) Acting within this state as director, manager, trustee or other officer of any corporation organized under the laws of or having a place of business within this state, or as executor or administrator of any estate within this state;
- (9) Causing injury to persons or property within this state arising out of an act or omission outside of this state by the defendant; PROVIDED that, in addition, at the time of the injury either:
 - (a) The defendant was engaged in the solicitation or sales activities within this state; or
 - (b) Products, materials, or things processed, serviced or manufactured by the defendant anywhere were used or consumed within this state; and
- (10) Living in a marital relationship within this state notwithstanding subsequent departure from this state, as to all obligations arising for alimony, child support or property rights under applicable law, if the other party to the marital relationship continues to reside in this state.

Source: S.L. No. 3L-99-95 §4-3, 7/20/95

§2-111. Effect of jurisdiction limited. — Only causes of action arising from acts or omissions enumerated in §2-110 may be asserted against a defendant in an action in which jurisdiction is based on §2-110.

Source: S.L. No. 3L-99-95 §4-4, 7/20/95

JUDICIARY

CHAPTER 3 POHNPEI SUPREME COURT

Section

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3-102 Composition of the Pohnpei Supreme Court	3-105 Original jurisdiction of the Trial Division
3-103 Qualifications of Pohnpei Supreme Court Justices	3-106 Appellate jurisdiction
	3-107 Order of succession to position of Chief Justice

§3-101. The Pohnpei Supreme Court to be the highest court. — Pursuant to Article 10 §4 of the Pohnpei Constitution, the Pohnpei Supreme Court shall be the highest court and the court of last resort for the state of Pohnpei.

Source: S.L. No. 3L-99-95 §16-1, 7/20/95

§3-102. Composition of the Pohnpei Supreme Court. — The Pohnpei Supreme Court shall consist of a Chief Justice, not more than four permanent associate justices, and such alternate and temporary associate justices as prescribed by §3-103. Justices shall be appointed in the manner prescribed by Article 10 §3 of the Pohnpei Constitution and shall serve for such terms as prescribed by Article 10 §7 of the Pohnpei Constitution or Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §16-2, 7/20/95; S.L. No. 4L-36-97 §1, 5/20/97

§3-103. Qualifications of Pohnpei Supreme Court Justices. —

(1) *Chief Justice and permanent associate justices.* A person appointed to the position of Chief Justice or permanent associate justice of the Pohnpei Supreme Court shall:

- (a) Be at least 35 years of age at the time of nomination and not have been convicted of felony;
- (b) Be a graduate from an accredited law school and be admitted to practice law before the National Supreme Court or the highest court of any State of the Federated States of Micronesia, or before the United States of America Supreme Court or the highest court of any State thereof; or be a person of demonstrated legal ability obtained through at least five years of practicing law within the State of Pohnpei, the National Government of the Federated States of Micronesia, or the former Trust Territory; and
- (c) Have been a citizen and resident of the State of Pohnpei for a cumulative total of at least ten years and at least five years immediately preceding his appointment.

(2) *Alternate associate justices.* In consultation with the Chief Justice, the Governor may appoint non-citizen alternate associate justices, subject to the advice and consent of the Legislature. The term of an alternate associate justice shall be for two years. An incumbent alternate associate justice may be reappointed subject to the advice and consent of the Legislature. A person appointed to the position of alternate associate justice shall meet the qualifications of Paragraph (a) and (b) of Subsection (1) of this section; PROVIDED that in making alternate appointments to the Supreme Court, the Governor shall select persons who possess extensive experience and learned respect in fields of the law which are important to the growth and maturity of the State judiciary. The Governor in making such appointments may enter into cooperative agreements with the governors of other FSM states and with the chief executives of other jurisdictions in the region for the mutual selection and support of prominent jurists as alternate justices to serve the common needs of island jurisdictions in specialty areas of the law which are new to the island courts or in other areas of the law in which judicial conflicts of interest among permanent, resident justices are likely to occur. In the instance where two or more jurisdictions join together for the mutual appointment of prominent jurists to be shared among the highest courts of said jurisdictions, the Chief Justice of the Pohnpei Supreme Court may enter into agreements with the presiding judges of the highest courts of other affected jurisdictions for the purpose of coordinating the sittings, compensation and costs of utilizing such alternate justices.

(3) *Temporary associate justices.* The Governor may, in consultation with the Chief Justice, appoint temporary associate justices, subject to the advice and consent of the Legislature. The term of a temporary associate justice shall be for two years. An incumbent temporary associate justice may be reappointed, subject to the advice and consent of the Legislature. A person appointed to the position of temporary associate justice shall meet the qualifications of Paragraphs (a), (b), and (c) of Subsection (1) of this section; PROVIDED that in making temporary appointments to the Supreme Court, the Governor shall select persons who possess extensive experience and learned respect in fields of the law which are important to the growth and maturity of the State judiciary.

Source: S.L. No. 3L-99-95 §16-3, 7/20/95; S.L. No. 4L-36-97 §2, 5/20/97

§3-104. Divisions of the Pohnpei Supreme Court. — The Pohnpei Supreme Court shall consist of the Trial Division and the Appellate Division. The Trial Division shall consist of the Chief Justice and the associate justices; PROVIDED, HOWEVER, that sessions of the Trial Division may be held by any justice alone. The Appellate Division shall consist of three justices assigned thereto by the Chief Justice, two of whom shall constitute a quorum. Either the Chief Justice or any associate justice may also sit as a member of the three-justice Appellate Division; PROVIDED that he has not heard the case as a justice of the Trial Division. The concurrence of two justices shall be necessary to a determination of any appeal by the Appellate Division, but a single justice, subject to appeal to the full Appellate Division, may make all necessary orders concerning any appeal prior to the hearing and determination thereof, and may dismiss an appeal for want of jurisdiction, or failure to take or prosecute it in accordance with the applicable law or rules of procedure, or at the request of the appellant.

Source: S.L. No. 3L-99-95 §16-4, 7/20/95

§3-105. Original jurisdiction of the Trial Division. — The Trial Division of the Pohnpei Supreme Court shall have original jurisdiction to try all causes, civil and criminal, including probate, admiralty, maritime, and airspace matters within the jurisdiction of the state, and the adjudication of title to land or any interest therein.

Source: S.L. No. 3L-99-95 §16-5, 7/20/95

§3-106. Appellate jurisdiction. — The Appellate Division of the Pohnpei Supreme Court shall have appellate jurisdiction over all causes of action brought in the Trial Division of the Pohnpei Supreme

Court. The Trial Division of the Pohnpei Supreme Court shall have appellate jurisdiction over such causes of action brought in the lower courts of the state as prescribed by 57 PC 6-102.

Source: S.L. No. 3L-99-95 §16-6, 7/20/95

Note: A portion of this section which reads “and in matters referred to it by the FSM Supreme Court and the courts of the local jurisdictions of Pohnpei” has been omitted. This part of the provision was declared unconstitutional and void to the extent of its inconsistency with Article 10 §4(3) of the Pohnpei Constitution, *see Katerson v. Gallen* (Pon. S. Ct. App. 2006).

§3-107. Order of succession to position of Chief Justice. — Whenever the Chief Justice is unable to perform the duties of his office or the office is vacant, due to “incapacity of indefinite time,” either due to a physical or mental disability of some duration, death or other immediate personal incapacity, his powers and duties shall devolve upon the associate justice next in precedence who is able to act, until such disability is removed or another chief justice is appointed and duly qualified. For purposes of Chapter 1 through Chapter 9 of this title, associate justices shall have precedence according to the seniority of their commissions. Justices whose commissions bear the same date shall have precedence according to seniority in age.

Source: S.L. No. 3L-99-95 §16-7, 7/20/95

Note: §16-7 was inserted by S.L. No. 4L-114-99 §1, 7/20/99.

CHAPTER 4 [RESERVED]

JUDICIARY

CHAPTER 5
COURT OF TRAFFIC AND MISDEMEANOR OFFENSES
[PENDING, *see* 4 PC 5-108]

Section

5-101 Establishment	5-105 Sessions, compensation, and procedures
5-102 Composition of the Court of Traffic and Misdemeanor Offenses	5-106 Filing of record
5-103 Qualifications of judges	5-107 Rehabilitation programs
5-104 Jurisdiction	5-108 Effective date

§5-101. Establishment. — There is hereby created in and for the state of Pohnpei, the Court of Traffic and Misdemeanor Offenses.

Source: S.L. No. 3L-99-95 §18-1, 7/20/95

§5-102. Composition of the Court of Traffic and Misdemeanor Offenses. — The Court of Traffic and Misdemeanor Offenses shall consist of a Presiding Judge and not more than two associate judges as prescribed by §5-103. Judges of the Court of Traffic and Misdemeanor Offenses shall be appointed by the Governor with the advice and consent of the Legislature for terms of four years. Judges may be reappointed.

Source: S.L. No. 3L-99-95 §18-2, 7/20/95

§5-103. Qualifications of judges. — A person appointed to be a judge of the Court of Traffic and Misdemeanor Offenses shall:

- (1) Be at least 30 years of age at the time of his or her nomination;
- (2) Have been a citizen and resident of the state of Pohnpei for a cumulative total of at least five years and at least three years immediately preceding his or her nomination; and
- (3) Have at least five years of demonstrable experience in the administration, enforcement, prosecution, defense or adjudication of criminal law.

Source: S.L. No. 3L-99-95 §18-3, 7/20/95

§5-104. Jurisdiction. — The territorial jurisdiction of the Court of Traffic and Misdemeanor Offenses extends to the whole of Pohnpei State. The subject matter jurisdiction of the court shall be concurrent with the Trial Division of the Pohnpei Supreme Court in all traffic and criminal cases that carry a maximum fine of not more than \$1,000 or a maximum term of imprisonment of not more than one year, or both such fine and imprisonment, and in juvenile proceedings in which the action involves a minor charged with a violation of such traffic or criminal law.

Source: S.L. No. 3L-99-95 §18-4, 7/20/95

§5-105. Sessions, compensation, and procedures. — Sessions of the Court of Traffic and Misdemeanor Offenses, the compensation of its judges, and its rules of procedure shall be as provided therefor under Chapters 1, 2 and 7 of this title, the current reapportionment act for the compensation of officers of the Pohnpei Government, and the rules of court.

Source: S.L. No. 3L-99-95 §18-5, 7/20/95

§5-106. Filing of record. — As promptly as possible after the final judgment of a case in the Court of Traffic and Misdemeanor Offenses has been entered, the judge thereof shall send a copy of the

judgment to the Clerk of the Pohnpei Supreme Court who shall maintain a permanent record of all such court decisions.

Source: S.L. No. 3L-99-95 §18-6, 7/20/95

§5-107. Rehabilitation programs. — The Court of Traffic and Misdemeanor Offenses is hereby authorized and directed to undertake on its own initiative and to cooperate with other entities in the establishment and operation of programs of rehabilitation of offenders brought before the court. In the establishment and operation of such programs the court shall concentrate on youthful offenders and on alternative sentencing designed to reintegrate youthful offenders into the mainstream of society.

Source: S.L. No. 3L-99-95 §18-7, 7/20/95

§5-108. Effective date. — Notwithstanding the effective date of S.L. No. 3L-99-95 [*July 20, 1995*], this chapter shall take effect upon adoption by the Legislature of a budget to organize and finance the operations of the Court of Traffic and Misdemeanor Offenses.

Source: S.L. No. 3L-99-95 §18-8, 7/20/95

CHAPTER 6 COURT OF LAND TENURE

Section

<p>6-101 Purpose</p> <p>6-102 Definitions and references</p> <p>6-103 Court of Land Tenure</p> <p>6-104 Administrative direction; promulgation of rules and regulations; procedural authority; officers and employees of the Court; appointment of assessors</p> <p>6-105 Designation of land registration areas</p> <p>6-106 Jurisdiction of the Pohnpei Supreme Court</p> <p>6-107 Delineation of land registration areas; surveys of plots and boundaries</p> <p>6-108 Venue hearings</p> <p>6-109 Disputed claims; procedure</p> <p>6-110 Notice of hearing</p> <p>6-111 Conduct of hearing</p>	<p>6-112 Hearing involving a minor or incompetent; representative to be appointed</p> <p>6-113 Notice of determination of ownership</p> <p>6-114 Appeal from a determination of the Court of Land Tenure</p> <p>6-115 Issuance of certificate of title</p> <p>6-116 Register of Titles and Interests in Land; custody of Register; copies of certificates</p> <p>6-117 Transfers and encumbrances of interests in registered lands</p> <p>6-118 Hearing and determinations required by Title 42 Chapter 3</p> <p>6-119 Hearing and determination of heirship</p> <p>6-120 Hearing and determination of interests in public land prior to lease</p>
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§6-101. Purpose. — The purpose of this chapter is to provide for the mechanisms to complete the process begun during the Trusteeship of title investigation, determination, and registration of interests in lands within this state and to provide for the means to develop and maintain a singular system of filing all recordable interests in land.

Source: S.L. No. 3L-99-95 §17-1, 7/20/95

§6-102. Definitions and references. — As used in this chapter, unless the context clearly requires otherwise:

(1) “Court of Land Tenure” or “court” shall refer to the Court of Land Tenure for the state of Pohnpei created by this chapter;

(2) “Interests in land” shall refer to every interest in land, inclusive of, but not limited to, easements; covenants that run with the land; riparian rights where applicable; leaseholds and interests in condominium properties;

(3) “Judge” or “judges” shall refer to the judge or judges of the Court of Land Tenure;

(4) “Land” shall refer to all forms of real property and all permanent improvements and attachments thereto;

(5) “Land Commission” shall refer to the Land Commission for the District of Ponape and thereafter of the state of Pohnpei established pursuant to 67 TTC (1980);

(6) “Register of Titles and Interests in Land” or “Register” shall refer to the book or books in which the registration and recordation of all titles and other forms of land ownership or rights in land are filed; and

(7) “Registration area” shall refer to any site that has been duly designated as an official land registration area for the purpose of conducting the business of the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §17-2, 7/20/95

§6-103. Court of Land Tenure. —

(1) There is hereby created within the judiciary branch of the Pohnpei Government a Court of Land Tenure which shall consist of a Principal Judge and not more than two associate judges.

(2) The Court of Land Tenure is authorized and empowered, subject to Chapter 1 through Chapter 9 of this title and other state law, to hear and determine claims of ownership, heirship, interest, right, and boundary to land within the state of Pohnpei and to inquire and determine whether any transfer of an interest in land is in conformity with the requirements of Article 12 §5 of the Pohnpei Constitution. The primary purpose of the court shall be to proceed in the manner in which the court determines to be in the best interest of the people to accomplish the determination and registration of title and other property interests to as many of the land parcels as practical within such registration areas as the court may designate.

(3) Except as provided in Subsection (5) of this section, the Principal Judge and associate judges shall be appointed by the Governor with the advice and consent of the Legislature.

(4) No person may be appointed or serve as a judge of the Court of Land Tenure unless he or she:

- (a) Is a citizen and pweldak of Pohnpei;
- (b) Is at least 35 years of age;
- (c) Is a college graduate or a person of demonstrated legal ability through at least five years of experience practicing law or as a full-time judge of a state court, inclusive of the Land Commission;
- (d) Is of good moral character; and
- (e) Has not been convicted of a felony.

(5) Each judge of the Court of Land Tenure shall serve for a term of six years or until a successor is confirmed. Judges may be reappointed.

(6) Sessions of the Court of Land Tenure and the compensation of its judges shall be as provided therefor under Chapters 1, 2, and 7.

(7) Judges of the Court of Land Tenure may be disciplined or removed from office in accordance with Chapter 1 through Chapter 9 of this title, other state law, and the rules of judicial conduct promulgated by the Pohnpei Supreme Court with respect to the ethics and conduct of judges generally or with respect to the judges of the Court of Land Tenure specifically. In addition, the judges shall be bound by the rules of judicial conduct promulgated by the Court of Land Tenure pursuant to §6-104.

Source: S.L. No. 3L-99-95 §17-3, 7/20/95

§6-104. Administrative direction; promulgation of rules and regulations; procedural authority; officers and employees of the Court; appointment of assessors. —

(1) The Court of Land Tenure shall perform its functions under the administrative direction of the Chief Justice of the Pohnpei Supreme Court.

(2) Consistent with state law and the rules of the Supreme Court, the Court of Land Tenure may promulgate rules and regulations for implementing Chapter 1 through Chapter 9 of this title and other state statutes that provide the court with additional jurisdiction or duties. Such rules and regulations shall have the force and effect of law and a copy thereof shall be filed with the Clerk of the Supreme Court. For administrative purposes, each judge shall perform his or her functions under the supervision of the Principal Judge; PROVIDED, HOWEVER, that all judges of the Court of Land Tenure are to be allowed and shall be expected to exercise independence in judgment when conducting hearings and adjudicating land cases.

(3) Subject to state law and the rules applicable to the court, the Principal Judge shall appoint a Clerk of the Court of Land Tenure and such other officers and employees of the court as may be necessary and as the budget of the court permits. Employees of the Court of Land Tenure shall be part of the personnel system of the state judiciary and shall be subject to rights and responsibilities thereunder.

(4) Consistent with the functions and duties of the Court of Land Tenure as provided by Chapter 1 through Chapter 9 of this title, the Principal Judge of the court is empowered to appoint assessors to the court to assist the judges in the conduct of their responsibilities under Chapter 1 through Chapter 9

of this title. Subject to Chapters 1 and 7, the rules of the Court of Land Tenure shall prescribe the proper roles, functions, assignments, terms of office and other administrative concerns with respect to the appointment and use of assessors to the court.

Source: S.L. No. 3L-99-95 §17-4, 7/20/95

§6-105. Designation of land registration areas. —

(1) The Court of Land Tenure shall designate a land registration area or areas within which it believes it will be desirable and practicable to register lands. When work in a designated land registration area has been completed except for major disputed cases, or when work in a designated area cannot be completed for good cause, and in the opinion of the court public interest would be served by moving to a new land registration area or areas, it may do so until all lands in all parts of the state are duly registered. In making a determination to move to a new area, the court shall decide whether such move also indicates that, for the immediate present, the court will or will not continue to hear claims in formerly designated areas.

(2) The Clerk of the Court of Land Tenure shall, upon instruction of the Principal Judge, cause a copy of the designation of any land registration area by that court to be filed with the Clerk of the Pohnpei Supreme Court. The Clerk of the Court of Land Tenure shall further notify the Clerk of the Supreme Court of the decision of the Court of Land Tenure whether the court intends to continue to hear claims in previously designated areas.

Source: S.L. No. 3L-99-95 §17-5, 7/20/95

§6-106. Jurisdiction of the Pohnpei Supreme Court. —

(1) Nothing in this chapter shall be deemed to deprive the Pohnpei Supreme Court of original trial jurisdiction over cases with respect to interests in land; PROVIDED that the Supreme Court may, in its rules, require persons desiring the registration of interests in land in areas wherein the Court of Land Tenure is actively adjudicating claims to first file their claims with the Court of Land Tenure.

(2) Notwithstanding Subsection (1) of this section and subject to the provision of §3-105, the Clerk of the Supreme Court shall notify the Court of Land Tenure of each incidence when the Supreme Court decides to entertain a land case in a registration area wherein the Court of Land Tenure is actively hearing and adjudicating claims.

(3) The Court of Land Tenure shall not entertain any case already pending before the Supreme Court.

(4) In accordance with 57 PC 6-101 and at any time the Supreme Court determines that it is necessary, after due notice and for good cause explained thoroughly on the record in open court, it may take over jurisdiction of any case pending before the Court of Land Tenure.

(5) Pursuant to 57 PC 6-101, or upon order of the Supreme Court, or upon application of any party to a land case pending before the Court of Land Tenure, or upon a decision of the Court of Land Tenure acting on its own motion, the Court of Land Tenure shall provide for the transfer of the case and a copy of all written records relative thereto to the Supreme Court. Upon receipt of the transfer documents, the Supreme Court may hear the full case, decide on any point relative thereto, and remand the remainder of the case to the Court of Land Tenure, or deny the referral until final action thereon has been taken by the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §17-6, 7/20/95

§6-107. Delineation of land registration areas; surveys of plots and boundaries. — Upon the designation of a land registration area, it shall be the duty of the Director of the Department of Land and Natural Resources to cause an accurate delineation of the exterior bounds of the area so designated and thereafter to make such surveys of plots and place markers to each parcel boundary as the Court of Land Tenure may direct. It shall be the responsibility of the court to conduct negotiations for the location of corners and to point out to surveyors boundaries to be surveyed; PROVIDED,

HOWEVER, that such negotiations and instructions prior to adjudication of claims therein or with respect thereto shall not be binding on the court as to the adjudication of such claims.

Source: S.L. No. 3L-99-95 §17-7, 7/20/95

§6-108. Venue hearings. — The Principal Judge of the Court of Land Tenure shall select and instruct one of the judges of the court to conduct initial hearings on claims within a designated land registration area. The designated judge shall, upon his or her selection:

(1) Institute a preliminary inquiry regarding titles to and interests in all lands claimed by persons, real and corporate, families, lineages, clans, the Pohnpei Public Lands Trust Board of Trustees, and other entities, within the area for which the judge is responsible. If satisfied that such claims have any foundation in law or fact, the judge shall record the same for hearing.

(2) When the recording of such claims is complete in the area for which the judge is responsible, the judge shall, after notice as herein prescribed, proceed to hear the parties and witnesses, and adjudicate such claims as are subject to the jurisdiction of the Court of Land Tenure.

(3) The judge shall render a decision on a claim within the time prescribed by §2-107.

(4) Decisions of the judges of the Court of Land Tenure shall be consistent with the Pohnpei Constitution, the laws of this state, the customs and traditions of this state, and the social and geographical configuration of this state. Every justice and judge of the court shall make a diligent inquiry, the results of which shall be recorded in the written decision of the court, to determine whether the requirements of Article 12 §5 of the Pohnpei Constitution have been met. Recourse to interpretations of laws and customs of other jurisdictions shall, in all matters, be secondary to those of this state in finding the law of Pohnpei.

(5) Upon reaching a decision on a claim, the judge shall record the place name and the parcel number of the land with the Clerk of the Court of Land Tenure, or if there be no parcel number and place name, the judge shall provide a brief description of the land so affected by the decision. The judge shall further record with the Clerk, the names or other identifying insignia of those persons and entities found to be the rightful owners thereof and the type of ownership involved, and shall further record with the Clerk the names or other identifying insignia of those persons and entities found to hold any subordinate rights or interests in such lands.

(6) Where parties to a claim agree to a settlement or compromise in the presence of the judge designated to hear the claim, the particulars required by Subsection (5) of this section shall be recorded by the judge with the Clerk and shall have the same force and effect as a decision of the judge.

(7) Upon completion of the actions set forth in Subsections (1) through (6) of this section, the Clerk shall keep the record of the actions taken and decisions made in the permanent files of the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §17-8, 7/20/95

§6-109. Disputed claims; procedure. — Each judge shall endeavor to hear and adjudicate as many claims in his or her designated land registration area as possible. The judge shall endeavor to avoid becoming involved in such lengthy consideration of disputed claims as will seriously interfere with the pace of adjudication of claims generally within that land registration area. Each judge shall closely note the following:

(1) If a judge deems that consideration of a disputed claim will seriously interfere with the timely accomplishment of the purpose of this chapter, the judge may refer the claim to the Principal Judge of the Court of Land Tenure without the judge making a decision thereon.

(2) Similarly, if the Principal Judge deems that the designated judge is spending an unnecessary amount of time on a particular disputed claim, the Principal Judge may withdraw the claim from consideration by that judge.

(3) In either of the situations set forth in Subsection (1) or Subsection (2) of this section, the designated judge shall submit to the Principal Judge the full record of the case and claims pertaining

thereto, including the substance of all testimony, if any, taken by the judge. Upon receipt thereof, the Principal Judge may either:

- (a) Designate another judge to hear the parties and witnesses and make a determination on the claim on the evidence presented both before the first judge at the venue hearing and the second judge; or
- (b) Refer the claim to the Pohnpei Supreme Court as provided in §6-106.

Source: S.L. No. 3L-99-95 §17-9, 7/20/95

§6-110. Notice of hearing. —

(1) Before a judge commences a venue hearing with respect to a claim, notice thereof containing a description of the claim and the date, time, and place of the hearing shall be given at least 30 days in advance of the hearing as follows:

- (a) By posting such notice on the land in Pohnpeian and English; PROVIDED that the notice shall also be posted in the principal language of that respective local jurisdiction;
- (b) By posting such notice in the language specified above at the local government office, at no less than three conspicuous places on the land to be under adjudication at the venue hearing, and in at least two other areas of public access as may be determined by the judge;
- (c) By serving such notice upon all parties known to be of interest and as shown on the records of the preliminary inquiries;
- (d) By serving such notice upon others, if any, suspected to be possible parties or to have knowledge of the ownership of the land or the rights or interests of the claimants therein, even if the names do not appear on the record of the preliminary inquiries;
- (e) By serving such notice on the Soumas en Kousapw or his equivalent in local custom, on all adjacent land owners of record whose property borders on the land in question, and on the Chairman of the Pohnpei Public Lands Trust Board of Trustees in any matter wherein a public interest is held or suspected to be held in the land, whether or not that interest is involved in the particular determination; and
- (f) By broadcasting such notice on the publicly owned state radio station at a regular hour scheduled by the station manager for such notices at least once a day for not less than 30 days before the commencement of the venue hearing.

(2) Such notice shall be posted and served by a judge of the Court of Land Tenure or any employee of the court without charge, who shall certify in writing to the Principal Judge that notice has been posted and served. Service shall be as required for service in a civil summons under state law and the rules of the Pohnpei Supreme Court. During the period between the giving of notice under this chapter, and the hearing, any person or group of persons claiming an interest in the land adverse to the claim as stated in the notice may file a claim respecting that interest with the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §17-10, 7/20/95

§6-111. Conduct of hearing. — In conducting hearings, the court shall be guided by the rules of the Pohnpei Supreme Court. Each judge of the Court of Land Tenure is authorized to consider any evidence that will be helpful in reaching a just decision. The court, however, shall not endeavor to redetermine any matter already decided upon between the same parties or those through whom the present parties claim by a court judgment or by a clear Land Title officer's determination of ownership. The court shall accept such prior determinations as binding on such parties without further evidence than in the judgment or determination of ownership. However, by motion and with good cause, the court is authorized to vacate and set aside its own prior determination or to correct palpable mistakes under the court's prior action; PROVIDED that such action is consistent with state law and the rules of the court. All hearings of the court shall be public and every person claiming an interest in any land under consideration shall be given all reasonable opportunity, by actual or constructive notice, to be heard. Hearings must be held within the area of a designated land registration site where

the land involved is situated and, when practicable, shall be held in or near the particular parcel of land in question. All parties, including any representative appointed under this chapter, or by a court, or other proper authority, or a minor, incompetent or other person may be represented and assisted by counsel.

Source: S.L. No. 3L-99-95 §17-11, 7/20/95

§6-112. Hearing involving a minor or incompetent; representative to be appointed. — If a judge of the Court of Land Tenure finds that a party in interest is a minor or incompetent, the court shall appoint a person who is of age and sound mind to act as guardian and to represent such minor or incompetent unless he or she is already represented by a person appointed by a court or other proper authority. A guardian appointed by the court shall have full authority and power to act for the minor or incompetent in all matters in connection with his or her interest in the land; PROVIDED that a guardian may not encumber or in any way alienate any land under his or her guardianship except by an order of a court of competent jurisdiction.

Source: S.L. No. 3L-99-95 §17-12, 7/20/95

§6-113. Notice of determination of ownership. — Upon finalization of a decision rendered by the Court of Land Tenure, the court shall issue a ruling with respect thereto in writing and shall promptly give notice thereof in the same manner provided for the giving of notice for the conduct of hearings as prescribed by §6-110.

Source: S.L. No. 3L-99-95 §17-13, 7/20/95

§6-114. Appeal from a determination of the Court of Land Tenure. — Notwithstanding 57 PC 6-102(1), determination of ownership by the Court of Land Tenure shall be subject to appeal by any party aggrieved thereby to the Appellate Division of the Pohnpei Supreme Court within 90 days from the date of notice of determination. Such appeal shall be treated and effected in the same manner as an appeal from the Trial Division of the Supreme Court in a civil action, shall be subject to the same fees, and the powers of the Supreme Court with respect thereto shall be the same. Decisions of the Appellate Division of the Supreme Court shall be final.

Source: S.L. No. 3L-99-95 §17-14, 7/20/95

§6-115. Issuance of certificate of title. —

(1) After the time for appeal from a determination of ownership by the Court of Land Tenure has expired without any notice of appeal having been filed, or after an appeal duly taken has been determined, the Court of Land Tenure shall issue a certificate of title setting forth the names of all persons or groups of persons holding interest in the land pursuant to the determination, either as originally made or as modified by the Pohnpei Supreme Court, as the case may be. Such certificate of title shall be conclusive and binding upon all persons who have had notice of the proceedings and all those claiming under them and shall be prima facie evidence of the ownership as therein stated against the world, except that such ownership shall be subject to the following which need not be stated in the certificate:

- (a) Any rights-of-way there may be over the land in question;
- (b) Any lease or use rights for a term not exceeding one year; and
- (c) Any customary use rights of relations in existence prior to the issuance of the certificate.

(2) Any easement or other rights appurtenant to the land in question which are over unregistered land shall remain so appurtenant even if not mentioned in the certificate and shall pass with the land until cut off or extinguished in some lawful manner independent of the determination covered by the certificate.

Source: S.L. No. 3L-99-95 §17-15, 7/20/95

§6-116. Register of Titles and Interests in Land; custody of Register; copies of certificates. — The original certificate of title shall be kept in a permanent register for the state that shall be known and cited as the “Register of Titles and Interests in Land.” This Register shall remain in the custody of the Court of Land Tenure and under the supervision of the Principal Judge thereof. Duplicate certificates of title shall be issued by the Court of Land Tenure. One duplicate copy, marked “Owner’s duplicate certificate,” shall be delivered by the court to the owner or authorized representative thereof, and a second duplicate copy shall be filed by the court with the Clerk of the Pohnpei Supreme Court.

Source: S.L. No. 3L-99-95 §17-16, 7/20/95

§6-117. Transfers and encumbrances of interests in registered lands. — All transfers and encumbrances other than those exempted under Chapter 1 through Chapter 9 of this title, of any interest in land covered by the certificate of title shall be noted thereon under the direction of the Principal Judge of the Court of Land Tenure and shall be included in the Register of Titles and Interests in Land and in the required filing with the Clerk of the Pohnpei Supreme Court as prescribed in §6-116. It shall be the duty of the owner in requesting any transfer or upon notice that an involuntary transfer has been effected to submit his or her owner’s duplicate certificate for proper endorsement or cancellation. If the owner’s duplicate certificate is lost or destroyed, the owner may by petition under oath request the Court of Land Tenure to issue a new duplicate certificate, and the court, after such notice as it may order and hearing if necessary, may direct the issuance of a new duplicate which shall contain a memorandum of the fact that it is issued in place of the lost certificate. Before accepting and noting on the certificate of title any transfer of any interest therein, the Principal Judge of the Court of Land Tenure shall be responsible for seeing that the document of transfer is properly executed and properly describes the land and interests affected. If the certificate holder’s entire interest is transferred, the holder’s certificate shall be canceled and a new certificate of title issued to the transferee. If only a part of the land is transferred, the certificate holder may be required at his or her own expense to have the area to be transferred surveyed and a map thereof submitted showing to the Court of Land Tenure the area so transferred. Thereafter, a new certificate of title shall be issued for each part of the land covered by the former certificate with duplicates delivered and filed with the parties described in §6-116.

Source: S.L. No. 3L-99-95 §17-17, 7/20/95

§6-118. Hearing and determinations required by Title 42 Chapter 3. — The Court of Land Tenure herein created shall accede to all responsibilities and duties of the Land Commission and Land Registration Teams pursuant to Chapter 1 through Chapter 9 of this title and to Japanese and Trust Territory Government Leasehold Conveyance, Title 42 Chapter 3, as amended, and shall hear and adjudicate any and all claims of interests, rights or title to public land as provided in said statute. The court’s determination in such cases may be appealed to the Pohnpei Supreme Court in the manner prescribed by §6-114.

Source: S.L. No. 3L-99-95 §17-18, 7/20/95

§6-119. Hearing and determination of heirship. — The Court of Land Tenure, after due public notice, may hear and determine any claim of heirship to a deceased person’s title or interest in lands pending before the court. Notices, the conduct of hearings, and appeals therefrom shall be as prescribed generally by Chapter 1 through Chapter 9 of this title for determinations by the court.

Source: S.L. No. 3L-99-95 §17-19, 7/20/95

§6-120. Hearing and determination of interests in public land prior to lease. — The Court of Land Tenure, after due public notice, shall hear and adjudicate any and all claims of interests, rights or title to public land prior to the issuance of any lease or use agreement pursuant to 42 PC 2-101; PROVIDED that the hearing shall also establish that the proposed lease or use agreement meets all

legal requirements for lease or use of public lands. Notices, the conduct of hearings, and appeals therefrom shall be as prescribed generally by Chapter 1 through Chapter 9 of this title for determinations by the court.

Source: S.L. No. 6L-102-07 §1, 7/31/07

CHAPTER 7 JUDICIAL ETHICS AND RULES OF CONDUCT

Section

7-101 Judicial ethics

7-104 Resignation from bench when candidate for
elective office

7-102 Practice of law prohibited

7-103 Disqualification

§7-101. Judicial ethics. — The justices and judges of the courts of this state, whether temporary or permanent, and all law clerks providing services thereto, whether formally or informally, shall adhere to the standards of the Code of Judicial Conduct of the American Bar Association, except as otherwise provided by law. The Chief Justice may, by rule, prescribe stricter or additional standards.

Source: S.L. No. 3L-99-95 §2-1, 7/20/95

§7-102. Practice of law prohibited. — No person who practices law in the Federated States of Micronesia or any political subdivision thereof may at the same time be a justice, judge, officer or employee of the Pohnpei Judiciary.

Source: S.L. No. 3L-99-95 §2-2, 7/20/95

§7-103. Disqualification. —

(1) A justice, judge or law clerk shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(2) A justice, judge or law clerk shall also disqualify himself in the following circumstances:

(a) Where he has a personal bias or prejudice concerning a party or his counsel, or personal knowledge of disputed evidentiary facts concerning the proceedings;

(b) Where in private practice he served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the justice, judge, law clerk or such lawyer has been a material witness concerning it. The term “private practice” shall include non-government services as a licensed attorney or an attorney granted temporary rights to practice law, or non-government services as a trial assistant, trial counselor or other type of paralegal practitioner. Private practice shall also include service for public interest, legal service, and public defender not-for-profit organizations;

(c) Where he has served in a governmental capacity as an attorney or paralegal officer or employee and in such capacity has participated as counsel, advisor or material witness concerning the merits of the particular case in controversy; and

(d) Where he or his spouse, or person within a close relationship to either of them, or a spouse of such person was or is:

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

(ii) Acting as a lawyer in the proceeding;

(iii) Known by the justice, judge or law clerk to have an interest that could be substantially affected by the outcome of the proceeding; and

(iv) To the knowledge of the justice, judge or law clerk, likely to be a material witness in the proceeding.

(3) Upon taking office and by January 31 every year thereafter, each justice, judge, law clerk, and assessor shall list as a record the personal and fiduciary financial interests of himself and his spouse and minor children residing in his household. Said list shall be filed with the Clerk of the Pohnpei Supreme Court who shall promptly provide duplicate copies thereof to the Chief Justice, the Public

Auditor, and any state commission on ethics charged with overseeing the ethical conduct of officers of the judiciary branch. The Clerk of the Supreme Court shall annually, within 15 days following the due date for the filing of lists hereunder, compose a consolidated file of the lists required to be filed under this section which shall be available for public inspection. The Clerk shall promptly notify the Chief Justice of any judicial officer who does not make a timely filing under the requirements of this section.

(4) For purposes of this section, unless the context clearly requires otherwise, the following words shall have the following meanings:

(a) “Proceeding” means all formal and informal stages of litigation, including but not limited to, pretrial, trial, and appellate review;

(b) “Fiduciary” means all forms of fiduciary relationships, including but not limited to, such relationships as executor, administrator, trustee, and guardian; and

(c) “Financial interest” means ownership of a legal or equitable interest, however small, in property, including real property, or a relationship as director, advisor or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the justice, judge or law clerk participates in the management of the fund or if the proceedings could substantially affect the value of the fund;

(ii) An office or membership in an educational, religious, charitable or civic organization is a “financial interest” in securities held by the organization only if the outcome of the proceeding could substantially affect the value of the securities;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a member of a cooperative association, of a depositor in a mutual savings association or credit union, or a similar proprietary interest, is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest; and

(iv) Ownership of government securities is a “financial interest” in the holder only if the outcome of the proceeding could substantially affect the value of the securities.

(5) No justice or judge shall accept from the parties to the proceeding a waiver of any ground for disqualification of the justice, judge or a law clerk thereof as enumerated in Subsection (2) of this section. Where the ground for disqualification arises only under Subsection (1) of this section, waiver may be accepted; PROVIDED that it is preceded by full disclosure on the record of the basis for the disqualification.

(6) A party may move to disqualify a justice, judge or law clerk for one or more of the reasons stated in Subsection (1) or (2) of this section. Said motion shall be accompanied by an affidavit stating the reasons for the belief that the grounds for disqualification exist, and shall be filed before the trial or hearing unless good cause is shown for filing at a later time. Upon receipt of such motion, the justice or judge shall rule on it before proceeding further in the matter, stating his reasons for granting or denying it on the record.

Source: S.L. No. 3L-99-95 §2-3, 7/20/95

§7-104. Resignation from bench when candidate for elective office. — Every justice and judge of the courts of this state, whether temporary or permanent, shall immediately resign his office upon filing of his nominating petition with the Election Commissioner to be a candidate for an elective position at the national, state or local government level; PROVIDED that a justice need not resign from his judicial office in order to be a candidate for election to or serve as a delegate in a constitutional convention.

Source: S.L. No. 3L-99-95 §2-4, 7/20/95

Note: §2-4 was inserted by S.L. No. 4L-106-99 §1, 5/25/99.

CHAPTER 8 [RESERVED]

CHAPTER 9 TRANSITION

Section

9-101 Administration

9-103 Court rules

9-102 Pending actions

9-104 Court of Land Tenure

§9-101. Administration. — The Chief Justice of the Pohnpei Supreme Court and the presiding judges of the other courts of this state shall take such actions as may be necessary to provide for the orderly transition of the state judiciary under Chapter 1 through Chapter 9 of this title. Except as otherwise provided by Chapter 1 through Chapter 9 of this title, justices, judges, and personnel of the state judiciary and appropriations to the state judiciary shall be continued for the state judiciary as organized under Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §20-1, 7/20/95

§9-102. Pending actions. — Actions pending before the courts of this state, and appeals therefrom, shall be continued under the courts as organized by Chapter 1 through Chapter 9 of this title. The Chief Justice of the Pohnpei Supreme Court and the presiding judges of the other courts of this state shall provide for the orderly transition of such actions under Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §20-2, 7/20/95

§9-103. Court rules. — Rules of the Pohnpei Supreme Court and the other courts of this state issued prior to the effective date of Chapter 1 through Chapter 9 of this title [*July 20, 1995*] and not inconsistent with Chapter 1 through Chapter 9 of this title shall continue in full force and effect until superseded by rules issued pursuant to Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §20-3, 7/20/95

§9-104. Court of Land Tenure. —

(1) Members of the Land Commission created under the authority of 67 TTC (1980) and who are otherwise qualified under the terms of Chapter 1 through Chapter 9 of this title shall serve as judges of the Court of Land Tenure for a period of one year after the effective date of Chapter 1 through Chapter 9 of this title [*effective date is July 20, 1995*], and thereafter until their successors are confirmed. The Senior Land Commissioner, if otherwise qualified under Chapter 1 through Chapter 9 of this title, shall serve as the first Principal Judge of the Court of Land Tenure for the remainder of his or her transition term as prescribed in this subsection.

(2) Members of the Land Registration Teams of the Land Commission shall serve as assessors to the Court of Land Tenure and shall perform such other functions for the court as shall be decided by the Principal Judge thereof for a period of at least one year unless removed for cause; PROVIDED that such assessors shall continue to receive salaries for the first year under Chapter 1 through Chapter 9 of this title at levels no less than they received immediately preceding the effective date of Chapter 1 through Chapter 9 of this title [*July 20, 1995*].

(3) The Court of Land Tenure shall succeed to all responsibilities, registers, properties, and assets of the Land Commission.

(4) Land determinations and registrations heretofore issued by the Land Commission shall be equivalent to the title determinations and registrations of the Court of Land Tenure created by Chapter 1 through Chapter 9 of this title.

Source: S.L. No. 3L-99-95 §20-4, 7/20/95

Note: S.L. No. 3L-99-95 §20-5 relating to traffic and misdemeanor offenses and §21-1 severability provision have been omitted.

Extended legislative history: S.L. No. 2L-160-82, 12/17/82, established the state judiciary; S.L. No. 2L-238-83 §1, 1/20/84, amended S.L. No. 2L-160-82 §2(2), 12/17/82; S.L. No. 2L-238-83 §2, 1/20/84, repealed Title IV of S.L. No. 2L-160-82, 12/17/82, and added new Titles IV and V; S.L. No. 3L-6-84 §1, 2/13/84, amended S.L. No. 2L-160-82 §20, 12/17/82; S.L. No. 3L-6-84 §2, 2/13/84, repealed S.L. No. 2L-160-82 §50, 12/17/82, and added a new §50; S.L. No. 3L-30-84 §7, 10/1/84, superseded S.L. No. 2L-160-82 §61, 12/17/82; S.L. No. 1L-4-85 §1, 12/31/84, amended S.L. No. 2L-160-82 §60, 12/17/82; S.L. No. 1L-4-85 §2, 12/31/84, amended S.L. No. 2L-160-82 §69, 12/17/82; S.L. No. 1L-19-85 §4, 4/1/85, amended S.L. No. 2L-160-82 §69, 12/17/82; S.L. No. 1L-19-85 §4, 4/1/85, amended S.L. No. 2L-160-82 §70, 12/7/82, as established by S.L. No. 2L-238-83 §2, 1/20/84; S.L. No. 3L-99-95 §19-1, 7/20/95, repealed S.L. No. 2L-160-82, 12/17/82, as amended in its entirety; S.L. No. 3L-99-95 §19-2, 7/20/95, superseded Titles 5, 6, 8, and 9 of the Trust Territory Code, and 67 TTC §§101 – 120 (1980).

CHAPTER 10 JUDICIARY FINANCES

Section

10-101 Chief Justice's contingency fund: authorization; administration

§10-101. Chief Justice's contingency fund: authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums as may be appropriated annually in the Comprehensive Budget Act for the purpose of financing a contingency fund for the Chief Justice of the Pohnpei Supreme Court, to cover or finance expenses for the judiciary branch of an emergency or unforeseen nature arising within the approved budget line items in the respective title of the annual Comprehensive Budget Act for which the appropriation is made.

(2) All sums herein authorized for appropriation shall be expended and administered under the written direction of the Chief Justice of the Supreme Court for the purposes stated in this section. The Chief Justice shall submit an annual written report to the Legislature concerning all expenditures from this fund. The report shall be submitted on or before October 15 each year. Any balance of the sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-24-88 §§1 & 2, 6/21/88; S.L. No. 2L-166-90 §1, 10/11/90

JUDICIARY

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TITLE 5

PUBLIC AUDITOR

TITLE 5 PUBLIC AUDITOR

CHAPTER 1 OFFICE OF THE AUDITOR 2 AUDITOR'S FINANCES

CHAPTER 1 OFFICE OF THE AUDITOR

Section

1-101 Definitions	1-107 Discovery of irregularities
1-102 Auditor: appointment; tenure; removal	1-108 Appropriate prosecution
1-103 Auditor: salary	1-109 Employees and independent contractors
1-104 Auditor: duties	1-110 Required reports
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§1-101. Definitions. — As used in this chapter:

(1) “Departments, offices, and agencies” means and includes all legislative and executive departments, boards, commissions, bureaus, offices, agencies, and all independent commissions and other establishments of the state government, all quasi-public institutions, and all courts, which are supported in whole or in part by, or which handle, state or public funds.

(2) “Political subdivision” means and includes all local jurisdictions of the state insofar as they are supported by or handle state or public funds.

(3) “State or public funds” means and includes all monies from whatever source used for the support of the activities, projects or programs of the state government or any political subdivision thereof, or the monies of any nonprofit organization within the state whose funding comes primarily from Pohnpei State or United States of America appropriations or grants.

Source: S.L. No. 1L-10-79 §1, 11/1/79

§1-102. Auditor: appointment; tenure; removal. — The Pohnpei Public Auditor, hereinafter referred to as “Auditor,” shall be appointed, hold office for such term, and be subject to removal, in the manner prescribed in Article 11 §8 of the Pohnpei Constitution.

Source: S.L. No. 1L-10-79 §2, 11/1/79

Note: This section has been changed to reflect the Pohnpei Constitution.

§1-103. Auditor: salary. — The salary of the Auditor shall be fixed by the Governor within the range established by the Government Officers’ Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded.

Source: S.L. No. 1L-10-79 §3, 11/1/79; S.L. No. 1L-71-86 §4-12, 4/1/86; S.L. No. 4L-25-96 §8, 7/1/97

§1-104. Auditor: duties. — The Auditor shall conduct post-audits of all transactions and of all books and accounts kept by or for all departments, offices, and agencies of the state and its political

subdivisions and all projects, programs, activities or organizations within the state receiving public funds. The post-audits and all examinations to discover evidence of any unauthorized, illegal, irregular, improper or unsafe handling or expenditure of state funds or other improper practice of financial administration shall be conducted at least once in every two years after the close of a fiscal year, and at such other time or times during the fiscal year as the Auditor shall deem necessary or as may be required by the Legislature or Governor in accordance with generally accepted auditing standards for the purpose of rendering an opinion as to the fairness of the financial statements presented by the respective accounting officers and of determining the validity of expenditures of state or public funds.

Source: S.L. No. 1L-10-79 §4, 11/1/79; S.L. No. 5L-08-00 §1, 7/19/00

§1-105. Auditor: powers. — The Auditor may examine and inspect all books, records, files, papers, and documents, and all financial affairs of every department, office, agency, political subdivision, non-profit organization specified in §1-101(3), and may by precept under his hand require all such persons as he may think fit to appear personally before him at any time and place to be named in the precept, and to produce to him all such accounts, books, records, files, papers, and documents in the possession or control of such persons as shall appear to be necessary for the purpose of examination. The Auditor may cause search to be made and extracts to be taken from any book, paper or record in the custody of any public officer without paying any fee for the same; and every officer having the custody of the books, records, files, papers, and documents shall make such search and furnish such extracts as thereto requested.

Source: S.L. No. 1L-10-79 §5, 11/1/79; S.L. No. 5L-08-00 §2, 7/19/00

§1-106. Examination under oath. — The Auditor may administer oaths to persons summoned to appear before him and may question such persons, under oath, concerning receipts and expenditures of money and concerning all other things and matters necessary for the due execution of the duties vested in him by this chapter.

Source: S.L. No. 1L-10-79 §6, 11/1/79

§1-107. Discovery of irregularities. —

(1) In case the Auditor at any time discovers evidence of any unauthorized, illegal, irregular, improper or unsafe handling or expenditure of Pohnpei funds, or other improper practice of financial administration is contemplated but not consummated, in either case, he shall forthwith transmit the facts to the office being audited, the Speaker of the Legislature, the Governor, the Attorney General, the chief executive of the local government, and the presiding officer of the local council of the political subdivision concerned.

(2) Upon receipt of the examination report, the office being audited shall respond to said report in writing, to the Auditor and each of the officials listed in Subsection (1) of this section, by indicating the action or actions immediately taken to correct such deficiencies cited as well as stated action or actions to be taken on deficiencies not immediately resolved. Thereafter, the office shall file a monthly report with the Auditor indicating its progress in clearing deficiencies until such time as it can report that all deficiencies have been cleared, which period shall not exceed six months.

(3) The Auditor shall in his annual report to the Legislature make specific recommendations for the avoidance of audit irregularities in the future.

Source: S.L. No. 1L-10-79 §7, 11/1/79; S.L. No. 1L-34-85 §1, 10/2/85; S.L. No. 5L-08-00 §3, 7/19/00

§1-108. Appropriate prosecution. — After receiving the final report of the Auditor, of any audit, including the responses of the entity audited, the Attorney General may initiate an investigation and, if appropriate, prosecute any violation of law.

Source: S.L. No. 1L-10-79 §7D, 11/1/79

Note: §7D was inserted by S.L. No. 5L-08-00 §4, 7/19/00.

§1-109. Employees and independent contractors. — In the performance of his duties, the Auditor may employ the services of one or more certified public accountants or accounting firms, and such other assistants and clerical workers as may be necessary; PROVIDED the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office; and PROVIDED FURTHER, that such accountants, firms, and assistants are entirely independent of the departments, offices, and agencies of the state and its political subdivisions whose affairs are subject to audit by the Auditor. In the establishment of the salary of each employee, the Auditor shall consult with the Division of Personnel, Labor and Manpower Development and shall follow as closely as possible the recommendations of the division. The Auditor and his full-time staff shall be entitled to participate in state government employee benefit program privileges.

Source: S.L. No. 1L-10-79 §8, 11/1/79

§1-110. Required reports. — The Auditor shall submit a report to the Legislature in January each year of the audits and examinations conducted by him for the immediately preceding fiscal year, and at such other times as may be requested by the Legislature or Governor, together with findings and recommendations relative to the expenditures made and financial transactions had by the departments, offices, and agencies of the state and its political subdivisions and audited nonprofit organizations. Certified copies of all such audits and examinations made by the Auditor shall be sent to the Legislature, the Governor, and the Director of the Pohnpei Department of Treasury and Administration. All reports thereon shall be available for public inspection. A certified copy of that portion of any report which consists of audits and examinations of departments, offices or agencies of a political subdivision shall be sent to the local council of the political subdivision concerned.

Source: S.L. No. 1L-10-79 §9, 11/1/79

§1-111. Penalty for violation and false evidence. — In addition to all other criminal and civil penalties, any person summoned as provided in §1-105 to give testimony or to produce any books, papers or other documents relating to any matter under inquiry, who willfully refuses to appear or produce such materials, or who, having appeared, refuses to answer any question pertaining to the matter under inquiry, shall be fined not less than \$100 nor more than \$1,000, or imprisoned not less than one month nor more than 12 months, or both such fine and imprisonment. If any person, in the course of his examination before the Auditor, willfully gives false evidence, the person so offending shall incur the same penalties as are or may be provided against persons convicted of perjury.

Source: S.L. No. 1L-10-79 §10, 11/1/79

PUBLIC AUDITOR

CHAPTER 2 AUDITOR'S FINANCES

Section

2-101 Support for Auditor's office: authorization;
administration

2-103 Auditor's Representation Fund:
authorization; administration

2-102 Annual audits on state funds and activities:
authorization; administration

§2-101. Support for Auditor's office: authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum to be determined annually in the Comprehensive Budget Act for support of the Office of the Pohnpei Public Auditor.

(2) The sum herein authorized for appropriation shall be administered and expended by the Auditor solely for the purpose stated in Subsection (1) of this section. The Auditor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sum authorized for appropriation by this chapter. Any balance of the sum appropriated under the authorization of this chapter not expended or obligated for expenditure on September 30 each year shall revert to the general fund of Pohnpei.

Source: S.L. No. 1L-10-79 §11, 11/1/79

§2-102. Annual audits on state funds and activities: authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing annual audits on state funds and activities listed in the annual Comprehensive Budget Act specified therefor.

(2) The sums herein authorized for appropriation shall be administered and expended by the Pohnpei Public Auditor solely for the purposes stated in Subsection (1) of this section. In the event that there is no Auditor, the sum herein authorized for appropriation shall be administered and expended by the Director of the Department of Treasury and Administration solely for the purposes stated in this section. The Auditor or Director shall report on or before October 15 annually to the Legislature on all matters concerning the expenditure of the sums herein authorized for appropriation. All sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 annually shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-60-81 §§1 & 2, 6/23/81

§2-103. Auditor's Representation Fund: authorization; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums as may be appropriated and allocated in the Comprehensive Budget Act for each fiscal year for the purpose of providing funding for the Auditor's Representation Fund; PROVIDED that the sum specified herein shall be expended solely to pay for hosting of guests.

(2) The sum herein authorized for appropriation shall be administered and expended by the Auditor solely for the purpose stated in Subsection (1) of this section. The Auditor shall report to the Legislature on or before October 15, of each fiscal year, on all matters concerning the expenditure of the sum authorized for appropriation by this section. The sums appropriated under the authorization of this section for a fiscal year remaining unexpended at the close of the fiscal year for which the monies were appropriated shall revert to the general fund of Pohnpei.

Source: S.L. No. 4L-84-98 §§1 & 2, 11/16/98

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TITLE 6

LOCAL GOVERNMENT

TITLE 6 LOCAL GOVERNMENT

CHAPTER

- 1 [RESERVED – GENERAL PROVISIONS]**
- 2 PLANNING**
- 3 FINANCING**
- 4 SERVICES**
- 5 LOCAL GOVERNMENT LICENSING**
- 6 – 9 [RESERVED]**
- 10 LOCAL GOVERNMENT FINANCES**

CHAPTER 1 [RESERVED – GENERAL PROVISIONS]

Notes: 1. 4 TTC §§3, 51, 101 – 106 & §109 (1980) have been superseded by the Pohnpei Constitution. 2. PDC §1-300 as amended by D.L. No. 4L-206-79 §11-3(2), 9/5/79 and as further amended by S.L. No. 2L-158-90 §6(1), 8/2/90 has been superseded by the Pohnpei Constitution and the General Election Law, Title 10.

CHAPTER 2 PLANNING

Section

2-101 Findings	2-110 Financial assistance for plan development
2-102 Plan development: contents	2-111 Local government development plans: adoption
2-103 Plan development: format	2-112 Local government development plans: construction
2-104 Plan presentation	2-113 Local government development plans: authority to transmit
2-105 Plan review: hearings	2-114 Local government development plans: amendments
2-106 Plan review: revision	
2-107 Plan enactment	
2-108 Budget calls, requests, and submission	
2-109 Technical assistance	

§2-101. Findings. — It is the sense of the Pohnpei Legislature that if Pohnpei is to gain true self-reliance in the foreseeable future, the valuable participation and efforts of all its inhabitants must be recognized and fostered. In the drive toward self-reliance, the participation of local governments, closest to the heart and pulse of the people in their homes and communities, is of crucial importance. It is therefore at this level where developmental planning can have the most dramatic and beneficial influence on the future progress of our people, and it is for this level of planning and development that this statute has been enacted.

Source: S.L. No. 1L-16-85 §1, 4/23/85

§2-102. Plan development: contents. — Each local government, pursuant to its own constitution, ordinances, and rules, shall develop a comprehensive plan for the development of its jurisdiction and for the overall operations of its governing bodies for the next ensuing fiscal year. Such plans shall not be inconsistent with the overall Pohnpei Development Plan and shall include, but need not be limited to, the following considerations:

- (1) Development of the human and physical resources of the local jurisdiction and its inhabitants;
- (2) Protection and enhancement of the health, safety, and social well-being of the inhabitants;
- (3) Identification and preservation of the history and culture of the local jurisdiction and its inhabitants;
- (4) Conservation of the natural resources and protection of the environment of the local jurisdiction; and
- (5) Administration of government and its services to the inhabitants of the local jurisdiction.

Source: S.L. No. 1L-16-85 §2, 4/23/85

§2-103. Plan development: format. — Each plan so developed by the local government shall be organized pursuant to the format to be developed by the planning official designated by the Governor for this purpose.

Source: S.L. No. 1L-16-85 §3, 4/23/85

Note: Reference to "planning advisor" has been omitted as it is not a statutory office.

§2-104. Plan presentation. — Each local government, upon completion of its plan and approval thereof in the manner prescribed by the constitution, ordinances, and rules of that government, shall submit a copy thereof to the Governor under covering letter of the chief executive of the local government and a copy of the ordinance adopting such plan. Following his receipt thereof, the Governor shall inform the Legislature, in writing, of his receipt of the plan, and shall within 30 days thereafter transmit the plan to the Legislature along with his comments as to its sufficiency in respect to the requirements of §§2-101 – 2-110 of this chapter; PROVIDED, HOWEVER that if he shall determine that the plan is materially deficient in any respect to the legal requirements of §§2-101 – 2-110 of this chapter, he may return the plan to the local government for further work, stating his reasons therefor.

Source: S.L. No. 1L-16-85 §4, 4/23/85

§2-105. Plan review: hearings. — Upon its receipt of a plan, the Legislature shall commence extensive public hearings in the jurisdiction of origin, and to the extent practical, the Governor shall provide technical assistance from his departments, offices, and agencies to the Legislature in its review of the plan. The Speaker of the Legislature and the Governor may, by agreement, further form a joint task force to assist in the review and conduct of hearings on the plan. Public officials of the local government shall be invited to all public hearings relative to their respective plan and shall be accorded an active place in the plan review process. For purposes of coordination and efficiency, the public hearings may be scheduled in a manner that hearings on the plans of each of the local governments in a geographical area will be held in a consecutive and logical sequence.

Source: S.L. No. 1L-16-85 §5, 4/23/85

§2-106. Plan review: revision. — Should the plan review and public hearings reveal the need to modify the plan, it shall be returned by the Legislature to the local government with written comments as to suggested revisions therein, and thereafter the plan shall be resubmitted in the manner heretofore prescribed; PROVIDED that should the subject matter of revision have already been a matter of discussion in the previous public hearings, no additional public hearings shall be required.

Source: S.L. No. 1L-16-85 §6, 4/23/85

§2-107. Plan enactment. — Following review and public hearings on each of the plans submitted by the local governments, and having approved of the technical aspects and contents thereof, the Legislature shall, by a single statute, adopt said plans as a part of the official overall development policy of Pohnpei; PROVIDED that if a local government plan has not been submitted, or if the hearing and approval process relative thereto has yet to be completed by January 30, for the plan for the next fiscal year the Legislature may enact a statute relative to such plans that have been so approved, and by later amendment to said statute provide for the adoption of subsequently approved plans.

Source: S.L. No. 1L-16-85 §7, 4/23/85

§2-108. Budget calls, requests, and submission. — Following the enactment of the approval statute as prescribed above, the Governor shall, in his annual budget call, provide the local governments having approved plans with a budget figure for requesting appropriations for projects and programs identified in their respective plans. The figures so provided to the local governments shall be apportioned among the local governments on a formula established by the Governor and approved by the Legislature which shall provide for a division of at least thirty percent (30%) of local tax revenues of Pohnpei by population on the basis of local citizenship as prescribed by Article 11 §3 of the Pohnpei Constitution. Upon receipt of the call, each local government shall prepare, in accordance with its own constitution, ordinances and rules, a budget request for appropriation for projects and operations identified in its plan for the next ensuing fiscal year, which shall be transmitted by the chief executive of the local government to the Governor for inclusion in his annual budget presentation to the Legislature. Upon finding that the projects and operations for which funding is requested fall within the respective approved plans and the funding requested falls within the levels so prescribed in the budget call, the Governor shall forward the same to the Legislature along with his comments thereon in his annual budget message to the Legislature. Requests for supplemental appropriations for projects and operations identified in the plans may be requested by the local governments at any time through submission thereof to the office of the Governor.

Source: S.L. No. 1L-16-85 §8, 4/23/85

§2-109. Technical assistance. — The Governor shall, to the extent practicable, provide technical assistance to the local governments in the development and implementation of their plans and the preparation and submission of requests for funding of projects and operations identified therein.

Source: S.L. No. 1L-16-85 §9, 4/23/85

§2-110. Financial assistance for plan development. — There is hereby authorized for appropriation from the general fund of Pohnpei an annual sum or sums to be determined and as may be allocated in the Comprehensive Budget Act for assistance to the local governments in the development of their local plans as provided in §§2-101 – 2-110 of this chapter. All sums appropriated under the authorization of §§2-101 – 2-110 of this chapter shall be administered and expended by the Governor solely for the purpose stated in this section. The Governor shall report to the Legislature on or before October 15 each year on all matters relative to the administration and expenditure of the sums appropriated under the authorization of §§2-101 – 2-110 of this chapter for the previous fiscal year. Any balance of the sums so appropriated not expended or obligated for expenditure on September 30 each fiscal year for which they were appropriated shall revert to the general fund of Pohnpei.

Source: S.L. No. 1L-16-85 §10, 4/23/85

§2-111. Local government development plans: adoption. — Pursuant to Article 11 §3 of the Pohnpei Constitution and §§2-101 – 2-110 of this chapter, the development plans of the local governments of Pohnpei for the years 1987 through 1991 are hereby adopted by the Pohnpei

Legislature and declared to be part of the first Pohnpei Development Plan and herein integrated into the overall official development policy of the Government of Pohnpei.

Source: P.L. No. 1L-188-87 §1, 11/2/87

§2-112. Local government development plans: construction. — The local development plans adopted by §2-111 shall be deemed as planning documents for the purpose of guiding Pohnpei and local government officials and private sector developers in the major development goals and strategies of each respective local jurisdiction and Pohnpei. Project identifications, costs, and implementation schedules are incorporated in each of the respective plans for illustrative purposes only. Specific project descriptions, funding levels, and initiation dates or fiscal year implementation schedules shall be as provided in the various authorization laws and the annual Comprehensive Budget Acts of the Pohnpei Government and/or annual budget acts of each respective local jurisdiction.

Source: P.L. No. 1L-188-87 §2, 11/2/87

§2-113. Local government development plans: authority to transmit. — The Governor is hereby authorized to transmit the local development plans adopted by §2-111 to all necessary and relevant persons, associations, and organizations as the components of the first overall development plan for Pohnpei.

Source: P.L. No. 1L-188-87 §3, 11/2/87

§2-114. Local government development plans: amendments. — Amendments to these local development plans shall be effectuated in the manner provided by §§2-101 – 2-110, or their successors.

Source: P.L. No. 1L-188-87 §4, 11/2/87

CHAPTER 3 FINANCING

SUBCHAPTER I REVENUE SHARING

Section

3-101 Short title

3-104 Authorization for appropriation;
administration

3-102 Purpose

3-103 Revenue sharing

SUBCHAPTER II RESIDENCY REQUIREMENTS

3-105 Residency required for liability

3-107 Temporary residence

3-106 Local government improvement tax

SUBCHAPTER I REVENUE SHARING

§3-101. Short title. — This subchapter is known and may be cited as the “Local Government Revenue Sharing Act of 1989.”

Source: S.L. No. 2L-137-89 §1, 10/1/89

§3-102. Purpose. — The purpose of this subchapter is to provide financial assistance to the local governments of Pohnpei pursuant to the requirements of Article 11 §3 of the Pohnpei Constitution.

Source: S.L. No. 2L-137-89 §2, 10/1/89

§3-103. Revenue sharing. — Not less than thirty percent (30%) of all taxes received by the Pohnpei Government from sources within Pohnpei shall be appropriated among the 11 local governments for operations and development projects identified in the local plans. Allocations of such tax revenues among the 11 local governments shall be by population based on the local citizenship, as determined by the 1985 official census or any official census thereafter, from the following sources:

(1) All tax revenues received by the Pohnpei Government pursuant to the taxes listed in Chapter 2 of the Ponape District Code, inclusive of all amendments and revisions thereto;

(2) All tax revenues received by the Pohnpei Government pursuant to the tax provided by Title 12 Chapter 4, inclusive of the fees required for filing the certificate of registration incorporated therein and all amendments and revisions to said chapter;

(3) All tax revenues received by the Pohnpei Government pursuant to tax laws and provisions enacted by the Pohnpei Government following the effective date of this subchapter [*October 1, 1989*], inclusive of all amendments and revisions thereto;

(4) All tax revenues received by the Pohnpei Government pursuant to Article IX §5 of the Constitution of the Federated States of Micronesia; and

(5) All tax revenues received by the Pohnpei Government in the form of civil penalties imposed for the delinquent payment of the taxes listed in the foregoing subsections of this section.

Source: S.L. No. 2L-137-89 §3, 10/1/89

Note: The hotel tax provided in D.L. No. 4L-61-76 has been superseded by §§15-1 – 15-6 of S.L. No. 4L-35-97, codified as 12 PC Chapter 4.

§3-104. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation a sum or sums to be determined annually in the Comprehensive Budget Act from the general fund of Pohnpei pursuant to §3-103. Sums appropriated under the authorization of this section shall remain available until fully expended.

(2) The sum or sums appropriated to each local government shall be administered and expended by the chief executive of the respective local government solely for the purposes as generally stated in §3-103 and as specifically allocated in the annual Comprehensive Budget Act; PROVIDED that when there is no specific allocation made by Pohnpei statute then as specifically allocated in an ordinance of the respective local government. Administration and expenditure of the sums appropriated pursuant to this section shall be in conformance with applicable Pohnpei statutes and regulations promulgated thereto. The chief executive of each respective local government shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this section.

Source: S.L. No. 2L-137-89 §§ 4 & 5, 10/1/89

SUBCHAPTER II RESIDENCY REQUIREMENTS

§3-105. Residency required for liability. — It shall be lawful for each local government, if it desires, to levy a local government improvement tax which shall be paid by every taxable person who has resided in the local jurisdiction for a period of one year or more, irrespective of his legal residence.

Source: PDC §2-1(a), 3/71

§3-106. Local government improvement tax. — For the purpose of this law, local government improvement tax shall mean a tax, whether in cash or labor, levied and collected by a local government and which shall be used only for improvement projects undertaken by the local government.

Source: PDC §2-1(b), 3/71

§3-107. Temporary residence. — Any taxable individual who temporarily resides in a local jurisdiction and leaves the same local jurisdiction before he is qualified under this law to pay for local government improvement tax to his legal residence shall continue the payment of this tax to his legal residence. But a person who has continuously resided for one year or more in a local jurisdiction which does not have such a tax may stop the payment of this tax to his legal residence.

Source: PDC §2-1(c), 3/71

CHAPTER 4 SERVICES

Section

4-101 Potable water regulations

§4-101. Potable water regulations. —

(1) *Designation.* Each local government shall designate those areas in which are located sources of water which are to be used for human consumption and shall cause to be indicated by signs in both English and the local language that said areas are sources of potable water and therefore must not be contaminated. This notice shall also give warning that any person or persons contaminating these sources of water shall be punished as hereinafter provided.

(2) *Contamination.* It shall be unlawful to bathe, wash clothes, wash cooking utensils or dishes, urinate, dispose of garbage or human waste, permit fowls or animals to enter into any source of water to be used for human consumption. No cemetery, toilet, cow pasture, pig pen, fowl run, carabao enclosure or garbage dump shall be located within 40 meters (approximately 130 feet) of any sources of potable water.

(3) *Penalties.* Whosoever violates one or more provisions of this section shall, upon conviction thereof, be imprisoned for a period not to exceed 30 days, or fined not more than \$25, or both such fine and imprisonment.

Source: PDC §7-1, 3/71

LOCAL GOVERNMENT

CHAPTER 5
LOCAL GOVERNMENT LICENSING

Section
5-101 Licensing of taxis

§5-101. Licensing of taxis. — No local government of Pohnpei State shall require the payment of a service license fee for the operation of any land or water taxi or any rental boat or rental vehicle unless the taxi or rental boat or rental vehicle is usually garaged or stored overnight within the geographic boundaries of that local jurisdiction.

Source: PDC §1-301, 3/71

CHAPTERS 6 – 9
[RESERVED]

LOCAL GOVERNMENT

CHAPTER 10 LOCAL GOVERNMENT FINANCES

Section

10-101 Establishment of a local government aid fund	10-103 Authorization for appropriation; administration
10-102 Justification of request	10-104 Local government project fund: authorization for appropriation; administration

§10-101. Establishment of a local government aid fund. — There is hereby established a local government aid fund for the purpose of providing aid to the local governments of Pohnpei for government operations, the acquisition, renovation, improvement or completion of local public facilities or projects, and for other public purposes as may be determined by the appropriate local government and approved by the Governor.

Source: PDC §10-400(a), 3/71; S.L. No. 1L-13-85 §1, 4/15/85

Note: S.L. No. 2L-27-80 §1 repealed PDC §10-400 in its entirety and established a new PDC §10-400.

§10-102. Justification of request. — It shall be the responsibility of each local government chief executive to present a request to the Governor in writing detailing the intended use of any requested funds. All requests for capital improvement funds shall be fully substantiated by plans clearly drawn and all cost estimates shall be fully justified.

Source: PDC §10-400(b), 3/71; S.L. No. 1L-13-85 §1, 4/15/85

Note: S.L. No. 2L-27-80 §1 repealed PDC §10-400 in its entirety and established a new PDC §10-400.

§10-103. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined in the Comprehensive Budget Act solely for the purposes specified in §10-101. The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purposes stated in §10-101. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure or obligation for expenditure of the sums appropriated under the authorization of this section. Any balance of the sums annually appropriated under the authorization of this section not expended or obligated for expenditure on September 30 shall revert to the general fund of Pohnpei.

Source: PDC §10-400(c), 3/71; S.L. No. 1L-13-85 §1, 4/15/85

Note: S.L. No. 2L-27-80 §1 repealed PDC §10-400 in its entirety and established a new PDC §10-400.

Extended legislative history: PDC §10-400, 3/71; PDC §10-400 (a) was amended by D.L. No. 3L-13-72 §1, 5/24/72, D.L. No. 3L-58-73 §29, 5/29/73, D.L. No. 4L-116-77 §1, 11/10/77, and S.L. No. 1L-7-79 §1, 10/15/79; PDC §10-400(c) was amended by D.L. No. 4L-89-77 §1, 5/6/77; S.L. No. 2L-27-80 §1, 9/30/80 repealed PDC §10-400 in its entirety and established a new PDC §10-400, and was amended by S.L. No. 1L-13-85 §1, 4/15/85.

§10-104. Local government project fund: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei an annual sum or sums to be determined and allocated in the Comprehensive Budget Act for the purpose of assisting the local government jurisdictions of Pohnpei State in the financing of projects and programs within those local government jurisdictions that are authorized by the respective local government council; PROVIDED, HOWEVER, that no portion of the sums authorized for appropriation by this section shall be expended for salaries, compensation, per diem, stipends or other expenses or allowances of local government officials or council members.

(2) The Governor shall designate a coordinating agency or agencies for the purpose of providing technical assistance to the local government councils in the execution of their projects. The Governor

shall submit an annual report to the Legislature on or before October 15 on all activities undertaken by his office pursuant to this section.

(3) The chief executive officer of each local government, upon concurrence of the respective local government council, shall administer and expend the sum herein authorized for appropriation which is allocated to that local government jurisdiction solely for purposes specified in Subsection (1) of this section. Requests for funds from the general fund shall be directed to the Director of the Department of Treasury and Administration and shall be co-signed by at least a majority of the local government council. The chief executive officer of each local government shall report yearly on or before October 15 on all matters relating to the administration and expenditure of the authorized sums appropriated and allocated in the respective Comprehensive Budget Act for that local government jurisdiction. All sums authorized for appropriation by this section shall be appropriated on a fiscal year basis; PROVIDED, HOWEVER, that any sum remaining unobligated on September 30 each year shall revert to the general fund of Pohnpei.

Source: Subsection (1) – D.L. No. 3L-82-74 §1, 6/29/74; D.L. No. 4L-18-76 §1, 7/1/76; D.L. No. 4L-92-77 §1(a), 7/1/77. Subsection (2) – D.L. No. 4L-92-77 §1(b), 7/1/77; D.L. No. 4L-136-78 §27, 3/27/78. Subsection (3) – D.L. No. 3L-82-74 §2, 6/29/74, D.L. No. 4L-136-78 §35, 3/27/78

TITLE 7 [RESERVED]

(Next page is Title 8 divider)

TITLE 8

ADMINISTRATIVE LAW

TITLE 8 ADMINISTRATIVE LAW

CHAPTER

1 ADMINISTRATIVE PROCEDURES ACT

2 IMPEACHMENT OF STATE OFFICIALS

3 JUDICIAL REVIEW OF ADMINISTRATIVE ACTIONS

CHAPTER 1 ADMINISTRATIVE PROCEDURES ACT

Section

1-101 Providing for administrative procedures

§1-101. Providing for administrative procedures. — Notwithstanding any other state law, 17 TTC (1980) shall have no application or effect on the administrative actions of the state government, its officers, agencies, and instrumentalities, or rules or regulations issued thereby; PROVIDED that in the issuance of rules or regulations the issuing state authority shall provide for prior notice and opportunity to be heard. Public notice shall include at least seven announcements relative to the proposed rule or regulation on the public radio station and posting at the Pohnpei Supreme Court building and at the local government buildings in those local jurisdictions which are affected thereby. The issuing authority shall provide for publication and reasonable distribution of all rules and regulations issued hereunder. All other restrictions and provisions of state law relative to the issuance of rules and regulations shall not be affected by this chapter.

Source: S.L. No. 2L-12-80 §1, 6/28/80

ADMINISTRATIVE LAW

CHAPTER 2 IMPEACHMENT OF STATE OFFICIALS

Section

2-101 Short title	2-111 Concurrence necessary to uphold impeachment
2-102 Purpose	2-112 Pronouncement of judgment
2-103 Articles of impeachment	2-113 Adoption of judgment
2-104 Filing and service of adopted resolution of impeachment	2-114 Nature of the judgment
2-105 Service by publication	2-115 Officer when impeached disqualified to act until acquitted
2-106 Answer	2-116 Resignation or removal
2-107 Failure to answer	2-117 Impeachment of Speaker of the Legislature
2-108 Hearing on sufficiency for impeachment	2-118 Impeachment not a bar to indictment
2-109 Trial	2-119 Costs and expenses
2-110 Standard of proof	

§2-101. Short title. — This chapter is known and may be cited as the “Pohnpei Impeachment Procedures Act of 1992.”

Source: S.L. No. 3L-40-93 §1, 8/2/93

§2-102. Purpose. — The purpose of this chapter is to establish the procedures by which the impeachment of state officials by the Legislature may be resolved.

Source: S.L. No. 3L-40-93 §2, 8/2/93; S.L. No. 5L-58-01 §1, 12/21/01

§2-103. Articles of impeachment. — Articles of impeachment shall be incorporated into a resolution. Adoption of the resolution shall require an affirmative vote of three-fourths of the members of the Legislature, without regard to vacancies.

Source: S.L. No. 3L-40-93 §3, 8/2/93; S.L. No. 5L-58-01 §2, 12/21/01

§2-104. Filing and service of adopted resolution of impeachment. — The Speaker of the Legislature shall file a certified copy of the adopted resolution of impeachment with the Pohnpei Supreme Court, and shall cause a filed copy of the adopted resolution of impeachment to be personally served on the impeached official, with a summons to answer the same within 30 days of service.

Source: S.L. No. 3L-40-93 §4, 8/2/93; S.L. No. 4L-75-98 §1, 4/13/98; S.L. No. 5L-58-01 §3, 12/21/01

§2-105. Service by publication. — If upon diligent inquiry the impeached official cannot be found within the state, upon proof of that fact, the tribunal convened pursuant to Article 13, §6(4) of the Pohnpei Constitution shall order publication to be made, in such manner as it deems proper, of a summons requiring the official to answer the adopted resolution of impeachment within 60 days of the last date of publication.

Source: S.L. No. 3L-40-93 §5, 8/2/93; S.L. No. 5L-58-01 §4, 12/21/01

§2-106. Answer. — The impeached official shall file an answer in writing. As to each allegation in the articles of impeachment, the impeached official may admit, deny, leave the matter to proof, or object to its sufficiency for impeachment.

Source: S.L. No. 3L-40-93 §7, 8/2/93; S.L. No. 5L-58-01 §6, 12/21/01

§2-107. Failure to answer. — Upon the failure of the impeached official to file an answer within the time allowed, entry of default may be had against the impeached official. No less than 30 days after

any entry of default, a motion for default judgment may be filed and served, and subsequently heard. Any granting of such a motion shall require the vote of two-thirds of the members of the tribunal.

Source: S.L. No. 3L-40-93 §7A, 8/2/93

Note: §7A was inserted by S.L. No. 5L-58-01 §7, 12/21/01.

§2-108. Hearing on sufficiency for impeachment. — As to any objection to sufficiency for impeachment, the tribunal shall set a date for hearing. As a result of the hearing, the tribunal shall either uphold or overrule each objection. As to any objection overruled, the impeached official shall be given 20 days from the date of the tribunal's order to file an answer. The answer shall either admit, deny, or leave the matter to proof.

Source: S.L. No. 3L-40-93 §8, 8/2/93; S.L. No. 5L-58-01 §8, 12/21/01

§2-109. Trial. — Within 30 days after every allegation has been either admitted, denied, or left to proof, the tribunal shall file an order setting the matter for trial. Trial shall commence no sooner than 60 days nor later than 90 days from the date of the tribunal's order.

Source: S.L. No. 3L-40-93 §9, 8/2/93; S.L. No. 4L-75-98 §2, 4/13/98; S.L. No. 5L-58-01 §9, 12/21/01

§2-110. Standard of proof. — As to any article of impeachment, the impeached official may not have judgment against him unless the facts alleged therein are proved by the preponderance of the evidence, and such facts constitute an impeachable offense.

Source: S.L. No. 3L-40-93 §10, 8/2/93; S.L. No. 4L-75-98 §3, 4/13/98; S.L. No. 5L-58-01 §10, 12/21/01

§2-111. Concurrence necessary to uphold impeachment. — The impeachment cannot be upheld without the concurrence of two-thirds of the members of the tribunal; and if such two-thirds do not concur in upholding an impeachment, the impeached official must be declared acquitted.

Source: S.L. No. 3L-40-93 §11, 8/2/93; S.L. No. 5L-58-01 §11, 12/21/01

§2-112. Pronouncement of judgment. — Within 10 days after the termination of trial, the tribunal shall pronounce judgment, in the form of an opinion entered upon the court record.

Source: S.L. No. 3L-40-93 §12, 8/2/93; S.L. No. 5L-58-01 §12, 12/21/01

§2-113. Adoption of judgment. — On the adoption of the opinion, by a majority of the tribunal, who voted on the question of acquittal or upholding the impeachment, it becomes the judgment of the tribunal.

Source: S.L. No. 3L-40-93 §13, 8/2/93; S.L. No. 5L-58-01 §13, 12/21/01

§2-114. Nature of the judgment. — Upon upholding the impeachment the judgment must be solely that the impeached official be removed from office.

Source: S.L. No. 3L-40-93 §14, 8/2/93; S.L. No. 5L-58-01 §14, 12/21/01

§2-115. Officer when impeached disqualified to act until acquitted. — No officer shall exercise his office, after the notice of impeachment as provided in Article 13 §§6(2) and 6(3) of the Pohnpei Constitution is served upon him, until he is acquitted.

Source: S.L. No. 3L-40-93 §15, 8/2/93

§2-116. Resignation or removal. — Upon its being brought to the tribunal's attention that the impeached official has resigned from office or been removed from office by other means, the tribunal shall file an appropriate order terminating the proceedings brought hereunder within 10 days.

Source: S.L. No. 3L-40-93 §15A, 8/2/93

Note: §15A was inserted by S.L. No. 5L-58-01 §15, 12/21/01.

§2-117. Impeachment of Speaker of the Legislature. — If the Speaker of the Legislature is impeached, another Speaker may be chosen.

Source: S.L. No. 3L-40-93 §16, 8/2/93; S.L. No. 4L-75-98 §4, 4/13/98

§2-118. Impeachment not a bar to indictment. — If the offense for which the impeached official is impeached be a crime, the prosecution thereof is not barred by the impeachment or the upholding thereof.

Source: S.L. No. 3L-40-93 §17, 8/2/93; S.L. No. 5L-58-01 §16, 12/21/01

§2-119. Costs and expenses. — The costs and expenses of the special prosecutor shall be charged to the Legislature. The impeached official shall be responsible for the costs and expenses of the official's defense, subject to reimbursement at the discretion of the Court, only upon acquittal.

Source: S.L. No. 3L-40-93 §18, 8/2/93

Notes: 1. §18 was inserted by S.L. No. 5L-58-01 §17, 12/21/01. 2. S.L. No. 5L-58-01 §5 repealed S.L. No. 3L-40-93 §6, 8/2/93 in its entirety. 3. S.L. No. 5L-58-01 §18 transition provision has been omitted.

ADMINISTRATIVE LAW

CHAPTER 3 JUDICIAL REVIEW OF ADMINISTRATIVE ACTIONS

Section

3-101 Pohnpei Supreme Court review of
administrative actions
3-102 Right of review

3-103 Relief pending review
3-104 Scope of review

§3-101. Pohnpei Supreme Court review of administrative actions. —

(1) The Trial Division of the Pohnpei Supreme Court shall have the authority to review all actions of any agency of the Government of Pohnpei in accordance with this chapter or any other statute or regulation that provides for a broader scope of judicial review.

(2) For purposes of this chapter, the actions of an agency include the actions of every entity, authority, and instrumentality of the Government of Pohnpei, but does not include the actions of the Pohnpei Legislature or the courts of this state, when exercising their constitutional authority to make or adjudicate law, or any activities of the Legislature or the courts related to the conduct of their constitutional duties.

Source: S.L. No. 3L-99-95 §14-1, 7/20/95

§3-102. Right of review. — A person suffering legal wrong because of agency action within the meaning of a relevant statute is entitled to judicial review thereof by the Trial Division of the Pohnpei Supreme Court. Such action before the Trial Division may seek relief in addition to other monetary damages and may state a claim that an agency or an officer or employee thereof acted unlawfully, or failed to act lawfully in an official capacity or under the color of legal authority. The Pohnpei Government may be named as a defendant in any such action, and a judgment or decree may be entered against the Pohnpei Government. Any mandatory or injunctive decree shall specify the officer or officers (by name and title), and their successors in office, personally responsible for compliance. Nothing herein affects the power or duty of the court to dismiss any action or deny relief on any appropriate legal or equitable ground.

Source: S.L. No. 3L-99-95 §14-2, 7/20/95

§3-103. Relief pending review. — When an agency finds that justice so requires, it may postpone the effective date of the action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the Trial Division of the Pohnpei Supreme Court, or the Appellate Division of the Supreme Court should an appeal be taken, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve the status or rights pending conclusion of the review proceedings.

Source: S.L. No. 3L-99-95 §14-3, 7/20/95

§3-104. Scope of review. — To the extent necessary to render a decision and when presented, the court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action. The court shall:

- (1) Compel agency action unlawfully withheld or unreasonably delayed; and
- (2) Hold unlawful and set aside agency action, findings and conclusions found to be:
 - (a) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
 - (b) Contrary to constitutional right, power, privilege or immunity;
 - (c) In excess of statutory jurisdiction, authority or limitations, or short of statutory right;
 - (d) Without observance of procedure required by law;

- (e) Unsupported by substantial evidence in a case reviewed on the record of any agency hearing provided by statute; or
 - (f) Unwarranted by the facts to the extent that the facts are subject to trial de novo by the court.
- (3) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.
- Source: S.L. No. 3L-99-95 §14-4, 7/20/95

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TITLE 9

PUBLIC OFFICERS AND EMPLOYEES

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CHAPTER 1 UNIFORM APPOINTMENTS AND TENURE

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§1-101. Short title. — This chapter is known and may be cited as the “Uniform Appointments and Tenure Act of 1983.”

Source: S.L. No. 2L-177-83 §1, 5/5/83

§1-102. Applicability. — This chapter shall apply to the administrative heads of each of the executive departments, executive authorities, commissions, and agencies, and executive offices listed or referred to in the Executive Reorganization Act, Title 3 Chapter 1, and any amendments thereto or supersessions thereof, and to such other positions to which application of this statute is required by law.

Source: S.L. No. 2L-177-83 §2, 5/5/83; S.L. No. 1L-62-86 §6-4, 4/1/86; S.L. No. 4L-02-96 §3, 1/22/96; S.L. No. 5L-14-00 §3-2, 10/1/00

§1-103. Appointment procedures. — All offices listed in §1-102 shall be filled by appointment of the Governor and subject to the advice and consent of the Pohnpei Legislature in the manner prescribed by law. Nominations shall be made to the Legislature by the Governor not later than 60 days following his/her inauguration as Governor of this state. Nominations shall be made to the office of the Speaker of the Legislature on a form prescribed by the Attorney General and shall be marked as to the time and date of receipt by the Legislative Clerk.

Source: S.L. No. 2L-177-83 §3, 5/5/83; S.L. No. 3L-43-93 §1, 8/13/93

§1-104. Tenure. — Each appointee to an office listed in §1-102 shall serve at the pleasure of the Governor for a term consecutive with that of the Governor, unless a shorter time is prescribed by law

or the employment contract. All duties and privileges, and salary and benefits of the office of an appointee listed in §1-102 shall terminate at noon on the second Monday of January following the year of general election for the office of Governor, or at such earlier date as may be prescribed under this section.

Source: S.L. No. 2L-177-83 §4, 5/5/83; S.L. No. 3L-43-93 §2, 8/13/93

§1-105. Vacancies and temporary absences. — Vacancies or long-term absences in excess of 60 days shall be filled by appointment for the remainder of an unexpired term or long-term absence in the same manner as the original appointment. The Governor may, by administrative order, provide for temporary succession to positions that have become vacant or from which the officer is temporarily absent; PROVIDED, HOWEVER, that a temporary absence in the position of chief executive officer of an executive department or agency of the executive branch shall be filled through temporary succession of a division head of that department or agency selected by the chief executive officer of the department or agency, or if that is not possible, by selection of temporary chief executive officer by the Governor; PROVIDED FURTHER that no person may serve as the temporary chief executive officer of a department or agency of the executive branch for more than 60 days in any 180-day period.

Source: S.L. No. 2L-177-83 §5, 5/5/83; S.L. No. 1L-62-86 §6-5, 4/1/86; S.L. No. 3L-1-92 §16, 3/12/92; S.L. No. 3L-43-93, §3, 8/13/93

§1-106. Existing contracts. — Nothing in this chapter shall impair the rights and obligations of any provision of an existing employment contract for the executive head of an office listed under §1-102, for the extent of the present term of that contract; PROVIDED that any renewal of said contract shall be negotiated in a manner consistent with this chapter.

Source: S.L. No. 2L-177-83 §6, 5/5/83

Notes: 1. S.L. No. 2L-177-83 §13, 5/5/83 repealed S.L. No. 2L-173-83, 4/22/83 in its entirety. 2. The Governor signed the act on 5/5/82; however, since the act passed the Ponape Legislature on April 28, 1983, it can be assumed that the actual effective date was 5/5/83.

CHAPTER 2 PUBLIC SERVICE SYSTEM

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§2-101. Short title. — This chapter is known and may be cited as the “Pohnpei Public Service System Act of 1981.”

Source: S.L. No. 2L-57-81 §1, 10/1/81

§2-102. Establishment of the Pohnpei Public Service System. — There is hereby established for the executive branch of the State Government of Pohnpei a system of personnel administration based on merit principles and accepted personnel methods governing the classification of positions and the employment, conduct, movement, and separation of public officers and employees. This system of personnel administration shall be referred to as the Pohnpei Public Service System.

Source: S.L. No. 2L-57-81 §2, 10/1/81

§2-103. Definitions. — In this chapter, unless the context requires otherwise, the following definitions shall apply:

(1) “Adjusted base salary” means the total of base salary plus marketplace premium. If an employee is not entitled to a marketplace premium, his adjusted base salary means his base salary.

(2) “Base salary” means the specific rate of pay for a given pay level and step as contained within the base salary schedule established by law. “Base salary” does not include differentials or allowances for standby, night work, transfer, overtime, holiday work, travel, per diem or other similar allowances.

(3) “Class” or “class of positions” means a group of positions sufficiently similar so that all can reasonably be identified by the same title, be filled by applying the same qualification standards, and

be equitably compensated by the same salary level. A class may consist of only one position or of any greater number of positions.

(4) “Department head” is that person in charge of a particular department who is authorized to act as a management official.

(5) “Director” means the Director of the Department of Treasury and Administration.

(6) “Eligible list” means a list of persons who have been found qualified for appointment to a position in a particular class. Such a list may be either promotional or open-competitive.

(7) “Eligible person” or “eligible” means a person whose name is on an active eligible list.

(8) “Employee” means a person holding a position in the public service, whether permanently or otherwise.

(9) “Management official” or “management” means a person authorized to make appointments or changes in status of employees in the public service.

(10) “Open-competitive examination” means an examination for positions in a particular class, admission to which is not limited to persons employed in the public service.

(11) “Open-competitive list” means a list of persons who have been found qualified by open-competitive examination for appointment to a position in a particular class.

(12) “Position” means a group of duties and responsibilities assigned by competent authority to be performed by one person, working full-time or part-time. A position may be occupied or vacant.

(13) “Position classification plan” means the arrangement in a systematic order of the titles of all classes existing in the public service, with a description of each class.

(14) “Probation period” means a period of probationary employment status of not less than six months nor more than one year from the beginning of an employee’s service in a particular position or class in the public service.

(15) “Promotional examination” means an examination for positions in a particular class, admission to which is limited to regular employees in the public service.

(16) “Promotional list” means a list of persons who have been found qualified by promotional examination for appointment to a position in a particular class.

(17) “Public service” means all offices and other positions in the executive branch of the Pohnpei Government not exempted by §2-109.

(18) “Regular employee” or “permanent employee” means an employee who has been appointed to a position in the public service who has successfully completed a probation period.

Source: S.L. No. 2L-57-81 §3, 10/1/81; S.L. No. 5L-14-00 §3-49, 10/1/00

§2-104. Merit principles. — The Pohnpei Public Service System shall be administered in accordance with the merit principles set forth below:

(1) Equal opportunity for all regardless of sex, race, age, religion, political affiliation, ancestry, family or place of origin;

(2) No discrimination against any person because of a physical handicap unconnected to his ability to perform effectively the duties of the position in which he is employed or in which he is seeking employment; PROVIDED that the employment of said physically handicapped person will not be hazardous to him nor endanger the health and safety of others;

(3) Impartial selection of the best person for public service by means of tests which are fair, objective, and practical;

(4) Just opportunity for competent employees to be promoted within the service;

(5) Reasonable job security for competent employees, including the rights of appeal from adverse personnel actions as provided in this chapter;

(6) Systematic classification of all positions through objective job analysis; and

(7) Fair and reasonable grievance procedures, appropriate to conditions of employment, for all employees.

Source: S.L. No. 2L-57-81 §4, 10/1/81

§2-105. Preference to legal residents of the state of Pohnpei. —

(1) Notwithstanding §2-104 above, preference shall be given to qualified legal residents of Pohnpei in making appointments and promotions and providing opportunities for training in the public service.

(2) Notwithstanding Subsection (1) of this section, second preference for employment shall be given to citizens of the Federated States of Micronesia who are not legal residents of Pohnpei at the time of application to a position or promotion within said position.

(3) This section shall be enforced by appropriate regulations.

Source: S.L. No. 2L-57-81 §5, 10/1/81

§2-106. Tenure; nondiscrimination. —

(1) Every regular employee shall be entitled to hold his position during good behavior, subject to suspension, demotion, lay-off, early retirement or dismissal only as provided in this chapter and in the regulations adopted in pursuance hereof and state law relative to early retirement; PROVIDED, HOWEVER, that the tenure of a contract employee is the term of his contract.

(2) No employee in the public service systems shall be suspended, demoted, dismissed, laid off, retired early, or otherwise discriminated against because of sex, race, religion, age, political affiliation, ancestry, family or place of origin.

Source: S.L. No. 2L-57-81 §6, 10/1/81; S.L. No. 4L-38-97 §14, 6/10/97

§2-107. Retirement. —

(1) Any employee of the public service, upon reaching the age of 60 years, must retire from public service in the calendar year during his or her attainment of 60 years.

(2) Any employee may retire with full retirement benefits from public service after said employee's attaining both the retirement age and the eligibility requirements in accordance with employment classification as set forth in the Pohnpei Pension Plan, §6-104(16).

(3) Any employee wishing to contest his forced retirement shall be entitled to a hearing as provided for by §§2-138 - 2-140. He must submit in writing to the Director a statement of his intentions and a personnel review board shall be chosen not later than 15 calendar days after the Director receives such communication.

Source: S.L. No. 2L-57-81 §7, 10/1/81; S.L. No. 3L-51-93 §9-5, 12/3/93

§2-108. Director of the Department of Treasury and Administration. —

(1) The Director of the Department of Treasury and Administration, hereinafter referred to as "Director," shall direct and supervise all the administrative and technical activities of the Department with respect to this chapter, including its Division of Personnel, Labor and Manpower Development and its personnel activity.

(2) The Director shall:

- (a) Administer the system of personnel administration for the Pohnpei Government;
- (b) Prepare proposed policies and regulations to carry out this chapter;
- (c) Cooperate fully with and attend, or assign a qualified representative to attend, all meetings of the personnel review boards organized under §§2-138 - 2-140, and provide the boards with such technical advice as they may require;
- (d) Appoint other employees of the Department in accordance with all other applicable provisions of law;
- (e) Establish and maintain a current roster of all officers and employees in the public service, indicating for each the class of position held, the salary, and any other appropriate data;
- (f) Develop and maintain a system of performance evaluation for the purpose of appraising the productivity of employees in the public service;

- (g) Develop and maintain a position classification plan in accordance with this chapter and other applicable laws;
- (h) Develop and utilize recruitment and selection procedures and methods;
- (i) Develop training programs for the improvement of employee skills and for the development of systematic career programs for employees; and
- (j) Perform any other lawful acts assigned to him by the Governor, or otherwise required to carry out the provisions and purposes of this chapter.

Source: S.L. No. 2L-57-81 §8, 10/1/81; S.L. No. 5L-14-00 §3-49, 10/1/00

§2-109. Exemptions. —

(1) The Pohnpei Public Service System shall apply to all employees of and positions in the state executive branch, now existing or hereafter established, and to all personnel services performed for that government except the following, unless this chapter or provisions thereof are specifically made applicable to them:

- (a) The Governor and Lieutenant Governor;
- (b) The Public Auditor;
- (c) The directors of executive departments and administrators of executive offices established by law;
- (d) Elected officers and persons appointed to any other positions requiring the advice and consent of the Legislature;
- (e) Persons or organizations retained or hired by contract when the Director has certified that the service to be performed is special or unique and non-permanent and is essential to the public interest; and that, because of the degree of expertise or special knowledge required and the nature of the services performed, it would not be practical to obtain personnel to perform such services through normal public service recruitment procedures;
- (f) Persons presently under contract of employment not included in Paragraph (e) of this subsection, during the life of such contract, except if renewed or amended;
- (g) Temporary positions, required in the public interest, for which the need does not exceed six months;
- (h) Positions requiring part-time or intermittent work that does not exceed 20 hours in the bi-weekly pay period;
- (i) Positions filled by inmates, patients, and students of institutions of the state;
- (j) Members of any state board, public corporation, commission or similar body, in their capacity as such, unless otherwise made subject to this chapter; PROVIDED that employees thereof shall be subject to this chapter unless otherwise exempted herefrom; and
- (k) Positions specifically exempted by any other law of the state.

(2) Nothing in this section shall be deemed to affect the public services status of any incumbent as it existed on the effective date of this chapter [*October 1, 1981*].

Source: S.L. No. 2L-57-81 §9, 10/1/81; S.L. No. 4L-02-96 §2, 1/22/96; S.L. No. 5L-14-00 §3-49, 10/1/00

§2-110. Recruitment and placement. — Except as otherwise provided in this chapter, all positions covered by this chapter and for which authorizations, and, where applicable, appropriations shall have been made, shall be recruited by advertisement, for the period and by the media which are appropriate in the circumstances. The advertisement shall include at least the position, title, the salary, a brief description of the class, the location of the vacancy or vacancies, the qualification standards required, and the time and place of the examination, if any. The closing date for filing applications shall be clearly stated. On applications that are mailed, the date of postage marked on the mailing envelope shall be used to determine compliance with the deadline stated in the advertisement.

Source: S.L. No. 2L-57-81 §10, 10/1/81

§2-111. Examinations. —

(1) *General character.* There shall be competitive examinations, whenever possible and as determined by the Director, to test the relative fitness of candidates for public service positions covered by this chapter. Examinations may be in writing, by oral performance, or any combination thereof, and shall provide for ascertaining the physical and educational qualifications, experience, knowledge, and skills of applicants and their relative capacity and fitness for the duties of the position they seek. All examinations shall be free and, except for promotional examinations, shall be open to all candidates, but with such limitations in regard to health, physical conditions, education, training, experience, and other relevant matters as are appropriate to the class for which the examination is given. All examinations shall be under the control of the Director or of such person or persons as he may designate to administer them. All persons who have passed an examination may be required to take such physical examination as may be specified by the Director.

(2) *Promotional examinations.* Examinations may be promotional whenever, in the opinion of the Director, such examinations are practicable and for the best advantage of the public service. The Director shall give ample notice of any promotional examinations.

(3) *Open-competitive examinations.* Examinations shall be open-competitive whenever, in the opinion of the Director, such examinations are practicable and for the best advantage of the public service. The Director shall give ample notice of any open-competitive examinations.

(4) *Non-competitive examinations.* Non-competitive examinations may be given when, in the opinion of the Director, the class for which the examination is to be given calls for special qualifications which could not practically be evaluated through competition, or when the number of qualified candidates does not exceed the number of vacancies to be filled.

Source: S.L. No. 2L-57-81 §11, 10/1/81

§2-112. Eligible lists. —

(1) *General.* The Director shall cause to be established and maintained separate eligible lists for all classes in which vacancies exist or are anticipated. Eligible lists may be open-competitive or promotional depending on whether they result from open-competitive examinations or promotional examinations. An eligible list may remain active for one year.

(2) The Director may remove the name of a person from any eligible list or refuse to certify his name on any list of eligible persons if he finds, after giving him notice and an opportunity to be heard, that the person is no longer able to perform the necessary duties satisfactorily.

Source: S.L. No. 2L-57-81 §12, 10/1/81

§2-113. Filling vacancies. — Whenever there is a position to be filled, the authorized management official shall ask the Director to submit a list of persons eligible. The Director shall thereupon certify a list of five, or such lesser number as may be available, taken from eligible lists in the following order: first, promotional lists; and second, open-competitive lists. The highest management official of the department, or of the office or agency if not within a department, shall make the appointment from the list of eligibles submitted to him unless he finds no person available and acceptable to him on the list, in which case he will ask the Director to certify a new list, stating in writing his reasons for rejecting each of the eligibles on the list previously submitted to him. If the Director finds such reasons adequate, he shall then submit a new list of no more than five eligibles selected in a like manner, from which said management official shall make an appointment. If the Director does not find the reason adequate, he shall resubmit the list and the appointment shall be made therefrom.

Source: S.L. No. 2L-57-81 §13, 10/1/81

§2-114. Disqualification from appointment and service. — This section shall apply to all public service system positions, inclusive of all positions exempted by §2-109(1):

(1) Conviction of a felony after completion of sentence as specified in Subsection (1) of this section hereof shall not be a bar to employment in the public service unless the Director determines that the nature of the felony renders the candidate clearly unsuitable for the position applied for.

(2) The willful commission of or the attempt to commit any material deception or fraud in connection with any application or examination shall cause removal and permanent disqualification from appointment in the public service, after due notice and hearing by the Director.

Source: S.L. No. 2L-57-81 §14, 10/1/81

Note: Subsection (1) of this section formerly stated “(1) No person may be appointed or serve in the public service system who is currently under sentence, inclusive of the period for which imprisonment or other punishment has been suspended, for conviction of a felony under the laws of this State or the National Government or any other state of the Federated States of Micronesia, or of the United States of America or any political subdivision thereof.” This provision has been declared unconstitutional by the Pohnpei Supreme Court; *see Paulus v. State of Pohnpei* 3 FSM Intrm. 208 (Pon. S. Ct. Tr. 1987).

§2-115. Provisional and short-term appointment. —

(1) *Provisional appointment pending establishment of an eligible list.* When there is no eligible person available on a list appropriate for filling a vacancy in a continuing position and the public interest requires that it be filled before eligibles can be certified, the Director may authorize the filling of the vacancy through provisional appointment. The Director shall proceed without delay to announce an examination to fill the vacancy. The provisional appointment shall continue only for such a period as may be necessary to make an appointment from an eligible list but shall not extend beyond 90 days; PROVIDED that the Director may extend the provisional appointment for a maximum of 30 additional days if an examination has failed to secure any qualified available eligible person.

(2) *Emergency appointments.* To prevent the stoppage of essential public business, management officials may make emergency appointments, not to exceed ten working days, to fill positions temporarily in any serious emergency when time is insufficient to follow normal appointment procedures. The Director may, for good and sufficient cause stated in writing by the management official concerned, extend the appointment for an additional period not to exceed 20 working days.

(3) *Qualifications.* Provisional and temporary appointees must meet the qualification standards for the class of the position to be filled.

Source: S.L. No. 2L-57-81 §15, 10/1/81

§2-116. Probationary service. —

(1) Every employee shall successfully serve a probation period before becoming a regular employee. An employee whose services are unsatisfactory during his probation period may be dismissed from the public service at any time, by the responsible management official. An employee so dismissed shall have no right of appeal; but, if the employee so requests, the Director may, in his discretion, insert the employee's name on the eligible list or lists for other positions in the same class.

(2) A regular employee who is promoted or transferred to another position in the public service shall be required to serve a new probation period in his new position, but he shall be entitled to all the rights and privileges of a member of the public service except the right to appeal in the case of removal from the new position, as distinguished from dismissal from the public service.

(3) When a provisional or temporary appointee subsequently becomes a probational employee, the period of service in provisional or temporary status shall be counted toward meeting the probation period required by this section.

Source: S.L. No. 2L-57-81 §16, 10/1/81

§2-117. Position classification. — All positions subject to this chapter shall be classified by the Director according to their duties and responsibilities, and shall be grouped into classes on the basis of their similarities in duties, responsibilities, and desirable qualifications. Each class shall be given a title which shall apply to all positions therein, and which shall be used for all personnel, budgetary, and financial purposes. In preparing the position classification plan, the Director shall consult with appropriate management officials. The Director may change a position from one class to another when substantial changes have occurred in the duties and responsibilities of the position. The Director shall determine the status of occupants of positions that have been so reclassified.

Source: S.L. No. 2L-57-81 §17, 10/1/81

§2-118. Compensation plan: salaries. — There shall be a single base salary computation table for all employees and positions in the Public Service System. The Director shall assign each class of positions to an appropriate salary level of such table.

Source: S.L. No. 2L-57-81 §18(1), 10/1/81; S.L. No. 1L-114-86 §1(1), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-119. Compensation plan: periodic review. — The Director shall periodically conduct necessary and appropriate studies of rates and compensation and pay-related practices in all geographic areas from which employees for public service are normally recruited, and shall adopt such amendments to the existing compensation plan as is deemed appropriate; PROVIDED that, when the amendment includes changes in the salary table, the rates or nature of premiums, differentials or allowances, or other subjects covered in this chapter or in other laws, the Director shall submit the recommendations to the Governor for review, approval, and further transmittal to the Legislature for its consideration, and that such amendment shall become effective only after it has been enacted into law. In developing amendments, the Director shall give consideration to:

- (1) The minimum standard of living which is compatible with decency and health;
- (2) The general economic conditions of the state;
- (3) Compensation practices and conditions of appropriate labor markets;
- (4) Conditions of employment in the Pohnpei Public Service System;
- (5) The financial resources estimated to be available to the government; and
- (6) Such other matters as the Director may deem appropriate.

Source: S.L. No. 2L-57-81 §18(2), 10/1/81; S.L. No. 1L-114-86 §1(2), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-120. Compensation plan: premium. — To recognize circumstances of employment which make it appropriate that recognition be given to labor market conditions outside the state, the following premium is provided to public service employees. An employee who is recruited in a location outside the state who is a non-citizen of the Federated States of Micronesia and, at the time of original hire, a non-resident thereof, may be paid a premium based on labor market conditions in the place of recruitment and on the level of the base salary. When an employee is receiving this premium in addition to that person's base salary, the sum of the base salary plus premium shall constitute said person's adjusted base salary for the purpose of computing differentials.

Source: S.L. No. 2L-57-81 §18(3), 10/1/81; S.L. No. 1L-114-86 §1(3), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-121. Differentials. — To compensate for unusual circumstances of employment which create hardships for public service employees, the following differentials are provided for them; PROVIDED that in no case may an employee's combined differentials under §§2-122 through 2-127 exceed thirty percent (30%) of his or her adjusted base salary in a biweekly period.

Source: S.L. No. 2L-57-81 §18(4), 10/1/81; S.L. No. 1L-114-86 §1(4), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-122. Standby differential. — An employee whose duties require him or her to remain in a standby status, subject to call at any time, for a regularly scheduled period in excess of a normal 40-hour work week and who, in fact, is frequently called during this period of scheduled standby, shall be compensated at the rate of twenty percent (20%) of the adjusted base salary for each hour or portion thereof he or she shall so serve in a standby status. The standby differential shall be paid to a qualifying employee during the time he or she is on standby status and not during the time he or she is actually called to work during that period. During the time such employee is actually working during the standby period, he or she shall be entitled to time off or payment of applicable differentials where allowable under §§2-121 – 2-127.

Source: S.L. No. 2L-57-81 §18(4)(a), 10/1/81; S.L. No. 1L-114-86 §1(4)(a), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-123. Nightwork differential. — An employee whose tour of duty includes regularly scheduled hours falling between 7:00 p.m. and 6:00 a.m. shall be compensated at the rate of one hundred fifteen percent (115%) of the adjusted base salary for all hours falling within that period.

Source: S.L. No. 2L-57-81 §18(4)(b), 10/1/81; S.L. No. 1L-114-86 §1(4)(b), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-124. Hazardous work differential. — An employee who performs work which entails unusual and extreme hazards to that person's health or safety shall be compensated at the rate of one hundred twenty-five percent (125%) of the adjusted base salary for all hours in which hazardous work is performed.

Source: S.L. No. 2L-57-81 §18(4)(c), 10/1/81; S.L. No. 1L-114-86 §1(4)(c), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-125. Compensatory time-off/overtime differential. — An employee shall be paid overtime compensation at the rate of one hundred fifty percent (150%) of his or her adjusted base salary for all the time when said employee is directed to work and does work in excess of eight hours in a day or 40-hours in a week; PROVIDED, HOWEVER, that the employee's supervisor, in his discretion, may allocate compensatory leave time to the affected employee at the rate herein specified in lieu of the overtime differential; PROVIDED FURTHER, that if the supervisor shall not have accorded to the employee sufficient compensatory time off in lieu of the overtime compensation which can be used by the affected employee within 60 days following the date that such compensatory time was earned, the employee shall be entitled forthwith to the payment of overtime compensation at the rate herein prescribed for such hours for which compensatory time was credited in lieu of overtime compensation but that has not been accorded to the employee within the period herein prescribed.

Source: S.L. No. 2L-57-81 §18(4)(d), 10/1/81; S.L. No. 1L-114-86 §1(4)(d), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-126. Holiday differential. — An employee who is required to work on a legal holiday shall be compensated at the rate of two hundred percent (200%) of his or her adjusted base salary for all such hours worked.

Source: S.L. No. 2L-57-81 §18(4)(e), 10/1/81; S.L. No. 1L-114-86 §1(4)(e), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-127. Emergency differential. — Employees who are required to work in a location and for a period in which a typhoon or other natural catastrophe has been declared by the Governor and in which other government employees are released from work because of such conditions, shall be compensated for the hours worked while such emergency remains in force at the rate of two hundred fifty percent (250%) times his or her adjusted base salary. The differential provided in this section shall be paid at the rate prescribed for emergency differential in lieu of such other compensatory differentials as may otherwise apply.

Source: S.L. No. 2L-57-81 §18(4)(f), 10/1/81; S.L. No. 1L-114-86 §1(4)(f), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-128. Allowances. — To compensate employees for unusual expenses resulting from changes of work location, the following allowances are provided to public service employees:

(1) *Transfer allowance.* When an employee is recruited or transferred beyond commuting distance from his or her place of permanent residence for work elsewhere, he or she shall be entitled to all justifiable expenses connected with travel that employee and the employee's immediate family to the new work location and transportation of a reasonable quantity of household effects. He or she shall be entitled to an allowance equal to per diem at the established rate for the new duty station for a period not exceeding 30 calendar days from the date of entry into the new position.

(2) *Temporary housing allowance.* When an employee who is otherwise entitled to government housing is transferred to a new duty station where housing is not immediately available, said employee shall be paid a temporary housing allowance pending occupation of said employee's quarters at such rate as the Director finds necessary and appropriate; PROVIDED that an employee shall not receive a temporary housing allowance when receiving per diem pursuant to Subsection (1) of this section.

Source: S.L. No. 2L-57-81 §18(5), 10/1/81; S.L. No. 1L-114-86 §1(5), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-129. Holiday compensation. — All employees of the state are entitled to compensation for all legal holidays at said employee's adjusted base salary rate.

Source: S.L. No. 2L-57-81 §18(7), 10/1/81; S.L. No. 1L-114-86 §1(7), second pay period following 11/13/86; S.L. No. 4L-25-96 §6, 7/1/97

§2-130. Performance evaluation. — The Director shall develop and maintain a system of performance evaluation for the purpose of appraising the productivity of employees in the public service. Each agency shall develop performance evaluation criteria for every class or, if appropriate, for individual positions, and shall rate each employee under its jurisdiction at least once a year. The Director shall standardize performance evaluation criteria, develop evaluating procedures, and certify the final evaluations. A copy of each evaluation shall be given to the employee affected, and the management official shall give written notification to any employee whose performance is substandard. Performance evaluations shall be used in determining eligibility for retention status in reduction-in-force.

Source: S.L. No. 2L-57-81 §19, 10/1/81; S.L. No. 4L-25-96 §6, 7/1/97

§2-131. Leaves of absence. —

(1) Leaves of absence with pay may be granted to employees by management officials for reasons of annual leave (vacation), illness, training or education, or for other such reasons as will be in the best interests of the public service. Eligibility for such leaves, the method and rate of earning such eligibility, and the duration of the leaves shall be established by regulations.

(2) Leaves of absence without pay may be granted for such reasons as management officials may deem proper and consistent with the best interests of the public service. Regulations may prescribe the characteristics and eligibility of such leaves.

Source: S.L. No. 2L-57-81 §20, 10/1/81

§2-132. Employee associations. —

(1) Employees shall have the right to form associations for the purpose of presenting their views to the government and shall be free from restraint or reprisal in exercising this right. The government shall give reasonable opportunity to representatives of such associations to present their views.

(2) This does not grant the right of said associations to strike against the Government of Pohnpei. Any action of said nature will be held in violation of this subsection and any willing offender will be subject to immediate dismissal.

Source: S.L. No. 2L-57-81 §21, 10/1/81

§2-133. Outside employment. —

(1) It shall be a dischargeable offense for any employee to accept any fee, compensation, gift, payment of expenses or any other thing of monetary value in circumstances such that acceptance may result in:

- (a) Use of public office for private gain;
- (b) An undertaking to give preferential treatment to any person;
- (c) Impeding government efficiency or economy;
- (d) Any loss of complete independence or impartiality;
- (e) The making of a government decision outside official channels; or
- (f) Any adverse effect on the confidence of the public in the integrity of the government.

(2) No employee subject to this chapter shall receive compensation or any thing of monetary value, other than that to which he is duly entitled from the government, for the performance of any activity during his service and within the scope of his official responsibilities.

Source: S.L. No. 2L-57-81 §22, 10/1/81

§2-134. Grievances. — The regulations shall prescribe a system for hearing the views of employees on their working conditions, status, pay, and related matters and for hearing and adjudicating grievances of any employee or group of employees. These regulations shall ensure that employees are free from coercion, discrimination, and reprisals and that they may have representatives of their choice.

Source: S.L. No. 2L-57-81 §23, 10/1/81

§2-135. Resignation. — All resignations shall be in writing and submitted to the appropriate management official no less than 14 working days before proposed resignation of the employee.

Source: S.L. No. 2L-57-81 §24, 10/1/81

§2-136. Abandonment. — If an employee ceases work without explanation for not less than six consecutive working days he shall be deemed to have abandoned his position, and the management official shall file with the Director a statement showing termination of employment because of abandonment of position. The management official shall promptly transmit a copy of the statement to the employee by the most practical means.

Source: S.L. No. 2L-57-81 §25, 10/1/81

§2-137. Reductions-in-force. — Regulations shall be developed to govern the conditions under which an employee shall be laid-off from his position when lack of work or lack of funds makes such action necessary. The regulations shall provide that, in establishing order of layoff, consideration shall be given first, to the employee's individual merit, as shown by performance evaluations; second, to his seniority as measured by total creditable service; and third, to his qualifications of education, training, and experience.

Source: S.L. No. 2L-57-81 §26, 10/1/81

§2-138. Disciplinary action: suspension. — A management official may, for disciplinary purposes, suspend any employee without pay for such length of time as he considers appropriate. No single suspension for a period of more than three working days, whether consecutive or not, shall take effect until the management official transmits to the employee, by the most practical means, a written notice setting forth the specific reasons for the suspension and the employee's rights of appeal. A copy of the notice shall be filed with the Director without delay. With the approval of the Director, an employee may be suspended for a period longer than 30 days pending the investigation of any charge against him. When an employee has been suspended pending such an investigation and the charge is subsequently dropped, he shall be reinstated in his position with full pay and benefits retroactive to the date of suspension.

Source: S.L. No. 2L-57-81 §27(1), 10/1/81

§2-139. Disciplinary action: dismissal; demotion. — A management official may, for disciplinary reasons, dismiss or demote an employee for such causes that will promote the efficiency of the public service. Demotions may also be made for reasons other than disciplinary ones. The personnel regulations shall specify the circumstances in which such demotions may be authorized. No dismissal or demotion of a permanent employee shall be effective for any purpose until the management official transmits to the employee, by the most practical means, a written notice setting forth the specific reasons for the dismissal or demotion and the employee's rights of appeal. A copy of the notice shall be filed with the Director without delay.

Source: S.L. No. 2L-57-81 §27(2), 10/1/81

§2-140. Appeals from suspension, dismissal or demotion. —

(1) The Governor shall nominate, and, with the advice and consent of the Legislature, shall designate not fewer than seven persons to constitute a panel from which a Personnel Review Board may be drawn for the purpose set forth in this section. The Governor may remove a member of the panel for cause. Persons nominated shall be officers or employees of the state government, of mature judgment and experience. The Governor, Lieutenant Governor, members of the Legislature, justices and other judges of the state courts, the Attorney General, and directors of departments shall not be eligible for membership on the panel.

(2) Any regular employee who is suspended for more than three working days, demoted or dismissed may appeal through the Director within 15 calendar days after written notice of the suspension, demotion or dismissal has been transmitted to him. Upon receiving such appeal, the Director shall constitute a Personnel Review Board of three members, drawn from the panel established under Subsection (1) of this section.

(a) The Personnel Review Board shall be comprised of one member chosen by the Director, one chosen by the appellant, and a third chosen jointly by the first two members. If the first two are unable to agree on the choice of a third member, the third member shall be selected by lot from among the remaining members of the panel.

(b) No member of a Personnel Review Board shall be an officer or employee of the agency to which the appellant is or was assigned, or a close relative of either the appellant or the responsible management official.

(c) Members of a Personnel Review Board shall not receive additional compensation for such service, but shall be reimbursed for necessary expenses connected with any hearing to which they are assigned.

(3) The hearing shall be held within 15 calendar days after the Director receives the appeal. At the hearing, the appellant and the responsible management official shall have the right to be heard, to present evidence, and to be confronted by all adverse witnesses. The appellant shall have the right to be represented by counsel of his own choosing.

(4) At the hearing, technical rules of evidence shall not apply and evidence shall be taken stenographically or by manual or electronic recording machine. The Board, on its own motion or on that of the Director, management official or the appellant, shall subpoena witnesses and tangible evidence, when such witnesses or evidence are relevant to the hearing. Hearings shall be public except when the appellant requests a closed hearing.

(5) The Board shall prepare a full written statement of its findings of fact and its recommendations for action within seven calendar days after the close of the hearing. Its recommendations may include modifications or reversal of the disciplinary action from which appeal was taken. It shall forthwith transmit that statement, with such support documentation as it deems appropriate, to the highest management official responsible for the department, office or agency to implement such decision. The decision of the Board shall be final.

(6) Disciplinary actions taken in conformance with this section shall in no case be subject to review in the courts until the administrative remedies prescribed herein have been exhausted.

Source: S.L. No. 2L-57-81 §27(3), 10/1/81

§2-141. Regulations. — The Director shall draft regulations for personnel administration in the state government and shall submit such proposed regulations, together with his comments and recommendations thereon, to the Governor. The Governor, after considering the recommendations of the Director, shall promulgate personnel regulations in the manner prescribed by law. When promulgated, such regulations shall have the force and effect of law. They may relate to any matter not inconsistent with law concerning the establishment and maintenance of a system of personnel management based on merit principles, including but not limited to matters set forth in this chapter, and may be amended or repealed through the same procedure by which they were adopted by statute. Trust Territory Public Service regulations in force in the state on the effective date of this chapter [*October 1, 1981*] and not inconsistent with this chapter shall remain in effect as state regulations under this chapter until amended, superseded or repealed in the manner prescribed by this section.

Source: S.L. No. 2L-57-81 §28, 10/1/81

§2-142. Transition. — A regular employee holding a valid appointment in Trust Territory Public Service in service for this state, without further operation of law, shall be admitted without examination, in or after the effective date of this chapter [*October 1, 1981*], to a position of the same class or an equivalent class in the Pohnpei Public Service System. In subsequently computing the seniority of such an employee for retention and similar purposes, his time of service in the Trust Territory Public Service shall be credited in the same manner as if it had been in the Pohnpei Public Service System.

Source: S.L. No. 2L-57-81 §29, 10/1/81

Notes: 1. S.L. No. 2L-57-81 §18(6), 10/1/81 was implicitly repealed by S.L. No. 4L-25-96 §6, 7/1/97. 2. S.L. No. 2L-57-81 §30 superseding provision has been omitted.

CHAPTER 3 COMPENSATION RESTRUCTURING

Section

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§3-101. Short title. — This chapter is known and may be cited as the “Compensation Restructuring Act of 1996.”

Source: S.L. No. 4L-25-96 §1, 7/1/97

§3-102. Legislative findings. —

(1) The Pohnpei Legislature finds that the reductions of funding from the United States of America Government under the Compact of Free Association and the persistent refusal of the Federated States of Micronesia National Government to realign revenue-distribution formulas to accurately reflect the federal division of responsibilities may seriously impact this state’s financial ability to meet its constitutional and statutory responsibilities. The Legislature further finds that, because of the severe shortage in funds available to the state, this government may no longer maintain its public work force at levels of compensation previously provided.

(2) Article 11 §12 of the Pohnpei Constitution requires that, “Iren koasoandih kei pahn kokouda sang Kosonned pwehn iteite doadoahklahn mwohni kan, oh en katikala doadoahklahn mwohni kan ni ahnsou kan me mwohni en weipokon sohte pahn itar ong doadoahklahn mwohni en weipokon me pahn wiawi nan pahr en mwohnio.” Moreover, Article 10 §8 of the Pohnpei Constitution requires that: “Pweinarail [ong pweinen Soun Kopwung en Mwoalen Kopwung Ihleile, soun kopwung teikan oh tohn pwihn en tenek kan] sohte pahn kak ketikitikla ni ahnsou me re wiwia arail pwukoah nan ohpis, ihte ma mie koasoandi ieu sang kosonned ni soangen pweipwei pahrek ehu me kipe ohpiser oh tohn doadoahk koaros en government en Weipokon en Pohnpei.” Cognizant of these constitutional mandates, and mindful of the indispensable nature of the services that this government provides to our people, the Legislature hereby declares that it is in the essential public interest to take such statutory steps as may be necessary to reduce in equal proportion all of this government’s personnel costs to within levels that can be realistically supported by the limited revenues available to this state. It is for this purpose that this statute has been enacted.

Source: S.L. No. 4L-25-96 §2, 7/1/97; S.L. No. 4L-29-97 §2, 3/30/97

Notes: 1. S.L. No. 4L-29-97 §2, 3/30/97 purpose provision reads:

“The Legislature finds that the severe shortage of funds available to the state requires an early implementation of the compensation restructuring contained in S.L. No. 4L-25-96, which law is slated to take effect on July 1, 1997, and requires that the government undertake other cost-savings steps with respect to its personnel.”

2. S.L. No. 4L-29-97 §4 appropriation provision has been omitted.

§3-103. Parity among the state civil service systems. — Not later than 30 days following the effective date of this chapter [*effective date is July 1, 1997*], the Legislature, the Chief Justice of the Pohnpei Supreme Court and the Public Auditor shall adopt and issue such regulatory and administrative provisions and orders as may be necessary to ensure that their respective civil service systems are modified where necessary so that they conform in substance to the changes to the Public Service System of the executive branch effectuated by §§2-118 through 2-130.

Source: S.L. No. 4L-25-96 §7, 7/1/97

§3-104. Exempt positions. — Commencing on the effective date of this chapter [July 1, 1997], employees of the Pohnpei Government who are exempted from the Public Service System of the executive branch or similar civil service systems of the Legislature, the Judiciary, and the Office of the Public Auditor, and whose compensation is not otherwise provided for in the amendments to the laws of this state as provided in this chapter, may only be compensated at regular intervals commensurate with the regular pay periods of the government at that percentage of compensation for the period of time covered in the pay period that such exempted employee was otherwise entitled to immediately preceding the effective date of this chapter, or as may hereafter be provided by contract or other arrangement, which percentage is prescribed in the Comprehensive Budget Act for that fiscal year for the calculation of the compensation of officers and employees of the government for the same pay period.

Source: S.L. No. 4L-25-96 §14, 7/1/97; S.L. No. 4L-29-97 §5, 3/30/97

Note: S.L. No. 4L-25-96 §15 appropriation provision has been omitted.

§3-105. Compensation restructuring leave. — In addition to such leaves of absence as are regularly accorded the officers and employees of the Pohnpei Government, each officer and employee of the government whose compensation is reduced pursuant to this chapter shall be entitled to one hour of compensatory restructuring leave for each one percentage point of reduction in his regular salary for each pay period that said officer or employee shall serve at a reduced level of compensation as prescribed in the Comprehensive Budget Act for that fiscal year. Computation, accrual and use of compensation restructuring leave shall be subject to the following conditions:

(1) The computation and accrual of compensatory restructuring leave authorized by this section shall not exceed 16 hours per officer or employee per pay period, notwithstanding the fact that the percentage of reduction appearing in the Comprehensive Budget Act may exceed 16 percentage points of reduction in salary;

(2) Part-time employees shall accrue compensation restructuring leave at a rate that is proportionate to their service in relation to the service of full-time employees to the full rate of accrual;

(3) The officer's or employee's supervisor, following consultations with his superiors and those officers and employees under his supervision, shall prescribe a regular schedule for the use of compensation restructuring leave, which schedule may be modified by the supervisor from time to time;

(4) Unless a request for the use of compensation restructuring leave is unreasonably denied by the government, no officer or employee may carry over more than 40 hours of said leave to the next fiscal year; and

(5) A supervisor, upon a finding that there is not sufficient manpower to perform the services required and with the approval of the chief executive of the respective branch or office (or the chief executive's designee as authorized in writing), may require specified employees under his supervision to work during times set aside for the use of compensation restructuring leave for which additional compensation shall be made in lieu of the provision of said leave at the regular level of compensation as prescribed by the Comprehensive Budget Act for that fiscal year.

Source: S.L. No. 4L-25-96 §15A, 7/1/97

Note: §15A was inserted by S.L. No. 4L-29-97 §6, 3/30/97.

§3-106. Members of the workforce distinguished. — For purposes of this chapter, the following terms shall have the following meanings:

(1) "Employee" or "employees" as used in this chapter means every person employed by the state government who is not an officer as defined by Subsection (1) of this section. The term "employee" includes all such members of the workforce whether they are employed under a separate personal services contract, a grant agreement or a general employment action, and whether they serve under the public service system of the respective branch or are exempt therefrom. The term "employee" does not

include persons working for an independent contractor performing services privatized by the state government or a public corporation of the state which maintains a separate personnel system as authorized by state law.

(2) “Grant employee” or “grant employees” means employees of the state government whose definition of work and primary compensation come from sources outside of the state government pursuant to one or more grant agreements. For purposes of this subsection, monies coming to the state government under the financing provisions of the Compact of Free Association shall be deemed to be internal monies of the state and not emanating from a source outside of the state.

(3) “Officer” or “officers” shall mean every person who holds a position listed in or otherwise covered by §4-102. The term “officer” as used in this chapter is distinguished from and separate from the term “employee.”

Source: S.L. No. 4L-25-96 §15B, 7/1/97

Note: §15B was inserted by S.L. No. 4L-101-99 §1, 3/16/99.

§3-107. Use of grant funds restricted. — In order to ensure full compliance with the service expectations of outside grants awarded to the state of Pohnpei, funds received by any agency of the state government under a grant agreement with any entity, not part of the state government, that are budgeted for, or otherwise allocated to, the payment of personnel expenses of the grant employees currently employed under that program, may not be reprogrammed or reallocated by any state officer or employee to any other use by reason of the salary reductions required by this chapter. Such funds so affected shall be reserved for and directed to the compensation of the class of grant employees for which the funds were originally budgeted for work performed by said employees during times normally set aside for compensation restructuring leave as authorized by §3-105. Any management official found to have knowingly and willfully diverted grant monies to non-personnel uses in violation of the terms of this section shall be personally liable to the state government for the loss or diversion of said funds.

Source: S.L. No. 4L-25-96 §15C, 7/1/97

Note: §15C was inserted by S.L. No. 4L-101-99 §1, 3/16/99.

PUBLIC OFFICERS & EMPLOYEES

CHAPTER 4 COMPENSATION

Section

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SUBCHAPTER I GOVERNMENT OFFICERS' SALARY SCHEDULE

§4-101. Short title. — This subchapter is known and may be cited as the “Pohnpei State Government Officers’ Salary Act of 1984.”

Source: S.L. No. 3L-30-84 §1, 4/1/86

§4-102. Salaries for Pohnpei Government officers. — The following table of base salary computations is hereby adopted to provide for the basis upon which the base salaries of the officers filling the positions listed in the following subsections of this section shall be calculated. The actual salary to be paid to each officer so listed shall be based upon the percentage stipulated in the annual Comprehensive Budget Act (but not greater than one hundred percent (100%)) to be applied against the figures appearing in the table of base salary computations as set forth in this section and attributable to that position, subject to such adjustments as may be attributable by law to such base salary computation. The salary of each officer so calculated shall be payable in equal biweekly payments, unless otherwise provided by this section:

- (1) Executive branch:
 - (a) Governor – \$30,000;
 - (b) Lieutenant Governor – \$25,000;
 - (c) Department Directors – \$23,000;
 - (d) Administrators of executive offices – \$18,000 – \$21,000; and
 - (e) Attorney General – \$23,000; PROVIDED, HOWEVER, that the Attorney General may receive a salary premium of up to one hundred percent (100%) of the base salary.
- (2) Judiciary:
 - (a) Pohnpei Supreme Court:
 - (i) Chief Justice – \$25,000;
 - (ii) Associate justices – \$23,000;
 - (iii) Alternate resident justices while engaged in the business of the court – \$80 per day; and
 - (iv) Alternate non-resident justices while engaged in the business of the court – \$100 per hour for each hour of service authorized by the Chief Justice of the Pohnpei Supreme Court.

(b) Court of Land Tenure:

- (i) Principal judge – \$19,000;
- (ii) Judges – \$17,000;
- (iii) Assessors – \$9,000 – \$11,000;

(c) Court of Traffic and Misdemeanor Offenses [RESERVED].

(3) Legislature: All members of the Legislature – \$25,000.

(4) Chief executive officers of Pohnpei authorities and commissions who are subject to advice and consent of the Legislature pursuant to the Uniform Appointments and Tenure Act, Chapter 1, as amended or superseded by Pohnpei law – \$23,000.

(5) Members of boards, commissions, councils, and other policy-making entities for which compensation is provided by reference to this subchapter, \$20 for each day or portion thereof the member shall attend a formally convened session of such board, commission, council or other policy-making entity.

(6) Pohnpei Public Auditor – \$23,000.

Source: S.L. No. 3L-30-84 §2, 4/1/86; S.L. No. 1L-71-86 §3-1, 4/1/86; S.L. No. 3L-11-92 §1, 6/30/93; S.L. No. 3L-17-92 §1, 10/1/92; S.L. No. 3L-99-95 §19-3, 7/20/95; S.L. No. 4L-02-96 §1, 1/22/96; S.L. No. 4L-25-96 §3, 7/1/97; S.L. No. 5L-14-00 §3-3, 10/1/00

§4-103. Existing employment contract. — This subchapter shall not impair, change, increase or decrease the obligations of any existing employment contract to which the state government is or becomes a party to or is the beneficiary thereof. Every position to be filled after the effective date of this subchapter [*August 7, 1984*] by initial contractual appointment or renewal shall provide for compensation as specified in this subchapter.

Source: S.L. No. 3L-30-84 §5, 8/7/84

Extended legislative history: S.L. No. 3L-30-84 §6(1), 1/13/86 amended PDC §1-8(1)(a); S.L. No. 3L-30-84 §6(2), 1/13/86 amended D.L. No. 4L-159-78 §7, 11/28/78; S.L. No. 1L-71-86 §3-1, 4/1/86 amended S.L. No. 3L-30-84 §2, 4/1/86; S.L. No. 1L-71-86 §3-2, 4/1/86 amended S.L. No. 3L-30-84 §8; S.L. No. 3L-11-92 §1, 10/1/92 amended S.L. No. 3L-30-84 §2, 4/1/86; S.L. No. 3L-11-92 §3, 6/30/92 repealed §§3 & 4 of S.L. No. 3L-30-84 and inserted a new §3; S.L. No. 3L-17-92 §2, 10/1/92 repealed S.L. No. 3L-30-84 §3, 8/7/84; S.L. No. 3L-99-95 §19-3, 7/20/95 amended S.L. No. 3L-30-84 §2.

SUBCHAPTER II GOVERNMENT EMPLOYEES' SALARY SCHEDULE

§4-104. Short title. — This subchapter is known and may be cited as the “Pohnpei Government Salary Conversion Act of 1985.”

Source: S.L. No. 1L-71-86 §1-1, 1/1/86

§4-105. Purpose. — The purpose of this subchapter is to convert all officers and employees of the Pohnpei Government to systematic and legislatively defined salary levels and schedules, and to provide for the orderly and timely implementation thereof.

Source: S.L. No. 1L-71-86 §1-2, 1/1/86

§4-106. Definitions. — In this subchapter, unless the content otherwise requires:

- (1) “Adjusted base salary” is the total of base salary plus premium.
- (2) “Base salary” is the base salary provided in the base salary schedules established by §§4-107 and 4-102.
- (3) “Base salary rate” is synonymous and interchangeable with the term “base salary” and identifies a specific rate of pay for any given pay level and step as contained within the base salary schedule established by §4-107 or the specific rate of pay assigned to an officer under §4-102.

Furthermore, base salary rate does not include other types of compensation or payments such as premiums, differentials, or overtime, and the like.

(4) “Certified professional engineer, public accountant or architect” means a person who has received a degree in engineering, public accounting or architecture from a recognized college or university and has been accepted by a professional association within the United States of America (or such association of another country determined by the chief executive officer of the respective branch to require professional standards substantially equivalent to or higher than the relevant association within the United States) of engineers, public accountants or architects to be registered as a professional engineer, public accountant or architect in the technical field of expertise, having achieved the requisite degree of training and experience therefor.

(5) “Chief executive officer” means the Speaker of the Legislature in relation to the legislative branch, the Governor in relation to the executive branch, and the Chief Justice in relation to the judiciary branch.

(6) “Employee” means a person holding a position for which there is a defined set of work responsibilities in a department or office of the Pohnpei Government assigned by a competent authority to be performed by one person working in a full or part-time capacity, except for the positions listed in §4-102, or listed as exempt in §2-109, or its successor in Pohnpei law, and equivalent public service systems for the legislative and judicial branches of the Pohnpei Government.

(7) “Medical officer” and “dental officer” mean a person who is certified to practice medicine or dentistry in Pohnpei, but who does not meet the criteria of §4-108(4).

(8) “Officer” means a person holding a position listed in §4-102.

(9) “Personnel officer” means that person within the respective branch of the Pohnpei Government principally charged with the classification of employees thereunder.

(10) “Premium” means a percentage of the base salary of a given position’s pay level and step in §4-107 or salary level in §4-102, which is then added to the base rate to form an employee’s adjusted base pay rate as determined by the chief executive officer of the respective branch for that individual officer or employee.

(11) “Prime contract” means a full-time permanent position under a contract of not more than two years duration of a person initially recruited outside of the geographic boundaries of the Federated States of Micronesia.

Source: S.L. No. 1L-71-86 §1-3, 1/1/86

§4-107. Base salary computation table. — The base salary computation table appearing in this section is hereby adopted under the authority of the Public Service System Act, Chapter 2, or its successor in Pohnpei law, and equivalent public service systems of the legislative and judicial branches of the Pohnpei Government and each public corporation and public entity to which this subchapter is made applicable in its enabling legislation, to provide the basis upon which the official biweekly base salary for all employees covered by such systems shall be calculated. The actual salary to be paid to each employee so covered shall be based upon the percentage stipulated in the annual Comprehensive Budget Act to be applied against the figures appearing in the table of base salary computations prescribed hereunder and attributable to that position under the classification schedule of the respective public service system, subject to such adjustments as may be attributable by law to such base salary computation. The biweekly base salary so calculated for each employee shall be based upon an eighty (80) hour biweekly work period, which shall be paid to employees not specifically exempted, in accordance with the respective pay levels assigned to their positions by the personnel officer of the respective branch of government under authority of applicable statutes, regulations, and manuals. The applicable amount set out below shall be paid to each employee who works eighty (80) hours in a pay period. To determine the hourly rate for an employee who works less than eighty (80) hours in a pay period or to determine the hourly rate of applicable differentials, the biweekly base salary shall be divided by eighty (80). Such a procedure shall be used only for these purposes.

BASE SALARY COMPUTATION TABLE

	MINIMUM					MAXIMUM				
Level	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	\$160.00	\$169.60	\$179.79	\$191.17	\$203.60	\$216.32	\$230.42	\$245.66	\$260.06	\$275.46
2	\$169.60	\$179.79	\$191.17	\$203.60	\$216.32	\$230.42	\$245.66	\$260.06	\$275.46	\$291.94
3	\$179.79	\$191.17	\$203.60	\$216.32	\$230.42	\$245.66	\$260.06	\$275.46	\$291.94	\$309.58
4	\$191.17	\$203.60	\$216.32	\$230.42	\$245.66	\$260.06	\$275.46	\$291.94	\$309.58	\$328.45
5	\$203.60	\$216.32	\$230.42	\$245.66	\$260.06	\$275.46	\$291.94	\$309.58	\$328.45	\$348.45
6	\$216.32	\$230.42	\$245.66	\$260.06	\$275.46	\$291.94	\$309.58	\$328.45	\$348.45	\$370.24
7	\$230.42	\$245.66	\$260.06	\$275.46	\$291.94	\$309.58	\$328.45	\$348.45	\$370.24	\$390.06
8	\$245.66	\$260.06	\$275.46	\$291.94	\$309.58	\$328.45	\$348.45	\$370.24	\$390.06	\$411.06
9	\$260.06	\$275.46	\$291.94	\$309.58	\$328.45	\$348.45	\$370.24	\$390.06	\$411.06	\$433.33
10	\$275.46	\$291.94	\$309.58	\$328.45	\$348.45	\$370.24	\$390.06	\$411.06	\$433.33	\$456.92
11	\$291.94	\$309.58	\$328.45	\$348.45	\$370.24	\$390.06	\$411.06	\$433.33	\$456.92	\$481.94
12	\$309.58	\$328.45	\$348.45	\$370.24	\$390.06	\$411.06	\$433.33	\$456.92	\$481.94	\$508.46
13	\$328.45	\$348.45	\$370.24	\$390.06	\$411.06	\$433.33	\$456.92	\$481.94	\$508.46	\$536.56
14	\$348.45	\$370.24	\$390.06	\$411.06	\$433.33	\$456.92	\$481.94	\$508.46	\$536.56	\$566.36
15	\$370.24	\$390.06	\$411.06	\$433.33	\$456.92	\$481.94	\$508.46	\$536.56	\$566.36	\$597.94
16	\$390.06	\$411.06	\$433.33	\$456.92	\$481.94	\$508.46	\$536.56	\$566.36	\$597.94	\$631.42
17	\$411.06	\$433.33	\$456.92	\$481.94	\$508.46	\$536.56	\$566.36	\$597.94	\$631.42	\$666.90
18	\$433.33	\$456.92	\$481.94	\$508.46	\$536.56	\$566.36	\$597.94	\$631.42	\$666.90	\$704.51
19	\$456.92	\$481.94	\$508.46	\$536.56	\$566.36	\$597.94	\$631.42	\$666.90	\$704.51	\$744.39
20	\$481.94	\$508.46	\$536.56	\$566.36	\$597.94	\$631.42	\$666.90	\$704.51	\$744.39	\$786.65
21	\$508.46	\$536.56	\$566.36	\$597.94	\$631.42	\$666.90	\$704.51	\$744.39	\$786.65	\$831.45
22	\$536.56	\$566.36	\$597.94	\$631.42	\$666.90	\$704.51	\$744.39	\$786.65	\$831.45	\$878.93

Source: S.L. No. 1L-71-86 §2-1, 1/1/86; S.L. No. 3L-16-92 §1, 10/1/92; S.L. No. 4L-25-96 §4, 7/1/97

§4-108. Compensation of salaried employees. —

(1) Except as otherwise provided in this section, all employees, as defined by this subchapter, holding positions in the Pohnpei Government, shall be compensated as provided by the base salary schedule as provided by §4-107.

(2) Notwithstanding Subsection (1) of this section, an employee covered under the provisions thereof who is a medical or dental officer, and who is employed in a position having a requirement or preference for such status, shall receive, in addition to the base salary, a premium of up to fifty percent (50%) of the base salary rate for the pay level and step of the position.

(3) Notwithstanding Subsection (1) of this section and except for those qualifying under Subsection (4) of this section, any employee who is a certified professional engineer, public accountant or architect and who is employed in a position having a requirement or preference for such status, shall receive, in addition to the base salary, a premium of up to one hundred percent (100%) of the base salary rate for the pay level and step of the position.

(4) Notwithstanding Subsection (1) of this section, an employee covered under the provisions thereof who has achieved advanced professional capabilities through obtaining an L.L.B. or J.D., a doctorate in medicine or dentistry or an earned doctorate in any other field from an accredited college or university and who has been certified by the appropriate professional association within the United States of America (or such association within another country determined by the chief executive officer of the respective branch to require professional standards substantially equivalent to or higher than the relevant association within the United States), and who is employed in a position having a requirement or preference for such a degree and professional status, shall receive, in addition to the base salary, a premium of up to one hundred percent (100%) of the base salary rate for the pay level and step of the position.

(5) Notwithstanding Subsection (1) of this section, any employee covered under the provisions thereof who is assigned to a permanent position in a duty station to work at locations outside the geographic boundaries or control limits of the Federated States of Micronesia shall receive, in addition to the adjusted base salary, inclusive of such premium he may receive pursuant to the foregoing

subsections of this section, a premium of up to one hundred percent (100%) of the adjusted base salary rate for the position.

Source: S.L. No. 1L-71-86 §2-2, 1/1/86

§4-109. Implementation of the salary plan. —

(1) For the purpose of the implementation of the base salary schedule, the former pay levels adopted under Public Law No. 6-65 §4 shall be equated to the pay levels of the base salary schedule established by §4-107 as follows:

Former Level	New Level	Former Level	New Level
1	1	16	11
2	2	17	11
3	3	18	12
4	3	19	13
5	4	20	14
6	4	21	15
7	5	22	16
8	5	23	17
9	6	24	17
10	6	25	18
11	7	26	19
12	7	27	19
13	8	28	20
14	9	29	21
15	10	30	22

(2) The respective personnel officer shall assign to each employee covered by §§4-107 through 4-109 a step within the level assigned thereto which represents the amount equal to, or the next highest step to the amount the employee received as base salary under the respective compensation plan in effect immediately prior to the effective date of this subchapter [*January 1, 1986*].

(3) At the effective date of this subchapter, each employee who is not exempt from this subchapter shall receive his pay in the new salary plan established herein. Except as otherwise provided for in this subchapter, no employee shall receive a reduction in salary upon implementation of the new salary plan.

(4) Nothing in the foregoing is intended to prevent the respective personnel officer, after implementation of the plan, from redesignating the pay level of any class under authority of the respective public service system.

Source: S.L. No. 1L-71-86 §2-3, 1/1/86

Note: S.L. No. 1L-71-86 §3-2 temporary provision has been omitted.

SUBCHAPTER III SEAMEN’S SALARY SCHEDULE

§4-110. Base salary schedule of seamen. — Notwithstanding any salary schedule heretofore in force in the state of Pohnpei with respect to seamen employed by the Pohnpei Government, for service on vessels owned or operated by the Pohnpei Government which provide passenger and/or freight services between the main port of Pohnpei and the ports of the outer islands of Pohnpei State, the base salary computation table appearing in this section shall provide the basis upon which the official biweekly base salary for all such seamen shall be calculated. The actual salary to be paid to each seaman so covered shall be based upon the percentage stipulated in the annual Comprehensive Budget Act to be applied against the figures appearing in the table of base salary computations prescribed hereunder and attributable to that position under the terms of this subchapter, subject to such adjustments as may be attributable by law to such base salary computation. The biweekly base salary to be paid to each seaman shall be calculated on the basis of one hundred and twelve (112) hours of

service. Such salaries shall be paid in accordance with the respective pay levels and steps assigned to their positions by the Administrator of the Office of Transportation and Infrastructure, in consultation with the Chief of the Division of Personnel, Labor and Manpower Development:

Pohnpei Government Seamen
BASE SALARY COMPUTATION TABLE

MINIMUM							MAXIMUM
Level	(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	\$196.00	\$207.76	\$220.23	\$234.44	\$248.51	\$263.42	\$279.23
2	\$207.76	\$220.23	\$234.44	\$248.51	\$263.42	\$279.23	\$295.98
3	\$220.23	\$234.44	\$248.51	\$263.42	\$279.23	\$295.98	\$313.74
4	\$234.44	\$248.51	\$263.42	\$279.23	\$295.98	\$313.74	\$332.56
5	\$248.51	\$263.42	\$279.23	\$295.98	\$313.74	\$332.56	\$352.51
6	\$263.42	\$279.23	\$295.98	\$313.74	\$332.56	\$352.51	\$373.66
7	\$279.23	\$295.98	\$313.74	\$332.56	\$352.51	\$373.66	\$396.08
8	\$295.98	\$313.74	\$332.56	\$352.51	\$373.66	\$396.08	\$419.84
9	\$313.74	\$332.56	\$352.51	\$373.66	\$396.08	\$419.84	\$445.03
10	\$332.56	\$352.51	\$373.66	\$396.08	\$419.84	\$445.03	\$471.73
11	\$352.51	\$373.66	\$396.08	\$419.84	\$445.03	\$471.73	\$500.03
12	\$373.66	\$396.08	\$419.84	\$445.03	\$471.73	\$500.03	\$530.03
13	\$396.08	\$419.84	\$445.03	\$471.73	\$500.03	\$530.03	\$556.53
14	\$419.84	\$445.03	\$471.73	\$500.03	\$530.03	\$556.53	\$584.36
15	\$445.03	\$471.73	\$500.03	\$530.03	\$556.53	\$584.36	\$613.58
16	\$471.73	\$500.03	\$530.03	\$556.53	\$584.36	\$613.58	\$644.26
17	\$500.03	\$530.03	\$556.53	\$584.36	\$613.58	\$644.26	\$676.47

Source: S.L. No. 3L-75-94 §1, 10/1/94; S.L. No. 4L-25-96 §5, 7/1/97; S.L. No. 5L-14-00 §3-46, 10/1/00

§4-111. Compensation calculation. — Compensation of individual seamen under the salary schedule specified above shall be calculated and prorated on an hourly basis pursuant to applicable laws regulating hours, leave time, and terms of employment of seamen on such vessels owned or operated by the Pohnpei Government as specified in §4-110 and by the terms of each seaman's shipping articles not inconsistent with said laws.

Source: S.L. No. 3L-75-94 §2, 10/1/94

§4-112. Authorization for appropriation. — There is hereby authorized for appropriation from the general fund of Pohnpei such sums as may be appropriated annually in the Comprehensive Budget Act for the purpose of paying the salaries of seamen employed by the Pohnpei Government as referred to in §4-110.

Source: S.L. No. 3L-75-94 §3, 10/1/94

Note: S.L. No. 3L-75-94 §4 appropriation provision has been omitted.

CHAPTER 5 PER DIEM AND REIMBURSABLE EXPENSES

Section

5-101 Transportation costs and per diem

5-103 Travel advancement

5-102 Officers' travel premium

§5-101. Transportation costs and per diem. — Officers and employees of the Pohnpei Government, while on travel status on authorized Pohnpei Government business, shall be entitled to actual transportation costs and to per diem at such rates as are provided by the Federated States of Micronesia National Government for its officers and employees in like travel status. The rates so established shall be applied equally to all officers and employees of the three branches of the Pohnpei Government; PROVIDED that the following rates shall apply to all Pohnpei officers and employees while on travel status away from one's usual place of abode:

(1) Within Pohnpei State:

(a) Outside of Pohnpei Island proper – \$20; and

(b) Within Pohnpei Island proper, exclusive of legislators in attendance of Legislature business – \$25.

(2) Per diem for travel status at a location for less than a full day shall be computed at the same percentages of the above specified amounts as are used for calculation by the FSM National Government for its employees in like travel status.

Source: S.L. No. 2L-81-81 §1, 7/15/81; S.L. No. 2L-38-88 §1, 9/4/88

§5-102. Officers' travel premium. — In addition to per diem as provided in §5-101, the following state officers shall, in recognition of the added financial burdens of travel and representation inherent in these positions, be entitled to an officer's travel premium allowance of \$20 per day or portion thereof while on authorized travel status outside of Pohnpei State. Said allowance may be paid to accompanying staff upon authorization of the chief officer of the respective branch:

(1) Legislative branch: Legislators.

(2) Executive branch:

(a) Governor and Lieutenant Governor;

(b) Directors of state executive departments and administrators of executive offices; and

(c) Executive heads of state authorities and commissions.

(3) Judicial branch: State judges.

Source: S.L. No. 2L-81-81 §2, 7/15/81; S.L. No. 5L-14-00 §3-58, 10/1/00

Note: S.L. No. 2L-81-81 §3 repealing provision has been omitted.

§5-103. Travel advancement. — Notwithstanding any laws, regulations, directives, proclamations or instructions to the contrary, each Pohnpei officer or employee shall be permitted to receive a travel advancement of up to one hundred percent (100%) of the total entitlement as authorized on his travel authorization; PROVIDED that an employee or Pohnpei officer shall, after filing of all the required travel documents within ten working days after the completion of travel and upon determination by the Department of Treasury and Administration that an amount is owed to the government, promptly remit such payment within a time mutually agreed upon between the employee or officer and the Department of Treasury and Administration; PROVIDED FURTHER that failure by an employee or officer to file the necessary travel documents within the time prescribed herein shall establish a presumption that the employee or officer owes the government the total amount of travel advances accorded him and that he shall remit said amount in the manner prescribed herein; PROVIDED

FURTHER that, upon failure to pay within the time allowed, the Department of Treasury and Administration shall deduct the amount due or a reasonable fraction thereof from the employee's or officer's biweekly salary until the full amount is paid.

Source: S.L. No. 2L-38-88 §2, 9/4/88

CHAPTER 6 PENSION PLAN

[PENDING]

Section

6-101 Short title	6-133 Timing of payment of deferred compensation and contributions into the fund
6-102 Purpose	6-134 Exclusive property of the Plan
6-103 Plan established	6-135 Distribution of benefits
6-104 Definitions	6-136 Separation from service
6-105 Participation	6-137 Unforeseen emergency
6-106 Incorporation of the Plan	6-138 Election to commence benefits
6-107 Board of Directors	6-139 Selection of payment option
6-108 Management of the Plan	6-140 Beneficiaries
6-109 Compensation	6-141 Withholding of taxes
6-110 Term of office	6-142 Benefits not subject to assignment, attachment, garnishment, execution or bankruptcy
6-111 Vacation of office	6-143 Administrative expenses: other disbursements
6-112 Delegation by the Board	6-144 Deferred compensation account
6-113 Procedures	6-145 Profit-sharing account
6-114 Disclosure of interests and disqualification for interest	6-146 Administrative expense account
6-115 Indemnification for liability: misconduct in public office	6-147 Written statements
6-116 Bylaws	6-148 Establishment of the fund
6-117 Regulations	6-149 Payments into the fund
6-118 Hearings	6-150 Payments out of the fund
6-119 Judicial review	6-151 Financial statements
6-120 Administrator	6-152 Bank accounts
6-121 Staff	6-153 Investment
6-122 Functions of the Plan	6-154 Actuary
6-123 Powers of the Plan	6-155 Public Auditor
6-124 Bonding	6-156 False statements and reports
6-125 Travel policy	6-157 Mismanagement of fund
6-126 Exemption	6-158 Penalties and interest, attorneys' fees, and court costs
6-127 Deferred compensation	6-159 Taxation
6-128 Contributions by government	6-160 Service of process on the Administrator
6-129 Contributions by participating employers	6-161 Legislative changes
6-130 Investment income	6-162 Effective date
6-131 Preliminary appropriation by the Pohnpei Government	
6-132 Regular appropriations by the Pohnpei Government	

§6-101. Short title. — This chapter is known and may be cited as the “Pohnpei Pension Plan Act of 1993.”

Source: S.L. No. 3L-51-93 §1-1, 12/3/93

§6-102. Purpose. — The purpose of this chapter is to establish a Pohnpei pension plan to provide a means whereby employees of the government and private sector may supplement their retirement, disability, and survivor benefits from Social Security.

Source: S.L. No. 3L-51-93 §1-2, 12/3/93

§6-103. Plan established. — The Pohnpei Pension Plan is hereby established as a public corporation under the laws of Pohnpei.

Source: S.L. No. 3L-51-93 §1-3, 12/3/93

§6-104. Definitions. — As used in this chapter, unless the context otherwise requires:

(1) “Accumulated value” means the total value of a participant’s deferred compensation account, profit sharing account, and interest thereon.

(2) “Actuary” means a member in good standing of any society, institute or organization of qualified actuaries recognized by the International Actuarial Association.

(3) “Administrative expense account” means an account that is established within the fund pursuant to §6-146 into which all amounts designated for administrative expenses are received and from which all administrative expenses are paid.

(4) “Administrative Procedures Act” means Title 8 Chapter 1, or its successor in state law.

(5) “Administrator” means the Administrator of the Pohnpei Pension Plan appointed under §6-120.

(6) “Beneficiary” means a person or persons designated by a participant to receive the participant’s interests in the Plan in the event of the participant’s death, or in the absence of such a designation, the participant’s estate, or any other person, whose rights under the Plan are derived as a result of the participant’s death.

(7) “Board” means the Board of Directors of the Pohnpei Pension Plan established under §6-107.

(8) “Compensation” means any salary, wage, bonus, tip, stipend, allowance or fee paid by the government or a participating employer to or on behalf of an employee, but not including:

(a) Payments made in-kind or in any form other than cash;

(b) Payments made as a result of an accident or sickness of the worker (other than sick leave);

(c) Reimbursement of medical or hospitalization expenses; and

(d) Payments made to or on behalf of the worker or his beneficiary from a trust or annuity.

(9) “Custodian” means any person, firm or corporation who is qualified and has assumed the responsibility for the possession of any or all of the fund’s assets pursuant to §6-153(2).

(10) “Deferred compensation” means the amounts withheld from the participant’s compensation and credited to the participant’s deferred compensation account.

(11) “Deferred compensation account” means an account that is established for each participant pursuant to §6-144 to maintain a record of the participant’s deferred compensation and any credited net income resulting from the investment of that deferred compensation.

(12) “Disability” means the inability to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months. As soon after the effective date of this chapter [*see 9 PC 6-162*] as practical, the Board shall adopt rules and regulations that shall provide detailed guidelines for the determination of disability under this chapter.

(13) “Distribution” means a payment from the Plan to a participant for part or all of the balance of one or more of the accounts established for the participant.

(14) “Eligibility service” means the sum of participation service, prior service, and TTPI service.

(15) “Employee” means any natural person who, under the common law rules applicable in determining the employer-employee relationship, has entered into or works under a contract with the government or with a participating employer, in any capacity, excluding that of independent contractor, whether the contract is expressed or implied, oral or written, requiring the personal execution of any work or labor.

(16) “Employment classification” means the classification of participants into groups that determine a participant’s rights under the Plan. The employment classifications are:

Employment classification	Employee description
Class 1	Governor, Lt. Governor
Class 2	Members of the Pohnpei Legislature
Class 3	Legislative staff division heads; the Public Auditor; Justices of the Supreme Court and judicial officers whose appointments are subject to the advice and consent of the Legislature; executive officers and department heads whose appointments are subject to the advice and consent of the Legislature, under the Uniform Appointments and Tenure Act, Title 9 Chapter 1 or its successor in state law
Class 4	Police officers and firefighters
Class 5	All other government employees
Class 6	All employees of participating employers

(17) “Fiscal year” means the 12-month period commencing on October 1 and concluding on the following September 30.

(18) “Fund” means the Pohnpei Pension Plan fund.

(19) “Government” means the Pohnpei Government, including all public corporations, agencies, and instrumentalities of Pohnpei.

(20) “Investment manager” means any person, firm or corporation who is qualified and has been engaged by the Board to manage some or all of the assets of the fund pursuant to §6-153(3).

(21) “Investment consultant” means any person, firm or corporation who is qualified and has been engaged by the Board to provide investment advice pursuant to §6-153(4).

(22) “Legislature” means the Pohnpei Legislature.

(23) “Non-vested interest” means that portion of a participant’s profit-sharing account that the participant is not entitled to receive under the Plan.

(24) “Normal retirement” means the earlier of attaining the age of 60 or upon satisfaction of the eligibility requirements in the table below, based upon the participant’s most favorable employment classification:

Employment classification	Normal retirement eligibility requirement
Class 1	Completion of term of office
Class 2	Completion of term of office
Class 3	Completion of term of office
Class 4	Attain at least age 50 and complete at least 20 years of eligibility service
Class 5	Attain at least age 55 and complete at least 30 years of eligibility service
Class 6	Attain at least age 60

(25) “Participant” means an employee who participates in the Plan pursuant to §6-105.

(26) “Participating employer” means any private sector person, self-employed worker, firm, company, partnership, corporation, association, joint venture, religious organization or other entity that employs, or on whose behalf are employed, any employees, and that elects to participate in the Plan pursuant to this chapter and any rules and regulations issued by the Board.

(27) “Participation agreement” means a written agreement between the Plan and a participating employer specifying the terms and conditions under which the participating employer joins the Plan. Participation agreements may include provisions to limit the Plan’s responsibility for collecting contributions and enforcing the participating employer’s or employee’s compliance with the Plan or the participation agreement.

(28) “Participation service” means the period or periods of service as an employee of the government or a participating employer, on or after the effective date of this chapter [see 9 PC 6-162], during which the participant makes deferred compensation payments into the fund pursuant to §6-127.

(29) “Plan” means the Pohnpei Pension Plan.

(30) “Prior service” means service as an employee of Pohnpei or Ponape District during the period from May 10, 1979, up to the effective date of this chapter [*see 9 PC 6-162*].

(31) “Profit-sharing account” means an account established for each participant pursuant to §6-145 to maintain a record of contributions made by the government or a participating employer on behalf of the participant and any credited net income resulting from the investment of those contributions.

(32) “Public Auditor” means the Pohnpei Public Auditor, as established by Article 11 §8 of the Pohnpei Constitution and Title 5 Chapter 1, as amended.

(33) “TTPI service” means service rendered prior to the effective date of this chapter [*see 9 PC 6-162*], excluding prior service, for the government of the Trust Territory of the Pacific Islands, and for the government of the United States of America, including any agencies and instrumentalities thereof, provided such service was rendered in the Trust Territory of the Pacific Islands.

(34) “Unforeseen emergency” means severe financial hardship to the participant resulting from a sudden or unexpected illness or accident of the participant or a participant’s dependent, loss of the participant’s property due to a casualty or similar extraordinary and unforeseen circumstances beyond the control of the participant.

(35) “Vested interest” means that portion of a participant’s profit-sharing account to which the participant has a right to receive under the provisions of the Plan.

Source: S.L. No. 3L-51-93 §1-4, 12/3/93

§6-105. Participation. —

(1) All employees of the government, including employees of all public corporations, agencies, and instrumentalities of the government, employed by Pohnpei, are mandatory participants of the Plan.

(2) All employees of participating employers are mandatory participants of the Plan.

(3) All participants of the Plan shall defer compensation, receive contributions, and otherwise participate in the Plan in accordance with their employment classification.

(4) The Board shall determine the employment classification for all participants of the Plan.

Source: S.L. No. 3L-51-93 §1-5, 12/3/93

§6-106. Incorporation of the Plan. —

(1) The Plan:

(a) Is a corporation;

(b) Has perpetual succession;

(c) May have a seal;

(d) May enter into contracts;

(e) May acquire, hold, charge, and dispose of property;

(f) May sue and be sued in its corporate name; and

(g) For the purposes of its functions, has all the powers, functions, duties, and responsibilities of a corporation.

(2) The Financial Organization and Management Act, Title 11 Chapter 2, as amended, and the Government Liability Act, Title 58 Chapter 2, do not apply to or in relation to the Plan.

Source: S.L. No. 3L-51-93 §2-1, 12/3/93

§6-107. Board of Directors. —

(1) There shall be a Board of Directors of the Plan.

(2) The Board shall consist of five members appointed by the Governor with the advice and consent of the Legislature.

(3) The Board shall be known as the “Board of the Pohnpei Pension Plan.”

Source: S.L. No. 3L-51-93 §2-2, 12/3/93

§6-108. Management of the Plan. —

(1) Subject to this chapter, the business of the Plan shall be controlled and managed by the Board.

(2) The Board has and may exercise and perform all the powers and functions of the Plan under this chapter or any other chapter giving the Plan powers or functions.

Source: S.L. No. 3L-51-93 §2-3, 12/3/93

§6-109. Compensation. —

(1) Subject to Subsection (2) of this section, a member of the Board is entitled to be compensated at rates established by the Government Officers' Salary Act, Chapter 4, as amended or superseded, when actually performing the functions of the Board, at the direction of the Chairman.

(2) Members of the Board who are employees of the Pohnpei Government shall serve without compensation paid by the Plan, but shall continue to receive their regular salaries.

Source: S.L. No. 3L-51-93 §2-4, 12/3/93, S.L. No. 4L-25-96 §9, 7/1/97

§6-110. Term of office. —

(1) Subject to §6-111 and Subsection (2) of this section, the term of office for a member of the Board is three years.

(2) Of the members of the first Board appointed under this chapter, one shall be appointed for a term of one year, two shall be appointed for terms of two years, and two shall be appointed for terms of three years, all as determined by the drawing of lots at the organizational meeting.

(3) A member appointed to fill a vacancy during the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(4) Other than in the event of resignation, a member shall hold office until his successor is appointed and takes office.

(5) A member shall be eligible for reappointment.

Source: S.L. No. 3L-51-93 §2-5, 12/3/93

§6-111. Vacation of office. —

(1) A member of the Board vacates his office:

(a) On death;

(b) Subject to Subsection (2) of this section, if he submits to the Governor his resignation in writing; or

(c) If he is removed in accordance with Subsection (3) of this section.

(2) A resignation under Subsection (1)(b) of this section takes effect when it is received by the Governor, or on such later date as is agreed between the Governor and the member of the Board concerned.

(3) A member of the Board may be removed from office by the Governor for incompetency, neglect of duty, failure to attend three or more consecutive meetings or malfeasance in office.

(4) If a vacancy occurs in the office of a member of the Board, the Governor may appoint a person to fill the vacancy with the advice and consent of the Legislature.

Source: S.L. No. 3L-51-93 §2-6, 12/3/93

§6-112. Delegation by the Board. —

(1) The Board may, by written instrument only, delegate to any person any of its powers and functions except the power to make bylaws in accordance with §6-116.

(2) A delegation under this section may be made subject to limitations and conditions.

(3) A delegation under this section is revocable by written instrument at will and no such delegation prevents the exercise or performance of a power or function by the Board.

(4) No delegation under this section shall have the effect of diminishing the responsibility of the Board and of each member for the management of the Plan.

Source: S.L. No. 3L-51-93 §2-7, 12/3/93

§6-113. Procedures. —

(1) Subject to this chapter and to the bylaws made in accordance with §6-116, the Board shall determine its own procedures.

(2) Without limiting the generality of Subsection (1) of this section, the Board shall have the authority to establish procedures, provided that they are consistent with §§6-118 and 6-119.

Source: S.L. No. 3L-51-93 §2-8, 12/3/93

§6-114. Disclosure of interests and disqualification for interest. —

(1) If a member of the Board has a personal interest, whether pecuniary or familial, in the subject matter of any question before a meeting of the Board:

(a) He shall disclose his interest at the meeting; and

(b) He shall take no part in the deliberations, except as directed by the Board, or in the decision of the Board on the question.

(2) A disclosure under Subsection (1) of this section shall be recorded in the minutes.

(3) Unless the Legislature directs otherwise, failure to comply with the requirements of Subsections (1) and (2) of this section will invalidate any proceedings of the Board in which a member has a personal, pecuniary or familial interest in the subject matter in question before a meeting of the Board.

Source: S.L. No. 3L-51-93 §2-9, 12/3/93

§6-115. Indemnification for liability: misconduct in public office. —

(1) Board members and employees of the Board shall be immune from liability for acts or omissions with respect to service for the Plan to the same extent as directing boards and employees of the Pohnpei Government are immune from such liability. Board members or employees of the Board shall not be held liable for any decisions made in the good faith, non-malicious fulfillment of their duties.

(2) In no event shall the immunity granted in Subsection (1) of this section be construed to absolve a Board member or employee of the Board of liability for willful misconduct. A Board member's failure to comply with §6-114 shall constitute willful misconduct.

Source: S.L. No. 3L-51-93 §2-10, 12/3/93

§6-116. Bylaws. —

(1) Subject to and consistent with this chapter, the Board shall adopt, amend or repeal such bylaws as are necessary to provide for the management of the business of the Plan, including the organization, meetings, and procedures of the Board, the duties of officers and employees, and the preparation and submission of required reports.

(2) Within 45 days after Legislature approval of all five members of the Board, the Board shall hold an organizational meeting at which:

(a) The members of the Board shall elect a Chairman and Vice-Chairman; and

(b) The members of the Board shall draw lots to determine the duration of their respective terms, in accordance with the requirements of Subsection (2) of §6-110.

(3) Within 90 days after the organizational meeting, the Board shall meet and adopt bylaws.

(4) The bylaws shall provide that:

(a) The Chairman shall convene and preside over the meetings of the Board and shall perform such other duties as are prescribed by the bylaws or assigned by the Board;

(b) The Vice-Chairman shall, in the absence of the Chairman, perform the duties of the Chairman;

(c) The Chairman and Vice-Chairman shall serve for a term of one year and shall not be eligible for consecutive one-year terms in each capacity;

- (d) Regular meetings of the Board shall be held quarterly at such times, at such places, and upon such notice as shall be provided in the bylaws;
- (e) Special meetings of the Board shall be called by the Chairman or any three Board members at such places and upon such notice as provided in the bylaws;
- (f) All meetings of the Board shall be open to the public; PROVIDED, HOWEVER, that the Board may, during any meeting, by a majority vote of its members present, call for an executive session that will be closed to the public;
- (g) Members of the Board or of any committee of the Board may participate in and act only at any meeting of the Board;
- (h) Full and accurate minutes of the Board meetings shall be kept in a manner prescribed in the bylaws;
- (i) Three members of the Board shall constitute a quorum for the transaction of business, and the concurrence of three members of the Board shall constitute official action of the Board; and
- (j) The Board may provide for dealing with any other matters relating to the Board and the operation of the Plan that the Board believes appropriate.

Source: S.L. No. 3L-51-93 §2-11, 12/3/93

§6-117. Regulations. — The Board shall adopt, amend or repeal regulations for the administration of the Plan pursuant to the procedures set forth in the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded.

Source: S.L. No. 3L-51-93 §2-12, 12/3/93

§6-118. Hearings. —

(1) Any person aggrieved by the action of the Board, or by the Administrator as the representative of the Board, is entitled to a hearing before the Board. Hearings shall be initiated by the submission of a petition by the aggrieved party or his legal representative to the Administrator.

(2) All parties and all persons who have an interest in the controversy who are known to the Administrator and any person requesting individual notice shall be entitled to personal notice of all hearings. Persons entitled to notice of a hearing shall be timely informed of:

- (a) The time, place, and nature of the hearing;
- (b) The legal authority and jurisdiction under which the hearing is to be held;
- (c) The particular sections of the statutes and regulations involved; and
- (d) The issues presented.

(3) If the Administrator is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definitive and detailed statement shall be furnished.

(4) Unless precluded by law, disposition without a hearing may be made of any contested matter by stipulation, agreed settlement, consent, order or default.

(5) The hearing shall be held within 30 calendar days after the submission of the petition, unless the petitioner requests a delay. At the hearing, the petitioner and any other persons as the Board shall permit shall have the right to be heard, to present evidence, to confront all adverse witnesses, and to be represented by counsel of his own choosing.

(6) At the hearing, technical rules of evidence shall not apply. At the discretion of the Board, evidence may be taken stenographically or by recording machine. The Board is authorized to issue subpoenas for witnesses and tangible evidence at the request of any party or on its own motion. Hearings shall be public except when the petitioner requests a closed hearing.

(7) Within 15 days after the conclusion of a hearing, the Board shall prepare a full written statement of the Board's findings of fact and decision. The Administrator shall forthwith transmit the

findings of fact and decision to all parties. Except as provided in §6-119, the decision of the Board shall constitute final disposition of the action.

(8) The Board may:

- (a) Administer oaths and affirmations;
- (b) Rule on the admissibility of evidence;
- (c) Take depositions or have depositions taken when the ends of justice would be served;
- (d) Regulate the course of the hearing;
- (e) Hold conferences for the settlement or simplification of the issues by consent of the parties;
- (f) Dispose of procedural requests or similar matters;
- (g) Make or recommend orders or decisions in accordance with this chapter; and
- (h) Take such other action as would serve the ends of justice.

(9) Except to the extent required for the disposition of ex-parte matters as authorized by law, the Board may not consult a person or party or representative of a person or party on a fact in issue unless notice and opportunity are given to allow all parties to participate.

(10) The Board may:

- (a) Communicate with the Administrator or other participants of the Plan, except as limited by Subsection (9) of this section; and
- (b) Have the aid and advice of one or more personal assistants, and of the Attorney General and his staff if such assistance would not be in violation of Subsection (9) of this section. Such assistants shall be constrained in the same manner as the Board as provided in Subsections (9) and (10) of this section.

(11) Any oral or documentary evidence may be received, but the Board, as a matter of policy, shall provide for the exclusion of irrelevant, immaterial, unreliable or unduly repetitious evidence. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. A sanction may not be imposed or order or decision issued except on consideration of the whole record supported by and in accordance with substantial evidence. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

Source: S.L. No. 3L-51-93 §2-13, 12/3/93

§6-119. Judicial review. —

(1) This section applies, according to the provisions hereof, except to the extent that statutes enacted by the Legislature explicitly limit judicial review.

(2) A person adversely affected or aggrieved by an action of the Board is entitled to judicial review in the Pohnpei Supreme Court. The Supreme Court shall conduct a de novo trial of the matter and may receive in evidence any or all of the record from the hearing before the Board, held pursuant to §6-118, that is stipulated to by the parties.

(3) To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law and fact, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of a Board action. The reviewing court shall:

- (a) Compel Board action unlawfully withheld or unreasonably denied; and
- (b) Hold unlawful and set aside Board actions and decisions found to be:
 - (i) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
 - (ii) Contrary to constitutional right, power, privilege or immunity;
 - (iii) In excess of statutory jurisdiction, authority or limitations, or a denial of legal rights;
 - (iv) Without substantial compliance with the procedures required by law; or
 - (v) Unwarranted by the facts.

(4) An aggrieved party may obtain a review of any final judgment of the reviewing court under this section by appeal to the appellate division of the appropriate court. The appeal shall be taken as in

other civil cases, and the judgment be reviewed by considering the finding of the reviewing court in light of whether it was justified by substantial evidence of record.

Source: S.L. No. 3L-51-93 §2-14, 12/3/93

§6-120. Administrator. —

(1) The Board shall appoint an Administrator of the Plan, who, subject to the control of the Board, shall have general supervision, direction, and control of the business, officers, and employees of the Plan, shall have general powers and duties of management usually vested in the top official of a corporation, and shall have other powers and duties as may be prescribed by the Board or the bylaws. Without limiting the generality of the foregoing, the Administrator shall:

- (a) Serve as secretary to the Board;
- (b) Attend, unless excused by the Board, all meetings of the Board and shall submit reports on the affairs of the Plan as required by the Board;
- (c) Keep and maintain all books, records, files, and accounts of the Plan and receive and act on all applications for benefits;
- (d) Prepare periodic reports relative to the operation of the Plan and an annual report as of the close of each fiscal year reflecting the results of the financial operations of the Plan and embodying all important financial and statistical data pertinent to its operations;
- (e) See that all rules and regulations of the Plan are enforced;
- (f) Keep the Board advised on the needs of the Plan and approve demands for payments of obligations within the purposes and amounts authorized by the Board;
- (g) Employ administrative, clerical, medical or other personnel necessary for the proper operation of the Plan, and engage actuarial or other professional services to assist in preparation of the annual reports, to advise in matters of policy, and to make periodic actuarial surveys;
- (h) At such time and in such manner as the Board may direct, submit to the Board detailed estimates of the budget for the Plan for the next fiscal year. Such estimates shall include:
 - (i) Audited accounts of the fund for the last fiscal year;
 - (ii) A statement showing the estimates of income and expenditures for the current fiscal year together with any summaries, schedules, and supporting data that the Administrator may deem necessary; and
 - (iii) A budget showing the estimated income and expenditures for the next fiscal year; and
- (i) Develop, in accordance with professional standards, an accounting procedure for the Plan, said procedure to be established prior to the Board's resolution that the Plan is organized and prepared to function, as provided in §6-127.

(2) The Administrator may, by written instrument, delegate to any employee any of his powers and functions under this chapter, the bylaws or directions from the Board, with any limitations, restrictions or conditions as the Administrator deems necessary. A delegation under this subsection is revocable by written instrument at will and no such delegation prevents the exercise or performance of a power or function by the Administrator.

Source: S.L. No. 3L-51-93 §3-1, 12/3/93

§6-121. Staff. —

(1) Subject to this chapter, the Administrator may, with the concurrence of the Board, employ a deputy administrator and any other employees, attorneys, actuaries, auditors, fund advisors or managers, fund custodians, investment consultants, and other advisors and consultants as the Administrator believes necessary for the performance of the functions of the Plan.

(2) Persons referred to in Subsection (1) of this section shall be employed on such terms and conditions as the Administrator determines consistent with the laws and policies of the Pohnpei Government.

Source: S.L. No. 3L-51-93 §3-2, 12/3/93

§6-122. Functions of the Plan. — The function and duty of the Plan is to maintain and operate for the employees of the Pohnpei Government and participating employers a financially sound deferred compensation and profit-sharing plan to supplement the retirement, disability, and survivor benefits from Social Security.

Source: S.L. No. 3L-51-93 §3-3, 12/3/93

§6-123. Powers of the Plan. —

(1) Subject to this chapter and any other law, the Plan shall have, in addition to any other powers conferred by this chapter and any other law, all powers that are necessary or convenient for carrying out its functions.

(2) Without limiting the generality of Subsection (1) of this section, but subject to this chapter and any other law, the Administrator, or appropriate staff personnel as authorized by §6-121, in furtherance of the Plan may:

- (a) Transact all business and enter into contracts and other instruments;
- (b) Authorize the expenditure and investment of funds;
- (c) Accept any gift, grant or bequest of any money or property of any kind for the purposes designated by the grantor, if the purposes are specified as providing cash benefits to some or all of the participants, or, if no such purposes are designated, as income from investment;
- (d) Retain, on a fee basis, accountants, actuaries, attorneys, and other advisors and consultants to assist the Plan in the performance of its functions;
- (e) Obtain from the Pohnpei Government such information as is necessary for the proper operation of the Plan; and
- (f) Maintain a bank overdraft account for the normal operation of the Plan.

Source: S.L. No. 3L-51-93 §3-4, 12/3/93

§6-124. Bonding. — The Plan shall bond its Board members, officers, and employees in such cases and in such amounts as is deemed prudent by the Plan.

Source: S.L. No. 3L-51-93 §3-5, 12/3/93

§6-125. Travel policy. — The Plan shall adopt procedures for compensating its Board members, officers, employees, and agents for travel expenses that are consistent with the law and policies of the Pohnpei Government.

Source: S.L. No. 3L-51-93 §3-6, 12/3/93

§6-126. Exemption. — Officers and employees of the Plan shall be exempt from the Public Service System Act, Title 9 Chapter 2, and compensation of the Pohnpei Government; PROVIDED that within 120 days following its organizational meeting the Board shall provide a complete personnel system for the recruitment, management, and compensation of officers and employees of the Plan.

Source: S.L. No. 3L-51-93 §3-7, 12/3/93

§6-127. Deferred compensation. —

(1) Commencing with the date indicated for the implementation of the Plan in the Executive Order issued pursuant to §6-162 with accompanying resolution relative to organization passed by the Board of Directors of the Plan, and for each succeeding pay period, each participant shall have three percent (3%) of his compensation withheld by his employer.

(2) The amount withheld from each participant's compensation shall be paid into the Fund as provided in §6-133 and shall be credited to the participant's deferred compensation account.

Source: S.L. No. 3L-51-93 §4-1, 12/3/93; S.L. No. 6L-41-05 §2, 7/4/05

§6-128. Contributions by Government. —

(1) The Pohnpei Government shall contribute for all employment classes an amount for the participant’s participating service as determined by this section.

(2) The amount to be contributed by the Pohnpei Government shall be determined based upon the participant’s applicable compensation and the contribution rates from the following table based upon the participant’s employment classification:

Employment Classification	Contribution Rate
Class 1	Seven percent (7%)
Class 2	Seven percent (7%)
Class 3	Seven percent (7%)
Class 4	Seven percent (7%)
Class 5	Seven percent (7%)

(3) The government contribution for each participant’s participating service shall be determined as the amount of compensation the participant earns multiplied by the appropriate contribution rate from the table in Subsection (2) of this section.

(4) The amount of government contribution for each participant’s participating service shall be paid into the Fund as provided in §6-133 and shall be credited into the participant’s profit-sharing account. The government is obligated to contribute the full amount of the government contributions provided for in this section and any such unpaid government contributions shall constitute a liability of the government.

Source: S.L. No. 3L-51-93 §4-2, 12/3/93; S.L. No. 6L-41-05 §3, 7/4/05

§6-129. Contributions by participating employers. —

(1) Each participating employer shall contribute on behalf of each participant who is an employee of that participating employer the amounts, if any, specified in the participation agreement between the Plan and the participating employer.

(2) The amount of participating employer contributions for each participant shall be paid into the fund as provided in §6-133 and shall be credited into the participant’s profit-sharing account.

Source: S.L. No. 3L-51-93 §4-3, 12/3/93

§6-130. Investment income. —

(1) All amounts contributed into the fund shall be invested pursuant to §§6-148 through 6-155.

(2) The net investment income of the fund, which is the gross investment income less all investment expenses, shall be determined at the end of each calendar quarter.

(3) Ten percent (10%) of the quarterly net investment income of the fund shall be credited to the administrative expense account and shall be used exclusively for the purpose of meeting the costs of administering the Plan.

(4) The remaining ninety percent (90%) of the quarterly net investment income shall be credited to all deferred compensation accounts and profit-sharing accounts on a pro rata basis based upon the balance in those accounts as of the last day of the calendar quarter.

Source: S.L. No. 3L-51-93 §4-4, 12/3/93

§6-131. Preliminary appropriation by the Pohnpei Government. — Prior to the issuance of the Executive Order pursuant to §6-162, the Pohnpei Government is authorized to appropriate such monies from such funds of the Pohnpei Treasury as are deemed necessary to meet the initial organizational and administrative costs of the Board of Directors for the Plan. The preliminary appropriation shall be credited to the Administrative Expense Account and shall remain available until fully expended.

Source: S.L. No. 3L-51-93 §4-5, 12/3/93; S.L. No. 6L-41-05 §4, 7/4/05

§6-132. Regular appropriations by the Pohnpei Government. —

(1) The Plan's Administrator, on a timely basis, shall submit requests for regular annual appropriations by the Legislature into the fund.

(2) The amount requested by the Plan shall be sufficient to meet necessary administrative expenses and government contributions provided for in §6-128.

Source: S.L. No. 3L-51-93 §4-6, 12/3/93

§6-133. Timing of payment of deferred compensation and contributions into the fund. —

(1) No later than the tenth day after the end of each pay period commencing in accordance with §6-127(1), the government and all participating employers shall:

(a) Submit to the Administrator a report of the compensation paid each participant and the deferred compensation withheld from each participant; and

(b) Pay into the fund the total deferred compensation withheld.

(2) Appropriations by the government shall be paid into the fund within the tenth day after their lawful appropriation and authorization.

(3) Contributions by each participating employer shall be paid into the fund in accordance with the participation agreement between the Plan and that participating employer.

Source: S.L. No. 3L-51-93 §4-7, 12/3/93

§6-134. Exclusive property of the Plan. — All assets of the fund, including deferred compensation, shall remain the exclusive property of the Plan until paid to or otherwise made available to the participant or his beneficiary pursuant to applicable sections of §§6-135 through 6-143.

Source: S.L. No. 3L-51-93 §4-8, 12/3/93

§6-135. Distribution of benefits. —

(1) Benefits under this Plan shall only be paid or made available to the participant in the event of the participant's separation from service due to the retirement, disability or termination of employment of the participant or to the participant's beneficiary in the event of the death of the participant.

(2) Notwithstanding Subsection (1) of this section, benefits under this Plan shall also be made available to the participant in the event of an unforeseen emergency, as defined in this chapter.

Source: S.L. No. 3L-51-93 §5-1, 12/3/93

§6-136. Separation from service. —

(1) A participant who elects to commence benefits as provided in §6-135 for separation from service due to retirement or disability shall be entitled to the sum of the full accumulated value of the participant's deferred compensation account and the participant's vested interest in the participant's profit-sharing account.

(2) A participant who elects to commence benefits as provided in §6-135 for separation of service due to termination of employment of the participant shall be entitled to the sum of the full accumulated value of the participant's deferred compensation account and the participant's vested interest in the participant's profit-sharing account.

(3) A participant's vested interest in his profit-sharing account is determined as the full accumulated value of the participant's profit-sharing account multiplied by the participant's vesting percentage based on the participant's completed years of eligibility service as follows:

Eligibility Service	Vesting Percentage
under 4	0%
4	40%
5	50%
6	60%

7	70%
8	80%
9	90%
10 or more	100%

(4) The non-vested portion of a participant's profit-sharing account shall be forfeited by the participant who elects to commence benefits, and the forfeited amount shall be transferred into the Administrative Expense Account.

(5) A beneficiary who elects to commence benefits as provided in §6-135 for separation of service due to the death of the participant shall be entitled to the sum of the full accumulated value of the participant's deferred compensation account and profit-sharing account.

(6) A participant or beneficiary entitled to benefits from the Plan as a result of the separation of service of the participant shall select a payment option for the payment of those benefits as provided in §6-139.

(7) Commencing with the first full term of elective office following the date specified in the Executive Order issued pursuant to §6-162, persons employed in Class 1 or Class 2 who serve a full term shall be credited with four years of participation service, irrespective of whether the actual calculation of days of the term is precisely four years.

Source: S.L. No. 3L-51-93 §5-2, 12/3/93; S.L. No. 6L-41-05 §5, 7/4/05

Note: S.L. No. 6L-41-05 §6 appropriation provision has been omitted.

§6-137. Unforeseen emergency. —

(1) In the event the participant incurs an unforeseen emergency, as defined in §6-104(34), the participant may apply to the Board for an emergency withdrawal.

(2) Emergency withdrawals from a participant's deferred compensation account and profit-sharing account shall be limited to \$300 or whatever lesser, fully-accumulated amount exists in the participant's deferred compensation and profit-sharing account for meeting the funeral expenses of the participant's parents, spouse, children or full-blood brothers or sisters.

(3) Except as provided for in §6-137(2), emergency withdrawals shall only be permitted by the Board to the extent reasonably needed to satisfy the emergency and shall be paid as directed by the Board. An emergency withdrawal shall only be approved to the extent that severe financial hardship cannot be relieved by:

(a) Reimbursement or compensation from sources other than an emergency withdrawal under the Plan; or

(b) Liquidation of the participant's assets, to the extent that the liquidation of assets would not itself cause severe financial hardship.

(4) Except as provided for in §6-137(2), a participant whom the Board determines is eligible for an unforeseen emergency distribution shall be entitled to the fully-accumulated value of the participant's deferred compensation account.

(5) Except as provided for in §6-137(2), a participant entitled to benefits from the Plan as a result of an unforeseen emergency shall select a payment option for the payment of those benefits as provided for in §6-139.

Source: S.L. No. 3L-51-93 §5-3, 12/3/93

§6-138. Election to commence benefits. —

(1) Upon separation from service, but not later than 30 days after the close of the calendar year in which the participant separates from service, an irrevocable election may be made to have benefits commence at a fixed future time. The designation shall be made on a distribution request form and filed with the Administrator.

(2) In the absence of an election, benefits shall be paid to the participant or his beneficiary in accordance with rules and regulations to be adopted by the Board.

Source: S.L. No. 3L-51-93 §5-4, 12/3/93

§6-139. Selection of payment option. —

(1) The payment of benefits from the Plan shall be made primarily for the benefit of the participant.

(2) A method for payment of benefits shall be designated on the distribution request form from among the options available as follows:

- (a) Fixed payments over a period of time;
- (b) Annuity payments for the lifetime of the participant;
- (c) Annuity payments for the lifetime of the participant and one or more beneficiaries; or
- (d) In the event of benefits paid due to an unforeseen emergency, a lump sum.

(3) Fixed payments and annuity payments shall be made quarterly, commencing on the first day of the quarter following the date the distribution request form is filed with the Administrator and continuing on the first day of each subsequent quarter until the benefits are paid in full.

(4) The maximum quarterly payment shall be the greater of five percent (5%) of the total accumulated amount available to the participant or beneficiary, or \$1,000.

(5) The designation of the method of payment of benefits is irrevocable, unless modified at least 30 days prior to the date benefits are to commence.

(6) In the absence of a designation within the prescribed time, benefits shall be paid to the participant or his beneficiary in accordance with rules and regulations to be adopted by the Board.

Source: S.L. No. 3L-51-93 §5-5, 12/3/93

§6-140. Beneficiaries. —

(1) Each participant shall designate a beneficiary or beneficiaries in a manner to be approved by the Board, which beneficiary or beneficiaries shall receive the participant's benefits in the event of the participant's death. In the event a beneficiary has not been designated or the designation is ineffective, the participant's estate shall become the beneficiary. A designation of a beneficiary or beneficiaries shall only be valid until such time as the participant designates a new beneficiary or beneficiaries in a manner approved by the Board.

(2) Upon the participant's death, a beneficiary shall have all the rights of the participant under the Plan.

Source: S.L. No. 3L-51-93 §5-6, 12/3/93

§6-141. Withholding of taxes. — All payments under the Plan shall be subject to applicable withholding requirements.

Source: S.L. No. 3L-51-93 §5-7, 12/3/93

§6-142. Benefits not subject to assignment, attachment, garnishment, execution or bankruptcy. —

(1) The right to receive any payments under this Plan are non-assignable and non-transferable. Any attempt to assign or transfer shall not be recognized and shall impose no liability upon the Board.

(2) Except as otherwise provided by law, the participant or beneficiary's rights under this Plan shall not be subject to attachment, garnishment or execution or be transferable by operation of law in the event of bankruptcy or insolvency of the participant or otherwise.

Source: S.L. No. 3L-51-93 §5-8, 12/3/93

§6-143. Administrative expenses: other disbursements. —

(1) Administrative expenses and authorized disbursements other than the payment of benefits shall be made out of the administrative expense account.

(2) The Administrator shall have the continuing authority to authorize the payment of administrative expenses and other disbursements out of the administrative expense account up to an amount as authorized by the Board.

Source: S.L. No. 3L-51-93 §5-9, 12/3/93

§6-144. Deferred compensation account. —

(1) A deferred compensation account shall be maintained for each participant. The maintenance of the account does not give the participant any rights except as provided in this Plan.

(2) Each participant's account shall be credited with the amount of the participant's deferred compensation and shall be further adjusted by any increase or decrease resulting from the investments of said participant's deferred compensation account made under §§6-148 through 6-155, the costs of implementing and administering the Plan, and any withdrawals or payments of benefits.

Source: S.L. No. 3L-51-93 §6-1, 12/3/93

§6-145. Profit-sharing account. —

(1) A profit-sharing account shall be maintained for each participant. The maintenance of the account does not give the participant any rights except as provided in this Plan.

(2) Each participant's account shall be credited with the amount of the government's or participating employer's contributions made on behalf of the participant and shall be further adjusted by any increase or decrease resulting from the investments of said participant's profit-sharing account made under §§6-148 through 6-155, the costs of implementing and administering the Plan, and any withdrawals or payments of benefits.

Source: S.L. No. 3L-51-93 §6-2, 12/3/93

§6-146. Administrative expense account. —

(1) An administrative expense account shall be maintained for the Plan.

(2) The administrative expense account shall be credited with government appropriations designated for the specific purpose of meeting administrative expenses, with ten percent (10%) of the net investment income of the fund, with forfeitures, and with any other monies contributed into the fund for the purpose of meeting administrative expenses.

(3) All administrative expenses and authorized disbursements other than the payment of benefits shall be made out of the administrative expense account.

Source: S.L. No. 3L-51-93 §6-3, 12/3/93

§6-147. Written statements. — At least once each fiscal year, each participant in the Plan shall be provided with a written report showing the balance in the participant's deferred compensation account and profit-sharing account, the financial condition of the Plan and any other information as approved by the Board.

Source: S.L. No. 3L-51-93 §6-4, 12/13/93

§6-148. Establishment of the fund. —

(1) The Pohnpei Pension Plan fund is hereby established.

(2) The fund is a fund other than the general fund of Pohnpei, within the meaning and for the purposes of the Financial Organization and Management Act, Title 11 Chapter 2, as amended.

Source: S.L. No. 3L-51-93 §7-1, 12/3/93

§6-149. Payments into the fund. —

(1) There shall be paid into the fund:

(a) Any money appropriated by the Legislature for the purposes of the Plan, either generally or in relation to any particular purpose; and

- (b) Any amounts received by the Plan under or for the purposes of this chapter or any other law, including without limitation the following:
- (i) Deferred compensation of participants;
 - (ii) Contributions by government;
 - (iii) Contributions by participating employers;
 - (iv) Initial and supplemental appropriations by government;
 - (v) Penalties and interest;
 - (vi) Proceeds from the investments of funds; and
 - (vii) Grants, bequests, devises, contributions, and gifts.
- (2) Separate accounts shall be kept within the fund in respect of each particular purpose for which money is appropriated.

Source: S.L. No. 3L-51-93 §7-2, 12/3/93

§6-150. Payments out of the fund. —

- (1) Payments may be made out of the fund only for the purposes of the Plan, including without limitation the following:
- (a) The payment of benefits;
 - (b) The costs and expenses of administration of the Plan; and
 - (c) The costs of administration of this chapter and any other chapter that confers functions on the Plan.
- (2) No money may be withdrawn from the fund except as follows:
- (a) Pursuant to budgets and procedures approved by the Board consistent with Subsection (3) of this section; and
 - (b) With the authority of the Administrator who shall satisfy to himself that the withdrawal is made in accordance with this chapter, the bylaws of the Plan, and any other applicable law.
- (3) The Board shall submit the budget for the administration of the Plan to the Legislature for approval. Penalties and interest and ten percent (10%) of the investment income of the fund may be used for the administration of the Plan.
- (4) There is hereby authorized for appropriation such sums as are deposited into the Pohnpei Pension Plan fund and such sums as are appropriated in the annual Comprehensive Budget Act to be administered, obligated, and expended in accordance with this chapter and without further legislation. A delegation to expend money out of the fund is given to the Administrator.

Source: S.L. No. 3L-51-93 §7-3, 12/3/93

§6-151. Financial statements. —

- (1) The Plan shall maintain financial statements in accordance with generally accepted accounting principles for similar entities as such principles are adopted by the Public Auditor for use by the government, for the following:
- (a) The fund;
 - (b) The disposition of money paid out of the fund; and
 - (c) The property and financial transactions of the Plan, generally.
- (2) The Public Auditor shall audit the financial statements of the Plan as soon as practical after the end of each fiscal year.
- (3) The Plan shall submit the financial statements of the Plan and the Public Auditor's report to the Governor and to the Pohnpei Legislature. Said accounts and records shall be made available to the public for inspection.

Source: S.L. No. 3L-51-93 §7-4, 12/3/93

§6-152. Bank accounts. —

(1) The Plan shall open and maintain as few bank accounts as are necessary for the efficient operation of the Plan's activities.

(2) Separate accounts shall be maintained for the functions of the Plan under this chapter or any other act that confers functions on the Plan.

(3) Subject to §6-153, any money, other than petty cash, withdrawn from the fund and not immediately required shall be kept in an account opened under Subsection (1) of this section.

Source: S.L. No. 3L-51-93 §7-5, 12/3/93

§6-153. Investment. —

(1) *Investments of fund.*

(a) Money in the fund in excess of the requirements for current operations, which shall include an amount sufficient to meet payments immediately due beneficiaries, shall be invested and reinvested by or under the authority of the Plan. The Plan shall invest in a manner to ensure the greatest return commensurate with sound financial policies.

(b) The Board shall have the full power to manage the investments as in its considered judgment seems most appropriate to the requirements and objectives of the Plan, including but not limited to the power to hold, sell, purchase, convey, assign, transfer, dispose of, lease, subdivide or partition any asset held or proceeds thereof; to execute or cause to be executed relevant documents; to enter into protective agreements, executive proxies or grant consents; and to do all other things necessary or appropriate to its positions as an owner and creditor.

(c) All proceeds and income from investments of whatever nature shall be credited to their appropriate fund account or accounts. Transactions in marketable securities shall be carried out at the prevailing market prices.

(d) The Plan may commingle securities and monies, subject to the crediting of receipts and earnings and charging of payments to the appropriate accounts established by this chapter.

(e) No member of the Board, employee of the Plan, nor anyone in the immediate family of such member or employee shall have any direct or indirect interest in the income, gains or profits of any investments made by the Plan, nor shall any such person receive any pay or emolument for services in connection with any investment made by the Plan. Participation in the fund under the terms of this chapter shall not be construed to include interest, pay or emolument within the meaning of this paragraph.

(f) No member, employee or agent of the Plan, nor any person in the immediate family of such member, employee or agent shall become an endorser or surety or in any manner an obligator of investments made by the Plan, nor shall any member, employee or agent be held liable for actions taken in good faith in the performance of his duties.

(g) Investments may be held as physical securities in either bearer form or registered in the name of the Plan or the nominee of the custodian. Non-physical securities may be held on book entry at a depository institution selected by the custodian, or at one of the twelve United States of America Federal Reserve banks.

(h) Due bills may be accepted from brokers against payment for securities purchased, pending delivery within a reasonable period of time, of certificates representing such investments.

(2) *Fund custodian.*

(a) The Plan shall engage one or more fund custodians to assume responsibility for the physical possession of the Plan's assets or evidences of assets. The terms of engagement shall require that the custodian submit such reports, accounting, and other information on such forms and at such times as requested by the Plan; hold all assets for the account of the Plan; and act only upon the instructions of the Plan, the investment committee or the investment consultants so authorized by the Plan.

(b) No fund custodian shall be engaged unless it:

- (i) Is a bank or trust company regulated by the United States Federal Reserve Board, a state authority of a state of the United States or the United States Federal Comptroller of the Currency, as is appropriate;
 - (ii) Has a net worth in excess of \$10,000,000;
 - (iii) Has the capability to clear securities transactions through the United States Depository Trust Company identification system;
 - (iv) Has at least ten years experience as a custodian of financial assets; and
 - (v) Has at least \$1,000,000,000 in custodial assets.
- (c) The contract between the Board and the fund custodian shall be of no specific duration and may be terminated at any time by either party after 30 days notice is given.
- (d) The costs of services rendered under this subsection shall be paid out of the fund.
- (3) *Investment manager.*
- (a) The Plan may engage one or more investment managers to assume the responsibility and direction for the purchase and sale decisions of all assets or evidences of assets charged to them.
 - (b) No person, firm or corporation shall be engaged as investment manager unless:
 - (i) The person, firm or corporation is a registered investment manager with the United States of America Securities and Exchange Commission in accordance with the United States Investment Advisors Act of 1940;
 - (ii) The principal business of the person, firm or corporation is of rendering investment management supervisory services;
 - (iii) The person, firm or corporation must have been in business for a minimum of ten full years as an active manager of security portfolios; and
 - (iv) The person, firm or corporation certifies, in writing, that the assets under his/its direct investment supervision are in excess of \$200,000,000.
 - (c) The Plan, in consultation with the investment consultant, may change, from time to time, the operation arrangements with the investment managers in order to facilitate efficient management and timely investment actions.
 - (d) The contract between the Plan and the investment managers shall be of no specific duration and may be terminated at any time by either party after 30 days notice is given.
 - (e) All costs incurred for the services provided under this subsection shall be paid out of the fund.
- (4) *The investment consultant.*
- (a) The Plan may engage one or more investment consultants to provide ongoing assistance to the Plan as follows:
 - (i) The screening, selection, supervision, retention, and termination of the investment managers, the maintenance and updating of the dynamic investment policy, asset allocation decisions, and any other matters involving the investment of the assets that the Administrator may desire;
 - (ii) Provision of quarterly reports of the performance of the investment managers; and
 - (iii) Provision of comparisons of the fund's performance with that of the markets as well as comparisons with other investment managers managing similar types of assets.
 - (b) The investment consultant is required to make at least one report annually in person.
 - (c) No investment shall be made unless in the opinion of the investment consultant it is an appropriate investment for the fund and is an authorized investment under this chapter.
 - (d) The Plan may change, from time to time, the operation arrangements with the investment consultant or consultants in order to facilitate efficient management and timely investment actions.

(e) The contract between the Plan and the investment consultant or consultants shall be of no specific duration and may be terminated at any time by either party after 30 days notice is given.

(f) All costs incurred for the services provided under this subsection shall be paid out of the fund.

(5) *Authorized investments.* Investments may be of the following types:

(a) *Government obligations.* Obligations issued or guaranteed as to the principal and interest by the government of the Federated States of Micronesia or any state thereof, or by the government of the United States of America; PROVIDED that the total market value of the investment in obligations guaranteed by the government of the Federated States of Micronesia or any state thereof shall at no time exceed fifty percent (50%) of the total market value of all investments of the Plan; PROVIDED FURTHER that the principal and interest on each obligation are payable in the currency of the United States.

(b) *Corporate obligations and mortgage-backed securities.* Obligations of any public or private entity or corporation created or existing under the laws of the Federated States of Micronesia or any state thereof, or under the laws of the United States or any state, territory or commonwealth thereof, or obligations of any other government or economic community which are payable in United States dollars, or pass-through and other mortgage-backed securities; PROVIDED that:

(i) The obligation is of an agency of the United States Government; or

(ii) The obligation is rated in one of the four highest categories by two rating agencies nationally recognized in the United States; and

(iii) No investment under this heading exceeds five percent (5%) of the market value of the fund or ten percent (10%) of the outstanding value of the issue at the time of purchase.

(c) *Preferred and common stocks.* Shares of preferred or common stocks of any corporation created or existing under the laws of the Federated States of Micronesia, under the laws of the United States or any state, territory or commonwealth thereof; PROVIDED that:

(i) The purchase of such shares shall be considered reasonable and prudent by the investment consultant at the time of purchase;

(ii) Not more than fifteen percent (15%) of the market value of the fund would be invested in the stock of any one corporation; and

(iii) Not more than twenty-five percent (25%) of the market value of the fund would be invested in any one industry group.

(d) *Insurance company obligations.* Contracts and agreements supplemental thereto providing for participating in one or more accounts of a life insurance company authorized to do business in the Federated States of Micronesia and in any state, territory or commonwealth of the United States.

(e) *Interest in real property.* Interests in improved or productive real property in which, in the informed opinion of the Board and the investment consultant, it is prudent to invest funds of the Plan; PROVIDED that the total market value for these investments at no time shall exceed twenty-five percent (25%) of the total market value of all investments of the Plan. For the purpose of this subsection, "real property" includes any property treated as real property by law, including any improvements thereto. The investments in improved or productive real property may be made directly or through pooled funds, including common or collective trust funds of banks or trusts, or other pooled funds invested on behalf of the Plan by the investment advisors or managers retained by the Board.

(f) *Other obligations and securities.* Other obligations and securities in which, in the informed opinion of the Board and the investment consultant, it is prudent to invest funds of the Plan, whether or not the securities or stocks are expressly authorized by or qualified under the foregoing paragraphs; PROVIDED that the total market value for the investments under this

paragraph shall at no time exceed ten percent (10%) of the total market value of all the investments of the Plan.

Source: S.L. No. 3L-51-93 §7-6, 12/3/93

§6-154. Actuary. —

(1) The Plan, shall, as it deems appropriate and necessary, engage in such terms and conditions as the Plan may deem fit, an actuary to examine and advise the Plan.

(2) The actuary shall make actuarial valuations of the Plan not less frequently than is required by generally accepted accounting principles for similar entities as such principles are adopted by the Public Auditor for use by the Pohnpei Government.

(3) The actuary shall prepare and submit to the Plan a report on the actuarial valuation. The Plan shall, in turn, submit the report to the Governor and the Legislature, along with any recommendations for changes of this chapter.

Source: S.L. No. 3L-51-93 §7-7, 12/3/93

§6-155. Public Auditor. —

(1) The Public Auditor shall audit the accounts and records of the Plan as soon as practical after the end of each fiscal year.

(2) In the event that the Public Auditor, for whatever reason, is unable to audit the accounts and records of the Plan, then the Plan shall have the authority to engage an independent auditor for that purpose.

Source: S.L. No. 3L-51-93 §7-8, 12/3/93

§6-156. False statements and reports. — Any person who knowingly makes a false statement or declaration, or falsifies any report to or record of the Plan in an attempt to defraud the Plan, is guilty of an offense and, upon conviction thereof, is liable to imprisonment for a period of not more than one year or a fine of not more than \$2,000, or both such fine and imprisonment.

Source: S.L. No. 3L-51-93 §8-1, 12/3/93

§6-157. Mismanagement of fund. — Any person who has a fiduciary relationship with the fund and who is found to have mismanaged the fund, whether by malfeasance or misfeasance, shall be guilty of an offense and upon conviction thereof is liable to imprisonment for a period not to exceed 15 years or a fine of not more than \$100,000, or both such fine and imprisonment.

Source: S.L. No. 3L-51-93 §8-2, 12/3/93

§6-158. Penalties and interest, attorneys' fees, and court costs. —

(1) If a payment or penalty imposed by this chapter is not paid on or before the date prescribed for such payment or penalty, there shall be collected, in addition to such payments and penalties, interest levied on the unpaid balance of the payments and/or penalties at the rate of twelve percent (12%) per annum from its due date until the date it is fully paid. In the event that the unpaid balance of payments, penalties or interest due under this chapter is referred to an attorney for collection, whether or not suit is brought for the collection thereof, the debtor shall additionally be liable for all reasonable attorneys' fees and costs of collection, plus court costs.

(2) The amount of any penalties, interest, attorneys' fees or costs of collection of the delinquent contributions or other amounts due the Plan shall be paid into the fund.

Source: S.L. No. 3L-51-93 §8-3, 12/3/93

§6-159. Taxation. — The fund, income, property, and all transactions of the Plan shall, to the extent allowed by law, be exempt from any taxes or assessments under any law of the Federated States of

Micronesia or its subdivisions. Nothing herein shall be deemed to exempt employees and independent contractors of the Plan from applicable tax liability for income received from the Plan.

Source: S.L. No. 3L-51-93 §9-1, 12/3/93

§6-160. Service of process on the Administrator. — Any process or other notice required or permitted by this chapter or any other law to be served upon or given to the Plan, shall be served or given by the delivery of it to the Administrator, who is secretary of the Board.

Source: S.L. No. 3L-51-93 §9-2, 12/3/93

§6-161. Legislative changes. —

(1) Except when originating from the Legislature, all proposed amendments to this chapter concerning participation in the Plan, benefits paid by the Plan, contributions to the Plan, investment of Plan assets or management of the Plan shall be submitted to the Legislature by or through the Governor. Requests for amendments shall include actuarial certifications from the Plan's actuary indicating the financial impact of the proposed amendment and a recommendation from the Board to support the proposed amendment, oppose the proposed amendment or suggest changes to the proposed amendment.

(2) The Governor may review and comment on requests for amendments originating from the Board, but he may not revise or refuse to submit them.

Source: S.L. No. 3L-51-93 §9-3, 12/3/93

§6-162. Effective date. — This chapter shall take effect upon the approval of the Governor, or upon its becoming law without such approval; PROVIDED, HOWEVER, that no employee shall be deemed a participant of the Pension Plan as prescribed by §6-105 and no contributions shall be required of any employee or employer, including the Pohnpei Government, until the Governor, following extensive consultation with the Board of Directors of the Plan, shall issue an Executive Order which shall:

(1) Certify that the Board of Directors of the Plan has organized and is fully capable of implementing the Plan, which certification shall be accompanied by a resolution passed by the Board indicating the same;

(2) Certify that not less than 12 months of government contributions to the Plan have been appropriated into law for the initial 12 months of operation of the Plan;

(3) Indicate the source or sources of financing and forecast the amount of government contributions to the Plan for the next ten fiscal years, inclusive of the designation of such dedicated Treasury funds as the Governor deems appropriate and as he determines to be commensurate with the government's liability for payment of mandatory government contributions into the Plan as prescribed by §6-128(5); and

(4) Declare the date specific that employer and employee contributions under the Plan shall commence.

Source: S.L. No. 3L-51-93 §10-1, 12/3/93; S.L. No. 6L-41-05 §1, 7/4/05

Note: S.L. No. 3L-51-93 §9-4 severability provision has been omitted.

CHAPTER 7 [RESERVED]

PUBLIC OFFICERS & EMPLOYEES

CHAPTER 8 CODES OF ETHICS

Section

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PART A GENERAL PROVISIONS

§8-101. Short title. — This chapter is known and may be cited as the “Pohnpei Ethics Act of 2000.”

Source: S.L. No. 5L-11-00 §1-1, 8/1/00

§8-102. Construction. — This chapter shall be liberally construed by the courts of this state to promote the highest standards of ethical conduct within the state government.

Source: S.L. No. 5L-11-00 §1-2, 8/1/00

§8-103. Applicability. — This chapter shall apply to every public officer and employee as defined herein.

Source: S.L. No. 5L-11-00 §1-3, 8/1/00

§8-104. Definitions. — When used in this chapter, unless the context clearly requires otherwise, these key words shall have the indicated meanings:

(1) “Business” includes any corporation, partnership, any sole proprietorship, any trust or foundation or any other individual or organization carrying on any business whether or not operated for profit.

(2) “Compensation” means any money, thing of value or economic benefit conferred on or received by any person subject to this chapter, in return for services rendered or to be rendered by himself or another.

(3) “Controlling interest” means any proprietary or ownership interest in a business or other undertaking.

(4) “Employee” means and includes all persons employed by any agency of the Pohnpei Government as defined by Subsection (13) of this section whether or not such person is employed under or exempted from a public service system of the government, or whether such person is compensated under a salary system prescribed by law or regulation, under a special services contract, under a grant from a non-Pohnpei Government source or provides voluntary services without compensation. The term “employee” includes both full-time and part-time employees and includes employees of public corporations established by state law.

(5) “Financial interest” means an interest held by an individual, his or her spouse or dependent children, which is:

- (a) An ownership interest in a business;
- (b) A creditor interest in an insolvent business;
- (c) An employment or prospective employment for which negotiations have begun;
- (d) An ownership interest in personal or real property;
- (e) A loan or other debtor interest; or
- (f) A directorship or officership in a business.

(6) “Immediate family” means and includes mother, father, spouse, and children, both natural and adopted.

(7) “Judicial officers” includes the Justices of the Pohnpei Supreme Court, whether full or part-time, and judges of the inferior courts of the state, including judges pro tem and referees.

(8) “Legislator” means any duly elected member of the Pohnpei Legislature.

(9) “Official act or official action” means a decision, recommendation, approval, disapproval or other action, including inaction which involves the use of discretionary and non-discretionary authority.

(10) “Official authority” includes administrative, judicial or legislative powers of decision, recommendation, approval, disapproval or other discretionary or non-discretionary action.

(11) “Public office” means an office which is filled by a public officer as defined by Subsection (12) of this section, whether or not service therein entitles the occupant to compensation.

(12) “Public officer” means any officer of the Pohnpei Government who is elected or appointed to fill an elective state office prescribed by the Pohnpei Constitution and any officer that is appointed under the authority of the Pohnpei Constitution or Pohnpei law, which appointment requires the advice and consent of the Legislature, inclusive of policy and regulatory boards, councils, committees, commissions, directory boards of public corporations, and other like bodies. “Public officer” includes persons who are designated to serve in an acting capacity in a public office, notwithstanding the fact that they are neither elected nor have received the advice and consent of the Legislature to serve in said capacity; PROVIDED that for purposes of §§8-105 and 8-107, “public officer” shall not include persons serving in an acting capacity for less than one year.

(13) “State agency” or “agency” shall mean every branch of government, public corporations, all Government of Pohnpei departments, bureaus, and line agencies, autonomous and semi-autonomous agencies, instrumentalities, entities or sub-entities thereof.

Source: S.L. No. 5L-11-00 §1-4, 8/1/00

PART B SPECIFIED STANDARDS FOR PUBLIC OFFICERS

§8-105. Reporting of finances. — Every public officer shall file with the Pohnpei Ethics Commission within 90 days following the effective date of this chapter [*effective date is August 1, 2000*], and thereafter within 30 days following his or her taking of the oath of office or otherwise becoming a public officer as defined by this chapter, and thereafter on the last working day of February each year, a financial report which shall include:

(1) A listing of all business holdings in which the public officer and his or her immediate family hold a collective total of more than twenty-five percent (25%) of the controlling interest of the business, inclusive of a description of those holdings;

(2) A listing of each directorship and office on the board of directors that the public officer holds in a business;

(3) A listing of all businesses in which the public officer is gainfully employed and from which he or she received at least \$1,000 of compensation in the form of wages, profit sharing, and other valuable consideration in the previous calendar year and the total earnings from each such entity during the previous calendar year; and

(4) A listing of all other sources of income, including income from non-governmental organizations and honoraria, amounting to \$1,000 or more in the previous calendar year and a description of the amount received from each source.

Source: S.L. No. 5L-11-00 §2-1, 8/1/00

§8-106. Gifts. — No public officer shall solicit, accept or receive, directly or indirectly, any gift valued singly or in the aggregate from a single source in excess of \$500, whether in the form of money, prize, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, when a reasonable person would infer that the gift is intended to influence the public officer in the performance of that individual's official duties or is intended as a reward for any official action on that individual's part.

Source: S.L. No. 5L-11-00 §2-2, 8/1/00

§8-107. Reporting of gifts. —

(1) Every public officer shall include in his or her financial report required by §8-105, a gifts disclosure statement if all the following conditions are met:

(a) The public officer, or spouse or dependent child of a public officer, received directly or indirectly from any source any gift or gifts valued singly or in the aggregate from a single source in excess of \$500, whether the gift is in the form of money, services, goods or in any other form;

(b) The source of the gift or gifts has interests that may be affected by the official action or lack of action by the public officer; and

(c) The gift is not exempted by Subsection (4) of this section from reporting requirements under this section.

(2) The gifts disclosure statement included in the financial report shall cover the period from January 1 of the preceding calendar year through December 31 of the year of the report.

(3) The gifts disclosure statement shall contain the following information:

(a) A description of the gift;

(b) A good faith estimate of the value of the gift;

(c) The date the gift was received; and

- (d) The name of the person, business entity or organization from whom, or on behalf of whom, the gift was received.
- (4) Excluded from the reporting requirements of this section are the following:
- (a) Gifts received by will or intestate succession;
 - (b) Gifts received by way of distribution of any inter vivos or testamentary trust established by a spouse or ancestor;
 - (c) Gifts from a spouse, fiancé, fiancée, any relative within three degrees of consanguinity or the spouse, fiancé or fiancée of such a relative. A gift from any such person is a reportable gift if the person is acting as an agent or intermediary for any person not covered by this paragraph;
 - (d) Political campaign contributions that are not intended to affect specific performance of governmental responsibilities or public interests by the official action or lack of action by the public officer; PROVIDED that this paragraph shall not exempt the public officer from the reporting of campaign contributions as may be otherwise required by state law;
 - (e) Anything available to or distributed to the public generally without regard to the official status of the recipient;
 - (f) Gifts that within 30 days after receipt are returned to the giver or delivered to a public body or to a bona fide educational or charitable organization without the donation being claimed as a charitable contribution for tax purposes;
 - (g) Exchange of approximately equal value on holidays, birthdays or special occasions; and
 - (h) Gifts received as a part of the customary exchange relative to the privileges and obligations of the traditions of Pohnpei; PROVIDED that the value of the gift is commensurate with the value of such gifts generally exchanged in such instances.
- (5) Failure of a public officer to file a gifts disclosure statement as required by this section shall be a violation of this chapter.
- Source: S.L. No. 5L-11-00 §2-3, 8/1/00

§8-108. Confidential information. — No public officer shall disclose information which is considered a private document by existing law, and which the public officer acquires in the course of official duties, or use the information for personal gain or for the benefit of someone else.

Source: S.L. No. 5L-11-00 §2-4, 8/1/00

§8-109. Fair treatment. — No public officer shall use or attempt to use an official position to secure or grant unwarranted privileges, exemptions, advantages, contracts or treatment, for himself or herself, a spouse, children or others, including but not limited to the following:

- (1) Seeking other employment or contract for services by the use or attempted use of the individual's office or position;
- (2) Accepting, receiving or soliciting compensation for the performance of official duties or responsibilities except as provided by law;
- (3) Using government time, equipment or other facilities for private business purposes;
- (4) Soliciting, selling or otherwise engaging in a financial transaction with a subordinate or a person or business whom the public officer inspects or supervises in official capacity; and
- (5) Nothing herein shall be construed to prohibit a legislator from introducing bills and resolutions, serving on committees or making statements or taking action in the exercise of legislative functions. Every legislator shall file with the Pohnpei Ethics Commission a full and complete public disclosure of the nature and extent of the legislator's interest on any legislative transaction which primarily affects only the legislator or legislators involved or their spouses and not the community as a whole or a segment thereof. Disclosure must be made at time of introduction of such legislation, or when the legislator shall first have knowledge of such legislation.

Source: S.L. No. 5L-11-00 §2-5, 8/1/00

§8-110. Conflicts of interest. —

- (1) No public officer shall take any official action directly affecting:
 - (a) Business or other undertaking in which the public officer has a financial interest; or
 - (b) Private undertaking in which the public officer is engaged as legal counsel, advisor, consultant, representative or other agency capacity. A department head who is unable to be disqualified on any matter described in Paragraph (a) or (b) of this subsection may be in violation of this subsection even if the individual has complied with the disclosure requirements of this chapter; and a person whose position on a board, commission or committee is mandated by statute, resolution or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which such person has a financial interest; PROVIDED that the financial interest is related to the member's particular qualifications.
- (2) No public officer shall acquire financial interests in any business or other undertaking which the public officer has reason to believe may be directly involved in official action to be taken by the public officer.
- (3) No public officer shall assist any person or business or act in a representative capacity before any state agency for any compensation in any transaction involving the state.
- (4) No public officer shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim or other transaction or proposal in which the public officer has participated or will participate as a public officer, nor shall the public officer assist any person or business, or act in a representative capacity for a fee or other compensation on such bill, contract, claim or other transaction or proposal before the Legislature or state agency of which the individual is a public officer.
- (5) No public officer shall assist any person or business or act in a representative capacity before a state agency for a fee or other compensation, on any bill, contract, claim or other transaction or proposal involving official action by the agency if the public officer has official authority over that agency unless such public officer has complied with the disclosure requirements of this chapter.
- (6) Nothing herein shall preclude a public officer from having outside business interests or employment so long as such interests or employment do not interfere with performance of official duties and is not otherwise in direct conflict with this chapter.

Source: S.L. No. 5L-11-00 §2-6, 8/1/00

§8-111. Contracts. —

- (1) A state agency shall not enter into any contract with a public officer or with a business in which a public officer has a controlling interest, unless the contract has been awarded through an open, public process. A state agency may, however, enter into such contract without resort to competitive bidding process when, in the opinion of the procurement officer of that branch or entity of government, the property or services does not fall within the purview of competitive bidding; PROVIDED that written justification for the non-competitive award of such contract or combination of related contracts of a cumulative total of \$1,000 or more be made a matter of public record and shall be filed with the Pohnpei Ethics Commission at least five working days before such contract is entered into. With regards to members of boards, commissions, and committees, this subsection shall apply only to contracts entered into between a business in which a member has a controlling interest and a state agency in which the board, commission or committee to which the individual is appointed has jurisdiction.
- (2) A state agency shall not enter into a contract with any person or business which is represented or assisted in a material manner in the matter by a person who has been a public officer of that agency within the preceding 12 months and who participated while in state office or employment in a material manner in the matter with which the contract is directly concerned.

Source: S.L. No. 5L-11-00 §2-7, 8/1/00

§8-112. Contracts voidable. — In addition to any other penalty provided by law, any contract entered into by the state in violation of Part B of this chapter, is voidable by the state; PROVIDED that in any act to void a contract pursuant to this section, the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within 90 days after the determination of a violation under this part.

Source: S.L. No. 5L-11-00 §2-8, 8/1/00

§8-113. Requirements of disclosure. — Failure of a public officer to file a disclosure of financial interests or gifts as required by this chapter shall be a violation of this part.

Source: S.L. No. 5L-11-00 §2-9, 8/1/00

§8-114. Financial reports and disclosure statement files; disposition. —

(1) All financial reports and disclosure statements filed by a public officer shall be maintained by the Pohnpei Ethics Commission during the term of office of the public officer, and for a period of three years thereafter. Upon the expiration of the three-year period, the financial report and disclosure statement and all copies thereof shall be destroyed.

(2) Nothing herein shall bar the Pohnpei Ethics Commission from retaining a financial report or disclosure statement or copy of a financial report or disclosure statement that has become part of a charge, case or advisory opinion request or is part of an ongoing investigation.

Source: S.L. No. 5L-11-00 §2-10, 8/1/00

§8-115. Restrictions on post employment. —

(1) No former public officer shall disclose any information which by law is not available to the public and which the public officer acquired in the course of official duties or use the information for personal gain or the benefit of anyone.

(2) No former public officer shall, within 12 months after termination from employment, assist any person or business, or act in a representative capacity for a fee or other consideration, on matters involving official action by the particular state agency with which the public officer had actually served.

(3) This section shall prohibit any agency from contracting with a former public officer to act on a matter on behalf of the state within the period of limitations stated herein, unless exempted by law.

Source: S.L. No. 5L-11-00 §2-11, 8/1/00

§8-116. Violation. —

(1) Any state action obtained in violation of this part for public officers is voidable in the same manner as voidable contracts as provided for under §8-112; and the state may pursue all legal and equitable remedies available to it.

(2) The state may recover any fee, compensation, gift or profit received by such person as a result of a violation of these standards by a public officer or former public officer. Action to recover under this subsection shall be brought within two years of such violation under this part, or of the reasonable discovery of such violation.

Source: S.L. No. 5L-11-00 §2-12, 8/1/00

PART C SPECIFIED STANDARDS FOR EMPLOYEES

§8-117. Employees' ethics code. — Within 180 days following the effective date of this chapter [*effective date is August 1, 2000*], the Pohnpei Ethics Commission established by Part D of this chapter shall study and develop an appropriate code of ethics for the employees of the Pohnpei Government as defined in Subsection (4) of §8-104 and shall present to the Governor and the Legislature draft

legislation to amend this part to provide for specified standards of ethical conduct for said employees. Said presentation shall also include such draft legislation to amend the Public Service System Act, Title 9 Chapter 2, as amended or superseded by state law, and such other statutes the Commission deems necessary to effectuate the code of ethics for Pohnpei Government employees.

Source: S.L. No. 5L-11-00 §3-1, 8/1/00

PART D POHNPEI ETHICS COMMISSION

§8-118. Pohnpei Ethics Commission established. — There shall be within the Government of Pohnpei, a commission to be known as the Pohnpei Ethics Commission. The Commission shall consist of five members to be appointed by the Governor with the advice and consent of the Legislature. Each person nominated and serving on the Commission shall be a citizen of Pohnpei. No person who has ever been convicted of a felony shall be eligible to serve on the Commission. Members of the Commission shall not be a public officer as defined herein.

Source: S.L. No. 5L-11-00 §5-1, 8/1/00

§8-119. Terms of office. — The term of office of each member shall be four years, and until their successors are appointed; PROVIDED that of the original members, two shall hold office for two years, two shall hold office for three years, and one shall hold office for four years. The determination of these members' length of office shall be by lot drawn by the members at their initial meeting. No person shall be appointed consecutively to more than two terms as a member of the Commission.

Source: S.L. No. 5L-11-00 §5-2, 8/1/00

§8-120. Rules of procedure. — The Commission shall determine its own rules of procedure; PROVIDED that:

(1) The Commission shall meet at least once quarterly. Meetings may be held at any time or place as determined by the Commission, or upon the call of the Chairman or upon the written request of any three members. All members of the Commission shall be given reasonable notice of the date, time, and place of each meeting as set forth in the regulations of the Commission. All meetings shall be open to the public except executive sessions as agreed upon by unanimous vote of the members present.

(2) Three members of the Commission shall constitute a quorum for the transaction of business and the assent of three members shall be required for all actions requiring a vote unless a greater majority is required by this chapter or the rules of the Commission. No vacancy in the membership of the Commission shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Commission.

Source: S.L. No. 5L-11-00 §5-3, 8/1/00

§8-121. Organization. — The Chairman of the Commission and such other officers as the Commission shall deem necessary shall be elected by the majority of the full membership of the Commission, without regard to vacancies.

Source: S.L. No. 5L-11-00 §5-4, 8/1/00

§8-122. Compensation and expenses. — Members of the Commission shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by state law, when actually performing functions of the Commission at the direction of the Chairman, except that those members who are Pohnpei Government employees shall instead be granted administrative leave from their regular duties while performing functions of the Commission. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to government employees in the same circumstances.

Source: S.L. No. 5L-11-00 §5-5, 8/1/00

§8-123. Vacancies. — Vacancies shall be filled for the remainder of the unexpired term in the same manner as original appointments. The Governor may remove or suspend any member of the Commission for cause, upon the filing of a written finding with the Commission and upon service of a copy of the written findings on the member removed or suspended.

Source: S.L. No. 5L-11-00 §5-6, 8/1/00

§8-124. Staff. — The Commission may employ such persons as it deems necessary for the performance of its functions. The Commission shall submit an annual budget request to the Legislature for its required operations.

Source: S.L. No. 5L-11-00 §5-7, 8/1/00

§8-125. Prohibition from political activity. — Members of the Commission and its staff shall not take an active part in political management or in political campaigns during the term of office or employment.

Source: S.L. No. 5L-11-00 §5-8, 8/1/00

§8-126. Cooperation; meeting place; clerical and administrative assistance. — The Commission may request and shall receive from every state agency cooperation and assistance in the performance of its duties. The Office of the Governor shall designate a meeting place for the Commission and provide clerical and administrative assistance as required by the Commission to perform its duties under this chapter.

Source: S.L. No. 5L-11-00 §5-9, 8/1/00

§8-127. Finances. —

(1) There is hereby authorized from the general fund of Pohnpei such sums as may be appropriated and allocated in the Comprehensive Budget Act for the operational expenses of the Pohnpei Ethics Commission in the performance of its duties as prescribed by this chapter.

(2) All sums appropriated under the authorization of Subsection (1) of this section shall be administered and expended by the Chairman of the Pohnpei Ethics Commission solely for the purposes stated in Subsection (1) of this section.

(3) All sums appropriated under the authorization of Subsection (1) of this section not expended or obligated for expenditure on or before September 30 of the fiscal year for which such sums are appropriated shall revert to the general fund of Pohnpei.

Source: S.L. No. 5L-11-00 §5-10, 8/1/00

§8-128. Duties of Commission. — The Commission shall have the following powers and duties:

(1) It shall organize seminars and instructional programs to guide public officers and educate employees in matters relative to ethics in government.

(2) It shall meet with individual public officers and employees for the purpose of counseling these persons in matters specifically related to their service with government.

(3) It shall prepare written materials and media programs designed to inform the general public of the necessity of ethics in government and the steps that the Commission and other government agencies are undertaking to ensure ethical conduct by public officers and employees of the Pohnpei Government.

(4) It shall enter into discussions and undertake other activities designed to build an awareness of the need for enforceable ethics codes for public officers and employees at other levels of government and international institutions operating within Pohnpei.

(5) It shall prescribe a form for the financial reports and disclosures of gifts required by Part B of this chapter and shall establish an orderly procedure for implementing the requirements of that part.

(6) It shall undertake preliminary investigations and render advisory opinions upon the request of any public officer or employee, or former public officer or employee as to whether the facts and circumstances of a particular case constitutes or will constitute a violation of the code of ethics, and where appropriate refer the matter to the proper authority or authorities for full investigation of the alleged violation of the code.

(7) It shall cause to be published yearly summaries of its advisory opinions. The Commission shall make sufficient deletions in the summaries to prevent disclosing the identity of persons involved in the opinions.

Source: S.L. No. 5L-11-00 §5-11, 8/1/00

§8-129. Filing of false charges. —

(1) Any person who knowingly and intentionally files a false charge with the Commission, or any member of the Commission who initiates action against any public officer, employee or any other person covered by this chapter, knowing such charge to be false, shall be guilty of the crime of perjury and subject to the penalty set forth in 61 PC 10-151, as amended or superseded by state law.

(2) Whoever is convicted in a court of competent jurisdiction of the crime of perjury under this section, in addition to any other punishment prescribed by law thereof, shall be required by court order to reimburse the person against whom the false charge was filed for all of the person's legal expenses and court costs incurred in relation to that person's defense against the false complaint.

(3) If such charge is filed within six months prior to an election in which the accused's name appears on the ballot, the person filing the false complaint shall pay to the accused the amount set out above, and shall also pay an equal amount to the general fund of the Pohnpei Treasury.

(4) This section shall not supersede or preclude any other right or remedy at law available to the person falsely accused.

Source: S.L. No. 5L-11-00 §5-12, 8/1/00

§8-130. Disciplinary action for violation. — In addition to any other powers a state agency may have to discipline public officers and employees, the appropriate agency involved may reprimand, put on probation, demote, suspend or discharge any public officer or employee found to have violated this chapter.

Source: S.L. No. 5L-11-00 §5-13, 8/1/00

PART E CONCLUDING PROVISIONS

§8-131. Concurrent jurisdiction. — In addition to any provision contained in this chapter, state agencies may each prescribe further rules of conduct covering its members and may investigate and discipline its public officers and employees for any violation of this chapter, or its own rules or both.

Source: S.L. No. 5L-11-00 §6-1, 8/1/00

§8-132. Other laws and regulations. — This chapter is intended to compliment specific laws and regulations pertaining to the ethical conduct of officers and employees of the Pohnpei Government. No provision contained herein shall be construed to invalidate or supersede any other statute or regulation pertaining to the ethical conduct of officers or employees of the Pohnpei Government. In the event that the provisions of this chapter and the provisions of another statute or regulation shall address the same conduct, the most restrictive provisions shall apply.

Source: S.L. No. 5L-11-00 §6-2, 8/1/00

Note: S.L. No. 5L-11-00 §6-3 severability provision has been omitted.

(Next page is Title 10 divider)

TITLE 10
ELECTIONS

TITLE 10 ELECTIONS

CHAPTER

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- 3 APPORTIONMENT**
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CHAPTER 1 GENERAL PROVISIONS

Section

1-101 Short title	1-105 Realization of revenues
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§1-101. Short title. — This title is known and may be cited as the “General Election Law of 1990.”

Source: S.L. No. 2L-158-90 §1, 8/2/90

§1-102. Application of title. —

(1) *State elections.* Unless otherwise provided, this title shall apply to all elections, recalls, referendums, initiatives, and ratifications conducted for and within the state of Pohnpei.

(2) *Federal elections.* The Federated States of Micronesia may, by duly enacted law, make this title applicable to federal elections conducted in Pohnpei State; PROVIDED that all expenses incidental thereto shall be borne by the Federated States of Micronesia. In the absence of federal law governing federal elections or any aspect thereof, this title shall apply to all such elections or aspects thereof conducted in this state.

(3) *Local elections.* Any local jurisdiction of the state may, by charter, constitution or duly enacted ordinance, make this title applicable to local elections conducted in that local jurisdiction; PROVIDED that all aspects of a local government election that is conducted outside of the jurisdictional boundaries of the local jurisdiction shall be governed by this title. Unless provided otherwise by state law, expenses for local elections under this title shall be borne by the local government for which the election is conducted. In absence of local law governing local government elections or any aspect thereof, this title shall apply to all such elections or the particular aspect thereof.

Source: S.L. No. 2L-158-90 §2, 8/2/90

§1-103. Definitions. — Unless the context clearly indicates otherwise, the following meanings shall apply to this title:

(1) “Election” means all voting by the qualified populace in Pohnpei State conducted or required pursuant to law including: elections for office, recall elections, initiatives, referendums, ratification of constitutional amendments, and plebiscites.

(2) “Election Commissioner” means the person described and designated as the Election Commissioner pursuant to §§2-101 through 2-105. The phrase “Election Commissioner” shall include persons who may be delegated by the Election Commissioner to exercise or perform the powers and responsibilities of the Election Commissioner as set forth in this title. The term “Election Commissioner” includes a special election commissioner appointed pursuant to Article 13 §7(2) of the Pohnpei Constitution; PROVIDED that such designation shall apply to said appointed official solely for the purposes associated with a recall election pertaining to the recall of a governor or lieutenant governor.

(3) “Election district” means that area for which a candidate is running for office.

(4) “Federal” shall refer to the national government of the Federated States of Micronesia.

(5) “FSM” means the government of the Federated States of Micronesia.

(6) “Legal residence” means the local jurisdiction in which a person registering to vote under this title feels the greatest affiliation or concern for the welfare of its people; PROVIDED that a local jurisdiction may only be designated as his or her legal residence if that person was born in the local jurisdiction, or one of his or her parents was born in the local jurisdiction, or he or she has actually resided in the local jurisdiction for at least one year preceding the date of the next election, or he or she is registered to vote in the local jurisdiction for Pohnpei Legislature elections on the effective date of this title [*August 2, 1990*]. For purposes of this title, the term “parents” shall mean the adoptive parents when the person has been legally adopted; otherwise it shall mean the person’s natural parents; PROVIDED that an individual may change his legal residence through voter registration or written declaration to the Governor if not so registered to vote, filed not less than 30 days prior to the requested change, to such local jurisdiction for which he is otherwise qualified to vote under the election laws of the state; PROVIDED FURTHER that the Election Commissioner or Governor shall promptly notify the respective local jurisdictions chief executives of the same.

(7) “Legal resident” means one who has declared a local jurisdiction to be his or her legal residence in the manner provided by this title.

(8) “Legislature” means the Pohnpei Legislature.

(9) “Local governments” shall mean the local governments designated by Article 14 §1 of the Pohnpei Constitution.

(10) “Polling place” means those locations designated by the Election Commissioner and meeting the conditions set out in this title, for voting by personally casting a ballot. Except as provided in §6-124(2), each polling place shall issue ballots only for the election district within which it is located.

(11) “State court” means the Pohnpei Supreme Court.

(12) “State Treasury” means the Pohnpei Treasury as established by law and containing all monies attributable to or managed by the Pohnpei Government.

Source: S.L. No. 2L-158-90 §3, 8/2/90; S.L. No. 2L-211-91 §1, 10/12/91; S.L. No. 4L-48-97 §1, 6/23/97

§1-104. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined and allocated annually in the Comprehensive Budget Act for all incidental and necessary expenses relative to the preparation and conduct of elections under this title, except for federal and local elections as herein specified by this title; PROVIDED that no portion of the sums authorized herein may be expended for campaign purposes for any candidate, political party or other such interested persons, or to support a particular political cause or issue.

(2) All sums herein authorized shall be administered and expended by the Election Commissioner solely for the purposes specified in Subsection (1) of this section. The Election Commissioner shall prepare and submit to the Legislature and the Governor within 30 days following each election, a full financial accounting of monies collected and expended during said election. The Election Commissioner shall further submit to the Legislature and Governor an annual report on all financial activities under this title for the previous fiscal year within 30 days following the close thereof.

(3) All sums appropriated under the authorization of this title in any one fiscal year, unobligated or unexpended on September 30 shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-158-90 §4, 8/2/90

§1-105. Realization of revenues. — All fees and other revenues collected pursuant to this title shall be deposited in the general fund of Pohnpei as the realization of general revenue to be appropriated in the manner provided by law; PROVIDED that all fees and revenues collected pursuant to federal or local elections under this title, except for payments or reimbursements received as provided in Subsections (2) and (3) of §1-102, shall be deposited in the treasury of the respective jurisdiction.

Source: S.L. No. 2L-158-90 §5, 8/2/90

§1-106. Election frauds; penalties. —

(1) The following persons shall be deemed guilty of an election fraud:

(a) Every person who, directly or indirectly, personally or through another, gives, procures or lends, or agrees or offers to give, procure or lend, or who endeavors to procure any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election; PROVIDED, HOWEVER, that this provision shall not prohibit those Pohnpei customs and traditions ordinarily associated with election day activities;

(b) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;

(c) Every elector who, before, during or after any election, directly or indirectly, personally or through another, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for oneself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or issue;

(d) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence or restraint; or inflicts or threatens to inflict any injury, damage or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or issue, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or issue; or who by abduction, distress or any device or contrivance impedes, prevents or otherwise interferes with the free exercise of the elective franchise;

(e) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same issue of office at one time of voting;

- (f) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election;
- (g) Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement;
- (h) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections' who willfully fails, neglects or refuses to do or perform the same, or who willfully performs it in such a way as to hinder the objects thereof, or who is guilty of any willful violation of any of the provisions thereof;
- (i) Every person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing;
- (j) Every person who willfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or visual aids or facsimile ballot, issued or posted by authority of law;
- (k) Every person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness or color, to the official ballot so that it could be cast or counted as an official ballot in an election;
- (l) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the election board during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance;
- (m) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the election board or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election;
- (n) Every person, other than those authorized by law, who remains or loiters within the area set aside for voting during the time appointed for voting;
- (o) Any person, including candidates carrying on any campaign activities within the state on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include the following:
- (i) Any distribution, circulation, carrying, holding, posting or staking of campaign cards, pamphlets, posters, and other literature;
 - (ii) The use of public address systems and other public communication media;
 - (iii) The use of motor caravans or parades; and
 - (iv) The use of entertainment troupes or the free distribution of food, beverages, goods and services.
- The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls;
- (p) Every person who opens a return envelope containing an absentee ballot vote other than those authorized to do so;
- (q) Every person who willfully violates or fails to obey any law, punishment for which is not otherwise in this title specifically provided for; and
- (r) Every person who, knowing that he is not entitled to register or to vote, registers or votes; and any person taking any oath in this title prescribed or authorized to be administered and willfully making oath to any false statement of fact, or willfully making a false answer to any question put to him thereunder.

(2) Every person found guilty of an election fraud shall be fined not more than \$1,000, or imprisoned not more than two years, or both such fine and imprisonment. If the person so convicted holds any office, either elective or appointive, at the time of the conviction, the office shall at once and without mention in the sentence or other proceeding be vacated by the conviction.

Source: S.L. No. 2L-158-90 §7, 8/2/90

Note: S.L. No. 2L-158-90 §6 repealing and superseding provisions have been omitted.

§1-107. Construction of this title. — This title shall be construed in a manner that will permit all electors and candidates a fair and equal opportunity to participate in elections but also in a manner that will avoid defeating the real will of the electors by an unduly strict application, interpretation, and enforcement of the formalities and procedures set forth herein.

Source: S.L. No. 2L-158-90 §8, 8/2/90

Note: S.L. No. 2L-158-90 §9 severability provision has been omitted.

ELECTIONS

CHAPTER 2

ELECTION COMMISSIONER AND BOARD OF ELECTION

Section

<p>2-101 Election Commissioner</p> <p>2-102 Election Commissioner: appointment and tenure</p> <p>2-103 Election Commissioner: impartiality</p> <p>2-104 Compensation of the Election Commissioner</p> <p>2-105 Powers and duties of the Election Commissioner</p>	<p>2-106 Board of Election: appointment and removal of members</p> <p>2-107 Powers and duties of Board of Election members</p> <p>2-108 Compensation of Board members</p>
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§2-101. Election Commissioner. — The Election Commissioner shall be the chief election official of Pohnpei State, with the powers and duties relating to the registration of voters and conduct of elections as are prescribed in this title. He or she is further designated as the Election Commissioner for Pohnpei as specified by, and with the powers and duties prescribed in Article 13 §§7(2) and 7(3) of the Pohnpei Constitution, including any amendments, successors or additions thereto; PROVIDED that unless the position of Election Commissioner appointed by the Governor with the advice and consent of the Legislature is vacant, a special election commissioner appointed pursuant to Article 13 §7(2) of the Pohnpei Constitution may not perform the functions of the Election Commissioner pertaining to the registration of voters and the removal of names from the General State Register.

Source: S.L. No. 2L-158-90 §10, 8/2/90; S.L. No. 4L-48-97 §2, 6/23/97

§2-102. Election Commissioner: appointment and tenure. —

(1) Except as otherwise provided by Article 13 §7(2) of the Pohnpei Constitution, the Election Commissioner shall be appointed by the Governor with the advice and consent of the Legislature to fulfill the duties and functions set forth in this title. The Election Commissioner may concurrently hold another position within the executive branch of the state government.

(2) Except as provided in Subsection (3) of this section, the Election Commissioner shall serve a term concurrent with the appointing Governor and, notwithstanding any other provision of Pohnpei law to the contrary, the Election Commissioner may only be removed or dismissed from this position for good, just and substantial cause.

(3) Notwithstanding Subsection (2) of this section, a special election commissioner appointed pursuant to Article 13 §7(2) of the Pohnpei Constitution shall serve until he has completed his duties pursuant to Chapter 7 of this title.

Source: S.L. No. 2L-158-90 §11, 8/2/90; S.L. No. 4L-48-97 §2, 6/23/97

§2-103. Election Commissioner: impartiality. — The Election Commissioner shall remain free from and independent of all undue influence and coercion that may hinder or impair the impartial and fair exercise of the duties and functions prescribed in this title. When the Election Commissioner is a candidate for office in an election, or when the performance of the Election Commissioner would constitute a direct conflict of interest, or when there is clear and convincing evidence that the Election Commissioner cannot perform the functions impartially and fairly, then the Governor shall appoint an acting Election Commissioner with the advice and consent of the Legislature; PROVIDED, HOWEVER, that when the Election Commissioner in question is a special election commissioner appointed pursuant to Article 13 §7(2) of the Pohnpei Constitution, then the Speaker of the Legislature shall appoint an acting special election commissioner for said purpose. The acting Election

Commissioner so appointed shall retain the position until the aforementioned disability of the Election Commissioner is removed or resolved, or until the Election Commissioner is removed for cause and a successor selected.

Source: S.L. No. 2L-158-90 §12, 8/2/90; S.L. No. 4L-48-97 §2, 6/23/97

§2-104. Compensation of the Election Commissioner. — When performing the functions and duties prescribed in this title, the Election Commissioner shall receive a salary equal to the chief executive officers of Pohnpei's authorities and commissions; PROVIDED, HOWEVER, that an Election Commissioner who is also an employee of the Pohnpei Government or any other cooperating entity shall be granted, instead, administrative leave with pay from his or her regular duties to perform the functions of the Election Commissioner; PROVIDED FURTHER that if said employee's regular compensation is less than the salary of such chief executive officers, the employee so serving as Election Commissioner, in addition to his regular compensation, shall be entitled to receive an amount equal to the difference between his regular compensation and the salary of such chief executive officers.

Source: S.L. No. 2L-158-90 §13, 8/2/90; S.L. No. 4L-48-97 §2, 6/23/97

§2-105. Powers and duties of the Election Commissioner. — The Election Commissioner shall supervise and administer voter registration and elections and perform such other duties as may be prescribed by law. The powers and duties of the Election Commissioner shall include, but are not limited to, the following:

- (1) To appoint all members of the Board of Election as provided in this title;
- (2) To prescribe and promulgate rules, regulations, and instructions implementing this title which, upon public notice and hearing as required by law and upon review and approval of the Governor, shall have the force and effect of law; PROVIDED that all rules and regulations heretofore adopted by the Election Commissioner pursuant to authority granted by prior laws, including those laws that are repealed by this title, shall continue in full force and effect until amended, repealed or superseded hereafter;
- (3) To determine and prescribe forms of ballots and the forms of all blanks, cards of instructions, poll books, tally sheets, and all other forms and blanks required by, or needed to fulfill this title; and to cause the same to be supplied to the Board of Election;
- (4) To require such reports from the Board as may be required by law or regulation or as may be deemed necessary;
- (5) To review and examine voting irregularities or violation of any applicable election laws or regulations;
- (6) To establish polling places within each election district;
- (7) To designate special polling places in other states of the FSM or in foreign countries and to appoint two or more Board of Election members for each such polling place;
- (8) To receive nominating petitions and to list the candidates for each election district on the ballot without indication of party affiliation;
- (9) To register or cause to be registered all the voters in the state and to maintain the General State Register as provided in this title;
- (10) To prepare or cause to be prepared from the General State Register a registered voters' list for each polling place prior to any election;
- (11) To issue voter registration cards as provided by this title;
- (12) To delegate the duties of the Election Commissioner to others; PROVIDED that the performance of such duties shall be under the supervision of the Election Commissioner, and the Election Commissioner shall be ultimately responsible for the acts of those so delegated; and

(13) To certify qualified candidates and verify the willingness of the nominee to run. If an individual who receives the necessary petition signatures chooses not to run, his name shall not appear on the ballot.

Source: S.L. No. 2L-158-90 §14, 8/2/90; S.L. No. 2L-211-91 §2, 10/12/91

§2-106. Board of Election: appointment and removal of members. —

(1) Not less than 30 days prior to each general election, the Election Commissioner shall appoint a Board of Election for the state. The members must be registered to vote in state elections. They shall serve until they resign or are removed for cause, or until their successors have been appointed. The Board shall be composed of a sufficient number of members to have at least two Board members present at each polling place. No Board member may participate in any election campaign, as a candidate or otherwise.

(2) Members of the Board may be removed by the Election Commissioner at any time for good and just cause. Appeals of such removal shall be to the Governor and the Governor's decision shall be final. Upon dismissal or removal by the Election Commissioner, the Board member shall not exercise any of the duties or responsibilities as a member unless and until he or she is reinstated.

Source: S.L. No. 2L-158-90 §15, 8/2/90

§2-107. Powers and duties of Board of Election members. — Each Board of Election member shall have the following powers and duties:

- (1) To perform all duties prescribed by law;
- (2) To supervise and manage each polling place;
- (3) To receive, preserve, and maintain ballot boxes, locks, maps, cards of instruction and other supplies and equipment necessary to conduct the election;
- (4) To give such instructions deemed necessary for the orderly conduct of elections;
- (5) To provide the issuance of all notices and publications concerning elections;
- (6) To review and examine the sufficiency and validity of nominating petitions and other documents where the Election Commissioner designates the Board to act in his or her stead;
- (7) To receive and transmit all ballot boxes, locked and sealed, to the Election Commissioner;
- (8) To receive, investigate, and decide complaints concerning election irregularities and determine the residence qualifications of voters, subject to review and appeal in accordance with this title;
- (9) To recommend to the Election Commissioner appropriate polling places within each election district as may be deemed suitable and convenient to the public; and
- (10) To perform such other duties as are prescribed by law or regulations issued by the Election Commissioner.

Source: S.L. No. 2L-158-90 §16, 8/2/90

§2-108. Compensation of Board members. — Board members shall be compensated at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, and shall be entitled to expenses and standard Pohnpei Government per diem rates while engaged in authorized services for the Board. The following shall apply to Pohnpei Government officers and employees who serve on the Board:

- (1) They shall not be entitled to compensation, but shall be accorded administrative leave while serving as a Board member;
- (2) They shall receive overtime pay only if the employee is covered by the Pohnpei Public Service System Act, Title 9 Chapter 2, and meets the conditions for overtime pay as provided in such act and regulations; and
- (3) When eligible, they may receive per diem or overtime pay for services rendered during any given day, but not both.

Source: S.L. No. 2L-158-90 §17, 8/2/90

ELECTIONS

CHAPTER 3 APPORTIONMENT

Section

3-101 Pohnpei Legislature	3-103 Congressional Districts established
3-102 Federated States of Micronesia Congress	3-104 Local elective offices

§3-101. Pohnpei Legislature. — Each local jurisdiction shall constitute an electoral district for the Pohnpei Legislature. Until reapportionment is completed pursuant to Article 8 §2 of the Pohnpei Constitution, the members of the Legislature shall be apportioned as follows:

Madolenihmw – four; Kitti – four; Sokehs – four; Nett – two; U – two; Kolonia Town – two; Mwoakilloa – one; Pingelap – one; Nukuoro – one; Sapwuahfik – one; and Kapingamarangi – one.

Source: S.L. No. 2L-158-90 §18, 8/2/90; S.L. No. 2L-211-91 §3, 10/12/91

§3-102. Federated States of Micronesia Congress. — Apportionment of Pohnpei State for representation in the Congress of the FSM shall be in a manner prescribed by Article IX §10 of the FSM Constitution and §3-103 of this title, and any amendments thereto.

Source: S.L. No. 2L-158-90 §19, 8/2/90

§3-103. Congressional Districts established. — Apportionment of the state of Pohnpei in the Congress of the FSM shall be as follows:

(1) For a term of four years, there shall be one member elected at-large by the qualified voters of the state; and

(2) For a term of two years, there shall be one member for each of the following Election Districts of the state elected by the qualified voters of that Election District, respectively:

(a) Election District P-1 consisting of the local jurisdictions of Kapingamarangi, Kolonia, Sapwuahfik, Nukuoro, and Sokehs;

(b) Election District P-2 consisting of the local jurisdictions of Kitti and Madolenihmw; and

(c) Election District P-3 consisting of the local jurisdictions of Mwoakilloa, Nett, Pingelap, and U.

Source: D.L. No. 4L-160-78 §1, 12/8/78

§3-104. Local elective offices. — Apportionment of local jurisdictions into districts for local elective offices shall be in accordance with the applicable provisions of the charters, constitutions, and laws of each local government.

Source: S.L. No. 2L-158-90 §20, 8/2/90

ELECTIONS

CHAPTER 4 FRANCHISE AND REGISTRATION

Section

4-101 Eligible voters	4-107 Application for registration; affidavit
4-102 Registration required	4-108 Affidavit: person before whom sworn
4-103 Where to register to vote	4-109 Translation of application
4-104 When to register	4-110 Registration of voter
4-105 Voting in legal residence only; designation of election district	4-111 General State Register
4-106 Voter qualified to vote in more than one local jurisdiction	4-112 Registration cards
	4-113 Re-registration
	4-114 Changing the entries in the Register

§4-101. Eligible voters. —

(1) A citizen of Pohnpei who is 18 years of age on the date of the election and who has not committed a felony for which he or she is on parole or probation or under sentence, and who is not currently under a judgment of mental incompetency or insanity, shall be qualified to vote in all state elections; PROVIDED that said person has registered to vote in accordance with this title.

(2) Qualifications to vote in federal and local elections shall be as established by the laws of the respective jurisdictions; PROVIDED that if there are no laws, the qualifications to vote in the election shall be the same as in Subsection (1) of this section; PROVIDED FURTHER that the qualifications to vote in local elections shall not violate or conflict with Article 6 of the Pohnpei Constitution.

(3) No property qualification, tax or fee shall be imposed on the right to vote.

Source: S.L. No. 2L-158-90 §21, 8/2/90

§4-102. Registration required. —

(1) All citizens of Pohnpei meeting the qualifications of §4-101 shall be entitled to vote in any election under this title and to be listed in the General State Register and on the election district list, but only if that citizen has registered to vote by complying with the formalities and requirements of this title.

(2) The foregoing notwithstanding, all voters already registered to vote for the election of members of the Pohnpei Legislature on the effective date of this title [*August 2, 1990*], and otherwise qualified to vote, shall not be required to register again except when re-registration is required pursuant to §4-113.

Source: S.L. No. 2L-158-90 §22, 8/2/90

§4-103. Where to register to vote. — Eligible voters may register to vote at the office or offices of the Election Commissioner. On the day of any election covered by this title, eligible voters may also register to vote at a polling place in the election district where he or she is entitled to cast a ballot. For the convenience of the public, the Election Commissioner may designate and announce such other temporary or permanent locations for the registration of voters.

Source: S.L. No. No. 2L-158-90 §23, 8/2/90

§4-104. When to register. — All applications for voter registration may be submitted to persons authorized to examine the qualifications of electors at any time prior to a voter casting his or her ballot in an election conducted pursuant to this title.

Source: S.L. No. 2L-158-90 §24, 8/2/90

§4-105. Voting in legal residence only; designation of election district. — No person shall register to vote or vote as an elector of any other local jurisdiction than his or her legal residence as defined in §1-103(7). Until there is a change in the voter's legal residence, the voter shall not register as an elector of any other local jurisdiction. The Election Commissioner shall, by duly adopted regulations, establish a procedure to review and confirm the proper registration of voters and to review and correct the registration of those voters who by some error do not appear on the election district's voter list or who appear on the incorrect election district's voter list.

Source: S.L. No. 2L-158-90 §25, 8/2/90

§4-106. Voter qualified to vote in more than one local jurisdiction. — A person may register to vote and vote from only one local jurisdiction even if that person qualifies to vote in more than one of them. The choice of which local jurisdiction shall be made by the voter provided that the person otherwise meets the qualifications to vote from that local jurisdiction.

Source: S.L. No. 2L-158-90 §26, 8/2/90

§4-107. Application for registration; affidavit. — A person qualified and desiring to register as a voter in an election may appear at any time during business hours before a member of the Board of Election (who are hereby empowered and authorized to administer oaths and take acknowledgments) or other persons authorized by law to administer oaths, to be examined under oath as to the qualifications as an elector. The applicant shall complete an application form and swear to or affirm the truth of each of the allegations or statements in the application. When the person who administers the oath shall so desire or believe the same to be expedient, he or she may demand that the applicant produce a witness or witnesses or other evidence to substantiate the allegations in the application. Such witnesses shall not, however, be required to substantiate or support applications that accompany absentee ballots. The application shall be substantially in the following form:

AFFIDAVIT UNDER OATH TO REGISTER AS A VOTER IN THE STATE OF POHNPEI

Local jurisdiction of _____
 State of Pohnpei
 Federated States of Micronesia

1. Full name _____
2. Place of birth _____
3. Current age _____. (If 17 years old, I will be 18 on _____.)
4. I am a citizen of Pohnpei (check only one):
 - By my birth to a citizen and pweldak of Pohnpei;
 - By being a current resident of Pohnpei and a citizen or pweldak of the local jurisdiction in Pohnpei immediately prior to the effective date of the Pohnpei Constitution (November 8, 1984);
 - By being a current resident of Pohnpei and a citizen of Pohnpei on the effective date of the Pohnpei Constitution (November 8, 1984); or
 - By naturalization on _____.
5. The following local jurisdiction is my legal residence: _____. This local jurisdiction is my legal residence on the following basis (check only one):
 - I was born in the local jurisdiction;
 - At least one of my parents was born in the local jurisdiction (the term "parents" shall mean the adoptive parents when the person has been legally adopted, otherwise it shall mean the person's natural parents); or
 - I have actually resided in the local jurisdiction for at least one year preceding the date of the next election.
6. I am not currently under parole, probation or sentence for any felony for which I have been convicted by any court in the Federated States of Micronesia or any court within the jurisdiction of the United States of America.
7. I am not currently under a judgment of mental incompetence or insanity.
8. I SOLEMNLY SWEAR (or affirm) under oath and subject to the penalties of perjury, that the foregoing information and statements are true and correct.

 (Signature of Applicant)

Subscribed and Sworn to before me on this ____ day of _____

 (Signature of Notary Public or member of the Election Board)

Approved by Pohnpei State Election Commissioner or designee.
 This registered voter shall vote in the _____ Election District.

 (Signature)

Date _____
Source: S.L. No. 2L-158-90 §27, 8/2/90

§4-108. Affidavit: person before whom sworn. — The affidavits required pursuant to this title shall be sworn to before any officer or person authorized by law to administer oaths.

Source: S.L. No. 2L-158-90 §28, 8/2/90

§4-109. Translation of application. — The Election Commissioner shall cause the application for registration to be translated into the predominant languages of the state. Persons desiring to register may use the English version or any authorized translation thereof.

Source: S.L. No. 2L-158-90 §29, 8/2/90

§4-110. Registration of voter. —

(1) If the person authorized to receive an application for registration is satisfied that the applicant is entitled to be registered as a voter, he shall number the affidavit consecutively as approved and shall transmit the application to the Election Commissioner, who shall thereafter cause the information thereon to be recorded in the General State Register.

(2) The Election Commissioner shall also forthwith enter or cause to be entered the name so registered in its proper place in the general alphabetical index, together with a reference to the page on which the registration appears.

(3) A voter having once registered shall not be required to register again for any succeeding elections except in case of a change of name or legal residence as specified in §4-113, or intervening disqualifications as specified in §4-114; PROVIDED that in the event the voting records are destroyed or lost, the Election Commissioner may require the re-registration of voters.

(4) The Election Commissioner shall file the accepted applications in consecutive numbers, and keep the same in some convenient place to be open to public inspection and examination during all working hours and days and such other times as the Election Commissioner deems appropriate.

Source: S.L. No. 2L-158-90 §30, 8/2/90

§4-111. General State Register. — The Election Commissioner shall register or cause to be registered all qualified voters in the General State Register. The Register shall consist of one or more volumes for each election district with a general alphabetical index of the voters. The General State Register shall be maintained by the Election Commissioner and shall, at all times during business hours, be open to public inspection, and shall be a public record. The Register shall be ruled and printed in such forms as the Election Commissioner may direct.

Source: S.L. No. 2L-158-90 §31, 8/2/90

§4-112. Registration cards. — Any person duly registered to vote under this title may, upon application to the Election Commissioner, receive a voter registration card that shall identify such

person as a registered voter and identify his or her legal residence. Such card shall bear the name and description of the cardholder and a registration number that shall be recorded with that person's name on the General State Register. Unless otherwise made invalid, such card shall remain valid for a period of five years from the date of issuance. Any person, other than the person to whom the card was issued, who uses or attempts to use such card to vote in any election under this title shall be guilty of a violation of this title and subject to punishment in the manner prescribed in §1-106. Any person who loses his or her card may reapply to the Election Commissioner upon completing a form prepared by the Election Commissioner and paying a fee of fifty cents. The Election Commissioner shall establish such other procedures as he or she deems necessary for the issuance and recording of voter registration cards as provided in this section. The Election Commissioner shall further prescribe rules for the surrender and filing of invalid cards, and shall maintain and distribute to each polling place a list of the same.

Source: S.L. No. 2L-158-90 §32, 8/2/90

§4-113. Re-registration. —

(1) Voters who change their legal residences or their names after entry into the General State Register must register again to be electors of the proper local jurisdiction or to correct their names in the Register. When the change involves a person's legal residence, that person must register at the place for voter registration for the new election district. In all other respects re-registration shall follow the same procedure as an original registration.

(2) Upon receiving and accepting the properly completed application for re-registration, the Election Commissioner shall cancel the former registration by drawing one or more lines in ink through the name of such voter as previously registered. The Election Commissioner shall sign and date the cancellation on the same line. The new registration shall be entered and indexed in a manner similar to an original registration.

(3) Re-registration shall be allowed at any time prior to said voter casting his or her ballot in the election for which such re-registration is required.

Source: S.L. No. 2L-158-90 §33, 8/2/90

§4-114. Changing the entries in the Register. —

(1) Not more than nine months nor less than six months before each general election, the Election Commissioner shall determine whether any person listed in the Registry is disqualified to vote as a result of death, adjudication of insanity or feeble-mindedness, loss of citizenship or any other disqualification. The Election Commissioner shall thereupon make such investigations as deemed necessary to prove or disprove the information regarding the disqualification. The person concerned shall be given notice and opportunity to be heard if the person is available. If after such investigation the Election Commissioner finds that such person is not qualified to vote, the Election Commissioner shall strike or direct that the name of such person be stricken from the Official Registry.

(2) The Election Commissioner shall make and keep an index of all information furnished under any requirements of law concerning any of the matters mentioned in this section. Such information shall be provided to any person authorized to receive applications for voter registration to ascertain whether or not an applicant is disqualified to vote.

(3) Any person whose name is stricken from the Register of voters under this title may appeal in the manner provided by this title.

Source: S.L. No. 2L-158-90 §34, 8/2/90

CHAPTER 5 CANDIDATES

Section

5-101 Qualifications for office	5-108 Nominations for local government elective offices
5-102 Candidacy of government officers and employees	5-109 Nominations by political parties
5-103 Leave of absence for state officers or employees during candidacy; timing of resignations following election when required	5-110 Petitions to be sworn under oath
5-104 Nominations: general provisions	5-111 Time for filing petitions
5-105 Nominations for Governor and Lieutenant Governor	5-112 Filing fees
5-106 Nominations for Pohnpei Legislature	5-113 Recording receipt of nominating petitions
5-107 Nominations for Federated States of Micronesia Congress	5-114 Receiving petitions; placing candidates' names on the ballot
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	5-116 Use of government facilities by candidates

§5-101. Qualifications for office. —

(1) *Governor and Lieutenant Governor.* To be eligible for election as Governor or Lieutenant Governor the person must be a citizen of Pohnpei by birth, at least 35 years of age, and never convicted of a felony. A person may not serve more than two full consecutive terms as Governor; except that a person who serves as Governor less than two years during a term to which another person was first elected may serve two full consecutive terms thereafter.

(2) *Pohnpei Legislature.* To be eligible for election as a member of the Pohnpei Legislature, the person must be at least 25 years of age at the time that person's term of office commences; must be a citizen of a local government of Pohnpei for at least 25 years at the time that person's term of office commences; and must be a citizen of the local government that the person intends to represent for at least three years. A person convicted of a felony is ineligible to serve as a member of the Legislature unless he has received a pardon restoring his or her civil rights at least 60 days before he or she is elected.

(3) *FSM Congress and local government offices.* Qualifications for membership in the FSM Congress and any local elective office shall be as established by the constitutions, charters or laws of the respective jurisdictions.

Source: S.L. No. 2L-158-90 §35, 8/2/90

§5-102. Candidacy of government officers and employees. — No Pohnpei State or local government officer or employee may:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; or

(2) Directly or indirectly coerce, attempt to coerce, command or advise a state or local government officer or employee to pay, lend or contribute anything of value to an organization, committee, agency or person for political purposes.

Source: S.L. No. 2L-158-90 §36, 8/2/90; S.L. No. 2L-211-91 §4, 10/12/91

§5-103. Leave of absence for state officers or employees during candidacy; timing of resignations following election when required. — Any Pohnpei State officer or employee who is a candidate for office shall, upon request, be granted leave of absence for a period not to exceed 60 days prior to and including the day of the election, for the purpose of seeking an elected office. Leave will be without pay unless the individual chooses to use his annual leave pursuant to applicable personnel

regulations. If such person is elected, he shall, if otherwise required by applicable constitution, charter, law or ordinance, resign from his employment or position upon taking the oath of office for his respective elected position.

Source: S.L. No. 2L-158-90 §37, 8/2/90; S.L. No. 3L-60-94 §1, 2/17/94

Note: 1. §37 was inserted by S.L. No. 2L-211-91 §5, 10/12/91. 2. S.L. No. 3L-60-94 §§2 & 3 temporary provisions have been omitted.

§5-104. Nominations: general provisions. — All nominating petitions for state elective offices shall be for a specifically stated office and shall be on a form prescribed by the Election Commissioner. It shall be signed by the nominee and include a representation by the nominee that he or she meets the qualifications for the office. When a signature is indicated by an “X” or other mark, or is written in a language utilizing other than the English alphabet, such signature must be identified in English and accompanied by the signature, in English, of one witness. All nominating petitions filed under this title shall, upon filing, become the property of the state.

Source: S.L. No. 2L-158-90 §38, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §37 as §38.

§5-105. Nominations for Governor and Lieutenant Governor. — Nominating petitions for candidates for the offices of Governor and Lieutenant Governor shall each be signed by no less than 50 persons, all of whom shall be registered to vote in elections for such office under this title.

Source: S.L. No. 2L-158-90 §39, 8/2/90; S.L. No. 2L-211-91 §6, 10/12/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §38 as §39.

§5-106. Nominations for Pohnpei Legislature. — The nominating petitions for candidates for membership in the Pohnpei Legislature must be signed by the nominee and no less than 25 persons who, at the time the petition is filed, are registered to vote in the electoral district in which the candidate intends to run.

Source: S.L. No. 2L-158-90 §40, 8/2/90; S.L. No. 2L-211-91 §7, 10/12/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §39 as §40.

§5-107. Nominations for Federated States of Micronesia Congress. — Nominating petitions for seats in the FSM Congress shall be on forms prescribed by the Election Commissioner. The petition and procedure for said nominations shall conform to the requirements of 9 FSMC, including any amendments thereto.

Source: S.L. No. 2L-158-90 §41, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §40 as §41.

§5-108. Nominations for local government elective offices. — Nominating petitions for local government elective offices shall be on forms prescribed by the Election Commissioner. The petition and procedure for said nominations shall conform to the requirements of the laws of the local jurisdiction, if any. Unless the laws of the local jurisdiction require otherwise, the nominating petitions shall be signed by the nominee and no less than 15 persons who, at the time the petition is filed, are registered to vote in the local jurisdiction or subdivision thereof in which the nominee intends to run.

Source: S.L. No. 2L-158-90 §42, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §41 as §42.

§5-109. Nominations by political parties. — Political parties in the state may nominate candidates to elective office by submitting nominating petitions in the same manner as independent candidates.

Source: S.L. No. 2L-158-90 §43, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §42 as §43.

§5-110. Petitions to be sworn under oath. — Nominating petitions required pursuant to this title shall be sworn to or affirmed by the nominee before an officer or person authorized by law to administer oaths.

Source: S.L. No. 2L-158-90 §44, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §43 as §44.

§5-111. Time for filing petitions. — In general elections, nominating petitions for candidates to elective office shall be filed with the Election Commissioner no more than 100 days nor less than 45 days prior to the scheduled date of the election. The time to file nominating petitions for federal or local government offices shall be set by the federal or local government law respectively, if any.

Source: S.L. No. 2L-158-90 §45, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §44 as §45.

§5-112. Filing fees. — Nomination is free of charge pursuant to Article 6 §2 of the Pohnpei Constitution.

Source: S.L. No. 2L-158-90 §46, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §45 as §46.

§5-113. Recording receipt of nominating petitions. — The Election Commissioner shall, upon receipt of a nominating petition, record on the petition the day, hour, and minute that the petition was received. The Election Commissioner shall thereafter authenticate the recording thereof by affixing the Election Commissioner's seal to the petition.

Source: S.L. No. 2L-158-90 §47, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §46 as §47.

§5-114. Receiving petitions; placing candidates' names on the ballot. — The Election Commissioner shall be responsible for receiving and reviewing all nominating petitions. Upon verification of the qualifications of the candidate and the signatures on the petition, the Election Commissioner shall cause the candidate's name to be placed on the ballot in alphabetical order and in accordance with §§6-107 and 6-108. If the prospective candidate does not meet the qualifications of the office, or if the nomination documents are not complete or in order, the nomination shall be rejected, and the name of the candidate shall not be placed on the ballot. The prospective candidate may, however, refile the petition after making any corrections or changes.

Source: S.L. No. 2L-158-90 §48, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §47 as §48.

§5-115. Substitute candidates. —

(1) If a candidate dies, withdraws or is disqualified after the deadline for filing nominations, a substitute candidate may be nominated no later than ten days before the date of the election. The substitute candidate must be nominated following the same procedure as the candidate who died, withdrew or was disqualified.

(2) The appearance of the substitute candidate on the ballot shall be administered as provided in §6-111.

Source: S.L. No. 2L-158-90 §49, 8/2/90; S.L. No. 2L-211-91 §8, 10/12/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §48 as §49.

§5-116. Use of government facilities by candidates. — Candidates must obtain the approval of the Election Commissioner prior to using state government facilities for their campaigns; PROVIDED that where government facilities are made available to candidates for elective office anywhere in the state, equal opportunity for the use of such facilities shall be given to all candidates for such elective office.

Source: S.L. No. 2L-158-90 §50, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §49 as §50.

ELECTIONS

CHAPTER 6 ELECTIONS

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§6-101. General elections. —

(1) *State elections.* Elections for the offices of Governor, Lieutenant Governor, and members of the Pohnpei Legislature shall be held as prescribed by Article 6 §4 of the Pohnpei Constitution and this title; PROVIDED that in the event of a natural disaster or other acts of God, the effect of which precludes holding the election on the appointed date, the Governor may proclaim a later election in the affected election district or districts.

(2) *Federal and local elections.* Elections for FSM and local government offices shall be held in the manner prescribed by the laws of the respective jurisdictions.

Source: S.L. No. 2L-158-90 §51, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §50 as §51.

§6-102. General elections: when held. —

(1) *State elections.* General elections for the Governor, Lieutenant Governor, and the Legislature shall be held simultaneously every four years, on the second Tuesday in November; PROVIDED, that the election at polling places outside of the Federated States of Micronesia as designated by the Election Commissioner and situated east of the International Date Line and west of the Greenwich Meridian be held on the second Monday in November at such polling places.

(2) *Federal and local elections.* Elections for FSM and local government offices shall be held on the day prescribed by law of the respective jurisdiction.

Source: S.L. No. 2L-158-90 §52, 8/2/90; S.L. No. 2L-219-91 §2, 10/28/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §51 as §52.

§6-103. Runoff elections. —

(1) If no candidate for the office of the Governor or Lieutenant Governor receives a majority of votes cast, a runoff election shall be held between the two candidates receiving the greatest number of votes for the respective office in the general election.

(2) If two or more candidates receive an equal number of votes for an available seat in the Legislature, then a runoff election shall be held between or among them. An “available seat” is one not filled by a candidate receiving more votes and one that the candidate would have won except for the tie.

(3) Runoff elections shall be held 28 days after the date of the election; PROVIDED that the election at polling places outside of the Federated States of Micronesia as designated by the Election Commissioner and situated east of the International Date Line and west of the Greenwich Meridian be held 28 days after the actual date that the election was held at those polling places. In a runoff election, write-in ballots shall not be valid.

Source: S.L. No. 2L-158-90 §53, 8/2/90; S.L. No. 2L-211-91 §9, 10/12/91; S.L. No. 2L-219-91 §2, 10/28/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §52 as §53.

§6-104. Special elections: filling vacancies in the Pohnpei Legislature. —

(1) After determining that a vacancy in the Pohnpei Legislature exists, the Legislature or an authorized committee thereof, shall forward a notice of vacancy to the Governor and the chief executive of the local jurisdiction in which the vacancy occurred. Such determination by legislative committee shall be subject to appeal to the Legislature by any person showing good cause. Except as provided in Subsection (3) of this section, the Governor shall call a special election to fill the vacancy for the unexpired term. The special election under this subsection shall be held between 60 and 120 days after the Governor’s call for the special election. The exact date shall be set by the Governor.

(2) The nomination procedure shall be as provided in §§5-104 through 5-109 of this title; PROVIDED, HOWEVER, that the name of any candidate for such special election shall be printed on the official ballot only if a complete and correct nomination petition was filed at least 20 days prior to the date set for the special election.

(3) If a vacancy occurs within one year of the next general election, the notice described in Subsection (1) of this section shall be directed to the chief executive of the local jurisdiction in which the vacancy occurred. Said chief executive shall fill the vacancy by appointment, with the advice and consent of the local council.

(4) The term of office of a person who becomes a member of the Legislature through a special election or appointment commences at the time his or her credentials are accepted by the Legislature.

Source: S.L. No. 2L-158-90 §54, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §53 as §54.

§6-105. Special elections: filling vacancies in the offices of the Governor and Lieutenant Governor. —

(1) *Vacancy in the office of Governor.* After the Lieutenant Governor has determined that a vacancy in the office of the Governor exists, he shall accede to the office of Governor for the remainder of the unexpired term.

(2) *Vacancy in the office of Lieutenant Governor.* After the Governor has determined that a vacancy in the office of the Lieutenant Governor exists, the Governor shall call a special election to fill the vacancy for the unexpired term; PROVIDED, HOWEVER, that if the vacancy occurs within one year of the next general election, the Governor shall fill the vacancy by appointment, with the advice and consent of the Legislature. The term of office of a person who becomes Lieutenant Governor through special election or appointment commences upon taking the oath of office following certification of the election results or legislative action, whichever is applicable.

(3) *Concurrent vacancies in the offices of both Governor and Lieutenant Governor.*

(a) After the Speaker of the Legislature has determined that vacancies in the offices of both the Governor and Lieutenant Governor exist, he or she shall accede to the office of the Governor in an acting capacity until the vacancy in that office is filled pursuant to this title. The Speaker, as the acting Governor, shall call a special election to fill the vacancies in the offices of Governor and Lieutenant Governor for the unexpired terms; PROVIDED, HOWEVER, that if the vacancies occur within one year of the next general election, the Speaker shall accede to the office of Governor in a permanent status and fill the vacancy in the office of the Lieutenant Governor by appointment, with the advice and consent of the Legislature. The terms of office shall commence upon taking the oaths of office following certification of the election results or legislative action, whichever is applicable.

(b) Whenever the Speaker serves as acting Governor under this subsection, his duties as a legislator shall be suspended for the duration of his or her service as acting Governor. When the vacancies in the offices of the Governor and Lieutenant Governor shall have been filled pursuant to special election, the acting Governor shall resume the permanent responsibilities as Speaker of the Legislature.

(c) During the period that the Speaker serves as acting Governor, his seat as a member of the Legislature shall be filled by temporary appointment by the chief executive of the local government from whence the Speaker was elected, with the advice and consent of the local government council. Such temporary appointee shall continue to serve in the capacity of acting legislator until the duties of the Speaker as acting Governor cease and he or she returns to the seat in the Legislature.

(d) If the Speaker does not meet the qualifications for the office of the Governor, then the Vice-Speaker and, thereafter, the Parliamentarian of the Legislature having the necessary qualifications shall serve in lieu of the Speaker under this section. If none of these officers meet the qualifications for the office of Governor, then such member of the Legislature who has the necessary qualifications, selected by a majority vote of the entire membership of the Legislature, shall so serve.

(e) Any special election under this section shall be held between 60 and 120 days after the Governor's or acting Governor's call for the special election. The exact date shall be set by the Governor or acting Governor.

Source: S.L. No. 2L-158-90 §55, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §54 as §55.

§6-106. Special elections: filling vacancies in the Federated States of Micronesia and local elective offices. — The filling of vacancies in FSM and local elective offices shall be in accordance with the laws of the respective jurisdiction; PROVIDED that if there be no such law, vacancies shall be filled in the same manner as vacancies in the Pohnpei Legislature; PROVIDED FURTHER that interim and remaining term appointments to elective offices in the federal government shall be made by the Governor, with the advice and consent of the Legislature.

Source: S.L. No. 2L-158-90 §56, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §55 as §56.

§6-107. Official and specimen ballots: distribution. —

(1) All elections held in accordance with this title shall be held by official ballot only. An official ballot is a written or printed, or partly written and partly printed, paper, designated "official ballot" containing solely the names of persons to be voted for and the office to be filled, or the proposition or issue to be decided, and issued by the Election Commissioner.

(2) For each polling place, the Election Commissioner shall have printed exact copies of the official ballot that will be used at that polling place. These copies of the official ballot shall have the word "specimen" printed thereon in large bold letters and with ink of a color plainly contrasting to the color of the paper used. At least 35 days before the election, the Election Commissioner shall submit

copies of the specimen ballot to the members of the Board of Election and to the several candidates at their addresses as given on their nomination papers. The members of the Board shall post a copy of the same in a conspicuous place in their office or other public place within the election district where the ballot will be used. Two copies of each such specimen ballot shall also be forwarded to the members of the Board of Election along with the official ballots. The member or members of the Election Board shall post one specimen ballot on either side of every entrance to the voting place or such other places plainly in sight for the general public.

Source: S.L. No. 2L-158-90 §57, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §56 as §57.

§6-108. Contents of ballots. — In addition to other information required by this title, a ballot shall contain the names of the candidates and the offices they are seeking, the election district in which the ballot is being cast, and the term or terms of the respective offices on the ballot, and/or the official proposition or issue to be decided.

Source: S.L. No. 2L-158-90 §58, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §57 as §58.

§6-109. Printing and distributing ballots. — The ballots shall be printed by order of the Election Commissioner at a time determined by the Election Commissioner. The ballots shall be printed at the respective government's expense. There shall be delivered to each election district not less than ten percent (10%) more ballots than there are registered voters for the election for which the ballots are printed.

Source: S.L. No. 2L-158-90 §59, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §58 as §59.

§6-110. Withdrawal of candidates; notice; reprinting of ballots; costs. —

(1) Any candidate may withdraw before an election by giving notice in writing to the Election Commissioner or to any member or members of the Board of Election in the election district in which such candidate was running, whichever is more practical. If a candidate withdraws or dies after the printing of the ballots, the Election Commissioner shall cause the name of the deceased candidate or candidates so withdrawing to be stricken from the ballots and, in that regard, may require the assistance of the Election Board members of the election district in which the person was a candidate. The Election Commissioner shall send written notification of the withdrawal or death to the Election Board, and such notice shall be posted at the polling place before the opening of the polls on election day.

(2) If a candidate withdraws his or her name within 25 days before an election and the ballots are in the process of or have been printed, and if it becomes necessary in the opinion of the Election Commissioner for a reprinting of the ballots or a striking out of a candidate's name by a reprint block-out, then all expenses thereof (except in cases when the withdrawal is necessitated by death or medical cause and so certified by a physician) shall be charged against the withdrawing candidate and shall be paid to the Election Commissioner within 60 days after such withdrawal. In the event a candidate in a runoff election withdraws, or if a winning candidate withdraws prior to inauguration and a new election is required pursuant to §6-105 then (except for death or medical cause and so certified by a physician) the Election Commissioner may assess any or all expenses of the following election against the person withdrawing. Monies so received shall be deposited into the State Treasury as a local revenue general realization available for appropriation by the Pohnpei Legislature.

Source: S.L. No. 2L-158-90 §60, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §59 as §60.

§6-111. Substitute candidates; insertion of names on ballots and notice at polling places; new elections. —

(1) The Election Commissioner, in the case of any substitute candidate filling a vacancy caused by death, withdrawal or disqualification of a candidate, shall cause the name of any substitute candidate to be placed upon the proper ballots by reprinting, over-printing or through the use of stamps or such other means as he may deem satisfactory for the purpose and may require the assistance of members of the Election Board who may be in the election district in which such a person is a candidate. The Election Board shall post a notice at the polling place of the name and office sought by any such substitute candidate.

(2) In the case of death, withdrawal or disqualification of a candidate for Governor or Lieutenant Governor before a runoff election or before the Governor-elect's or Lieutenant Governor-elect's inauguration, a new general election shall be held in the same manner as the original general election within 45 days following declaration by the Election Commissioner that a vacancy in the candidacy or officer-elect exists.

Source: S.L. No. 2L-158-90 §61, 8/2/90; S.L. No. 2L-211-91 §10, 10/12/91

Note: 1. S.L. No. 2L-211-91 §11 superseding provision and §12 temporary provision have been omitted.
2. S.L. No. 2L-211-91 §5, 10/12/91 renumbered §60 as §61.

§6-112. Ballots to remain unopened until polls open. — When printed, the ballots shall be fastened together in blocks of 25 each, in such manner that each ballot may be detached and removed separately. They shall be forwarded by the Election Commissioner to the member or members of the Election Board in sealed packages, which shall not be opened until the opening of the polls. A record of the number of ballots sent to each Election Board member shall be kept by the Election Commissioner.

Source: S.L. No. 2L-158-90 §62, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §61 as §62.

§6-113. Absentee voter defined; absentee ballot. —

(1) Any registered voter qualified to vote at any general or special election shall be entitled and enabled to vote by absentee ballot if:

- (a) The voter is confined or hospitalized by reason of such illness or physical disability as will prevent him from attending the polls; or
- (b) He or she is unable to vote in person by reason of his or her absence from the island on which the voter's election district is located.

(2) An absentee ballot is an official ballot that is authorized by this title to be voted outside of any designated polling place or prior to the date of the election.

Source: S.L. No. 2L-158-90 §63, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §62 as §63.

§6-114. Registration application accompanying the absentee ballot. — A qualified voter may register to vote simultaneously with submitting his or her absentee ballot. The application for registration substantially in the form as provided by §4-107 shall be attached to the affidavit required by §6-117. If the application for registration is incomplete or otherwise invalid, or if the information on the application is found to be false, or if the applicant does not qualify as a voter, then the ballot shall be rejected and processed as provided in §§6-133 and 6-134. If the application for registration is rejected, it shall be returned to the applicant with a written explanation as to why it was not accepted.

Source: S.L. No. 2L-158-90 §64, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §63 as §64.

§6-115. Voting by confined persons. — Any registered voter qualified to vote at any general or special election who is physically present in the state but who is confined or hospitalized because of an

illness or physical disability as will prevent him or her from attending the polls, shall be entitled to vote in such manner as may be prescribed by rules and regulations which shall be promulgated by the Election Commissioner. Such rules and regulations shall provide for supervised voting by such persons in such manner as to insure secrecy of ballot and to preclude tampering with the ballots of such voters and other election fraud; PROVIDED that any voter who by reason of physical disability is unable to mark his or her ballot shall be authorized to receive assistance in the marking thereof. Such rules and regulations may require affidavits, certificates, and other written statements under oath.

Source: S.L. No. 2L-158-90 §65, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §64 as §65.

§6-116. Request for absentee ballot; contents. — Any registered voter qualified to vote in any general or special election who will be prevented from voting by reason of absence on the date of the election from the island on which the voter's election district is located may request and cast an absentee ballot with the Election Commissioner. The request for an absentee ballot shall be made to the Election Commissioner in writing not more than 60 days nor less than ten days prior to the date of the election. The request shall include any information that will facilitate the location of his or her election district and the establishment of his or her right to a ballot, and the address to which he or she wishes the ballot forwarded.

Source: S.L. No. 2L-158-90 §66, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §65 as §66.

§6-117. Marking and returning absentee ballots; voting at polls prohibited. —

(1) Commencing 30 days prior to the date of the election, the Election Commissioner shall send the following to any person who is entitled to vote by absentee ballot outside the state and who requests the same: an official ballot, a ballot envelope, an affidavit prescribed by the Election Commissioner, and a covering reply envelope. The absentee voter shall mark the ballot in the usual manner provided by law and in such manner that no person can see or know how the ballot is marked except as provided in §6-115. The absentee voter shall then deposit the ballot in the ballot envelope and securely seal the same. The absentee voter shall then complete and execute the affidavit. The ballot envelope and the affidavit shall then be enclosed and sealed in the covering reply envelope and shall be postmarked not later than midnight on the day before the election.

(2) It shall be unlawful for any person having voted an absentee ballot to cast a ballot at the polls on election day.

Source: S.L. No. 2L-158-90 §67, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §66 as §67.

§6-118. Disposition of absentee ballots. —

(1) Upon the receipt of the envelope marked "absentee ballot enclosed" within the period prescribed in §6-117, the Election Commissioner shall open it, remove the ballot envelope, and examine the affidavit as to its proper execution and content. If the Election Commissioner determines that the person is qualified to vote by absentee ballot, the ballot envelope shall be deposited unopened in a container retained for the purpose. The container shall be securely sealed except for an opening sufficient to permit deposit of ballot envelopes and shall be marked with the name and official title of the Election Commissioner and the words "This container holds absentee ballots and must be opened only pursuant to law." The Election Commissioner shall safely keep each container in his office until the day of election at which time he or she shall publicly open the container, extract and segregate the ballot envelopes and deliver such envelopes to the Counting and Tabulation Committee.

(2) If the affidavit is found to be insufficient; the signatures do not correspond; the voter has not complied with the requirements of §6-117; the person is not a duly qualified elector; or the ballot envelope is open or has been opened and resealed, then the ballot envelope shall not be opened and the Election Commissioner shall write or stamp across its face "rejected," giving the reason therefor, and

shall preserve then destroy the same in the manner provided by regulations promulgated by the Election Commissioner.

(3) If the ballot is received after the time fixed in §6-117, the ballot envelope shall be endorsed by the Election Commissioner with the day and hour of receipt and it shall be safely kept unopened by the Election Commissioner for the period of time required for the preservation of ballots used at such election and shall then, without being opened, be destroyed in accordance with applicable law or regulation of the Election Commissioner.

(4) If upon receiving the ballot envelope from the Election Commissioner it is found that the voter has already voted, the election inspectors shall immediately cancel the ballot envelope and write or stamp "rejected" across its face, giving the reason therefor, and shall preserve then destroy the same in the manner provided by regulations promulgated by the Election Commissioner.

Source: S.L. No. 2L-158-90 §68, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §67 as §68.

§6-119. Secret ballot. — All elections governed by this title shall be by secret ballot.

Source: S.L. No. 2L-158-90 §69, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §68 as §69.

§6-120. Polling places. — The Election Commissioner shall designate such polling places within each election district at such locations as the Election Commissioner deems appropriate and convenient for the voting public; PROVIDED that within each local jurisdiction there shall be at least one polling place.

Source: S.L. No. 2L-158-90 §70, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §69 as §70.

§6-121. Polling places to be supervised. — The Election Commissioner shall ensure that polling places are supervised by the Election Board and such other officials as the Election Commissioner shall deem necessary, who must be present at the designated polling places during the election. Public schools and other public places shall be utilized insofar as practicable as polling places. Rent shall not be charged or paid for the use of such public schools or other public places.

Source: S.L. No. 2L-158-90 §71, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §70 as §71.

§6-122. Polling places to be properly equipped and supplied. — Each polling place shall be provided with necessary ballot boxes, locks, official ballots, cards of instructions, pencils, registered voters lists, papers, and all other necessary supplies.

Source: S.L. No. 2L-158-90 §72, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §71 as §72.

§6-123. Proclamation on opening of polls. — At exactly 7:00 a.m. of the day of the election, a member of the Election Board shall proclaim aloud or by other means of attention or communication at each place of election that the polls are open, and shall be kept open until 7:00 p.m. of the same day, after which time the polls shall be closed; PROVIDED that such polling places designated by the Election Commissioner outside of the Federated States of Micronesia shall be open at exactly 7:00 a.m. of the election day and shall remain open until 8:00 p.m. of the same day; PROVIDED FURTHER that the time of 7:00 a.m. will be determined by the location of the polling places; PROVIDED FURTHER that if at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote; PROVIDED FURTHER that if all registered voters appearing on a registered voters' list for any polling place have voted, the polling place may close irrespective of the time of day.

Source: S.L. No. 2L-158-90 §73, 8/2/90; S.L. No. 2L-219-91 §1, 10/28/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §72 as §73.

§6-124. Voting at proper polling place only. —

(1) Except as provided in Subsection (2) of this section, registered voters may vote only at the polling place or places designated by the Election Commissioner within the election district for his or her legal residence.

(2) The Election Commissioner may permit voters to vote at a polling place other than within the voter's election district upon promulgating regulations setting forth the procedures, conditions, and other requirements therefor.

Source: S.L. No. 2L-158-90 §74, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §73 as §74.

§6-125. Reporting of name of voter; register to be checked. — Any person appearing in the polling place shall report his or her name, in full, and his or her address and registration number if voting by registration card to the election officials. An election official shall clearly and audibly announce them. Another election official shall then check the register of voters and registration number lists as to whether or not the person appearing is a registered voter, and if so shall announce the name and address appearing in the register or registration number and note the same on the register list. At this point a challenge may be interposed on the grounds that the ballot is subject to challenge under law or rules or regulations issued by the Election Commissioner. Voting shall then proceed in accordance with procedures prescribed by the Election Commissioner, however, all voting shall be by secret ballot.

Source: S.L. No. 2L-158-90 §75, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §74 as §75.

§6-126. Alcoholic beverage sale prohibited. — No alcoholic beverages shall be sold or otherwise provided to any person in the state or respective local jurisdiction during election day while the polls are open, unless the polls are open in a local jurisdiction only to receive absentee ballots. No candidate shall be allowed within 100 feet of any ballot box except for the purpose of casting his or her ballot.

Source: S.L. No. 2L-158-90 §76, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §75 as §76.

§6-127. Poll watchers allowed. — Each candidate shall be entitled to have not more than two poll watchers at each polling place.

Source: S.L. No. 2L-158-90 §77, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §76 as §77.

§6-128. Election irregularity; complaint; procedure. —

(1) Any person may file an oral or written complaint of any election irregularity with a member of the Election Board present at the polling place. The Board member shall give an individual against whom the complaint is made time to present witnesses and explanation, if any, but in no event shall such time be granted so as to prevent the Election Board from making a decision prior to the time for the closing of the polls.

(2) The complainant or the individual against whom the complaint is made may appeal the decision to the Election Commissioner. The Election Commissioner shall, as soon as possible, examine the finding of the Election Board and may hear witnesses, if the Election Commissioner deems necessary. The Election Commissioner shall exercise every reasonable effort to make the decision prior to the time of the closing of the polls. The aggrieved party may appeal the decision in accordance with §7-105.

(3) In the event the decision of the Election Commissioner cannot be obtained as heretofore provided, the aggrieved party may appeal the decision of the Election Board by filing a petition with the Election Commissioner prior to certification of the results of the election or within one week of the election, whichever occurs first. The decision shall be made and appealed in accordance with §§7-103 through 7-106.

Source: S.L. No. 2L-158-90 §78, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §77 as §78.

§6-129. Disposition of ballot boxes after voting complete. — After all voting is completed, all ballot boxes shall be secured and locked. The locked boxes and all other supplies provided to the polling places by the Election Commissioner shall be collected by election officials and delivered to the Election Commissioner or his duly authorized representative by the safest and most expeditious means available and be certified to the Election Commissioner that the ballots so delivered were cast in accordance with this title.

Source: S.L. No. 2L-158-90 §79, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §78 as §79.

§6-130. Counting of ballots; announcement of unofficial results. — The Election Commissioner shall establish a Counting and Tabulation Committee composed of not less than five nor more than 20 members. The said Committee shall publicly count and tally all votes cast and determine the acceptability thereof. Such counting of ballots cast in any election district shall begin after all the voting places in such election district are closed and shall continue until all votes cast shall have been counted. Counting shall be done at the local government office buildings and results communicated as appropriate to the Election Commissioner. Each candidate or his authorized representative shall be entitled to be present at the tabulation of the votes. Upon the completion of the counting and tabulation of all votes cast in the election district, public announcement of the unofficial results shall be made.

Source: S.L. No. 2L-158-90 §80, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §79 as §80.

§6-131. Spoiled ballots. —

(1) Two or more markings in one voting square or a mark made partly within or partly without a voting square or space shall not render a ballot void. A ballot shall not be rejected for any technical error that does not render it impossible to determine the voter's choice, even though the ballot is soiled or partially defaced.

(2) If for any reason a ballot is imperfectly marked or if it is impossible to determine the voter's choice for any office or issue, that ballot shall not be counted for that office or issue, but the rest of the ballot, if properly marked, shall be counted.

(3) The Election Commissioner may adopt such other regulations concerning the validity or invalidity of ballots for imperfections, marks or condition of the ballots.

Source: S.L. No. 2L-158-90 §81, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §80 as §81.

§6-132. Write-in votes. — Except in runoff elections, any name written upon a ballot shall be counted as a vote for the person whose name is so written for the office under which it is written.

Source: S.L. No. 2L-158-90 §82, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §81 as §82.

§6-133. Rejected ballots. — All ballots which have been declared invalid due to defacement or other irregularity shall be sorted and a notation placed upon them indicating that they are rejected ballots. Upon completion of the counting of the ballots, the rejected ballots shall be placed in the ballot box and returned by the Counting and Tabulating Committee to the Election Commissioner with the valid ballots.

Source: S.L. No. 2L-158-90 §83, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §82 as §83.

§6-134. Disposition of ballots. — All valid and rejected ballots shall be retained for 30 days after the appeal period for recounts and other challenges to the election has passed. Otherwise, the rejected

ballots shall be preserved then destroyed in the manner provided by regulations promulgated by the Election Commissioner.

Source: S.L. No. 2L-158-90 §84, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §83 as §84.

§6-135. Certification of election results. — Upon completion of the counting and tabulation of election results, the Election Commissioner shall certify the results and submit the results as certified to the Governor. The Governor shall declare the winning candidates and/or the disposition of other matters voted upon.

Source: S.L. No. 2L-158-90 §85, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §84 as §85.

§6-136. Tied election; resolution of tie. — Except as otherwise provided in this title or by other law, if, after all votes have been tabulated and certified by the Election Commissioner, two or more candidates received an equal number of votes, such tie shall be resolved by a runoff election. If another tie occurs in the runoff election, such tie shall be resolved by the Election Commissioner by lot drawn in the presence of the tied candidates or their designated representatives.

Source: S.L. No. 2L-158-90 §86, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §85 as §86.

CHAPTER 7 RECOUNTS AND APPEALS

Section

7-101	Petition for recount: filing; contents	7-105	Denial of petition; appeal to Pohnpei Supreme Court
7-102	Recommendation by Board of Election	7-106	Standard for review
7-103	Time allowed to make a decision	7-107	Recount by Counting and Tabulating Committee; procedure; results
7-104	Decision of the Election Commissioner		

§7-101. Petition for recount: filing; contents. —

(1) A petition for recount may be filed by any candidate in an election who believes that there was fraud or error committed in the casting, canvassing or return of the votes cast at said election or under the circumstances set out in §6-128(1). The petition shall be filed with the Election Commissioner.

(2) Such petition shall contain a statement sworn to before a notary public or other person authorized to administer oaths that the petitioner has reason to believe and does believe that the records or copies of records made by the Board of Election are fraudulent or erroneous, specifying wherein he or she deems such records or copies thereof to be in error or fraudulent, or that votes were cast by persons not entitled to vote therein, and that he or she believes that a recount of the ballots cast will affect the election of one or more candidates voted for at such election.

(3) The petition for a recount must be filed within one week of certification of the results of the election.

(4) A review for a recount may also be instituted on the Election Commissioner's own initiative. The scope of such review shall be the same as provided in Subsection (2) of this section.

Source: S.L. No. 2L-158-90 §87, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §86 as §87.

§7-102. Recommendation by Board of Election. — The Election Commissioner may request the review and recommendation of the Board of Election as to whether the recount should take place. The recommendation shall be submitted within three days after the Election Commissioner submits his or her request to the Board.

Source: S.L. No. 2L-158-90 §88, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §87 as §88.

§7-103. Time allowed to make a decision. — The Election Commissioner shall decide on all petitions for recounts and those submitted pursuant to §6-128 within ten days after receiving the petition, or within ten days after the Election Commissioner has initiated a review on his or her own initiative.

Source: S.L. No. 2L-158-90 §89, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §88 as §89.

§7-104. Decision of the Election Commissioner. —

(1) A petition for a recount must be granted if the difference between the number of votes cast for the winning candidate and the next highest candidate is one-half of one percent (0.5%) or less of the total votes cast for all of the candidates running for the same office.

(2) A petition for a recount must also be granted if the Election Commissioner determines that there is a substantial question of fraud or error and that there is a strong possibility that the outcome of the election would be affected by a recount.

Source: S.L. No. 2L-158-90 §90, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §89 as §90.

§7-105. Denial of petition; appeal to Pohnpei Supreme Court. —

(1) If the Election Commissioner decides not to approve the petition and grant the recount, he or she shall record the reasons for such decision. The aggrieved candidate may, within five days after receipt of the decision of the Election Commissioner, appeal the case to the Trial Division of the Pohnpei Supreme Court. Said court shall review the appeal promptly and render a decision. If the decision is in favor of a recount, the Election Commissioner shall be so notified and shall proceed as provided in §7-107.

(2) Appeals may be had in the manner prescribed in Subsection (1) of this section from any decision of the Election Commissioner concerning a ruling of an Election Board with respect to a challenge affecting the acceptability of a vote or votes. A petition hereunder for appeal shall contain the information specified in §7-101 for a petition for a recount. A decision of the Pohnpei Supreme Court in favor of the petitioner may have the effect of disallowing the challenged votes but shall not halt or delay balloting or counting and tabulating.

Source: S.L. No. 2L-158-90 §91, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §90 as §91.

§7-106. Standard for review. — The decision of the Election Commissioner shall be upheld by the court unless there is clear and convincing evidence that the Election Commissioner's decision was:

(1) Arbitrary, capricious, an abuse of discretion or contrary to law;

(2) In excess of statutory jurisdiction, authority or limitations, or amounts to a denial of rights protected by law; or

(3) Not in compliance with the procedures required by law, and that such noncompliance will have a significant impact on the election results.

Source: S.L. No. 2L-158-90 §92, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §91 as §92.

§7-107. Recount by Counting and Tabulating Committee; procedure; results. — The recount shall be held by the Counting and Tabulating Committee within ten days after the decision of the Election Commissioner and shall be public. The Counting and Tabulating Committee shall prepare certificates under oath describing the result of the recount and identifying the candidate elected. Copies of the certificates shall be filed with the Governor, the Election Commissioner, the Board of Election, and the person filing the petition for recount. The person receiving the greatest number of votes shall be deemed to have been elected, but if two or more candidates shall receive an equal number of votes for the office, the tie vote shall be resolved in accordance with the applicable provisions of §§6-103 and 6-136.

Source: S.L. No. 2L-158-90 §93, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §92 as §93.

Extended legislative history: PDC §1-105(c) was amended by D.L. No. 2L-234-71 §1, 11/23/71; PDC §1-110 was amended by D.L. No. 3L-58-73 §9, 5/29/73; D.L. No. 4L-206-79 §11-3(1), 9/5/79 repealed D.L. No. 4L-186-79; PDC §§1-300(b) and (c) were amended by D.L. No. 4L-206-79 §11-3(2), 9/5/79 and S.L. No. 2L-158-90 §6(1), 8/2/90; PDC §§1-100 to 1-111 were repealed by D.L. No. 4L-206-79 §11-3(3), 9/5/79 and were again repealed by S.L. No. 2L-158-90 §6(2), 8/2/90; D.L. No. 4L-206-79 §1-3(2) was amended by S.L. No. 1L-9-79 §1, 9/5/79; D.L. No. 4L-206-79 §1-7 was amended by S.L. No. 3L-46-84 §1, 10/9/84; D.L. No. 4L-206-79 §5-1 was amended by S.L. No. 1L-71-86 §4-14, 4/1/86; D.L. No. 4L-206-79 §6-5 was amended by S.L. No. 2L-165-83 §1, 2/11/83. D.L. No. 4L-206-79 §6-7 was amended by S.L. No. 2L-165-83 §2, 2/11/83; D.L. No. 4L-206-79 §6-8 was amended by S.L. No. 2L-30-80 §1, 9/30/80; D.L. No. 4L-206-79 §6-9 was amended by S.L. No. 2L-165-83 §3, 2/11/83; D.L. No. 4L-206-79 §9-10 was amended by S.L. No. 3L-20-84 §1, 7/25/84; D.L. No. 4L-206-79 was repealed in its entirety by S.L. No. 2L-158-90 §6(3), 8/2/90; S.L. No. 2L-158-90, 8/2/90 provided a new election law. S.L. No. 2L-158-90 §3 was amended by S.L. No. 2L-211-91 §1, 10/12/91; S.L. No. 2L-158-90 §14 was amended by S.L. No. 2L-211-91 §2, 10/12/91; S.L. No. 2L-158-90 §18 was amended by S.L. No. 2L-211-91 §3, 10/12/91; S.L. No. 2L-158-90 §36 was amended by S.L. No. 2L-211-91 §4, 10/12/91; S.L. No. 2L-158-90 was amended by adding a new §37 in S.L. No. 2L-211-91 §5, 10/12/91; S.L. No. 2L-158-90 §37 was amended by 3L-60-94 §1, 2/17/94; S.L. No. 2L-158-90 §38 was amended by S.L. No. 2L-211-91 §6, 10/12/91; S.L. No. 2L-158-90 §39 was amended by S.L. No. 2L-211-91 §7, 10/12/91; S.L. No. 2L-158-90 §48 was amended by S.L. No. 2L-211-91 §8, 10/12/91; S.L.

No. 2L-158-90 §51, renumbered as §52 by S.L. No. 2L-211-91, was amended by S.L. No. 2L-219-91 §2, 10/28/91; S.L. No. 2L-158-90 §52, renumbered as §53 by S.L. No. 2L-211-91, was amended by S.L. No. 2L-211-91 §9, 10/12/91, and further amended by S.L. No. 2L-219-91 §2, 10/28/91; S.L. No. 2L-158-90 §60 was amended by S.L. No. 2L-211-91 §10, 10/12/91; S.L. No. 2L-158-90 §72, renumbered as §73 by S.L. No. 2L-211-91, was amended by S.L. No. 2L-219-91 §1, 10/28/91.

ELECTIONS

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TITLE 11

PUBLIC FINANCE AND

PROCUREMENT

TITLE 11 PUBLIC FINANCE AND PROCUREMENT

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CHAPTER 1 BUDGET

Section

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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Budget Act of 1981.”
Source: S.L. No. 2L-87-81 §1, 10/22/81

§1-102. Budget Division. — There shall be in the Office of the Governor a Division of Budget that shall be headed by a Program and Budget Officer under the direct supervision of the Governor.
Source: S.L. No. 2L-87-81 §2, 10/22/81; S.L. No. 5L-14-00 §3-57, 10/1/00

§1-103. Division responsibilities. — It shall be the general power and responsibility of the Budget Division to prepare for the approval of the Governor and presentation to the Legislature a complete financial plan for the Pohnpei Government for the next two fiscal years. In this respect, the Division shall have the authority:

(1) To prepare and report to the Legislature, through the office of the Governor, any information, financial data or statistics that may be required, such as monthly or quarterly estimates of the state’s income, cost figures, and information on the current operations of the executive branch of the state government, or any part thereof; and

(2) To receive, when requested, any information, financial data or statistics relative to the judiciary and legislative branches when needed to compile information relative to the complete financial plan called for by this section.

Source: S.L. No. 2L-87-81 §3, 10/22/81

§1-104. Division formulation of budget; division hearings. —

(1) The Program and Budget Officer, upon approval of the Governor, shall prescribe forms, adhering to the budget forms adopted by the state and national leaders, rules and procedures for the formulation by executive branch entities, agencies, and independent bodies of budget information and financial plans, prescribing deadlines for submission to the Division of Budget.

(2) The legislative and judiciary branches shall utilize budget forms prescribed by the Program and Budget Officer, if requested by the Governor to provide the Division of Budget with information relative thereto.

(3) Upon receipt of such material and compilation thereof, the Governor, through the Division of Budget, shall conduct budget hearings with the heads of executive departments and divisions, agencies, and independent bodies relative to their requests. All such budget hearings conducted by the Governor shall be open to the public, except in matters of confidentiality. The Governor may require the attendance of any executive branch officer or employee, agency and independent body officer or employee and question him in matters relative to the budget. At such hearings any officer, employee or representative entity may protest budget items.

Source: S.L. No. 2L-87-81 §4, 10/22/81

§1-105. Other governmental entities. — Agencies, bureaus, commissions, independent boards, officers of the legislative branch, judiciary branch, and any other entity receiving public funds shall, at the request of the Governor, submit to him for his information in preparing the state budget, the budgets which they propose to submit to the Legislature. When requested, the above entities shall use standard budget forms as prescribed in §1-104.

Source: S.L. No. 2L-87-81 §5, 10/22/81

§1-106. Printing and availability of budget. — The Governor shall cause the budget, prepared pursuant to §1-104, to be printed or otherwise reproduced, and shall make copies of the budget available at reasonable cost to the general public simultaneous with its presentation to the Legislature.

Source: S.L. No. 2L-87-81 §6, 10/22/81

§1-107. Components of the Pohnpei Budget. — The Pohnpei Budget as formulated and presented shall be divided into three parts as follows:

(1) Part I shall consist of a budget message by the Governor that shall outline the financial policy of the executive branch of the state for the next two fiscal years, describing in connection therewith the important features of the financial plan, giving emphasis to major budget changes and revenue sources. The message shall also include a summary statement of all anticipated revenues and grant funds, from whatever source, for the next two years and a balanced relation between such state income and proposed expenditures over the next two fiscal years. This summary shall be contrasted with the corresponding figures for the last completed fiscal year and the year in progress. In the message or in an appendix thereto the Governor shall set forth in detail:

(a) The financial condition of the state government at the beginning and end of the fiscal year last completed;

(b) The financial condition of the state government at the beginning of the current fiscal year and condition anticipated at the end of the current fiscal year;

(c) The anticipated financial condition of the state government at the beginning and end of the next two fiscal years;

- (d) The bonded indebtedness, debts authorized, debts redeemed, interest requirements, and condition of sinking funds;
- (e) Any other information necessary to make known, in practicable detail, the financial operation of the state government;
- (f) If anticipated revenues and grant funds are lesser than the total of all expenditures and obligations recommended or incurred in any fiscal year, recommendations as to how the deficit shall be met; and
- (g) If anticipated revenues and grant funds are greater than the total of all expenditures and obligations recommended or incurred in any fiscal year, recommendations as to how the surplus could be most effectively utilized. The general budget summary shall also be supported by explanatory schedules or statements, classifying the expenditures contained therein by organizational units, objects, funds, and grants, and the income by organization units, sources, funds, and grants.

(2) Part II shall include the detailed budget estimates of both expenditures, obligations, revenues, reimbursements, and grant receipts for the next two fiscal years. It shall also include statements of bonded indebtedness of the state government, showing the debt redemption requirements, the debt authorized and unissued, and the condition of the sinking funds. Detailed charts, outlines, and other descriptive material shall be included to support and specifically explain the financial plan set forth in Part I of the budget.

(3) Part III shall include all authorization and appropriation legislation required by law for the authorization of the use of grant funds for the next two fiscal years and the authorization and appropriation of state revenues and other receipts for the next fiscal year. Recommended bills of authorization shall set forth in specifics the source of funding and the administration and reporting of the use of monies authorized thereunder. If the sources of such monies are state revenues or other state generated receipts, requiring state appropriation, the recommended bills of authorization shall further provide, where appropriate, for the reversion of the unobligated or unexpended balances of appropriated monies. Indebtedness may only be incurred as specifically authorized by state law.

Source: S.L. No. 2L-87-81 §7, 10/22/81

§1-108. Time of presentation. — Presentation of the budget prescribed by §1-107 shall be made to the Legislature by the Governor no later than January 15 of the preceding fiscal year; PROVIDED that an extension of not more than 30 days may be granted if requested by the Governor and approved by the Legislature prior to the deadline.

Source: S.L. No. 2L-87-81 §8, 10/22/81; S.L. No. 5L-90-03 §1, 1/28/03; S.L. No. 6L-23-04 §1, 12/8/04; S.L. No. 6L-58-05 §1, 12/15/05; S.L. No. 6L-89-07 §1, 1/12/07

§1-109. Budget Transmission Act. — Following submission of the budget by the Governor, pursuant to §1-108, the Legislature shall review the budget submission and shall enact a Budget Transmission Act, which shall contain such summary budgetary authorizations as are found necessary by the Legislature to fulfill the requirements of the Compact of Free Association, inclusive of any amendments thereto and relevant subsidiary agreements. No budget documents may be transmitted in the name of the Government of Pohnpei to the FSM National Government, the U.S. Federal Government or any committee or other recipient for which budgetary submissions are required by said Compact or subsidiary agreements except as authorized by the Budget Transmission Act enacted for the respective fiscal year for which such budgetary documents are being transmitted.

Source: S.L. No. 2L-87-81 §8A, 10/22/81

Note: §8A was inserted by S.L. No. 5L-90-03 §2, 1/28/03.

§1-110. Legislature authorizations and appropriations. — Unless otherwise provided by state constitutional law, no authorizations of expenditures or appropriation bills, except those recommended

by the Governor for immediate passage, may be enacted until the bill appropriating money for the budget for the next fiscal year is enacted. The Comprehensive Budget Act and any additional authorizations of expenditures and appropriations shall be consistent with the terms and conditions of the Budget Transmission Act for the respective fiscal year for which such Comprehensive Budget Act and additional authorizations and appropriations are enacted.

Source: S.L. No. 2L-87-81 §9, 10/22/81; S.L. No. 5L-90-03 §3, 1/28/03

§1-111. Governor to submit details to successor. —

(1) The Governor shall submit to his successor in office:

(a) A detailed record of all expenditures made in the current and preceding fiscal years of all expenditures and obligations incurred by the state government from all revenues, grants, receipts, and other financial sources available to the state government;

(b) A record of fund and grant balances, applications made for grants and income to each fund in the State Treasury from or during the preceding and current fiscal year; and

(c) A statement of the bonded debt and of the obligations and assets of the state as of the close of the preceding fiscal year and as determined for the time of departure from office.

(2) The records and statements required by Subsection (1) of this section shall be submitted in such form as to permit the entry of the items in the Pohnpei Budget.

Source: S.L. No. 2L-87-81 §10, 10/22/81

CHAPTER 2 DEPARTMENT OF TREASURY AND ADMINISTRATION

Section

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§2-101. Short title. — This chapter is known and may be cited as the “Financial Organization and Management Act of 1987.”

Source: S.L. No. 1L-203-87 §1, 11/19/87

§2-102. Establishment of department; definitions. — The Department of Treasury and Administration shall be headed by the Director of the Department of Treasury and Administration who shall act under the direct supervision of the Governor and in accordance with this chapter and any amendments thereto. As used herein, “Department” shall mean the Department of Treasury and Administration, “Director” shall mean the Director of the Department of Treasury and Administration, and “Pohnpei Treasury” shall mean the treasury established by §§2-105 through 2-109.

Source: S.L. No. 1L-203-87 §2, 11/19/87

Note: Historical language has been omitted.

§2-103. Duties and responsibilities of the Director. —

(1) It is the duty of the Director to support, enhance, protect, and promote the public credit of Pohnpei. This responsibility includes: the collection and management of all revenues and other monies due the state of Pohnpei; the proper accounting and administration of all other monies and tangible personal property acquired or received by Pohnpei; the control and management of the disbursement and expenditure of the monies of Pohnpei when duly and properly authorized by Legislative appropriations or by other applicable law; the submission to the Governor and Legislature of quarterly summaries of deposits and expenditures of the monies of Pohnpei; the preparation of fiscal and other reports reflecting the performance of these duties and responsibilities or as may be required by law; and the performance of all other services concerning Pohnpei’s finances as may be directed from time to time. The Director may delegate these duties and responsibilities to the divisions of the Department of Treasury and Administration, or to others as is permitted by law.

(2) The Director shall be the accountant for all funds of the Pohnpei Treasury. The Director or the Director’s designee shall record and certify every receipt and disbursement of all monies paid to, by or through the Pohnpei Treasury. The Director may have any governmental account audited. The Director shall have full and complete supervision of all funds within the Pohnpei Treasury, including the power to withhold approval of a disbursement when necessary to prevent misappropriation of public funds as well as when a disbursement request exceeds specific appropriations or cash availability.

(3) The Director shall keep a complete set of double entry books in which any activity involving government accounts, the amounts appropriated by the Legislature, other amounts entrusted to the Director for management and all daily financial business transactions shall be recorded in detail. The Director shall also keep ledgers for the methodical and systematic accounting of all funds, appropriations, and other amounts entrusted to the Director's management, all assets and liabilities, the income and expenditure of all funds, and all grants of the Pohnpei Government. The Director is hereby authorized to use the automatic data processing system. All financial information stated in this subsection may be maintained therein. The Director shall further keep such record books and all such other auxiliary books and documents as the Director may deem necessary for the proper administration of the Department. The Director shall employ accepted accounting principles regarding all transactions stated herein.

Source: S.L. No. 1L-203-87 §3, 11/19/87

Note: S.L. No. 1L-203-87 §4 transition provision has been omitted.

§2-104. Commissioner of the Division of Revenue and Taxation as collection agent. — The Commissioner of the Division of Revenue and Taxation, otherwise known as the Division Chief, shall be the chief collection agent for the Pohnpei Government. The Commissioner and the Director, in their respective capacities, shall have the following duties, powers and responsibilities:

(1) The Commissioner shall administer and execute all Pohnpei State tax laws. He shall conduct investigations, maintain necessary records, verify accuracy and veracity of returns, provide public education on the taxes of Pohnpei, and prescribe the form of tax returns. All tax money collected shall be deposited as soon as practicable in the General Fund of Pohnpei unless otherwise provided by law. The Director shall assume all the duties, responsibilities, and powers ascribed to the Chief of Finance in S.L. No. 2L-86-81, as amended, and in regulations issued and approved pursuant thereto. Unless otherwise provided by law, the Commissioner shall also serve as Pohnpei's collector and fiscal agent for all other fees, licenses, payments, and monies due. For efficiency, the Director may contract, with approval of the Governor, with the national government to assume, delegate or otherwise coordinate the ministerial duties of collecting state government and national government taxes and fees.

(2) The Director and the Commissioner are authorized to undertake such collection and enforcement procedures for the collection of state taxes as are prescribed in the Comprehensive Taxation Reform Act, Title 12, as amended or superseded by state law.

(3) The books and records of the Commissioner or the Division obtained or prepared pursuant to this section shall be available for inspection and audit by the Public Auditor, the Governor, and the Legislature.

Source: S.L. No. 1L-203-87 §5, 11/19/87; S.L. No. 4L-35-97 §16-10, 5/10/97

Note: S.L. No. 2L-86-81, the Financial Management Act of 1981, was superseded in its entirety by S.L. No. 1L-203-87, the Financial Organization and Management Act of 1987.

§2-105. Pohnpei Treasury: established. — There is hereby established for the Pohnpei Government, the Pohnpei Treasury that shall be comprised of all monies attributable to or managed by the Pohnpei Government.

Source: S.L. No. 1L-203-87 §6(1), 11/19/87; S.L. No. 2L-80-88 §1, 12/15/88

§2-106. Pohnpei Treasury: funds. — As used in this chapter, unless the context clearly indicates otherwise, “fund” shall mean an independent fiscal accounting entity with a self-balancing set of accounts recording cash and other resources together with all related liabilities, obligations, reserves, and equities. Unless otherwise provided by law, all revenues and other receipts together with all related liabilities and obligations shall be managed through one of the following funds or such other funds as the Director shall establish by regulations adopted or amended pursuant to §2-114:

(1) *General fund.* The general fund is hereby established to account for all monies received by or entrusted to the care, custody or management of the Pohnpei Government except those that are required to be accounted for in another fund.

(2) *Special revenue funds.* Special revenue funds are hereby established to account for proceeds from specific revenue sources designated by law and restricted to expenditures for specified purposes.

(3) *Capital project funds.* Capital project funds are hereby established to account for monies to be used for the acquisition or construction of capital improvements as specified by Pohnpei law.

(4) *Debt service funds.* Debt service funds are hereby established to account for the management of general long-term debts.

(5) *Internal service funds.* Internal service funds are hereby established to account for intergovernmental agency transactions involving payment or reimbursement from one agency to another for goods or services received.

(6) *Enterprise funds.* Enterprise funds are hereby established to account for government-assisted or monitored businesses which:

(a) Operate in a manner similar to private enterprise to provide goods and services to the public on a continuing basis and are financed primarily through user or consumer charges; and

(b) Where the revenue earned is used for capital improvement and maintenance, operational expenses, and for other purposes related to the business.

(7) *Trust and agency funds.* Trust and agency funds are hereby established to account for assets held by the government as trustee and shall include expendable trust funds, nonexpendable trust funds, pension trust funds, and agency trust funds.

(8) *Fixed assets fund.* The fixed assets fund is hereby established to account for the Pohnpei Government fixed asset accounts including depreciation, appreciation, and other related matters.

(9) *Local government fund.* The local government fund is hereby established to account for all financial resources earmarked for the local governments under the revenue sharing arrangement required by Article 11 §3 of the Pohnpei Constitution and the laws of Pohnpei.

Source: S.L. No. 1L-203-87 §6(2), 11/19/87; S.L. No. 2L-80-88 §1, 12/15/88

§2-107. Pohnpei Treasury: custody and administration. — The Pohnpei Treasury shall be under the custody and administration of the Director who shall:

(1) Provide for deposits therein and management thereof;

(2) Provide for the establishment and maintenance of records to account for such funds; and

(3) Whenever appropriate, provide for the deposit of public monies in the following interest, dividend or revenue yielding accounts or investment plans; PROVIDED that for purposes of this subsection the term “deposit” shall mean any placement of public monies into an account for safekeeping or as an investment, including, but not limited to, checking accounts, savings accounts, trust accounts, and other accounts or purchases of security instruments primarily as an investment and shall not include deposits and investments undertaken pursuant to an appropriation law:

(a) *United States of America financial institutions.* When public funds are deposited into United States banks or savings and loan associations they must be insured by the FDIC or FSLIC.

(b) *Bonds*. When public funds are invested in bonds, they shall be rated A or better by Moody's Inc. or Standard and Poors.

(c) *Domestic financial institutions*. Public funds may be deposited or invested in any domestic bank formally established pursuant to the applicable laws of the Federated States of Micronesia and must be insured by the FDIC or FSLIC including, but not limited to, deposits into any of its accounts and the purchase of equity interests in such bank.

(d) *Other financial institutions*. When public funds are invested in other financial institutions or commercial enterprises they must have assets greater than US\$500,000,000 or its equivalent or be part of a safe and prudent investment plan of the state developed and managed by the Department of Treasury and Administration with the assistance of competent investment advisors and managers selected by the Director and approved by the Governor; PROVIDED that such investment advisors and managers must be registered with the United States Securities and Exchange Commission in accordance with the United States Investment Advisor Act of 1970, have been in business as an investment advisor actively managing securities portfolios for nine full years or two complete market cycles, have assets under management of no less than US\$750,000,000 and be required to report to the state, in writing, at least quarterly; PROVIDED FURTHER that the investment plan of the state shall follow written policy guidelines that set forth the conditions and limits of each type of investment to achieve a reasonable balance between safety and a high rate of return and that these guidelines shall be established by the Department and implemented with the approval of the Governor and Legislature.

Source: S.L. No. 1L-203-87 §6(3), 11/19/87; S.L. No. 2L-80-88 §1, 12/15/88

§2-108. Pohnpei Treasury: accrual of accounts income. — The income of the accounts shall accrue to the benefit of the general fund of the Pohnpei Treasury, unless otherwise provided by law.

Source: S.L. No. 1L-203-87 §6(4), 11/19/87; S.L. No. 2L-80-88 §1, 12/15/88

§2-109. Pohnpei Treasury: payment authorization. — No monies may be paid out from the Pohnpei Treasury except when authorized and appropriated by law and when there is a valid obligation to pay out such monies; PROVIDED, that grant funds shall be paid out in the manner consistent with applicable laws and directives of the donor.

Source: S.L. No. 1L-203-87 §6(5), 11/19/87; S.L. No. 2L-80-88 §1, 12/15/88

§2-110. Documentary evidence required to support obligations of funds. —

(1) No amount shall be recorded as an obligation of the Pohnpei Government unless it is supported by documentary evidence of:

(a) A binding written agreement executed by the parties and certified by the Director as to the existence of the appropriation, if required, or the availability of the fund or monies, with both the execution and certification occurring before the expiration of the applicable time limit, if any; or

(b) A valid written loan agreement authorized by law, showing the amount of the loan to be made and the terms and schedule of repayment thereof; or

(c) An order required by law to be placed with any agency; or

(d) An order issued pursuant to a law authorizing the purchase without advertising or bid; or

(e) A grant or subsidy payable:

(i) From appropriations for fixed amounts or according to a formula set by Pohnpei law; or

(ii) Pursuant to an agreement, directives of the donor or plans approved and authorized by Pohnpei law; or

- (f) A liability which may result from pending litigation to which the Pohnpei Government is a party and for which monies have been appropriated or authorized by Pohnpei law; or
- (g) Employment or travel expenses authorized in accordance with Pohnpei law, or services provided by public utilities for the Pohnpei Government; or
- (h) Any other legal liability or obligation of the Pohnpei Government for which funds have been appropriated.

(2) No appropriation or fund which is limited for obligation purposes to a definite period of time shall be available for expenditure after the expiration of such period except for the liquidation of amounts obligated in accordance with Subsection (1) of this section; PROVIDED, that all obligations and claims against said appropriation shall be forever barred unless presented to the Department for collection within one year after the obligation arose against said appropriation and such timely presentation for collection shall be a prerequisite to any judicial action or suit on the obligation or claim; PROVIDED FURTHER, that to be valid, a copy of the obligation must be deposited with the Director on or before the expiration of the fiscal period during which said obligation arose.

Source: S.L. No. 1L-203-87 §7, 11/19/87

§2-111. Closing out accounts and transfer of unexpended balances. — The Director shall, upon 30 days advanced written notice to the Legislature and to the head of the department or office, or other public officer who is charged with the duty of expending an appropriation of public monies and following a determination that all obligations have been fully paid and satisfied, close out the appropriation account and transfer the unexpended balance to the appropriate fund of the Pohnpei Treasury whenever any one of the following occurs:

- (1) The Director determines that the purposes of the appropriation have been accomplished;
- (2) The time has expired within which those purposes may be accomplished;
- (3) The reasons for the appropriation have ceased to exist; or
- (4) The expiration of a period of 24 months during which time no financial expenditures have been charged to the account, which period of inactivity shall be presumed by the Director to indicate that the purposes for which the appropriation was made have already been accomplished or the reasons for which the appropriation was made shall have ceased to exist.

(5) The Director shall include a special segment in his financial reports to the Legislature as required by 11 PC 2-103 and as otherwise required by law, detailing his activities pursuant to this section.

Source: S.L. No. 1L-203-87 §8, 11/19/87; S.L. No. 7L-08-08 §1, 6/3/08

§2-112. Over-obligation of state and grant funds prohibited. —

(1) Unless otherwise specifically authorized by law, no officer or employee of the Pohnpei Government or allottee of funds shall make or authorize an expenditure from, or create or authorize an obligation pursuant to any appropriation, apportionment, reapportionment, grant or allotment of funds of the Pohnpei Government:

- (a) In excess of the amount made available by law or grant agreement regardless of whether said amount is stated as a specific dollar limit or as a method or formula to be used to calculate said limit; or
- (b) In advance of the availability of funds authorized by law; or
- (c) For purposes other than those stated in the Pohnpei law.

(2) In case of violations of Subsection (1) of this section, the Director shall immediately report to the Governor, the Legislature, the Public Auditor, and the Attorney General all pertinent facts together with a statement of any action taken.

(3) Any person who knowingly, willfully or recklessly violates Subsection (1) of this section shall be guilty of an offense against the Pohnpei Government, and upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than one year, or both such fine and imprisonment.

Such penalties shall be in addition to all other civil and criminal penalties prescribed or recognized by Pohnpei law.

(4) Penalties relative to the misuse of grant funds shall be as otherwise prescribed by law.

Source: S.L. No. 1L-203-87 §9, 11/19/87

§2-113. Director as Procurement and Property Management Officer. — The Director of the Department of Treasury and Administration shall be the Procurement and Property Management Officer for the Pohnpei Government. As such, the Director shall be responsible for the establishment and administration of a centralized system for procuring, inventorying, inspecting, testing, storing, accounting, and disposing of all tangible personal property of the Pohnpei Government. The acquisition and disposal of such property shall be by competitive public bidding in accordance with procedures set forth in regulations adopted pursuant to the authority granted by §2-114; PROVIDED that such regulations may include reasonable exceptions to the bidding requirement when the circumstances warrant.

Source: S.L. No. 1L-203-87 §10, 11/19/87

§2-114. Rules and regulations. — The Director is hereby authorized to issue and promulgate rules and regulations implementing this chapter which, upon public notice and hearing as required by law and upon review and approval of the Governor, shall have the force and effect of law. All rules and regulations heretofore adopted by and for the Department pursuant to the authority granted by prior laws (including those laws that are repealed by this chapter) shall continue in full force and effect until amended, repealed or superseded hereafter.

Source: S.L. No. 1L-203-87 §11, 11/19/87

Note: S.L. No. 1L-203-87 §13 severability provision has been omitted.

Extended legislative history: 1. PDC §1-200, 3/71 provided for the District Treasurer; PDC §1-200(b) was amended by D.L. No. 3L-58-73 §10, 5/29/73; PDC §1-200(c) was amended by D.L. No. 3L-18-72 §1, 5/25/72 and D.L. No. 3L-58-73 §11, 5/29/73; PDC §1-200 was repealed by D.L. No. 3L-91-74 §1, 6/29/74 and a new §1-200 was established; PDC §1-200E was amended by D.L. No. 4L-136-78 §26, 3/27/78 and was repealed by S.L. No. 2L-32-80 §1, 9/30/80; PDC §1-200 was repealed by S.L. No. 2L-86-81 §13(1), 11/13/81. 2. PDC §1-201 provides for the District Tax Collector; PDC §1-201(a) was amended by D.L. No. 3L-28-72 §1, 6/12/72 and D.L. No. 3L-58-73 §12, 5/29/73; PDC §1-201 was repealed by D.L. No. 3L-91-74 §2, 6/29/74 and a new PDC §1-201 was established. 3. S.L. No. 2L-86-81 §13(1), 11/13/81 repealed PDC §§1-200 and 1-201 and provided for a Division of Finance; S.L. No. 2L-86-81 §3(1) was amended by S.L. No. 1L-17-85 §1, 4/23/85; S.L. No. 2L-86-81 §6 was amended by S.L. No. 1L-19-85 §2, 4/1/85. 4. S.L. No. 1L-203-87 §6 was amended by S.L. No. 2L-80-88 §1, 12/15/88; S.L. No. 1L-203-87 §12, 11/19/87 superseded S.L. No. 2L-86-81, 11/13/81, as amended, in its entirety.

CHAPTER 3 LINES OF CREDIT

Section

3-101 Line of credit authority	3-105 Payment of principal, interest, and incidental charges: security
3-102 Filing of agreements required	3-106 Reporting required
3-103 Use of lines of credit	3-107 Criminal sanctions
3-104 Administrative procedures	3-108 Other laws applicable

§3-101. Line of credit authority. — The Governor, upon prior consultation with the Pohnpei Legislature, is hereby authorized to enter into agreements to provide for lines of credit in order to maintain a constant cash flow to meet valid obligations for projects and programs for economic development and the construction and major repair of public facilities identified for the use of lines of credit under the annual Comprehensive Budget Acts of Pohnpei; PROVIDED, that:

(1) The cumulative total of indebtedness (inclusive of interest and incidental charges) incurred through all such agreements at any one time may not exceed \$1,000,000 or the total of the amounts authorized to be drawn against lines of credit for such projects and programs in the Comprehensive Budget Act, whichever is less;

(2) No line of credit may be established which provides for a repayment on a draw upon the line of credit in excess of 12 months or the current term of the Governor, whichever is less;

(3) The interest rates and incidental charges incurred under such lines of credit shall not exceed limits established by law within the Federated States of Micronesia; and

(4) Sufficient monies are available within the operations accounts of the Department of Treasury and Administration to pay all interest and incidental charges relative to such indebtedness.

Source: S.L. No. 1L-81-86 §1, 9/4/86

§3-102. Filing of agreements required. — The Governor shall file with the Pohnpei Legislature and the Pohnpei Auditor a complete copy of each agreement entered into by the Governor pursuant to §3-101, within five days following the execution of said agreement.

Source: S.L. No. 1L-81-86 §2, 9/4/86

§3-103. Use of lines of credit. — No line of credit may be drawn upon nor any transaction made relative thereto without written approval of the Director of the Department of Treasury and Administration. The concurrence in writing of the Program and Budget Officer shall be required in each instance there is a draw upon the line of credit provided in the agreement. No draw may be made upon a line of credit without prior certification by the Director of the Department of Treasury and Administration to the Governor and the Legislature Committee on Finance that:

(1) A specific financial plan has been established in writing for the repayment of the draw on the line of credit identifying the project or program to be financed under the draw including a citation of the specific provision in the Comprehensive Budget Act authorizing the use of lines of credit for that project or program, the sources of revenue to be used in repayment and the schedule of repayment; and

(2) The total amount of all draws upon lines of credit for a project or program does not exceed the remaining balance due to be paid on that project or program; and

(3) If the project or program is to be funded by appropriation from the Pohnpei Treasury, without reimbursement from a grant or outside capital improvement project source, the total amount of all draws upon lines of credit therefor does not exceed the amount appropriated thereto in the Comprehensive Budget Act; or

(4) If payment for the project or program is to be reimbursed from a grant or outside capital improvement project source, the total amount of all draws upon lines of credit therefor does not exceed the amount allocated thereto by the reimbursement source as indicated in writing to the Pohnpei Government by an authorized official within the source agency or entity; PROVIDED that prior to certification hereunder the Director of the Department of Treasury and Administration shall have received written acknowledgment by the project administrator or contracting officer within the Pohnpei Government responsible for carrying out the project or program that he has received and will ensure compliance with all known procedural requirements necessary for reimbursement; PROVIDED FURTHER that such acknowledgment shall be countersigned as to completeness and accuracy by the Pohnpei Attorney General.

Source: S.L. No. 1L-81-86 §3, 9/4/86

§3-104. Administrative procedures. — The Governor shall prescribe such internal administrative procedures as he deems necessary for the use of lines of credit pursuant to agreements entered into under the authority of §3-101.

Source: S.L. No. 1L-81-86 §4, 9/4/86

§3-105. Payment of principal, interest, and incidental charges: security. —

(1) Payment of the principal of indebtedness incurred under a line of credit established pursuant to §3-101 shall be from deposits in the Treasury of the Pohnpei Government in the account or fund for which the line of credit is drawn.

(2) Payment of the interest and all other charges incidental to the line of credit agreement and indebtedness incurred thereunder shall be from the operations accounts of the Department of Treasury and Administration.

(3) No other revenue source nor asset of the Pohnpei Government may be pledged or used as security for payment of a draw upon a line of credit agreement established under the authority of this chapter, except from such sources and in the amounts prescribed in the Comprehensive Budget Act for the specific project or program for which the draw upon the line of credit is made and the amounts in the operating budget of the Department of Treasury and Administration specifically allocated to servicing the debt incurred by the draw upon the line of credit.

Source: S.L. No. 1L-81-86 §5, 9/4/86

§3-106. Reporting required. — Within 15 days following the close of a fiscal quarter, the Governor shall file with the Legislature and the Public Auditor a complete report of all transactions undertaken pursuant to each line of credit agreement entered into pursuant to §3-101 and active within that fiscal quarter; PROVIDED that the final quarterly report for each fiscal year shall include a summary of all four quarters and a final accounting for the full fiscal year; PROVIDED FURTHER that no draws upon any line of credit established under this chapter may be made after the 15th day following the close of a fiscal quarter until the report required for that quarter has been filed in the manner prescribed by this section.

Source: S.L. No. 1L-81-86 §6, 9/4/86

§3-107. Criminal sanctions. — In addition to all other criminal and civil requirements, liabilities, and penalties prescribed or recognized by law, any officer or employee of the Pohnpei Government who shall knowingly and willfully violate any provision of this chapter shall be guilty of an offense against Pohnpei, and upon conviction thereof, shall be fined less than \$1,000, or imprisoned not more than one year, or both such fine and imprisonment.

Source: S.L. No. 1L-81-86 §7, 9/4/86

§3-108. Other laws applicable. — In addition to the requirements of this chapter, the establishment and use of lines of credit authorized hereunder shall be subject to the Financial Organization and Management Act, Chapter 2, as amended or superseded, and all other applicable Pohnpei laws.

Source: S.L. No. 1L-81-86 §8, 9/4/86

CHAPTER 4 COMPACT FUNDS

Section

4-101 Short title	4-108 Indemnification
4-102 Purpose	4-109 Taxes
4-103 Definitions	4-110 Waiver of sovereign immunity
4-104 Authorization to borrow	4-111 Alteration of rights
4-105 Authority of state officials	4-112 Designation of the maximum amount that may be pledged
4-106 Delegation of authority to the President	4-113 Authorization to debit certain expenses
4-107 Compact funds	

§4-101. Short title. — This chapter is known and may be cited as the “Pohnpei Compact Funds Financing Act.”

Source: S.L. No. 2L-133-89 §1, 10/18/89

§4-102. Purpose. — This chapter authorizes the state to borrow funds under the National Compact Funds Financing Act by participating in a medium-term note program and any other financing program secured by the state’s share of Compact funds. The funds borrowed pursuant to the authority granted herein shall be used by the state for economic development projects and for the construction and major repair of public facilities as set out in of Article 2 §13 of the Pohnpei Constitution and as may be permitted by the Compact and related agreements. Such funds may also be invested to generate revenues for the aforementioned uses. It is also the purpose of this chapter to designate the maximum amount of the state’s share of Compact funds that may be pledged and used for the costs of a borrowing pursuant to the authority granted by this chapter. The specific amount that may be pledged and used for the costs of a borrowing shall be set by statute.

Source: S.L. No. 2L-133-89 §2, 10/18/89

§4-103. Definitions. — Unless the context clearly indicates otherwise, the following meanings shall apply to this chapter:

(1) “Bond” or “bonds” means any bond, note or other evidence of indebtedness issued under the National Compact Funds Financing Act, including any evidence of indebtedness for money borrowed from commercial banks or similar financial institutions and any reimbursement obligation to a provider of credit enhancement.

(2) “Bond repayment fund” means the fund created in 55 FSMC §624 to provide for the deposit and disbursement of funds pledged by a state government and/or the national government which participates in a borrowing.

(3) “Committee” means the committee referred to in 58 FSMC §524.

(4) “Compact” means the Compact of Free Association between the FSM and the United States of America and its attendant agreements.

(5) “Credit enhancement” means bond insurance, letters of credit or similar credit enhancement instruments.

(6) “Financing program” means the medium-term note program and any other program for borrowing established or permitted by the National Compact Funds Financing Act and this chapter, including, without limitation, programs involving public offering or private placement of bonds or direct borrowing from commercial banks or similar financial institutions.

(7) “FSM” means the Federated States of Micronesia.

(8) “Indenture” means any indenture, agreement or other instrument pursuant to which the bonds shall be issued, as approved by a resolution of the committee as defined in Subsection (3) of this section.

(9) “National Compact Funds Financing Act” or “National Act” means 58 FSMC §511 et seq., as amended, and includes any amendments that may be adopted hereafter.

(10) “Pledged Compact funds” means the amounts payable under the Compact which the President of the FSM is authorized to pledge to the payment of the bonds following legislative action by the FSM and the state.

(11) “Pledged funds” means the pledged Compact funds and/or other pledged monies, and investment earnings thereon.

(12) “President” means the President of the FSM or his lawfully and properly appointed designee.

(13) “Resolution” means the resolution or resolutions of the committee authorizing the issuance and sale of bonds on the terms and conditions, and substantially in the form approved therein or pursuant to procedures provided therein.

(14) “Secretary” means the FSM Secretary of Finance.

(15) “State” means Pohnpei State.

(16) “Trustee” means the FSM fiscal agent appointed as such in the indenture, pursuant to the National Act, and any successors or assigns who will act as such for the benefit of the holders of the bonds.

Source: S.L. No. 2L-133-89 §3, 10/18/89

§4-104. Authorization to borrow. — The state is hereby authorized to participate in the medium-term note program and any other program for borrowing established or permitted by the National Compact Funds Financing Act including, without limitation, programs involving public offering or private placement of bonds or direct borrowing from commercial banks or similar financial institutions. The maximum amount of the state’s Compact funds that may be pledged to secure repayment and to cover the costs of borrowing under any financial program is designated in §4-112. The specific amount that may be pledged and used to cover the costs of the borrowing shall be authorized by statute.

Source: S.L. No. 2L-133-89 §4, 10/18/89

§4-105. Authority of state officials. — When the specific amount that may be pledged and used to cover the costs of borrowing is authorized by statute:

(1) The Governor, the Director of the Department of Treasury and Administration, the Governor’s delegate, if any, to the committee established by the National Act, and the special counsel are authorized to perform the functions and duties described in the National Act. In the case of the special counsel, he is also authorized to provide the legal opinion described in the National Act.

(2) Without limiting the foregoing, the Governor may authorize the pledge of security necessary to secure the borrowing, to satisfy any financial obligations attributable to the state related to or resulting from such borrowing, and, with the consent of the Legislature by resolution, may pledge such additional security as may be necessary to protect the FSM Government and any nonparticipating state against any loss arising in connection with the state’s participation in a financing program; PROVIDED, HOWEVER, that the Governor may take such actions only with respect to specific amounts allowed by state law.

(3) The Governor is also authorized to enter into an agreement or agreements with the Secretary and any lending institution regarding the disbursement of proceeds of bonds and earnings thereon or the proceeds of borrowings from commercial banks or similar financial institutions and also regarding the payment of all financial obligations attributable to the state related to or resulting from the borrowing.

Source: S.L. No. 2L-133-89 §5, 10/18/89; S.L. No. 2L-142-89 §1, 12/28/89

§4-106. Delegation of authority to the President. — When the specific amount to be pledged and used to cover the costs of borrowing is authorized by statute, the Governor may issue a written certification to the President that specifies the amount and source of funds or other security to be used to secure a borrowing and to cover the cost of borrowing. When the anticipated project costs and/or the anticipated costs of borrowing is/are less than the amount state law allows to be borrowed, then the amount certified by the Governor may be the lesser amount. Upon receiving the Governor's certification, the President is authorized to make irrevocable pledge(s) of the amounts of Compact funds specified in the Governor's certificate (including any investment earnings therefrom) that would otherwise be payable to the state, or irrevocable pledge(s) of other security. The President shall not make any such pledge except to secure a borrowing of funds on behalf of the state. The pledge shall secure payment of the bonds or funds borrowed, costs and expenses and all other financial obligations resulting from or relating to the financing program that are not otherwise paid. The President shall also be authorized to make the necessary payments from the pledged amounts for the purpose of and to the extent required to satisfy all financial obligations attributable to the state related to or resulting from the financing program. The President shall certify to the Governor in writing the amount actually so pledged and the amount authorized but not actually pledged. Any funds that are authorized to be pledged by statute but that are not actually pledged or used to satisfy such financial obligations shall remain as funds of the state.

Source: S.L. No. 2L-133-89 §6, 10/18/89

§4-107. Compact funds. — When the specific amount to be pledged and to be used to cover the cost of borrowing is authorized by statute, the Governor has issued a written certification to the President as provided in §4-106, and the proceeds of the financing program have been actually or constructively received:

(1) The state consents to and authorizes a reduction in the amount of Compact funds received or to be received on behalf of the state through the Compact financial assistance fund, with such reduction being commensurate with the amount of pledged Compact funds pledged by the state. The state further irrevocably waives all rights to the receipt of such pledged Compact funds.

(2) As additional security, the state authorizes the deposit of funds other than pledged Compact funds in a sub-fund of the bond repayment fund established by 55 FSMC §627.

Source: S.L. No. 2L-133-89 §7, 10/18/89

§4-108. Indemnification. —

(1) Recognizing the complexity of any financing program pursued under this chapter and the National Act, the state hereby agrees to indemnify and hold harmless all officers, employees or other agents acting for or on behalf of the state from any and all claims, causes of action, demands, losses, costs or damages, including all court costs and attorneys' fees, regardless whether suit, hereinafter called "claims," is actually brought, arising from or relating to any act or omission directly or indirectly related to the matters contained in this chapter or the National Act, or related to the establishment or implementation of any financing program, or to the repayment of any borrowing under any financing program. The state shall accept tender of defense upon demand and immediately reimburse any payment of claims by the officer, employee or other agent of the state.

(2) This indemnification and hold-harmless covers claims that are foreseeable and unforeseeable, whether the act or omission is deemed to be within or outside the scope of employment or responsibility, and whether caused by negligence or recklessness of any degree, or otherwise. Moreover, without limitation, this indemnification and hold-harmless specifically applies to the special counsel with respect to any opinions or advice which may be required or rendered. This indemnification and hold-harmless does not apply to any criminal acts.

Source: S.L. No. 2L-133-89 §8, 10/18/89

§4-109. Taxes. — In accordance with the National Act, neither the state nor any political subdivision thereof shall impose any tax, assessment or levy on or related to a borrowing under any financing program.

Source: S.L. No. 2L-133-89 §9, 10/18/89

§4-110. Waiver of sovereign immunity. —

(1) Notwithstanding any other law to the contrary, including the Financial Organization and Management Act, Chapter 2, as amended, the state hereby waives its sovereign immunity but only to the extent necessary to permit the national government or any other state of the Federated States of Micronesia to bring an action and execute a judgment as to any assets of the state based on any loss arising in connection with the state's participation in a financing program.

(2) The state specifically asserts and establishes its sovereign immunity from any other suit, judgment or execution with respect to any matter or action taken pursuant to this chapter or the National Act. Except as expressly authorized by Subsection (1) of this section, or as expressly authorized by other state law, the state does not waive its sovereign immunity regarding the aforementioned matters or actions.

Source: S.L. No. 2L-133-89 §10, 10/18/89

§4-111. Alteration of rights. — After the issuance of any bonds, the state will not limit or alter, or seek to limit or alter the rights thereby vested and vested pursuant to the indenture including, without limitation, the irrevocable pledge by the President of pledged Compact funds, until the bonds, together with interest and premium, if any, thereon, are fully paid and discharged; PROVIDED, that nothing herein contained shall preclude such limitation or alteration if and when adequate provision is made in accordance with the terms of the indenture for protection of the holders of the bonds. The FSM is hereby authorized to make this undertaking for the state in the bonds and the indenture.

Source: S.L. No. 2L-133-89 §11, 10/18/89

§4-112. Designation of the maximum amount that may be pledged. — Subject to further legislation authorizing and establishing the specific amounts that may be pledged and that may be used to cover the cost of borrowing for any financing program, the following amounts are hereby designated as the maximum amounts during any given fiscal year that may be pledged or used to cover such costs:

(1) Compact funds:

(a) One hundred percent (100%) of the state's §211(a) capital account funds; and

(b) Sixty-five percent (65%) of the state's §214(c) energy account funds;

(2) Such additional security from the state's general fund or other Compact funds as is necessary to protect the national government and any nonparticipating state against any loss arising in connection with the state's participation.

Source: S.L. No. 2L-133-89 §12, 10/18/89

§4-113. Authorization to debit certain expenses. — Without further authorization or appropriation, any appropriate Compact financial assistance fund account of the FSM National Government or the Pohnpei Government may be debited for expenses, including trustee fees, associated with a Pohnpei State borrowing under this chapter.

Source: S.L. No. 2L-133-89 §13, 10/18/89

Note: S.L. No. 2L-133-89 §14 savings provision has been omitted.

CHAPTER 5 PUBLIC CREDIT FOR ELEMENTARY SCHOOLS

Section

5-101 Short title	5-107 Approval of the loan package by statute: modifications
5-102 Purpose	5-108 Financial administration of loan capital
5-103 Authorization for negotiation	5-109 Administration of financed projects
5-104 Loan negotiations	5-110 Progress report
5-105 Security	
5-106 Notice to Legislature	

§5-101. Short title. — This chapter is known and may be cited as the “Public Credit for Elementary Schools Act of 1999.”

Source: S.L. No. 4L-133-99 §1, 11/10/99

§5-102. Purpose. — The purpose of this chapter is to provide for a program establishing the procedural requirements for the attainment and use of public credit in the financing of capital improvements of the public elementary schools of Pohnpei.

Source: S.L. No. 4L-133-99 §2, 11/10/99

§5-103. Authorization for negotiation. — For the purposes described in this chapter, the Governor of the state of Pohnpei is hereby authorized to negotiate loan packages on the credit of the state of Pohnpei for capital improvements for the following public elementary schools:

- (1) Kolonia Elementary School;
- (2) Nett Elementary School;
- (3) Ohmine Elementary School;
- (4) Palikir Elementary School;
- (5) Rohng Kitti School;
- (6) Sapwalap Elementary School; and
- (7) [RESERVED].

Source: S.L. No. 4L-133-99 §3, 11/10/99

§5-104. Loan negotiations. — The Governor of the state of Pohnpei shall negotiate with recognized public loan entities and established commercial lending institutions for loan capital for capital improvement projects for the schools listed in §5-103 on such terms as shall be commercially reasonable and at competitive interest rates. The Governor is authorized to negotiate for compensating balances to be deposited as an inducement to a preferred interest rate; PROVIDED that the deposit is placed in an institution authorized for the deposit of Pohnpei Treasury monies as specified in §2-107.

Source: S.L. No. 4L-133-99 §4, 11/10/99

§5-105. Security. — No public trust land, public facility, governmental asset, public revenue or grant source may be pledged or assigned as security for the repayment of a loan authorized by this chapter unless specifically authorized by statute enacted pursuant to §5-107 for the project for which public credit is being attained.

Source: S.L. No. 4L-133-99 §5, 11/10/99

§5-106. Notice to Legislature. — Prior to entering into any loan agreement pursuant to this chapter, the Governor shall submit to the Legislature:

(1) A complete justification for the project for which public credit is requested, which justification shall include, but need not be limited to, an economic and social analysis of the project, land use requirements, architectural and engineering specifications, estimated costs of construction and implementation, and all sources of financing for the construction of the project, inclusive of public credit, direct appropriations, grants, and donations;

(2) A copy of the complete loan package that has been negotiated by the Governor for said loan; and

(3) Draft legislation for the approval of the loan package which shall include provisions specifying:

(a) Approval of the loan documents which shall incorporate the term (duration) of the loan, the calculation of interest and other charges, and the total amount of loan obligations over the course of the life of the loan;

(b) Approval of the deposit of compensating balances where required or authorized by the loan package;

(c) Specific authorizations, appropriations, and/or dedications of public funds and assets necessary to repay all loan obligations, amortized over the life of the loan;

(d) Authorization for the pledge or assignment of security where appropriate; and

(e) Such other statutory details as the Governor deems necessary.

Source: S.L. No. 4L-133-99 §6, 11/10/99

§5-107. Approval of the loan package by statute: modifications. — The Governor may not enter into any loan agreement for any project under the terms of this chapter until passage of a statute by the Legislature approving the loan package as presented to the Legislature pursuant to §5-106. Following passage of said statute, the Governor may enter into agreements for such modifications of the loan package as he deems necessary without the necessity of additional enabling legislation; PROVIDED that such modifications do not result in:

(1) The pledge or assignment of security not authorized by the approval statute;

(2) The mandatory deposit of compensating balances not authorized in the approval statute;

(3) The acceleration of the repayment of loan obligations not included in the schedule of repayments for which monies or other assets have been authorized, appropriated or otherwise dedicated to the repayment thereof in the approval statute; or

(4) The payment of additional monies or transfer of additional assets above that authorized in the approval statute.

Source: S.L. No. 4L-133-99 §7, 11/10/99

§5-108. Financial administration of loan capital. —

(1) All sums borrowed pursuant to this chapter shall be received by the Director of the Department of Treasury and Administration on behalf of the state and deposited into a special Debt Service Fund of the Pohnpei Treasury to be used solely for the purposes prescribed by this chapter. The Director shall establish separate accounts in said fund for the receipt of loan capital and for the receipt of appropriations and funds from other sources for the repayment of all loan obligations.

(2) The Director shall administer each account created pursuant to Subsection (1) of this section in strict compliance with the Financial Organization and Management Act, Chapter 2, as amended, and all other applicable state laws and regulations.

(3) All sums borrowed pursuant to this chapter not expended or obligated for expenditure for the project specified therefor shall revert to the fund designated to repay the loan or shall be used to immediately repay a portion of the loan.

(4) The Director shall file annual financial reports with the Governor and the Legislature for each year that any public credit remains due and payable under this chapter.

Source: S.L. No. 4L-133-99 §8, 11/10/99

§5-109. Administration of financed projects. — Unless another administrator is stipulated in the approval statute enacted pursuant to §5-107, the Governor shall be responsible for the administration and expenditure of monies received through public credit solely for the project so identified and not in excess of the amount so authorized for the particular project. In the administration of such monies and the projects financed thereby, the Governor or other designated administrator shall be subject to all financial management, procurement, conflicts of interest, public contracting, and other requirements specified by law and regulation.

Source: S.L. No. 4L-133-99 §9, 11/10/99

§5-110. Progress report. — The Governor or other designated administrator shall submit a progress report to the Legislature six months after the project commences and yearly thereafter until the project is completed, on all matters concerning the administration of the project and funds expended therefor.

Source: S.L. No. 4L-133-99 §10, 11/10/99

CHAPTER 6 PUBLIC CONTRACTS

Section

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6-102 Certification of funds required	6-107 Exceptions to competitive bidding
6-103 Setting aside of funds	6-108 Contract Review Board
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§6-101. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

(1) “Capital improvement project” means any construction project, whether vertical or horizontal, or whether for new construction, modification, renovation or repair, and inclusive of site preparation, earth moving, and road construction.

(2) “Contracting officer” means the state officer or employee specified by statute, regulation or agency rule for the administration of a project; PROVIDED that if there be no person so specified, “contracting officer” means the chief executive officer of the branch of the Pohnpei Government responsible for letting the contract.

(3) “Contract Review Board” means the board created pursuant to §6-108.

(4) “State agency” includes all state offices, departments, divisions, boards, commissions, councils, committees or other entities of the executive branch, offices of the judiciary branch, and offices of the legislative branch of the Pohnpei Government.

Source: S.L. No. 1L-199-87 §1, 12/3/87

§6-102. Certification of funds required. — No announcement for a bid for letting of a contract for any capital improvement project subject to the bidding requirements of this chapter may be made until the Director of the Department of Treasury and Administration has certified that sufficient funds have been authorized by state law and are appropriated or have otherwise been made available for the specific project for which the contract has been let. Such certification shall be on a form prescribed by the Attorney General and shall indicate the specific fund or funds upon which the expenditure is to be drawn, the state authorization statute and the specific state appropriation for the use of such fund or funds; or if it be not from the Pohnpei Treasury, such source or sources from which the monies are made available together with a signed statement by the Director of the Department of Treasury and Administration that the expenditure proposed is within the conditions and financial limitations of the specific grant being drawn upon.

Source: S.L. No. 1L-199-87 §2, 12/3/87; S.L. No. 5L-14-00 §3-44, 10/1/00

§6-103. Setting aside of funds. — Upon certification as required by §6-102, the Director of the Department of Treasury and Administration shall cause the sums so certified to be set aside solely for use on the project so specified. Thereafter, such sums may be expended solely for the purposes for which they have been certified until such time that the contracting officer has certified to the Director that the sums are no longer needed for the project for which they have been set aside.

Source: S.L. No. 1L-199-87 §3, 12/3/87; S.L. No. 5L-14-00 §3-44, 10/1/00

§6-104. Public invitation and open-competitive bidding required. — No capital improvement project administered by any state agency, officer or employee, in excess of a cumulative total of \$10,000 of state funds and other sources made available to this state may be contracted to any person for construction thereof unless such contract be let to the lowest responsible bidder, subject to §6-106, following public invitation and open-competitive bidding. The Governor, by regulation issued pursuant to this chapter, shall prescribe the procedures relative to invitation to bid, submission of bids, bid review, and contractor selection; PROVIDED that prior to the issuance of said regulations the procedures so taken by the state shall be in a form consistent with the requirements of this chapter.

Source: S.L. No. 1L-199-87 §4, 12/3/87

§6-105. Contract award and renewal, extension, amendment, change-order, cancellation, termination, reissuance, and other modifications thereof. — The contracting officer, upon prior consultation with the Office of the Attorney General and written approval of the Contract Review Board, shall be responsible for the execution of contracts on behalf of the Pohnpei Government and any renewal, extension, amendment, change-order, cancellation, termination, reissuance or other modification thereof; PROVIDED that if the aggregate value of the modification be less than \$2,500, the Contract Review Board shall be given prior notice, but need not concur in the action.

Source: S.L. No. 1L-199-87 §5, 12/3/87; S.L. No. 5L-14-00 §3-44, 10/1/00

§6-106. Reasonable preference to certain contractors. — In the awarding of contracts pursuant to §6-105, reasonable preference may be accorded to contractors resident in this state and other contractors providing substantial subcontracts and employment to residents of this state.

Source: S.L. No. 1L-199-87 §6, 12/3/87

§6-107. Exceptions. — Capital improvement projects subject to the bidding requirements of this chapter may be let to State agencies, or the United States of America Civic Action Team resident in the State, or local governments without competitive bidding where directed by law or upon a showing in writing by the Contracting Officer that market conditions indicate that the project could not be constructed less expensively or of sufficient quality by private sector contractors resident within the State. Capital improvement projects may also be let to local governments without competitive bidding upon a showing in writing by the Contracting Officer that the project will assist the government in the development of its ability to manage local capital improvement projects. The Contracting Officer and State agencies, Civic Action Team or local governments party to the contract shall provide for a full and public accounting of all funds so expended by virtue of the contract. All transactions relative thereto shall be subject to audit by the Pohnpei Auditor's Office.

Source: S.L. No. 1L-199-87 §7, 12/3/87; S.L. No. 6L-57-05 §4, 12/12/05

§6-108. Contract Review Board. — There is hereby created within and for the Pohnpei Government, a Contract Review Board that shall consist of five members appointed from within the Pohnpei Government by the Governor with the advice and consent of the Legislature to serve for a term consistent with that of the Governor. No person authorized to serve as a contracting officer of the Pohnpei Government may serve on the Board. Members may be removed from the Board pursuant to Article 9 §10 of the Pohnpei Constitution. Vacancies shall be filled for the remainder of unexpired terms in the same manner as initial appointments. Service on the Board shall be without additional compensation than that which would be received by the Board member in his regular governmental position. The organizational meeting of the Board shall be called by the Governor. The Board shall elect a chairman and such other officers as it may deem necessary from among its own members and determine its own rules of procedure; PROVIDED that the assenting signatures of at least three members shall be required of any substantive action of the Board. The Board shall maintain written minutes of its proceedings. The Office of Transportation and Infrastructure shall provide technical and

clerical assistance to the Board. The Board shall be attached to said Office for administrative purposes. The Office of the Attorney General shall provide legal assistance to the Board.

Source: S.L. No. 1L-199-87 §8, 12/3/87; S.L. No. 5L-14-00 §3-44, 10/1/00

§6-109. Duties of the Board. — The Contract Review Board shall have the following responsibilities:

(1) Review the activities of all agencies and officers of the Pohnpei Government operating under this chapter;

(2) Review for sufficiency all notices required by this chapter prior to their release;

(3) Review and, where it deems appropriate, consent to the award of contracts under this chapter in excess of a cumulative total of \$10,000, and any renewal, extension, amendment, change-order, cancellation, termination, reissuance or any other modification thereof, which change or modification has an aggregate value of \$2,500 or more; and

(4) Assume such other responsibilities as may be necessary to effectuate the purposes of this chapter.

Source: S.L. No. 1L-199-87 §9, 12/3/87

§6-110. Conflict of interest. —

(1) If any member, officer or employee of the Board, or a contracting officer shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract with the Board or the state, or as a contractor for the construction of any capital improvement projects, he shall disclose such interest in writing to the Board and such interest shall be set forth in the minutes of the Board, and the member, officer, employee or contracting officer having such interest therein shall not participate on behalf of the Board or the state in any votes or transactions of the Board relative thereto.

(2) Notwithstanding Subsection (1) of this section, no member of the Board may, during his membership therein nor for at least one year following his membership thereon, acquire directly or indirectly, in his own name, by a disclosed or undisclosed agent, or through an association or business in which he owns more than ten percent (10%) interest therein, any interest in any capital improvement projects of the state.

(3) The Board may, in its bylaws, prescribe further rules relative to conflict of interest governing members, officers, and employees of the Board.

Source: S.L. No. 1L-199-87 §10, 12/3/87

§6-111. Exemptions. — This chapter shall not apply to construction contracts on capital improvement projects within the state administered by the officer in charge of construction of the U.S. Department of the Navy, Marianas, the United States Army Corps of Engineers or the Federated States of Micronesia National Government.

Source: S.L. No. 1L-199-87 §11, 12/3/87

§6-112. Sanctions. — In addition to any other civil or criminal penalty prescribed by law, any state officer or employee who willfully or recklessly violates or fails to comply with any provision of this chapter shall be subject to disciplinary action, and, upon a finding of gross violation hereof, may be removed from office in the manner prescribed by law.

Source: S.L. No. 1L-199-87 §12, 12/3/87

§6-113. Contracts void. — Any capital improvement project contract subject to the requirements of this chapter entered into after the effective date of this chapter [*December 3, 1987*] and not let in compliance with this chapter shall be void.

Source: S.L. No. 1L-199-87 §13, 12/3/87

§6-114. Prior legal review. — No contract awarded under this chapter shall create a binding legal obligation on the state without prior review and approval by the Office of the Attorney General as to legality and form.

Source: S.L. No. 1L-199-87 §14, 12/3/87; S.L. No. 5L-14-00 §3-44, 10/1/00

Note: S.L. No. 1L-199-87 §15, 12/3/87 superseded S.L. No. 2L-82-81, 7/17/81 as to all contracts issued after the organization of the Contract Review Board mandated by this chapter.

Chapter 7 INVESTMENTS

Section

7-101. Corporate investments.
7-102. Shareholder activities.
7-103. Directorships.

7-104. Investment earnings.
7-105. Transfer of equity.

§7-101. Corporate investments. — All shares of corporate stock, or other forms or incidences of ownership in a corporation, owned by the state of Pohnpei, shall be held by the Director of the Department of Treasury and Administration in the name of, and in trust for, the state of Pohnpei.

Source: S.L. No. 7L-20-08 §2, 11/26/08

§7-102. Shareholder activities. — Shareholder voting rights and other rights and privileges of equity ownership in a corporation held by the state of Pohnpei shall be voted and otherwise acted upon by a person appointed by the Governor with the advice and consent of the Legislature as entitled to vote and act upon said shares; PROVIDED that no elected official of the Pohnpei Government shall be eligible for such appointment. Such person shall continue to hold such rights and privileges for a term consistent with the term of the Governor, and until his successor is designated, unless removed by the Governor for cause after written notice and opportunity to be heard. Such person may not assign to any other person or entity any proxy rights or privileges pertaining to such shares without the written consent of the Governor. If a vacancy is created in a shareholder's position by death, resignation or for any other reason, such vacancy shall be filled in like manner as the original appointment for the remainder of the term; PROVIDED that in the event that there is an unexpected vacancy in the shareholder's position, the Governor may make a temporary designation among persons eligible for appointment under this section pending the filling of the vacancy pursuant to this section; PROVIDED FURTHER that such designation shall not exceed 60 days and may not be renewed in the name of the same individual.

Source: S.L. No. 7L-20-08 §2, 11/26/08

§7-103. Directorships. — In the event that an officer or employee of the state government is elected as a member of the board of directors of a corporation by virtue of an equity investment by the state, such service on a board shall be deemed public service; PROVIDED that no elected official of the Pohnpei Government shall be eligible for such directorship. Such officer or employee shall be accorded administrative leave with full pay while performing directorship duties. Any monetary compensation paid to or on behalf of the said director shall be paid into the general fund of Pohnpei; PROVIDED that this requirement shall not apply to per diem, travel or non-monetary corporate privileges accorded generally to the corporation's board members.

Source: S.L. No. 7L-20-08 §2, 11/26/08

§7-104. Investment earnings. — Any earnings received by the state of Pohnpei as the payment of dividends, or otherwise, as a result of its investment in a corporation shall be deposited in the general fund of Pohnpei.

Source: S.L. No. 7L-20-08 §2, 11/26/08

§7-105. Transfer of equity. — No sale, divestment or other transfer of any share in a corporation or other equity of a corporation held by the state of Pohnpei may occur unless authorized by law enacted specifically therefor or as a result of a corporate merger or other corporate action taken by or applied

to the corporation in the normal course of business. Any monies received from such transfer shall be deposited in the general fund of Pohnpei. Any equity in another corporation or other consideration so received as a result of such transfer shall be held in trust pursuant to §7-101.

Source: S.L. No. 7L-20-08 §2, 11/26/08

CHAPTERS 8 – 9
[RESERVED]

CHAPTER 10 PUBLIC SUPPORT FINANCES

Section

10-101 Executive branch: authorization for appropriation; administration

10-102 Micronesian Legal Services Corporation: authorization for appropriation; administration

10-103 Education and health projects and programs: authorization for appropriation; administration

10-104 Health projects and programs: authorization for appropriation; administration

10-105 Civic Action Team projects and programs: authorization for appropriation; administration

10-106 Energy projects and programs: authorization for appropriation; administration

§10-101. Executive branch: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such special grant funds as may be made available to the Government of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act, or so much thereof as may be necessary, for the operations and activities of the executive branch of the Pohnpei Government.

(2) The sums herein authorized for appropriation shall be allocated annually among the departments, offices, and agencies of the executive branch, and the administrative head of each such department, office, and agency shall, upon approval of the Governor and consistent with the representations of the budget presented to the Legislature, administer and expend the sums appropriated and allocated thereto.

(3) The Governor shall report to the Legislature on or before October 15 each year on all matters relating to the administration and expenditure of the sums appropriated under the authorization of this section for the previous fiscal year.

(4) The balance of all sums appropriated under the authorization of this section remaining unexpended or unobligated for expenditure on September 30 each fiscal year for which they were appropriated shall revert to the respective fund of the Treasury from which they were so appropriated.

(5) Appropriations to agencies for which there is a specific authorization for appropriation in the Pohnpei Code or by Pohnpei statute shall be governed by the provisions of the Code or respective statute under which said appropriation is made, and to such extent shall be exempt from this section.

Source: S.L. No. 1L-19-85 §3, 4/1/85

Note: S.L. No. 1L-19-85 §§2 & 5 – 7 repealing provisions and §8 funds transferer provision have been omitted.

§10-102. Micronesian Legal Services Corporation: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of assisting in the financing of the Pohnpei State office of the Micronesian Legal Services Corporation.

(2) The sums appropriated pursuant to this authorization shall be administered and expended by the Governor, upon request and with concurrence of the Executive Director of the Micronesian Legal Services Corporation, solely for the purpose stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums appropriated for the just concluded fiscal year under the authorization of this section. Any balance of the sums appropriated for a fiscal year under the authorization of this section not expended or obligated for expenditure on September 30 of that fiscal year shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-117-82 §§1 & 2, 6/2/82

§10-103. Education and health projects and programs: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Pohnpei Treasury into which Compact §221(b) monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the costs of certain Pohnpei State education and health projects and programs.

(2) The sums herein authorized for appropriation shall be administered and expended by the Governor of Pohnpei solely for the purpose stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this section. Any balance of the sum or sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to such funds of the Pohnpei Treasury from which they were appropriated.

Source: S.L. No. 4L-12-96 §§1 & 2, 10/16/96

§10-104. Health projects and programs: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Pohnpei Treasury into which Compact §216(a)(2) monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the costs of certain Pohnpei State health projects and programs.

(2) The sums herein authorized for appropriation shall be administered and expended by the Governor of Pohnpei solely for the purposes stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this section. Any balance of the sum or sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to such funds of the Pohnpei Treasury from which they were appropriated.

Source: S.L. No. 4L-13-96 §§1 & 2, 10/16/96

§10-105. Civic Action Team projects and programs: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Pohnpei Treasury into which Compact §212 monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the costs of supporting the United States of America Civic Action Teams within the state and for such development projects and programs as may be undertaken by the Teams.

(2) The sums herein authorized for appropriation shall be administered and expended by the Governor of Pohnpei, upon consultation with such coordinating council(s) as may be organized within the state to direct the efforts of the Civic Action Teams deployed within this state, solely for the purposes stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this section. Any balance of the sum or sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to such funds of the Pohnpei Treasury from which they were appropriated.

Source: S.L. No. 4L-14-96 §§1 & 2, 10/16/96

§10-106. Energy projects and programs: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Pohnpei Treasury into which Compact §214(b) monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the costs of certain Pohnpei State energy projects and programs.

(2) The sums herein authorized for appropriation shall be administered and expended by the Governor of Pohnpei solely for the purposes stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this section. Unless another date is indicated in the specific appropriation provision of a Comprehensive Budget Act authorized by this section any balance of the sum or sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each year shall revert to such funds of the Pohnpei Treasury from which they were appropriated.

Source: S.L. No. 4L-20-96 §§1 & 2, 10/28/96; S.L. No. 5L-21-00 §6, 10/26/00

Notes: 1. S.L. No. 4L-20-96 §3 repealing and §4 appropriation provisions have been omitted. 2. S.L. No. 5L-21-00 §§1 - 5 & 7 - 10 appropriation provisions have been omitted.

(Next page is Title 12 divider)

TITLE 12
TAXATION

TITLE 12 TAXATION

CHAPTER

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- 3 USE TAX [DECLARED UNCONSTITUTIONAL]**
- 4 HOTEL AND VEHICLE RENTAL TAX**
- 5 [RESERVED – LUXURY TAX]**
- 6 [RESERVED – FUEL SALES TAX]**
- 7 BUSINESS LICENSE FEES NEXUS ACT**

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PART A GENERAL PROVISIONS

§1-101. Short title. — This title is known and may be cited as the “Pohnpei Comprehensive Taxation Reform Act of 1997.”

Source: S.L. No. 4L-35-97 §1-1, 5/10/97

§1-102. Applicability. — This title applies to and governs:

(1) The levy, collection, and enforcement of the following taxes, as they now exist or as they may be amended hereafter:

- (a) Sales tax on alcohol, tobacco, motor vehicles, and general merchandise;
- (b) Luxury tax on various merchandise, motor vehicles, boats, and motors;
- (c) Sales tax on all fuels, lubes, and greases;
- (d) Use tax on general merchandise, alcohol, motor vehicles, tobacco, boats, and motors; and
- (e) Hotel tax and vehicle rental tax;

(2) The levy, collection, and enforcement of taxes set forth in the laws specified in §1-103, to the extent that this title is made applicable thereto; and

(3) The collection and enforcement of all other state revenues that the Division of Revenue and Taxation is charged with collecting.

Source: S.L. No. 4L-35-97 §1-2, 5/10/97

§1-103. Provisions of other laws. —

(1) The following laws are superseded by the provisions of this title with respect to and on the date that the taxes imposed thereunder are replaced by the taxes imposed under Chapters 2 through 6; PROVIDED, HOWEVER, that such laws shall remain in full force and effect with respect to the levy, enforcement, and collection of taxes which were levied thereunder prior to the date such taxes are superseded by the taxes set forth in Chapters 2 through 6; PROVIDED FURTHER that upon the replacement of such taxes under the laws herein listed and in addition to such collection and enforcement provisions which are prescribed under said laws, the Director of the Department of Treasury and Administration and the Commissioner of the Division of Revenue and Taxation may undertake such actions as are available to the government for the enforcement and collection of state taxes as provided by Parts B through H, J, and K of this title for such taxes for which taxpayers liable for payment under said laws are found to be delinquent under the terms of §1-111 – D.L. No. 3L-8-72, D.L. No. 3L-14-72, D.L. No. 3L-127-75, D.L. No. 4L-57-76, D.L. No. 4L-61-76, D.L. No. 4L-78-77, D.L. No. 4L-187-79, P.L. 28-68, P.L. 120-68, P.L. 126-68, P.L. 128-68, P.L. 130-68, P.L. 131-68, P.L. 2L-183-70, D.L. No. 2L-224-71, and S.L. No. 2L-40-80.

(2) If the provisions of this title and the requirements of other statutes govern the same subject, then the provisions of both shall be applicable, if possible, and, in the event such an interpretation is not reasonably possible, then:

- (a) The provisions of this title shall prevail with regard to the taxes listed in §1-102(1); or
- (b) The provisions of such other laws shall prevail with regard to all other state revenues that the Division is charged with collecting.

Source: S.L. No. 4L-35-97 §1-3, 5/10/97

§1-104. Definitions. — Unless the context clearly requires otherwise, the following definitions shall apply to this title:

- (1) “Commissioner” means the Chief of the Division of Revenue and Taxation.
- (2) “Department” means the Department of Treasury and Administration.
- (3) “Director” means the Director of the Department of Treasury and Administration.
- (4) “Division” means the Division of Revenue and Taxation of the Department of Treasury and Administration.
- (5) “Person” means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other association and the successor of any of the above by any of the above, such as when an individual dies, he is succeeded by his estate, which shall automatically be responsible for any amounts due under this title.
- (6) “Property” means any property, tangible or intangible, real or personal, and all rights thereto, whether choate or inchoate, and includes money or its equivalent and deposits of money.
- (7) “Security” means money, property, bond, or surety used as collateral to secure performance or nonperformance of some act.

(8) “State” means the state of Pohnpei.

(9) “Tax” means the total amount of each tax or charge imposed and required to be paid, or withheld and paid, or collected and paid by provision of any law subject to collection and enforcement pursuant to this title, and, unless the context otherwise requires, includes the amount of any interest, penalty or other charge relating thereto.

(10) “Taxpayer” means a person liable for payment of any tax or charge levied under this title or subject to collection under this title; or a person responsible for withholding and paying or collecting and paying any tax or charge subject to this title; or a person to whom a demand has been made by the Division under this title.

Source: S.L. No. 4L-35-97 §1-4, 5/10/97

§1-105. Remedies of Government of Pohnpei are supplemental. — The remedies of the Government of Pohnpei provided in this title are intended to supplement any other available remedies. The remedies of the Government of Pohnpei provided in this title are cumulative, and no action taken by the Government of Pohnpei constitutes an election by the Government of Pohnpei to pursue any remedy to the exclusion of any other remedy described in this title.

Source: S.L. No. 4L-35-97 §1-5, 5/10/97

§1-106. Rules and regulations. — The Department of Treasury and Administration shall prescribe, within 120 days of the effective date of this title [*effective date is May 10, 1997*], rules and regulations that shall further govern the levy and collection of taxes as defined and provided for in this title.

Source: S.L. No. 4L-35-97 §1-6, 5/10/97

Note: S.L. No. 4L-35-97 §1-7 number, gender, and captions provision has been omitted.

Extended legislative history: 1. Sales Tax On General Merchandise was created by D.L. No. 3L-8-72 5/23/72; D.L. No. 3L-8-72 §1 was amended by S.L. No. 2L-40-80 §1, 11/10/80. 2. Sales Tax On Alcohol And Tobacco was created by PDC §§2-100 – 106, 3/71, PDC §2-100 was amended by D.L. No. 3L-6-72 §1, 5/23/72; D.L. No. 4L-57-76 §1, 1/1/77; and further amended by D.L. No. 4L-78-77 §1, 5/9/77. 3. Hotel Tax was created by D.L. No. 3L-12-72, 5/24/72, and was repealed in its entirety and superseded by D.L. No. 4L-61-76, 12/7/76. 4. Sales Tax On Motor Vehicles was created by PDC §§2-125 – 134, 3/71; PDC §2-126, 3/71 was amended by D.L. No. 3L-14-72 §1, 5/25/72. 5. Use Tax On General Merchandise was created by D.L. No. 3L-127-75 6/3/75; D.L. No. 3L-127-75 §1, 6/3/75 was amended by D.L. No. 4L-187-79 §1, 4/5/79. D.L. No. 3L-127-75 §2, 6/3/75 repeals §§2-200 – 2-206 of Chapter 2 of the Ponape District Code. 6. Intergovernmental Tax Immunity was created by D.L. No. 2L-224-71, 6/16/71.

PART B ASSESSMENT, PAYMENT, AND DELINQUENCY

§1-107. Assessment of tax; presumption of correctness. —

(1) When the Commissioner determines that a taxpayer is liable for taxes that have not been previously assessed to such taxpayer, the Commissioner shall promptly assess the amount thereof to the taxpayer.

(2) Assessments are effective:

(a) When a taxpayer’s return is received by the Division showing a liability for taxes; or

(b) When a notice of assessment of taxes is mailed or delivered to the taxpayer or other person against whom the liability for tax is asserted, stating the nature and amount of the taxes allegedly owed and demanding the immediate payment thereof.

(3) The Division shall make any necessary inquiries and investigations to determine the amount of tax to be assessed. The tax assessed may be computed on the presumptions authorized by law or in any other manner that is calculated to make a reasonably accurate estimate of the tax due. All assessments and demands for payment made by the Division are presumed to be correct and the burden of proving that the assessment is incorrect shall be borne by the taxpayer.

(4) To be effective, any notice of assessment or other notice or demand must briefly inform the taxpayer of his rights of appeal under §§1-160 through 1-162, and inform the taxpayer of the consequences of failing to appeal.

(5) When taxes have been assessed to a taxpayer and remain unpaid, and if a protest or claim has not been filed as provided by §1-160, then the Division may commence any procedure under this title to collect the amounts due.

Source: S.L. No. 4L-35-97 §2-1, 5/10/97

§1-108. Limitation on assessment by the Commissioner. —

(1) Except as provided otherwise in this section, no assessment may be issued by the Commissioner more than six years after the date when payment of the tax first came due. Appropriate assessments may be issued by the Commissioner at any time within six years from the date when payment of the tax first came due.

(2) If a taxpayer's return understates the tax liability by more than ten percent (10%) for the period to which the return relates, or a false or fraudulent return is filed by a taxpayer with the intent to evade a tax, the amount thereof may be assessed at any time within ten years from the date when payment of the tax first came due.

(3) If a taxpayer fails to complete or file a required tax return, the tax relating to the period for which the return was required may be assessed at any time within eight years from the date when payment of the tax first came due.

(4) No proceeding for the collection of any tax may be pursued without the timely assessment thereof as provided in this section. If, however, the taxpayer signs a waiver of the time limits imposed by this section, an assessment of tax may be made or collection procedures may be pursued without regard to when payment of the tax was due.

Source: S.L. No. 4L-35-97 §2-2, 5/10/97

§1-109. Compromise of taxes; closing agreements. —

(1) If, after the assessment has been issued, the Commissioner has reasonable doubt as to the taxpayer's liability for payment of the tax, he may compromise, pursuant to rules and regulations, the asserted liability by entering into a written agreement with the taxpayer. Such agreement shall be identified as a closing agreement, and is subject to the prior approval of the Director and of the Attorney General of the Government of Pohnpei.

(2) If the closing agreement is reached after the court acquires jurisdiction of the matter, it shall be made part of a stipulated order or judgment disposing of the case.

(3) As a condition of the closing agreement, the Director may require, pursuant to rules and regulations, that the taxpayer furnish security for payment of any taxes due.

(4) A closing agreement is conclusive as to the taxpayer's liability or non-liability for payment of assessed taxes covering the periods stated in the agreement and, except upon a showing of fraud, malfeasance, misrepresentation or concealment of a material fact:

(a) The closing agreement shall not be modified by any officer, employee or agent of the Government of Pohnpei; and

(b) In any suit, action or proceeding, the closing agreement or any determination, assessment, collection, payment, abatement, refund or credit made in accordance therewith shall not be annulled, modified, set aside or disregarded.

Source: S.L. No. 4L-35-97 §2-3, 5/10/97

§1-110. Installment payments of taxes; installment agreements. —

(1) Whenever justified by the circumstances, the Commissioner may enter into a written agreement with any taxpayer wherein the taxpayer admits conclusive liability for the stated amount of taxes due and agrees to make monthly installment payments thereof according to the terms of the

agreement, but not for a period longer than 18 months. The Commissioner shall include, as permitted by and as set forth in rules and regulations, penalties and an interest charge not to exceed the rate set out in §1-153.

(2) The agreement provided for in this section shall be identified as an installment agreement. If entered into after any court acquires jurisdiction of the matter, the agreement shall be part of a stipulated order or judgment disposing of the case.

(3) At the time of entering into an installment agreement, the Commissioner shall require the taxpayer to furnish security, in accordance with §§1-112 and 1-113, for payment of the taxes admitted to be due. If the taxpayer fails to provide such security, the Director shall cause a notice of lien to be filed and may pursue any remedies available to the state.

(4) An installment agreement is conclusive as to liability for payment of the amount of taxes specified therein, but does not preclude the assessment of any additional tax.

(5) After entering into an installment agreement, no further attempts to enforce payment of the tax shall be made except when, in the judgment of the Director, there are indications that the installments may not be paid. If installment payments are not made on or before the times specified in the agreement, if any other condition contained in the agreement is not met, or if the taxpayer does not pay any other taxes as they fall due, the Director may proceed to enforce collection of the tax as if the agreement had not been made or may proceed against the security furnished as provided in §1-112.

Source: S.L. No. 4L-35-97 §2-4, 5/10/97

§1-111. Delinquent taxpayer. — If any taxpayer to whom taxes have been assessed or upon whom demand for payment has been made does not either make payment thereof before 30 days after the date of assessment or demand for payment, or, within that time, enter an installment agreement, or furnish security acceptable to the Director for payment thereof, he becomes a delinquent taxpayer and remains such until he pays all such taxes or until he enters an installment agreement or furnishes such security for the payment thereof.

Source: S.L. No. 4L-35-97 §2-5, 5/10/97

PART C SECURITY FOR TAXES DUE

§1-112. Deposit of security; amounts; sales of security; return of surplus. —

(1) To ensure compliance with the Government of Pohnpei's tax laws, the Director shall require any taxpayer to provide such security as the Director may determine pursuant to guidelines set forth by rules and regulations. Retention by the taxpayer of such security shall be conditioned upon the compliance and performance with the state's tax laws and such other conditions as the Director deems appropriate.

(2) The Director, subject to rules and regulations, shall fix the amount of the security that, except as noted below, may not be greater than three times the taxpayer's estimated average liability if monthly returns are required, or \$20,000, whichever amount is the lesser.

(3) In the case of taxpayers who are habitually delinquent in their tax obligations, as defined by rules and regulations, the amount of the security may not be greater than six times the taxpayer's estimated average monthly liability, or \$50,000, whichever amount is the lesser.

(4) The amount of the taxpayer's estimated liability shall be calculated as set forth by rules and regulations. The limitations provided in this section apply regardless of the type of security placed with the Division.

(5) The amount of the security may be increased or decreased and the type of security may be changed or substituted at the Director's discretion, subject to rules and regulations and subject to the limitations provided in this section.

(6) The Division may sell the security at a public auction when it is necessary to recover any tax, interest, penalty or other charges collectible under this title. Notice of the sale must be served personally or by certified or registered mail upon the person who placed the security. Announcement and conduct of the sale shall be as provided by §§1-136 through 1-145, unless provided otherwise by regulations duly promulgated by the Director. The foregoing notwithstanding, stocks, bonds, certificates of deposit or other securities which have a specific value or prevailing market price may be sold by the Division at a private sale at a price not lower than the specific price or prevailing market price.

(7) Proceeds of the sale shall be distributed as provided in §1-144.

Source: S.L. No. 4L-35-97 §3-1, 5/10/97

§1-113. Failure to furnish security. — If, after notice and demand to furnish security, any taxpayer neglects or refuses to comply, the Director may institute any proceeding or pursue any remedy to collect the amounts due, including, but not limited to, enjoining the taxpayer from doing business as provided in this title. The taxpayer shall be given a minimum of seven business days from the date of mailing or delivering the notice and demand to provide the security, or such additional time as the Director may allow.

Source: S.L. No. 4L-35-97 §3-2, 5/10/97

PART D TAX LIEN AND PRIORITY

§1-114. Assessment or demand as lien. —

(1) If any taxpayer neglects or refuses to pay, or withhold and pay, or collect and pay any tax that is due after assessment or demand for payment as provided in this title, the amount of the tax shall be a lien in favor of the Government of Pohnpei on all the property of that taxpayer as allowed under this title.

(2) The lien imposed by Subsection (1) of this section shall arise at the time that the assessment or demand has been made as provided in this title, and shall continue until the liability for payment of the amount assessed or demanded is satisfied or extinguished.

(3) As against any mortgagee, pledgee, purchaser, judgment creditor, lienor or other encumbrance for value, the lien imposed by Subsection (1) of this section shall not be considered to have arisen or have any effect whatever unless notice of the lien has been filed as provided in §1-116.

Source: S.L. No. 4L-35-97 §4-1, 5/10/97

§1-115. Exemptions. — Notwithstanding any other provision of this title, the following described property shall be exempt from the taking of liens and subsequent attachment and execution as imposed under this title:

(1) *Personal and household goods.* All necessary household furniture, cooking and eating utensils, and all necessary wearing apparel, bedding, and provisions for household use sufficient for four months;

(2) *Necessities for trade or occupation.* All tools, implements, utensils, work animals and vehicles that are not used for personal transportation, including travel from residence to place of employment and return thereto, and equipment necessary to enable the person against whom the attachment or execution is issued to carry on his usual occupation; and

(3) *Certain interests in land.*

(a) All interests in land within the state held by a natural person, inclusive of equitable and leasehold interests, except where such interests can be shown to have been acquired to avoid attachment or execution with respect to the cause of action to which the attachment or

execution is ordered, or where attachment or execution against such interest in land is specifically permitted under a real property mortgage statute or real property deed of trust statute for the state; and

(b) Such other interests in land held by such other entities or organizations as may be otherwise specifically exempted from attachment or execution, or both, by Pohnpei statute; and

(c) Where permitted by this title, execution sales of land shall be limited to purchasers who are Pohnpeian citizens who are also pwilidak of Pohnpei, as provided for in Article 12 §2 of the Pohnpei Constitution.

Source: S.L. No. 4L-35-97 §4-2, 5/10/97

§1-116. Notice of lien. — To perfect the state's tax lien imposed by §1-114, a notice of the lien must be filed in the Pohnpei Supreme Court and a copy thereof sent by certified or registered mail to the taxpayer affected. The notice of lien must be filed not less than 45 days after the assessment or demand for payment as provided in this title. The filing of such notices shall be without charge. The notice of lien:

(1) Shall identify the taxpayer whose liability for taxes is sought to be enforced, the type or nature of the tax, the amount of the tax due on the date that the notice is filed plus any penalty or interest that may be chargeable, the date or approximate date on which the tax became due, and the date on which the assessment or demand for payment was delivered or mailed;

(2) Shall state that the Government of Pohnpei claims a lien for the entire amount of tax asserted to be due, including applicable interest and penalties; and

(3) Shall state that the lien covered by the notice includes any additional amounts that may become due after the notice is filed.

Source: S.L. No. 4L-35-97 §4-3, 5/10/97

§1-117. Priority of tax claim or lien; subordination to prior recorded lien; other debts. —

(1) The amount of tax due and any interest and penalties thereon shall be satisfied first in any of the following cases:

(a) Whenever the taxpayer is insolvent;

(b) Whenever the taxpayer makes a voluntary assignment of his assets;

(c) Whenever the estate of the taxpayer in the hands of executors, administrators or heirs prior to distribution is insufficient to pay all the debts due from the deceased; or

(d) Whenever the estate and effects of an absconding, concealed or absent taxpayer owing any tax, penalty or interest are levied upon by process of law.

(2) This section does not give the Government of Pohnpei a preference over:

(a) Any lien which the Division had actual notice prior to the date when the unpaid tax became a lien; or

(b) Any costs of administration, funeral expenses, expenses of last illness, family allowances or debts preferred under state or national law.

Source: S.L. No. 4L-35-97 §4-4, 5/10/97

§1-118. Foreclosure of lien. — Except as provided in §1-115, the lien imposed by this title may be foreclosed or satisfied by seizure and sale of property as provided in this title or in any other lawful manner.

Source: S.L. No. 4L-35-97 §4-5, 5/10/97

§1-119. Release or extinguishment of lien; limitation on actions to enforce lien. —

(1) When any substantial part of the amount of tax due from a taxpayer is paid, the Director may file with the Clerk of the Pohnpei Supreme Court a document completely or partially releasing the lien.

(2) When a notice of lien for taxes, penalties, and interest has been filed under §1-116 and a period of ten years has passed from the date the assessment or demand for payment was delivered or mailed as stated in the notice of lien, the amounts claimed in the notice of lien shall be conclusively presumed to have been paid. The Court Clerk shall enter in his records on the notice of lien the words “canceled by law” and the lien shall be deemed extinguished in accordance with this section. No action shall be brought to enforce any lien extinguished in accordance with this section.

Source: S.L. No. 4L-35-97 §4-6, 5/10/97

§1-120. Department may release or subordinate lien. — The Director may release, at any time, all or any portion of the property subject to any tax lien, or subordinate the lien to other liens and encumbrances if he determines that the amount of taxes, interest, and penalties are secured sufficiently by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amounts due.

Source: S.L. No. 4L-35-97 §4-7, 5/10/97

§1-121. Evidentiary effect of certificate of release or subordination. — A certificate by the Department to the effect that any property has been released from the lien, or that the lien has been subordinated to other liens and encumbrances, is conclusive evidence that the property has been released, or that the lien has been subordinated as provided in the certificate.

Source: S.L. No. 4L-35-97 §4-8, 5/10/97

PART E JUDGMENTS FOR TAXES

§1-122. Permanence of tax debt; civil actions to collect tax. — The total amount of all taxes due and assessed or demanded is a personal and or continuing debt of the taxpayer to the Government of Pohnpei until paid and may be collected by civil action commenced by the Director through the Attorney General of the Government of Pohnpei. Such actions may be commenced in addition to or in lieu of any other remedy provided by law and in any court of competent jurisdiction. Final judgments for taxes may be enforced in appropriate courts of other states by the Attorney General of the Government of Pohnpei pursuant to agreement between the other state and this state, or by attorneys in that other state retained by the Department or the Attorney General of the Government of Pohnpei.

Source: S.L. No. 4L-35-97 §5-1, 5/10/97

§1-123. Application for judgment; filing of certificate of delinquency. — If any tax required to be paid to the state is not paid when due, the Director may file, within ten years after the assessment or demand for payment was delivered or mailed, in the office of the Clerk of the Pohnpei Supreme Court or any other court of competent jurisdiction a certificate of delinquency specifying the amount required to be paid, the interest and penalties due, the name and address of the taxpayer liable for payment as it appears on the records of the Division, the Division’s compliance with the applicable provisions of this title in relation to the determination of the amount required to be paid, and a request that judgment be entered against the taxpayer in the amount required to be paid, including interest and penalties. The certificate of delinquency shall be attested to, under oath, by the Director.

Source: S.L. No. 4L-35-97 §5-2, 5/10/97

§1-124. Evidentiary effect of certificate of delinquency. — In a judicial action to collect taxes, interest, penalties and other charges due, the Division’s certificate of delinquency shall be prima facie

evidence of the determination of the tax due, of the delinquency of such other amounts set forth therein, and of the compliance by the Division with this title in relation to the computation and determination of the amounts due, and compliance with the preliminary procedures for collection.

Source: S.L. No. 4L-35-97 §5-3, 5/10/97

§1-125. Order to show cause; notice; hearing; entry of judgment. —

(1) The court, upon filing of the certificate of delinquency, shall issue an order requiring the taxpayer liable for payment to show cause why a judgment should not be entered against him in the amount required to be paid, including interest and penalties, as set forth in the certificate of delinquency. The order shall specify the time and place of hearing and shall be served upon the taxpayer liable for payment at least ten days prior to the time set for hearing.

(2) The court shall hear and determine the case and render judgment thereon. The judgment shall be entered in the judgment book as in other cases.

Source: S.L. No. 4L-35-97 §5-4, 5/10/97

§1-126. Judgment lien. — Except as provided in §1-115, from the time judgment is entered by the court, it shall become a lien upon all property in the state owned by the judgment debtor at the time, or that he may afterward acquire, until the lien expires. The lien shall have the force, effect and priority of a judgment lien.

Source: S.L. No. 4L-35-97 §5-5, 5/10/97

§1-127. Execution; issuance; sale. — Upon request of the Department, execution shall issue upon the judgment entered against the delinquent taxpayer. Execution shall be conducted in the same manner as execution of other judgments, and sales shall be held under such execution as provided by law.

Source: S.L. No. 4L-35-97 §5-6, 5/10/97

PART F WARRANT FOR COLLECTION OF TAX

§1-128. Warrant for collection of tax; issuance; effect; levy and sale. —

(1) If, after the notice of lien is filed pursuant to §1-116, the delinquent taxpayer fails or refuses to pay the same or enter other arrangements for payment of the same, as provided in this title, the Department may issue a tax warrant for the enforcement of such lien and for the collection of any tax. Upon issuing the tax warrant, any property of the delinquent taxpayer, except as provided in §1-115, may be levied and converted to money in accordance with this title.

(2) A levy shall be executed by taking possession of the taxpayer's property pursuant to authority contained in the tax warrant or by serving the warrant upon the taxpayer, upon any other person in possession of property of the taxpayer, or upon any person or depository, including any officer or employee of the state or any political subdivision or agency of the state, who owes or who will owe money to the taxpayer, who is holding funds of the taxpayer, and ordering him to reveal the extent thereof and surrender it to the state forthwith or agree to surrender it or the proceeds therefrom in the future, but, in any case, on the terms and conditions stated in the tax warrant.

(3) The tax warrant shall be directed to and executed by the Department of Public Safety. Except as provided otherwise in this title or as provided by regulations duly promulgated hereunder, the tax warrant shall be levied and the sale or other disposal made in the same manner and with the same effect as a levy and sale under a writ of execution.

Source: S.L. No. 4L-35-97 §6-1, 5/10/97

§1-129. Contents of tax warrant. — A tax warrant shall:

- (1) Bear on its face a statement of the authority for its issuance and service, compel compliance with its terms, and shall be attested to, under oath, by the Director;
- (2) Identify the taxpayer whose liability for taxes is sought to be enforced, the amount thereof, and the date or approximate date on which the tax became due;
- (3) State that the Government of Pohnpei claims a lien for the entire amount of tax asserted to be due, including applicable interest and penalties;
- (4) Order the person on whom it is served to reveal all property in his possession, custody or control that belongs to the taxpayer and the extent of his own interest therein; and to reveal the amount and kind of property of the taxpayer that, to the best of his knowledge, is in the possession, custody or control of others;
- (5) Order the person on whom it is served to surrender the property forthwith, but may allow him to agree, in writing, to surrender the property or the proceeds therefrom on a certain date in the future when the taxpayer's right to it would otherwise mature; and
- (6) State on its face the penalties for willful failure by any person upon whom it is served to comply with its terms.

Source: S.L. No. 4L-35-97 §6-2, 5/10/97

§1-130. Fees for services of police. — The services of the Department of Public Safety officers and personnel involved with the enforcement of the tax warrant shall be provided without charge to the Department. Appropriate arrangements for the advancement, payment or reimbursement of the charges and expenses incurred or anticipated by the Department of Public Safety for the levy and execution of the tax warrant shall be made with the Department of Public Safety.

Source: S.L. No. 4L-35-97 §6-3, 5/10/97

§1-131. Liability for fees and charges. — A reasonable fee for the services of the Department of Public Safety personnel directly involved with the levy and execution of the tax warrant, plus the actual charges and expenses incurred for said levy and execution, are the obligation of the taxpayer and may be collected from him by virtue of the warrant or in any other manner provided in this title or by other lawful procedure.

Source: S.L. No. 4L-35-97 §6-4, 5/10/97

§1-132. Transfer or disposition of property or debt prohibited; bank deposits. —

(1) After receiving the warrant, the person so notified may not transfer or otherwise dispose of the money, property or debts in his possession, custody or control, unless the Director consents, in writing, to a transfer or other disposition.

(2) If the warrant prevents the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice must be delivered or mailed to the branch or office in this state. If a bank withholds any deposit or other credits or personal property required to be withheld in which the delinquent taxpayer and another person or persons have an interest, or holds in the name of a third party or parties in which it is ultimately determined that the delinquent taxpayer does not have an interest, the bank shall not be liable therefor to any of such persons unless the deposit or other credits or personal property is released or transferred to the delinquent taxpayer.

Source: S.L. No. 4L-35-97 §6-5, 5/10/97

§1-133. Surrender of property subject to levy; penalty. —

(1) Upon receipt of the warrant, any person in possession or control of property subject to levy under a tax warrant shall immediately surrender the property or discharge the obligation to the Director; but not that part of the property that is already the subject of a bona fide attachment,

execution, levy or other similar process. Such levy is further subject to the redemption provisions of §1-139.

(2) Any person who receives a tax warrant and wrongfully fails or refuses to comply therewith shall be liable in his own person and estate to the state in a sum equal to the value of the property not so surrendered or paid over, but not exceeding the amount of the taxes for the collection of which such levy has been made, together with penalties and interest on such sum from the date of such levy at the rate set out in §1-153, plus the costs of executing the warrant.

Source: S.L. No. 4L-35-97 §6-6, 5/10/97

§1-134. Notice of seizure. — As soon as practicable after the levy, the Director shall notify the taxpayer of the amount and kind of property seized and of the total amount demanded in payment of tax.

Source: S.L. No. 4L-35-97 §6-7, 5/10/97

§1-135. Release of levy. — The Director, pursuant to rules and regulations, may release the levy upon all or part of the property if there is a determination that such action will facilitate the collection of the liability, but the release shall not operate to prevent any subsequent levy.

Source: S.L. No. 4L-35-97 §6-8, 5/10/97

§1-136. Notice of sale; contents; mailings; broadcasts. —

(1) As soon as practicable after the levy and seizure of the property, the Director shall decide on a date, subject to the terms of §1-137, time and place for the sale of the property, shall make a diligent inquiry as to the identity and whereabouts of the owner of the property and persons having an interest therein, and shall notify the owner and such persons of the time and place for the sale.

(2) Notice of the sale must be given to the delinquent taxpayer, in writing, at least 30 days before the date set for the sale in the following manner:

(a) The notice must be sent by certified or registered mail addressed to the taxpayer at his last-known residence or place of business in this state. Postage must be prepaid.

(b) The time, date and place of the sale, the property to be sold, and other terms and conditions of the sale must also be broadcast over the public radio station at least three times on separate days. The third broadcast must be at least ten days before the date set for the sale.

(3) The written notice must also contain a description of the property to be sold, a statement of the amount due, including interest, penalties and costs, the name of the delinquent taxpayer, and a statement that, unless the amount due plus interest, penalties and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as is necessary, will be sold in accordance with law and the notice.

(4) The fact that any person entitled thereto does not receive the notice provided for in this section does not affect the validity of the sale.

Source: S.L. No. 4L-35-97 §6-9, 5/10/97

§1-137. Requirement of sale. — No sale of imperishable property shall be held until after the expiration of 30 days from the date of the levy thereon. Perishable property may be sold immediately after seizure without broadcast or notice of the sale. The Director shall make special efforts pursuant to rules and regulations to give notice of the sale to persons with a particular interest in special property, and, apart from the requirements stated above, shall advertise the sale in a manner appropriate to the kind of property to be sold.

Source: S.L. No. 4L-35-97 §6-10, 5/10/97

§1-138. Sale of indivisible property. — If any property of the taxpayer subject to levy cannot be reasonably divided so as to enable the Director to sell a part thereof to raise the whole amount of the

tax and expenses, the whole of the taxpayer's interest in the property shall be sold. The sale is, however, subject to redemption before sale according to §1-139.

Source: S.L. No. 4L-35-97 §6-11, 5/10/97

§1-139. Redemption before sale. —

(1) The levy and sale shall not be made, or the levy and sale shall be terminated and released if the taxpayer pays the entire amount due, furnishes security, or makes other arrangements for payment that are acceptable to the Director as provided in this title. Upon making such payment or arrangements the Director shall restore the property to the taxpayer, and all further proceedings in connection with the levy and sale of the property shall cease from the time of the payment or signing of an agreement with the Department.

(2) Any person who has sufficient interest in the property levied to entitle him to redeem it from sale and who pays the amount due and accomplishes the redemption shall have a lien against the property in the amount paid and may file a notice thereof with the Clerk of the Pohnpei Supreme Court, who may foreclose the lien as provided by law. The nature of the interest required to exercise this right of redemption shall be established in the regulations promulgated by the Director.

Source: S.L. No. 4L-35-97 §6-12, 5/10/97

§1-140. Minimum prices. — Before the sale, the Director shall determine a minimum price, pursuant to formulas set forth by rules and regulations, for which the property shall be sold, and if no person offers the minimum price at the sale, the property shall not be sold, but the sale shall be readvertised and held at a later time. In determining the minimum price, the Director shall take into account the expenses of conducting the levy and sale.

Source: S.L. No. 4L-35-97 §6-13, 5/10/97

§1-141. Sale; delivery of bill of sale or deed; disposition of unsold portion. —

(1) Except as provided in Subsection (4) of this section, the Department shall sell the property at a public auction and in accordance with the notice of sale, and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold.

(2) Except as provided in Subsection (4) of this section, payment must be in full, in cash or its equivalent, and made immediately after the acceptance of a bid for the property.

(3) The unsold portion of any property seized may be left at the place of sale at the risk and cost of the delinquent taxpayer.

(4) The foregoing notwithstanding, stocks, bonds, certificates of deposit, promissory notes or other securities which have a specific value or prevailing market price may be sold by the Department at a private sale at a price not lower than the specific price or prevailing market price and in accordance with the regulations promulgated by the Director. The sale may not occur sooner than the date scheduled for the sale as stated in the notice.

Source: S.L. No. 4L-35-97 §6-14, 5/10/97

§1-142. Legal effect of certificate of sale. — In all cases of sale of property other than real property, the document conveying title to the property shall:

(1) Be prima facie evidence of the right of the Director to make the sale, and conclusive evidence of the regularity of the conduct of the sale;

(2) Transfer to the purchaser all right, title and interest of the delinquent taxpayer in and to the property sold, subject to all outstanding prior interests and encumbrances of record and free of any subsequent encumbrance;

(3) If such property consists of stock certificates, then when the document conveying title is received by the corporation, it shall be notice of the sale and transfer, and the authority to such corporation to record the transfer on its books and records as if the stock certificates were transferred or assigned by the owner of record;

(4) If the property consists of promissory notes or other evidences of debt, the document shall be conclusive evidence that the holder thereof has the right to pursue the collection of such debt; and

(5) If such property consists of a motor vehicle as represented by its title, the document conveying title shall be notice of the transfer to any public official charged with the registration of title to motor vehicles and authorizing that official to record the transfer on his books and records in the same manner as if the certificate of title to the motor vehicle were transferred or assigned by the owner of record.

Source: S.L. No. 4L-35-97 §6-15, 5/10/97

§1-143. Legality of deed to real property. — In the case of the sale of real property:

(1) The deed delivered pursuant to §1-141 shall be prima facie evidence of the facts stated therein;

(2) If the proceedings have been in accordance with law, the deed shall be considered and operate as a conveyance of all the right, title and interest of the delinquent taxpayer in and to the real property thus sold at the time the notice of lien was filed as provided in §1-116; and

(3) The taxpayer or anyone claiming through or under him may bring an action to challenge the conveyance no later than six months after the date of sale.

Source: S.L. No. 4L-35-97 §6-16, 5/10/97

§1-144. Proceeds of levy and sale. —

(1) Money realized by levy or sale under this title shall be first applied against the expenses of the proceedings;

(2) The amount remaining, if any, then shall be applied to the liability for the tax, interest and penalties for which the levy was pursued;

(3) Except as provided in Subsections (4) and (5) of this section, the balance, if any, shall be returned to the taxpayer or the person legally entitled thereto and a receipt obtained;

(4) If, before the sale, any person having an interest in or lien upon the property files with the Department notice of his interest or lien, the Department shall withhold any excess, pending a determination of the rights of the respective parties to it by a court of competent jurisdiction;

(5) If for any reason the taxpayer is not available or cannot be found to accept the excess, the Department shall deposit it with the Government of Pohnpei, as trustee for the owner, subject to the order of a court of competent jurisdiction, the taxpayer, or his heirs, successors or assigns, or subject to any other disposition authorized by law.

Source: S.L. No. 4L-35-97 §6-17, 5/10/97

§1-145. Successive seizures. — Whenever any property upon which levy has been made by virtue of a tax warrant is not sufficient to satisfy the claim for which levy is made, the Director, thereafter, and as often as may be necessary, may proceed to levy in like manner upon any other property of the taxpayer against whom the claim exists, until the amount due from him is fully paid.

Source: S.L. No. 4L-35-97 §6-18, 5/10/97

PART G ENJOINING CONTINUATION OF BUSINESS

§1-146. Enjoining delinquent taxpayer from continuing in business. —

(1) In order to ensure or to compel payment of taxes and to aid in the enforcement of this title, the Director may apply to the Pohnpei Supreme Court to have any delinquent taxpayer or person who may be or may become liable for payment of any tax enjoined from engaging in business until he ceases to be a delinquent taxpayer or until he complies with other requirements reasonably necessary to protect the revenues of the Government of Pohnpei.

(2) Upon application to the court for issuance of an injunction against a delinquent taxpayer, the court may forthwith issue an order temporarily restraining him from doing business. The court shall hear the matter within ten days and, upon a showing by the preponderance of the evidence that:

- (a) The taxpayer is delinquent;
- (b) The taxpayer has been given notice of the hearing as required by law;
- (c) That the taxpayer has not furnished security or made other arrangements for payment of the taxes as provided in this title; and
- (d) The Director considers the collection of the amounts due or reasonably expected to come due to be in jeopardy, then the court shall enjoin the taxpayer from engaging in business in the state until he ceases to be a delinquent taxpayer. Upon issuing an injunction, the court may also order the business premises of the taxpayer to be sealed by the Department of Public Safety officers and may allow the taxpayer access thereto only upon approval of the court.

(3) No temporary restraining order or injunction shall be issued pursuant to this section against any person who has furnished security in accordance with §1-112, or who has made other arrangements for payment in full that is acceptable to or has been accepted by the Director. Upon a showing to the court by any person against whom a temporary restraining order or writ of injunction was issued that he has furnished such security or has made such other arrangements for payment in full, the court shall dissolve or set aside the temporary restraining order or injunction.

Source: S.L. No. 4L-35-97 §7-1, 5/10/97

PART H SUCCESSOR'S LIABILITY FOR TAXES AND PAYMENT OF TAXES ON SALE OR TERMINATION OF BUSINESS

§1-147. Disclosure of taxes due. — Any taxpayer who sells his business or stock of goods, or quits his business, shall obtain from the Commissioner a certificate of clearance or notice of tax status for presentation to his purchaser, successor or assigns, hereinafter cumulatively referred to as "purchaser." Any purchaser of a business or stock of goods shall obtain from the seller or the Commissioner a certificate of clearance or notice of tax status issued by the Commissioner. Failure by a taxpayer or purchaser to obtain such certificate of clearance or notice of tax status shall be considered an attempt to evade or defeat taxes due punishable under §1-156.

Source: S.L. No. 4L-35-97 §8-1, 5/10/97

§1-148. Successor or assignee to withhold tax from purchase price. — Upon receipt of the certificate of clearance or notice of tax status which indicates that the seller owes taxes, the purchaser shall withhold a sufficient amount of the purchase price to cover the amount owed the state until the delinquent taxpayer presents a certificate of tax clearance issued by the Division stating that all amounts due have been paid, or that no amount is due. Otherwise, said amount shall be paid over to the Division upon demand by the Director.

Source: S.L. No. 4L-35-97 §8-2, 5/10/97

§1-149. Request for certificate of clearance or notice of tax status; release. —

(1) Within 30 days after receiving a written request from the taxpayer or purchaser for a certificate of tax clearance or notice of the taxpayer's status, or within 30 days from the date the delinquent taxpayer's records are made available for audit, whichever period expires later, but not later than 60 days after receiving the request, the Division shall issue a certificate of tax clearance indicating that all amounts have been paid, or a notice of tax status indicating the amount that must be paid as a condition of issuing the certificate of tax clearance. The certificate or notice shall be sent to the purchaser, by certified or registered mail, to his address as it appears on the records of the Division.

(2) Failure of the Division to mail the notice of tax status within the time required releases the purchaser from any further obligation to withhold the purchase price.

Source: S.L. No. 4L-35-97 §8-3, 5/10/97

§1-150. Demand of payment; application of payment. —

(1) If, after a business or its assets are sold, any tax for which the former owner is liable remains due, the Commissioner shall make demand upon the purchaser for payment of that amount and the purchaser shall comply with the demand. The time within which the obligation of a purchaser may be enforced begins at the time the taxpayer sells or transfers his business or stock of goods.

(2) Upon the payment of the amount required to be withheld as provided by §1-148, the balance, if any, may be released to the taxpayer or otherwise disposed of in any lawful manner. The taxpayer shall be credited with the payment of tax.

Source: S.L. No. 4L-35-97 §8-4, 5/10/97

§1-151. Failure to withhold. —

(1) If the purchaser of a business or stock of goods fails to withhold the purchase price as required or fails to make payment or delivery within 30 days after demand by the Commissioner, he becomes a delinquent taxpayer and is personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money.

(2) The purchaser hereunder may completely discharge his responsibility under this section by surrendering and assigning all of his interest in the tangible and intangible property acquired or the proceeds thereof to the Commissioner for disposition by him in a manner that is substantially the same as the disposition of property levied upon pursuant to a tax warrant.

Source: S.L. No. 4L-35-97 §8-5, 5/10/97

§1-152. Personal liability of corporate officer for unpaid taxes. —

(1) Upon termination, dissolution or abandonment of a corporate business, any officer or other person who is charged with the control of, supervision of, or responsibility for filing of returns or the payment of tax, or who is under a duty to act for the corporation in complying with any requirement of this title, shall be personally liable for any unpaid taxes, interest, penalties and other charges concerning those taxes, if such officer or other person willfully fails to pay or to cause to be paid any taxes due from the corporation pursuant to this title.

(2) The officer or other person shall be liable only for taxes, interest, penalties and charges which become due during the period he had the control, supervision, responsibility or duty to act for the corporation described in Subsection (1) of this section.

(3) The sum due for the liability under this section may be collected under any procedure set out in this title or the pursuit of any other remedy.

Source: S.L. No. 4L-35-97 §8-6, 5/10/97

PART I INTEREST AND PENALTIES

§1-153. Penalty, interest for failure to pay tax; amount, rates. —

(1) If a taxpayer fails to pay any tax within the time required due to negligence or disregard of the rules and regulations, but without intent to defraud or evade taxes, the Commissioner shall assess, pursuant to rules and regulations, a penalty against such taxpayer of ten percent (10%) of the amount of the tax due per month or portion thereof that such taxes remain unpaid; PROVIDED that the penalty under this subsection shall not exceed one hundred percent (100%) of the taxes due.

(2) In addition to the penalty imposed by Subsection (1) of this section, if the taxpayer fails to file a return due to negligence or disregard of rules and regulations, but without intent to defraud or evade

taxes regardless of whether or not any tax is due, the Commissioner, pursuant to rules and regulations, shall assess a penalty against the taxpayer of up to \$200 per month or portion of a month from the date the return was required to be filed.

(3) In case a taxpayer fails to pay any tax when due with intent to defraud the Government of Pohnpei or evade taxes or fails to file a timely return with intent to defraud the Government of Pohnpei or evade taxes, there shall be assessed a penalty against such taxpayer of twenty percent (20%) of the amount of tax due per month or portion thereof that such taxes remain unpaid, or up to \$500 per month or portion of a month until the return is filed; PROVIDED that the penalty under this subsection shall not exceed two hundred percent (200%) of the taxes due.

(4) In addition to any of the foregoing penalties, there shall be assessed, pursuant to rules and regulations, interest at the rate of one percent (1%) per month or fraction of a month from the date on which the tax became due to the date of payment.

(5) Unless the rules and regulations provide otherwise, such penalties and interest may be imposed irrespective of any extensions for payment, security provided to the Government of Pohnpei, or installment payment agreements.

(6) Nothing in this section shall be construed to impose interest on interest, or interest on the amount of any penalty, nor penalty on penalty nor penalty on the amount of any interest.

Source: S.L. No. 4L-35-97 §9-1, 5/10/97

§1-154. Collection of penalties and interest. — Any amount of penalty and interest may be collected in the same manner as and concurrently with the amount of tax to which it relates, without assessment or separate proceedings of any kind.

Source: S.L. No. 4L-35-97 §9-2, 5/10/97

§1-155. Payment by bad check. — If any payment required to be made by this title is attempted to be made by check which is not paid upon presentment, such dishonor is deemed nonpayment and subject to the penalties and interest imposed by §1-153, as if payment had never been made.

Source: S.L. No. 4L-35-97 §9-3, 5/10/97

§1-156. Attempts to evade or defeat tax. — In addition to such other liabilities and penalties as may be prescribed by law:

(1) Any person who willfully attempts to evade or defeat any tax or the payment thereof of a cumulative value of less than \$1,000 in one year shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or imprisoned not more than six months, or both such fine and imprisonment.

(2) Any person who willfully attempts to evade or defeat any tax or the payment thereof of a cumulative value of \$1,000 or more in one year shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000 or imprisoned not more than five years, or both such fine and imprisonment.

Source: S.L. No. 4L-35-97 §9-4, 5/10/97

§1-157. False and fraudulent statement. — In addition to such other liabilities and penalties as may be prescribed by law, any individual or person who willfully makes or subscribes to any tax return, statement or other document which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter or with the intent to evade or defeat the payment or collection of any tax, or knowing that the probable consequences of this title will be to evade or defeat the payment or collection of any tax, removes, conceals or releases property on which the levy is authorized or which is liable for payment of tax, or aids or causes the accomplishment of any of the foregoing, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than three years, or both such fine and imprisonment.

Source: S.L. No. 4L-35-97 §9-5, 5/10/97

§1-158. Interference with administration of tax laws. — Whoever forcibly or by bribe, threat or other corrupt practice obstructs or impedes or attempts to obstruct or impede the due administration of this title, upon conviction thereof, shall be fined not less than \$250 nor more than \$10,000 or imprisoned for not less than six months nor more than one year, or both such fine and imprisonment, together with costs of prosecution.

Source: S.L. No. 4L-35-97 §9-6, 5/10/97

§1-159. Assault and battery of a government employee. — Whoever assaults and batters or attempts to assault and batter an employee of the Department or the Department of Public Safety acting within the scope of such employee's employment with intent to obstruct or impede the due administration of this title, or whoever assaults and batters or attempts to assault and batter a member of the immediate family of an employee of the Department or the Department of Public Safety with the intent to obstruct or impede the due administration of this title, upon conviction thereof, shall be fined not less than \$500 nor more than \$5,000, or be imprisoned for not less than six months nor more than two years, or both so fined and imprisoned, together with the costs of prosecution.

Source: S.L. No. 4L-35-97 §9-7, 5/10/97

PART J REVIEW AND APPEAL BY TAXPAYERS

§1-160. Administrative hearing; procedure. —

(1) A taxpayer may dispute the application or calculation of any tax or the application of this title by filing, in writing, a protest or claim for refund with the Director, therein stating the nature of the taxpayer's complaint and the affirmative relief requested.

(2) A protest or claim by a taxpayer shall be filed within 30 days of the date of the mailing by certified or registered mail or delivery to him by the Commissioner of the notice of assessment or other notice or demand, or the date of mailing or filing his return. If the protest or claim is not filed within that time or such other reasonable time not to exceed 30 additional days as the Director may grant pursuant to rules and regulations, the Director may proceed to enforce collection of the amounts due and all rights to appeal or contest the amounts due, the application or calculation of any tax or the application of this title, whether to the Department or to the courts, shall be barred.

(3) No proceedings other than those to enforce collection of any amount assessed as tax are stayed by timely filing of a protest under this section.

(4) Upon timely receipt of a protest or a request for hearing after denial of a claim for refund, the Director shall set, within ten days, a date for hearing and, on that date, hear the protest or claim.

(5) In appropriate cases, the Director may provide for an informal conference before setting a hearing of the protest or acting on any claim for refund.

(6) Taxpayers may appear at a hearing for themselves or be represented by a bona fide employee, an attorney, or public accountant. Hearings shall not be open to the public except upon request of the taxpayer, and may be postponed for up to 30 days or continued at the discretion of the Director.

(7) The technical rules of evidence shall not apply in hearings before the Director, but when ruling on the admissibility of evidence, the Director may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

(8) In hearings before the Director, the rules of civil procedure shall not apply, but the hearing shall be conducted so that both complaints and defenses are amply and fairly presented.

(9) In the case of the hearing of any protest or claim for a refund, the Director shall make and preserve a record of the proceedings. A verbatim record, however, is not required. The Director may announce his decision at the conclusion of the hearing or may take the matter under advisement, but in either case, within 30 days he shall inform, in writing, the protestant or claimant of his decision, at the same time informing such protestant or claimant of his right to and the requirements for perfection of

an appeal from the decision to the courts and of the consequences of his failure to appeal. The written decision shall embody an order granting or denying the relief requested or granting such part thereof as is appropriate. All decisions and orders shall be in the name of the Director.

(10) Nothing in this section shall be construed to authorize any criminal proceedings hereunder, nor to authorize an administrative protest of the issuance of a subpoena or summons.

Source: S.L. No. 4L-35-97 §10-1, 5/10/97

§1-161. Appeals from Director's decision and order. —

(1) If the protestant or claimant is dissatisfied with the action and order of the Director after a hearing, he may appeal to the courts for further relief, but only to the same extent and upon the same theory as was asserted in the hearing before the Director. All such appeals shall be upon the record made at the hearing and shall not be de novo. All such appeals shall be taken within 30 days of the date of mailing or delivery of the written decision and order of the Director to the protestant or claimant and, if not so taken, the decision and order shall be final and conclusive.

(2) The procedure for perfecting an appeal under this section consists of the payment of the entire amounts due as determined, assessed or demanded by the Director and of the timely filing of a complaint on appeal, naming only the Department of Treasury and Administration as defendant, with a copy attached of the decision and order from which appeal is taken. Sufficient copies of the record on appeal, as the court may require, shall be supplied at the expense of taxpayer. If the appellant is successful on appeal, the state shall reimburse the cost of providing copies of the record. Under limited circumstances, pursuant to rules and regulations, the Director may waive the requirement that a taxpayer pay the entire amount due before he may perfect an appeal.

(3) The record on appeal shall consist of:

- (a) The entire proceedings;
- (b) Portions thereof as the Director and taxpayer may stipulate; or
- (c) A statement of the case agreed to by the Director and taxpayer.

(4) Upon appeal, the court shall set aside a decision and order of the Director only if such decision or order is found to be:

- (a) Arbitrary, capricious or an abuse of discretion; or
- (b) Not in accordance with the law; or
- (c) Due to an error in the technical calculation of the tax, penalties, interest, or other payments to the Government of Pohnpei being adjudicated.

Source: S.L. No. 4L-35-97 §10-2, 5/10/97

§1-162. Exhaustion of administrative remedies. — No court of this state has jurisdiction to entertain any proceeding by a taxpayer in which such taxpayer calls into question his liability for any tax or the application to him of this title, except as a consequence of an appeal by him to the court from an action and order of the Director, all as specified in §§1-160 and 1-161.

Source: S.L. No. 4L-35-97 §10-3, 5/10/97

PART K MISCELLANEOUS

§1-163. Address of notices and payments; timely mailing constitutes timely filing or making. —

(1) Unless otherwise provided in this title, any notice required or authorized by this title to be given by mail is effective if mailed, via certified or registered mail, or served by the Commissioner or Director to the taxpayer at the last address shown in such taxpayer's registration certificate, tax return or any other record of the Department. Any notice, return, application or payment required or authorized to be delivered to the Department, the Director or the Commissioner shall be addressed to the Department or the Division at the address set forth in the regulations promulgated by the Director.

(2) All assessments, demands, notices, returns, applications, payments or other documents authorized or required to be made or given by mail are considered timely if they are mailed on or before the date on which they are required.

Source: S.L. No. 4L-35-97 §16-1, 5/10/97

§1-164. Timeliness when last day for performance falls on Saturday, Sunday or legal holiday. — When, by any provision of this title, the last day for performing any act falls on Saturday, Sunday or a legal state or national holiday, the performance of the act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday or a legal state or national holiday.

Source: S.L. No. 4L-35-97 §16-2, 5/10/97

§1-165. Records required; accounting methods. —

(1) All taxpayers shall maintain books of accounts or other records in a manner that will permit the accurate computation and verification of state taxes and shall provide, upon request, such records to the Division in Pohnpei with supporting documents to substantiate the accuracy of all reports filed. A taxpayer who fails to maintain the records required by this subsection or who fails to provide such records to the Division when requested shall be fined not more than \$1,000 or imprisoned not more than one year, or both so fined and imprisoned, together with the costs of prosecution.

(2) Methods of accounting shall be consistent for the same business. A taxpayer engaged in more than one business may use a different method of accounting for each business.

(3) Any taxpayer who changes the method of accounting used by him in keeping his books and records shall notify the Commissioner in writing. If such notice is not given, the Commissioner, upon audit, may require the taxpayer to compute the amount of tax due on the basis of the accounting method earlier used.

(4) Every taxpayer subject to the sale tax who has commercial sales in excess of \$10,000 per month shall record such sales on an individual basis using a cash register that has the ability to record at least four categories of sales or shall use a method of recording, accumulating and reporting sales that is certified in writing by the Tax Commissioner to be acceptable in lieu of using a cash register. A taxpayer who does not comply with the above requirement, upon notification in writing by the Tax Commissioner that the taxpayer is not in compliance with this subsection, shall be fined \$500 per month or fraction thereof in excess of two months that such taxpayer remains in noncompliance with this subsection.

(5) Whenever a taxpayer does not maintain records that are adequate, as determined by the Tax Commissioner, to accurately record the sale price, the sale price shall be deemed to be the maximum allowed by 39 PC 3-104, relating to price control on items sold in Pohnpei State, to the extent said law is applicable.

Source: S.L. No. 4L-35-97 §16-3, 5/10/97; S.L. No. 4L-92-99 §4, 3/1/99

§1-166. Administrative regulations, ruling instructions and orders; presumption of correctness. —

(1) The Director and the Commissioner are empowered to promulgate rules, regulations, rulings, instructions or orders necessary to implement and enforce this title and any tax law covered by this title. This subsection shall be liberally construed to fully and effectively accomplish the purposes of this title.

(2) The aforementioned directives issued by the Director shall be substantially as follows:

(a) Rules and regulations are written statements of the Director of general application to taxpayers, interpreting and exemplifying the statutes to which they relate. Regulations adopted by the Director pursuant to the Administrative Procedures Act, Title 8 Chapter 1, as such law may be amended or superseded, shall have the force and effect of law.

(b) Rulings are written statements of the Commissioner of limited application to one or a small number of taxpayers, interpreting the statutes to which they relate, ordinarily issued in

response to a request for clarification of the tax consequences of a specified set of circumstances.

(c) Orders are written statements of the Director or Commissioner to implement his decision.

(d) Instructions are other written statements or directives of the Commissioner not dealing with the merits of any tax but otherwise in aid of the accomplishment of the duties of the Commissioner.

(3) Any rule, regulation, ruling, order or instruction issued by the Director or Commissioner is presumed to be a proper implementation of the tax laws.

Source: S.L. No. 4L-35-97 §16-4, 5/10/97

§1-167. Investigative authority and powers. —

(1) For the purpose of establishing or determining the extent of any person's tax liability, for the purpose of collecting any tax, or for the purpose of enforcing any statute administered by the Division, the Commissioner is authorized to examine equipment, shipping containers, storage areas and other places where taxable goods may be stored or displayed, to examine and require, upon request, the production in the state of all account books, bank books, bank statements and paid checks, vouchers, purchase records, sales invoices and records, taxpayer's copies of Federated States of Micronesia business gross revenue tax returns, and any and all other records or documents and evidences having any relevancy to the determination of taxes due, to require the presence in the state of any person and to require him to testify under oath concerning the subject matter of the inquiry, and to make a permanent record of the proceedings. If it is necessary to travel outside Pohnpei State in order to perform an examination under this subsection, and should such examination reveal a finding that more than \$1,000 in taxes are due and payable to the state, the delinquent taxpayer shall be responsible to reimburse the Division for travel costs computed under government travel regulations. Such costs shall be in addition to any taxes due and shall be assessed in the same manner as taxes.

(2) To accomplish the matters referred to in Subsection (1) of this section, the Director is hereby invested with the power to issue subpoenas and summonses. In no case shall a subpoena or summons be made returnable less than ten days from the date of service.

(3) Any subpoena or summons issued by the Director shall state, with reasonable certainty, the nature of the evidence required to be produced, the time and place of the hearing, the nature of the inquiry or investigation, the consequences of failure to obey the subpoena or summons, and shall be attested to by the Director.

(4) After service of a subpoena or summons upon him, if any person neglects or refuses to appear in Pohnpei in response to the summons, or neglects or refuses to produce in Pohnpei records or other evidence, or neglects or refuses to allow the inspection of equipment or shipping containers, storage areas and other places where taxable goods may be stored or displayed in response to the subpoena, or neglects or refuses to appear in Pohnpei or give testimony as required, the Director may invoke the aid of the court in the enforcement of the subpoena or summons. In the event judicial assistance is required, in addition to any other penalty or order imposed by the court, the state shall be entitled to all costs and attorneys' fees incurred thereby, which amount shall be set by the court.

Source: S.L. No. 4L-35-97 §16-5, 5/10/97

§1-168. Enforcement officials. — Every individual to whom the Director or Commissioner delegates the function of applying or enforcing this title:

(1) Shall be furnished with credentials identifying such individual; and

(2) May request the assistance of the Department of Public Safety and the Office of the Attorney General of the Government of Pohnpei in order to perform his duties, which assistance shall be afforded in appropriate circumstances.

Source: S.L. No. 4L-35-97 §16-6, 5/10/97

§1-169. Limitation of actions. — Except as may be provided otherwise in this title or any other state law, no action or proceeding shall be brought to collect taxes administered by the Department and due under an assessment or demand for payment of the taxes after ten years from the date of such assessment or demand.

Source: S.L. No. 4L-35-97 §16-7, 5/10/97

§1-170. Reciprocal enforcement of tax judgments. —

(1) The courts of the state shall recognize and enforce the tax judgments of other jurisdictions to the same extent to which the courts of the other jurisdictions would recognize and enforce similar tax judgments of this state or its political subdivisions, agencies or instrumentalities.

(2) The Attorney General of the Government of Pohnpei may employ members of the bars of other jurisdictions to recover taxes due to this state and may fix their fees.

Source: S.L. No. 4L-35-97 §16-8, 5/10/97

§1-171. Application of payments. — Unless otherwise required under this title, other law, court order, closing agreement or installment agreement, payments and collections shall be applied, first, to tax due; second, to interest due; third, to penalties due; and fourth, to any other charges or fees that are due and payable to Pohnpei State by the taxpayer.

Source: S.L. No. 4L-35-97 §16-9, 5/10/97

§1-172. Severability. — If any provision of this title, or the application thereof to any person, entity or circumstance is held invalid, the invalidity does not affect other provisions or applications of the title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

Source: S.L. No. 4L-35-97 §16-10A, 5/10/97

Note: §16-10A was inserted by S.L. No. 4L-92-99 §5, 3/1/99.

CHAPTER 2 SALES TAX

Section

2-101 Definitions	2-104 Returns and payments
2-102 Imposition of sales tax	2-105 Presumption
2-103 Sales tax exemptions, exclusions, and allocations	

§2-101. Definitions. — As used in Chapters 2, 5, and 6, unless the context otherwise requires:

(1) “Commercial sale” means a transaction in which any tangible personal property is sold commercially in the course of business operations within the state. Commercial sale does not include casual or isolated sales by private parties nor sales by primary producers of such property who have within their employ fewer than two full- or part-time employees; PROVIDED, HOWEVER, that the burden of proof shall be upon the seller that he has not engaged in a commercial sale. Commercial sale also includes the sale of tangible personal property that is produced, extracted, manufactured, assembled or sewed in the state, excluding sales to out-of-state purchasers of such property.

(2) “Foodstuffs” means substances that can be used or prepared for use as food to be consumed by humans, including, but not limited to: rice, meats, seafood, fruits, vegetables, grains, baked goods, sauces, soups, condiments, spices, eggs, sugar, water, milk and milk products, non-alcoholic beverages and mixes, coffee, tea, candies etc., that may be fresh, dried, frozen, canned, bottled, boxed or wrapped.

(3) “Merchandise” means tangible personal property which may be seen, weighed, measured, felt, or touched, or in any other manner perceptible to the senses, including any tangible personal property which may become a fixture or part of the real estate, but not including stocks, bonds, notes, insurance or other obligations or securities.

(4) “Sale price” means the total price paid by the purchaser in a commercial sale, as defined in this chapter, exclusive of taxes applicable under this title. Such sale price shall be valued in money, whether received in money or otherwise.

(5) “Seller” includes every person making a commercial sale, as defined, and includes an individual, broker, agent, partnership, club, society, cooperative, association, corporation or any combination of individuals acting as a unit, including religious organizations.

Source: S.L. No. 4L-35-97 §11-1, 5/10/97; S.L. No. 4L-113-99 §1, 7/13/99

§2-102. Imposition of sales tax. — There is hereby levied on the first commercial sale in Pohnpei State a sale tax in the following percentage on the sale price of the following merchandise:

(1) Tobacco and alcohol products, including all cigarettes, cigars, chewing tobacco, snuff, beer, ale and malt beverages, wine and distilled spirits: twenty-five percent (25%);

(2) Fuels, including gasoline, diesel fuel, kerosene, propane or LP gas, or fuel oils used for the purpose of operating engines, motors, and turbines in motor vehicles, heavy equipment and machinery, aircraft, marine vessels and generators: two percent (2%);

(3) Motor vehicles, including, but not limited to, automobiles, vans, trucks, buses, utility vehicles, motorcycles, self-propelled construction equipment, ships, aircraft and the like: seven percent (7%);

(4) Food and foodstuffs: two percent (2%); and

(5) All other merchandise not listed above, including all clothing, building materials, furniture, office equipment, appliances, home furnishings, garden equipment, livestock, animal feed, outboard

motors, all mined and dredged material, soil, coral, asphalt, aggregates, and all other tangible personal property: five percent (5%).

Source: S.L. No. 4L-35-97 §11-2, 5/10/97; S.L. No. 4L-92-99 §1, 3/1/99; S.L. No. 4L-113-99 §2, 7/13/99

§2-103 Sales tax exemptions, exclusions, and allocations. —

(1) Sales of sacramental wines to missions or religious institutions shall be exempt from §2-102(1).

(2) The taxes collected pursuant to §2-102(1) shall be divided into two parts by the Department of Treasury and Administration. Three-fourths of the amount collected shall be deposited into the General Fund. One-fourth of the amount collected shall be deposited into the Health Care Premium Fund created by 17 PC 4-156.

(3) Petroleum products sold directly to the Pohnpei Utilities Corporation for use in generators to produce electricity shall be taxed at the rate of one percent (1%).

(4) The taxes collected pursuant to §2-102(2) shall be maintained by the Department of Treasury and Administration in a separate revenue fund of the Pohnpei Treasury to be available for future legislative appropriation for the maintenance and repair of paved roads in the state of Pohnpei and for the state's contributions to the Infrastructure Maintenance Fund required under the Compact of Free Association, as amended.

(5) §2-102(4) shall not apply to foodstuffs derived from the lands and waters of the Federated States of Micronesia where the seller has commercial sales of all products covered by §2-102 less than one-thousand dollars (\$1,000) in any given calendar month in which such taxes would otherwise apply.

(6) Commercial fishing.

(a) At the discretion of the Governor, but pursuant to rules and regulations adopted pursuant to Title 8 Chapter 1, relating to administrative procedures, complete or partial exemptions from the sales tax for petroleum products [§2-102(2)] may be granted to the principal operator of a commercial fishing vessel based in the state of Pohnpei that provides jobs or training opportunities to residents of the state of Pohnpei, other than the principal operator. Any exemption shall not exceed the total sales tax otherwise due under §2-102(2).

(b) As used in this subsection:

(i) "Commercial fishing vessel" means any water-borne vessel, boat, ship or other craft that is used for, equipped to be used for, or of a type that is normally used in trade or other business purposes, for:

(aa) Fishing; or

(bb) Aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing;

(ii) "Principal operator" means any individual or corporate taxpayer who derives at least fifty-one percent (51%) of that taxpayer's gross annual sales from commercial fishing operations.

Source: S.L. No. 4L-35-97 §11-2A, 5/10/97; S.L. No. 6L-30-05 §1, 5/12/05

Note: §11-2A was inserted by S.L. No. 4L-92-99 §2, 3/1/99.

§2-104. Returns and payments. — The sales taxes levied under §2-102 shall attach at the time of the first commercial sale as defined in §2-101. All taxes that have attached during a calendar month shall be paid by the first seller to the Division on or before the 15th day of the succeeding month; EXCEPT that the Commissioner may make special provision for the time of payment of taxes from the outer islands of the state. Taxes not paid within the time specified above shall be considered delinquent and subject to the addition of interest and penalties as provided for in this title. Every seller, on or before the 15th day after the close of each month, shall make and file a full, true and correct return, pursuant

to rules and regulations and on such forms as prescribed by the Division. Returns not filed within the time specified above shall be subject to penalties as provided for in this title.

Source: S.L. No. 4L-35-97 §11-3, 5/10/97

§2-105. Presumption. — It shall be presumed that all items taxed under §2-102 have been sold within a period of three full calendar months after the month in which they were received, produced, extracted, manufactured, assembled or sewed in the state.

Source: S.L. No. 4L-35-97 §11-4, 5/10/97

CHAPTER 3
USE TAX
[DECLARED UNCONSTITUTIONAL]

Note: see Department of Treasury v. FSM Telecom. Corp., 9 FSM Intrm. 575 (App. 2000)

CHAPTER 4 HOTEL AND VEHICLE RENTAL TAX

Section

4-101 Definitions	4-104 Tax to be stated and charged separately from rent
4-102 Imposition of hotel tax	4-105 Certificate of registration
4-103 [Reserved]	4-106 Returns and payment

§4-101. Definitions. — As used in this chapter, unless the context otherwise requires:

(1) “Hotel” means any building or buildings in which the public may obtain for a consideration living or sleeping accommodations, or an establishment which holds itself out to the public by offering such accommodations for rent, whether or not the major portion of its operation receipts is derived from such accommodations. The term includes, but is not limited to, hotels, motels, tourist homes, bed-and-breakfasts, cabins, houses, courts, lodging houses, inns, rooming houses, apartels, boarding houses and private clubs; PROVIDED that the term “hotel,” for purposes of this title, shall be limited to accommodations normally rented or offered for rent to an individual or individuals for a consecutive period of less than 30 days, though individual occupants may extend for periods in excess of 30 days.

(2) “Operator” means any person operating a hotel or vehicle-rental agency, whether as owner or proprietor or as lessee, sublessee, mortgagee-in-possession, licensee or otherwise.

(3) “Unit” means any living or sleeping accommodation consisting of one or more rooms that, in the usual and ordinary conduct of business by a hotel, is offered for occupancy to the public.

(4) “Vehicle” means automobiles, vans, jeeps, buses carrying ten or fewer passengers, pick-up trucks, motorcycles and motor scooters normally rented without a driver being provided by the vehicle rental agency, and normally rented or offered for rent on an hourly, daily or weekly basis for a consecutive period of less than 30 days, though individual rentals may be extended for periods in excess of 30 days.

Source: S.L. No. 4L-35-97 §15-1, 5/10/97

§4-102. Imposition of hotel tax. — There is hereby levied a tax of five percent (5%) on the sale of all units of a hotel in the state. The hotel tax shall be imposed upon the total price charged for the unit, which price shall include every service and other charge imposed by the operator on the occupancy of the unit but shall not include restaurant, laundry, telephone or other charges for the use of individual facilities of the hotel not connected with the occupancy of the hotel unit. There shall be exempt from the tax imposed by this section:

(1) Any hospital, sanitarium, convalescent home, nursing home or home for the aged, infirm, indigent or chronically ill; and

(2) Any establishment operated by a corporation or association organized and operated solely for religious, charitable or educational purposes when such operation of an establishment is solely for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Source: S.L. No. 4L-35-97 §15-2, 5/10/97

§4-103. [Reserved]

Note: This section was reserved in the original law.

§4-104. Tax to be stated and charged separately from rent. — The taxes imposed by §§4-102 and 4-103 shall be a tax upon the customer and shall be stated and charged separately from the rental cost of the unit or vehicle on any statement of charges or other evidence thereof furnished to customers of the hotel or vehicle rental agency.

Source: S.L. No. 4L-35-97 §15-4, 5/10/97

§4-105. Certificate of registration. — No later than the effective date of the taxes imposed by §§4-102 and 4-103 and annually thereafter, each operator shall register with the Division the name and address of each place of business within each of the municipalities, towns or districts of the state wherein he operates a hotel or vehicle-rental agency. In addition to all other license fees and other fees required by law, the operator shall pay the sum of \$25 for each registration, upon receipt of which the Division shall issue a certificate of registration for each place, which certificate shall attest that the registration has been made. The registration shall not be assignable, shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein, and at all times shall be conspicuously displayed at the place for which issued. Any person who fails to register and obtain a certificate as provided in this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both so fined and imprisoned, together with costs of prosecution.

Source: S.L. No. 4L-35-97 §15-5, 5/10/97

§4-106. Returns and payment. — Hotel and vehicle-rental agency taxes shall attach on a daily basis on all sales or rentals received, accrued or earned, and returns shall be filed and payment of taxes made in accordance with §2-104.

Source: S.L. No. 4L-35-97 §15-6, 5/10/97

CHAPTER 5 [RESERVED– LUXURY TAX]

CHAPTER 6 [RESERVED – FUEL SALES TAX]

CHAPTER 7

BUSINESS LICENSE FEES NEXUS ACT

Section	7-103 Business establishment nexus required for
7-101 Short title	business license fee
7-102 Findings and intent	7-104 Transition

§7-101. Short title. — This chapter is known and may be cited as the “Business License Fees Nexus Act of 2007”.

Source: S.L. No. 6L-103-07 §1, 8/2/07

§7-102. Findings and intent. — The Legislature finds that in an increasingly global economy, improved transportation and communication facilities have resulted in an interdependent economy within the state of Pohnpei. As a result of improved transportation and communication infrastructure in Pohnpei, goods and services are able to travel freely within the state, providing consumers with more choices and laying the groundwork for future economic development in Pohnpei. The Legislature finds that local government taxation of the free flow of goods and services within Pohnpei poses a serious threat to future economic development in Pohnpei. The Legislature also recognizes the need of the local governments of Pohnpei for adequate revenues, and the right of local governments to tax business establishments located within their jurisdictions.

The Legislature finds that, pursuant to Article 7, Section 2 of the Pohnpei Constitution, Pohnpei has the duty to promote economic development. The Legislature finds that, pursuant to Article 11, Section 2 of the Pohnpei Constitution, the local governments have the sole authority to levy business license fees. The Legislature further finds that, in order to ensure the harmonious coexistence of both Article 7, Section 2 and Article 11, Section 2 of the Pohnpei Constitution, a business license fees nexus statute is necessary. Such a statute guarantees the free flow of goods and services necessary for economic development, while at the same time preserving to local governments the exclusive right to levy business license fees.

Source: S.L. No. 6L-103-07 §2, 8/2/07

§7-103. Business establishment nexus required for business license fee. —

(1) Local governments shall have sole authority to levy business license fees on all businesses with one or more business establishments located within their territory; PROVIDED, however, that wholesalers and taxi services operating in more than one local government jurisdiction shall not have to pay a fee in other than the local jurisdiction where their business establishment is located. Local governments shall not levy business license fees on businesses that do not have any business establishment located within their territory.

(2) For purposes of this chapter, “business establishment” means a permanent physical structure operating as a business. A business may have more than one business establishment. A personal residence that is used for business purposes does constitute a business establishment. A vehicle or vessel shall not constitute a business establishment unless such vehicle or vessel is fixed in a permanent location.

Source: S.L. No. 6L-103-07 §3, 8/2/07

§7-104. Transition. — Nothing in this chapter shall be interpreted to authorize any person to receive a refund of any portion of a business license fee that was paid prior to the effective date of this chapter. Nothing in this chapter shall be interpreted to authorize any person not to pay a business license fee such person was required to pay prior to the effective date of this chapter.

Source: S.L. No. 6L-103-07 §4, 8/2/07

**TITLES 13 – 15
[RESERVED]**

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DIVISION II
OF THE
CODE

HUMAN RESOURCES

TITLE 16 --- TITLE 25

TITLE 16

LAW AND PUBLIC SAFETY

TITLE 16 LAW AND PUBLIC SAFETY

CHAPTER

- 1 POLICE AND SECURITY**
- 2 JOINT LAW ENFORCEMENT**
- 3 EMERGENCY SERVICES**
- 4 FISH AND WILDLIFE DIVISION**
- 5 [RESERVED]**
- 6 IDENTIFICATION CARDS**
- 7 – 9 [RESERVED]**
- 10 LAW AND PUBLIC SAFETY FINANCES**

CHAPTER 1 POLICE AND SECURITY

Section

1-101 Short title	1-112 Pohnpei Attorney General to represent Division
1-102 Definitions	1-113 Concurrent law enforcement jurisdiction
1-103 Division established	1-114 Commission established
1-104 Personnel and officers of the Division	1-115 Commission: tenure, removal
1-105 Existing Chief, members, and other employees retained	1-116 Commission: vacancies
1-106 Qualifications of members	1-117 Commission: notification for appointment
1-107 Exemption from Public Service System	1-118 Compensation and expenses of Commission
1-108 Oath of office	1-119 Commission: duties
1-109 Division duties and responsibilities	1-120 Financial matters
1-110 Designation of district and home stations	1-121 Regulations
1-111 Regulations; rules to establish standards of conduct and training, policies, and procedures	1-122 Costs and fees

§1-101. Short title. — This chapter is known and may be cited as the “Division of Police and Security Act of 1999.”

Source: S.L. No. 4L-139-99 §1, 11/22/99

§1-102. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

- (1) “Chief” means the Chief of the Pohnpei Division of Police and Security.
- (2) “Commission” means the Pohnpei Police Commission.
- (3) “Director” means the Director of the Department of Public Safety.
- (4) “Division” means the Division of Police and Security of the Department of Public Safety.
- (5) “Member” means any employee of the Division who is charged with the responsibilities of keeping the peace and public safety.

Source: S.L. No. 4L-139-99 §2, 11/22/99; S.L. No. 5L-14-00 §3-4, 10/1/00

§1-103. Division established. — There is hereby established within the Department of Public Safety of the Pohnpei Government, a division to be known as the Division of Police and Security. The executive head of this division shall be the Chief of the Division of Police and Security.

Source: S.L. No. 4L-139-99 §3, 11/22/99; S.L. No. 5L-14-00 §3-4, 10/1/00

§1-104. Personnel and officers of the Division. — The Division shall consist of a Chief of the Division of Police and Security, such captains, lieutenants, sergeants, patrolmen, and other employees as the Chief of Police and Security may deem advisable within the limits of the funds appropriated for the Division; PROVIDED, HOWEVER, that the number of captains, lieutenants, and sergeants shall not exceed twenty-five percent (25%) of the total number of members of the Division exclusive of the Chief, but this requirement shall not be interpreted so as to require the demotion of any member of the Division of Police and Security existing immediately prior to the effective date of this chapter [November 22, 1999].

Source: S.L. No. 4L-139-99 §4, 11/22/99

§1-105. Existing Chief, members, and other employees retained. — The Chief and all members and other employees of the Division of Police and Security in office immediately prior to the effective date of this chapter [November 22, 1999] shall be continued in office under this chapter, and nothing contained in this chapter shall be held to require the dismissal of any such officer or employee.

Source: S.L. No. 4L-139-99 §5, 11/22/99

§1-106. Qualifications of members. —

(1) Each member of the Division shall:

- (a) At the time of his or her appointment, be a citizen of the Federated States of Micronesia;
- (b) At the time of his or her appointment, be at least 21 years of age and not more than 35 years of age;
- (c) Have at least a high school education or its equivalent;
- (d) Be of good moral character and not have been convicted of any felony or any infamous crime in the courts of Pohnpei or any other state or country; and
- (e) Successfully pass any physical examination the Chief shall require.

(2) Members of the Division shall not be over 60 years of age.

(3) Nepotism shall not be practiced in the appointment of members of the Division, and no person shall be appointed as a member who is related by blood or adoption within the first degree of consanguinity to the Chief.

(4) The Director, by regulation, may establish further qualifications for membership within the Division.

Source: S.L. No. 4L-139-99 §6, 11/22/99

§1-107. Exemption from Public Service System. — Upon the issuance and approval regulations pursuant to §1-111 providing for a public service system pursuant to this section, the Public Service System Act, Title 9 Chapter 2, and all amendments thereto, shall not apply to any member or employee of the Division. The Director shall, in accordance with applicable administrative procedure laws, promulgate rules and regulations governing all personnel matters respecting any member or employee of the Division, including the recruitment, placement, compensation, and discipline of all members and employees of the Division. Such rules and regulations shall be based on principles of merit; PROVIDED that preference in recruitment may be given to citizens of this state. The Director shall utilize the Government Salary Conversion Act, Title 9 Chapter 4 Subchapter II, as amended, in determining compensation for members and employees of the Division.

Source: S.L. No. 4L-139-99 §7, 11/22/99

§1-108. Oath of office. — All members of the Division shall take the following oath:

“I solemnly swear to protect and defend the Constitution of the state of Pohnpei and of the Federated States of Micronesia and to protect, defend, and serve the people within the state of Pohnpei and to protect and defend their property.”

The oath shall be administered by the Chief Justice of the Pohnpei Supreme Court or his designee.

Source: S.L. No. 4L-139-99 §8, 11/22/99

§1-109. Division duties and responsibilities. — The Division shall preserve the peace, maintain order, enforce all laws, conduct criminal investigations, assist in the conduct of prosecutions in the courts of Pohnpei and the local governments thereof, serve legal processes issued by competent judicial authority, provide fire protection, register motor vehicles and issue licenses for operation of such vehicles, and control the use of weapons.

Source: S.L. No. 4L-139-99 §9, 11/22/99

§1-110. Designation of district and home stations. — The Chief may divide Pohnpei into districts and may designate home stations for the members of the Division.

Source: S.L. No. 4L-139-99 §10, 11/22/99

§1-111. Regulations; rules to establish standards of conduct and training, policies, and procedures. — The Director, subject to this chapter and to the administrative procedures and laws of Pohnpei and following consultation with the Pohnpei Police Commission, shall have authority to make and promulgate rules and regulations for the purpose of carrying out the duties and responsibilities of the Division pursuant to this chapter. Such regulations, upon concurrence of the Governor, shall have the force and effect of law. The Chief, upon concurrence of the Director, shall establish by rules, from time to time, standards of conduct and training and policies and procedures for members of the Division and a copy thereof shall be delivered to each such member and displayed at each station of the Division. All regulations and rules so established shall be filed with the Clerk of the Pohnpei Supreme Court.

Source: S.L. No. 4L-139-99 §11, 11/22/99

§1-112. Pohnpei Attorney General to represent Division. — The Attorney General of Pohnpei is hereby directed to act as the attorney for the Division in all legal matters.

Source: S.L. No. 4L-139-99 §12, 11/22/99

§1-113. Concurrent law enforcement jurisdiction. — The Division shall have concurrent law enforcement jurisdiction with any other police or security force now or hereafter empowered by an act of the Legislature to have police power within the state of Pohnpei.

Source: S.L. No. 4L-139-99 §13, 11/22/99

Note: S.L. No. 4L-139-99 §14 repealing provision has been omitted.

§1-114. Commission established. — There is hereby established in and for Pohnpei State, a Pohnpei Police Commission, hereinafter referred to as “Commission,” which shall be composed of five members appointed by the Governor with the advice and consent of the Legislature. Three Commission members shall be appointed from the Pohnpei Government, and two members shall be appointed from the private sector. The Commission shall function in an advisory manner only, and shall meet and advise pursuant to those rules and regulations the Commission shall choose to promulgate.

Source: S.L. No. 4L-139-99 §15, 11/22/99

§1-115. Commission: tenure, removal. — Members of the Commission shall serve for terms of four years; PROVIDED, HOWEVER, that at its first organizational meeting, the Commission by the drawing of lots shall designate three members to serve for an initial term of two years each. A member may be removed from the Commission for cause by the Governor or upon the vote of three members of the Commission.

Source: S.L. No. 4L-139-99 §16, 11/22/99

§1-116. Commission: vacancies. — Vacancies in the Commission shall be filled in the same manner as initial appointments for the remainder of the unexpired term.

Source: S.L. No. 4L-139-99 §17, 11/22/99

§1-117. Commission: notification for appointment. — The Commission shall notify the Governor and the Legislature of the need to make an appointment 90 days prior to the expiration of any member's term on the Commission and as promptly as possible in the incidence of a vacancy otherwise occurring on the Commission.

Source: S.L. No. 4L-139-99 §18, 11/22/99

§1-118. Compensation and expenses of Commission. — The members of the Commission shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually attending meetings of the Commission, except that those members who are employees of the Pohnpei Government and other cooperating entities shall instead receive regular salaries while performing functions of the Commission. The members of the Commission shall be entitled to reimbursement for actual expenses incurred in the performance of their official duties, upon approval of such expenses by the Commission. The Commission members shall also receive travel expenses and per diem at Pohnpei Government rates when these amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 4L-139-99 §19, 11/22/99

§1-119. Commission: duties. — It shall be the responsibility of the Commission to:

(1) Oversee the activities of the Division of Police and Security and make periodic reports to the Governor and the Legislature as to the operations of the Division and its effectiveness in enforcing the laws of the state;

(2) Receive and investigate complaints from the general public on any matter relative to the jurisdiction and activities of the Division; and

(3) Advise the Director and the Chief as to corrective action where necessary.

Source: S.L. No. 4L-139-99 §20, 11/22/99

§1-120. Financial matters. —

(1) Within 30 days after the effective date of this chapter [*effective date is November 22, 1999*], and periodically thereafter, the Director shall, in consultation with the Commission, develop a budget for the Commission which shall be presented and considered in the manner prescribed in the Budget Act, Title 11 Chapter 1, as amended or superseded by state law.

(2) There is hereby authorized for appropriation such sums from such Treasury funds as may be identified and allocated annually in the Comprehensive Budget Act for the purposes of financing the compensation of members and expenses of the Pohnpei Police Commission.

(3) In addition to the sums appropriated under the authorization of Subsection (2) of this section, the Commission shall be eligible to receive financial assistance from other grants made available to the Pohnpei Government, including, but not limited to, contributions from intergovernmental associations, the United States of America Government, the FSM National Government, the local governments of this state, and other sources.

(4) All financing appropriated or otherwise made available to the Commission shall be administered and expended by the Governor solely for the purposes specified in this chapter and subject to the terms and conditions of the granting authority which are not inconsistent with this chapter.

(5) Unless otherwise provided in the Comprehensive Budget Act, the balance of any sums appropriated under the authorization of Subsection (2) of this section that are not expended or obligated for expenditure at the close of the fiscal year for which they are appropriated shall revert to the fund or funds in the Pohnpei Treasury from which the appropriation was made.

(6) Sums provided to the Commission from other sources as prescribed in Subsection (3) of this section shall remain available to the Commission until fully expended on the project or program for which the grant has been received. Upon conclusion of such project or program, such sums made available under the grant shall be returned or disposed pursuant to the terms of the grant; PROVIDED that if there be no such terms, said balance shall be deposited in the general fund of the Treasury as the realization of public revenues.

(7) The Governor shall submit an annual report to the Legislature on all financial matters with respect to the administration and expenditure of all monies made available to the Commission for a fiscal year within 15 days following the close of the fiscal year.

Source: S.L. No. 4L-139-99 §21, 11/22/99

§1-121. Regulations. — The Commission, subject to the administrative procedures and laws of Pohnpei and upon approval of the Governor, shall have the authority to make and promulgate rules and regulations for the performance of its responsibilities and duties pursuant to this chapter.

Source: S.L. No. 4L-139-99 §23, 11/22/99

§1-122. Costs and fees. —

(1) The costs and fees prescribed by Subsection (2) shall be paid by the person requesting the stated service of the division. All costs and fees shall be paid to the Pohnpei Treasury, and shall be credited to a Division of Police and Security Fund established by §10-102, for use by the division in offsetting the expenses of the Division of Police and Security.

(2) The costs and fees referred to in Subsection (1) are:

- (a) Furnishing a police clearance: \$25.00; PROVIDED, HOWEVER, that any person obtaining a police clearance for the purpose of attending a school abroad shall not be subject to payment of this fee.
- (b) Administering a driver's road test: \$5.00
- (c) Administering of a driver's written test: \$5.00
- (d) Registering a motor vehicle after the registration deadline: \$5.00
- (e) Issuing a duplicate driver's license: \$5.00
- (f) Conducting a liquor license application investigation: \$7.50

Source: S.L. No. 4L-139-99 §23A, 11/22/99; S.L. No. 5L-93-03 §5, 3/3/03

Note: §23A was inserted by S.L. No. 5L-18-00 §1, 9/21/00.

CHAPTER 2 JOINT LAW ENFORCEMENT

Section

2-101 Legislative findings and intent	2-106 Reporting
2-102 Law enforcement agreements authorized	2-107 Reversion
2-103 Authorization for appropriation	2-108 Appropriations not to be deemed a part of revenue sharing
2-104 Budgeting	
2-105 Administration	

§2-101. Legislative findings and intent. — The Legislature is cognizant of Article 7 §§6 & 7 of the Pohnpei Constitution, which authorizes the state government to delegate aspects of the administration of public safety to the local governments of this state. The Legislature further recognizes the importance of local government involvement in the maintenance of public safety within their respective communities. It is therefore the intent of this legislation to authorize the execution of joint law enforcement agreements between the state government and the local governments of this state, and to provide for an annual subsidy to the local governments for their assistance in the enforcement of state laws under such agreements.

Source: S.L. No. 4L-119-99 §1, 7/23/99

§2-102. Law enforcement agreements authorized. — For the purposes specified in §2-101, the Governor is hereby authorized to enter into joint law enforcement agreements with the local governments of this state for the joint administration of such state laws as are specified in said agreement. Each such agreement shall be executed by the Governor of Pohnpei and the chief executive officer of the respective local government (with the concurrence of the local counsel, where required by local law). Each law enforcement agreement shall specify the duration of the agreement and the terms thereof, inclusive of the extent to which the enforcement of state laws are delegated to authorized officials of the local government; PROVIDED that the agreement shall ensure that ultimate responsibility for policy and the proper administration of state law enforcement services are retained by the state government as required by Article 7 §7 of the Pohnpei Constitution. Each agreement shall provide that any liability of the state and the extent of liability and defense of any official of the local government acting on behalf of the state in enforcing state law under the joint law enforcement agreement shall be governed by the Government Liability Act, Title 58 Chapter 2, as it may be amended. Each agreement shall also provide for the proper administration and accounting of state funds provided to a local government pursuant to the agreement.

Source: S.L. No. 4L-119-99 §2, 7/23/99

§2-103. Authorization for appropriation. — There is hereby authorized for appropriation from such funds of the Pohnpei Treasury as are identified in the annual Comprehensive Budget Act, such funds as may be so appropriated and as may be allocated therein to help finance the activities of the local governments in the joint enforcement of the laws of this state pursuant to joint law enforcement agreements as specified in §2-102.

Source: S.L. No. 4L-119-99 §3, 7/23/99

§2-104. Budgeting. — The Governor shall, upon consultation with the Director of the Department of Public Safety and the local governments of this state, provide in his annual budget submission to the Legislature, a request for such funds as he deems necessary to administer the joint law enforcement

program described in this chapter for the next fiscal year and shall submit such supplemental requests from time to time as he deems necessary to maintain the program.

Source: S.L. No. 4L-119-99 §4, 7/23/99; S.L. No. 5L-14-00 §3-18, 10/1/00

§2-105. Administration. — All sums appropriated under the authorization of this chapter shall be administered and expended by the Director of the Department of Public Safety to assist local governments in the enforcement of state laws; PROVIDED that no such monies may be released to a local government or any agency thereof, unless there is in effect a valid joint law enforcement agreement executed in compliance with this chapter.

Source: S.L. No. 4L-119-99 §5, 7/23/99; S.L. No. 5L-14-00 §3-18, 10/1/00

§2-106. Reporting. — The Director of the Department of Public Safety shall submit an annual report to the Governor and the Legislature within 30 days following the close of each fiscal year describing the activities undertaken by the state and the local governments under the joint law enforcement agreements described in this chapter and detailing the administration and expenditure of all funds made available to the Director under the authorization of this chapter or from other sources for the purposes specified in this chapter. Said report shall also include an accounting of the local administration of all funds made available to each local government by the Director under the authority of this chapter.

Source: S.L. No. 4L-119-99 §6, 7/23/99; S.L. No. 5L-14-00 §3-18, 10/1/00

§2-107. Reversion. — Any balance of the monies appropriated under the authorization of this chapter in a fiscal year, remaining unexpended or unobligated for expenditure at the close of said fiscal year, inclusive of those funds allocated to a local government but not expended or obligated for expenditure by that local government, shall revert to the fund of the Pohnpei Treasury from which appropriated.

Source: S.L. No. 4L-119-99 §7, 7/23/99

§2-108. Appropriations not to be deemed a part of revenue sharing. — Any funds appropriated for and allocated to a local government under the authorization of this chapter shall be deemed to be financial assistance for that local government's participation in the enforcement of state laws and shall not be counted as an appropriation to said local government under the revenue sharing provisions of Article 11 §3 of the Pohnpei Constitution.

Source: S.L. No. 4L-119-99 §8, 7/23/99

CHAPTER 3 EMERGENCY SERVICES

Section

3-101 Emergency Services Unit

3-103 First Responders

3-102 Responsibility

§3-101. Emergency Services Unit. — There shall be an Emergency Service Unit attached to the Office of the Director of the Department of Public Safety.

Source: S.L. No. 7L-80-11 §2, 1/14/11

§3-102. Responsibility. — The responsibility of the Emergency Service Unit is to provide professional training within the Department of Public Safety to existing officers so they can act as first responders in cases of fire, disaster and medical emergency. The Department shall coordinate and conduct search and rescue operations, and cooperate with established search and rescue agencies of other states, the Government of the Federated States of Micronesia, the Government of the United States of America and its agencies, and any other regional governments or search and rescue agencies, in developing plans and programs, and mutual aid agreements for search and rescue activities within the state of Pohnpei.

Source: S.L. No. 7L-80-11 §2, 1/14/11

§3-103. First Responders. — The Department of Public Safety is authorized and directed to provide, in coordination with other agencies of the FSM National Government, Pohnpei State, and the Local Governments, first response services to fires emergencies and disasters. The Department of Public Safety may enter into contracts with the Department of Health Services to provide qualified staffing for ambulances and other first response services.

Source: S.L. No. 7L-80-11 §2, 1/14/11

LAW & PUBLIC SAFETY:

CHAPTER 4 FISH AND WILDLIFE DIVISION

Section

4-101 Division established	4-106 Summons and citation
4-102 Definitions	4-107 Failure to obey a summons or citation
4-103 Division duties and responsibilities	4-108 Regulations authorized
4-104 Officers' duties	4-109 Sharing of personnel and resources
4-105 Police powers	

§4-101. Division established. — There is hereby established within the Department of Public Safety of the Pohnpei Government, a division to be known as the Division of Fish and Wildlife.

Source: S.L. No. 7L-80-11 §3, 1/14/11

§4-102. Definitions. —

- (1) "Department" as used in this chapter shall mean the Department of Public Safety.
- (2) "Director" as used in this chapter shall mean the Director of the Department of Public Safety.

Source: S.L. No. 7L-80-11 §3, 1/14/11

§4-103. Division duties and responsibilities. —

(1) The Division of Fish and Wildlife shall be responsible for conservation and resources enforcement programs relating to the enforcement of such state conservation laws and such other conservation and environmental laws and ordinances for which the state has enforcement responsibilities and any rules and regulations promulgated thereunder. Nothing in this chapter shall prevent other agencies of the Pohnpei Government from exercising concurrent authority to enforce conservation, resource, and environmental laws and ordinances and rules and regulations promulgated thereunder.

(2) The Director shall employ or appoint, and remove the following persons, subject to the Public Service System Act and regulations promulgated thereunder, who shall be provided with suitable badges or other insignia of office by the Department:

(a) A division chief, who shall be the head of conservation and resources enforcement programs, and who shall have charge, direction, and control, subject to the direction and control of the Director, of all matters relating to the enforcement of the state conservation and resource laws and rules and regulations promulgated thereunder.

(b) Personnel and enforcement officers of the conservation and resources enforcement programs, including, but not limited to, enforcement officers on a voluntary basis and without pay.

Source: S.L. No. 7L-80-11 §3, 1/14/11

§4-104. Officers' duties. — The division chief and officers of the Division of Fish and Wildlife, with respect to all land, seas, and waters subject to the jurisdiction of the Pohnpei Government, shall:

- (1) Enforce all conservation, resource, and environmental laws, ordinances, and regulations;
- (2) Investigate complaints, gather evidence, conduct investigations, and conduct field observations and inspections as required or assigned;
- (3) Cooperate with enforcement authorities of the state and of the government of the Federated States of Micronesia in the development of programs and mutual agreements for conservation and enforcement activities within the state;
- (4) Check and verify all relevant permits and licenses issued by the Department of Land and

Natural Resources; and

- (5) Carry out other duties and responsibilities as the Director may, from time to time, direct.

Source: S.L. No. 7L-80-11 §3, 1/14/11

§4-105. Police powers. — The chief and officers of the Division of Fish and Wildlife shall have police powers, including the power to serve and execute warrants, issue summons and citations, and arrest offenders of all laws, ordinances, and regulations over which Pohnpei State has enforcement authority, and rules and regulations promulgated thereunder. An enforcement officer, upon arresting any person for violation of any of the above-stated laws, rules or ordinances, may immediately take the person arrested to a police station, or before a judge of competent jurisdiction, or take the name, address, and the number from the fishing, hunting or other licenses or permits, if any, of the person, and note the violation of such law, rule, ordinance or regulation by the person, and issue him or her a summons or citation, printed in the form described in §4-106, warning him or her to appear and to answer to the charges against him or her at a certain place and time within seven days after the arrest. Any person failing to obey a summons issued pursuant to this section shall be subject to §4-107.

Source: S.L. No. 7L-80-11 §3, 1/14/11

§4-106. Summons and citation. — There shall be a form of summons or citation for use in citing violators of conservation and resources and environmental laws, and rules and regulations promulgated thereunder, which do not mandate the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summons or citations used in modern methods of arrest and shall be so designed to include all the necessary information to make it valid and legal within the laws and regulations of the state. The form and content of the summons or citation shall be adopted or prescribed by the Attorney General, and both the Pohnpeian and English languages shall be used on the form for all printed notations. In every case where a summons or citation is issued, the original of the same shall be given to the violator; PROVIDED that the Attorney General may prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies. Every summons or citation shall be consecutively numbered and each copy shall bear the number of its respective original.

Source: S.L. No. 7L-80-11 §3, 1/14/11

§4-107. Failure to obey a summons or citation. — Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the officer or their agents or subordinates, upon his arrest for violations as noted in §4-106, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25, nor more than \$500, or be imprisoned not more than six months, or both such fine and imprisonment. If any person fails to comply with a summons or citation issued to him, or if any person fails or refuses to deposit bail as required and within the time permitted, the officer shall cause a complaint to be entered against the person and secure the issuance of a warrant for his arrest. When a complaint is made to any prosecuting officer of a violation as noted in §4-106, the officer who issued the summons or citation shall subscribe to it under oath administered by the Attorney General or his designee.

Source: S.L. No. 7L-80-11 §3, 1/14/11

§4-108. Regulations authorized. — The Director is empowered to issue and promulgate rules and regulations for the implementation and enforcement of this chapter, which upon approval of the Governor and compliance with the Administrative Procedures Act, Title 8 Chapter 1, or its successor, shall carry the force and effect of law.

Source: S.L. No. 7L-80-11 §3, 1/14/11

§4-109. Sharing of personnel and resources. — The Director of the Department of Public Safety is hereby authorized to arrange for the sharing of resources and personnel of the various divisions within the Department of Public Safety to accomplish the objectives of this chapter.

Source: S.L. No. 7L-80-11 §3, 1/14/11

**CHAPTER 5
[RESERVED]**

CHAPTER 6 IDENTIFICATION CARDS

Section

6-101 Authorization	6-104 Validity
6-102 Information	6-105 Fees
6-103 Proof	6-106 Unlawful use

§6-101. Authorization. — The Chief of the Division of Police and Security of the Department of Public Safety is authorized to issue an identification card to any person who requests such card, who tenders the fee therefore, and who submits sufficient proof of the information to be contained therein.

Source: PDC §1-202(a), 3/71; S.L. No. 5L-14-00 §3-51, 10/1/00

§6-102. Information. — An identification card issued by the Chief of the Division of Police and Security of the Department of Public Safety shall contain the name, sex, height, weight, birth date, place of birth, residency, color of hair and eyes, marks, blood type, date of issue, number of card, fingerprint, the signatures of authorizing officials and of the owner of the card, and a facial photograph.

Source: PDC §1-202(b), 3/71; S.L. No. 5L-14-00 §3-51, 10/1/00

§6-103. Proof. — Any person requesting issuance of an identification card must present to the issuing officer proof of his name, age, birth date and place of birth. It shall be sufficient for the purposes of this section if the applicant presents a valid and proper birth certificate, issued by any authorized personnel of the Pohnpei Government or of any other state, territory or nation, containing the above information, or a copy of such a certificate. If an applicant is unable to produce a valid birth certificate or copy thereof, the Chief may accept as proof of the above information any other evidence, oral or written, that satisfies him as to the validity of the information.

Source: PDC §1-202(c), 3/71; S.L. No. 5L-14-00 §3-51, 10/1/00

§6-104. Validity. — An identification card issued pursuant to this chapter shall be proof of the information contained therein, and may be used for any legal purpose for which such identification is required by law, custom or usage.

Source: PDC §1-202(d), 3/71; S.L. No. 5L-14-00 §3-51, 10/1/00

§6-105. Fees. — A fee of 50 cents shall be charged to any applicant requesting an identification card. The Chief of the Division of Police and Security of the Department of Public Safety must account for all fees received for the issuance of identification cards and shall remit such fees to the Director of the Department of Treasury and Administration no later than three months from the date on which received.

Source: PDC §1-202(e), 3/71; S.L. No. 5L-14-00 §3-51, 10/1/00

§6-106. Unlawful use. — It shall be unlawful for any person to use, or attempt to use for purpose of identification, a card issued in the name of another. It shall be unlawful for any person to knowingly lend, transfer or permit another to use an identification card issued to him. A violation of this section shall be punishable by a fine of not more than \$25, or imprisonment for not longer than one month, or both such fine and imprisonment.

Source: PDC §1-202(f), 3/71; S.L. No. 5L-14-00 §3-51, 10/1/00

**CHAPTERS 7 – 9
[RESERVED]**

CHAPTER 10 LAW AND PUBLIC SAFETY FINANCES

Section

10-101 Search and rescue fund: authorization for appropriation; administration

10-102 Division of Police and Security Fund

§10-101. Search and rescue fund: authorization for appropriation; administration. —

(1) There is hereby established a search and rescue fund to assist in financing the cost of the search and rescue of persons or craft lost or stranded at sea, or of persons lost or missing on land in Pohnpei State.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei a sum to be determined annually in the Comprehensive Budget Act to provide operating capital for the fund established by Subsection (1) of this section. All sums appropriated under the authorization of this section shall remain available until fully expended.

(3) The fund established by Subsection (1) of this section shall be administered and expended by the Governor solely for the purposes specified in Subsection (1) of this section. The Governor shall submit an annual report to the Legislature within 15 days after the closing day of the previous fiscal year on all matters relating to the administration and expenditure of the fund for the previous fiscal year.

Source: D.L. No. 4L-82-77 §§1 – 3, 5/6/77; D.L. No. 4L-136-78 §5, 3/27/78; S.L. No. 2L-37-80 §2, 10/21/80

§10-102. Division of Police and Security Fund. — There is hereby established in the Pohnpei Treasury a Division of Police and Security Fund, that shall be the depository for all costs and fees collected pursuant to §1-122 hereof. Monies in this fund may be obligated or expended by the Division of Police and Security pursuant to appropriation of the Pohnpei Legislature, but solely for offsetting the expenses of rendering the services provided by §1-122; PROVIDED that the Director of the Department of Public Safety shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this section and Chapter 1 of this title.

Source: S.L. No. 4L-139-99 §23B, 11/22/99

Note: §23B was inserted by S.L. No. 5L-18-00 §2, 9/21/00.

(Next page is Title 17 divider)

TITLE 17

HEALTH AND WELFARE

TITLE 17 HEALTH AND WELFARE

CHAPTER

- 1 DEPARTMENT OF HEALTH SERVICES**
- 2 PUBLIC HOSPITAL CORPORATION [PENDING]**
- 3 HEALTH SERVICES ADVISORY COUNCIL**
- 4 HEALTH CARE PLAN**
- 5 TELEMEDICINE PROGRAM**
- 6 INFECTIOUS AND CONTAGIOUS DISEASES**
- 6A HIV PREVENTION AND CARE**
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- 9 REFUSE COLLECTION AND SANITATION**
- 10 HEALTH AND WELFARE FINANCES**

CHAPTER 1 DEPARTMENT OF HEALTH SERVICES

Section

1-101 Duties of Director of the Department of Health Services	1-107 Licensing; standards; required
1-102 Promulgation of health regulations	1-108 Same; records
1-103 Certificates, permits and licenses	1-109 Same; revocation or suspension
1-104 Vital statistics	1-110 Payment of fees for services
1-105 Autopsies	1-111 Penalties for violation of §§1-106 –
1-106 Training	1-111

§1-101. Duties of Director of the Department of Health Services. — The Director of the Department of Health Services, either personally or by his duly authorized representatives, shall maintain and improve health and sanitary conditions, minimize and control communicable disease, establish standards of medical and dental care and practice, encourage scientific investigation in the field of health, supervise and administer all government-owned hospitals, sanitarium, clinics, dispensaries, and such other medical and dental facilities as are or may be established throughout the state of Pohnpei.

Source: TTC §611 (1966); 63 TTC §2 (1970); 63 TTC §2 (1980)

§1-102. Promulgation of health regulations. — The Director of the Department of Health Services shall, subject to the approval of the Governor, have powers to make such regulations as he deems necessary for the public health and safety respecting:

(1) Nuisances, foul and noxious odors, gases or vapors, water in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease within the state of Pohnpei, and on board any vessel;

- (2) Adulteration and misbranding of food, drugs or milk;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, construction projects, excavations, pools, water courses, areas, and alleys;
- (4) Privy vaults and cesspools and other means of human excreta disposal;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing or removing of such bodies from their place of burial, or the opening, removing or disturbing, after due interment, of any receptacle, coffin or container holding human remains or a dead human body or a part thereof, and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where food or beverages are canned or bottled for public consumption or sale; PROVIDED, that nothing contained in this section shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where such laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, maternity homes, convalescent homes, children's boarding homes, and old folks' homes;
- (11) Hotels, rooming houses, lodging houses, apartment houses, and tenements;
- (12) Laboratories;
- (13) Quarantine of communicable disease and inspection;
- (14) Poisons, air-conditioning and ventilating, and fumigation;
- (15) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation or entertainment;
- (16) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle or place where any food, drug or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale or offered for human consumption or use;
- (17) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug or cosmetic;
- (18) Devices, including their components, parts, and accessories, intended:
 - (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in man, or
 - (b) To affect the structure or any function of the body of man;
- (19) Sources of ionizing radiation and radiation protection;
- (20) Medical examination, vaccination, revaccination, and immunization of school children; and
- (21) Disinsectization of aircraft entering or within the state of Pohnpei as may be necessary to prevent the introduction, transportation or spread of disease or the introduction or spread of any insect or other vector of significance to health.

Source: TTC §612 (1966); 63 TTC §3 (1970); P.L. No. 5-2 §2; 63 TTC §3 (1980)

§1-103. Certificates, permits and licenses. — The Director of the Department of Health Services may require such certificates, permits or licenses as he may deem necessary and adequate to regulate the conditions or businesses referred to in §1-102 of this chapter.

Source: TTC §612 (1966); 63 TTC §3 (1970); P.L. No. 5-2 §2; 63 TTC §3 (1980)

§1-104. Vital statistics. —

- (1) The Department of Health Services shall be responsible for:
- (a) The prompt collection of vital statistical information concerning all births and deaths occurring in the state of Pohnpei;
 - (b) Preparing forms and issuing instructions necessary for uniform registration of births and deaths;
 - (c) Filing a copy of the certificate of such birth or death with the Clerk of the Pohnpei Supreme Court; and
 - (d) Compiling, analyzing, and publishing vital statistics concerning births and deaths, and such other general welfare of the inhabitants of the state of Pohnpei.
- (2) Other departments, as designated by the Governor, shall cooperate with and assist the Department of Health Services in performing these functions.
- (3) The Clerk of the Supreme Court shall register births and deaths by recording and indexing each birth and death certificate filed in his office in accordance with the regulations provided for in this chapter.

Source: TTC §624 (1966); 63 TTC §51 (1970); 63 TTC §51 (1980)

§1-105. Autopsies. — Autopsies and post-mortem examinations may be performed by a physician as a means of revealing or clarifying the cause of death, provided each examination does not violate local custom, and provided written consent is secured from the nearest responsible relative. In the case of a death under conditions suggesting poisoning, violence or unusual circumstances, where the cause and manner of death cannot otherwise be satisfactorily ascertained, an autopsy shall be performed if practicable, whenever recommended by the Director of the Department of Health Services or the Attorney General and approved by the Governor.

Source: TTC §623 (1966); 63 TTC §52 (1970); 63 TTC §52 (1980)

§1-106. Training. — The Department of Health Services, in cooperation with the Department of Education, shall conduct or supervise continuing educational programs in the field of public health including pre-service and in-service training.

Source: TTC §616 (1966); 63 TTC §151 (1970); 63 TTC §151 (1980)

§1-107. Licensing; standards; required. — The Director of Health Services shall establish standards for licensing persons to practice medicine, surgery, dentistry, nursing and other related services. All persons are prohibited from practicing medicine, dentistry or other healing arts, except the practice of native traditional healing arts and except in an apprentice capacity under approved supervision, unless duly licensed or certified by the Governor, in accordance with standards established pursuant to this section. No public health regulation shall be promulgated nor any standard adopted which shall deprive any person duly licensed under this section from practicing medicine, surgery, dentistry, nursing and other related services except for cause under §1-109 of this chapter.

Source: TTC §613 (1966); 63 TTC §152 (1970); 63 TTC §152 (1980)

§1-108. Same; records. — A permanent record of each license, issued in accordance with §1-107 of this chapter shall be maintained by the Department of Health Services.

Source: TTC §614 (1966); 63 TTC §153 (1970); 63 TTC §153 (1980)

§1-109. Same; revocation or suspension. — Any license issued pursuant to §§1-106 – 1-111 may be revoked or suspended for cause by the Director of Health Services after due notice to the licensee, in writing, of the charge or charges that have been made, and the time and place where evidence in

support of the same will be heard; PROVIDED, that the licensee shall have had the opportunity to present evidence and be heard in his own defense.

Source: TTC §615 (1966); 63 TTC §154 (1970); 63 TTC §154 (1980)

§1-110. Payment of fees for services. — Individual or group fees shall be paid for all medical and dental services provided by the government of the state of Pohnpei in accordance with schedules and regulations recommended by the Director of Health Services and approved by the Governor, except for such services as the Governor determines shall be free in order to best serve the public interest; PROVIDED, that no one in need of medical care shall be denied such care because of inability to pay all or any part of any fee established, and PROVIDED FURTHER, that there shall be no distinction in treatment or care based upon nonpayment or the amount of payment.

Source: TTC §617 (1966); 63 TTC §155 (1970); 63 TTC §155 (1980)

§1-111. Penalties for violation of §§1-106 – 1-111. — A person who violates any of the provisions of §§1-106 – 1-111 or regulations issued pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fine hundred dollars, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: TTC §625 (1966); 63 TTC §156 (1970); 63 TTC §156 (1980)

CHAPTER 2
PUBLIC HOSPITAL CORPORATION [PENDING, *see* 17 PC 2-121]

Section

2-101 Corporation established	2-110 Powers and duties of the hospital administrator
2-102 Responsibilities and duties of the Corporation	2-111 Appointment of comptroller and general counsel: duties of each
2-103 Legal characteristics and capacity of the Corporation	2-112 Contract-letting by the Board
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2-107 Meetings of the Board	2-116 Corporation finances: fund established
2-108 Organization of the Board; quorum; compensation and expenses	2-117 Employee rights and responsibilities
2-109 Appointment of hospital administrator; compensation; removal; and vacancies	2-118 Preference
	2-119 Government assistance to the Corporation in carrying out its functions
	2-120 Role of the Department of Health Services
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§2-101. Corporation established. — There is hereby established in and for Pohnpei a public corporation to be known as the Pohnpei Public Hospital Corporation, hereinafter referred to as the “Corporation.”

Source: S.L. No. 4L-65-98 §1, pending

§2-102. Responsibilities and duties of the Corporation. — The Corporation is vested with the following responsibilities and duties:

(1) To provide medical services to the people of Pohnpei through the operation of a system of publicly owned hospitals and dispensaries;

(2) To operate within the public hospitals and dispensaries controlled by the Corporation both in-patient and out-patient services, as well as ambulatory services to and from said hospitals and dispensaries;

(3) To manage the medical referral program for patients referred abroad from the hospitals controlled by the Corporation;

(4) To operate pharmaceutical services in conjunction with its operation of the public hospitals and dispensaries and to charge consumers for the use or purchase thereof, such charges to be incorporated into the schedule of fees established by the Corporation;

(5) To operate and manage the public hospitals and dispensaries controlled by the Corporation on the basis of commercially accepted practices, treating all users of the Corporation’s services on equitable terms in accordance with its published fees and requiring all users to pay for services rendered; PROVIDED that the Corporation shall provide medical services to indigent persons at reduced fees upon a showing to the Corporation by that person that he or she is incapable of paying the regular fees so established for the service rendered; PROVIDED FURTHER that, to the extent practicable, in such instances the Corporation shall require payment in-kind for the services rendered, such as the delivery of local foods or fish to the hospital kitchens or work in or around the hospital or dispensary facilities;

(6) To accept patients on a referral basis from the other jurisdictions in the region based upon an agreement for payment to the Corporation of costs for services rendered. To the extent practicable, the Corporation shall undertake to enter agreements with the Federated States of Micronesia National

Government to cover the costs of referral to the public hospitals controlled by the Corporation, which, in turn, will require indemnification from the jurisdiction concerned;

(7) To expand and improve upon medical services offered at the public hospitals and dispensaries controlled by the Corporation, and where practicable and necessary, to construct and operate new hospital facilities and dispensaries in densely populated or remote areas that are now beyond ready access to existing public hospital or dispensary facilities;

(8) To cooperate with the Department of Health Services in the conduct of public health education programs and clinics and in the operation of their special outreach programs;

(9) To establish, publish and implement, upon prior public notice and hearing, by majority vote of at least five members of the Board of Directors of the Corporation and with the approval of the Governor, a structure of fees for medical services rendered by the Corporation and for medical referrals abroad calculated to ensure that, to the extent practicable, adequate and equitable charges are imposed for services and that the fee structure promotes increased use of public medical services; PROVIDED that the Pohnpei Government and the FSM Government shall bear the cost of medical services rendered to the indigent to the extent that in-kind services received in lieu of fees are not sufficient to cover the costs of services rendered; PROVIDED FURTHER that nothing in this subsection shall prevent the Corporation from using subsidies received from governmental, international or private sources to reduce the overall fees charged to users of public hospitals and dispensaries controlled by the Corporation or to provide services for the indigent. In the establishment of fees provided hereunder, the Corporation may set interest charges, require security deposits, impose monetary penalties, and establish policies and procedures to ensure the timely payment and collection of Corporation charges;

(10) In lieu of or in conjunction with the fee schedules provided in Subsection (9) of this section, cooperate with the Pohnpei Health Care Plan to establish a system of periodic health services payments entitling enrollees in the Health Care Plan to levels of medical and dental care provided by the system;

(11) To acquire and maintain from the revenues and grants received by the Corporation a program of liability insurance on all medical facilities and equipment controlled by the Corporation and malpractice insurance on all medical practitioners under the management or supervision of the Corporation; PROVIDED that if such insurance is not available or is prohibitively expensive, as determined by the Board of Directors of the Corporation with the concurrence of the Governor, then the Corporation shall establish and maintain a special fund to satisfy judgments or settlements on tort claims brought against the Corporation for its operations under this chapter; and

(12) To invest all surplus revenues of the Corporation in the expansion and improvement of medical services in Pohnpei.

Source: S.L. No. 4L-65-98 §2, pending

§2-103. Legal characteristics and capacity of the Corporation. — In performing the responsibilities and duties authorized by this chapter and other laws of this state, the Corporation shall have the characteristics of a public corporation and the capacity to exercise all powers normally exercised by a public corporation, including, but not limited to, the following:

(1) To adopt, alter, and use a corporate seal;

(2) To adopt and amend bylaws and other rules, regulations and directives governing the conduct of its business and the exercise of its powers granted to or imposed on it by law. No bylaw, rule or regulation other than that covering the internal operation of the Corporation shall be adopted without a public hearing;

(3) To sue and be sued in its corporate name; PROVIDED that satisfaction of judgments or the settlement of claims on tort actions against the Corporation and/or its employees operating within the scope of their employment may only be paid out of insurance held by the Corporation or the special fund created by the Corporation pursuant to §2-102(11), and not out of the other assets or operating

capital of the Corporation, and for these purposes the doctrine of sovereign immunity is maintained for this public corporation to the extent not expressly waived by Pohnpei public law; PROVIDED FURTHER that nothing in this subsection shall prevent the Legislature from making direct appropriations into the special fund for the purpose of assisting the Corporation in the satisfaction of judgments on such tort actions or settlement of tort claims brought against the Corporation;

(4) To acquire, in any lawful manner, real, personal or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease or otherwise dispose of such property;

(5) To acquire and take over, in any lawful manner, the business, property, assets, and liabilities of any public entity of the Pohnpei Government to the extent of its provision of public medical services;

(6) To borrow or raise any sum or sums of money and to issue corporate bonds on such security and upon such terms as may be deemed, from time to time, necessary for the expansion and improvement of public medical services;

(7) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as the Corporation deems appropriate; and

(8) To do all such things as may be incidental to or conducive to the fulfillment of the responsibilities and duties of the Corporation.

Source: S.L. No. 4L-65-98 §3, pending

§2-104. Debts and obligations of the Corporation. — Unless otherwise expressly provided by law, the debts and obligations of the Corporation shall not be the debts or obligations of the Pohnpei Government, nor shall the Pohnpei Government be responsible for any such debts or obligations.

Source: S.L. No. 4L-65-98 §4, pending

§2-105. Tax liability. — The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations or activities imposed by the Pohnpei Government or local governments and, to the extent allowable, by the Federated States of Micronesia Government. Nothing herein shall be deemed to exempt employees and independent contractors of the Corporation from tax liability for services rendered to the Corporation, and the Corporation shall be liable for employers' contributions to existing social security systems in the manner provided by law.

Source: S.L. No. 4L-65-98 §5, pending

§2-106. Composition of the Board: vacancies: removal. — All powers vested in the Corporation shall be exercised by the Board, which shall consist of seven members, called directors, who shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. Persons appointed shall hold membership on the Board for a period of four years, subject to reappointment, and until their successors have been appointed and qualify; PROVIDED that the Governor, in his initial appointments, shall designate four of his appointees to serve for an initial term of two years each. All vacancies occurring on the Board shall be filled by the Governor, with the advice and consent of the Legislature, but only for the unexpired term of the director whose vacancy is being filled. A director may be removed from the Board for cause by the Governor or by two-thirds majority of the remaining members of the Board.

Source: S.L. No. 4L-65-98 §6, pending

§2-107. Meetings of the Board. — Within 15 days after the confirmation of the initial Board, the Governor shall call an organizational meeting. Annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall meet once a month and shall hold at least one public meeting each calendar quarter and other public meetings as it may deem necessary for the transaction of its general business.

Source: S.L. No. 4L-65-98 §7, pending

§2-108. Organization of the Board; quorum; compensation and expenses. — The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board. Any four members of the Board shall constitute a quorum, and, unless a greater majority is otherwise provided in this chapter or in the bylaws of the Corporation, a concurrence of four members shall be necessary for any official action taken by the Board. No vacancy in membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board. The directors of the Corporation shall be entitled to reimbursement for actual expenses incurred in the performance of their official duties, upon approval of such expenses by the Board. Directors shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded when actually performing functions of the Board at the direction of the Chairman, except that those members who are state government officers and employees shall receive, instead, their regular salaries while so performing functions of the Board.

Source: S.L. No. 4L-65-98 §8, pending

§2-109. Appointment of hospital administrator; compensation; removal; and vacancies. —

(1) The Board shall appoint a hospital administrator for a term set by the Board, not to exceed four years. Hospital administrators may be reappointed.

(2) Compensation for the hospital administrator shall be fixed by the Board.

(3) The Board may remove the hospital administrator for reasonable cause and upon a majority vote of at least five members.

(4) During any period when the position of hospital administrator is vacant, the position shall be temporarily filled from within the organization, pursuant to this chapter and the bylaws of the Corporation.

Source: S.L. No. 4L-65-98 §9, pending

§2-110. Powers and duties of the hospital administrator. — The hospital administrator shall be the chief executive officer of the Corporation, who shall have full charge and control of the operation and maintenance of all medical facilities and other real and personal property controlled by the Corporation, and construction of any facilities, and necessary work on vehicles, vessels, and equipment controlled by or required to be rebuilt or repaired by the Corporation. The hospital administrator shall have the following powers:

(1) To ensure that all medical fees imposed by the Corporation are charged and collected;

(2) To attend all meetings of the Board and to submit a general report on the affairs of the Corporation;

(3) To keep the Board advised on the needs of the Corporation;

(4) To approve demands for payment of obligations within the purpose and amounts authorized by the Board;

(5) To prepare or cause to be prepared all plans and specifications for the construction and repair of facilities, vehicles, vessels, and equipment operated by the Corporation;

(6) To devote his entire time to the business of the Corporation; to select and appoint the employees of the Corporation except as otherwise provided in this chapter; to plan, organize, coordinate, and control the services of such employees in the exercise of the powers of the Corporation under the general direction of the Board; and, in lieu of hiring employees to perform any of the tasks, work or other services required by the Corporation, to contract with independent contractors, as persons, organizations or corporations, to provide such services; PROVIDED, HOWEVER, that any contract which delegates the management or any major function of any facility operated by the Corporation to another entity shall require an affirmative vote of five members of the Board; PROVIDED FURTHER that any such management contract may not exceed a term of two years, inclusive of renewals;

(7) To cause to be published, within 60 days after the end of each fiscal year, a financial and operations statement showing the result of operations for the preceding fiscal year and the financial status of the Corporation on the last day thereof, which publication shall be made in the manner provided by the Board; and

(8) To perform such other and additional duties as the Board may require.

Source: S.L. No. 4L-65-98 §10, pending

§2-111. Appointment of comptroller and general counsel: duties of each. — The hospital administrator, upon approval of the Board, shall also appoint a comptroller and a general counsel, both of whom shall serve at the pleasure of the hospital administrator and whose duties and compensation shall be fixed by the Board. Such officers may be full-time employees of the Corporation, shared with Pohnpei Government agencies, or be placed on retainer from the private sector. The hospital administrator may appoint one or more assistants to any such office.

(1) The comptrollers shall have custody of all monies of the Corporation and shall pay out such money only in accordance with the direction of the Board and as provided in the annual budget of the Corporation. The Board shall appoint an agent as its trustee for payment of bonds issued by it and for such related purposes as the Board may provide.

(2) The general counsel shall advise the Board and the hospital administrator in all legal matters to which the Corporation is a party or in which the Corporation is legally interested, and may represent the Corporation before the Congress of the Federated States of Micronesia, the Pohnpei Legislature, boards and governmental agencies of Pohnpei, the Federated States of Micronesia, and the United States of America.

(3) The Corporation may use the services of the attorneys for the Pohnpei Government to serve as attorneys for the Corporation, or it may appoint such attorney or attorneys as it may deem necessary, and it shall provide payment of all legal services rendered. All official documents, contracts, bonds and other instruments in writing shall be approved as to form and legality by the general counsel for the Corporation. Such approval may be conclusively evidenced by the signature of the general counsel thereon.

Source: S.L. No. 4L-65-98 §11, pending

§2-112. Contract-letting by the Board. — The purchase of all supplies and materials and the construction of all works, when the expenditure exceeds \$5,000, shall be let, by contract, to the lowest responsible bidder. Notice requesting bids shall be published at least ten days before bids are received. The Board may reject any and all bids and re-advertise at its discretion.

(1) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies may be purchased at a lower price in the open market, the Board may authorize, upon written notice to the Governor with documentation as to the reasons for its decision, such purchase without further observance of the provisions requiring contracts, bids or notices.

(2) In case of major public calamity, or whenever it is in the compelling interest of public safety and of immediate necessity to keep public medical services operational, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the public medical services operational or in a safe condition following written notification to the Governor and the Legislature of such determination and, upon written notice to the Governor with documentation as to the reasons for its decision, authorize the expenditure of such sums as may be needed without the observation of the provisions requiring contracts, bids or notices.

(3) No director shall have any financial interest, direct or indirect, in any contract awarded by the Board. The provision shall not apply to contracts awarded to a corporation in which such director owns less than five percent (5%) of the entire capital stock or in which he does not hold any office or employment. The Board shall establish procedures for the timely verification of this restriction by its general counsel.

Source: S.L. No. 4L-65-98 §12, pending

§2-113. Accounting and reporting. — The Board shall adopt and maintain a system of accounting that is in accordance with generally accepted accounting principles applicable to public corporations. The system adopted shall require that:

(1) The Board employ a firm of independent certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Corporation, copies of any such reports to be furnished to the Governor and the Pohnpei Legislature; and

(2) The Board report to the Governor and Legislature on the affairs of the Corporation. It shall present an annual report within 60 days after the end of each fiscal year and, if requested by the Governor or the Pohnpei Legislature, shall present special reports within 30 days after the end of each intervening quarter.

Source: S.L. No. 4L-65-98 §13, pending

§2-114. Budget preparation. — The hospital administrator shall prepare, in advance of each fiscal year and under the supervision of the Board, an annual budget for the Corporation, taking into consideration anticipated capital and operational expenditures and anticipated revenues. The Corporation shall use the same fiscal calendar as that of the Pohnpei Government. The budget shall indicate the operational, capital, and maintenance requirements of the Corporation that will be met with the anticipated revenues of the Corporation, and such essential requirements as cannot be met without increase in the rate of revenues or outside financial assistance.

Source: S.L. No. 4L-65-98 §14, pending

§2-115. Supplemental budget requests. — To the extent that the Corporation deems it necessary and advisable, the Corporation is authorized to seek appropriations from the Legislature and, to the extent approved by the Governor, grants from sources outside of Pohnpei of such funds as are necessary to supplement revenues to provide for the operations, maintenance, and expansion of the public medical services in Pohnpei.

Source: S.L. No. 4L-65-98 §15, pending

§2-116. Corporation finances: fund established. —

(1) There is hereby established a fund that shall be known as the “Pohnpei Public Hospital Corporation Fund,” which shall be maintained separate and apart from other funds of the state by the Corporation, and independent records and accounts shall be maintained in connection therewith, and a full accounting of all uses of this fund shall be included in the annual report of the Corporation as required by §2-113.

(2) All monies received by the Corporation from whatever source derived shall be deposited in said fund, or in such other funds as may be established, pursuant to this chapter, in bank accounts to the extent required by law by the government of the Federated States of Micronesia or of the United States of America.

(3) All expenditures, except as otherwise provided by law, shall be made from the fund herein established.

(4) There is hereby authorized for appropriation from such funds of the Pohnpei Treasury such sums to be determined annually in the Comprehensive Budget Act, or so much thereof as may be necessary, for the purpose of supplementing the assets of the fund established by this section. All such appropriations shall be deposited in the Pohnpei Public Hospital Corporation Fund established under the authorization of this section and shall remain available until fully expended.

Source: S.L. No. 4L-65-98 §16, pending

§2-117. Employee rights and responsibilities. — The Board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and

other disciplinary rules for employees of the Corporation. Employees of the Corporation shall be eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workers' compensation insurance available to Pohnpei Government employees. The Corporation shall contribute to such programs on the basis of periodic billings as determined by the governing authorities thereof.

Source: S.L. No. 4L-65-98 §17, pending

§2-118. Preference. — The Board shall employ qualified legal residents of Pohnpei State, whenever practicable. However, the Board shall have, as its primary concern in employing or contracting for services, the maintenance of safe, self-sufficient, modern, and convenient services and facilities for the improvement of public medical services within Pohnpei.

Source: S.L. No. 4L-65-98 §18, pending

§2-119. Government assistance to the Corporation in carrying out its functions. — For the purpose of aiding in the planning, undertaking or carrying out of this chapter and of the projects contemplated herein, and the subsequent operation and maintenance of the public medical services system, the Federated States of Micronesia or Pohnpei State or any agency or political subdivision of such, if the chief executive of the respective political jurisdiction or political subdivision determines that such project will benefit and further the public purposes of the respective government and be of advantage to them, and if the intended action is consistent with the laws of the respective jurisdiction, may:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Corporation;

(2) Incur expenses on behalf of the Corporation, subject to reimbursement under such terms and conditions as may be agreed upon with the Corporation;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out of the duties, powers and obligations of the Corporation;

(4) Lend or advance, grant or contribute funds to the Corporation, and provide for or waive the repayment of any such funds loaned or advanced; and

(5) Contract with or furnish services to the Corporation upon such terms and conditions as may be agreed upon.

Source: S.L. No. 4L-65-98 §19, pending

§2-120. Role of the Department of Health Services. — The Department of Health Services shall constantly and continuously monitor all activities of the Corporation and shall promptly take action or report to appropriate agencies any infraction of the Corporation in the conduct of its operations under this chapter, or of any deviation from the standards of medical practice established by law or regulation, or of any departure from the standards of medical ethics commonly held in the professional and technical fields of medical service.

Source: S.L. No. 4L-65-98 §20, pending

§2-121. Transition. —

(1) Not sooner than 15 working days nor more than 45 working days following the enactment into law of the financing plan for the implementation of the essential level of medical coverage for every qualified resident of the state under the Pohnpei Health Care Plan as called for in §4-155, the Governor shall submit the nominees for the first Board of Directors of the Pohnpei Public Hospital Corporation.

(2) Not later than 120 days following the appointment of the seventh member of the initial Board of Directors of the Corporation, the Board shall present to the Governor a request for his approval for

the assumption of the responsibilities and duties of the Corporation as specified by §2-102. Said request shall:

- (a) Include a detailed accounting of all properties and all financial, staffing and material requirements that will be met by the Board in assuming control of the Pohnpei Hospital and such other medical and dental establishments and services that are to be transferred to the Corporation under this chapter;
- (b) Include a file on all arrangements and contracts entered into with the Pohnpei Health Care Plan for the provisions of services for enrollees thereunder;
- (c) Include a listing of all fees and charges to be implemented by the Corporation, not otherwise covered by the Pohnpei Health Care Plan; and
- (d) Specify a date upon which the Corporation shall assume the responsibilities and duties of the Corporation as prescribed by §2-102.

(3) The Governor shall conduct a thorough review of the request presented pursuant to Subsection (2) of this section, and shall seek the counsel and advice of the Department of Health Services and the Pohnpei Health Care Plan in the conduct of said review. Upon a finding that the Corporation's request is in order and that the Corporation is capable of assuming its responsibilities and duties on the date so specified, the Governor shall so issue an order to that effect, authorizing the Corporation to commence business on the date so specified. In the event that the Governor, in his discretion, shall find that the request is not in order or that the Corporation will not be capable of assuming its responsibilities and duties by the date so specified, he may return the request to the Corporation with his recommendation for revision thereof.

(4) Within 30 days following the issuance of the order specified in Subsection (3) of this section, the Governor and the Pohnpei Public Lands Trust Board of Trustees shall prepare documents of transfer to the Corporation of the facilities and grounds of the Pohnpei Public Hospital and public dispensaries within the state, along with all equipment and supplies therefor, and along with that portion of the Pohnpei Government appropriations allocated to the operation of said hospital and dispensaries and the referral of patients abroad, to be effective on such dates as are identified in the approved request as provided in Subsection (3) of this section and on terms that are mutually agreed upon by the Governor, the Pohnpei Public Lands Trust Board of Trustees, and the Board of the Corporation.

(5) Upon the completion of the requirements of Subsections (1) through (4) of this section, the Corporation shall immediately commence operations of the public hospitals and dispensaries of this state as provided under the terms of this chapter.

(6) The Corporation shall offer continuing employment to all employees of said hospital and dispensaries who continue to perform satisfactorily at levels no less than that they received from the Department and with recognition of their seniority with the government in personnel plans established by the Corporation for a period of not less than two years. Notwithstanding the transfer of said employees to the Corporation under the terms of this subsection, such transferred employees shall remain eligible for early retirement under the terms and conditions of the special early retirement plan, established by S.L. No. 4L-38-97, for the duration of said program and pursuant to an agreement between the Corporation, as executed by the Board, and the state government, as executed by the Governor; PROVIDED that the state government shall remain responsible for the financial costs for the repayment of the ADB loan associated therewith; PROVIDED FURTHER that the government may place reasonable restrictions on eligibility and quotas for inclusion in the plan of employees transferred to the Corporation commensurate with the restrictions and quotas of the overall state program.

(7) All deeds, bonds, agreements, instruments, and working arrangements existing immediately before the commencement of this chapter affecting any of the undertakings which are transferred to the Corporation by the government shall continue in full force and effect against or in favor of the

Corporation. Any proceedings or cause of action pending or existing immediately before the commencement of this chapter by or against the government or any person acting on behalf of the government in respect to any such transferred undertakings may be continued or enforced by or against the Corporation.

Source: S.L. No. 4L-65-98 §21, pending

Note: S.L. No. 4L-65-98 §22 severability provision has been omitted.

HEALTH & WELFARE

CHAPTER 3 HEALTH SERVICES ADVISORY COUNCIL

Section

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3-102 Purposes of Council
3-103 Definitions
3-104 Membership of Council
3-105 Meetings of Council

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§3-101. Establishment of Council. — There is hereby established a Pohnpei Health Services Advisory Council.

Source: S.L. No. 1L-45-85 §1, 10/29/85

§3-102. Purposes of Council. — The purposes of the Council are as follows:

- (1) To evaluate the quality of the services rendered to the public by the Department of Health Services and make appropriate recommendations relative thereto;
- (2) To review the existing health policies and advise the Director of the Department of Health Services of any changes recommended thereto; and
- (3) To review the annual budget of the Department of Health Services before submission to the Governor of Pohnpei.

Source: S.L. No. 1L-45-85 §2, 10/29/85

§3-103. Definitions. — As used in this chapter, unless the context otherwise requires:

- (1) “Consumers” means individuals who utilize the state health service system, but who are not providers of health care.
- (2) “Providers” means individuals deriving their livelihood from the health services sectors.

Source: S.L. No. 1L-45-85 §3, 10/29/85

§3-104. Membership of Council. — The Council shall be composed of five members; two members shall be providers and three shall be consumers. All appointments shall be made by the Governor with the advice and consent of the Legislature. In addition, the Director of the Department of Health Services shall serve as an ex-officio member without the right to vote. Members of the Council shall be appointed for a period of two years and may be reappointed; PROVIDED that the Governor shall in his initial nominations to the Legislature designate three of the five members to serve an initial term of one year each. If a vacancy is created in the Council by death, resignation or for any other reason, such vacancy shall be filled in like manner as the original appointment for the remainder of the term. Three unexcused absences of a member from any duly called meeting of the Council automatically creates a vacancy of that member’s seat on the Council. Excuses may be granted solely by the Chairman or a duly designated representative, and shall only be granted for death or serious illness in the family of the member, for travel outside of commuting distance of the meeting or for such other reasons as the Council may, by its rules, so determine.

Source: S.L. No. 1L-45-85 §4, 10/29/85

§3-105. Meetings of Council. — The Council shall meet at the call of the Chairman elected at the first meeting, or at the call of three or more members. The Director of the Department of Health Services shall call the first meeting within 15 days after the initial confirmation of all the membership of the Council. Meetings shall be conducted according to such rules as the Council may establish;

PROVIDED that three members shall constitute a quorum and a majority vote of the quorum shall be sufficient to carry on any business before the Council.

Source: S.L. No. 1L-45-85 §5, 10/29/85

§3-106. Duties of Council. — In order to accomplish the purposes stated in §3-102, the Council shall perform the following duties:

(1) Consider matters brought before it with regard to health services in Pohnpei, and undertake such inquiries as are required or appropriate in order for it to formulate policy recommendations in regard thereto;

(2) Forward all policy recommendations to appropriate governmental agencies and offices deemed by the Council to be in the best interest of the people of Pohnpei;

(3) Review all financial reports and the annual budget of the Department of Health Services as required by §3-102; and

(4) Recommend legislation required for the improvement of the delivery of health programs and services.

Source: S.L. No. 1L-45-85 §6, 10/29/85

§3-107. Administrative assistance. — The Director of the Department of Health Services shall provide to the Council clerical and other support services that may be required by the Council.

Source: S.L. No. 1L-45-85 §7, 10/29/85

§3-108. Compensation; authorization for appropriation; administration. —

(1) Expenditures for travel and per diem of Council members and personnel shall not exceed standard Pohnpei Government rates. Compensation shall be paid to members who are not employees of the Pohnpei Government for attending a duly called meeting of the Council at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded. Pohnpei Government employees who are members of the Council shall be granted administrative leave while attending Council meetings or performing other official business for the Council.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the operations and related activities of the Council.

(3) The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purposes stated in Subsection (2) of this section. The Governor shall submit a complete financial report to the Legislature on or before October 15 following each fiscal year wherein sums are appropriated under the authorization of this section. All sums appropriated for a fiscal year remaining unexpended or unobligated for expenditure at the end of the fiscal year shall revert to the general fund of Pohnpei.

Source: S.L. No. 1L-45-85 §8, 10/29/85; S.L. No. 1L-71-86 §4-15, 4/1/86

Note: S.L. No. 1L-71-86 §4-16 appropriation, §§4-17 & 4-18 superseding and §4-19 temporary provisions have been omitted.

CHAPTER 4 HEALTH CARE PLAN

Section

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§4-101. Short title. — This chapter is known and may be cited as the “Pohnpei Health Care Act of 1993.”

Source: S.L. No. 3L-39-93 §1-1, 7/29/93

§4-102. Purpose. — The purpose of this chapter is to improve the provision and quality of health services to residents of the state of Pohnpei, to establish a financial system to provide universal coverage of an essential level of health care for all eligible enrollees, and to create a means for collection of health care premiums for additional coverage. This chapter establishes a means to control the costs, improve the quality, and assure the availability of medically necessary services of health care providers within and outside of Pohnpei.

Source: S.L. No. 3L-39-93 §1-2, 7/29/93

§4-103. Plan established. — The Pohnpei Health Care Plan is hereby established as a public corporation under the laws of Pohnpei.

Source: S.L. No. 3L-39-93 §1-3, 7/29/93

§4-104. Definitions. — As used in this chapter:

(1) “Board” means the Board of Trustees of the Pohnpei Health Care Plan.

(2) “Bylaws” means the bylaws of the Pohnpei Health Care Plan, in effect from time to time.

(3) “Dependent” means the spouse and child(ren) of an enrollee for additional coverage under this chapter, including stepchildren and adopted children, who are unmarried and under 19 years of age, and handicapped dependent children who are physically or mentally incapable of earning a living; any student under 21 years of age who is unmarried and a full-time student within Pohnpei and who is primarily supported by his or her enrollee parents; and unemployed dependent parents who are members of the enrollee’s household, are over the age of 60 years, and are citizens of Pohnpei residing in Pohnpei.

(4) “Employee” means any individual who has been employed for wages or salaries for services from an employer as defined in Subsection (5) of this section for at least 15 working days and who regularly provides such services to the employer for 20 hours or more each week.

(5) “Employer” means any person as defined in Subsection (10) of this section who employs the services of others and pays them wages or salaries, or a person who is self-employed, that is, a person who earns money for labor or goods.

(6) “Enrollee” means any individual eligible to receive benefits under this chapter; PROVIDED that an enrollee may be eligible for only the essential level of benefits, or may be eligible for additional levels of benefits as provided for in this chapter and such regulations as may be issued pursuant hereto.

(7) “Executive Director” means the Executive Director of the Pohnpei Health Care Plan.

(8) “Fund” means the trust fund to be established by the Board pursuant to §4-142.

(9) “Off-island health care facility” means any facility providing covered services as defined in §4-127 that is located outside of Pohnpei and that is determined by the Board to be a qualified provider as defined in §4-129.

(10) “Person” includes any individual, trust, estate, partnership, corporation, association, joint stock company, bank, insurance company, credit union, cooperative or other entity or group, including any government, whether local or foreign, or any agency or instrumentality thereof.

(11) “Plan” means the Pohnpei Health Care Plan.

(12) “Provider” means any person furnishing any covered service as defined in §4-127.

(13) “Referral” means a referral of an enrollee to an out-of-state health care facility granted pursuant to §4-125.

(14) “Regulation” means the regulations adopted by the Board and approved by the Governor for the administration of the Plan.

(15) “Resident” means any citizen of Pohnpei for whom Pohnpei is his principal residence, or any noncitizen who has established an ongoing physical presence in Pohnpei and whose presence is sanctioned by law and is not merely transitory in nature.

(16) “State” or “Pohnpei” means the state of Pohnpei.

(17) “Third-party administrator” means the individual or firm within or outside of Pohnpei that contracts to perform administrative services in the operation of the Plan.

Source: S.L. No. 3L-39-93 §1-4, 7/29/93

§4-105. Board of Trustees. —

(1) The governing and administrative powers of the Plan shall be vested in a Board of Trustees, which Board shall consist of five voting members and the Executive Director, who shall serve as an ex-officio, nonvoting member of the Board.

(2) The Governor shall appoint the five voting members of the Board, with the advice and consent of the Pohnpei Legislature, and may remove each such member in case of incompetency, neglect of duty or malfeasance in office. The Board shall be composed of members experienced in financing, health care administration, medical practice, health care development or health care improvement. Within five years following the first organizational meeting of the Board, the Board shall submit to the Governor and the Legislature draft legislation to provide for the periodic popular selection of Board members by citizen enrollees of the Plan.

Source: S.L. No. 3L-39-93 §2-1, 7/29/93

§4-106. Organizational meeting. — The first meeting of the Board shall be held not later than 45 days after appointments of all five voting members of the Board have become effective.

Source: S.L. No. 3L-39-93 §2-2, 7/29/93

§4-107. Terms of office and reappointment. — Of the voting Board members initially appointed, one shall serve for a term of one year, two shall serve for a term of two years, and two shall serve for a term of three years, all as determined by the drawing of lots at the organizational meeting. A member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term. Each Board member shall hold office until his successor is appointed and qualified. Board members shall be eligible for reappointment.

Source: S.L. No. 3L-39-93 §2-3, 7/29/93

§4-108. Vacancies. — Vacancies in the membership of the Board shall be filled in the same manner as the original appointment. A vacancy exists in the case of death, resignation or removal of any Board member.

Source: S.L. No. 3L-39-93 §2-4, 7/29/93

§4-109. Removal. — In addition to the removal of a Board member pursuant to §4-105, any Board member may be removed from office on such grounds as specified in §4-105 by the affirmative vote of four voting Board members.

Source: S.L. No. 3L-39-93 §2-5, 7/29/93

§4-110. Meetings. —

(1) Regular meetings of the Board shall be held quarterly at such times, at such places, and upon such notice as shall be provided in the bylaws.

(2) Special meetings of the Board shall be called by the Chairman or by any three Board members at such places and upon such notice as provided in the bylaws.

(3) Members of the Board or of any committee of the Board may participate in and act at any meeting of the Board or a committee through the use of a conference telephone or other communication equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute attendance and presence, in person, at the meeting of the person or persons so participating.

(4) Full and accurate minutes of all Board meetings shall be kept in such manner as shall be provided in the bylaws.

Source: S.L. No. 3L-39-93 §2-6, 7/29/93

§4-111. Quorum. — Three voting Board members shall constitute a quorum and the action of three voting Board members present at any meeting is valid as a corporate act.

Source: S.L. No. 3L-39-93 §2-7, 7/29/93

§4-112. Deadlock. — In the event that the voting members of the Board are evenly divided concerning an action or decision of the Board, the Executive Director shall vote on the action or decision.

Source: S.L. No. 3L-39-93 §2-8, 7/29/93

§4-113. Election of Chairman. — The Board shall elect from among its members a Chairman who will convene and preside over meetings of the Board. The Chairman shall perform such other duties as may be prescribed by the bylaws or from time to time assigned by the Board. The Chairman shall serve for a term of one year and shall not be eligible for consecutive one-year terms as Chairman.

Source: S.L. No. 3L-39-93 §2-9, 7/29/93

§4-114. Election of Vice-Chairman. — The Board shall elect from among its members a Vice-Chairman, who shall, in the absence of the Chairman, perform the duties of the Chairman. The Vice-Chairman shall serve for a term of one year and shall not be eligible for consecutive one-year terms as Vice-Chairman.

Source: S.L. No. 3L-39-93 §2-10, 7/29/93

§4-115. Compensation of Board members. — Board members who are employees of the Pohnpei Government or of any other cooperating entity shall serve without compensation paid by the Plan, but may continue to receive their regular salaries. Board members who are not employees of the Pohnpei Government or of any other cooperating entities shall be entitled to compensation at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually performing the functions of the Board, at the direction of the Chairman. Board members shall be entitled to payment for travel expenses necessarily incurred when serving the Plan away from their places of residence at rates not to exceed that accorded to Pohnpei Government employees.

Source: S.L. No. 3L-39-93 §2-11, 7/29/93; S.L. No. 4L-25-96 §11, 7/1/97

§4-116. Exclusion from employment. — No Board member, other than the Executive Director, shall be an employee of the Plan during his term of office as a Board member or for one year thereafter.

Source: S.L. No. 3L-39-93 §2-12, 7/29/93

§4-117. Bylaws. — The Board shall adopt, amend or repeal such bylaws as are necessary to provide for the management of the business of the Plan, the organization, meetings, and procedures of the Board, the duties of officers, and employees and the preparation and submission of required reports.

Source: S.L. No. 3L-39-93 §2-13, 7/29/93

§4-118. Personnel and procurement. —

(1) Officers and employees of the Plan shall be exempt from the Public Service System Act, Title 9 Chapter 2, and the state's compensation plan, Title 9 Chapter 4 Subchapter II; PROVIDED that, within 120 days following its first organizational meeting, the Board shall provide in the bylaws of the Plan a complete personnel system for the recruitment, management, and compensation of officers and employees of the Plan.

(2) The Plan shall be subject to state procurement and contracting laws until such time that the Board has established and maintains in its bylaws a contracting and procurement code certified by the Director of the Department of Treasury and Administration to be sufficient to meet United States of America standards for state and local government administration of federal grants.

(3) The personnel and procurement systems established by the Board may provide for reasonable preferences for the employment of qualified citizens of this state and procurement for businesses resident within the state; PROVIDED, HOWEVER, that the systems shall have as their primary

objective in employment and procurement the fulfillment of the purposes for which the Plan has been established.

Source: S.L. No. 3L-39-93 §2-14, 7/29/93

§4-119. Officers. —

(1) The Board shall select an executive director for the Plan who shall serve at the pleasure of the Board.

(2) The Executive Director shall administer the Plan and manage the day-to-day operations of the Plan, in accordance with policies, procedures, rules, regulations, standards, and criteria established by the Board. The Executive Director shall also perform such other duties as may be set forth in this chapter, the bylaws or by the Board. Except as provided in §4-112, the Executive Director shall serve as an ex-officio, non-voting member of the Board.

(3) The Executive Director of the Plan shall have a minimum of five years experience in the health finance or health administration profession.

(4) The Executive Director may, with approval of the Board, delegate to other officers or employees of the Plan, or to a third-party administrator, any of the duties or functions of the Executive Director.

Source: S.L. No. 3L-39-93 §2-15, 7/29/93

§4-120. Corporate powers. — In addition to any other authority granted under this chapter, the Plan shall have the capacity to exercise all powers normally exercised by a public corporation, including, but not limited to, the following:

(1) To adopt, alter, and use a corporate seal;

(2) To sue and be sued in its corporate name;

(3) To acquire, in any lawful manner, real, personal or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease or otherwise dispose of such property;

(4) To take and otherwise acquire and hold shares, stocks, mortgages, bonds, obligations, securities, and investments of all kinds, foreign and domestic, and to sell or otherwise alienate the same;

(5) To acquire and take over in any lawful manner the business, property, goodwill, and liabilities of any entity, including debts, liabilities and obligations incurred prior to the time of acquisition;

(6) To make contracts and incur liabilities, and to borrow or raise any sum or sums of money and issue corporate bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of the Plan;

(7) To lend money for its corporate purposes, and to invest or reinvest its funds;

(8) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as it may deem appropriate, subject to this chapter;

(9) To conduct its business, carry on its operations, have offices, and exercise the powers granted herein in any locality of the state, in the Federated States of Micronesia or in any foreign country; PROVIDED that its principal office shall be in the state of Pohnpei; and

(10) To do all such other things as may be deemed incidental or conducive to the fulfillment of the responsibilities of the Plan.

Source: S.L. No. 3L-39-93 §2-16, 7/29/93

§4-121. Regulations. — The Board shall, with the approval of the Governor, adopt, amend or repeal regulations for the administration of the Plan pursuant to the procedures for adoption of regulations as set out in the Administrative Procedures Act, Title 8 Chapter 1, or its successor. Such regulations shall determine, among other things, assessments for universal coverage, premium amounts, professional service standards, and standards and procedures for referrals, collections, disbursement, and appeals

from determinations made in the implementation of the Plan. The regulations shall further provide for specific notice to enrollees and opportunity to be heard for termination of benefits under the Plan, and shall provide for specific procedures for administrative review and decision on actions taken by the Plan consistent with §4-148.

Source: S.L. No. 3L-39-93 §2-17, 7/29/93

§4-122. Basic eligibility. — Every resident of Pohnpei shall be enrolled in and shall be eligible to receive benefits as provided under this chapter, except that unemployed noncitizens residing in the state who are not dependents of enrollees are not eligible, except as provided in §4-123.

Source: S.L. No. 3L-39-93 §3-1, 7/29/93

§4-123. Agreements for eligibility of others. — The Board is authorized to enter into agreements with the national government, international organizations or other entities to extend the benefits of this chapter to persons within Pohnpei not otherwise eligible therefor. The Board, in entering into such agreements, shall be subject to other state laws, regulations, and agreed-upon practices regarding negotiating agreements with non-state entities.

Source: S.L. No. 3L-39-93 §3-2, 7/29/93

§4-124. Payment for services. —

(1) The Plan shall pay the benefit amount for any covered service that is furnished to an enrollee by a qualified provider outside of Pohnpei if such covered service is authorized in a referral granted under §4-125.

(2) The Board may, by regulation, establish and implement a program for payments of benefit amounts by the Plan for covered services furnished to enrollees by qualified providers within Pohnpei and for assessment and collection of additional premiums.

(3) The Board, by regulation, shall establish and implement a program for payments of benefit amounts by the Plan for covered services rendered by the qualified providers to enrollees of the Plan who are outside of Pohnpei.

Source: S.L. No. 3L-39-93 §4-1, 7/29/93

§4-125. Medical referral committee. —

(1) The Pohnpei Department of Health Services shall establish a medical referral committee that shall be composed of, at a minimum, three physicians or medical officers who regularly practice in Pohnpei. The Department may appoint to its medical referral committee additional members with such qualifications as it deems appropriate.

(2) Except as provided in Subsection (5) of this section, referrals must be authorized by the Pohnpei medical referral committee. The Pohnpei medical referral committee shall consider, as soon as possible, a written request made by an enrollee's attending physician or medical officer and shall determine whether a referral of the enrollee to an out-of-state health care facility is necessary or appropriate for the diagnosis or treatment of, or rehabilitation following injury or illness or for health maintenance. The medical referral committee shall determine in writing:

- (a) Whether it recommends a referral;
- (b) Where covered services are to be provided;
- (c) What covered services are necessary or appropriate for the enrollee to receive at such facility; and
- (d) The projected length of stay.

(3) All recommendations by a medical referral committee or other authorizations for referral as provided under this section which will result in financial obligations against the Plan must be approved by the Executive Director in accordance with §4-127 before any financial obligation may be incurred against the Plan for any out-of-state expenses.

(4) The Board shall, in consultation with the Director of the Pohnpei Department of Health Services, by regulation, establish standards and procedures for payment of referrals costs, and lists of eligible services and permissible charges that may be imposed against the Plan. Such standards, and procedures and lists shall assure that all referrals services and costs charged to the Plan are consistent with the purposes and the objectives of the Plan.

(5) The Director of the Department of Health Services shall, by regulation, provide for alternate means for the authorization of medical referrals in the event of serious and immediate medical emergencies involving situations in which the medical referral committee is unable to meet for the purposes prescribed in Subsection (2) of this section.

Source: S.L. No. 3L-39-93 §4-2, 7/29/93

§4-126. Supervision. — The Board, by regulation, shall establish policies and procedures to supervise provision of covered services at health care facilities.

Source: S.L. No. 3L-39-93 §4-3, 7/29/93

§4-127. Covered services. — Covered services are:

- (1) Professional services of physicians, dentists, and other health practitioners;
- (2) Direct services of health institutions;
- (3) Support services derived from the use of pharmaceuticals, devices, appliances, and other equipment, that the Board, by regulation, determines are eligible for payment by the Plan;
- (4) Essential air and sea transportation and ambulatory service to the point of treatment for approved referrals among the islands of Pohnpei State and from the state to out-of-state centers of care;
- (5) The requisite costs of essential medical attendees and organ donors and of reasonable lodging for out-patient care when authorized by the Plan as provided in its regulations issued pursuant to §4-121; and
- (6) Preventative health care programs sponsored by the Plan on its own initiative or in conjunction with the Pohnpei Department of Health Services.

Source: S.L. No. 3L-39-93 §4-4, 7/29/93

§4-128. Benefit amounts. — Benefit amounts are the amounts that the Board, by regulation, determines are eligible to be paid by the Plan. Said regulations may provide for reasonable amounts of co-payments to be paid by enrollees or other sources for covered services.

Source: S.L. No. 3L-39-93 §4-5, 7/29/93

§4-129. Qualified providers. — A qualified provider is a person furnishing any covered service who the Board, by regulation, determines meets the generally accepted standards of the profession or who is licensed in Pohnpei. The Board shall maintain a list of qualified providers.

Source: S.L. No. 3L-39-93 §4-6, 7/29/93

§4-130. Universal coverage. — The Board, by regulation, shall provide for an essential level of health coverage to be financed in accordance with §§4-154 through 4-159, which coverage shall extend to all eligible enrollees.

Source: S.L. No. 3L-39-93 §4-7, 7/29/93

§4-131. Optional benefits. — The Board, by regulation, may provide for and offer to enrollees additional benefits, either in the form of covered services in addition to those defined pursuant to §4-127 or higher benefit amounts than those set pursuant to §4-128, and shall provide for payment of additional premiums by or on behalf of enrollees for such benefits. Notwithstanding the foregoing

language of this section, the Board shall establish and maintain at least one level of optional coverage available to enrollees and their dependents and prescribe the benefits and premiums pertaining thereto.

Source: S.L. No. 3L-39-93 §4-8, 7/29/93

§4-132. Other coverage. — The obligations of the Plan to make payment for benefits under this chapter is secondary to the obligation of any other individual or entity to make payment for the same service. The Board, by regulation, shall establish policies and procedures for the coordination of benefits provided by this chapter and any other sources, which policies and procedures shall establish the secondary nature of benefits under this chapter. Any overpayments of benefits made under this chapter may be recovered by the Plan from any person to or for whom the payment was made or from any company or organization that is obligated to pay for such services.

Source: S.L. No. 3L-39-93 §4-9, 7/29/93

§4-133. Claims procedures. — The Board, by regulation, shall establish policies and procedures for the identification of enrollees by providers, filing of claims, and disbursement of payment for covered services.

Source: S.L. No. 3L-39-93 §4-10, 7/29/93

§4-134. Assessment and premium amounts. —

(1) By regulation, the Board shall assess the requisite amounts and sources for universal coverage for essential care in accordance with state law, and shall determine the premium amounts to be charged by the Plan for additional levels of coverage. The aggregate of all universal coverage payments and premium amounts, along with other sources of income for the Plan, shall be sufficient to pay all costs of benefits under the Plan, the costs of administering the Plan, and reasonable reserves for uncollectible debts to the Plan and unexpected demands on the Plan for payment and other purposes.

(2) The Board, in its regulations establishing premium amounts, may prescribe differing amounts for enrollees who have no dependents and for enrollees with differing numbers of dependents.

(3) The Board, by regulation, may establish additional classifications for enrollees for whom different premiums will be determined, based on one or more of the following:

(a) Covered services for which the enrollee is eligible or is likely to use;

(b) Location;

(c) Risk of or exposure to injury or illness; or

(d) Other factors normally considered by the health and hospitalization programs and the health maintenance organization industry in the determination of premiums.

Source: S.L. No. 3L-39-93 §5-1, 7/29/93

§4-135. Billed amounts. —

(1) The Board by regulation may, subject to §4-137, establish classifications for the portion of the premium amounts to be billed to an enrollee, employer, state government, national government or other entity or person. Such classifications shall be based on one or more of the following:

(a) Payments on behalf of the enrollees or employers by a state government of the Federated States of Micronesia, the national government, the government of the United States of America or any other source;

(b) Time of payment; and

(c) Any other factor reasonably related to the purposes of this chapter.

(2) The Plan shall bill the amounts determined under this section.

Source: S.L. No. 3L-39-93 §5-2, 7/29/93

§4-136. Responsibility for benefit offerings. —

(1) All employers shall offer to their employees the opportunity to accept first level optional coverage as prescribed by §4-131.

(2) Employers may, at their discretion, offer to their employees additional coverage beyond the first level of optional coverage.

(3) Notwithstanding Subsections (1) and (2) of this section, enrollees who are not employed and enrollees desiring additional coverage beyond the first level when it is not offered by the employer may attain such coverage by making full payment of the premium to the Plan in the manner prescribed by §4-137(4).

Source: S.L. No. 3L-39-93 §5-3, 7/29/93

§4-137. Liability for premium payment. —

(1) An employer of an enrollee, with respect to whom a premium amount is billed, shall be responsible for payment of one-half of such premium amount. The employer may, by written agreement filed with the Plan, assume responsibility to pay more than one-half of the premium amount.

(2) The employer shall collect the balance of the premium by deducting and withholding such amount from the enrollee's compensation with respect to pay periods as specified by the Board's regulation. Every employer required to deduct and withhold a premium amount shall be liable for the payment of such amount as well as the employer's share of the premium amount and shall pay such premium amounts to the Plan with reports or returns as specified by the Board by regulation.

(3) The Board, by regulation, shall establish policies and procedures to equitably allocate the employer's portion of the premium amount among employers if an enrollee is employed by more than one employer during a premium payment period.

(4) Any person required to pay a premium amount for whom a collection procedure is not otherwise provided in this chapter or the regulations shall pay such premium amount to the Plan with such report or returns as specified by the Board.

Source: S.L. No. 3L-39-93 §5-4, 7/29/93

§4-138. Supplemental revenues. — The Plan shall seek appropriations from the Pohnpei Legislature, the National Congress, and from other sources, for such additional revenues as it is reasonably anticipated will be necessary to compensate for any reduction of the total amount of assessments and premiums collected or that are otherwise deemed to be beneficial to the financial status of this Plan.

Source: S.L. No. 3L-39-93 §5-5, 7/29/93

§4-139. Premium collection. — The Board, by regulation, shall establish and implement procedures to regularly collect premium amounts from government appropriations, enrollees, employers, and other sources.

Source: S.L. No. 3L-39-93 §5-6, 7/29/93

§4-140. Sanctions. —

(1) If any premium amount imposed by this chapter or regulations is not paid by an employer or enrollee on or before the date prescribed for such payment, there shall be collected, in addition to such premium amount and penalties, interest on the unpaid balance of the premium amount at the rate of ten percent (10%) per annum from its due date until the date it is paid.

(2) An employer who has failed to make premium payments when required under this chapter shall be liable to the Plan for the reasonable costs incurred by the Plan and/or employee or covered dependent(s) for medical services required by the employee or covered dependent(s); PROVIDED that such liability shall not exceed the costs of such services allowable under the Plan at the level for which the premiums were to be made.

(3) Any employer found to carry on any employment practice directly or indirectly designed to discourage or prevent employees from exercising the option to accept the first level of voluntary coverage shall be subject to a penalty of not more than ten times the amount due to the Plan by the employer for each employee so affected by such practice. Receipts from the penalty shall first go to payment of the affected employees' premium payments. The remainder shall be deposited in the trust fund of the Plan as the realization of general revenue.

Source: S.L. No. 3L-39-93 §5-7, 7/29/93

§4-141. Remedies. —

(1) The Board is authorized to take civil action and impose liens, if necessary, to collect overdue premiums or any amount imposed or authorized under this chapter.

(2) If any person liable to pay any amount under this chapter neglects or refuses to pay the same after demand, the amount including any fine or interest assessed pursuant to §4-140, together with any costs that may accrue in addition thereto, shall be a lien in favor of the Plan upon all property and rights to property, whether real or personal, belonging to such person and may be collected by levy upon such property in the same manner as the levy of an execution.

Source: S.L. No. 3L-39-93 §5-8, 7/29/93

§4-142. Trust Fund. — The Board shall establish a trust fund that shall be administered exclusively for the purpose of this chapter. All payments for benefits under this chapter shall be paid from the fund. The fund shall consist of:

(1) All assessments for universal coverage as provided under this chapter;

(2) All premiums collected from enrollees and employers;

(3) All money received as subsidies to the Plan from the Pohnpei Government, the national government or any other source for payment to the fund; and

(4) All co-payments, fines, penalties, and interest payments collected pursuant to this chapter.

Source: S.L. No. 3L-39-93 §6-1, 7/29/93

§4-143. Management of fund. — The Executive Director shall be the custodian of the fund and shall administer the fund in accordance with the rules and regulations established by the Board. All monies in the fund shall be held in trust solely for the purposes of this chapter. With the approval and under the direction of the Board, the Executive Director may, from time to time, invest such monies in the fund as are in excess of the amount deemed necessary for a reasonable future period. The investments shall at all times be so made that all the assets of the fund shall be readily convertible into cash when needed for the purposes of this chapter.

Source: S.L. No. 3L-39-93 §6-2, 7/29/93

§4-144. Authorization for appropriation; administration. — There is hereby authorized for appropriation such sums from such funds of the Pohnpei Treasury as may be determined annually to pay assessments required thereof by §4-134 and to assist in the financing of the trust fund to be established pursuant to §4-142. All sums appropriated shall remain available until fully expended.

Source: S.L. No. 3L-39-93 §6-3, 7/29/93

§4-145. Consultation requirements. — The Board shall establish appropriate measures to assure that it consults with enrollees and providers on a regular basis and is advised of the impact of its policies and procedures on such individuals.

Source: S.L. No. 3L-39-93 §7-1, 7/29/93

§4-146. Fiscal and operational integrity. — The Board shall take all measures necessary to assure the fiscal and operational integrity of the Plan and shall review the Plan no less often than quarterly for

such purposes. Reviews shall include utilization reviews, reviews of financial statements, reviews of premium and benefit schedules, and reviews of operational policies and procedures. In particular, the Board shall take all measures necessary to assure that:

- (1) Its policies and procedures support the health care objectives of Pohnpei;
- (2) Payments for benefits do not exceed revenues to the fund; and
- (3) Only payments for benefits that the Plan is obligated to provide are made.

Source: S.L. No. 3L-39-93 §7-2, 7/29/93

§4-147. Third-party administrators and consultants. — The Board may retain the services of third-party administrators or qualified health care or business consultants as it deems necessary for the successful operation of the Plan.

Source: S.L. No. 3L-39-93 §7-3, 7/29/93

§4-148. Determinations and appeals. — Except as otherwise provided in this chapter, determinations of eligibility, covered services, qualified providers, benefit amounts, premium amounts to be billed, and all other matters arising in the implementation of the Plan shall be made by the Executive Director in accordance with regulations. Appeals from determinations of the Executive Director may be made to the Board in accordance with procedures specified in the regulations.

Source: S.L. No. 3L-39-93 §7-4, 7/29/93

§4-149. Budget preparation. —

(1) The Executive Director shall prepare, in advance of each fiscal year, an annual budget for the Plan, taking into consideration anticipated capital and operating expenditures and anticipated revenues. The Plan shall use the same fiscal year as that of the Pohnpei Government. The budget shall indicate the operating capital and maintenance requirements of the Plan that will be met with the anticipated revenues of the Plan and such essential requirements as cannot be met without increase in revenues or outside financial assistance. The annual budget shall be reviewed and approved by the Board.

(2) The estimated administrative costs budgeted for any fiscal year of the Plan shall not exceed an expenditure maximum equal to ten percent (10%) of the Plan's estimated income for such year. For purposes of this section, "administrative costs" include the costs of salaries and wages, maintenance of branch offices, patient and physician care coordination, third-party administrator contractual service fees, office supplies and equipment, as well as actuarial, auditing, legal, computer, financial management, accounting, and similar services. For purposes of this section, "income" includes universal coverage payments made, premiums collected, investment income, fines, penalties, and interest collected. "Income" also includes such subsidiary funds received from the Pohnpei Government, the national government or any other sources for payment to the fund that are not allocated to any particular or specific use or category of expenditure; PROVIDED that the specific approval of the Board must be obtained for any budgeted administrative cost from such particular or special use of category funds in excess of the expenditure maximum prescribed in this section.

Source: S.L. No. 3L-39-93 §7-5, 7/29/93

§4-150. Tax exemption. — The Plan shall exist and operate solely for the benefit of the public and shall, to the extent allowed by law, be exempt from any taxes or assessments on any of its property, operations or activities. Nothing herein shall be deemed to exempt employees and independent contractors of the Plan from tax liability for income received from the Plan.

Source: S.L. No. 3L-39-93 §7-6, 7/29/93

§4-151. Corporate debts and obligations. — Unless otherwise expressly provided by law, the Pohnpei Government shall not be liable or responsible for any debts or obligations of the Plan.

Source: S.L. No. 3L-39-93 §7-7, 7/29/93

§4-152. Immunity from liability. — The Plan and officers, employees, and Board members of the Plan shall be immune from liability for acts or omissions with respect to service for the Plan to the same extent as the Pohnpei Government and officers, directing boards and employees of the Pohnpei Government with respect to government service.

Source: S.L. No. 3L-39-93 §7-8, 7/29/93

§4-153. Records and reporting. —

(1) The Executive Director shall keep accurate records of the Plan's business transactions. Such records shall include, but not be limited to, accounting of all income and expenditures, assets (both tangible and intangible), and liabilities of the Plan. The Executive Director shall prepare and submit to the Board a monthly report, that shall include the monthly financial report. The Board, not later than 90 days after the close of each fiscal year, shall submit to the Governor and the Legislature a complete report showing the activities of the Plan during the fiscal year, the present financial condition of the Plan, and such other matters as the Board shall deem appropriate.

(2) The personal records of the Plan shall be confidential. No officer, employee or Board member of the Plan shall disclose any personal records obtained by him in any manner in connection with his service as such officer, employee, Board member or otherwise. For purposes of this section, the term "officer, employee or Board member" includes a former officer, employee or Board member. "Personal records" means any records concerning any individual enrollee or employer.

(3) The books of account of the Plan shall be audited by the Public Auditor annually.

Source: S.L. No. 3L-39-93 §7-9, 7/29/93

§4-154. Intent. — The Legislature is of the mind that all persons eligible for enrollment in the Plan will in fact be enrolled. To this end, the Legislature anticipates creating a source of public financing, that along with other mandated sources of financing, will ensure that all such persons are accorded the essential level of coverage under the Plan.

Source: S.L. No. 3L-39-93 §8-1, 7/29/93

§4-155. Financing. — Not later than July 1, 1994, the Board of the Plan shall submit to the Legislature a detailed proposal for the financing of the essential level of coverage under the Plan. Such proposal shall include the sources, levels, and expected revenues to be collected and shall include such draft legislation to amend §§4-154 through 4-159 as the Plan deems necessary to secure financing.

Source: S.L. No. 3L-39-93 §8-2, 7/29/93

§4-156. Health care premium fund. — There is hereby created within the Treasury a health care premium fund to which all collections imposed by §§4-154 through 4-159, along with all civil penalties and interest with respect thereto, shall be deposited.

Source: S.L. No. 3L-39-93 §8-3, 7/29/93

§4-157. Appropriation requests. — The Plan shall, following consultation with appropriate officials of the state and national governments, present an annual request to the Legislature for appropriation from the health care premium fund to provide the state government's share of payments necessary to finance the essential level of health care coverage for all eligible enrollees. Such request shall include information as to the level of support being requested of the national government and other sources for financing the essential level of coverage provided by the Plan.

Source: S.L. No. 3L-39-93 §8-4, 7/29/93

§4-158. Authorization for appropriation from health care premium fund; administration. — There is hereby authorized for appropriation from the health care premium fund such amounts as may be determined annually in the Comprehensive Budget Act for the sole purpose of assisting in the

financing of an essential level of health care coverage for all persons eligible therefor under this chapter. Sums so appropriated shall be administered and expended by the Plan in accordance with this chapter and shall remain available until fully expended.

Source: S.L. No. 3L-39-93 §8-5, 7/29/93

§4-159. Periodic financial review. — The Plan shall periodically undertake a comprehensive review of the financial demands of maintaining an essential level of health care coverage as provided by this chapter and the revenue generation capacities of §§4-154 through 4-159 along with national government assistance and other means of support for this coverage; and shall thereafter make recommendations to the Legislature as to modifications to the financing systems of §§4-154 through 4-159 and other methods and sources of support.

Source: S.L. No. 3L-39-93 §8-6, 7/29/93

§4-160. Government assistance to the Plan. — For the purpose of planning, undertaking, and carrying out this chapter and the subsequent operation of the Plan established hereunder, and where permissible under law, the Pohnpei Government, or any agency or political subdivision thereof, may, if the chief executive officer of the respective governmental branch or political subdivision determines that the project is of importance and benefit to that branch or political subdivision and be of advantage to the people of this state:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Plan;

(2) Incur expenses on behalf of the Plan subject to reimbursement under such conditions as may be agreed upon with the Board of the Plan;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out the duties, powers, and obligations of the Plan;

(4) Lend, advance, grant or contribute funds to the Plan and provide for or waive the repayment of any such funds loaned or advanced; and

(5) Contract with or furnish services to the Plan upon conditions and terms as may be agreed upon.

Source: S.L. No. 3L-39-93 §9-1, 7/29/93

§4-161. Initial administration. — In addition to such assistance as may be provided under §4-160, the Governor shall provide the initial Board of Trustees appointed under this chapter with office space and administrative assistance for the first 12 months of its operations, unless such space and assistance is otherwise acquired by the Board.

Source: S.L. No. 3L-39-93 §9-2, 7/29/93

§4-162. Authorization for initial financing. — There is hereby authorized for appropriation from the general fund of the Pohnpei Treasury the sum of \$10,000, or so much thereof as may be appropriated and necessary for the start-up and initial administration of the Plan established by this chapter, for the development of the detailed proposal for the financing of the Plan as required by §4-155, and for the complete review of the contents of this statute as required by §4-163. Prior to the organization of the first Board of Trustees of the Plan under this chapter, not more than thirty-five percent (35%) of the monies appropriated under the authorization of this section may be administered and expended by the Governor solely for the purposes specified in this section. Following the organization of the Board, the Governor shall cause the remainder of monies appropriated hereunder and not expended or obligated for expenditure by the Governor to be deposited in the trust fund established by the Board pursuant to §4-142. Monies so deposited in the trust fund may only be expended by the Plan for the purposes specified in this section and shall remain available therein until fully expended. The Board, in its annual report to the Governor and the Legislature as provided by §4-153, shall provide a full accounting of the use of monies appropriated under the authorization of this

section, inclusive of such uses and expenditures by the Office of the Governor prior to the transfer of the appropriation to the trust fund.

Source: S.L. No. 3L-39-93 §9-3, 7/29/93

Note: S.L. No. 3L-39-93 §9-4 appropriation provision has been omitted.

§4-163. Effective date. — This chapter shall take effect upon the approval of the Governor, or upon its becoming law without such approval; PROVIDED, HOWEVER, that no level of coverage may be extended, no mandatory premiums may be imposed nor obligation to provide benefits deriving therefrom may be undertaken prior to the enactment of a financing system for coverage of persons under the essential level of care pursuant to §§4-154 through 4-159; PROVIDED FURTHER that in addition to the requirements of §4-155, the Board of the Plan shall, within six months following its initial organization, conduct a complete review of the contents of this chapter and shall thereafter present to the Legislature a full report as to its proposed implementation of the Plan along with such draft legislation as the Board deems necessary to amend this chapter to fully realize the purpose of this chapter and to ensure compliance of the Plan with all existing laws and regulations.

Source: S.L. No. 3L-39-93 §10-1, 7/29/93

CHAPTER 5 TELEMEDICINE PROGRAM

Section

5-101 Program established

5-102 Program financing

§5-101. Program established. — There is hereby established in and for the state of Pohnpei, the Pohnpei Community Health Center Telemedicine Program, hereinafter referred to as the “telemedicine program.” The telemedicine program shall utilize personal computers and modems situated in the individual community health centers, local and international communication services, and emerging Internet technologies to link the community health centers within the state with the Pohnpei central hospital and overseas health care centers that provide high quality medical advice, service, and instruction to remote areas of the world. The program shall be operated and administered by the Department of Health Services, which shall seek and obtain, to the maximum extent practical, such electronic equipment, computer software, and trained personnel as are necessary to run the program in an efficient and cost-effective manner. To the extent possible, the Department shall seek and obtain financial assistance to help fund the conduct of the program from national and international sources of grant aid. The Department shall also endeavor to obtain skilled instructors from institutions of higher learning, both locally and abroad, to help train local practitioners in the use of telemedicine technologies made available through the program.

Source: S.L. No. 4L-105-99 §1, 4/12/99

§5-102. Program financing. —

(1) There is hereby authorized for appropriation annually from such funds of the Treasury as are identified in the Comprehensive Budget Act such sums as may be so appropriated therein to the telemedicine program established by §5-101, and as may be allocated to specific program uses by the Comprehensive Budget Act.

(2) All sums appropriated under the authorization of Subsection (1) of this section shall be administered and expended by the Director of the Department of Health Services solely for the purposes specified in §5-101 and for the specific uses as may be identified in the annual Comprehensive Budget Acts.

(3) Monies appropriated to the telemedicine program under the authorization of this chapter shall remain available for program use until fully expended; PROVIDED that monies that are allocated to a specific use by a Comprehensive Budget Act and which monies are not expended for said use for a period of nine months following the close of the fiscal year in which the monies were appropriated may thereafter be expended generally for any and all purposes for which the telemedicine program has been established.

(4) In addition to such state monies as may be appropriated to the telemedicine program under the authorization of Subsection (1) of this section, the program shall be entitled to receive financial assistance from such other public and private sources as are made available to the program. Administration and expenditure of grant monies made available to the program shall be as prescribed in the terms of the grant agreement.

(5) The Director of the Department of Health Services shall submit an annual report to the Legislature on all financial and administrative matters relating to the operation of the telemedicine program established by §5-101 within 30 days following the close of each fiscal year.

Source: S.L. No. 4L-105-99 §2, 4/12/99

Note: S.L. No. 4L-105-99 §3 appropriation provision has been omitted.

HEALTH & WELFARE

CHAPTER 6 INFECTIOUS AND CONTAGIOUS DISEASES

Section

6-101 Definitions	6-104 Power to affect school attendance
6-102 Presumption	6-105 Penalty
6-103 Quarantine, confinement, and treatment of infectious and contagious diseases	6-106 Regulations

§6-101. Definitions. — As used in this chapter:

(1) “Confinement” refers to a restraint on the physical movement of the person or persons suffering from or exposed to a contagious disease or present in an area where a contagious disease is known to exist. The term “confinement” includes prohibition from entry, exit or restriction of movement within the state.

(2) “Contagious disease” means a disease caused by receiving living organisms directly from an afflicted person or by contact with a secretion of that person or with some object that person has touched.

(3) “Infectious disease” means a disease caused by the entrance, growth, and multiplication of bacteria, protozoans or analogous organisms.

(4) “Quarantine” means a condition of isolation.

(5) “Treatment” refers to the medical care instituted for the welfare of the patient and the community.

Source: S.L. No. 2L-138-82 §1, 10/18/82

§6-102. Presumption. — Diseases enumerated as infectious or contagious by the World Health Organization or the Health Services of the South Pacific Commission in their Epidemiological Reporting System are presumed as infectious or contagious for purposes of this chapter.

Source: S.L. No. 2L-138-82 §2, 10/18/82

§6-103. Quarantine, confinement, and treatment of infectious and contagious diseases. — Quarantine, confinement, and treatment of infectious and contagious diseases shall be at the discretion and under written direction of the Governor or his duly authorized representative following consultation with the Director of the Department of Health Services or appropriate medical personnel of that department where the directive is made.

Source: S.L. No. 2L-138-82 §3, 10/18/82

§6-104. Power to affect school attendance. — The Director of the Department of Health Services, after consultation with the Governor, may implement emergency measures to refuse, modify or limit attendance at any school in the state if he determines that there is, or is an imminent danger of, an epidemic or serious outbreak of a communicable disease.

Source: S.L. No. 2L-138-82 §3A, 10/18/82

Note: §3A was inserted by S.L. No. 4L-123-99 §6-5, 9/1/99.

§6-105. Penalty. — Any person found in violation of this chapter, or of any regulation or directive issued pursuant hereto, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: S.L. No. 2L-138-82 §4, 10/18/82

§6-106. Regulations. — The Governor is empowered to issue and promulgate regulations not inconsistent with this chapter for the enforcement hereof.

Source: S.L. No. 2L-138-82 §5, 10/18/82

CHAPTER 6A HIV PREVENTION AND CARE

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| 6A-102 Declaration of policies | 6A-104 – 6A-109 [Reserved] |

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| 6A-111 HIV information as a health service | 6A-115 HIV education in communities |
| 6A-112 HIV education in the workplace | 6A-116 Information on condoms |
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| 6A-131 Prohibitions on compulsory HIV testing | [Reserved] |
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6A-190 Implementing rules and regulations

SUBCHAPTER I: INTRODUCTION

§6A-101. Short title. — This chapter shall be known and may be cited as the “Pohnpei HIV Prevention and Care Act of 2007.”

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-102. Declaration of policies. — Acquired Immune Deficiency Syndrome (AIDS) is a disease that can be caused by HIV infection and that recognizes no territorial, social and economic boundaries and for which there is no known cure. The seriousness of the risk to Pohnpei society that HIV poses demands strong state action today thus:

(1) The state shall promote public awareness about the causes, modes of transmission, consequences, and means of prevention of HIV through a comprehensive statewide, educational and information campaign organized and conducted by the state. Such campaign shall promote value formation and employ scientifically proven approaches, focus on family, as a basic social unit, support the development of appropriate skills, and be carried out in all schools, training centers, workplaces, and communities. This program shall involve affected individuals and groups including people living with HIV.

(2) The state shall extend to every person believed to be or known to be infected with HIV full protection of his or her human rights and civil liberties. Towards this end;

(a) Compulsory HIV testing shall be considered unlawful unless otherwise provided in this chapter;

(b) The right to privacy of individuals with HIV shall be guaranteed;

(c) Discrimination, in all its forms and subtleties, against individuals with HIV or persons perceived or believed as having HIV shall be considered inimical to individual and state interest; and

(d) Provision of appropriate health and social services for individuals with HIV shall be assured.

(3) The state shall promote utmost safety and standard precautions in practices and procedures that carry the risk of HIV transmission.

(4) The state shall recognize the potential role of affected individuals in propagating vital information and educational messages about HIV and shall utilize their experience to inform the public about HIV, promote HIV testing and encourage modification of behavior that may be associated with HIV acquisition.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-103. Definition of terms. — As used in this chapter, the following terms are defined as follows:

(1) “Acquired Immune Deficiency Syndrome” (AIDS) means a condition characterized by a combination of signs and symptoms, caused by HIV contracted from another person and which attacks and weakens the body’s immune system, making the afflicted individual susceptible to other life threatening infections.

(2) “Anonymous testing” refers to an HIV testing procedure whereby the individual being tested does not reveal his/her true identity. An identifying number or symbol is used to substitute for the name and allows the laboratory conducting the test to provide the results with the identifying number or symbol.

(3) “Compulsory HIV testing” refers to HIV testing imposed upon a person, characterized by the lack of consent, use of physical force, intimidation or any form of compulsion.

(4) “Contact tracing” refers to the method of finding and counseling the sexual partner(s) of a person who has been diagnosed as having sexually transmitted disease.

(5) “Human Immunodeficiency Virus” (HIV) refers to the virus which causes AIDS.

(6) “HIV Care” means minimizing the impact of the condition of persons living with HIV.

(7) “HIV monitoring” refers to the documentation and analysis of the number of HIV infections and pattern of its spread.

(8) “HIV prevention” refers to measures aimed at protecting a non-infected person from contracting HIV.

(9) “HIV Positive” refers to the presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested.

(10) “HIV Negative” denotes the absence of HIV or HIV antibodies upon HIV testing.

(11) “HIV testing” refers to any laboratory procedure done on an individual to determine the presence or absence of HIV infection.

(12) “HIV transmission” refers to the transfer of HIV from one infected person to an uninfected individual, most commonly through unprotected sexual intercourse, blood transfusion, sharing of intravenous needles and during pregnancy.

(13) “High-risk behavior” refers to a person’s frequent involvement in activities that increase the risk of transmitting or acquiring HIV.

(14) “Informed consent” refers to the voluntary agreement of a person to undergo or be subjected to a procedure based on full information, whether such permission is written or conveyed verbally.

(15) “Medical confidentiality” refers to the relationship of trust and confidence created or existing between a patient or a person with HIV and his attending physician, consulting medical specialist, nurse, medical technologist and all other health workers or personnel involved in any counseling, testing or professional care. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information.

(16) “Person with HIV” refers to an individual whose HIV test indicates that he/she is infected with HIV.

(17) “Pre-test counseling” refers to the process by which information about HIV infection, its means of transmission, the nature of the test and the meaning and likely psychological impacts of a positive or negative result is provided, together with emotional support, to an individual considering undergoing an HIV antibody test.

(18) “Post-test counseling” refers to the process of providing risk-reduction information and emotional support to a person who submitted to HIV testing at the time that the test result is released.

(19) “Prophylactic” refers to any agent, practice or device used to prevent the transmission of an infection.

(20) “Sexually transmissible infection or STI” refers to any disease that may be acquired or passed on through sexual contact.

(21) “Voluntary HIV testing” refers to HIV testing done on an individual who, after having undergone pre-test counseling, willingly submits himself/herself to such test.

(22) “Window period” refers to the period of time, approximately three months, during which a recently infected individual will test “negative” upon HIV antibody testing but can actually transmit the infection. For some individuals the window period may be up to six months.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-104 - 6A-109. [RESERVED]**SUBCHAPTER II: EDUCATION AND INFORMATION****§6A-110. HIV education in school. —**

(1) The Department of Education, utilizing official information provided by the Department of Health Services, shall integrate instruction on the modes of transmission and ways of preventing HIV and other sexually transmitted infections in subjects taught in public and private schools at intermediate grades, secondary and tertiary levels, including non-formal and indigenous learning systems; PROVIDED that if the integration of HIV education is not appropriate or feasible, the Department of Education shall design special modules on HIV prevention and care.

(2) Flexibility in the formulation and adoption of appropriate course content, scope, and methodology in each educational level or group shall be allowed after consultations with parent-teacher associations, private schools associations, school officials, and other interested groups. As such, no instructions shall be offered to minors without adequate prior consultation with parents.

(3) All teachers and instructors of HIV education shall be required to undergo training on HIV prevention and care supervised by the Department of Education, in coordination with the Department of Health Services, and demonstrate proficiency in skills relating to education on the prevention of HIV and other STIs, before they are allowed to teach on the subject.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-111. HIV information as a health service. — HIV education and information dissemination shall form part of the delivery of health services by health practitioners, workers and personnel. The knowledge and capabilities of all public health workers shall be enhanced to include skills for proper information dissemination and education on HIV. It shall likewise be considered a civic duty of health providers in the private sector to make available to the public such information necessary to control the spread of HIV and to correct common misconceptions about this infection. The training of health workers shall include discussion on HIV related ethical issues such as confidentiality, informed consent and the duty to provide treatment and access to preventative commodities such as condoms.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-112. HIV education in the workplace. — All government and private employees, workers, managers and supervisors shall be provided with the standardized basic information and instruction on HIV which shall include topics on confidentiality in the workplace and attitude towards infected employees and workers. In collaboration with the Department of Health Services, the Director of the Department of Treasury and Administration shall oversee the implementation of this section.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-113. HIV education for Pohnpeians going abroad. — The Director of the Pohnpei Department of Health Services shall cooperate with the national government to ensure that Pohnpeians traveling overseas have access to information concerning HIV infection.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-114. Information campaign for tourists and transients. — Informational materials on the causes, modes of transmission, prevention and consequences of HIV infection shall be adequately

provided at all ports of entry and exits. The Pohnpei Port Authority, in collaboration with the Department of Health Services, shall oversee the implementation of this section.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-115. HIV education in communities. — The Department of Health Services, in collaboration with local governments shall conduct an educational and informational campaign on HIV in the local communities of Pohnpei. To the extent possible, the local governments shall coordinate such campaign among concerned government agencies, non-government organizations and church-based groups at the local level.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-116. Information on condoms. — Appropriate information shall be attached to or provided with every condom offered for sale or given as a donation. Such information shall be legibly printed in English and Pohnpeian, and contain literature on the proper use of the condom and its efficacy against HIV and STIs.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-117. Penalties for misleading information. — Misinformation regarding HIV prevention and care through false and misleading advertisements and claims in any media or the promotional marketing of drugs, devices, agents, or procedures without prior approval from the Department of Health Services and the requisite medical and scientific basis, including markings and indications on drugs, devices and agents, purporting to be a cure or fail-safe prophylactic for HIV infection, is punishable with a penalty of imprisonment for not less than two months and not more than two years, without prejudice to the imposition of administrative sanctions such as fines and suspensions or revocation of professional or business licenses.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-118 - 6A-119. [RESERVED]

SUBCHAPTER III: SAFE PRACTICES AND PROCEDURES

§6A-120. Requirement on the donation of blood, tissue or organ. — No laboratory or institution shall accept a donation of tissue or organ, unless a sample from the donor has been tested negative for HIV. All donated blood shall also be subjected to HIV testing and HIV Positive blood shall be disposed of properly and immediately. A second testing may be requested as a matter of right by the blood, tissue, or organ recipient or his immediate relatives before transfusion or transplant, except during emergency cases; PROVIDED, that the donations of blood, tissue, or organ testing positive for HIV may be accepted for research purposes only, and subject to strict sanitary disposal requirements.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-121. Guidelines on surgical and similar procedures. — The Department of Health Services shall issue guidelines on precautions against HIV transmission during surgical, dental, embalming, tattooing, piercing or similar procedures. The Department shall likewise issue guidelines on the handling and disposition of cadavers and body fluids to prevent the transmission of blood born infections. The necessary protective equipment such as gloves, goggles and gowns shall be made available to all physicians and health care providers and similarly exposed

personnel within the Department or employed by any private health care provider or dental service provider at all times.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-122 - 6A-129. [RESERVED]

**SUBCHAPTER IV:
TESTING, SCREENING AND COUNSELING**

§6A-130. Consent as a requisite for HIV testing. — No compulsory HIV testing shall be allowed. Minors aged above fourteen years of age may consent for themselves if, in the opinion of the testing clinicians, they have been at risk of HIV acquisition and are able to understand the nature and implications of the test. Living potential donors of blood, tissue or organs for transfusion or transplantation must receive appropriate pre-test counseling and give informed consent for HIV testing before being accepted as donors.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-131. Prohibitions on compulsory HIV testing. — Compulsory HIV testing as a precondition to employment, admission to educational institutions, the exercise of freedom of abode, entry or continued stay in the state, the right to travel, the provision of medical service or any other kind of service, or the continued enjoyment of said undertakings shall be deemed unlawful. Intentional violation of this section is punishable with a penalty of imprisonment for not less than six months or more than two years, a fine of not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-132. Exception for the prohibition on compulsory testing. — Compulsory HIV testing may be allowed, upon court order, when a person is charged with any crime involving the endangerment of HIV infection of another person which appears on a list prescribed by the Director of the Department of Health Services promulgated by regulations pursuant to this section.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-133. Anonymous HIV testing. — The state shall provide a mechanism for anonymous HIV testing and shall guarantee anonymity and medical confidentiality in the conduct of such tests.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-134. Accreditation of HIV testing centers. — [RESERVED]

§6A-135. Pre-test and post-test counseling. — All testing centers, clinics, or laboratories offering HIV testing shall be required to provide and conduct free pre-test counseling and post-test counseling for persons who avail themselves of their HIV testing services; PROVIDED, HOWEVER, such counseling services must be provided only by persons who meet the standards set by the Department of Health Services.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-136. Support for HIV testing centers. — The Department of Health Services shall strategically build and enhance the capabilities for HIV testing of hospitals, clinics, laboratories,

and other testing centers, primarily by ensuring the training of competent personnel who will provide such services in said testing sites.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-137 - 6A-139. [RESERVED]

**SUBCHAPTER V:
HEALTH AND SUPPORT SERVICES**

§6A-140. Care of persons with HIV. — Since antiretroviral therapy for HIV is now available at low cost, the Department of Health Services shall provide these treatments free or at the lowest possible charge to people living with HIV who require them, taking advantage of available regional and international initiatives to support this provision.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-141. Control of sexually transmissible infections. — The Department of Health Services, in coordination and cooperation with concerned government agencies and non-government organizations shall pursue the prevention of sexually transmissible infections to help contain the spread of HIV infection.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-142. Insurance for persons with HIV. [RESERVED]

§§6A-143 - 6A-149. [RESERVED]

SUBCHAPTER VI: MONITORING

§6A-150. Pohnpei HIV Surveillance Program. — A comprehensive HIV surveillance and monitoring program shall be established under the Department of Health Services Division of Primary Health Care to determine and monitor the magnitude and progression of HIV infection in Pohnpei, and for the purpose of evaluating the adequacy of the countermeasures being employed.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-151. Reporting procedures. — It is mandatory for all the public and private health care facilities to report each new HIV infection diagnosed to the Department of Health Services utilizing the agreed name code system. The Department of Health Services shall adopt regulations implementing this section which shall provide for the reporting of relevant epidemiological information including but not limited to gender, ethnicity, residence, clinical status at time of diagnosis and likely mode of transmission. All public and private health care facilities shall also report the death of any person previously diagnosed with HIV, along with the cause of death.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-152. Contact tracing. — HIV contact tracing and all other related health intelligence activities may be pursued by the Department of Health Services; PROVIDED, that these do not run counter to the general purpose of this chapter; PROVIDED FURTHER, that any information gathered shall remain confidential, and can only be used for the purpose of offering HIV counseling and testing to persons who may have been exposed and for statistical and monitoring

purposes, but not as a basis or qualification for any employment, school attendance, freedom of abode, or travel.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-153 - 6A-159. [RESERVED]

**SUBCHAPTER VII:
CONFIDENTIALITY**

§6A-160. Medical confidentiality. — All health professionals, medical instructors, workers, employers, recruitment agencies, insurance companies, data encoders, and other custodians of any medical record, file, data, and test results are directed to strictly observe confidentiality in the handling of all medical information, particularly the identity and status of the person with HIV.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-161. Exceptions to the mandate of confidentiality. — Medical confidentiality shall not be considered breached in the following cases:

- (1) When complying with reporting requirements of this chapter;
- (2) When responding to a subpoena duces tecum or subpoena ad testificandum issued by a court of competent jurisdiction; PROVIDED, that the confidential medical record shall be properly sealed by its lawful custodian after being double checked for accuracy by the head of the office or department and hand delivered to the court.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-162. Release of HIV test results. — All results of HIV testing shall be confidential and shall be released only to the following persons:

- (1) The person who submitted himself/herself to such test;
- (2) Either parent of a minor child below 14 years of age who has been tested;
- (3) A legal guardian in the case of insane persons or orphans;
- (4) A person authorized to receive such results in conjunction with the HIV program as provided in Subchapter VI of this chapter; and
- (5) A court of competent jurisdiction.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-163. Penalties for violation of confidentiality. — Any violation of medical confidentiality as provided in Sections 6A-160 and 6A-162 of this chapter shall suffer the penalty of imprisonment for not less than six months and not more than one year, a fine of not more than \$500, or both such fine and imprisonment without prejudice to administrative sanctions such as fines and suspension or revocation of the violator's license to practice his/her profession, as well as the cancellation or withdrawal of the license to operate any business entity and the accreditation of hospitals, laboratories or clinics.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-164. Disclosure to sexual partners. — Any person with HIV is obliged to disclose his/her HIV status and health condition to his/her regular sexual partner at the earliest opportune time.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-165 - 6A-169. [RESERVED]

SUBCHAPTER VIII: DISCRIMINATORY ACTS AND POLICIES

§6A-170. Discrimination in the workplace. — Discrimination in any form from pre-employment to post-employment, including hiring, promotion or assignment, based on the actual, perceived or believed HIV status of an individual is prohibited. Termination from work on the sole basis of actual, perceived or believed HIV status is unlawful.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-171. Discrimination in schools. — No educational institution shall refuse admission or expel, discipline, segregate, deny participation, benefits or services to a student or prospective student on the basis of his/her actual, perceived or believed HIV status.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-172. [RESERVED]

§6A-173. Inhibitions from public service. — The right to seek an elective or appointive public office shall not be denied to a person with HIV.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-174. Exclusion from credit and insurance services. — Credit and loan services, and health, accident and life insurance shall not be denied to a person on the basis of his/her actual, perceived or believed HIV status; PROVIDED, that the person with HIV has not concealed or misrepresented the fact to the credit, loan or insurance company upon application. Extension and continuation of credit and loan services and insurance shall likewise not be denied solely on the basis of said health condition.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-175. Discrimination of hospitals and health institutions. — No person shall be denied health care services or be charged with a higher fee on account of actual, perceived or believed HIV status.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-176. Denial of burial services. — A deceased person who had AIDS or who was known, believed or perceived to be HIV positive shall not be denied any kind of decent burial service.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-177. Penalties for discriminatory acts and policies. — All violations of Sections 6A-170 through 6A-176 of this chapter shall be punishable with a penalty of imprisonment for not less than six months and not more than four years or a fine not exceeding \$1,000, or both such imprisonment and fine. In addition, licenses/permits of schools, hospitals and other institutions found guilty of committing discriminatory acts and policies described in this chapter may be revoked.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-178 - 6A-179. [RESERVED]

SUBCHAPTER IX: THE POHNPEI HIV COUNCIL

§6A-180. Establishment. — A Pohnpei HIV Council is hereby created to oversee an integrated and comprehensive approach to HIV prevention and care in Pohnpei. It shall be attached to the Department of Health Services for administrative purposes.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-181. Functions. — The Council shall be the state advisory body for the comprehensive and integrated HIV prevention and care program in Pohnpei. The Council shall perform the following functions:

(1) Secure from concerned government agencies recommendations on how their respective agencies can implement specific provisions of this chapter. The Council shall integrate and coordinate such recommendations and issue recommendations to the Department of Health Services and other implementing agencies for the effective administration of this chapter. The Council shall likewise monitor and issue recommendations to ensure that there is adequate coverage of the following:

- (a) The institution of statewide HIV information and education programs;
- (b) The establishment of a comprehensive HIV monitoring system;
- (c) The issuance of guidelines on medical and other practices and procedures that carry the risk of HIV transmission;
- (d) The provision of accessible and affordable HIV testing and counseling services to those who are in need of it;
- (e) The provision of acceptable health and support services for persons with HIV in hospitals and communities;
- (f) The protection and promotion of the rights of individuals with HIV; and
- (g) The strict observance of medical confidentiality.

(2) Monitor the implementation of the rules and regulations of this chapter, issue or cause the issuance of orders or make recommendations to the implementing agencies as the Council considers appropriate;

(3) Develop a comprehensive long-term HIV prevention and control program for adoption by the state and monitor its implementation;

(4) Coordinate the activities of and strengthen working relationships between government and non-government agencies involved in the campaign against HIV;

(5) Coordinate and cooperate with foreign and interstate organizations regarding data collection, research and treatment modalities concerning HIV; and

(6) Evaluate the adequacy of and make recommendations regarding the utilization of state resources for the prevention and care of HIV in Pohnpei.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-182. Membership and composition. —

(1) The Council shall be composed of the following members:

- (a) The Director of the Department of Health Services;
- (b) The Director of the Department of Education;
- (c) The General Manager of the Pohnpei Port Authority;
- (d) A representative of the women's groups of Pohnpei, chosen from among themselves;
- (e) A representative from youth groups, chosen from among themselves;
- (f) A representative of the Pohnpei Chapter of the International Red Cross, situated in Pohnpei (should they choose to participate);
- (g) Such other representatives accepted for membership by the above cited members of the Council from other public offices and non-profit organizations dealing with HIV;

- (h) A person living with HIV, selected by the Governor; and
- (i) Chief of Primary Health Care Division.

(2) The Council shall determine its own rules of procedure and may allow for representation by proxy.

(3) Service on the Council shall be deemed public service for which no compensation shall issue, but members may be entitled to payment for expenses incurred within the state while on business with the Council.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-183. Report. — The Council shall submit to the Governor and to the Legislature comprehensive annual reports on the activities and accomplishments of the Council. Such annual reports shall contain assessments and evaluation of intervention programs, plans and strategies for the medium- and long-term prevention and control programs on HIV in Pohnpei.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-184. Authorization for appropriations. —

(1) There is hereby authorized for appropriation from such funds of the Pohnpei Treasury as are identified in the Comprehensive Budget Act, a sum or sums to be determined and as may be allocated annually in the Comprehensive Budget Act for the purpose of financing the administration of this chapter and the programs and activities authorized hereunder.

(2) The sums appropriated pursuant to this authorization shall be administered and expended by the Governor solely for the purposes stated in this chapter. The Governor shall report to the Pohnpei Legislature on or before December 30th of each year on all matters concerning the expenditure of the sums appropriated for the concluded fiscal year under the authorization of this section. Any balance of the sums appropriated for a fiscal year under the authorization of this section not expended or obligated for expenditure on September 30 of that fiscal year shall remain until expended.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-185 - 6A-189. [RESERVED]

SUBCHAPTER X: MISCELLANEOUS PROVISIONS

§6A-190. Implementing rules and regulations. — Within six months after the effective date of this chapter, the Director of the Department of Health Services shall formulate and issue the appropriate rules and regulations necessary for the implementation of this chapter.

Source: S.L. No. 6L-114-08 §1, 1/10/08

CHAPTER 7 MENTAL ILLNESSES

Section

7-101 Diagnosis, treatment, and care	7-104 Transfers
7-102 Commitment for insanity	7-105 Release
7-103 Temporary commitments	7-106 Apprehension of absentees or escapees

§7-101. Diagnosis, treatment, and care. — The diagnosis, treatment, and care of persons suffering from mental disorder shall be carried out in such manner and in such places as may be prescribed by the Director of the Department of Health Services or his designated representative. When commitment for insanity is indicated, persons may be committed pursuant to §7-102. Feeble-minded or mentally ill persons shall not be confined in jails or penal institutions, except temporarily in case of emergency.

Source: TTC §622 (1966); 63 TTC §401 (1970); 63 TTC §401 (1980)

§7-102. Commitment for insanity. — The Trial Division of the Pohnpei Supreme Court, after hearing, may commit an insane person within its jurisdiction to any hospital for the care and keeping of the insane in the state of Pohnpei, or, if the court deems best, to a member of the insane person's family lineage or clan, which person may thereafter restrain the insane person to the extent necessary for his own safety and that of the public. Such commitment of an insane person shall be made only on the testimony of two or more witnesses who personally testify in open court and at least one of whom is a doctor of medicine or medical practitioner authorized to practice medicine in the state of Pohnpei. Before testifying, the medical witness shall have personally examined the person sought to be committed, and shall establish to the satisfaction of the court that the person is insane. Except when the court is satisfied that the delay incident to giving such notice will be detrimental to the public interest or the welfare of the patient, such a commitment shall not be made until after notice to the allegedly insane person's husband or wife, if any, or one of his parents or one of his children, or next of kin, if any, as determined by local custom. In making such commitment, the court may make such order as it deems in the best interest of the public and of the patient for the patient's temporary custody and transportation to the hospital.

Source: TTC §330 (1966); 63 TTC §402 (1970); 63 TTC §402 (1980)

§7-103. Temporary commitments. —

(1) The Trial Division of the Pohnpei Supreme Court or any court of a local jurisdiction in Pohnpei, after hearing, may commit for observation of possible mental illness any person within its jurisdiction. Such commitment shall be made only after testimony presented personally in open court has been received from at least one doctor or medical practitioner authorized to practice medicine in the state of Pohnpei, or from a nurse, health aide or nurse's aide who has personally examined the person sought to be committed, indicating to the satisfaction of the court that the public welfare or the interest of the person demands such commitment; PROVIDED, that the court, whenever practicable, shall endeavor to secure the testimony of a doctor or medical practitioner.

(2) Such commitment for observation may be to any person or institution willing to accept the patient, and shall only authorize the patient's detention for a period of not more than 30 days if the services of a doctor or medical practitioner are reasonably available. If such services are not reasonably available, commitment for observation may authorize the patient's detention until he may be brought to a doctor or medical practitioner or until a doctor or a medical practitioner visits the community in which the patient is detained, and for not more than 30 days thereafter. Notice of each

such commitment for observation shall be sent by the court making the commitment to the Director of the Department of Health Services by the quickest means practicable.

Source: TTC §331 (1966); 63 TTC §403 (1970); 63 TTC §403 (1980)

§7-104. Transfers. — Any person committed under this chapter may be transferred to any institution deemed suitable for his care by order of the Director of the Department of Health Services.

Source: TTC §332 (1966); 63 TTC §404 (1970); 63 TTC §404 (1980)

§7-105. Release. —

(1) *By the court.* The husband, wife, parent or child, or any of the next of kin, as determined by local custom, of any person committed for observation or as insane under this chapter, may petition, at any time, the Trial Division of the Pohnpei Supreme Court requesting that the commitment be terminated or the patient paroled, and the court, after notice to the Department of Health Services and to the person in charge of the hospital or other place where the patient is detained, and after public hearing, may make such order for the release of the patient or his parole under limited supervision or under specified conditions, if any, as it deems appropriate.

(2) *By medical authorities.* The doctor in charge of any hospital for the insane in the state of Pohnpei may discharge or parole, on such conditions as he deems best, any patient, except one held on order of a court having criminal jurisdiction in a proceeding arising out of a criminal offense, as follows:

(a) Upon filing with the Clerk of the Pohnpei Supreme Court a written certificate by the doctor in charge that such patient is considered to be recovered, and airmailing a copy of this certificate, postage prepaid, to the clerk of the highest court of the state from which the patient was committed, if he was committed in another state;

(b) Upon filing with the Clerk of the Pohnpei Supreme Court a written certificate by the doctor in charge that such patient, while not recovered, is considered in remission and is not deemed dangerous to himself or others and is not likely to become a public charge, and airmailing a copy of this certificate, postage prepaid, to the clerk of the highest court of the state from which the patient was committed, if he was committed in another state; or

(c) Upon transfer of such patient to an institution for care of mental cases outside of the state of Pohnpei.

(3) *Temporary leave of absence.* The doctor in charge of any hospital for the insane in the state of Pohnpei may permit leave of absence for a stated period to any of his hospital patients, under conditions that are satisfactory to the doctor, when in his judgment absence on leave will not be detrimental to the public welfare and will be of benefit to such patient. The doctor in charge of the hospital for the insane from which a patient is absent on leave may, even before the period stated in the leave has expired, terminate the leave and authorize and direct the physical return of such patient to the hospital whenever in the judgment of the doctor the return of the patient would be in the best interest of the public and the patient.

(4) *By person in charge of one committed for observation.* The person to whom or the person in charge of the institution to which a person has been temporarily committed for observation under this chapter may release such a patient whenever the person to whom or the person in charge of the institution to which the patient has been temporarily committed, deems such release is safe.

Source: TTC §333 (1966); 63 TTC §405 (1970); 63 TTC §405 (1980)

§7-106. Apprehension of absentees or escapees. — Any patient who has been committed under this chapter who is absent on leave, or on parole, or escapes from the hospital or other place of detention to which he has been committed, may upon direction of the person in charge of such hospital or place of detention be returned thereto by any policeman, or any official or employee of such hospital or place of detention, using such force as may be reasonably necessary to effect such return.

Source: TTC §334 (1966); 63 TTC §406 (1970); 63 TTC §406 (1980)

HEALTH & WELFARE

CHAPTER 8 PHYSICAL AND MENTAL DISABILITIES

Section

8-101 Short title	8-104 Administration
8-102 Statement of policy	8-105 Procedures to ensure efforts
8-103 Definitions	

§8-101. Short title. — This chapter is known and may be cited as the “Pohnpei Disabilities Act of 2001.”

Source: S.L. No. 5L-30-01 §1, 2/27/01

§8-102. Statement of policy. — The Legislature, in recognition of the obligation of the Pohnpei Government to provide free access and special services to needy people with disabilities that may include designation of areas for people with disabilities, and requiring the Governor’s Office or an appropriate entity to commence a plan to include accommodation of needy people with disabilities, hereby declares that it is the policy of state of Pohnpei and the purpose of this chapter to provide the means of providing services to needy people with disabilities in public and private areas.

Source: S.L. No. 5L-30-01 §2, 2/27/01

§8-103. Definitions. — As used in this chapter, unless the context otherwise requires:

(1) “People with disabilities” includes those individuals regardless of age who have been evaluated in the past and who are currently evaluated as having mental retardation; hearing impairments, including deafness; speech or language impairment; visual impairment, including blindness; emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; deaf-blindness or multiple impairments; and who, because of those impairments, need special services to be accorded to them.

(2) “Areas designated to people with disabilities” means any area that has been marked or will be marked for the purposes of assisting people with disabilities to accommodate their general needs, which areas should be located in the closest and most convenient location to the entrance of the establishment, and may include the following:

- (a) Parking spaces;
- (b) Wheelchair ramps; and
- (c) Comfort room.

Source: S.L. No. 5L-30-01 §3, 2/27/01

§8-104. Administration. —

(1) There is hereby established in the Governor’s Office a special program that shall be headed by the Governor or his designee to take responsibilities for and give direction to the establishment of the program and other necessary and related services associated with the program, including a plan to accommodate people with disabilities, inclusive of budget requests to initiate the program.

(2) The Governor shall establish and make such studies, surveys, evaluations, policies, and rules and regulations as are necessary to carry out the intent of this chapter.

(3) The Governor shall submit to the Legislature a plan to provide special services to the people with disabilities which will include how public and private facilities will accommodate people with disabilities and draft laws regulating the financing and other aspects of the plan.

Source: S.L. No. 5L-30-01 §4, 2/27/01

§8-105. Procedures to ensure efforts. — The Governor shall develop within the plan a system that people with disabilities can utilize in acquiring parking space permits, inclusive of identification of vehicles with stickers or other appropriate identification methods; direct the appropriate entity in the state government to mark such areas at public facilities; and direct the appropriate representative of the appropriate entity in the state government to discuss with private owners appropriate places to designate as areas for people with disabilities so the intention of this chapter will be carried out. The Governor shall have the continuing prerogative to analyze and comment on the system, either on its practical importance or legal implications, and recommend necessary changes.

Source: S.L. No. 5L-30-01 §5, 2/27/01

CHAPTER 9 REFUSE COLLECTION AND SANITATION

Section

9-101 Rules and regulations	9-107. Standards for and inspection of service establishments
9-102 Penalty	9-108. Standards for and inspection of food
9-103 Issuance of franchise	9-109. Standards for and inspection of schools
9-104 Time requirements	9-110. Penalties for violation of §§9-105 – 9-110
9-105. Latrines and toilets; disposal of human excreta generally	
9-106. Accumulation of rubbish, refuse, etc.	

§9-101. Rules and regulations. — The Director of the Department of Health Services is hereby authorized and empowered to make any rules and regulations which are necessary to govern the collection, transportation, and disposition of garbage, ashes, rubbish, industrial refuse, and other refuse in densely populated areas as the Governor shall decree. Such rules and regulations may include, but need not be limited to, requirements for refuse removal, collection hours, collection fees, custody of funds, disposal area locations, hours, access, permits, fees, land fills, burning, rodent and pest control, prohibited items, salvage, conduct of refuse collection employees, methods of refuse collection, and the manner in which refuse is to be made available by the occupant of the premises for collection. All rules, regulations, and decrees issued pursuant to §§9-101 – 9-104 of this chapter shall be issued and promulgated in accordance with the Administrative Procedures Act, Title 8 Chapter 1.

Source: D.L. No. 4L-119-77 §1, 11/21/77

§9-102. Penalty. — Any person violating any regulation issued under §§9-101 – 9-104 of this chapter shall be guilty of an offense and upon conviction thereof shall be fined not more than \$200; PROVIDED that this section shall not take effect in an area until the Governor has determined and decreed that sufficient refuse collection, transportation, and disposition services are available to the public in that specific area to carry out §§9-101 – 9-104 of this chapter.

Source: D.L. No. 4L-119-77 §2, 11/21/77

§9-103. Issuance of franchise. — The Governor may issue an exclusive franchise to any person, firm, partnership, association or corporation for the collection, transportation, and disposition of private garbage, ashes, rubbish, industrial refuse, and other refuse, subject to such conditions and limitations as the Governor deems necessary.

Source: D.L. No. 4L-119-77 §3, 11/21/77

§9-104. Time requirements. — Whenever a person is allowed a reasonable time after due notice to remove and dispose of refuse, but has not so removed and disposed of the refuse, the time limit shall be set by the Director of the Department of Health Services and shall not be less than 24 hours nor more than 36 hours.

Source: D.L. No. 4L-119-77 §4, 11/21/77

§9-105. Latrines and toilets; disposal of human excreta generally. – Latrines or toilets conforming to standards established by public health regulations shall be constructed and maintained in connection with each inhabited dwelling in the state of Pohnpei. Depositions of human intestinal excreta in the vicinity of a dwelling or in or within five hundred yards of any village in a place other than an approved latrine or toilet is prohibited.

Source: TTC §618(a) (1966); 63 TTC §201 (1970); 63 TTC §201 (1980)

§9-106. Accumulation of rubbish, refuse, etc. – The accumulation of rubbish, garbage, cans, coconut shells and other refuse attractive to animal and insect life is prohibited. Any person who shall permit, create or maintain any such accumulation on land owned or occupied by him, and who fails to remove and dispose of such accumulation within a reasonable time after due notice thereof in writing by a representative of the Department of Health Services shall be deemed to have violated this section.

Source: TTC §618(b) (1966); 63 TTC §202 (1970); 63 TTC §202 (1980)

§9-107. Standards for and inspection of service establishments. – The Director of Health Services shall establish standards of sanitation to be maintained by all owners, operators, and employees of and in bakeries, restaurants, food stores, barber shops, beauty parlors, and similar establishments. All such establishments shall be inspected at reasonable intervals during business hours by a representative of the Department of Health Services for the purpose of determining whether such standards are being maintained. Failure to correct any substandard conditions after due notice thereof in writing by such representative shall be deemed a violation of this section.

Source: TTC §618(c) (1966); 63 TTC §203 (1970); 63 TTC §203 (1980)

§9-108. Standards for and inspection of food. – All food offered for public sale shall be subject to inspection by duly authorized representatives of the Department of Health Services. Food for human consumption which is adjudged by him to be unsanitary or of questionable sanitary condition because of contamination, spoilage, animal or insect infestation or adulteration shall, as directed by him, either be destroyed, used as animal food, or labeled to describe its true condition.

Source: TTC §618(d) (1966); 63 TTC §204 (1970); 63 TTC §204 (1980)

§9-109. Standards for and inspection of schools. – All schools shall be subject to inspection by duly authorized representatives of the Department of Health Services. They shall maintain minimum acceptable standards of health and sanitation. After due warning and advice, failure of a nonpublic school to maintain acceptable standards may result in revocation of its charter.

Source: TTC §618(e) (1966); 63 TTC §205 (1970); 63 TTC §205 (1980)

§9-110. Penalties for violation of §§9-105 – 9-110. – A person who violates any of the provisions of §§9-105 – 9-110 of this chapter or regulations issued pursuant thereto shall be deemed guilty of misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: TTC §625 (1966); 63 TTC §206 (1970); 63 TTC §206 (1980)

CHAPTER 10 HEALTH AND WELFARE FINANCES

Section

10-101 Dental and medical nurses' aides training: authorization for appropriation; administration
 10-102 Alms fund: definitions; administration; authorization for appropriation
 10-103 Medical consultant and specialist fund: authorization for appropriation; administration

10-104 Medical referral imprest fund: administration
 10-105 Medical referrals: authorization for appropriation; administration
 10-106 Medical supplies revolving fund: authorization for appropriation

§10-101. Dental and medical nurses' aides training: authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of the Pohnpei Treasury a sum of money to assist the on-the-job training program in Pohnpei State for dental and medical nurses' aides. Compensation, and annual and sick leave shall be administered in accordance with Public Service System Act, Title 9 Chapter 2 and the state personnel manual. All the sums herein authorized for appropriation shall be expended and administered by the Director of the Department of Health Services solely for the purposes specified in this section.

Source: PDC §7-2, 3/71; D.L. No. 3L-58-73 §15, 5/29/73

§10-102. Alms Fund: definitions; administration; authorization for appropriation. —

(1) For the purpose of this section, unless it is otherwise provided or the context requires a different construction, application or meaning, the following terms shall have the following meanings:

(a) "The unfortunate" means any person or persons who have been deprived of his dwelling house through natural disaster.

(b) "Natural disaster" means any fire, typhoon, flood, landslide, tidal wave or any other natural and uncontrollable catastrophe which may cause destruction to a dwelling house.

(2) It is the intent of this section to provide appropriate finance or cash assistance to persons whose dwelling houses have been destroyed through some kind of natural event. This section, however, does not provide assistance to persons whose properties have been destroyed through their own negligence, and through their own laziness to prevent such happening if they could, and through fraud and intention to destroy such properties. These and others that the Governor shall present shall constitute proper grounds or disasters applicable for this alms fund or not.

(3) The Governor is hereby authorized to be responsible for the expenditure of the fund herein provided. He is also responsible to make an annual report to the Legislature on any usage of this fund. It shall be the responsibility of the Chief of the Division of Police and Security to investigate such an event in case of occurrence and report his findings to the Governor who, in turn, will either declare a person unfortunate, or not, if there is a person affected, and after reading the report's details and the facts presented.

(4) There is hereby authorized for appropriation out of the general fund of the Pohnpei Treasury an annual sum or sums to be determined in the Comprehensive Budget Act to be administered and expended by the Governor solely for the purposes of this section.

Source: PDC §7-200, 3/71; D.L. No. 3L-58-73 §18, 5/29/73; D.L. No. 3L-110-75 §1, 5/26/75; S.L. No. 5L-14-00 §3-10, 10/1/00

§10-103. Medical Consultant and Specialist Fund: authorization for appropriation; administration. —

(1) There is hereby created, under the jurisdiction of the Governor, a medical consultant and specialist fund for the purpose of financing the recruitment of medical experts to perform short-term consultant and specialist services, and to help defray the costs of emergency referral patients to hospitals outside of Pohnpei State.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purposes stated in Subsection (1) of this section which shall be administered and expended pursuant to Subsection (3) of this section. All sums appropriated under the authorization of this section shall remain available in the Medical Consultant and Specialist Fund until fully expended.

(3) The Medical Consultant and Specialist Fund shall be administered and sums therefrom expended by the Governor, upon consultation with the Director of the Department of Health Services, solely for the purposes specified in Subsection (1) of this section. The Governor shall submit an annual report to the Legislature on or before October 15, which report shall provide for an accounting of all expenses drawn from the fund for the previous fiscal year.

Source: D.L. No. 4L-72-77 §§1 – 3, 7/1/77

Note: July 15 has been changed to October 15 to reflect present government fiscal year system.

§10-104. Medical Referral Imprest Fund: administration. —

(1) There is hereby established within the Department of Health Services a Medical Referral Imprest Fund for the purpose of providing advance payment to authorized representatives or agents of the Pohnpei Government to assist in meeting the expenses of Pohnpei patients and their attendants referred to hospitals and medical institutions abroad and who have been issued valid travel authorizations. The fund shall not be utilized for any purposes other than as permitted by this section.

(2) The Medical Referral Imprest Fund shall be administered and expended by the Director of the Department of Health Services solely for the purpose stated in Subsection (1) of this section. Payments shall be made into the fund by the Director of the Department of Treasury and Administration, at the request of the Director of the Department of Health Services, from appropriations generally available to finance the medical referral expenses of the state; PROVIDED that the total amount in the fund shall not exceed \$50,000 at any one time. The Director of the Department of Health Services shall enter into written agreements with representatives or agents of the Pohnpei Government in major medical referral destination points abroad for the advancement of medical referral monies thereto to assist in meeting the expenses of Pohnpei patients and their attendants referred to hospitals and medical institutions in that vicinity or during their transit through that area.

(3) The Director of the Department of Health Services shall ensure that the agreements entered into pursuant to Subsection (2) of this section provide for sound accountability in the use of the Medical Referral Imprest Fund created by Subsection (1) of this section, and that all relevant aspects of the Financial Organization and Management Act, Title 11 Chapter 2, are complied with. Notwithstanding any other provision of law, monies advanced by the fund to authorized representatives or agents of the Pohnpei Government in the manner prescribed by this section shall remain available for expenditure thereby until fully expended or recalled by the Director of the Department of Health Services. Monies within the fund not advanced to representatives or agents and recalled monies from representatives and agents shall revert to the respective funds of the Treasury at such time and in such manner as is otherwise prescribed by law.

(4) The Director of the Department of Health Services shall within 15 days following the close of each fiscal year, submit a complete report to the Pohnpei Legislature and the Governor for the Medical Referral Imprest Fund for that fiscal year.

Source: S.L. No. 1L-82-86 §§1 – 4, 9/4/86; S.L. No. 4L-104-99 §1, 4/12/99

§10-105. Medical Referrals: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Treasury into which the Compact §216(a)(2) monies are deposited a sum or sums as may be appropriated annually in the Comprehensive Budget Act for the purpose of providing funding for medical referrals.

(2) The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 of each fiscal year on all matters concerning the expenditure of the sums authorized for appropriation by this section. Any balance of the sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 of each fiscal year shall revert to such fund of the Treasury from which they were appropriated.

Source: S.L. No. 2L-64-88 §§1 & 2, 10/1/88

§10-106. Medical Supplies Revolving Fund: authorization for appropriation. —

(1) There is hereby established within the Pohnpei Treasury a fund, to be separate and apart from other funds of the state, hereinafter referred to as the “Medical Supplies Revolving Fund,” or “fund,” to be maintained by the Department of Treasury and Administration.

(2) There shall be deposited into the Medical Supplies Revolving Fund all monies collected from or on behalf of patients or clients of the Pohnpei Department of Health Services, including all payments to said Department from the FSM National Health Insurance Program. Independent records and accounts of all deposits therein shall be maintained in connection therewith. Monies in the fund are hereby continually appropriated for use by the Department of Health Services solely for the purchase of medical supplies, inclusive of pharmaceutical supplies, for use by the Department of Health services, its clinics, dispensaries, programs, and patients.

(3) It is hereby authorized to appropriate from the Medical Supplies Revolving Fund of Pohnpei, as created by Subsections (1) and (2) of this section. The sums deposited in the fund are hereby continually appropriated, as though incorporated in the annual Comprehensive Budget Act, solely for the purposes stated in Subsections (1) and (2) of this section. All monies herein appropriated under the authorization of this subsection shall be administered and expended by the Director of the Department of Health Services solely for the purposes specified in Subsections (1) and (2) of this section. The Director shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized and appropriated under this subsection.

Source: S.L. No. 3L-100-95 §§1 & 2, 9/6/95

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TITLE 18
EDUCATION

TITLE 18 EDUCATION

CHAPTER

1 DEPARTMENT OF EDUCATION

2 SPECIAL EDUCATION

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CHAPTER 1 DEPARTMENT OF EDUCATION

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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Education Act of 1999.”

Source: S.L. No. 4L-123-99 §1-1, 9/1/99

§1-102. Policy. — The Legislature declares and recognizes the following:

(1) The right of the people to education and the obligation of the state to take every step reasonable and necessary to provide education, in compliance with Article 7 §3 of the Pohnpei Constitution.

(2) The state's responsibility for establishing and maintaining such schools and related facilities, programs, and other resources, as may be reasonable and necessary to provide educational opportunities for the people of Pohnpei.

(3) The need to encourage citizen involvement in educational matters by providing for schools that guarantee and support local participation consistent with the goal of a thorough and efficient system of education serving all of the people of the state of Pohnpei.

(4) That a primary goal of education in the state of Pohnpei shall be to foster self-reliance, and that educational programs and curricula be structured to further this goal.

Source: S.L. No. 4L-123-99 §1-2, 9/1/99

§1-103. Definitions. — Wherever used in this chapter, the following terms shall have the definitions hereinafter set forth unless the context otherwise requires:

(1) "Board" means the Pohnpei Board of Education.

(2) "Department" means the Department of Education.

(3) "Director" means the Director of the Department of Education.

(4) "Primary schools" means schools which provide instruction in grades one through eight, and, where appropriate, includes kindergarten.

(5) "School" means an institution which provides organized instruction, but does not include schools of higher learning, such as colleges or universities, nor does it include religious classes that meet in conjunction with religious services, such as Sunday schools.

(6) "Secondary schools" means schools which provide instruction in grades nine through twelve.

Source: S.L. No. 4L-123-99 §1-3, 9/1/99

§1-104. Department of Education. — There is hereby established a Department of Education which shall be headed by a single executive to be known as the Director of Education who shall serve under the supervision of the Board of Education in the manner prescribed by this chapter. The Department shall have entire charge and control and be responsible for the conduct of all affairs pertaining to public instruction. The Department shall also have regulatory authority over private schools. The Department may establish and maintain schools for secular, public instruction at such places as, in its discretion, it may deem advisable and as the funds at its disposal may permit. The schools may include nursery, pre-school, kindergarten, primary, and secondary schools, both boarding and day, as well as evening, night, and adult education classes. The Department may also maintain schools or classes for vocational, technical, and other specialized instruction.

Source: S.L. No. 4L-123-99 §2-1, 9/1/99

§1-105. Pohnpei Board of Education. —

(1) There is hereby established a Pohnpei Board of Education which shall consist of six members. The Director shall serve as an ex-officio, non-voting member of the Board. The remaining five members shall be appointed by the Governor with the advice and consent of the Legislature. Four of the five members appointed by the Governor shall be drawn from the following respective groups:

(a) The COM-FSM President, or other senior executive of the College of Micronesia-FSM, resident in Pohnpei;

(b) A private school representative;

(c) A parent-teacher association representative; and

(d) A community sector representative.

(2) All voting members shall serve at the pleasure of the Governor for the same term as that of the appointing Governor. Vacancies shall be filled for unexpired terms by the Governor with the advice and consent of the Pohnpei Legislature. Any member whose term has expired may continue serving as a holdover member until a successor is nominated and appointed; PROVIDED that a holdover member shall not serve beyond the end of the second regular legislative session following the expiration of the member's term of office.

Source: S.L. No. 4L-123-99 §2-2, 9/1/99

§1-106. Organization and meetings. — The Board shall, by majority vote from among its members, elect a Chairman, Vice-Chairman, and Secretary, who shall serve for such term as may be prescribed by the Board, except that the Director shall not be elected Chairman or Vice-Chairman. In the event of absence or disability of the Chairman or Vice-Chairman, the Board may designate another member to preside during a meeting, excluding the Director. Three members of the Board shall constitute a quorum to do business, and the concurrence of a majority of all members to which the Board is entitled shall be necessary to make any action of the Board valid. Meetings shall be called and held at the call of the Chairman, or by a quorum, at least quarterly, and, in addition, as often as may be necessary for the transaction of Department business. Meetings shall be open to the public and shall be held only after adequate public notice has been given. The members shall be notified of meetings by the Director, in writing, at least two weeks before the date of any meeting. A member who is absent from any official meeting of the Board without reasonable cause or approval of the Chairman for three consecutive times shall automatically be expelled from the Board.

Source: S.L. No. 4L-123-99 §2-3, 9/1/99

§1-107. Expense and compensation of Board Members. — Members of the Board shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, when actually performing functions of the Board at the direction of the Chairman, except that those members who are Pohnpei Government employees shall instead be granted administrative leave from their regular duties while performing functions of the Board. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 4L-123-99 §2-4, 9/1/99

§1-108. Duties and functions of the Board. — The Board's duties and functions shall be to act in a supervisory capacity to the state government with respect to its functions in the field of education. The Board shall have power in accordance with law in formulating, issuing and overseeing rules, regulations and policies to guide activities of the Department of Education and shall have the authority to oversee the operations of the Department. The powers and responsibilities of the Board shall include, but not be limited to, the following:

- (1) Establishing a comprehensive educational development plan consistent with the overall plans and objectives of the state government;
- (2) Defining specific educational objectives for the state for immediate implementation, and advising the Governor on the integration of those objectives with the objectives of other departments and agencies of the state government;
- (3) Evaluating past and current educational expenditures;
- (4) Approving education budgets for submission by the Department to the Governor for inclusion in the state budget which will be submitted to the Legislature;
- (5) Assisting the Director in recruiting and hiring key education personnel;
- (6) Adopting minimum criteria and prescribing terms for the issuance of certificates for principals and teachers, and for the renewal thereof;

- (7) Adopting Pohnpei-wide curriculum standards and guides;
- (8) Adopting procedures and minimum standards for the issuance and renewal of permits for the operation of private schools; and
- (9) Adopting and modifying Department rules, regulations, and policies; PROVIDED that regulations issued by the Board shall not take effect until approved by the Governor.

Source: S.L. No. 4L-123-99 §2-5, 9/1/99

§1-109. Director: powers and duties. — The executive functions of the Department of Education shall be vested in the Director of Education who shall:

- (1) Administer programs of education and public instruction throughout the state of all types through the secondary level;
- (2) Assist the Board of Education in the performance of its duties pursuant to this chapter;
- (3) Implement and enforce the educational standards for public schools through the secondary level as prescribed by state law and the decisions of the Board of Education;
- (4) Promote standardized testing and research and planning for the improvement of educational programs;
- (5) Prepare and submit, with the Board's concurrence, a proposed department budget to the Governor for inclusion in the state budget;
- (6) Hire, certify, and evaluate department personnel, in coordination with the Division of Personnel, Labor and Manpower Development;
- (7) Be responsible for physical facilities planning, construction and maintenance;
- (8) Except as otherwise provided by law, sign all drafts for the payment of monies, all commissions and appointments, all deeds, official acts or other documents of the Department, and use a printed facsimile signature when appropriate;
- (9) Review and evaluate textbooks and materials before purchase in order to determine their suitability as may be consistent with the established curricula;
- (10) Present to the Board, a full annual report of the principal transactions within the Department during the last fiscal year, which report shall include:
 - (a) The number and percentage of students in public and non-public schools, to include statewide, municipal, and individual school totals, as well as a breakdown by grade level;
 - (b) Student achievement levels, and actions being taken to improve them; and
 - (c) An analysis of the effectiveness of actions implemented to address the needs of students; and which, together with any policy recommendations from the Board, shall be presented to the Governor and to the Legislature at least 20 days prior to the convening of each January regular session, and made available to the general public.

Source: S.L. No. 4L-123-99 §2-6, 9/1/99

§1-110. Divisions. — The Department of Education shall consist of the following four divisions which shall have the following functions:

- (1) The Division of Curriculum, Instructional Development and Specialized Education shall provide course and program development for the Department. It shall also be responsible for all library services and specialized education programs, including vocational instruction, adult education, and programs for those with learning disabilities.
- (2) The Division of Early Childhood Education shall provide for pre-school services and may establish and maintain a kindergarten class as a part of any public primary school where there is a kindergarten enrollment of at least 15 students.
- (3) The Division of Primary Education shall administer programs of education and public instruction at the primary school level; PROVIDED that each public primary school shall have at least one teacher assigned thereto and no school shall have less than three grades, first through third.

(4) The Division of Secondary Education shall administer programs of education and public instruction at the secondary school level. In the event that the Department shall require the passage of an entrance examination for admission into the public secondary schools of this state and when the Department shall find it necessary to evict students from secondary school enrollment for low grades as required by §1-132, the Department shall provide alternative training programs, especially designed for those persons who are denied admission into the secondary school system or who are unable to complete their secondary schooling.

Source: S.L. No. 4L-123-99 §2-7, 9/1/99; S.L. No. 6L-14-04 §1, 6/1/04

§1-111. Compulsory education; exemptions. —

(1) Unless evicted from school or exempted from attendance pursuant to this section, all minors who will have arrived at the age of six years, and who will not have arrived at the age of 16 years, on or before December 31 of a school year, shall attend either a public or a private school for and during such school year, and any parent, guardian or other person having the responsibility for or care of a minor whose attendance is compulsory under this section, shall be responsible for seeing that the minor is enrolled at some such school.

(2) Attendance shall not be compulsory in the following instances:

(a) Where the minor is physically or mentally unable to attend school, of which fact the certificate of a duly licensed physician or medical officer shall be sufficient evidence;

(b) Where a competent person is employed as a tutor by the household wherein the minor resides and proper instruction is thereby imparted as approved by the Director;

(c) Where the minor who has reached the age of fifteen is suitably employed and has been exempted from school attendance by the Director;

(d) Where, pursuant to appropriate court order, for any other reason, the minor has been exempted from school attendance;

(e) Where the minor has already graduated from a secondary school or comparable vocational school; and

(f) Where the minor is enrolled in an appropriate alternative education program approved by the Director in accordance with the plans and policies of the Department.

Source: S.L. No. 4L-123-99 §3-1, 9/1/99

§1-112. Minimum age requirement for entering first grade. — Except as allowed by §1-111, no minor shall enter first grade in a public school unless the minor will be at least six years of age on or before December 31 of the school year; PROVIDED that the Department may establish procedures and criteria to determine the psychological and physiological readiness of a minor for public school and may grant an exception in the case of a minor who does not meet the above age requirement, but is found to be ready. All teachers of first and second grades, and principals of primary schools, shall enforce this section, and require proof of age by birth certificate or certificate of registration, or, if none can be obtained, then by other satisfactory evidence.

Source: S.L. No. 4L-123-99 §3-2, 9/1/99

§1-113. Register of students. — All schools, whether public or private, shall keep a correct register of the name, gender, age, nationality, entrance date, and place of residence, of all students enrolled. The register shall be carefully preserved and, periodically as the Department shall direct, shall be filed with the Department.

Source: S.L. No. 4L-123-99 §3-3, 9/1/99

§1-114. Student transfers. —

(1) No school, whether public or private, shall receive any student who has reached six years of age, but is less than 16 years of age, who has previously attended a different school in the state,

without receiving a certificate of release from the school last attended, unless such certificate is impossible to obtain. If the student is applying to enter a higher grade, a certificate of proficiency shall also be required.

(2) No school shall issue a certificate of release to any student who has reached six years of age, but is less than 16 years of age, unless the consent and approval of the parents, guardians or other person responsible for the student, shall have requested such in writing, with the reason therefor.

Source: S.L. No. 4L-123-99 §3-4, 9/1/99

§1-115. Length of school year. — The school year shall consist of not less than 180 session days divided into two semesters, exclusive of holidays.

Source: S.L. No. 4L-123-99 §3-5, 9/1/99

§1-116. School districts; effect. — For the better control and management of public schools, the Director, upon approval of the Board, may designate public school districts, establish their boundaries, and alter the same from time to time as he and the Board deem most advisable. Districts, if designated, shall be so constituted that there shall be no unassigned locality. All students shall be required to attend the school of the district in which they reside, unless for good cause shown to the Director, in which case the Director may grant a district exemption.

Source: S.L. No. 4L-123-99 §3-6, 9/1/99

§1-117. High Schools. —

(1) High Schools in Pohnpei shall be Pohnpei Island Central School, Madolenihmw High School, and Nanpei Memorial High School.

(2) All high schools in Pohnpei shall provide instruction meeting the Pohnpei-wide curriculum standards and guides through the twelfth grade.

(3) The Department may require the passage of an entrance examination for admission into the public secondary schools of this state, and may require different standards for admission into different public secondary schools.

Source: S.L. No. 4L-123-99 §3-6A, 9/1/99

Note: 1. S.L. No. 6L-51-05 §2, entitled "Transition," provides "All high schools in Pohnpei shall provide instruction through the twelfth grade beginning with the 2006-2007 school year. The Director of the Department of Education shall submit a transition plan to the Pohnpei Legislature no later than January 31, 2006 providing for full implementation of this chapter." 2. §3-6A was inserted by S.L. No. 6L-51-05 §1, 9/29/05.

§1-118. Opening and closing schools. — No school shall be opened or closed without review by the Board, and its issuance of a written recommendation.

Source: S.L. No. 4L-123-99 §3-7, 9/1/99

§1-119. Standard achievement tests and accreditation. — The Department shall administer standard achievement tests on a periodic basis, at appropriate grade levels, as a measurement of the performance of the public and private schools of the state. The Department shall also seek membership in, or affiliation with, appropriate accreditation agencies for the purpose of raising school standards.

Source: S.L. No. 4L-123-99 §3-8, 9/1/99

§1-120. Parent-Teacher Associations. — The Department shall establish a Parent-Teacher Association for each public school. The principal administrator of each private school shall establish such association for his or her respective private school. The associations' functions shall be to involve parents in the formal education of their children, and assist teachers in understanding the background of their students. All educational staff members of a school, and all parents, guardians, or other persons responsible for students enrolled at a school shall be considered members.

Source: S.L. No. 4L-123-99 §3-9, 9/1/99

§1-121. Qualifications for principals. — Principals, and those serving in that capacity, shall meet the Department's certification requirements and shall have served as a teacher for not less than five years, at least one year of which shall have been served as a teacher or exchange principal in the schools of the state.

Source: S.L. No. 4L-123-99 §4-1, 9/1/99

§1-122. Considerations in appointing teachers within the Department of Education. — In the appointment of teachers by the Director, preference shall be given to residents of the state, of the same standing, grade or rating, as non-resident candidates. The rating of a teacher shall not depend upon the number of pupils promoted or graduated, but upon the length of service, efficiency and ability of the teacher. All persons appointed to teaching positions in pre-school, early childhood education, and primary school programs or classes shall be fluent in a Pohnpeian language, defined as the mother language of Pohnpei Island, the mother language of Kapingamarangi, the mother language of Mwoakilloa, the mother language of Nukuoro, the mother language of Pingelap, or the mother language of Sapwuahfik. Persons appointed to teaching positions shall have the following qualifications from accredited institutions of higher learning and requisite work experience when specified:

- (1) Pre-school/early childhood education classes – an associates' degree;
- (2) Primary school classes – an associate's degree;
- (3) Secondary school classes, except vocational classes – a bachelor's degree; and
- (4) Vocational classes in secondary schools, one of the following:
 - (a) A bachelor's degree;
 - (b) An associate's degree and not less than two years of work experience in the vocational trade that is being taught in the vocational class;
 - (c) Certification from a recognized vocational trade school or instructional facility for the vocational trade that is being taught, which certification is equivalent to an associate's degree, and not less than two years of work experience in the vocational trade that is being taught in the vocational class; or
 - (d) Service as a vocational teacher employed by the Pohnpei Department of Education prior to September 1, 1999.

Source: S.L. No. 4L-123-99 §4-2, 9/1/99; S.L. No. 6L-14-04 §2, 6/1/04

§1-123. Teachers; certification; suspension; revocation. —

(1) No person shall serve as a teacher in any public or private school in the state without first having been certified by the Department and issued a certificate, without cost, in such form and for such duration as the Board determines. The Board shall establish types of certificates in the educational field, and the requirements to qualify for each type of certificate.

(2) The Director shall establish procedures to verify the authority of certificates and other qualifying documentation proffered by prospective teachers who are not citizens of the Federated States of Micronesia.

(3) In the event the Board shall require the completion of additional training or refresher courses for a renewal of a certificate under this section, the Department shall be responsible for the costs thereof and shall accord the attendee appropriate leave with pay for attendance at the training or refresher courses.

(4) The Director may suspend or revoke any certificate when satisfied that the certificate holder does not possess the qualifications required, but the certificate holder shall first receive notice of the Director's intention to suspend or revoke, and be given an opportunity to appear before the Board to contest the Director's decision.

(5) The Department may, in the interest of developing the educational abilities of prospective career teachers, issue teacher training certificates in the manner prescribed above to persons holding

such academic credentials as the Board deems appropriate and which shall entitle the holders thereof to engage in such educational activities as the Board shall prescribe. A teacher training certificate may be issued for a period of not more than three years and may not be renewed.

(6) Any person found in violation of this section shall be immediately removed from any teaching position, and shall be fined not more than \$100.

Source: S.L. No. 4L-123-99 §4-3, 9/1/99

§1-124. Sabbatical leave authorized. — In addition to such leave as may be authorized for state employees generally under the Public Service System, the Department may grant a sabbatical leave of absence to any teacher who has served satisfactorily for at least three years in the public schools of the state, such teacher to be guaranteed a return to the same or an equivalent position at the expiration of the leave. A leave shall be for six months or one year. Sabbatical leave shall not be extended beyond one year, and shall not be granted a second time until after seven additional years of service. In granting a sabbatical leave, the Department shall consider, among other things, the following:

(1) The nature and length of professional study, research or other activity proposed by the applicant;

(2) The applicant's seniority, provided that seniority shall not be the dominant factor in granting sabbatical leave; and

(3) The relationship of the proposed activity to the Department's needs and priorities.

Source: S.L. No. 4L-123-99 §4-4, 9/1/99

§1-125. Conditions of sabbatical leave. — A teacher on sabbatical leave shall devote at least one-half of the leave to the professional study, research or other activity approved by the Department. The Director shall establish guidelines and criteria governing the eligibility and approval of professional study, research or other activity. It shall be a condition of granting a sabbatical leave to a teacher that a contract shall be entered into which shall provide for the following:

(1) That the teacher agrees to return to serve in the Department for not less than two years, within six months after termination of the sabbatical;

(2) That upon failure of the teacher to comply with Subsection (1) of this section, the teacher agrees to reimburse the Department, within four years, for all salary paid while on sabbatical, and to forfeit the four payments retained by the Department pursuant to §1-125;

(3) That upon failure of the teacher to comply with Subsection (2) of this section, the teacher's teaching certificate shall be cancelled by the Department; and

(4) Any other provision deemed necessary by the Director to be included in the contract.

Source: S.L. No. 4L-123-99 §4-5, 9/1/99

§1-126. Pay while on sabbatical. — A teacher on sabbatical leave shall be paid in the same amount and frequency as if not on sabbatical; PROVIDED that the last four bi-weekly installments shall be retained until the teacher has satisfied §1-124(1). A teacher on sabbatical may engage in outside employment, so long as it does not interfere with the teacher's obligations under §1-124.

Source: S.L. No. 4L-123-99 §4-6, 9/1/99

§1-127. Teachers' conventions. — The Department may establish, sponsor, or maintain one or more teachers' conventions or institutes, or it may authorize or permit their establishment, sponsorship, or maintenance by or among its teachers, and it may direct and authorize the attendance of teachers thereat, as a part of their duties, and it may close schools or suspend specific classes at specified, limited times to permit teacher attendance at the conventions or institutes.

Source: S.L. No. 4L-123-99 §4-7, 9/1/99

§1-128. Request to leave campus. — All public school principals, upon the written request of the parent, guardian, or other person having the care and control of any student attending a public school, shall permit such student to leave the school campus during intermissions. The Department, or any principal, shall not be held liable for the actions of the student while off campus.

Source: S.L. No. 4L-123-99 §4-8, 9/1/99

§1-129. Fees and charges. —

(1) No tuition, equipment, supply, or other fees shall be charged against any student in a public school, except that the Department may charge and collect special fees and charges from students for extra-curricular activities.

(2) Fees and charges collected from students for extra-curricular activities shall be deposited into insured checking or savings accounts and expended by each school pursuant to rules adopted by the Department.

(3) Every student shall be responsible for breakage, damage, loss or destruction of public school books, supplies or property and shall be responsible for restitution to the school by payment of the replacement cost. All agreements to make restitution shall be made with the parents, guardian or other adult person having the care and control of the student. All such agreements shall be in writing and signed by the student, the appropriate adult having care and control of the student, and the school principal. If full and complete restitution is made, then the entire matter shall be at an end. If no agreement is reached, or an agreement is breached and not completely performed, then the principal shall refer the matter to the Director for further action.

(4) Nothing in this section shall prevent the Department from electing to bring an appropriate legal action for the recovery of all damages, or the referral of the matter to the Office of the Attorney General to pursue criminal charges.

(5) Fees and charges collected in restitution shall be used for the replacement of property damaged or destroyed, subject to rules adopted by the Department governing its deposit and use.

Source: S.L. No. 4L-123-99 §4-9, 9/1/99; S.L. No. 5L-14-00 §3-34, 10/1/00

§1-130. Escheat of student class activity accounts. — Student class activity accounts left on deposit with the Department shall escheat to the state five years after graduation of the class, and shall be deposited by the Department to the general fund of the Treasury.

Source: S.L. No. 4L-123-99 §4-10, 9/1/99

§1-131. No corporal punishment. — No physical punishment of any kind shall be inflicted upon a student, but reasonable force may be used by a Department employee to restrain a student, in attendance, from inflicting harm on self or others, or from damaging property.

Source: S.L. No. 4L-123-99 §4-11, 9/1/99

§1-132. Eviction from school. —

(1) If a student becomes a detriment to the morals or discipline of the school attended, the student may be evicted from the school by the principal, with the approval of the Director. An appeal to the Director may be taken on behalf of the student within ten days after eviction. The form and resolution of the appeal shall be informal, and need not be in writing.

(2) The Department shall seek the active participation of other public and private agencies in providing help to such students both before and after eviction from school.

Source: S.L. No. 4L-123-99 §4-12, 9/1/99

§1-133. Eviction from secondary school for low grades. — Any secondary school student whose work, for any semester, is below passing in subjects representing half or more of the student's credit hours, shall be placed on scholastic probation. If the student continues on probation for a second

consecutive semester, the student shall be evicted from school. Such a student may be reinstated if it is shown that the student has satisfactorily completed remedial work in the appropriate subjects.

Source: S.L. No. 4L-123-99 §4-13, 9/1/99

§1-134. Public use of school facilities. — The public shall be allowed to use public school facilities for lawful purposes at reasonable hours when the facilities are not in use by the Department. Any one wishing to do so shall submit a request in writing to the appropriate school principal, who may, with the approval of the Director or his designee, issue a permit. The Director may prescribe reasonable fees and charges for the use of public school facilities and shall ensure that the state is indemnified against any damage or loss on account of the use of the facilities by others.

Source: S.L. No. 4L-123-99 §4-14, 9/1/99

§1-135. Use of school facilities for after-school care. — The Department, in cooperation with the appropriate school principal, may enter into agreements pursuant to §1-133 by which public school facilities may be used for the operation of after-school child care programs. Such agreements shall hold the Department free from liability for such operation.

Source: S.L. No. 4L-123-99 §4-15, 9/1/99

§1-136. Matching students to curriculum. — The Department shall group students in accordance with their capabilities and educational needs, and regulate the courses of study to be pursued in all grades of public schools and shall classify them by such methods as it shall deem proper; PROVIDED that the course of study and instruction in the first eight grades shall include studies of the language and the traditions and customs of the area where the school is located.

Source: S.L. No. 4L-123-99 §4-16, 9/1/99

§1-137. Substance abuse education. — The Director, in consultation with the Department of Health Services and such other agencies and entities which may provide guidance and assistance, shall issue such rules and directives as may be necessary to require the incorporation into the curriculum of all primary and secondary schools lessons on the harmful effects of substance abuse of the commodities covered by Title 66, Chapter 1 and §3-101.

Source: S.L. No. 4L-123-99 §4-17, 9/1/99

§1-138. School lunch program. — There shall be a school lunch program under which school lunches shall be made available without cost to every student in every secondary school where students are on campus for two hours or more prior to noon, and, for two hours or more after noon; PROVIDED that the Department may extend the school lunch program to the primary schools of the state in similar situations upon a finding of sufficient monies and other resources to carry out the program at the primary level.

Source: S.L. No. 4L-123-99 §4-18, 9/1/99

§1-139. Financing for school lunch program. —

(1) The Department shall provide in its annual budget submission a separate item for the financing of the school lunch program which shall describe in detail, the costs involved and the extent and level of service to be provided.

(2) The Governor, subject to applicable statutes controlling the request, receipt, and use of grants and other financial assistance, may receive and expend such grants and assistance as may be available to the state for the school lunch program.

(3) The Director, in conjunction with the Governor, shall submit an annual report to the Legislature on or before October 15 detailing all financial activities of the school lunch program for the preceding fiscal year.

Source: S.L. No. 4L-123-99 §4-19, 9/1/99

§1-140. Dormitory students. — The Department shall provide room and board without cost to students domiciled in the outer islands of the state and in such other remote areas as may be prescribed by the Board of Education, for attendance at the public secondary schools of the state.

Source: S.L. No. 4L-123-99 §4-20, 9/1/99

§1-141. Nutritionist. — The Director may appoint a trained and experienced nutritionist to create healthful, appropriate menus for the school lunch program and for meals for dormitory students, provide advice to food service employees, and speak to students on nutrition. The salary for the position shall be as provided by law.

Source: S.L. No. 4L-123-99 §4-21, 9/1/99

§1-142. Authorization to transport students. — The Department is authorized to provide suitable transportation to and from school, inclusive of passage on public transportation to the outer islands for dormitory students, and for field trips and other authorized activities for all public school students, including those in specialized education classes.

Source: S.L. No. 4L-123-99 §4-22, 9/1/99

§1-143. School bus contracts. — The Department is authorized to enter into contracts with private contractors for the transportation of students. Any such contract shall require that the transporting vehicles, and operators thereof, meet all requirements of law.

Source: S.L. No. 4L-123-99 §4-23, 9/1/99

§1-144. Regulation of private schools. — Every private school shall be subject to regulation by the Department. The Board of Education shall prescribe uniform, minimum standards for the certification of the principals, teachers, and curriculum of private primary and secondary schools operating within the state, which standards shall be in substantial conformance with the standards applicable to the principals, teachers and curriculums of the public schools of this state. Private school premises shall also be held to comply with state standards with regard to sanitation and public safety.

Source: S.L. No. 4L-123-99 §5-1, 9/1/99

§1-145. Permitting procedure. — No person or group of persons may operate a private school within the jurisdiction of the state of Pohnpei without first obtaining a permit therefore under §§1-143 through 1-146.

(1) Any person desiring to so operate a private school shall submit a signed application to the Board. The application shall state:

- (a) The proposed name of the school;
- (b) The names of the persons seeking to establish the school;
- (c) The proposed location of the school;
- (d) The proposed enrollment and grade levels of the school;
- (e) The courses of instruction proposed to be offered;
- (f) The language or languages of instruction;
- (g) The proposed school's mission, purpose, and philosophy; and
- (h) Such other information as the Department may require.

(2) Upon the approval of the application, the Board shall issue a permit authorizing the operation of the school.

(3) A permit shall be valid for a period of five years, and may be renewed in the same manner as it was originally issued.

(4) Any private school already established under a valid charter recognized by the Department of Education on the effective date of this chapter [*September 1, 1999*] shall be deemed to have received a permit on the effective date of this chapter, and may request the Department to issue a document signifying the same.

Source: S.L. No. 4L-123-99 §5-2, 9/1/99

§1-146. Denial, suspension or revocation of a permit. —

(1) Failure to meet the standards required of private schools, allowing persons without certification to serve as principals or teachers within the school, or failure in any way to comply with state law, shall be cause for refusal to issue a permit, or for the suspension or revocation of a permit.

(2) The Board shall prescribe rules and regulations for the enforcement of this section, which rules and regulations shall provide for prior notice of intent to deny, suspend or revoke a permit, opportunity to be heard, and, where appropriate, the opportunity to cure the deficiency without resort to denial, suspension or revocation of the permit.

Source: S.L. No. 4L-123-99 §5-3, 9/1/99

§1-147. Annual report. — Private schools shall submit an annual report to the Department in a form established by the Department. Failure to comply with this requirement shall constitute an offense punishable by a fine of not more than \$100 for each offense.

Source: S.L. No. 4L-123-99 §5-4, 9/1/99

§1-148. Transition. —

(1) Members of the Board of Education, appointed under the authority of S.L. No. 2L-92-89 and serving on the effective date of this chapter [*September 1, 1999*], shall continue to serve as members of the Board for the remainder of the term of the current Governor.

(2) Departmental rules, regulations, and standards for the certification of educational personnel, the management of students, and the permitting and operation of schools in effect on the effective date of this chapter [*September 1, 1999*] shall remain effective until superseded by rules, regulations, and standards issued under the authority of this chapter.

(3) Principal and teacher certificates issued before the effective date of this chapter [*September 1, 1999*] shall remain valid for the period prescribed therefore, but not to exceed five years from the effective date of this chapter.

(4) The Governor shall issue appropriate executive orders as may be necessary to effect a smooth transition from prior law to the law hereby enacted.

Source: S.L. No. 4L-123-99 §7-2, 9/1/99

§1-149. Effective date. — Upon its approval by the Governor, or upon its becoming law without such approval, this chapter shall take effect upon the date announced by the Governor for the commencement of the 1999-2000 school year [*see note*].

Source: S.L. No. 4L-123-99 §7-3, 9/1/99

Notes: 1. Governor's Office does not have a record of announcement. Department of Education indicates school year began on September 1, 1999. 2. S.L. No. 4L-123-99 §7-1 severability provision has been omitted.

Extended legislative history: S.L. No. 2L-92-89 3/26/89 was repealed in its entirety by S.L. No. 4L-123-99 §6-2, 9/1/99; PDC §8-1(a), 3/71 was amended by D.L. No. 3L-9-72 §1, 5/24/72; PDC §8-2(b), 3/71 was amended by D.L. No. 3L-34-72 §1, 7/6/72 and D.L. No. 3L-69-73 §1, 10/30/73; PDC §8-2(a) & (c), 3/71 was amended by D.L. No. 3L-26-72 §1, 6/8/72, D.L. No. 3L-34-72 §1, 7/6/72, D.L. No. 3L-58-73 §19, 5/29/73, and further amended by D.L. No. 3L-69-73 §2, 10/30/73; PDC §8-1 & 8-2 were repealed in their entirety by S.L. No. 4L-123-99 §6-2, 9/1/99; S.L. No. 2L-63-88, 10/1/88 was repealed in its entirety by S.L. No. 4L-123-99 §6-2, 9/1/99; S.L. No. 3L-63-94 §9, 8/15/94 was repealed by S.L. No. 4L-123-99 §6-2, 9/1/99; Title 41 of the Trust Territory Code was superseded in its entirety by S.L. No. 4L-123-99 §6-1, 9/1/99.

CHAPTER 2 SPECIAL EDUCATION

Section

2-101 Short title	2-105 Pohnpei State responsibility
2-102 Statement of policy	2-106 Procedure to ensure efforts
2-103 Definitions	2-107 Funding
2-104 Administration	

§2-101. Short title. — This chapter is known and may be cited as the “Pohnpei Special Education Act of 1998.”

Source: S.L. No. 4L-87-98 §1, 11/19/98

§2-102. Statement of policy. — The Pohnpei Legislature, in recognition of the obligation of the Pohnpei State Government to provide free public education to Pohnpeian citizens, as stated in Article 7 §3(1) of the Pohnpei Constitution, and in further recognition of the obligation of Pohnpei to provide educational opportunities to all children of Pohnpei, which education will lead those children into fulfilling and productive lives, hereby declares that it is the policy of Pohnpei State and the purpose of this chapter to provide the means for the free education of children with disabilities, and that, insofar as it is appropriate, to provide disabled children with necessary supplementary services offered by the Department of Education in regular classrooms, and in each educational institution in Pohnpei through the rendering of services directly to children with disabilities, and through the provision of consultancy services to regular classroom teachers.

Source: S.L. No. 4L-87-98 §2, 11/19/98

§2-103. Definitions. — As used in this chapter, unless the context otherwise requires:

(1) “Children with disabilities” includes those individuals from birth through age 21 who are evaluated as having mental retardation; hearing impairments, including deafness; speech or language impairment; visual impairment, including blindness; emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; deaf-blindness; or multiple impairments; and who, because of those impairments, need special education and related services.

(2) “Director” means the Director of the Department of Education.

(3) “Special education” means instructional or other services necessary to assist children with disabilities. Special education is specially designed instruction, offered at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted:

- (a) In the classrooms;
- (b) In the home;
- (c) In hospitals and institutions;
- (d) In other settings; and
- (e) In physical education.

Source: S.L. No. 4L-87-98 §3, 11/19/98

§2-104. Administration. —

(1) There is hereby established in the Department of Education a Special Education Program that shall be headed by the Chief of the Special Education Program, who will be qualified by education, training, and experience to take responsibilities for and give direction to the programs in Pohnpei State relating to the education of children with disabilities.

(2) The Director of the Department of Education shall establish and make such studies, surveys, evaluations, policies, and rules and regulations as are necessary to carry out the intent of this chapter.

(3) The Director of the Department of Education shall submit to the Governor and the Legislature the Special Education Annual Program Plan and the Fund Status and Performance Report at such time as they are submitted to the United States Office of Education as required by the United States Individuals with Disabilities Education Act (P.L. No. 101-476).

Source: S.L. No. 4L-87-98 §4, 11/19/98

§2-105. Pohnpei State responsibility. — On or before July 1 of each year, the Director of the Department of Education shall report to the Governor on the extent to which the Department is providing special education for children with disabilities that is necessary to implement this chapter. The report shall detail the means that Pohnpei State uses to provide for the free, appropriate, special education of children with disabilities.

Source: S.L. No. 4L-87-98 §5, 11/19/98

§2-106. Procedure to ensure efforts. — The Director of the Department of Education, in consultation with the Director of the Department of Health Services, and the Director of the Pohnpei Family Headstart Program shall establish a procedure to ensure the ongoing education, identification, location, and evaluation of children with disabilities. The Director of the Department of Education shall establish a procedure by which a child shall be re-evaluated every three years.

Source: S.L. No. 4L-87-98 §6, 11/19/98

§2-107. Funding. — The Pohnpei Special Education Program may be supported by the Pohnpei State Government or foreign assistance. The use of such funds shall be in compliance with the criteria set forth in grant awards or Pohnpei state law.

Source: S.L. No. 4L-87-98 §7, 11/19/98

CHAPTER 3 TRUANCY

Section

3-101 Truancy

3-102 Contributing to the truancy of a minor

§3-101. Truancy. —

(1) If any minor, for whom school attendance is compulsory under the Education Act, 18 PC 1-111, is habitually absent from school without good cause, the minor shall be guilty of truancy and shall be required to attend counseling sessions administered by the Department of Education. Any such minor 14 years of age and over shall also be required to perform up to two hours of community service for each school day, or fraction thereof, for which the minor has been absent without good cause.

(2) Any proceeding under this section shall be a juvenile offender proceeding under Chapters 6 and 7 of Title 52.

Source: S.L. No. 3L-89-95 §6-24, 4/6/95

Note: §6-24 was inserted by S.L. No. 4L-123-99 §6-6, 9/1/99.

§3-102. Contributing to the truancy of a minor. —

(1) If any minor, for whom school is compulsory under the Education Act, 18 PC 1-111, is habitually absent from school without good cause, the minor's parents, guardian, or other adult person responsible for the minor is guilty of contributing to the truancy of a minor, and shall be required to attend counseling sessions administered by the Department of Education, and shall also be required to perform up to four hours of community service for each school day, or fraction thereof, for which the minor is absent from school without good cause.

(2) Any proceeding under this section shall be consolidated with a juvenile offender proceeding under §3-101.

Source: S.L. No. 3L-89-95 §6-25, 4/6/95

Note: §6-25 was inserted by S.L. No. 4L-123-99 §6-6, 9/1/99.

CHAPTERS 4 – 9 [RESERVED]

CHAPTER 10 EDUCATION FINANCES

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Section

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10-102 Student family allowance: authorization for appropriation; administration	10-107 Financial assistance to nonpublic schools: authorization for appropriation; capital infrastructure grants; administration
10-103 Agricultural training in elementary schools: authorization for appropriation; administration	10-108 Aramas Kapw program: authorization for appropriation; administration
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SUBCHAPTER I GENERAL

§10-101. Summer school scholarships: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum for the Legislature summer school fund, that shall be used for summer school programs outside of Pohnpei. This fund shall be used for tuition, school materials, and room and board. All sums herein authorized for appropriation shall be expended and administered by the Governor solely for the purposes specified in this section.

(2) The Governor and/or his designated representative shall make notice to the entire state that there are funds available for summer school. The Pohnpei Scholarship Board shall review the applications and make selections in accordance with the applicant's requests and needs and the availability of funds.

Source: PDC §8-4, 3/71; D.L. No. 3L-58-73 §22, 5/29/73

§10-102. Student family allowance: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum to provide for a family allowance for those students who are studying outside the Federated States of Micronesia and receiving scholarships funded by the Legislature or are working to earn the payment for their room and board and tuition. This family allowance is to help the families of students who are residing in Pohnpei. For the purposes of this section, “family” is defined as the lawful spouse and children of students specified in this section.

(2) All sums herein authorized for appropriation shall be expended and administered by the Governor solely for the purposes specified in this section. The Governor shall designate those students who are entitled to an allowance under this section. The designation shall be based on the financial status of the applicant. An allowance of \$5 per month shall be given to each of the student’s dependents, which allowance shall be limited to four dependents. The Governor shall report to the Legislature the number of families receiving this allowance and the needs that might arise.

Source: PDC §8-5, 3/71; D.L. No. 3L-58-73 §23, 5/29/73

§10-103. Agricultural training in elementary schools: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of subsidizing agricultural training programs in the public and private elementary schools of Pohnpei State.

(2) The sum or sums herein authorized for appropriation shall be administered and expended by the Governor upon the evaluation of program requests from individual elementary schools solely for purposes specified in this section. The Governor shall submit a report during each regular session of the Legislature on the expenditure of the sums herein authorized for appropriation. Any funds remaining unexpended on September 30 each year shall revert to the general fund of Pohnpei.

Source: D.L. No. 3L-100-74 §§1 & 2, 11/14/74; D.L. No. 4L-136-78 §34, 3/27/78

§10-104. Vocational education for women: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum to be determined annually in the Comprehensive Budget Act for vocational education training for women. Any individual educational institution, public or private, that desires to use the sum herein authorized may submit its request for use of the fund to the Board of Education for approval in accordance with guidelines and procedures established and promulgated by the Director of the Department of Education. The said request shall contain the types of programs the institution will offer to women, the number of women the institution anticipates to enroll, and expenses for which the requested sum shall be used.

(2) The sum herein authorized for appropriation shall be administered and expended by the Director of the Department of Education, upon the approval of the Board of Education, solely for the purpose stated in Subsection (1) of this section. The Director of the Department of Education shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sum authorized for appropriation by this section.

Source: D.L. No. 4L-133-78 §§1 & 2, 3/10/78

§10-105. Student vocational arts: authorization for appropriation; administration. —

(1) There is hereby established a student vocational arts products fund for the purpose of funding the vocational arts activities and social events of students involved in vocational projects in the public schools of this state.

(2) Sums deposited in the various accounts of the fund are hereby authorized and continually appropriated and may be expended directly by the Director or designated representative solely for the

purposes stated in Subsection (1) of this section and for the project or activity from which the deposits were generated without further operation of law.

(3) The fund created by this section shall be under the administration of the Director of the Department of Education. Revenues and other receipts generated from student vocational activities sponsored by public schools shall be deposited in the fund in such account or accounts as the Director may from time to time establish. The Director may delegate control of the respective accounts within the fund to Department of Education personnel or bona fide student organizations as he deems appropriate; PROVIDED that expenditures therefrom may be made only for purposes authorized by Subsection (1) of this section and for the project or activity from which the deposits were generated. The Director shall file with the Governor an annual report within 30 days following the close of each school year as to all deposits and expenditures of the fund for the previous school year. Such reports shall be made available for public inspection.

Source: S.L. No. 2L-96-81 §§1 – 3, 11/24/81

§10-106. Vocational rehabilitation: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Treasury for which Compact §221(b) monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of providing state matching funds for the vocational rehabilitation program.

(2) All sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sum or sums herein authorized for appropriation. Any balance of the sum appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each fiscal year for which appropriated shall revert to such fund of the Treasury from which it was appropriated.

Source: S.L. No. 2L-150-82 §§1 & 2, 11/19/82; S.L. No. 2L-21-88 §§1 & 2, 6/13/88

§10-107. Financial assistance to nonpublic schools: authorization for appropriation; capital infrastructure grants; administration. —

(1) The purpose of this section is to provide financial assistance to nonpublic schools.

(2) There is hereby authorized for appropriation a sum or sums to be determined annually in the Comprehensive Budget Act, or so much thereof as may be necessary, from such funds of the Treasury as are identified in the Comprehensive Budget Act solely for the purposes specified in this section; PROVIDED that the sums herein authorized for appropriation are limited to nonreligious educational purposes.

(3) Except as provided under the terms of Subsection (4) of this section, all sums appropriated under the authorization of this section shall be allocated among the nonpublic primary and secondary schools within this state based upon a formula for distribution established by the Director of the State Department of Education. The formula shall provide for distribution to the principal or headmaster of each such institution who makes application for assistance under this section no later than November 1 each school year for which the appropriation is made based on that institution's percentage of the total enrollment of students in said nonpublic schools within the state who have so applied on the first day of the school year for which the appropriation is made.

(4) In addition to such student enrollment assistance as may be provided to nonpublic schools as prescribed by Subsection (3) of this section, the Legislature, from time to time, may appropriate such monies from such funds of the Treasury as may be identified annually in the Comprehensive Budget Act to assist nonpublic schools within the state in financing not more than fifty percent (50%) of the overall cost of projects having an overall value of at least \$50,000 for the construction and major repair of the capital infrastructure of said nonpublic schools situated within the state. Upon the appropriation of monies under this section, the Director of the Department of Education shall promptly

announce to the nonpublic schools of this state that such monies have been made available and extend an invitation to such schools to make application for the use of said monies as matching grants for monies made available by or on behalf of such nonpublic schools from other sources for capital infrastructure projects being undertaken by said schools. Applications for the use of said monies shall be filed with the Director of the Department of Education, who shall promptly cause a review thereof, paying close attention to the enrollment of the applicant schools, their service to the state and the local community, their long-term development plans, their immediate needs for capital infrastructure and the availability and sufficiency of monies to be provided by or on behalf of the school to match those funds as may be offered by the Pohnpei Government under the terms of this section. Following said review and after consulting with the Board of Education as to the Department's analysis of the applications, but no later than 15 working days after the due date for the filing of such applications, the Director shall recommend to the Governor that one or more awards be made to nonpublic schools to finance such portions of the application requests as the Director deems advisable. Within five working days following the receipt of the recommendations of the Director, the Governor shall announce the award of such grant assistance to such nonpublic schools, and such terms and conditions thereof, as the Governor, in his discretion, determines to be in the best interest of fair, balanced, and coordinated development of the infrastructure of the nonpublic education institutions within the state; PROVIDED, HOWEVER, that each award made by the Governor under this section shall require that, before monies are paid out under the award, the grantee shall show to the satisfaction of the Director of Treasury and Administration that an amount equal to or greater than the requested payment has, in fact, been expended on the project from sources other than such grants as may be awarded under the terms of this section by or on behalf of the grantee.

(5) The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose specified in Subsection (1) of this section. Allocations to specific schools shall be withheld until specific justifications are submitted to the Governor by the principal or headmaster thereof and the Governor is satisfied that none of the expenditures and proposed obligations for expenditures are intended for religious purposes. The Governor shall report to the Legislature on or before October 15 each fiscal year on all matters concerning the administration and expenditure of the sums herein authorized for appropriation by this section for the previous fiscal year. The balance of any sum appropriated under the authorization of this section for a fiscal year not expended or obligated on September 30 each fiscal year shall revert to such fund of the Treasury from which it was appropriated.

Source: S.L. No. 3L-45-84 §§1 – 4, 10/9/84; S.L. No. 2L-20-88 §§1 & 2, 6/13/88; S.L. No. 4L-46-97 §§1 – 3, 7/25/97

§10-108. Aramas Kapw program: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei or such fund of the Pohnpei Treasury into which Compact of Free Association capital account monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the operations of the Aramas Kapw Program of Micronesia Bound, Inc.

(2) The sum herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15, following each fiscal year wherein sums are appropriated under the authorization of this section, on all matters concerning the expenditure of the sums authorized for appropriation by this section. Any balance of the sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 each fiscal year shall revert to such fund of the Treasury from which it was appropriated.

Source: S.L. No. 1L-101-86 §§1 & 2, 10/1/86; S.L. No. 1L-139-87 §§1 & 2, 7/14/87

§§10-109 – 10-120. [RESERVED]**SUBCHAPTER II POST-SECONDARY EDUCATION SCHOLARSHIPS**

§10-121. Purpose. — The purpose of this subchapter is to provide financial assistance to citizens and legal residents of Pohnpei who are pursuing their education in a field of study specified under this subchapter in post-secondary education institutions on a full-time basis, who are eligible under this subchapter, and who are otherwise financially unable to pursue such education.

Source: S.L. No. 1L-195-87 §1, 11/17/87

§10-122. Definitions. — As used herein, unless otherwise indicated by the context:

- (1) “Board” means the Pohnpei Scholarship Board.
- (2) “Compact of Free Association” means the Compact of Free Association between the Federated States of Micronesia and the United States of America.
- (3) “Director” means the Director of the Department of Education.
- (4) “Full scholarship” means an award of financial assistance to cover all related educational expenses for any program of studies leading to a bachelor’s degree or a professional or graduate degree in such fields of high priority as the Director, in view of the Pohnpei Education Plan and the Pohnpei Economic Development Plan, may determine from time to time.
- (5) “Fund” means the Pohnpei Scholarship Fund.
- (6) “Member” means a member of the Pohnpei Scholarship Board.
- (7) “Post-secondary education” means a course of study at an institution of higher education that:
 - (a) Admits as regular students only persons having a diploma from a school providing secondary education or its equivalent;
 - (b) Is legally authorized to provide a program of education beyond secondary level; and
 - (c) Provides an educational program for which it awards a bachelor’s degree; a graduate or professional degree requiring study beyond the bachelor’s degree level; or that provides not less than a two-year program which is acceptable for full credit toward a bachelor’s degree.
- (8) “Scholarship grant” means a yearly award of financial assistance for post-secondary education without an obligation to repay, except through such services in the state interest as may be required pursuant to this subchapter.

Source: S.L. No. 1L-195-87 §2, 11/17/87

§10-123. Pohnpei Scholarship Fund. — There is hereby established a Pohnpei Scholarship Fund for the purposes specified in §§10-121 and 10-131. The fund shall be the successor to all assets and liabilities of the State Tuition/Scholarship Fund and the Graduate Student Assistance Loan Fund.

Source: S.L. No. 1L-195-87 §3, 11/17/87

§10-124. Pohnpei Scholarship Board. — There is hereby established a Pohnpei Scholarship Board. The Board shall consist of eleven members who shall be appointed by the Governor with the advice and consent of the Legislature. The members of the Board shall be legal residents or citizens of Pohnpei. Each member appointed to the Board shall serve for a term of three years; PROVIDED, HOWEVER, that four of the initial members as designated by the Governor shall serve for a term of two years. A member of the Board may be removed for cause by the Governor. Vacancies on the Board shall be filled in the same manner as the original appointment.

Source: S.L. No. 1L-195-87 §4, 11/17/87

§10-125. Duties and functions of Board. — The duties and functions of the Board shall be as follows:

(1) The Board shall have the authority, consistent with this subchapter, to award scholarships out of all available funds;

(2) The Board shall specify the procedures by which applications for scholarships are to be taken and the process by which final decisions on the award of scholarships are to be made;

(3) The Board shall establish eligibility requirements and curricular criteria on which the award of scholarships shall be based, that shall be designed to advance the purposes of the Pohnpei Development Plan by restricting scholarship awards to students pursuing courses of study in subject areas deemed to be high priority by the state government. Subject to §10-131, the Board shall be responsible, in consultation with appropriate officials from state government agencies or departments, for identifying the high priority subject areas of study for Pohnpei. The requirements and criteria established pursuant to this subsection shall also be designed to ensure that only students of high academic achievement or demonstrated capacity to perform well in their chosen fields of study shall be awarded scholarships provided under this subchapter;

(4) The Board may establish any other terms and conditions for the receipt and use of and loss of scholarships;

(5) The Board, through the Director, shall prepare and submit to the Legislature at the end of every school year an annual report on the status of the scholarship funds administered by the Board and the Director pursuant to this subchapter, and an accounting of scholarships awarded, including, but not limited to, the respective fields of study for which the scholarship awards were used for that year; and

(6) The Board shall give due consideration to supporting the growth and development of post-secondary educational institutions within the Federated States of Micronesia in making its decisions on the award of scholarship grants.

Source: S.L. No. 1L-195-87 §5, 11/17/87

§10-126. Rules and regulations. — The Board is hereby authorized to issue and promulgate rules and regulations implementing this subchapter, which rules and regulations shall have the force and effect of law. Such rules and regulations shall be subject to the approval of the Director.

Source: S.L. No. 1L-195-87 §6, 11/17/87

§10-127. Compensation of members. — Expenditures for travel and per diem of Board members and personnel shall not exceed standard Pohnpei Government rates. Compensation in the amount established in the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, shall be paid to members who are not employees of the Pohnpei Government when actually performing the functions of the Board, at the direction of the Chairman. Pohnpei Government employees who are members of the Board shall be granted administrative leave while attending Board meetings or performing other official business for the Board.

Source: S.L. No. 1L-195-87 §7, 11/17/87; S.L. No. 4L-25-96 §13, 7/1/97

§10-128. Recipient general requirements. — Each recipient of a scholarship provided under this subchapter shall, at the time of the award:

(1) Be a legal resident and citizen of Pohnpei who has been accepted to attend and able to prove such acceptance, or be attending a post-secondary institution as provided under this subchapter;

(2) Anticipate and thereafter enroll in, or be enrolled in an academic program leading to a bachelor's or graduate degree as provided under this subchapter at a United States of America-accredited post-secondary educational institution in the Federated States of Micronesia, the United States of America or its territories and possessions, the Republic of the Marshall Islands or the Republic of Palau; and

(3) Have maintained a satisfactory grade point average as provided by §10-131;

(4) Each student receiving a scholarship provided under this subchapter shall be obligated to work within Pohnpei State for a period not less than the number of years he received such scholarship; PROVIDED that such employment is available.

Source: S.L. No. 1L-195-87 §8, 11/17/87

§10-129. Scholarship grants. — All scholarship grants shall be made and approved by the Board with final signing by the Director. All awards made under this section shall be for a term of one year and may be renewed each year thereafter; PROVIDED that such awards shall be limited to students who meet all the eligibility requirements provided under §10-128.

Source: S.L. No. 1L-195-87 §9, 11/17/87; S.L. No. 7L-49-09 §1, 10/26/09

§10-130. Duties of recipient. — Each recipient shall be responsible to ensure the following:

(1) That the proper school authorities submit documentation necessary for verification of their qualifications under this subchapter; and

(2) That a report, accompanied by a certificate from an appropriate official at the institution that the student is attending, stating that the student is making satisfactory progress in, and is devoting essentially full-time to study or research relevant to his designated field of study along with any other information deemed necessary by the Board is filed at such times as the Board determines.

Source: S.L. No. 1L-195-87 §10, 11/17/87

§10-131. Full scholarship. — Because of the desirability of encouraging young people to provide service in the highest and best tradition in our striving to develop Pohnpei State for and by its own people, it is especially appropriate at this time to create and establish educational scholarship programs to develop increased opportunities for young Pohnpeians to prepare and pursue careers in areas that serve the public.

(1) In establishing eligibility requirements and curricular criteria pursuant to §10-125, on which the selection of awards of full scholarships shall be based, the Board shall ensure that only applicants of exceptionally high academic achievement or demonstrated capacity to perform well in their chosen field of study, shall be awarded full scholarships; PROVIDED that each recipient pursuing an undergraduate degree under this section must maintain a grade point average of at least 2.5 and that each recipient pursuing a professional or graduate degree in their fields of study must maintain a grade point average of 3.00 or its equivalent.

(2) Each full scholarship awarded under this section shall not exceed the cost for tuition, fees, books, room and board, and transportation costs to and returning from studies at the end of each academic year, including emergency expenses as defined by the Director, and a monthly pocket allowance of not more than \$50 for students with one or two dependents and \$100 for students with three or more dependents.

Source: S.L. No. 1L-195-87 §11, 11/17/87

§10-132. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei or such other funds in the Treasury into which Compact of Free Association monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the State Scholarship Fund. The fund shall be entitled to receive monies from other sources. The sum herein authorized and such other monies as are received by the fund shall be administered and expended by the Director of the Department of Education solely for the purposes specified in §§10-121 and 10-131. Any sums appropriated by the Legislature under this authorization shall remain available until fully expended.

Source: S.L. No. 1L-195-87 §12, 11/17/87

Note: S.L. No. 1L-195-87 §13 transition provision has been omitted.

Extended legislative history: PDC §8-3, 3/71; PDC §8-3(a) was amended by D.L. No. 3L-58-73 §20, 5/29/73 and D.L. No. 3L-113-75 §1, 5/26/75; PDC §8-3(b) was amended by D.L. No. 3L-58-73 §21, 5/29/73; S.L. No. 1L-12-

79 §1, 1/1/80 repealed all of PDC §8-3 and inserted a new PDC §8-3; PDC §8-3(4) was amended by S.L. No. 1L-149-87 §1, 7/14/87; S.L. No. 1L-195-87 §14(1), 11/17/87 repealed PDC §8-3 in its entirety; S.L. No. 1L-144-87 §1, 7/14/87 amended D.L. No. 4L-42-76 §8, 5/25/76, relating to the Graduate Financial Assistance Loan Fund; S.L. No. 1L-195-87 §14(2), 11/17/87 repealed D.L. No. 4L-42-76 in its entirety.

§§10-133 – 10-140. [RESERVED]

SUBCHAPTER III POHNPEI STUDENT LOAN REVOLVING FUND

§10-141. Short title. — This subchapter is known and may be cited as the “Pohnpei Student Loan Revolving Fund Act of 1987.”

Source: S.L. No. 1L-156-87 §1, 7/29/87

§10-142. Purposes. — It is important to the growth of our new state that we identify and educate more of the talented young men and women of Pohnpei in order to provide the fullest development of their mental resources and technical skills. The purpose of this subchapter is to establish an ongoing fund to provide long-term low-interest loans from a revolving fund to qualified students who are in need of such financial assistance in order to pursue a full-time course of study at an institution of higher education.

Source: S.L. No. 1L-156-87 §2, 7/29/87

§10-143. Administration of fund. — The fund herein established shall be administered and expended by the Director of the Department of Education, or his designee, solely for the purposes specified in this subchapter.

Source: S.L. No. 1L-156-87 §3, 7/29/87

§10-144. Definitions. — As used herein, unless otherwise indicated by the context:

- (1) “Academic year” means the number of credit hours that a student must acquire during any one school year in order to secure the degree or certificate toward which he or she is working in the number of semesters or terms normally taken therefor at the institution where he or she is pursuing a course of study.
- (2) “Director” means the Director of the Department of Education.
- (3) “Full-time student” means a student who is carrying a full-time academic workload in terms of course work or other required activities as determined by the institution.
- (4) “Full-time attendance” means compliance by a full-time student with policies and regulations regarding attendance in effect at the institution in which he or she is enrolled.
- (5) “Fund” means the Pohnpei Student Loan Revolving Fund established by §10-148.
- (6) “Institution of higher education” means an educational institution that:
 - (a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education;
 - (b) Is legally authorized to provide a program of education beyond secondary education;
 - (c) Provides an education program for which it awards a bachelor’s degree or provides not less than a two-year program that is acceptable for full credit towards such a degree;
 - (d) Is a public or other nonprofit institution; and
 - (e) Is accredited by a recognized accrediting agency approved by the Director or is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited for credit on the same basis as if transferred from an institution so accredited.

(7) “Professional” or “graduate student” means, in general, a student who is enrolled in an academic program of instruction above the undergraduate level that is provided at an institution of higher education. The term includes:

- (a) That portion of any program involving a period of study beyond four academic years of study at the college level; or
- (b) Any portion of a program leading to:
 - (i) A degree beyond the bachelor’s or first professional degree; or
 - (ii) A first professional degree when at least three years of study at the college level are required for entrance into a program leading to such degree.

(8) “Satisfactory standing” and “good standing” mean the eligibility of a student to continue in attendance at the institution where he or she is enrolled as a student in accordance with the institution’s standards and practices.

Source: S.L. No. 1L-156-87 §4, 7/29/87

§10-145. Eligibility. — Loans shall be made only to a student who:

- (1) Is a citizen or legal resident of Pohnpei State;
- (2) Is in need of the amount of the loan to pursue a course of study on a full-time basis as an undergraduate, graduate or professional student at an institution of higher education; and
- (3) Has been accepted for enrollment as a full-time student at an institution of higher education, or in the case of already attending such an institution, is in good standing at such institution and is carrying a full-time academic workload.

Source: S.L. No. 1L-156-87 §5, 7/29/87

§10-146. Maximum amounts of loans. — The loans advanced from the fund to an undergraduate student for any academic year or its equivalent may not exceed a total of \$6,000, and further, the total of all such loans to an undergraduate student may not exceed \$24,000. The total of all such loans to an individual student continuing as a professional or graduate student may not exceed \$8,000 for any academic year, or a combined total of \$32,000.

Source: S.L. No. 1L-156-87 §6, 7/29/87

§10-147. Selection and loan awards. — Loan awards from the fund shall be made reasonably available, subject to §10-145, to all eligible applicants. In the event applications exceed available funds, the order of selection shall be made on the basis of objective criteria established by the Director. Special consideration shall be given to students with superior academic backgrounds. The Pohnpei Scholarship Board, as established by §10-124, shall determine and make all loan awards with final approval of the Director of the Pohnpei Department of Education. All awards shall be for a term of one year and may be renewed each year thereafter.

Source: S.L. No. 1L-156-87 §7, 7/29/87

Note: S.L. No. 1L-12-79 was repealed by S.L. No. 1L-195-87. See extended history for Subchapter II of this chapter.

§10-148. Establishing the student loan revolving fund. — There is hereby established a Student Loan Revolving Fund, hereinafter referred to as the “fund,” separate from the general fund or other funds. All appropriations for student loans pursuant to this subchapter shall be deposited in the fund. In addition, all repayments of principal and interest from loans made from this fund shall be deposited back into the fund for the purposes stated in §10-142. Any unexpended money in this account shall not revert to the general fund or lapse at the end of the fiscal year.

Source: S.L. No. 1L-156-87 §8, 7/29/87

§10-149. Advancement and repayment of loans. —

(1) Loan awards from the fund shall be evidenced by a note or other written agreement between the Department of Education and the borrower that provides for repayment of the principal amount, together with interest thereon, in equal installments payable monthly over a period beginning nine months after the date which the borrower ceases to carry the normal full-time academic workload at an institution of higher education, and ending ten years and nine months after such date. Installments need not be paid during any period, aggregating not in excess of three years, during which the borrower is in less than full-time attendance at an institution of higher education but is taking courses which are creditable towards a degree; PROVIDED, HOWEVER, that interest shall continue to accrue during any such period.

(2) Such loan shall bear simple interest on the principal of the loan at the rate of four percent (4%) per annum except that no interest shall accrue before the date on which repayment of the loan is to begin.

(3) Such loan shall be made without security or endorsement except that if the borrower is a minor, endorsement shall be required.

(4) Any student borrower may, at his or her option, and without penalty, repay all or any part of the principal and accrued interest at any time.

(5) In the event that a student who has borrowed from the fund is unable, due to extraordinary circumstances, to comply with his or her obligations to repay the funds loaned to him or her, he or she may apply to the Director for revision of the repayment schedule.

(6) The Director shall assess a late payment charge with respect to a loan on which a student borrower has failed to pay all or part of an installment when it is due. Such late charges shall not exceed \$1 for the first month or part thereof by which an installment is late and \$2 for any month or part of a month thereafter.

Source: S.L. No. 1L-156-87 §9, 7/29/87

§10-150. Annual report to the Legislature. — The Director shall prepare and submit an annual report on the status of the fund to the Legislature no later than May 31 each year. This report shall include the total amount of money currently in the fund, the total amount of outstanding current loans, the total amount of repayments collected in the prior fiscal year, the total amount of payments in default in the prior fiscal year, the number of loans made during the prior fiscal year, and such other information as may be appropriate.

Source: S.L. No. 1L-156-87 §10, 7/29/87

§10-151. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei and such funds into which monies of the Compact of Free Association are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the Student Loan Revolving Fund established by §10-148. All sums appropriated under the authorization of this section shall remain available until fully expended.

Source: S.L. No. 1L-156-87 §11, 7/29/87

§10-152. Rules and regulations. — The Director of the Department of Education shall promulgate regulations, consistent with the contents and intent of this subchapter.

Source: S.L. No. 1L-156-87 §12, 7/29/87

§10-153. Emergency loan. — In addition to any other loan awards provided by this subchapter, the Director is hereby authorized to award emergency loans to any student eligible to receive loans pursuant to §10-145, an amount of not more than \$1,000 for financial emergency purposes only. A student may not receive more than one emergency loan in one academic year.

(1) Subject to §10-152, following the effective date of this subchapter [*July 29, 1987*], the Director shall submit to the Governor for his approval, rules and regulations for the issuance of the emergency loan. Such rules and regulations shall provide for, but need not be limited to the following:

- (a) Definition of “financial emergency”;
- (b) Loan notification and disbursement; and
- (c) Loan payment.

(2) Each recipient of an emergency loan shall, at the time of the loan:

- (a) Be attending a post-secondary institution on a full-time basis; and
- (b) Be in an emergency financial crisis as defined by the Director and certified by a financial aid officer of the institution attended.

(3) The Director may, by agreement, negotiate with Federated States of Micronesia agencies or other institutions and individuals to act as advance emergency loan disbursing agents for the student recipient of emergency loans. The Director shall provide for the notification method that the student recipients may utilize in acquiring advance loan disbursements from such agents. The Director shall reimburse the agents for all such amounts advanced to the student recipients including interest where applicable.

Source: S.L. No. 1L-156-87 §13, 7/29/87

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TITLE 19

LABOR

TITLE 19 LABOR

CHAPTER

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CHAPTER 1 [RESERVED]

CHAPTER 2 RESIDENTS EMPLOYMENT

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§2-101. Short title. — This chapter is known and may be cited as the “Pohnpei Residents Employment Act of 1991.”

Source: S.L. No. 2L-204-91 §1, 7/10/91

§2-102. Policy. — The Legislature finds and declares that the establishment and growth of the local work force is a fundamental element of a strong and vital economy for Pohnpei, and essential for Pohnpei to meet its constitutional mandates to provide for a healthful, educated, and productive society. There are at present, however, numerous inhibiting factors that are severely limiting the

growth of this vital sector of the society. Many of these factors have become endemic to Pohnpei since the Trust Territory era and should be the focus of direct government attention.

(1) Of the many factors that are inhibiting the development of Pohnpei's resident work force, the Legislature finds a number of issues to be of prominence. These factors include:

- (a) An extremely high rate of unemployment among the employable sectors of the society;
- (b) A comparatively high number of unskilled laborers and relatively low levels of compensation for resident workers who are, in fact, employed;
- (c) The lack of training opportunities and private industry-sponsored apprenticeship programs in skills necessary for the future development of Pohnpei;
- (d) The lack of a supportive work environment and opportunities for career development in all categories of public and private employment; and
- (e) The lack of balanced and coordinated policies and standards for occupational classifications, wages, and working conditions.

(2) Factors inhibiting the growth of the resident work force have in turn created additional difficulties in manpower development. Foremost among these factors are:

- (a) The loss of job motivation among new workers;
- (b) High rates of absenteeism and employee turnover in existing employment positions;
- (c) Displacement of resident workers by nonresident employees;
- (d) Preference for nonresident workers over resident workers in the development of new fields of employment; and
- (e) Departure of better trained and more highly motivated resident workers from Pohnpei to the neighboring island jurisdictions and foreign countries where opportunities for better wages and employment support systems exist.

Source: S.L. No. 2L-204-91 §2, 7/10/91

§2-103. Intent. — It is the intent of the Legislature to target directly those limiting factors inhibiting the growth of Pohnpei's resident work force. The Legislature firmly believes that through the enactment of this statute, through the sponsorship of training and apprenticeship programs, and through the institution of other forms of directed governmental support, the problems confronting our resident work force can be overcome and that a strong and vital economy can be constructed for Pohnpei, built upon the solid and sure foundation of our own human resources, our own talents, and our own capabilities. To reach this goal, the Legislature is counting upon the cooperative and concerted efforts of each and every government agency and of all current and prospective employers. But to truly accomplish this goal, the Legislature is, most importantly, counting upon the spirit, the determination, and the drive of each and every member of our own resident work force.

Source: S.L. No. 2L-204-91 §3, 7/10/91

§2-104. Definitions. — Unless the context clearly indicates otherwise, the following meanings shall apply to this chapter:

(1) "Chief" and "Assistant" mean the Chief of the Division of Personnel, Labor and Manpower Development, or his designee.

(2) "DPL&MD", "Office", and "Division" mean the Pohnpei Division of Personnel, Labor and Manpower Development.

(3) "Employer" means any person hiring or otherwise engaging an individual to perform personal services or labor for compensation or other consideration, and such person's authorized representatives. For purposes of this definition, the term "person" shall mean any individual, firm, partnership, corporation, company, association, cooperative or any other association of individuals, but does not include foreign governments, public corporations or the governments of the Federated States of Micronesia, Pohnpei State, the local jurisdictions of Pohnpei or their agencies. The Chief may adopt additional exceptions for short-term employment or as other circumstances warrant.

(4) “Nonresident” means any individual who is not a citizen of the Federated States of Micronesia, but does not include holders of Pohnpei foreign investment permits.

(5) “Nonresident employment agreement” means the agreement between DPL&MD and the employer as required by §2-111.

(6) “Resident” means any individual who is a citizen of the Federated States of Micronesia and permanently residing in Pohnpei.

(7) “State Attorney” means the Attorney General for the Pohnpei Government.

Source: S.L. No. 2L-204-91 §4, 7/10/91; S.L. No. 5L-14-00 §3-9, 10/1/00

§2-105. Duties and responsibilities of the Division of Personnel, Labor and Manpower Development. — The Division of Personnel, Labor and Manpower Development shall serve as the lead agency in the development of policies and strategies to promote the growth and development of the resident work force and shall be the agency primarily responsible for the administration of this chapter. Specifically, the Division shall:

(1) Research and formulate comprehensive manpower development plans consistent with the terms of this chapter and in accordance with Article 7 §8 of the Pohnpei Constitution, which plans shall become the official policy on manpower development upon adoption thereof by the Legislature;

(2) Establish and maintain a skills registry and promote training in trades and other fields of employment as provided in Chapter 6;

(3) Assist in the development of apprenticeship programs and institute procedures for monitoring the quality and product of such programs;

(4) Identify and maintain accurate lists and institute other means to identify and track unemployment within Pohnpei, and develop strategies to alleviate unemployment in all sectors of Pohnpeian society;

(5) Research and formulate draft legislation and mandatory and voluntary procedures for:

(a) The advancement of minimum wage rules and fair labor standards;

(b) Equality among public and private sector employment opportunities; and

(c) The extension of benefits to resident workers that are provided by employers to nonresident workers;

(6) Administrate this chapter with respect to nonresident employment, and develop other incentive programs to encourage the replacement of nonresident workers by resident workers whenever feasible;

(7) Promote the development of employee and occupational interest groups dedicated to the betterment of manpower resources within Pohnpei and to the monitoring of their own categories of employment or service;

(8) Serve as an informal ombudsman to receive and investigate employee complaints and to assist in the development of sound and productive relationships between employees and their employers;

(9) Initiate public information programs to foster knowledge of and respect for the employment and advancement of the local work force;

(10) Develop means to periodically publish, broadcast, and otherwise disseminate classified lists, job announcements, and other forms of information among the residents of Pohnpei as to the availability of employment and opportunities for career advancement within Pohnpei;

(11) Enter into cooperative arrangements with other public and private entities to institute programs and activities designed to promote manpower development in Pohnpei; and

(12) Undertake such other initiatives and assume such other responsibilities as are consistent with the purposes and provisions of this chapter.

Source: S.L. No. 2L-204-91 §5, 7/10/91

§2-106. Employment policy and requirements. —

(1) It is the official policy of Pohnpei that residents shall be accorded priority over nonresidents to fill all positions of employment offered within this jurisdiction.

(2) No employer shall employ a nonresident except in strict compliance with this chapter and the rules and regulations issued thereunder.

(3) The equal opportunity for employment shall not be denied to those employers and nonresidents who have complied with this chapter and any rule or regulation promulgated hereunder.

Source: S.L. No. 2L-204-91 §6, 7/10/91

§2-107. Employment classifications, requirements, and restrictions. — The Division of Personnel, Labor and Manpower Development shall establish job listings in four classes, with as many subclasses as it deems necessary. The four classes and the requirements and restrictions that attach to each shall be as follows:

(1) “Class A” shall apply to all employment positions for which, in the opinion of the Division of Personnel, Labor and Manpower Development, there are a sufficient number of residents who are immediately available, qualified, and willing to meet the current and foreseeable demand for the services. No nonresident may be recruited or employed to fill any position within this class.

(2) “Class B” shall apply to all employment positions for which, in the opinion of the Division of Personnel, Labor and Manpower Development, there are a sufficient number of residents who have the capability, or with short-term education or on-the-job training, can master the skills required to perform the services. No nonresident may hold a position nor a successive number of positions in Class B for more than four years in any ten-year period; PROVIDED that the Chief may extend the time allotted to a nonresident worker under this subsection if said nonresident is operating an apprenticeship or education program approved by the Division of Personnel, Labor and Manpower Development with no less than an average of three residents continuously enrolled therein.

(3) “Class C” shall apply to all employment positions that are not covered by Classes A, B or D, for which, in the opinion of the Division of Personnel, Labor and Manpower Development, there are an insufficient number of residents who are available, qualified, and willing to meet the current and foreseeable demand for the services. No nonresident may hold a position or a successive number of positions in Class C for more than eight years in any 15-year period unless the nonresident demonstrates to the satisfaction of the Division of Personnel, Labor and Manpower Development that he has made a substantial effort to develop the knowledge and skills of two or more residents to fill counterpart positions within Pohnpei.

(4) “Class D” shall apply to high-level professional or executive positions, and other highly specialized positions for which, in the opinion of the Division of Personnel, Labor and Manpower Development, there are an insufficient number of residents available, qualified, and willing to meet the demand for the services. Positions listed in this class are not limited as to the duration of employment, but if the Division of Personnel, Labor and Manpower Development reclassifies the employment position from Class D to another class, the restrictions of the other class shall apply upon the replacement of the nonresident or upon the renewal of the nonresident’s employment in the same position.

(5) The Division of Personnel, Labor and Manpower Development may, from time to time, reclassify an employment position from one class to any other class as the potential to fill the position with residents changes. Such reclassifications shall be made in a manner that will best meet the policies and intent stated in this chapter. The reclassification shall not affect nonresident workers who were employed prior to the change, but the restrictions of the new class shall apply upon the replacement of said nonresident or upon the renewal of the nonresident’s employment in the same position.

(6) Determination as to time restrictions applied to nonresidents employed in positions classified in Classes B and C shall commence on the effective date of this chapter [July 10, 1991], notwithstanding previous employment. Determination as to whether service in a former class will be counted against maximum time of service in a new classification, either by a change in employment or by reclassification, shall be as determined in the rules and regulations promulgated under this chapter.

(7) Upon request or on its own initiative, the Division of Personnel, Labor and Manpower Development shall classify all employment positions not previously included in any class.

(8) Notwithstanding the restrictions on the duration of employment found in Subsections (2) and (3) of this section, the Chief may extend the period of allowable employment of a particular nonresident who is providing exceptional meritorious service to the people of Pohnpei. The specific criteria shall be set forth in the rules and regulations promulgated under this chapter. The Chief shall notify the Governor and Legislature whenever the period of employment is extended pursuant to this subsection, and said notice shall include a detailed description of the basis and reasons for the decision.

(9) The restrictions on the duration of employment found in Subsections (2) and (3) of this section shall not apply to nonresidents who are lawfully in Pohnpei under spousal entry permits or who have been granted special exception under immigration laws for hardship occasioned by the death of a spouse or the termination of marriage and who continue to provide support for one or more dependent resident children within Pohnpei.

Source: S.L. No. 2L-204-91 §7, 7/10/91

§2-108. Employment quotas. — In recognition of the relatively small size of the Pohnpeian community and the constitutional mandate to the government to respect and protect the customs and traditions of Pohnpei, the Chief is authorized to investigate the effect that various levels of nonresident employment and recruitment from specific geographical areas of nonresident origin are having on the social and cultural fabric of Pohnpei. The Chief may, following a finding of negative impact, recommend to the Legislature steps that may be taken to reduce or control the overall level of nonresident employment or the level of nonresident employment represented by one or more geographical areas. Any recommendation made by the Chief with respect to any quota to be imposed by Pohnpei on nonresident employment shall provide a means to ensure all employers will have reasonable and fair access to nonresidents within the quotas and that residents of Pohnpei who are dependents of nonresidents affected by any such policy are not unduly disadvantaged thereby.

Source: S.L. No. 2L-204-91 §8, 7/10/91

§2-109. Application to employ a nonresident. —

(1) Any employer who desires to hire a nonresident shall file an application with the Division of Personnel, Labor and Manpower Development stating the place and nature of the employer's business, the number of nonresidents desired, the occupational qualification and skill required of each nonresident, the wages and benefits to be paid each nonresident, the date on which each nonresident is desired, and any other information that the Division of Personnel, Labor and Manpower Development may require or which the employer may deem appropriate.

(2) The application may cover one or more nonresidents and may be amended or revoked in accordance with the rules and regulations adopted pursuant to this chapter.

Source: S.L. No. 2L-204-91 §9, 7/10/91

§2-110. Determination of nonavailability. —

(1) If, after receiving an application filed pursuant to §2-109, the Chief determines that there are no qualified residents for the job, then the Chief shall determine whether the employment of a nonresident to fill the job vacancy will be in the best interest of Pohnpei; PROVIDED that the Chief may not make a determination that a nonresident may be employed without first requiring that the job be publicized and according a reasonable opportunity for residents to apply therefor. The standards for determining whether employment of a nonresident is in the best interest of Pohnpei and the method and duration of the required publication and the information to be publicized therein shall be determined by the rules and regulations promulgated by the Division of Personnel, Labor and Manpower Development under this chapter.

(2) The determination of the Chief as to whether a resident is available and qualified for the job, and whether the employment of a nonresident is in the best interest of Pohnpei shall be final, subject only to an appeal as provided in §2-119.

Source: S.L. No. 2L-204-91 §10, 7/10/91

§2-111. Nonresident employment agreements. — If a qualified resident is unavailable and if the Chief decides that the employment of a nonresident is in the best interest of Pohnpei, then the Chief shall enter a nonresident employment agreement which authorizes the employer to hire one or more nonresidents. For those matters covered in the application required by §2-109, the nonresident employment agreement must be the same or substantially similar to the application. The agreement shall be executed by the Chief and the employer with a copy to the nonresident involved, and shall contain the following:

(1) A statement that the employer requires such nonresident for employment;

(2) A statement of the wages and benefits the employer is providing or intends to provide each nonresident;

(3) A statement that the employer agrees to comply with the minimum employment conditions and other requirements consistent with this chapter and other applicable laws, rules, and regulations of Pohnpei;

(4) A designation of the employment classification as identified in §2-107 under which the position to be filled is classified and the period of time for which the employer will be allowed to fill each position with a nonresident before the employer must attempt to fill the position with residents by filing a new application with the Division of Personnel, Labor and Manpower Development;

(5) A statement of the employer's responsibility for return transportation to the place of origin of each nonresident so employed;

(6) A statement that the term of the employer's contract with the nonresident shall not deviate from the nonresident employment agreement without first amending the nonresident employment agreement;

(7) The effective date and expiration date of the nonresident employment agreement;

(8) An obligation of the employer to provide the Division of Personnel, Labor and Manpower Development with a copy of the contract between the employer and the nonresident hired;

(9) A statement acknowledging that Pohnpei is not a party to nor liable for the contract between the employer and nonresident;

(10) At the discretion of the Chief, a provision to obtain a bond or other surety, or to make a deposit to secure the faithful performance of the employer's duties and responsibilities under the nonresident employment agreement;

(11) Provisions concerning the payment of the registration fee required by §2-113; and

(12) Such other provisions as the Chief deems appropriate.

Source: S.L. No. 2L-204-91 §11, 7/10/91

§2-112. Senior management officials of foreign-owned businesses. — Notwithstanding any other provision of this chapter, the Chief of the Division of Personnel, Labor and Manpower Development shall automatically award a Class D nonresident employment agreement for each noncitizen senior management official of a business with foreign ownership, which business has received a foreign investment permit under the Foreign Investors Permit Act, Title 37 Chapter 7, as amended.

Source: S.L. No. 2L-204-91 §11A, 7/10/91; S.L. No. 5L-14-00 §3-9, 10/1/00

Note: §11A was inserted by S.L. No. 4L-98-99 §13, 6/6/99.

§2-113. Annual registration fee: manpower development fund. —

(1) For each nonresident employee covered by a nonresident employment agreement the employer shall pay to Pohnpei an annual registration fee of \$100. Said fee may not be deducted from the wages

or benefits of the nonresident employee. The nonresident employment agreement shall contain a covenant to that effect.

(2) Payment shall be made in advance for the entire anticipated duration of each nonresident's employment. Refunds for earlier termination of employment shall be made only if the termination occurs after the first 12 months of employment. Failure to request a refund within three months of the termination shall result in the forfeiture of the fee. Payments and refunds for partial years shall be prorated.

(3) There is hereby established within the Pohnpei Treasury a manpower development fund into which all payments made under this section shall be deposited.

(4) There is hereby authorized for appropriation from the Treasury fund established by Subsection (3) of this section such sums as may be determined annually in the Comprehensive Budget Act to be administered and expended by the Chief solely for training and apprenticeship programs for the development of the resident work force of Pohnpei.

(5) The Chief shall submit to the Legislature an annual budget for the use of manpower development fund monies as an attachment to the annual budget presentation of the executive branch; PROVIDED that within a reasonable time prior to submission of the budget to the Legislature, the Chief shall provide employers who have paid monies into the fund in the previous fiscal year with a copy of his proposed budget and a request to comment on the same. The Chief shall append to his submission of the budget any written comments he has received from such employers concerning his proposed use of fund assets.

(6) Any monies appropriated from the manpower development fund remaining unexpended or unobligated for expenditure upon expiration of the fiscal year for which the appropriation was made shall revert to the manpower development fund.

Source: S.L. No. 2L-204-91 §12, 7/10/91

§2-114. Identification card. — The Chief shall provide each nonresident who is employed under this chapter with an identification card that must be kept on his or her person at all times. The identification card shall include the name of the nonresident worker, the employer for whom he is authorized to work, his classification of employment as prescribed in §2-107, and such other information as the Chief deems necessary.

Source: S.L. No. 2L-204-91 §13, 7/10/91

§2-115. Employer's records. — Complete and current records on each nonresident employee shall be kept by the employer. Such records shall be presented upon request of the Chief and shall contain the following information:

(1) Each nonresident employee's name, address, age, legal residence, citizenship, country of origin, and expiration date of his entry permit;

(2) The occupational category or job classification, the wage rate or salary, and the employment benefits such as insurance, room and board, travel, vacation, and sick leave;

(3) Payrolls showing the number of hours worked each week, the compensation earned, and deductions made;

(4) The education, training, and experience of each nonresident employee;

(5) The number of employment-related illnesses or accidents to nonresident employees, the name of the sick or injured employee, the type of illness or injury, the treatment, amount of time lost from work, and whether hospitalization was required;

(6) The number and types of non-employment-related illnesses of nonresident employees, the name of the employee, the treatment, amount of time lost from work, and disposition of the employee, and whether hospitalization was required; and

(7) Copies of the nonresident employment agreement and the contract between the employer and each nonresident employee.

Source: S.L. No. 2L-204-91 §14, 7/10/91

§2-116. Rules and regulations. — The Division of Personnel, Labor and Manpower Development is hereby granted the authority to take all lawful steps to achieve the aims, goals, and duties set out in this chapter. The Division of Personnel, Labor and Manpower Development may promulgate, amend, and enforce appropriate rules and regulations to carry out its duties and powers set out in this chapter. These rules and regulations shall be adopted pursuant to the procedures set forth in the Administrative Procedures Act, Title 8 Chapter 1, or its successor, and when approved by the Governor, shall have the force and effect of law. Subject to this chapter, such rules and regulations may include, but are not limited to, provisions establishing:

- (1) The form and provisions of the application required by §2-109;
- (2) The terms and conditions of the nonresident employment agreements including, but not limited to, wages, benefits and working conditions and other obligations of the employer;
- (3) The standards to determine whether nonresident employment is in the best interest of Pohnpei;
- (4) The method and means of publicizing job opportunities to residents;
- (5) The minimum standards, qualifications, and work experience that must be met by a nonresident before being hired for a particular classification and for any permissible extensions on his maximum length of employment in Pohnpei;
- (6) Requirements as to the documents or other evidence that the employer is required to produce to convincingly demonstrate that the nonresident has met the minimum standards, qualifications, and work experience;
- (7) The terms and requirements for renewing, modifying or transferring a nonresident employment agreement; PROVIDED, HOWEVER, that no nonresident may be allowed to transfer to another employer unless the subsequent employer can show to the satisfaction of the Chief that the prior employer, who is not in breach of his contractual agreements with said nonresident, has been satisfied or made financially whole with respect to his expenses in the recruitment of the nonresident employee and for any financial losses which may be incurred in the interim before the prior employer can reasonably fill the vacant position;
- (8) Provisions for the calculation, assessment, collection, and deposit of the registration fee required by §2-113;
- (9) The information and form of the identification card required by §2-114;
- (10) The procedures and requirements to coordinate the activities under this chapter with the authority and functions of the national government of the Federated States of Micronesia;
- (11) Requirements for physical examinations of nonresidents and for obtaining health clearance when reasonably related to the job of the nonresident;
- (12) Procedures to withhold or forfeit state financial assistance for failing to comply with this chapter where permitted under state law providing for such assistance. This applies to both the employer and the nonresident;
- (13) Procedures and requirements for the establishment and administration of a skills register to identify the residents of Pohnpei who possess appropriate training, skills, and experience at various jobs, occupations, and classification listings. This register may be combined with a similar or related register under any apprenticeship program that may be established by Pohnpei; and
- (14) Procedures for reporting, reviewing, and filing complaints and for conducting hearings.

Source: S.L. No. 2L-204-91 §15, 7/10/91

§2-117. Investigations and enforcement. — The Division of Personnel, Labor and Manpower Development shall establish procedures to ensure compliance with this chapter and the rules and regulations promulgated hereunder. In connection with such enforcement responsibilities:

- (1) The Office of the Attorney General shall assist as requested by the Division of Personnel, Labor and Manpower Development;
- (2) The Chief is authorized to conduct hearings and investigations; to subpoena witnesses, records, books, and documents; and to administer oaths;

(3) The Division of Personnel, Labor and Manpower Development may proceed on its own complaint or the complaint of any other person or entity;

(4) The Division of Personnel, Labor and Manpower Development may issue such orders and decisions as are necessary to ensure compliance with this chapter or any nonresident employment agreement. Such orders and decisions shall be subject to amendment or revocation in accordance with the rules and regulations promulgated hereunder. Such orders and decisions shall be in writing and served in the same manner as a summons under the Rules of Civil Procedure of the Pohnpei Supreme Court and, unless a hearing was held before the order or decision was issued, shall include a notice of the right to a hearing;

(5) Employers, employees or any other persons who are adversely affected by orders or decisions issued without a hearing shall have the right to a hearing upon request. If a hearing is requested, the Division of Personnel, Labor and Manpower Development shall provide a reasonable notice of the date of the hearing, an opportunity to present evidence, the right to be represented by an attorney at his own expense, and an opportunity to cross-examine witnesses. Such hearings may be public or closed, and a record of the hearing shall be made as provided in the rules and regulations;

(6) The Division of Personnel, Labor and Manpower Development may, with the advice and assistance of the Office of the Attorney General, petition the Pohnpei Supreme Court for such orders, decrees, writs or warrants as are necessary and appropriate to meet its responsibilities and exercise its powers under this chapter; and

(7) Except for an appeal under §2-119, the decision of the Chief shall be final.

Source: S.L. No. 2L-204-91 §16, 7/10/91

§2-118. Orders. — In addition to such orders and decisions that may be authorized elsewhere, upon finding a violation or noncompliance with this chapter, the rules and regulations promulgated hereunder, or the nonresident employment agreement, the Chief may:

(1) Cancel or modify the nonresident employment agreement. When the nonresident employment agreement is cancelled, the nonresident hired under such agreement shall immediately cease working for any employer in Pohnpei;

(2) Cancel, modify or suspend the nonresident identification card issued pursuant to §2-114;

(3) Temporarily or permanently disqualify an employer from hiring any nonresident;

(4) Transfer a nonresident to another employer with the consent of the nonresident and the new employer, subject to §2-116(7); and

(5) Impose such other sanctions or orders that reasonably give effect to the purposes and provisions of this chapter.

Source: S.L. No. 2L-204-91 §17, 7/10/91

§2-119. Judicial appeal. —

(1) Anyone aggrieved by an order or decision of the Chief must first request a hearing in accordance with §2-117(5) as a condition precedent to appealing to any court. If the aggrieved party fails to request a hearing, then the decision or order of the Chief shall be deemed to be accepted, and judicial appeal shall be barred except in cases of fraud, improper service of the order or decision, criminal conduct or violations of constitutional rights. A request for a hearing is not required, however, if a hearing is actually conducted pursuant to §2-117(5) on the initiative of the Division of Personnel, Labor and Manpower Development or at the request of another.

(2) Appeals of an order or decision of the Chief must be made to the Trial Division of the Pohnpei Supreme Court, within 15 days of the date of the decision or order. Service of the notice of appeal shall be made upon the Attorney General. Failure to serve and file a timely appeal shall bar the action.

(3) The judicial review shall be based on the record including the evidence presented at the hearing and any other evidence considered by the Chief. The decision or order of the Chief shall be upheld unless the court finds it to be arbitrary and capricious or fraudulent.

Source: S.L. No. 2L-204-91 §18, 7/10/91

§2-120. Prohibitions. — It is unlawful:

(1) For any nonresident to engage in any other employment other than for the employer who has entered a nonresident employment agreement with the Division of Personnel, Labor and Manpower Development pursuant to this chapter;

(2) For any employer to employ a nonresident without first executing a nonresident employment agreement with the Division of Personnel, Labor and Manpower Development pursuant to this chapter;

(3) For any employer to employ a nonresident in violation of the nonresident employment agreement with the Division of Personnel, Labor and Manpower Development;

(4) For any employer to employ a nonresident who is not lawfully in Pohnpei;

(5) For a nonresident to accept employment beyond the duration allowance therefore under this chapter; and

(6) For an employer or nonresident (or anyone on behalf of an employer or nonresident) to knowingly submit or provide the information required by this chapter which is false or misleading. For purposes of this chapter, “knowingly” includes when one actually knows or with reasonable investigation should have known that the information was false or misleading.

Source: S.L. No. 2L-204-91 §19, 7/10/91

§2-121. Criminal penalties. —

(1) Except as provided in Subsection (2) of this section, any person who willfully violates this chapter or any of the rules and regulations issued pursuant thereto, or anyone who knowingly aids and abets in such violation by the person shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned for not more than one year, or both such fine and imprisonment.

(2) Any nonresident who fails to comply with §2-114 shall, upon conviction thereof, be fined not more than \$50, or imprisoned for not more than five days, or both such fine and imprisonment.

Source: S.L. No. 2L-204-91 §20, 7/10/91

§2-122. Civil penalties. —

(1) Any employer who employs a nonresident without complying with this chapter and the rules and regulations issued pursuant thereto shall be subject to a civil penalty equal to the amount of wages, including any overtime compensation, paid to the nonresident during the period of noncompliance.

(2) In addition to the foregoing, any employer who fails to comply with an order or decision issued by the Chief under this chapter shall be subject to a civil penalty of not more than \$200 for each day of such noncompliance beginning with the date on which the written order or decision was received by the employer.

(3) These civil penalties may only be assessed after a hearing held in accordance with §2-117(5), and may be compromised by the Chief with the approval of the Attorney General.

(4) Any refund owed to an employer under §2-113(2) shall be applied to the civil penalty assessed against said employer.

Source: S.L. No. 2L-204-91 §21, 7/10/91

§2-123. Conflict of interest. — If an employee or officer of the Division of Personnel, Labor and Manpower Development may benefit or gain by a decision or action under this chapter, either directly or indirectly, through business holdings, by disclosed or undisclosed agents or by a marital

relationship, such benefit or gain shall be disclosed, in writing, to the Chief, or in the case of the Chief, to the Governor. The person having such interest shall not participate in any further action, decision or discussion on the matter. The benefits or gains referred to in this section shall not include those that may be realized as a member of the general public.

Source: S.L. No. 2L-204-91 §22, 7/10/91

Note: S.L. No. 2L-204-91 §23 interpretation provision, §25 severability provision, and §26 transition provision have been omitted.

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CHAPTER 3 WAGE AND HOUR

Section

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§3-101. Short title. — This chapter is known and may be cited as the “Pohnpei Wage and Hour Law of 1991.”

Source: S.L. No. 2L-195-91 §1, 10/1/91

§3-102. Policy. — The Legislature finds and declares that it is essential that employee wages be sufficient to provide members of the private sector work force and their families money to adequately maintain a fair and reasonable standard of living.

Source: S.L. No. 2L-195-91 §2, 10/1/91

§3-103. Definitions. — As used in this chapter, the term:

- (1) “Chief” means the Chief of the Division of Personnel, Labor and Manpower Development.
- (2) “Division” means the Division of Personnel, Labor and Manpower Development.
- (3) “Employ” includes to permit or suffer to work.
- (4) “Employee” includes any individual employed by an employer, but shall not include:
 - (a) An immediate family member employed by the employer;
 - (b) A seaman; or
 - (c) A nonprofit school employee during the time such individual is a student attending such school.
- (5) “Employer” includes any individual, partnership, association, corporation, business trust, legal representative or any organized group of persons acting directly or indirectly in the interest of an employer in relation to an employee.
- (6) “Industry” means a trade, business, industry or branch thereof, or group of industries in which individuals are employed.
- (7) “Tipped employee” means any employee engaged in an occupation in which the employee customarily and regularly receives more than \$20 a month in tips.
- (8) “Wage” means legal tender of the United States of America or checks on banks convertible into cash on demand at a full face value thereof and, in addition thereto, the reasonable cost as determined by the office, to the employer of furnishing an employee with board, lodging or other facilities if such board, lodging or other facilities are customarily furnished by such employer to the employer’s employees.
- (9) “Week” or “work week” means a fixed and regularly recurring period of seven consecutive days.

Source: S.L. No. 2L-195-91 §3, 10/1/91; S.L. No. 5L-14-00 §3-21, 10/1/00

§3-104. Minimum wage. — Every employer shall pay to each employee employed by the employer wages at the rate of not less than \$1.75 per hour. The hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid not less than twenty cents below the minimum wage by the employee's employer and the combined amount the employee receives from the employee's employer and in tips is at least equal to the minimum wage.

Source: S.L. No. 2L-195-91 §4, 10/1/91; S.L. No. 7L-101-11 §1, 1/1/12

§3-105. Maximum hours. — No employer shall employ any employee for a work week longer than 40 hours unless the employee receives overtime compensation for the employee's employment in excess of the hours above, specified at a rate not less than one and one-half times the regular rate at which the employee is employed.

Source: S.L. No. 2L-195-91 §5, 10/1/91

§3-106. Wage discrimination prohibited. — No employer shall discriminate in any way in the payment of wages as between persons of different races or religions or as between the sexes; PROVIDED that nothing herein shall prohibit a variation of rates of pay for employees engaged in the same classification of work based upon a difference in seniority, length of service, substantial difference in duties or services performed, difference in the shift or time of day worked, or hours of work.

Source: S.L. No. 2L-195-91 §6, 10/1/91

§3-107. Non-waiver. — No provision of this chapter may in any way be contravened, waived or set aside by private agreement.

Source: S.L. No. 2L-195-91 §7, 10/1/91

§3-108. Duty of Chief; employer's records. —

(1) The Chief shall enforce this chapter.

(2) Every employer shall keep in or about the premises wherein any employee is employed a record of the name, address, and occupation of each such employee, of the amount paid each pay period to each such employee, of the hours worked each day and each work week by each such employee, and of such other information and for such periods of time as the Chief may prescribe by regulation. The Chief or the Chief's authorized representative shall, for the purpose of examination, have access to and the right to copy from such records. Every employer shall furnish to the Chief or the Chief's authorized representative such information relating to the employment of workers and in such manner as the Chief may prescribe.

(3) Every employer shall post and keep posted such notices pertaining to the application of the law, as shall be prescribed by the Chief in conspicuous places in every establishment where any employee is employed so as to permit the employee to readily observe a copy on the way to or from the employee's place of employment.

(4) Whenever the employee is paid, the employer shall furnish to the employee a legibly printed, typewritten or handwritten notice showing the employee's:

- (a) Total hours worked;
- (b) Overtime hours;
- (c) Straight-time compensation;
- (d) Overtime compensation;
- (e) Other compensation;
- (f) Total gross compensation;
- (g) Amount and purpose of each deduction;
- (h) Total net compensation;
- (i) Date of payment; and

(j) Pay period covered.

(5) The Chief shall cause this chapter to be printed and copies thereof shall be furnished to interested persons upon request without charge.

(6) Every employer shall permit the Chief or the Chief's authorized representative to confer with and interrogate any employee of the employer at the place of employment and during working hours with respect to any matter cognizable under this chapter.

Source: S.L. No. 2L-195-91 §8, 10/1/91; S.L. No. 5L-14-00 §3-21, 10/1/00

§3-108A. Minimum wage review. — At least once every three years, the Chief shall conduct necessary and appropriate studies of the minimum wage rate as set forth in 19 PC 3-104 and when he considers an amendment to the existing rate to be appropriate, the Chief shall submit such recommendation to the Governor for review, approval, and further transmittal to the Legislature for its consideration, and that such amendment shall become effective only after it has been enacted into law. In developing recommended amendments to the minimum wage rate, the Chief shall give consideration to:

- (1) The minimum standard of living which is compatible with decency and health;
- (2) The general economic conditions of the state;
- (3) The compensation practices and conditions of appropriate labor markets;
- (4) The conditions of employment in Pohnpei; and
- (5) Such other matters as the Chief may deem appropriate.

Source: S.L. No. 2L-195-91 §8, 10/1/91; S.L. No. 5L-14-00 §3-21, 10/1/00; S.L. No. 7L-101-11 §2, 1/1/12

§3-109. Willful violations; penalty. — Any employer who willfully hinders or delays the Chief or the Chief's authorized representative in the performance of the Chief's duties in the enforcement of this chapter; or who willfully refuses to admit the Chief or the Chief's authorized representative to any place of employment; or who fails to keep or who falsifies any record required under §3-108(2), or who refuses to make such records accessible or to give information required for the proper enforcement of this chapter, upon demand, to the Chief or the Chief's authorized representative, shall be fined not more than \$500, or imprisoned not more than 30 days, or both such fine and imprisonment.

Source: S.L. No. 2L-195-91 §9, 10/1/91

§3-110. Disclosure of information. — Information secured by the Chief or the Chief's authorized representative from inspections under this chapter shall be held confidential and shall not be disclosed nor opened to any person except for the purpose of the administration and enforcement of this chapter.

Source: S.L. No. 2L-195-91 §10, 10/1/91

§3-111. Penalties; collection of unpaid wages; injunctions; etc. —

(1) *Criminal penalties.*

- (a) Any person divulging information in violation of §3-110; or
- (b) Any employer who willfully violates this chapter; or
- (c) Any employer or the employer's agent or any officer or agent of a corporation who discharges or in any other manner discriminates against any employee because the employee has made a complaint to the employee's employer, to the Chief, or to any other person that the employee has not been paid wages in accordance with this chapter, or has instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceedings; or
- (d) Any employer or the employer's agent or any officer or agent of a corporation who pays or agrees to pay any employee compensation less than that which the employee is entitled to under this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be

punished by a fine of not more than \$500, or by imprisonment for a period not to exceed one year, or by both such fine and imprisonment.

(2) *Liability to employee.* Any employer who violates any provision of §§3-104 and 3-105 shall be liable to the employee or employees affected in the amount of their unpaid minimum wages or unpaid overtime compensation, and in an additional equal amount as liquidated damages.

(3) *Collection suits; attorney's fee; assignments; relief from costs.* Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of oneself or themselves and other employees similarly situated, or the employee or employees may designate an agent or representative to maintain action for and in behalf of all employees similarly situated. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, in the event the plaintiff or plaintiffs prevail, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

Source: S.L. No. 2L-195-91 §11, 10/1/91

CHAPTERS 4 & 5 [RESERVED]

CHAPTER 6 APPRENTICESHIP PROGRAM

Section

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§6-101. Short title. — This chapter is known and may be cited as the “Pohnpei Apprenticeship Program Act of 1990.”

Source: S.L. No. 2L-175-91 §1, 2/6/91

§6-102. Public policy; establishment of the Pohnpei apprenticeship program. —

(1) The Legislature recognizes the need to provide apprentice training for the unemployed and unskilled residents of Pohnpei so that they may contribute to the positive growth and development of this state. As a step toward meeting this need, Pohnpei must provide vocational training and job opportunities to the state’s young adults. This will ensure that they acquire the necessary skills and knowledge to engage in gainful employment and to lead meaningful and productive lives.

(2) To achieve the foregoing aims, the Pohnpei apprenticeship program is hereby established to develop highly-skilled journeymen thoroughly and broadly qualified in their trades, to provide a source of key employees and supervisors, and to reduce the need for foreign workers in the trades and crafts. The apprenticeship program must be developed and administered in a manner that emphasizes training within Pohnpei whenever practical, and in a manner that gives special emphasis to encouraging and motivating those who successfully complete their apprenticeship to remain and work in Pohnpei. This program shall be administered in accordance with this chapter.

Source: S.L. No. 2L-175-91 §2, 2/6/91

§6-103. Definitions. — Unless the context clearly indicates otherwise, the following meanings shall apply to this chapter:

(1) “A/G” means the Chief of the Division of Personnel, Labor and Manpower Development, or his or her designee.

(2) “Apprenticeship program” means the program established by §§6-102 and 6-105.

(3) “DPL&MD” means the Pohnpei Division of Personnel, Labor and Manpower Development.

(4) “Government agencies” means all departments, offices, commissions, authorities, boards, and agencies of Pohnpei’s Executive Branch.

(5) “Government project” means any development or construction project that is funded by Pohnpei or supported with Pohnpei’s funds. This includes, without limitation, projects directly funded or financed by Pohnpei, projects wherein the monies are administered or managed by Pohnpei, and projects using monies loaned by Pohnpei.

(6) “Person” means any individual, firm, partnership, corporation, company, association, cooperative, body politic, municipality or public corporation, including any receiver, assignee, or other representative thereof.

(7) “Trade training plan” means a well organized, effectively coordinated work experience and related training plan as is necessary to accomplish the established objectives of apprenticeship training. The trade training plan for each trade or craft should include schedules of required work experience and related training including numbers of hours required for each year of apprenticeship.

(8) “Trades” and “crafts” mean those trades and crafts selected by the A/G for application in Pohnpei, with the approval of the Governor, from the list promulgated by the U.S. Department of Labor, Bureau of Apprenticeship and Training. Additional trades and crafts may be added from time to time by the A/G.

Source: S.L. No. 2L-175-91 §3, 2/6/91; S.L. No. 5L-14-00 §3-8, 10/1/00

§6-104. Pre-apprenticeship program. — The Division of Personnel, Labor and Manpower Development shall establish a pre-apprenticeship program to identify and select those who have high potential for benefiting from the apprenticeship training. They must meet minimum standards of education and demonstrate a real interest in the trades and crafts. The pre-apprenticeship program shall include an orientation to the apprenticeship program.

Source: S.L. No. 2L-175-91 §4, 2/6/91

§6-105. Apprenticeship program. — The Division of Personnel, Labor and Manpower Development shall design and establish an apprenticeship program. It shall include a comprehensive training program to equip apprentices to perform all duties in a recognized skilled trade or craft at the journeyman level. This training shall consist of practical experience supplemented by related instruction in basic theories and their application to the particular trade. The basic concepts and theories must be broad enough to provide the apprentice with the knowledge required to grasp new technology. Job experience and demonstrated performance in all elements of the craft supplemented by related instruction must be satisfactorily completed before an individual may be considered a qualified skilled worker or journeyman. The apprenticeship program shall include trade training plans.

Source: S.L. No. 2L-175-91 §5, 2/6/91

§6-106. Government agencies, government projects, and private sector and other employers. —

(1) At such time and under such terms and conditions as determined by the Division of Personnel, Labor and Manpower Development, and subject to the availability of necessary funds:

- (a) Any or all government agencies shall participate in the Apprenticeship Program; and
- (b) Any or all government projects shall include provisions for apprenticeship training in accordance with the Apprenticeship Program.

(2) Private sector employers and agencies of governments other than Pohnpei may participate in the Apprenticeship Program by entering apprenticeship training agreements with the Division of Personnel, Labor and Manpower Development.

Source: S.L. No. 2L-175-91 §6, 2/6/91

§6-107. Skills register. — The Division of Personnel, Labor and Manpower Development shall create and maintain a skills register to identify the residents of Pohnpei who possess the necessary skills and experience in the trades and crafts. This register shall be used for the development of trade training plans, to assist with career planning, to locate employment for qualified residents, and to locate skilled tradesmen for employers in the private and public sectors.

Source: S.L. No. 2L-175-91 §7, 2/6/91

§6-108. Powers and duties; rules and regulations. —

(1) The Division of Personnel, Labor and Manpower Development shall have the responsibility of promoting and administering the apprenticeship program and this chapter.

(2) The Division of Personnel, Labor and Manpower Development may promulgate, amend, and enforce appropriate rules and regulations to carry out the duties and powers set out herein. These rules and regulations shall be adopted pursuant to the procedures set forth in the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded, and, when approved by the Governor, shall have the

force and effect of law. Subject to this chapter, such rules and regulations may include, but are not limited to, provisions establishing:

- (a) The standards and procedures for selecting candidates for apprenticeship training;
- (b) The time, terms, and conditions for the participation of government agencies and government projects in the Apprenticeship Program;
- (c) The minimum standard and amount of instruction, training, and job experience needed to qualify as a journeyman;
- (d) The minimum standard and amount of education, proficiency, and knowledge needed to be an instructor or trainer in the Apprenticeship Program;
- (e) The curriculum and minimum standards for the trade training programs for each trade or craft;
- (f) The terms and conditions of employing an apprentice under the apprenticeship program including, but not limited to, wages, benefits, and working conditions; PROVIDED that such terms may include wages below the minimum wage that may be established by Pohnpei law;
- (g) The terms and conditions of apprenticeship training agreements with private sector employers and with agencies of governments other than Pohnpei;
- (h) The terms and conditions of the pre-apprenticeship program;
- (i) Procedures to withhold or forfeit state financial assistance for failing to comply with or participate in the apprenticeship program, which applies to both the employer and the apprentice; and
- (j) Procedures for reporting, reviewing, filing complaints, and for conducting hearings and appeals.

(3) The Division of Personnel, Labor and Manpower Development shall establish procedures to ensure compliance with this chapter and the rules and regulations promulgated hereunder, and in connection therewith the Division of Personnel, Labor and Manpower Development shall have the power to subpoena witnesses, records, books, and documents.

Source: S.L. No. 2L-175-91 §8, 2/6/91

§6-109. Apprenticeship program administrator. — There is hereby established within the Division of Personnel, Labor and Manpower Development an apprenticeship program administrator (“APA”) who shall be responsible for administering the Pohnpei Apprenticeship Program. Without limiting the generality of the foregoing, the APA shall advise and assist the governmental agencies and private sector employers in the development, organization, and administration of the apprenticeship program, including trade training plans and apprenticeship agreements. The APA shall work closely with employers and educational institutions in preparing training materials, planning training schedules, ensuring that adequate instruction is available, and in coordinating the work experience and related training phases of the program. The APA shall participate in the supervision of classroom instruction and shall be responsible for the maintenance of apprentice training standards, the maintenance and review of apprentice records, the administration of apprentice advancements and graduation, the submission of reports, and the enforcement of this chapter and the rules and regulations.

Source: S.L. No. 2L-175-91 §9, 2/6/91

§6-110. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds of the Pohnpei Treasury into which Compact monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act, or so much thereof as may be necessary, for the uses and purposes described in this chapter. The sums authorized for appropriation shall be administered and expended by the Chief of the Division of Personnel, Labor and Manpower Development solely for the purposes stated in this chapter. The sums appropriated under the authorization of this chapter shall remain available until fully expended or until completion of the project, whichever shall occur first;

PROVIDED that the Governor submits a report on or no later than 30 days after the end of each quarter of each fiscal year on the status of this project.

(2) The Division of Personnel, Labor, and Manpower Development may apply for, receive, and expend such additional funds from other sources for purposes of this chapter, and such funds are hereby authorized for appropriation.

(3) The Governor shall report to the Pohnpei Legislature on or before October 15 of each year on all matters concerning the expenditure of the sum or sums herein authorized for appropriation.

Source: S.L. No. 2L-175-91 §10, 2/6/91; S.L. No. 5L-14-00 §3-8, 10/1/00

CHAPTERS 7 – 9
[RESERVED]

CHAPTER 10 LABOR FINANCES

Section

10-101 Micronesian Trades Apprenticeship Program: authorization for appropriation; administration

§10-101. Micronesian Trades Apprenticeship Program: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei or such fund of the Treasury into which Compact of Free Association capital account monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of defraying or supplementing the costs of Pohnpei's participation in the Micronesian Trades Apprenticeship Program.

(2) The sum herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sum authorized for appropriation by this section. Any balance of a sum appropriated under the authorization of this section for a fiscal year not expended or obligated for expenditure on September 30 each fiscal year shall revert to such fund in the Treasury from which it was appropriated.

Source: S.L. No. 1L-109-86 §§1 & 2, 10/1/86; S.L. No. 1L-142-87 §§1 & 2, 7/14/87

LABOR

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TITLE 20

PUBLIC BROADCASTING

TITLE 20 PUBLIC BROADCASTING

CHAPTER 1 PUBLIC BROADCASTING CORPORATION

CHAPTER 1 PUBLIC BROADCASTING CORPORATION

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§1-101. Corporation established. — There is hereby established in and for Pohnpei a public corporation to be known as the Pohnpei Public Broadcasting Corporation, hereinafter referred to as the “Corporation.”

Source: S.L. No. 3L-42-93 §1, 8/15/93

§1-102. Responsibilities and duties of the Corporation. — The Corporation is vested with the following duties and responsibilities:

(1) To provide audio and visual broadcasting services to the people of Pohnpei through the operation of a system of publicly owned broadcast stations and studios.

(2) To broadcast thereon public information, news, and programs of an educational, cultural, and entertaining nature.

(3) To develop audio and visual programs for use in Pohnpei and for sale or use abroad.

(4) To develop, in conjunction with the Pohnpei Department of Education, the College of Micronesia-FSM, and other educational agencies and institutions, instructional materials of an audio or visual format for use in the schools of Pohnpei.

(5) To develop, in conjunction with the Pohnpei Office of Economic Affairs and the Division of Personnel, Labor and Manpower Development, instructional materials of an audio or visual format to enhance the technical, business, and professional skills of the manpower of Pohnpei.

(6) To develop, in conjunction with the Department of Health Services, instructional materials of an audio or visual format for the improvement of Health Services personnel and promotion of public health and hygiene among the people of Pohnpei.

(7) To expand and improve upon broadcast services offered at the public broadcast stations and studios controlled by the Corporation, and, where practicable and necessary, construct and operate new broadcast facilities and repeater stations in densely populated or remote areas that are now beyond ready access to existing public broadcast services.

(8) To develop, where practical, the use of satellite technology in the receipt and transmission of information and programs.

(9) To attain financing for the Corporation from public sources and private donations and by the charging of reasonable fees for the use of its services; PROVIDED that emergency and public interest announcements, particularly funeral announcements, are exempted from such fees.

(10) To acquire and maintain from the revenues and grants received by the Corporation a program of liability insurance on all facilities and equipment controlled by the Corporation and workers' compensation insurance on all personnel under the management or supervision of the Corporation; PROVIDED that if such insurance is not available or is prohibitively expensive, as determined by the Board of Directors of the Corporation with concurrence of the Governor, then the Corporation shall establish and maintain a special fund to satisfy judgments or settlements on tort claims brought against the Corporation for its operations under this chapter.

(11) To invest all surplus revenues of the Corporation in the expansion and improvement of broadcasting services in Pohnpei.

Source: S.L. No. 3L-42-93 §2, 8/15/93; S.L. No. 5L-14-00 §3-5, 10/1/00; S.L. No. 7L-20-08 §12, 11/26/08

§1-103. Legal characteristics and capacity of the Corporation. — In performing the responsibilities and duties authorized by this chapter and other laws of Pohnpei, the Corporation shall have the characteristics of a public corporation and the capacity to exercise all powers normally exercised by a public corporation, including, but not limited to, the following:

(1) To adopt, alter, and use a corporate seal;

(2) To adopt and amend bylaws governing the conduct of its business and the exercise of its powers;

(3) To sue and be sued in its corporate name; PROVIDED that satisfaction of judgments or the settlement of claims on tort actions against the Corporation may only be paid out of insurance held by the Corporation or the special fund created by the Corporation pursuant to §1-102(10), and not out of the other assets or operating capital of the Corporation, and for these purposes the doctrine of sovereign immunity is maintained for this public corporation to the extent not expressly waived by Pohnpei public law; PROVIDED FURTHER that nothing in this subsection shall prevent the Pohnpei Legislature from making direct appropriations into the special fund for the purpose of assisting the Corporation in the satisfaction of judgments on such tort actions or settlement of tort claims brought against the Corporation;

(4) To acquire, in any lawful manner, real, personal or mixed property, either tangible or intangible; to develop and copyright its own materials; to hold, maintain, use, and operate such property; to sell, lease or otherwise dispose of such property; and to attain and hold all broadcast permits and licenses required by law;

(5) To acquire and take over, in any lawful manner, the business, property, assets, and liabilities of any public entity of Pohnpei to the extent of its provision of public broadcasting services;

(6) To borrow or raise any sum or sums of money and to issue corporate bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of public broadcasting services;

(7) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as the Corporation deems appropriate; and

(8) To do all such things as may be incidental to or conducive to the attainment of the responsibilities and duties of the Corporation.

Source: S.L. No. 3L-42-93 §3, 8/15/93

§1-104. Debts and obligations of the Corporation. — Unless otherwise expressly provided by law, the debts and obligations of the Corporation shall not be the debts or obligations of the Pohnpei Government, nor shall the Pohnpei Government be responsible for any such debts or obligations.

Source: S.L. No. 3L-42-93 §4, 8/15/93

§1-105. Tax liability. — The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations, or activities imposed by the Pohnpei Government or local governments and, to the extent allowable, the government of the Federated States of Micronesia. Nothing herein shall be deemed to exempt employees and independent contractors of the Corporation from tax liability for services rendered to the Corporation, and the Corporation shall be liable for employers' contributions to existing social security systems in the manner provided by law.

Source: S.L. No. 3L-42-93 §5, 8/15/93

§1-106. Composition of the Board; vacancies. — All powers vested in the Corporation shall be exercised by the Board, which shall consist of seven members, called directors, who shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. Persons so appointed shall hold membership on the Board for a period of two years, subject to reappointment, and until their successors have been appointed and qualified. All vacancies occurring on the Board shall be filled by the Governor, with the advice and consent of the Legislature, but only for the unexpired term of the director whose vacancy is being filled.

Source: S.L. No. 3L-42-93 §6, 8/15/93

§1-107. Meetings of the Board. — Within 15 days after the appointment and approval of the initial Board at the call of the Governor, and annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall meet once a month and shall hold at least one public meeting each calendar quarter and other public meetings as it may deem necessary for the transaction of its general business.

Source: S.L. No. 3L-42-93 §7, 8/15/93

§1-108. Organization of the Board; quorum; compensation and expenses. — The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board. Any four members of the Board shall constitute a quorum, and a concurrence of four members shall be necessary for any official action taken by the Board unless otherwise provided herein. No vacancy in membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board. The directors of the Corporation shall be entitled to reimbursement for actual expenses incurred in the performance of their official duties, upon approval of such expenses by the Board. In addition, directors shall be compensated at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually performing the functions of the Board, at the direction of the Chairman; PROVIDED that officers and employees of the Pohnpei Government and other cooperating entities shall instead receive their regular salaries in lieu of the compensation herein provided.

Source: S.L. No. 3L-42-93 §8, 8/15/93; S.L. No. 4L-25-96 §10, 7/1/97

§1-109. Appointment of a Commissioner of Public Broadcasting; duties. — The Board shall appoint a Commissioner of Public Broadcasting, hereinafter referred to as “Commissioner,” who shall be its chief executive officer and shall fix his compensation. The Commissioner shall have full charge and control of the operation and maintenance of all broadcasting facilities and other real and personal property controlled by the Corporation, of construction of any facilities, and of necessary work on vehicles and equipment controlled by or required to be rebuilt or repaired by the Corporation.

Source: S.L. No. 3L-42-93 §9, 8/15/93

§1-110. Powers of the Commissioner. — The Commissioner of the Corporation shall have the following powers:

(1) To ensure that all fees and royalties imposed by the Corporation are charged and collected and that the conditions of all required licenses and permits are maintained;

(2) To submit a general report to the Board on the affairs of the Corporation;

(3) To keep the Board advised on the needs of the Corporation;

(4) To approve demand for payment of obligations within the purposes and amounts authorized by the Board;

(5) To prepare or cause to be prepared all plans and specifications for the construction and repair of facilities, vehicles, and equipment operated by the Corporation;

(6) To devote his entire working time to the business of the Corporation; to select and appoint the employees of the Corporation except as otherwise provided in this chapter; to plan, organize, coordinate, and control the services of such employees in the exercise of the powers of the Corporation under the general direction of the Board; and, in lieu of hiring employees to perform any of the tasks, work or other services required by the Corporation, to contract, under the general direction and approval of the Board, with independent contractors, as persons, organizations or corporations, to provide such services;

(7) To cause to be published, within 60 days after the end of each fiscal year, a financial and operations statement showing the result of operations for the preceding fiscal year and the financial status of the Corporation on the last day thereof, which publication shall be made in the manner provided by the Board;

(8) To perform such other and additional duties as the Board may require; and

(9) To be an ex-officio, non-voting member of the Board.

Source: S.L. No. 3L-42-93 §10, 8/15/93

§1-111. Appointment of treasurer and general counsel; duties of each. — The Board shall also appoint a treasurer and a general counsel, both of whom shall serve at the pleasure of the Board and whose duties and compensation shall be fixed by the Board. Such officers may be full-time employees of the Corporation, shared with Pohnpei Government agencies, or be placed on retainer from the private sector. The Board may appoint one or more assistants to any such office.

(1) The treasurer shall have custody of all monies of the Corporation and shall pay out such money only in accordance with the direction of the Board and as provided in the annual budget of the Corporation. The Board shall appoint an agent as its trustee for payment of bonds issued by it and for such related purposes as the Board may provide.

(2) The general counsel shall advise the Board and the Commissioner in all legal matters to which the Corporation is a party or in which the Corporation is legally interested and may represent the Corporation before the Congress of the Federated States of Micronesia, the Pohnpei Legislature, boards and governmental agencies of Pohnpei, the Federated States of Micronesia, and other governments and international organizations.

(3) The Corporation may use the services of the attorneys for the Pohnpei Government to serve as attorneys for the Corporation, or it may appoint such attorney or attorneys as it may deem necessary,

and it shall provide payment of all legal services rendered other than those provided without cost by the Pohnpei Government. All official documents, contracts, bonds, and other instruments in writing shall be approved as to form and legality by the general counsel for the Corporation. Such approval may be conclusively evidenced by the signature of the general counsel thereon.

Source: S.L. No. 3L-42-93 §11, 8/15/93

§1-112. Contract-letting by the Board. — Unless the Corporation by its own procedures or as a requirement for receiving funds is held to more restrictive procurement requirements, the purchase of all supplies and materials and the construction of all works, when the expenditure exceeds \$2,500, shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least ten days before bids are received. The Board may reject any and all bids and readvertise at its discretion.

(1) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies may be purchased at a lower price in the open market, the Board may authorize such purchases without further observance of the provisions requiring contracts, bids or notices.

(2) In case of major public calamity, or whenever it is in the interest of public safety or necessary to keep public broadcasting services operational, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the public broadcasting services operational or in a safe condition, and thereupon authorize the expenditure of such sums as may be needed without the observation of the provisions requiring contracts, bids or notices.

(3) No director shall have any financial interest, direct or indirect, in any contract awarded by the Board. This provision shall not apply to contracts awarded to a corporation in which such director owns less than five percent (5%) of the entire capital stock or in which he does not hold any office or employment. The Board shall establish procedures for the timely verification of this restriction by its general counsel.

Source: S.L. No. 3L-42-93 §12, 8/15/93

§1-113. Accounting and reporting. — The Board shall adopt and maintain a system of accounting that is in accordance with generally accepted accounting principles applicable to public corporations. The system adopted shall require that:

(1) The Board employ a firm of independent certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Corporation, copies of any such reports to be furnished to the Governor and the Pohnpei Legislature; and

(2) The Board report to the Governor and the Pohnpei Legislature on the affairs of the Corporation. It shall present an annual report within 60 days after the end of each fiscal year and, if requested by the Governor or the Pohnpei Legislature, shall present special reports within 30 days after the end of each intervening quarter.

Source: S.L. No. 3L-42-93 §13, 8/15/93

§1-114. Budget preparation. — The Commissioner shall prepare, in advance of each fiscal year, under the supervision of the Board, an annual budget for the Corporation, taking into consideration anticipated capital and operational expenditures and anticipated revenues. The Corporation shall use the same fiscal calendar as that of the Pohnpei Government. The budget shall indicate the operational, capital, and maintenance requirements of the Corporation that will be met with the anticipated revenues of the Corporation, and such essential requirements as cannot be met without increase in the rate of revenues or outside financial assistance.

Source: S.L. No. 3L-42-93 §14, 8/15/93

§1-115. Supplemental budget requests. — To the extent that the Corporation deems it necessary and advisable, the Corporation is authorized to seek appropriations from the Pohnpei Legislature and, to the extent approved by the Governor, grants from sources outside of Pohnpei, of such funds as are necessary to supplement revenues to provide for the operations, maintenance, and expansion of the public broadcasting services in Pohnpei.

Source: S.L. No. 3L-42-93 §15, 8/15/93

§1-116. Corporation finances; fund established; authorization for appropriation.

(1) There is hereby established in the Pohnpei Treasury, a fund that shall be known as the “Pohnpei Public Broadcasting Corporation Fund,” which shall be maintained separate and apart from other funds of the state, and independent records and accounts shall be maintained in connection therewith. A full accounting of all uses of this fund shall be included in the annual report of the Corporation as required by §1-113.

(2) All monies received by the Corporation from whatever sources derived shall be deposited in said fund.

(3) All expenditures, except as otherwise provided by law, shall be made from the fund herein established pursuant to appropriation by the Legislature.

(4) There is hereby authorized from the general fund of Pohnpei or such other fund as may be identified in the Comprehensive Budget Act a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of supplementing the assets of the Corporation’s fund established by this section.

Source: S.L. No. 3L-42-93 §16, 8/15/93; S.L. No. 7L-69-10 §1, 6/18/10

§1-117. Employee rights and responsibilities. — The Board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Corporation. Employees of the Corporation shall be eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workers’ compensation insurance available to Pohnpei Government employees. The Corporation shall contribute to such programs on the basis of periodic billings as determined by the governing authorities thereof.

Source: S.L. No. 3L-42-93 §17, 8/15/93

§1-118. Employment preference. — The Board shall attempt to employ qualified legal residents of this jurisdiction if at all possible. However, the Board shall have as its primary concern in employing or contracting for services, the maintenance of safe, self-sufficient, modern, and convenient services and facilities for the improvement of public broadcasting services within Pohnpei.

Source: S.L. No. 3L-42-93 §18, 8/15/93

§1-119. Government assistance to the Corporation in carrying out its functions. — For the purpose of aiding in the planning, undertaking or carrying out of this chapter and of the projects contemplated herein, and the subsequent operation and maintenance of the public broadcasting services system, the Federated States of Micronesia, Pohnpei State or any agency or political subdivision of such, may, if the chief executive of each respective government or political subdivision determines that such project will benefit and further the public purposes of the respective government and be of advantage to them, and if the intended action is consistent with the laws of the respective government:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Corporation;

(2) Incur expenses on behalf of the Corporation subject to reimbursement under such terms and conditions as may be agreed upon with the Corporation;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out of the duties, powers, and obligations of the Corporation;

(4) Lend or advance, grant or contribute funds to the Corporation, and provide for or waive the repayment of any such funds loaned or advanced; and

(5) Contract with or furnish services to the Corporation upon such terms and conditions as may be agreed upon.

Source: S.L. No. 3L-42-93 §19, 8/15/93

§1-120. Role of the Public Affairs Officer. — The Public Affairs Officer within the Office of the Governor shall constantly and continuously monitor all activities of the Corporation and promptly take action or report to appropriate agencies any infraction of the Corporation in the conduct of its operations under this chapter, or of any deviation from the standards of broadcasting ethics commonly held in the professional and technical fields of the broadcasting service.

Source: S.L. No. 3L-42-93 §20, 8/15/93; S.L. No. 5L-14-00 §3-5, 10/1/00

§1-121. Annual performance surveys and reports. — The Corporation shall cause to be conducted, not less than once each year, a comprehensive survey of its services to the general public with respect to its general programs and of its services to directed audiences with respect to targeted programming, to determine audience reception of the Corporation's broadcasts and taped programs. In conducting the surveys, the Corporation shall use such questionnaires, interviews, and other techniques for gauging the effectiveness of its services as are utilized generally by public broadcasting entities. Following the annual survey, the Corporation shall prepare a draft report through which it shall measure the results of the survey to determine the effectiveness of its services and to determine areas which need modification or improvement. On or before April 15 each year, the Corporation shall submit copies of the draft report to the Public Affairs Officer and to such other concerned persons and entities as the Corporation deems appropriate. The Public Affairs Officer shall review the report as to its sufficiency, findings, and recommendations and shall prepare written comments with respect thereto. The Public Affairs Officer shall return the draft report with his written comments attached thereto to the Corporation not later than fifteen days following his receipt thereof from the Corporation. The Corporation shall review the comments of the Public Affairs Officer and such other persons and entities to which the draft report was submitted and shall prepare a final report which shall be filed with the Governor and the Legislature not later than June 15 of the same year.

Source: S.L. No. 3L-42-93 §21, 8/15/93; S.L. No. 5L-14-00 §3-5, 10/1/00

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TITLE 21

SPORTS AND RECREATION

TITLE 21 SPORTS AND RECREATION

CHAPTER 1 SPORTS COMMISSION

CHAPTER 1 SPORTS COMMISSION

Section

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§1-101. Purpose. — The Legislature finds that participation in competitive sports events is fundamental to sports and youth development and is an important component of community affairs within the state. However, since the repeal of S.L. No. 2L-215-83, which established a sports council to promote and coordinate sports and related activities, there has been a significant decline in the government’s abilities to obtain and coordinate community support for the planning, organization and conduct of athletic programs within the state. The purpose of this chapter is to revitalize the government’s efforts to promote and enhance the development of sports and the conduct of sporting events for the people of Pohnpei through the establishment of a statewide entity which will draw upon the enthusiasm and expertise of the many individuals and communities within the state who are committed to attaining the best levels of athletic prowess and sportsmanship among the youth and adults of this state.

Source: S.L. No. 4L-86-98 §1, 11/18/98

§1-102. Commission created. — There is hereby established in and for the state of Pohnpei an entity to be known as the Pohnpei State Sports Commission (hereinafter referred to as Commission) which Commission shall exist and operate with the vision and solely for the purpose specified in §1-101. The Commission shall be attached to the Office of Social Affairs for administrative and support services, which Office shall provide office and meeting space for the Commission and shall accord the Commission reasonable use of its administrative, technical, and clerical personnel.

Source: S.L. No. 4L-86-98 §2, 11/18/98; S.L. No. 5L-14-00 §3-43, 10/1/00

§1-103. Composition of Commission; qualifications; terms; removal. —

(1) The Pohnpei State Sports Commission shall be composed of eleven individuals appointed by the Governor with the advice and consent of the Legislature. In making the appointments, the Governor shall consult the Chief Executive Officers of each local government to obtain their preferred candidate. Initially, the Governor shall appoint six members of the Commission to four-year terms

and five to two-year terms. Thereafter, persons appointed shall hold membership on the Commission for four-year terms, subject to reappointment, and until their successors have been appointed and qualified; PROVIDED that there shall be one appointed member from each of the eleven local jurisdictions of Pohnpei. The Administrator of the Office of Social Affairs shall be an ex-officio member of the Commission.

(2) Individuals nominated by the Governor to serve on the Commission shall be drawn from among those citizens of the local jurisdictions who, through past actions, have demonstrated a strong commitment to sporting activities, have proven themselves to be fair and impartial in the conduct and judging of competitive events, and who exhibit a strong desire to help others develop their knowledge of competitive games, their prowess in athletic skills, and their inner sense of sportsman-like conduct when participating in sporting events.

(3) Any member of the Commission may be removed for cause by the Governor.

Source: S.L. No. 4L-86-98 §3, 11/18/98; S.L. No. 5L-14-00 §3-43, 10/1/00; S.L. No. 7L-54-09 §2, 12/23/09

§1-104. Commission organization. —

(1) The Commission shall first organize at the call of the Governor within 30 days following the appointment of its eleventh member, at which meeting the Commission shall elect a president, a vice-president, and a secretary-treasurer. Thereafter, the Commission shall reorganize annually at the first regular meeting of the Commission convened each year. The Commission may select such other officers and appoint such committees and other working groups as it shall determine from time to time in accordance with its rules of procedure established pursuant to this chapter.

(2) The Commission shall hold not less than four regular meetings each year and shall convene in special meetings at such other times as the rules of procedure shall provide. Said rules shall provide for the procedures for the designation of the time and place of regular and special meetings and the notice to the members and the general public of such meetings. All meetings of the Commission shall be open for interested members of the public to attend.

(3) The Commission shall establish its own rules of procedure; PROVIDED that not less than six members of the Commission shall constitute a quorum, and not less than a majority of those present shall be required for any official action taken by the Commission.

Source: S.L. No. 4L-86-98 §4, 11/18/98; S.L. No. 7L-54-09 §3, 12/23/09

§1-105. Duties and responsibilities of the Commission. — The Commission's primary responsibility is to formulate rules, regulations, and policies relative to sports. The Commission shall formulate policy and organize in activities dedicated to the development, promotion and coordination of sports activities and competitive events for all of the people of Pohnpei, both young and old alike. To this end, it shall be the responsibility and duty of the Commission:

(1) To identify sporting activities and plan for competitive events that are suitable for the development of sports within the state of Pohnpei and that will support the participation and representation of Pohnpei sportsmen and women in competitive events abroad;

(2) To seek out and introduce new sports to the people of Pohnpei and to develop and expand their athletic prowess in new and existing sporting activities;

(3) To actively encourage and assist in the formation of teams, athletic groups, clubs and all other forms of sporting associations, in all forms of sports and related activities, and to act as a liaison and coordinating body between these various associations;

(4) To secure, whenever possible, the services of qualified, capable coaches, instructors, officials, and other interested persons whose experience, enthusiasm or expert services may be used for the establishment, improvement, and development of sports and related activities;

(5) To develop, construct, maintain, and manage sporting venues and infrastructure, and to encourage the development, construction, maintenance, and management by others of sporting venues and infrastructure;

(6) To develop, sponsor, and provide training in sports and related activities for athletes, officials, and administrators;

(7) To serve as the official state coordinating center for all officially sanctioned sporting events and celebrations, unless otherwise provided by law, and to plan for and organize, from time to time, both at the statewide and local levels, sporting games and exhibitions, competitive events and series, league meetings, and other related activities;

(8) To join and to encourage sporting groups to join sporting associations both within the state and in the international community;

(9) To host and participate in regional and international sporting games and competitive events which are designed to encourage the development of that sport within this state or which will exhibit the potential of this state to serve as an appropriate venue for high-profile sports that will attract media attention and international visitors to the state;

(10) To prepare and submit to the Legislature and the Governor an annual program and status report, describing the activities of the Commission for the previous year and setting forth its goals and strategies for the future; and

(11) To work closely with the National Olympic Committee (NOC) and sports association in carrying out sporting events.

Source: S.L. No. 4L-86-98 §5, 11/18/98; S.L. No. 7L-54-09 §4, 12/23/09

§1-105A. Coordinator of Sports Programs; powers and duties. —

(1) The Commission shall appoint a Coordinator of Sports Programs, hereinafter referred to as the “Coordinator”. The Coordinator shall be recruited, employed and compensated in the manner prescribed by the Public Service System Act as a contract employee, which employment contract shall not exceed three years, but may be renewed. The Coordinator shall be responsible for carrying out the sports programs initiated or approved by the Commission in coordination with other sports entities. Pursuant to the directions of the Commission, the Coordinator shall exercise administrative control over the operation and maintenance of all sport facilities and other real and personal property controlled by the Commission, of construction of any facilities, and of necessary work on vehicles and equipment controlled by or required to be rebuilt or repaired by the Commission.

(2) The Coordinator of Sports Programs shall have the following powers and duties:

(a) To ensure that the sports programs initiated or approved by the Commission are carried out in a fair, efficient and sportsman-like manner;

(b) To ensure that all fees and charges imposed by the Commission are charged and collected;

(c) To submit a general report to the Commission on the affairs of the Commission;

(d) To keep the Commission advised on the needs of the Commission;

(e) To approve demand for payment of obligations within the purposes and amounts authorized by the Commission;

(f) To prepare or cause to be prepared all plans and specifications for the construction and repair of facilities, vehicles, and equipment operated by the Commission;

(g) To establish and maintain a system of recording the participation of athletes and organizations in sports activities and of documenting sports statistics, inclusive of championships, awards and other notable sports records;

(h) To devote his entire working time to the business of the Commission, to plan, organize, coordinate, and control the services of Commission employees in the exercise of the powers of the Commission under the general direction of the Commission, and to contract, under the general direction and approval of the Commission, with independent contractors, as persons, organizations or Commissions, to provide services;

(i) To cause to be published, within 30 days after the end of each fiscal year, a financial and operations statement showing the result of operations for the preceding fiscal year and the

financial status of the Commission on the last day thereof, which publication shall be made in the manner provided by the Commission;

(j) To perform such other and additional duties as the Commission may require; and

(k) To be an ex-officio, non-voting member of the Commission.

Source: P.L. No. 6L-117-08 §1, 1/27/08

§1-106. Commission finances. — Commissioners shall be compensated for meetings at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, when actually attending meetings of the Commission, except that those members who are government employees shall receive, instead, their regular salaries while performing functions of the Commission. Commissioners shall also receive travel expenses and per diem at Pohnpei Government rates when these amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 4L-86-98 §6, 11/18/98

§1-107. Pohnpei Sports Development Fund. —

(1) There is hereby established within the Pohnpei Treasury a special expenditure fund to be known as the Pohnpei Sports Development Fund, the assets of which shall be accounted for separately and apart from all other funds.

(2) Unless otherwise provided by law, all monies appropriated under the authorization of this chapter, and all other revenues earned by the Commission or received through grants, donations, and fund-raising activities shall be deposited in the Pohnpei Sports Development Fund.

(3) The Pohnpei Sports Development Fund shall be administered by the Coordinator of Sports Programs in accordance with an annual budget adopted by the Commission and approved by the Governor, and monies may be withdrawn therefrom solely for purposes consistent with the provisions of this chapter. The Coordinator shall submit an annual financial report as to all transactions and obligations made with respect to the fund in the previous fiscal year within 30 days following the close of that fiscal year.

Source: S.L. No. 4L-86-98 §7, 11/18/98; S.L. No. 5L-14-00 §3-43, 10/1/00; P.L. No. 6L-117-08 §2, 1/27/08

§1-108. Authorization for appropriation. —

(1) There is hereby authorized for appropriation from such funds of the Pohnpei Treasury as may be identified in the annual Comprehensive Budget Act such sum or sums as are indicated and as may be allocated in said act to provide for the financing of the operations of the Commission and to provide a subsidy for the Pohnpei Sports Development Fund established by §1-107.

(2) Monies appropriated to the operations of the Commission not expended or obligated for expenditure at the close of the fiscal year of appropriation shall revert to the Treasury fund from which appropriated.

(3) Monies appropriated to the Pohnpei Sports Development Fund shall remain available within said fund until fully expended.

(4) In the event that monies appropriated under the authorization of this section are allocated to specific projects or programs in the annual Comprehensive Budget Act, such specific uses shall be reflected in the annual budget adopted by the Commission pursuant to the provisions of §1-107.

Source: S.L. No. 4L-86-98 §8, 11/18/98; P.L. No. 6L-117-08 §3, 1/27/08

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TITLE 22

**CUSTOMS, TRADITIONS,
AND HISTORIC
PRESERVATION**

TITLE 22

CUSTOMS, TRADITIONS, AND HISTORIC PRESERVATION

CHAPTER

- 1 HISTORICAL AND CULTURAL PRESERVATION
- 2 [RESERVED]
- 3 HISTORICAL MONUMENTS
- 4 POHNPEI LANGUAGE COMMISSION
- 5 – 9 [RESERVED]
- 10 TRADITIONAL AFFAIRS FINANCES

CHAPTER 1

HISTORICAL AND CULTURAL PRESERVATION

Section

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1-102 Purpose	1-111 Investigation and decision by Review Board
1-103 Declaration of policy	1-112 Work in progress
1-104 Definitions	1-113 Judicial review
1-105 Historic and Cultural Preservation Review Board	1-114 State Registry of Historical Properties
1-106 Board organization	1-115 Conflict of interest
1-107 Duties and powers of the Board	1-116 Prohibited acts
1-108 Division of Historic Preservation	1-117 Enforcement
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§1-101. Short title. — This chapter is known and referred to as the “Historic and Cultural Preservation Act of 2002.”

Source: S.L. No. 5L-88-02 §1, 1/11/03

§1-102. Purpose. — The Legislature finds and declares that:

(1) The state of Pohnpei contains a wealth of historic, archaeological, and cultural properties that represent the foundations of the culture and traditions of the people of Pohnpei, and which are important to the maintenance and development of the identity, pride, and integrity of the people of Pohnpei, and to the world’s understanding of Micronesian history and culture.

(2) Preservation and protection of historic, archaeological, and cultural properties presents a unique challenge because of the nature of these resources, which form a fragile, finite, non-renewable, and irreplaceable resource subject to damage, loss, and destruction by neglect, oversight, uncontrolled development and land use, foreign impact, and patterns of modern land use.

(3) Increased knowledge of the historic, archaeological, and cultural resources that form the legacy of the people of Pohnpei, establishment of a better means of identifying and administering these resources, and encouragement for their preservation, study, and interpretation will improve the

planning and execution of state, local, and private undertakings and will assist economic growth and development.

(4) With thoughtful planning and consideration these historic, archaeological, and cultural resources can be preserved and co-exist with modern economic, social, and political developments of the state. The guiding principle to be used in the implementation of this chapter shall be to foster conditions under which modern society and historic, archaeological, and cultural resources in the state can exist in harmony and fulfill the social, economic, and other requirements of present and future generations.

Source: S.L. No. 5L-88-02 §2, 1/11/03

§1-103. Declaration of policy. — It is the policy of the state of Pohnpei, as stated in Article 7, §5 of the Pohnpei Constitution, to identify, preserve, and administer places, artifacts, and information of historical and cultural importance for the benefit of the public.

Source: S.L. No. 5L-88-02 §3, 1/11/03

§1-104. Definitions. — Unless the context clearly indicates otherwise, the following meanings shall apply in this chapter:

(1) “Board” or “Review Board” means the Pohnpei Historic and Cultural Preservation Review Board established under §1-105.

(2) “Government funds” means any appropriation, grant assistance, aid or donation of any governmental entity or public corporation of the FSM national government, the government of the state of Pohnpei, and its political subdivisions, any foreign government or any international institution or organization whose financing principally comes from government sources.

(3) “Historic property” or “historic resource” means any site, structure, object, building or area of significance in the history, archaeology or culture of Pohnpei State as selected or designated by the Board, or eligible for selection and designation by the Board, for inclusion in the State Registry of Historical Properties as established under §1-114, including artifacts, records, and material remains related to such property or resource.

(4) “Legislature” means the Pohnpei Legislature.

(5) “Person” shall mean an individual, partnership, corporation, association, trust, institution or any other entity or group, or any officer, employee, agent, department or instrumentality of the state or political subdivision thereof.

(6) “Preservation” or “historic preservation” includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, education, and training, regarding historic, archaeological, and cultural properties and resources.

(7) “Real property” means any land, whether surface or submerged, and all permanent attachments thereto and fixtures thereon, whether ancient or modern.

(8) “Registered historic property” means an historic property listed in the State Registry of Historical Properties.

(9) “Registry” means the State Registry of Historical Properties established under §1-114.

(10) “Undertaking” means a project, activity or program involving construction, alteration, disposition or improvement of real property which:

(a) Affects a registered historic property;

(b) Is financed in whole or in part with government funds as defined by Subsection (2) of this section; or

(c) Requires an earth moving permit or a building permit issued by the Pohnpei Government, or any instrumentality thereof; PROVIDED, HOWEVER, that “undertaking” shall not include routine maintenance and upkeep that does not involve a change in design, material or outer

appearance or a change in those characteristics which qualified the site or property for entry into the Registry.

Source: S.L. No. 5L-88-02 §4, 1/11/03

§1-105. Historic and Cultural Preservation Review Board. — There is hereby established a board to be known as the Pohnpei Historic and Cultural Preservation Review Board.

Source: S.L. No. 5L-88-02 §5, 1/11/03

§1-106. Board organization. —

(1) *Members.* The Board shall be composed of eleven voting members and the Chief of the Division of Historic Preservation, who shall serve in an ex-officio capacity without the right to vote. The eleven voting members shall be appointed by the Governor with the advice and consent of the Legislature.

(a) There shall be one appointed member from each of the six local jurisdictions on the island of Pohnpei, one member from each of the islands of Sapwuahfik, Nukuoro, and Kapingamarangi, and one member from each of the islands of Mwoakilloa and Pingelap. Each such member shall be a registered voter in the local jurisdiction represented by the member.

(b) Initially, four members shall be appointed to serve for three years, four shall be appointed to serve for two years, and three shall be appointed to serve for one year. Thereafter, appointments shall be for three-year terms. Any member may be appointed to successive or subsequent terms. Members shall hold office until a successor has been appointed and qualified. A vacancy shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

(c) A member may be removed for cause, after notice and opportunity to be heard, by the Governor or by three-fourths majority of the remaining members, without regard to vacancies.

(2) *Officers and technical assistance.* The Board shall elect from among its members a Chairman, Vice-chairman, Secretary, and such other officers as the Board may desire.

(a) The term of office, duties, and powers of each office shall be defined by the Board and adopted as part of its rules and regulations.

(b) Clerical and administrative support shall be provided by the Division of Historic Preservation.

(c) Experts, consultants, and professionals may be employed or contracted as the Board deems appropriate and as the budget and annual appropriations may allow.

(3) *Meetings.* Six members shall constitute a quorum to conduct the business of the Board. When a quorum is present at the outset of a meeting, a majority vote of those present during that meeting shall prevail on any question.

(a) The Board shall hold regular meetings every three months. Special meetings may be called by the Governor, Chairman, or by any three members of the Board. The time and place of each meeting shall be established by the Board.

(4) *Compensation and expenses.* Members of the Board shall be compensated at rates established for policy board members by the State Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by state law. When required to travel, members shall be entitled to travel expenses and per diem in accordance with the rates and requirements of state law.

Source: S.L. No. 5L-88-02 §6, 1/11/03

§1-107. Duties and powers of the Board. — The Historic and Cultural Preservation Review Board shall:

(1) Advise the Governor and the Legislature on matters relating to historic preservation, recommend measures to coordinate activities of national, state, and local governments and private

institutions and individuals relating to historic preservation, and advise on the dissemination of information pertaining to such activities.

(2) Establish policies and approve properties for inclusion on the State Registry of Historical Properties, as established by §1-114.

(a) Establish policies and criteria to be used in recommending registration of historic properties as set forth in §1-114.

(b) Solicit nominations from any person or official of the national, state, or local governments for registration of historic properties as set forth in §1-114.

(c) By majority vote, approve nominations solicited under §1-114 and report its decisions to the Governor.

(d) Solicit the acquisition and lease of and officially accept and hold in trust for Pohnpeian society, any property, real or personal, for the purposes of this chapter.

(e) Review at least once every four years significant threats to historic properties included in or eligible for the Registry, as set forth in §1-114.

(f) Advise the Governor and the Chief of the Division of Historic Preservation in matters relating to the management, maintenance, and preservation of historic properties.

(g) Advise and review projects for the restoration, reconstruction, rehabilitation, protection, preservation, maintenance, and management of registered historic properties or properties eligible for registration.

(3) Review and comment upon projects and undertakings that affect historic properties listed in or eligible for the Registry.

(a) Review and comment upon the programs and policies of the Division of Historic Preservation.

(b) Review the policies and programs of government agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this chapter.

(c) Through discussions and a program of reviewing and commenting upon proposed government policies and procedures, ensure that government offices and agencies contribute to the preservation and enhancement of historic properties.

(d) Recommend the conduct of studies in such areas as the adequacy of legislation and administrative statutes and regulations pertaining to historic preservation activities of state and local governments.

(e) Advise as to guidelines for the assistance of state and local governments in drafting legislation relating to historic preservation.

(4) Advise, review and comment upon educational programs that inform the public on the value and significance of historic properties and the importance of preserving the historical and cultural attributes of Pohnpei, including the use of historical materials for educational and scientific purposes.

(a) Encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation.

(b) Advise and review proposed and planned publication of books, pamphlets, periodicals, and other publications on the history, archaeology, and culture of the state of Pohnpei.

(c) Inform and educate national, state, and local governments, other nations and international organizations, and private groups and individuals as to the Board's authorized activities.

(5) Advise, review, and promulgate such rules and regulations as may be necessary and proper to carry out the purposes and provisions of this chapter in accordance with all applicable laws, which rules and regulations shall have the force and effect of law; PROVIDED that in issuing such rules and regulations, the Board shall place no restriction on any property that may result in inverse condemnation thereof.

(6) Engage in other activities that are not inconsistent with the purposes of this chapter.

Source: S.L. No. 5L-88-02 §7, 1/11/03

§1-108. Division of Historic Preservation. — Within the Department of Land and Natural Resources, there shall be a Division of Historic Preservation, which shall be responsible for the comprehensive historic preservation program.

Source: S.L. No. 5L-88-02 §8, 1/11/03

§1-109. Duties and responsibilities of the Division of Historic Preservation. — The Division of Historic Preservation shall:

(1) Establish and maintain programs and facilities to preserve the anthropological heritage of Pohnpei.

(a) Establish a comprehensive historic preservation program which shall include, but not be limited to, the development of an ongoing program of historical, architectural, archaeological, anthropological, and cultural research and development, including surveys, excavations, scientific recording, interpretation, and publications of the historic resources within the state and its political subdivisions.

(b) Develop a statewide survey to identify documents and gather information on actual, registered, or potentially eligible historic properties, and furnish to the Review Board any such information, together with recommendations as to whether such properties should be included in the Registry of Historical Properties, and develop a program for recording and archiving the body of oral traditions of the people of the state and its political subdivisions.

(c) Compile, maintain, and administer the State Registry of Historical Properties, as established under §1-114, and in accordance with regulations established by the Review Board.

(d) Conduct a comprehensive inventory of cultural and historic properties within the state and its political subdivisions, and maintain a database for these properties.

(e) Conduct surveys for the identification of historic properties in advance of development projects and undertakings.

(f) Issue historic preservation clearances and issue or deny permits, pursuant to §§1-110 through 1-112, for use, access, and development of land containing registered historic properties or properties eligible for registration.

(g) Prepare, review, and revise a state historic preservation plan, and periodically review and update the historic preservation plan.

(h) Apply for and receive gifts, grants, technical assistance, and other funding from public and private sources in accordance with state law and policy.

(i) Provide technical assistance to state and local government agencies, and public and private agencies involved in historic preservation activities.

(j) Provide advisory and technical assistance to the government for the identification, preservation, restoration, management, and maintenance of registered historic properties.

(k) Coordinate activities of the state and local governments in accordance with the state historic preservation plan.

(l) Develop a written history of Pohnpei, compiling and indexing information on the traditional laws of the state and their underlying principles.

(m) Employ professional and technical staff necessary to carry out the provisions of this chapter through the state public service system and within the limits of appropriations therefor.

(n) Enter into such contracts with public or private persons, entities or agencies as may be necessary to carry out the provisions of this chapter and within the limits of appropriations therefor.

- (o) Serve as, or determine the depository for, all field notes, photographs, negatives, maps, artifacts or other materials generated or recovered through historic and cultural preservation projects supported in whole or in part by the state or taking place on lands within the state.
- (2) Establish and implement programs and projects to encourage the continuation of Pohnpeian customs and traditions.
 - (a) Stimulate public interest in historical and cultural preservation, including the development and implementation of interpretative programs for historic properties listed in the Registry and the exhibition of historic properties.
 - (b) Develop an educational program and service for the purpose of making available to the public facts and information on historic properties within the state, including oral traditions significant to the cultural heritage of the state and its political subdivisions.
 - (c) Assist government agencies and private businesses, including hotels that serve foreign visitors, investors, and tourists, in educating foreign visitors about Pohnpei's cultural heritage.
- (3) Establish and maintain a state museum.
 - (a) Develop a statement of purpose for a state museum, and conduct or have conducted studies on museum models to determine the most appropriate model on which to pattern a state museum.
 - (b) Establish a state museum that shall be a separate and discrete entity within the Division of Historic Preservation.
 - (c) Be responsible for review and oversight of the policies, programs, and management of the state museum, and appoint a professional director who shall be responsible for the daily administration of the museum.
- (4) Engage in activities that are not inconsistent with the purposes of this chapter.
Source: S.L. No. 5L-88-02 §9, 1/11/03

§1-110. Preliminary project review and process for agency clearance or referral. —

(1) Before any undertaking, as defined by §1-104(10), is commenced, the chief administrative person in charge of the undertaking shall apply to the Chief of the Division of Historic Preservation, on a form provided by the Division of Historic Preservation, for a historic preservation clearance or permit relative to the undertaking and its effects on the property. The Chief of the Division of Historic Preservation shall forthwith deliver a copy of the application to the Historic Preservation Review Board following his receipt thereof.

(2) Within fifteen working days following the receipt of the application, the Chief of the Division of Historic Preservation shall conduct a preliminary examination of the undertaking, and if he is satisfied that the undertaking will not result in any substantive alteration in the historic properties of the state, he shall so notify the Board of his determination. If within five working days of the delivery of the notification, no board member shall order the matter referred to the Board pursuant to Subsection (5) of this section, the Chief of the Division of Historic Preservation shall issue a written historic preservation clearance to the applicant to proceed.

(3) If within the fifteen working days of preliminary review, the Chief of the Division of Historic Preservation determines, in his discretion, that the undertaking has the potential to result in a significant effect on the historic properties of the state, he shall refer the application to the Review Board for action pursuant to §1-111.

(4) At any time that an application is before the Chief of the Division of Historic Preservation and for a period of five working days following delivery to the Board of notice of the Chief's determination for clearance as prescribed in Subsection (2) of this section, any member of the Review Board may order the application to be referred to the Board for its investigation and decision pursuant to §1-111.

(5) If after twenty working days following receipt of the application, the Chief of the Division of Historic Preservation shall have not made a decision to grant a clearance under Subsection (2) of this

section, or to refer the application to the Review Board under Subsection (3) of this section, and if none of the members of the Review Board ordered the referral of the application under Subsection (4) of this section, the applicant shall be entitled to a clearance in like manner as if it had been granted by the Chief of the Division of Historic Preservation.

(6) If the referral pursuant to this section concerns historic properties that are not registered pursuant to the provisions of this chapter, the Chief of the Division of Historic Preservation shall so notify the landowner thereof, along with information on the processes and advantages of registering said historic property.

Source: S.L. No. 5L-88-02 §10, 1/11/03

Note: In Subsection (1) of this section, Subsection (10) of Section 4 was incorrectly referenced as Subsection (11) of Section 4 in the original law.

§1-111. Investigation and decision by Review Board. —

(1) Within 60 calendar days following receipt of a referral or removal from the Chief of the Division of Historic Preservation pursuant to §1-110, the Review Board shall conduct a study of the undertaking and its potential effect on the historic properties of the state.

(2) If the Board shall find that the proposed undertaking may have a significant effect on historic properties, the Review Board shall immediately initiate consultations with the project administrator, the landowner, and any local authorities having concerns or interests in the proposed undertaking, and shall take into account local customs, interests, and desires with respect to the proposed undertaking. The goal of the consultations shall be to maximize the beneficial effects or to eliminate or mitigate any harmful effects to the historic property. The economic, social and other benefits to be gained from the activity shall be balanced and weighed equally against this goal.

(3) At the conclusion of its investigations and consultations, but not later than 60 calendar days following the referral or removal of the matter from the Chief of the Division of Historic Preservation, the Review Board shall issue its decision to approve or deny the application and shall notify the applicant in writing of its decision. Upon the issuance of an affirmative decision of the Review Board, the Chief of the Division of Historic Preservation shall issue a historic preservation permit to the applicant to proceed; PROVIDED that such permit shall include such conditions as the Review Board deems necessary to protect or to minimize the adverse effects on the historic properties of the state while allowing the undertaking to proceed.

(4) If no Board decision has been rendered within 60 calendar days following the referral or removal of an application pursuant to §1-110, the applicant shall be entitled to the issuance of a permit in like manner as if the Review Board had rendered a decision in the applicant's favor; PROVIDED, HOWEVER, that for good cause, and upon majority vote of the full membership of the Review Board, without regard to vacancies, the Review Board may extend its period of review for an additional period, not to exceed 60 additional calendar days.

Source: S.L. No. 5L-88-02 §11, 1/11/03

§1-112. Work in progress. — Notwithstanding the issuance of a clearance under §1-110 or the granting of a permit under §1-111, in the event that it is determined that a registered historic property or any other property which by its nature is clearly recognized as historic property is likely to be affected by the continuation of any undertaking specified in said sections, the project administrator shall immediately notify the Chief of the Division of Historic Preservation thereof. Work on the undertaking affecting that property shall immediately cease and shall not be commenced again until a clearance is issued or a permit granted therefor pursuant to the procedures specified in §§1-110 and 1-111.

Source: S.L. No. 5L-88-02 §12, 1/11/03

§1-113. Judicial review. — All actions and decisions of the Chief of the Division of Historic Preservation and the Review Board pursuant to this chapter shall be subject to judicial review in the manner prescribed by 8 PC 3-101 through 3-104, as amended or superseded by state law.

Source: S.L. No. 5L-88-02 §13, 1/11/03

§1-114. State Registry of Historical Properties. — There is hereby established a State Registry of Historical Properties for the purposes of preserving, protecting, and educating present and future generations about culturally important and significant historic and cultural resources that are important and meaningful in the continuation and maintenance of the traditions and heritage of the people of Pohnpei. The Registry is to be compiled, maintained, and administered by the Chief of the Division of Historic Preservation. The Chairman of the Board, in consultation with members of the Board, shall seek to ensure that historic properties preserved under this chapter fully reflect the historical experience of the state.

(1) Any person, member of the Board or official of the national, state or local governments may nominate any property in the state for entry into the Registry. Upon receipt of a nomination, the Board shall recommend the conduct of such investigations, studies, and hearings as it deems necessary to make a determination of eligibility.

(2) A majority vote of the Board shall be required to approve the inclusion of an eligible and proposed property in the Registry.

(3) Any historical property may be placed in the Registry if:

(a) In the case of private property, the landowner or property owner agrees in writing to the designation; or

(b) The designation is made during and as part of the review and permit procedure as set out in §1-110; or

(c) The historic property is owned by the government; or

(d) In the case of property owned by any governing bodies or persons other than the state of Pohnpei, the property owner agrees in writing to the designation.

(4) The designation of a property under the Registry shall not be affected by the transfer of title or interests in the property to any other person or entity, unless the transferee, where applicable, shall indicate in writing a decision to remove the property from the Registry pursuant to Subsection (5) of this section.

(5) A property may be removed from the Registry upon a majority vote of full membership of the Review Board without regard to vacancies following notice and opportunity of the property owner and community to be heard, or upon written request of the property owner having authority to agree to include such property in the Registry under Subsection (3)(a) and (3)(d) of this section.

(6) The Review Board shall promulgate regulations establishing a uniform process and standards for entering and removing historic properties from the Registry and for documenting historic properties by public agencies and private parties for purposes of incorporation into the records and archives housed in the Division of Historic Preservation.

(7) The Review Board, with the assistance of the Chief of the Division of Historic Preservation, shall, at least once every four years, review significant threats to historic properties included in, or eligible for inclusion in, the Registry, in order to:

(a) Determine the kinds of properties that may be threatened;

(b) Ascertain the causes of the threats; and

(c) Develop and submit to the Governor recommendations for appropriate action.

Source: S.L. No. 5L-88-02 §14, 1/11/03

§1-115. Conflict of interest. — Members of the Review Board and officials and staff of the Division of Historic Preservation shall not benefit directly or indirectly (either financially or through personal gain) from a decision in which they participate. Members of the Review Board, officials, and staff of

the Division of Historic Preservation shall not review their own work nor gain any advantage because of their position on the Review Board or in the Division of Historic Preservation.

Source: S.L. No. 5L-88-02 §15, 1/11/03

§1-116. Prohibited acts. —

(1) *Injury to historic property.* No person shall knowingly and willfully remove, appropriate, excavate, injure, deface, disturb, disfigure, damage or alter any registered historic property, or any property clearly recognizable as eligible for registration, on public or private land, without the prior approval and written permission of the Board.

(2) *Forgeries and illegal sales.* No person shall knowingly and willfully reproduce, retouch, rework, or forge any registered historic property, or any property clearly recognizable as eligible for registration, or represent it or offer it for trade or sale as an original and genuine object. It shall be unlawful for any person to knowingly and willfully offer for sale or exchange any registered historic property or any property clearly recognizable as eligible for registration with the knowledge that it has been collected or excavated in violation of any of the terms of this chapter.

Source: S.L. No. 5L-88-02 §16, 1/11/03

§1-117. Enforcement. — The Historic and Cultural Preservation Review Board may enjoin any violation or threatened violation of this chapter. Any person who knowingly and willfully violates any section of this chapter, or the rules and regulations promulgated under this chapter, shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or one percent (1%) of the total budget for the undertaking which caused the violation, whichever is the greater amount, for each violation or imprisoned for not more than six months, or both such fine and imprisonment. If the violator directly or indirectly has caused the loss of, or damage to, a registered historic property or a property clearly recognizable as eligible for registration, the violator shall be fined an additional amount determined by the court to be equivalent to the value of the lost or damaged historic property, including, but not limited to, costs of restoration, replacement or repair of the historic property. Each day of continued violation shall constitute a distinct and separate offense for which the offender may be punished. Equipment used by a violator for the taking, appropriation, removal, excavation, injury, destruction, disfigurement, damage or alteration of historic property, or for the transportation of the violator to or from the historic property, shall be subject to seizure and disposition by the state of Pohnpei without compensation to its owners.

Source: S.L. No. 5L-88-02 §17, 1/11/03

§1-118. Forgeries and illegal sales. — Any person violating the prohibition on forgeries and illegal sales established under §1-116 shall be guilty of a misdemeanor and shall be fined not more than \$1,000 for each violation or imprisoned for not more than one month, or both such fine and imprisonment. Each object offered for sale or trade in violation of this chapter shall constitute a distinct and separate offense for which the offender may be punished.

Source: S.L. No. 5L-88-02 §18, 1/11/03

§1-119. Financing. —

(1) Within 30 days following the effective date of this chapter [*effective date is January 11, 2003*] and periodically thereafter the Governor shall present to the Legislature a budget concerning the financial aspects of the administration of this chapter.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei and such other funds of the Pohnpei Treasury as may be identified in the Comprehensive Budget Act, such sums as are determined annually in the Comprehensive Budget Act for the administration of this chapter. All such sums shall be administered and expended by the Governor solely for the purposes specified in this chapter.

(3) The Governor shall submit an annual report on or before October 15, describing the administration and expenditure of monies appropriated for the preceding fiscal year. All sums appropriated for any fiscal year remaining unexpended or unobligated as of September 30 thereof shall revert to the Treasury fund from which appropriated.

Source: S.L. No. 5L-88-02 §19, 1/11/03

CHAPTER 2
[RESERVED]

CHAPTER 3 HISTORICAL MONUMENTS

Section

- 3-101 Designation of historical monuments
- 3-102 Governor's designation of specific monuments
- 3-103 Responsibility for protection and preservation
- 3-104 Archaeological investigations
- 3-105 Offenses and penalties
- 3-106 Nan Madol ruins; authorization for appropriation; administration

§3-101. Designation of historical monuments. — Remains of any and all works of the people of pre-foreign times are hereby designated as historical monuments and declared to be the property of the people of Pohnpei as a whole. Title to any privately owned land on which a monument may occur is not otherwise affected except as specified below in §§3-103 and 3-106.

Source: PDC §13-1, 3/71

§3-102. Governor's designation of specific monuments. — The Governor of Pohnpei may specify, from time to time and by written notice, other works of ancient people on public or private lands as of sufficient importance to be preserved as historical monuments. This does not mean that such important works as have not yet been specified may be destroyed with impunity, for this subchapter is intended to preserve all such works.

Source: PDC §13-2, 3/71

§3-103. Responsibility for protection and preservation. — It shall be the joint responsibility of the Pohnpei Government and the local government in whose jurisdiction such monuments are found to guard them and preserve them intact for future generations to admire, and to remind them of the achievements of their ancestors. Where such monuments occur on private land, the landowner shall also act as a trustee of the monument for the people of Pohnpei.

Source: PDC §13-3, 3/71

§3-104. Archaeological investigations. — Archaeological investigations of historical monuments shall be undertaken only by persons whose scientific qualifications and purposes have been recognized by the Governor and with the express permission of the Governor. No archaeological object taken from such a monument may be removed from Pohnpei without the permission of the Governor.

Source: PDC §13-4, 3/71

§3-105. Offenses and penalties. — No one shall deface, destroy or remove without proper authorization any ancient human work found in a historical monument. Anyone violating this chapter shall, upon conviction, be liable to restore the damage as best as possible and shall be punished by imprisonment for not more than one year, or by a fine of not more than \$100, or both such fine and imprisonment.

Source: PDC §13-5, 3/71

§3-106. Nan Madol ruins; authorization for appropriation; administration. —

(1) *Revocation of private interests.* The ruins of Nan Madol in Madolenihmw, Pohnpei, with the land on which they stand are hereby declared to be property of Pohnpei, and are placed in the custody of the local government of Madolenihmw. Any private interest which there may be in the islands of

Nan Madol, as defined by the German Government, and any improvement thereon, such as food trees and plants, are hereby revoked.

(2) *Responsibility for preservation.* The local government of Madolenihmw is directed to keep the stonework clear of any kind of tree with large roots that might damage the ruins, and also to keep undergrowth out, so that anyone desiring may come and inspect the ruins. The Madolenihmw Government may cause coconut palms to be planted on any of the islands of Nan Madol except the central island of Nan Douwas.

(3) *Rights of Madolenihmw Government.* In return for caring for Nan Madol, the Madolenihmw Government is authorized to harvest copra there. Profits from this copra shall be used for the care and maintenance of the ruins, as needed. Any profits not needed for this purpose shall be entered into the local government general fund. The Madolenihmw Government may use its discretion in allowing individuals to harvest copra on Nan Madol in return for at least fifty percent (50%) of the net profits, or may cause the copra to be harvested by any form of public labor it may devise.

(4) *Maintenance and improvement program.* There is hereby authorized for appropriation from the general fund of Pohnpei Treasury a sum to help repair, preserve, and maintain the Nan Madol ruins. All sums herein authorized for appropriation shall be expended by the Governor solely for the purposes specified in this section. This program shall be administered by the Governor, who shall make a progress report at each regular session of the Legislature.

Source: PDC §13-6, 3/71; D.L. No. 3L-58-73 §34, 5/29/73

CHAPTER 4 POHNPEI LANGUAGE COMMISSION

Section

4-101 Commission established	4-104 Pohnpei Language Fund
4-102 Commission organization	4-105 Authorization for appropriation
4-103 Duties and functions of the Commission	

§4-101. Commission established. — There is hereby established a Commission to be known as the Pohnpei Language Commission.

Source: S.L. No. 6L-83-06 §1, 11/22/06

§4-102. Commission organization. —

(1) *Members.* The Commission shall be composed of eleven voting members, and the Chief of the Division of Curriculum, Instructional Development, and Specialized Education, who shall serve in an ex-officio capacity without the right to vote. The eleven voting members shall be appointed by the Governor with the advice and consent of the Legislature.

(a) There shall be one appointed member from each of the six local jurisdictions on the island of Pohnpei, and one member from each of the islands of Sapwuahfik, Nukuoro, Kapingamarangi, Mwoakilloa and Pingelap. Each such member shall be a registered voter in the local jurisdiction represented by the member.

(b) All voting members shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature and shall serve for a term of four years. Vacancies shall be filled in the same manner as prescribed herein. Any member whose term has expired may continue serving as a holdover member until a successor is nominated and confirmed. Any member may be removed by the Governor or by a two-thirds vote of the entire membership of the Commission upon good cause or by impeachment in a manner prescribed for officers of Pohnpei Government.

(2) *Officers and technical assistance.* The Commission shall elect from among its members a Chairman, Vice-chairman, Secretary, and such other officers as the Commission may desire.

(a) The term of office, duties, and powers of each office shall be defined by the Commission and adopted as part of its rules and regulations.

(b) Clerical and administrative support shall be provided by the Division of Curriculum, Instructional Development, and Specialized Education.

(c) Experts, consultants, and professionals may be employed or contracted as the Commission deems appropriate and as the budget and annual appropriations may allow.

(3) *Meetings.* Six members shall constitute a quorum to conduct the business of the Commission. When a quorum is present at the outset of a meeting, a majority vote of those present during that meeting shall prevail on any question.

(a) The Commission shall hold regular meetings every three months. Special meetings may be called by the Governor, Chairman, or by any three members of the Commission. The time and place of each meeting shall be established by the Commission.

(4) *Compensation and expenses.* Members of the Commission shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4, Subchapter I §4-102(5), as amended or superseded by Pohnpei law, when actually performing functions of the Commission at the direction of the Chairman, except that those members who are Pohnpei Government employees shall instead be granted administrative leave from their regular duties while performing functions of the Commission. All members shall also receive travel expenses

and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 6L-83-06 §2, 11/22/06

§4-103. Duties and functions of the Commission. — The Commission’s duties and functions shall be to act in an advisory capacity to the State Government with respect to all issues relating to Pohnpeian languages. The powers and responsibilities of the Commission shall include, but not be limited to, the following:

(1) Reviewing the State’s comprehensive educational development plan to ensure that the plan provides adequate attention to the preservation of Pohnpeian languages;

(2) Defining specific language initiatives for the State, and advising the Governor on the integration of those initiatives with the objectives of other departments and agencies of the State Government;

(3) Adopting, maintaining, and continuously improving official Pohnpei language conventions, including Pohnpeian systems of vocabulary, grammar, orthography, counting systems, and honorific language;

(4) Advising, reviewing and commenting upon educational programs that inform the public on the value and significance of Pohnpeian languages;

(5) Encouraging, in cooperation with appropriate public and private agencies and institutions, educational and other programs designed to further the use of Pohnpeian languages;

(6) Advising and reviewing proposed and planned publication of books, pamphlets, periodicals, instructional materials, and other publications on Pohnpeian systems of language, including vocabulary, grammar, orthography, counting systems, and honorific language;

(7) Developing radio programs designed to further the use of Pohnpeian languages;

(8) Informing and educating national, state, and local governments, other nations and international organizations, and private groups and individuals as to the Commission’s authorized activities; and

(9) Preparing and submitting to the Legislature and the Governor an annual budget and an annual program and status report, describing the activities of the Commission for the previous year and setting forth its goals and strategies for the future.

Source: S.L. No. 6L-83-06 §3, 11/22/06

§4-104. Pohnpei Language Fund. —

(1) There is hereby established within the Pohnpei Treasury a special expenditure fund to be known as the Pohnpei Language Fund, the assets of which shall be accounted for separately and apart from all other funds.

(2) Unless otherwise provided by law, all monies appropriated under the authorization of §4-105, and all other revenues earned by the Pohnpei Language Commission or received through grants, donations, and fund-raising activities shall be deposited in the Pohnpei Language Fund. All such other revenues and other funds received by the Pohnpei Language Commission are hereby continuously appropriated, as though incorporated in the annual Comprehensive Budget Act, for deposit into the Pohnpei Language Fund.

(3) The Pohnpei Language Fund shall be administered by the Chairman of the Pohnpei Language Commission in accordance with an annual budget adopted by the Commission and approved by the Governor, and monies may be withdrawn therefrom solely for purposes consistent with this chapter. The Commission’s fiscal year shall coincide with the fiscal year of the Pohnpei State Government. The Chairman shall submit an annual financial report as to all transactions and obligations made with respect to the fund in the previous fiscal year within 30 days following the close of that fiscal year.

Source: S.L. No. 6L-83-06 §4, 11/22/06

§4-105. Authorization for appropriation. —

(1) There is hereby authorized for appropriation from such funds of the Treasury as may be identified in the annual Comprehensive Budget Act such sum or sums as are indicated and as may be allocated in said act for deposit into the Pohnpei Language Fund established by §4-104. All revenues earned by the Pohnpei Language Commission or received through grants, donations, and fund-raising activities are hereby authorized for appropriation for deposit into the Pohnpei Language Fund established by §4-104.

(2) Monies appropriated to the Pohnpei Language Fund shall remain available within said fund until fully expended.

Source: S.L. No. 6L-83-06 §5, 11/22/06

**CHAPTERS 5 – 9
[RESERVED]**

CHAPTER 10 TRADITIONAL AFFAIRS FINANCES

Section

10-101 Traditional Affairs Fund: administration; authorization for appropriation

§10-101. Traditional Affairs Fund: administration; authorization for appropriation. —

(1) There is hereby established a Pohnpei Traditional Affairs Fund, hereinafter referred to as “fund,” for the purpose of supporting the traditions and culture of this state, and for the support of traditional leaders in affairs of state and government.

(2) The paramount chiefs of the state shall collectively appoint a representative to serve at their pleasure or for a term as they shall specify and record with the Governor, or his designee, for the purpose of forwarding requests for the use of the fund created by Subsection (1) of this section.

(3) Prior to the expenditure of any sums under the fund, the paramount chiefs shall meet and agree upon procedures for the formalization and submission through their representative of requests for the use of the fund. Such procedures shall be established in writing with the approval of the paramount chiefs noted thereon and filed with the Governor. The procedures may be amended in the same manner as their establishment. The Governor shall provide coordinating services for the traditional leaders in their activities pursuant to this subsection.

(4) Requests shall be prepared and submitted by the designated representative on such form or forms prescribed by the Director of the Department of Treasury and Administration, and shall state in specifics the amount requested and the purposes for which the request is made. Requests may only be made for purposes prescribed by Subsection (1) of this section.

(5) The request shall be submitted to the Governor who shall, upon concurrence of the Education and Cultural Affairs Committee of the Pohnpei Legislature, grant award of the request or shall return the request stating the reasons, whether substantive or procedural, for its denial. The Education and Cultural Affairs Committee shall be deemed to concur in the award of a request if it has not taken action thereon within 15 days following receipt of the request from the Governor.

(6) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the financing of the fund established by Subsection (1) of this section. The fund may also be financed by private donations and from authorized grant funds pursuant to the Financial Organization and Management Act, Title 11 Chapter 2. The Chief shall report annually on or before October 15 to the Governor and Legislature on all matters relating to the administration and expenditure of the fund for the previous fiscal year. All appropriated sums from the general fund shall remain available until fully expended.

Source: S.L. No. 2L-71-81 §§1 – 3, 6/30/81; S.L. No. 5L-14-00 §3-25, 10/1/00

**TITLES 23-25
[RESERVED]**

(Next page is Title 26, Division III divider)

DIVISION III
OF THE
CODE

NATURAL RESOURCES

TITLE 26 --- TITLE 30

TITLE 26
CONSERVATION AND
RESOURCES

TITLE 26
CONSERVATION AND RESOURCES

CHAPTER

- 1 [RESERVED]**
- 2 ENDANGERED SPECIES**
- 3 SOIL AND WATER CONSERVATION**
- 4 FOREST CONSERVATION**
- 5 MARINE SANCTUARY AND WILDLIFE REFUGE SYSTEM**
- 6 MARINE AND AQUATIC RESOURCES**
- 7 [RESERVED]**
- 8 LAND RESOURCES**
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- 10 CONSERVATION AND RESOURCES FINANCES**

CHAPTER 1 [RESERVED]

Editor's Note: This chapter was formally entitled, Conservation and Resources Enforcement, but was repealed pursuant to S.L. No. 7L-80-11 on January 14, 2011. The enforcement function was then transferred to the newly created Fish and Wildlife Division of the Department of Public Safety.

CONSERVATION & RESOURCES

CHAPTER 2 ENDANGERED SPECIES

Section

2-101 Short title	2-107 Exceptions
2-102 Findings	2-108 Regulations
2-103 Policy	2-109 Importation of endangered species
2-104 Administration	2-110 Importation of exotic plants and animals
2-105 Definitions	2-111 Confiscation of plants, equipment, etc.
2-106 Prohibited acts	2-112 Penalties

§2-101. Short title. — This chapter is known and may be cited as the “Endangered Species Act of 1975.”

Source: P.L. No. 6-55 §1; 45 TTC §101 (1980)

§2-102. Findings. — The Legislature has determined that certain species of plants and animals are threatened with or in danger of becoming extinct in the state of Pohnpei.

Source: P.L. No. 6-55 §2; 45 TTC §102 (1980)

§2-103. Policy. — The indigenous plants and animals of Pohnpei are of esthetic, ecological, historical, recreational, scientific, and economic value and it is the policy of the state of Pohnpei to foster the well-being of these plants and animals by whatever means necessary to prevent the extinction of any species or subspecies from our islands or the water surrounding them.

Source: P.L. No. 6-55 §3; 45 TTC §103 (1980)

§2-104. Administration. — This chapter will be administered by the Director of the Department of Land and Natural Resources through the Division of Forestry. The administration of this chapter will include the authority to set up conservation programs aimed at conserving endangered and threatened species, including research programs to adequately define which species are in fact endangered or threatened, and including, when necessary, the acquisition of land or aquatic habitat or interest therein for the conservation of resident endangered or threatened species.

Source: P.L. No. 6-55 §4; 45 TTC §104 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00; S.L. No. 7L-80-11 §10, 1/14/11

§2-105. Definitions. — As used in this chapter, unless the context otherwise requires:

(1) “Animal” means any species of organism in the animal kingdom including, but not restricted to, mammals, birds, reptiles, amphibians, fish, clams, crustaceans, and corals.

(2) “Commercial activity” means all activities of industry and trade, including, but not limited to, buying or selling of commodities, and activities conducted for the purpose of facilitating such buying or selling.

(3) “Director,” when used alone, means the Director of the Department of Land and Natural Resources.

(4) “Endangered species” means any species that is in danger of extinction throughout all or a significant portion of its range.

(5) “Export” means to remove from any land or water area under the jurisdiction of Pohnpei to any other place in the world.

(6) “Import” means to land on, bring into or attempt to land on, bring into or introduce into any place subject to the jurisdiction of Pohnpei.

(7) “Or parts thereof” means, in the case of animals and fish, hide, hair, bone, skeleton, teeth, feathers, skin, scales, tissues or internal organs. In the case of plants, the term means any root, leaf, stem, trunk, bark, fiber, seed, fruit, flower, tissue or extract.

(8) “Person” means any individual, corporation, partnership, trust, association or any other private entity, or any officer, employee, agent, department or instrumentality of the Government of Pohnpei, or any local government therein.

(9) “Plant” means any species of organism in the plant kingdom including, but not restricted to, trees, shrubs, flowers, grasses, algae, and fungi.

(10) “Pohnpei” means the state of Pohnpei.

(11) “Possession” means the personal holding of any endangered or threatened species of plant or animal or parts thereof by any person, or possession of that species on his or her property, land, vehicle, home, place of business or place of work.

(12) “Species” means any species or subspecies of scientifically described plant or animal.

(13) “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such activity.

(14) “Threatened species” means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Source: P.L. No. 6-55 §5; 45 TTC §105 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

§2-106. Prohibited acts. — It is prohibited for any person to take, engage in commercial activity with, hold possession of or export any threatened or endangered species of plant or animal or parts thereof, so listed in this chapter or in any regulation issued in accordance with this chapter, except in accordance with the exceptions listed in §2-107.

Source: P.L. No. 6-55 §6; 45 TTC §106 (1980)

§2-107. Exceptions. —

(1) This chapter shall not apply to the taking, possession of or export of species of endangered or threatened plants and animals or parts thereof for scientific purposes, provided the person or persons involved apply for and are issued a permit for such activity by the Director of the Department of Land and Natural Resources in accordance with regulations governing the issuance of such permits.

(2) This chapter shall not apply to any species of endangered or threatened plant or animal if that plant or animal becomes a public nuisance or public safety factor, provided that any remedial action be taken only by the Pohnpei Government and in accordance with regulations issued in accordance with this chapter for this purpose.

(3) This chapter shall not apply to those species of endangered or threatened plants and animals or parts thereof which have been taken under authority of Subsection (1) of this section and raised successfully in commercial quantities under controlled conditions of aquaculture, mariculture, game farming, agriculture or horticulture, provided that the individuals or quantity lots of these species or parts thereof are identified and identifiable as having been raised under these controlled conditions, such identification to be in accordance with regulations issued under this chapter.

(4) This chapter shall not apply in those cases where the Director has determined that the taking from certain islands of certain species of endangered or threatened plants or animals for subsistence food or for old traditional uses does not further endanger the species involved; PROVIDED, that the species or parts thereof involved are not subjected to commercial activity nor exported; PROVIDED FURTHER, that this exception will only apply to the bona fide indigenous inhabitants of the islands excepted by the Director.

(5) This chapter shall not apply to any person in innocent possession of any species of endangered or threatened plant or animal or parts thereof, except that such plants or animals or parts thereof will be confiscated by the state and disposed of in accordance with regulations issued under this chapter.

(6) This chapter will not apply to any nonliving species of endangered or threatened plant or animal or parts thereof, if a person was in possession of same prior to this chapter becoming law; and PROVIDED that the person gives adequate evidence of such prior possession in accordance with criteria contained in regulations issued in accordance with this chapter.

Source: P.L. No. 6-55 §7; 45 TTC §107 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

§2-108. Regulations. — The Director of the Department of Land and Natural Resources shall issue regulations, subject to the approval of the Governor, applying to this chapter and including a listing of the species of endangered and threatened plants and animals of Pohnpei. These regulations shall have the force and effect of law.

Source: P.L. No. 6-55 §8; 45 TTC §108 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

§2-109. Importation of endangered species. — In anticipation of international cooperation and reciprocation, it is prohibited to import into Pohnpei any species of endangered or threatened plant or animal or parts thereof that is listed by the convention on international trade in endangered species of wild fauna and flora. This list may be a part of the regulations applying to this chapter.

Source: P.L. No. 6-55 §9; 45 TTC §109 (1980)

§2-110. Importation of exotic plants and animals. — Since exotic plants and animals not already established in Pohnpei can cause ecological upsets, compete with, prey upon, and introduce serious or devastating diseases that could further endanger our indigenous plants and animals or drive them to extinction, it is prohibited to import such exotic plants and animals or parts thereof into Pohnpei except under permit by the Director as defined in the regulations authorized by this chapter, except that beneficial insects and biological control microorganisms may be imported in accordance with Pohnpei Government plant and animal quarantine laws.

Source: P.L. No. 6-55 §10; 45 TTC §110 (1980)

§2-111. Confiscation of plants, equipment, etc. — Any endangered species of plant or animal or parts thereof held by any person in contravention of any of the other sections of this chapter, may be confiscated by the Pohnpei Government and disposed of in accordance with the regulations applying to this chapter; and further, any gun, weapon, spear, knife, trap, net, fishing gear, boat, engine or vehicle used for the purpose of violating any of the provisions or regulations of this chapter may be confiscated and disposed of by the Pohnpei Government in accordance with the regulations applying to this chapter.

Source: P.L. No. 6-55 §11; 45 TTC §111 (1980)

§2-112. Penalties. — Any person found guilty of violating any of this chapter shall be imprisoned for a period of time not to exceed one year, or fined not more than \$10,000, or both such fine and imprisonment.

Source: P.L. No. 6-55 §12; 45 TTC §112 (1980)

CONSERVATION & RESOURCES

CHAPTER 3 SOIL AND WATER CONSERVATION

Section

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§3-101. Short title. — This chapter is known and may be cited as the “Soil and Water Conservation Act of 1992.”

Source: S.L. No. 3L-27-92 §1, 11/19/92

§3-102. Legislative findings and intent. —

(1) The Pohnpei Legislature hereby finds that there is a need within the state of Pohnpei to establish plans and policies which will promote soil and water conservation by preventing erosion and thus conserving and improving the use of the state’s land and water resources.

(2) The Legislature further finds that there is a need to establish a soil and water conservation district and to create a soil and water conservation board with respect thereto to assist the state in the development of relevant, comprehensive, and integrated soil and water conservation plans and policies for private and public lands, inclusive of those lands affected by Chapter 4 Subchapter I, and to enable the state when it so desires to participate in United States of America federal conservation programs.

(3) It is the intent of the Legislature that the Soil and Water Conservation Board created by this chapter shall serve as an advisory body to Pohnpei in the formulation of such plans and policies and will provide support in these matters to the Department of Land and Natural Resources, which shall maintain its role as the primary soil and water conservation agency of Pohnpei.

Source: S.L. No. 3L-27-92 §2, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-103. Definitions. — As used in this chapter, unless the context clearly requires otherwise, the following words shall have the following meanings:

(1) “Board” means the Soil and Water Conservation Board created by §3-108.

(2) “Cooperator” means any landowner or occupier of land who enters into a special contract regarding cooperative soil and water conservation projects with the Soil Conservation Service of the United States of America Department of Agriculture, through the Board.

(3) “Department” means the Department of Land and Natural Resources.

(4) “Director” means the Director of the Department of Land and Natural Resources.

(5) “District” means the Soil and Water Conservation District established by §3-104.

(6) “Farm land owner and occupier” means a person who is an owner or operator of land used for the purpose of raising livestock and producing field crops, fruits or other agricultural products.

(7) “Land owner or occupier of land” means a person who has title to, or in the case of leased land, the person who holds possession of leaseholds on land.

Source: S.L. No. 3L-27-92 §3, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-104. Soil and Water Conservation District. — There is hereby established, of and for the state of Pohnpei, a Pohnpei Soil and Water Conservation District, the boundaries and area of which shall be co-extensive with the boundaries and area of the state. The District herein established shall be administered and managed by the Department of Land and Natural Resources in accordance with the requirements of this chapter and policies adopted by the advisory body created by §3-108.

Source: S.L. No. 3L-27-92 §4, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-105. Cooperation and coordination. —

(1) In its management of the District, the Department and the Board shall cooperate with the Land Use Planning and Zoning Commission, the Pohnpei Public Lands Trust Board of Trustees, the Land Grant Program of the College of Micronesia, the Office of Transportation and Infrastructure, the Pohnpei Transportation Authority, the environmental protection agencies of Pohnpei and the Federated States of Micronesia, and other public entities and public interest groups whose activities impact on the conservation of soil and water within the District.

(2) Any project proposed within the District by the Department or the Board which involves the responsibilities of another state agency shall have that agency's review and approval prior to implementation.

(3) The activities and operations of other state agencies that impact on the conservation of soil or water within the District shall be reviewed by the Department and the Board to assure compatibility with conservation plans and programs.

Source: S.L. No. 3L-27-92 §5, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-106. District plans. — The Soil and Water Conservation Board shall, taking into account the requirements and restrictions of Chapter 4 Subchapter I, and acting in conjunction with the Department of Land and Natural Resources and other affected state agencies, develop and recommend long-range plans, annual work plans, and other plans relative to land utilization and the conservation of soil and water resources within the District, which plans shall be submitted to the Department for approval. The Department shall promptly review and provide its determination in writing on plans submitted to it by the Board as well as the plans of other entities for which the Department's approval is required by Pohnpei law or the terms of the assistance or financial arrangement through which the plan or any activity or program thereunder that impacts on the conservation of soil and water resources within the District is funded.

Source: S.L. No. 3L-27-92 §6, 11/19/92

§3-107. General powers of the Department of Land and Natural Resources. — The Department shall, consistent with this chapter, coordinate the District projects and programs through advice and consultations and shall disseminate information throughout Pohnpei concerning District activities, projects, and programs. The Department shall keep records of its official actions, and may perform such acts as may be necessary to carry out its responsibilities under this chapter, that shall include but not be limited to:

(1) Delegation of powers or responsibilities provided to the Department under this chapter to any member, agent or employee of the Department or to a member of the Soil and Water Conservation Board created by §3-108, as the Director may determine necessary;

(2) Assignment of the staff members and personnel of other state agencies to the Department upon request of the Director, insofar as appropriations and resources permit, to assist the Department in carrying out its responsibilities under this chapter;

(3) Delegation to other state agencies and cooperative bodies and contracting to advisors and consultants, where permissible under law, the authority to make surveys, reports, and studies on the conservation of soil and water within the District;

- (4) Utilization of the services of the Department of Public Safety to carry out and enforce policies, laws, regulations, and directives established with respect to the management of the District;
- (5) Rendering of technical, administrative, clerical, and other forms of assistance to the Soil and Water Conservation Board in carrying out its projects, programs, and responsibilities;
- (6) Obtaining of assistance from the Federated States of Micronesia, the United States of America, and other public entities and international organizations for the promotion and enhancement of conservation projects and programs within the District; and
- (7) Applying for and accepting grants, loans when authorized by law, contributions and appropriations from any source, and soliciting, acquiring, and using funds, services or materials granted, appropriated or donated for projects or programs within the District.

Source: S.L. No. 3L-27-92 §7, 11/19/92

§3-108. The Soil and Water Conservation Board. —

(1) There is hereby established for Pohnpei, a Pohnpei Soil and Water Conservation Board that shall be composed of seven members. The Governor shall appoint seven persons to the Board who have experience or an educational background in agriculture, forestry, land or environmental conservation. All appointees approved by the Governor shall serve on the Board with the advice and consent of the Pohnpei Legislature.

(2) Members of the Board shall be appointed to serve for terms of three years. No member may be appointed for more than two consecutive three-year terms.

(3) Members of the Board shall serve at the pleasure of the Governor. Vacancies shall be filled for the remainder of the unexpired terms in the same manner as the original appointment.

Source: S.L. No. 3L-27-92 §8, 11/19/92

§3-109. Board meetings and procedures. —

(1) Within 15 days following the appointment and approval by the Legislature of the initial Board, the Director of the Department of Land and Natural Resources shall call an organizational meeting. Annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year.

(2) The Board shall hold regular meetings every other month and may hold special meetings upon the request of any member of the Board. The Board shall hold at least one public meeting each calendar quarter.

(3) The Board shall adopt its own bylaws for the conduct of its business, subject to this chapter.

(4) The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board.

(5) Any four members of the Board shall constitute a quorum, and unless a greater majority is required by this chapter or the bylaws, a concurrence of a majority of members present shall be necessary for any official action taken by the Board.

(6) Membership on the Board shall be deemed a public service for which no additional compensation shall issue, but members may be paid for expenses incurred in the performance of Board business following rates and procedures for Pohnpei officers and employees as established by law and applicable regulations.

Source: S.L. No. 3L-27-92 §9, 11/19/92

§3-110. Powers and duties of the Board. — The Board organized under this chapter shall have, in addition to other authority granted under this chapter, the following powers and duties:

(1) To provide for and encourage surveys, investigations, and research relating to soil and water conservation, and to publish and disseminate information concerning such subjects;

(2) To provide for and encourage demonstrations relative to the control and prevention of erosion and conservation of soil and water resources and carry out preventive control measures on publicly owned lands within the District and with the consent of the occupiers of the lands;

(3) To cooperate with and enter into agreements with, and to furnish aid to, any agency or occupier of lands within the District as it is feasible to do, for specific soil and water conservation activities not conflicting with or duplicating other activities of the Department or other cooperating agencies. Such agreements shall be subject to such conditions as the state may deem necessary;

(4) To review conservation plans prepared by farm land owners and occupiers, which are a precondition for a contract between them and donor agencies, and to make recommendations on the acceptability of farm land owners' and occupiers' plans based upon their compatibility with District conservation plans. The Board may also, when requested, make recommendations on the proposed contracts to be entered into with respect thereto;

(5) To hire clerical help, employees, and to acquire and dispose of personal property such as equipment or machinery to introduce soil conservation practices to the agricultural community;

(6) To implement projects and programs such as flood control, irrigation, and/or soil conservation;

(7) To construct, improve, and maintain structures such as sediment ponds and earthen dams, following the requirements of Pohnpei law and proper engineering standards and specifications, necessary for carrying out the purposes of soil and water conservation;

(8) To develop conservation plans for cooperators within the District at their request;

(9) As a condition to the extending of benefits or the performance of work upon lands, the Board may require contributions or materials or other commitments of any cooperator for conferring such benefits, or may impose any other reasonable conditions. Such contributions might be labor for the planting of trees or payment for specific erosion control materials secured by the Board for the benefit of its cooperators; and

(10) To apply for and accept grants, loans, contributions, appropriations, property, and assistance from any source, private or public (foreign, federal or local), to enter into, and carry out contracts or agreements in connection therewith, and to use or expend these resources in carrying on its operations and for the purposes of this chapter. A separate account shall be established in the general fund of Pohnpei for the funds received by the Board, including the yearly appropriation from the Pohnpei Government. Funds of the District will be subject to audit according to law and regulations.

Source: S.L. No. 3L-27-92 §10, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-111. Limitations on Board activities. — Board activities shall be limited to the following types of land within the Soil and Water Conservation District:

(1) Public and private lands which are designated as agricultural, watershed or conservation areas by law or on Master Land Use Plans adopted by the state; PROVIDED that if there be no such plan for the area under consideration, then such areas as are designated as such in writing by the Director of the Department of Land and Natural Resources.

(2) Public lands leased for agricultural activities.

(3) Public lands used for other purposes.

Source: S.L. No. 3L-27-92 §11, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-112. Finances of Board. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds of the Pohnpei Treasury as may be appropriated in the Comprehensive Budget Act such sums as may be annually determined therein for the purpose of financing the operations, activities, projects, and programs of the Soil and Water Conservation Board created by this chapter. Such sums so appropriated shall be in addition to monies otherwise made available to the Board under this chapter.

(2) The Board shall operate on the same fiscal year as the Pohnpei Government. Unless otherwise required by the providing agency, all monies received by the Board shall be administered and

expended by the Board in accordance with the Financial Organization and Management Act, Title 11 Chapter 2, as amended, and in accordance with such terms as may be required by the provider of such monies. The Chairman of the Board shall submit an annual report to the Governor and the Legislature on or before October 15 on the administration and expenditure of all monies received by the Board from every source for the previous fiscal year.

(3) All sums appropriated from the Pohnpei Treasury under Subsection (1) of this section for a fiscal year not expended or obligated for expenditure within that fiscal year shall revert to the respective fund from which appropriated.

(4) The Department and other state agencies shall annually forecast their expected expenditures for administrative responsibilities under this chapter and incorporate such forecasts in their annual budget. The Department shall assist the Board in the formulation of its budget and append the Board's submission to the Department's annual budgetary submission to the Governor and the Legislature.

Source: S.L. No. 3L-27-92 §12, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

CONSERVATION & RESOURCES

CHAPTER 4 FOREST CONSERVATION

SUBCHAPTER I WATERSHED FOREST RESERVE AND MANGROVE PROTECTION

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SUBCHAPTER I WATERSHED FOREST RESERVE AND MANGROVE PROTECTION

§4-101. Short title. — This subchapter is known and may be cited as the “Pohnpei Watershed Forest Reserve and Mangrove Protection Act of 1987.”

Source: P.L. No. 1L-128-87 §1, 7/8/87

§4-102. Purpose. — The purpose of this subchapter is to create and provide for the protection and maintenance of an effective watershed forest reserve, to protect important watershed areas, and to provide for the conservation and management of mangrove forests.

Source: P.L. No. 1L-128-87 §2, 7/8/87

§4-103. Findings. — The Legislature finds that:

(1) There are many thousands of hectares of public trust lands with highly erodible soils, that should not be cleared of forest cover and/or used for domestic and farm purposes because such uses endanger the watersheds of Pohnpei;

(2) There are in Pohnpei’s forests, unique and valuable plants and animals that require legal protection to assure their continued survival;

(3) Mangrove forests provide the basis for healthy fisheries, and are thus of benefit to all the people of Pohnpei; and

(4) The conservation, protection, and wise management of Pohnpei’s forests in perpetuity is of material benefit to all the people of Pohnpei.

Source: P.L. No. 1L-128-87 §3, 7/8/87

§4-104. Definitions. — Unless the context otherwise requires, for purposes of this subchapter:

(1) “Board” means the Board of Directors of the Pohnpei Environmental Protection Agency or its successor in law.

(2) “Chief” means the Chief of the Division of Forestry of the Department of Land and Natural Resources.

(3) “Director” means the Director of the Department of Land and Natural Resources.

(4) “Highly erodible or very highly erodible soils” means soils defined by the USDA Soil Conservation Service (SCS) in the 1982 report, “Soil Survey of Ponape, Federated States of Micronesia” as having a high or very high potential for being eroded by water. Specifically, they are as follows:

SCS# _____

301 Dolokei-Foaseng Association, 30-60% slopes

303 Dolokei-Foaseng Association, 30-60% slopes, cobbly

306 Foaseng-Dolokei Association, 60-100% slopes

308 Foaseng Variet silt loam, 30-60% slopes

318 Tolonier-Dolon Association, 30-60% slopes

319 Tolonier-Dolon Association, 60-100% slopes

These soils are shown approximately on the map bounded by a red line.

(5) “Important watershed area” means an area that, as of 1985, was already inhabited on highly erodible soils and that will require special care to avoid polluting river systems, or increasing other associated hazards.

(6) “Mangrove forest” means a salt-tolerant tidal fringe ecosystem of trees, other plants, and animals.

(7) “Permit” means a written instrument allowing a specified use in a watershed forest reserve, or important watershed area issued by the Director.

(8) “Polluting liquids” means any synthetic liquid substance which will or may get into ground or surface water, such as gasoline, oil, brake fluid, pesticides, laboratory chemicals or any liquid substance deemed unsafe for the health of a watershed by the Director.

(9) “Solid waste” means any refuse composed of metal, plastic, glass, wood or wood fibers, synthetic material or any non-liquid substance deemed unsafe for the health of a watershed by the Director.

(10) “Watershed forest reserve” means a large, contiguous area of highly or very highly erodible soils that is protected from development and retained in forest cover to provide long-term water supply for Pohnpei.

Source: P.L. No. 1L-128-87 §4, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §11, 1/14/11

§4-105. Establishment of a watershed forest reserve. — Pursuant to §4-114, the Pohnpei Public Lands Trust Board of Trustees is hereby empowered, authorized, and instructed to dedicate and vest the control and use rights in the following delineated public trust lands to the state government, Department of Land and Natural Resources, to be managed as a watershed forest reserve: all public lands within the green line on the USGS topographic map.

(1) Boundary marking and maintenance will be necessary to assure enforcement of this subchapter. The Division of Forestry, with the assistance of surveyors from the Division of Surveying and Mapping, will establish the boundary on the ground and describe it in metes and bounds within 18 months following the effective date of this subchapter. Maintenance of the boundary will be the responsibility of the Division of Forestry.

(2) Uses permitted within the watershed forest reserve, under permit from the Director, are as follows:

(a) Growing of certain crops;

(b) Research on plants, animals, and natural processes;

- (c) Recreation such as hiking, camping in designated areas, and sightseeing;
 - (d) Gathering of wild plants;
 - (e) Harvesting of timber, under supervision of the Chief; PROVIDED that watershed protection is the principal concern for use of the land, and any timber harvesting so permitted is planned and conducted so as to assure watershed protection; and
 - (f) Other such uses as may be deemed compatible with watershed protection as authorized in writing by the Director.
- (3) Uses specifically forbidden within the watershed forest reserve are as follows:
- (a) Permanent occupancy of any kind, or the building of structures such as houses, sheds or barns;
 - (b) Any use of pesticides or other chemicals, unless specifically permitted after appropriate environmental review;
 - (c) Building of roads or trails, unless permitted in writing by the Director after appropriate environmental review;
 - (d) Cutting of any trees, except as may be authorized under permit;
 - (e) Clearing by the use of fire, or any other use of fire not authorized by written permit; and
 - (f) Grazing of livestock.

Source: P.L. No. 1L-128-87 §5, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §12, 1/14/11

§4-106. Important watershed areas. — The Legislature finds that the lands lying between the green and red lines on the USGS topographic map are on soils designated as erodible or highly erodible by the Soil Conservation Service, are partly occupied by farms and homesteads, and are important watershed areas to all the people of Pohnpei.

(1) The Division of Forestry, with the assistance of surveyors from the Division of Surveying and Mapping, will establish the boundary corresponding to the mapped red line on the ground and describe it in metes and bounds, assuring that the line is entirely on public lands, within two years of the date of final approval of this subchapter[*effective date is July 8, 1987*]. Maintenance of the boundary will be the responsibility of the Division of Forestry.

(2) In order to assure the future protection of these important watershed areas, the following restrictions shall apply within them:

- (a) No additional building of roads or structures is permitted after the date that this subchapter becomes law;
- (b) No rebuilding or improvement of structures now in existence is permitted;
- (c) The Board shall strictly enforce all regulations pertaining to location and design of toilets, septic tanks, drain fields, piggeries, fire, use of chemicals, and other pertinent regulations within these areas;
- (d) All disposal of solid waste shall be at authorized dump sites located outside of the important watershed area; dumping of solid wastes within the area is forbidden;
- (e) Any dumps currently existing within this area shall be cleaned up within one year of the effective date of this subchapter[*effective date is July 8, 1987*], by those who created them or by the Office of Transportation and Infrastructure; and
- (f) It is at all times forbidden to dump polluting liquids on the ground or to dispose of them by any manner within the area.

(3) The Board shall monitor a representative sample of these areas to see how well the above restrictions, and the enforcement of them, work to protect the important watershed areas. Within three years of the effective date of this subchapter[*effective date is July 8, 1987*], and every three years thereafter, the Board shall submit a report to the Legislature on the status of watershed protection in these areas, together with recommendations for any improvements deemed necessary. The Director

shall concur in this report, or shall state in writing to the Governor any differences with it.

Source: P.L. No. 1L-128-87 §6, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §13, 1/14/11

§4-107. Mangrove forests. — Broad goals for the mangrove forests of Pohnpei are to conserve these forests for the maximum sustainable benefit to people, and to minimize those nonsustainable or conversion activities that lead to the destruction of the forests. Cooperation between the Department of Land and Natural Resources and the Board will be necessary to meet these broad goals.

(1) Within two years of the effective date of this subchapter[*effective date is July 8, 1987*], the Director shall make a study to determine which mangrove areas of Pohnpei, if any, should be designated as Pohnpei mangrove forest reserves. The Director's report will include recommendations for protection and management of any areas so designated.

(2) Upon passage of this subchapter and filing of regulations, the following restrictions shall apply to all mangrove forests on Pohnpei:

(a) All cutting of trees is prohibited except as permitted in writing by the Director, through the Chief of the Division of Forestry;

(b) All dredging, road building, and other major land-disturbing activities affecting mangrove forests, whether privately or publicly sponsored, will require approval and a permit from the Director, and environmental review will be required for all such projects prior to approval;

(c) The building of new houses, sheds or other structures will be allowed only if the proponent can show a valid deed for the property to be built upon, or if the Pohnpei Public Lands Trust Board of Trustees and the Director agree that a permit can be issued without significantly harming the mangrove forest; PROVIDED that if either disagrees, the permit will be denied; and

(d) All use of chemical pesticides and herbicides, and the dumping of solid waste or polluting liquids is prohibited in mangrove forests except as may be permitted by the Director after appropriate environmental review.

Source: P.L. No. 1L-128-87 §7, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §14, 1/14/11

§4-108. General provisions. —

(1) The Director shall make and prescribe rules and regulations for the use of watershed forest reserves, important watershed areas, and mangrove forests. Promulgation of initial regulations by the Director, for the implementation of this subchapter shall be completed within 90 days after the effective date of this subchapter [*effective date is.....*]. Copies of the Department regulations pursuant to this subchapter shall be available for inspection at the offices of the Director and the Chief of the Division of Forestry.

(2) The Director and the Chief shall, to the maximum extent possible, cooperate and coordinate with the Board, water authorities, and with all other agencies or organizations, public or private, that are concerned with forest resources, and with the College of Micronesia-FSM.

(3) Public understanding and acceptance of this subchapter are important to the success of its objectives. The Director shall work with the College of Micronesia-FSM and the Pohnpei Department of Education in curriculum development and training for grade school and high school level teachers, and in extension education for adults. Areas of education that need to be emphasized are:

(a) General conservation of soil, water, and natural systems such as forests, mangroves, and lagoons;

(b) Watershed concepts and importance;

(c) Specific education regarding this subchapter;

(d) Wildfire prevention and responsible use of fire; and

(e) The recognition, appreciation, and protection of native species.

(4) The enforcement of this subchapter shall be as follows:

(a) Patrol of the areas and their boundaries established by this subchapter, and reporting of violations, will be the responsibility of the Department of Public Safety, Division of Fish and Wildlife. All other law enforcement agencies on Pohnpei are also specifically authorized and encouraged to enforce this subchapter.

(b) Taking legal action against reported violators shall be the responsibility of the Office of the Attorney General.

(5) Penalties for violation of certain provisions of this subchapter are as follows:

(a) Anyone who violates §4-105(2) or §4-106(2) of Title 26 shall be subject to a fine of not more than \$500, a term of not more than six months in jail for each offense, and liability for restoration of the site(s) to as near original condition as possible.

(b) Violators of §4-105(3) of Title 26, regarding prohibited uses in a watershed forest reserve, and §4-107(2) of Title 26, regarding prohibited uses in mangrove forests, shall be subject to a fine of not more than \$1,000 and a jail term of not more than one year for each offense, and liability for restoration of the site(s) to as near its original condition as possible; except that violation of §4-105(3)(d) of Title 26, and §4-107(2)(a) of Title 26, shall carry a fine of up to \$1,000 per tree so cut, consistent with Subchapter II of this chapter.

Source: P.L. No. 1L-128-87 §9, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §4, 1/14/11

§4-109. Authorization for appropriation; administration. — There is hereby authorized to be appropriated annually from the general fund of Pohnpei such sums as are deemed necessary to implement this subchapter. The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose of this subchapter. The Governor shall report to the Legislature on or before October 15 following each fiscal year wherein sums are appropriated under the authorization of this section. All sums appropriated for a fiscal year remaining unexpended or unobligated for expenditure at the end of the fiscal year shall revert to the general fund of Pohnpei.

Source: P.L. No. 1L-128-87 §8, 7/8/87

SUBCHAPTER II FOREST MANAGEMENT

§4-110. Short title. — Subchapter II is known and may be cited as the “Forest Management Act of 1979.”

Source: D.L. No. 4L-203-79 §1, 8/28/79

§4-111. Purpose. — To create and maintain an effective and comprehensive system of regulation of and assistance to the development of forest land.

Source: D.L. No. 4L-203-79 §2, 8/28/79

§4-112. Definition. — Unless the context otherwise requires, for the purpose of this subchapter:

(1) “Director” means the Director of the Department of Land and Natural Resources of the Pohnpei State Government.

(2) “Pohnpei forester” means the Chief of the Division of Forestry.

Source: D.L. No. 4L-203-79 §3, 8/28/79; S.L. No. 5L-14-00 §3-13, 10/1/00; S.L. No. 7L-80-11 §15, 1/14/11

§4-113. Pohnpei Forester; duties. — The Governor shall appoint a Pohnpei Forester whose duties shall include:

(1) Serving as Chief of the Division of Forestry;

(2) Gathering, compiling, and tabulating information and statistics concerning the area, location, character, quality, and quantity of forests;

(3) The care, custody, and control of the forestry stations of Kolonia and Madolenihmw and other experimental or demonstration areas as established by the Director for the purposes of and in order to determine suitable tree species and record the performance thereof;

(4) The care, custody, and control (subject to the direction and control of the Director) of the lands which may be set aside as watershed reserves and forest reserves;

(5) Developing of ways and means of enhancing, increasing, and utilizing the forests and forest resources by design and construction of a forest transportation system, determining suitable logging methods, and promoting utilization technology;

(6) Devising methods of prevention, control, and extinguishment of fires in rural and forested areas; and

(7) Cooperating with private groups or individuals in the promoting of good forestry concepts and practice through financial, technical or related assistance.

Source: D.L. No. 4L-203-79 §4, 8/28/79; S.L. No. 7L-80-11 §16, 1/14/11

§4-114. Forest reserves. —

(1) The Legislature may from time to time, with the advice of the Pohnpei Public Lands Trust Board of Trustees, set apart any government lands as forest reserve land.

(2) A forest reserve shall be maintained and protected by the Division of Forestry so as to maximize the benefits to the public of timber, water, wildlife, and forage.

(3) The setting aside of a forest reserve shall be preceded by a public hearing as described in §4-119.

(4) When, as determined by the state forester, the trees, or any other products growing or produced on any part of a forest reserve or other property under the custody and control of the Division of Forestry, become suitable for marketing or cutting, the same may be sold at public auction or in such other manner as the Director may authorize.

(a) Prior to any sale of timber or other forest resource under this subsection, the state forester shall be required to prepare a detailed management plan for the timber stand or other resource together with sufficient and necessary administrative and procedural provisions as the Director may require in order that the interest of the public in and to the forest resources shall be protected.

(b) All monies collected from the sale of products thereof or accruing to any forest reserve shall be collected by the Director of Treasury and Administration and deposited in the general fund.

(5) The cutting, killing, girdling, chopping, injuring, or otherwise damaging or the removal of any timber, young tree growth, or the products of tree growth on any forest reserve of public land, except as authorized by law or by permission from the Division of Forestry is prohibited.

Source: D.L. No. 4L-203-79 §5, 8/28/79; S.L. No. 5L-14-00 §3-13, 10/1/00; S.L. No. 7L-80-11 §17, 1/14/11

§4-115. Watershed reserves. —

(1) The Legislature may, with the advice of the Pohnpei Public Lands Trust Board of Trustees, from time to time set aside as a watershed reserve any watershed or part of a watershed public land, from which:

(a) The domestic water supply of a city, town or community is or may be obtained; and

(b) Water infiltrates into artesian or ground water aquifers from which the domestic water supply of a city, town or community is or may be obtained.

(2) The Director shall promulgate regulations for the management and protection of watershed reserves so as to insure to the public the continuous and uninterrupted availability of uncontaminated domestic water supplies.

(3) The Pohnpei Public Lands Trust Board of Trustees may acquire by purchase, gift, dedication, exchange or eminent domain as authorized by law, private lands lying within a proposed watershed reserve.

(4) The Director may recommend to the appropriate Land Planning Commission that lands within a watershed be zoned so as to protect the watershed.

Source: D.L. No. 4L-203-79 §6, 8/28/79

§4-116. Forest nursery. — It shall be the obligation of the Division of Forestry to maintain a nursery or nurseries for the production of seeds, seedlings or plants, as appropriate, which shall be available for forest planting on state lands, forest reserves or watershed reserves.

Source: D.L. No. 4L-203-79 §7, 8/28/79; S.L. No. 7L-80-11 §18, 1/14/11

§4-117. Rural fire protection. —

(1) The Division of Forestry shall develop and implement plans and programs for the prevention, control, and suppression of wild fires in rural areas.

(2) The Pohnpei Forester shall be ex-officio chief rural fire warden and shall be responsible for coordinating the work of local fire wardens.

(3) The Pohnpei Forester shall be responsible for preparing plans for and implementing the organization, equipping, staffing, and training of rural fire control crews, either Division of Forestry employees or community volunteers, as necessary.

Source: D.L. No. 4L-203-79 §8, 8/28/79; S.L. No. 7L-80-11 §1, 1/14/11

§4-118. Public forestry assistance. —

(1) The Pohnpei Forester and staff shall be available during normal working hours, for consultation with private landowners, groups or individuals on all matters relating to forestry.

(2) The Pohnpei Forester may assist the private land owner, or processor, in all phases of forest and tree management and operations by supplying technical and related assistance as available.

Source: D.L. No. 4L-203-79 §9, 8/28/79

Note: D.L. No. 4L-203-79 §10 appropriations provision has been omitted.

§4-119. General provisions. —

(1) *Regulations.* The Director may make and prescribe rules and regulations appropriate to implement this subchapter and in accordance with the procedural requirements of Title 8 Chapter 1; PROVIDED that such rules and regulations are consistent with this subchapter and other laws of the state.

(2) *Coordination.* The Director and the Pohnpei Forester shall, to the maximum extent possible, cooperate and coordinate with all agencies or organizations, public or private, which are concerned with forest resources. The Director may recommend to the Pohnpei Public Lands Trust Board of Trustees the advisability of setting aside of public lands as forest reserves or watershed reserves. Should the Pohnpei Public Lands Trust Board of Trustees approve the recommendation, it shall submit the recommendation to the Legislature.

(3) *Enforcement.* The Department of Public Safety, Division of Fish and Wildlife shall have primary responsibility for enforcement of this subchapter.

(4) *Penalties.* Any person convicted of violating any regulation issued by the Director applying to this subchapter shall be guilty of a misdemeanor and subject to a fine of not more than \$500, imprisonment for not more than six months, or both such fine and imprisonment.

Source: D.L. No. 4L-203-79 §11, 8/28/79; S.L. No. 7L-80-11 §5, 1/14/11

SUBCHAPTER III CONTROL AND USE OF MANGROVE AND UPLAND FORESTS

§4-120. Delegation of authority. — All rights, title, and interest in the mangrove and upland forests in Pohnpei now in the public domain are and shall remain in the government of the state of Pohnpei. Subject to the guidance of the Governor, the immediate supervision and control of the forests within each local jurisdiction is delegated to the chief executive of the local government wherein the forests lie.

Source: PDC §11-202(a), 3/71

§4-121. Authorization of ordinances. — Local councils are hereby authorized to enact ordinances providing for the regulation, control, and taxation of mangrove and upland forests within each local jurisdiction. Such ordinances shall be subject to veto by the Governor. This authorization shall include the establishment of areas where mangrove or upland trees may be cut, removed or used by private persons or businesses, the issuing of permits and permit fees for the cutting of trees, and the establishment of excise taxes and other charges within the power of the local governments as authorized by the Legislature.

Source: PDC §11-202(b), 3/71

§4-122. Disposition of revenues. — Revenues from cutting and use of trees from the forests in the public domain will accrue to the treasury of the local government wherein the mangrove or upland forests lie.

Source: PDC §11-202(c), 3/71

§4-123. Penalties. — Local councils are hereby authorized to establish such penalties for violations of ordinances regulating or taxing the use or sale of mangrove or upland trees as is within their powers.

Source: PDC §11-202(d), 3/71

CHAPTER 5

MARINE SANCTUARY AND WILDLIFE REFUGE SYSTEM

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§5-101. Short title. — This chapter is known as the “Marine Sanctuary and Wildlife Refuge Act of 1999.”

Source: S.L. No. 4L-115-99 §1, 7/23/99

§5-102. Legislative findings. — The Legislature finds that certain areas of the terrestrial and marine environment possess conservation, cultural, recreational, ecological, historical, research, educational, or aesthetic qualities which give them special national and international significance, and that protection of these special areas is necessary for the social, cultural, and economic well-being of future generations.

Source: S.L. No. 4L-115-99 §2, 7/23/99

§5-103. Purpose. — The purpose of this chapter is to identify and designate ecologically significant areas of the terrestrial and marine environment as state marine sanctuaries and wildlife refuges; to provide authority for comprehensive and coordinated conservation and management of these terrestrial and marine areas, and activities affecting them, in a manner which complements existing regulatory authorities; to support, promote, and coordinate scientific research on, and monitoring of, the resources of these areas, especially long-term monitoring and research; to enhance public awareness, understanding, appreciation, and wise use of the environment; to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these areas not prohibited pursuant to other authorities; to develop and implement coordinated plans for the protection and management of these areas with appropriate agencies, national, state and municipal governments, and other public and private interests concerned with the continuing health and

resilience of these areas; to create models of, and incentives for, ways to conserve and manage these areas; to cooperate with global programs encouraging conservation of the environment; and to maintain, restore, and enhance living resources by providing places for species that depend upon these areas to survive and propagate.

Source: S.L. No. 4L-115-99 §3, 7/23/99

§5-104. Definitions. — As used in this chapter, unless the context requires otherwise:

(1) “Conservation” means activities involving protection, maintenance, preservation, storing up and saving of marine, watershed and forest resources.

(2) “Director” means the Director of the Department of Land and Natural Resources.

(3) “Fish” means any species of mammal, fish, amphibian, mollusk, crustacean, arthropod, invertebrate, coral or other animal that inhabits the freshwater or marine environment, and includes any part, product, egg or offspring thereof; or freshwater or marine plants or algae, including seeds, roots, products, and any other parts thereof; and any other living freshwater or marine resource, including bacteria and fungi.

(4) “Fishing” means:

(a) The actual or attempted searching for, chasing of, catching, taking or harvesting of fish;

(b) Any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;

(c) The placing, searching for or recovery of fish aggregating devices or associated equipment such as radio beacons;

(d) Aircraft use relating to the activities described in this subsection, except for flights in emergencies involving the health or safety of crew members, or of the safety of the vessel;

(e) Transshipping fish to or from any vessel;

(f) Storing, processing or transporting fish;

(g) Refueling or supplying fishing vessels; or

(h) Any operations in support of or in preparation for any activity described in this subsection.

(5) “Non-commercial” means not intended or designed to procure profit, reward or compensation in exchange for products or services rendered.

(6) “Person” means any individual, corporation, partnership, association or other entity, and any governmental entity including, but not limited to, the Federated States of Micronesia or any of the states of the Federated States of Micronesia, or any political subdivision thereof, and any foreign government, subdivision of such government, or any entity thereof.

(7) “Subsistence fishing” means fishing undertaken by the citizens of Pohnpei to ensure the livelihood of the immediate or extended family as may be further defined by regulation.

(8) “Subsistence use” means activities undertaken by citizens of Pohnpei to ensure the livelihood of the immediate or extended family as may be further defined by regulation.

(9) “System” refers to the aggregate marine sanctuaries and wildlife refuges established by this chapter or designated by future statutes, as provided herein.

(10) “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such activity.

Source: S.L. No. 4L-115-99 §4, 7/23/99; S.L. No. 5L-14-00 §3-17, 10/1/00; S.L. No. 7L-79-11 §2, 1/14/11

§5-105. Establishment of the State Marine Sanctuary and Wildlife Refuge System. — There is hereby established the Pohnpei State Marine Sanctuary and Wildlife Refuge System which shall be subject to this chapter and shall be administered by the Director of the Department of Land and Natural Resources.

(1) Areas to be included in the System shall be designated by law; PROVIDED, HOWEVER, that all areas currently designated as marine sanctuaries, wildlife refuges, areas for the protection and conservation of fish and/or wildlife, and all wildlife management areas as of the effective date of this

chapter [July 23, 1999] shall be included within the System. All areas within the System shall remain part of the System until otherwise specified by law.

(2) For all public lands located above the mean high tide mark that are designated to be included within the System, the Pohnpei Public Lands Trust Board of Trustees is hereby empowered and authorized to vest control and use rights to the state government, Department of Land and Natural Resources, to be managed as provided for herein.

Source: S.L. No. 4L-115-99 §5, 7/23/99; S.L. No. 5L-14-00 §3-17, 10/1/00

§5-106. Administration of State Marine Sanctuary and Wildlife Refuge System. —

(1) In administering the System, the Director is authorized:

(a) To enter into contracts with any person for the provision of facilities for the management of the area and such public accommodations that are not inconsistent with the primary purpose for which the area was established. No facility may be developed in any area of the System unless it is compatible with the use of the area;

(b) To accept donations of funds and to use such funds to acquire or manage lands, waters or interests therein, and to accept any gift, device, grant or other conveyance of title to, or any interest in, real property, or other tangible goods, to be added to or used in connection with the System; and

(c) To acquire lands, waters or interests therein by exchange of public lands for private lands, or for interests in public lands which the Director finds suitable for disposition, or by eminent domain.

(2) Within 60 days of the designation of an area to be included within the System, the Director shall issue such regulations as are necessary for the proper administration of the area and as are consistent with the purposes of the establishment of the System. In developing the regulations under this subsection, the Director shall consult with the traditional leaders and the leaders of the local municipal government for the area in which the designated area is located.

Source: S.L. No. 4L-115-99 §6, 7/23/99

§5-107. Prohibited activities within the State Marine Sanctuary and Wildlife Refuge System. —

(1) Within the boundaries of an area designated as part of the System:

(a) No person shall disturb, injure, cut, burn, remove, destroy or possess any part of the real or personal property of the state, including mangrove and forested areas, natural growth and minerals, in any area of the System;

(b) No person shall take or possess any fish, bird, mammal or other wild vertebrate or invertebrate animals or part, or nest, or egg thereof within any such area unless otherwise allowed by regulations issued under this chapter;

(c) No person shall engage in fishing, unless otherwise allowed by regulations issued under this chapter;

(d) No person shall engage in dredging, mining or other removal of minerals, rock, sand, coral or other natural resources;

(e) No person shall use or possess, any explosive, toxic chemical, firearm, bow and arrow or other weapon, or any trap capable of taking fish, birds, mammals or any other types of wildlife, unless otherwise permitted by regulations issued under this chapter; and

(f) No person shall enter, use or otherwise occupy any area of the System for the purpose of engaging in any activity prohibited under this section, unless such activities are otherwise permitted under this chapter or regulations issued under this chapter.

(2) Commercial exploitation of resources within the boundaries of the System is prohibited. Qualified institutions and individuals shall be permitted to conduct nondestructive forms of scientific

investigation within the state reserve system, upon receiving the prior written approval from the Director pursuant to regulations issued under this chapter.

Source: S.L. No. 4L-115-99 §7, 7/23/99

§5-108. Permit required. —

(1) Notwithstanding §5-107, the Director is authorized, under such regulations as he may prescribe, to permit the use of areas within the System for non-commercial recreational hunting and fishing, subsistence fishing, public recreation and accommodations, and scientific research whenever such uses are compatible with the purposes for which such areas were established.

(2) If the material provisions of any permit issued are violated by the permit holder, in addition to any other remedies allowed by law, the Director may revoke or suspend the permit permanently or for a specified period of time pursuant to procedures established by regulations.

Source: S.L. No. 4L-115-99 §8, 7/23/99

§5-109. Inventory of features of area. — Within 60 days after the designation of an area, the Director shall prepare an inventory of each area's scenic, natural, and cultural features, including, but not limited to, ecological, archaeological, historical, and geological features.

Source: S.L. No. 4L-115-99 §9, 7/23/99

§5-110. General plan. — Following the designation of an area, and prior to the development of any new facilities in any area, the Director shall prepare a general plan for the area. The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the area, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the area. No new facility may be developed in any area of the System unless compatible with the purposes for which the area was designated.

Source: S.L. No. 4L-115-99 §10, 7/23/99

§5-111. Funding. — There is hereby authorized from the general fund of the Treasury of Pohnpei or such other Treasury Fund as may be identified in the Comprehensive Budget Act, a sum or sums to be determined annually in the Comprehensive Budget Act for the purposes of funding the System established under this chapter.

Source: S.L. No. 4L-115-99 §11, 7/23/99

§5-112. Civil penalties. — Any person who violates any provision of this chapter, the regulations promulgated under this chapter, or a permit issued under this chapter shall be liable to pay a civil penalty of not more than \$20,000 for each violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered.

Source: S.L. No. 4L-115-99 §12, 7/23/99

§5-113. Criminal penalties. — In addition to any action which may be brought under this chapter, any person who knowingly violates this chapter, regulations promulgated under this chapter, or a permit issued under this chapter shall be fined not more than \$50,000, or imprisoned for not more than one year, or both.

Source: S.L. No. 4L-115-99 §13, 7/23/99

§5-114. Separate offenses. — For the purpose of imposing civil and criminal penalties under this chapter, each day of a continuing violation shall constitute a separate offense.

Source: S.L. No. 4L-115-99 §14, 7/23/99

§5-115. Injunctive relief. — The Attorney General may bring actions for relief under §§5-112 or 5-113 and for equitable relief to enjoin an imminent or continuing violation of this chapter, regulations promulgated under this chapter or a permit issued under this chapter.

Source: S.L. No. 4L-115-99 §15, 7/23/99

§5-116. Liability of vessels in rem. — Any vessel used in the commission of a violation of this chapter, regulations promulgated under this chapter or a permit issued under this chapter shall be liable in rem for any civil penalty or criminal penalty imposed.

Source: S.L. No. 4L-115-99 §16, 7/23/99

§5-117. Civil suits by private persons. —

(1) Any person may commence a civil suit on his own behalf to enjoin any person who is alleged to be in violation of §5-107.

(2) No action under this section may be commenced if the Attorney General has commenced and is diligently prosecuting a civil or criminal action to require compliance under the law.

(3) In any suit brought under this section, the Attorney General may intervene as a matter of right.

(4) The court in issuing any final order in any suit brought pursuant to Subsection (1) of this section may award costs of litigation, including reasonable attorney and witness fees to the prevailing party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person or class of persons may have under any statute, or common law to seek any other relief.

Source: S.L. No. 4L-115-99 §17, 7/23/99

§5-118. Establishment of Oroluk Marine Sanctuary. —

(1) There is hereby established the Oroluk Marine Sanctuary.

(2) The purposes of the Oroluk Marine Sanctuary shall be to preserve and protect for future generations the unique and unspoiled coral reef system of Oroluk Atoll and the significant bird and turtle nesting and feeding areas found in and around the area.

(3) The Oroluk Marine Sanctuary shall be comprised of all lands of Oroluk Atoll located below the mean high tide mark of the lagoon area and all areas outside the lagoon to a depth of 600 meters.

(4) The Director shall survey and identify biologically significant areas above the mean high tide mark for inclusion within the Oroluk Marine Sanctuary. Such areas shall include, but are not necessarily limited to:

(a) Nesting sites for marine turtles; and

(b) Nesting sites for marine and migratory birds.

(5) The Director shall promulgate regulations granting the Oroluk Marine Sanctuary the highest level of protection available within the System. The regulations shall, at a minimum, accomplish the following:

(a) Restrict subsistence fishing to full-time residents of Oroluk Atoll only; and

(b) Ensure the protection of bird and turtle nesting and feeding areas.

Source: S.L. No. 4L-115-99 §18, 7/23/99

§5-119. Establishment of Minto Reef Marine Sanctuary. —

(1) There is hereby established the Minto Reef Marine Sanctuary.

(2) The purposes of the Minto Reef Marine Sanctuary shall be to preserve and protect for future generations the unique and unspoiled coral reef system of Minto Reef and the significant bird and turtle nesting and feeding areas found in and around the area.

(3) The Minto Reef Marine Sanctuary shall be comprised of all lands of Minto Reef Atoll located above and below the mean high tide mark consisting of the lagoon area and all areas outside the lagoon to a depth of 600 meters.

(4) The Director shall promulgate regulations granting the Minto Reef Marine Sanctuary the highest level of protection available within the System. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit subsistence fishing within the Sanctuary; and
- (b) Ensure the protection of bird and turtle nesting and feeding areas.

Source: S.L. No. 4L-115-99 §19, 7/23/99

§5-120. Establishment of Kehpera Marine Sanctuary. —

(1) There is hereby established the Kehpera Marine Sanctuary.

(2) The purposes of the Kehpera Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources surrounding the area of Kehpera Island. The areas surrounding Kehpera Island serve as sites for the aggregation and spawning of many species of reef fish that are of critical economic and cultural importance to the people of Pohnpei. Protection of these spawning sites is necessary to ensure the protection of Pohnpei's fish stocks and the people that depend on them.

(3) The Kehpera Marine Sanctuary shall be composed of all reefs and submerged lands below the mean high-water mark beginning at the most south westerly corner of the Sanctuary site with the coordinate value of Northing 61,162.318; Easting 69,798.017 thence N50-22-10E 143.45 meters to a corner with the coordinate value of Northing 61,253.815; Easting 69,908.499 thence N60-02-27E 168.39 meters to a corner with the coordinate value of Northing 61,337.909; Easting 70,054.393 thence N60-58-20E 258.32 meters to a corner with the coordinate value of Northing 61,463.252; Easting 70,280.261 thence N57-55-25E 291.43 meters to a corner with the coordinate value of Northing 61,618.015; Easting 70,527.201 thence N16-31-44E to a corner with the coordinate value of Northing 61,679.159; Easting 70,545.346 thence N46-27-42W 174.08 meters to a corner with the coordinate value of Northing 61,799.073; Easting 70,419.153 thence N18-50-08W 1,021.03 meters to a corner with the coordinate value of Northing 62,765.426; Easting 70,089.512 thence N40-30-24W 229.85 meters to a corner with the coordinate value of Northing 62,940.184; Easting 69,940.218 thence N50-38-03W 427.23 meters to a corner with the coordinate value of Northing 63,211.164; Easting 69,609.920 thence N82-24-07W 394.20 meters to a corner with the coordinate value of Northing 63,263.286; Easting 69,219.182 thence S17-22-17W 492.13 meters to a corner with the coordinate value of Northing 62,793.606; Easting 69,072.250 thence S15-07-58W 237.15 meters to a corner with the coordinate value of Northing 62,565.797; Easting 69,006.354 thence S12-25-29W 525.86 meters to a corner with the coordinate value of North 62,052.183; Easting 68,893.509 thence S45-28-03E 1,268.86 meters to the true beginning corner.

(4) The Director shall promulgate regulations governing the Kehpera Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit subsistence fishing within the boundaries of the Sanctuary;
- (b) Prohibit the destruction of mangrove areas and bird nesting sites; and
- (c) Ensure the protection of other wildlife and marine habitats within the Sanctuary.

Source: S.L. No. 4L-115-99 §20, 7/23/99; S.L. No. 7L-28-09, §1, 2/17/09

§5-121. Establishment of Enipein Marine Park. —

(1) There is hereby established the Enipein Marine Park.

(2) The purpose of the Enipein Marine Park is to protect and preserve the unique marine and watershed resources of the Enipein Marine Park area and to promote education, research, and tourism in the state of Pohnpei; PROVIDED that the Department of Land and Natural Resources shall survey or cause to be surveyed and delineated an area of 139 hectares to be called the no take Zone, which shall have the highest level of protection, and an area of 377 hectares to be called the Subsistence Use Zone, which shall permit subsistence activities.

(3) The Director shall establish the boundaries of Enipein Marine Park by regulations within 90 days of the effective date of this chapter [*effective date is July 23, 1999*].

(4) The Director shall promulgate regulations governing Enipein Marine Park. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit the destruction of mangrove areas and bird nesting sites;
- (b) Ensure the protection of other wildlife and marine habitats within the Park; and
- (c) Provide for the regulation of subsistence fishing and use activities within the Subsistence Use Zone.

Source: S.L. No. 4L-115-99 §21, 7/23/99; S.L. No. 7L-79-11 §3, 1/14/11

§5-122. Establishment of Pwudoï Marine Sanctuary. —

(1) There is hereby established the Pwudoï Marine Sanctuary.

(2) The purpose of the Pwudoï Marine Sanctuary is to protect and preserve the unique marine and watershed resources of the Pwudoï Marine Sanctuary area and to promote education, research, and tourism in the state of Pohnpei.

(3) The Director shall establish the boundaries of Pwudoï Marine Sanctuary by regulations within 90 days of the effective date of this chapter [*effective date is July 23, 1999*].

(4) The Director shall promulgate regulations governing Pwudoï Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit the destruction of mangrove areas and bird nesting sites; and
- (b) Ensure the protection of other wildlife and marine habitats within the Sanctuary.

Source: S.L. No. 4L-115-99 §22, 7/23/99

§5-123. Establishment of Nahmw en Nangih Stingray Sanctuary. —

(1) There is hereby established the Nahmw en Nangih Stingray Sanctuary.

(2) The purpose of the Nahmw en Nangih Stingray Sanctuary shall be to preserve and protect the ecologically significant areas used by species of rays (*Order Myliobatidiformes*) in the waters of Pohnpei. The areas surrounding Nahmw en Nangih serve as sites for the aggregation and feeding of these species of rays and are of significant economic and cultural importance to the people of Pohnpei. Protection of these sites is necessary to ensure the protection of these species and for the enhancement of the economic and cultural well-being of the people of Pohnpei.

(3) The Director shall establish the boundaries of Nahmw en Nangih Stingray Sanctuary by regulations within 90 days of the effective date of this chapter [*effective date is July 23, 1999*].

(4) The Director shall promulgate regulations governing Nahmw en Nangih Stingray Sanctuary. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit the taking or harming of any species of ray (*Order Myliobatidiformes*) within the boundaries of the Sanctuary; and
- (b) Ensure the protection of the marine habitat within the Sanctuary.

Source: S.L. No. 4L-115-99 §23, 7/23/99

§5-124. Establishment of Kisin nahmw en Nangih Stingray Sanctuary. —

(1) There is hereby established the Kisin nahmw en Nangih Stingray Sanctuary.

(2) The purpose of the Kisin nahmw en Nangih Stingray Sanctuary shall be to preserve and protect the ecologically significant areas used by species of rays (*Order Myliobatidiformes*) in the waters of Pohnpei. The areas surrounding Kisin nahmw en Nangih serve as sites for the aggregation and feeding of these species of rays and are of significant economic and cultural importance to the people of Pohnpei. Protection of these sites is necessary to ensure the protection of these species and for the enhancement of the economic and cultural well-being of the people of Pohnpei.

(3) The Director shall establish the boundaries of Kisin nahmw en Nangih Stingray Sanctuary by regulations within 90 days of the effective date of this chapter [*effective date is July 23, 1999*].

(4) The Director shall promulgate regulations governing Kisin nahmw en Nangih Stingray Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit the taking or harming of any species of ray (*Order Myliobatidiformes*) within the boundaries of the Sanctuary; and

(b) Ensure the protection of the marine habitat within the Sanctuary.

Source: S.L. No. 4L-115-99 §24, 7/23/99

§5-125. Establishment of Nahtik Marine Sanctuary. —

(1) There is hereby established the Nahtik Marine Sanctuary.

(2) The purposes of the Nahtik Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources surrounding the area of Nahtik Island. The areas surrounding Nahtik Island serve as sites for the aggregation and spawning of many species of reef fish that are of critical economic and cultural importance to the people of Pohnpei. Protection of these spawning sites is necessary to ensure the protection of Pohnpei's fish stocks and the people that depend on them.

(3) The Nahtik Marine Sanctuary shall be composed of all lands below the mean high tide mark beginning at a point situated at the southern part of Kitti municipality known as Nahtik Island commencing at Station 70 (N 59902.00, E 79902.00) of Laiap Island; thence South 79 degrees 50 minutes 52 seconds East for a distance of 875 meters to the point of beginning; thence northeasterly along the edge of the reef; thence following the edge of the reef; thence to the point of beginning. Said reservation containing an area of about 190,501 square meters, more or less. Computed coordinates of the beginning point is Northing 59747.768, and Easting 80763.300. The direction from Station 70 to point of beginning is based from Grid 1970.

(4) The Director shall promulgate regulations governing the Nahtik Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundaries of the Sanctuary except for scientific purposes certified in writing by the Director.

Source: S.L. No. 4L-115-99 §25, 7/23/99

Note: §25 was inserted by S.L. No. 5L-35-01 §1, 4/23/01.

§5-126. Establishment of Dekehos Marine Sanctuary. —

(1) There is hereby established the Dekehos Marine Sanctuary.

(2) The purposes of the Dekehos Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources within the areas of the Dekehos Marine Sanctuary. The area within the boundaries of the Sanctuary shall serve as site for the aggregation and spawning of many species of reef fish that are of critical economic and cultural importance to the people of Pohnpei. Protection of this aggregation and spawning site is necessary to ensure the protection of Pohnpei's fish stocks for the people that depend on them.

(3) That portion of the outside reef situated at northeastern part of Pohnpei main island has been designated for reservation and described as follows: commencing from point 1 N 06 59.513, E 158 18.337; thence point 2 N 06 59.922, E 158 18.380; thence point 3 N 07 01.055, E 158 18.091; thence point 4 N 07 01.428, E 158 17.474; thence point 5 N 07 00.824, E 158 17.059; thence to the point of beginning. Said boundary descriptions include a reservation of 50 meters outside the perimeter boundary and reference to the map attached to S.L. No. 5L-52-01.

(4) The Director shall promulgate regulations governing Dekehos Marine Sanctuary. The

regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundary of Dekehos Sanctuary.

Source: S.L. No. 4L-115-99 §26, 7/23/99

Note: §26 was inserted by S.L. No. 5L-52-01 §1, 11/15/01.

§5-127. Establishment of Palipohn Depehk Marine Sanctuary. —

(1) There is hereby established the Palipohn Depehk Marine Sanctuary.

(2) The purposes of the Palipohn Depehk Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources within this area of the Palipohn Depehk Marine Sanctuary. This area within the boundary of the Sanctuary shall serve as site for the aggregation and spawning of many species of reef fish that are of critical economic and cultural importance to the people of Pohnpei. Protection of this aggregation and spawning sites are necessary to ensure the protection of Pohnpei's fish stocks for the people that depend on them.

(3) That mostly eastern portion of Dehpehk Island has been designated for reservation and the boundary description is as follows: beginning at point 1 N 06.56.267, E 158 18.047; thence point 2 N 06 56.407, E 158 18.177; thence point 3 N 06 56.646, E 158 18.299; thence point 4 N 06 56.863, E 158 18.419; thence point 5 N 06 57.923, E 158 18.621; thence point 6 N 06 58.017, E 158 18.436; thence point 7 N 06 57.763, E 158 18.210; thence to the direction of Station 60 at point of low watermark; thence point 8 N 06 56.368, E 158 17.861; thence to the point of beginning.

(4) The Director shall promulgate regulations governing Palipohn Depehk Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundary of the Palipohn Depehk Marine Sanctuary.

Source: S.L. No. 4L-115-99 §27, 7/23/99

Note: §27 was inserted by S.L. No. 5L-52-01 §2, 11/15/01.

§5-128. Establishment of Sapwitik Marine Sanctuary. —

(1) There is hereby established the Sapwitik Marine Sanctuary.

(2) The purposes of the Sapwitik Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources surrounding the area of Sapwitik Island. The area surrounding Sapwitik Island serves as site for the aggregation and spawning of reef fish locally known as *Kioak*, which specie of reef fish is of critical economic and cultural importance to the people of Pohnpei. Protection of this spawning site is necessary to ensure the protection of Pohnpei's fish stocks and the people that depend on them.

(3) The Sapwitik Marine Sanctuary is located on the northern part of the main island of Pohnpei and shall be composed of all reefs and submerged lands below the mean high watermark beginning at Station No. 2, as shown on the USGS photographic map edited 1983, having a coordinate of northing 07 00.45, easting 158 13.471; thence southeasterly to Station No. 9, having coordinate of northing 07 00.152, easting 158 13.536; thence southeasterly to Station No. 10, having coordinate of northing 07 00.460 easting 158 13.803; thence southeasterly to Station No. 11, having coordinate of northing 07 00.561 easting 158 13.723; thence northeasterly to Station No. 12, having coordinate of northing 07 00.467 easting 158 13.246; thence northwesterly to Station No. 13, having coordinate of northing 07 00.324 easting 158 13.085; thence northwesterly to Station No. 14, having coordinate of northing 07 00.109 easting 158 13.085; thence northwesterly to Station No. 15, having coordinate of northing 06 59.946 easting 158 13.238; thence northwesterly to Station No. 1, having coordinate of northing 07 00.045 easting 158 13.471; to the point of beginning at Station No. 1.

(4) The Director shall promulgate regulations governing the Sapwitik Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundaries of the Sanctuary except for scientific purposes certified in writing by the Director.

Source: S.L. No. 4L-115-99 §28, 7/23/99

Note: §28 was inserted by S.L. No. 5L-60-02 §1, 1/18/02.

§5-129. Establishment of Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary. —

(1) There is hereby established the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary.

(2) The purpose of the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary shall be to preserve and protect the coral reef and the marine life resources surrounding the area of Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Islands on Pakin Atoll. The areas surrounding Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Islands shall serve as a site for the aggregation and spawning of all reef fish and other marine life resources for the people who depend on them.

(3) The Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary shall be composed of all reefs and submerged lands below the mean high watermark of Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Islands.

(4) The Director shall promulgate regulations governing the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundaries of the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary except for scientific purposes certified in writing by the Director; and

(b) Identify the precise location of the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary.

Source: S.L. No. 7L-79-11 §1, 1/14/11

§5-130. Establishment of Senpehn/Lehdau Mangrove Forest Reserve. —

(1) There is hereby established the Senpehn/Lehdau Mangrove Forest Reserve.

(2) The Senpehn/Lehdau Mangrove Forest Reserve shall be considered a mangrove forest reserve for purposes of 26 PC 4-107 or its successor in state law.

(3) The purposes of the Senpehn/Lehdau Mangrove Forest Reserve shall be to preserve and protect for future generations the unique mangrove, marine and watershed resources of the Senpehn/Lehdau Mangrove Forest Reserve area, and to promote education, research and tourism for the state of Pohnpei, and to protect and preserve its natural attraction for visitors so they can appreciate and enjoy the natural historical value of this unspoiled mangrove forest reserve.

(4) The Senpehn/Lehdau Mangrove Forest Reserve shall be comprised of all lands, waters, and mangrove forest area located below the mean high tide mark and above the mean low tide mark of the area and shall be surveyed and delineated or cause to be surveyed and delineated by the Director of the Department of Land and Natural Resources, pursuant to the Madolenihmw, Menintiensapw Resolution No. 23-05.

(5) The Director shall promulgate regulations and shall include the rules and regulations promulgated by the Community Conservation Officers (CCO) of Sections III and IV of Madolenihmw Municipality granting the Senpehn/Lehdau Mangrove Forest Reserve the highest level of protection available within the system. The regulations shall, at a minimum, accomplish the following:

(a) Restrict commercial fishing and subsistence fishing;

(b) Ensure the protection of mangrove, marine and watershed habitats and nesting and feeding areas;

(c) Ensure the protection of the trees and plants of the Mangrove Forest Reserve; and

(d) Ensure the protection of other habitats and their niches as well as the natural beauty, cultural values and historical importance of the Mangrove Forest Reserve.

Source: S.L. No. 7L-79-11 §4, 1/14/11

§5-131. Establishment of Nanwap Marine Protection Area. —

(1) There is hereby established the Nanwap Marine Protection Area.

(2) The purpose of the Nanwap Marine Protection Area shall be to preserve and protect for future generations the unique and unspoiled coral reef system, the clean and clear lagoon and the open deep ocean as a place for aggregation and spawning of many species of fish that are of critical economic and cultural importance to the people of Pohnpei. The protection of spawning sites is necessary to ensure the protection of Pohnpei's fish stock for the people who depend on them.

(3) The Nanwap Marine Protection Area shall be comprised of all areas outside the barrier reef to a depth of 600 meters, and all of the barrier reef located above and below the mean high tide mark consisting of all of the lagoon areas and all the fringing reef areas located above and below the mean high tide mark of the lagoon barrier reefs locally known as Ohio, Nahri and Resires; PROVIDED that the Director shall clearly identify the precise boundaries of the Nanwap Marine Protection Area by regulation within 90 days of the effective date of this act.

(4) The Director shall promulgate regulations granting the Nanwap Marine Protection Area the highest level of protection available within the system. The regulations shall, at a minimum, prohibit subsistence fishing and commercial fishing within the Nanwap Marine Protection Area.

Source: S.L. No. 7L-79-11 §5, 1/14/11

CONSERVATION & RESOURCES

CHAPTER 6 MARINE AND AQUATIC RESOURCES

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SUBCHAPTER I MARINE RESOURCES CONSERVATION

PART A GENERAL PROVISIONS

§6-101. Short title. — Subchapter I shall be known and may be cited as the “Marine Resources Conservation Act of 1981.”

Source: S.L. No. 2L-106-81 §1-1, 12/17/81

§6-102. Definitions. —

(1) “Director” means the Director of the Department of Land and Natural Resources, or his successor in state law.

(2) “Pohnpei Fisheries Officer” shall mean the Director of the Department of Land and Natural Resources, or his designee.

Source: S.L. No. 2L-106-81 §1-2, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00; S.L. No. 7L-80-11 §20, 1/14/11

§6-103. Realization of revenues. — All revenues realized through the administration of this subchapter shall be deposited in the general fund of Pohnpei as the realization of general revenues. The Director of the Department of Treasury and Administration shall maintain a separate accounting for all such revenues so deposited for inclusion in his periodic reports to the Legislature on the status of the general fund. Monies so deposited shall, to the extent deemed practicable by the Legislature, be appropriated for conservation measures relative to the marine life of this state.

Source: S.L. No. 2L-106-81 §7-1, 12/17/81

§6-104. Rules and regulations. — The Director of the Department of Land and Natural Resources, in consultation with the Pohnpei Fisheries Officer, is empowered to issue and promulgate rules and regulations for the implementation and enforcement of this subchapter, inclusive of forms and procedures for the issuance of permits and licenses required by this subchapter, which upon approval

of the Governor and compliance with the Administrative Procedures Act, Title 8 Chapter 1, or its successor, shall carry the force and effect of law.

Source: S.L. No. 2L-106-81 §7-2, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00

§6-105. Other conservation laws not affected. — To the extent this subchapter is not inconsistent with existing state laws, such laws shall remain in full force and effect in this state.

Source: S.L. No. 2L-106-81 §7-3, 12/17/81

§§6-106 – 6-110. [RESERVED]

PART B BLACK CORAL

§6-111. Definitions for Part B. — For the purpose of this part, definition of terms used shall be as follows unless the context specifically denotes otherwise:

(1) “Black coral” shall be considered *Antipathes dichotoma*, *Antipathes ulex* or any other *Antipatharia* species.

(2) “Processed” shall be that state in which black coral has been changed from its natural state by means of mechanical or human alteration to sizes not to exceed six inches across in any direction.

(3) “Raw” shall be that state in which black coral appears in its natural form prior to human or mechanical alteration.

Source: S.L. No. 2L-106-81 §3-1, 12/17/81

§6-112. Black coral exemption. — This part shall not apply to black coral harvested without the state and brought into this state in raw or processed form; PROVIDED that there shall be a presumption that all black coral found within the state shall have been harvested from within the state.

Source: S.L. No. 2L-106-81 §3-2, 12/17/81

§6-113. Prohibitions regarding black coral. — The harvesting of black coral without a permit or otherwise taking or tampering with black coral for personal accumulation, use or the sale or transfer of black coral to any one other than a processor licensed under this part is prohibited.

Source: S.L. No. 2L-106-81 §3-3, 12/17/81

§6-114. Processing license. — Any person, inclusive of corporations, partnerships, cooperatives, and other forms of business association, hereinafter referred to as “processor,” wishing to engage in the commercial manufacturing of black coral including purchasing, processing or any other commercial activity for the purpose of resale shall, as a condition precedent to engaging in such commercial activity in this state, apply in writing to the Director of the Department of Land and Natural Resources for action within 30 days thereafter, for the receipt of a processing license to engage in or conduct such commercial activity. The applicant shall submit such application on a form provided therefor by the Director and shall include thereon the name, address, and nature of the commercial activity involved. Each application shall be accompanied by a fee of \$50 that shall be non-refundable unless the license is denied. A license shall be valid until December 31 of the year for which it is issued. Denial or failure of the Director to grant a license under this section may be appealed to a court of competent jurisdiction.

Source: S.L. No. 2L-106-81 §3-4, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00

§6-115. Commercial harvesting. — Any person, inclusive of corporations, partnerships, cooperatives, and other forms of business association, hereinafter referred to as “harvester,” wishing to

engage in the commercial harvesting of black coral for sale or transfer to processors duly licensed under §6-114 shall, as a condition precedent to engaging in such commercial activity in this state, apply in writing to the Director of the Department of Land and Natural Resources for action within 30 days thereafter, for the receipt of a harvesting permit to engage in or conduct such commercial activity. The applicant shall submit such application on a form provided therefor by the Director and shall include thereon the name, address, and nature of the commercial activity involved. Each application shall be accompanied by a fee of \$20 that shall be non-refundable unless the permit is denied. A permit shall be valid until December 31 of the year for which it is issued. Denial or failure of the Director to grant a license under this section may be appealed to a court of competent jurisdiction.

Source: S.L. No. 2L-106-81 §3-5, 12/17/81

§6-116. Black coral season and area to be designated – rules and regulations for harvesting . —

(1) The season for harvesting black coral by a duly permitted harvester shall be open 12 months of the year; PROVIDED, that the Director of the Department of Land and Natural Resources may, upon consultation with the Pohnpei Fisheries Officer, close the season for such period of time as deemed advisable, or may designate certain reefs or sections thereof that shall be closed from the harvesting of black coral, notwithstanding the fact that the season is open. In the event that the season is closed, or in the event that designated reefs or sections thereof are closed, public notice shall be given by announcement on the public radio station, by posting in writing in the predominant vernacular at the local government office of the respective local jurisdictions directly affected and filing a copy of each designation with the Clerk of the Supreme Court not less than 10 days before the closing of the season or closing of reefs or sections thereof.

(2) Any duly permitted harvester may harvest black coral, except when prohibited by Subsection (1) of this section; PROVIDED, that all harvesters shall file a quarterly report with the Pohnpei Fisheries Officer detailing the volume of black coral harvested, the disposition of said black coral, and the areas from which said black coral was harvested. Failure to file such report shall result in a three-month suspension of the harvester's permit.

Source: S.L. No. 2L-106-81 §3-6, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00

§6-117. Transfer to processors. — No manufacturer may receive black coral harvested in this state from any person not possessing a harvester's or processor's permit, nor shall any manufacturer receive any black coral known to be harvested during a closed season or from a restricted area. Processors shall maintain an annual record of all acquisitions of black coral including therewith the date of each transaction and the name and permit number of the transferor.

Source: S.L. No. 2L-106-81 §3-7, 12/17/81

§6-118. Right of inspection. — The granting of a license for the privilege of manufacturing black coral and the granting of a permit to harvest black coral shall carry with it the authority of the state government and any designated employee thereof to inspect any operation dealing with the harvesting of black coral, to inspect any transfer of black coral from a harvester to a processor and between processors, and records thereof, as provided for in this part, to inspect the black coral in its raw and processed state as held by a processor under this subchapter, and to inspect the final manufactured form before it is sold or otherwise transferred from the manufacturer to another party.

Source: S.L. No. 2L-106-81 §3-8, 12/17/81

§6-119. Transfers by processors. — No processor of black coral in the state may sell or otherwise transfer black coral which has not been processed as defined by this part, except to another processor within the state duly licensed under this part.

Source: S.L. No. 2L-106-81 §3-9, 12/17/81

§6-120. Criminal penalties. — Any person found in violation of this part or any rule or regulation issued hereunder shall be guilty of an offense against the state and upon conviction thereof shall be imprisoned for a period of time not to exceed one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §3-10, 12/17/81

§6-121. Civil penalties. — In addition to any criminal penalties prescribed in §6-117:

(1) Any person found harvesting or otherwise interfering with the growth of black coral, or found selling, transferring, possessing or manufacturing black coral in violation of this subchapter, or of rules and regulations issued pursuant hereto shall be subject to a civil penalty of three times the current market value of the black coral so affected thereby.

(2) Any processor licensed under this subchapter, or person purporting to act as a processor of black coral within this state, found in possession of, or having received, manufactured or transferred black coral known to be harvested in violation of this part shall be subject to a civil penalty of three times the current market value of the black coral so unlawfully possessed, manufactured or transferred.

(3) Conviction of a processor or harvester under §6-120 shall automatically revoke his license or permit hereunder; PROVIDED he may lawfully dispose of such black coral legally possessed upon revocation thereof. No processor or harvester convicted under this subchapter may be eligible for a processing license or harvesting permit hereunder for three years following said conviction.

(4) All unlawfully harvested or possessed black coral shall be forfeited to the state government for appropriate disposition. Upon finding by a designated employee of the state government that more than ten percent (10%) of a test stock of black coral held by a harvester or processor is unlawfully possessed, the government may impound the entire holding of the harvester or processor pending a full and thorough investigation of all such holdings of the harvester or processor to ensure compliance with this subchapter.

Source: S.L. No. 2L-106-81 §3-11, 12/17/81

§§6-122 – 6-130. [RESERVED]

PART C BUMPHEAD PARROTFISH

§6-131. Definition of “bumphead parrotfish.” — For the purpose of this part, “bumphead parrotfish” shall mean *bolibometopon muraticus*, or, in Pohnpeian, “kemeik.”

Source: S.L. No. 2L-106-81 §4-1, 12/17/81

§6-132. Taking bumphead parrotfish for sale, prohibited. —

(1) The taking, by any means, of bumphead parrotfish for sale shall be prohibited.

(2) No person, inclusive of corporations, partnerships, cooperatives or any other form of business association, shall offer bumphead parrotfish for sale, allow bumphead parrotfish to be sold or possess bumphead parrotfish for sale.

Source: S.L. No. 2L-106-81 §4-2, 12/17/81

§6-133. Criminal penalties. — Any person found in violation of this part, or any rule or regulation issued hereunder, shall be guilty of an offense against the state and upon conviction thereof shall be imprisoned for a period of time not to exceed one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §4-3, 12/17/81

§6-134. Civil penalties. — In addition to any criminal penalties prescribed in §6-133:

(1) Any person found offering for sale or selling bumphead parrotfish in violation of this subchapter, or of rules and regulations issued pursuant hereto shall be subject to a civil penalty of five times the market value of the bumphead parrotfish so offered for sale, or sold.

(2) All bumphead parrotfish offered for sale, or being held for sale shall be forfeited to the state government for appropriate disposition.

Source: S.L. No. 2L-106-81 §4-4, 12/17/81

§§6-135 – 6-140. [RESERVED]

PART D MANGROVE CRABS

§6-141. Definitions of “mangrove crab”. — For purposes of this part, the following definitions shall apply:

(1) “Mangrove crab” means *seylla serrata*, or, in Pohnpeian, “elimong.”

(2) “Cultured mangrove crab” means mangrove crab produced through aquaculture techniques by cultured mangrove crab producers duly licensed and permitted pursuant to the laws of the state of Pohnpei.

Source: S.L. No. 2L-106-81 §6-1, 12/17/81; S.L. No. 7L-22-09 §1, 1/16/09

§6-142. Taking mangrove crab with eggs, prohibited. — The taking, by any means, or the possession of a mangrove crab which is carrying eggs except for immediate inspection on location where found and return unharmed to its environment shall be prohibited at all times; Provided, however, that duly licensed and permitted cultured mangrove crab producers may capture and utilize for spawning purposes such sexually mature female mangrove crab as may be necessary from time to time to establish and maintain brood stock for cultured mangrove crab aquaculture projects in the state of Pohnpei. The Department of Land and Natural Resources shall promulgate regulations governing mangrove crab farming. The regulations at the minimum shall accomplish the following:

(1) Protect the mangrove crab of Pohnpei; and

(2) Establish inspection procedures regarding the business activities of cultured mangrove crab producers.

Source: S.L. No. 2L-106-81 §6-2, 12/17/81; S.L. No. 7L-22-09 §2, 1/16/09

§6-143. Criminal penalties. — Any person found in violation of this part or any rule or regulation issued hereunder, shall be guilty of an offense against the state and upon conviction thereof shall be imprisoned for a period of time not to exceed one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §6-3, 12/17/81

§6-144. Civil penalties. —

(1) In addition to any criminal penalties prescribed in §6-143 any person found taking, in possession of, mangrove crabs that are carrying eggs, other than for brood stock culturing purposes as provided in §6-142, shall be subject to a civil penalty of ten times the market value of the crabs carrying eggs.

(2) All such crabs, taken or possessed in violation of Subsection (1) of this section, that are carrying eggs shall be forfeited to the state government, and where possible, such crabs shall be returned to their natural environment and released.

Source: S.L. No. 2L-106-81 §6-4, 12/17/81; S.L. No. 7L-22-09 §3, 1/16/09

§§6-145 – 6-150. [RESERVED]**PART E GROUPER**

§6-151. Definition of “grouper.” — For the purpose of this part, the term “grouper” shall mean any fish of the following species: *cephalopholis*, *epinephelus*, *plectranthias*, *promicrops* or *variola*; or, in Pohnpeian, the term “grouper” shall include, but not be limited to, “maud,” “mwanger,” “sammerip,” “sawi” or “sawipwiliet.”

Source: S.L. No. 2L-106-81 §5-1, 12/17/81

§6-152. Prohibitions on taking or sale of grouper. —

(1) The taking, by any means, of grouper for sale during the months of March and April shall be prohibited.

(2) No person, inclusive of corporations, partnerships, cooperatives or any other form of business, shall offer grouper for sale, allow grouper to be sold or possess grouper for sale, during the months of March and April.

(3) Any business which may legally have a stock of grouper on hand at the end of February, and wishes to hold those fish through the closed season of March and April, may do so; PROVIDED:

(a) That declaration of intent to possess and hold such grouper through March and April is made, in writing, to the Pohnpei Fisheries Officer and that such declaration will include the name of the business, name of owner, weight and number of pieces being held, and location where the grouper are being held.

(b) That such grouper as are being held will be available for inspection by a representative of the state government so designated and that the grouper will be available for inspection at any and all times during the months of March and April.

Source: S.L. No. 2L-106-81 §5-2, 12/17/81

§6-153. Criminal penalties. — Any person found in violation of this part or any rule or regulation issued hereunder shall be guilty of an offense against the state and upon conviction thereof shall be imprisoned for a period of time not to exceed one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §5-3, 12/17/81

§6-154. Civil penalties. — In addition to any criminal penalties prescribed in §6-153:

(1) Any person found offering grouper for sale, or selling grouper in violation of this subchapter or of rules and regulations issued pursuant hereto shall be subject to a civil penalty of five times the market value of the grouper so offered for sale, or sold.

(2) All grouper offered for sale, or being held for sale, during March or April shall be forfeited to the state government for appropriate disposition, except for the exemption under §6-152(3).

Source: S.L. No. 2L-106-81 §5-4, 12/17/81

§§6-155 – 6-160. [RESERVED]

PART F TROCHUS

§6-161. Definitions. — For the purposes of this subchapter, the term “trochus” shall be considered *trochus niloticus*. The names *trochus maximus*, *tectus niloticus*, and *tectos maximus* shall be considered names synonymous with *trochus niloticus*.

Source: S.L. No. 2L-106-81 §2-1, 12/17/81

§6-162. Trochus exemption. — This part shall not apply to trochus harvested without the state and brought into this state for use, sale or other disposition; PROVIDED that there shall be a presumption that all trochus found within the state shall have been harvested from within the state.

Source: S.L. No. 2L-106-81 §2-2, 12/17/81

§6-163. Powers and duties of Director. — The Director of the Department of Land and Natural Resources is hereby granted the following powers and duties concerning the harvesting and marketing of trochus. Such powers and duties shall be exercised and implemented in accordance with such rules and regulations as may be promulgated pursuant to §6-104, and with the aim of balancing the exploitation of trochus as an economic resource and the preservation of trochus as a renewable resource. The Department of Land and Natural Resources shall have the power and duty to:

(1) Establish seasons for the harvesting of trochus that may vary from year to year or from area to area, such that harvesting may be partially or completely limited or prohibited within a given time frame or within a designated location;

(2) Prohibit the harvesting of trochus during any given calendar year or years;

(3) Designate, change, and monitor protected areas of the reef where the harvesting of trochus may be limited or prohibited;

(4) Limit the size of the trochus that may be lawfully harvested, to include maximum and minimum limits;

(5) Establish procedures for the announcement of harvesting seasons and other notices and information; PROVIDED that the announcements shall be made in such a manner as will reasonably notify all interested parties;

(6) Permit only persons who are citizens of the Federated States of Micronesia and permanent residents of the state of Pohnpei to harvest or sell trochus in the state of Pohnpei; PROVIDED that if the local market demonstrates, after a reasonable time, an inability to purchase all of the legally available trochus, sale may be opened to parties that are not citizens and permanent residents of the state of Pohnpei; PROVIDED FURTHER that the state has the authority to purchase trochus and sell to local businesses where determined to be necessary to protect and support the local manufacturing community;

(7) Prescribe the permissible method or methods for harvesting or transporting trochus, and for preparing the trochus for use or sale;

(8) Require the harvesters to supply reports or other information including, but not limited to, the time, place, and method of harvest for the purpose of surveying and studying the trochus, and to insure compliance with this subchapter and the rules and regulations promulgated hereunder;

(9) When necessary, establish quota systems for the number of trochus that may be harvested;

(10) Regulate the times, places, and methods for the sale, transfer, delivery, and shipment of the trochus, and where necessary, establish penalties for the illegal harvesting or sale of trochus;

(11) Adopt procedures for the disposal, through sale or otherwise, of trochus confiscated during the enforcement of this subchapter. Proceeds from such sale shall be deposited in a separate account and shall be only for the purpose of reseeded the trochus;

(12) Recommend, when necessary, to protect local manufacturing interests and upon approval by Legislature resolution, ban the exportation of unprocessed trochus and trochus shell, so that only

products from trochus and trochus shell may be exported from the state. As used in this subsection, the phrase “local processors” shall include citizens, corporations, partnerships or associations of the Federated States of Micronesia and noncitizens authorized to conduct business in Pohnpei under the Foreign Investors Permit Act, Title 37 Chapter 7. Local processors shall be limited to those that use the trochus shell in Pohnpei to make or manufacture products including, but not limited to, buttons, button blanks, jewelry, handicrafts, and souvenirs. In adopting a ban on exportation, the Department shall take all necessary steps to ensure that harvestors are paid a fair market price for their product. The Department shall require local processors to pay the fair market rate if a ban is imposed. This rate may be established by adoption of prices set by appropriate international commissions;

(13) Where necessary to support the local manufacturing community, ban import of buttons or other manufactured products of trochus to Pohnpei; and

(14) Establish and implement such other policies, procedures, and requirements to achieve a desirable balance between the exploitation of trochus as an economic resource and the preservation of trochus as a renewable resource.

Source: S.L. No. 2L-106-81 §2-3, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00

Notes: 1. S.L. No. 2L-132-89 §1, 2/2/91 repealed §2-3 and inserted a new §2-3. 2. S.L. No. 2L-201-91 §1, 7/2/91 amended the effective date of S.L. No. 2L-132-89 to 7/2/91. However, the effective date of Subsection (12) was unaffected and remained at 10/18/89.

Extended legislative history: S.L. No. 2L-106-81 §2-3, 12/17/81; S.L. No. 2L-106-81 §2-3(1) was amended by S.L. No. 2L-152-82 §1, 11/22/82 and subsequently repealed.

§6-164. Marketing license. — Any person, inclusive of corporations, partnerships, cooperatives, and other forms of business association, hereinafter referred to as “marketer,” wishing to engage in the commercial purchase or handling of trochus for commission, or sale, processing or other commercial purpose shall, as a condition precedent to engaging in such commercial activity in this state, apply in writing to the Director of the Department of Land and Natural Resources for action within 30 days thereafter, for receipt of a marketing license to engage in or conduct such commercial activity. The applicant shall submit such application on a form provided therefor by the Director and shall include thereon the name, address, and nature of commercial activity involved. Each application shall be accompanied by a fee of \$100 that shall be non-refundable unless the license is denied. A license shall be valid until December 31 of the year for which it is issued. Denial or failure of the Director to grant a license under this section may be appealed to a court of competent jurisdiction.

Source: S.L. No. 2L-106-81 §2-4, 12/17/81

§6-165. Authorized times and places for trochus transfer. — The Director shall declare and give public notice of specific times and places for the purchase or other transfer of trochus to marketers licensed under §6-164. Designation of time shall be during normal working hours at places open to public access for the commercial transfer of trochus to the marketer.

Source: S.L. No. 2L-106-81 §2-5, 12/17/81

§6-166. Transfers to marketers. — No marketers may receive nor may any person transfer to a marketer any trochus at a time or place not so designated by this subchapter, under the size restrictions set by §6-163(4), or known to be harvested out of season or from a restricted area.

Source: S.L. No. 2L-106-81 §2-6, 12/17/81

§6-167. Right of inspection. — The granting of a license for the privilege of marketing trochus shall carry with it the authority of the state government, and any designated employee thereof, to inspect any transfer of trochus to a marketer under this subchapter, to inspect the trochus held by a marketer under this subchapter, and to inspect transfers by the marketer of trochus to aircraft or marine vessels for removal from this state, to ensure compliance with this subchapter. A marketer shall, not less than 48 hours prior to a transfer of trochus to an aircraft or marine vessel for removal from this state, notify

the Pohnpei Fisheries Officer of such intended transfer and the time and place thereof, and thereafter of any changes in such scheduling within a reasonable time prior to such transfer to allow for the inspection thereof.

Source: S.L. No. 2L-106-81 §2-7, 12/17/81

§6-168. Criminal penalties. — Any person found in violation of any provision of this part or any rule or regulation issued hereunder shall be guilty of an offense against the state, and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §2-8, 12/17/81

§6-169. Civil penalties. — In addition to any criminal penalties prescribed by §6-168:

(1) Any person found harvesting or otherwise interfering with the growth of trochus in violation of this subchapter or of rules and regulations issued pursuant hereto shall be subject to a civil penalty of three times the current market value of trochus so unlawfully harvested or interfered with.

(2) Any marketer licensed under this subchapter, or person purporting to act as a marketer of trochus within this state, found in possession of or having received or transferred trochus under the legal size permitted for harvesting, or known to be harvested out of season or from a restricted area, or which has been received at any other time or place than that designated under §6-165, shall be subject to a civil penalty of three times the current market value of the trochus so unlawfully possessed, received or transferred.

(3) Conviction of a marketer under §6-168 shall automatically revoke his license hereunder; PROVIDED that he may lawfully dispose of such trochus legally possessed upon revocation thereof. No marketer convicted under this subchapter may be eligible for a marketing license hereunder for three years following said conviction.

(4) All unlawfully harvested or possessed trochus shall be forfeited to the state government for appropriate disposition. Upon a finding by a designated employee of the state government that more than ten percent (10%) of a test sample of trochus held by a marketer is unlawfully possessed, the government may impound the entire holdings of the marketer pending a full and thorough investigation of all such holdings of the marketer to ensure compliance with this subchapter.

Source: S.L. No. 2L-106-81 §2-9, 12/17/81

Note: S.L. No. 2L-106-81 §2-10 superseding provision has been omitted.

§6-170. [RESERVED]

SUBCHAPTER II MARINE AND AQUATIC RESOURCES MISCELLANEOUS

PART G BLACK-LIP MOTHER-OF-PEARL OYSTER SHELL

§6-171. Control of pinctada margaritifera (black-lip mother-of-pearl oyster shell). — No pinctada margaritifera, commonly known as black-lip mother-of-pearl oyster shell, shall be taken from the first day of August to the thirty-first day of December inclusive; PROVIDED, that no such shell may be taken at any time which is less than six inches in minimum diameter, measured along the longest dimension across the outside of the shell; and PROVIDED FURTHER, that such shells, of any size, may be taken at any time for scientific purposes when specifically authorized by the Governor.

Source: TTC §783 (1966); 45 TTC §4 (1970); P.L. No. 4C-57 §4; 45 TTC §4 (1980); P.L. No. IC-19 §1

§6-172. Penalties for violation of part. — A person violating any of the provisions of this part for which a different penalty is not otherwise provided shall, upon conviction thereof, be imprisoned for a

period not exceeding six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

Source: TTC §§774 & 784 (1966); 45 TTC §5 (1970); P.L. No. 4C-35 §6; 45 TTC §5 (1980)

§§6-173 – 6-180. [RESERVED]

PART H FRESHWATER SHRIMP

§6-181. Harvesting freshwater shrimp with explosives, poisons, chemicals, and other substances prohibited. —

(1) No person shall knowingly catch or harvest freshwater shrimp by means of explosives, poisons, chemicals or other substances which kill freshwater shrimp or other aquatic life, nor shall any person knowingly possess or sell any freshwater shrimp or other aquatic life caught or harvested by means of explosives, poisons, chemicals or other substances which kill freshwater shrimp or other aquatic life. The terms “poisons,” “chemicals,” and “substances” include, but are not limited to, hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders, preparations containing rotenone, tephrosin or plant material from *Barrington asiatica*, *Coculus ferrandianus*, *Hura crepitans*, *Piscidia erythrina*, *Tephrosia purpurea*, and *Wikstremia*.

(2) No person shall knowingly place or cause to be placed, in any fresh waters of Pohnpei State, explosives, poisons, chemicals or other substances with the intent to kill freshwater shrimp or other aquatic life.

Source: D.L. No. 3L-40-72 §1, 11/29/72

§6-182. Penalty. — Any person who violates §6-181 shall, upon conviction thereof, be fined not more than \$100, or imprisoned for not more than six months, or both such fine and imprisonment.

Source: D.L. No. 3L-40-72 §2, 11/29/72

§§6-183 – 6-190. [RESERVED]

PART I SPONGES

§6-191. Control of sponges. — No sponges artificially planted or cultivated shall be taken or molested, except by permission of the Governor.

Source: TTC §782 (1966); 45 TTC §3 (1970); 45 TTC §3 (1980)

§6-192. Penalties for violation of part. — A person violating any of the provisions of this part for which a different penalty is not otherwise provided shall, upon conviction thereof, be imprisoned for a period not exceeding six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

Source: TTC §§774 & 784 (1966); 45 TTC §5 (1970); P.L. No. 4C-35 §6; 45 TTC §5 (1980)

§§6-193 – 6-200. [RESERVED]

PART J TURTLES

§6-201. Limitations on taking of turtles. —

(1) No hawksbill turtles or sea turtles shall be taken or intentionally killed while on shore, nor shall their eggs be taken.

(2) No hawksbill turtle shall be taken or killed except whose shell is at least twenty-seven inches when measured over the top of the carapace shell lengthwise; no green turtle shall be taken or killed except whose shell is at least thirty-four inches when measured over the top of the carapace shell lengthwise.

(3) No sea turtle of any size shall be taken or killed from the first day of June to the thirty-first day of August inclusive, nor from the first day of December to the thirty-first day of January inclusive.

(4) Notwithstanding any provisions of this section to the contrary, taking of sea turtles and their eggs shall be allowed for scientific purposes when specifically authorized by the Governor.

Source: TTC §781 (1966); 45 TTC §3 (1970); P.L. No. 4C-57 §§1 – 3; 45 TTC §2 (1980)

§6-202. Penalties for violation of part. — A person violating any of the provisions of this part for which a different penalty is not otherwise provided shall, upon conviction thereof, be imprisoned for a period not exceeding six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

Source: TTC §§774 & 784 (1966); 45 TTC §5 (1970); P.L. No. 4C-35 §6; 45 TTC §5 (1980)

§§6-203 – 6-210. [RESERVED]

PART K EXPORTING

§6-211. Export of mangrove crabs, coconut crabs, and lobsters, prohibited. — It shall be unlawful for any person, whether acting individually or as agent for any corporation, association, partnership or other organization to willfully export for sale or exchange for value, or participate in the exportation for sale or exchange for value, of any mangrove crab, coconut crab or lobster from Pohnpei; Provided, however, that duly licensed and permitted cultured mangrove crab producers may export for sale cultured mangrove crab harvested by such producer from their approved aquaculture facilities.

Source: D.L. No. 2L-223-71 §1, 6/16/71; D.L. No. 4L-76-77 §1, 5/6/77; S.L. No. 7L-22-09 §4, 1/16/09

§6-212. Penalty. — Anyone who violates §6-211, shall, upon conviction thereof, be imprisoned for a period not to exceed two years, or fined not more than \$1,000, or both such fine and imprisonment.

Source: D.L. No. 2L-223-71 §2, 6/16/71

§§6-213 – 6-220. [RESERVED]

PART L SPECIAL PROHIBITIONS ON FISHING

§6-221. Prohibition on fishing with explosives, poisons, chemicals, etc. —

(1) Except as provided in Subsection (3) of this section, no person shall knowingly catch any fish or other marine life by means of explosives, poisons, chemicals or other substances which kill fish or

marine life, nor shall any person knowingly possess or sell any fish or any other marine life caught by means of explosives, poisons, chemicals or other substances which kill fish or marine life. The terms “poisons,” “chemicals” or “substances” include but are not limited to hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders, preparations containing rotenone, tephrosin or plant material from *Barrington asiatica*, *Coculus ferrandianus*, *Hura crepitans*, *Piscidia erythrina*, *Tephrosia purpurea*, and *Wikstremia*.

(2) Except as provided in Subsection (3) of this section, no person shall knowingly place or cause to be placed, in any waters of Pohnpei, explosives, poisons, chemicals or other substances with the intent to kill fish or other marine life.

(3) The provisions of Subsections (1) and (2) of this section shall not apply where the Governor:

(a) Has granted written permission to use the means prohibited in Subsection (1) of this section; or

(b) Has determined that the:

(i) Purpose of obtaining the fish or other marine life is to avoid the waste or loss of such fish or marine life; and

(ii) Consumption or sale of fish or other marine life caught by any means, the use of which is prohibited in Subsection (1) of this section, is not harmful or hazardous to health and human life.

(4) Nothing in this section shall be construed to prevent any person from catching any fish or other marine life by the use of local roots, nuts or plants which have the effect of stupefying but which do not kill fish or other marine life.

(5) Any person who violates any of the provisions of this section shall, upon conviction thereof, be fined not less than one hundred dollars or more than two thousand dollars, or imprisoned for not less than six months or more than two years, or both such fine and imprisonment.

Source: TTC §780 (1966); 45 TTC §1 (1970); P.L. No. 4C-35 §§1 – 5; 45 TTC §1 (1980)

§6-222. Penalties for violation of part. — A person violating any of the provisions of this part for which a different penalty is not otherwise provided shall, upon conviction thereof, be imprisoned for a period not exceeding six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

Source: TTC §§774 & 784 (1966); 45 TTC §5 (1970); P.L. No. 4C-35 §6; 45 TTC §5 (1980)

PART M STATISTICS

§6-223. Intent of part. — It is recognized that marine resources constitute a major portion of Pohnpei’s natural resources, and that the development and proper management of these resources requires detailed statistical data in order to evaluate the conditions of particular fisheries. At the present time, the gathering of such statistical information is not being carried out properly. The inshore stock of live bait fish is essential for the harvesting of skipjack tuna, and this stock of live bait can be readily overfished by allowing too many boats to harvest it. Therefore, in order to prevent such overfishing, it is the intent of this part to provide for the compilation of detailed information relating to the daily harvest of live bait in Pohnpei State. The proper management of this resource will benefit all the people of this state now and in the future.

Source: D.L. No. 3L-33-72 §1, 6/15/72

§6-224. Catch statistics regarding live bait and skipjack tuna. — All vessels licensed to fish for live bait and skipjack tuna in Pohnpei must provide the Governor and the Administrator, Office of

Economic Affairs, such information as prescribed by the Administrator, Office of Economic Affairs, no later than the end of the first week following the end of each month. Such information shall include, but is not limited to, the following categories:

- (1) Type of fish harvested;
- (2) Location at which harvested;
- (3) Method of harvesting;
- (4) Size of fish harvested;
- (5) Amount of fish harvested; and
- (6) Time of harvesting.

Source: D.L. No. 3L-33-72 §2, 6/15/72; S.L. No. 5L-14-00 §3-14, 10/1/00

§6-225. Penalty. — Any licensed company, corporation, individual or vessel supplying misleading or fraudulent information or failing to report such information as provided in §6-223, by the end of the first week following each month, shall have its right to harvest bait and tuna from Pohnpei State

cancelled, and shall be subject to a fine of not less than \$500, or a prison sentence of not less than six months nor more than one year, or both such fine and imprisonment.

Source: D.L. No. 3L-33-72 §3, 6/15/72; S.L. No. 5L-14-00 §3-14, 10/1/00

CHAPTER 7 [RESERVED]

CHAPTER 8 LAND RESOURCES

Section

Part A Birds

8-101 Unlawful to hunt or kill Pohnpei lorikeet; penalties	8-112 – 8-120 [Reserved] 8-121 Pigeon hunting; penalties
8-102 – 8-110 [Reserved]	8-122 – 8-130 [Reserved]
8-111 Killing of owls; penalties	

Part B [Reserved]

PART A BIRDS

§8-101. Unlawful to hunt or kill Pohnpei lorikeet; penalties. —

(1) It shall be unlawful for any person to hunt or kill Pohnpei lorikeet within the state of Pohnpei.

(2) Every person who violates Subsection (1) of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: S.L. No. 2L-90-81 §§2 & 3, 11/9/81

Note: The Pohnpei lorikeet is further identified in 1 PC 6-107 (S.L. No. 2L-90-81, §1).

§§8-102 – 8-110. [RESERVED]

§8-111. Killing of owls; penalties. — The killing of owls by any method is prohibited. Any person violating this section shall, upon conviction thereof, be punished by imprisonment for a period not to exceed 30 days, or by a fine not to exceed \$25, or both such fine and imprisonment.

Source: PDC §11-201, 3/71

§§8-112 – 8-120. [RESERVED]

§8-121. Pigeon hunting; penalties. — Pigeon hunting in Pohnpei State shall be lawful only during the month of December of each year. Any person violating this section shall, upon conviction thereof, be punished by imprisonment for a period not to exceed 30 days, or a fine not to exceed \$25, or both such fine and imprisonment.

Source: PDC §11-200, 3/71

§§8-122 – 8-130. [RESERVED]

PART B [RESERVED]

CHAPTER 9 [RESERVED]

CONSERVATION & RESOURCES

CHAPTER 10 CONSERVATION AND RESOURCES FINANCES

Section

10-101 Agriculture and marine resources development matching funds: authorization for appropriation; administration

§10-101. Agriculture and marine resources development matching funds: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei or such fund of the Treasury into which Compact of Free Association capital account monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of matching Congress of the Federated States of Micronesia grants for agricultural and marine resource development in Pohnpei.

(2) The sums herein authorized for appropriation shall be administered and expended by the Director of the Department of Land and Natural Resources, upon the approval of the Governor, solely for the purpose stated in Subsection (1) of this section. The Director of the Department of Land and Natural Resources shall report to the Legislature on or before October 15 each fiscal year on all matters concerning the expenditure of the sums appropriated under the authorization of this section. The sums herein authorized for appropriation shall remain available until fully expended.

Source: S.L. No. 1L-107-86 §§1 & 2, 10/15/86; S.L. No. 1L-143-87 §§1 & 2, 7/14/87; S.L. No. 1L-194-87 §1, 10/29/87

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TITLE 27
ENVIRONMENTAL
PROTECTION

TITLE 27 ENVIRONMENTAL PROTECTION

CHAPTER

- 1 ENVIRONMENTAL PROTECTION AGENCY**
- 2 LITTER ABATEMENT**
- 3 RECYCLING OF BEVERAGE CONTAINERS**
- 4 CONTROL OF PLASTIC WASTES**

CHAPTER 1 ENVIRONMENTAL PROTECTION AGENCY

Section

1-101 Short title	1-109 Powers and duties of the Agency
1-102 Public policy	1-110 Right of entry
1-103 Definitions	1-111 Authorization; use of general fund revenues by the Agency
1-104 Establishment of Environmental Protection Agency	1-112 Enforcement
1-105 Board of Directors: membership; terms; vacancies; officers; removal	1-113 Judicial review
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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Environmental Protection Act of 1992.”

Source: S.L. No. 3L-26-92 §1, 11/19/92

§1-102. Public policy. —

(1) The Government of Pohnpei, recognizing the profound impact of man’s activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth and redistribution, cultural change, resource exploitation, and new expanding technological advances, and recognizing the critical importance of restoring and maintaining environmental quality for the overall welfare and development of man, declares that it is the continuing policy of the Pohnpei Government, in cooperation with the Federated States of Micronesia, the local governments of Pohnpei, and other concerned public and private organizations, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of the present and future generations of Pohnpeians.

(2) In order to carry out this guiding policy, it is the continuing responsibility of the state of Pohnpei, using all practical means available and taking into account considerations of economic development, budgetary limitations, and traditional cultural relations, to do the following:

- (a) Act as trustees of the environment for the current and future generations of Pohnpei;

(b) Assure for all Pohnpeians safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment by maintaining a level of air, land, and water quality as will protect human health, welfare, and safety from undesirable or unintended consequences; and

(d) Prevent injury to plant and animal life.

(3) The effort to protect and preserve the environment will be carried forward in close cooperation with the national government, each local government of Pohnpei, and all elements of the public and private sector.

(4) The state of Pohnpei recognizes that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Source: S.L. No. 3L-26-92 §2, 11/19/92

§1-103. Definitions. — Unless the context clearly requires otherwise, the following words, when used in this chapter, shall have the meanings set forth below:

(1) “Agency” shall mean the Pohnpei Environmental Protection Agency (EPA) as established by this chapter.

(2) “Board” shall mean the Pohnpei Environmental Protection Board as established by this chapter.

(3) “Environmental impact statement” means a thorough study and intensive consideration of possible environmental effects of a developmental action before it is undertaken.

(4) “Executive officer” shall mean the executive officer of the Pohnpei Environmental Protection Agency, or one or more of his duly authorized representatives.

(5) “Persons” shall mean the governments of Pohnpei, the Federated States of Micronesia, the United States of America or other foreign governments and every local government and political subdivision of said governments, any public or private institution, corporation, partnership, joint venture, association, firm or company, any lessee or other occupant of property, and any individual acting singly or as part of a group.

(6) “Pollutant” means one or more substances or forms of energy that, when present in the air, land or water, are or may be harmful or injurious to the health, welfare or safety of humans, animals, plants or property or that unreasonably interfere with the enjoyment of the lives and properties of the people.

Source: S.L. No. 3L-26-92 §3, 11/19/92

§1-104. Establishment of Environmental Protection Agency. — There is hereby established an independent governmental agency to be known as the Pohnpei Environmental Protection Agency (“EPA”).

Source: S.L. No. 3L-26-92 §4, 11/19/92

§1-105. Board of Directors: membership; terms; vacancies; officers; removal. —

(1) All powers vested in the EPA shall be exercised by a Board of Directors to be composed of seven members. Each member shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. In the appointment of Board members, the Governor shall, when possible, select members whose experience demonstrates knowledge of environmental issues and processes.

(2) Members of the Board shall serve staggered terms of four years, subject to reappointment, or until their successors have been appointed and qualified. Three members of the initial Board shall serve for a period of two years and four members for four years. The terms for each of the initial Board members shall be determined by the Governor.

(3) Appointees shall be FSM citizens and residents of Pohnpei. Vacancies in unexpired terms of more than one year shall be filled in the same manner as the original appointment was made, for the remainder of the unexpired term.

(4) Members of the Board may be removed by the Governor for good cause.

(5) The Board shall elect from among its members a Chairman, a Vice-Chairman, and a Secretary. The Governor shall designate a member to serve as temporary Chairman of the Board until such time as the Board shall elect a Chairman. The Board of Directors shall act as the chief officer within the meaning of Article 9 §10 of the Pohnpei Constitution.

Source: S.L. No. 3L-26-92 §5, 11/19/92

§1-106. Board of Directors: meetings; quorum. —

(1) The Board of Directors shall meet at least once quarterly. Meetings may be held at any time or place as determined by the Board, or upon the call of the Chairman or upon the written request of any four members. All members of the Board shall be given reasonable notice of the date, time, and place of each meeting as set forth in the regulations of the Board. All meetings shall be open to the public except executive sessions as agreed upon by unanimous vote of the members present. Public notice of the date, time, and place of all meetings, except executive sessions, shall be announced on the radio at least two days prior to the meeting.

(2) Four members of the Board shall constitute a quorum for the transaction of business and the assent of four members shall be required for all actions requiring a vote. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.

Source: S.L. No. 3L-26-92 §6, 11/19/92

§1-107. Board of Directors: compensation. — Members of the Board shall be compensated at the rates established by the Government Officers Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually performing functions of the Board at the direction of the Chairman, except that those members who are Pohnpei Government employees shall instead be granted administrative leave from their regular duties while performing functions of the Board. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 3L-26-92 §7, 11/19/92

§1-108. Management. — The Board shall designate an executive officer of the Environmental Protection Agency whose term of office shall be determined by the Board. The executive officer shall be subject to the Public Service System Act, Title 9 Chapter 2. The executive officer shall have the following powers and duties:

(1) To be in full charge and control of the daily operation and administration of the Environmental Protection Agency functions assigned to him under this chapter;

(2) To hire, retain, and terminate the services of employees in accordance with decisions or policies of the Board that shall be in conformance with the Public Service System Act, Title 9 Chapter 2, as amended;

(3) To attend all meetings of the Board and to submit a general report on the affairs of the Board;

(4) To keep the Board advised on the needs of the EPA;

(5) To approve demands for payment of obligations within the purposes and amounts authorized by the Board;

(6) To devote full time to the business of the EPA;

(7) To plan, organize, coordinate, and control the services of EPA's employees and independent contractors;

(8) To prepare or assist in preparing fiscal and budget reports as required by law or by this chapter; and

(9) To perform such other and additional duties as the Board may require.

Source: S.L. No. 3L-26-92 §8, 11/19/92

§1-109. Powers and duties of the Agency. — The Agency shall have the power and duty to protect the environment, human health, welfare, and safety and to abate, control, and prohibit pollution or contamination of air, land, and water in accordance with this chapter and with the regulations adopted and promulgated under this chapter, and any administrative directive issued by the Governor pursuant to this chapter, balancing the needs of economic and social development against those of environmental quality. To fulfill this obligation and the public policy stated herein, the Agency shall do the following:

(1) Establish rules and regulations within one year of the appointment of an executive officer to effectuate the purposes of this chapter, which rules and regulations shall have the force and effect of law when issued as provided by the Administrative Procedures Act, Title 8 Chapter 1, to include, but not to be limited to the following:

(a) Earth moving regulations;

(b) Regulations pertaining to mining and dredging and the removal of mined and dredged materials; PROVIDED that the regulations issued by the Agency shall, with respect to mining and dredging on Public Trust Lands and the removal of mined and dredged materials from Public Trust Lands, contain provisions that prohibit the Agency from accepting or considering any application for a permit that will directly or indirectly cause the removal of mined or dredged materials by any person or organization, public or private, from any area of Public Trust Lands that has not been designated as available for removal of mined and/or dredged materials under Title 42 Chapter 9, as it is currently in effect or as it may be amended or superseded; PROVIDED FURTHER that the regulations of the Agency adopted under this paragraph may allow for joint consideration by the Pohnpei Public Lands Trust Board of Trustees and the Agency of individual applications for respective permits to be issued by the two entities for the removal of mined and/or dredged materials from such areas as are currently so designated under said law and for which all proper clearances as required by that law have been issued to the Board of Trustees;

(c) Environmental impact assessment regulations;

(d) Water supply systems regulations;

(e) Pesticide regulations;

(f) Sewage regulations;

(g) Solid waste regulations;

(h) Marine and fresh water quality regulations;

(i) Air pollution regulations;

(j) Ground water regulations; and

(k) Hearing procedure regulations for the Board.

(2) Establish and administer a system requiring a permit for any person to discharge a pollutant into the air, land or water, or for any person to conduct any activity that results or may result in the discharge of any pollutant into the air, land or water such as the operation, construction, expansion or alteration of any facility; provide for the issuance, modification, suspension, revocation, and termination of such permits; and require the applicable payment of a reasonable fee and the posting of a bond as deemed appropriate. The Board may, by regulation, delegate minor permit issuance authority to the executive officer.

(a) Upon the receipt of a complete application for a permit, as defined by rules and regulations created under this chapter, the EPA shall submit a copy of the same, and where applicable, the environmental impact assessment statement necessary for the granting of the permit to

appropriate government agencies for their comment and analysis. Government agencies shall include, but shall not be limited to, the Pohnpei Office of Economic Affairs, the Pohnpei Department of Land and Natural Resources, the Office of Fisheries and Aquaculture, the Office of Transportation and Infrastructure, and the Pohnpei Transportation Authority. Each government agency notified and provided with a permit application and/or environmental impact assessment statement shall have 30 days to review and make recommendations on the granting of the permit. Any government agency that wishes to comment on a permit application shall be provided with a copy of the application and any supporting documents.

(b) The Board shall establish standard procedures, through regulation, as administered by the executive officer, for the preparation of an environmental impact assessment statement prior to issuing permits for any public or private project that may significantly affect the quality of the environment to include the land, water, and air. Regulations shall set forth criteria for the development of environmental impact statements and the payment for the preparation of such statements.

(c) The Agency shall consider all such recommendations which are submitted in a timely fashion in its determination of whether or not to grant the relevant permit. The Agency may request additional information and analysis from the appropriate governmental agency as it deems appropriate.

(3) Conduct, authorize, cooperate in or contract for the conducting of scientific investigations, experiments, and research and the collecting of data concerning environmental quality.

(4) Establish and consult with advisory boards and environmental associations; to advise and make recommendations to the Board on research, policies, administration, and other matters.

(5) Hold hearings upon matters pending before it for determination; PROVIDED that where a public hearing and published notice thereof are required, notice of the time, place, and purpose of the hearing shall be broadcast on the radio as set forth by the regulations.

(6) Subpoena and compel the attendance of witnesses at any investigation, hearing or proceeding before it, and the production of books, papers, and other evidence pertinent to any such matter. Administer oaths and examine witnesses under oath, and authorize any of its members or agents to do so. In the event of failure of any person to obey any subpoena or testify thereunder before the Board or before any member or agent of the Board authorized by it to take testimony, the person may be punished as for contempt of the Pohnpei Supreme Court, on application therefor by the Board to the Court.

(7) Seek enforcement in the courts of this chapter or any rule, regulation or order of the Board or the Governor hereunder.

(8) Intervene on behalf of the state and public in any suit in any court in which the quality of the air, land or water of Pohnpei is at question.

(9) Accept appropriations and grants from the Pohnpei Government and the FSM national government or any agency thereof, and other public or private sources; PROVIDED that said appropriations and grants shall be expended only for purposes consistent with this chapter.

(10) Adopt and administer programs for the prevention, control, and abatement of pollution of the air, land, and water of Pohnpei and, from time to time, review and modify such programs as necessary.

(11) Collect information, establish record keeping, monitoring, and reporting requirements, and require the posting of bonds as deemed necessary and appropriate to carry out the purposes of this chapter.

Source: S.L. No. 3L-26-92 §9, 11/19/92; S.L. No. 3L-45-93 §1, 10/12/93; S.L. No. 5L-14-00 §3-6, 10/1/00; S.L. No. 7L-20-08 §13, 11/26/08

§1-110. Right of entry. — Whenever it is necessary for the purposes of this chapter and when it is authorized by the Agency or by court order, the Agency, its agents, and employees may, at reasonable times, enter any establishment, or upon any property, public or private, to obtain samples, to inspect

the premises or to copy records required to be maintained by this chapter and any regulations promulgated hereunder, or to conduct surveys or investigations for the purpose of carrying out the purposes and policy of this chapter.

Source: S.L. No. 3L-26-92 §10, 11/19/92

§1-111. Authorization; use of general fund revenues by the Agency. — There is hereby authorized for appropriation from the general fund of Pohnpei such sum or sums as may be determined annually in the Comprehensive Budget Act for all necessary and incidental expenses of the Pohnpei Environmental Protection Agency, its operations and its programs as are authorized by this chapter. The sum or sums hereby authorized shall be administered and expended by the executive officer or his designated representative and as authorized by the Board of Directors. All sums appropriated under the authorization of this section except sums deposited into the Environmental Quality Revolving Account of the general fund as limited by §1-112(1)(c) and remaining unexpended or unobligated on September 30 each year shall revert to the general fund of Pohnpei. Unless otherwise provided or limited by Pohnpei law, the Agency shall be entitled to expend revenues raised and deposited into the Environmental Quality Revolving Account as limited by §1-112(1)(c).

Source: S.L. No. 3L-26-92 §11, 11/19/92

§1-112. Enforcement. —

(1) Any person who violates or threatens to violate any provision of this chapter, or of any permit, regulation, standard or order issued or promulgated hereunder, shall be subject to enforcement action by the Agency. Such enforcement action may include, but is not limited to, any one or more of the following:

- (a) Issuance of an order to cease and desist from such violation, or to comply within a specific time period;
- (b) Issuance of an order to prevent, remedy, repair, clean up or abate the effects of any pollutant;
- (c) Imposition of a civil penalty not less than \$100 per day for each day of such violation, with the amounts collected paid into the Environmental Quality Revolving Account within the general fund as created herein to an amount of \$50,000. Funds deposited into the Environmental Quality Revolving Account shall be used only for emergency response to environmental accidents. Any additional funds shall be deposited into the Treasury for credit to the general fund of Pohnpei;
- (d) Pursuit of a civil action to enforce Agency orders or to enjoin such violation;
- (e) Pursuit of a civil action for monetary damages; and
- (f) Giving of reasonable notice to all interested persons and an opportunity for them to appear and be heard at a public hearing to determine and consider the facts upon which an alleged violation is based.

(2) All orders of the Agency shall become effective and final as to the Agency upon issuance thereof. Copies shall be served forthwith by mail or personal delivery upon the persons being charged with the violation.

(3) In determining the amount of damages in a civil action, the Board shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurred, and the corrective action, if any, taken by the violator. Damages collected hereunder shall be paid into the Treasury for credit to the general fund of Pohnpei.

Source: S.L. No. 3L-26-92 §12, 11/19/92

§1-113. Judicial review. — Any person who may be adversely affected by the enforcement of any standard, policy, regulation, permit or order of the Agency or who alleges its invalidity, may file a

petition for a declaratory judgment in the Pohnpei Supreme Court. The Court shall declare the standard, policy, regulation, permit or order invalid if it finds that it exceeds the statutory authority of the Agency or is arbitrary and capricious. An appeal may be had from the decision of the Court to the Appellate Division of the Supreme Court as provided by law.

Source: S.L. No. 3L-26-92 §13, 11/19/92

§1-114. Criminal acts and penalties. — Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, permit, regulation or order issued under this chapter, or other document filed or required to be maintained under this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, regulation or any order issued under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or imprisoned for not more than six months, or both such fine and imprisonment.

Source: S.L. No. 3L-26-92 §14, 11/19/92

§1-115. Technical assistance. — The Governor shall provide the Agency with necessary technical and legal assistance through the departments, offices, and agencies of the Pohnpei Government. If the Attorney General is unable to provide sufficient legal counsel, the Agency may seek independent counsel.

Source: S.L. No. 3L-26-92 §15, 11/19/92

§1-116. Cooperative agreements. —

(1) The Agency is authorized to enter into cooperative agreements with the Environmental Protection Board of the FSM and other agencies of the FSM for the protection of the Pohnpei environment.

(2) Any function or functions delegated to or by the Agency pursuant to this section may be reassumed and performed by the delegating body.

Source: S.L. No. 3L-26-92 §16, 11/19/92

§1-117. Reports. — The Agency shall transmit to the Governor and the Legislature a quarterly and yearly report that shall include a review of the program and its activities for each quarter and any recommendations the Board deems relevant.

Source: S.L. No. 3L-26-92 §17, 11/19/92

Note: S.L. No. 3L-26-92 §18 severability, §19 temporary, and §20 transition provisions have been omitted.

ENVIRONMENTAL PROTECTION

CHAPTER 2 LITTER ABATEMENT

Section

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2-102 Definitions	2-112 Dumps
2-103 Responsibility of the Environmental Protection Agency	2-113 Edible garbage
2-104 Public education	2-114 Commercial vehicles
2-105 Environmental awareness programs	2-115 Abandoned and stored vehicles
2-106 Littering in public places	2-116 Environmental Quality Fund
2-107 Prohibition on rubbish and garbage on premises	2-117 Shipping container, loose cargo, and motor vehicle waste disposal fee
2-108 Storage	2-118 Litter Reward Fund
2-109 Residence	2-119 Violations
2-110 Non-residential establishments	2-120 Rewards

§2-101. Statement of policy and intent. — The proliferation of personal litter from such sources as beer and soft drink cans, plastic and foam take-out containers, candy and snack wrappers, and discarded sakau bottles is a major source of pollution in the state of Pohnpei. These types of litter are the most rapidly growing segment of state-wide waste, imposing a heavy burden on the government and citizens of Pohnpei for their collection and disposal. The littering of our public properties and casual disposal of other solid waste materials are a continuing threat to the health, safety, and welfare of the citizens of Pohnpei. The Pohnpei Legislature hereby declares that it is the public policy of this state to preserve the pristine beauty of our natural environment and to protect, maintain and improve the aesthetic attributes of our state for the promotion of public health and welfare of our people and for the enhancement of recreational and tourist facilities, as well as for agricultural and other legitimate beneficial uses. It is therefore the intent of this chapter to provide a comprehensive program in the public interest for the prevention, abatement, and control of littering and the proper disposal of solid wastes within the State. It is the further intent of this chapter to provide effective means for the enforcement and carrying out of such a program.

Source: S.L. No. 6L-66-06 §1, 5/18/06

§2-102. Definitions. — As used in this chapter:

(1) “Abandoned vehicle” means any motor vehicle which is no longer capable of being operated on the public roads of Pohnpei. A vehicle that has not been registered pursuant to Title 71 for more than three years shall be presumed to have been abandoned.

(2) “Agency” means the Environmental Protection Agency.

(3) “Executive Officer” means the Executive Officer of the Environmental Protection Agency.

(4) “Dump” means any area, whether on public or private property, where garbage, trash, refuse, junk, debris or other broken and rejected material is deposited, other than in legal trash or garbage receptacles or other authorized disposal sites.

(5) “Garbage” means the solid or semi-solid but reusable animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods, including cans, bottles, containers, and cartons, in which it was received and wrapping in which it may have been placed for disposal.

(6) “Litter” means rubbish, refuse, waste material, garbage, trash, offal, or any debris of whatever kind or description, whether or not it is of value, and includes improperly discarded paper, metal, plastic, glass, or solid waste.

(7) “Person” means and includes individuals, partnerships, corporations, and other associations.

(8) “Premises” means any private property or occupied public land on which is located one or more of the following: home, apartment, hotel or commercial or manufacturing establishment, but does not include a dump.

(9) “Public place” means any area that is used or held out for use by the public, whether owned or operated by public or private interests.

(10) “Rubbish” means disposable solid waste, including ashes, consisting of both combustible and noncombustible waste such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and broken or rejected matter or litter of any kind.

Source: S.L. No. 6L-66-06 §2, 5/18/06

§2-103. Responsibility of the Environmental Protection Agency. — Primary responsibility for the enforcement of this chapter shall be with the Pohnpei Environmental Protection Agency, which shall have the authority to issue regulations for its proper enforcement. Such regulations shall, upon written concurrence of the Governor, carry the force and effect of law. The responsibility of the Environmental Protection Agency for enforcement shall be concurrent with that of the Department of Public Safety and local law enforcement agencies operating under joint law enforcement agreements pursuant to Title 16 Chapter 2. The Environmental Protection Agency may also solicit the assistance of the Department of Land and Natural Resources, Department of Education, the Office of Social Affairs, the Office of Transportation and Infrastructure, the Pohnpei Transportation Authority, the local governments of the state, and other public agencies and voluntary groups in the conduct of its promotional activities under this chapter.

Source: S.L. No. 6L-66-06 §3, 5/18/06

§2-104. Public education. — The public policy of this state recognizes that the most efficient means to abate the pollution of our natural environment caused by litter and the improper disposal of waste is through the concerted actions of an educated, concerned and cooperative public. Litter and improperly disposed wastes cannot pollute our environment if they never occur in the first place. To this end, the Environmental Protection Agency shall develop and maintain a continuous and vigorous program of public education for both children and adults as to their responsibilities in keeping Pohnpei clean.

Source: S.L. No. 6L-66-06 §4, 5/18/06

§2-105. Environmental awareness programs. — The public policy of this state embraces the concept that the best defense against a dirty environment is an offense for clean and healthy lifestyles. To this end, the Environmental Protection Agency shall budget for and implement environmental awareness programs including, but not limited to:

- (1) The institution of community award programs designed to honor communities that, by example, show the highest commitment to litter abatement and solid waste control;
- (2) The conduct of programs for the recycling of cans and other materials; and
- (3) The initiation of road and park adoption programs and the development of other strategies designed to maintain the aesthetic value of our roadways and recreational areas.

Source: S.L. No. 6L-66-06 §5, 5/18/06

§2-106. Littering in public places. □ — It shall be unlawful for any person to throw, discard, scatter or abandon any waste materials, rubbish, garbage or other debris in any form or substance upon any public road, street, easement, land, stream, rivers, or body of water accessible to the general public, other than a public dumping ground maintained by the Government of Pohnpei or any of the local governments of Pohnpei.

Source: S.L. No. 6L-66-06 §6, 5/18/06

§2-107. Prohibition on rubbish and garbage on premises. — No person shall have on his premises any garbage or rubbish except as provided in this chapter.

Source: S.L. No. 6L-66-06 §7, 5/18/06

§2-108. Storage. — All garbage and rubbish shall be stored and maintained in durable receptacles unless otherwise prescribed in the regulations promulgated by the Environmental Protection Agency under this chapter.

Source: S.L. No. 6L-66-06 §8, 5/18/06

§2-109. Residence. — Each person shall provide adequate containers for the storage of all garbage and rubbish and is responsible for its disposal, subject to rules and regulations established by Environmental Protection Agency.

Source: S.L. No. 6L-66-06 §9, 5/18/06

§2-110. Non-residential establishments. —

(1) The owner or operator of any business establishment or commercial operation shall provide adequate containers for the storage of garbage or rubbish that is generated in the course of operating his/her business or commercial enterprise.

(2) The Governor, the Speaker of the Legislature, the Chief Justice of the Pohnpei Supreme Court and the Public Auditor of the Pohnpei Government or their designees shall ensure for the provision of adequate containers for the storage of garbage or rubbish generated by the Pohnpei Government.

(3) The Chief Executive Officer of every public corporation, religious institution, charitable organization, and non-profit corporation or association shall ensure for the provision of adequate containers for the storage of garbage or rubbish generated by such an entity.

Source: S.L. No. 6L-66-06 §10, 5/18/06

§2-111. Removal. — Garbage, rubbish and other solid wastes shall be removed from all premises at regular intervals as may be established by regulation by the Environmental Protection Agency. Except as provided in §2-112, garbage, rubbish and other solid wastes shall only be disposed of at a public dumping ground maintained by the Government of Pohnpei or any of the local governments of Pohnpei.

Source: S.L. No. 6L-66-06 §11, 5/18/06

§2-112. Dumps. — No person shall maintain or permit the establishment of a dump on their premises unless permitted by regulation of the Environmental Protection Agency; PROVIDED that in issuing such regulations, the Agency shall be mindful of the needs of those persons residing or operating businesses in remote areas without ready access to Pohnpei Government or local government dumping grounds and shall develop special regulations to ensure safe waste disposal practices in said remote areas.

Source: S.L. No. 6L-66-06 §12, 5/18/06

§2-113. Edible garbage. — The Environmental Protection Agency is authorized to prescribe by regulation such processing and limitations with respect to the use of garbage as animal feed or other use as may be deemed necessary for the public health. No garbage shall be sold or disposed of as food for human consumption.

Source: S.L. No. 6L-66-06 §13, 5/18/06

§2-114. Commercial vehicles. — Commercial vehicles used for conveying garbage or rubbish shall not be used for the transportation or conveyance of any food or drink that will or may be used for human consumption.

Source: S.L. No. 6L-66-06 §14, 5/18/06

§2-115. Abandoned and stored vehicles. — The Environmental Protection Agency shall by regulation provide for the proper removal and disposal of abandoned vehicles from premises, the sides of roadways and other places. Such regulations shall further regulate the storage of unregistered vehicles at vehicle repair shops and wrecking sites.

Source: S.L. No. 6L-66-06 §15, 5/18/06

§2-116. Environmental Quality Fund. —

(1) There is hereby created within the Pohnpei Treasury a special revenue fund which shall be known as the Environmental Quality Fund. All fees received by the Environmental Protection Agency pursuant to §2-117 shall be deposited in the fund created by this section. Monies may also be appropriated to the fund from other revenue funds of the Pohnpei Treasury, including excess funds from the Litter Reward Fund, and the fund shall be entitled to receive gifts and donations from other sources.

(2) There is hereby authorized for appropriation from the Environmental Quality Fund a sum or sums to be determined annually and as may be allocated in the Comprehensive Budget Act for the conduct of public education, environmental awareness, and clean-up programs pursuant to this chapter.

(3) Monies appropriated from the Environmental Quality Fund shall be administered and expended by the Executive Officer of the Environmental Protection Agency, upon direction of the Environmental Protection Board, solely for the purposes specified in this section. All sums appropriated under the authorization of this section in a fiscal year remaining unexpended or unobligated for expenditure at the close of the fiscal year shall revert to the Environmental Quality Fund. The Executive Officer shall submit an annual report to the Legislature on or before October 15, which report shall provide for an accounting of all expenses drawn from the fund for the previous fiscal year.

Source: S.L. No. 6L-66-06 §16, 5/18/06

§2-117. Shipping container, loose cargo, and motor vehicle waste disposal fee. — The public policy of this state declares that a fee is owed by those bringing materials into the state to ensure that such materials are disposed of properly following consumption or at the end of their useful life. Accordingly, the Environmental Protection Agency shall establish by regulations a special waste disposal fee not to exceed \$100 on each shipping container and each motor vehicle, whether or not within a shipping container, brought into the state on any sea vessel from any port of origin outside the state; PROVIDED that the fee imposed by this section shall be waived or discounted on a pro rata basis by the Environmental Protection Agency upon a showing that:

(1) the contents of the container or a portion of the contents of the container or that the motor vehicle is not for sale, use or consumption within the state, but for transshipment to a destination without the state; or

(2) that the contents of the shipping container is principally composed of one or more motor vehicles upon which a waste disposal fee has been levied by the Environmental Protection Agency under the regulations issued pursuant to the provisions of this section; PROVIDED FURTHER that the burden of proof shall be upon the person so bringing the shipping container or motor vehicle into the state that said person is entitled to the waiver or discount. All fees so paid to the Environmental

Protection Agency shall be deposited in the Environmental Quality Fund established by §2-116.

Source: S.L. No. 6L-66-06 §17, 5/18/06

§2-118. Litter Reward Fund. —

(1) There is hereby established within the Pohnpei Treasury, a special expenditure fund which shall be known as the Litter Reward Fund. All fines collected by the state of Pohnpei pursuant to §2-119 shall be collected by the Pohnpei Supreme Court and are hereby continuously appropriated, as though incorporated in the annual Comprehensive Budget Act, for deposit into the Litter Reward Fund. Monies may also be appropriated to the fund from other revenues of the Pohnpei Treasury.

(2) Monies in the Litter Reward Fund shall be used by the Environmental Protection Agency to reward persons that provide information or evidence leading to convictions of persons that violate this chapter.

(3) Monies continually appropriated to the Litter Reward Fund shall be administered and expended by the Environmental Protection Agency solely for purposes specified in this section. If, at the close of the fiscal year, the Environmental Protection Agency determines that there are excess monies within the Litter Reward Fund that are not needed to reward persons pursuant to §2-120, the Environmental Protection Agency shall transfer such excess monies to the Environmental Protection Agency for deposit into the Environmental Quality Fund established pursuant to §2-116.

Source: S.L. No. 6L-66-06 §18, 5/18/06

§2-119. Violations. — Any person who shall willfully violate any provision of this chapter or regulation of the Environmental Protection Agency issued pursuant to this chapter shall be guilty of an offense against Pohnpei and:

(1) Upon conviction of a first offense shall be fined not less than \$25 and not more than \$500, which fine shall be deposited into the Litter Reward Fund established pursuant to §2-118, and shall be required to engage in no fewer than 10 hours of community service in the form of participation in clean-up programs; or

(2) Upon conviction of any subsequent offense shall be fined not less than \$50 and not more than \$1000, which fine shall be deposited into the Litter Reward Fund established pursuant to §2-118, and shall be required to engage in no fewer than 20 hours of community service in the form of participation in clean-up programs, and, upon a finding by the Pohnpei Supreme Court that imprisonment is necessary to deter such person from violating this chapter in the future, imprisonment for not more than one year.

Source: S.L. No. 6L-66-06 §19, 5/18/06

§2-120. Rewards. — Any person who provides information or evidence that, in the sole determination of the Attorney General, resulted in a conviction pursuant to §2-119, shall, if sufficient funds exist in the Litter Reward Fund, be rewarded with:

(1) \$25;

Source: S.L. No. 6L-66-06 §20, 5/18/06

Note: S.L. No. 6L-66-06 §21 repealing provision has been omitted.

ENVIRONMENTAL PROTECTION

CHAPTER 3 RECYCLING OF BEVERAGE CONTAINERS

Section

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3-109 Authorization for appropriation	
3-110 Imposition of deposit fee	
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§3-101. Findings. — The Legislature finds and declares that:

- (1) One of Pohnpei's most visible forms of pollution is the dumping of beverage containers throughout the state;
- (2) The existence of waste beverage containers increases the burden on limited landfill sites;
- (3) The existence of improperly disposed waste beverage containers increases the hazards to health and safety;
- (4) The lack of a statewide recycling program is a clear burden to the growth of the tourism industry in Pohnpei; and
- (5) The planning, development and operation of a statewide recycling program based upon a deposit fee for beverage containers is a self-funding means of addressing these concerns without cost to the citizens of Pohnpei.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-102. Definitions. — Unless the context clearly indicates otherwise, the following meanings shall apply to this chapter:

- (1) "Beverage" means beer or other malt beverages, mineral waters, soda water, and similar carbonated soft drinks in liquid form and intended for human consumption.
- (2) "Beverage container" means the individual, separate, sealed aluminum can manufactured to contain a beverage of twenty-four ounces or less.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-103. Recycling Program. — There is hereby established the Pohnpei Recycling Program. The purpose and aim of the Recycling Program is to establish a self-supported, safe and efficient system of beverage container disposal throughout Pohnpei.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-104. Declaration of Agency. — The Pohnpei Environmental Protection Agency (hereinafter referred to as "EPA") shall act as the agent for the state of Pohnpei and shall have the duty and authority to administer the Recycling Program. Such authority includes, but is not limited to, the administration of the Recycling Fund, hiring of employees and contractors, purchasing and selling property and services, leasing or obtaining interests in land on behalf of the state, receiving donations and contributions, and entering into agreements to further the purposes of the Recycling Program. All such authority shall be exercised pursuant to applicable laws, including the provisions of the Pohnpei

Code on the Pohnpei Public Service, (9 PC 2), and the provisions of the Pohnpei Code on Public Contracts, (11 PC 6).

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-105. Recycling Fund. —

(1) There is hereby established a fund which shall be known as the “Recycling Fund”, to be maintained by the Department of Treasury and Administration separate and apart from other funds of the state. Independent records and accounts shall be maintained in connection therewith. The Recycling Fund shall be administered in accordance with Chapter 2 of Title 11 of the Pohnpei Code, (the Financial Organization and Management Act of 1987, as amended).

(2) All deposit fees collected and revenues received from the sale of beverage containers under the provisions of this chapter, as well as all appropriations by the Pohnpei Legislature, any grants, donations and contributions to the Recycling Program, and any interest or income earned on the money in the Recycling Fund shall be deposited into the Recycling Fund.

(3) Except when specific requirements are imposed by law or by the grantor or donor, the Recycling Fund shall be first applied to the expenses attributable to the administration of the Recycling Program, then to the payments required under §3-106 of this chapter, then to reserve to cover anticipated and unanticipated future expenses of the program. The balance, if any, shall be dedicated to enlarging the program to eventually include other kinds of trash.

(4) Money in the fund shall be administered by the EPA and may be obligated or expended without further legislative action for the purposes stated in this chapter.

(5) The EPA shall, not later than 90 days after the close of each fiscal year, submit to the Governor and the Legislature a complete report showing its activities under the Recycling Program and the use and condition of the Recycling Fund, and such other matters that the EPA deems appropriate. The activities concerning the Recycling Fund shall be examined by the State Auditor at least annually, and the report of such examination shall be supplied to the Governor and the Legislature.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-106. Purchasing beverage containers. — Using the monies in the Recycling Fund, the EPA shall purchase beverage containers for five cents per container and sell beverage containers for recycling at market prices. Beverage containers may only be purchased through redemption centers established pursuant to §3-107 of this chapter.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-107. Redemption centers. —

(1) To facilitate the return of empty beverage containers, the EPA shall establish one or more redemption centers at which empty beverage containers may be returned and payment received. Each local government may operate one or more redemption centers subject to the approval of the EPA.

(2) The application for approval of a redemption center shall be filed with the EPA and contain such information as the EPA may require.

(3) The approval of a redemption center may contain such terms and conditions as the EPA deems appropriate. Such terms and conditions may differ among redemption centers and may be altered or amended from time to time as the situation warrants. Using the money in the Recycling Fund, the EPA may provide compensation to the redemption centers for their services.

(4) The EPA shall withdraw the right to serve as a redemption center at any time for noncompliance with the terms and conditions of this chapter, or the rules and regulations adopted pursuant to §3-108 of this chapter.

Source: S.L. No. 7L-96-11 §1, 8/1/11

Note: The redemption centers shall commence operations as soon after the imposition of the deposit fee as is practicable. See 27 PC 3-110.

§3-108. Program rules and regulations. —

(1) Subject to the provisions of Subsection (2) of this section, the EPA may promulgate, amend and enforce appropriate rules and regulations to carry out the duties and powers set out herein, which may include, but are not limited to, provisions governing:

- (a) The collection, purchase, sale or other disposal of beverage containers;
- (b) The type and condition of the beverage containers that may be redeemed;
- (c) The methods and requirements for the redemption of the beverage containers;
- (d) All matters concerning the operation of redemption centers; and
- (e) The prohibition of importing empty beverage containers for the purpose of redeeming them in Pohnpei.

(2) The power of the EPA to establish such rules and regulations is subject to the powers of the Director of the Department of Treasury and Administration to establish rules and regulations regarding the collection of the deposit fee and the establishment and operation of the Recycling Fund as set forth in §3-115 of this chapter. The rules and regulations established by the EPA shall be adopted pursuant to the procedures set forth in Chapter 1 of Title 8 of this Code, and when approved by the Governor, shall have the force and effect of law.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-109. Authorization for appropriation. — There is hereby authorized for appropriation from the General Fund of Pohnpei such sums as may be determined annually in the Comprehensive Budget Act for the Pohnpei Recycling Program and for the exercise of the powers and duties set forth herein. Such sums shall be deposited into the Recycling Fund and shall not revert to the General Fund. All sums appropriated for any fiscal year remaining unexpended or unobligated at the end of such fiscal year shall remain available to the Recycling Fund and in the state of Pohnpei.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-110. Imposition of deposit fee. — There is hereby assessed and levied a deposit fee of six cents on all beverages in individual beverage containers produced or brought into this state for consumption within the state. The recycling deposit imposed by this section is a fee for waste management and is not a tax.

Source: S.L. No. 7L-96-11 §1, 8/1/11

Note: The imposition of the deposit fee commenced on October 1, 2011.

§3-111. Payment. — The deposit fee levied under §3-110 of this chapter shall attach at the time of the first sale in Pohnpei. All deposit fees which have attached during a calendar month shall be paid by the first seller to the Department of Treasury and Administration on or before the fifteenth day of the succeeding month; except that the Director of the Department of Treasury and Administration may make special provision for the time of payment of deposit fees from the outer islands of Pohnpei. Deposit fee revenues not paid within the time specified shall be considered delinquent. The Director shall cause all payments received under the provision of this section to be promptly deposited in the Recycling Fund established by §3-105 of this chapter.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-112. Procedure. — The first seller of beverages subject to the deposit fee under this chapter shall keep accurate records of all sales of the beverages subject to this chapter, and shall provide the Department of Treasury and Administration with supporting documents to substantiate the accuracy of all reports filed.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-113. Presumption. — It shall be presumed that all beverage containers are subject to the deposit fee imposed by this chapter until the contrary is proved, and the burden of proving that a beverage container is not subject to the deposit fee shall be upon the seller.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-114. Prepayment. — The first seller of beverage containers shall have the option of prepaying all deposit fees due under this chapter in accordance with regulations issued by the Director of the Department of Treasury and Administration.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-115. Financial regulations. — The Director of the Department of Treasury and Administration may promulgate, amend and enforce appropriate rules and regulations regarding the collection of the deposit fee and the establishment and operation of the Recycling Fund. These rules and regulations shall be adopted pursuant to the procedures set forth in Chapter 1 of Title 8 of this Code, and when approved by the Governor, shall have the force and effect of law.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-116. Lien on property. — All deposit fees imposed under this chapter shall be a lien upon any property of the person obligated to pay the deposit fees and may be collected by levy upon such property in the same manner as the levy of an execution.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-117. Civil penalty. — All deposit fees due under this chapter shall be subject to a penalty of five percent (5%) of the unpaid fees due per month or portion thereof that such fees remain unpaid.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-118. Criminal penalty. — Any person who knowingly, willfully and unlawfully violates or refuses to comply with any provision of this chapter, or with any regulation duly issued by the Director of the Department of Treasury and Administration or the EPA for the enforcement of this chapter shall, upon conviction thereof, be imprisoned for not more than 90 days, or fined not more than \$500, or both such fine and imprisonment. The criminal penalties are in addition to the civil penalties which may be due under this chapter.

Source: S.L. No. 7L-96-11 §1, 8/1/11

§3-119. Deposit of penalty payments. — All civil and criminal penalties paid pursuant to §3-117 and §3-118 of this chapter shall be deposited in the Recycling Fund established by §3-105 of this chapter.

Source: S.L. No. 7L-96-11 §1, 8/1/11

CHAPTER 4 CONTROL OF PLASTIC WASTES

Section

4-101 Findings and purpose

4-102 Definition

4-103 Prohibition regarding plastic bags

4-104 Exceptions

4-105 Rules and regulations

§4-101. Findings and purpose. — Plastic bags provided by wholesale and retail businesses to contain and carry out merchandise purchased by consumers at those establishments are often quickly discarded into the environment after a single use. These plastic bags, however, have an estimated decay life of 1,000 years. It is therefore declared to be the public policy of the state of Pohnpei that this state shall rid itself of the unsightly nuisance and environmental hazards of plastic bag debris.

Source: S.L. No. 7L-103-11 §1, 10/12/11

§4-102. Definition. — Except as provided in §4-104 of this chapter, “plastic bag” means a carryout bag that is less than 5.0 mils thick and made primarily of thermoplastic synthetic polymeric material which is provided by a wholesale or retail establishment to a customer at the point of sale and incidental to the purchase of other goods.

Source: S.L. No. 7L-103-11 §1, 10/12/11

§4-103. Prohibition regarding plastic bags. —

(1) Except as provided in §4-104 of this chapter, no person selling or distributing any merchandise within the state, whether at wholesale or retail, shall offer or provide any form of plastic bag to hold or contain such merchandise for the convenience of the customer.

(2) Any person who violates this section shall be fined not more than \$100 for each offense. If any person after receiving written notice of a violation fails to cure such violation within such time and under such conditions as determined by the rules and regulations, such person shall be subject to a citation for a new and separate violation. There shall be a fine of not more than \$500 for each additional violation. The Environmental Protection Agency may also seek injunctive relief to prevent further violations.

Source: S.L. No. 7L-103-11 §1, 10/12/11

Note: The prohibition on plastic bags shall take effect on April 22, 2012.

§4-104. Exceptions. — The ban on plastic bags imposed by §4-103 of this chapter shall not apply to:

(1) The original packaging materials in which the merchandise is enclosed upon its manufacture, fabrication or preparation, inclusive of sanitary wrapping that is directly applied to fresh or frozen food products prepared by the retailer and as approved by the Environmental Protection Agency in the manner prescribed by said Agency in its regulations issued pursuant to this chapter;

(2) Plastic bags used exclusively to carry chilled or frozen merchandise sold by the merchant, such as refrigerated meats and vegetables and freezer ice cream and ice cubes, irrespective of whether the individual chilled or frozen commodities are also originally packaged in plastic as described in Subsection (1) of this section;

(3) Plastic bags certified by the Pohnpei State Environmental Protection Agency to be fully biodegradable within five years of their manufacture; and

(4) Durable plastic bags with a material thickness of at least five mil and sacks and satchels made of composite materials, which bags, sacks or satchels are certified by the Pohnpei State Environmental

Protection Agency to be convertible to continuous and rigorous use for household or business purposes for at least five years from the date of manufacture.

Source: S.L. No. 7L-103-11 §1, 10/12/11

§4-105. Rules and regulations. — Subject to the Administrative Procedures Act, Title 8 Chapter 1 of this Code, the Environmental Protection Agency shall make, promulgate and amend such rules and regulations as the Agency deems necessary to implement and enforce this chapter. All such rules and regulations shall, upon the approval of the Governor, carry the force and effect of law.

Source: S.L. No. 7L-103-11 §1, 10/12/11

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TITLE 28

**AGRICULTURE AND
LIVESTOCK**

TITLE 28

AGRICULTURE AND LIVESTOCK

CHAPTER

- 1 PLANT AND ANIMAL QUARANTINE**
- 2 AGRICULTURE**
- 3 – 5 [RESERVED]**
- 6 LIVESTOCK**
- 7 – 9 [RESERVED]**
- 10 AGRICULTURE AND LIVESTOCK FINANCES**

CHAPTER 1

PLANT AND ANIMAL QUARANTINE

Section

1-101 Purpose	1-106 Manifests and information
1-102 Promulgation of plant and animal quarantines - regulations	1-107 In-transit material
1-103 Administration and enforcement	1-108 Disposition of contraband material
1-104 Emergency measures authorized	1-109 Treatment for insects or other pests
1-105 Inspection of aircraft, vessels, cargoes, plants, and animals	1-110 Penalties

§1-101. Purpose. — In order to protect the agricultural and general well-being of the people of the state, quarantine regulations are promulgated as a means of preventing the introduction and further dissemination of injurious insects, pests, and diseases into and within the state of Pohnpei.

Source: TTC §730 (1966); 25 TTC §1 (1970); 25 TTC §1 (1980)

§1-102. Promulgation of plant and animal quarantines - regulations. —

(1) With the prior approval of the Governor, the Administrator of the Office of Economic Affairs shall issue plant and animal quarantines and regulations, relating to the administration and enforcement of the controls established by this chapter. Letters and memoranda may be issued from time to time by the Administrator, Governor, and Lieutenant Governor relating to the administration and enforcement of such controls, quarantines, and regulations.

(2) Emergency orders relating to domestic quarantine may be issued from time to time by the Governor, providing such emergency orders are not in conflict with the controls, quarantines, and regulations issued pursuant to Subsection (1) of this section.

(3) The plant and animal quarantines and regulations issued pursuant to this chapter shall be translated in whole or in summary from English to the predominant native language of each local government area, and shall be published by posting in each local government office and filing with the

Clerk of the Pohnpei Supreme Court a copy of such translation and a copy of the English language version.

Source: TTC §731 (1966); 25 TTC §2 (1970); P.L. No. 4C-32 §1; 25 TTC §2 (1980); S.L. No. 5L-14-00 §3-54, 10/1/00

§1-103. Administration and enforcement. —

(1) The Administrator of the Office of Economic Affairs, under the direction of the Governor, shall administer the plant and animal quarantine controls, quarantines and regulations.

(2) Agricultural quarantine inspectors may be appointed by the Governor, and shall, under the direction of the Administrator of the Office of Economic Affairs, enforce the plant and animal quarantine controls, quarantines and regulations.

Source: TTC §732 (1966); 25 TTC §3 (1970); P.L. No. 4C-32 §2; 25 TTC §3 (1980); S.L. No. 5L-14-00 §3-54, 10/1/00

§1-104. Emergency measures authorized. —

(1) Upon the discovery of a situation not covered by the controls, quarantines or regulations issued under this chapter, or any other situation warranting immediate action, emergency quarantine measures may be made at any time by an agricultural quarantine inspector or the Administrator of the Office of Economic Affairs.

(2) Such emergency quarantine measures must be reviewed by the Administrator of the Office of Economic Affairs and either incorporated into existing regulations in the manner which is or may be provided by law, or rescinded as soon as practicable after issuance, and in no case shall such action be taken later than 30 days after the measure is taken.

Source: TTC §733 (1966); 25 TTC §4 (1970); P.L. No. 4C-32 §3; 25 TTC §4 (1980); S.L. No. 5L-14-00 §3-54, 10/1/00

§1-105. Inspection. —

(1) All animals and plants or parts thereof, including seeds, fruits, vegetables, cuttings, etc., entering or transported within the state of Pohnpei are subject to inspection by agricultural quarantine inspectors and may be refused entry into or movement within the state if they are known to be, or are suspected of being, infected or infested with disease or pests.

(2) All aircraft and vessels or their cargoes, including baggage, ship's stores, and ballast, entering or moving within the state of Pohnpei, are subject to inspection by agricultural quarantine inspectors for the purpose of enforcing the controls, quarantines, and regulations established pursuant to this chapter; PROVIDED, that such inspections of U.S. military aircraft and vessels shall be subject to existent military security regulations.

(3) It shall be a petty misdemeanor for anyone to interfere with or refuse to submit to the inspections authorized by this section.

Source: TTC §734 (1966); 25 TTC §5 (1970); 25 TTC §5 (1980)

§1-106. Manifests and information. — Cargo manifests and other similar documents concerning aircraft and vessels traveling in the state of Pohnpei will be made available to the agricultural quarantine inspectors upon request. Those authorities having information as to the movements of aircraft and vessels will furnish such information to agricultural quarantine inspectors upon request; PROVIDED, that the provisions of this section are subject to military security regulations.

Source: TTC §735 (1966); 25 TTC §6 (1970); 25 TTC §6 (1980)

§1-107. In-transit material. — Any animals, plants or other quarantinable material in transit through the state of Pohnpei on aircraft or vessels shall be kept aboard such aircraft or vessels while in port or on any island of the state, unless such material is otherwise enterable. If it is necessary to transfer such

quarantinable material from one vessel or aircraft to another, such transfer shall be made under the direction of an agricultural quarantine inspector, and with such safeguards as he deems necessary.

Source: TTC §736 (1966); 25 TTC §7 (1970); 25 TTC §7 (1980)

§1-108. Disposition of contraband material. — Anything attempted to be brought into or transported within the state of Pohnpei in contravention of the controls, quarantines or regulations established pursuant to this chapter shall be seized by an agricultural quarantine inspector and destroyed by fire or other appropriate means, or expelled from the state, or returned to its place of origin, at the shipper's expense, depending on the pest risk involved.

Source: TTC §737 (1966); 25 TTC §8 (1970); 25 TTC §8 (1980)

§1-109. Treatment for insects or other pests. — Vessels and aircraft traveling into or within the state of Pohnpei and known or suspected upon reasonable grounds to be harboring insects or other agricultural pests will be subject to spraying with insecticides or such other treatment as may be deemed necessary by an agricultural quarantine inspector; PROVIDED, that the spraying of aircraft with insecticides and the fumigation of ships is subject to public health regulations.

Source: TTC §738 (1966); 25 TTC §9 (1970); 25 TTC §9 (1980)

§1-110. Penalties. — A person who violates any of this chapter or any properly issued plant and animal controls, quarantines or regulations shall be guilty of a misdemeanor.

Source: TTC §739 (1966); 25 TTC §10 (1970); 25 TTC §10 (1980)

CHAPTER 2 AGRICULTURE

Section

Part A Breadfruit

2-101 Breadfruit quarantine

2-102 – 2-110 [Reserved]

Part B Coconuts

2-111 Prohibition on export of coconuts from
Nukuoro

PART A BREADFRUIT

§2-101. Breadfruit quarantine. — It shall be unlawful to transport breadfruit plants or uncooked fruit from Pohnpei Island and Pingelap Atoll to any other islands of the State except when plants or fruits have been inspected and found healthy by the Administrator of the Office of Economic Affairs and a quarantine permit has been issued in accordance with the quarantine procedures of the State. Any person who willfully violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than \$100, or both such fine and imprisonment.

Source: PDC §11-3, 3/71; S.L. No. 5L-14-00 §3-53, 10/1/00

§§2-102 – 2-110. [RESERVED]

PART B COCONUTS

§2-111. Prohibition on export of coconuts from Nukuoro. — The movement of coconut plants, sprouted coconuts, coconuts with perianth cap still on, and green coconut leaves from Nukuoro is prohibited.

Source: PDC §11-2, 3/71

CHAPTERS 3 – 5 [RESERVED]

CHAPTER 6 LIVESTOCK

Section

6-101 Control of livestock required
6-102 Impounding

6-103 Penalties

§6-101. Control of livestock required. — Any person or persons owning any animal or animals, including, but not limited to, cattle, carabao, pigs, goats, dogs or chickens, shall provide a means of control sufficient to prevent the animal or animals from causing damage to another's property, injury to people or creating unsanitary conditions or odors affecting another person or persons' health or comfort; PROVIDED, that fences shall not be required for the control of an animal or animals unless evidence to the individual animal or animals clearly shows that a fence is necessary, or unless a local government, by duly enacted ordinance, shall so require.

Source: PDC §11-1(a), 3/71; D.L. No. 3L-75-73 §1, 12/26/73; D.L. No. 3L-109-75 §1, 5/26/75; S.L. No. 5L-14-00 §3-52, 10/1/00

§6-102. Impounding. — Any stray livestock may be impounded by any person if such livestock is found doing damage to property, injury to people or creating unsanitary conditions and odors which affect people's health and comfort, and that person shall notify the chief executive of the local jurisdiction, mayor of the town or Chief of the Division of Police and Security or their duly appointed representatives within three days of the capture. The person impounding a stray animal may claim just compensation for its keep from the owner, or may keep the animal if no owner appears within 60 days.

Source: PDC §11-1(b), 3/71; S.L. No. 5L-14-00 §3-52, 10/1/00

§6-103. Penalties. — Any person who is found negligent in carrying out §6-101, or any person who willfully causes livestock to damage property, injure people or create unsanitary conditions and odors affecting people's health and comfort, whether owned by him or not, or any person who fails to report the capture of any stray livestock as provided for in §6-102 shall, upon conviction thereof, be imprisoned for a period of not more than three months, or fined not more than \$50, or both such fine and imprisonment.

Source: PDC §11-1(c), 3/71; S.L. No. 5L-14-00 §3-52, 10/1/00

CHAPTERS 7 – 9 [RESERVED]

CHAPTER 10 AGRICULTURE AND LIVESTOCK FINANCES

Section

10-101 Purpose	10-103 Coconut development program
10-102 Farmers' revolving fund: authorization for appropriation; administration	10-104 Pepper development program
	10-105 Rice development program

§10-101. Purpose. — The development of an extensive agriculture industry in Pohnpei has been hampered by the inability of the individual farmer to obtain seeds, fertilizer, and other products and agricultural implements to enable him to establish a farm, to continue production or to increase production. It is hoped that the establishment of these funds will enable the farmers of this state to obtain all the necessary products and implements to maintain and increase their present level of production.

Source: D.L. No. 3L-19-72 §1, 5/25/72

§10-102. Farmers' revolving fund: authorization for appropriation; administration. —

(1) There is hereby created a revolving fund to be known as the Pohnpei State Farmers' Revolving Fund. This fund shall be administered by the Administrator of the Office of Economic Affairs.

(2) The Administrator of the Office of Economic Affairs shall use the fund to purchase seeds, fertilizer, and other materials and implements that have been requested or may be used by farmers in the state. Sums received by the Administrator of the fund from farmers who purchase these products and implements shall be used by him to purchase additional needed products and implements, thus providing the farmers of this state with a steady supply of farming articles.

(3) There is hereby authorized for appropriation out of the general fund of the Pohnpei Treasury a sum to be determined annually in the Comprehensive Budget Act for the purpose of establishing the revolving fund created by this section to be used in accordance with this section. The sum hereby authorized for appropriation shall be expended and administered by the Governor, in consultation with the Administrator of the Office of Economic Affairs, as provided in Subsection (2) of this section.

Source: D.L. No. 3L-19-72 §§2 – 4, 5/25/72; D.L. No. 3L-58-73 §36, 5/29/73; D.L. No. 4L-96-77 §1, 7/1/77; S.L. No. 5L-14-00 §3-23, 10/1/00

§10-103. Coconut development program. — There is hereby authorized for appropriation from the general fund of the Pohnpei Treasury a sum for a Coconut Subsidy Fund to subsidize programs to improve copra production in Pohnpei State. All sums herein authorized for appropriation shall be expended by the Governor solely for the purposes specified in this section. The Governor shall also be responsible for the proper supervision and administration of the fund.

Source: PDC §11-100, 3/71; D.L. No. 3L-58-73 §30, 5/29/73

§10-104. Pepper development program. — There is hereby authorized for appropriation from the general fund of the Pohnpei Treasury a sum to subsidize and accelerate the pepper development program in Pohnpei State. The administration and supervision of the program, including the expenditure of sums authorized for appropriation by this section, shall be the responsibility of the Governor, who shall make a progress report at each session of the Legislature.

Source: PDC §11-101, 3/71; D.L. No. 3L-58-73 §31, 5/29/73

§10-105. Rice development program. — There is hereby authorized for appropriation from the general fund of the Pohnpei Treasury a sum for subsidizing rice production within the state. The sum authorized for appropriation herein shall be used to accelerate rice production by providing subsidies to a maximum number of producers. The subsidy to any single producer shall not in any case exceed the amount of \$500. The administration and supervision of the program, including the expenditure of sums authorized for appropriation by this section, shall be the responsibility of the Governor, who shall make a progress report at each session of the Legislature.

Source: PDC §11-102, 3/71; D.L. No. 3L-58-73 §32, 5/29/73

(Next page is Title 29 divider)

TITLE 29
FISHERIES

TITLE 29 FISHERIES

CHAPTER

1 FISHING IN STATE WATERS

2 BAIT FISHING

3 OFFICE OF FISHERIES AND AQUACULTURE

CHAPTER 1 FISHING IN STATE WATERS

Section

<p>1-101 Short title</p> <p>1-102 Statement of purpose</p> <p>1-103 Definitions</p> <p>1-104 State powers within state waters</p> <p>1-105 Submerged reefs</p> <p>1-106 Commercial fishing and drift net fishing in state waters prohibited</p> <p>1-107 Special permits</p> <p>1-108 Recreational and sport fishing</p> <p>1-109 Foreign fishing</p> <p>1-110 Stowage of fishing gear</p> <p>1-111 Allowable levels of non-commercial fishing</p> <p>1-112 Application for permit: contents</p> <p>1-113 Application for permit: review</p> <p>1-114 Application for permit: issuance and denial</p> <p>1-115 Suspension, revocation or imposition of restrictions on a permit</p> <p>1-116 Fees for permits</p> <p>1-117 Application of other laws</p> <p>1-118 Authority to adopt regulations</p> <p>1-119 Departmental annual report</p> <p>1-120 Prohibited acts by non-recreational, commercial fishing vessels</p> <p>1-121 Civil penalties for non-recreational, commercial fishing vessels</p>	<p>1-122 Criminal penalties for non-recreational, commercial fishing vessels</p> <p>1-123 Forfeiture: liability</p> <p>1-124 Forfeiture: jurisdiction</p> <p>1-125 Forfeiture: seizures</p> <p>1-126 Forfeiture: disposition of property</p> <p>1-127 Forfeiture: temporary disposition of property; security</p> <p>1-128 Forfeiture: disposition of perishable articles</p> <p>1-129 Civil penalties for recreational, commercial fishing vessels</p> <p>1-130 Jurisdiction of courts</p> <p>1-131 Enforcement: responsibility</p> <p>1-132 Enforcement: authority</p> <p>1-133 Enforcement of regulations and permits</p> <p>1-134 Presumption of location of fishing</p> <p>1-135 Immunities</p> <p>1-136 Attorney General: authority; rules and regulations</p> <p>1-137 Attorney General's annual report</p> <p>1-138 Fisheries Enforcement and Development Fund</p> <p>1-139 Transshipment privilege fee</p>
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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei State Fisheries Protection Act of 1995.”

Source: S.L. No. 3L-114-95 §1, 12/28/95

§1-102. Statement of purpose. — The state of Pohnpei, having jurisdiction over its state waters, recognizes the need to protect and preserve the marine resources therein for the people of Pohnpei. In recognition of the fact that the marine resources of these waters are a finite and renewable part of

the physical heritage of our people, we choose to limit the use of such resources to the people of Pohnpei. For this reason, the commercial harvesting of these resources is prohibited to commercial foreign and domestic enterprises within state waters. The purpose of this chapter is to enforce the general prohibition against non-recreational commercial fishing by establishing a fine structure that will effectively limit the economic feasibility of illegally fishing within state waters, to regulate allowable non-commercial and commercial recreational fishing in state waters by establishing the necessary permit system for such fishing, and to finance both the enforcement and regulatory effort.

Source: S.L. No. 3L-114-95 §2, 12/28/95

Note: S.L. No. 3L-114-95 §3 repealing provision has been omitted.

§1-103. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

(1) “Atoll” means a naturally formed coral reef system that has one or more islands situated on the reef system, including Oroluk, Nukuoro, Kapingamarangi, Pakin, Ant, Sapwuahfik, Mwoakilloa, and Pingelap.

(2) “Attorney General” means the Attorney General of Pohnpei State.

(3) “Authorized officer” means any officer so designated in writing to be an authorized officer for the purposes of this chapter by the Pohnpei State Attorney General within the Office of Economic Affairs, the Office of the Attorney General, the Department of Public Safety, the Environmental Protection Agency, other agencies of the Pohnpei Government or the government of the Federated States of Micronesia, and any local government.

(4) “Baseline” means a continuous line that encircles an island or atoll. The baseline from which the 12-mile zone shall be measured is as follows:

(a) The baseline of an island or portion of an island lacking a barrier reef, fringing reef or other reef system is the low-water line of the island as marked on large-scale charts officially recognized by the government of the Federated States of Micronesia.

(b) The baseline of an atoll or island or portion of an island having a barrier reef, fringing reef or other reef system is the line that contours the seaward edge of the reef system, which line connects those outermost elevations of the reef that are above water at low tide, and which line exists as marked on large-scale charts officially recognized by the government of the Federated States of Micronesia.

(5) “Bill fish” means any and all of the following species of pelagic fish:

(a) Indo-Pacific Blue Marlin (*Makaira mazara*);

(b) Black Marlin (*Makaira indica*);

(c) Striped Marlin (*Tetrapturus audax*);

(d) Shortbill Spearfish (*Tetrapturus angustirostris*); and

(e) Indo-Pacific Sailfish (*Istiophorus platypterus*).

(6) “Commercial fishing” means any fishing undertaken for other than recreational, sport or subsistence purposes. For the purposes of this chapter, fishing by a vessel measuring 27 feet or more in overall length and fishing by more than one vessel owned by a single person for the primary purpose of selling the fish in the commercial market shall be presumed to be commercial fishing.

(7) “Commercial recreational fishing” means the hiring out of a fishing vessel or the services thereof for recreational purposes and includes sport fishing.

(8) “Commercial sport fishing,” for the purposes of this chapter, is synonymous with “commercial recreational fishing.”

(9) “Court” means the Supreme Court of Pohnpei.

(10) “Department” or “Office” means the Office of Economic Affairs.

(11) “Director” or “Administrator” means the Administrator of the Office of Economic Affairs or his designee.

(12) “Domestic-based fishing” means any fishing by foreign fishing vessels based in the Federated States of Micronesia, but not including commercial pilot fishing.

(13) “Exclusive economic zone” means the exclusive economic zone defined in 18 FSMC (1982).

- (14) "Fish" means any living marine resource, plant or animal, except marine birds.
- (15) "Fishing" means:
- (a) The actual or attempted searching for, catching, taking or harvesting of fish;
 - (b) Any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;
 - (c) The placing, searching for or recovery of fish aggregating devices or associated electronic equipment such as radio beacons;
 - (d) Aircraft use relating to the activities described in this subsection, except for flights in emergencies involving the health or safety of crew members, or of the safety of a vessel;
 - (e) Transshipping fish to or from any vessel;
 - (f) Storing, processing or transporting fish harvested within Pohnpei's internal waters or within Pohnpei's 12-mile zone;
 - (g) Refueling or supplying fishing vessels; or
 - (h) Any operations within Pohnpei's internal waters or within Pohnpei's 12-mile zone in support of or in preparation for any activity described in this subsection.
- (16) "Fishing gear" means any equipment, implement or other thing that can be used in the act of fishing, including any fishing net, rope, line, float, trap, hook, winch, boat carried on board a fishing vessel, aircraft or helicopter.
- (17) "Fishing vessel" means any vessel, boat, ship or other craft that is used for, equipped to be used for, or of a type that is normally used for:
- (a) Fishing; or
 - (b) Aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing.
- (18) "Foreign fishing" means any commercial fishing or commercial recreational fishing by a foreign fishing vessel.
- (19) "Foreign fishing vessel" means any foreign-owned or foreign-operated fishing vessel that conducts commercial fishing or commercial recreational fishing as defined by this chapter.
- (20) "Internal waters" means waters in Pohnpei landward of the baseline defined in Subsection (4) of this section, including the lagoons of atolls or islands.
- (21) "Island" means a naturally formed area of land surrounded by water, which area of land is above water at high tide.
- (22) "Marine mammal" means any species of the mammal class whose principal natural habitat is on or within the sea.
- (23) "Person" means any individual, corporation, partnership, association or other entity, the government of any of the states of the Federated States of Micronesia, or any political subdivision thereof, and any foreign government, subdivision of such government, or entity thereof.
- (24) "Reef fish" means any species of fish that predominantly inhabits inland waters, lagoons at whatever depth, and reef areas, inclusive of outer and submerged reefs to a depth of 50 fathoms.
- (25) "State waters" means the internal waters of Pohnpei or waters within the state of Pohnpei's 12-mile zone as defined in Subsection (30) of this section.
- (26) "Stock of fish" means a species, subspecies or other category of fish identified on the basis of geographical, scientific, technical, recreational, and economic characteristics that can be treated as a unit for purposes of conservation and management.
- (27) "Submerged reef" means a coral reef forming a geographical and ecological unity that is wholly submerged at high tide.
- (28) "Subsistence fishing" means fishing undertaken by citizens of Pohnpei to ensure the livelihood of the immediate or extended family as may be further defined by regulation.
- (29) "Transshipment privilege fee" means a fee charged to all foreign and domestic fishing vessels for the privilege of transshipping fish out of Pohnpei ports.

(30) “Twelve-mile zone” (“12-mile zone”) means the area of ocean, the inside boundary of which is the baseline as defined in Subsection (4) of this section, and the outer boundary of which is a line, every point of which is twelve nautical miles seaward of the nearest point of the baseline.

Source: S.L. No. 3L-114-95 §4, 12/28/95; S.L. No. 5L-14-00 §3-16, 10/1/00

§1-104. State powers within state waters. — Within state waters, the Pohnpei Government shall have:

(1) Sovereign rights for the purpose of exploring, exploiting, conserving, and managing fish;

(2) Jurisdiction with regard to the establishment and use of artificial islands, installations, and structures; marine scientific research; and the protection and preservation of the marine environment; and

(3) Other rights and duties provided for in state, national, and international law.

Source: S.L. No. 3L-114-95 §5, 12/28/95

§1-105. Submerged reefs. — Traditionally recognized subsistence fishing rights in submerged reef areas wherever located within state waters shall be preserved and respected.

Source: S.L. No. 3L-114-95 §6, 12/28/95

§1-106. Commercial fishing and drift net fishing in state waters prohibited. — Except as otherwise provided by law or this chapter, no person may engage in commercial fishing within state waters. Notwithstanding any other provision of this chapter, under no circumstances shall drift net fishing be allowed in state waters.

Source: S.L. No. 3L-114-95 §7, 12/28/95

Note: Title of section expanded to include drift net fishing.

§1-107. Special permits. — Notwithstanding §1-106, the Director may, with the concurrence of the Governor, issue a special permit to persons and vessels to engage in scientific or experimental research on marine life in state waters. The Director, in his discretion and with the concurrence of the Governor, shall prescribe in the permit the terms and conditions thereof. The permit shall, in addition to the terms and conditions stated therein, grant the right for the Department to place, at no expense to the government, an observer or observers on board any vessel fishing in state waters under a special permit, and the right for authorized state officials to board the vessel at any time to inspect the vessel, its catch and its logs, books and records, and to question its officers and crew. The harvest of any marine life from state waters not required for further research purposes shall be donated to the Pohnpei Government for distribution to governmental institutions or charitable organizations or otherwise disposed of pursuant to the terms of the special permit. The Director and the Attorney General shall have the right to request and receive a copy of all records and reports of research activities of the vessel in state waters, and the findings and conclusions gained from such research.

Source: S.L. No. 3L-114-95 §8, 12/28/95

§1-108. Recreational and sport fishing. —

(1) Fishing by recreational and sport fishing vessels operating under a valid foreign investment permit issued by the state, by resident noncitizens and vessels owned or controlled thereby, and by bona fide tourists shall be permitted under this chapter; PROVIDED that the total catch, inclusive of the catch of species of bill fish prohibited to foreign fishing vessels under §1-105, attributable to any one such person in any one day shall not exceed 150 pounds or three fish, whichever is greater. Any person engaged in recreational or sport fishing covered by this subsection who controls, manages, leases, or operates a sport fishing vessel for commercial use by tourists and resident noncitizens shall file quarterly reports for the previous three months with the Director on such forms and at such times prescribed by him as to the number of persons serviced, general areas fished, numbers of fish caught

enumerated by stock, the gross weight of each stock caught, and the numbers of such fish returned to their natural habitats for the previous three months.

(2) Persons participating in a duly-held sport fishing contest of a duration of seven days or less, which has been registered with and approved by the Director and which restricts the methods of fishing that can be used in the contest to handlines and rods and reels, shall be exempt from the weight and numerical restrictions specified in Subsection (1) of this section; PROVIDED that, within five working days following the conclusion of the contest, the principal organizer of the contest shall file with the Director a full accounting of all information required of a sport fishing vessel operator as prescribed in Subsection (1) of this section for the period which the vessels participated in the contest.

(3) The Director shall seek the cooperation of the operators of sport fishing vessels and the members of sport fishing clubs to preserve populations of marine life and promote their use in recreational fishing. To this end, the Director shall endeavor to obtain cooperative understandings and agreements with such operators and clubs to:

(a) Prohibit or limit the catch of undersize fish.

(b) Return landed fish to their natural habitats by means which will maximize their chances of survival.

(c) Establish and support programs that monitor the marine resources of this state, that promote public awareness of the need to conserve the marine resources of this state, and that enhance the health, numbers and size of marine animals within their natural habitats within this state.

(4) Recreational fishing for marine mammals is strictly prohibited. If a marine mammal is caught as an unintended and incidental by-catch of a recreational fishing effort permitted under this chapter, the mammal shall be immediately released by such means as will maximize the chances of survival of that mammal.

(5) Any vessel engaged in noncommercial or recreational fishing under the authority of this section with noncitizens aboard, whether such vessel be owned by citizens or noncitizens, shall be subject to boarding and search at any time by authorized state officers to ensure compliance with this chapter.

(6) This section shall not exempt any person from the operation of any other applicable state law.

Source: S.L. No. 3L-114-95 §9, 12/28/95

§1-109. Foreign fishing. — Except as otherwise provided by this chapter, foreign fishing for shellfish, reef fish, bill fish, marine mammals or any other type of marine life is prohibited. In any event that a foreign fishing vessel shall catch any species of bill fish or marine mammal as an unintended and incidental by-catch of a fishing effort permitted under this chapter, such vessel shall:

(1) If it be a vessel engaged in longline fishing, cut the line immediately next to the bill fish or marine mammal while the fish or mammal is still immersed in the water and release that fish or mammal to its natural habitat, using all due diligence to ensure the survival of that fish or mammal; or

(2) If it be a vessel engaged in any other form of permitted fishing, ensure the immediate release of the bill fish or marine mammal to its natural habitat by such means as will maximize the chances of survival of that fish or mammal.

Source: S.L. No. 3L-114-95 §10, 12/28/95

§1-110. Stowage of fishing gear. — All fishing gear aboard a commercial fishing vessel located in state waters shall be stowed in such a manner that it is not readily available for use in fishing, except where permitted by this chapter.

Source: S.L. No. 3L-114-95 §11, 12/28/95

§1-111. Allowable levels of non-commercial fishing. —

(1) The Office of Economic Affairs, in consultation with the Director of the Department of Land and Natural Resources, may determine the total allowable harvest or catch level of subsistence and recreational fishing with respect to any stock of fish subject to this chapter, and shall set such level in accordance with requirements of optimum sustainable yield and development as determined by:

- (a) The best scientific evidence available, including statistical and other information concerning such stocks of fish; and
- (b) Conservation, management, and sustainable development measures contained in management plans relating to such stocks of fish.

(2) Allocations issued pursuant to this chapter may include restrictions as to vessel type, gear type, seasons of operations, areas in which the fishing can take place or any other restriction relevant to conservation, management, and sustainable development.

Source: S.L. No. 3L-114-95 §12, 12/28/95; S.L. No. 5L-14-00 §3-16, 10/1/00; S.L. No. 7L-80-11 §21, 1/14/11

§1-112. Application for permit: contents. —

(1) Each party entitled under §§1-107 and 1-108 to apply for a permit shall make application on prescribed forms specifying:

- (a) The name, official number, radio call sign and other identification of each vessel for which a permit is sought, together with the name and address of the owner and operator thereof;
- (b) The country of registration of the vessel; and
- (c) Such other pertinent information with respect to characteristics of each such vessel as the Department may require.

(2) The Department may require, by regulation, such additional information for permit application as is necessary to implement and enforce this chapter.

Source: S.L. No. 3L-114-95 §13, 12/28/95

§1-113. Application for permit: review. — The Department, or such person as it may designate by regulation, shall review each application submitted pursuant to §§1-107 and 1-108 and may, in its discretion, solicit views from appropriate persons and hold public hearings on such application where necessary.

Source: S.L. No. 3L-114-95 §14, 12/28/95

§1-114. Application for permit: issuance and denial. —

(1) The Department shall notify the applicant of the decision to issue or deny a permit within 30 days of the date of receipt of the application. If no such notification is given within 30 days, the request for a permit is deemed granted.

(2) The Department may approve the application on such terms and conditions and with such restrictions as it deems appropriate.

(3) A permit may be denied:

- (a) Where the application is not in accordance with the requirements of this chapter;
- (b) Where the owner or applicant is the subject of proceedings under the bankruptcy laws of any jurisdiction and reasonable financial assurances have not been provided;
- (c) Where there has been a failure to satisfy a judgment or other determination for breach of this chapter or an agreement entered into pursuant to this chapter by the operator of the vessel in respect to which application for a permit has been made, until such time as the judgment or other determination is satisfied;
- (d) Where an operator has committed an offense against the laws of Pohnpei or of the Federated States of Micronesia; or
- (e) Where the Department determines that the issuance of a permit would not be in the best interests of Pohnpei.

(4) If the Department denies an application submitted by an applicant, the Department shall notify such applicant of the disapproval and the reasons therefor. The applicant may then submit a revised application taking into consideration the reasons for disapproval.

Source: S.L. No. 3L-114-95 §15, 12/28/95

§1-115. Suspension, revocation or imposition of restrictions on a permit. — If any vessel for which a permit has been issued pursuant to §§1-107 and 1-108 has been used in the commission of any act prohibited by this chapter or other applicable law, or any permit issued in accordance with this chapter, or if any civil penalty or criminal fine imposed under this chapter has not been paid within 30 days, the Department shall:

(1) Revoke such permit with or without prejudice to the right of any party involved to be issued a permit for such vessel in any subsequent year;

(2) Suspend such permit for the period of time deemed appropriate; or

(3) Impose additional conditions and restrictions on any permit issued pursuant to this chapter.

Source: S.L. No. 3L-114-95 §16, 12/28/95

§1-116. Fees for permits. — Fees for permits issued pursuant to §§1-107 and 1-108 shall be established pursuant to regulations issued by the Department.

Source: S.L. No. 3L-114-95 §17, 12/28/95

§1-117. Application of other laws. — No permit issued under this chapter shall relieve any vessel or its operator or crew of any obligation or requirements imposed by other laws, including those concerning navigation, customs, immigration, health or environmental protection, unless so indicated in those laws.

Source: S.L. No. 3L-114-95 §18, 12/28/95

§1-118. Authority to adopt regulations. —

(1) The Office of Economic Affairs shall have the authority to adopt rules and regulations for the conservation and management of fish within state waters.

(2) Regulations adopted by the Office shall have the full force and effect of law.

Source: S.L. No. 3L-114-95 §19, 12/28/95; S.L. No. 5L-14-00 §3-16, 10/1/00

§1-119. Departmental annual report. — The Director of the Department shall report on its activities to the Governor and the Legislature by December 1 each year, which reports shall contain the number of permits issued, the fees collected, estimates of the effect of the current level of fishing on the stock of fish within state waters, and such other information regarding this chapter in the preceding fiscal year as the Department may determine.

Source: S.L. No. 3L-114-95 §20, 12/28/95

§1-120. Prohibited acts by non-recreational, commercial fishing vessels. —

(1) It is unlawful for any person:

(a) To violate any provisions of this chapter or any regulation or permit issued pursuant to this chapter;

(b) To engage in non-recreational, commercial fishing within state waters;

(c) To refuse to permit any authorized officer to board a fishing vessel for purposes of conducting any search or inspection in connection with the enforcement of this chapter or any regulation promulgated or permit issued pursuant to this chapter;

(d) To assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with any authorized officer in the performance of his duties, as set forth in this chapter or regulations promulgated hereunder; and for the purpose of this paragraph, any person who refuses to

allow any authorized officer, or any person acting under his order or in his aid, to exercise any of the powers conferred on an authorized officer by this chapter or any regulations promulgated hereunder shall be deemed to be obstructing that officer or person;

(e) To fail to comply with the lawful requirements of any authorized officer;

(f) To furnish to any authorized officer any particulars that, to his knowledge, are false or misleading in any respect;

(g) Being on board any vessel being pursued or about to be boarded by any authorized officer, to throw overboard or destroy any fish, fishing gear, explosive, poison or other noxious substance to avoid seizure of such fish, fishing gear, explosive, poison or other noxious substance or thing or to avoid the detection of any offense under this chapter or the regulations made under this chapter;

(h) To resist a lawful arrest for any act prohibited by this section;

(i) To provide information required to be recorded, notified or communicated pursuant to any requirement of this chapter or the regulations hereunder, knowing or having reasonable cause to believe that it is false, incomplete or misleading;

(j) To knowingly ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of any fish taken or retained in violation of this chapter;

(k) To interfere with, delay or prevent, by any means, the apprehension or arrest of another person, knowing that such person has committed any act prohibited by this section; or

(l) To use any unauthorized commercial, non-recreational fishing vessel for fishing within a two-mile radius of any fish aggregating device of the state or national government, or of a citizen, or of any other body established under the laws of the state.

(2) It is unlawful for any commercial, non-recreational fishing vessel, and for the crew, owner or operator of any commercial, non-recreational fishing vessel, to engage in any form of fishing in state waters.

(3) It is unlawful for any fishing vessel, and for the crew, owner, or operator of any fishing vessel, foreign or domestic, to engage in the transport or sale of illegal contraband, drugs or commodities, as defined by law, in Pohnpei or in the state waters of Pohnpei.

Source: S.L. No. 3L-114-95 §21, 12/28/95

§1-121. Civil penalties for non-recreational, commercial fishing vessels. —

(1) Any person who is found in a civil proceeding by the Pohnpei Supreme Court to have committed an act prohibited by §1-120 shall be liable to the state of Pohnpei for a civil penalty.

(2) The amount of the civil penalty shall not exceed \$5,000,000 for each violation, except as otherwise provided herein. Each day of a continuing violation shall constitute a separate offense. The Pohnpei Supreme Court may impose a penalty in excess of \$5,000,000; PROVIDED, in its review of the factors set forth in Subsection (3) of this section, the Supreme Court finds that the defendant has committed a gross violation.

(3) In determining the amount of such penalty, the Pohnpei Supreme Court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

Source: S.L. No. 3L-114-95 §22, 12/28/95

§1-122. Criminal penalties for non-recreational, commercial fishing vessels. —

(1) A person is guilty of an offense if he commits any act prohibited by §1-120.

(2) Any offense described as a prohibited act by Subsections (1)(a), (b), (f), (i), (j) or (l) of §1-120 is punishable by a fine of not less than \$500,000.

(3) Any offense described as a prohibited act by Subsections (1)(c), (d), (e), (g), (h), or (k) of §1-120 is punishable by a fine of not less than \$800,000, or imprisonment for not more than two years, or

both such fine and imprisonment; PROVIDED that, if in the commission of any such offense, the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce this chapter, or threatens any such officer with bodily injury, the offense is punishable by a fine of not less than \$1,000,000, or imprisonment for not more than ten years, or both such fine and imprisonment; PROVIDED FURTHER that where a regional fisheries treaty negotiated by the government of the Federated States of Micronesia so requires, persons arrested for violating this chapter, or regulations promulgated hereunder, shall not be subject to imprisonment where subject to such treaty.

(4) Any offense described as a prohibited act by §1-120(2) and (3) is punishable by a fine of not less than \$800,000. Each day of continuing violation of §1-120(2) shall be considered a separate offense.

Source: S.L. No. 3L-114-95 §23, 12/28/95

§1-123. Forfeiture: liability. —

(1) Any fishing vessel involved in the commission of any act prohibited by §1-120 shall, along with its fishing gear, furniture, appurtenances, stores, or cargo used, be forfeited to the state of Pohnpei.

(2) Any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by §1-120 shall be forfeited to the state of Pohnpei upon the commission of the act giving rise to forfeiture under this section.

(3) Any action for forfeiture pursuant to Subsections (1) or (2) of this section shall be a civil proceeding.

Source: S.L. No. 3L-114-95 §24, 12/28/95

§1-124. Forfeiture: jurisdiction. — The Pohnpei Supreme Court shall have jurisdiction, upon application by the Attorney General on behalf of the state of Pohnpei, to order any forfeiture under §1-123.

Source: S.L. No. 3L-114-95 §25, 12/28/95

§1-125. Forfeiture: seizures. — If a judgment is entered for the state of Pohnpei in a civil forfeiture proceeding under §§1-123 through 1-128, the Attorney General shall seize any property or other interest declared forfeited to the state of Pohnpei, which has not previously been seized pursuant to this chapter.

Source: S.L. No. 3L-114-95 §26, 12/28/95

§1-126. Forfeiture: disposition of property. — The forfeited vessel, gear, furniture, appurtenances, stores, cargo, and fish may be sold and the proceeds deposited into the fisheries enforcement and development fund and distributed in accordance with §1-138.

Source: S.L. No. 3L-114-95 §27, 12/28/95

§1-127. Forfeiture: temporary disposition of property; security. —

(1) Pending completion of the civil forfeiture proceeding, the seized vessel, gear, furniture, appurtenances, stores, cargo, and fish, or any part thereof, may be discharged at the discretion of the court upon deposit with the court of a satisfactory bond or other security at least equal to the fair market value of the seized property.

(2) Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court.

(3) Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

Source: S.L. No. 3L-114-95 §28, 12/28/95

§1-128. Forfeiture: disposition of perishable articles. —

(1) Any fish, fish products, or other perishable articles seized or taken pursuant to this chapter may be sold, subject to the approval and direction of the court. The proceeds of any such sale shall be deposited with such court pending the disposition of the civil forfeiture proceeding.

(2) For purposes of this chapter, it shall be a rebuttable presumption that all fish found on board a fishing vessel that is seized or taken in connection with an act prohibited by §1-120 were taken or retained from state waters in violation of this chapter.

Source: S.L. No. 3L-114-95 §29, 12/28/95

§1-129. Civil penalties for recreational, commercial fishing vessels. — Any person who is found in a civil proceeding by the Pohnpei Supreme Court to have committed an act prohibited by §§1-107 and 1-108 shall be liable to the state of Pohnpei for a civil penalty of up to \$50,000. The Supreme Court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offense, and such other matters as justice may require.

Source: S.L. No. 3L-114-95 §30, 12/28/95

§1-130. Jurisdiction of courts. — The Pohnpei Supreme Court shall have exclusive jurisdiction over any case or controversy arising under this chapter. The Court may, at any time, enter restraining orders or prohibitions; issue warrants, process in rem or other processes; prescribe and accept satisfactory bonds or other security; and take such other actions as are in the interests of justice.

Source: S.L. No. 3L-114-95 §31, 12/28/95

§1-131. Enforcement: responsibility. —

(1) The Office of the Attorney General has primary responsibility for the enforcement of this chapter, and may authorize other entities, officials or persons to perform enforcement functions.

(2) The Attorney General is authorized to initiate all criminal and civil proceedings, including forfeiture proceedings under this chapter, and to recover the forfeited item(s) or the monetary value thereof when sold.

Source: S.L. No. 3L-114-95 §32, 12/28/95

§1-132. Enforcement: authority. —

(1) For the purpose of ascertaining whether there is or has been any contravention of this chapter or any regulations passed hereunder, any authorized officer may:

(a) Upon the issuance of a warrant, at all reasonable hours, enter any fish processing establishment and any premises other than premises used exclusively as a dwelling-house;

(b) Stop, board and search:

(i) Any foreign or domestic-based fishing vessel within state waters or the exclusive economic zone of the Federated States of Micronesia; or

(ii) Any domestic fishing vessel within state waters or inside or outside the exclusive economic zone of the Federated States of Micronesia;

(c) Stop and search any vessel or vehicle transporting, or reasonably suspected of transporting, fish or fish products;

(d) Make such examination and inquiry as may appear necessary to him concerning any premises, fish processing establishment, vessel, or vehicle, in relation to which any of the powers conferred by this section have been or may be exercised, and take samples of any fish or fish products found therein;

(e) Require any person to produce his permit or his authority if it appears to the authorized officer that such person is doing any act for which a permit or other authority is required under this chapter, and take copies of any such license or other authority;

(f) Require any person to produce any logbook, record or other document required to be held by him under this chapter or any regulations made hereunder, and take copies of such logbook, record or other document.

(2) Where he has reasonable cause to believe that an offense against this chapter or any regulations made hereunder has been committed, any authorized officer may, with or without a warrant or other process:

(a) Following hot pursuit in accordance with international law and commenced within state waters or the exclusive economic zone of the Federated States of Micronesia, stop, board, and search within state waters, or inside or outside the exclusive economic zone of the Federated States of Micronesia, any fishing vessel which he believes has been used in the commission of that offense within state waters or in relation to which he believes such offense has been committed, and bring such vessel and all persons and things on board within state waters;

(b) Within state waters or the exclusive economic zone of the Federated States of Micronesia:

(i) Arrest any person if he has reasonable cause to believe that such person has committed an offense prohibited by this chapter or any regulations issued hereunder;

(ii) Seize any fishing vessel used or employed in, or when it reasonably appears to have been used or employed in, the violation of this chapter or any regulations issued hereunder;

(iii) Seize any fishing gear, furniture, appurtenances, stores, cargo, and fish in or on a fishing vessel seized pursuant to this section; and

(iv) Seize any fish that he reasonably believes to have been taken or fish products produced in violation of this chapter or any regulations issued hereunder.

(3) Any authorized officer may execute any warrant or other process issued by any court of competent jurisdiction.

(4) Where, following the commission of an offense under this chapter by a domestic or foreign commercial fishing vessel, that vessel is pursued beyond the limits of the exclusive economic zone of the Federated States of Micronesia, the powers conferred on authorized officers under this section shall be exercisable beyond the limits of the exclusive economic zone of the Federated States of Micronesia in accordance with international law.

(5) Any authorized officer may exercise any other lawful authority for the enforcement of this chapter and any regulations issued hereunder.

Source: S.L. No. 3L-114-95 §33, 12/28/95

§1-133. Enforcement of regulations and permits. — For purposes of this chapter the terms “provisions of this chapter” and “violation of any provisions of this chapter” include any regulation of permits issued pursuant to this chapter.

Source: S.L. No. 3L-114-95 §34, 12/28/95

§1-134. Presumption of location of fishing. — Where, in any legal proceedings instituted under this chapter or any regulations issued hereunder, the place in which an event is alleged to have taken place is in issue, the place stated in a copy of the relevant entry in the logbook or other official record of an enforcement vessel or aircraft as being the place in which the event took place shall be presumed to be the place in which the event took place, unless the contrary is proved.

Source: S.L. No. 3L-114-95 §35, 12/28/95

§1-135. Immunities. — No action shall be permitted against the Department, the Attorney General, any authorized officer or any other person appointed pursuant to this chapter in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this chapter or regulations issued hereunder.

Source: S.L. No. 3L-114-95 §36, 12/28/95

§1-136. Attorney General; authority, rules and regulations. —

(1) The Attorney General shall have the primary authority under this chapter for the criminal and civil enforcement of fishing violations and shall adopt rules and regulations for such enforcement within state waters.

(2) The Attorney General shall promulgate rules and regulations within 90 days of the passage of this chapter, which rules and regulations shall include, but shall not be limited to:

- (a) General enforcement rules and procedures;
- (b) Deputization of appropriate officials and chief magistrates of outer islands;
- (c) Training of officers and officials; and
- (d) Cross-designation of national officers for enforcement purposes.

(3) Regulations adopted by the Attorney General shall have the full force and effect of law.

Source: S.L. No. 3L-114-95 §37, 12/28/95

§1-137. Attorney General's annual report. — The Attorney General shall report on its activities to the Governor and the Legislature by December 1 each year, which reports shall contain: a review of civil and criminal actions taken pursuant to this chapter; the status of the fisheries enforcement and development fund; and such other information regarding the implementation of this chapter in the preceding fiscal year, as the Department may determine.

Source: S.L. No. 3L-114-95 §38, 12/28/95

§1-138. Fisheries Enforcement and Development Fund. —

(1) There is hereby established a “Fisheries Enforcement and Development Fund” to be maintained by the Department of Treasury and Administration, separate and apart from other funds of the state. Independent records and accounts shall be maintained in connection therewith. The Fisheries Enforcement and Development Fund shall be administered in accordance with the Financial Organization and Management Act, Title 11, as amended.

(2) There shall be deposited into the Fisheries Enforcement and Development Fund all civil and criminal fines, all proceeds of forfeitures collected pursuant to this chapter, all criminal and civil fines and proceeds of forfeitures collected by the Government of the Federated States of Micronesia for national fishing violations which are distributed to the State of Pohnpei, transshipment privilege fees as may be so designated, and any private or public grants earmarked for fisheries enforcement, fisheries development or marine environmental emergencies.

(3) Revenues collected pursuant to this chapter and deposited into the Fisheries Enforcement and Development Fund shall be expended and disbursed as follows:

- (a) Thirty percent (30%) of all civil and criminal fines and proceeds of forfeitures as set forth in Subsection (2) of this section that are collected within a local jurisdiction, or within the local jurisdiction's designated portion of state waters, shall be distributed to the local jurisdiction;
- (b) Where an individual provides the necessary information leading to a civil or criminal fine or forfeiture against a commercial fishing vessel pursuant to this chapter, such individual or individuals shall receive, or where more than one individual is involved, share, one percent (1%) of the amount of the fine or \$5,000, whichever is greater;
- (c) Unless otherwise specifically designated by private or public grant, after disbursement to the relevant local jurisdiction the balance shall remain within the Fisheries Enforcement and Development Fund, which revenues shall only be disbursed for fisheries enforcement, fisheries development projects, and marine environmental emergencies as appropriated by the Legislature in the annual Pohnpei Comprehensive Budget Act.

(4) The Office of the Attorney General shall promulgate rules and regulations governing the implementation of Subsection (3) of this section, to include a local jurisdiction's designated portion of state waters, if any; the granting of any reward; and, when not specified by the authorization or

appropriation statute, the parameters governing the designation of a project as a fisheries enforcement, fisheries development project or marine environmental emergency.

Source: S.L. No. 3L-114-95 §39, 12/28/95; S.L. No. 6L-53-05 §2, 10/7/05; S.L. No. 6L-93-07 §1, 3/12/07; S.L. No. 6L-100-07 §4, 10/1/06

Note: S.L. No. 6L-93-07 §2 reads “Any balances in the enforcement account and the development account as of the effective date of this chapter, shall be thereafter shown only as a consolidated amount in the Fisheries Enforcement and Development Fund. Upon such consolidation, the Director of the Department of Treasury and Administration shall submit to the Governor and to the Speaker of the Legislature a statement of the consolidated amount, and an accounting of the two accounts for the 60 days prior to and including the date of consolidation.”

§1-139. Transshipment privilege fee. — There is hereby established a transshipment privilege fee of no less than 10 cents per kilogram of fish transshipped out of Pohnpei ports. The Office of Fisheries and Aquaculture may, by regulation promulgated in accordance with the Administrative Procedures Act, Title 8 Chapter 1, charge a transshipment privilege fee of more than 10 cents per kilogram of fish transshipped; PROVIDED that the fee charged shall not be greater than needed to fund reasonably necessary fisheries development activities. The transshipment privilege fee shall be charged equally to all transshippers. The transshipment privilege fee collected pursuant to this section shall be deposited into the Fisheries Development Account of the Fisheries Enforcement and Development Fund established by §1-138.

Source: S.L. No. 3L-114-95 §40, 12/28/95; S.L. No. 6L-53-05 §3, 10/7/05; S.L. No. 7L-20-08 §3, 11/26/08

FISHERIES

CHAPTER 2 BAIT FISHING

Section

2-101 Definitions

2-102 Penalties

§2-101. Definitions. — For the purpose of this chapter, unless it is otherwise provided or the context requires a different construction, the following definitions shall apply:

(1) “Bait fish” means any type of marine animal that may be used as bait in commercial fishing operations.

(2) “Business entity” means any sole proprietorship, firm, company, partnership, cooperative association, association or corporation.

(3) “Noncitizen-controlled business entity” means any business entity in which less than one hundred percent (100%) of the total capital investment, including capital originally provided as a loan to the business entity or any of its owners, was provided by citizens of the Trust Territory, Trust Territory Economic Development Loan Fund or funds provided by grants or programs sponsored by the government of the Trust Territory or the United States of America Government. For purposes of determining a noncitizen-controlled business entity, capital provided in a form other than cash shall be valued as of the date it was acquired by the business entity.

(4) “Noncitizen-owned business entity” means any business entity in which a person who is not a Trust Territory citizen, or any company, corporation or association in which a person not a Trust Territory citizen owns any interest.

Source: D.L. No. 2L-239-71 §1, 11/27/71; D.L. No. 3L-101-74 §1, 11/27/74

Notes: 1. Law relating to bait fishing should have been repealed, but was not. See also §1-109 relating to foreign fishing. 2. D.L. No. 4L-190-79, relating to noncitizen bait fishing, has been repealed in its entirety by D.L. No. 3L-114-95 §3, 12/28/95.

§2-102. Penalties. —

(1) Every owner, partner, officer or manager of any noncitizen-owned business entity or noncitizen-controlled business entity that uses any bait fish for commercial fishing operations harvested or taken from the waters within Pohnpei State without the prior written consent of the Office of Fisheries and Aquaculture shall be guilty of a felony and upon conviction thereof shall be imprisoned for not more than five years or fined not more than \$10,000, or both such fine and imprisonment.

(2) Every person, or owner, partner, officer or manager of any business entity which supplies or provides any noncitizen-owned business entity or noncitizen-controlled business entity with any bait fish for commercial fishing operations, harvested or taken from waters within Pohnpei State without the prior written consent of the Office of Fisheries and Aquaculture, shall be guilty of a felony and upon conviction thereof shall be imprisoned for not more than five years or fined not more than \$10,000, or both such fine and imprisonment.

(3) No shareholder or stockholder of any corporation or cooperative association conducting activities prohibited by this chapter, shall be guilty of a violation of this chapter unless such shareholder or stockholder is also an officer or manager of such corporation or cooperative association conducting activities prohibited by this chapter.

(4) Any business entity in existence and operation upon the effective date of this chapter [November 27, 1971] shall not be covered by the terms and provisions of this chapter, except that any such business entity engaged in commercial fishing operations must comply with this chapter when

and if it increases in size to the extent of operating more than two times the gross tonnage of fishing vessels which such business entity operated upon the effective date of this chapter.

Source: D.L. No. 2L-239-71 §§2 – 5, 11/27/71; D.L. No. 3L-101-74 §§2 & 3, 11/27/74; S.L. No. 7L-20-08 §14, 11/26/08

Note: The Pohnpei Economic Development Authority was the successor to the Ponape District Fishing Authority. The fisheries functions of the Economic Development Authority were thereafter transferred to the Office of Fisheries and Aquaculture pursuant to S.L. No. 7L-20-08, 11/26/08.

CHAPTER 3 OFFICE OF FISHERIES AND AQUACULTURE

Section

3-101. Advisory Board on Fisheries and Aquaculture
3-102. Purposes of Advisory Board
3-103. Meetings of Advisory Board

3-104. Duties of Advisory Board
3-105. Administrative assistance
**3-106. Expenses; compensation; authorization
for appropriation; administration**

§3-101. Advisory Board on Fisheries and Aquaculture. — There shall be within the Office of Fisheries and Aquaculture a board to be known as the Advisory Board on Fisheries and Aquaculture, which shall sit in an advisory capacity to the Governor, and to the Legislature on matters within the jurisdiction of the Office of Fisheries and Aquaculture. The Advisory Board shall consist of five members nominated by the Governor with the advice and consent of the Legislature. Each member shall serve for a term of four years each; provided that each such member shall hold office until the member's successor is appointed and qualified. If a vacancy is created in the Board by death, resignation or for any other reason, such vacancy shall be filled in like manner as the original appointment for the remainder of the term. In addition, the Administrator of the Office of Fisheries and Aquaculture and the Director of Land and Natural Resources shall sit as ex-officio members.

Source: S.L. No. 7L-20-08 §4, 11/26/08

§3-102. Purposes of Advisory Board. — The purposes of the Advisory Board are as follows:

- (1) To review the existing policies of the Office of Fisheries and Aquaculture, and advise the Governor and Legislature of any changes recommended thereto; and
- (2) To review the annual budget of the Office of Fisheries and Aquaculture before submission to the Governor.

Source: S.L. No. 7L-20-08 §4, 11/26/08

§3-103. Meetings of Advisory Board. — The Advisory Board shall meet at the call of the Chairman, or at the call of three or more members. The Administrator of the Office of Fisheries and Aquaculture shall call the first meeting within 15 days after the initial confirmation of all the membership of the Advisory Board. Meetings shall be conducted according to such rules as the Board may establish; PROVIDED that three members shall constitute a quorum and a majority vote of the quorum shall be sufficient to carry on any business before the Advisory Board. Three unexcused absences of a member from any duly called meeting of the Board automatically creates a vacancy of that member's seat on the Board. Excuses may be granted solely by the Chairman or a duly designated representative, and shall only be granted for death or serious illness in the family of the member, for travel outside of commuting distance of the meeting or for such other reasons as the Board may, by its rules, so determine.

Source: S.L. No. 7L-20-08 §4, 11/26/08

§3-104. Duties of Advisory Board. — In order to accomplish the purposes stated in §3-102, the Advisory Board shall perform the following duties:

- (1) Consider matters brought before it with regard to fisheries and aquaculture in Pohnpei, and undertake such inquiries as are required or appropriate in order for it to formulate policy recommendations in regard thereto;
- (2) Forward all policy recommendations to appropriate governmental agencies and offices deemed by the Board to be in the best interests of the people of Pohnpei;

(3) Review all financial reports and the annual budget of the Office of Fisheries and Aquaculture as required by §3-102; and

(4) Recommend legislation required for the improvement of Pohnpei's fisheries and aquaculture.

Source: S.L. No. 7L-20-08 §4, 11/26/08

§3-105. Administrative assistance. — The Administrator of the Office of Fisheries and Aquaculture shall provide to the Advisory Board clerical and other support services that may be required by the Advisory Board.

Source: S.L. No. 7L-20-08 §4, 11/26/08

§3-106. Expenses; compensation; authorization for appropriation; administration. —

(1) Expenditures for travel and per diem of Advisory Board members and personnel shall not exceed standard Pohnpei Government rates. Compensation shall be paid to members who are not employees of the Pohnpei Government for attending a duly called meeting of the Board at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I. Pohnpei Government employees who are members of the Board shall be granted administrative leave while attending Board meetings or performing other official business for the Board.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the operations and related activities of the Board.

(3) The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purposes stated in Subsection (2) of this section. The Governor shall submit a complete financial report to the Legislature on or before October 15 following each fiscal year wherein sums are appropriated under the authorization of this section. All sums appropriated for a fiscal year remaining unexpended or unobligated for expenditure at the end of the fiscal year shall revert to the general fund of Pohnpei.

Source: S.L. No. 7L-20-08 §4, 11/26/08

TITLE 30 [RESERVED]

(Next page is Title 31, Division IV divider)

DIVISION IV
OF THE
CODE

STATE INFRASTRUCTURE

TITLE 31 --- TITLE 35

TITLE 31

**HOUSING AND
CONSTRUCTION**

TITLE 31 HOUSING AND CONSTRUCTION

CHAPTER

1 HOUSING AUTHORITY

2 – 5 [RESERVED]

6 BUILDING CODE

7 – 9 [RESERVED]

10 HOUSING AND CONSTRUCTION FINANCES

CHAPTER 1 HOUSING AUTHORITY

Section

1-101 Short title	1-108 Instruments of conveyance
1-102 Declaration of findings and policy	1-109 Exemption of property and funds from execution, liens or taxes; payments in lieu of taxes
1-103 Definitions	1-110 Authorization for appropriation; administration
1-104 Pohnpei Housing Authority	1-111 Audit
1-105 Powers and duties of the Housing Authority	
1-106 Administration of housing programs	
1-107 Cooperation by the government	

§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Community Housing Act of 1988.”

Source: S.L. No. 2L-81-88 §1, 12/20/88

§1-102. Declaration of findings and policy. — It is hereby found and declared:

(1) That the Legislature seeks as its goal a decent home and suitable living environment for every low-income family of Pohnpei;

(2) That there exist in Pohnpei overcrowded and blighted areas, as well as substandard and inadequate housing conditions and a serious shortage of decent dwelling accommodations which families and individuals can afford, and that these conditions present problems of immediate and long-ranging governmental concern;

(3) That certain overcrowded or blighted areas or portions thereof may require acquisition, clearance, and disposition subject to use restrictions as provided in this chapter, that other areas or portions thereof may, through the means provided in this chapter and in a manner consistent with appropriate land planning laws, be susceptible of conservation or rehabilitation in such manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented;

(4) That these problems must be attacked by prompt and vigorous action in the interests of public safety, health, and welfare; and

(5) That the elimination and prevention of overcrowded and blighted areas, and the provision of safe, sanitary, and decent housing which is consistent with the recommendations of an approved local master plan when one exists for families of low-income in Pohnpei constitute public uses and public

purposes and are proper governmental functions devoted to the health, welfare, and safety of the people of Pohnpei, and that the powers conferred by this chapter are for public uses and purposes for which public money are expended.

Source: S.L. No. 2L-81-88 §2, 12/20/88

§1-103. Definitions. — As used in this chapter, unless it is otherwise provided or the context requires a different construction, application or meaning:

- (1) “Area of operation” means the total geographical area within the boundaries of the state.
- (2) “Authority” means the Pohnpei Housing Authority referred to in §1-104.
- (3) “Families of low-income” or “low-income families” means individuals or families who cannot afford to pay enough to cause private housing for their use.
- (4) “Housing project” means any work, or undertaking or activity to provide decent dwellings, and other living accommodations for families of low-income.
- (5) “Overcrowded or blighted area” means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, inadequate street layout, accessibility or usefulness, or the existence of any condition that endangers life or property by fire or other means, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.
- (6) “Person” means any individual, firm, partnership, corporation, company, association, establishment, institution or organization, private or public, and includes persons acting in a representative or fiduciary capacity.
- (7) “Public agency” or “agency” means any department, bureau, instrumentality or official body, corporation or otherwise, or any public official of the state.
- (8) “Real property” or “land,” unless a restricted meaning is clearly indicated, means all lands, including improvements and fixtures thereon, and appurtenances thereto, or used in connection therewith, and every estate, interest, right, and use, legal or equitable therein, including terms for years, and liens by way of mortgage, pledge, attachment, judgment or otherwise.

Source: S.L. No. 2L-81-88 §3, 12/20/88

§1-104. Pohnpei Housing Authority. —

- (1) There is hereby created in the state a public body corporate of perpetual duration to be designated as the Pohnpei Housing Authority. The Authority shall be deemed for all purposes an agency of the government of the state; PROVIDED, HOWEVER, that the Authority shall not be vested with the power of eminent domain.
- (2) The powers of the Authority shall be vested in a Board of Directors:
 - (a) The Board shall consist of five members, all of whom shall be citizens of Pohnpei and who shall serve four-year terms. Board members shall be appointed by the Governor with the advice and consent of the Legislature. Any member of the Board may be removed by the Governor for inefficiency, neglect of duty or misconduct in office. In the event of any vacancy on the Board, such vacancy shall be filled in the same manner as the original appointments; PROVIDED, HOWEVER, that appointments to fill vacancies on the Board shall be made for the unexpired term of the member who vacated the seat.
 - (b) The Board shall elect from among its members a Chairman, a Vice-chairman, and a Secretary. Officers of the Board shall hold office for such terms and shall have such duties as the Board shall by its bylaws specify.
 - (c) Directors shall receive no compensation for their services, but shall be entitled to per diem at standard government rates and reimbursement for travel costs when engaged in the business of the Authority.

(d) The Board shall meet not less than once each calendar quarter, and may hold such additional meetings as it deems necessary and appropriate.

(3) The Governor shall appoint an executive director in the manner and for the term prescribed in the Uniform Appointments and Tenure Act, Title 9 Chapter 1, who shall not be a member of the Board. The Executive Director shall submit to the Board and the Governor an annual budget for the Board's approval, which budget shall include provisions for the expenditure of all salaries and logistical support incurred by the Authority during the fiscal year to which the budget applies. The Executive Director shall, subject to the approval of the Board and the Public Service System Act, Title 9 Chapter 2, have the power to hire and fire all employees of the Authority. Employees of the Authority shall be considered employees of the state government.

(4) The state government shall provide such office space as may be required by the Authority and shall provide such logistical and administrative support as may be required by the Authority within the limits of availability.

Source: S.L. No. 2L-81-88 §4, 12/20/88

§1-105. Powers and duties of the Housing Authority. — The powers and duties of the Housing Authority shall include, but not be limited to, the following:

- (1) To administer the state low-cost housing loan program and the Pohnpei Housing Loan Fund;
- (2) To have perpetual succession; to sue and be sued in its own name; to be represented by the Attorney General in such suits; and to have a seal and modify it;
- (3) To make loans or guarantee loans to individuals, groups or associations to assist in the construction of low-cost housing in the state;
 - (a) Such loans shall bear interest at such rate as may be established by regulation, but at no time shall such rate be more than four and one-half percent (4.5%) a year on loans made from the Federated States of Micronesia, state or other grant, loan or subsidy funds; nor more than the prevailing prime interest rate on loans made from funds borrowed by the Authority from commercial financial institutions; nor shall loans be guaranteed which bear interest at a rate greater than one percent (1%) a year below the prime interest rate offered by commercial financial institutions that may issue such loans; nor shall any loan be granted or guaranteed in excess of such amount as may be approved by the Board of Directors; and
 - (b) Loans made by the Authority shall be subject to the prior approval of the Board of Directors, and shall be made in the form and shall be secured as provided in the regulations issued under this chapter; PROVIDED, HOWEVER, that the Authority shall by regulation establish income limits, adjusted by household size, beyond which no loan may be granted, such limits to be devised to insure maximum participation in the housing program by low-income families; and PROVIDED FURTHER that no loan shall be granted or guaranteed for the construction of any housing unit in excess of ninety percent (90%) of the value of the land and buildings involved; and PROVIDED FURTHER that loans shall not be granted to pay or repay prior indebtedness on lands and buildings; and PROVIDED FURTHER that applicants for loans may contribute their equity in the form of land, building material, cash or labor;
- (4) To borrow monies from governmental, private, commercial or any other source, or to issue, sell or dispose of revenue bonds or other obligations from time to time under such terms and conditions as the Legislature shall on a case-by-case basis, prescribe by law, subject to the restrictions of the Pohnpei Constitution; PROVIDED that the proceeds of such loans, bonds or other obligations shall be used solely to finance specifically authorized activities and programs of the Authority;
- (5) To be exempt from all state licensing requirements and taxation;
- (6) To enter into and execute contracts and instruments of every kind and nature, necessary or convenient to the exercise of its powers and functions;
- (7) To make and, from time to time, modify and repeal bylaws and regulations, not inconsistent with this chapter, and state laws pertaining to administrative procedures, providing for the internal

organization and management for the administration of its affairs and operations, and for carrying out the powers and duties granted and imposed by law;

(8) To borrow money from public and private sources and give such security therefor as may be required;

(9) To accept contributions, gifts, donations or any other form of financial assistance;

(10) To deposit funds in banking institutions licensed to do business in the state;

(11) To invest funds in property or securities approved for investment by the state government;

(12) To acquire any real or personal property, or any interest or estate therein, by lease, option, purchase, gift, grant, donation, bequest or devise; and own, hold, improve, clear or prepare for development any such property;

(13) To sell, lease, exchange, transfer, assign, mortgage, pledge or otherwise dispose of or encumber, any real or personal property, or any interest or estate in such;

(14) To build, construct, manage, operate, and maintain housing projects for low-income families; and install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements;

(15) To insure or provide for the insurance in any stock or mutual company or any public or private insurance facility approved by the Attorney General, of any real or personal property or operations, against any risk and hazards;

(16) To undertake and carry out studies, analyses, research, and investigations of living and housing conditions; determine where overcrowded and blighted conditions exist; where there is a shortage of safe, decent, and sanitary dwellings for low-income families; make findings, determinations, and recommendations as to means and methods of dealing with such matters; carry into effect such findings, determinations, and recommendations; and make available to the public the results of such studies and information;

(17) To make or have made all plans necessary to the carrying out of this chapter and include in such plans, without limitations:

(a) Plans for construction of housing for low-income families;

(b) Plans for carrying out programs of voluntary repair and rehabilitation of buildings and improvements; and

(c) Plans for the enforcement of local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and other improvements; and to the repair, rehabilitation, demolition or removal of buildings;

(18) To develop, test, and report methods and techniques; and carry out demonstrations and other activities for the prevention and elimination of overcrowded areas and community blight;

(19) To lease any dwellings, accommodations, land, structures or facilities embraced in any project;

(20) To clear or prepare any property owned by it for conservation or rehabilitation;

(21) To establish, from time to time, standards of eligibility, rules, regulations, and conditions for admission to, and occupancy of, housing accommodations for low-income families in dwellings and facilities, including rents and charges therefor, in the manner that is or may be provided by the adoption of rules and regulations;

(22) To make such expenditures, subject to this chapter or any other applicable law, regulation or restriction, as may be necessary for the activities and operations to carry out the purposes of this chapter;

(23) To conduct examinations and investigations to ensure compliance with this chapter and all rules, regulations, and programs adopted and administered by the Housing Authority; PROVIDED that in connection with any hearings or investigations, the Board shall have the authority to subpoena witnesses, records, books, documents, and any other relevant information not otherwise protected by law on any matters material to the functions or operations of the housing program;

(24) To have the same use of state government pouch mail, communication facilities, and procurement services as other departments and activities of the state government; and

(25) To act as trustee in all secured financing for housing development and improvements when the trustor (debtor) is a citizen and pweldak of Pohnpei and the beneficiary (lender) is a noncitizen and non-pweldak of Pohnpei.

Source: S.L. No. 2L-81-88 §5, 12/20/88

§1-106. Administration of housing programs. —

(1) The Authority in carrying out a program of housing for low-income families shall construct, manage, and operate housing projects established for low-income families in the most economical and efficient manner, consistent with applicable requirements, so as to enable the Authority to fix rentals or charges for dwelling accommodations at low rents, in consonance with the purpose of providing safe, decent, and sanitary housing for families and individuals of low income, and shall not operate such housing projects for profit or as a source of revenue to the Authority or the government of the state. To this end, the Authority shall fix the rentals or charges for dwellings in such housing projects at rates no higher than those it shall determine to be necessary to produce revenues, that together with all other available monies, revenues, income, and receipts of the Authority from all sources, including any financial assistance provided to maintain the low-rent character of the housing accommodations, will be sufficient to:

(a) Pay, as they become due, the principal and interest on loans and obligations of the Authority issued to finance the housing program;

(b) Establish and maintain such reserves as may be required to assure the payment of such principal and interest as they become due;

(c) Meet the cost of, and to provide for, the maintenance and operation of the housing projects, including necessary reserves therefor, and for costs of insurance protection, as well as the administrative expenses of the Authority; and

(d) Make payments in lieu of taxes as provided for in this chapter. Rentals and charges for dwellings shall be established, and the housing projects shall be administered, to the greatest degree possible, so as to assure that any financial assistance required shall be in the minimum amounts and periods necessary to maintain the low-rent character of the projects.

(2) Subject to this chapter, the Authority, in the operation and management of a low-rent housing program shall rent or lease the dwelling accommodations only to families or individuals who lack the amount of income deemed necessary by the Authority to enable them, without financial assistance, to secure decent, safe, and sanitary dwellings. The Authority shall establish rentals which it determines to be within the financial reach of such families or individuals.

Source: S.L. No. 2L-81-88 §6, 12/20/88

§1-107. Cooperation by the government. —

(1) For the purpose of aiding and cooperating with the Authority in the planning, undertaking, carrying out, developing, constructing and operating of housing projects, the state government or any public agency or public body of the state with or without consideration, upon such terms as it may determine, and acting through appropriate agencies and officials, may do any, all or any combination of the following:

(a) Enter into contracts and agreements, which may extend over any period, with any other public agency or body respecting action to be taken pursuant to any of the powers granted by this chapter, including the furnishing of funds by loan, grant, contribution, appropriation or otherwise, or other assistance in connection with any project;

(b) When authorized by law or resolution of the Pohnpei Legislature, dedicate, sell, convey, lease, or otherwise transfer any of its interests in any property; or grant easements, licenses or

any other rights or privileges therein to any other state public agency concerned in any project pertaining to this chapter;

(c) When authorized by law or resolution of the Pohnpei Legislature, cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, sewage or drainage facilities, illumination or any other works or facilities which it is otherwise empowered to undertake or furnish, to be furnished to or in connection with any project;

(d) Furnish, install, grade, regrade, pave, plan or replan highways, streets, roads, alleys, sidewalks, ways or other places to provide access to areas set aside for low-cost housing;

(e) Plan or replan, zone or rezone any part of any community or locality set aside for low-cost housing and make exceptions and grant waivers from any building codes, regulations or rules in areas where no duly authorized planning commission exists;

(f) Cause administrative and other services to be furnished;

(g) Incur all or any part of the expense of any public improvement necessary for the purposes of this chapter;

(h) Lend, grant, appropriate or contribute funds within its disposal for the purposes of this chapter;

(i) Exercise powers relating to the repair, improvement, closing, demolition or removal of unsafe, unsanitary or unfit buildings and structures; and

(j) Do any and all other things reasonably necessary or convenient to aid and cooperate in the planning or carrying out or operating of projects toward achieving the purposes of this chapter;

(2) All agencies and public officials of the state government shall cooperate to the extent necessary to facilitate the exercise by the Authority of their powers, duties, and functions under this chapter in carrying out the purposes of this chapter;

(3) Any sale, conveyance, lease or transfer to the Authority or any agreement relative thereto concerning public land or interests therein where authorized by law or resolution of the Legislature pursuant to this section may be made without appraisal, public notice, advertisement or public bidding; and

(4) All projects shall comply with the planning, zoning, sanitary, and building laws or codes, or other regulatory measures applicable to the community in which the project is situated.

Source: S.L. No. 2L-81-88 §7, 12/20/88

§1-108. Instruments of conveyance. — An instrument executed by the Authority or by the state government conveying any right, title or interest in any property under this chapter shall be conclusively presumed to have been executed in compliance with this chapter insofar as the title or other interest of any bona fide purchaser, lessee or transferee of the property is concerned, and shall be entitled to recordation in the appropriate records of the Court of Land Tenure and the Clerk of the Court, so as to afford actual or constructive notice thereof.

Source: S.L. No. 2L-81-88 §8, 12/20/88

§1-109. Exemption of property and funds from execution, liens or taxes; payments in lieu of taxes. —

(1) All property, including funds of the Authority, shall be exempt from judicial process of every kind, including, without limitation, attachment, levy, execution, and sale by virtue of an execution; and no judgment shall be a lien or charge upon its property or funds.

(2) The property acquired or held for the purposes of this chapter is declared to be public property used for essential public and government purposes, and such property shall be exempt from all taxes and special assessments of the state government or any political subdivision thereof.

(3) The Authority may agree to make payment in lieu of taxes on its housing projects to the state government or any political subdivision thereof, or instrumentality thereof as may be designated by the state government, as it finds consistent, from time to time, with the maintenance of the low-rent character of housing projects.

Source: S.L. No. 2L-81-88 §9, 12/20/88

§1-110. Authorization for appropriation; administration. —

(1) *Authorization for operations.* There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act, or so much thereof as may be necessary, to finance the operations of the Authority pursuant to this chapter.

(2) *Funds from other sources.* The Authority is entitled to receive grants, gifts, and donations to assist the Authority in activities authorized under this chapter from such other sources as may be available when so authorized in accordance with state law.

(3) *Issuance of bonds and other forms of indebtedness.* [RESERVED].

(4) *Administration.* All sums appropriated under an authorization of this section shall be administered by the Executive Director of the Authority upon concurrence of the Board. The Executive Director shall report annually to the Legislature on or before October 15 on all financial activities of the Authority for the previous fiscal year and the financial status of the Authority and the Pohnpei Housing Loan Fund at the close of the fiscal year.

(5) *Transfer of funds: availability of funds.* Sums appropriated to the operations of the Authority under the authorization of this section remaining unexpended or unobligated for expenditure at the close of the fiscal year for which appropriated shall be transferred to the Pohnpei Housing Loan Fund. All sums appropriated to the Pohnpei Housing Loan Fund under the authorization of this section or transferred to the fund as herein provided shall remain available in the fund until fully expended.

Source: S.L. No. 2L-81-88 §10, 12/20/88

§1-111. Audit. — The financial activities of the Authority shall be audited by the Public Auditor or an independent auditing firm at least once a year, the results of which shall be transmitted to the Governor and the Legislature and made available for review by the general public. In addition, all activities of the Authority shall be subject at any time to investigation by the Public Auditor.

Source: S.L. No. 2L-81-88 §11, 12/20/88

Extended legislative history: PDC §§10-100 to 10-107, 3/71; PDC §10-102 was amended by D.L. No. 3L-30-72 §1, 6/13/72; PDC §10-107 was amended by D.L. No. 3L-58-73 §26, 5/29/73; PDC §§10-100 to 10-107, as amended, were superseded by P.L. No. 5-37 §7-5, 4/5/73; D.L. No. 3L-85-74, 6/29/74 provided a permanent authorization to fund P.L. No. 5-37; D.L. No. 3L-85-74 §2, 6/29/74, was amended by D.L. No. 4L-136-78 §31, 3/27/78 and D.L. No. 4L-162-78 §1, 12/14/78; D.L. No. 3L-85-74, 6/29/74, was repealed by S.L. No. 1L-146-87 §6, 7/14/87; S.L. No. 2L-60-88, 7/14/88 provided permanent authorization to fund P.L. No. 5-37; P.L. No. 5-37, 4/5/73, was superseded by S.L. No. 2L-81-88 §12, 12/20/88.

**CHAPTERS 2 – 5
[RESERVED]**

HOUSING & CONSTRUCTION

CHAPTER 6 BUILDING CODE

Section

6-101 Short title	6-105 Application of the code
6-102 Purpose	6-106 Administration of the code
6-103 Adoption of Pohnpei Building Code	6-107 Penalties for violation
6-104 Purposes of the code	6-108 Liberal construction

§6-101. Short title. — This chapter is known and may be cited as the “Pohnpei Building Code Act of 1989.”

Source: S.L. No. 2L-91-89 §1, 3/15/89

§6-102. Purpose. — The purpose of this chapter is to authorize the development and adoption of a state building code to provide, as far as practicable, basic and uniform performance standards concerning the design, construction, quality of materials, use and occupancy, location, and maintenance of buildings, structures, and equipment associated therewith that are funded or supported by the state or other government agencies.

Source: S.L. No. 2L-91-89 §2, 3/15/89

§6-103. Adoption of Pohnpei Building Code. —

(1) The Governor of Pohnpei State, or his designee, shall formulate, propose, and adopt rules and regulations establishing minimum standards for the construction of buildings, or classes of buildings, and the installation of appurtenances thereto. Such rules and regulations may include, but are not limited to, standards or requirements for the design and construction of buildings and other structures and their appurtenances, for the materials to be used in connection therewith, and for their use, occupancy, location, and maintenance. These rules and regulations shall comprise and be collectively known as the Pohnpei Building Code and to the extent applicable, the design and construction of buildings and other structures shall comply with said code.

(2) Provisions of the Pohnpei Building Code may, from time to time, be added, amended or repealed to effectuate the purposes of this chapter.

(3) The Pohnpei Building Code and all additions, amendments or repeal of its provisions, shall be adopted pursuant to the Administrative Procedures Act, Title 8 Chapter 1. Upon adoption it shall have the force and effect of law.

Source: S.L. No. 2L-91-89 §3, 3/15/89

§6-104. Purposes of the code. — The Pohnpei Building Code shall be designed to achieve the general purpose of this chapter and the following:

(1) To provide reasonably uniform standards and requirements for construction and construction materials, consonant with accepted standards of engineering and fire-prevention practices;

(2) To permit, so far as may be practicable, the use of modern technical methods, devices, and improvements which tend to reduce the cost of construction without substantially affecting reasonable requirements for the health, safety, and security of the occupants or users of the building or other structure;

(3) To encourage, so far as practicable, the standardization of construction practices, methods, equipment, material, and techniques;

(4) To eliminate restrictive, obsolete, conflicting, and unnecessary building practices and requirements which tend to increase unnecessary construction costs or retard the completion of construction;

(5) To provide for the upgrading of existing buildings and structures to the standards set out in the Pohnpei Building Code; PROVIDED that such upgrading of existing buildings and structures shall not be required prior to modification or repair of the building or other structure; PROVIDED FURTHER that such upgrade shall not be required for the construction of buildings and other structures for which funds have been obligated prior to the adoption of the Pohnpei Building Code; and

(6) To provide an administrative procedure for appealing decisions of the Building Officer with adequate notice to the aggrieved party and with an opportunity to be heard and present evidence.

Source: S.L. No. 2L-91-89 §4, 3/15/89

§6-105. Application of the code. —

(1) The Pohnpei Building Code shall be applicable to the construction of all buildings and other structures, and the installation of appurtenances thereto, that are funded by the state or supported with state funds. This includes, without limitation, such projects directly funded or financed by the state, projects wherein the monies are administered or managed by the state, and projects built with monies loaned by the state; PROVIDED, HOWEVER, that when the monies for construction are made available to the state on condition that a different building standard shall apply, and such standard is more stringent or restrictive, then such alternate standard shall apply to that particular project.

(2) The Pohnpei Building Code shall also apply to such other buildings or other structures to be constructed with funds from the national or any foreign government or governmental agency unless specifically modified or waived by the Building Officer.

(3) The application of the Pohnpei Building Code may be limited to specified classes or types of buildings, according to use or other distinctions, and may differentiate among different areas of the state depending on special conditions therein.

Source: S.L. No. 2L-91-89 §5, 3/15/89

§6-106. Administration of the code. — The Governor shall designate a person within the executive branch as the Building Officer to administer and enforce the Pohnpei Building Code. Subject to the procedures and limitations set out in the Pohnpei Building Code, the Building Officer is expressly authorized and empowered:

(1) To examine and approve or disapprove plans and specifications for the construction of buildings and other structures to which this chapter applies;

(2) To require that the construction of any such building or structure be in accordance with the applicable provisions of the Pohnpei Building Code, subject, however, to the powers of variance or modification that may be granted in the Pohnpei Building Code;

(3) To issue certificates of occupancy, permits, licenses, and such other documents as may be required by the Pohnpei Building Code in connection with the construction of buildings or other structures;

(4) To prohibit the commencement of construction until a permit therefor has been issued showing compliance with the requirements of the applicable provisions of the Pohnpei Building Code;

(5) To ensure compliance with this chapter and all rules and regulations adopted hereunder, and in connection with any hearings or investigations, the Building Officer shall have the authority to subpoena witnesses, records, books, documents, and any relevant information not otherwise protected by law;

(6) To order, in writing, the remedying of any condition found to exist in or about any building in violation of the Pohnpei Building Code. Such orders shall be served in the same manner as the service of summons as prescribed by the rules of the Pohnpei Supreme Court; and

(7) To exercise such ancillary powers as set out in the Pohnpei Building Code and as necessary to fulfill the purposes of this chapter.

Source: S.L. No. 2L-91-89 §6, 3/15/89

§6-107. Penalties for violation. — In addition to any other remedy or penalty available by law, any person, having been served with an order of the Building Officer who shall fail to comply with such order within the time fixed by the Building Officer, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of the Pohnpei Building Code shall, upon conviction thereof, be subject to a fine of not more than \$500, or imprisonment for not more than 30 days, or both such fine and imprisonment. Each day of the violation shall constitute a separate offense.

Source: S.L. No. 2L-91-89 §7, 3/15/89

§6-108. Liberal construction. — This chapter shall be interpreted liberally to effectuate its purposes.

Source: S.L. No. 2L-91-89 §8, 3/15/89

CHAPTERS 7 – 9 [RESERVED]

HOUSING & CONSTRUCTION

CHAPTER 10
HOUSING AND CONSTRUCTION FINANCES

Section

10-101 Pohnpei Housing Loan Fund: authorization for appropriation; administration

§10-101. Pohnpei Housing Loan Fund: authorization for appropriation; administration. —

(1) There is hereby created a Pohnpei Housing Loan Fund, hereinafter referred to as “Loan Fund,” which shall serve as a source of financing for construction of moderate cost residential housing units in Pohnpei State.

(2) It shall be the purpose of the Loan Fund to make loans available to the people of Pohnpei who wish to construct moderate cost residential housing but are unable to otherwise obtain loans from the established commercial lending institutions in Pohnpei State. The Loan Fund shall be used to improve and advance the housing conditions of the people of Pohnpei and shall not be used for construction of commercial residential houses.

(3) There is hereby authorized for appropriation from the general fund of Pohnpei or such fund into which capital account monies of the Compact of Free Association may be deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of providing the capital for the Loan Fund herein created by Subsection (1) of this section. All appropriations made to the Loan Fund shall remain available until fully expended.

(4) The Loan Fund shall be managed and administered by the Pohnpei Housing Authority solely for the purposes specified herein. The terms and conditions of loans made against this Loan Fund shall be promulgated by the Pohnpei Housing Authority Board with the concurrence of the Governor and the approval of the Legislature. All loan payment proceeds of this Loan Fund shall be treated as earnings and deposited in the Loan Fund. A separate accounting shall be maintained by the Executive Director of the Housing Authority of all monies deposited or loaned from the Loan Fund. The Executive Director shall submit to the Board, the Governor, and the Legislature on or before October 15 each year an annual financial report detailing the activities of the Loan Fund. The Loan Fund shall be subject to audit at any time upon request of the Legislature, the Governor or the Board of the Housing Authority.

Source: S.L. No. 1L-146-87 §§1 – 3 & 5, 7/14/87; S.L. No. 2L-72-88 §1, 10/21/88

Note: S.L. No. 1L-146-87 §4 transfer of assets and §6 repealing provisions have been omitted.

HOUSING & CONSTRUCTION

(Next page is Title 32 divider)

TITLE 32

**SEA AND AIR
TRANSPORTATION**

TITLE 32 SEA AND AIR TRANSPORTATION

CHAPTER

- 1 PORT AUTHORITY**
- 2 TRANSPORTATION ZONE**
- 3 AIRPORT PASSENGER FACILITY FEES**
- 4 & 5 [RESERVED]**
- 6 WATER TRAFFIC CONTROLS**
- 7 WATERCRAFT**
- 8 AIRPORT RESTRICTED ACCESS**
- 9 [RESERVED]**
- 10 TRANSPORTATION FINANCES**

CHAPTER 1 PORT AUTHORITY

Section

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| <ul style="list-style-type: none"> 1-101 Short title 1-102 Purpose 1-103 Definitions 1-104 Creation of the Authority 1-105 Powers of the Authority 1-106 Composition of the Board; removal; vacancies 1-107 Meetings of the Board 1-108 Organization of the Board; quorum; compensation and expenses 1-109 General manager; duties 1-110 Powers of the general manager 1-111 Comptroller; general counsel; duties of each 1-112 Procurement code 1-113 Financial matters 1-114 Designation of depository for Authority | <ul style="list-style-type: none"> 1-115 Employee rights and responsibilities 1-116 Employment preference 1-117 Right to challenge Authority's rules or regulations 1-118 Publication of rules and regulations 1-119 No financial interests by members 1-120 Authority exempt from execution and bond requirements 1-121 Authority may establish height and obstruction regulations 1-122 Government assistance to the Authority 1-123 Penalties 1-124 Enforcement of assessment of civil penalties 1-125 Authority may acquire port facilities 1-126 Intra-island seaport departure/user fees prohibited |
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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Port Authority Act of 1991.”

Source: S.L. No. 2L-224-91 §1-1, 1/13/92

§1-102. Purpose. — It is the sense of the Legislature that because of the distance between the islands of this state and their remoteness from large commercial centers of the world, transportation constitutes a vital link in the state's efforts toward social development and economic self-sufficiency. It is the purpose of this chapter to establish an Authority to facilitate use of available transportation systems, and to promote Pohnpei as the natural crossroads for north and south as well as east and west travel and transport through the Pacific region.

Source: S.L. No. 2L-224-91 §1-2, 1/13/92

§1-103. Definitions. — As used in this chapter, unless the context requires otherwise:

- (1) "Authority" means the Pohnpei Port Authority.
- (2) "Board" means the Board of Directors of the Authority.
- (3) "General manager" means the general manager of the Authority.
- (4) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, body politic, municipal corporation, including any trustees, receiver, assignee or other similar representative thereof.
- (5) "Port" means any publicly owned or operated port in the state, coupled with all related facilities, except such ports and port-related facilities as are situated within the Planned Development Zone located along the Dekehtik Causeway and designated as a planned development zone by state law, and for which specific regulatory controls are otherwise provided pursuant to state law enacted after March 31, 1998. Port includes both seaports and airports.

(6) "Rules and regulations" means rules and regulations of general application issued by the Authority interpreting or regulating the application of this chapter, but shall not apply to the internal operation of the Authority, nor to management of ports owned or operated by the Authority.

(7) "Revenue" means all monies or receipts, however derived, received or collected from the rates, rentals, fees, and charges prescribed for the use and services of and the facilities and commodities furnished by the ports, including, without limitation, all money received for the imposition of any fee or imposed for the use, benefit or privilege exercised by the ports by users, tenants, licensees or concessionaires thereof.

Source: S.L. No. 2L-224-91 §1-3, 1/13/92; S.L. No. 4L-66-98 §10, 2/23/98

§1-104. Creation of the Authority. — There is hereby created a body corporate in the state of Pohnpei called the Pohnpei Port Authority. Its functions shall be public and it shall have the right to sue and be sued in its own name. The Authority shall be solely responsible and liable for any indebtedness, obligation or liability incurred by the Authority, and the revenues, grants, and assets of the Pohnpei Government shall be immune from attachment, seizure, forced sale or any other form of judicial remedy thereof.

Source: S.L. No. 2L-224-91 §2-1, 1/13/92

§1-105. Powers of the Authority. — The Authority, in addition to the powers and duties elsewhere conferred and imposed, shall have the following powers and duties:

(1) It may generally carry on the business of acquiring, establishing, developing, extending, maintaining, operating, and managing ports, with all powers incident thereto.

(2) It shall be authorized and shall have exclusive jurisdiction to plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, and regulate the ports within the state; to protect, police, and to establish minimum building codes and regulations for its ports; and it shall be authorized to purchase, lease, and sell real or personal property, supplies, goods, materials, and commodities and to furnish and supply services and utilities incidental to the operation of its properties.

(3) The Authority, in operating any port owned, leased or controlled by it, may enter into contracts and leases, and make other arrangements with any person for terms not exceeding 25 years, granting the privilege of using or improving such port, or a portion thereof or space therein for any port-connected purposes; may confer, except as to fishing vessels, the privilege of supplying goods,

commodities, things, services or facilities or such ports or of making available services to be furnished by the Authority or its agents at such ports; PROVIDED, HOWEVER, that no lease or exclusive use or franchise of Authority properties, facilities, services or use rights may be executed or granted to another by the Authority except as allowed by regulations issued by the Authority which shall among other things provide for full public notice, selection, and disclosure of lessees and grantees; PROVIDED FURTHER that reasonable preference may be given to citizens of this state in the selection process. It shall determine the charges or rentals for the use of any property under its management and control, and the terms and conditions under which the property may be used. Charges shall be reasonable and uniform for the same class of service, and established with due regard to the value of the property and improvements used and the expense of the operation of the Authority. The Authority shall have and may enforce liens to enforce the payment of any such charges through appropriate judicial proceedings. The right to levy charges or rental for the use of the property under its management shall be exclusively that of the Authority and all such charges and rentals as well as other revenues of the Authority shall be and remain revenues of the Authority to be applied as herein set forth.

(4) The Authority may contract with any person, firm or corporation for the planning, supervision, financing, construction, operation, and maintenance of, or may itself construct or otherwise acquire, operate, and maintain all structures or improvements which, in its judgment, are useful, desirable or convenient in efficiently operating and maintaining its ports and facilities relating thereto. The Authority may also enter into agreements with the Pohnpei Government, the government of the Federated States of Micronesia, their departments and agencies, for the rendering of services performed by such departments and agencies to the ports controlled by the Authority including but not limited to the rendering of the police, fire fighting, maintenance, planning, and purchasing services.

(5) The Authority shall, upon the concurrence of the Governor and in accordance with the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded, and this chapter, have the power to adopt and enforce rules and regulations for the orderly, safe, and sanitary operation of its ports. Public safety officers of the state shall have the power to make arrests when necessary to prevent or abate the commission of any offense against any rule or regulation of the Authority in like manner as offenses against state law.

(6) The Authority shall have such free use of government pouch mail as is available to the government.

(7) The Authority, including but not limited to its franchise, capital, obligations including interest thereon, reserves, surpluses, loans, income, assets, and property of any kind shall be exempt from all licensing and taxation now or hereafter required or imposed by the Federated States of Micronesia or by the state, or any political subdivision or taxing authority of the Federated States of Micronesia, or of future entities created to take the place of the above to the maximum extent allowable by law. However, such exemption shall not apply to persons entering into independent contracts with the Authority.

(8) The Authority shall maintain such records, libraries, research materials, administrative or office materials and other property, real or personal, deemed to be necessary to enable the Authority to carry out the purposes of this chapter. Upon the request of the general manager, employees of the government of the state may be assigned by the government to assist the Authority to carry out activities of the Authority as set forth herein. The expenses thereof, if any, shall be reimbursed by the Authority.

(9) The fiscal year of the Authority shall correspond to that of the Pohnpei Government.

(10) The principal office of the Authority shall be in the state of Pohnpei.

(11) The Authority may employ agents and employees, and contract for the services of qualified managers, specialists or experts, as individuals or as organizations, to advise and assist the Authority and its employees. Except as provided by Section 3-8 of S.L. No. 2L-224-91 [*see note*], they shall be exempt from the application of the Public Service System Act, Title 9 Chapter 2. The Authority may set its own compensation, wage, and salary scales. The wage and salary scales shall be commensurate

with those paid by the state for positions requiring comparable education, training, and experience, except for the compensation of the general manager and other specialists for which no comparable state positions exist.

(12) The Authority is authorized to apply for, accept, and use, in the name of the Authority, any lands now controlled by other persons or entities that may be made available to the Pohnpei Government for the purposes of the Authority.

(13) The Authority shall procure insurance against liability or loss in connection with its operations hereunder in such amounts and from such insurers as it deems practicable.

(14) Budget:

(a) The Authority, on or before the March 15 each year, shall prepare and submit to the Governor a detailed statement of its proposed budget for the ensuing fiscal year.

(b) Within a period of 30 days after the submission of said proposed budget, the Governor shall notify the Authority of his approval or disapproval thereof. In the event said proposed budget is approved by the Governor, the same shall constitute the adopted budget of the Authority for the next fiscal year period.

(c) In the event the Governor notifies the Authority of his disapproval of the proposed budget, the Authority and the Governor or their representatives shall, within ten days after notification by the Governor, meet and discuss the proposed budget in an endeavor to agree upon a satisfactory budget.

(d) In the event a satisfactory agreement is not reached within ten days thereafter, the said proposed budget shall be submitted for consideration and decision to a board of arbiters, to consist of two members of the Authority, two members to be appointed by the Governor, and the fifth member to be appointed by the other members. The said board of arbiters shall thereafter submit such a budget as the majority of said board shall agree upon. The decision of the arbiters shall be final and the budget submitted shall constitute the adopted budget of the Authority for the ensuing fiscal year.

(e) No expenditures shall be made for a purpose not included in the adopted budget, and no debt, obligation or liability shall be incurred or created in any period for which the budget was adopted in excess of the amounts specified therein for each purpose named unless with the express approval of the Governor.

(15) An annual budget of the Authority may be amended at any time in the same manner as the adoption of the initial budget for that fiscal year as established for the Authority pursuant to Subsection (14) of this section; PROVIDED that such amendment may not be applied retroactively.

(16) Any other provision herein to the contrary notwithstanding, the written concurrence of the Governor shall first be secured by the Authority before entering into any contract extending for more than one year or which involves the payment or receipt of \$25,000 or more.

(17) The enumeration of specific powers and duties under this section shall not be deemed to be exclusive.

Source: S.L. No. 2L-224-91 §2-2, 1/13/92; S.L. No. 3L-35-93 §1, 7/8/93

Note: Subsection (11) reference "Except as provided by Section 3-8 of S.L. No. 2L-224-91," is read in the original act "Except as provided by Section 3-7 of this act," but this is found to be incorrect and should have referenced Section 3-8 which is entitled "Procurement, accounting, and personnel rules applicable during transition."

§1-106. Composition of the Board; removal; vacancies. — All powers vested in the Authority shall be exercised by the Board, which shall consist of seven members, who shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. Persons appointed shall hold membership on the Board for a period of four years, subject to reappointment, and until their successors have been appointed and qualify. A Board member may only be removed for cause either by the Governor or by two-thirds vote of the remaining members of the Board. All vacancies occurring on the Board shall be filled by the Governor with the advice and consent of the Legislature, but only for the unexpired term of the member whose vacancy is being filled.

Source: S.L. No. 2L-224-91 §2-3, 1/13/92

§1-107. Meetings of the Board. — Within 15 days after the appointment of the initial Board at the call of the Governor, and annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall meet once a month and shall hold at least one public meeting each calendar quarter and other public meetings as it may deem necessary for the transaction of its general business.

Source: S.L. No. 2L-224-91 §2-4, 1/13/92

§1-108. Organization of the Board; quorum; compensation and expenses. — The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board. Any four members of the Board shall constitute a quorum, and a concurrence of four members shall be necessary for any official action taken by the Board unless otherwise provided herein. No vacancy in membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board. Members of the Board shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, for members of Pohnpei Government policy boards and commissions, when actually attending meetings of the Board, except that those members who are employees of the Pohnpei Government and other cooperative entities shall instead receive their regular salaries while performing functions of the Board. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 2L-224-91 §2-5, 1/13/92

§1-109. General manager; duties. — The Board shall appoint a general manager who shall be the chief administrative officer to serve at the pleasure of the Board. The salary of the general manager shall be set by the Board. The general manager shall have full charge and control of the operation and maintenance of the ports controlled by the Authority, and of construction of any ports, facilities, and necessary works controlled by or required to be constructed or repaired by the Authority.

Source: S.L. No. 2L-224-91 §2-6, 1/13/92

§1-110. Powers of the general manager. — The general manager of the Authority shall have the following powers:

- (1) To ensure that all rules and regulations of the Authority are enforced;
- (2) To attend all meetings of the Board and to submit a general report on the affairs of the Authority;
- (3) To keep the Board advised of the needs of the Authority;
- (4) To approve demands for payment of obligations within the purposes and amounts authorized by the Board;
- (5) To prepare or cause to be prepared all plans and specifications for the construction and repair of works and facilities operated by the Authority;
- (6) To devote his entire working time to the business of the Authority; to select and appoint the employees of the Authority, except as otherwise provided in this chapter; to plan, organize, coordinate, and control the services of such employees in the exercise of the powers of the Authority under the general direction of the Board; and, in lieu of hiring employees to perform any of the tasks, work or other services required by the Authority, to contract with independent contractors, as persons, organizations or corporations, to provide such services;
- (7) To cause to be published, within 60 days after the end of each fiscal year, a financial and operations statement showing the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof, which publication shall be made in the manner provided by the Board;
- (8) To perform such other and additional duties as the Board may require; and
- (9) To be an ex-officio, nonvoting member of the Board.

Source: S.L. No. 2L-224-91 §2-7, 1/13/92

§1-111. Comptroller; general counsel; duties of each. — The general manager shall, upon consultation with the Board, appoint a comptroller and a general counsel, both of whom shall serve and may be removed for good cause by the general manager and whose duties and compensation shall be fixed by the Authority. Such officers may be full-time employees of the Authority, shared with other government agencies, or be placed on retainer from the private sector. The general manager may appoint one or more assistants to any such office.

(1) The comptroller shall have custody of all monies of the Authority and shall pay out such money only in accordance with the direction of the general manager and as provided in the annual budget of the Authority.

(2) The general counsel shall advise the Board and the general manager in all legal matters to which the Authority is a party or in which the Authority is legally interested and may represent the Authority before the Congress of the Federated States of Micronesia, the Pohnpei Legislature, and other domestic and foreign governmental and international organizations, entities, and bodies.

(3) The Authority may use the services of the attorneys for the Pohnpei Government to serve as attorneys for the Authority, or it may appoint such attorney or attorneys as it may deem necessary, and it shall provide payment of all legal services rendered which are not provided without compensation by the Pohnpei Government. All official documents, contracts, bonds, and other instruments in writing shall be approved as to form and legality by the general counsel for the Authority. Such approval may be conclusively evidenced by the signature of the general counsel thereon.

Source: S.L. No. 2L-224-91 §2-8, 1/13/92; S.L. No. 3L-109-95 §1, 11/2/95

§1-112. Procurement code. — Within 120 days following its organization, the Board, by regulation, shall provide for a comprehensive procurement code for the Authority which shall provide for cost-effective means to obtain services, supplies, and materials and construction contracts at competitive prices and which shall ensure all business entities within the state are accorded reasonable notice and fair opportunity to engage in business activities with the Authority. Among other things, the procurement code shall provide that:

(1) The purchase of all supplies and materials, and the construction of all works, when the expenditure exceeds \$5,000, shall be let, by contract, to the lowest responsible bidder. Notice requesting bids shall be published at least ten days before bids are received. The Board may reject any and all bids and readvertise at its discretion;

(2) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies may be purchased at a lower price in the open market, the Board may authorize such purchases without further observance of the provisions requiring contracts, bids or notices. The Authority, as an instrumentality of the Pohnpei Government, shall utilize the services of the government purchasing agencies wherever practical;

(3) In case of major public calamity, or whenever it is in the interest of transportation safety or necessary to keep the ports operable by the Authority, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the port facilities open to traffic or in a safe condition, and thereupon authorize the expenditure of such sums as may be needed without the observation of the provisions requiring contracts, bids or notices; and

(4) No member of the Board shall have any financial interest, direct or indirect, in any contract awarded by the Board. This provision shall not apply to contracts awarded to a corporation in which such member does not hold or maintain a managerial or professional position or relationship or in which he owns less than five percent (5%) of the entire capital stock. The procurement code shall establish procedures for the timely verification of this restriction by its general counsel.

Source: S.L. No. 2L-224-91 §2-9, 1/13/92

§1-113. Financial matters. — The Board shall adopt and maintain a system of accounting that is in accordance with generally accepted accounting principles applicable to ports.

(1) The Board shall employ a firm of independent certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Authority. Copies of any such reports shall be furnished to the Governor and the Pohnpei Legislature.

(2) The Board shall report to the Governor and the Legislature on the affairs of the Authority. It shall present an annual report within 60 days after the end of each fiscal year and if requested by the Governor or the Pohnpei Legislature, shall present special reports within 30 days after the end of each intervening quarter.

(3) There is hereby established a fund that shall be known as the “Pohnpei Port Authority Fund” which shall be maintained separate and apart from other funds of the state by the Authority and independent records and accounts shall be maintained in connection therewith.

(4) All monies received by the Authority from whatever source derived shall be deposited in said fund or in such other funds as may be established pursuant to this chapter, in eligible banks as defined by §1-114.

(5) All expenditures, except as otherwise provided by law, shall be made from the Pohnpei Port Authority fund.

Source: S.L. No. 2L-224-91 §2-10, 1/13/92

§1-114. Designation of depository for Authority. — The Board shall designate one or more banks licensed to do business within the state and eligible to receive the deposit of monies of the Treasury under the Financial Organization and Management Act, Title 11 Chapter 2, to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks. Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place, when and where the Board will meet for such purpose and invite banks in the state to submit application to be designated depositories. The term of service for depository shall be prescribed by the Board. Such notice shall be published at least one time in a newspaper of general circulation in the state or so placed on public broadcast as specified by the Board. At the time mentioned in the notice, the Board shall consider the applications and the management and conditions of the banks filing the same, and shall designate as depository or depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority, and which the Board finds have proper management and are in a condition to warrant handling of Authority funds. Membership on the Board of an officer or director of a bank shall not disqualify such bank from being designated as depository; PROVIDED that such Board member shall state to the Board, in writing, his interest therein prior to a Board decision thereon and may not participate in Board discussions or votes thereon. If no applications are received by the time stated in the notice, the Board shall designate some bank or banks within the state upon such terms and conditions as it may find advantageous.

Source: S.L. No. 2L-224-91 §2-11, 1/13/92

§1-115. Employee rights and responsibilities. — Within 120 days following its organization, the Board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees for the Authority. Employees of the Authority shall be eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workers’ compensation insurance available to Pohnpei Government employees. The Authority shall contribute to such programs on the basis of periodic billings as determined by the governing authorities thereof.

Source: S.L. No. 2L-224-91 §2-12, 1/13/92

§1-116. Employment preference. — The Board shall attempt to employ qualified citizens of this state, if at all possible. However, the Board shall have as its primary concern in employing or

contracting for services, the maintenance of safe, self-sufficient, modern, and convenient services and facilities for the improvement of travel within the state and between the state and outside locations.

Source: S.L. No. 2L-224-91 §2-13, 1/13/92

§1-117. Right to challenge Authority's rules or regulations. — Any person substantially interested or affected in his rights as to person or property by a rule or regulation adopted by the Authority may petition the Authority for a reconsideration of such rule or regulation, or for an amendment, modification or waiver thereof. Such petition shall set forth a clear statement of the facts and grounds upon which reconsideration, amendment, modification or waiver is sought. The Authority shall grant the petitioner a public hearing within 30 days after filing of said petition and the Authority's decision upon the petition shall be publicly released not more than 20 days after the final public hearing held upon the petition.

Source: S.L. No. 2L-224-91 §2-14, 1/13/92

§1-118. Publication of rules and regulations. — In addition to the notice of adoption of rules or regulations relative to civil penalties, a substantive statement shall be published, in condensed form, along with said notice, so as to afford an intelligent direction of the mind to the act forbidden by the civil rules or regulations; one notice may embrace any number of rules and regulations; said notice must advise that breach of the particular rules or regulations will subject the violator to a civil penalty as set by the Board in the adoption of the rules and regulations. Said notice must also state that the full text of the rules and regulations are on file at the principal office of the Authority, where the same may be read by any interested person during reasonable business hours.

Source: S.L. No. 2L-224-91 §2-15, 1/13/92

§1-119. No financial interests by members. — No member of the Board, officer or employee of the Authority, either for himself or as agent for anyone else, shall benefit, directly or indirectly, by reason of any sale, purchase, contract or transaction entered into by the Authority except where and to the extent permissible under this chapter. Any person not so excepted who shall directly or indirectly become interested in any such sale, purchase, contract or transaction while serving as a member of the Board, officer or employee of the Authority shall be guilty of a misdemeanor. Upon the filing of a complaint of such misdemeanor, the Board in its judgment may suspend the services of the charged person pending final determination thereof. Upon conviction thereof, he shall be punished by a fine not to exceed \$1,000, or by confinement in the state jail for not more than one year, or by both such fine and imprisonment. Immediately upon conviction of a violation thereof, said person shall forfeit his office or position.

Source: S.L. No. 2L-224-91 §2-16, 1/13/92

§1-120. Authority exempt from execution and bond requirements. — No execution shall be issued or levied by virtue of any judgment that may be recovered against the Authority, but the Board may provide for the payment of judgments from future revenues of the Authority after the final recovery of any judgment or by the payment out of any funds on hand and uncommitted. Lands, improvements, monies, or debts due the Authority, personal and real property, and assets of every description, belonging to the same, shall be exempted from execution and sale, and from involuntary liens; but the Board shall make provision by the levying of appropriate port user fees and charges or otherwise for the payment of any and all indebtedness owed by the Authority. No writ of garnishment or attachment shall issue against the Authority or the members of the Board thereof, or its officers or employees, to subject or cause any debts due or which may hereafter become due from the Authority to be paid to any person or corporation, or any claim or demand upon any funds in the hands of the Authority or any of its officers, nor shall the Authority or the Board or any of its officers or agents be required to answer any writ of garnishment. The Authority shall not be required to give any bond as security for costs, supersedeas or any security in any suit or action brought by or against it, or in proceedings to which it may be a party in any court for any action or nonaction of the Authority

occurring within the jurisdiction of this state, and the Authority shall have the remedies of appeal and writ of error to all courts without bond, supersedeas or security of any kind. No builder's, materialman's, contractor's, laborer's or mechanic's lien of any kind or character shall ever attach to or become a lien upon any property, real or personal, belonging to the Authority. No assignment of wages shall be binding upon or be recognized by the Board.

Source: S.L. No. 2L-224-91 §2-17, 1/13/92

§1-121. Authority may establish height and obstruction regulations. —

(1) The Board shall have the power and authority to promulgate, adopt, and enforce appropriate height regulations to prevent and remove hazards and obstructions which may interfere with the landing or take off of aircraft from any airport owned or operated by the Authority and regulations as to piers and other water obstructions in harbors and sea-lanes for seaports owned or operated by the Authority. To such end, all appropriate boards, commissions, and the Governor shall cooperate with the Authority in coordinating their actions, plans, and programs, and in enforcing such appropriate regulations.

(2) In addition to Subsection (1) of this section, the Authority shall have primary responsibility for the administration of the Transportation Zone Act, Chapter 2, as amended.

Source: S.L. No. 2L-224-91 §2-18, 1/13/92

§1-122. Government assistance to the Authority. — For the purpose of aiding in the planning, undertaking or carrying out of this chapter and of the projects contemplated herein, and the subsequent operation and maintenance of Authority ports, and where permissible under law, the Pohnpei Government or any agency or political subdivision of such, may, if the chief executive of the respective political jurisdiction or political subdivision determines that such project will benefit and further the public purposes of the respective government and be of advantage to them:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Authority;

(2) Incur expenses on behalf of the Authority subject to reimbursement under such terms and conditions as may be agreed upon with the Authority;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out the duties, powers, and obligations of the Authority;

(4) Lend or advance, grant or contribute funds to the Authority, and provide for or waive the repayment of any such funds loaned or advanced; and

(5) Contract with or furnish services to the Authority upon the terms and conditions as may be agreed upon.

Source: S.L. No. 2L-224-91 §2-19, 1/13/92

§1-123. Penalties. — Except as otherwise specifically provided in this chapter, any person who violates any provision of this chapter, or any valid rule or regulation promulgated hereunder, or who refuses or neglects to comply with any lawful order given by the general manager or his delegate concerning the operation of the ports under the control of the Authority, is punishable by a fine not to exceed \$1,000, or by imprisonment not to exceed three months, or both such fine and imprisonment.

(1) Any person who violates any provision of this chapter, or any rule, regulation or order issued hereunder, or any term, condition or limitation of any permit, certificate or operating authority issued by the Authority shall be subject to a civil penalty not to exceed \$1,000 for each violation. If the violation is a continuing one, each day the violation continues is a separate offense.

(2) Any civil penalty may be compromised by the general manager with the concurrence of the Board. The amount of the penalty, when finally determined or agreed upon, may be deducted from any sums owed by the Authority to the person or persons charged.

(3) If an aircraft or seacraft is involved in a violation and the violation is by the owner or person in command of the aircraft or seacraft, then liability for the penalty shall devolve upon the person who has assumed responsibility for the aircraft or seacraft while it is at any port operated by the Authority.

(4) Any person assessed a civil penalty may contest it. If, for any reason, the person so assessed fails to pay upon demand of the general manager, the civil penalty may be collected by the Authority through proceedings against the person in the courts of the state brought by the Attorney General or the general counsel for the Authority.

Source: S.L. No. 2L-224-91 §2-20, 1/13/92; S.L. No. 5L-14-00 §3-39, 10/1/00

§1-124. Enforcement of assessment of civil penalties. — *Enforcement by general manager.* The general manager shall enforce rules and regulations of the Authority governing the assessment of civil penalties.

(1) The rules and regulations shall provide for a reasonable time, not less than ten days, for due notice to the person assessed of the nature of the violation committed, and during which the person assessed may answer the assessment by denying liability, by offering a compromise to the general manager or by paying the assessment.

(2) The rules and regulations shall also provide notice that failure to pay the final civil penalty assessed by the time set in the rules and regulations may result in collection of the penalty through the courts of the state.

Source: S.L. No. 2L-224-91 §2-21, 1/13/92

§1-125. Authority may acquire port facilities. — The power of the Authority conferred by this chapter to purchase or otherwise acquire an existing port or ports shall expressly include the power and authority to purchase or acquire any publicly owned port facilities in fee or of any interest therein, or to enter into any lease agreement therefor, upon such terms and conditions of sale and purchase, or lease, as may be mutually agreeable to the Authority and the owner of any such facilities. The Pohnpei Public Lands Trust Board of Trustees is hereby authorized and directed to convey without cost all interests in port facilities owned or operated by them to the Authority, and any such conveyance may be consummated without the necessity of notice of intention to convey or the necessity of advertisement, or an election on the part of either party, any provision of the laws of the state to the contrary notwithstanding; PROVIDED, HOWEVER, that such conveyance shall retain the right of reversion to the Board of Trustees of any interest in real property conveyed to the Authority under this section and which is no longer used by the Authority for the purposes of this chapter; PROVIDED FURTHER that such real property shall revert to the Public Lands Trust when prescribed by statute.

Source: S.L. No. 2L-224-91 §2-22, 1/13/92; S.L. No. 6L-18-04 §7, 10/12/04

Note: S.L. No. 2L-224-91 §§3-1 – 3-10 & 3-14 transition provisions and 2L-224-91 §3-11A as inserted by 4L-09-96 §1, have been omitted.

§1-126. Intra-island seaport departure/user fees prohibited. — The Pohnpei Port Authority (“PPA”) shall not impose or collect any departure/user fees for passengers utilizing the facilities of seaports owned or controlled by the PPA for travel solely within the state of Pohnpei.

Source: S.L. No. 6L-88-07 §1, 1/9/07; S.L. No. 7L-58-10 §1, 1/12/10

CHAPTER 2 TRANSPORTATION ZONE

Section

2-101 Short title	2-109 Uses permitted in the zone
2-102 Purpose	2-110 Height limit established
2-103 Definitions	2-111 Nonconforming buildings
2-104 Interpretation	2-112 Nonconforming use of land
2-105 Designation of Dekehtik Island as a transportation zone	2-113 Enforcement of chapter
2-106 Zoning map: adopted	2-114 Building permit required
2-107 Zone boundaries	2-115 Lease or license approval required
2-108 Conformance of uses to zone regulations	2-116 Rules and regulations
	2-117 Permits and licenses previously issued

§2-101. Short title. — This chapter is known and may be cited as the “Transportation Zone Act of 1987.”

Source: S.L. No. 1L-198-87 §1, 12/2/87

§2-102. Purpose. — The purpose of this chapter is to establish certain minimum regulations for the protection and promotion of public health, safety, and the general welfare of the people of Pohnpei, which regulations are deemed necessary in order to encourage the most appropriate use of land, buildings, and structures in Dekehtik Island to assure adequate provisions for the public purposes for which it is intended.

Source: S.L. No. 1L-198-87 §2, 12/2/87

§2-103. Definitions. — For the purposes of this chapter, unless the context requires otherwise, the following definitions shall apply:

(1) “Accessory building” means a detached subordinate building located in the zone with a main building, the use of which is customarily secondary to that of the main building or to the use of the land.

(2) “Authority” means the Pohnpei Port Authority.

(3) “Building” means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

(4) “Nonconforming building” means a building or structure which does not conform to the regulations of this chapter and which lawfully existed at the time this chapter or the regulations, with which it does not conform, became effective.

(5) “Nonconforming use” means a use of a building or land which does not conform with this chapter or the regulations promulgated pursuant to this chapter and which lawfully existed at the time this chapter or the regulations, with which it does not conform, became effective.

(6) “Public automobile parking area” means an open area, other than a street or private automobile parking area, designed to be used for the parking of two or more automobiles.

(7) “Story” means that portion of a building between the surface of any floor and the surface of the floor or ceiling next above it.

(8) “Structure” means anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

(9) “Use” means the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

(10) “Zone” means transportation zone.

Source: S.L. No. 1L-198-87 §3, 12/2/87; S.L. No. 2L-224-91 §3-11(1), 1/13/92

§2-104. Interpretation. — This chapter shall be held to be the minimum requirements for the protection and promotion of public health, safety, and general welfare, and shall be construed in furtherance of these objectives.

Source: S.L. No. 1L-198-87 §4, 12/2/87

§2-105. Designation of Dekehtik Island as a transportation zone. — In order to carry out the purposes and provisions of this chapter, Dekehtik Island is hereby designated as a “transportation zone.” The aforesaid zone symbols and the boundaries of such zone shall be shown upon a map and made a part of this chapter, being designated as the “transportation zoning map.” Said map and all the notations, references and other information shown thereon are as much a part of this chapter as if the matters and information set forth by said map were fully described herein.

Source: S.L. No. 1L-198-87 §5, 12/2/87

§2-106. Zoning map: adopted. — The map entitled “zoning map,” as identified by Ponape Drawing Number, “Dr. No. 7053/71, overall area: sq. ft. 18,534,494.23,” is hereby adopted as the zoning map for the purposes of this chapter. Such map and all the notations, references, and other information shown shall be as much a part of this chapter as if the matters and information set forth by said map were all fully described herein.

Source: S.L. No. 1L-198-87 §6, 12/2/87

§2-107. Zone boundaries. — The zone boundaries shall be determined by the use of the scale appearing on the “zoning map,” unless otherwise specifically shown by dimension; PROVIDED, HOWEVER, that, in any case where there is uncertainty as to the intended location of a zone boundary, the Department of Land and Natural Resources shall have the power and duty to determine its intended location.

Source: S.L. No. 1L-198-87 §7, 12/2/87

§2-108. Conformance of uses to zone regulations. — No building or structure shall be erected and maintained, nor any existing building or structure be altered, enlarged or moved, and maintained, nor any building or land be used for any purpose, except for the uses permitted in the zone in which such building or land is located, as hereafter provided in this chapter.

Source: S.L. No. 1L-198-87 §8, 12/2/87

§2-109. Uses permitted in the zone. — Pursuant to this chapter, uses permitted in the transportation zone shall be as follows:

- (1) Any activities and complementary services relating to the promotion and development of sea and air transportation;
- (2) An area for warehouses and cold storage plants;
- (3) Air and sea terminals and facilities and accessory buildings or structures;
- (4) Public automobile parking areas;
- (5) Plants, offices, and attendant facilities for the receiving, storing, processing, packaging, and marketing of fish, other marine resources and agricultural food products and produce;
- (6) Uses customarily associated with any of the above-listed uses, and accessory buildings and structures; and
- (7) Major utilities.

Source: S.L. No. 1L-198-87 §9, 12/2/87; S.L. No. 2L-78-88 §1, 12/12/88

§2-110. Height limit established. — No building or structure shall be erected, nor shall any existing building or structure be altered, enlarged or moved to exceed a height limit of two stories or 30 feet;

PROVIDED, HOWEVER, that the following structures or equipment may be erected and maintained above the permitted height limit: aerials, flagpoles, steeples, towers, fire or parapet walls, water or fuel tanks or other similar structures.

Source: S.L. No. 1L-198-87 §10, 12/2/87

§2-111. Nonconforming buildings. — A nonconforming building may be maintained and repaired, except as otherwise provided in this chapter. A building or structure nonconforming as to this chapter shall not be added to or enlarged in any manner, unless said building or structure, including such additions and enlargements, is made to conform to all this chapter. Any nonconforming use of a building or structure existing on the effective date of this chapter [*December 2, 1987*] may be continued. The use of a nonconforming building may be changed to conform with any use which is permitted in the zone.

Source: S.L. No. 1L-198-87 §11, 12/2/87

§2-112. Nonconforming use of land. — Any uses or leases of land within the zone existing on the effective date of this chapter [*December 2, 1987*] may be continued; PROVIDED that such lease for any nonconforming use may not be extended or renewed upon its expiration.

Source: S.L. No. 1L-198-87 §12, 12/2/87

§2-113. Enforcement of chapter. — The Authority shall have the power and duty to enforce this chapter.

Source: S.L. No. 1L-198-87 §13, 12/2/87; S.L. No. 2L-224-91 §3-11(2), 1/13/92

§2-114. Building permit required. — Before commencing the construction of a new building or structure, or the alteration, enlargement or moving of an existing building or structure within the boundaries of the zone, a permit authorizing such work shall first be obtained from the Authority. No building permit shall be issued by the Authority for the erection, alteration, enlargement or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with this chapter. Any building permit issued in conflict with this chapter shall be null and void.

Source: S.L. No. 1L-198-87 §14, 12/2/87; S.L. No. 2L-224-91 §3-11(2), 1/13/92

§2-115. Lease or license approval required. — No lease or license pertaining to the use of land or buildings shall be issued by any department, officer or employee of the Government of Pohnpei, vested with such duty, unless the application for such lease or license has been approved by the Authority. Any lease or license issued in conflict with this chapter shall be null and void.

Source: S.L. No. 1L-198-87 §15, 12/2/87; S.L. No. 2L-224-91 §3-11(2), 1/13/92

§2-116. Rules and regulations. — The Authority shall establish and promulgate rules and regulations implementing this chapter.

Source: S.L. No. 1L-198-87 §16, 12/2/87; S.L. No. 2L-224-91 §3-11(2), 1/13/92

§2-117. Permits and licenses previously issued. — The Authority shall honor otherwise valid permits and licenses issued by the Director of the Department of Land and Natural Resources during such time as he was authorized to issue such permits and licenses under this chapter for the duration of the period and for the purposes for which such permits and licenses were issued.

Source: S.L. No. 1L-198-87 §18, 12/2/87

Note: §18 was inserted by S.L. No. 2L-224-91 §3-11(3), 1/13/92.

SEA & AIR TRANSPORTATION

CHAPTER 3 AIRPORT PASSENGER FACILITY FEES

Section

3-101 Pohnpei Port Authority may impose and collect passenger facility fee

§3-101. Pohnpei Port Authority may impose and collect passenger facility fee. — In addition to such powers as are vested in the Pohnpei Port Authority, (PPA), pursuant to §1-105, the PPA shall have the authority to impose and collect passenger facility fees for the privilege of passengers utilizing the facilities of airports owned or controlled by the PPA; PROVIDED that the imposition of such fees shall not exceed the maximum passenger utilization fee allowed by the United States of America Federal Aviation Administration for collections by the Guam Airport Authority with respect to passengers utilizing the facilities owned or controlled by that Authority; PROVIDED FURTHER that revenues earned by PPA from the imposition of the passenger utilization fees may only be expended for the operations and improvement of the airports owned or controlled by the PPA.

Source: S.L. No. 4L-111-99 §1, 10/1/99

Notes: 1. S.L. No. 4L-111-99 §2 repealed S.L. No. 2L-73-88 in its entirety. 2. S.L. No. 4L-111-99 §3 superseded Title 21 of the Trust Territory Code in its entirety. 3. S.L. No. 4L-111-99 §4 temporary provision has been omitted.

CHAPTERS 4 & 5 [RESERVED]

SEA & AIR TRANSPORTATION

CHAPTER 6 WATER TRAFFIC CONTROLS

SUBCHAPTER I REEF MARKER CONSTRUCTION PROGRAM

Section

6-101 Establishment

6-102 Construction

6-103 Administration

SUBCHAPTER II REEF MARKER STANDARDS AND OFFENSES

6-104 Standards

6-105 Interference with markers prohibited

6-106 Penalties

SUBCHAPTER I REEF MARKER CONSTRUCTION PROGRAM

§6-101. Establishment. — A fund shall be established in the Comprehensive Budget Act to establish and maintain reef markers in Pohnpei State.

Source: PDC §5-100(a), 3/71

§6-102 Construction. — All reef markers to be constructed under the fund established by §6-101 shall be concrete and may be painted or marked with reflectors. The construction of and erection at the designated points of these markers shall be done by any individual or group who offers the lowest cost of work.

Source: PDC §5-100(b), 3/71

§6-103 Administration. — The Governor and/or his duly authorized representative shall designate the points for these markers starting from the state center to all the other areas in Pohnpei State that require reef markers. The administration, supervision, and expenditure of the aforesaid fund shall be the responsibility of the Governor and/or his duly designated representative.

Source: PDC §5-100(c), 3/71

SUBCHAPTER II REEF MARKER STANDARDS AND OFFENSES

§6-104. Standards. — All reef markers that have been or will be put on the reef shall conform to the following provisions as official markers:

- (1) The square reef markers shall indicate the shore side reef;
- (2) The diamond markers shall indicate the ocean side reef;
- (3) The triangular markers shall indicate small coral heads which are passable on either side;
- (4) In marking channels to the shore, markers painted red shall indicate the right hand reef, and markers painted black shall indicate the left hand reef; and
- (5) All reef markers shall extend not less than four (4) feet above the high-water mark.

Source: PDC §5-101(a), 3/71

§6-105. Interference with markers prohibited. — It shall be unlawful to remove, change, destroy or moor a boat, canoe or any object to any reef marker or other aid-to-navigation established by the United States of America Coast Guard, the Federated States of Micronesia Government, the Pohnpei Government or the various local governments of Pohnpei.

Source: PDC §5-101(b), 3/71

§6-106. Penalties. — Any person who willfully violates §6-105 shall, upon conviction thereof, be imprisoned for a period not to exceed three months, or fined not more than \$50, or both such fine and imprisonment.

Source: PDC §5-101(c), 3/71

CHAPTER 7 WATERCRAFT

Section

7-101 Watercraft operation: culverts, bridges, tunnels	7-104 Obstruction of channels
7-102 Channels: keeping to the right	7-105 Penalties
7-103 Narrow channels	7-106 Watercraft operation: passing

§7-101. Watercraft operation: culverts, bridges, tunnels. — Any person who operates any motorboat, motor canoe or other watercraft propelled by motor shall proceed slowly and exercise reasonable care and caution when operating within 60 feet of the culvert beneath the causeway to Dekehtik Island and any other culvert, bridge, and tunnel in Pohnpei State. Any person who operates any motorboat, motor canoe or other watercraft propelled by motor in violation of this section shall, upon conviction thereof, be imprisoned for a period of not more than six months, or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 2L-222-71 §1, 6/16/71

§7-102. Channels: keeping to the right. — Any boat, canoe or self-propelled craft, upon entering or passing through a channel shall keep to the right side of the channel at all times when safe and practicable to do so. However, during low tide or when in a swift current the boat, canoe or craft running at the right side of the channel shall have the right to proceed.

Source: PDC §5-102(a), 3/71

§7-103. Narrow channels. — In channels of 60 feet or less in width, the operator of a powered boat, canoe or craft shall:

- (1) Proceed through the channel at slow speed;
- (2) Not overtake and pass any boat, canoe or craft proceeding in the same direction, except in instances where such boat, canoe or craft is used for the purpose of carrying a person to a dispensary or hospital for emergency medical treatment, for emergency police or public health purposes, or for dispatch of emergency messages; PROVIDED that in these instances the operator of the powered boat, canoe or craft shall make known his intention to overtake and pass to the operator of the boat, canoe or craft being overtaken and passed, and passing shall be done with care in order to prevent swamping or causing difficulty to the other boat; and
- (3) Not enter from a side channel into a main channel unless there is no boat, canoe or craft in the passage within 50 feet of either side of the entrance to the main channel.

Source: PDC §5-102(b), 3/71

§7-104. Obstruction of channels. — It shall be unlawful to tie, moor or anchor a boat, canoe or other craft or logs in the middle of any channel of Pohnpei State. It shall be unlawful to put up or cause to be put branches of trees, nets, rocks or any other obstacle in the channel or leave such obstacles as are no longer in use in waterways of Pohnpei State which interfere with free and safe passage.

Source: PDC §5-102(c), 3/71

§7-105. Penalties. — Any person who willfully violates any of §§7-101 through 7-104 shall, upon conviction thereof, be imprisoned for a period not to exceed six months, or fined not more than \$100, or both such fine and imprisonment, and shall be responsible for all expenses as a result of injury to

people and property occurring from the operation of his boat, canoe or craft in violation of §§7-102 through 7-105.

Source: PDC §5-102(d), 3/71

§7-106. Watercraft operation: passing. — Every motorboat, motor canoe, and other watercraft driven by a motor, when passing in the waters of Pohnpei State another watercraft of less than 25 feet in length going in any direction shall slow down and exercise reasonable care so that no hazard is created to the other craft or its passengers. Any person who operates a motorboat, motor canoe or other watercraft driven by a motor in violation of this section shall, upon conviction thereof, be imprisoned for a period of not more than six months, or fined not more than \$100, or both such fine and imprisonment, and in addition shall pay restitution to any person who suffers loss or injury primarily as a result of the violation.

Source: PDC §5-103, 3/71

CHAPTER 8 AIRPORT RESTRICTED ACCESS

Section

8-101 Restricted areas of Pohnpei International Airport

§8-101. Restricted areas of Pohnpei International Airport. —

(1) It shall be unlawful for any person without lawful authority to enter or remain upon any taxiway, airstrip or other facilities at the Pohnpei International Airport upon which the Governor has caused to be erected signs in both English and Pohnpeian clearly visible to the general public indicating that such area is restricted from public access pursuant to this section, and indicating that persons without lawful authority are not permitted to enter or remain upon the same. This subsection shall not apply to the terminal building where the public is invited.

(2) Any person who violates this section shall, upon conviction thereof, be punishable by imprisonment for a period not to exceed six months, or fined not more than \$100, or both such fine and imprisonment.

Source: D.L. No. 4L-118-77 §§1 & 2, 11/16/77

Note: D.L. No. 4L-118-77 §3, 11/16/77 repealed PDC §5-4, 3/71.

CHAPTER 9 [RESERVED]

SEA & AIR TRANSPORTATION

CHAPTER 10 TRANSPORTATION FINANCES

Section

10-101 Establishment of outer island airfield fund

10-102 Authorization for appropriation; administration

§10-101. Establishment of outer island airfield fund. — There is hereby established the Pohnpei State outer island airfield fund for the purpose of assisting in financing the costs of design, construction, maintenance, and repair of airfields, and necessary and related buildings on the outer islands of Pohnpei State.

Source: D.L. No. 4L-88-77 §1, 7/1/77

§10-102. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei or such fund into which capital account monies of the Compact of Free Association are deposited a sum or sums to be determined annually in the Comprehensive Budget Act to provide operating capital for the fund established by §10-101. The sums herein authorized for appropriation shall be administered and expended by the Governor upon consultation with the chief executives of the outer island local governments of Pohnpei solely for the purpose specified in §10-101; **PROVIDED, HOWEVER,** that no funds from the sums authorized herein shall be obligated for construction for any airfield without prior submission of engineering plans as certified by a recognized expert. The Governor shall report to the Pohnpei Legislature within 15 days after the closing day of the previous legislature fiscal year relating to all matters concerning the administration and expenditure of the sum herein authorized for appropriation. The sum herein authorized for appropriation shall remain available until fully expended.

Source: D.L. No. 4L-88-77 §2, 7/1/77; D.L. No. 4L-136-78 §9, 3/27/78; S.L. No. 1L-136-87 §1, 7/14/87

(Next page is Title 33 divider)

TITLE 33

ROADS

TITLE 33 ROADS

CHAPTER

- 1 POHNPEI TRANSPORTATION AUTHORITY [PENDING *see* 33 PC 1-134]**
- 2 PONAPE TRANSPORTATION AUTHORITY**
- 3 – 5 [RESERVED]**
- 6 STATE ROADS**
- 7 ROADWAY CONSTRUCTION**
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- 10 ROAD FINANCES**

CHAPTER 1

POHNPEI TRANSPORTATION AUTHORITY [PENDING, *see* 33 PC 1-134]

Section

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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Transportation Authority Act of 1998.”

Source: S.L. No. 4L-93-99 §1-1, 12/25/98

§1-102. Definitions. — As used in this chapter, unless the context requires otherwise:

- (1) “Authority” means the Pohnpei Transportation Authority created by this chapter.
- (2) “Board” means the Board of Directors of the Authority.
- (3) “Commissioner of Transportation” or “Commissioner” means the chief administrative officer of the Authority.
- (4) “Person” means any individual, firm, partnership, corporation, company, association, joint stock association, body politic or municipal corporation, including any trustee, receiver, assignee or other similar representative thereof.
- (5) “PTA agency” means the agency of the Pohnpei Government known as the Pohnpei Transportation Authority as established pursuant to §§10-1 through 10-6, as amended, of the Ponape District Code.
- (6) “Revenue” means all monies or receipts, however derived, received or collected from the rates, rentals, fees, and charges prescribed for services of and the facilities and commodities furnished by the Authority.
- (7) “Roads and highways” means all portions of the publicly maintained ways of the state that are now open or designed to be opened to the public for the purpose of vehicular traffic, regardless of length and size. The phrase “roads and highways” encompasses the entire width of the roadway between the boundary lines of every publicly maintained way, and includes shoulders, bridges, culverts, drainage systems, embankments, and such other support works necessary for a safe and efficient public vehicular transportation network.
- (8) “Rules and regulations” means rules and regulations of general application issued by the Authority, interpreting or regulating the application of this chapter, but shall not apply to the internal operation of the Authority.

Source: S.L. No. 4L-93-99 §1-2, 12/25/98

§1-103. Creation of the Authority. — There is hereby created a body corporate in the state of Pohnpei called the Pohnpei Transportation Authority. Its functions shall be public and it shall have the right to sue and be sued in its own name. The Authority shall be solely responsible and liable for any indebtedness, obligation or liability incurred by the Authority, and the revenues, grants and assets of the Pohnpei Government shall be immune from attachment, seizure, forced sale or any other form of judicial remedy thereof.

Source: S.L. No. 4L-93-99 §2-1, 12/25/98

§1-104. Powers of the Authority. — The Authority, in addition to the powers and duties elsewhere conferred and imposed, shall have the following powers and duties:

- (1) It may generally carry on the business of serving as the state’s representative in establishing and maintaining a network of public roads and highways for the people of the state, with all the powers incident thereto;
- (2) It shall be authorized and shall have jurisdiction to plan, develop, construct, improve, extend, widen, repair and maintain all public roads and highways under the jurisdiction of the state unless otherwise prescribed by law;
- (3) It shall be authorized to purchase, lease, and sell real or personal property, supplies, goods, materials and commodities and to furnish and supply services and utilities as incident to the operation of its properties;
- (4) The Authority may contract with any person, firm or corporation for the planning, supervision, financing, construction, operation and maintenance of, or may itself construct or otherwise acquire, operate, and maintain all structures or improvements which, in its judgment, are useful, desirable or convenient in carrying out its responsibilities under this chapter. The Authority may also enter into agreements with the Pohnpei Government, the Government of the Federated States of Micronesia, and their departments and agencies, for the rendering of services performed by such departments and

agencies with respect to the roads and highways of this state including, but not limited to, the rendering of maintenance, planning, and purchasing services;

(5) The Authority shall, upon concurrence of the Governor and in accordance with the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded, and this chapter, have the power to adopt and enforce rules and regulations for the conduct of its activities pursuant to this chapter;

(6) The Authority shall have such free use of government pouch mail as is available to the government;

(7) The Authority, including but not limited to its franchise, capital, obligations including interest thereon, reserves, surpluses, loans, income, assets, and property of any kind shall be exempt from all licensing and taxation now or hereafter required or imposed by the Federated States of Micronesia or by the state, or any political subdivision or taxing authority of the Federated States of Micronesia, or of future entities created to take the place of the above to the maximum extent allowable by law. However, such exemption shall not apply to persons entering into independent contracts with the Authority;

(8) The Authority shall maintain such records, libraries, research materials, administrative or office materials and other property, real or personal, deemed to be necessary to enable the Authority to carry out the purposes of this chapter. Upon the request of the Commissioner of Transportation, employees of the Pohnpei Government may be assigned by the government to assist the Authority to carry out activities of the Authority as set forth herein. The expenses thereof, if any, shall be reimbursed by the Authority;

(9) The fiscal year of the Authority shall correspond to that of the Pohnpei Government;

(10) The principal office of the Authority shall be in Pohnpei State;

(11) The Authority may employ agents and employees, and contract for the services of qualified managers, specialists or experts, as individuals or as organizations, to advise and assist the Authority and its employees. Except as provided by §1-132, they shall be exempt from the application of the Public Service System Act, Title 9 Chapter 2. The Authority may set its own compensation, wage and salary scales. The wage and salary scales shall be commensurate with those paid by the Pohnpei Government requiring comparable education, training, and experience, except for the compensation of the Commissioner of Transportation and other specialists for which no comparable Pohnpei Government positions exist;

(12) The Authority is authorized to apply for, accept and use in the name of the Authority, any lands now controlled by other persons or entities which may be made available to the Pohnpei Government for the purposes of the Authority;

(13) The Authority shall procure insurance against liability or loss in connection with its operations hereunder in such amounts and from such insurers as it deems practicable;

(14) Budget:

(a) The Authority, on or before March 15 each year, shall prepare and submit to the Governor a detailed statement of its proposed budget for the ensuing fiscal year;

(b) Within a period of 30 days after the submission of said proposed budget, the Governor shall notify the Authority of his approval or disapproval thereof. In the event said proposed budget is approved by the Governor, the same shall constitute the adopted budget of the Authority for the next fiscal year period;

(c) In the event the Governor notifies the Authority of his disapproval of the proposed budget, the Authority and the Governor or their representatives shall, within ten days after notification by the Governor, meet and discuss the proposed budget in an endeavor to agree upon a satisfactory budget;

(d) In the event a satisfactory agreement is not reached within ten days thereafter, the said proposed budget shall be submitted for consideration and decision to a board of arbiters, to consist of two members of the Authority, two members to be appointed by the Governor and

the fifth member to be appointed by the other members. The said board of arbiters shall thereafter submit such a budget as the majority of said board shall agree upon. The decision of the arbiters shall be final and the budget submitted shall constitute the adopted budget of the Authority for the ensuing fiscal year; and

(e) No expenditures shall be made for a purpose not included in the adopted budget, and no debt, obligation, or liability shall be incurred or created in any period for which the budget was adopted in excess of the amounts specified therein for each purpose named unless with the express approval of the Governor;

(15) The budget of the Authority may be amended in the same manner as its initial adoption;

(16) Any other provision herein to the contrary notwithstanding, the written concurrence of the Governor shall first be secured by the Authority before entering into any contract extending for more than one year or which involves the payment or receipt of \$25,000 or more; and

(17) The enumeration of specific powers and duties under this section shall not be deemed to be exclusive.

Source: S.L. No. 4L-93-99 §2-2, 12/25/98

§1-105. Composition of the Board; removal; vacancies. — All powers vested in the Authority shall be exercised by the Board, which shall consist of seven members, who shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. Persons appointed shall hold membership on the Board for a period of four years, subject to reappointment, and until their successors have been appointed and qualify. A Board member may only be removed for cause either by the Governor or by two-thirds vote of the remaining members of the Board. All vacancies occurring on the Board shall be filled by the Governor with the advice and consent of the Legislature, but only for the unexpired term of the member whose vacancy is being filled.

Source: S.L. No. 4L-93-99 §2-3, 12/25/98

§1-106. Meetings of the Board. — Within 15 days after the appointment of the initial Board at the call of the Governor, and annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall hold at least one public meeting each calendar quarter and other public meetings as it may deem necessary for the transaction of its general business. The Board may convene in special meetings as it may deem necessary.

Source: S.L. No. 4L-93-99 §2-4, 12/25/98

§1-107. Organization of the Board; quorum; compensation and expenses. — The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board. Any four members of the Board shall constitute a quorum, and a concurrence of four members shall be necessary for any official action taken by the Board unless otherwise provided herein. No vacancy in membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board. Members of the Board shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, for members of Pohnpei Government policy boards and commissions, as amended or superseded by Pohnpei law, when actually attending meetings of the Board, except that those members who are employees of the Pohnpei Government and other cooperative entities shall receive, instead, their regular salaries while performing functions of the Board. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 4L-93-99 §2-5, 12/25/98

§1-108. Appointment of a Commissioner of Transportation; duties. — The Board shall appoint a Commissioner of Transportation who shall be the chief administrative officer. The salary of the Commissioner shall be set by the Board. The Commissioner shall have full charge and control of the operations of the Authority, and of construction projects, facilities, and necessary works controlled by or required to be constructed or repaired by the Authority. The Commissioner must have a B.S. degree in civil or structural engineering, with a minimum of five years of engineering work experience and three years of supervisory experience. The Commissioner shall serve for a term of four years, subject to removal for cause by majority vote of the entire membership of the Board, without regard to vacancies. The Commissioner may be reappointed at the end of each term.

Source: S.L. No. 4L-93-99 §2-6, 12/25/98

§1-109. Powers of the Commissioner of Transportation. — The Commissioner of Transportation shall have the following powers:

- (1) To ensure that all rules and regulations of the Authority are enforced;
- (2) To attend all meetings of the Board and to submit a general report on the affairs of the Authority;
- (3) To keep the Board advised of the needs of the Authority;
- (4) To approve demands for payment of obligations within the purposes and amounts authorized by the Board;
- (5) To prepare or cause to be prepared all plans and specifications for the construction and repair of works and facilities of the Authority;
- (6) To devote his entire working time to the business of the Authority; to select and appoint the employees of the Authority, except as otherwise provided in this chapter; to plan, organize, coordinate and control the services of such employees in the exercise of the powers of the Authority under the general direction of the Board; and, in lieu of hiring employees to perform any of the tasks, work or other services required by the Authority, to contract with independent contractors, as persons, organizations, or corporations, to provide such services;
- (7) To cause to be published, within 60 days after the end of each fiscal year, a financial and operations statement showing the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof, which publication shall be made in the manner provided by the Board;
- (8) To perform such other and additional duties as the Board may require; and
- (9) To be an ex-officio nonvoting member of the Board.

Source: S.L. No. 4L-93-99 §2-7, 12/25/98

§1-110. Appointment of comptroller and general counsel; duties of each. — The Commissioner of Transportation, with the approval of the Board, shall appoint a comptroller and a general counsel, both of whom shall serve at the pleasure of the Board and whose duties and compensation shall be fixed by the Authority. Such officers may be full-time employees of the Authority, shared with other government agencies, or placed on retainer from the private sector. The Commissioner may appoint one or more assistants to any such office.

(1) The comptroller shall have custody of all monies of the Authority and shall pay out such money only in accordance with the direction of the Commissioner and as provided in the annual budget of the Authority.

(2) The general counsel shall advise the Board and the Commissioner of Transportation in all legal matters to which the Authority is a party or in which the Authority is legally interested and may represent the Authority before the Congress of the Federated States of Micronesia, the Pohnpei Legislature, and other domestic and foreign governmental and international organizations, entities, and bodies.

(3) The Authority may use the services of the attorneys for the Pohnpei Government to serve as attorneys for the Authority, or it may appoint such attorney or attorneys as it may deem necessary, and

it shall provide payment of all legal services rendered which are not provided without compensation by the Pohnpei Government. All official documents, contracts, bonds, and other instruments in writing shall be approved as to form and legality by the general counsel for the Authority. Such approval may be conclusively evidenced by the signature of the general counsel thereon.

Source: S.L. No. 4L-93-99 §2-8, 12/25/98

§1-111. Procurement code. — Within 120 days following its organization, the Board, by regulation, shall provide for a comprehensive procurement code for the Authority which shall provide for cost-effective means to obtain services, supplies and materials and construction contracts at competitive prices and which shall ensure all business entities within the state are accorded reasonable notice and fair opportunity to engage in business activities with the Authority. Among other things, the procurement code shall provide that:

(1) The purchase of all supplies and materials, and the construction of all works, when the expenditure exceeds \$25,000, shall be let, by contract, to the lowest responsible bidder. Notice requesting bids shall be published at least ten days before bids are received. The Board may reject any and all bids and readvertise at its discretion.

(2) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies may be purchased at a lower price in the open market, the Board may authorize such purchases without further observance of the provisions requiring contracts, bids or notices. The Authority, as an instrumentality of the Pohnpei Government, shall utilize the services of the government purchasing agencies wherever practical.

(3) In case of major public calamity, or whenever it is in the interest of safety or necessary to keep the roads and highways open and passable, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the roads and highways open to traffic or in a safe condition, and thereupon authorize the expenditure of such sums as may be needed without the observation of the provisions requiring contracts, bids or notices.

(4) No member of the Board shall have any financial interest, direct or indirect, in any contract awarded by the Board. This provision shall not apply to contracts awarded to a corporation in which such member does not hold or maintain a managerial or professional position or relationship or in which he owns less than five percent (5%) of the entire capital stock. The procurement code shall establish procedures for the timely verification of this restriction by its general counsel.

Source: S.L. No. 4L-93-99 §2-9, 12/25/98

§1-112. Financial matters. —

(1) The Board shall adopt and maintain a system of accounting that is in accordance with generally accepted accounting principles applicable to public corporations.

(2) The Board shall employ a firm of independent certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Authority. Copies of any such reports shall be furnished to the Governor and the Pohnpei Legislature.

(3) The Board shall report to the Governor and the Legislature on the affairs of the Authority. It shall present an annual report within 60 days after the end of each fiscal year and if requested by the Governor or the Pohnpei Legislature, shall present special reports within 30 days after the end of each intervening quarter.

(4) There is hereby established a fund that shall be known as the “Pohnpei Transportation Authority Fund” which shall be maintained separate and apart from other funds of the Pohnpei Government by the Authority and independent records and accounts shall be maintained in connection therewith.

(5) All monies received by the Authority from whatever source derived shall be deposited in said fund or in such other funds as may be established pursuant to this chapter, in eligible banks as defined by §1-113.

(6) All expenditures, except as otherwise provided by law, shall be made from the Pohnpei Transportation Authority Fund.

(7) There is hereby authorized for appropriation from the general fund of the Treasury and such other Treasury funds as may be identified in the Comprehensive Budget Act such sums as may from time to time be appropriated in the Comprehensive Budget Act to provide supplemental financing for the Pohnpei Transportation Authority Fund as established by this section. Upon appropriation, the Director of the Department of Treasury and Administration shall provide for the transfer of the sums so appropriated to the fund established by this section where they shall remain available until fully expended.

Source: S.L. No. 4L-93-99 §2-10, 12/25/98

§1-113. Designation of depository for Authority. — The Board shall designate one or more banks licensed to do business within the state and eligible to receive the deposit of monies of the Treasury under the Financial Organization and Management Act, Title 11 Chapter 2, as amended, to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks. Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place, when and where the Board will meet for such purpose and invite banks in the state to submit application to be designated depositories. The term of service for depository shall be prescribed by the Board. Such notice shall be published at least one time in a newspaper of general circulation in the state or so placed on public broadcast as specified by the Board. At the time mentioned in the notice, the Board shall consider the applications and the management and conditions of the banks filing the same, and shall designate as depository or depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority, and which the Board finds have proper management and are in a condition to warrant handling of Authority funds. Membership on the Board of an officer or director of a bank shall not disqualify such bank from being designated as depository; PROVIDED that such Board member shall state to the Board in writing his interest therein prior to a Board decision thereon and may not participate in Board discussions or votes thereon. If no applications are received by the time stated in the notice, the Board shall designate some bank or banks within the state upon such terms and conditions as it may find advantageous.

Source: S.L. No. 4L-93-99 §2-11, 12/25/98

§1-114. Employee rights and responsibilities. — Within 120 days following its organization, the Board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees for the Authority. Employees of the Authority shall be eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workers' compensation insurance available to Pohnpei Government employees. The Authority shall contribute to such programs on the basis of periodic billings as determined by the governing authorities thereof.

Source: S.L. No. 4L-93-99 §2-12, 12/25/98

§1-115. Preference. — The Authority shall attempt to employ qualified citizens of this state, if at all possible. However, the Authority shall have as its primary concern in employing or contracting for services, the maintenance of safe, self-sufficient, modern and convenient services and facilities for the improvement of travel on the roads and highways of the state.

Source: S.L. No. 4L-93-99 §2-13, 12/25/98

§1-116. Right to challenge rules or regulations adopted by the Authority. — Any person substantially interested or affected in his rights as to person or property by a rule or regulation adopted by the Authority may petition the Authority for a reconsideration of such rule or regulation, or for an amendment, modification or waiver thereof. Such petition shall set forth a clear statement of the facts

and grounds upon which reconsideration, amendment, modification or waiver is sought. The Authority shall grant the petitioner a public hearing within 30 days after filing of said petition and the Authority's decision upon the petition shall be publicly released not more than 20 days after the final public hearing held upon the petition.

Source: S.L. No. 4L-93-99 §2-14, 12/25/98

§1-117. Publication of rules and regulations. — In addition to the notice of adoption of rules or regulations relative to civil penalties, a substantive statement shall be published, in condensed form, along with said notice, so as to afford an intelligent direction of the mind to the act forbidden by the civil rules or regulations; one notice may embrace any number of rules and regulations; said notice must advise that breach of the particular rules or regulations will subject the violator to a civil penalty as set by the Board in the adoption of the rules and regulations. Said notice must also state that the full text of the rules and regulations are on file at the principal office of the Authority, where the same may be read by any interested person during reasonable business hours.

Source: S.L. No. 4L-93-99 §2-15, 12/25/98

§1-118. No financial interests by members. — No member of the Board, officer or employee of the Authority, either for himself or as agent for anyone else, shall benefit directly or indirectly by reason of any sale, purchase, contract or transaction entered into by the Authority except where and to the extent permissible under this chapter. Any person not so excepted who shall directly or indirectly become interested in any such sale, purchase, contract or transaction while serving as a member of the Board, officer or employee of the Authority shall be guilty of a misdemeanor. Upon the filing of a complaint of such misdemeanor, the Board in its judgment may suspend the services of the charged person pending final determination thereof. Upon conviction thereof, he shall be punished by a fine not to exceed \$1,000, or by confinement in the Pohnpei State Prison for not more than one year, or by both such fine and imprisonment. Immediately upon conviction of a violation thereof, said person shall forfeit his office or position.

Source: S.L. No. 4L-93-99 §2-16, 12/25/98

§1-119. Authority exempt from execution and bond requirements. — No execution shall be issued or levied by virtue of any judgment that may be recovered against the Authority, but the Board may provide for the payment of judgments from future revenues of the Authority after the final recovery of any judgment or by the payment out of any funds on hand and uncommitted. Lands, improvements, monies, or debts due the Authority, personal and real property, and assets of every description, belonging to the same, shall be exempted from execution and sale, and from involuntary liens; but the Board shall make provision by the levying of appropriate fees and charges or otherwise for the payment of any and all indebtedness owed by the Authority. No writ of garnishment or attachment shall issue against the Authority or the members of the Board thereof, or its officers or employees, to subject or cause any debts due or which may hereafter become due from the Authority to be paid to any person or corporation, or any claim or demand upon any funds in the hands of the Authority or any of its officers, nor shall the Authority, or the Board or any of its officers or agents be required to answer any writ of garnishment. The Authority shall not be required to give any bond as security for costs, supersedeas or any security in any suit or action brought by or against it, or in proceedings to which it may be a party in any court for any action or nonaction of the Authority occurring within the jurisdiction of this state, and the Authority shall have the remedies of appeal and writ of error to all courts without bond, supersedeas or security of any kind. No builder's, materialman's, contractor's, laborer's or mechanic's lien of any kind or character shall ever attach to or become a lien upon any property, real or personal, belonging to the Authority. No assignment of wages shall be binding upon or be recognized by the Board.

Source: S.L. No. 4L-93-99 §2-17, 12/25/98

§1-120. Government assistance to the Authority in carrying out its functions. — For the purpose of aiding in the planning, undertaking or carrying out of this chapter and of the projects contemplated herein, and where permissible under law, the Pohnpei Government or any agency or political subdivision of such, may, if the chief executive of the respective political jurisdiction or political subdivision determines that such project will benefit and further the public purposes of the respective government and be of advantage to them:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Authority;

(2) Incur expenses on behalf of the Authority subject to reimbursement under such terms and conditions as may be agreed upon with the Authority;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out the duties, powers and obligations of the Authority;

(4) Lend, advance, grant or contribute funds to the Authority, and provide for or waive the repayment of any such funds loaned or advanced; and

(5) Contract with or furnish services to the Authority upon the terms and conditions as may be agreed upon.

Source: S.L. No. 4L-93-99 §2-18, 12/25/98

§1-121. Penalties. — Except as otherwise specifically provided in this chapter, any person who violates any provision of this chapter, or any valid rule or regulation promulgated hereunder, is punishable by a fine not to exceed \$1,000, or by imprisonment not to exceed three months, or both such fine and imprisonment.

(1) Any person who violates any provision of this chapter, or any rule, regulation, or order issued hereunder, or any term, condition, or limitation of any permit, certificate, or operating authority issued by the Authority shall be subject to a civil penalty not to exceed \$1,000 for each violation. If the violation is a continuing one, each day the violation continues is a separate offense.

(2) Any civil penalty may be compromised by the Commissioner of Transportation with the concurrence of the Board. The amount of the penalty when finally determined or agreed upon may be deducted from any sums owed by the Authority to the person or persons charged.

(3) Any person assessed a civil penalty may contest it. If, for any reason, the person assessed fails to pay upon demand of the Commissioner of Transportation, the civil penalty may be collected by the Authority through proceedings against the person in the courts in the state brought by the Attorney General, or the general counsel for the Authority if delegated by the Attorney General.

Source: S.L. No. 4L-93-99 §2-19, 12/25/98; S.L. No. 5L-14-00 §3-33, 10/1/00

§1-122. Rules and regulations: Enforcement by Commissioner. — The Commissioner of Transportation shall enforce rules and regulations of the Authority governing the assessment of civil penalties.

(1) The rules and regulations shall provide for a reasonable time, not less than ten days, for due notice to the person assessed of the nature of the violation committed, and during which the person assessed may answer the assessment by denying liability, by offering a compromise to the Commissioner, or by paying the assessment.

(2) The rules and regulations shall also provide notice that failure to pay the final civil penalty assessed by the time set in the rules and regulations may result in collection of the penalty through the courts of the state.

Source: S.L. No. 4L-93-99 §2-20, 12/25/98

§1-123. Authority may acquire equipment, facilities and interests in real properties. — The power of the Authority conferred by this chapter to purchase or otherwise acquire equipment and facilities necessary for the conduct of its business shall expressly include the power to acquire, without

cost, such interests in equipment and facilities owned or held by the Pohnpei Government for the principal use of the PTA agency. In addition, the Pohnpei Public Lands Trust Board of Trustees is hereby authorized and directed to convey to the Authority, without cost, all interest held by the Board of Trustees in the office buildings, garages, work areas, and other public properties that have been set aside or otherwise reserved for the principal use of the PTA agency; PROVIDED that such conveyances shall not include the transfer of interests held by the Board in the real properties, easements and rights-of-way on which the state's public roads and highways are situated; PROVIDED FURTHER that conveyances of interests in real property for work areas needed for temporary use by the Authority shall be limited to the issuance of lease or use permits of a reasonable length commensurate to the duration of the project for which the property is needed. Any conveyance by the Board to the Authority pursuant to this section may be consummated without the necessity of notice of intention to convey or the necessity of advertisement, or an election on the part of either party, any provision of the laws of the state to the contrary notwithstanding; PROVIDED, HOWEVER, that such conveyance shall retain the right of reversion to the Board of Trustees of any interest in real property conveyed to the Authority under this section and which is no longer used by the Authority for the purposes of this chapter.

Source: S.L. No. 4L-93-99 §2-21, 12/25/98

§1-124. Funding for state road projects. — Unless otherwise directed by law, the Governor shall prescribe that state monies appropriated and grant funds received for the construction, improvement, maintenance or repair of roads and highways, as defined by §1-102(7), be directed to the Authority for the purposes for which the monies or grants are made available under such terms and conditions as shall be mutually agreed by the Governor and the Authority.

Source: S.L. No. 4L-93-99 §2-22, 12/25/98

§1-125. Orderly transition. — The purpose of §§1-125 through 1-133 is to provide an orderly transition from the administration of the Pohnpei Government to administration by the Authority with respect to the responsibilities accorded to the Authority by this chapter.

Source: S.L. No. 4L-93-99 §3-1, 12/25/98

§1-126. First Board and Commissioner. — The members of the Pohnpei Transportation Board and the Commissioner of Transportation of the PTA agency shall serve as the first Board of Directors and Commissioner of Transportation, respectively, of the Authority established by this chapter for the duration of their terms of appointment under the PTA agency, unless any such person shall indicate to the Governor that he does not wish to continue in office as prescribed by this section or is otherwise removed from office pursuant to this chapter.

Source: S.L. No. 4L-93-99 §3-2, 12/25/98

§1-127. Transfer of title to Authority. — At such time as the Board of Directors has organized the functional operations of the Authority, the Governor shall transfer to the Authority upon request of the Board:

(1) All items of property which the Pohnpei Government owns or controls which are used exclusively for the operations of the PTA agency within the state or for operations which are to be assumed by the Authority pursuant to this chapter, and all materials and supplies used or usable exclusively in connection with said purposes;

(2) All items of property and materials and supplies used by the Pohnpei Government for said PTA agency purposes in common with other operations of the Pohnpei Government which the government and Authority agree to transfer; and

(3) All working capital, cash, accounts payable and receivable deposits, advances payable and receivable, all books, records, and documents and all other rights, obligations, assets, liabilities,

agreements, contracts, leases, concessions, and privileges pertaining to the operation of the PTA agency, and other matters and concerns of the Pohnpei Government which are to be assumed by the Authority pursuant to this chapter, including the assets held by the Pohnpei Government in any fund or funds used for the PTA agency.

Source: S.L. No. 4L-93-99 §3-3, 12/25/98

§1-128. Authority to assume rights, obligations and duties of the Pohnpei Government. — The Authority shall assume all transferable rights, obligations and duties of the Pohnpei Government under any agreements that the Pohnpei Government has with any department or agency of the United States of America in connection with the responsibilities of the Authority, and shall be eligible to act for the Pohnpei Government and to do anything necessary to establish eligibility for Federal funds relative thereto.

Source: S.L. No. 4L-93-99 §3-4, 12/25/98

§1-129. Assumption of functions by Authority. — On the date the Authority assumes its functions under this chapter, the Board of Directors or the Commissioner of Transportation, as the case may be, shall immediately commence to employ necessary personnel for the operation of the Authority or contract for the necessary services. The Authority shall for one year offer continuing employment to all employees of the PTA agency assigned to full-time duties coming under the jurisdiction of the Authority at levels no less than they received from said agency and with recognition of accumulated leave, and of seniority with the government in the personnel system established by the Authority.

Source: S.L. No. 4L-93-99 §3-5, 12/25/98

§1-130. Disposition of interim funds. — After the assumption of functions by the Authority, all monies formerly appropriated to, authorized for, received by or paid by the Pohnpei Government on behalf of and for the use and operation of the PTA agency within the state shall be received by and paid from the funds of the Authority established by this chapter.

Source: S.L. No. 4L-93-99 §3-6, 12/25/98

§1-131. Procurement, accounting, and personnel rules applicable during transition. — Until such time as procurement and personnel rules and regulations are adopted by the Board, those procurement and personnel rules and regulations now applicable to the PTA agency and the employees working for the PTA agency and not inconsistent with this chapter shall be applicable to the Authority. The Financial Organization and Management Act, Title 11 Chapter 2, as amended, shall apply to the Authority until §1-112 is fully complied with as certified by the Pohnpei Auditor.

Source: S.L. No. 4L-93-99 §3-7, 12/25/98

§1-132. Existing contracts. — The Authority in assuming the operations of the PTA agency shall honor all existing contracts therein to the extent of their validity, but shall endeavor to renegotiate such contracts in a manner consistent with this chapter. Any extension or renewal of such contracts shall be made in a manner consistent with this chapter.

Source: S.L. No. 4L-93-99 §3-8, 12/25/98

§1-133. Proposal for revenue bonds. — Not later than October 1, 1999, the Authority shall submit to the Governor and the Legislature a comprehensive plan and draft legislation that will enable the Authority to issue revenue bonds. The plan shall contain a summary of potential uses of revenues raised from the issuance of bonds and means by which they will be repaid. The draft legislation shall cover all necessary legal and technical aspects of the issuance and repayments of bonds. The Authority shall attach to the submission the appraisal of the plan and draft legislation by at least two independent financial analysts with experience in the issuance of revenue bonds by public corporations who shall

attest to the propriety and practicality of the proposal and shall provide a comparison of the draft legislation with similar laws of neighboring jurisdictions.

Source: S.L. No. 4L-93-99 §3-10, 12/25/98

§1-134. Repealer. — Sections 10-1 through 10-6 of the Pohnpei Code, as amended, pertaining to the PTA agency are hereby repealed in their entirety; PROVIDED that this section shall take effect upon proclamation of the Governor that the Authority established by this chapter has been organized and is ready to commence business.

Source: S.L. No. 4L-93-99 §3-9, 12/25/98

Note: S.L. No. 4L-93-99 §3-11 severability provision has been omitted.

Extended legislative history: PDC §10-2, 3/71 was amended by D.L. No. 3L-44-72 §1, 11/29/72 and D.L. No. 4L-98-77 §1, 5/17/77; PDC §10-3(a)(1) was amended by S.L. No. 2L-57-81 §31(2), 10/1/81; S.L. No. 2L-173-83 §7(3), 4/22/83 and S.L. No. 2L-177-83 §9, 5/1/83; PDC §10-3(a)(2) was amended by S.L. No. 2L-57-81 §31(2), 10/1/81; PDC §10-3(a)(7) was amended by D.L. No. 4L-98-77 §2, 5/17/77; PDC §10-3(d) was amended by D.L. No. 2L-235-71 §1, 11/27/71; PDC §10-4(f) was amended by S.L. No. 1L-13-79 §1, 11/13/79; PDC §10-4(n) was added by D.L. No. 4L-157-78 §1, 11/15/78; PDC §10-5(g) was amended by S.L. No. 2L-57-81 §31(3), 10/1/81; PDC §10-5(h) was amended by D.L. No. 4L-98-77 §3, 5/17/77; PDC §10-5(j) was amended by D.L. No. 4L-98-77 §4, 5/17/77; D.L. No. 3L-58-73 §25, 5/29/73 adds PDC §10-6; PDC §10-6 was amended by D.L. No. 4L-53-76 §1, 12/6/76 and S.L. No. 1L-71-86 §4-11, 4/1/86; PDC §§10-1 – 10-6, as amended, were repealed in their entirety by S.L. No. 4L-93-99 §3-9, 12/25/98.

CHAPTER 2
PONAPE TRANSPORTATION AUTHORITY

[To be repealed upon implementation of Chapter One, *see* 33 PC 1-134]

Section

2-101 Establishment	2-104 Duties and powers of Ponape Transportation Authority
2-102 Purposes	2-105 Commissioner of Transportation
2-103 Ponape Transportation Board	2-106 Finances

§2-101. Establishment. — There is hereby established the Ponape Transportation Authority, which shall be governed by the Ponape Transportation Board and operated through the office of the Commissioner of Transportation.

Source: PDC §10-1, 3/71

Note: The word "Ponape" is retained in this chapter to distinguish the PTA agency from the PTA public corporation; *see* 33 PC 1-134.

§2-102. Purposes. — The purpose of the Ponape Transportation Authority, hereinafter called the Authority, shall be to promote the development and improvement of the transportation facilities and services within Pohnpei State, which shall include roads, bridges, docks, and piers, channels, harbors, public and private transportation systems, supporting services and related functions and such other construction projects as may from time to time be approved by the Ponape Transportation Board; PROVIDED that the Authority shall assign highest priority to the construction of the belt road and bridges around Pohnpei Island before engaging in the construction of other types of transportation facilities and other construction projects.

Source: PDC §10-2, 3/71; D.L. No. 3L-44-72 §1, 11/29/72; D.L. No. 4L-98-77 §1, 5/17/77

§2-103. Ponape Transportation Board. —

(1) *Functions.* The functions of the Ponape Transportation Board, hereinafter called the Board, shall be the following:

- (a) To supervise the Commissioner of Transportation, who shall be appointed pursuant to the Uniform Appointments and Tenure Act, Title 9 Chapter 1, or its successor in state law;
- (b) To approve the employment and termination of other Authority staff, pursuant to the State Public Service System, Title 9 Chapter 2;
- (c) To approve the plans and programs of the Authority;
- (d) To approve the Authority's annual budget and to transmit it, after approval, to the Legislature for final approval and funding;
- (e) To approve policies and procedures for the operation of the Authority;
- (f) To approve all contracts and claim settlements in excess of five hundred dollars;
- (g) To approve all purchases or sale of Authority property in excess of five thousand dollars; and
- (h) To exercise, through the office of the Chairman of the Board, through committees of the Board, and through the regular and special meetings of the Board, supervision over the Commissioner of Transportation and functioning of the Authority.

(2) *Membership.* The Board shall be composed of nine members appointed by the Governor with the advice and consent of the Legislature. Members must be eligible to vote in state elections, and shall be appointed to terms of office for four years, with the terms of not more than two members

expiring in the same calendar year; PROVIDED that initial appointments to the Board may be for a term of less than four years. No member may be simultaneously an employee of the Authority.

(3) *Officers.* The Board shall elect from among its members the following officers as its first order of business at the first meeting in each calendar year:

- (a) Chairman, who shall preside at the meetings and exercise other normal functions of that office;
- (b) Vice-Chairman, who shall act in the absence of the Chairman and otherwise assist him in carrying out his duties;
- (c) Secretary, who shall record the proceedings of Board meetings; and
- (d) Treasurer, who shall be assisted by staff of the Authority.

(4) *Meetings.* The Board shall hold regular monthly meetings in the first week of each month, and the Chairman shall give notice of each meeting at least one week in advance. Special meetings of the Board may be held at any time, provided each member has been given at least three days notice of the meetings by the Chairman, or such notice has been waived by all members of the Board. A quorum for any meeting shall be five members.

Source: PDC §10-3, 3/71; D.L. No. 2L-235-71 §1, 11/27/71; D.L. No. 4L-98-77 §2, 5/17/77; S.L. No. 2L-57-81 §31(2), 10/1/81; S.L. No. 2L-173-83 §7(3), 4/22/83; S.L. No. 2L-177-83 §9, 5/1/83; S.L. No. 6L-79-06 §2-111, 11/1/06

§2-104. Duties and powers of Ponape Transportation Authority. — The duties and powers of the Authority, governed by the Board and under the direction of the Commissioner of Transportation, and in furtherance of the purposes of the Authority, are the following:

(1) To carry out the programs approved by the Board, in accordance with Board-approved policies and procedures.

(2) To acquire personal property of all descriptions (in accordance with an approved budget) and to hold, use, maintain, operate, sell or otherwise dispose of the same in accordance with procedures approved by the Board.

(3) To receive, hold and disburse funds.

(4) To enter into and perform such contracts, leases, cooperative agreements or other transactions with any agency of the national government, or with any state or local government, or with any political subdivision thereof, or with any firm, person, association, cooperative or corporation as may be deemed necessary or appropriate to the conduct of the activities authorized under this chapter.

(5) To settle and adjust claims held by it against other persons or parties, and by other persons or parties against the Authority.

(6) To establish, maintain, operate and engage in, upon its own account, any appropriate enterprise, undertaking or activities in furtherance of the purposes of the Authority; and to receive payments therefor, such revenues to go into the general fund of Pohnpei; PROVIDED that such revenues are hereby continuously appropriated for the purposes specified in §2-106; PROVIDED FURTHER that the revenues deposited in the general fund and thereafter continuously appropriated for the purposes of §2-106 shall not be subject to reversion at the end of the fiscal year.

(7) To prepare programs and plans for the development, improvement, extension, use and maintenance of roads, bridges, docks and piers, channels and harbors in Pohnpei State.

(8) To prepare an annual budget of anticipated revenues and expenditures for the consideration and approval by the Board.

(9) To prepare comprehensive policies and procedures for guidance and operation of the Authority, to be approved by the Board.

(10) To propose legislation in furtherance of Authority needs and goals.

(11) To initiate, develop and sustain a public information program to assure full public understanding of the purposes and programs of the Authority.

(12) To prepare reports on programs, projects and functions of the Authority, including financial reports.

(13) To establish and maintain Authority records including records of all bids, contracts and project descriptions, which shall be kept in good order for a minimum of six calendar years after the dates of completion of such contracts or projects.

(14) To submit an annual report on the activities of the Authority to the Legislature no later than 15 days after the last day of each fiscal year; PROVIDED, that the report shall include an accounting of all funds received by the Authority during the previous fiscal year from any source whatsoever.

Source: PDC §10-4, 3/71; S.L. No. 1L-13-79 §1, 11/13/79; S.L. No. 6L-79-06 §2-112, 11/1/06

Note: §10-4(n) was added by D.L. No. 4L-157-78 §1, 11/15/78.

§2-105. Commissioner of Transportation. — The duties of the Commissioner of Transportation are the following:

(1) To direct the implementation of the programs, policies, projects and procedures of the Authority, as determined by the Board.

(2) To administer the staff and operations of the Authority.

(3) To maintain liaison among the Authority, the Board, the State Administration and others concerned with the objectives and programs of the Authority.

(4) To report to the Board at each regular meeting, and when requested, attend special meetings on the status, programs and development of the Authority, its programs and projects, its financial status, and its plans.

(5) To maintain close communication with the Chairman of the Board as to current status and activities of the Authority.

(6) To exercise supervision over all Authority property and funds.

(7) To employ and terminate staff personnel with approval of the Board, and to carry out all other appropriate functions regarding Authority personnel, pursuant to the State Public Service System, Title 9 Chapter 2.

(8) Subject to budgetary limitations, to authorize all expenditures of funds under Authority control, make contracts, acceptance, purchases and sales, with Board approval for such transactions in excess of five thousand dollars.

(9) To sign contracts in amounts of five hundred dollars or less, and sign jointly with the Chairman of the Board contracts in excess of five hundred dollars.

(10) To recommend to the Board programs and plans, budgets, policies and procedures with respect to programs, budget, and personnel of the Authority.

Source: PDC §10-5, 3/71; S.L. No. 2L-57-81 §31(3), 10/1/81; D.L. No. 4L-98-77 §3, 5/17/77; D.L. No. 4L-98-77 §4, 5/17/77

§2-106. Finances. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Pohnpei Comprehensive Budget Act to defray compensation, the cost of equipments, operations and maintenance, and other expenses which may be incurred by the Authority. All sums herein authorized for appropriation shall be expended and administered by the Commissioner of Transportation solely for the purposes specified in this section.

(2) Compensation of Board members and the Commissioner shall be as determined in the State Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, and the compensation for Authority employees shall be as determined in the Government Salary Conversion Act, Title 9 Chapter 4 Subchapter II, as amended or superseded by Pohnpei law. Officers and employees of the Authority shall be entitled to expenses and per diem at standard Pohnpei Government rates when engaged in the business of the Authority; PROVIDED that Pohnpei

Government officers and employees who serve on the Board shall not be entitled to compensation but shall be accorded administrative leave while engaged in such business.

Source: PDC §10-6, 3/71; D.L. No. 4L-53-76 §1, 12/6/76; S.L. No. 1L-71-86 §4-11, 4/1/86

Note: §10-6 was added by D.L. No. 3L-58-73 §25, 5/29/73.

CHAPTERS 3 – 5
[RESERVED]

CHAPTER 6 STATE ROADS

Section

6-101 Designation of Pohnpei State Road

6-102 Designation of causeway of Nanisou, U

§6-101. Designation of Pohnpei State Road. — The Pohnpei State Road shall be designated as follows:

(1) From Luhke to Dewennuh, from Dewennuh to Dipision and up to the Administration and Hospital, from the Hospital up to Constabulary, Agriculture Station and up to Dolonier. From Dolonier the road that goes toward Sokehs.

(2) Only one road from Dienpwel to the border of Sokehs. From Kitel to Kapikapi.

(3) From Kapikapi to Wapar, and from Wapar to Kepirohi there are two roads but the one toward the shore is the state road. From Kepirohi to Sekerensenpehn, from Sekerensenpehn to Lehdau. The road toward the shore is the state road. From Lehdau to Nankoapwoaremen. From Nankoapwoaremen to Luhke.

Source: PDC §10-200, 3/71

§6-102. Designation of causeway of Nanisou , U. – The causeway road of Nanisou, U to Dehpehk and Takaieu Islands in U is hereby designated as a public road.

Source: S.L. No. 5L-59-01 §1, 12/21/01

ROADS

CHAPTER 7 ROADWAY CONSTRUCTION

Section

7-101 Short title	7-105 Construction signs; direction of traffic
7-102 Definitions	7-106 Criminal and civil penalties
7-103 Minimum standards and conditions for construction within roadways	7-107 Authority to halt construction; authority to take corrective action
7-104 Permit required for construction within the roadway	7-108 Authority to delay issuance

§7-101. Short title. — This chapter is known and may be cited as the “Roadway Construction Act of 2000.”

Source: S.L. No. 5L-07-00 §1, 7/14/00

§7-102. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

- (1) “Administrator” means the Administrator of the Office of Transportation and Infrastructure.
- (2) “Construction within a roadway” shall mean and include:
 - (a) Any new construction, maintenance or repair of any part of the right-of-way of a roadway as defined by 71 PC 1-101, inclusive of culverts, bridges, retaining walls, shoulders, setbacks, and drainage ditches;
 - (b) Any disturbance of the roadway for the emplacement, maintenance or repair of any water or sewer pipe, conduit, utility pole, electrical line or audio, video or communications cable, whether above or below ground;
 - (c) Operation, parking or standing within a roadway of any construction machinery; and
 - (d) Emplacement or storage within a roadway of any materials such as sand, coral, gravel, cement, concrete, asphalt, steel or lumber utilized or intended to be utilized in the construction process within the roadway.
- (3) “Person” means an individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Source: S.L. No. 5L-07-00 §2, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

§7-103. Minimum standards and conditions for construction within roadways. — The Administrator shall by regulation establish minimum standards and conditions regulating construction within all public roadways of the state of Pohnpei.

Source: S.L. No. 5L-07-00 §3, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

§7-104. Permit required for construction within the roadway. — It shall be unlawful for any person to perform any type of construction within a roadway unless such construction is conducted under a road construction permit authorizing said construction. A road construction permit shall be attained in the following manner:

- (1) An application shall be filed with the Office of Transportation and Infrastructure on a form specified by the Administrator and approved by the Attorney General. Said form shall require information as to the person for which the construction shall be performed, the type and nature of construction, the place and duration of construction, the manner in which the roadway will be constructed or restored to its original or better condition, and the supervisor who will be responsible for overseeing the project and ensuring its conduct and completion in the manner prescribed in the permit.

(2) The Administrator shall review the application, and if he determines that the construction can be carried out to the standards and conditions established by regulation as provided in §7-103 within a reasonable time and in a safe manner, he shall notify the applicant that the applicant's request has been approved.

(3) Upon the payment by the applicant to the Office of Transportation and Infrastructure of a refundable bond of not less than \$500 as determined by the Administrator after a review of the scope of the work and the length of the project, the road construction permit shall be issued; PROVIDED that the Administrator, in his discretion and upon determining that the construction request is minor and will not disrupt passage on a roadway for more than three days, may reduce the bond requirement to an amount of not less than \$20.

(4) The permit so issued shall state the type, nature, and site for the road construction, the minimum standards and conditions of construction, the conditions of safety under which construction may be carried out pursuant to the permit, the person for whom the construction is being carried out, and the name of the supervising personnel. The permit shall also state a certain date that the permit shall expire; PROVIDED that the Administrator, upon request of the applicant and for good cause shown, may, at his discretion, extend the expiration date for such period as the Administrator shall so determine.

(5) Upon completion of the construction in the time and manner prescribed, and upon assuring the Administrator to his satisfaction that the roadway has been constructed or restored to its original or better condition, the bond required by Subsection (3) of this section shall be refunded to the permit holder; PROVIDED that the Administrator may by regulation prescribe that not more than twenty percent (20%) of the value of the bond may be retained and expended by the office strictly for the costs of general administration and inspection of construction projects undertaken under the authority of permits issued under this section. If the Administrator shall, following inspection, determine that the road has not been constructed or restored to its original or better condition, or if the Administrator shall determine that the construction was carried out in substantial violation of the terms of the permit, he may order that the bond be forfeited to the general fund of the Pohnpei Treasury, (except such percentage thereof as may be retained by the office pursuant to this subsection) or that the bond be held as security until such time as the conditions stated in the permit have been met and so notify the permit holder of his decision in writing.

Source: S.L. No. 5L-07-00 §4, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

§7-105. Construction signs; direction of traffic. — In addition to the requirements of §7-104:

(1) Any person who shall engage in any construction activity on a public roadway shall erect and maintain signs near the site of such construction in such a manner as to give motor vehicles on such public roadway an adequate warning of the presence of the construction.

(2) In the event that such construction shall so disrupt traffic on a public roadway in such a manner that a single lane must be used by vehicles travelling in opposite directions, the persons so engaged in the construction activity shall provide for the direction of traffic through the construction site in a safe and responsible manner.

Source: S.L. No. 5L-07-00 §5, 7/14/00

§7-106. Criminal and civil penalties. —

(1) Any person who shall knowingly and willfully violate any provision of §§7-104 or 7-105, or of any term or condition of any permit issued thereunder, shall be guilty of an offense against the state of Pohnpei and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than six months or both such fine and imprisonment.

(2) In addition to such criminal penalties as prescribed by Subsection (1) of this section, any person who shall knowingly and willfully violate any provision of §§7-104 or 7-105, or of any term or condition of any permit issued thereunder, shall be civilly liable for twice the value of the expenses

incurred by or for the state in remedying the damage or removing the impediment to the roadway caused by or on behalf of said violator.

Source: S.L. No. 5L-07-00 §6, 7/14/00

§7-107. Authority to halt construction; authority to take corrective action. —

(1) In the event that the Administrator shall find that any person is engaged in any form of construction within a roadway without a permit as required by §7-104 or in violation of the terms and conditions of a permit issued thereunder, the Administrator shall have the authority to order an immediate halt of such construction and/or order the offender to safely remove any or all impediments from the roadway emplaced thereon by or on behalf of the offending person.

(2) If the offending person shall not comply with the orders of the Administrator pursuant to Subsection (1) of this section, or if he shall fail to comply with such orders to the satisfaction of the Administrator or if he cannot be found within a reasonable time, the Administrator may otherwise cause the impediments removed and the roadway restored to a safe condition in such manner as he deems necessary.

Source: S.L. No. 5L-07-00 §7, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

§7-108. Authority to delay issuance. — Upon a finding that an applicant or that the source of funding for an applicant for a road construction permit under §7-104 is a government entity that has previously financed construction that does not meet the standards and conditions for construction within a roadway established by regulation issued by the Administrator of the Office of Transportation and Infrastructure pursuant to §7-103, the Administrator may, in his discretion and following consultation with the chief executive of the local government of the jurisdiction wherein the new construction is to occur, delay the issuance of a roadway construction permit for new construction financed by that applicant or financed by that government entity until such time as the deficiencies in the construction so previously undertaken have been corrected. In the event that the decision to delay the issuance of a new permit is due to the fact that the source of funding is a government entity, the authority to delay the issuance of the new permit may be exercised, whether the previous construction that so caused the deficiencies occurred before or after the issuance of minimum standards and conditions now in effect.

Source: S.L. No. 5L-07-00 §8, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

**CHAPTERS 8 & 9
[RESERVED]**

ROADS

**CHAPTER 10
ROAD FINANCES**

Section

10-101 Road maintenance fund: authorization for appropriation; administration

10-102 Circumferential road fund: authorization for appropriation; administration

§10-101. Road maintenance fund: authorization for appropriation; administration. —

(1) There is hereby established a road maintenance fund for the maintenance of roads in this state.

(2) There is authorized for appropriation from the general fund of Pohnpei or such fund in the Treasury into which capital account monies of the Compact of Free Association are deposited a sum or sums to be determined and allocated annually in the Comprehensive Budget Act to provide monies for the fund established by Subsection (1) of this section.

(3) Sums appropriated to the fund established by Subsection (1) of this section may be administered and expended by the Governor solely for the purpose stated in Subsection (1) of this section and allocation appropriated. The Governor shall report annually to the Legislature within 30 days following the close of the fiscal year on all activities and expenditures relative to the fund for the previous fiscal year. Sums appropriated to the fund shall remain available until fully expended.

Source: D.L. No. 4L-192-79 §§1 – 3, 8/9/79; S.L. No. 1L-153-87 §1, 7/14/87

§10-102. Circumferential road fund: authorization for appropriation; administration. —

(1) There is hereby established a fund for the construction of the Pohnpei Island Circumferential Road for the purpose of assisting in the financing of the completion of the circumferential road around Pohnpei.

(2) There is authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act to provide monies for the fund established by Subsection (1) of this section.

(3) Sums appropriated to the fund established by Subsection (1) of this section shall be administered and expended by the Governor solely for the purposes specified in this section; PROVIDED the Governor may:

(a) Obligate for construction expenses sums from the fund only pursuant to the presentation in advance of plans supported by engineering designs, specifications, and cost allocations for such construction; and

(b) Set aside and obligate, at his discretion, sums from the fund to secure the financing for construction of the circumferential road from other sources of financial assistance.

(4) The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the fund for the previous fiscal year. Any sums appropriated to the fund shall remain available until fully expended.

Source: D.L. No. 4L-198-79 §§1 – 4, 8/9/79

ROADS

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TITLE 34

PUBLIC UTILITIES

TITLE 34 PUBLIC UTILITIES

CHAPTER

- 1 POHNPEI UTILITIES CORPORATION**
- 2 BOARD OF RESIDENTIAL PROPERTIES AND PUBLIC UTILITIES**
- 3 COMMISSION ON ENERGY**
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CHAPTER 1 POHNPEI UTILITIES CORPORATION

Section

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§1-101. Corporation established. — There is hereby established in and for Pohnpei a public corporation to be known as the Pohnpei Utilities Corporation, hereinafter referred to as the “Corporation.”

Source: S.L. No. 2L-179-91 §1, 2/14/91

§1-102. Responsibilities, duties, and powers of the Corporation. – The Corporation is vested with the following powers, duties, and responsibilities:

(1) To provide electrical power, piped and bottled water and sewage services, hereinafter referred to as “public utilities services,” to the people of Pohnpei through the operation of public utilities systems which meet or exceed health, quality, and safety standards established by state law or regulations; PROVIDED that public utilities systems shall not include water systems operated by the local governments of this state unless such a system is transferred to the Corporation on terms mutually agreed upon by the Corporation and the respective local government in which the water system is situated; PROVIDED FURTHER that the Corporation shall not engage in the sale of bottled water for consumption or resale within the state of Pohnpei;

(2) To operate and manage the Pohnpei public utilities systems on the basis of commercially accepted practices, treating all users of the Corporation's services on equitable terms in accordance with its published fees, and requiring all users to pay for services rendered;

(3) To expand and improve upon services offered to the public, and where practicable and necessary, construct and operate new facilities in densely populated or remote areas that are now beyond ready access to existing public services;

(4) To publish and implement a structure of rates for services and products rendered or sold by the Corporation. Such rates are to be determined by the Board of Directors after consultation with the Board of Residential Properties and Public Utilities, and calculated to ensure that, to the extent practicable, adequate and equitable charges are imposed for services and that the fee structure promotes increased use of public utilities services; PROVIDED that nothing in this subsection shall prevent the Corporation from using subsidies received from governmental, international or private sources to reduce the overall costs charged to users of public utilities services; PROVIDED FURTHER that electrical power services, herein referred to as "Class A services," shall be charged and accounted for separately from water and sewage services, herein referred to as "Class B services," and that no class of utilities services provided to a customer may be suspended or cancelled due to nonpayment of a rate or charge imposed by the Corporation for the provision of any other class of utilities services distributed by the Corporation or any service related to that other class of utilities services;

(5) To acquire and maintain from the revenues and grants received by the Corporation a program of liability insurance on all personnel, facilities, and equipment controlled by the Corporation; PROVIDED that if such insurance is not available or is prohibitively expensive, as determined by the Board of Directors of the Corporation, then the Corporation shall establish and maintain a special fund to protect personnel, facilities, and equipment not covered by insurance and to satisfy judgments or settlements on tort claims brought against the Corporation for its operations under this chapter;

(6) To invest all surplus revenues of the Corporation in the expansion and improvement of public utilities services in Pohnpei;

(7) To acquire land for public purposes subject to Article 12 of the Pohnpei Constitution and applicable law;

(8) To obtain and operate bottling machinery and water purification systems and engage in the marketing and sale of potable water to destinations outside of the state of Pohnpei; PROVIDED that any revenues derived therefrom above the costs of exporting the potable water shall be devoted to subsidizing the rates charged for piped water and sanitation services provided by the Corporation to the residents of Pohnpei; and

(9) To enter on any private or public land, house or building to which public utilities services have been, are or will be supplied, or through which utilities equipment, pipes or lines are, or will be located in order:

(a) To survey, take readings, make installations or fittings, remove meters or other instruments for measuring the quantity of public utilities services supplied;

(b) To dig out and replace or redistribute at the instruction of the landowner earth, stone, soil, sand, and gravel whatsoever for the construction, maintenance or alteration of any equipment, pipe or line, or any part thereof;

(c) To cut and remove any tree or any branch of a tree growing on such lands which may in any way affect or interfere with the operation of public utilities equipment;

(d) To open or break up any road, subject to such laws, regulations, and required agreements as may be imposed on persons engaged in construction, or otherwise obstructing public roadways;

(e) To erect and maintain posts, staywires, poles or pillars, or pipes in, upon or under any land; or

(f) For any other purpose in connection with the continued provision of public utilities services as may be agreed upon, or in the case of difference, to be determined by arbitration as set forth by rules established under this chapter.

Source: S.L. No. 2L-179-91 §2, 2/14/91; S.L. No. 3L-41-93 §1, 8/2/93; S.L. No. 5L-120-03 §1, 7/10/03

§1-103. Legal characteristics and capacity of the Corporation. — In performing the responsibilities and duties authorized by this chapter and other laws of this state, the Corporation shall have all of the characteristics of a public corporation and the capacity to exercise all powers normally exercised by a public corporation, including, but not limited to, the following:

(1) To adopt, alter, and use a corporate seal;

(2) To adopt and amend bylaws and other rules, regulations, and directives governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law. No bylaw, rule or regulation other than that covering the internal operation of the Corporation shall be adopted without a public hearing;

(3) To set interest charges or other monetary penalties, require security deposits, establish monetary penalties, and procedures for termination, and to set such other procedures and policies to ensure timely payment and collection of public utilities bills;

(4) To sue and be sued in its corporate name; PROVIDED that satisfaction of judgments or the settlement of claims on tort actions against the Corporation may only be paid out of insurance held by the Corporation or the special fund created by the Corporation pursuant to §1-102(5), and not out of the other assets or operating capital of the Corporation, and for these purposes the doctrine of sovereign immunity is recognized and maintained for this public Corporation to the extent not expressly waived by Pohnpei public law; PROVIDED FURTHER that nothing in this subsection shall prevent the Legislature from making direct appropriations into the special fund created in §1-102(5) for the purpose of assisting the Corporation in the satisfaction of judgments and providing self-insurance protection for personnel, facilities, and equipment not covered by insurance on such tort actions or settlement of tort claims brought against the Corporation;

(5) To acquire, in any lawful manner, real, personal or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease or otherwise dispose of such property;

(6) To acquire and take over, in any lawful manner, the business, property, assets, and liabilities of any public entity of Pohnpei to the extent of its provision of public utilities services;

(7) To borrow or raise any sum or sums of money and to issue corporate bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of public utilities services;

(8) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as the Corporation deems appropriate; and

(9) To do all such things as may be incidental to or conducive to the attainment of the responsibilities and duties of the Corporation.

Source: S.L. No. 2L-179-91 §3, 2/14/91; S.L. No. 3L-41-93 §2, 8/2/93

§1-104. Debts and obligations of the Corporation. — Unless otherwise expressly provided by law, the debts and obligations of the Corporation shall not be the debts or obligations of the Pohnpei Government, nor shall the Pohnpei Government be responsible for any such debts or obligations.

Source: S.L. No. 2L-179-91 §4, 2/14/91

§1-105. Tax liability. — The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations or activities imposed by the Pohnpei Government or local governments and, to the extent allowable, the government of the Federated States of Micronesia. Nothing herein shall be deemed to exempt

employees and independent contractors of the Corporation from tax liability for services rendered to the Corporation, and the Corporation shall be liable for employers' contributions to existing social security systems in the manner provided by law.

Source: S.L. No. 2L-179-91 §5, 2/14/91

§1-106. Composition of the Board; removal; vacancies. — All powers vested in the Corporation shall be exercised by the Board, which shall consist of seven members, called directors, who shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. Initially, the Governor shall appoint four members of the Board to four-year terms and three members to two-year terms. Thereafter, persons appointed shall hold membership on the Board for a period of four years, subject to reappointment, and until their successors have been appointed and qualify. Four members of the Board shall be appointed from the public sector and three members from the private sector. No member shall be appointed who is more than three months delinquent in paying one or more of his or her public utilities bills, nor shall any member be appointed who has twenty-five percent (25%) or more ownership interest in a business that is more than three months delinquent in paying one or more of its public utilities bills. Members of the Board of Directors may be removed for good cause by the Governor, good cause to include delinquency in the payment of public utilities bills for a period greater than three months. All vacancies occurring on the Board shall be filled by the Governor with the advice and consent of the Legislature, but only for the unexpired term of the member whose vacancy is being filled.

Source: S.L. No. 2L-179-91 §6, 2/14/91; S.L. No. 3L-41-93 §3, 8/2/93; S.L. No. 7L-21-09 §1, 1/9/09

§1-107. Meetings of the Board. — Within 15 days after the confirmation of the initial Board, the Governor shall call an organizational meeting, and annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall meet once a month and shall hold at least one public meeting each calendar quarter and other public meetings as it may deem necessary for the transaction of its general business.

Source: S.L. No. 2L-179-91 §7, 2/14/91

§1-108. Organization of the Board; quorum; compensation and expenses. — The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board. Any four members of the Board shall constitute a quorum, and a concurrence of four members shall be necessary for any official action taken by the Board unless otherwise provided herein. No vacancy in membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board. Directors shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, when actually attending meetings of the Board, except that those members who are government employees shall instead receive regular salaries while performing functions of the Board. Directors shall also receive travel expenses and per diem at Pohnpei Government rates when these amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 2L-179-91 §8, 2/14/91

§1-109. Appointment of general manager; duties; removal. — The Board shall appoint a general manager pursuant to its articles and bylaws and fix his compensation. The general manager shall have full charge and control of the operation and maintenance of all the electrical facilities and other real and personal property controlled by the Corporation, and of construction of any facilities and necessary work on vehicles, vessels, and equipment controlled by or required to be rebuilt or repaired by the Corporation. The Board may remove the general manager for good cause upon a majority vote

. During any period when the position of general manager is vacant, the position shall be temporarily filled from within the organization pursuant to the articles of incorporation and bylaws.

Source: S.L. No. 2L-179-91 §9, 2/14/91

§1-110. Powers of the general manager. — The general manager of the Corporation shall have the following powers:

- (1) To ensure that all fees and bills imposed by the Corporation are charged and collected;
- (2) To attend all meetings of the Board and to submit a general report on the affairs of the Corporation;
- (3) To keep the Board advised on the needs of the Corporation;
- (4) To approve demands for payment of obligations within the purposes and amounts authorized by the Board;
- (5) To prepare or cause to be prepared all plans and specifications for the construction and repair of facilities, vehicles, vessels, and equipment operated by the Corporation;
- (6) To devote his entire time to the business of the Corporation; to select and appoint the employees of the Corporation except as otherwise provided in this chapter; to plan, organize, coordinate, and control the services of such employees in the exercise of the powers of the Corporation under the general direction of the Board; and, in lieu of hiring employees to perform any of the tasks, work or other services required by the Corporation, to contract with independent contractors, as persons, organizations or corporations, to provide such services;
- (7) To cause to be published, within 60 days after the end of each fiscal year, a financial and operations statement showing the result of operations for the preceding fiscal year and the financial status of the Corporation on the last day thereof, which publication shall be made in the manner provided by the Board; and
- (8) To perform such other and additional duties as the Board may require.

Source: S.L. No. 2L-179-91 §10, 2/14/91

§1-111. Appointment of comptroller and general counsel; duties of each. — The general manager shall appoint a comptroller and a general counsel, both of whom shall report to the general manager. The comptroller and the general counsel may be terminated for good cause by the general manager. The comptroller and the general counsel shall be compensated at a rate determined by the Board. Such officers may be full-time employees of the Corporation, shared with Pohnpei Government agencies, or be placed on retainer from the private sector. The general manager may appoint one or more assistants to any such office.

(1) The comptroller shall have custody of all monies of the Corporation and shall pay out such money only in accordance with the direction of the Board and as provided in the annual budget of the Corporation. The Board shall appoint an agent as its trustee for payment of bonds issued by it and for such related purposes as the Board may provide.

(2) The general counsel shall advise the Board and the general manager in all legal matters to which the Corporation is a party or in which the Corporation is legally interested, and may represent the Corporation before the Congress of the Federated States of Micronesia, the Pohnpei Legislature, boards and governmental agencies of Pohnpei, the Federated States of Micronesia, and the United States of America.

(3) The Corporation may use the services of the attorneys for the Pohnpei Government to serve as attorneys for the Corporation, or it may appoint such attorney or attorneys as it may deem necessary, and it shall provide payment of all legal services rendered. All official documents, contracts, bonds, and other instruments in writing shall be approved as to form and legality by the general counsel for the Corporation. Such approval may be conclusively evidenced by the signature of the general counsel thereon.

Source: S.L. No. 2L-179-91 §11, 2/14/91

§1-112. Contract-letting by the Board; exception. — The purchase of all supplies and materials and the construction of all works by independent contractors, when the expenditure exceeds \$25,000, shall be, by contract, let to the lowest responsible bidder. Notice requesting bids shall be published at least ten days before bids are received. The Board may reject any and all bids and readvertise at its discretion.

(1) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies may be purchased at a lower price in the open market, the Board may authorize such purchases without further observance of the provisions requiring contracts, bids or notices.

(2) In case of major public calamity, or whenever it is in the interest of public safety or necessary to keep public utilities services operational, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the services operational or in a safe condition, and thereupon authorize the expenditure of such sums as may be needed without the observation of the provisions requiring contracts, bids or notices.

(3) Where reasonable, preference in the letting of contracts shall be given to local contractors.

(4) No director shall vote on any contract awarded by the Board in which the director has a direct or indirect financial interest. This provision shall not apply to contracts awarded to a corporation in which such director owns less than five percent (5%) of the entire capital stock or in which he does not hold any office or employment. The Board shall establish procedures for the timely verification of this restriction by its general counsel.

(5) Notwithstanding the bidding requirements of this section and in the public interest to assure that the people of Pohnpei State are accorded a continuous and reliable source of petroleum products, the Board is authorized and directed to enter into one or more fuel supply agreements consistent with the five-year FSM Petroleum Corporation fuel supply agreement dated September 4, 2007, such agreement or agreements not to exceed a cumulative total of five years; PROVIDED that the exception to public bidding contained in this section shall not take effect until after the Governor has entered into a legally binding agreement with the FSM National Government guaranteeing full indemnity to Pohnpei State in the event of Pohnpei's liability arising from the state's participation in the FSM Petroleum Corporation or the state's execution of the fuel supply and asset sale and purchase agreement making the FSM Petroleum Corporation operational; PROVIDED FURTHER that any such agreement or agreements by PUC that are consistent with the five-year FSM Petroleum Corporation fuel supply agreement dated September 4, 2007 shall become void and the waiver of the bidding requirements required by this section shall be reinstated if at any time during said five year agreement, the Board of Directors of the FSM Petroleum Corporation shall be amended by FSM law or altered by any other means to change the appointment procedure for Pohnpei State's representation on the Board of Directors of said corporation or to reduce, dilute or in any way limit the voting rights of Pohnpei State's member of the Board from that set forth in P.L. No. 15-08, as it was enacted into law on September 11, 2007, or to alter the composition or reduce the powers of the Executive Council for said corporation to set the terms and timing of any subsequent divestment of the assets and operations of the corporation to Pohnpei State as prescribed in the amendments to the codified provisions of P.L. No. 15-08 so enacted into law by virtue of P.L. No. 15-21.

Source: S.L. No. 2L-179-91 §12, 2/14/91; S.L. No. 3L-41-93 §4, 8/2/93; S.L. No. 7L-01-08 §3, [agreement signed on ?]

Editor's note: The inclusion the phrase "the waiver of" in the "PROVIDED FURTHER" clause is seen to be a technical inconsistency and legislation is being prepared to address these words in this section.

§1-113. Accounting and reporting. — The Board shall adopt and maintain a system of accounting that is in accordance with generally accepted accounting principles applicable to public corporations. The system adopted shall require that:

(1) All accounts relative to the production and distribution of electrical power, water and sewage services be separately maintained and that the expenses of the central administrative office be apportioned appropriately between and among the separate public utilities services;

(2) The Board employ a firm of independent certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Corporation, copies of any such reports to be furnished to the Governor and the Pohnpei Legislature; and

(3) The Board shall report to the Governor and Legislature on the affairs of the Corporation. It shall present an annual report within 60 days after the end of each fiscal year and, if requested by the Governor or the Pohnpei Legislature, shall present special reports within 30 days after the end of each intervening quarter.

Source: S.L. No. 2L-179-91 §13, 2/14/91; S.L. No. 3L-41-93 §5, 8/2/93

§1-114. Budget preparation. — The general manager shall prepare, in advance of each fiscal year, under the supervision of the Board, an annual budget for the Corporation, taking into consideration anticipated capital and operational expenditures and anticipated revenues. The Corporation shall use the same fiscal calendar as that of the Pohnpei Government. The budget shall indicate the operational, capital, and maintenance requirements of the Corporation that will be met with the anticipated revenues of the Corporation, and such essential requirements as cannot be met without increase in the rate of revenues or outside financial assistance.

Source: S.L. No. 2L-179-91 §14, 2/14/91

§1-115. Supplemental financial assistance; authorization for appropriation; administration. —

(1) To the extent that the Corporation deems it necessary and advisable, the Corporation may seek appropriations from the Legislature and, to the extent approved by the Governor, may seek grants from sources other than the Pohnpei Government, of such funds as are necessary to supplement revenues to provide for the operations, maintenance, and expansion of the public utilities services in Pohnpei; PROVIDED that:

(a) Requests for Legislature appropriations shall be submitted through the office of the Governor. The Governor shall transmit the requests to the Legislature pursuant to procedures adopted generally for the transmission of budgetary requests of government agencies.

(b) Grants from sources outside the Pohnpei Government shall be subject to such procedural and legal requirements as may be provided by state law, generally or specifically for the request, receipt, and use of such grant funds.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei and such other funds of the Treasury as may be identified in the Comprehensive Budget Act, such sums as may be determined and allocated annually in the Comprehensive Budget Act, or so much thereof as may be necessary, to supplement revenues of the Corporation in providing for the general operations, maintenance, and expansion of the public utilities services in Pohnpei or for specific projects, programs or acquisitions by the Corporation as may be identified in the Comprehensive Budget Act.

(3) All sums appropriated under the authorization of Subsection (2) of this section shall be administered and expended by the general manager, as authorized and directed by the Board, solely for the purposes specified in Subsection (2) of this section.

(4) Unless otherwise specified in the Comprehensive Budget Act, any balance of the sums appropriated under the authorization of Subsection (2) of this section for a fiscal year not expended or obligated for expenditure on September 30 of that year shall revert to the respective fund of the Treasury from which appropriated.

(5) The Board shall submit as part of the Corporation's periodic reporting required by §1-113, a full accounting of the financial activities of the Corporation with respect to appropriations and grants received pursuant to authorization of this section.

Source: S.L. No. 2L-179-91 §15, 2/14/91; S.L. No. 3L-3-92 §1, 4/15/92; S.L. No. 3L-41-93 §6, 8/2/93

Note: S.L. No. 3L-3-92 §2 temporary and §§3 & 4 appropriation provisions have been omitted.

§1-116. Manual of administration. — The Board shall establish a manual of administration to include rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Corporation. Employees of the Corporation shall be eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workers' compensation insurance available to Pohnpei Government employees. The Corporation shall contribute to such programs on the basis of periodic billings as determined by the governing authorities thereof.

Source: S.L. No. 2L-179-91 §16, 2/14/91

§1-117. Employment preference. — The Board shall attempt to employ qualified legal residents of this jurisdiction, if at all possible. However, the Board shall have as its primary concern in employing or contracting for services, the maintenance of safe, self-sufficient, modern and convenient services and facilities for the improvement of public utilities services within Pohnpei.

Source: S.L. No. 2L-179-91 §17, 2/14/91; S.L. No. 3L-41-93 §7, 8/2/93

§1-118. Government assistance to the Corporation. — For the purpose of aiding in the planning, undertaking or carrying out of this chapter and of the projects contemplated herein, and the subsequent operation and maintenance of the public utilities systems, the Pohnpei Government or any department, division, agency, authority or political subdivision thereof, may, if the chief executive of the respective governmental subdivision determines that such project will benefit and further the public purposes of the respective governmental subdivision and be of advantage to them, and if the intended action is consistent with the laws of the respective jurisdiction:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Corporation;

(2) Incur expenses on behalf of the Corporation subject to reimbursement under such terms and conditions as may be agreed upon with the Corporation;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out of the duties, powers, and obligations of the Corporation;

(4) Lend or advance, grant or contribute funds to the Corporation, and provide for or waive the repayment of any such funds loaned or advanced;

(5) Contract with or furnish services to the Corporation upon such terms and conditions as may be agreed upon; or

(6) Enter into any agreements that may extend over any period of time notwithstanding any rule of law to the contrary applicable to public corporations or other public bodies unless specifically applied to the Corporation.

Source: S.L. No. 2L-179-91 §18, 2/14/91; S.L. No. 3L-41-93 §8, 8/2/93

Note: S.L. No. 3L-41-93 §9 transition and §10 temporary provisions have been omitted.

§1-119. Waiver. — The Financial Organization and Management Act, Title 11 Chapter 2, the Public Service System Act, Title 9 Chapter 2, the Contract Review Board Act, Title 11 Chapter 6, and the Government Salary Conversion Act, Title 9 Chapter 4 Subchapter II, shall not be applied to the Pohnpei Utilities Corporation.

Source: S.L. No. 2L-179-91 §19, 2/14/91

Note: S.L. No. 2L-179-91 §20 transition and §21 severability provisions have been omitted.

CHAPTER 2

BOARD OF RESIDENTIAL PROPERTIES AND PUBLIC UTILITIES

Section

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§2-101. Purpose. — Although the cost of maintenance and repair of residential properties and of the production of utility services is escalating yearly, levels of budgetary assistance to the state are now being frozen and in many instances reduced. This is resulting in a loss to the state of capital investment in these properties and utilities, and a reduction in services that can financially be provided, as well as a denial of the expansion of such utilities to new consumers. The purpose of this chapter is to establish a Board of Residential Properties and Public Utilities to constantly monitor the use of these facilities and services, and to set rates for the use or consumption of the same by both the public and private sectors, the payment of which will be devoted to new, better maintained, and improved facilities and services.

Source: D.L. No. 4L-191-79 §1, 8/9/79 S.L. No. 6L-79-06 §3-102, 11/1/06

§2-102. Board established. — There is hereby created a Pohnpei Board of Residential Properties and Public Utilities composed of seven members appointed by the Governor with the advice and consent of the Legislature.

Source: D.L. No. 4L-191-79 §2, 8/9/79; S.L. No. 5L-14-00 §3-50, 10/1/00; S.L. No. 6L-79-06 §2-115, 11/1/06

§2-103. Terms; vacancies; removal. — Appointed members shall serve for terms of three years; PROVIDED that in his initial appointments the Governor shall designate three members to serve initial terms of two years each. Members may be reappointed. Vacancies shall be filled in the manner of the original appointment for the remainder of the unexpired term. A Board member may be removed for cause by a two-thirds majority of the entire membership. Such decision may be appealed to a court of competent jurisdiction.

Source: D.L. No. 4L-191-79 §3, 8/9/79

§2-104. Officers. — The Board shall elect from among its members a Chairman, Vice-Chairman, and Secretary-treasurer by majority vote to serve such terms as determined by the Board. The Board shall define the powers and duties of each officer.

Source: D.L. No. 4L-191-79 §4, 8/9/79

Note: Provision on temporary chairman has been omitted.

§2-105. Meetings. — The Board shall hold its first meeting within 30 days following the effective date of this chapter [*effective date is August 9, 1979*], and at least once every six months thereafter. Special meetings may be called at any time by the Chairman or by any three members of the Board. The Chairman shall determine the time, and place of each meeting and notify all members of the Board of any regular or special meeting as to the date, time and place at least three days preceding the

date of the meeting, and shall cause public notice of the date, time, and place of such meeting to be broadcast on the public radio station at least two days preceding the date of the meeting. All meetings shall be open to the general public, except executive sessions agreed upon by the unanimous vote of the members present. A written record shall be kept and maintained of attendance at meetings and all official actions taken by the Board, and a copy shall be submitted to the Governor and to the Legislature by the Board within ten days after each meeting. Two-thirds of the membership of the Board shall constitute a quorum to conduct business; PROVIDED, HOWEVER, that a majority vote of the total membership of the Board shall be required to establish or readjust any rental or service rates within the jurisdiction of the Board.

Source: D.L. No. 4L-191-79 §5, 8/9/79

§2-106. Compensation and expenses. — Members of the Board who are not employed by the Pohnpei Government or its instrumentalities shall be compensated at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, for attendance at Board meetings. When required to travel for official purposes, members of the Board shall receive travel expenses and per diem at Pohnpei Government rates and in accordance with Pohnpei Government policies. Such other expenses may be paid to Board members as are authorized by law.

Source: D.L. No. 4L-191-79 §6, 8/9/79; S.L. No. 1L-71-86 §4-3, 4/1/86

§2-107. Board's powers, duties, and responsibilities. — The Board shall have the following powers, duties, and responsibilities:

- (1) To establish bylaws for the operation of the Board pursuant to this chapter;
- (2) To evaluate the capital investment, condition, and value of publicly owned or maintained residences, inclusive of appliances and furnishings therein, and to establish fair rental values on the same; PROVIDED that prior to October 1, 1980, no rental value may be set on any individual or single-family residential unit in excess of \$150 per month;
- (3) Upon such evaluation provided in Subsection (2) of this section, to establish the rates of deposits against damage to residential properties to be charged against users of the properties, the remainder to be returned after assessment of damage, if any, upon cessation of use;
- (4) Upon such evaluation provided in Subsection (2) of this section, to establish monthly appliance maintenance fees to be charged against the users thereof;
- (5) To evaluate the capital investment, condition, and value of publicly owned or publicly maintained utilities, and of the operation and maintenance costs of providing utility services, and to establish fair user rates on the same; such rates to be separately determined as follows:
 - (a) Water;
 - (b) Electricity;
 - (c) Sewage;
 - (d) Garbage and refuse disposal;
 - (e) Telephone; and
 - (f) Other services as provided.
- (6) In establishing user rates as provided in Subsection (5) of this section, to establish within the Board's discretion, uniform rates within each category without distinction as to type of uses;
- (7) In establishing user rates as provided in Subsection (5) of this section, to establish, in the Board's discretion, reasonable discounts against rates for the installment of solar water heaters and cookers, insulation for air conditioning, and other energy and utility saving devices; such discounts to be available to government as well as private users of utility services;
- (8) To monitor the acquisition, assignment, and use of residential units and the expansion and production, maintenance, and distribution of utility services, and to make recommendations thereon to the Governor and the Legislature;

(9) To employ such personnel and recruit such advisors and consultants as may be necessary for the Board to carry out its functions pursuant to this chapter; PROVIDED that the Governor to the extent practicable shall provide technical and administrative assistance to the Board as needed; and

(10) To assume such other powers, duties, and responsibilities as are necessary for the Board to carry out effectively the functions entrusted in the Board by this chapter.

Source: D.L. No. 4L-191-79 §7, 8/9/79

§2-108. Exemptions denied. — Notwithstanding Public Law No. 5-87 of the Trust Territory and except as otherwise provided in this chapter, no person occupying publicly-owned residential properties in the state of Pohnpei, nor any person or entity, public or private, consuming or using public utility services in this state shall be exempt from application of this chapter nor of the obligation to pay for the use of public residential properties or public utilities in accordance with the rates established by the Board pursuant to this chapter.

Source: D.L. No. 4L-191-79 §8, 8/9/79

§2-109. Government employment contracts. — No rates, nor any portion thereof, for use of residential properties or utility services, for which a government employment contract or agreement that was executed prior to the effective date of this chapter [*August 9, 1979*] gives said employee an exemption, shall apply to the employee to the extent of such exemption for the duration of the current term of the contract or agreement. Any such exemption provided in a contract or agreement executed or renewed after the effective date of this chapter shall be void; PROVIDED that an agency on its own initiative and if otherwise authorized may contract with said employee to reimburse him for payments made. Commencing on October 1, 1981, any government agency, irrespective of the level of government, employing a person inclusive of U.S. Civil Service employees who is contractually or otherwise exempted from payment of Board-established rates or any portion thereof, shall be accountable to the Pohnpei Government for such payments on behalf of the person so exempted.

Source: D.L. No. 4L-191-79 §9, 8/9/79

§2-110. Jurisdiction of the Board. — Jurisdiction of the Board shall not extend to residential properties constructed or purchased after the effective date of this chapter [*August 9, 1979*] and financed and maintained by the central government of the Federated States of Micronesia, nor of any residential properties of a local government, nor shall jurisdiction of the Board apply to use of utility services produced, maintained, and distributed solely at the expense of said governments.

Source: D.L. No. 4L-191-79 §10, 8/9/79

§2-111. Rate application. — No rates established by the Board may become effective prior to October 1, 1979, nor may any rate establishment or modification, the effect of which increases then existing obligations, take effect less than 60 days following the decision of the Board; PROVIDED that in the instance of an emergency or unusual circumstances as determined by the Board and approved by the Governor, a surcharge not to exceed fifty percent (50%) of existing rates may be applied for a period not to exceed 90 days.

Source: D.L. No. 4L-191-79 §11, 8/9/79

§2-112. Levy and collection. — The Governor shall provide for the levy and collection of payments and fees at the rate established by the Board pursuant to this chapter, and in conformance with national and state laws and regulations not inconsistent with this chapter. The Governor may, by regulation issued in compliance with 17 TTC (1980), further provide for the collection of such payments and fees and for the assessment of interest and penalties in the instance of delinquency or failure in payment.

Source: D.L. No. 4L-191-79 §12, 8/9/79

Note: D.L. No. 4L-191-79 §§13 & 14 were repealed by S.L. No. 1L-19-85 §§5 & 6, 4/1/85.

§2-113. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the operational expenses of the Pohnpei State Board of Residential Properties and Public Utilities. The sums shall be administered and expended by the Chairman of the Board solely for the purposes specified in this section. The balance of any sums so appropriated under this authorization remaining unexpended or unobligated for expenditure at the end of the fiscal year for which they were appropriated shall revert to the general fund of Pohnpei.

Source: D.L. No. 4L-191-79 §15, 8/9/79

§2-114. Reporting. — The Governor and the Chairman of the Board shall report to the Legislature on or before October 30 each year, giving a full accounting of their respective administrative and financial activities for the previous fiscal year pursuant to §2-113.

Source: D.L. No. 4L-191-79 §16, 8/9/79

§2-115. Obligation denied. — Nothing in this chapter shall be construed to obligate any government employee to reside in a publicly owned or publicly maintained residential unit upon which the Board has established a rate of rental payments.

Source: D.L. No. 4L-191-79 §17, 8/9/79

CHAPTER 3 COMMISSION ON ENERGY

Section

3-101 Purpose	3-104 Progress reports
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3-103 Duties and responsibilities	

§3-101. Purpose. — It is the sense of the Legislature that the future vitality and economic growth of this state is dependent on an abundant, reliable, and inexpensive supply of electrical power. The purpose of this chapter is to establish a permanent commission on energy to monitor continuously the status of energy production and distribution within the state, and to research and recommend policies and programs for its improvement.

Source: S.L. No. 2L-168-83 §1, 2/18/83

§3-102. Commission established. — There is hereby established a Pohnpei State Commission on Energy.

(1) The Commission shall consist of:

- (a) The Administrator of the Office of Economic Affairs or his designee;
- (b) The Administrator of the Office of Fisheries and Aquaculture or his designee;
- (c) The Administrator of the Office of Transportation and Infrastructure or his designee; and
- (d) A member appointed by the Speaker of the Pohnpei Legislature upon consultation with the Legislature leadership.

(2) The Commission shall convene on the first Monday of the month following the effective date of this chapter at a time and place determined by the Governor, and shall meet not less than once every three months thereafter.

(3) The Commission shall appoint its own officers and determine its own procedures not inconsistent with this chapter.

(4) Members of the Commission shall be accorded administrative leave while in service for the Commission and shall not be entitled to additional compensation therefor but shall be entitled to necessary expenses incurred in such service.

Source: S.L. No. 2L-168-83 §2, 2/18/83; S.L. No. 2L-174-83 §1, 4/25/83; S.L. No. 5L-14-00 §3-28, 10/1/00; S.L. No. 7L-20-08 §15, 11/26/08

§3-103. Duties and responsibilities. — The Commission shall have the following duties and responsibilities to:

(1) Continue the work begun by the Inter-Agency Task Force on Energy as presented in its final report as adopted by the Second State Legislature, Fourth Regular Session, 1983, in Standing Committee Report No. 1 thereof;

(2) Thoroughly review and continuously monitor existing power generation facilities and distribution lines as well as current rate structures and make recommendations concerning the same;

(3) Research alternate systems of power generation and distribution and investigate possible modifications to existing systems;

(4) Prepare and submit a five-year energy conservation and development plan, and prepare and submit an update of the plan at least annually after its adoption;

(5) Recommend legislation on energy-related matters;

(6) Initiate and direct demonstrations, public information programs, seminars, and workshops on energy-related matters;

(7) To the extent possible, recruit and manage such volunteer and paid assistants and consultants as the Commission deems necessary to carry out its duties and responsibilities under this section; and

(8) Undertake such other activities consistent with this chapter that the Commission deems necessary to carry out its duties and responsibilities under this section.

Source: S.L. No. 2L-168-83 §3, 2/18/83

§3-104. Progress reports. — The Commission shall, not less than annually, file a progress report with the Governor and the Legislature in which it shall include a complete accounting since the last such report of its activities and a presentation of its plans, recommendations, and legislation as provided in §3-103.

Source: S.L. No. 2L-168-83 §4, 2/18/83

§3-105. Financing. —

(1) The Commission may receive funding from other sources when authorized by state law relative thereto.

(2) The Chairman shall, not later than October 15 each year, file with the Governor, the Legislature, and the Public Auditor a complete accounting of all financial activities of the Commission for the previous fiscal year.

Source: S.L. No. 2L-168-83 §5, 2/18/83

CHAPTERS 4 – 9 [RESERVED]

CHAPTER 10 WATER AND SANITATION FINANCES

Section

10-101 Purpose	10-105 Terms of repayment; application of funds paid in excess or in advance of the state's obligations
10-102 Authorization to borrow on the public credit	10-106 Water and Sanitation Services Development Fund
10-103 Loan repayment	10-107 Indemnity
10-104 Authorization, appropriation, and assurance for the repayment of the ADB loan	10-108 National assistance

§10-101. Purpose. — Pohnpei currently lacks an island-wide water system that delivers safe drinking water and that safely carries away waste water. To improve the living conditions of Pohnpeians and to support the economic development of the state through the provision of a reliable and safe water-supply and sanitation infrastructure, the Legislature finds that there is a great need for a project to assess and develop the water resources of the state, and to operate and maintain water supply and sanitation systems in manners that will protect the environment and maintain the ecological balances of the water resources of the state. The Pohnpei Utilities Corporation (hereinafter called “PUC”) is responsible for the provision of potable water delivery and sanitation services to the people of Pohnpei. The Asian Development Bank (hereinafter called “ADB”) has offered the Federated States of Micronesia financial assistance in the form of a long-term loan to enhance the ability of the PUC and similar entities in the other states of the FSM to expand and improve their water and sanitation systems. The purpose of this chapter is to make it possible for the PUC to accept this generous offer of financial assistance by authorizing the Pohnpei Government to participate in the onlending process.

Source: S.L. No. 4L-57-97 §1, 12/4/97

§10-102. Authorization to borrow on the public credit. —

(1) Acknowledging the authority of Pohnpei State to receive foreign financial assistance under Article XII §1(b) of the FSM Constitution, and mindful of the requirements of Article 11 §13 of the Pohnpei Constitution, the Government of Pohnpei State is hereby authorized to borrow from the ADB through the national government of the Federated States of Micronesia and onlend to the PUC an amount equivalent to one-million, one-hundred-seventy-four-thousand (1,174,000) special drawing rights and not more than \$100,000 in consultancy services for a Pohnpei water supply and sanitation project. In this connection, the Governor is hereby authorized to negotiate and execute such financing agreements among the Pohnpei Government, the national government, and the PUC as are necessary to carry out the purposes of this chapter. Such agreements shall set forth the terms and conditions of the loan as described in this chapter and the terms and conditions of onlending the proceeds of the loan by the Pohnpei Government to the PUC. All such agreements shall be negotiated to be in conformity with this chapter.

(2) It shall be a condition of an agreement between the Pohnpei Government and the PUC that water tariffs shall not be increased by the PUC for two years after the effective date of this chapter [*effective date is December 4, 1997*] without an appropriate amendment to this law repealing this subsection.

Source: S.L. No. 4L-57-97 §2, 12/4/97

§10-103. Loan repayment. —

(1) Primary repayment of the ADB loan, charges for consultancy services, other and all incidental charges with respect thereto as authorized by this chapter shall be the responsibility of the PUC from such tariff revenues and other cost-recovery policies and mechanisms as the Corporation shall prescribe by means of a tripartite agreement among the national government, the Pohnpei Government and the PUC. Repayment of the loan by the PUC may be made directly to the national government, and shall carry such interest, service charges and incidental fees as the parties thereto shall prescribe in the tripartite agreement; PROVIDED that such agreement shall contain a covenant that any and all interest and fees required to be paid or voluntarily paid on an accelerated basis to the national government by the PUC that exceeds the total obligation of the Pohnpei Government for the service charge described by §10-105 for that period and not required to be paid by the national government to the ADB shall be promptly paid to the Director of the Department of Treasury and Administration of the Pohnpei Government for deposit in the Water and Sanitation Services Development Fund established by §10-106.

(2) In the event that, for any reason, except as is stated in Subsection (3) of this section, the Corporation shall not be able to meet its obligations as prescribed by Subsection (1) of this section, the secondary source of repayment of such loan obligations, consultancy charges, and incidental charges shall be the Pohnpei Government, in accordance with §10-104. Such obligations shall include the payment of any acceleration of the loan payments or the calling in of the loan due to a material default on the part of the PUC or the Pohnpei Government, but shall not include such requirement to make payments on the acceleration of loan payments or the calling in of the loan due to the material default of the national government, any other state government, or any other entity.

(3) The obligation of the Pohnpei Government for the repayment of loan obligations of the PUC or of the state resulting from any expenditures incurred in the recruitment or use of consultants from or through the ADB or the national government for the project for which the loan has been made, shall not exceed \$100,000 and shall not be authorized by this section unless the Governor shall concur in writing to the specific consultancy service so offered to the project; PROVIDED that the state may, but shall not be obligated to, make further authorization by statute for additional consultancy service costs.

Source: S.L. No. 4L-57-97 §3, 12/4/97

§10-104. Authorization, appropriation, and assurance for the repayment of the ADB loan. —

(1) There is hereby authorized for appropriation from such funds of the Treasury into which monies due and payable to the state from the national government by virtue of Article IX §5 of the FSM Constitution and applicable national statutes establishing the distribution of revenues thereunder, and §§211 and 217 of the Compact of Free Association are deposited, such monies as are necessary to meet the financial obligations of Pohnpei State for that fiscal year, under §10-103.

(2) The appropriation of state monies so provided under the authorization of Subsection (1) of this section shall not be subject to any lien or encumbrance that shall have priority over the repayment of the loan, unless otherwise agreed to by the national government.

(3) The monies so appropriated under the authorization of Subsection (1) of this section shall be administered and expended by the Governor solely for the purposes specified in this section; PROVIDED that no monies may be withdrawn from the Treasury for the purposes of meeting the obligations of the Pohnpei Government under the terms of this chapter, except upon written demand from the national government, which demand shall be adequately documented in the manner required by the appropriate financing agreement or agreements with the national government as negotiated by the Governor under the terms of this chapter.

(4) Such agreements as are entered into between the Pohnpei Government and the national government under the authority of this chapter may provide for security and the right of set-off to be exercised by the national government of such monies within the Treasury funds identified in

Subsection (1) of this section that are in the custody of the Secretary of the Department of Finance of the national government by virtue of Article IX §5 of the FSM Constitution and applicable intergovernmental agreements and national statutes establishing the distribution of revenues thereunder and §§211 and 217 of the Compact of Free Association to satisfy such Pohnpei Government obligations as required by §10-103.

(5) The authority for security and the right of set-off as prescribed by Subsection (4) of this section is deemed by the Legislature to be full and satisfactory security under the name and credit of the Pohnpei Government for the repayment of the loan specified in this chapter. No other security or conveyance or encumbrance of state assets, in trust or otherwise, shall issue from the Pohnpei Government for the repayment of said loan. In addition, any agreement as shall be entered into by the Pohnpei Government pursuant to Subsection (4) of this section, allowing for the national government to so set-off monies held in the custody of the Secretary of the National Department of Finance, shall contain such covenants and other protections as are necessary to ensure that only those monies that are actually due and payable are so set-off or applied to the loan repayment, and that the PUC and the Pohnpei Government are given adequate notice and a full accounting of the purpose and extent of the intended action.

(6) The Governor shall provide for an accounting of any and all monies appropriated under the authorization of Subsection (1) of this section on an annual basis, and cause to be returned to the Treasury such monies as are determined as no longer necessary to meet the obligations of the Pohnpei Government pursuant to §10-103.

Source: S.L. No. 4L-57-97 §4, 12/4/97

§10-105. Terms of repayment; application of funds paid in excess or in advance of the state's obligations. —

(1) The Pohnpei Government agrees to the payment of a loan in various international currencies equivalent to 1,174,000 Special Drawing Rights (a standard term of valuation utilized in concessionary loans made by the ADB and which valuation in current dollars is defined in the agreement between the national government and the Pohnpei Government pertaining to this loan), to which a service charge of one percent (1%) shall be attached and the costs of consultancy services as authorized by §10-103(3). The obligation for repayment of obligations thereunder shall commence on the tenth anniversary of the loan and the period of repayment shall be 40 years.

(2) The Pohnpei Government may enter into an agreement with the national government for the acceleration of the commencement of the state to repay its obligations under this chapter by not more than five years, and for its requirement to fulfill its total obligations by not more than 15 years; PROVIDED that such agreement shall be conditioned on a covenant within said agreement that any interest or profits received by the national government from the use or investment of said funds paid by the Pohnpei Government or the PUC prior to the surrender of such accelerated payments to the ADB shall be credited to the state and shall be promptly paid to the Director of the Department of Treasury and Administration for deposit in the Water and Sanitation Services Development Fund created by §10-106.

Source: S.L. No. 4L-57-97 §5, 12/4/97

§10-106. Water and Sanitation Services Development Fund. —

(1) There is hereby established within the Treasury a special revenue and expenditure fund to be known as the Pohnpei Water and Sanitation Services Development Fund, into which all monies due and payable to the state pursuant to the terms of §10-103(1) and §10-105 shall be paid. The fund so created shall cease to exist upon a finding by the Director of the Department of Treasury and Administration that the fund is no longer entitled to receive any additional funds and that all assets and reserves of the fund have been fully expended.

(2) Monies deposited within said fund shall be made available to the Pohnpei Utilities Corporation, upon the request of the PUC and without the need for further or additional appropriation, for expenditure by the PUC on such capital improvement and infrastructure projects as are identified by the PUC for the development, improvement and repair of water and sanitation services provided by the PUC to the people of Pohnpei, and that are consistent with the overall development plans of the state.

(3) Payments to the PUC of fund assets shall be made pursuant to one or more grant agreements between the Governor and the PUC, which agreements shall provide the procedures for the draw-down, use and accountability of the expenditure of the funds made available to the PUC from the Treasury fund established by this section; PROVIDED, HOWEVER, that monies deposited in the Water and Sanitation Services Development Fund, for the purposes specified in this section, shall be deemed to be deposited for the benefit of the PUC, and approval for their draw-down and use by the PUC shall not be unreasonably denied by the Pohnpei Government.

(4) The Governor shall submit annual reports to the Legislature within 30 days following the close of each fiscal year wherein monies are either received or expended from the Water and Sanitation Services Development Fund for the duration of the existence of said fund.

Source: S.L. No. 4L-57-97 §6, 12/4/97

§10-107. Indemnity. —

(1) The Governor is authorized and directed to negotiate such agreements as are necessary to ensure that the Pohnpei Government shall be fully indemnified by the PUC in the event that the Pohnpei Government is required to make any payments under §10-103, or is subject to the execution of any agreements for the payment of loan obligations out of any authorized security interests of the state pledged for the repayment of the loan. Any such agreement shall contain such covenants as are necessary to secure the Pohnpei Government's right of indemnity, which security shall include a pledge of such assets that are acquired by the PUC from the proceeds of the loan and such tariffs for water and sanitation as are attributable to the increased services to the general public as are made possible through the implementation of the loan.

(2) Such covenants as are required or authorized by this section shall recognize the essential nature of the water and sanitation services being provided by the PUC and shall not be written or exercised by the Pohnpei Government in such manner as will unduly jeopardize the health or safety of the people of Pohnpei.

Source: S.L. No. 4L-57-97 §7, 12/4/97

§10-108. National assistance. — The national government is sincerely requested to give sympathetic consideration to the continuing request of this state for the national level of government to coordinate its appropriations for water and sanitation projects with state development plans in this sector and the expansion efforts of PUC. Once this level of mutually supportive consultation is reached, the Legislature is confident that future congressional appropriations can and will become the basis for a joint program that will maximize the potentials of this loan, extending its benefits to as many of the people of Pohnpei as possible.

Source: S.L. No. 4L-57-97 §8, 12/4/97

**TITLE 35
[RESERVED]**

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CODE
OF THE
STATE OF POHNPEI

Federated States of Micronesia

VOLUME TWO

Division V-Division XI
(Article 36-Article 71)
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DIVISION V
OF THE
CODE

BUSINESS AND DEVELOPMENT

TITLE 36 --- TITLE 40

TITLE 36

ECONOMIC DEVELOPMENT

**TITLE 36
ECONOMIC DEVELOPMENT**

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CHAPTER 1[RESERVED]

Editor's note: This chapter was formerly entitled "Economic Development Authority", but was repealed pursuant to S.L. No. 7L-20-08, 11/26/08.

CHAPTER 2 [RESERVED]

Editor's note: This chapter was formerly entitled "Pohnpei Fisheries Corporation", but was repealed pursuant to S.L. No. 7L-20-08, 11/26/08.

ECONOMIC DEVELOPMENT:

CHAPTER 3 TRADE AND INVESTMENT OFFICES

Section

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§3-101. Findings. — The Legislature has determined that trade and investment offices, established outside of Pohnpei State, can be an effective means of promoting, establishing, and facilitating trade and investment between Pohnpei and other parts of the world. Such offices can also be established and maintained, on a cost-effective basis, where the host country, or entities therein, provide assistance for the benefit of their own trade and investment. The Legislature finds that a statutory framework should be enacted, by which such offices can be established at the direction of the Governor upon concurrence of the Legislature.

Source: S.L. No. 4L-62-98 §1, 1/6/98

§3-102. Establishment of Pohnpei trade and investment offices authorized. — The Governor is hereby authorized to establish and maintain Pohnpei trade and investment offices outside of the state of Pohnpei. Such offices shall be for the purposes of promoting, establishing, and facilitating trade and investment between Pohnpei and the host country, region, or state in which the office is established. Support from the host country, region or state, for the establishment and maintenance of such office, shall be an important factor in determining whether to establish such an office, as well as the opportunities for, and existing volume of, trade and investment. Such offices shall be established by the Governor, with concurring resolution by the Legislature, and thereafter operated under the direction and guidance of the office of the Governor of Pohnpei solely for the purposes and subject to the conditions and restrictions stated in this chapter.

Source: S.L. No. 4L-62-98 §2, 1/6/98

§3-103. Authorization. — There is hereby authorized for appropriation such sums from such funds of the Treasury as are determined annually in the Comprehensive Budget Act for the purpose of establishing and operating the Pohnpei trade and investment offices. All sums appropriated under the authorization of this section shall be administered and expended by the Governor solely for the purposes stated in this chapter. Any balance of the sums appropriated in a fiscal year not expended or obligated for expenditure on or before the close of the fiscal year for which appropriated shall revert to the fund of the Treasury from which appropriated.

Source: S.L. No. 4L-62-98 §3, 1/6/98

§3-104. Additional support. — In addition to the monies appropriated pursuant to §3-103, the Governor is authorized to receive additional support in the form of monetary and in-kind contributions for the support of the offices established pursuant to §3-102.

Source: S.L. No. 4L-62-98 §4, 1/6/98

§3-105. Annual report. — The Governor shall submit a complete report to the Legislature within 30 days following the close of each fiscal year on all matters relating to the establishment and operation of Pohnpei trade and investment offices for the previous fiscal year. Such report shall include an accounting of the use and disposition of all monies and in-kind contributions received for the use of

such offices from whatever source, and shall detail the activities and accomplishments of such offices for the previous fiscal year.

Source: S.L. No. 4L-62-98 §5, 1/6/98

§3-106. Conflict of interest. —

(1) No officer or employee of the Pohnpei Government detailed to or engaged in services for the offices established pursuant to §3-102 shall obtain any interest, either directly or indirectly, through his or her business holdings, by agent disclosed or undisclosed, or by undue influence within a family relationship, in any business investment, employment or trade contract, arrangement or agreement that is promoted, coordinated or in any other way processed by or through an office established pursuant to this chapter.

(2) No officer or employee of the Pohnpei Government who shall travel on Pohnpei Government funds or monies or in-kind contributions made available to the Government of Pohnpei in an official capacity, shall at any time while on such travel or within two years following a return from said travel, and as a result thereof, suggest or obtain a business investment, employment or trade contract, arrangement or agreement with a potential investor or businessperson that would result in a direct or indirect business relationship therewith, whether in person, through his or her business holdings, by disclosed or undisclosed agent, or by family relationship; PROVIDED that this prohibition shall not apply to a Pohnpeian businessperson who is coincidentally an officer or employee of the Pohnpei Government and who is on a Pohnpei Government-funded trip under the following circumstances:

(a) He or she is traveling with a promotional group of three or more like Pohnpei businesspeople; and

(b) He or she has been chosen for inclusion in the group as a representative of the business community and not as a representative of the government.

(3) Any person who violates any provision of Subsection (1) or Subsection (2) of this section shall be guilty of a criminal offense against the state of Pohnpei and, upon conviction thereof, shall be imprisoned for a period of not more than six months, or fined not more than \$10,000, or both so fined and imprisoned.

(4) In addition to such criminal penalties as may be imposed under Subsection (3) of this section, all or any part of any business interest or profit from any business investment, employment or trade contract, arrangement or agreement entered into in violation of Subsection (1) or Subsection (2) of this section may be ordered by a court of appropriate jurisdiction to be forfeited to the Government of Pohnpei.

Source: S.L. No. 4L-62-98 §6, 1/6/98

CHAPTER 4 ECONOMIC DEVELOPMENT FUNDS

Section

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§4-101. Emergency Relief and Rehabilitation Fund. — There is hereby created a Pohnpei fund for emergency relief and rehabilitation, hereinafter referred to as "fund," to assist developmental endeavors within the state to overcome physical and economic losses sustained from storm, flood, fire or other natural disaster.

Source: S.L. No. 2L-149-82 §1, 11/19/82

§4-102. "Developmental endeavor" defined. — For purposes of §§4-101 through 4-106, "developmental endeavor" is any activity, whether public or private, for profit or not-for-profit, which significantly contributes or holds the potential for significant contribution to the economy of this state through the employment of ten or more state residents, the influx of capital, machinery or infrastructure in amounts in excess of \$10,000, the manufacture or marketing of local products, the development of agriculture production or harvesting, or the development of fisheries, or any combination thereof; PROVIDED that the Governor, in his discretion, may include, as development endeavors, other worthy activities not otherwise included in this definition which the Governor finds to be important contributions to this state's economy.

Source: S.L. No. 2L-149-82 §2, 11/19/82

§4-103. Administration of the fund. — The fund established by §4-101 shall be administered by the Governor pursuant to §§4-101 through 4-106 and regulations of the Governor issued pursuant hereto.

Source: S.L. No. 2L-149-82 §3, 11/19/82

§4-104. Application for relief and rehabilitation. — Persons who either own or control a development endeavor, having suffered loss from a natural disaster, may make application to the Governor for relief and rehabilitation stating the cause and nature of the loss and relief and rehabilitation requested as well as such other information as the Governor shall so require. The Governor shall take prompt consideration of all applications so submitted.

Source: S.L. No. 2L-149-82 §4, 11/19/82

Note: The word "Governor" has been substituted for the word "Authority" in the last sentence.

§4-105. Award. — Upon a finding that a development endeavor has suffered loss from a natural disaster, the Governor shall provide immediate relief through emergency aid, subsidies, and technical assistance, and shall provide a plan for long-term rehabilitation through the administration of long-term loans, with or without interest, technical assistance, and other aid which the Governor deems necessary, and at such financial levels that the Governor deems advisable within the monies available within the fund. Terms of emergency relief and rehabilitation shall be as mutually agreed upon by the applicant developmental endeavor and the Governor. Assistance awarded through the Governor may be combined with other sources of assistance available to the developmental endeavor that has suffered loss.

Source: S.L. No. 2L-149-82 §5, 11/19/82

§4-106. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act to finance the fund established by §4-101.

(2) Monies within the fund shall be administered and expended by the Governor solely for the purposes stated in §§4-101 through 4-106. The Governor shall submit an annual report to the Legislature on or before October 15 on all financial activities of his office pursuant to §§4-101 through 4-106 for the last fiscal year.

(3) All revenues derived from the administration of §§4-101 through 4-106 shall be deposited in the fund created by §4-101. All monies within the fund shall remain available until fully expended.

Source: S.L. No. 2L-149-82 §6, 11/19/82

§4-107 – §4-110. [RESERVED]

CHAPTER 5 DEVELOPMENT LOAN FUND

Section

5-101 Development loan fund

5-104 Technical assistance

5-102 Purpose of the loan fund

5-105 Authorization for appropriation;
administration

5-103 Management of the loan fund

§5-101. Development loan fund. — There is hereby created a Pohnpei development loan fund, hereinafter referred to as the “loan fund,” which shall serve as a source of financing for development projects in line with the goals and objectives of the Pohnpei Development Plan.

Source: S.L. No. 1L-148-87 §1, 7/14/87

§5-102. Purpose of the loan fund. — It shall be the purpose of the loan fund to make loans available to the people of Pohnpei who wish to establish development projects but are unable to obtain loans from established commercial financial lending institutions. The loan fund shall be used to promote, to the greatest extent possible, the advancement of the development goals and objectives of the Pohnpei Development Plan.

Source: S.L. No. 1L-148-87 §2, 7/14/87

§5-103. Management of the loan fund. — The loan fund shall be administered and managed by the Federated States of Micronesia Development Bank, hereinafter referred to as the “Development Bank”. The terms and conditions of loans made against the loan fund shall be promulgated by the Development Bank and the Administrator of the Office of Economic Affairs and approved by the Pohnpei Legislature. The Office of Economic Affairs shall enter into an intergovernmental agreement with the Development Bank that shall specify the management role, duties, and liabilities of the Bank in regard to the administration of the loan fund.

Source: S.L. No. 1L-148-87 §3, 7/14/87; S.L. No. 5L-14-00 §3-30, 10/1/00

§5-104. Technical assistance. — The Office of Economic Affairs, in consultation with the Development Bank, shall provide to each individual applicant, group, association, partnership, corporation or joint venture the necessary technical assistance required in securing a loan.

Source: S.L. No. 1L-148-87 §4, 7/14/87; S.L. No. 5L-14-00 §3-30, 10/1/00

§5-105. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the fund of the Treasury into which the Compact of Free Association capital account monies are deposited a sum or sums to be determined and appropriated in the annual Comprehensive Budget Act of Pohnpei for the purpose of providing the capital of the loan fund. The sum herein authorized for appropriation shall be administered and expended by the Development Bank pursuant to §§5-102 and 5-103. The Development Bank shall submit to the Governor of Pohnpei and the Legislature on or before October 15 each year an annual report detailing the activities of the loan fund. The loan fund shall be subject to audit at any time by request of the Governor or the Legislature.

Source: S.L. No. 1L-148-87 §5, 7/14/87; S.L. No. 2L-41-88 §1, 10/10/88

Note: S.L. No. 1L-148-87 §6 severability provision has been omitted.

ECONOMIC DEVELOPMENT

CHAPTER 6 BUSINESS DEVELOPMENT

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§6-101. Short title. — This chapter is known and may be cited as the “Business Development Act of 1994.”

Source: S.L. No. 3L-86-95 §1, 1/18/95

§6-102. Declaration of policy. — Recognizing that cottage, small-, and medium-scale enterprises have the potential for more employment generation and economic growth and, therefore, can help provide a self-sustaining economic foundation for the state, it is hereby declared the policy of the state of Pohnpei to promote, support, strengthen, and encourage the growth and development of small- and medium-scale enterprises in all productive sectors of the economy. To this end, the state shall undertake to spur the growth and development of small and medium enterprises throughout the state and thereby attain statewide socio-economic development by:

- (1) Assuring, through the establishment of adequate support structure, the creation and promotion of an environment conducive to the viability and growth of small and medium enterprises;
- (2) Intensifying and expanding programs for training in entrepreneurship and in labor skills development;
- (3) Establishing mechanisms for the access and transfer of appropriate technology needed by these enterprises;
- (4) Facilitating their access to sources of funds;
- (5) Assuring to them access to a fair share of government contracts and related incentives and preferences;

(6) Complementing and supplementing financing programs for small and medium enterprises and doing away with stringent and burdensome collateral requirements with which small entrepreneurs invariably find extreme difficulty complying;

(7) Instituting safeguards for the protection and stability of the credit delivery system;

(8) Raising government efficiency and effectiveness in providing assistance to small and medium enterprises throughout the state, at the least cost;

(9) Promoting linkages between large and small enterprises and between foreign and local enterprises by encouraging subcontracting arrangements;

(10) Encouraging the formation of cooperatives for purchasing of materials and marketing of products, for the establishment of common service facilities, and for other productive and beneficial purposes;

(11) Making the private sector a partner in the task of developing small and medium enterprises through the promotion and participation of private voluntary organizations, viable industry associations, and cooperatives; and

(12) Assuring a balanced and sustainable development through the establishment of a feedback and evaluation mechanism that will monitor the economic contributions as well as bottlenecks and environmental effects of the development of small- and medium-scale enterprises.

Source: S.L. No. 3L-86-95 §2, 1/18/95

§6-103. Small and medium enterprises as beneficiaries. — “Small and medium enterprise” shall be defined as any business activity or enterprise engaged in industry, agribusiness, tourism, trade, and/or industrial and business services, whether single proprietorship, cooperative, partnership or corporation, whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity’s office, plant, and equipment are situated, must have value falling under the following categories:

Cottage – Less than \$5,000;

Small – \$5,001 to \$25,000; or

Medium – \$25,001 to \$250,000.

In a generic sense, all enterprises with total assets of \$250,000 and less, exclusive of land, shall be called small enterprises for the purposes of this chapter. The above definitions shall be subject to review and adjustment by the Small Enterprise Development Council created by this chapter, as the said Council deems necessary, taking into account inflation and other economic factors.

Source: S.L. No. 3L-86-95 §3, 1/18/95

§6-104. Eligibility for government assistance. — To qualify for assistance, counseling, incentives, promotion or loan or lease guarantees under this chapter, a business falling under the definition in §6-103 must meet the following criteria:

(1) It must be duly registered with the appropriate agencies as presently provided by law or as provided by rules and regulations established pursuant to this chapter;

(2) The business must be owned and capitalized, in part, by Pohnpei citizens;

(3) It must not be a branch, subsidiary or division of a large-scale enterprise nor may its policies be determined by a large-scale enterprise or by persons who are not owners or employees of the enterprise. However, this requirement shall not preclude a cottage, small or medium enterprise from accepting subcontracts from large enterprises or firms joining in cooperative activities with other cottage, small, and medium enterprises.

(4) Programs of the guarantee and finance corporation as provided in subsequent sections of this chapter shall be exclusively targeted to small enterprises.

Source: S.L. No. 3L-86-95 §4, 1/18/95; S.L. No. 4L-91-98 §1, 12/30/98

§6-105. Guiding principles. — To set the pace for small enterprise development, the state shall be guided by the following principles:

(1) Minimal set of rules and simplification of procedures and requirements. All government agencies having to do with small enterprises shall pursue the principles of minimum regulation to ensure stability of rules and to encourage entrepreneurial spirit among the citizenry. The agencies shall see to it that procedural rules and requirements, within their respective offices and in coordination with other agencies, are minimized in the act of registration, availment of financing, and accessing other government services and assistance.

(2) Enhanced role of the private sector. In order to hasten the growth and expansion of small enterprises, the private sector throughout the state shall be encouraged to assist in the effective implementation of this chapter by constantly policing their ranks, and by participating in government programs for small enterprises strictly in accordance with law, and consistent with the attainment of the purposes hereof. The government shall encourage the organization and establishment of small enterprise industry associations at the state and local levels.

(3) Coordination of government efforts. Government efforts shall be coordinated to achieve coherence in objectives, particularly those under the Office of Economic Affairs, the Department of Land and Natural Resources, the Department of Treasury and Administration, the Division of Personnel, Labor and Manpower Development, and the Office of Fisheries and Aquaculture.

Source: S.L. No. 3L-86-95 §5, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00; S.L. No. 7L-20-08 §16, 11/26/08

§6-106. Creation of a Small Enterprise Development Council. — To effectively spur the growth and development of small enterprises throughout Pohnpei, and to carry out the policy declared in this chapter, a Small Enterprise Development Council (SEDC) is hereby created. The Council shall be attached to the Office of Economic Affairs and shall be duly constituted within 60 days after the approval of this chapter. The Council shall be the primary agency responsible for the promotion, growth, and development of small enterprises in Pohnpei by way of facilitating and closely coordinating state efforts to promote the viability and growth of small enterprises, including assisting relevant agencies in the tapping of state, national, and foreign funding for small enterprise development.

Source: S.L. No. 3L-86-95 §6, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00

§6-107. Composition of Council. — The Council shall consist of seven (7) members appointed by the Governor with the advice and consent of the Legislature.

Source: S.L. No. 3L-86-95 §7, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00; S.L. No. 6L-79-06 §2-116, 11/1/06

§6-108. Meetings of Council. — Within 15 days after the SEDC is duly constituted as provided for in §6-106, the Council shall hold a meeting for the purpose of electing its other officers for the ensuing year. The Council shall meet at least once a month.

Source: S.L. No. 3L-86-95 §8, 1/18/95

§6-109. Organization of Council; quorum; compensation and expenses. — The Council shall organize by electing one of its members as Chairman, one as Vice-Chairman and one as Secretary to keep the minutes and records of the Council. Any four (4) members of the Council shall constitute a quorum, and a concurrence of four members shall be necessary for any official action taken by the Council. No vacancy in membership of the Council shall impair the right of a quorum to exercise all the rights and perform all the duties of the Council. Members of the Council shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, for members of Pohnpei Government policy boards and commissions when actually attending meetings of the Council, except that those members who are employees of the Pohnpei Government and other cooperative entities shall instead receive their regular salaries while performing functions of the Council. All members shall also receive travel expenses and

per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 3L-86-95 §9, 1/18/95; S.L. No. 6L-79-06 §2-117, 11/1/06

§6-110. Assistance of government agencies. — The Council may, from time to time, call upon the participation of any government agency or association of local government officials in its deliberations, especially when such agency is directly or indirectly concerned with and/or affecting the growth and development of small enterprises in any particular area or manner.

Source: S.L. No. 3L-86-95 §10, 1/18/95

§6-111. Powers and functions of Council. — The Small Enterprise Development Council (SEDC) shall have the following powers, duties, and functions:

(1) To help establish the needed environment and opportunities conducive to the growth and development of the small enterprise sector:

(2) To make recommendations to the Governor and the Legislature on all policy matters affecting small enterprises;

(3) To formulate a comprehensive small enterprise development plan to be integrated into the state's five-year development plans;

(4) To coordinate and integrate various government and private sector activities relating to small enterprise development;

(5) To review existing policies of government agencies that would affect the growth and development of small enterprises and recommend changes to the Governor and/or to the Legislature whenever deemed necessary. This shall include efforts to simplify rules and regulations, as well as procedural and documentary requirements in the registration, financing, and other activities relevant to small enterprises;

(6) To monitor and determine the progress of various agencies geared towards the development of the private sector. This shall include overseeing, in coordination with local government units and private sector groups/associations, the developments among small enterprises;

(7) To promulgate implementing rules and regulations, guidelines, programs, and operating principles as may be deemed proper and necessary in the light of government policies and objectives of this chapter;

(8) To provide the appropriate policy and coordinated framework in assisting relevant government agencies in tapping of national and foreign funding for small enterprise development;

(9) To promote the productivity and viability of small enterprises by way of directing and/or assisting relevant government agencies and institutions at the state and local levels toward the:

(a) Provision of business training courses, technical training for technicians and skilled laborers, and continuing skills upgrading programs;

(b) Provision of labor-management guidance, assistance, and improvement of the working conditions of employees in small-sized firms;

(c) Provision of guidance and assistance regarding product quality, product development, and product diversification;

(d) Provision of guidance and assistance for the adoption of improved production techniques and commercialization of appropriate technologies for product development and for increased utilization of indigenous raw materials;

(e) Provision of assistance in the marketing and distribution of products of small enterprise, through local supply and demand information, industry profiles, overseas marketing promotion, domestic marketing linkaging, and the establishment of common service facilities such as common and/or cooperative bonded warehouse, food storage, agro-processing, and drying facilities, ice plants, refrigerated storage, cooperative trucking facilities, etc.;

(f) Intensification of assistance and guidance to enable greater access to credit through a simplified multi-agency financing program; to encourage development of other modes of financing such as leasing and venture capital activities; to provide credit guarantee systems, and to encourage the formation of credit guarantee associations, including setting up of credit records and information systems and to decentralize loan approval mechanisms;

(g) Provision of concessional interest rates, lower financing fees, which may include incentives for prompt credit payments, arrangements tying amortizations to business cash flows, and effective substitution of government guarantee cover on loans for the borrower's lack of collateral;

(h) Provision of bankruptcy preventive measures through the setting up of a mutual relief system for distressed enterprises, and the establishment of measures such as insurance against extraordinary disasters;

(i) Intensification of information dissemination campaigns and entrepreneurship education activities;

(j) Development of tax credits and other tax and duty incentives;

(k) Provision of support for product experimentation and research and development activities as well as access to information on commercialized technologies; and

(l) Provision of more infrastructure facilities and public utilities to support operations of small enterprises;

(10) To submit to the Governor and the Legislature a yearly report on the status of small enterprises in the state, including the progress and the impact of all relevant government policies, programs, and legislation as well as private sector activities; and

(11) Generally, to exercise all powers and functions necessary for the attainment of the objectives and purposes of this chapter.

Source: S.L. No. 3L-86-95 §11, 1/18/95

§6-112. Reorganization of the Division of Business Development of the former Department of Commerce and Industry and its designation as Council Secretariat. — The existing Division of Business Development of the *former* Department of Commerce and Industry will be reorganized as the Pohnpei Entrepreneur Development Center (PEDC). The PEDC shall have the following duties and functions:

(1) To prepare, in coordination with local governments and/or associations of local government officials, and recommend annual as well as medium-term small enterprise development plans for approval of the Council;

(2) To coordinate the preparation of position papers and background materials for discussion or approval during Council meetings;

(3) To assist the Council in coordinating and monitoring small enterprise policies, programs, and activities of all government agencies with respect to small enterprises;

(4) To prepare, collate, and integrate all input to the Council's yearly report on the status of small enterprises in Pohnpei;

(5) To submit periodic reports to the Council on the progress and accomplishment of its work programs; and

(6) To perform all such duties as prescribed by the SEDC as permitted under §6-111 and such other ad hoc functions as authorized by the Council.

Source: S.L. No. 3L-86-95 §12, 1/18/95

Note: See extended legislative history for the general organization of the Executive Branch, Title 3, Ch. 1.

§6-113. The Pohnpei Entrepreneur Development Center. — The Pohnpei Entrepreneur Development Center (PEDC), hereinafter referred to as the "Center," shall provide, promote, develop, and widen in both scope and service-reach, various modes of assisting small enterprises, including, but

not limited to, entrepreneurship training and development, business training and counseling, access to financing, and information dissemination. The Center shall:

- (1) Be attached to the Office of Economic Affairs;
- (2) Be under the policy, program, and administrative supervision of the Council;
- (3) Be the principal government agency that will formulate, implement, coordinate, and monitor all non-financing, government assistance programs for small enterprises, including fee-based services which it shall retain in its own account to support and promote small enterprises; and
- (4) Have its principal place of business in Kolonia, Pohnpei, and may have extension offices in other local jurisdictions.

Source: S.L. No. 3L-86-95 §13, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00

§6-114. Creation of entrepreneur development fund. — There is hereby created an entrepreneur development fund, separate from the general fund of Pohnpei, into which fees charged by the PEDC shall be deposited.

Source: S.L. No. 3L-86-95 §14, 1/18/95

§6-115. Creation of Small Business Guarantee and Finance Corporation. —

(1) There is hereby created a body corporate to be known as the Small Business Guarantee and Finance Corporation, hereinafter referred to as “SBGFC,” which shall provide, promote, develop, and widen in both scope and service-reach, various alternative modes of financing for small enterprises, including, but not limited to, direct and indirect project lending, venture capital, financial leasing, secondary mortgage, and/or rediscounting of loan papers to small businesses.

(2) The Corporation shall guarantee loans obtained by qualified small enterprises, local, and/or regional associations’ small enterprises and industries, private voluntary organizations and/or cooperatives, under such terms and conditions adopted by its Board. It may guarantee loans up to 100 percent (100%). It may also provide second guarantees (i.e. re-insurance) on the credit and/or investment guarantees made by credit guarantee associations and other institutions in support of small entrepreneurs.

(3) The Corporation shall become liable under its guarantees upon proof that the loan has become past due under such terms and guidelines adopted by its Board and printed on the contract of guarantee.

(4) The Small Business Guarantee and Finance Corporation shall:

- (a) Be attached to the Office of Economic Affairs and shall be under the policy, program, and administrative supervision of the SEDC;
- (b) Have its principal place of business in Pohnpei, and may have branch offices as needed;
- (c) Exercise all the general powers conferred by law upon corporations as are incidental or conducive to the attainment of this chapter, including the power to promulgate articles of incorporation, bylaws, rules, and regulations, guiding programs and policies in order to meet the policies and objectives of this chapter; and
- (d) Have a Board of Directors upon which the powers of the Corporation shall be vested, to be composed of seven members including:
 - (i) The Administrator of the Office of Economic Affairs, who shall serve as Chairman;
 - (ii) Three members from the private sector and three members from the public sector appointed by the Governor upon recommendation of the SEDC with the advice and consent of the Legislature; and
 - (iii) The Chief Executive of the Corporation will act as the Secretary of the Board.

Source: S.L. No. 3L-86-95 §15, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00

§6-116. Capitalization and funding. — The SBGFC shall have an initial authorized capital stock of \$1,000,000. Additional funding shall come from other sources as appropriated by the Legislature or as identified by the SEDC.

Source: S.L. No. 3L-86-95 §16, 1/18/95

Note: S.L. No. 3L-86-95 §17 repealing provision has been omitted.

§6-117. Loan purpose. — The loans guaranteed under this chapter shall be approved for use only for the following purposes:

- (1) Acquisition of fixed assets;
- (2) Building improvement/expansion or construction of plant facilities;
- (3) Permanent working capital; and
- (4) Credit line accommodations for temporary working capital.

Source: S.L. No. 3L-86-95 §18, 1/18/95; S.L. No. 4L-91-98 §2, 12/30/98

§6-118. Borrower eligibility criteria. — In addition to the requirements set forth in §6-104, any additional eligibility criteria established by the participating financial institution for the issuance of the loan must be met by the borrower before participation in the loan guarantee program will be approved.

Source: S.L. No. 3L-86-95 §19, 1/18/95; S.L. No. 4L-91-98 §3, 12/30/98

§6-119. Guarantee coverage/guarantee ceiling. — For all loans, whether or not covered or secured by any hard collaterals (chattels), a maximum of eighty-five percent (85%) guarantee on the principal loan balance outstanding plus interest will be available.

Source: S.L. No. 3L-86-95 §20, 1/18/95; S.L. No. 4L-91-98 §4, 12/30/98

§6-120. Amount of loan. — The amount of loan eligible for guarantee cover shall be from \$2,000 to \$250,000.

Source: S.L. No. 3L-86-95 §21, 1/18/95

§6-121. Maturity of loans. — Loan maturity for all loans guaranteed under this chapter shall be for a maximum of 15 years; PROVIDED that the participating financial institution shall have the authority to set a maturity period of less than the 15 year maximum for any borrower or loan.

Source: S.L. No. 3L-86-95 §22, 1/18/95; S.L. No. 4L-91-98 §5, 12/30/98

§6-122. Rate of interest. — The lending institution shall set the interest rate.

Source: S.L. No. 3L-86-95 §23, 1/18/95

§6-123. Guarantee fee. — The SBGFC Board shall establish a yearly guarantee fee not to exceed two percent (2%) per annum on the guaranteed loan outstanding based on the diminishing balance thereof and payable one prepayment period in advance.

Source: S.L. No. 3L-86-95 §24, 1/18/95

§6-124. Loan to equity rate. — The borrower's equity participation in the project shall be determined by the participating financial institution according to criteria and standards established in the normal course of business for such purposes.

Source: S.L. No. 3L-86-95 §25, 1/18/95; S.L. No. 4L-91-98 §6, 12/30/98

§6-125. Payment of loan. — The loan shall be paid in monthly, quarterly or semi-annual amortizations which include payment of interest and other fees during grace periods, where applicable, and principal, interest, and other fees after the grace period.

Source: S.L. No. 3L-86-95 §26, 1/18/95

§6-126. Event of default. — There is default in case the borrower fails to pay three consecutive monthly, or one quarterly, or one semi-annual amortization, as the case may be, for term loans or upon maturity of credit line availments. In the event of default, the loan and all the availments on the line shall automatically become due and demandable.

Source: S.L. No. 3L-86-95 §27, 1/18/95

§6-127. Penalty fees. —

(1) In case of failure to pay monthly, quarterly or semi-annual amortizations when due, the borrower shall pay the penalty of two percent (2%) per month or a fraction thereof, based on unpaid amortizations and computed up to the date of actual payment.

(2) Upon default, as defined in §6-126, the borrower shall pay the penalty of two percent (2%) per month or fraction thereof based on the entire amount due and demandable and computed up to the date of actual payment.

Source: S.L. No. 3L-86-95 §28, 1/18/95

§6-128. Documentary requirements: loan. — The lending financial institution shall submit the following requirements in support of its application for guarantee cover:

- (1) Bank approval of the loan;
- (2) Bank evaluation report on the project/feasibility study;
- (3) Background investigation report on the borrower;
- (4) Appraisal report on loan collaterals;
- (5) Latest audited/unaudited financial statements of the borrower;
- (6) For corporate borrowers the following additional documents are required:
 - (a) Certificate of Registration;
 - (b) Articles of Incorporation; and
 - (c) Bylaws.

Source: S.L. No 3L-86-95 §29, 1/18/95

§6-129. Lease guarantees. — As set forth in §6-115, the Corporation may guarantee leases obtained by qualified small enterprises, local, and/or regional associations' small enterprises and industries, private voluntary organizations, and/or cooperatives, under such terms and conditions as are set forth by its Board. Under this guarantee program, a small enterprise may lease single or varieties of machinery, equipment, and facilities from any of the SBGFC accredited leasing/financing institutions, either under a financial or lease purchase arrangement.

Source: S.L. No. 3L-86-95 §30, 1/18/95

§6-130. Lease term. — The lease term shall be at a maximum of seventy percent (70%) of the estimated economic life of the asset but not to exceed ten years.

Source: S.L. No. 3L-86-95 §31, 1/18/95

§6-131. Lease payments. — The lease payments shall be monthly, quarterly, semi-annually or annually, which payments shall include the principal and interest payments.

Source: S.L. No. 3L-86-95 §32, 1/18/95

§6-132. Lease guarantee deposit. — A minimum guarantee deposit of twenty percent (20%) of the asset cost is required from the lessee as security of the faithful performance of his obligations, under the lease purchase/financial lease scheme.

Source: S.L. No. 3L-86-95 §33, 1/18/95

§6-133. Lease guarantee ceiling. — The guarantee ceiling on transactions shall be ninety percent (90%) of the outstanding financial lease/lease purchase principal obligation plus unpaid lease interest payments for one lease repayment period.

Source: S.L. No. 3L-86-95 §34, 1/18/95

§6-134. Guarantee fee. — The SBGFC Board shall establish a yearly guarantee fee not to exceed two percent (2%) per annum on the guaranteed portion of the outstanding lease on the principal amount.

Source: S.L. No. 3L-86-95 §35, 1/18/95

§6-135. Lease rate. — The finance/leasing company shall set the lease rate to be charged the lessee.

Source: S.L. No. 3L-86-95 §36, 1/18/95

§6-136. Insurance. — The lessee shall insure the leased asset at his own expense for the duration of the lease period, designating the leasing company as the beneficiary.

Source: S.L. No. 3L-86-95 §37, 1/18/95

Note: Phrase “or her” has been omitted consistent with 1 PC 1-112(3).

§6-137. Event of lease default. — Default occurs when the lessee fails to pay three consecutive monthly lease rental payments, or one quarterly/semi-annual/annual rental payment, as the case may be, including all applicable fees. In the event of default, the lease amount shall immediately become due and demandable.

Source: S.L. No. 3L-86-95 §38, 1/18/95

§6-138. Penalty fees. — In case of failure to pay one lease rental, the lessor may impose a penalty fee of no more than two percent (2%) of the unpaid rental or any other amount per month of delay or fraction thereof, computed from the day payment became due.

Source: S.L. No. 3L-86-95 §39, 1/18/95

§6-139. Documentary requirements: lease. — The leasing/financing company shall submit the following requirements in support of its application for guarantee cover:

- (1) Leasing/financing company’s approval of the lease application;
- (2) Leasing/financing company’s evaluation of the project;
- (3) Background investigation report on the borrowing;
- (4) The latest audited/unaudited financial statement of the lessee;
- (5) The latest income tax return of the lessee, in the absence of Subsection (4) of this section; and
- (6) Any further documentation required by the SBGFC Board.

Source: S.L. No. 3L-86-95 §40, 1/18/95

§6-140. Monitoring of loan applications. — The SEDC, in coordination with the SBGFC, shall set up the appropriate systems to monitor all loan applications of small enterprises in order to account for the absorptive capacity of the small enterprise sector.

Source: S.L. No. 3L-86-95 §41, 1/18/95

§6-141. Technical assistance. — The Governor shall provide the SEDC and the SBGFC with necessary technical and legal assistance through the departments, offices, and agencies of the Pohnpei Government. If the Attorney General is unable to provide sufficient legal counsel, the Council may seek independent counsel.

Source: S.L. No. 3L-86-95 §42, 1/18/95

§6-142. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei such sums as are determined annually in the Comprehensive Budget Act for the administration of this chapter as follows:

(1) *The SEDC.* All such sums so appropriated shall be deposited into the entrepreneur development fund and administered and expended by the Chairman of the SEDC solely for the purposes specified in this chapter. The Chairman shall submit an annual report on or before October 15 each year on the administration and expenditure of appropriated funds for the previous fiscal year. All sums appropriated from the general fund for any fiscal year remaining unexpended or unobligated on September 30 thereof shall revert to the general fund of Pohnpei;

(2) *The PEDC.* All such sums so appropriated from the general fund shall be administered and expended by the Administrator of the Office of Economic Affairs solely for the purposes specified in this chapter. The Administrator shall submit an annual report on or before October 15 each year on the administration and expenditure of appropriated funds and fees charged to beneficiaries if any. All sums appropriated for any fiscal year remaining unexpended or unobligated on September 30 thereof shall revert to the general fund, except fees charged to beneficiaries and placed into the entrepreneur development fund, as provided for in §6-114, which shall be carried over into subsequent fiscal years; and

(3) *The SBGFC.* All such sums so appropriated from the general fund shall be administered and expended by the Chairman of SBGFC solely for the purposes specified in this chapter. The Chairman shall submit an annual report on or before October 15 each year on the administration and expenditure of appropriated funds for the previous fiscal year. Funds not expended in any given fiscal year shall be carried over in subsequent fiscal years.

Source: S.L. No. 3L-86-95 §43, 1/18/95; S.L. No. 5L-14-00 §3-37, 10/1/00

Note: S.L. No. 3L-86-95 §44 severability and §45 repealing provisions have been omitted.

CHAPTER 7 PACIFIC ISLANDS DEVELOPMENT BANK

Section

7-101 Short title	7-107 Representatives on the Bank Board of Governors
7-102 Purposes	7-108 Voting restrictions on the Board of Governors
7-103 Definitions	7-109 Immunity
7-104 Acceptance of membership	7-110 Powers of Bank
7-105 Powers of the Governor	7-111 Audit
7-106 Authorization for appropriation; administration	7-112 Legal opinion

§7-101. Short title. — This chapter is known and may be cited as the “Pacific Islands Development Bank Act.”

Source: S.L. No. 2L-109-89 §1-1, 7/5/89

§7-102. Purposes. — The Legislature has extensively reviewed the concept of the Pacific Islands Development Bank as proposed by the Association of Pacific Island Legislatures and considers this regional financial institution to represent yet another opportunity to assist the people of Pohnpei in the creation and in the maintenance of sustained expansion of private and public economic development initiatives. The Legislature further considers the Pacific Islands Development Bank operation as a non-duplicator of our present development banking activities.

Source: S.L. No. 2L-109-89 §1-2, 7/5/89

§7-103. Definitions. — For the purposes of this chapter, unless it is otherwise provided or the context requires a different construction, application or meaning:

(1) “Articles of Agreement” or “Articles” means the agreement attached to Standing Committee Report No. 142-89, L.D. 1, and referenced thereto, and any amendments to those Articles establishing the Pacific Islands Development Bank which has as its purpose the contribution to the acceleration of the process of economic and social development of the member states, individually and collectively, and the promotion of economic cooperation among them.

(2) “Bylaws” means the bylaws adopted under the authority of the Articles of Agreement establishing the Pacific Islands Development Bank and attached to Standing Committee Report No. 142-89, L.D. 1, and referenced thereto, and any amendments to those bylaws.

Source: S.L. No. 2L-109-89 §1-3, 7/5/89

§7-104. Acceptance of membership. — The Governor is hereby authorized to accept membership for Pohnpei in the Pacific Islands Development Bank, hereinafter referred to as the “Bank,” provided for by the Articles of Agreement and bylaws adopted thereunder establishing the Bank.

Source: S.L. No. 2L-109-89 §2-1, 7/5/89

§7-105. Powers of the Governor. — The Governor or his designee is hereby authorized to do the following:

- (1) Sign the Agreement on behalf of Pohnpei;
- (2) Deposit the instrument setting forth that Pohnpei has accepted or satisfied the Agreement in accordance with its laws and has taken the steps necessary to enable it to fulfill all of its obligations under the Agreement;
- (3) Sign such documents as may be necessary or desirable to permit the full participation by Pohnpei in the membership of the Bank;

- (4) Approve amendments to the Agreement and bylaws without further legislation;
- (5) Perform whatever duties are necessary to set up the Bank, gain Pohnpei's membership in the Bank, and allow Pohnpei to fully and effectively participate in the Bank; and
- (6) Implement this chapter and make regulations as to any matter relating to the implementation provisions of the Agreement and to the fulfillment of the obligations of Pohnpei thereunder.

Source: S.L. No. 2L-109-89 §2-2, 7/5/89

§7-106. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Treasury into which are deposited Compact economic development funds a sum of \$1,000,000, or so much thereof as may be appropriated from time to time in the Comprehensive Budget Act for the purpose of purchasing 1,000 shares of capital stock in the Pacific Islands Development Bank. Funds appropriated in any given fiscal year but not actually deposited into the Bank shall be carried over into subsequent fiscal years until deposit occurs.

(2) All sums appropriated under the authorization of this chapter shall be administered and expended by the Governor of Pohnpei solely for the purposes of this chapter, and who shall:

- (a) Make payment of an initial subscription to the capital stock of the Bank as appropriated by law; and
- (b) Make any additional payments which may become payable under the Agreement, and which are appropriated by law, to purchase the shares under Subsection (1) of this section.

Source: S.L. No. 2L-109-89 §3-1, 7/5/89; S.L. No. 4L-71-98 §1, 3/26/98

Note: S.L. No. 4L-71-98 §2 appropriation provision has been omitted.

§7-107. Representatives on the Bank Board of Governors. — Pohnpei State shall be represented on the Board of Governors by the executive branch through the Governor or his appointee and the legislative branch through the Director of the Department of Treasury and Administration or his appointee.

Source: S.L. No. 2L-109-89 §4-1, 7/5/89

§7-108. Voting restrictions on the Board of Governors. —

(1) In the case of private loans for business ventures in the state of Pohnpei, both representatives on the Board of Governors shall vote as directed by the Pohnpei Development Loan Fund Approval Committee.

(2) In the case of government loans to the state of Pohnpei, both representatives on the Board of Governors shall vote as directed by legislative act of the Pohnpei Legislature.

Source: S.L. No. 2L-109-89 §4-2, 7/5/89

§7-109. Immunity. — The state of Pohnpei hereby indemnifies and agrees to hold harmless and defend any officer or employee of the state who is or may be subjected to any personal liability or accountability in any court whether within or outside the Federated States of Micronesia by reason of any acts related to the creation or operation of the Bank. This indemnification does not apply to any criminal acts which may be committed by an officer or employee of the state.

Source: S.L. No. 2L-109-89 §5-1, 7/5/89

§7-110. Powers of Bank. — The Bank is empowered to provide economic assistance in the manner prescribed in the Articles of Agreement.

Source: S.L. No. 2L-109-89 §6-1, 7/5/89

§7-111. Audit. — The Bank will submit a copy of its annual audit report to the executive and legislative branches of the Government of Pohnpei. In other respects, it will not be subject to audit by any entity of the Government of Pohnpei.

Source: S.L. No. 2L-109-89 §7-1, 7/5/89

§7-112. Legal opinion. — The Governor shall designate the legal counsel who shall be responsible for rendering such legal opinions as may be required by the Bank or the government to permit the Government of Pohnpei to participate fully in the Bank.

Source: S.L. No. 2L-109-89 §7-2, 7/5/89

CHAPTER 8 [RESERVED]

CHAPTER 9 [RESERVED]

CHAPTER 10 AIRLINE INVESTMENTS

Section

10-101 Findings and purpose	10-103 Shareholder activities
10-102 Authorizing an investment in commercial airline transportation; holding of equity in trust for the Government of Pohnpei	10-104 Directorships
	10-105 Investment earnings
	10-106 Transfers of equity

§10-101 Findings and purpose. — The Pohnpei Legislature finds that regular, reliable and affordable air transportation is vital to the economic development of this state and to the health and welfare of the people of Pohnpei. Palau Rock Island Air Inc., *dba* Palau/Micronesia Air, was recently formed as a regional airline to conduct scheduled airline flights within and between the Republic of Palau, the Commonwealth of the Northern Marianas Islands, and the Federated States of Micronesia, including Pohnpei. This airline is also expected to provide vital air transport linkages to the Philippines where many critically ill Pohnpeian patients are referred and to Asian cities that hold the potential for significant tourism development for this state. The Legislature is aware that the members of the private sector within the region and other island jurisdictions have already or are anticipating investing in this regional airline. The purpose of this chapter is to provide the mechanisms for the State of Pohnpei to become an equity partner in this joint effort to advance the development of commercial airline services to, from and within this region of the Pacific.

Source: S.L. No. 6L-06-04 §1, 6/8/04

§10-102. Authorizing an investment in commercial airline transportation; holding of equity in trust for the Government of Pohnpei. —

(1) The Director of the Pohnpei Department of Treasury and Administration, in the name of the Government of Pohnpei, is hereby authorized to subscribe to, purchase and hold in trust for the Government of Pohnpei, capital stock of Palau Rock Island Air Inc., *dba* Palau/Micronesia Air, a corporation organized and existing under the laws of the Republic of Palau, or its successors in interest, hereinafter referred to as “corporation.” Any additional capital stock, in the form of common shares, or other forms or incidences of ownership, obtained by the Government of Pohnpei due to its initial investment in the corporation and/or ownership in the corporation under the authority of this chapter, whether through shareholder incentives, re-investment programs, splitting of the capital stock, or otherwise, shall be held in trust for the Government of Pohnpei in like manner as the initial investment.

(2) There is hereby authorized for appropriation from the Investment Development Fund of Pohnpei a sum of \$500,000, or so much thereof as may be appropriated in the Comprehensive Budget Act for the purpose of purchasing common shares of capital stock in the Palau Rock Island Air Inc., *dba* Palau/Micronesia Air.

(3) All sums appropriated under the authorization of this chapter shall be administered and expended by the Director of the Department of Treasury and Administration solely for the purpose of this chapter, and who shall:

(a) Make payment of an initial subscription to the capital stock of the Palau Rock Island Air Inc., *dba* Palau/Micronesia Air, as appropriated by law; and

(b) Make any additional payments which may become payable under the stock subscription agreement, and which are appropriated by law, to purchase the shares under Subsection (2) of this section.

Source: S.L. No. 6L-06-04 §2, 6/8/04

§10-103. Shareholder activities. — Shareholder voting rights and other rights and privileges of equity ownership in the corporation held by the Pohnpei Government pursuant to this chapter shall be exercised in the following manner:

(1) Fifty percent of the shares so held shall be voted and otherwise acted upon by the person designated in writing by the Governor as entitled to vote and act upon said shares. Such person shall continue to hold such rights and privileges at the pleasure of the Governor for a term consistent with the term of the Governor, and until his successor is designated. Such person may not assign to any other person or entity any proxy rights with respect to voting said shares or exercising any other rights or privileges pertaining to such shares without the written consent of the Governor.

(2) Fifty percent of the shares so held shall be voted and otherwise acted upon by the person designated in writing by the Speaker of the Pohnpei Legislature as entitled to vote and act upon said shares. Such person shall continue to hold such rights and privileges at the pleasure of the Speaker for a term consistent with the term of the then seated Legislature, and until his successor is designated. Such person may not assign to any other person or entity any proxy rights with respect to voting said shares or exercising any other rights or privileges pertaining to such shares without the written consent of the Speaker.

(3) In the event that an even division of the shares is not mathematically possible, the designee of the Speaker shall vote and otherwise act upon the final share.

Source: S.L. No. 6L-06-04 §3, 6/8/04

§10-104. Directorships. — In the event that an officer or employee of the Pohnpei Government is elected as a member of the Board of Directors of the corporation by virtue of the equity investment of the Pohnpei Government in the corporation, either alone or as a courtesy among similar public equity owners, such service on the Board of Directors of the corporation shall be deemed public service. Said officer or employee shall be accorded administrative leave with full pay while performing duties for the corporation. Any monetary compensation paid to or on behalf of said Director for membership on the Board of Directors of the corporation or for services rendered as a member of the Board of Directors of the corporation shall be paid into the Treasury of the Pohnpei Government as the realization of general revenues; PROVIDED that this requirement shall not apply to per diem, travel or airline privileges accorded generally to members of the Board of Directors of the corporation.

Source: S.L. No. 6L-06-04 §4, 6/8/04

§10-105. Investment earnings. — Any earnings received by the Pohnpei Government as the payment of dividends, or otherwise, as a result of its investment in the corporation shall be deposited in a special fund in the Treasury of the Pohnpei Government for authorization and appropriation by law for the further development of air transportation within and for the state.

Source: S.L. No. 6L-06-04 §5, 6/8/04

§10-106. Transfers of equity. — No sale, divestment or other transfer of any share in the corporation or other equity of the corporation held by the Pohnpei Government pursuant to this chapter may occur unless authorized by state law enacted specifically therefore or as a result of a corporate merger or other corporate action taken by or applied to the corporation in the normal course of business. Any monies received from such transfer shall be deposited in the Treasury of the Pohnpei Government as the realization of general revenues. Any equity in another corporation or other valuable consideration so received as a result of such transfer shall be held by the Department of Treasury and Administration in the name of the Pohnpei Government to be managed or disposed of in accordance with this chapter and other state law.

Source: S.L. No. 6L-06-04 §6, 6/8/04

Note: S.L. No. 6L-06-04 §7 appropriation provision has been omitted.

ECONOMIC DEVELOPMENT

CHAPTER 11 OFFICE OF ECONOMIC AFFAIRS

Section

11-101 Objective of the Office of Economic Affairs

11-102 Specific function of the office

§11-101. Objective of the Office of Economic Affairs. — The Office of Economic Affairs, created by 3 PC 1-105(2), shall have the objectives of implementing policy determinations with respect to economic development in the state and stimulating those agricultural, industrial and economic development efforts which offer the most immediate promise of expanding the economy of the state. The office shall endeavor to gain an understanding of those functions and activities of other governmental and of private agencies, which relate to the field of economic development. It shall, at all times, encourage initiative and creative thinking in harmony with its objectives.

Source: S.L. No. 6L-86-06 §7, 12/20/06

§11-102. Specific function of the office. Without prejudice to its general functions and duties, the Office of Economic Affairs shall have the following specific function:

Promotion. The office shall disseminate information developed for or by the office pertaining to economic development to assist present business and commerce in the state, attract new investments to the state, and assist new and emerging business with good growth potential or prospects in jobs, exports, and new products. The economic promotional activities of the office may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, films, and such other promotional and publicity devices as may be appropriate.

Source: S.L. No. 6L-86-06 §8, 12/20/06

ECONOMIC DEVELOPMENT

(Next page is Title 37 divider)

TITLE 37

BUSINESS ASSOCIATIONS

TITLE 37 BUSINESS ASSOCIATIONS

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CHAPTER 1 CORPORATIONS

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BUSINESS ASSOCIATIONS: Corporations

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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Business Corporation Act of 1994.”

Source: S.L. No. 3L-92-95 §1, 4/18/95

§1-102. Definitions. — As used in this chapter, unless the context otherwise requires, the term:

(1) “Articles of incorporation” means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

(2) “Authorized shares” means the shares of all classes that the corporation is authorized to issue.

(3) “Capital surplus” means the entire surplus of a corporation other than its earned surplus.

(4) “Corporation” or “domestic corporation” means a corporation for profit subject to this chapter, except a foreign corporation.

(5) “Earned surplus” means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent such distributions and transfers are made out of earned surplus. Earned surplus shall include also any portion of surplus allocated to earned surplus in mergers, consolidations or acquisitions of all or substantially all of the outstanding shares or of the property and assets of another corporation, domestic or foreign.

(6) “Employee” includes officers but not directors of a corporation. A director may accept duties that make him also an employee of a corporation.

(7) “Foreign corporation” means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this chapter.

(8) “Insolvent” means inability of a corporation to pay its debts as they become due in the usual course of its business.

(9) “Net assets” means the amount by which the total assets of a corporation exceed the total debts of the corporation.

(10) “Registrar of Corporations” means an officer of the Pohnpei Government appointed by the Governor as such to administer this chapter.

(11) “Shareholder” means one who is a holder of record of shares in a corporation.

(12) “Shares” means the units into which the proprietary interests in a corporation are divided.

(13) “Attorney General” means the chief legal officer for the executive branch of the Pohnpei Government.

(14) “Stated capital” means, at any particular time, the sum of the following:

(a) The par value of all shares of the corporation having a par value that have been issued;

(b) The amount of the consideration received by the corporation for all shares of the corporation without par value that have been issued, except such part of the consideration therefor as may have been allocated to capital surplus in a manner permitted by law; and

(c) Such amounts not included in Paragraphs (a) and (b) of this subsection as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sums as have been effected in a manner permitted by law. Irrespective of the manner of designation thereof by the laws under which a foreign corporation is organized, the stated capital of a foreign corporation shall be determined

on the same basis and in the same manner as the stated capital of a domestic corporation, for the purpose of computing fees and other charges imposed by this chapter.

(15) “Subscriber” means one who subscribes for shares in a corporation, whether before or after incorporation.

(16) “Surplus” means the excess of the net assets of a corporation over its stated capital.

(17) “Treasury shares” means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been canceled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be “issued” shares, but not “outstanding” shares.

Source: S.L. No. 3L-92-95 §2, 4/18/95

§1-103. Purposes. — Corporations may be organized under this chapter for any lawful purpose or purposes, except for the purpose of banking or insurance.

Source: S.L. No. 3L-92-95 §3, 4/18/95

§1-104. General powers. — Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation;

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

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(4) Subject to the limitations provided in Article 12 of the Pohnpei Constitution, to purchase, take, receive, lease or otherwise acquire, own, hold, improve, use, and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

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

(6) To lend money and use its credit to assist its employees;

(7) To purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of the Federated States of Micronesia or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof;

(8) To make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(10) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this chapter, within or without this state;

(11) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation;

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation;

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

(14) To transact any lawful business that the board of directors shall find will be in aid of governmental policy;

(15) To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock bonus plans, stock option plans, and other incentive plans for any or all of its directors, officers, and employees;

(16) To be a promoter, partner, member, associate or manager of any partnership, joint venture, trust or other enterprise; and

(17) To have and exercise all powers necessary or convenient to effect its purposes.

Source: S.L. No. 3L-92-95 §4, 4/18/95

§1-105. Indemnification of officers, directors, employees, and agents. —

(1) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(2) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(3) To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Subsections (1) or (2) of this section, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(4) Any indemnification under Subsections (1) or (2) of this section unless ordered by a court shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Subsections (1) or (2) of this section. Such determination shall be made as follows:

(a) By the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding; or

(b) If such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or

(c) By the shareholders.

(5) Expenses (including attorneys' fees) incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in Subsection (4) of this section upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.

(6) The indemnification provided by this section 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 his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

(7) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under this section.

Source: S.L. No. 3L-92-95 §5, 4/18/95

§1-106. Right of corporation to acquire and dispose of its own shares. —

(1) A corporation shall have the right to purchase, take, receive or otherwise acquire, hold, own, pledge, transfer or otherwise dispose of its own shares, but purchases of its own shares, whether direct or indirect, shall be made only to the extent of unreserved and unrestricted earned surplus available therefor, and, if the articles or incorporation so permit or with the affirmative vote of the holders of a majority of all shares entitled to vote thereon, to the extent of unreserved and unrestricted capital surplus available therefor.

(2) To the extent that earned surplus or capital surplus is used as the measure of the corporation's right to purchase its own shares, such surplus shall be restricted so long as such shares are held as treasury shares, and upon the disposition or cancellation of any such shares the restriction shall be removed pro tanto.

(3) Notwithstanding the foregoing limitation, a corporation may purchase or otherwise acquire its own shares for the purpose of:

- (a) Eliminating fractional shares;
- (b) Collecting or compromising indebtedness to the corporation;
- (c) Paying dissenting shareholders entitled to payment for their shares under this chapter; or
- (d) Effecting, subject to the other provisions of this chapter, the retirement of its redeemable shares by redemption or by purchase at or not to exceed the redemption price.

(4) No purchase of or payment for its own shares shall be made at a time when the corporation is insolvent or when such purchase or payment would make it insolvent.

Source: S.L. No. 3L-92-95 §6, 4/18/95

§1-107. Defense of ultra vires. — No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(1) In a proceeding by a shareholder against the corporation to enjoin the doing of any act or the transfer of real or personal property by or to the corporation. If the unauthorized act or transfer sought to be enjoined is being, or is to be, performed or made pursuant to a contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems

the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee or other legal representative, or through shareholders in a representative suit, against the incumbent or former officers or directors of the corporation.

(3) In a proceeding by the Attorney General, as provided in this chapter, to dissolve the corporation, or in a proceeding by the Attorney General to enjoin the corporation from the transaction of unauthorized business.

Source: S.L. No. 3L-92-95 §7, 4/18/95

§1-108. Corporate name. —

(1) The corporate name:

(a) Shall contain the word “corporation,” “company,” “incorporated” or “limited”, or shall contain an abbreviation of one of such words.

(b) Shall not contain any word or phrase that indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(c) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its corporate name as provided in this chapter, except that this provision shall not apply if the applicant files with the Registrar of Corporations either of the following:

(i) The written consent of such other corporation or holder of a reserved or registered name to use the same or deceptively similar name with one or more words added to make such name distinguishable from such other name; or

(ii) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of such name in this state.

(2) A corporation with which another corporation, domestic or foreign, is merged, or that is formed by the reorganization or consolidation of one or more domestic or foreign corporations or upon a sale, lease or other disposition to or exchange with, a domestic corporation of all or substantially all the assets of another corporation, domestic or foreign, including its name, may have the same name as that used in this state by any of such corporations if such other corporation was organized under the laws of, or is authorized to transact business in, this state.

Source: S.L. No. 3L-92-95 §8, 4/18/95

§1-109. Reserved name. —

(1) The exclusive right to the use of a corporate name may be reserved by:

(a) Any person intending to organize a corporation under this chapter;

(b) Any domestic corporation intending to change its name;

(c) Any foreign corporation intending to make application for a certificate of authority to transact business in this state;

(d) Any foreign corporation authorized to transact business in this state and intending to change its name; or

(e) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

(2) The reservation shall be made by filing with the Registrar of Corporations an application to reserve a specified corporate name, executed by the applicant. If the Registrar of Corporations finds

that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of 120 days.

(3) The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the Registrar of Corporations a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

Source: S.L. No. 3L-92-95 §9, 4/18/95

§1-110. Registered name. — Any corporation organized and existing under the laws of any state or the national government of the Federated States of Micronesia may register its corporate name under this chapter, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this chapter. Such registration shall be made by:

(1) Filing with the Registrar of Corporations the following:

(a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged; and

(b) A certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the Registrar of Corporations of such state or territory or by such other official as may have custody of the records pertaining to corporations; and

(2) Paying to the Registrar of Corporations a registration fee in the amount of \$1 for each month, or fraction thereof, between the date of filing such application and December 31 of the calendar year in which such application is filed. Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

Source: S.L. No. 3L-92-95 §10, 4/18/95

§1-111. Renewal of registered name. — A corporation that has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of \$12 to the Registrar of Corporations. A renewal application may be filed between October 1 and December 31 each year, and shall extend the registration for the following calendar year.

Source: S.L. No. 3L-92-95 §11, 4/18/95

§1-112. Registered office and registered agent. — Each corporation shall have and continuously maintain in this state:

(1) A registered office, which may be, but need not be, the same as its place of business; and

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office.

Source: S.L. No. 3L-92-95 §12, 4/18/95

§1-113. Change of registered office or registered agent. —

(1) A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the Registrar of Corporations a statement setting forth:

(a) The name of the corporation;

- (b) The address of its then registered office;
- (c) If the address of its registered office is to be changed, the address to which the registered office is to be changed;
- (d) The name of its then registered agent;
- (e) If its registered agent is to be changed, the name of its successor registered agent;
- (f) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and
- (g) That such change was authorized by resolution duly adopted by its board of directors.

(2) Such statement shall be executed by the corporation by its president, or its vice president, and verified by him, and delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such statement conforms to this chapter, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

(3) Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the Registrar of Corporations, who shall forthwith mail a copy thereof to the corporation at its registered office. The appointment of such agent shall terminate upon the expiration of 30 days after receipt of such notice by the Registrar of Corporations.

(4) If a registered agent changes his or its business address to another place within Pohnpei State, he or it may change such address and the address of the registered office of any corporation of which he or it is a registered agent by filing a statement as required in Subsection (1) of this section except that it need be signed only by the registered agent and need not be responsive to Paragraphs (e) or (g) of Subsection (1) of this section and must recite that a copy of the statement has been mailed to the corporation.

Source: S.L. No. 3L-92-95 §13, 4/18/95

§1-114. Service of process on a corporation. — The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served. Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the Registrar of Corporations shall be an agent of such corporation upon whom any such process, notice or demand may be served. Service on the Registrar of Corporations of any such process, notice or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the Registrar of Corporations, he shall immediately cause one of the copies thereof to be forwarded by registered mail, addressed to the corporation at its registered office. Any service so had on the Registrar of Corporations shall be returnable in not less than 30 days. The Registrar of Corporations shall keep a record of all processes, notices, and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto. Nothing herein contained 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 now or hereafter permitted by law.

Source: S.L. No. 3L-92-95 §14, 4/18/95

§1-115. Authorized shares. — Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with this chapter. Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

(1) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof;

(2) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends;

(3) Having preference over any other class or classes of shares as to the payment of dividends;

(4) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation; and

(5) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation, but shares without par value shall not be converted into shares with par value unless that part of the stated capital of the corporation represented by such shares without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted or the amount of any such deficiency is transferred from surplus to stated capital.

Source: S.L. No. 3L-92-95 §15, 4/18/95

§1-116. Issuance of shares of preferred or special classes in series. —

(1) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation, but all shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series:

(a) The rate of dividend;

(b) Whether shares may be redeemed and, if so, the redemption price and the terms and conditions of redemption;

(c) The amount payable upon shares in the event of voluntary and involuntary liquidation;

(d) Sinking fund provisions, if any, for the redemption or purchase of shares;

(e) The terms and conditions, if any, on which shares may be converted; and

(f) Voting rights, if any.

(2) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established. In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation. Prior to the issuance of any shares of a series established by resolution adopted by the board of directors, the corporation shall file in the office of the Registrar of Corporations a statement setting forth:

- (a) The name of the corporation;
- (b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof;
- (c) The date of adoption of such resolution; and
- (d) That such resolution was duly adopted by the board of directors.

(3) Such statement shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary and verified by one of the officers signing such statement, and shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such statement conforms to law, he shall, when all fees have been paid as prescribed in this chapter:

- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;
- (b) File one of such duplicate originals in his office; and
- (c) Return the other duplicate original to the corporation or its representative.

(4) Upon the filing of such statement by the Registrar of Corporations, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation.

Source: S.L. No. 3L-92-95 §16, 4/18/95

§1-117. Subscriptions for shares. — A subscription for shares of a corporation to be organized shall be irrevocable for a period of six months, unless otherwise provided by the terms of the subscription agreement or unless all of the subscribers consent to the revocation of such subscription. Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such time, or in such installments and at such times as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may be. In case of default in the payment of any installment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The bylaws may prescribe other penalties for failure to pay installments or calls that may become due, but no penalty working a forfeiture of a subscription, or of the amounts paid thereon, shall be declared as against any subscriber unless the amount due thereon shall remain unpaid for a period of 20 days after written demand has been made therefor. If mailed, such written demand has been made therefor. If mailed, such written demand shall be deemed to be made when deposited in the Federated States of Micronesia mail in a sealed envelope addressed to the subscriber at his last post office address known to the corporation, with postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on such shares shall be paid to the delinquent subscriber or to his legal representative.

Source: S.L. No. 3L-92-95 §17, 4/18/95

§1-118. Consideration for shares. —

(1) Shares having a par value may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the board of directors. Shares without par value may be issued for such consideration expressed in dollars as may be fixed from time to time by the board of directors unless the articles of incorporation reserve to the shareholders the right to fix the consideration. In the event that such right be reserved as to any shares, the shareholders shall, prior to the issuance of such shares, fix the consideration to be received for such shares, by a vote of the holders of a majority of all shares entitled to vote thereon.

(2) Treasury shares may be disposed of by the corporation for such consideration expressed in dollars as may be fixed from time to time by the board of directors.

(3) That part of the surplus of a corporation which is transferred to stated capital upon the issuance of shares as a share dividend shall be deemed to be the consideration for the issuance of such shares.

(4) In the event of the issuance of shares upon the conversion or exchange of indebtedness or shares, the consideration for the shares so issued shall be:

(a) The principal sum of, and accrued interest on, the indebtedness so exchanged or converted, or the stated capital then represented by the shares so exchanged or converted;

(b) That part of surplus, if any, transferred to stated capital upon the issuance of shares for the shares so exchanged or converted; and

(c) Any additional consideration paid to the corporation upon the issuance of shares for the indebtedness or shares so exchanged or converted.

Source: S.L. No. 3L-92-95 §18, 4/18/95

§1-119. Payment for shares. —

(1) The consideration or the issuance of shares may be paid, in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be fully paid and nonassessable.

(2) Neither promissory notes nor future services shall constitute payment or partial payment for the issuance of shares of a corporation.

(3) In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

Source: S.L. No. 3L-92-95 §19, 4/18/95

§1-120. Stock rights and options. — Subject to any provisions in respect thereof set forth in its articles of incorporation, a corporation may create and issue, whether or not in connection with the issuance and sale of any of its shares or other securities, rights or options entitling the holders thereof to purchase from the corporation shares of any class or classes. Such rights or options shall be evidenced in such manner as the board of directors shall approve and, subject to the articles of incorporation, shall set forth the terms upon which, the time or times within which, and the price or prices at which such shares may be purchased from the corporation upon the exercise of any such right or option. If such rights or options are to be issued to directors, officers or employees as such of the corporation or of any subsidiary thereof, and not to the shareholders generally, their issuance shall be approved by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or shall be authorized by and consistent with a plan approved or ratified by such a vote of shareholders. In the absence of fraud in the transaction, the judgment of the board of directors as to the adequacy of the consideration received for such rights or options shall be conclusive. The price or prices to be received for any shares having a par value, other than treasury shares to be issued upon the exercise of such rights or options, shall not be less than the par value thereof.

Source: S.L. No. 3L-92-95 §20, 4/18/95

§1-121. Determination of amount of stated capital. —

(1) In case of the issuance by a corporation of shares having a par value, the consideration received therefor shall constitute stated capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute capital surplus.

(2) In case of the issuance by a corporation of shares without par value, the entire consideration received therefor shall constitute stated capital unless the corporation shall determine as provided in this section that only a part thereof shall be stated capital. Within a period of 60 days after the issuance of any shares without par value, the board of directors may allocate to capital surplus any portion of the consideration received for the issuance of such shares. No such allocation shall be made of any

portion of the consideration received for shares without par value having a preference in the assets of the corporation in the event of involuntary liquidation except the amount, if any, of such consideration in excess of such preference.

(3) If shares have been or shall be issued by a corporation in merger or consolidation or in acquisition of all or substantially all of the outstanding shares or of the property and assets of another corporation, whether domestic or foreign, any amount that would otherwise constitute capital surplus under the foregoing provisions of this section may instead be allocated to earned surplus by the board of directors of the issuing corporation except that its aggregate earned surplus shall not exceed the sum of the earned surpluses as defined in this chapter of the issuing corporation and of all other corporations, domestic or foreign, that were merged or consolidated or of which the shares or assets were acquired.

(4) The stated capital of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the surplus of the corporation be transferred to stated capital. The board of directors may direct that the amount of the surplus so transferred shall be deemed to be stated capital in respect of any designated class of shares.

Source: S.L. No. 3L-92-95 §21, 4/18/95

§1-122. Expenses of organization, reorganization, and financing. — The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares not fully paid or assessable.

Source: S.L. No. 3L-92-95 §22, 4/18/95

§1-123. Certificates representing shares. —

(1) The shares of a corporation shall be represented by certificates signed by the president or a vice president and the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice president and the secretary or assistant secretary upon a certificate may be facsimiles if the certificate is manually signed on behalf of a transfer agent or a registrar, other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

(2) Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued, and if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

(3) Each certificate representing shares shall state upon the face thereof:

- (a) That the corporation is organized under the laws of this state;
- (b) The name of the person to whom issued;
- (c) The number and class of shares, and the designation of the series, if any, which such certificate represents; and
- (d) The par value of each share represented by such certificate, or a statement that the shares are without par value.

(4) No certificate shall be issued for any share until such share is fully paid.

Source: S.L. No. 3L-92-95 §23, 4/18/95

§1-124. Liability of subscribers and shareholders. — A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued. Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of such consideration. An executor, administrator, conservator, guardian, trustee, assignee for the benefit of creditors, or receiver shall not be personally liable to the corporation as a holder of or subscriber to shares of a corporation but the estate and funds in his hands shall be so liable. No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.

Source: S.L. No. 3L-92-95 §24, 4/18/95

§1-125. Shareholders' preemptive rights. — Except to the extent limited or denied by this section or by the articles of incorporation, shareholders shall have a preemptive right to acquire unissued or treasury shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares. Unless otherwise provided in the articles of incorporation:

(1) No preemptive right shall exist:

(a) To acquire any shares issued to directors, officers or employees pursuant to approval by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or when authorized by and consistent with a plan theretofore approved by such a vote of shareholders; or

(b) To acquire any shares sold otherwise than for cash.

(2) Holders of shares of any class that is preferred or limited as to dividends or assets shall not be entitled to any preemptive right.

(3) Holders of shares of common stock shall not be entitled to any preemptive right to shares of any class that is preferred or limited as to dividends or assets or to any obligations, unless convertible into shares of common stock or carrying a right to subscribe to or acquire shares of common stock.

(4) Holders of common stock without voting power shall have no preemptive right to shares of common stock with voting power.

(5) The preemptive right shall be only an opportunity to acquire shares or other securities under such terms and conditions as the board of directors may fix for the purpose of providing a fair and reasonable opportunity for the exercise of such right.

Source: S.L. No. 3L-92-95 §25, 4/18/95

§1-126. Bylaws. — The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws, subject to repeal or change by action of the shareholders, shall be vested in the board of directors unless reserved to the shareholders by the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

Source: S.L. No. 3L-92-95 §26, 4/18/95

§1-127. Meetings of shareholders. —

(1) Meetings of shareholders may be held at such place within or without this state as may be stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, meetings shall be held at the registered office of the corporation. An annual meeting of the shareholders shall be held at such time as may be stated or fixed in accordance with the bylaws. If the annual meeting is not held within any 13-month period, the Pohnpei Supreme Court may, on the application of any shareholder, summarily order a meeting to be held.

(2) Special meetings of the shareholders may be called by the board of directors, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or such other persons as may be authorized in the articles of incorporation or the bylaws.

Source: S.L. No. 3L-92-95 §27, 4/18/95

§1-128. Notice of shareholders' meetings. — Written notice stating the place, day, and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than 10 nor more than 50 days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the Federated States of Micronesia mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

Source: S.L. No. 3L-92-95 §28, 4/18/95

§1-129. Closing of transfer books and fixing record date. — For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, 50 days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw, the board of directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than 50 days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action requiring such determination of shareholders is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

Source: S.L. No. 3L-92-95 §29, 4/18/95

§1-130. Voting record. — The officer or agent having charge of the stock transfer books for shares of a corporation shall make a complete record of the shareholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each. Such record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof. Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting. An officer or agent having charge of the stock transfer books who shall fail to prepare the record of shareholders, or produce and keep it open for inspection at the meeting, as provided in this section, shall be liable to any shareholder suffering damage on account of such failure, to the extent of such damage.

Source: S.L. No. 3L-92-95 §30, 4/18/95

§1-131. Quorum of shareholders. — Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of less than one-third of the shares

entitled to vote at the meeting. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this chapter or the articles of incorporation or bylaws.

Source: S.L. No. 3L-92-95 §31, 4/18/95

§1-132. Voting of shares. — Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except as may be otherwise provided in the articles of incorporation. If the articles of incorporation provide for more or less than one vote for any share, on any matter, every reference in this chapter to a majority or other proportion of shares shall refer to such a majority or other proportion of votes entitled to be cast. Neither treasury shares nor shares held by another corporation, if a majority of the shares entitled to vote for the election of directors of such other corporation is held by the corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time. A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy. Unless the articles of incorporation otherwise provide at each election for directors, every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal, or by distributing such votes on the same principle among any number of such candidates. Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaws of such other corporation may prescribe, or, in the absence of such provision, as the board of directors of such other corporation may determine. Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name. Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed. A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred. On and after the date on which written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been deposited with a bank or trust company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall not be deemed to be outstanding shares.

Source: S.L. No. 3L-92-95 §32, 4/18/95

§1-133. Voting trusts and agreements among shareholders. — Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period not to exceed ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office, and by transferring their shares to such trustee or trustees for the purposes of the agreement. Such trustee or trustees shall keep a record of the holders of voting trust certificates evidencing a beneficial interest in the voting trust, giving the names and addresses of all such holders and the number and class of the shares in respect of which the voting trust certificates held by each are issued, and shall deposit a copy of such record with the corporation at its registered office. The counterpart of the voting trust agreement and the copy of such record so deposited with the corporation shall be subject to the same right of examination by a

shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and such counterpart and such copy of such record shall be subject to examination by any holder of record of voting trust certificates, either in person or by agent or attorney, at any reasonable time for any proper purpose. Agreements among shareholders regarding the voting of their shares shall be valid and enforceable in accordance with their terms. Such agreements shall not be subject to this section regarding voting trusts.

Source: S.L. No. 3L-92-95 §33, 4/18/95

§1-134. Board of directors. — The business and affairs of a corporation shall be managed by a board of directors except as may be otherwise provided in the articles of incorporation. If any such provision is made in the articles of incorporation, the powers and duties conferred or imposed upon the board of directors by this chapter shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation. Directors need not be residents of this state or shareholders of the corporation unless the articles of incorporation or bylaws so require. The articles of incorporation or bylaws may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation.

Source: S.L. No. 3L-92-95 §34, 4/18/95

§1-135. Number and election of directors. — The board of directors of a corporation shall consist of two or more members. The number of directors shall be fixed by, or in the manner provided in, the articles of incorporation or the bylaws, except as to the number constituting the initial board of directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws, but no decrease shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw providing for the number of directors, the number shall be the same as that provided for in the articles of incorporation. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected and qualified. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by this chapter. Each director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified.

Source: S.L. No. 3L-92-95 §35, 4/18/95

§1-136. Classification of directors. — When the board of directors shall consist of seven or more members, in lieu of electing the whole number of directors annually, the articles of incorporation may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or until the third succeeding annual meeting, if there be three classes. No classification of directors shall be effective prior to the first annual meeting of shareholders.

Source: S.L. No. 3L-92-95 §36, 4/18/95

§1-137. Vacancies. — Any vacancy occurring on the board of directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of

directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors by the shareholders.

Source: S.L. No. 3L-92-95 §37, 4/18/95

§1-138. Removal of directors. — At a meeting of shareholders called expressly for that purpose, directors may be removed in the manner provided in this section. Any director or the entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors. In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no director may be removed if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which he is a part. Whenever the holders of the shares of any class are entitled to elect one or more directors by the articles of incorporation, this section shall apply, in respect to the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole.

Source: S.L. No. 3L-92-95 §38, 4/18/95

§1-139. Quorum of directors. — A majority of the number of directors fixed by or in the manner provided in the bylaws or in the absence of a bylaw fixing or providing for the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business unless a greater number is required by the articles of incorporation or the bylaws. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the bylaws.

Source: S.L. No. 3L-92-95 §39, 4/18/95

§1-140. Directors: conflicts of interest. —

(1) No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest or because such director or directors are present at the meeting of the board of directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or because his or their votes are counted for such purpose, if:

(a) The fact of such relationship or interest is disclosed or known to the board of directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; or

(b) The fact of such relationship or interest is disclosed or known to the shareholders entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent; or

(c) The contract or transaction is fair and reasonable to the corporation.

(2) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof, which authorizes, approves or ratifies such contract or transaction.

Source: S.L. No. 3L-92-95 §40, 4/18/95

§1-141. Executive and other committees. — If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may

designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, but no such committee shall have the authority of the board of directors in reference to amending the articles of incorporation, adopting a plan of merger or consolidation, recommending to the shareholders the sale, lease, exchange or other disposition of all or substantially all the property and assets of the corporation otherwise than in the usual and regular course of its business, recommending to the shareholders a voluntary dissolution of the corporation or a revocation thereof, or amending the bylaws of the corporation. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any member thereof, of any responsibility imposed by law.

Source: S.L. No. 3L-92-95 §41, 4/18/95

§1-142. Plan and notice of directors' meetings. — Meetings of the board of directors, regular or special, may be held either within or without this state. Regular meetings of the board of directors may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws.

Source: S.L. No. 3L-92-95 §42, 4/18/95

§1-143. Action by directors without a meeting. — Unless otherwise provided by the articles of incorporation or bylaws, any action required by this chapter to be taken at a meeting of the directors of a corporation, or any action which may be taken at a meeting of the directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

Source: S.L. No. 3L-92-95 §43, 4/18/95

§1-144. Dividends. — The board of directors of a corporation may, from time to time, declare, and the corporation may pay, dividends in cash, property or its own shares, except when the corporation is insolvent or when the payment thereof would render the corporation insolvent or when the declaration or payment thereof would be contrary to any restriction contained in the articles of incorporation, subject to the following provisions:

(1) Dividends may be declared and paid in cash or property only out of the unreserved and unrestricted earned surplus of the corporation, except as otherwise provided in this section.

(2) If the articles of incorporation of a corporation engaged in the business of exploiting natural resources so provide, dividends may be declared and paid in cash out of the depletion reserves, but each such dividend shall be identified as a distribution of such reserves and the amount per share paid from such reserves shall be disclosed to the shareholders receiving the same concurrently with the distribution thereof.

(3) Dividends may be declared and paid in its own treasury shares.

(4) Dividends may be declared and paid in its own authorized but unissued shares out of any unreserved and unrestricted surplus of the corporation upon the following conditions:

(a) If a dividend is payable in its own shares having a par value, such shares shall be issued at not less than the par value thereof and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus equal to the aggregate par value of the shares to be issued as a dividend.

(b) If a dividend is payable in its own shares without par value, such shares shall be issued at such stated value as shall be fixed by the board of directors by resolution adopted at the time such dividend is declared, and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus equal to the aggregate stated value so fixed in respect of such shares; and the amount per share so transferred to stated capital shall be disclosed to the shareholders receiving such dividend concurrently with the payment thereof.

(5) No dividend payable in shares of any class shall be paid to the holders of shares of any other class unless the articles of incorporation so provide or such payment is authorized by the affirmative vote or the written consent of the holders of at least a majority of the outstanding shares of the class in which the payment is to be made. A split-up or division of the issued shares of any class into a greater number of shares of the same class without increasing the stated capital of the corporation shall not be construed to be a share dividend within the meaning of this section.

Source: S.L. No. 3L-92-95 §44, 4/18/95

§1-145. Distributions from capital surplus. —

(1) The board of directors of a corporation may, from time to time, distribute to its shareholders out of capital surplus of the corporation a portion of its assets, in cash or property, subject to the following provisions:

(a) No such distribution shall be made at a time when the corporation is insolvent or when such distribution would render the corporation insolvent.

(b) No such distribution shall be made unless the articles of incorporation so provide or such distribution is authorized by the affirmative vote of the holders of a majority of the outstanding shares of each class whether or not entitled to vote thereon by the articles of incorporation of the corporation.

(c) No such distribution shall be made to the holders of any class of shares unless all cumulative dividends accrued on all preferred or special classes of shares entitled to preferential dividends shall have been fully paid.

(d) No such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in event of involuntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation.

(e) Each such distribution, when made, shall be identified as a distribution from capital surplus and the amount per share disclosed to the shareholders receiving the same concurrently with the distribution thereof.

(2) The board of directors of a corporation may also, from time to time, distribute to the holders of its outstanding shares having a cumulative preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash out of the capital surplus of the corporation, if at the time the corporation has no earned surplus and is not insolvent and would not thereby be rendered insolvent. Each such distribution, when made, shall be identified as a payment of cumulative dividends out of capital surplus.

Source: S.L. No. 3L-92-95 §45, 4/18/95

§1-146. Loans to employees and directors. — A corporation shall not lend money to or use its credit to assist its directors without authorization in the particular case by its shareholders, but may lend money to and use its credit to assist any employee of the corporation or of a subsidiary, including any such employee who is a director of the corporation, if the board of directors decides that such loan or assistance may benefit the corporation.

Source: S.L. No. 3L-92-95 §46, 4/18/95

§1-147. Liability of directors in certain cases. —

(1) In addition to any other liabilities imposed by law upon directors of a corporation:

(a) Directors of a corporation who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to this chapter or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of this chapter or the restrictions in the articles of incorporation.

(b) Directors of a corporation who vote for or assent to the purchase of its own shares contrary to this chapter shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of this chapter.

(c) The directors of a corporation who vote for or assent to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment to and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations, and liabilities of the corporation are not thereafter paid and discharged.

(2) A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

(3) A director shall not be liable under Paragraphs (a), (b) or (c) of Subsection (1) of this section if he relied and acted in good faith upon financial statements of the corporation represented to him to be correct by the president or the officer of such corporation having charge of its books of account, or stated in a written report by an independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of such corporation, nor shall he be so liable if in good faith in determining the amount available for any such dividend or distribution he considered the assets to be of their book value.

(4) Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this chapter, in proportion to the amounts received by them.

(5) Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted.

Source: S.L. No. 3L-92-95 §47, 4/18/95

§1-148. Actions by shareholders. —

(1) No action shall be brought in this state by a shareholder in the right of a domestic or foreign corporation unless the plaintiff was a holder of record of shares or of voting trust certificates therefor at the time of the transaction of which he complains, or his shares or voting trust certificates thereafter devolved upon him by operation of law from a person who was a holder of record at such time.

(2) In any action hereafter instituted in the right of any domestic or foreign corporation by the holder or holders of record of shares of such corporation or of voting trust certificates therefor, the court having jurisdiction, upon final judgment and a finding that the action was brought without

reasonable cause, may require the plaintiff or plaintiffs to pay to the parties named as defendant the reasonable expenses, including fees of attorneys, incurred by them in the defense of such action.

(3) In any action now pending or hereafter instituted or maintained in the right of any domestic or foreign corporation by the holder or holders of record of less than five percent (5%) of the outstanding shares of any class of such corporation or of voting trust certificates therefor, unless the shares or voting trust certificates so held have a market value in excess of \$25,000, the corporation in whose right such action is brought shall be entitled at any time before final judgment to require the plaintiff or plaintiffs to give security for the reasonable expenses, including fees of attorneys, that may be incurred by it in connection with such action or may be incurred by other parties named as defendant for which it may become legally liable. Market value shall be determined as of the date that the plaintiff institutes the action or, in the case of an intervenor, as of the date that he becomes a party to the action. The amount of such security may from time to time be increased or decreased, in the discretion of the court, upon a showing that the security provided has or may become inadequate or is excessive. The corporation shall have recourse to such security in such amount as the court having jurisdiction shall determine upon the termination of such action, whether or not the court finds the action as brought without reasonable cause.

Source: S.L. No. 3L-92-95 §48, 4/18/95

§1-149. Officers. —

(1) The officers of a corporation shall consist of a president, one or more vice presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person, except the offices of president and secretary.

(2) All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.

Source: S.L. No. 3L-92-95 §49, 4/18/95

§1-150. Removal of officers. — Any officer or agent may be removed by the board of directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Source: S.L. No. 3L-92-95 §50, 4/18/95

§1-151. Books and records. —

(1) Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its shareholders and board of directors and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each. Any books, records, and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time. Any person who shall have been a holder of record of shares or of voting trust certificates therefor at least six months immediately preceding his demand, or shall be the holder of record of, or the holder of record of voting trust certificates for, at least five percent (5%) of all the outstanding shares of the corporation, upon written demand stating the purpose thereof, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, its relevant books and records of account, minutes, and record of shareholders and to make extracts therefrom.

(2) Any officer or agent who, or a corporation which, shall refuse to allow any such shareholder or holder of voting trust certificates, or his agent or attorney, so to examine and make extracts from its books and records of account, minutes, and record of shareholders, for any proper purpose, shall be liable to such shareholder or holder of voting trust certificates in a penalty of ten percent (10%) of the value of the shares owned by such shareholder, or in respect of which such voting trust certificates are issued, in addition to any other damages or remedy afforded him by law. It shall be a defense to any action for penalties under this section that the person suing therefor has within two years sold or offered for sale any list of shareholders or of holders of voting trust certificates for shares of such corporation or any other corporation or has aided or abetted any person in procuring any list of shareholders or of holders of voting trust certificates for any such purpose, or has improperly used any information secured through any prior examination of the books and records of account, or minutes, or record of shareholders or of holders of voting trust certificates for shares of such corporation or any other corporation, or was not acting in good faith or for a proper purpose in making his demand.

(3) Nothing herein contained shall impair the power of any court of competent jurisdiction, upon proof by a shareholder or holder of voting trust certificates of proper purpose, irrespective of the period of time during which such shareholder or holder of voting trust certificates shall have been a shareholder of record or a holder of record of voting trust certificates, and irrespective of the number of shares held by him or represented by voting trust certificates held by him, to compel the production for examination by such shareholder or holder of voting trust certificates of the books and records of account, minutes, and record of shareholders of a corporation.

(4) Upon the written request of any shareholder or holder of voting trust certificates or shares of a corporation, the corporation shall mail to such shareholder or holder of voting trust certificates its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operations.

Source: S.L. No. 3L-92-95 §51, 4/18/95

§1-152. Incorporators. — One or more persons, or a domestic or foreign corporation, may act as incorporator or incorporators of a corporation by signing and delivering in duplicate to the Registrar of Corporations articles of incorporation for such corporation.

Source: S.L. No. 3L-92-95 §52, 4/18/95

§1-153. Articles of incorporation. —

(1) The articles of incorporation shall set forth:

- (a) The name of the corporation;
- (b) The period of duration, which may be perpetual;
- (c) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this chapter;
- (d) The aggregate number of shares that the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value;
- (e) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect of the shares of each class;
- (f) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to

establish series and fix and determine the variations in the relative rights and preferences as between series;

(g) If any preemptive right is to be granted to shareholders, the provisions therefor;

(h) Any provision, not inconsistent with law, that the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this chapter is required or permitted to be set forth in the bylaws;

(i) The address of its initial registered office, and the name of its initial registered agent at such address;

(j) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualify; and

(k) The name and address of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Source: S.L. No. 3L-92-95 §53, 4/18/95

§1-154. Filing of articles of incorporation. —

(1) Duplicate originals of the articles of incorporation shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that the articles of incorporation conform to law, he shall, when all fees have been paid as prescribed in this chapter:

(a) Endorse on each of such duplicate originals the word “Filed,” and the month, day, and year of the filing thereof;

(b) File one of such duplicate originals in his office; and

(c) Issue a certificate of incorporation to which he shall affix the other duplicate original.

(2) The certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto by the Registrar of Corporations, shall be returned to the incorporators or their representative.

Source: S.L. No. 3L-92-95 §54, 4/18/95

§1-155. Effect of issuance of certificate of incorporation. — Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter, except as against this state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

Source: S.L. No. 3L-92-95 §55, 4/18/95

§1-156. Organization meeting of directors. — After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the directors named in the articles of incorporation, for the purpose of adopting bylaws, electing officers, and transacting such other business as may come before the meeting. The directors calling the meeting shall give at least three days’ notice thereof by mail to each director so named, stating the time and place of the meeting.

Source: S.L. No. 3L-92-95 §56, 4/18/95

§1-157. Right to amend articles of incorporation. — A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation, as amended, contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment, and, if a change in shares or the rights

of shareholders, or an exchange, reclassification or cancellation of shares or rights of shareholders is to be made, such provision as may be necessary to effect such change, exchange, reclassification or cancellation. In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

- (1) To change its corporate name;
- (2) To change its period of duration;
- (3) To change, enlarge or diminish its corporate purposes;
- (4) To increase or decrease the aggregate number of shares, or shares of any class, that the corporation has authority to issue;
- (5) To increase or decrease the par value of the authorized shares of any class having a par value, whether issued or unissued;
- (6) To exchange, classify, reclassify or cancel all or any part of its shares, whether issued or unissued;
- (7) To change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, limitations, and the relative rights in respect of all or any part of its shares, whether issued or unissued;
- (8) To change shares having the par value, whether issued or unissued, into the same or a different number of shares without par value, and to change shares without par value, whether issued or unissued, into the same or a different number of shares having a par value;
- (9) To change the shares of any class, whether issued or unissued and whether with or without par value, into a different number of shares of the same class or into the same or a different number of shares, either with or without par value, of other classes;
- (10) To create new classes of shares having rights and preferences either prior and superior or subordinate and inferior to the shares of any class then authorized, whether issued or unissued;
- (11) To cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared;
- (12) To divide any preferred or special class of shares, whether issued or unissued into series and fix and determine the designations of such series and the variations in the relative rights and preferences as between the shares of such series;
- (13) To authorize the board of directors to establish, out of authorized but unissued shares, series of any preferred or special class of shares and fix and determine the relative rights and preferences of the shares of any series so established;
- (14) To authorize the board of directors to fix and determine the relative rights and preferences of the authorized but unissued shares of series theretofore established in respect of which either the relative rights and preferences have not been fixed and determined or the relative rights and preferences theretofore fixed and determined are to be changed;
- (15) To revoke, diminish or enlarge the authority of the board of directors to establish series out of authorized but unissued shares of any preferred or special class and fix and determine the relative rights and preferences of the shares of any series so established; or
- (16) To limit, deny or grant to shareholders of any class the preemptive right to acquire additional or treasury shares of the corporation, whether then or thereafter authorized.

Source: S.L. No. 3L-92-95 §57, 4/18/95

§1-158. Procedure to amend articles of incorporation. —

- (1) Amendments to the articles of incorporation shall be made in the following manner:
 - (a) The board of directors shall adopt a resolution setting forth the proposed amendment and, if shares have been issued, directing that it be submitted to a vote at a meeting of shareholders, which may be either the annual or a special meeting. If no shares have been issued, the amendment shall be adopted by resolution of the board of directors and the provisions for adoption by shareholders shall not apply. The resolution may incorporate the proposed

amendment in restated articles of incorporation which contain a statement that except for the designated amendment the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as therefore amended, and that the restated articles of incorporation together with the designated amendment supersede the original articles of incorporation and all amendments thereto;

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting; and

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment 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.

(2) Any number of amendments may be submitted to the shareholders, and voted upon by them, at one meeting.

Source: S.L. No. 3L-92-95 §58, 4/18/95

§1-159. Class voting on amendments. — The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the articles of incorporation, if the amendment would:

- (1) Increase or decrease the aggregate number of authorized shares of such class;
- (2) Increase or decrease the par value of the shares of such class;
- (3) Effect an exchange, reclassification or cancellation of all or part of the shares of such class;
- (4) Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of such class;
- (5) Change the designations, preferences, limitations or relative rights of the shares of such class;
- (6) Change the shares of such class, whether with or without par value, into the same or a different number of shares, either with or without par value, of the same class or another class or classes;
- (7) Create a new class of shares having rights and preferences prior and superior to the shares of such class, or increase the rights and preferences or the number of authorized shares, of any class having rights and preferences prior or superior to the shares of such class;
- (8) In the case of a preferred or special class of shares, divide the shares of such class into series and fix and determine the designation of such series and the variations in the relative rights and preferences between the shares of such series, or authorize the board of directors to do so;
- (9) Limit or deny any existing preemptive rights of the shares of such class; or
- (10) Cancel or otherwise affect dividends on the shares of such class that have accrued but have not been declared.

Source: S.L. No. 3L-92-95 §59, 4/18/95

§1-160. Articles of amendment. — The articles of amendment shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

- (1) The name of the corporation;
- (2) The amendments so adopted;
- (3) The date of the adoption of the amendment by the shareholders, or by the board of directors where no shares have been issued;

(4) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class;

(5) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively, or if no shares have been issued, a statement to that effect;

(6) If such amendment provides for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected; and

(7) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment.

Source: S.L. No. 3L-92-95 §60, 4/18/95

§1-161. Filing of articles of amendment. —

(1) Duplicate originals of the articles of amendment shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that the articles of amendment conform to law, he shall, when all fees have been paid as prescribed in this chapter:

(a) Endorse on each of such duplicate originals the word “Filed,” and the month, day, and year of the filing thereof;

(b) File one of such duplicate originals in his office; and

(c) Issue a certificate of amendment to which he shall affix the other duplicate original.

(2) The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the Registrar of Corporations, shall be returned to the corporation or its representative.

Source: S.L. No. 3L-92-95 §61, 4/18/95

§1-162. Effect of certificate of amendment. — Upon the issuance of the certificate of amendment by the Registrar of Corporations, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly. No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

Source: S.L. No. 3L-92-95 §62, 4/18/95

§1-163. Restated articles of incorporation. —

(1) A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

(2) Upon the adoption of such resolution, restated articles of incorporation shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or assistant secretary and verified by one of the officers signing such articles and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set 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 all amendments thereto.

(3) Duplicate originals of the restated articles of incorporation shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such restated articles of incorporation conform to law, he shall, when all fees have been paid as prescribed in this chapter:

(a) Endorse on each of such duplicate originals the word “Filed,” and the month, day, and year of the filing thereof;

(b) File one of such duplicate originals in his office; and

(c) Issue a restated certificate of incorporation, to which he shall affix the other duplicate original.

(4) The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the Registrar of Corporations, shall be returned to the corporation or its representative.

(5) Upon the issuance of the restated certificate of incorporation by the Registrar of Corporations, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

Source: S.L. No. 3L-92-95 §63, 4/18/95

§1-164. Amendment of articles of incorporation in reorganization proceedings. —

(1) Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to any applicable statute of Pohnpei or the Federated States of Micronesia relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

(2) In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

(a) Change the corporate name, period of duration or corporate purposes of the corporation;

(b) Repeal, alter or amend the bylaws of the corporation;

(c) Change the aggregate number of shares or shares of any class, which the corporation has authority to issue;

(d) Change the preferences, limitations, and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify or cancel all or any part thereof, whether issued or unissued;

(e) Authorize the issuance of bonds, debentures or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and

(f) Constitute or reconstitute and classify or reclassify the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

(3) Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

(a) Articles of amendment approved by decree or order of such court shall be executed and verified in duplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to an applicable statute of Pohnpei or the Federated States of Micronesia.

(b) Duplicate originals of the articles of amendment shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that the articles of amendment conform to law, he shall, when all fees have been paid as prescribed in this chapter:

(i) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;

(ii) File one of such duplicate originals in his office; and

(iii) Issue a certificate of amendment to which he shall affix the other duplicate original.

(4) The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the Registrar of Corporations shall be returned to the corporation or its representative.

(5) Upon the issuance of the certificate of amendment by the Registrar of Corporations, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly, without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.

Source: S.L. No. 3L-92-95 §64, 4/18/95

§1-165. Restriction on redemption or purchase of redeemable shares. — No redemption or purchase of redeemable shares shall be made by a corporation when it is insolvent or when such redemption or purchase would render it insolvent, or which would reduce the net assets below the aggregate amount payable to the holders of shares having prior or equal rights to the assets of the corporation upon involuntary dissolution.

Source: S.L. No. 3L-92-95 §65, 4/18/95

§1-166. Cancellation of redeemable shares by redemption or purchase. —

(1) When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares, and a statement of cancellation shall be filed as provided in this section. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case the filing of the statement of cancellation shall constitute an amendment to the articles of incorporation and shall reduce the number of shares of the class so canceled which the corporation is authorized to issue by the number of shares so canceled.

(2) The statement of cancellation shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation;

(b) The number of redeemable shares canceled through redemption or purchase, itemized by classes and series;

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation;

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation;

(e) If the articles of incorporation provide that the canceled shares shall not be reissued, the number of shares which the corporation will have authority to issue itemized by classes and series, after giving effect to such cancellation. Duplicate originals of such statement shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such statement conforms to law, he shall, when all fees have been paid as prescribed in this chapter:

(i) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;

(ii) File one of such duplicate originals in his office; and

(iii) Return the other duplicate original to the corporation or its representative.

(3) Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled.

(4) Nothing contained in this section shall be construed to forbid cancellation of shares or a reduction of stated capital in any other manner permitted by this chapter.

Source: S.L. No. 3L-92-95 §66, 4/18/95

§1-167. Cancellation of other reacquired shares. —

(1) A corporation may at any time, by resolution of its board of directors, cancel all or any part of the shares of the corporation of any class reacquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed as provided in this section.

(2) The statement of cancellation shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

- (a) The name of the corporation;
- (b) The number of reacquired shares canceled by resolution duly adopted by the board of directors, itemized by classes and series, and the date of its adoption;
- (c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation; and
- (d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

(3) Duplicate originals of such statement shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such statement conforms to law, he shall, when all fees have been paid as prescribed in this chapter:

- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;
- (b) File one of such duplicate originals in his office; and
- (c) Return the other duplicate original to the corporation or its representative.

(4) Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital that was, at the time of such cancellation, represented by the shares so canceled, and the shares so canceled shall be restored to the status of authorized but unissued shares.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this chapter.

Source: S.L. No. 3L-92-95 §67, 4/18/95

§1-168. Reduction of stated capital in certain cases. —

(1) A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

- (a) The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting;
- (b) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders; and
- (c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

(2) When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

- (a) The name of the corporation;

- (b) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption;
- (c) The number of shares outstanding, and the number of shares entitled to vote thereon;
- (d) The number of shares voted for and against such reduction, respectively; and
- (e) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

(3) Duplicate originals of such statement shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such statement conforms to law, he shall, when all fees have been paid as prescribed in this chapter:

- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;
- (b) File one of such duplicate originals in his office; and
- (c) Return the other duplicate original to the corporation or its representative.

(4) Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth.

(5) No reduction of stated capital shall be made under this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation.

Source: S.L. No. 3L-92-95 §68, 4/18/95

§1-169. Special provisions relating to surplus and reserves. — The surplus, if any, created by or arising out of a reduction of the stated capital of a corporation shall be capital surplus. The capital surplus of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the earned surplus of the corporation be transferred to capital surplus. A corporation may, by resolution of its board of directors, apply any part or all of its capital surplus to the reduction or elimination of any deficit arising from losses, however incurred, but only after first eliminating the earned surplus, if any, of the corporation by applying such losses against earned surplus and only to the extent that such losses exceed the earned surplus, if any. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus. A corporation may, by resolution of its board of directors, create a reserve or reserves out of its earned surplus for any proper purpose or purposes, and may abolish any such reserve in the same manner. Earned surplus of the corporation to the extent so reserved shall not be available for the payment of dividends or other distributions by the corporation except as expressly permitted by this chapter.

Source: S.L. No. 3L-92-95 §69, 4/18/95

§1-170. Procedure for merger. — Any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this chapter. The board of directors of each corporation shall, by resolution adopted by each such board, approve a plan of merger setting forth:

- (1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation;
- (2) The terms and conditions of the proposed merger;
- (3) The manner and basis of converting the shares of each corporation into shares, obligations or other securities of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property:

(4) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger; and

(5) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

Source: S.L. No. 3L-92-95 §70, 4/18/95

§1-171. Procedure for consolidation. — Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this chapter. The board of directors of each corporation shall, by a resolution adopted by each such board, approve a plan of consolidation setting forth:

(1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation;

(2) The terms and conditions of the proposed consolidation;

(3) The manner and basis of converting the shares of each corporation into shares, obligations or other securities of the new corporation or of any other corporation or, in whole or in part, into cash or other property;

(4) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter; and

(5) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

Source: S.L. No. 3L-92-95 §71, 4/18/95

§1-172. Approval by shareholders. —

(1) The board of directors of each corporation, upon approving such plan of merger or plan of consolidation, shall, by resolution, direct that the plan be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than 20 days before such meeting, in the manner provided in this chapter for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose or one of the purposes is to consider the proposed plan of merger or consolidation. A copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with such notice.

(2) At each such meeting, a vote of the shareholders shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote thereon of each such corporation, unless any class of shares of any such corporation is entitled to vote thereon as a class, in which event, as to such corporation, the plan of merger or consolidation shall be approved 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. Any class of shares of any such corporation shall be entitled to vote as a class if the plan of merger or consolidation, as the case may be, contains any provision which, if contained in a proposed amendment to articles of incorporation, would entitle such class of shares to vote as a class.

(3) After such approval by a vote of the shareholders of each corporation, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Source: S.L. No. 3L-92-95 §72, 4/18/95

§1-173. Articles of merger or consolidation. —

(1) Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice president and by its secretary or an assistant

secretary, and verified by one of the officers of each corporation signing such articles, and shall set forth:

- (a) The plan of merger or the plan of consolidation;
 - (b) As to each corporation, the number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class; and
 - (c) As to each corporation, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.
- (2) Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such articles conform to law, he shall, when all fees have been paid as prescribed in this chapter:
- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;
 - (b) File one of such duplicate originals in his office; and
 - (c) Issue a certificate of merger or a certificate of consolidation to which he shall affix the other duplicate original.
- (3) The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the Registrar of Corporations, shall be returned to the surviving or new corporation, as the case may be, or its representative.

Source: S.L. No. 3L-92-95 §73, 4/18/95

§1-174. Merger of subsidiary corporation. —

(1) Any corporation owning at least ninety percent (90%) of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

- (a) The name of the subsidiary corporation and the name of the corporation owning at least ninety percent (90%) of its shares, which is hereinafter designated as the surviving corporation; and
 - (b) The manner and basis of converting the shares of the subsidiary corporation into shares, obligations or other securities of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property.
- (2) A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.
- (3) Articles of merger shall be executed in duplicate by the surviving corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of its officers signing such articles, and shall set forth:
- (a) The plan of merger;
 - (b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by the surviving corporation; and
 - (c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.
- (4) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares duplicate originals of the articles of merger shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such articles conform to law, he shall, when all fees have been paid as prescribed in this chapter:
- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;

(b) File one of such duplicate originals in his office; and

(c) Issue a certificate of merger to which he shall affix the other duplicate original.

(5) The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the Registrar of Corporations, shall be returned to the surviving corporation or its representative.

Source: S.L. No. 3L-92-95 §74, 4/18/95

§1-175. Effect of merger or consolidation. —

(1) Upon the issuance of the certificate of merger or the certificate of consolidation by the Registrar of Corporations, the merger or consolidation shall be effected.

(2) When such merger or consolidation has been effected:

(a) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation;

(b) The separate existence of all corporate parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease;

(c) Such surviving or new corporation shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a corporation organized under this chapter;

(d) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, of a public as well as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal, and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation;

(e) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation; and

(f) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the original articles of incorporation of the new corporation.

Source: S.L. No. 3L-92-95 §75, 4/18/95

§1-176. Merger or consolidation of domestic and foreign corporations. —

(1) One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(a) Each domestic corporation shall comply with this chapter with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized; and

(b) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than this state, it shall comply with this chapter with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the Registrar of Corporations of this state:

(i) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(ii) An irrevocable appointment of the Registrar of Corporations of this state as its agent to accept service of process in any such proceeding; and

(iii) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under this chapter with respect to the rights of dissenting shareholders.

(2) The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

(3) At any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Source: S.L. No. 3L-92-95 §76, 4/18/95

§1-177. Sale of assets in regular course of business and mortgage or pledge of assets. — The sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation in the usual and regular course of its business and the mortgage or pledge of any or all property and assets of a corporation whether or not in the usual and regular course of business may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations or other securities of any other corporation, domestic or foreign, as shall be authorized by its board of directors; and in any such case no authorization or consent of the shareholders shall be required.

Source: S.L. No. 3L-92-95 §77, 4/18/95

§1-178. Sale of assets other than in regular course of business. — A sale, lease, exchange or other disposition of all, or substantially all, the property and assets, with or without the good will, of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations or other securities of any other corporation, domestic or foreign, as may be authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending such sale, lease, exchange or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than 20 days before such meeting, in the manner provided in this chapter for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange or other disposition.

(3) At such meeting the shareholders may authorize such 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 therefor. Such 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 such 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.

(4) After such authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon such sale, lease, exchange or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

Source: S.L. No. 3L-92-95 §78, 4/18/95

§1-179. Right of shareholders to dissent. —

(1) Any shareholder of a corporation shall have the right to dissent from any of the following corporate actions:

(a) Any plan of merger or consolidation to which the corporation is a party; or

(b) Any sale or exchange of all or substantially all of the property and assets of the corporation not made in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of the sale be distributed to the shareholders in accordance with their respective interests within one year after the date of sale.

(2) A shareholder may dissent as to less than all of the shares registered in his name. In that event, his rights shall be determined as if the shares as to which he has dissented and his other shares were registered in the names of different shareholders.

(3) This section shall not apply to the shareholders of the surviving corporation in a merger if a vote of the shareholders of such corporation is not necessary to authorize such merger.

Source: S.L. No. 3L-92-95 §79, 4/18/95

§1-180. Rights of dissenting shareholders. —

(1) Any shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action. If such proposed corporate action be approved by the required vote and such shareholder shall not have voted in favor thereof, such shareholder may, within ten days after the date on which the vote was taken or if a corporation is to be merged without a vote of its shareholders into another corporation, any of its shareholders may, within 15 days after the plan of such merger shall have been mailed to such shareholders, make written demand on the corporation, or, in the case of a merger or consolidation, on the surviving or new corporation, domestic or foreign, for payment of the fair value of such shareholder's shares, and, if such proposed corporate action is effected, such corporation shall pay to such shareholder, upon surrender of the certificate or certificates representing such shares, the fair value thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding any appreciation or depreciation in anticipation of such corporate action. Any shareholder failing to make demand within the applicable ten-day or 15-day period shall be bound by the terms of the proposed corporate action. Any shareholder making such demand shall thereafter be entitled only to payment as provided in this section and shall not be entitled to vote or to exercise any other rights of a shareholder.

(2) No such demand may be withdrawn unless the corporation shall consent thereto. If, however, such demand shall be withdrawn upon consent, or if the proposed corporate action shall be abandoned or rescinded or the shareholders shall revoke the authority to effect such action, or if, in the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger, or if no demand or petition for the determination of fair value by a court shall have been made or filed

within the time provided in this section, or if a court of competent jurisdiction shall determine that such shareholder is not entitled to the relief provided by this section, then the right of such shareholder to be paid the fair value of his shares shall cease and his status as a shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim.

(3) Within ten days after such corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as herein provided, and shall make a written offer to each such shareholder to pay for such shares at a specified price deemed by such corporation to be the fair value thereof. Such notice and offer shall be accompanied by a balance sheet of the corporation, the shares of which the dissenting shareholder holds as of the latest available date and not more than 12 months prior to the making of such offer, and a profit and loss statement of such corporation for the 12-month period ending on the date of such balance sheet.

(4) If within 30 days after the date on which such corporate action was effected the fair value of such shares is agreed upon between any such dissenting shareholder and the corporation, payment therefor shall be made within 90 days after the date on which such corporate action was effected, upon surrender of the certificate or certificates representing such shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in such shares.

(5) If within such period of 30 days a dissenting shareholder and the corporation do not so agree, then the corporation, within 30 days after receipt of written demand from any dissenting shareholder given within 60 days after the date on which such corporate action was effected, shall, or at its election at any time within such period of 60 days may, file a petition in the Pohnpei Supreme Court requesting that the fair value of such shares be found and determined. If the corporation shall fail to institute the proceeding as herein provided, any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, shall be made parties to the proceeding as an action against their shares quasi in rem. A copy of the petition shall be served on each dissenting shareholder who is a resident of this state and shall be served by registered or certified mail on each dissenting shareholder who is a nonresident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and exclusive. All shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for the amount of the fair value of their shares. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof. The judgment shall be payable only upon and concurrently with the surrender to the corporation of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares.

(6) The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

(7) The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such costs and expenses may be apportioned and assessed as the court may deem equitable against any or all of the dissenting shareholders who are parties to the proceeding to whom the corporation shall have made an offer to pay for the shares if the court shall find that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall exclude the fees and expenses of counsel for and experts employed by any party; but if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may determine to be reasonable compensation to any expert or experts employed by the shareholder in the proceeding.

(8) Within 20 days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct. If shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear similar notation, together with the name of the original dissenting holder of such shares, and a transferee of such shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting shareholder had after making demand for payment of the fair value thereof.

(9) Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as provided in this section, may be held and disposed of by such corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and disposed of as the plan of merger or consolidation may otherwise provide.

Source: S.L. No. 3L-92-95 §80, 4/18/95

§1-181. Voluntary dissolution by incorporators. —

(1) A corporation that has not commenced business and that has not issued any shares may be voluntarily dissolved by its incorporators at any time in the following manner:

(a) Articles of dissolution shall be executed in duplicate by a majority of the incorporators, and verified by them, and shall set forth:

- (i) The name of the corporation;
- (ii) The date of issuance of its certificate of incorporation;
- (iii) That none of its shares has been issued;
- (iv) That the corporation has not commenced business;
- (v) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto;
- (vi) That no debts of the corporation remain unpaid; and
- (vii) That a majority of the incorporators elect that the corporation be dissolved.

(b) Duplicate originals of the articles of dissolution shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that the articles of dissolution conform to law, he shall, when all fees have been paid as prescribed in this chapter:

- (i) Endorse on each of such duplicate originals the word “Filed,” and the month, day, and year of the filing thereof;
- (ii) File one of such duplicate originals in his office; and
- (iii) Issue a certificate of dissolution to which he shall affix the other duplicate original.

(2) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Registrar of Corporations, shall be returned to the incorporators or their representative. Upon the issuance of such certificate of dissolution by the Registrar of Corporations, the existence of the corporation shall cease.

Source: S.L. No. 3L-92-95 §81, 4/18/95

§1-182. Voluntary dissolution by consent of shareholders. —

(1) A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

(2) Upon the execution of such written consent, a statement of intent to dissolve shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (a) The name of the corporation;
- (b) The names and respective addresses of its officers;
- (c) The names and respective addresses of its directors;

- (d) A copy of the written consent signed by all shareholders of the corporation; and
- (e) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their duly authorized attorneys.

Source: S.L. No. 3L-92-95 §82, 4/18/95

§1-183. Voluntary dissolution by act of corporation. — A corporation may be dissolved by the act of the corporation when authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes of such meeting is to consider the advisability of dissolving the corporation.

(3) At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving 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 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.

(4) Upon the adoption of such resolution, a statement of intent to dissolve shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (a) The name of the corporation;
- (b) The names and respective addresses of its officers;
- (c) The names and respective addresses of its directors;
- (d) A copy of the resolution adopted by the shareholders authorizing the dissolution of the corporation;
- (e) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class; and
- (f) The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution, respectively.

Source: S.L. No. 3L-92-95 §83, 4/18/95

§1-184. Filing of statement of intent to dissolve. — Duplicate originals of the statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such statement conforms to law, he shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such duplicate originals the word “Filed,” and the month, day, and year of the filing thereof;

(2) File one of such duplicate originals in his office; and

(3) Return the other duplicate original to the corporation or its representative.

Source: S.L. No. 3L-92-95 §84, 4/18/95

§1-185. Effect of statement of intent to dissolve. — Upon the filing by the Registrar of Corporations of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business, except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until a certificate of dissolution has been issued by the Registrar of Corporations or until a decree dissolving the corporation has been entered by a court of competent jurisdiction as provided in this chapter.

Source: S.L. No. 3L-92-95 §85, 4/18/95

§1-186. Procedure after filing of statement of intent to dissolve. — After the filing by the Registrar of Corporations of a statement of intent to dissolve:

(1) The corporation shall immediately cause notice thereof to be mailed to each known creditor of the corporation;

(2) The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in-kind to its shareholders, pay, satisfy, and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in-kind, among its shareholders according to their respective rights and interests; and

(3) The corporation, at any time during the liquidation of its business and affairs, may make application to the Pohnpei Supreme Court to have the liquidation continued under the supervision of the court as provided in this chapter.

Source: S.L. No. 3L-92-95 §86, 4/18/95

§1-187. Revocation of voluntary dissolution proceedings by consent of shareholders. — By the written consent of all its shareholders, a corporation may, at any time prior to the issuance of a certificate of dissolution by the Registrar of Corporations, revoke voluntary dissolution proceedings theretofore taken, in the following manner: Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(1) The name of the corporation;

(2) The names and respective addresses of its officers;

(3) The names and respective addresses of its directors;

(4) A copy of the written consent signed by all shareholders of the corporation revoking such voluntary dissolution proceedings; and

(5) That such written consent has been signed by all shareholders of the corporation or signed in their names by their duly authorized attorneys.

Source: S.L. No. 3L-92-95 §87, 4/18/95

§1-188. Revocation of voluntary dissolution proceedings by act of corporation. — By the act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution by the Registrar of Corporations, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

(1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a special meeting of shareholders.

(2) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of special meetings of shareholders.

(3) At such meeting a vote of the shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of revocation of voluntary dissolution proceedings shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (a) The name of the corporation;
- (b) The names and respective addresses of its officers;
- (c) The names and respective addresses of its directors;
- (d) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings;
- (e) The number of shares outstanding; and
- (f) The number of shares voted for and against the resolution, respectively.

Source: S.L. No. 3L-92-95 §88, 4/18/95

§1-189. Filing of statement of revocation of voluntary dissolution proceedings. — Duplicate originals of the statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such statement conforms to law, he shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such duplicate originals the word “Filed,” and the month, day, and year of the filing thereof;

(2) File one of such duplicate originals in his office; and

(3) Return the other duplicate original to the corporation or its representative.

Source: S.L. No. 3L-92-95 §89, 4/18/95

§1-190. Effect of statement of revocation of voluntary dissolution proceedings. — Upon the filing by the Registrar of Corporations of a statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, the revocation of the voluntary dissolution proceedings shall become effective and the corporation may again carry on its business.

Source: S.L. No. 3L-92-95 §90, 4/18/95

§1-191. Articles of dissolution. — If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities, and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(1) The name of the corporation;

(2) That the Registrar of Corporations has theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed;

(3) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;

(4) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests; and

(5) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

Source: S.L. No. 3L-92-95 §91, 4/18/95

§1-192. Filing of articles of dissolution. —

(1) Duplicate originals of such articles of dissolution shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such articles of dissolution conform to law, he shall, when all fees have been paid as prescribed in this chapter:

- (a) Endorse on each of such duplicate originals the word “Filed,” and the month, day, and year of the filing thereof;
- (b) File one of such duplicate originals in his office; and
- (c) Issue a certificate of dissolution to which he shall affix the other duplicate original.

(2) The certificate of dissolution together with the duplicate original of the articles of dissolution affixed thereto by the Registrar of Corporations, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by shareholders, directors, and officers as provided in this chapter.

Source: S.L. No. 3L-92-95 §92, 4/18/95

§1-193. Involuntary dissolution. — A corporation may be dissolved involuntarily by a decree of the Pohnpei Supreme Court in an action filed by the Attorney General when it is established that:

- (1) The corporation has failed to file its annual report within the time required by this chapter; or
- (2) The corporation procured its articles of incorporation through fraud; or
- (3) The corporation has continued to exceed or abuse the authority conferred upon it by law; or
- (4) The corporation has failed for 30 days to appoint and maintain a registered agent in this state;

or

(5) The corporation has failed for 30 days after change of its registered office or registered agent to file in the office of the Registrar of Corporations a statement of such change.

Source: S.L. No. 3L-92-95 §93, 4/18/95

§1-194. Notification to Attorney General. — The Registrar of Corporations, on or before the last day of December of each year, shall certify to the Attorney General the names of all corporations which have failed to file their annual reports in accordance with this chapter, together with the facts pertinent thereto. He shall also certify, from time to time, the names of all corporations that have given other cause for dissolution as provided in this chapter, together with the facts pertinent thereto. Whenever the Registrar of Corporations shall certify the name of a corporation to the Attorney General as having given any cause for dissolution, the Registrar of Corporations shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the Attorney General shall file an action in the name of the state against such corporation for its dissolution. Every such certificate from the Registrar of Corporations to the Attorney General pertaining to the failure of a corporation to file an annual report shall be taken and received in all courts as prima facie evidence of the facts therein stated. If, before action is filed, the corporation shall file its annual report, together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this chapter, or shall file with the Registrar of Corporations the required statement of change of registered office or registered agent, such fact shall be forthwith certified by the Registrar of Corporations to the Attorney General and he shall not file an action against such corporation for such cause. If, after action is filed, the corporation shall file its annual report, together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this chapter, or shall file with the Registrar of Corporations the required statement of change of registered office or registered agent, and shall pay the costs of such action, the action for such cause shall abate.

Source: S.L. No. 3L-92-95 §94, 4/18/95

§1-195. Venue and process. — Every action for the involuntary dissolution of a corporation shall be commenced by the Attorney General in the Pohnpei Supreme Court. Summons shall issue and be served as in other civil actions. If process is returned not found, the Attorney General shall cause the posting in such conspicuous places in the state and local government facilities throughout the state, of a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The Attorney General may include in one notice the names of any number of corporations against which actions are then pending in the same court. The Attorney General shall cause a copy of such notice to be mailed to the corporation at its registered office within ten days after the first publication thereof. The certificate of the Attorney General of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be kept posted for two successive weeks. Posting of such notice may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than 30 days after the first day of posting of such notice.

Source: S.L. No. 3L-92-95 §95, 4/18/95

§1-196. Jurisdiction of court to liquidate assets and business corporation. —

(1) The Pohnpei Supreme Court shall have full power to liquidate the assets and business of a corporation:

(a) In an action by a shareholder when it is established:

(i) That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

(ii) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(iii) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(iv) That the corporate assets are being misapplied or wasted.

(b) In an action by a creditor:

(i) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or

(ii) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation that has filed statement of intent to dissolve, as provided in this chapter, to have its liquidation continued under the supervision of the court.

(d) When an action has been filed by the Attorney General to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

(2) It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.

Source: S.L. No. 3L-92-95 §96, 4/18/95

§1-197. Procedure in liquidation of corporation by court. —

(1) In proceedings to liquidate the assets and business of a corporation the court shall have power to issue injunctions, to appoint a receiver or receiver pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the business of the corporation until a full hearing can be had.

(2) After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a

liquidating receiver or receivers with authority to collect the assets of the corporation, including all amounts owing to the corporation by subscribers on account of any unpaid portion of the consideration for the issuance of shares. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey, and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The assets of the corporation or the proceeds resulting from a sale, conveyance or other disposition thereof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders according to their respective rights and interests. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

(3) The court shall have power to allow from time to time, as expenses of the liquidation, compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

(4) A receiver of a corporation appointed under this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

Source: S.L. No. 3L-92-95 §97, 4/18/95

§1-198. Qualifications of receivers. — A receiver shall in all cases be a natural person or a corporation authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

Source: S.L. No. 3L-92-95 §98, 4/18/95

§1-199. Filing of claims in liquidation proceedings. — In proceedings to liquidate the assets and business of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

Source: S.L. No. 3L-92-95 §99, 4/18/95

§1-200. Discontinuance of liquidation proceedings. — The liquidation of the assets and business of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

Source: S.L. No. 3L-92-95 §100, 4/18/95

§1-201. Decree of involuntary dissolution. — In proceedings to liquidate the assets and business of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

Source: S.L. No. 3L-92-95 §101, 4/18/95

§1-202. Filing of decree of dissolution. — In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of the court to cause a certified copy of the decree to be filed with the Registrar of Corporations. No fee shall be charged by the Registrar of Corporations for the filing thereof.

Source: S.L. No. 3L-92-95 §102, 4/18/95

§1-203. Deposit in Treasury of amount due certain shareholders. — Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited in a special trust fund in the Treasury and shall be paid over to such creditor or shareholder or to his legal representative upon proof satisfactory to the Director of the Department of Treasury and Administration of his right thereto.

Source: S.L. No. 3L-92-95 §103, 4/18/95

§1-204. Survival of remedy after dissolution. — The dissolution of a corporation either by the issuance of a certificate of dissolution by the Registrar of Corporations, or by a decree of court when the court has not liquidated the assets and business of the corporation as provided in this chapter, or by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years so as to extend its period of duration.

Source: S.L. No. 3L-92-95 §104, 4/18/95

§1-205. Admission of foreign corporation. —

(1) No foreign corporation shall have the right to transact business in this state until it shall have procured a certificate of authority so to do from the Registrar of Corporations. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to transact in this state any business which a corporation organized under this chapter is not permitted to transact. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing contained in this chapter shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

(2) Without excluding other activities which may not constitute transacting business in this state, a foreign corporation shall not be considered to be transacting business in this state, for the purposes of this chapter, by reason of carrying on in this state any one or more of the following activities:

- (a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;
- (b) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs;
- (c) Maintaining bank accounts;
- (d) Maintaining offices or agencies for the transfer, exchange, and registration of its securities or appointing and maintaining trustees or depositories with relation to its securities;
- (e) Effecting sales through independent contractors;

- (f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts;
- (g) Creating evidences of debt, mortgages or liens on real or personal property;
- (h) Securing or collecting debts or enforcing any rights in property securing the same;
- (i) Transacting any business in interstate commerce; or
- (j) Conducting an isolated transaction completed within a period of 30 days and not in the course of a number of repeated transactions of like nature.

Source: S.L. No. 3L-92-95 §105, 4/18/95

§1-206. Powers of foreign corporation. — A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same, but not greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authority is issued; and, except as provided otherwise in this chapter, shall be subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed upon a domestic corporation of like character.

Source: S.L. No. 3L-92-95 §106, 4/18/95

§1-207. Corporate name of foreign corporation. — No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(1) Shall contain the word “corporation,” “company,” “incorporated” or “limited,” or shall contain an abbreviation of one of such words, or such corporation shall, for use in this state, add at the end of its name one of such words or an abbreviation thereof.

(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct the business of banking or insurance.

(3) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its name as provided in this chapter, except that this provision shall not apply if the foreign corporation applying for a certificate of authority files with the Registrar of Corporations any one of the following:

(a) A resolution of its board of directors adopting a fictitious name for use in transacting business in this state which fictitious name is not deceptively similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this state or to any name reserved or registered as provided in this chapter; or

(b) The written consent of such other corporation or holder of a reserved or registered name to use the same or deceptively similar name and one or more words are added to make such name distinguishable from such other name; or

(c) A certified copy of a final decree of the Pohnpei Supreme Court establishing the prior right of such foreign corporation to the use of such name in this state.

Source: S.L. No. 3L-92-95 §107, 4/18/95

§1-208. Change of name by foreign corporation. — Whenever a foreign corporation which is authorized to transact business in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter transact any business in this state until it has changed its name to a name which is available to it under the laws of this state or has otherwise complied with this chapter.

Source S.L. No. 3L-92-95 §108, 4/18/95

§1-209. Application for certificate of authority. —

(1) A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the Registrar of Corporations, which application shall set forth:

- (a) The name of the corporation and the state or country under the laws of which it is incorporated;
- (b) If the name of the corporation does not contain the word “corporation,” “company,” “incorporated” or “limited,” or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state;
- (c) The date of incorporation and the period of duration of the corporation;
- (d) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated;
- (e) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address;
- (f) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state;
- (g) The names and respective addresses of the directors and officers of the corporation;
- (h) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class;
- (i) A statement of the aggregate number of issued shares itemized by classes, par value of shares, shares without par value, and series, if any, within a class;
- (j) A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in this chapter;
- (k) An estimate, expressed in dollars, of the value of all property to be owned by the corporation for the following year, wherever located, and an estimate of the value of the property of the corporation to be located within this state during such year, and an estimate, expressed in dollars, of the gross amount of business which will be transacted by the corporation during such year, and an estimate of the gross amount thereof which will be transacted by the corporation at or from places of business in this state during such year; and
- (l) Such additional information as may be necessary or appropriate in order to enable the Registrar of Corporations to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable as prescribed in this chapter.

(2) Such application shall be made on forms prescribed and furnished by the Registrar of Corporations and shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such application.

Source: S.L. No. 3L-92-95 §109, 4/18/95

§1-210. Filing of application for certificate of authority. —

(1) Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the Registrar of Corporations, together with a copy of its articles of incorporation and all amendments thereto, duly authenticated by the proper officer of the state or country under the laws of which it is incorporated.

(2) If the Registrar of Corporations finds that such application conforms to law, he shall, when all fees have been paid as prescribed in this chapter:

- (a) Endorse on each of such documents the word “Filed,” and the month, day, and year of the filing thereof;

(b) File in his office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto; and

(c) Issue a certificate of authority to transact business in this state to which he shall affix the other duplicate original application.

(3) The certificate of authority, together with the duplicate original of the application affixed thereto by the Registrar of Corporations, shall be returned to the corporation or its representative.

Source: S.L. No. 3L-92-95 §110, 4/18/95

§1-211. Effect of certificate of authority. — Upon the issuance of a certificate of authority by the Registrar of Corporations, the corporation shall be authorized to transact business in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as provided in this chapter.

Source: S.L. No. 3L-92-95 §111, 4/18/95

§1-212. Registered office and registered agent of foreign corporation. — Each foreign corporation authorized to transact business in this state shall have and continuously maintain in this state:

(1) A registered office that may be, but need not be, the same as its place of business in this state; and

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office.

Source: S.L. No. 3L-92-95 §112, 4/18/95

§1-213. Change of registered office or registered agent of foreign corporation. —

(1) A foreign corporation authorized to transact business in this state may change its registered office or change its registered agent, or both, upon filing in the office of the Registrar of Corporations a statement setting forth:

(a) The name of the corporation;

(b) The address of its then registered office;

(c) If the address of its registered office be changed, the address to which the registered office is to be changed;

(d) The name of its then registered agent;

(e) If its registered agent be changed, the name of its successor registered agent;

(f) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and

(g) That such change was authorized by resolution duly adopted by its board of directors.

(2) Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such statement conforms to this chapter, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

(3) Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the Registrar of Corporations, who shall forthwith mail a copy thereof to the corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of such agent shall terminate upon the expiration of 30 days after receipt of such notice by the Registrar of Corporations.

(4) If a registered agent changes his or its business address, he or it may change such address and the address of the registered office of any corporation of which he or it is a registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be

responsive to Paragraphs (e) or (g) of Subsection (1) of this section and must recite that a copy of the statement has been mailed to the corporation.

Source: S.L. No. 3L-92-95 §113, 4/18/95

§1-214. Service of process on foreign corporation. —

(1) The registered agent so appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(2) Whenever a foreign corporation authorized to transact business in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the Registrar of Corporations shall be an agent of such corporation upon whom any such process, notice or demand may be served. Service on the Registrar of Corporations of any such process, notice or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the Registrar of Corporations, he shall immediately cause one of such copies thereof to be forwarded by registered mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the Registrar of Corporations shall be returnable in not less than 30 days.

(3) The Registrar of Corporations shall keep a record of all processes, notices, and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

(4) 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 now or hereafter permitted by law.

Source: S.L. No. 3L-92-95 §114, 4/18/95

§1-215. Amendment to articles of incorporation of foreign corporation. — Whenever the articles of incorporation of a foreign corporation authorized to transact business in this state are amended, such foreign corporation shall, within 30 days after such amendment becomes effective, file in the office of the Registrar of Corporations a copy of such amendment duly authenticated by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in the transaction of business in this state, nor authorize such corporation to transact business in this state under any other name than the name set forth in its certificate of authority.

Source: S.L. No. 3L-92-95 §115, 4/18/95

§1-216. Merger of foreign corporation authorized to transact business in this state. — Whenever a foreign corporation authorized to transact business in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within 30 days after such merger becomes effective, file with the Registrar of Corporations a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to transact business in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to transact in this state.

Source: S.L. No. 3L-92-95 §116, 4/18/95

§1-217. Amended certificate of authority. —

(1) A foreign corporation authorized to transact business in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the Registrar of Corporations.

(2) The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the Registrar of Corporations, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

Source: S.L. No. 3L-92-95 §117, 4/18/95

§1-218. Withdrawal of foreign corporation. —

(1) A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the Registrar of Corporations a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Registrar of Corporations an application for withdrawal, which shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated;

(b) That the corporation is not transacting business in this state;

(c) That the corporation surrenders its authority to transact business in this state;

(d) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereof on the Registrar of Corporations;

(e) A post office address to which the Registrar of Corporations may mail a copy of any process against the corporation that may be served on him;

(f) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, as of the date of such application;

(g) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, as of the date of such application;

(h) A statement, expressed in dollars, of the amount of stated capital of the corporation, as of the date of such application; and

(i) Such additional information as may be necessary or appropriate in order to enable the Registrar of Corporations to determine and assess any unpaid fees payable by such foreign corporation as prescribed in this chapter.

(2) The application for withdrawal shall be made on forms prescribed and furnished by the Registrar of Corporations and shall be executed by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

Source: S.L. No. 3L-92-95 §118, 4/18/95

§1-219. Filing of application for withdrawal. —

(1) Duplicate originals of such application for withdrawal shall be delivered to the Registrar of Corporations. If the Registrar of Corporations finds that such application conforms to this chapter, he shall, when all fees have been paid as prescribed in this chapter:

- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;
- (b) File one of such duplicate originals in his office; and
- (c) Issue a certificate of withdrawal to which he shall affix the other duplicate original.

(2) The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the Registrar of Corporations, shall be returned to the corporation or its representative. Upon the issuance of such certificate of withdrawal, the authority of the corporation to transact business in this state shall cease.

Source: S.L. No. 3L-92-95 §119, 4/18/95

§1-220. Revocation of certificate of authority. —

(1) The certificate of authority of a foreign corporation to transact business in this state may be revoked by the Registrar of Corporations upon the conditions prescribed in this section when:

- (a) The corporation has failed to file its annual report within the time required by this chapter, or has failed to pay any fees or penalties prescribed by this chapter when they have become due and payable; or
- (b) The corporation has failed to appoint and maintain a registered agent in this state as required by this chapter; or
- (c) The corporation has failed, after change of its registered office or registered agent, to file in the office of the Registrar of Corporations a statement of such change as required by this chapter; or
- (d) The corporation has failed to file in the office of the Registrar of Corporations any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or
- (e) A misrepresentation has been made of any material matter in any application, report, affidavit or other document submitted by such corporation pursuant to this chapter.

(2) No certificate of authority of a foreign corporation shall be revoked by the Registrar of Corporations unless:

- (a) He shall have given the corporation not less than 60 days' notice thereof by mail addressed to its registered office in this state; and
- (b) The corporation shall fail prior to revocation to file such annual report, or pay such fees or penalties, or file the required statement of change of registered agent or registered office, or file such articles of amendment or articles of merger, or correct such misrepresentation.

Source: S.L. No. 3L-92-95 §120, 4/18/95

§1-221. Issuance of certificate of revocation. —

(1) Upon revoking any such certificate of authority, the Registrar of Corporations shall:

- (a) Issue a certificate of revocation in duplicate;
- (b) File one of such certificates in his office; and
- (c) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of such certificates.

(2) Upon the issuance of such certificate of revocation, the authority of the corporation to transact business in this state shall cease.

Source: S.L. No. 3L-92-95 §121, 4/18/95

§1-222. Application to corporation heretofore authorized to transact business in this state. —

Foreign corporations which are duly authorized to transact business in this state at the time this chapter takes effect, for a purpose or purposes for which a corporation might secure such authority under this chapter, shall, subject to the limitations set forth in their respective certificates of authority, be entitled to all the rights and privileges applicable to foreign corporations procuring certificates of authority to transact business in this state under this chapter, and from the time this chapter takes effect such

corporations shall be subject to all the limitations, restrictions, and duties prescribed herein for foreign corporations procuring certificates of authority to transact business in this state under this chapter.

Source: S.L. No. 3L-92-95 §122, 4/18/95

§1-223. Transacting business without certificate of authority. —

(1) No foreign corporation transacting business in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state, until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the transaction of business by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

(2) The failure of a foreign corporation to obtain a certificate of authority to transact business in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state.

(3) A foreign corporation which transacts business in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this chapter upon such corporation had it duly applied for and received a certificate of authority to transact business in this state 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 such fees. The Attorney General shall bring proceedings to recover all amounts due this state under this section.

Source: S.L. No. 3L-92-95 §123, 4/18/95

§1-224. Annual report of domestic and foreign corporations. —

(1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall file, within the time prescribed by this chapter, an annual report setting forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated;

(b) The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, and, in case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated;

(c) A brief statement of the character of the business in which the corporation is actually engaged in this state;

(d) The names and respective addresses of the directors and officers of the corporation;

(e) A statement of the aggregate number of shares that the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class;

(f) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class;

(g) A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in this chapter; and

(h) A statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property of the corporation located within this state, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation for the 12 months ending on December 31 preceding the date herein provided for the filing of such report and the gross amount thereof transacted by the corporation at or from places of business in this state. If, on December 31 preceding the time herein provided for the filing of such report, the corporation had not been in existence for a period of 12 months, or in the case of a foreign corporation, had not been authorized to transact business in

this state for a period of 12 months, the statement with respect to business transacted shall be furnished for the period between the date of incorporation or the date of its authorization to transact business in this state, as the case may be, and such December 31.

(2) Such annual report shall be made on forms prescribed and furnished by the Registrar of Corporations, and the information contained therein shall be given as of the date of the execution of the report, except as to the information required by Paragraph (h) of Subsection (1) of this section, which shall be given as of the close of business on December 31 next preceding the date herein provided for the filing of such report. It shall be executed by the corporation by its president, a vice president, secretary, an assistant secretary or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and verified by such receiver or trustee.

Source: S.L. No. 3L-92-95 §124, 4/18/95

§1-225. Filing of annual report of domestic and foreign corporations. — Such annual report of a domestic or foreign corporation shall be delivered to the Registrar of Corporations between January 1 and March 1 each year, except that the first annual report of a domestic or foreign corporation shall be filed between January 1 and March 1 of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the Registrar of Corporations. Proof to the satisfaction of the Registrar of Corporations that prior to March 1 such report was deposited in the Federated States of Micronesia mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the Registrar of Corporations finds that such report conforms to the requirements of this chapter, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time herein provided shall not apply, if such report is corrected to conform to the requirements of this chapter and returned to the Registrar of Corporations within 30 days from the date on which it was mailed to the corporation by the Registrar of Corporations.

Source: S.L. No. 3L-92-95 §125, 4/18/95

§1-226. Fees and charges to be collected by Registrar of Corporations. — The Registrar of Corporations shall charge and collect in accordance with this chapter:

- (1) Fees for filing documents and issuing certificates;
- (2) Miscellaneous charges; and
- (3) License fees.

Source: S.L. No. 3L-92-95 §126, 4/18/95

§1-227. Fees for filing documents and issuing certificates. — The Registrar of Corporations shall charge and collect for:

- (1) Filing articles of incorporation and issuing a certificate of incorporation – \$50.
- (2) Filing articles of amendment and issuing a certificate of amendment – \$15.
- (3) Filing restated articles of incorporation – \$50.
- (4) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation – \$50.
- (5) Filing an application to reserve a corporate name – \$20.
- (6) Filing a notice of transfer of a reserved corporate name – \$20.
- (7) Filing a statement of change of address of registered office or change of registered agent, or both – \$10.
- (8) Filing a statement of the establishment of a series of shares – \$20.
- (9) Filing a statement of cancellation of shares – \$10.
- (10) Filing a statement of reduction of stated capital – \$10.
- (11) Filing a statement of intent to dissolve – \$20.

(12) Filing a statement of revocation of voluntary dissolution proceedings – \$10.

(13) Filing articles of dissolution – \$20.

(14) Filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing a certificate of authority – \$50.

(15) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority – \$25.

(16) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state – \$15.

(17) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state – \$50.

(18) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal – \$70.

(19) Filing any other statement or report, except an annual report, of a domestic or foreign corporation – \$10.

Source: S.L. No. 3L-92-95 §127, 4/18/95

§1-228. Miscellaneous charges. — The Registrar of Corporations shall charge and collect:

(1) For furnishing a certified copy of any document, instrument or paper relating to a corporation, twenty cents per page and \$5 for the certificate and affixing the seal thereto.

(2) At the time of any service of process on him as resident agent of a corporation \$5, which amount may be recovered as costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

Source: S.L. No. 3L-92-95 §128, 4/18/95

§1-229. License fees payable by domestic corporations. —

(1) The Registrar of Corporations shall charge and collect from each domestic corporation license fees, based upon the number of shares which it will have authority to issue or the increase in the number of shares which it will have authority to issue, at the time of:

(a) Filing articles of incorporation;

(b) Filing articles of amendment increasing the number of authorized shares; and

(c) Filing articles of merger or consolidation increasing the number of authorized shares which the surviving or new corporation, if a domestic corporation, will have the authority to issue above the aggregate number of shares which the constituent domestic corporations and constituent foreign corporations authorized to transact business in this state had authority to issue.

(2) The license fees shall be at the rate of ten cents per share up to and including the first 10,000 authorized shares, 15 cents per share for each authorized share in excess of 10,000 shares up to and including 100,000 shares, and 20 cents per share for each authorized share in excess of 100,000 shares, whether the shares are of par value or without par value.

(3) The license fees payable on an increase in the number of authorized shares shall be imposed only on the increased number of shares, and the number of previously authorized shares shall be taken into account in determining the rate applicable to the increased number of authorized shares.

Source: S.L. No. 3L-92-95 §129, 4/18/95

§1-230. License fees payable by foreign corporations. —

(1) The Registrar of Corporations shall charge and collect from each foreign corporation license fees, based upon the proportion represented in this state of the number of shares which it has authority to issue or the increase in the number of shares which it has authority to issue, at the time of:

(a) Filing an application for a certificate of authority to transact business in this state;

(b) Filing articles of amendment which increased the number of authorized shares; and

(c) Filing articles of merger or consolidation which increased the number of authorized shares which the surviving or new corporation, if a foreign corporation, has authority to issue above the aggregate number of shares which the constituent domestic corporations and constituent foreign corporation authorized to transact business in this state had authority to issue.

(2) The license fees shall be at the rate of 15 cents per share up to and including the first 10,000 authorized shares represented in this state, 20 cents per share for each authorized share in excess of 10,000 shares up to and including 100,000 shares represented in this state, and 30 cents per share for each authorized share in excess of 100,000 shares represented in this state, whether the shares are of par value or without par value.

(3) The license fees payable on an increase in the number of authorized shares shall be imposed only on the increased number of such shares represented in this state, and the number of previously authorized shares represented in this state shall be taken into account in determining the rate applicable to the increased number of authorized shares.

(4) The number of authorized shares represented in this state shall be that proportion of its total authorized shares which the sum of the value of its property located in this state and the gross amount of business transacted by it at or from places of business in this state bears to the sum of the value of all of its property, wherever located, and the gross amount of its business, wherever transacted. Such proportion shall be determined from information contained in the application for a certificate of authority to transact business in this state until the filing of an annual report and thereafter from information contained in the latest annual report filed by the corporation.

Source: S.L. No. 3L-92-95 §130, 4/18/95

§1-231. Penalties imposed upon corporations. —

(1) Each corporation, domestic or foreign, that fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a forfeiture of an amount to be determined by the Registrar of Corporations not exceeding \$100 for every such violation, neglect or failure, to be recovered by action brought in the name of Pohnpei by the Attorney General. A continuance of a failure to file the required report shall be a separate offense for each 30 days of the continuance. The Registrar of Corporations may, for good cause shown, waive the penalty imposed by this section.

(2) Each corporation, domestic or foreign, that fails or refuses to answer truthfully and fully within the time prescribed by this chapter interrogatories propounded by the Registrar of Corporations in accordance with this chapter, shall be deemed to be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding \$500.

Source: S.L. No. 3L-92-95 §131, 4/18/95

§1-232. Penalties imposed upon officers and directors. — Each officer and director of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter to answer truthfully and fully interrogatories propounded to him by the Registrar of Corporations in accordance with this chapter, or who signs any articles, statement, report, application or other document filed with the Registrar of Corporations which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding \$500.

Source: S.L. No. 3L-92-95 §132, 4/18/95

§1-233. Interrogatories by Registrar of Corporations. — The Registrar of Corporations may propound to any corporation, domestic or foreign, subject to this chapter, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable him to ascertain whether such corporation has complied with this chapter applicable to such corporation. Such interrogatories shall be answered within 30 days after the mailing thereof, or within such additional time as shall be fixed by the Registrar of Corporations, and the answers thereto shall be full and

complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by the president, vice president, secretary or assistant secretary thereof. The Registrar of Corporations need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such document is not in conformity with this chapter. The Registrar of Corporations shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers thereto which disclose a violation of this chapter.

Source: S.L. No. 3L-92-95 §133, 4/18/95

§1-234. Information disclosed by interrogatories. — Interrogatories propounded by the Registrar of Corporations and the answers thereto shall not be open to public inspection nor shall the Registrar of Corporations disclose any facts or information obtained therefrom except insofar as his official duty may require the same to be made public or in the event such interrogatories or the answers thereto are required for evidence in any criminal proceedings or in any other action by this state.

Source: S.L. No. 3L-92-95 §134, 4/18/95

§1-235. Powers of Registrar of Corporations. — The Registrar of Corporations shall have the power and authority reasonably necessary to enable him to administer this chapter efficiently and to perform the duties herein imposed upon him.

Source: S.L. No. 3L-92-95 §135, 4/18/95

§1-236. Appeal from Registrar of Corporations. —

(1) If the Registrar of Corporations shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this chapter to be approved by the Registrar of Corporations before the same shall be filed in his office, he shall, within ten days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the Pohnpei Supreme Court by filing with the clerk of the court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the Registrar of Corporations; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the Registrar of Corporations or direct him to take such action as the court may deem proper.

(2) If the Registrar of Corporations shall revoke the certificate of authority to transact business in this state of any foreign corporation pursuant to this chapter, such foreign corporation may likewise appeal to the Pohnpei Supreme Court by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to transact business in this state and a copy of the notice of revocation given by the Registrar of Corporations; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the Registrar of Corporations or direct him to take such action as the court may deem proper. Appeals from all final orders and judgments entered by the Pohnpei Supreme Court under this section in review of any ruling or decision of the Registrar of Corporations may be taken as in other civil actions.

Source: S.L. No. 3L-92-95 §136, 4/18/95

§1-237. Certificates and certified copies to be received in evidence. — All certificates issued by the Registrar of Corporations in accordance with this chapter, and all copies of documents filed in his office in accordance with this chapter when certified by him, 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 of Corporations under the great seal of this state, 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.

Source: S.L. No. 3L-92-95 §137, 4/18/95

§1-238. Forms to be furnished by Registrar of Corporations. — All reports required by this chapter to be filed in the office of the Registrar of Corporations shall be made on forms that shall be prescribed and furnished by the Registrar of Corporations. Forms for all other documents to be filed in the office of the Registrar of Corporations shall be furnished by the Registrar of Corporations on request therefor, but the use thereof, unless otherwise specifically prescribed in this chapter, shall not be mandatory.

Source: S.L. No. 3L-92-95 §138, 4/18/95

§1-239. Greater voting requirements. — Whenever, with respect to any action to be taken by the shareholders of a corporation, the articles of incorporation require the vote or concurrence of the holders of a greater proportion of the shares, or of any class or series thereof, than required by this chapter with respect to such action, the articles of incorporation shall control.

Source: S.L. No. 3L-92-95 §139, 4/18/95

§1-240. Waiver of notice. — Whenever any notice is required to be given to any shareholder or director of a corporation under this chapter or under the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Source: S.L. No. 3L-92-95 §140, 4/18/95

§1-241. Action by shareholders without a meeting. — Any action required by this chapter to be taken at a meeting of the shareholders of a corporation, or any action which may be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof. Such consent shall have the same effect as a unanimous vote of shareholders, and may be stated as such in any articles or document filed with the Registrar of Corporations under this chapter.

Source: S.L. No. 3L-92-95 §141, 4/18/95

§1-242. Unauthorized assumption of corporate powers. — All persons who assume to act as a corporation without authority to do so shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

Source: S.L. No. 3L-92-95 §142, 4/18/95

§1-243. Application to existing corporations. — This chapter shall apply to all existing corporations organized under any general act providing for the organization of corporations for a purpose or purposes for which a corporation might be organized under this chapter, where the power has been reserved to amend, repeal or modify the act under which such corporation was organized and where such act is repealed by this chapter.

Source: S.L. No. 3L-92-95 §143, 4/18/95

§1-244. Application to foreign and interstate commerce. — This chapter shall apply to commerce with foreign nations and among the several states only insofar as the same may be permitted under the Constitution of the Federated States of Micronesia.

Source: S.L. No. 3L-92-95 §144, 4/18/95

§1-245. Reservation of power. — The Legislature shall at all times have the power to prescribe such regulations, provisions, and limitations as it may deem advisable, which regulations, provisions, and limitations shall be binding upon any and all corporations subject to this chapter, and the Legislature shall have the power to amend, repeal or modify this chapter at pleasure.

Source: S.L. No. 3L-92-95 §145, 4/18/95

§1-246. Effect of supersession of prior acts. — The supersession of a prior act by this chapter shall not affect any right accrued or established, or any liability or penalty incurred, under such act, prior to the repeal thereof.

Source: S.L. No. 3L-92-95 §146, 4/18/95

Notes: 1. S.L. No. 3L-92-95 §147 severability provision has been omitted; *see* 1 PC 1-110.

2. S.L. No. 3L-92-95 §148 repealing provision has been omitted.

CHAPTER 2 PARTNERSHIPS

Section

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§2-101. Short title. — This chapter is known and may be cited as the “Partnership Act of 1994.”

Source: S.L. No. 3L-111-95 §1-1, 11/24/95

§2-102. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

- (1) “Bankrupt” includes bankrupt or insolvent under national or state law.
- (2) “Business” includes every trade, occupation or profession.
- (3) “Conveyance” includes every assignment, lease, mortgage or encumbrance.
- (4) “Court” includes every court and judge having jurisdiction in the case.
- (5) “Person” includes individuals, partnerships, corporations, and other associations.
- (6) “Real property” includes land and any interest or estate in land.

Source: S.L. No. 3L-111-95 §1-2, 11/24/95

§2-103. Interpretation of “knowledge” and “notice”. —

(1) A person has “knowledge” of a fact within the meaning of this chapter not only when he has actual knowledge thereof, but also when he has actual knowledge of such other facts as in the circumstances shows bad faith.

(2) A person has “notice” of a fact within the meaning of this chapter when the person who claims the benefit of the notice:

- (a) States the fact to such person; or
- (b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

Source: S.L. No. 3L-111-95 §1-3, 11/24/95

§2-104. Rules of construction. —

(1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) The law of estoppel shall apply under this chapter.

(3) The law of agency shall apply under this chapter.

(4) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states within the Federated States of Micronesia which enact it; PROVIDED that due regard shall be given to the particular customs and traditions of this state.

(5) This chapter shall not be construed so as to impair the obligations of any contract existing when the chapter goes into effect, nor affect any action or proceedings begun or right accrued before this chapter takes effect.

(6) A partnership in which there is foreign interest, in addition to this chapter, shall be subject to the state foreign investment laws to the extent they are applicable.

Source: S.L. No. 3L-111-95 §1-4, 11/24/95

§2-105. Rules for cases not provided for in this chapter. — In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern.

Source: S.L. No. 3L-111-95 §1-5, 11/24/95

§2-106. “Partnership” defined. —

(1) A partnership is an association of two or more persons to carry on as co-owners of business for profit.

(2) Any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this chapter, unless such association would have been a partnership in this state prior to the adoption of this chapter.

(3) This chapter shall apply to limited partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith.

Source: S.L. No. 3L-111-95 §2-1, 11/24/95

§2-107. Rules for determining the existence of a partnership. — In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by §2-116, persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

- (a) As a debt by installments or otherwise;
- (b) As wages of an employee or rent to a landlord;

- (c) As an annuity to a widow or representative of a deceased partner;
- (d) As interest on a loan, though the amount of payment may vary with the profits of the business; or
- (e) As the consideration for the sale of the good will of a business or the property by installments or otherwise.

Source: S.L. No. 3L-111-95 §2-2, 11/24/95

§2-108. Partnership property. —

(1) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

Source: S.L. No. 3L-111-95 §2-3, 11/24/95

§2-109. Partner, agent of partnership as to partnership business. —

(1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for the carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner that is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

- (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership;
- (b) Dispose of the good will of the business;
- (c) Do any other act that would make it impossible to carry on the ordinary business of a partnership;
- (d) Confess a judgment; and
- (e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

Source: S.L. No. 3L-111-95 §3-1, 11/24/95

§2-110. Conveyance of real property of the partnership. —

(1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under §2-109(1), or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one with the authority of the partner under §2-109(1).

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does

not bind the partnership under §2-109(1), unless the purchaser or his assignee is a holder for value without knowledge.

(4) Where title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under §2-109(1).

(5) Where title to real property is in the names of all the partners, a conveyance executed by all the partners passes all their rights in such property.

Source: S.L. No. 3L-111-95 §3-2, 11/24/95

§2-111. Partnership bound by admission of partner. — An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this chapter is evidence against the partnership.

Source: S.L. No. 3L-111-95 §3-3, 11/24/95

§2-112. Partnership charged with knowledge of or notice to partner. — Notice to any partner of any matter relating to partnership affairs and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership except in the case of fraud on the partnership committed by or with the consent of that partner.

Source: S.L. No. 3L-111-95 §3-4, 11/24/95

§2-113. Partnership bound by partner's wrongful act. — Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his co-partners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

Source: S.L. No. 3L-111-95 §3-5, 11/24/95

§2-114. Partnership bound by partner's breach of trust. — The partnership is bound to make good the loss:

(1) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(2) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

Source: S.L. No. 3L-111-95 §3-6, 11/24/95

§2-115. Nature of partner's liability. — All partners are liable:

(1) Jointly and severally for everything chargeable to the partnership under §§2-113 and 2-114; and

(2) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

Source: S.L. No. 3L-111-95 §3-7, 11/24/95

§2-116. Partner by estoppel. —

(1) When a person, by words spoken or written, or by conduct, represents himself, or consents to another representing him to anyone as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who

has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership.

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

Source: S.L. No. 3L-111-95 §3-8, 11/24/95

§2-117. Liability of incoming partner. — A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

Source: S.L. No. 3L-111-95 §3-9, 11/24/95

§2-118. Determining rights and duties of partners. — The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid his contributions whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to the partners, are satisfied; and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(2) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(3) A partner who, in the aid of the partnership, makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(7) No person can become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

Source: S.L. No. 3L-111-95 §4-1, 11/24/95

§2-119. Partnership books. — The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

Source: S.L. No. 3L-111-95 §4-2, 11/24/95

§2-120. Duty of partners to render information. — Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

Source: S.L. No. 3L-111-95 §4-3, 11/24/95

§2-121. Partner accountable as a fiduciary. —

(1) Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct or liquidation of the partnership or from any use by him of its property.

(2) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner.

Source: S.L. No. 3L-111-95 §4-4, 11/24/95

§2-122. Right to an account. — Any partner shall have the right to a formal account as to partnership affairs:

(1) If he is wrongfully excluded from the partnership business or possession of its property by his co-partners;

(2) If the right exists under the terms of any agreement;

(3) As provided by §2-121; and

(4) Whenever other circumstances render it just and reasonable.

Source: S.L. No. 3L-111-95 §4-5, 11/24/95

§2-123. Continuation of partnership beyond fixed term. —

(1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

Source: S.L. No. 3L-111-95 §4-6, 11/24/95

§2-124. Extent of property rights of a partner. — The property rights of a partner are:

(1) His rights in specific partnership property;

(2) His interest in the partnership; and

(3) His right to participate in the management.

Source: S.L. No. 3L-111-95 §5-1, 11/24/95

§2-125. Nature of a partner's right in specific partnership property. —

(1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to this chapter and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt, the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner, his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy or allowances to widows, heirs or next of kin.

Source: S.L. No. 3L-111-95 §5-2, 11/24/95

§2-126. Nature of partner's interest in the partnership. — A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property.

Source: S.L. No. 3L-111-95 §5-3, 11/24/95

§2-127. Assignment of partner's interest. —

(1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his conduct the profits to which the assigning partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

Source: S.L. No. 3L-111-95 §5-4, 11/24/95

§2-128. Partner's interest subject to charging order. —

(1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts, and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or, in case of a sale being directed by the court, may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners; or

(b) With partnership property, by any one or more of the partners with the consent of all partners whose interests are not so charged or sold.

(3) Nothing in this chapter shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

Source: S.L. No. 3L-111-95 §5-5, 11/24/95

§2-129. "Dissolution" defined. — The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

Source: S.L. No. 3L-111-95 §6-1, 11/24/95

§2-130. Partnership not terminated by dissolution. — On dissolution, the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

Source: S.L. No. 3L-111-95 §6-2, 11/24/95

§2-131. Causes of dissolution. — Dissolution is caused:

- (1) Without violation of the agreement between the partners:
 - (a) By the termination of the definite term or particular undertaking specified in the agreement;
 - (b) By the express will of any partner when no definite term or particular undertaking is specified;
 - (c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking;
 - (d) By the expulsion of any partner from the bona fide business in accordance with such a power conferred by the agreement between the partners;
- (2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;
- (3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;
- (4) By the death of any partner;
- (5) By the bankruptcy of any partner or the partnership; or
- (6) By decree of court under §2-132.

Source: S.L. No. 3L-111-95 §6-3, 11/24/95

§2-132. Dissolution by court decree. —

- (1) On application by or for a partner, the court shall decree dissolution whenever:
 - (a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind;
 - (b) A partner becomes in any other way incapable of performing his part of the partnership contract;
 - (c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business;
 - (d) A partner willfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in the partnership with him;
 - (e) The business of the partnership can only be carried on at a loss; or
 - (f) Other circumstances render dissolution equitable.
- (2) On the application of the purchaser of a partner's interest under §2-127 or §2-128, the court shall decree dissolution:
 - (a) After the termination of the specified term or particular undertaking; or
 - (b) At any time, if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

Source: S.L. No. 3L-111-95 §6-4, 11/24/95

§2-133. General effect of dissolution on authority of partner. — Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership:

- (1) With respect to the partners:
 - (a) When the dissolution is not by the act, bankruptcy or death of a partner; or

- (b) When dissolution is by such act, bankruptcy or death of a partner, in cases where §2-134 so requires.
- (2) With respect to persons not partners, as declared in §2-135.
Source: S.L. No. 3L-111-95 §6-5, 11/24/95

§2-134. Right of partner to contribution from co-partners after dissolution. — Where dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

- (1) The dissolution being by act of any partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.
- (2) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.
Source: S.L. No. 3L-111-95 §6-6, 11/24/95

§2-135. Power of partner to bind partnership to third persons after dissolution. —

(1) After dissolution, a partner can bind the partnership, except as provided in Subsection (3) of this section:

- (a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution; or
- (b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction, though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.
- (2) The liability of a partner under Subsection (1)(b) of this section shall be satisfied out of partnership assets alone when such partner had been, prior to dissolution:
- (a) Unknown as a partner to the person with whom the contract is made; and
- (b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.
- (3) The partnership is in no case bound by any act of a partner after dissolution:
- (a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; or
- (b) Where the partner has become bankrupt; or
- (c) Where the partner has no authority to wind up partnership affairs, except by a transaction with one whom:
- (i) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or
- (ii) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, has not been advertised in the manner provided for advertising the fact of dissolution in Subsection (1)(b) of this section.
- (4) Nothing in this section shall affect the liability under §2-116 of any person who, after dissolution, represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

Source: S.L. No. 3L-111-95 §6-7, 11/24/95

§2-136. Effect of dissolution on partner's existing liability. —

- (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor, and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts.

Source: S.L. No. 3L-111-95 §6-8, 11/24/95

§2-137. Right to wind up. — Unless otherwise agreed, the partners who have not wrongfully dissolved the partnership, or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; PROVIDED, HOWEVER, that any partner, his legal representative, or his assignee, upon cause shown, may obtain winding up by the court.

Source: S.L. No. 3L-111-95 §6-9, 11/24/95

§2-138. Rights of partners to application of partnership property. —

(1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his co-partners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner bona fide under the partnership agreement, and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under §2-136(2), he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement, the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have:

(i) All the rights specified in Subsection (1) of this section; and

(ii) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so during the agreed term for the partnership, and for that purpose may possess the partnership property; PROVIDED they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under Subsection (2)(a)(ii) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(i) If the business is not continued under Subsection (2)(b) of this section, all the rights of a partner under Subsection (1) of this section subject to Subsection (2)(a)(ii) of this section;

(ii) If the business is continued under Subsection (2)(b) of this section, the right against his co-partners and all claiming through them in respect of their interest in the partnership, to have the value of his interest in the partnership, less any damages caused to his co-partners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; PROVIDED, HOWEVER, that in ascertaining the value of the partner's interest, the value of the goodwill of the business shall not be considered.

Source: S.L. No. 3L-111-95 §6-10, 11/24/95

§2-139. Rights where partnership is dissolved for fraud or misrepresentation. — Where a partnership contract is rescinded on the grounds of fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled:

- (1) To a lien on, or a right of retention of, the surplus of the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him;
- (2) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and
- (3) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

Source: S.L. No. 3L-111-95 §6-11, 11/24/95

§2-140. Rules for distribution. — In settling accounts between the partners after dissolution, the following rules shall be observed subject to any agreement to the contrary:

- (1) The assets of the partnership are:
 - (a) The partnership property; and
 - (b) The contributions of the partners necessary for the payment of all the liabilities specified in Subsection (2) of this section.
- (2) The liabilities of the partnership shall rank in order of payment, as follows:
 - (a) Those owing to creditors other than partners;
 - (b) Those owing to partners other than for capital and profits;
 - (c) Those owing to partners in respect to capital; and
 - (d) Those owing to partners in respect of profits.
- (3) The assets shall be applied in order of their declaration in Subsection (1) of this section to the satisfaction of the liabilities.
- (4) The partners shall contribute, as provided by §2-118(1), the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.
- (5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in Subsection (4) of this section.
- (6) Any partner or his legal representative shall have the right to enforce the contributions specified in Subsection (4) of this section, to the extent of the amount that he has paid in excess of his share of the liability.
- (7) The individual property of a deceased partner shall be liable for the contributions specified in Subsection (4) of this section.
- (8) When partnership property and the individual properties of the partners are in possession of a court order for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.
- (9) Where a partner has become bankrupt or his estate is insolvent, the claims against his separate property shall rank in the following order:
 - (a) Those owing to separate creditors;
 - (b) Those owing to partnership creditors; and
 - (c) Those owing to partnership by way of contribution.

Source: S.L. No. 3L-111-95 §6-12, 11/24/95

§2-141. Liability of persons continuing the business in certain cases. —

- (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more partners, or to one or more of the partners and one or more third persons, if the business is

continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in Subsections (1) and (2) of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under §2-138(2)(b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section, the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

Source: S.L. No. 3L-111-95 §6-13, 11/24/95

§2-142. Rights of retiring partner or estate of deceased partner. — When any partner retires or dies, and the business is continued under any of the conditions set forth in Subsections (1) to (3), (5), and (6) of §2-141 or §2-138(2)(b) without any settlement of account as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such person or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; PROVIDED that the creditors of the dissolved partnership as against the

separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section as provided by §2-141(8).

Source: S.L. No. 3L-111-95 §6-14, 11/24/95

§2-143. Accrual of actions. — The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

Source: S.L. No. 3L-111-95 §6-15, 11/24/95

**CHAPTERS 3 – 6
[RESERVED]**

BUSINESS ASSOCIATIONS

CHAPTER 7 FOREIGN INVESTMENT

Section

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§7-101. Short title. — This chapter is known and may be cited as the “Pohnpei Foreign Investment Act of 2011”.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-102. Definitions. — For the purposes of this chapter, unless it is otherwise provided or the context requires a different construction, application or meaning:

(1) “Engaging in business” means carrying out any activity relating to the conduct of a business, and shall include the activities enumerated in Subsection (1)(a) of this section but shall not include the activities enumerated in Subsection (1)(b) of this section:

(a) “Engaging in business” shall include:

(i) Buying, selling, leasing or exchanging goods, products or property of any kind for commercial purposes;

(ii) Buying, selling or exchanging services of any kind for commercial purposes;

(iii) Conducting negotiations for transactions of the types described in Subparagraphs (i) and (ii) of this paragraph; PROVIDED, HOWEVER, that conducting such negotiations within this jurisdiction for periods of less than 14 days per calendar year shall not be considered “engaging in business”;

(iv) Appointing a representative, agent or distributor by a noncitizen to perform any of the acts described in Subparagraphs (i) through (iii) of this paragraph, unless said representative, agent or distributor has an independent status and transacts business in its name for its own account and not in the name of or for the account of any noncitizen principal;

(v) Maintaining a stock of goods for the purpose of having the same processed by another person;

(vi) Establishing or operating a factory, workshop, processing plant, warehouse or store, whether wholesale or retail;

(vii) Mining or exploring for minerals, or the commercial exploitation or extraction of other natural resources;

(viii) Providing services as a management firm or professional consultant in the management, supervision or control of any business entity;

(ix) Providing professional services as defined by this chapter which are offered for a fee; PROVIDED, HOWEVER, that such a professional shall not be considered to be “engaging in business” unless he or she, while present in this jurisdiction, performs his or her respective professional services for more than 30 days in any calendar year; and

(b) “Engaging in business” does not include:

(i) The publication of general advertisements through newspapers, brochures, and other publications, or through radio, television or the internet;

(ii) The conducting of scientific research or investigation, if:

(aa) The research or investigation is sponsored by a university, college, agency or institution normally engaged in such activities primarily for purposes other than commercial profit; and

(bb) The particular research or investigation at issue is not for purposes of, or expected to yield, commercial profit;

(iii) The collection of information by a bona fide journalist for news publication or broadcast; and

(iv) The lawful sale of corporate shares or other interest or holdings in a business entity acquired not for speculation or profit.

(2) “Foreign investment” means any activity in the state by a noncitizen that amounts to “engaging in business” as defined in Subsection (1) of this section.

(3) “Manufacturing” means engaging at any stage in the production of goods by hand or by machine. For purposes of this chapter, manufacturing includes the assemblage and packaging of partially assembled goods, and the processing and/or packaging of marine and agriculture products for sale at wholesale or retail.

(4) “Noncitizen” means:

(a) Any person who is not a citizen of the Federated States of Micronesia;

(b) Any sole proprietorship, partnership, company, corporation, joint venture or association in which any interest is owned by a person who is not a citizen of the Federated States of Micronesia; or

(c) Any sole proprietorship, partnership, company, corporation, joint venture or association that will disburse to a noncitizen through a profit-sharing arrangement more than ten percent (10%) of its annual net profit.

(5) “Omnibus development statute” within the context of this chapter, means a statute enacted by the Pohnpei Legislature, which statute prescribes the terms and incentives for the establishment and operation of one or more businesses in a specialized, priority development project for the state and which statute, upon acceptance thereof by a noncitizen developer or owner of such business or businesses, shall establish a specialized regulatory regime for said project and correspondingly exempt said noncitizens and their respective business activities within the project that are specifically listed in the omnibus development statute from the requirements of this chapter and one or more other statutory or regulatory requirements of this state for the period or periods prescribed in the omnibus development statute.

(6) “Professional services” means engaging in occupational services of a medical practitioner, dentist, lawyer, certified public accountant, architect, engineer or similar category of occupational service found by the Registrar of Corporations to require advanced professional training.

(7) “Registrar of Corporations” means the Pohnpei Registrar of Corporations as specified in Chapter 1 of Title 37 of the Code.

(8) “Retail trade” means engaging in the activity of selling merchandise directly to consumers situated within the state of Pohnpei; PROVIDED that, solely for purposes of this chapter, a manufacturing business which is authorized to do business within this state shall not be deemed to be

engaged in a retail trade for the sale at its factory outlet directly to consumers of products wholly manufactured within the state by that business or with at least fifty percent (50%) value added by the manufacturing processes of that business within the state.

(9) “Service industry” means that category of business which derives its principal economic benefit from the work performed by those engaged or associated with the business, notwithstanding that some part of the economic benefit is gained from the sale of a commodity associated with the performance or delivery of the service. The category of service industry is distinguished from the category of manufacturing in that in the manufacturing category, the principal economic benefit is derived from the sale of the completed product rather than the service performed. The term “service industry” includes, but is not limited to, such businesses as rental of apartments, office space or other commercial properties, beauty parlors, barber shops, tailor shops, restaurants, machine shops, marine repair facilities, and vehicle repair shops, but, solely for the purposes of this chapter, the term “service industry” does not include professional services or tourist services as defined by this section. The Registrar of Corporations shall maintain a comprehensive list of businesses which fall under the category of service industry. In the event that a prospective business does not appear directly on the list, an applicant may request and shall receive from the Registrar of Corporations a prompt response whether the prospective business is within the category of service industry.

(10) “Tourist services” means the operation of hotels, visitors’ lodges, golf courses, marinas or other recreational facilities found by the Registrar of Corporations to principally serve the visitor industry.

(11) “Wholesale trade” solely for purposes of this chapter means engaging in the activity of selling merchandise to other merchants who intend to resell a substantial amount of the merchandise so acquired to consumers situated within the state of Pohnpei.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-103. Permit required. — Prior to engaging in any business in Pohnpei, a foreign investment permit must first be obtained by the following:

- (1) Noncitizen sole proprietorships;
- (2) Noncitizen corporations;
- (3) Noncitizen partnerships;
- (4) Noncitizen joint ventures; and
- (5) Any other noncitizen business association.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-104. Powers and duties of the Registrar of Corporations. —

(1) For the purposes of this chapter, and without limitation on the scope or responsibilities vested in his Office by other laws of Pohnpei, the powers and duties of the Registrar of Corporations shall be as follows:

(a) To receive applications for foreign investment permits under this chapter, obtain opinions and recommendations from officers of the Pohnpei Government and other interested groups and leaders concerning these applications, make studies, investigations, and inquiries relevant to the applications, evaluate the applications according to the standards of this chapter and decide which applicants shall be granted foreign investment permits; and

(b) To ensure compliance of all noncitizens doing business in Pohnpei with this chapter and all rules, regulations, and foreign investment permits issued pursuant to this chapter, including the performance of investigatory functions as appropriate thereto and may, upon a sworn affidavit from any person or a determination on his own initiative that there is reason to believe that any provision of this chapter or any regulation issued pursuant hereto has been violated, investigate such alleged violation, and, in cooperation with the Office of the Attorney General, enforce this chapter and rules and regulations issued hereunder. In connection with

any hearings or investigations required by this chapter or rules or regulations issued hereunder, the Registrar of Corporations may subpoena witnesses, records, books and documents.

(2) The Registrar of Corporations shall administer this chapter under rules and regulations promulgated by the Registrar of Corporations, which, with the approval of the Governor, shall have the force and effect of law, and shall be issued as provided by the Administrative Procedures Act, Title 8 Chapter 1 of this Code.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-105. Establishment of the DRP-FIP. —

(1) There is hereby established within the executive branch of the Pohnpei Government the Discretionary Review Panel on Foreign Investment Permits, hereinafter referred to as the DRP-FIP, for purposes of oversight, assurance and guidance as to the activities of the Registrar of Corporations in the discretionary performance of his duties pursuant to the provisions of this chapter.

(2) The DRP-FIP shall be composed of seven members consisting of:

- (a) Two representatives of the business community appointed by the Governor with the advice and consent of the Legislature for a term consecutive with that of the Governor;
- (b) Two representatives of the consumers of Pohnpei appointed by the Governor with the advice and consent of the Legislature for a term consecutive with that of the Governor;
- (c) The Director of the Department of Land and Natural Resources;
- (d) The Administrator of the Office of Transportation and Infrastructure; and
- (e) The Administrator of the Office of Economic Affairs; PROVIDED that when the DRP-FIP is considering discretionary permits with respect to commercial fisheries or aquaculture, the Administrator of the Office of Fisheries and Aquaculture shall replace the Administrator of the Office of Economic Affairs on the panel.

(3) A member of the DRP-FIP representing the business community or the Pohnpei consumers may be removed from the DRP-FIP by the Governor solely for cause but only after written charges are served on the affected DRP-FIP member and he is given the right to a public hearing and to be represented by counsel at the hearing of the charges made against him. Such an action of removal may be appealed to the Trial Division of the Pohnpei Supreme Court. A member of the DRP-FIP representing a department or office within the Pohnpei Government may be removed from the DRP-FIP in the manner prescribed by the Constitution.

(4) The DRP-FIP shall elect its own Chairman and other officers from among its membership and shall prescribe the procedures under which it operates.

(5) Members of the DRP-FIP shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4, as amended or superseded by Pohnpei law, when actually performing functions of the DRP-FIP at the direction of the Chairman, except that those members who are Pohnpei Government employees shall instead be granted administrative leave from their regular duties while performing functions of the DRP-FIP. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-106. Application for a foreign investment permit. —

(1) Every noncitizen required to obtain a foreign investment permit under this chapter shall submit an application to the Registrar of Corporations. Every application shall be accompanied by a filing fee of \$250, which fee shall accrue to the general fund of the Treasury and shall not be refundable; PROVIDED that the following areas of investment shall require a reduced filing fee of \$50:

- (a) Applications submitted under the Preferred Joint Venture Sector as provided in §7-107(1)(a) of this chapter;

- (b) Applications for alternate energy businesses, irrespective of the category or sector of investment, the main purpose of which is the production or distribution of alternate energy intended to reduce the state's reliance on imported fossil fuels for its energy needs; and
- (c) [RESERVED].

(2) The application for a foreign investment permit shall be on the form supplied by the Registrar of Corporations for the category of investment for which the permit is sought and shall contain the following information:

- (a) The name of the applicant's business, the form of the business organization under which the applicant proposes to do business, its officers, directors, and proposed and existing stockholders, and their citizenship, or the citizenship of the owners of the applicant's business if it is in a form of business other than a corporation;
- (b) The location of the proposed principal office in Pohnpei;
- (c) The purpose, scope, and objective of the business activity to be conducted by the applicant and an explanation as to why the business activity fits within the category of investment as specified by §7-107 of this chapter under which the permit is being sought;
- (d) Any additional information that the Registrar of Corporations may require; PROVIDED that such additional information is necessary for the Registrar of Corporations to evaluate the application being filed with respect to the criteria identified in §7-107 for the category and sector of investment for which the permit is being sought; PROVIDED FURTHER that with respect to prospective investments over which the Registrar of Corporations has discretionary approval authority pursuant to the provisions of §7-107(2) of this chapter, such additional information may include, but is not limited to:
 - (i) The specific benefits to the economy of the state which the applicant believes will materialize from the award of a discretionary permit under the provisions of §7-107(2) of this chapter;
 - (ii) The employment preference to be accorded to citizens, the initial number of citizens to be employed, and the training programs to be offered to citizens in managerial and other positions;
 - (iii) A listing of total capital anticipated to be invested initially, identifying borrowed funds and their sources for each of the five years prior to and after receipt of the foreign investment permit, and from where such capital funds have been or will be obtained; and
- (e) Any other information that the applicant may deem appropriate.

(3) In addition to the information required for noncitizen applications under Subsection (2) of this section, the application of a noncitizen that is a corporation (including a joint stock company) shall contain the following:

- (a) A duly-certified copy of the articles of incorporation, charter, and bylaws of the corporation;
- (b) An affidavit sworn by an authorized officer of the corporation stating the amount of its authorized capital stock on or within 60 days before the date of filing; and
- (c) A designation of a person residing within Pohnpei upon whom process may be served, and the person's place of business or residence, and a certified copy of the minutes of the board of directors of the corporation authorizing the designation.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-107. Categories of economic sectors. — The following system of categories of economic sectors, as listed in Subsections (1) through (3) of this section and as expanded by Subsection (4) of this section, is hereby established for the purpose of implementing the policy of Pohnpei to guide foreign investment in the state's economy:

- (1) Open "Pohnpei Green List" category:

(a) Preferred Joint Venture Sector: Except for the prohibited category of investments identified in Subsection (3) of this section, no special criteria needs to be met before a foreign investment permit is issued to a business in which not less than sixty percent (60%) of the total equity of the business is held by citizens of the Federated States of Micronesia; PROVIDED that in order to qualify as a “preferred joint venture” under this sector, the applicant must provide convincing evidence to the satisfaction of the Registrar of Corporations that the named FSM citizen investors in the joint venture truly own and fully control, by such means as voting rights of common stock in the corporation, not less than the required sixty percent (60%) of the total equity in the joint venture.

(b) Initial Capitalization Sector: Except for economic sectors restricted by Subsection (1)(c) of this section and economic sectors prohibited by Subsection (3) of this section, foreign investment in any business with an initial capitalization of \$250,000 or more, or \$50,000 in the case of a professional service, no further equity requirements nor special criteria needs to be met, before a foreign investment permit is issued.

(c) Special Investment Sector: Subject to the capitalization requirements of Subsection (1)(b) of this section, no special criteria needs to be met before a foreign investment permit is issued to a business in the following economic sectors in which not more than forty-nine percent (49%) of the total equity of the business is held by noncitizens; PROVIDED that in order to qualify as a “special investment” business under this sector, the applicant must provide convincing evidence to the satisfaction of the Registrar of Corporations that the named FSM citizen investors in the business truly own and fully control, by such means as voting rights of common stock in the corporation, not less than the required fifty-one percent (51%) of the total equity in the business:

(i) Service industries, except that businesses providing professional services or tourist services as defined by §7-102 of this chapter shall be governed pursuant to Subsections (1)(a) and (1)(b) of this section;

(ii) Retail trade;

(iii) Exploration, development and extraction of land-based mineral resources and of marine-based mineral resources within the marine regulatory jurisdiction of the state; and

(iv) Exploration, cutting and milling of naturally occurring timber resources.

(2) Discretionary “Pohnpei Amber List” category: In addition to such permits as may be granted without special criteria beyond that specified in Subsection (1) of this section, the Registrar of Corporations may, upon written concurrence of a majority of the members of the DRP-FIP, grant a foreign investment permit to a business within such categories with less than the citizenship investment therein required by Subsection (1)(a) of this section; less than the initial capitalization requirement required by Subsection (1)(b) of this section; or possessing more than forty-nine percent (49%) noncitizen-owned equity therein stipulated by Subsection (1)(c) of this section; upon a finding that the applicant business will be of significant benefit to the economy of Pohnpei. A permit issued under this subsection may, with the written concurrence of a majority of the DRP-FIP, carry special conditions as to equity ownership, citizen employment, minimum capital investment and length of the term of the investment permit; PROVIDED that such conditions shall later be waived upon a showing to the satisfaction of the Registrar of Corporations that the business has attained and will maintain the capitalization and, where applicable, the equity requirements of the Pohnpei Green List category of this section.

(3) Prohibited “Pohnpei Red List” category. Notwithstanding any other provision of this section, no foreign investment shall be permitted in the following economic sectors:

(a) [RESERVED].

(4) Temporary category. Except as prohibited by Subsection (3) of this section, a temporary category permit may be issued by the Registrar of Corporations for a business activity of limited duration when found by the Registrar of Corporations in his discretion that the business activity to be

covered by the permit is temporary in nature, will be of significant benefit to the economy of the state, and is requested in connection with a project undertaken by the FSM National Government, the Pohnpei Government, a local government of Pohnpei, an enterprise licensed to do business in Pohnpei, or a non-profit organization authorized to conduct religious or humanitarian activities in Pohnpei. A permit issued under this subsection may carry special conditions, including, but not limited to restrictions on side-contracts not related to the project for which the temporary permit is sought, citizen employment, and length of the term of the temporary investment permit, which may not exceed 36 months.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-108. Criteria for review of application; conditions of certain permits granted to applicants.

— In addition to such requirements as may be prescribed by law, the Registrar of Corporations, by regulations issued pursuant to this chapter, shall prescribe the criteria for the review of applications and conditions that may be attached for permits granted under §7-107(2) and §7-107(4) of this chapter.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-109. Duration of permits. —

(1) Foreign investment permits issued under the authority of this chapter shall be valid for the following extent of time; PROVIDED that discretionary permits issued under §7-107(2) and temporary permits issued under §7-107(4) of this chapter shall be valid for the term so prescribed in such permit but not to exceed the term of years described in paragraphs (a), (b) and (c) of this subsection or, in the case of temporary permits, not to exceed the maximum term of months described in §7-107(4) of this chapter:

(a) Businesses principally providing professional services: 10 years;

(b) Businesses, not listed in Paragraph (a) of this subsection, which meet the capital investment criteria for the receipt of a 55 year development leasehold under Chapter 5 of Title 41 of this Code: 55 years; and

(c) All other businesses: 25 years; PROVIDED that a business which later meets the criteria of Paragraph (b) of this subsection may apply to and receive from the Registrar of Corporations an amended term of the permit of 55 years from the date of the initial issuance of the permit.

(2) A business in good standing under this chapter, as it may be amended or superseded by state law in the future, may apply, at any time during the last trimester of its current foreign investment permit, for an extension of that permit for such time, under the terms and conditions and subject to such restrictions that may apply thereto under this chapter or its successor then in place, which extension, if granted, shall be applied from the date that the current permit would have expired.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-110. Procedure for granting foreign investment permits. —

(1) Upon receipt of an application, the Registrar of Corporations shall select for the application a preliminary classification taking into account the category form utilized by the applicant and the list of categories and sectors established pursuant to §7-107 of this chapter. The Registrar of Corporations shall provide a copy of each application and his preliminary classification thereof to each member of the DRP-FIP. The Registrar of Corporations shall then undertake such investigations and consultations as he deems appropriate under the regulations issued pursuant to this chapter.

(2) When the Registrar of Corporations is satisfied that his office has sufficient information and opinion, the Registrar of Corporations shall determine the category and sector under which the application should be classified and whether a permit should be granted to the applicant to do business in the state and so inform the applicant and the DRP-FIP. If within ten working days following their receipt of the Registrar of Corporations's selection of category, a majority of the DRP-FIP shall determine that the Registrar of Corporations improperly placed an application under the category

specified in §7-107(1), (Open), rather than §7-107(2), (Discretionary), or §7-107(3), (Prohibited), the DRP-FIP shall so inform the Registrar of Corporations and the applicant and the application shall be reclassified as instructed by the DRP-FIP. Such determination of the Registrar of Corporations, as may be modified by the DRP-FIP, shall be made solely on the basis of a finding of compliance with the eligibility requirements of §7-103 of this chapter, the filing procedures of §7-106 of this chapter, and the statutory requirements of §7-107 of this chapter with respect to applications filed under the respective categories and sectors listed in §7-107. In addition to the elements of determination listed above, a decision with respect to an application filed pursuant to the discretionary category listed in §7-107(2) of this chapter shall also include a discretionary determination of the Registrar of Corporations, subject to the concurrence of a majority of the members of the DRP-FIP, as to the merits of the application taking into account such conditions as the Registrar of Corporations, upon concurrence of a majority of the members of the DRP-FIP, may prescribe for the granting of a permit to an applicant under said subsection. An application filed pursuant to the temporary category listed in §7-107(4) of this chapter shall also include a discretionary determination of the Registrar of Corporations as to the merits of the application taking into account such conditions as the Registrar of Corporations may prescribe for the granting of a permit to an applicant under said subsection.

(3) Upon reaching a determination, the Registrar of Corporations, subject to the modification of the classification of the application by a majority of the members of the DRP-FIP, where deemed necessary, and the concurrence of a majority of the members of the DRP-FIP, where required, shall promptly grant or deny the applicant a permit and so notify the applicant, with courtesy copies thereof provided to the Administrator of the Office of Economic Affairs and to the Secretary of the FSM Department of Resources and Development.

(4) If the actions of the above described officials of the Pohnpei Government are not completed within 60 working days following receipt of the application, the applicant may submit a show-cause demand to the Registrar of Corporations to determine why the action has not been completed in the time prescribed. The Registrar of Corporations shall answer the demand for explanation within five working days of the receipt thereof.

(5) A decision of the Registrar of Corporations, and the concurrence, or denial thereof, by a majority of the members of the DRP-FIP, where stipulated, to grant or deny a permit and, where appropriate, to prescribe the conditions thereof shall be final, subject to judicial review as prescribed by Title 8 Chapter 3 of this Code, as amended or superseded; PROVIDED that an applicant, within 60 days following receipt of the Registrar of Corporation's decision, alone or in concert with the DRP-FIP, or of the court's decision, should judicial review be sought, may submit a supplemental application containing additional information, which supplemental application shall be filed and reviewed in the same manner as an original application; PROVIDED FURTHER that a supplemental application under this subsection shall require a filing fee of \$50, which fee shall accrue to the general fund of the Treasury and shall not be refundable.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-111. Service of process on noncitizen corporations. — In the case of all noncitizen corporations doing business in Pohnpei under a foreign investment permit granted under this chapter, process served on the person designated by the corporation in its application for a foreign investment permit, or, if he cannot be found at the place designated, on the Attorney General, is valid service on the corporation. When the Attorney General is served with process, he shall send, by registered mail, a notice of service and a copy of the summons and complaint to the corporation concerned at its last known address. A default judgment may not be entered against the corporation in an action in which process is served on the Attorney General until at least 60 days after the date of service.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-112. Duty to report on an annual basis. — Every noncitizen doing business in Pohnpei under a foreign investment permit granted under this chapter shall file with the Registrar of Corporations, within 60 days immediately following the end of each calendar year, a full and accurate exhibit of business activities undertaken in Pohnpei, a profit and loss statement, and an up-to-date listing of information as set forth in §7-106(2) undertaken by the noncitizen business during the past calendar year.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-113. Duty to report changes in documents previously filed. — A noncitizen business that has been issued a permit pursuant to this chapter shall also file with the Registrar of Corporations any changes in the provisions of its original charter, articles of incorporation or bylaws within 30 days of such change.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-114. Investigation by Office of the Attorney General. — The Attorney General or a person authorized by him for the purposes of this chapter, may upon his own initiative at any time, with probable cause, and shall, upon request of the Registrar of Corporations, call for the production of books and papers of any noncitizen doing business in Pohnpei, and examine its officers, members of its board of directors, its agents or its employees, under oath concerning its business activities. The Attorney General shall submit to the Registrar of Corporations copies of all such documents or examinations.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-115. Application for amendment of permit. —

(1) A noncitizen seeking an amendment to a permit issued by the Registrar of Corporations and the DRP-FIP, where required, shall comply with the provisions set forth in §7-106 of this chapter.

(2) The application shall be processed in accordance with the procedure set forth in §7-110 of this chapter.

(3) Except as sought by the application for amendment of permit, the terms of the original permit shall not be altered as a result of the Registrar of Corporations and the DRP-FIP's, where required, action on the application.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-116. Abridgment, modification, suspension or revocation of foreign investment permit. —

(1) Basis. A foreign investment permit granted under this chapter shall, at all times, be subject to abridgment, modification, suspension or revocation by the Registrar of Corporations, if:

(a) The application of the grantee is found to have contained false or fraudulent information;

(b) The grantee bribed or otherwise unlawfully influenced the Registrar of Corporations or any member of the DRP-FIP to issue the permit other than on the merits of the application;

(c) The grantee presented false or fraudulent information to the Registrar of Corporations or members of the DRP-FIP in support of his application;

(d) The grantee violated any provisions of Pohnpei, national or local government law, or of any rules or regulations issued thereunder which substantially relate to the conduct of business under the foreign investment permit;

(e) The grantee engaged in business activities which are in violation of any condition or term imposed in the foreign investment permit; or

(f) The grantee engaged in business activities outside the scope of the foreign investment permit or charter.

(2) Procedure. The Registrar of Corporations shall, upon receipt of information that a foreign investment permit should be abridged, modified, suspended or revoked, call a public hearing. An

advance written notice of at least three weeks shall be given to the holder of the permit in question, or his authorized representative, of the alleged violations and of the time and date set for the hearing. At any such hearing, the Registrar of Corporations, may abridge, modify, suspend or revoke said permit. In such cases, the Registrar of Corporations shall notify the holder of said permit or his authorized representative, in writing, of the decision of the Registrar of Corporations and the reasons for the action taken. Action of the Registrar of Corporations may be appealed to a court of competent jurisdiction within 20 days following receipt by the permit holder, or his authorized representative, of notification of the action so taken by the Registrar of Corporations that the action of the Registrar of Corporations is improper or that the action taken is excessive for the infraction upon which it is based. Action of the Registrar of Corporations may not take effect until the expiration of 20 days following receipt of said notification by the permit holder or his authorized representative, unless the Registrar of Corporations shall determine that irreparable damage may occur if the action is not made effective sooner.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-117. Compliance with laws and regulations. — An individual, partnership, corporation or business association that is granted a foreign investment permit under this chapter shall be subject to all present or future laws of the FSM National Government, the Pohnpei Government or any local government and any rules and regulations issued thereunder unless exempted therefrom by the appropriate jurisdiction.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-118. Criminal penalties. — Any person:

- (1) Who intentionally engages in business activities in Pohnpei for which a foreign investment permit is required without first obtaining that permit; or
- (2) Who, after obtaining a foreign investment permit, intentionally fails to comply with the limitations, if any, stated in the permit; or
- (3) Who obtains a foreign investment permit by fraud or misrepresentation; or
- (4) Who violates any other provision of this chapter, shall be deemed guilty of a criminal offense and, upon conviction thereof by a court of competent jurisdiction within Pohnpei, shall be imprisoned for a period of less than one year, or fined less than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-119. State exemptions. — The following businesses are exempt from this chapter:

- (1) Any business for which an omnibus development statute has been enacted waiving the requirements of a foreign investment permit for that business; and
- (2) Businesses within such economic sectors as the Registrar of Corporations, subject to direction by state law, shall find, following consultation with the appropriate officers and agencies of the national government, are subject to principal regulation by the national government under the FSM Constitution.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-120. Compact exemption. —

- (1) In recognition of the special relationship between the Federated States of Micronesia and the United States of America memorialized by the Compact of Free Association, as amended, businesses that are solely owned by citizens of the United States of America who have maintained their principal place of residency within the FSM for at least five consecutive years immediately preceding the filing of an application for exemption under this section or jointly owned by citizens of the Federated States of Micronesia and the United States of America who have maintained the specified residency within the FSM may apply to the Registrar of Corporations and be awarded a special Certificate of Compact

Exemption which shall exempt the holder of said certificate from the provisions of this chapter for the period that the certificate remains valid.

(2) The application for a Certificate of Compact Exemption shall require the payment of a non-refundable filing fee of \$10 which shall be deposited in the general fund of the Pohnpei Treasury.

(3) The exemption shall apply only to the extent that citizens of the Federated States of Micronesia are accorded the same privileges of investing and doing business within the United States of America.

(4) A Certificate of Compact Exemption shall be valid until reciprocal privileges for FSM citizens doing business in the United States of America are revoked or are substantially regulated beyond that applied to average US citizens doing business in the United States of America, whichever shall first occur; PROVIDED that the certificate shall automatically expire if the recipient due to loss of US citizenship is no longer eligible therefor.

(5) Notwithstanding the award of a certificate under the provisions of this section, US citizens desiring the full benefits of a Pohnpei Foreign Investment Permit, inclusive of the duration of said permit as prescribed by §7-109 of this chapter, are encouraged to apply for a regular permit pursuant to the provisions of this chapter.

(6) The Registrar of Corporations shall annually review the applications under this section and report to the Governor and the Pohnpei Legislature on the issuance of exemption certificates and the impact of the Compact exemptions on the economy of Pohnpei.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-121. Grace period for changed circumstances. — A business, duly qualified under state law to conduct business and so conducts business within the state of Pohnpei, that becomes subject to the provisions of this chapter because of an unforeseen event which is not within the decision-making authority of the business and is outside of the ordinary course of business, including, but not limited to, the death of a citizen business owner and the inheritance of the business interests by a noncitizen family member, shall be accorded a grace period of one year following the change in circumstances in which it may continue business activities within the state without the necessity of obtaining a foreign investment permit under this chapter. The grace period granted to a business that has experienced changed circumstances under this section is intended to provide the opportunity for the business or its owner(s) to apply for and obtain a foreign investment permit under this chapter or to take such other steps as may be necessary to wind up the affairs of the business within the state or to restore its status as a domestic business that is not subject to the provisions of this chapter.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-122. Regulations, permits and licenses issued under previous authority. —

(1) Regulations issued under previous versions of this chapter and previous foreign investment laws for this state shall continue in force and effect to the extent they are not inconsistent with the current provisions of this chapter; PROVIDED that the Registrar of Corporations shall endeavor, with the assistance of the Attorney General's Office, to promulgate and maintain a set of updated, consolidated regulations for the full and effective administration of this chapter.

(2) Permits and licenses issued under previous foreign investment laws of the Trust Territory, Ponape District, and Pohnpei State, and the conditions established relative thereto, shall continue in force and effect under the terms so stated, until they expire by their own terms, or are abridged, modified, suspended or revoked by the Registrar of Corporations, alone or in concert with the DRP-FIP, pursuant to this chapter.

(3) Businesses holding a valid permit issued by a previous authority prior to March 18, 2011, whose permit expires prior to December 31, 2011, shall be accorded an automatic extension thereof for one year from the date of expiration indicated on the permit.

Source: S.L. No. 7L-83-11 §2, 3/18/11; S.L. No. 7L-91-11 §1, 5/31/11

§7-123. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei such sums as are determined annually in the Comprehensive Budget Act for the administration of this chapter. All such sums so appropriated shall be administered and expended by the Registrar of Corporations solely for the purposes specified in this chapter. The Registrar of Corporations shall submit an annual report to the Governor and the Legislature on or before October 15 each year on the administration and expenditure of monies appropriated for the previous fiscal year. All sums appropriated for any fiscal year remaining unexpended or unobligated on September 30 thereof shall revert to the general fund of Pohnpei. The Office of the Attorney General shall be the successor of all funds appropriated and assets assigned in Pohnpei to the former Foreign Investment Board for activities of the Registrar of Corporations as specified in this act.

Source: S.L. No. 7L-83-11 §2, 3/18/11

§7-124. Conflict of interest. —

(1) If the Registrar of Corporations, or any member of the DRP-FIP, advisor thereto or government officer or employee involved in the administration of this chapter shall be interested, either directly or indirectly, through his business holdings, by an agent disclosed or undisclosed or by a marital relationship, in any application submitted under this chapter or consideration by the Registrar of Corporations of an existing permit, such interest shall be disclosed to the Registrar of Corporations and shall be set forth in the public records of the Office of the Attorney General, and the person having such interest therein shall not participate in any further actions of the Pohnpei Government relative thereto outside of formal meetings or hearings wherein such person is requested to appear.

(2) The Registrar of Corporations, and each member of the DRP-FIP, with respect to discretionary permits, shall be prohibited from obtaining any interest, either directly or indirectly, through his business holdings, by an agent disclosed or undisclosed or by undue influence within a marital relationship, in any business which is granted a foreign investment permit under this chapter within three years following the granting of a permit, or a decision of the Registrar of Corporations to amend the permit to substantially expand the scope of permitted activities thereunder.

(3) The Registrar of Corporations, and each member of the DRP-FIP, with respect to discretionary permits, and any advisor or government employee having public or fiduciary responsibilities under this chapter shall not at any time suggest an arrangement with a potential foreign investor or permit holder, whether or not personally initiated by said officer, member, advisor or employee, which would result in a direct or indirect business relationship therewith, whether in person, through his business holdings, by disclosed or undisclosed agent or by marital relationship.

Source: S.L. No. 7L-83-11 §2, 3/18/11

Editor's note: The original Chapter 7 of Title 37 of this Code was repealed pursuant to S.L. No. 7L-83-11 on March 18, 2011.

(Next page is Title 38 divider)

TITLE 38

PROFESSIONS AND

OCCUPATIONS

TITLE 38 PROFESSIONS AND OCCUPATIONS

CHAPTER

1 – 4 [RESERVED]

5 NOTARIES PUBLIC

6 LAND SURVEYORS

CHAPTERS 1 – 4 [RESERVED]

CHAPTER 5 NOTARIES PUBLIC

Section

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5-103 Application; qualifications; oath
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§5-101. Appointment; term; removal; reporting of change of status. —

(1) The Governor may, in his discretion, appoint and commission such numbers of notaries public for the state of Pohnpei as he shall deem necessary for the public good and convenience.

(2) The term of office of a notary public shall be two years from the date of his commission, unless sooner removed by the Governor on recommendation of the Attorney General made on findings of cause after due hearing; **PROVIDED**, that after due hearing the commission of a notary public may be revoked by the Governor in any case where any change shall occur in such notary's office, occupation or employment which in the judgment of the Governor renders the holding of such commission no longer necessary for the public good and convenience.

(3) Each notary shall, upon any change in his office, occupation or employment, forthwith report the same to the Attorney General.

Source: TTC §1075 (1966); 31 TTC §201 (1970); 31 TTC §201 (1980)

§5-102. Rules and regulations. —

(1) The Attorney General, with the approval of the Governor, shall have power to prescribe such rules and regulations having the force and effect of law as he may deem advisable concerning the appointment and duties of notaries public and the administration of this chapter.

(2) The Attorney General shall file a copy of such rules and regulations with the Clerk of the Pohnpei Supreme Court.

Source: TTC §1082 (1966); 31 TTC §202 (1970); 31 TTC §202 (1980)

§5-103. Application; qualifications; oath. —

(1) Except as otherwise provided in this chapter, application for a commission as notary public for the state of Pohnpei shall be submitted to the Attorney General and must be accompanied by two letters of recommendation. Every person appointed a notary public must be, at the time of his appointment, of good character, at least 25 years of age, and a permanent resident of the state of Pohnpei, who has resided in it for at least three years.

(2) Every person appointed a notary public shall, before acting in that capacity, take and subscribe an oath for the faithful discharge of his duties, which oath may be taken before the Governor, a judge, a clerk of courts or other official authorized to administer oaths. This oath shall be executed in duplicate. The original shall be filed in the Office of the Attorney General and a duplicate original filed in the office of the Clerk of the Pohnpei Supreme Court.

Source: TTC §1076 (1966); 31 TTC §203 (1970); 31 TTC §203 (1980)

Note: Reference to U.S. citizens has been omitted.

§5-104. Filing and certification of commission, seal, and signature. —

(1) It shall be the duty of each person appointed and commissioned a notary public under this chapter to forthwith file a literal or photostatic copy of his commission, an impression of his seal, and a specimen of his official signature with the Clerk of the Pohnpei Supreme Court. Thereafter, such clerk, when so requested, shall certify to the official character and acts of any such notary public whose commission, impression of seal, and specimen of official signature is filed in his office.

(2) The Clerk of the Pohnpei Supreme Court shall charge and receive a fee of one dollar for filing a copy of a commission and a fee of twenty-five cents for filing each certificate of authentication.

Source: TTC §§1078 & 1083 (1966); 31 TTC §204 (1970); 31 TTC §204 (1980)

§5-105. Official bond; appointment of agent for service of process. —

(1) Each notary public forthwith and before entering upon the duties of his office may, at the discretion of the Governor, be required to execute at his own expense, an official surety bond in a sum not exceeding \$1,000.

(2) The obligee of each bond shall be the state of Pohnpei and the condition contained therein shall be that the notary public will well, truly and faithfully perform all the duties of his office which are then and may thereafter be required, prescribed or defined by law or by any rule or regulation made under the express or implied authority of any law of the state of Pohnpei, and all duties and acts are undertaken, assumed or performed by the notary public by virtue or color of his office. The surety on any such bond shall be a surety company approved by the Governor. The notary public by accepting his commission, and the surety company by issuing the bond, thereby agree and appoint the Governor as his agent to accept service of process on his behalf for any purpose. After approval, the bond shall be deposited and kept in the Office of the Attorney General, who will certify to the Clerk of the Pohnpei Supreme Court that the bond has been accepted and filed in proper form.

Source: TTC §1079 (1966); 31 TTC §205 (1970); 31 TTC §205 (1980)

§5-106. Liabilities of notary and surety on bond. — For the official misconduct of a notary public or breach of any of the conditions of his official bond, he and the surety on his official bond shall be liable to the party injured thereby for all damages sustained. Such party shall have a right of action in his own name upon such bond and may prosecute the same to final judgment and execution.

Source: TTC §1080 (1966); 31 TTC §206 (1970); 31 TTC §206 (1980)

§5-107. Compliance with chapter required; penalties. —

(1) No person shall be qualified to act as a notary public or shall enter upon any of the duties of such office, or offer or assume to perform any such duties until he shall have fully complied with the requirements of this chapter.

(2) Any person willfully violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, such person shall be punished by a fine of not more than \$500, or by imprisonment for not more than one year, or both such fine and imprisonment. Nothing in this section shall be construed to restrict or to do away with any liability for civil damages.

Source: TTC §1081 (1966); 31 TTC §207 (1970); 31 TTC §207 (1980)

§5-108. Powers and duties; generally. — A notary public has the power and is authorized to administer oaths and affirmations, receive proof and acknowledgment of writings, and present and protest commercial paper. A notary public may act officially anywhere in the state of Pohnpei but shall, before so acting in this state, comply with §5-104.

Source: TTC §1084 (1966); 31 TTC §251 (1970); P.L. No. 4C-27 §2; 31 TTC §251 (1980)

§5-109. Seal. —

(1) Every notary public shall constantly keep a seal of office, which may be a rubber stamp or impression seal, whereon shall be engraved his name and the words “Notary Public” and “state of Pohnpei.” He shall authenticate all of his official acts, attestations, certificates, and instruments therewith.

(2) Upon resignation, death, expiration of term of office without reappointment, removal from or abandonment of office or change in residence from the state of Pohnpei, he shall immediately deliver his seal to the Attorney General, who shall deface or destroy the same. By failing for 60 days to comply with the above requirement, the notary public, his executor or administrator, shall forfeit to the state of Pohnpei not more than \$200, in the discretion of the court, to be recovered in an action to be brought by the Attorney General on behalf of the state of Pohnpei.

Source: TTC §1077 (1966); 31 TTC §252 (1970); 31 TTC §252 (1980)

§5-110. Records; form and effect of granted copies or certificates. — Every notary public shall record at length in a book of records all acts, protests, depositions, and other things noted by him or done in his official capacity. All copies or certificates granted by him shall be under his hand and notarial seal, and shall be received as evidence of such transactions.

Source: TTC §1085 (1966); 31 TTC §253 (1970); 31 TTC §253 (1980)

§5-111. Disposition of records. —

(1) The records of each notary public shall each year on the thirtieth of June and upon the resignation, death, expiration of term of office, removal from or abandonment of office, or change of residence from Pohnpei State be deposited with the Clerk of the Pohnpei Supreme Court.

(2) By a failure for 60 days to comply with the requirement of this section, the notary public, his executor or administrator shall forfeit to the state of Pohnpei not less than \$10 nor more than \$100, in the discretion of the court, in an action brought therefor by the Attorney General on behalf of the state of Pohnpei.

Source: TTC §1086 (1966); 31 TTC §254 (1970); 31 TTC §254 (1980)

Note: The words “clerk of courts for the Truk District” at the end of Subsection (1) have been substituted with the words “Clerk of the Pohnpei Supreme Court”.

§5-112. Fees; schedule. — Every notary public, except as provided in §5-113, shall be entitled to demand and receive the following fees:

- (1) Noting the protest of mercantile paper – \$1;

- (2) Each notice and certified copy of protest of mercantile paper – \$1;
 - (3) Noting any protest other than of mercantile paper – \$2;
 - (4) Each notice and certified copy of protest other than of mercantile paper – \$2;
 - (5) Each deposition or official certificate – \$2;
 - (6) Administration of oath, including the certificate of such oath – 25 cents;
 - (7) Affixing the certificate of such oath to each duplicate original instrument beyond four – 15 cents;
 - (8) Taking any acknowledgment – 50 cents for each party signing; and
 - (9) Affixing to each duplicate original, beyond one of any instrument acknowledged before him, his certificate of acknowledgment – 25 cents for each person making such acknowledgment.
- Source: TTC §1087 (1966); 31 TTC §255 (1970); 31 TTC §255 (1980)

§5-113. Fees; notaries not entitled to fees. — A notary public who is also a paid employee of the Pohnpei Government and is permitted to perform services as a notary public during the working hours for which he is paid by the government shall not be entitled to demand or receive any fees for services performed as notary public during such hours or for such services performed at any other time which are in connection with or in aid of his regular employment.

Source: TTC §1088 (1966); 31 TTC §256 (1970); 31 TTC §256 (1980)

Note: Reference to employee of the United States has been omitted.

CHAPTER 6 LAND SURVEYORS

Section

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6-104 Board of Land Surveyors Examiners	6-109 Compensation
6-105 Registration of surveyors: procedures; qualifications; exemptions	6-110 Authorization for appropriation; administration

§6-101. Short title. — This chapter is known and may be cited as the “Board of Land Surveyors Examiners and Surveyors Registration Act of 1982.”

Source: S.L. No. 2L-130-82 §1, 6/28/82

§6-102. Purpose. — The purpose of this chapter is to provide for the establishment of a Pohnpei state board to accomplish the professional registration of land surveyors so that land surveys and maps for public record purposes may be attested by the registered surveyor who performed or supervised the work.

Source: S.L. No. 2L-130-82 §2, 6/28/82

§6-103. Definitions. — As used in this chapter, unless the context otherwise requires, the term:

- (1) “Board” means the Pohnpei Board of Land Surveyors Examiners.
- (2) “Chairman” means the Chairman of the Board.
- (3) “Land surveyor” means a registered land surveyor within the meaning of this chapter.
- (4) “Members” means the officially appointed members of the Board.
- (5) “Practice of land surveying” means a person or persons who practices surveying within the meaning of this chapter, either in a public or private capacity, and who does or offers to do any of the following:
 - (a) Locates, relocates, establishes, reestablishes or retraces any property line or boundary of any parcel of land or any road, rights-of-way, easement, reserve or other related matters;
 - (b) Makes any survey for the subdivision or resubdivision of any tract of land;
 - (c) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary corner, and sets, resets or replaces any such monuments or reference points;
 - (d) Determines the configuration or contour of the earth’s surface or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry;
 - (e) Conducts geodetic or cadastral surveying;
 - (f) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described above for public record purposes;
 - (g) Indicates in any capacity or in any manner, by the use of the title “land surveyor,” or by any other title or representation that he practices or offers to practice land surveying in any of its branches;
 - (h) Procures or offers to procure land surveying work for himself or for others; or
 - (i) Manages, or conducts as manager, proprietor or agent, any place of business from which land surveying work is solicited, performed or practiced.

(6) "Registrant" means any person who has met all the requirements of this chapter and has been duly registered as a professional, registered land surveyor pursuant to this chapter. A registrant shall be construed to practice or offer to practice land surveying and mapping within the meaning and intent of this chapter who:

(a) Practices land surveying; or

(b) By oral or written claim, or sign or advertising, letterheads, cards or in any other way represents himself to be a land surveyor, or through the use of some other title implies that he is such; or

(c) Holds himself out as able to perform, or who does perform any surveying service or work or any other professional services designated by him as land surveying or generally recognized as such.

Source: S.L. No. 2L-130-82 §3, 6/28/82

§6-104. Board of Land Surveyors Examiners. —

(1) There is hereby created a Board of Land Surveyors Examiners within the state of Pohnpei, consisting of five members, two of whom shall be land surveyors. Members of the Board shall be appointed by the Governor with the advice and consent of the Legislature. All of the appointees shall be at least 25 years of age and each shall have at least six years of active experience and be of recognized good standing in their profession of either land surveying, civil engineering, law or other related professions. Members shall be appointed for a term of four years; PROVIDED that two of the initial appointees shall be for a four-year term; one for a three-year term; one for a two-year term; and one for a one-year term.

(2) The Governor, with the concurrence of the Pohnpei Legislature, may remove any member of the Board for misconduct, incompetency, neglect of duty or for any other sufficient cause; PROVIDED, HOWEVER, that the removal is subject to appeal to a court of competent jurisdiction. Vacancies in the membership of the Board shall be filled by appointment as provided for under Subsection (1) of this section.

(3) Members of the Board shall carry out their duties and responsibilities without compensation and shall endeavor to conduct business during normal working hours.

(4) The Division of Surveying and Mapping shall provide the Board with necessary clerical personnel, office facilities, technical, and other logistic support as the Board may require.

(5) The Board is hereby authorized to promulgate rules and regulations needed in performing its functions; PROVIDED, HOWEVER, that the promulgation is consistent with the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded, and approved by the Governor.

(6) The Board shall meet at such times and places as it may by rule prescribe, but shall hold at least two regular meetings each year. The Chairman may also call special meetings as the need arises. At all meetings the presence of three members shall constitute a quorum and the majority decisions of at least three members present in any meeting shall be required in arriving at any decision.

(7) The Board shall maintain a complete record of all applications for registration, together with the Board's action thereon, and shall annually, during the month of December, prepare a list showing the names and addresses of all registered land surveyors for publication. A copy of the list shall be distributed to all registrants and all land offices within the state.

(8) The Board shall prepare a printed annual report of its activities each year that shall be submitted to the Governor and Legislature on the last day of each calendar year. The said report shall also be published in the state's Land Gazette on the publication issue immediately following the calendar year involved.

Source: S.L. No. 2L-130-82 §4, 6/28/82; S.L. No. 1L-71-86 §4-13, 4/1/86; S.L. No. 5L-14-00 §3-48, 10/1/00

§6-105. Registration of surveyors: procedures; qualifications; exemptions. —

(1) No person shall practice or offer to practice land surveying, or use in connection with his name, or otherwise use, assume or advertise any title or description to convey the impression that he is a land surveyor, unless such person has qualified as such by registration as a land surveyor or is otherwise exempted under this chapter.

(2) A person shall be construed to practice or offer to practice land surveying within the meaning and intent of this chapter who practices land surveying, or who by oral or written claim or sign, advertising, letterhead, card or in any other way represents himself to be a land surveyor or through the use of some other title implies that he is such, or who holds himself out as able to perform or who does perform any surveying service or work or any other professional service designated by him as land surveying or generally recognized as such.

(3) No person shall be eligible for registration as a land surveyor under this chapter unless:

- (a) He is an actual resident of Pohnpei;
- (b) He is at least 21 years of age;
- (c) He is of good character and repute;
- (d) He meets the professional qualifications prescribed by this chapter; or
- (e) He is exempted under §6-106.

(4) The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for registration as a land surveyor:

- (a) Graduation from a university, college, institute or school approved by the Board as of satisfactory standing, including the completion of an approved course in surveying, and a specific record of an additional two years or more of experience in land surveying of a character satisfactory to the Board, and indicating that the applicant is competent to practice land surveying and has passed the prescribed examination; or
- (b) A specific record of six years or more of experience in land surveying work of a character satisfactory to the Board, and indicating that the applicant is competent to practice land surveying and has passed the prescribed oral and practical examinations set by the Board; or
- (c) A specific record of eight years or more of lawful practice in land surveying work of a character satisfactory to the Board, and indicating that the applicant is competent to practice land surveying and has passed the prescribed examinations set by the Board; PROVIDED that the eight years or more of lawful practice in land surveying work was gained in the last eight consecutive years or since 1974.

(5) In considering the qualifications of applicants as to experience under Subsection (4) of this section, the following may be credited as experience and qualifications:

- (a) Teaching of land surveying in an approved curriculum in a university, college or school approved by the Board as of satisfactory standing;
- (b) Experience and training in the armed services of the United States of America in civil engineering or land surveying; and
- (c) The satisfactory completion of each year of approved curriculum in a school or college approved by the Board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience under Subsection (4)(b) or (4)(c) of this section. Graduation in a curriculum other than land surveying from a college or university of recognized standing may be considered equivalent to two years of experience under this chapter; PROVIDED, HOWEVER, that no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications.

(6) The Board may, upon application and payment of the fee required by this chapter, issue a certificate of registration as a land surveyor, without oral or written examination to any person who holds a current valid certificate of registration, or the equivalent thereof, as such issued by any state, territory or possession of the United States of America, or of any country, provided that the applicant's qualifications meet the requirements of this chapter.

(7) Application for registration shall be on a form or forms prescribed and furnished by the Board and shall:

- (a) Designate the registration applied for;
- (b) Show the applicant's education and a detailed summary of his technical work;
- (c) Furnish not less than three references, of whom at least two shall be with regard to his technical work; and
- (d) Set forth such other information as the Board may prescribe.

(8) Every application shall be accompanied by an application fee of \$15. No refund shall be made in the event registration is denied.

(9) When oral or written examinations are required, they shall be held at such time and place as the Board shall determine. All examinations shall be prescribed by the Board, subject to requirements of this chapter and shall have for their scope the determination of the applicant's ability to practice land surveying. All examinations shall include the subjects of professional ethics and this chapter. The examination, in addition to other matters, shall cover the procedure and rules governing the survey of public lands as set forth in the Manual of Surveying Instructions published by the Bureau of Land Management, United States Department of the Interior, and in the Manual of Surveying Instructions issued by the Division of Surveying and Mapping.

(10) The Board shall issue a certificate of registration to any applicant for registration as a land surveyor, who, having paid the application and registration fee, has satisfactorily met all the requirements of this chapter. Certificates shall show the full name of the registrant, shall have a serial number, and shall be signed by the Chairman and the Secretary of the Board under seal of the Board. The certificate for a registered land surveyor shall authorize the practice of land surveying. The certificate of registration, as issued by the Board, shall be prima facie evidence that the person named therein is a registered land surveyor entitled to all the rights and privileges of such, while such certificate remains unrevoked or unexpired.

(11) Certificates of registration shall expire on the last day of the month of December of the third year following their issuance or renewal and become invalid at the end of such day unless renewed. It shall be the duty of the Board to notify every person registered under this chapter of the date of expiration of his certificate of registration and the amount of the fee that shall be required for its renewal. Such notices shall be mailed not later than the first week of December each year. Renewal may be effected at any time during the month of December by payment of a renewal fee of \$15. The failure on the part of any registrant to renew his certificate in the month of December of the year of expiration shall not deprive such person of the right of renewal, but the renewal fee to be paid after the month of December shall be increased by \$1 for each month or fraction of a month that payment of renewal is delayed; PROVIDED, HOWEVER, that the maximum fee for delayed renewal shall not exceed \$10. The failure of the Board to notify a registrant of the date of the expiration of his certificate or the amount of the renewal fee shall not extend the duration of a certificate of registration.

(12) Every registrant, upon being issued a certificate of registration, may obtain a seal of a design authorized by the Board, bearing the registrant's name and the legend "Registered Land Surveyor," as the case may be, and shall provide space for stating the serial number and date of expiration of the certificate of registration. Plans, specifications, plats, and reports prepared by a registrant shall be stamped with such seal when filed with the Pohnpei Government during the term of the registrant's registration, and shall also show the serial number and date of expiration of such certificate of registration. It shall be a misdemeanor, conviction of which shall be punishable by imprisonment not to exceed six months or by a fine not to exceed \$1,000, or both such fine and imprisonment, for anyone to stamp or seal any document with such seal after the certificate of registration of the person named thereon has expired or has been revoked, unless such certificate shall have been renewed and reissued.

(13) The Board shall have the power, duty, and authority to investigate violations of this chapter and may suspend or revoke a certificate of registration on any of the following grounds:

- (a) The registrant is practicing in violation of this chapter; or
- (b) The certificate of registration has been obtained or the registrant has obtained such certificate by fraud or misrepresentation; or
- (c) The certificate of registration was obtained by bribery or payment of any money except fees prescribed by this chapter; or
- (d) The registrant is falsely impersonating a practitioner or former practitioner or is practicing under an assumed or fictitious name; or
- (e) The registrant has been convicted of an offense arising from or in connection with the practice of land surveying, or any offense involving moral turpitude, in which case a certified copy of the record of conviction shall be conclusive evidence thereof; or
- (f) The registrant has violated any provision of this chapter; or
- (g) The registrant has aided and abetted in the practice of land surveying, any person not duly authorized to practice land surveying except as provided under exemption of this chapter; or
- (h) The registrant has been guilty of fraud or deceit, or of gross negligence, incompetence or misconduct in the practice of land surveying; or
- (i) The registrant has permitted his seal to be affixed to any plans, specifications or drawings that were not prepared by him or under his personal supervision, by his employee or subordinate.

(14) Proceedings under this chapter may be initiated upon complaint by any person or by the Board. All charges shall be in writing and sworn to by the person making them. All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by the Board within three months after the date on which they have been referred. The time and place of such hearing shall be fixed by the Board, and a copy of the charges, together with a notice for the hearing shall be personally served upon or mailed to the last known address of such registrant at least 30 days prior to the scheduled hearing. At any hearing, the registrant shall have the right to appear personally and may have counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

(15) The Board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked, provided that the majority of Board members present at a meeting vote in favor of such reissuance. A new certificate of registration may be issued to any person whose certificate has been revoked, lost, destroyed or mutilated, subject to the rules of the Board and upon payment of a fee of \$10.

(16) The practice of land surveying may be performed by employees of a proprietorship, partnership or corporation engaged in construction, manufacturing, transportation, distribution or communications insofar as such land surveying is involved in its operations, provided that it is performed by or under the supervision of a land surveyor in responsible charge, registered under this chapter.

(17) The practice or offer to practice land surveying for the public, as defined in this chapter, by individuals registered under this law through a corporation as officers, employees or agents, is permitted subject to this chapter, provided that all personnel who act in its behalf as land surveyors in responsible charge are registered under this chapter, or are persons lawfully practicing under this law. In case this practice is done through a corporation organized after the effective date of this chapter [June 28, 1982], it shall be required at all times that the president and a majority of the officers and directors are registered land surveyors, and further, that said corporation shall have been issued a certificate of authorization by the Board as provided in this chapter.

(18) A corporation desiring a certificate of authorization shall file with the Board an application, using a form provided by the Board, listing the names and addresses of all officers and board members of the corporation, and also, of an individual or individuals duly registered to practice land surveying who shall be in responsible charge, and other information required by the Board. A non-refundable fee of \$25 shall accompany each such application. The same form, giving the same information, must

accompany an annual renewal fee of \$10. In the event there shall be a change in any of these persons during the year, such change shall be designated on the same form and filed with the Board within 30 days after the effective date of the change. If all of the requirements of this section are met, the Board may issue a certificate of authorization to such corporation.

(19) No corporation authorized to practice land surveying under this chapter shall be relieved of responsibility for the conduct or acts of its agents, employees or officers by reasons of its compliance with this section, nor shall any individual practicing land surveying be relieved of responsibility for services performed by reason of his employment or relationship with such corporation. All final drawings, specifications, plans, plats, reports or other papers or documents involving the practice of land surveying which shall have been prepared or approved for the use of such corporation, or for delivery by it to any person, or for public record shall be dated and bear the signature and seal of the land surveyor who prepared or approved them.

Source: S.L. No. 2L-130-82 §5, 6/28/82; S.L. No. 2L-140-82 §1, 10/28/82

§6-106. Exemptions. — This chapter shall not apply to:

(1) A person not a resident of and having no established place of business in the state of Pohnpei, practicing or offering to practice land surveying in the state of Pohnpei when such practice does not extend in the aggregate more than 30 days in any calendar year; PROVIDED that such person is legally qualified by registration to practice such profession in the state or territory of his residence and in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter.

(2) A person not a resident of and having no established place of business in the state of Pohnpei, or who has recently become a resident thereof, practicing or offering to practice land surveying in the state of Pohnpei for more than 30 days in any calendar year, if he has filed an application for a certificate of registration with the Board and has paid the required fee, such exemption to continue only for such time as the Board requires for the consideration of the application for registration; PROVIDED that such person is legally qualified to practice such profession in the state or territory of his residence and in which the requirements or qualifications for obtaining a certificate are not lower than those specified in this chapter.

(3) An employee or subordinate of a person holding a certificate of registration under this chapter or an employee or a person exempted from registration by this section; PROVIDED that the work of such employee or subordinate does not include final designs or decisions and is under the direct responsibility and supervision of a person holding a certificate of registration under this chapter.

(4) Officers, employees or members of the Armed Forces of the United States of America, as long as their practice of land surveying is limited to that work specifically authorized by the Armed Forces.

(5) The practice of any legally recognized profession other than that of land surveyor.

Source: S.L. No. 2L-130-82 §6, 6/28/82

§6-107. Register of Land Surveyors. —

(1) The Board shall record in a book to be kept for the purpose and to be known as the “Register of Land Surveyors” the names and addresses of all registered land surveyors, together with the details and dates of the qualifications in respect of which they are registered by the Board of Land Surveyors Examiners. Every entry in the Register shall be signed by the Chairman of the Board. A copy of an entry in the Register, purporting to be certified by the Chairman of the Board as a true copy, is prima facie evidence that the person named therein is a registered land surveyor.

(2) The Register shall be open for public inspection by anyone desiring to view the Register. The Register shall be updated at all times by the Chairman of the Board.

Source: S.L. No. 2L-130-82 §7, 6/28/82

§6-108. Certificates issued under 31 TTC (1980). — A holder of a certificate of registration issued under the superseded 31 TTC (1980), which expired on the last day of December 1981, upon payment of the herein prescribed renewal fee or having paid the renewal fee prescribed by the superseded law, shall be issued a certificate of registration and shall be entitled to all rights and privileges of a registered land surveyor under this chapter.

Source: S.L. No. 2L-130-82 §8, 6/28/82; S.L. No. 2L-140-82 §2, 10/28/82

Note: S.L. No. 2L-130-82 §9 superseding provision has been omitted.

§6-109. Compensation. — Board members shall be compensated at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, and shall be entitled to expenses and standard Pohnpei Government per diem rates while engaged in authorized services for the Board; PROVIDED that Pohnpei Government officers and employees who serve on the Board shall not be entitled to compensation, but shall be accorded administrative leave while so engaged in such services.

Source: S.L. No. 2L-130-82 §11(2), 6/28/82

Note: §11 was inserted by S.L. No. 1L-71-86 §4-13, 4/1/86.

§6-110. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei a sum to be determined annually in the Comprehensive Budget Act for the purpose of defraying the cost of the operations and other incidental expenses incurred by the Board created by this chapter. Sums appropriated under the authorization of this section shall be administered and expended by the Governor or his duly designated representative solely for the purposes stated in this chapter. The Governor or his duly designated representative shall report to the Pohnpei Legislature on or before October 15 each year on all matters concerning the administration and expenditure of the sums authorized for appropriation by this section. All sums appropriated under the authorization of this section in a fiscal year remaining unexpended or unobligated for expenditure on September 30 each fiscal year shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-130-82 §11(1), 6/28/82

Note: §11 was inserted by S.L. No. 1L-71-86 §4-13, 4/1/86.

PROFESSIONS & OCCUPATIONS

(Next page is Title 39 divider)

TITLE 39

TRADE REGULATION

TITLE 39 TRADE REGULATION

CHAPTER

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- 2 CONSUMER PROTECTION**
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CHAPTER 1 UNFAIR BUSINESS PRACTICES

Section

1-101 Definitions	1-104 Contracts or agreements in violation of chapter
1-102 Prohibited activities	1-105 Competitive agreements
1-103 Leases, sales, contracts, conditions, agreements or understandings to lessen competition	1-106 Criminal and civil liability of violators

§1-101. Definitions. — As used in this chapter, “person” or “persons” includes an individual or individuals, corporations, firms, partnerships or any other association existing under or authorized by the law of the state of Pohnpei.

Source: 33 TTC §301 (1970); 33 TTC §301 (1980)

§1-102. Prohibited activities. — It is illegal for one or more persons to create or use an existing combination of capital, skill or acts the effect of which is:

- (1) To create or carry out restrictions in trade or commerce;
- (2) To limit or reduce the production, or increase the price of, merchandise or of any commodity;
- (3) To prevent competition in the manufacture, making, transportation, sale or purchase of any merchandise, produce or commodity;
- (4) To fix at any standard or figure whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, barter, use or consumption;
- (5) To discriminate in price between different purchasers of commodities of like grade and quality, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce; PROVIDED that nothing herein contained shall prevent differentials in price which only make allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to be purchased, sold, and delivered; or
- (6) To make or enter into or carry out any contract, obligation or agreement by which the persons do any of the following:
 - (a) Bind themselves not to sell, dispose of or transport any article or commodity below a common standard figure or fixed value;

(b) Agree to keep the price of such article, commodity or transportation at a fixed or graduated figure;

(c) Establish or set the price of any article, commodity or transportation between them or themselves and others, so as directly or indirectly to preclude free and unrestricted competition among themselves or any purchaser or consumer in the sale or transportation of any such article or commodity; or

(d) Agree to pool, combine or directly or indirectly unite any interest that they may have connected with the sale or transportation of any such article or commodity that might in any way affect its price.

Source: 33 TTC §302 (1970); 33 TTC §302 (1980)

§1-103. Leases, sales, contracts, conditions, agreements or understandings to lessen competition.

— It shall be unlawful for any person to lease or make a sale or contract for the sale of goods, merchandise, machinery, supplies or commodities for use within the state of Pohnpei, or to fix a price charged therefor, or discount from, or rebate upon, such price, on condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities or services of a competitor or competitors of the lessor or seller, where the effect of such lease, sale or contract for sale, or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce in the state of Pohnpei.

Source: 33 TTC §303 (1970); 33 TTC §303 (1980)

§1-104. Contracts or agreements in violation of chapter. — Any contract or agreement in violation of this chapter is, to that extent, void and not enforceable at law or equity.

Source: 33 TTC §304 (1970); 33 TTC §304 (1980)

§1-105. Competitive agreements. — It is not unlawful to enter into agreements or form an association or combination the purposes and effect of which is to promote, encourage or increase competition in any trade or industry.

Source: 33 TTC §305 (1970); 33 TTC §305 (1980)

§1-106. Criminal and civil liability of violators. —

(1) Any person who violates §1-102 or §1-103 is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$5,000.

(2) Any person who is injured in his business, personal property or real property by reason of another's violation of §1-102 or §1-103 may sue therefor in the Trial Division of the Pohnpei Supreme Court or where the defendant resides or where service may be obtained, and may recover three times the damages sustained by him together with a reasonable attorney's fee and the costs of suit; PROVIDED that the state of Pohnpei and any of its political subdivisions and public agencies shall be deemed a person within the meaning of this section, and may, through the Attorney General, bring an action on behalf of the state of Pohnpei, its political subdivisions or public agencies to recover the damages provided by this section, including a reasonable attorney's fee together with the costs of the suit.

(3) Upon conviction under this chapter of a noncitizen business, as defined in Chapter 7 of Title 37 of this Code, the Governor may revoke such noncitizen's business permit.

Source: 33 TTC §306 (1970); 33 TTC §306 (1980)

CHAPTER 2 CONSUMER PROTECTION

Section

<p>2-101 Short title</p> <p>2-102 Definitions</p> <p>2-103 Unlawful acts or practices</p> <p>2-104 Exemptions</p> <p>2-105 Restraint of prohibited acts</p> <p>2-106 Private and class actions</p> <p>2-107 Non-negotiability of consumer paper</p> <p>2-108 Assurances of voluntary compliance</p> <p>2-109 Investigation authorized</p>	<p>2-110 Authority of Attorney General to issue subpoenas, administer oaths, conduct hearings, and promulgate rules and regulations</p> <p>2-111 Service of notices, demands or subpoenas</p> <p>2-112 Orders for enforcement of subpoenas or investigative demands</p> <p>2-113 Civil and criminal penalties</p> <p>2-114 Forfeiture of corporate franchise</p>
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§2-101. Short title. — This chapter may be cited as the “Consumer Protection Act.”

Source: 33 TTC §351 (1970); 33 TTC §351 (1980)

§2-102. Definitions. —

(1) “Person” means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entity.

(2) “Trade” and “commerce” mean the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of the state of Pohnpei.

Source: 33 TTC §352 (1970); 33 TTC §352 (1980)

§2-103. Unlawful acts or practices. — The following unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful:

(1) Passing off goods or services as those of another.

(2) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services.

(3) Causing likelihood of confusion or misunderstanding as to affiliation, connection or association with, or certification by, another.

(4) Using deceptive representations or designations of geographic origin in connection with goods or services.

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have.

(6) Representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

(7) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another.

(8) Disparaging the goods, services or business of another by false or misleading representation of fact.

(9) Advertising goods or services with intent not to sell them as advertised.

(10) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(11) Making false or misleading statements of fact concerning the reasons for, existence of or amounts of price reductions.

(12) Engaging in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

(13) Engaging in any act or practice that is unfair or deceptive to the consumer.

Source: 33 TTC §353 (1970); 33 TTC §353 (1980)

§2-104. Exemptions. — Nothing in this chapter shall apply to:

(1) Actions or transactions carried out by the Pohnpei Government, any branch thereof or any other governmental agency; or

(2) Acts done by the publisher, owner, agent or employee of a newspaper, periodical or radio or television station in the publication or dissemination of an advertisement, when the owner, agent or employee did not have knowledge of the false, misleading or deceptive character of the advertisement, did not prepare the advertisement, and did not have a direct financial interest in the sale or distribution of the advertised product or service.

Source: 33 TTC §354 (1970); 33 TTC §354 (1980)

§2-105. Restraint of prohibited acts. —

(1) Whenever the Attorney General has reason to believe that any person is using, has used or is about to use any method, act or practice declared in §2-103 to be unlawful, and that proceedings would be in the public interest, he may bring a civil action in the name of the state of Pohnpei against such person to restrain by temporary or permanent injunction the use of such method, act or practice. The notice must state generally the relief sought and must be served at least three days before the hearing of the action. The action may be brought in the Trial Division of the Pohnpei Supreme Court. The said court is authorized to issue temporary or permanent injunctions to restrain and prevent violations of this chapter, and such injunctions shall be issued without bond.

(2) The court may make such additional orders or judgments as may be necessary to restore to any person in interest any monies or property, real or personal, which may have been acquired by means of any practice in this chapter declared to be unlawful.

Source: 33 TTC §355 (1970); 33 TTC §355 (1980)

§2-106. Private and class actions. —

(1) Any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by §2-103, may bring an action under the Rules of Civil Procedure in the Trial Division of the Pohnpei Supreme Court to recover actual damages or \$100, whichever is greater. The court may, in its discretion, award punitive damages and may provide such equitable relief as it deems necessary or proper.

(2) Any person entitled to bring an action under Subsection (1) of this section may, if the unlawful method, act or practice has caused similar injury to numerous other persons similarly situated and if they adequately represent such similarly situated persons, bring an action on behalf of themselves and other similarly injured and situated persons to recover damages as provided for in Subsection (1) of this section. In any action brought under this section, the court may, in its discretion, order, in addition to damages, injunctive or other equitable relief.

(3) Upon commencement of any action brought under Subsection (1) of this section, the clerk of courts shall mail a copy of the complaint or other initial pleading to the Attorney General and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the Attorney General.

(4) In any action brought by a person under this section, the court may award, in addition to the relief provided in this section, reasonable attorney's fees and costs.

(5) Any permanent injunction, judgment or order of the court made under §2-105 shall be prima facie evidence in an action brought under this section that the respondent used or employed a method, act or practice declared unlawful by §2-103.

Source: 33 TTC §356 (1970); 33 TTC §356 (1980)

§2-107. Non-negotiability of consumer paper. —

(1) If any contract for sale or lease of consumer goods or services on credit entered into between a retail seller and a retail buyer requires or involves the execution of a promissory note or instrument or other evidence of indebtedness of the buyer, such note, instrument or evidence of indebtedness shall have printed on the face thereof the words "consumer paper," and such note, instrument or evidence of indebtedness with the words "consumer paper" printed thereon shall not be a negotiable instrument.

(2) Notwithstanding the absence of such notice on a note, instrument or evidence of indebtedness arising out of a consumer credit sale or consumer lease as described in this section, an assignee of the rights of the seller or lessor is subject to all claims and defenses of the buyer or lessee against the seller or lessor arising out of the sale or lease. Any agreement to the contrary shall be of no force or effect in limiting the rights of a consumer under this section. The assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. Failure to imprint the words "consumer paper" on such note, instrument or evidence of indebtedness shall subject the seller or other responsible person to appropriate civil and criminal sanctions as provided in this chapter.

Source: 33 TTC §357 (1970); 33 TTC §357 (1980)

§2-108. Assurances of voluntary compliance. — In the administration of this chapter, the Attorney General may accept an assurance of voluntary compliance with respect to any method, act or practice deemed to be violative of the chapter from any person who has engaged in or is about to engage in such method, act or practice. Any such assurance shall be in writing and shall be filed with and subject to the approval of the Trial Division of the Pohnpei Supreme Court. Such assurance of voluntary compliance shall not be considered an admission of violation for any purpose. Matters thus closed may at any time be reopened by the Attorney General for further proceedings in the public interest, pursuant to §2-105.

Source: 33 TTC §358 (1970); 33 TTC §358 (1980)

§2-109. Investigation authorized. —

(1) When it appears to the Attorney General that a person has engaged in, is engaging in or is about to engage in any act or practice declared to be unlawful by this chapter, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in such act or practice, he may execute in writing and cause to be served upon any person who is believed to have information, documentary material or physical evidence relevant to the alleged or suspected violation, an investigative demand requiring such person to furnish, under oath or otherwise, a report in writing setting forth the relevant facts and circumstances of which he has knowledge, or to appear and testify or to produce relevant documentary material or physical evidence for examination, at such reasonable time and place as may be stated in the investigative demand.

(2) At any time before the return date specified in an investigative demand, or within 20 days after the demand has been served, whichever period is shorter, a petition to extend the return date, or to modify or set aside the demand, stating good cause, may be filed in the Trial Division of the Pohnpei Supreme Court.

Source: 33 TTC §359 (1970); 33 TTC §359 (1980)

§2-110. Authority of Attorney General to issue subpoenas, administer oaths, conduct hearings, and promulgate rules and regulations. — To accomplish the objectives and to carry out the duties prescribed by this chapter, the Attorney General, in addition to other powers conferred upon him by this chapter, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe such forms and promulgate such rules and regulations as may be necessary, which rules and regulations, upon approval of the Governor, shall have the force of law; PROVIDED that none of the powers conferred by this chapter shall be used for the purpose of compelling any natural person to furnish testimony or evidence which might tend to incriminate him or subject him to a penalty or forfeiture; and PROVIDED FURTHER that information obtained pursuant to the powers conferred by this chapter shall not be made public or disclosed by the Attorney General or his employees beyond the extent necessary for law enforcement purposes in the public interest.

Source: 33 TTC §360 (1970); 33 TTC §360 (1980)

§2-111. Service of notices, demands or subpoenas. — Service of any notice, demand or subpoena under this chapter shall be made personally within the state of Pohnpei, but if such cannot be obtained, substituted service therefor may be made in the following manner:

(1) Personal service thereof without the state of Pohnpei; or

(2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without the state of Pohnpei of such person for whom the same is intended; or

(3) As to any person other than a natural person, in the manner provided in the rules of civil procedure as if a complaint or other pleading which institutes a civil proceeding had been filed, or

(4) Such service as the Pohnpei Supreme Court may direct in lieu of personal service within the state of Pohnpei.

Source: 33 TTC §361 (1970); 33 TTC §361 (1980)

§2-112. Orders for enforcement of subpoenas or investigative demands. —

(1) If any person fails or refuses to file any statement or report or to obey any subpoena or investigative demand issued by the Attorney General, the Attorney General may, after notice, apply to the Trial Division of the Pohnpei Supreme Court, and after hearing thereon, request an order:

(a) Granting injunctive relief to restrain the person from engaging in the advertising or sale of any merchandise or the conduct of any trade or commerce that is involved in the alleged or suspected violation;

(b) Vacating, annulling or suspending the corporate charter of a corporation created by or under the laws of the state of Pohnpei or revoking or suspending the business permit in the state of Pohnpei of a foreign corporation, or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and

(c) Granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena or investigative demand.

(2) Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

Source: 33 TTC §362 (1970); 33 TTC §362 (1980)

§2-113. Civil and criminal penalties. —

(1) Any person who violates the terms of an injunction issued under §2-105 shall forfeit and pay to the state of Pohnpei a civil penalty of not more than \$10,000 per violation. For the purposes of this section, the court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and

in such cases the Attorney General, acting in the name of the state of Pohnpei, may petition for recovery of civil penalties.

(2) In any action brought under §2-105, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by §2-103, the Attorney General, upon petition to the court, may recover, on behalf of the state of Pohnpei, a civil penalty of not exceeding \$1,000 per violation.

(3) For the purposes of this section, a willful violation occurs when the party committing the violation knew or should have known that his conduct was a violation of §2-103.

Source: 33 TTC §363 (1970); 33 TTC §363 (1980)

§2-114. Forfeiture of corporate franchise. — Upon petition by the Attorney General, the Trial Division of the Pohnpei Supreme Court may, in its discretion, order the dissolution or suspension or forfeiture of franchise of any corporation that violates the terms of any injunction issued under §2-105.

Source: 33 TTC §364 (1970); 33 TTC §364 (1980)

TRADE REGULATION

CHAPTER 3 PRICE CONTROL

Section

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3-102 Definitions	3-107 Civil penalties
3-103 Presumptions	3-108 Criminal penalties
3-104 Limitation on price	3-109 Records required
3-105 Price Control Commission	3-110 Finances

§3-101. Purpose. — The people of Pohnpei are heavily reliant upon imported items, including basic foodstuffs, fuel, building materials, and supplies necessary for earning a living. The price charged to the ultimate consumer for the imported items often rises too many times the import cost, especially in time of shortage. The market pricing system has proven inadequate to control this exploitation of the public because of the irregularity of shipping and the lack of supply sources. The purpose of this chapter is to protect the people of Pohnpei from such exploitation by imposing price controls on the sale of imported items in Pohnpei and providing for enforcement of the price controls.

Source: D.L. No. 3L-72-73 §2, 10/30/73

§3-102. Definitions. — The following definitions shall apply in this chapter, unless the context clearly requires otherwise:

- (1) “Commission” means Price Control Commission.
- (2) “Cost” means the actual cost paid or promised by the seller for the item itself, exclusive of charges for shipping, handling, interest, warehousing, overhead, rent, salaries, damage, and loss.
- (3) “Item” means any good, personal property or tangible thing brought into Pohnpei from outside the state.
- (4) “Price” means the total amount of money or other valuable consideration exclusive of sales tax paid or promised by the buyer to the seller.
- (5) “Sale” means any transfer for money or other valuable consideration in the regular course of business, whether wholesale or retail.

Source: D.L. No. 3L-72-73 §3, 10/30/73

§3-103. Presumptions. — The following presumptions shall apply in the interpretation and enforcement of this chapter:

- (1) *Origin of items.* It is presumed that any item sold in Pohnpei is imported until the contrary is proven. The burden of proving that an item is not imported shall be upon the seller.
- (2) *Place of sale.* It is presumed that any sale of an imported item that is arranged or consummated through or with the assistance of an agent in Pohnpei is a sale within Pohnpei unless the contrary is proven. The burden of proving a sale outside of Pohnpei shall be upon the seller or his Pohnpei agent.

Source: D.L. No. 3L-72-73 §4, 10/30/73

§3-104. Limitation on price. — In the instance of the first sale within Pohnpei of any item that has been imported from outside the state, the seller may include the following items in his price to the buyer, and no others: cost of the goods; actual charges for inland and overseas freight; insurance; import taxes or duties; and a sum not greater than fifty percent (50%) of the cost of the goods. In the instance of a second or subsequent sale of the same item within Pohnpei, the subsequent seller shall

not charge a price to the buyer which is more than twenty percent (20%) greater than the price paid or promised to be paid by the seller for the item.

Source: D.L. No. 3L-72-73 §5, 10/30/73

§3-105. Price Control Commission. —

(1) There is hereby established a Price Control Commission in Pohnpei to be composed of five members appointed by the Governor with the advice and consent of the Legislature. The members appointed shall be citizens residing in Pohnpei State. The membership of the Commission shall not include more than one person having a controlling ownership or a managerial interest in one or more businesses in Pohnpei. The Administrator for the Office of Economic Affairs shall be an ex-officio member of the Commission, without the right to vote.

(2) The term of office of the appointed members of the Commission shall be two years. Appointments to fill vacancies shall be for the remainder of the unexpired term.

(3) At the first meeting and annually thereafter the Commission shall elect a Chairman from among its appointed members. Meetings shall be held not less than every 60 days and may be called by the Chairman, three of the appointed members, or the Governor. A quorum of the Commission shall be four appointed members, and the assent of three members present and voting shall be required for all decisions requiring a vote. The Commission shall adopt by-laws for its own government.

(4) Members of the Commission shall be compensated at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually attending meetings of the Commission; PROVIDED, that those members who are government employees shall instead receive their regular salaries while performing functions of the Commission. The Office of Economic Affairs shall offer technical assistance to the Commission and provide records within its possession as requested by the Commission. The Attorney General shall serve as counsel for the Commission. The Governor shall provide clerical and administrative assistance as requested by the Commission. The Commission is authorized to hire its own staff to the extent that if additional assistance is required, and may seek assistance from any other source.

Source: D.L. No. 3L-72-73 §6, 10/30/73; D.L. No. 4L-154-78 §1, 9/14/78; S.L. No. 1L-71-86 §4-8, 4/1/86; S.L. No. 5L-14-00 §3-15, 10/1/00

§3-106. Powers and duties of Price Control Commission. — For purposes of this chapter, and without limitation on the scope or responsibilities vested in it by other laws of the state, the powers and duties of the Price Control Commission shall include the following:

(1) Upon its own initiative, make studies, investigations, and inquiries concerning the cost of items to sellers and the price to buyers in Pohnpei;

(2) Maintain records and files of the cost of items imported into the state and advise the public of the maximum price chargeable by sellers of items;

(3) Develop information concerning the pricing practices of sellers in Pohnpei;

(4) Consult with and advise merchants and sellers of imported items concerning this chapter and its implementation;

(5) Promulgate regulations, subject to the approval of the Governor, for the implementation and enforcement of this chapter;

(6) Ensure compliance of all sellers of imported items in the state with this chapter and all rules and regulations issued pursuant hereto, including the performance of investigatory functions as appropriate thereto and may, upon receipt of a sworn affidavit from any person that there is reason to believe that any provision of this chapter or regulation issued pursuant hereto has been or is being violated, investigate such alleged violation and in cooperation with the Office of the Attorney General, enforce this chapter and rules and regulations issued hereunder. In connection with any hearings or investigations conducted by the Commission upon its own initiative or upon receipt of a sworn

affidavit as provided herein, the Commission shall have the authority to subpoena witnesses, records, books, and documents and compel the attendance of any party summoned to testify before the Commission;

(7) Bring an action at law or equity in its own name with the cooperation of the Attorney General to enjoin violation of this chapter or any regulation issued pursuant hereto, and seek any other remedy or damages allowable by law or equity;

(8) Conduct hearings pursuant to §3-107 and make such awards, rulings, and issue such judgments as the evidence shall require. The Commission may recommend the cancellation, revocation, suspension or modification of any permit, license, lease or agreement to the issuing state department or officer;

(9) The Commission shall submit a written report on its activities and expenditures under this chapter within the first five days of each regular session of the Pohnpei Legislature; and

(10) Grant special exceptions to the application of §3-104 to specifically identified imported items and determine the maximum allowable price which may be charged therefor. No special exception shall be granted except after a public hearing and unless it clearly appears that the seller is deprived of a reasonable return upon his investment in the imported items by operation of this chapter. The Commissioner shall cause effective public notice to be given of all requested special exceptions and the time and place of hearing the request.

Source: D.L. No. 3L-72-73 §7, 10/30/73; S.L. No. 5L-14-00 §3-15, 10/1/00

§3-107. Civil penalties. — Any seller of an item imported into Pohnpei who shall violate any of this chapter or any regulation issued hereunder may be required to void the sale and refund the price paid by the buyer, or refund the illegal portion of the price paid by the buyer. In addition thereto, the seller may be required to pay treble the amount of the illegal part of the price to the buyer. In the event the buyer shall not request any refund of damages, the Commission may order the seller to pay the illegal part of the price to the Commission. All funds collected by the Commission shall be deposited in the general fund of Pohnpei.

Source: D.L. No. 3L-72-73 §8, 10/30/73

§3-108. Criminal penalties. — Any person who violates any of this chapter or any regulations issued hereunder, or who willfully falsifies or refuses to produce the records required hereunder shall, upon conviction thereof, be fined not more than \$500, or imprisoned not more than one year, or both such fine and imprisonment. Each sale at an illegal price or falsification or refusal to produce records shall be a separate offense.

Source: D.L. No. 3L-72-73 §9, 10/30/73

§3-109. Records required. — Every seller of an item shall maintain a complete and accurate record of the cost of that specific item and shall, upon the written request of any buyer or potential buyer, furnish such buyer or potential buyer with the cost of the item inquired about. The information given by the seller shall be in writing and shall be furnished to the buyer or potential buyer within a reasonable time, not exceeding 30 days.

Source: D.L. No. 3L-72-73 §10, 10/30/73

§3-110. Finances. — There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act to carry out the purposes of this chapter. The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purposes of the administration of this chapter. The Governor shall report to the Pohnpei Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this chapter for the previous fiscal year. Any balance of the sums appropriated for a

fiscal year under the authorization of this chapter not expended or obligated for expenditure on September 30 of that fiscal year shall revert to the general fund of Pohnpei.

Source: D.L. No. 3L-72-73 §11, 10/30/73; S.L. No. 2L-203-83 §1, 10/1/83

Extended legislative history: D.L. No. 2L-236-71 creates the Price Control Commission; D.L. No. 2L-236-71 §2(b) was amended by D.L. No. 3L-17-72 §1, 5/25/72; D.L. No. 3L-72-73 §1, 10/30/73 repealed D.L. No. 2L-236-71, as amended, and established a new Price Control Commission; D.L. No. 3L-72-73 §6 was amended by D.L. No. 4L-154-78 §1, 9/14/78, S.L. No. 1L-71-86 §4-8, 4/1/86 and S.L. No. 5L-14-00 §3-15, 10/1/00; D.L. No. 3L-72-73 §11 was amended by S.L. No. 2L-203-83 §1, 10/1/83.

CHAPTER 4 USURY

Section

4-101 “Defined”; actions to recover usurious amounts

4-102 Crediting of usurious interest to principal
4-103 Prohibited transactions

§4-101. “Defined”; actions to recover usurious amounts. – No action shall be maintained in any court of the state of Pohnpei to recover a higher rate of interest than two percent (2%) per month on the balance due upon any contract made in the state of Pohnpei on or after February 15, 1965 involving a principal sum of three hundred dollars or less, nor to recover a higher rate of interest than one percent (1%) per month on the balance due on any such contract involving a principal sum of over three hundred dollars.

Source: Code 1966, §1103; Code 1970, tit. 33, §251; 33 TTC §251 (1980)

§4-102. Crediting of usurious interest to principal. – Payments of money or property made by way of usurious interest, whether made in advance or not, as to the excess of interest above the rate allowed by law at the time of making the contract, shall be taken to be payments made on account of principal, and judgment shall be rendered for no more than the balance found due, after deducting the excess of interest so paid.

Source: Code 1966, §1104; Code 1970, tit. 33, §252; 33 TTC §252 (1980)

§4-103. Prohibited transactions. – Any person who directly or indirectly receives any interest, discount, or consideration for or upon the loan or forbearance to enforce the payment of money, goods and things in action, greater than two percent (2%) per month shall be guilty of usury, and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than one hundred dollars, or both.

Source: Code 1966, §1105; Code 1970, tit. 33, §253; 33 TTC §253 (1980)

Note: Article IX, §2(i) of the FSM Constitution expressly delegates the power to "establish usury limits on major loans" to the FSM Congress.

TRADE REGULATION

CHAPTER 5 WEIGHTS AND MEASURES ACT

Section

5-101 Short title	5-110 Misrepresentation of quantity
5-102 Definitions	5-111 Misrepresentation of pricing
5-103 Systems of weights and measures	5-112 Violations
5-104 Physical Standards	5-113 Injunction
5-105 Technical requirements for weighing and measuring devices	5-114 Presumptive evidence
5-106 Weights and measures administration	5-115 Regulations to be unaffected by repeal of prior enabling statute
5-107 Testing required	5-116 Cooperation; uniformity of regulations
5-108 Powers and duties of the Administrator	5-117 Nonapplicability
5-109 Special police powers	

§5-101. Short title. — This chapter is known and may be cited as the “Weights and Measures Act of 2006.”

Source: S.L. No. 6L-80-06 §1, 1/31/07

§5-102. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

(1) “Weights and measures” means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices.

(2) “Weight” as used in connection with any commodity, means net weight; except where the label declares that the product is sold by drained weight, the term means net drained weight.

(3) “Correct” as used in connection with weights and measures, means conformance to all applicable requirements of this chapter.

(4) “Primary standards” means the physical standards of the United States of America, unless some other primary standard is prescribed by the Administrator, which serve as the legal reference from which all other standards and weights and measures are derived.

(5) “Secondary standards” means the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations.

(6) “Administrator” means the Administrator of the Office of Economic Affairs.

(7) “Person” means both plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations including governmental agencies.

(8) “Sale” from bulk means the sale of commodities when the quantity is determined at the time of sale.

(9) “Package” means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(10) “Office” means the Office of Economic Affairs.

Source: S.L. No. 6L-80-06 §2, 1/31/07

§5-103. Systems of weights and measures. — The customary system of weights and measures used in the United States of America and the metric system of weights and measures are jointly recognized and either one or both of these systems shall be used for all commercial and governmental purposes in the state of Pohnpei. The definitions of basic units of weights and measures, the tables of weights and measures and weights and measures equivalents as published by the National Bureau of Standards of the United States of America, unless some other definition is promulgated by the Administrator, are

recognized and shall govern weighing and measuring equipment and transactions in the state of Pohnpei.

Source: S.L. No. 6L-80-06 §3, 1/31/07

§5-104. Physical standards. — Weights and measures that are traceable to the United States prototype standards supplied by the United States federal government or otherwise approved as being satisfactory by the Administrator, shall be the state of Pohnpei's primary standards of weights and measures and shall be maintained in such calibration as prescribed by the Administrator. All secondary standards may be prescribed by the Administrator and shall be verified upon their initial receipt and as often thereafter as deemed necessary by the Administrator.

Source: S.L. No. 6L-80-06 §4, 1/31/07

§5-105. Technical requirements for weighing and measuring devices. — The specifications, tolerances and other technical requirements for weighing and measuring devices as adopted by the United States's National Conference on Weights and Measures and published in the United States National Bureau of Standards Handbook 44, 'Specifications, Tolerances and Other Technical Requirements for Commercial Weighing and Measuring Devices', and supplements thereto or revisions thereof, shall apply to weighing and measuring devices in the state of Pohnpei, except insofar as modified or rejected by regulation.

Source: S.L. No. 6L-80-06 §5, 1/31/07

§5-106. Weights and measures administration. — Administration of the requirements of this chapter shall fall within the responsibilities of the Office of Economic Affairs. The Office is charged with, but not limited to, performing the following functions:

(1) Assuring that weights and measures in commercial and governmental service within the state of Pohnpei are suitable for their intended use, properly installed, accurate and are so maintained by their owner or user;

(2) Preventing unfair or deceptive dealing by weight or measure in any commodity or service advertised, packaged, sold or purchased within the state of Pohnpei;

(3) Making available to all users of physical standards or weighing and measuring equipment the precision calibration and related meteorological certificate capabilities of the weights and measures facilities of the office;

(4) Promoting uniformity, to the extent such conformance is practicable and desirable, between weights and measures requirements in the state of Pohnpei and those of other states and FSM national government agencies; and

(5) Encouraging desirable economic growth while protecting the consumer through the adoption by rule of weights and measures requirements as necessary to assure equity among buyers and sellers.

Source: S.L. No. 6L-80-06 §6, 1/31/07

§5-107. Testing required. — Every scale or device used to determine the weight, measure or count of any commodity or thing offered or exposed for sale on the basis of weight, measure or count, or used in computing the basic charge or payment for services rendered on the basis of weight, measure or count shall be inspected and certified at least every three months.

Source: S.L. No. 6L-80-06 §7, 1/31/07

§5-108. Powers and duties of the Administrator. — The Administrator shall:

(1) Maintain traceability of the state of Pohnpei standards to United States government standards, or such other standards as may be prescribed by FSM law or by the Administrator;

(2) Enforce the provisions of this chapter;

(3) Issue reasonable regulations for the enforcement of this chapter, which regulations shall have the force and effect of law and which:

(a) Shall specifically provide for the accurate measurement of gasoline and other petroleum products; and

(b) Shall provide for appropriate fees;

(c) May provide for the licensing of public weigh masters to perform the testing required by §5-107 and such other services as may be deemed appropriate by the Administrator; and

(d) May contain such other provisions deemed necessary and proper by the Administrator for the proper enforcement and administration of this chapter;

(4) Establish labeling requirements, establish requirements for the presentation of cost-per-unit information, establish standards of weight, measure or count, and reasonable standards of fill for any packaged commodity and may establish requirements for open dating information;

(5) Grant any exemptions from the provisions of this chapter or any regulations promulgated pursuant thereto and when appropriate to the maintenance of good weighing and measuring practices within the state of Pohnpei;

(6) Conduct investigations to ensure compliance with this chapter;

(7) Delegate to appropriate personnel any of these responsibilities for the proper administration of this chapter;

(8) Test annually the standards of weights and measures used within the state of Pohnpei and approve the same when found to be correct;

(9) Inspect and test weights and measures kept, offered or exposed for sale;

(10) Test all weights and measures used in checking the receipt or disbursement or supplies in every institution for the maintenance of which funds are appropriated by the Legislature;

(11) Approve for use and mark such weights and measures as he finds to be correct and shall reject and mark as rejected, such weights and measures as he finds to be incorrect;

(12) May seize weights and measures that have been rejected and not corrected within the time specified or if used or disposed of in a matter not specifically authorized. The Administrator shall condemn and may seize the weights and measures found to be incorrect that are not capable of being made correct;

(13) Weigh, measure or inspect packaged commodities kept, offered or exposed for sale, sold or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or regulations promulgated pursuant thereto. In carrying out the provisions of this section, the Administrator shall employ recognized sampling procedures;

(14) Prescribe, by regulation, the appropriate term or unit of weight or measure to be used, whenever he determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion; and

(15) Allow reasonable variations from the stated quantity of contents which shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce.

Source: S.L. No. 6L-80-06 §8, 1/31/07

§5-109. Special police powers. — When necessary for enforcement of this chapter or regulations promulgated pursuant thereto, the Administrator is:

(1) Authorized to enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, he shall first present his credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained;

(2) Empowered to issue stop-use, hold and removal orders with respect to any weights and measures commercially used and stop-sale, hold and removal orders with respect to any packaged commodities or bulk commodities kept, offered or exposed for sale; and

With respect to the enforcement of this chapter, the Administrator or his duly authorized designee vested with special police powers may arrest any violator of this chapter in accordance with law.

Source: S.L. No. 6L-80-06 §9, 1/31/07

§5-110. Misrepresentation of quantity. — No person shall sell, offer or expose for sale less than the quantity of commodity or service he represents, nor take any more than the quantity of commodity or service he represents when he furnishes the weight or measure by means of which the quantity is determined.

Source: S.L. No. 6L-80-06 §10, 1/31/07

§5-111. Misrepresentation of pricing. — No person shall misrepresent the price of any commodity or service sold, offered, exposed or advertised for sale by weight, measure or count nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

Source: S.L. No. 6L-80-06 §11, 1/31/07

§5-112. Violations. — Any person who, by oneself, or by the person's servant or agent, or as the servant or agent of another person, knowingly violates any provision of this chapter shall be guilty of a misdemeanor punishable by imprisonment of not more than 30 days, a fine of not more than \$200, or both such imprisonment and fine; PROVIDED that, for conviction of a third or subsequent offense, the punishment shall be imprisonment of not less than 3 days or more than 30 days, or a fine of not less than \$100 or more than \$500, or both such imprisonment and fine.

Source: S.L. No. 6L-80-06 §12, 1/31/07

§5-113. Injunction. — The Administrator is authorized to apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provision of this chapter.

Source: S.L. No. 6L-80-06 §13, 1/31/07

§5-114. Presumptive evidence. — Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place.

Source: S.L. No. 6L-80-06 §14, 1/31/07

§5-115. Regulations to be unaffected by repeal of prior enabling statute. — The adoption of this chapter or any of its provisions shall not affect any regulations promulgated pursuant to the authority of any earlier enabling statute unless inconsistent with this chapter or modified or revoked by the Administrator.

Source: S.L. No. 6L-80-06 §15, 1/31/07

§5-116. Cooperation; uniformity of regulations. — The Administrator may cooperate and enter into agreements with any other state agency, or any national or municipal agency, with similar statutory functions, for the purpose of carrying out this chapter, and to establish uniformity, to the extent that it is reasonably possible, with other government enactments or regulations consistent with this chapter.

Source: S.L. No. 6L-80-06 §16, 1/31/07

§5-117. Nonapplicability. — This chapter shall not apply to electric or water public utility meters, or advance payment telephone cards, and shall be construed not to apply to such meters or advance payment telephone cards.

Source: S.L. No. 6L-80-06 §17, 1/31/07

TITLE 40
[RESERVED]

TRADE REGULATION

(Next page is Title 41, Division VI divider)

DIVISION VI
OF THE
CODE

PROPERTY

TITLE 41 --- TITLE 50

TITLE 41
REAL PROPERTY

TITLE 41 REAL PROPERTY

CHAPTER

- 1 LAND USE PLANNING AND ZONING**
- 2 SURVEY AND MARKING**
- 3 LAND MEASUREMENT SYSTEM**
- 4 OWNERSHIP, REGISTRATION, AND CONVEYANCE**
- 5 DEVELOPMENT LEASEHOLD**
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CHAPTER 1 LAND USE PLANNING AND ZONING

Section

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1-102 Purpose of chapter	1-114 Land use zones
1-103 Application of chapter	1-115 Nonconforming uses
1-104 Local participation	1-116 Matters requiring mandatory review by the Commission
1-105 Definitions	1-117 Compliance
1-106 Land Use Planning and Zoning Commission	1-118 Appeals
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1-111 Zoning and land use control laws: nature and scope	
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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Land Use Planning and Zoning Act of 1993.”

Source: S.L. No. 3L-54-94 §1, 1/7/94

§1-102. Purpose of chapter. — The purpose of this chapter is to encourage the most appropriate use of land, both public and private, to provide adequate open spaces about buildings for light and air, to prevent undue concentrations of population, to protect the health and welfare of Pohnpei residents, to promote responsible and balanced development, to preserve and enhance cultural and traditional values, to conserve and protect the natural environment, and to assure adequate provision for community facilities and requirements. To accomplish these goals, the chapter calls upon the

cooperative efforts of all state agencies to develop an overall Pohnpei master land use plan for the state and a comprehensive set of zoning and land use laws.

Source: S.L. No. 3L-54-94 §2, 1/7/94

§1-103. Application of chapter. — This chapter shall apply to the use of lands in the state by any person who has use or dispositional rights accorded him by virtue of land ownership, leasehold, homestead, use permit, statutory authority or other instrument of control over the use or possession of land. All use of land must be consistent with this chapter. Uses that are not consistent shall be in violation of this chapter.

Source: S.L. No. 3L-54-94 §3, 1/7/94

§1-104. Local participation. – It is the sense of the Pohnpei Legislature that primary responsibility for zoning should rest with the local communities of this state, and that the local governments should play a vital role in the development of standards controlling the use of land within the separate local jurisdictions of this state. To this end, the State Commission established by §1-106 is authorized and directed to conduct its activities under this chapter in a manner which places primary emphasis on local participation. The State Commission shall train and assist local government officials and technicians in land planning and land use controls, and shall initiate a major review of the remaining contents of this chapter and activities of state agencies undertaken pursuant to this chapter to ensure compliance with the mandate of this section. No later than September 30, 2003 and following full consultation with the local governments, the State Commission shall submit a comprehensive proposal to the Legislature for a substantive revision of this chapter to realize fully the sense of this section.

Source: S.L. No. 3L-54-94 §4, 1/7/94; S.L. No. 4L-100-99 §1, 3/16/99; S.L. No. 4L-118-99 §1, 7/23/99; S.L. No. 5L-109-03 §1, 9/19/03

§1-105. Definitions. — As used in this chapter, unless the context clearly requires otherwise, the following definitions shall apply:

(1) “Capital improvements” means public improvements that are financed either in whole or in part by public funds, and that require the use of land, either public or private.

(2) “Commission” means the Pohnpei Land Use Planning and Zoning Commission created pursuant to §1-106.

(3) “Land” includes areas above and below the high watermark.

(4) “Land use control law” means zoning, subdivision, building, housing, official map or other laws which control the use of land and improvements on the land.

(5) “Local commission” means a local land use planning and zoning commission that may hereafter be established pursuant to revisions of this chapter.

(6) “Master land use plan” or “master plan” means a general body of texts, maps, and descriptive material, that constitutes an overall plan for the development of land, physical resources, and facilities within the state.

(7) “Nonconforming use” means a structure or use that is not permitted by laws and regulations currently in effect.

(8) “Owner” includes lessees and homesteaders of real property.

(9) “Person” means any individual, estate, firm, corporation, company, joint venture, association, partnership, trust, receiver, club, syndicate, cooperative association or other entity, including offices and agencies of a government.

(10) “Structure” means any construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner.

(11) “Zoning act, law or ordinance” means a duly enacted land use control statute or ordinance that adopts a zoning plan or any amendments thereto.

(12) “Zoning plan” means the proposal of the appropriate land use planning and zoning commission prepared in accordance with this chapter setting out a system of zoning as prescribed by this chapter for the land covered thereunder.

Source: S.L. No. 3L-54-94 §5, 1/7/94

§1-106. Land Use Planning and Zoning Commission. —

(1) There is hereby established in and for the state of Pohnpei, the Pohnpei Land Use Planning and Zoning Commission which shall be composed of seven members appointed by the Governor with the advice and consent of the Legislature. Members shall serve for terms of three years. Initial terms shall be determined by the drawing of lots at the organizational meeting.

(2) Members may be removed for cause by the Governor or upon two-thirds vote of the remaining members of the Commission. Absence without justifiable cause from three or more meetings of the Commission in a one-year period shall be cause for removal. The Commission, in its rules of procedure, may provide for other specific grounds for removal by the Commission.

(3) Vacancies shall be filled in the manner of original appointments for the remainder of the unexpired terms.

(4) The Director of the Department of Land and Natural Resources and the Administrator of the Office of Transportation and Infrastructure shall serve as ex-officio members of the Commission without the right to vote.

(5) Meetings shall be called at least once a month and may be called by the Chairman or the Governor. A quorum of five appointed members shall be required for the Commission to transact business, and unless a greater number is required by this chapter, the assent of at least four members shall be required of all decisions requiring a vote. The Commission shall adopt its own rules of procedure for its organization and operation; PROVIDED that the rules shall provide for the annual election of a Chairman, shall provide for adequate public notice of all meetings, shall provide for public access to all meetings, and shall provide for a written account to be kept of all meetings, substantive acts, and decisions of the Commission.

(6) Members of the Commission shall be compensated at the rates established by the Government Officers’ Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually performing functions of the Commission at the direction of the Chairman, except that those members who are employees of the Pohnpei Government and other cooperating entities shall instead be granted administrative leave from their regular duties while performing services for the Commission. Members shall receive travel expenses and per diem at standard Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

(7) The Governor shall provide administrative assistance to the Commission in the performance of its duties, which assistance shall include, but need not be limited to, office space, legal assistance, technical assistance, and clerical and administrative help. The Governor may attach the Commission to one or more executive agencies to facilitate assistance rendered to the Commission. The Commission may, to the extent its budget permits, hire its own staff and may seek assistance from any other source.

Source: S.L. No. 3L-54-94 §6, 1/7/94; S.L. No. 5L-14-00 §3-47, 10/1/00

§1-107. Powers and duties of the Commission. — The Commission established by §1-106 shall have the following powers and duties:

(1) The Commission shall prepare and recommend for enactment by the Legislature a proposed master land use plan, as prescribed in §1-108, and shall prepare and recommend for enactment subsequent amendments thereto;

(2) The Commission shall prepare and recommend for enactment by the Legislature such subsidiary plans and development programs as may be desirable for the implementation of the master plan;

(3) The Commission shall prepare and recommend for enactment by the Legislature any zoning and land use control laws necessary and proper for implementation of the master plan, and shall prepare and recommend for enactment subsequent amendments thereto;

(4) The Commission shall conduct a review of any matter submitted to it by a public officer or entity under §1-116, and give its recommendation thereon within the time prescribed therein. The opinion of the Commission on questions of compliance with the master plan, zoning or land use control laws in force in the master plan area shall be binding, subject to appeal to the Pohnpei Supreme Court as provided in §1-118. Other opinions of the Commission shall be advisory only. If recommendations of the Commission are not received in the time prescribed, its silence may not be interpreted as its objecting to the proposal or request embodied in the submission;

(5) The Commission shall conduct an official review of this chapter, the entire master plan, and the zoning and land use control laws enacted hereunder at least once every two years, to determine whether revisions to any of the above are in order. The Commission shall formally advise the Legislature when reviews are complete and whether or not amendments are being proposed;

(6) The Commission shall ensure compliance by all persons with this chapter and other statutes over which it is given legal, administrative or advisory responsibilities. The Commission shall have the authority with respect to the administration of its duties under this chapter to conduct investigations and hold hearings, and in connection therewith, to subpoena witnesses, records, books, documents, and other evidence;

(7) The Commission shall submit a quarterly report of its activities and expenditures to the Governor and the Legislature within 15 days following the close of each quarter of the fiscal year; and

(8) The Commission shall assume such other powers and duties as may be necessary for the Commission to carry out its responsibilities under this chapter.

Source: S.L. No. 3L-54-94 §7, 1/7/94

§1-108. Master plan: preparation, enactment, and amendment. — A proposed master plan shall be prepared by the Commission in consultation with relevant agencies of the Pohnpei Government, with appropriate local governments, with local commissions (where established), and with the general public. The Commission shall conduct public hearings on the master plan prior to its adoption by the Commission. Prominent public notice of such hearings shall be made at least 15 days prior to the date of the hearings. In the event the Commission shall alter the substance of a master plan following public hearing, the Commission shall provide public notice of the alteration and shall provide reasonable time commensurate to the alteration made for the public to comment thereon. After approval by the Commission, the proposed master plan shall be submitted simultaneously to the Legislature and the Governor. The master plan shall be enacted by statute; PROVIDED that prior to enactment, the Legislature shall conduct at least one public hearing thereon, either singularly or in conjunction with other related matters before the Legislature. The Legislature may accept the plan as presented or modify the plan in any respect; PROVIDED that final vote may not be taken on a substantively modified plan until 15 days or more following adoption of a committee report or floor motion which makes the amendment to the legislation that so modifies the plan. The Legislature may, prior to enactment, return the proposed master plan or any portion thereof to the Commission for further revision. The master plan, or any of its components, may be amended in the same manner and pursuant to the same required procedures prescribed for the enactment of the plan.

Source: S.L. No. 3L-54-94 §8, 1/7/94

§1-109. Scope and nature of the master plan. — The master plan shall be prepared in such manner that all or individual elements may be enacted. The master plan shall include a statement of goals, standards, principles, and social, economic, and cultural considerations sought to be expressed in the development plan of the state. The master plan shall take into account: topography; climate; soil and subsoil conditions; water courses and bodies of water; trends in the economy and demography of the

master plan area; environmental needs; the customs, traditions, and standards of life of the people of the master plan area; and the relation of land use in the master plan to the overall development of the state.

Source: S.L. No. 3L-54-94 §9, 1/7/94

§1-110. Contents of the master plan. — The master plan shall include the following elements:

(1) A land use element showing the distribution, location, and extent of existing and proposed uses of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, and other categories of public and private land use. The land use element shall include a statement of standards of population density and building intensity recommended for the area covered by the master plan;

(2) A transportation, circulation, and communication element showing the location, character, and extent of existing and proposed roads, terminals, shipping routes, airports, harbors, local transportation facilities, and major communication facilities;

(3) A conservation element providing for the conservation, development, utilization, and protection of natural resources, including forests, soils, rivers, streams, aquatic resources, estuaries, tidal lands, fisheries, marine resources, wildlife, minerals, and other natural resources. The conservation element may also cover: reclamation of land and waters; permissible areas for dredging of sand and coral; flood control; prevention and control of pollution of streams and other waters; prevention, control, and correction of the erosion of soils, beaches, and shores; protection of coral and other marine growth; and protection of watersheds;

(4) A culture and tradition element showing the location of historical and present day areas and sites important to the preservation, reverence, and enhancement of cultural and traditional values of the peoples of this state;

(5) A recreation element showing the location and proposed development of recreation sites such as natural preserves, parks, both artificial and natural beaches, playgrounds, vistas, waterfalls, nature walks, and mangrove channels, and other areas of scenic importance;

(6) A tourist promotion element showing the location and proposed development of sites of particular importance to the development and enhancement of tourism, including hotel sites and areas for the location of secondary businesses such as restaurants, clubs, gift shops, car lease businesses, sporting goods rental establishments, and dive shops, as well as tour companies, museums, botanical gardens, living village demonstration areas, cultural centers, guest information centers, marinas, golf courses, and other sports facilities, limited access roadways, local access to areas developed for tourism, and natural ecological buffer zones;

(7) A public services and utilities element showing general locations for sewage, refuse disposal, drainage, local utilities, water supply sources, electrical power sources, and rights-of-way, easements, and facilities for them;

(8) A community design element consisting of standards and principles governing the subdivision of land, and showing recommended designs for community and neighborhood development, including schools, parks, and playgrounds;

(9) A tourism design element consisting of standards and principles governing the spacing and construction of tourist-related facilities, and showing recommended designs and architectural themes for tourist-related facilities for the purpose of promoting an image of Pohnpei and the particular locality where the facilities are situated that is consistent with the overall tourism objectives of the state and the unique attributes of the locality where the facilities are situated;

(10) A housing element consisting of standards and plans for the improvement of single and multiple unit housing and for the provision of adequate sites for housing that reflect the community standards and cultural patterns of the peoples of this state. The housing element may further provide standards and plans for the lodging of out-of-state persons and families residing in Pohnpei for extended periods of time;

(11) A safety element for the protection of the community from fire, rain, wind, floods, marine disturbances, such as tidal waves and unusual tides, and earthquake damage, including such features as shelter areas, peak-load water supply requirements, minimum road widths, clearances around structures, and optimum dwelling design; and

(12) Any additional elements dealing with other subjects relating to the physical development of the state.

Source: S.L. No. 3L-54-94 §10, 1/7/94

§1-111. Zoning and land use control laws: nature and scope. — The Legislature shall enact zoning and land use control laws for the implementation of the master plan. Zoning laws shall divide the master plan area, or portions thereof as circumstances dictate, into zones as provided in §1-112. Such laws shall be made to achieve the arrangement of land uses depicted in the master plan; to loosen congestion; to secure safety from fire, panic, and other dangers; to promote health and general welfare; to preserve and enhance cultural and traditional values; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, and parks; to provide for adequate parking; to protect real property value; and to safeguard and enhance the appearance of the master plan area. Such laws shall be made with reasonable regard for, among other things, the character of each zone and its particular suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the master plan area. Such laws shall further be made with reasonable regard for the expansion and development of communities within the master plan area, so as to provide for the orderly growth and development of such communities.

Source: S.L. No. 3L-54-94 §11, 1/7/94

§1-112. Enactment of zoning laws prepared by the Commission. — The Commission shall prepare and recommend for enactment by the Legislature a comprehensive zoning law or laws for the master plan area or any specific portion thereof, and may from time to time, may prepare and recommend amendments and revisions thereto. The zoning law shall conform to and shall implement the master plan adopted by the Legislature. It shall include maps delineating zone boundaries. The proposed zoning law shall be submitted simultaneously to the Legislature and the Governor. The Legislature shall conduct at least one public hearing within each local jurisdiction of the zone so affected by the legislation. Each hearing shall be preceded by public announcement on the public radio station at least once a day for ten days prior to the date of the hearing. The announcement shall contain information relating to the time and place of the hearing, the purpose thereof, and where copies of the proposed legislation may be obtained within the local jurisdiction or jurisdictions affected by the legislation. The Legislature may thereafter enact the zoning law in the form submitted by the Commission, amend it, reject it or return it to the Commission for further revision. In the event the Legislature substantially amends the legislation following a hearing as required by this section, it shall not take final action thereon for a period of ten days or more following adoption of a committee report or a floor motion which makes the amendment to the legislation that so modifies the plan unless the Legislature by majority vote of two-thirds of its members, without regard to vacancies, determines that sooner action is necessary in the interest of the welfare of the people of the state.

Source: S.L. No. 3L-54-94 §12, 1/7/94

§1-113. Consideration of zoning legislation not submitted by the Commission. The Legislature may consider zoning legislation or proposed amendments to zoning laws not submitted by the Commission at any time and enact zoning laws and amendments thereto in the same manner as it considers and acts on other bills generally.

Source: S.L. No. 3L-54-94 §13, 1/7/94; S.L. No. 7L-62-10 §5, 4/8/10

§1-114. Land use zones. — No land shall be used contrary to zoning laws enacted pursuant to this section. The following classifications are hereby adopted as use zones and no other classification shall be adopted by the Legislature or by any local government as may be authorized by revision to this chapter. The use zones are defined as follows:

- (1) Residential-1 (R-1): Single family residential – low density;
- (2) Residential-2 (R-2): Single family residential – medium density;
- (3) Residential-3 (R-3): Multi-family residential;
- (4) Residential-commercial (RC): Mixed residential and commercial-office;
- (5) Commercial (C): Commercial-office with restriction on the size of warehouses;
- (6) Resort Center (RC): Visitors’ facilities;
- (7) Transportation Zone (T2): Transportation facilities as prescribed by Title 32 Chapter 2, as amended;
- (8) Industrial-1 (I-1): Industrial, including warehousing and limited commercial;
- (9) Industrial-2 (I-2): Intensive industrial uses, e.g. slaughterhouses, fish canneries, sewage treatment plants, and electrical production plants;
- (10) Public (P): Public and general access facilities;
- (11) Village (V): Low-density areas of limited size with multiple land uses;
- (12) Agricultural (A): All types of agricultural uses, except those as may be considered as intensive industry (I-2);
- (13) Conservation (CON): Public open spaces and recreational areas, wilderness and tidal areas, marine and aquatic preserves, land reserved for control of flooding and soil erosion, and other uses not detrimental to a multiple use conservation concept;
- (14) Watershed Forest Reserves (WFS): Areas prescribed by 26 PC 4-105;
- (15) Important Watershed Areas (IWA): Areas prescribed by 26 PC 4-106;
- (16) Mangrove Forests (MF): Areas prescribed by 26 PC 4-107;
- (17) Historic Preservation (HP): Sites of historical, archaeological, and cultural interest;
- (18) Planned Development (PD): Relatively large residential, commercial, and other uses planned as integrated developments;
- (19) Floating Zone (FZ): Future nonconforming uses in the public interest and consistent with the purposes of the overall master plan: e.g. to allow an electrical substation in a residential area; and
- (20) Impact Zone (IZ): Present permissible uses as prescribed in the foregoing subsections of this section, established after consultation with the national government, of such areas of the Palikir Valley Urbanization Impact Zone created pursuant to 42 PC 10-101 not transferred to the national government.

Source: S.L. No. 3L-54-94 §14, 1/7/94

Note: Letters "ON" have been added to "C" in Subsection (13) to distinguish this designation from that used in Subsection (5).

§1-115. Nonconforming uses. — Any zoning law or amendment thereto enacted pursuant to this chapter shall not apply to buildings or structures existing on the effective date of such legislation, nor to the existing use of any building, structure or land to the extent to which it is used on the effective date of such legislation; PROVIDED that the zoning law shall apply to any change of use of a structure or land, to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, to any erection of any building or structure and to any alteration of a building or structure to provide for its use of a different purpose or in a manner

substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent; PROVIDED FURTHER that the Legislature may enact such laws as are necessary and proper to eliminate a nonconforming use more rapidly than normal attrition and compensate the owner of the use.

Source: S.L. No. 3L-54-94 §15, 1/7/94

§1-116. Matters requiring mandatory review by the Commission. —

(1) *State capital improvement program-planning and budgeting.* The Governor shall submit the state capital improvement program and the annual budget request for capital improvement projects in the master plan areas to the Commission for its review and recommendation at appropriate times in the budget and planning cycles as to allow for meaningful review and comment by the Commission.

(2) *Other capital improvement projects.* No governmental or quasi-governmental entity may commence a capital improvement project within the state having a value of \$10,000 or more without first submitting its plans therefor to the Commission for its review and comment.

(3) *Matters affecting master plans and zoning and land use control laws.* Any proposed administrative action or administrative submission to the Legislature for enactment into law which would significantly affect the master plans, zoning or land use control laws of the state shall first be submitted to the Commission for its review and comment prior to its promulgation into administrative action or its submission to the Legislature. The Legislature and its appropriate committees shall endeavor to ensure that all such legislation brought before it from any source which would significantly affect the master plans, zoning or land use control laws of the state shall be presented to the Commission for its review and comment prior to taking final action thereon.

(4) *Procedure for review.* In all cases where review by the Commission is mandatory under this section, the appropriate government official shall submit the matter to the Commission, together with a request in writing for a review and recommendation. The Commission shall then consider the matter and shall report its written recommendations to the official, the Governor, and the Legislature within 15 days following the receipt of the request, unless the Commission, for good cause, shall inform the parties so stated, in writing, that a longer time is needed, but not more than 30 additional days; PROVIDED that if the request is submitted by the Legislature or a committee thereof while the Legislature is in session or in anticipation thereof, the Commission shall submit its recommendations in the form and within the time so requested by the Legislature or its committee.

Source: S.L. No. 3L-54-94 §16, 1/7/94

§1-117. Compliance. — No land, way, ground, open space, water resource, tidal area, wetland, marine area, air space or any building, structure or contract right shall be acquired, developed, improved, constructed, used, leased or disposed of unless in conformity with the master plan and respective zoning and land use control laws pertaining to the master plan area.

Source: S.L. No. 3L-54-94 §17, 1/7/94

§1-118. Appeals. —

(1) The Commission shall hear and decide appeals from any order, requirement, decision or determination made by an administrative official charged with enforcement of any provision of the master plan or the zoning or land use control laws of the state. An appeal must be filed with the Commission in writing within 30 days of the effective date of the decision of the enforcing official. The Commission shall meet upon notice of the Chairman within 15 days of the filing of an appeal or at stated periodic intervals if warranted by the volume of work. All hearings shall be public and the appellant, his representative, the relevant official and any other person whose interest may be affected by the matter on appeal shall be given an opportunity to give oral testimony.

(2) The Commission shall affirm, modify or reverse the decision of the enforcing official by a majority vote of its total membership, without regard to vacancies. Every decision shall be in writing

and a certified copy shall be furnished without charge to the appellant and to the enforcing official. The enforcing official shall take immediate action to conform to the decision of the Commission.

(3) Any person aggrieved by the decision of the Commission on matters relating to an appeal may apply to the Pohnpei Supreme Court for review.

(4) This section shall supersede and control any conflicting provisions of law regarding administrative procedure, insofar as such conflict exists.

Source: S.L. No. 3L-54-94 §18, 1/7/94

§1-119. Civil and criminal enforcement penalties and remedies. —

(1) The Commission, the Attorney General or any aggrieved person may bring suit for an injunction or any other appropriate civil remedy against any person or agency that violates this chapter, or any master plan, zoning law, land use control law or zoning or land use regulation enacted or promulgated pursuant to this chapter.

(2) Any person who willfully and knowingly violates a zoning or land use control law or regulation promulgated pursuant thereto enacted pursuant to this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$500, or imprisoned for not more than one month, or both such fine and imprisonment, for each day the violation continues.

Source: S.L. No. 3L-54-94 §19, 1/7/94

§1-120. Authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the activities of the Commission and other purposes consistent with the administration of this chapter.

(2) The sums authorized for appropriation by this section shall be administered and expended by the Chairman of the Commission solely for the purposes specified in Subsection (1) of this section.

(3) Any balance of the sums appropriated under the authorization of this section for a fiscal year remaining unexpended or unobligated for expenditure at the close of that fiscal year shall revert to the general fund of Pohnpei.

(4) The Commission shall be eligible to receive grants and assistance from such other sources as may from time to time become available.

(5) The Chairman of the Commission shall report to the Legislature on or before October 15 each year on all financial activities of the Commission for the previous year.

Source: S.L. No. 3L-54-94 §20, 1/7/94

§1-121. Administrative authority. —

(1) The Commission is empowered with the authority to adopt such regulations in accordance with the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded, as are necessary and proper to carry out the purposes and provisions of this chapter. Such regulations shall have the force and effect of law.

(2) The Commission may, as incidences of its investigatory authority, adopt procedures for the conduct of hearings by the Commission, the summoning of witnesses to testify under oath at the hearings, the taking of depositions, and the compelling of the submission of records and other forms of documentary evidence.

Source: S.L. No. 3L-54-94 §21, 1/7/94

§1-122. Standards for interpretation; spot zoning impermissible. — The standards for interpretation to be used by the Commission, local commissions where established pursuant to this chapter, and the courts in the application, administration, and adjudication of this chapter, and any statutes and local ordinances, rules, regulations, and administrative actions adopted or undertaken pursuant to this chapter, shall be consistent with the Pohnpei Constitution, the purpose of this chapter

as prescribed in §1-102 and where appropriate §1-111, having due regard to the customs and traditions of this state. Any attempt at spot zoning or the process of singling out a small parcel of land for a use classification substantially different from that of the surrounding area, for the benefit of the owners of such property and to the detriment of other owners, is hereby declared to be inconsistent with the purpose of this chapter and the constitutional foundation on which it is premised, and is therefore not permissible.

Source: S.L. No. 3L-54-94 §22, 1/7/94

Notes: 1. S.L. No. 3L-54-94 §23 repealed D.L. No. 3L-92-74 as amended. 2. S.L. No. 3L-54-94 §24 severability provision has been omitted.

CHAPTER 2 SURVEY AND MARKING

Section

2-101 1970 Pohnpei Island Coordinate System	2-106 Penalties
2-102 Boundary markers	2-107 Establishment of surveying program
2-103 Plantings near boundary markers	2-108 Compensation of surveyors
2-104 Boundary lines	2-109 Administration of surveying program
2-105 Exceptions to §§2-103 and 2-104	

§2-101. 1970 Pohnpei Island Coordinate System. —

(1) The system of plane coordinates hereinafter established for defining and stating the position or location of points on the surface of the earth within the island of Pohnpei shall be known and designated as the “1970 Pohnpei Island Coordinate System” and any land description in which it is used shall be designated the 1970 Pohnpei Island Coordinate System.

(2) The plane coordinates of a point of the surface of the earth used in expressing the position or location of such point in this system shall consist of two distances expressed in meters and decimals of meter. One of these distances, to be known as the “X-coordinate,” shall give the position in an east-and-west direction; the other, to be known as the “Y-coordinate,” shall give the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to the coordinates on the 1970 Pohnpei Island Coordinate System of the triangulation and traverse stations as hereinafter established, as those coordinates have been determined by the United States of America Geological Survey Department in cooperation with the government of the Trust Territory of the Pacific Islands.

(3) All positions in the 1970 Pohnpei Island Coordinate System were computed on the Guam Datum of 1963, Clarks Spheroid of 1866 holding fixed the position of station “POHNPEI RM 1” as determined by a direct tie from station “POHNPEI HIRAN 1962” was observed by the U.S. Air Force in 1962 and computed by the U.S. Army. The astronomic position at station “POHNPEI HIRAN 1962” and the astronomic azimuth from “POHNPEI RM 1” to station “DISTAD ARMY MAP SERVICE 1962” were observed by the U.S. Navy Oceanographic Office in 1962. A laplace correction was applied to the astronomic azimuth by the U.S. Geological Survey. The corrected azimuth was used as the orienting direction for the computations. The horizontal control is a combination of electronic traverse and triangulation using second-order methods. All geodetic coordinates have been converted to plane rectangular coordinates using station “DISTAD” as the point of origin. The coordinates assigned to this station are: X=80,122.82 meters, Y=80,747.24 meters. The origin of the coordinates being on the meridian 158° 12’ 33.4772” east from Greenwich (Longitude) at the intersection of the parallel 6° 57’ 54.2725” north (Latitude). The plane coordinate system is a modified azimuth equal-distance projection in which the geodetic azimuth and grid distance are the same between the point of origin and any other in the projection. The position of said 1970 Pohnpei Island Coordinate System using station “DISTAD” as the origin is located in Kolonia across the street from the District Administrator’s Office marked with Standard Corp of Engineers-U.S. Army tablet stamped “DISTAD 1962” and set in the top of the east side of a large concrete slab.

(4) Any triangulation and/or traverse station established as described in Subsection (3) of this section may be used in establishing connection between a property survey and the rectangular coordinates as defined in this section.

(5) No survey or lands or maps or other documents hereinafter made shall have endorsed therein any legend or other statement indicating that it is based upon the Pohnpei Island Coordinate System unless the coordinates have been established on that system as defined in this section.

(6) Nothing contained in this section shall be interpreted as requiring any purchaser or mortgagee to rely on a description based wholly upon the aforesaid system.

(7) Any person who willfully alters, defaces or removes any marker erected for the purpose of designating any triangulation or traverse station of the Pohnpei Island Coordinate System shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$100, or both such fine and imprisonment.

Source: PDC §12-1, 3/71; D.L. No. 4L-115-77 §2, 11/8/77

§2-102. Boundary markers. — Boundary markers, unless otherwise allowed by the Governor, shall take one of the following forms:

- (1) A pile of rocks or stones having a base four feet square and a height of three feet;
- (2) A four-faced concrete marker with a size of 4” x 4” x 24”;
- (3) A single rock of sufficient size that when firmly planted it shall have a vertical protrusion above the ground of at least two feet;
- (4) Any larger rock outcropping into which the mark “X” is carved; or
- (5) Any natural landmark or physical feature of the land, such as a river or stream.

Source: PDC §12-3(a), 3/71

§2-103. Plantings near boundary markers. — Except for natural landmarks or physical features used as boundary markers, it shall be unlawful for any person to plant any coconut, breadfruit, orange, cacao, mango or other tree of large size within ten feet of a boundary marker, or any banana, sugar cane or taro plants within six feet of a boundary marker, or any other plants of small size within three feet of a boundary marker.

Source: PDC §12-3(b), 3/71

§2-104. Boundary lines. — Except for boundary lines following natural landmarks or physical features, it shall be unlawful for any person to plant any coconut, breadfruit, orange, cacao, kapok, mango or other tree of large size within ten feet, or any other smaller tree or any plants within three feet, of any boundary line which has been surveyed by the Office of Land Management or its successor in law since January 1, 1966. For purposes of this section, the term “boundary line” shall be defined to be an imaginary straight line drawn between two parcels of land; PROVIDED, that in the case of boundary lines between natural landmarks or physical feature boundary markers, such boundary lines shall follow the course of such natural landmark or physical features.

Source: PDC §12-3(c), 3/71

§2-105. Exceptions to §§2-103 and 2-104. — §§2-103 and 2-104 shall not apply to the atolls of Mwoakilloa, Pingelap, Sapwuahfik, Nukuoro, and Kapingamarangi.

Source: PDC §12-3(d), 3/71

§2-106. Penalties. — Any person found in violation of §§2-103 and 2-104 shall, upon conviction thereof, be imprisoned for a period not to exceed 30 days, or fined not more than \$50, or both such fine and imprisonment.

Source: PDC §12-3(e), 3/71

§2-107. Establishment of surveying program. — There is hereby authorized for appropriation from the general fund of Pohnpei a sum to train employees and accelerate the surveying and mapping of lands in Pohnpei State; PROVIDED, HOWEVER, that nothing herein shall prohibit the use of such employees in any manner deemed appropriate by the Governor, or his designated representative, to accelerate the homestead program in Pohnpei State.

Source: PDC §12-4(a), 3/71; D.L. No. 3L-49-73 §1, 5/25/73; D.L. No. 3L-58-73 §33, 5/29/73

§2-108. Compensation of surveyors. — Compensation, per diem, annual and sick leave shall be as that established for the employees of the state government and shall be administered in accordance with the Public Service System Act, Title 9 Chapter 2.

Source: PDC §12-4(b), 3/71; D.L. No. 3L-58-73 §33, 5/29/73

§2-109. Administration of surveying program. — All sums authorized by this section shall be expended by the Governor solely for the purposes specified in §2-107. This program shall be administered by the Governor or his representative who shall make a progress report at each session of the Pohnpei Legislature.

Source: PDC §12-4(c), 3/71; D.L. No. 3L-58-73 §33, 5/29/73

REAL PROPERTY

**CHAPTER 3
LAND MEASUREMENT SYSTEM**

Section

3-101 Metric system authorized; conversion tables

3-103 Markers; removal

3-102 Markers; payment

§3-101. Metric system authorized; conversion tables. — It shall be lawful throughout the state of Pohnpei to employ the metric system of measurement of lengths and areas, and no contract or dealing or pleading in any court shall be deemed invalid or liable to objection because the measures expressed or referred to therein are measures of the metric system. The tables in the following schedule shall be recognized in the construction of contracts and in all legal proceedings, and may lawfully be used for expressing measurements of length and area in the metric system:

Measures of Length

<u>Metric denominations and values</u>	<u>Equivalent in English System</u>
Kilometer1,000 meters	0.62137 mile, or 3,280 feet and 10 inches
Hectometer100 meters	328 feet and 1 inch
Dekameter10 meters	393.7 inches
Meter1 meter	39.37 inches
Decimeter1/10 of a meter	3.937 inches
Centimeter1/100 of a meter	0.3937 inch
Millimeter1/1000 of a meter	0.0394 inch

Measures of Area

<u>Metric denominations and values</u>	<u>Equivalent in English System</u>
Hectare ...10,000 square meters	2.471 acres
Are100 square meters	119.6 square yards
Centare1 square meter	1.19 square yards or 1,550 square inches

Source: TTC §1020 (1966); 57 TTC §11151 (1970); 57 TTC §251 (1980)

§3-102. Markers; removal. — The Chief of the Division of Surveying and Mapping shall collect and deposit with the Director of the Department of Treasury and Administration the reasonable cost of land markers furnished by the Division of Surveying and Mapping.

Source: TTC §1021 (1966); 57 TTC §11152 (1970); 57 TTC §252 (1980); S.L. No. 5L-14-00 §3-56, 10/1/00

§3-103. Markers; removal. —

(1) Any person who willfully and maliciously defaces, alters or removes any marker, monument or reference point which marks or determines the configuration or contour of any lot or tract of land, if erected by:

- (a) A licensed surveyor;
- (b) A private individual pursuant to 67 TTC §207 (1980);

- (c) Agreement between adjacent landowners; **PROVIDED, HOWEVER**, that this subsection shall apply only to persons who own no interest in any land to which such marker, monument, or reference point pertains; or
 - (d) Any agency of the government;
- (2) Shall upon conviction be imprisoned for a period of not more than one year, or fined not more than \$100, or both such fine and imprisonment.

Source: TTC §1022 (1966); 57 TTC §11153 (1970); P.L. No. 5-29 §1; 57 TTC §253 (1980)

Note: 67 TTC §207 (1980) relates to homesteading under the Trust Territory Administration.

CHAPTER 4 OWNERSHIP, REGISTRATION, AND CONVEYANCE

Section

4-101 Restrictions upon ownership

4-103 Effect of failure to record

4-102 Copies; indexes

4-104 Effect of German land title documents

§4-101. Restrictions upon ownership. — Only citizens of the state of Pohnpei or corporations wholly owned by citizens of the state of Pohnpei may hold title to land in the state of Pohnpei; PROVIDED, that nothing herein shall be construed to divest or impair the right, title or interest of noncitizens or their heirs or devisees, in lands in the state of Pohnpei held by such persons prior to December 8, 1941, and which have not been vested in the alien property custodian by vesting order dated September 27, 1951, or, if vested, are released from the terms of said order by direction of the High Commissioner; PROVIDED FURTHER, that nothing herein shall be construed to prevent the Government of Pohnpei from holding title to lands in Pohnpei State; and PROVIDED FURTHER, that this section shall not apply to cooperative associations and credit unions duly organized and incorporated pursuant to the laws of the state of Pohnpei.

Source: TTC §900 (1966); 57 TTC §11101 (1970); 57 TTC §201 (1980)

Cross-reference: See Article 12, §2 of the Pohnpei Constitution relative to acquisition of permanent interest in real property.

§4-102. Copies; indexes. — The Clerk of Pohnpei Supreme Court, upon payment of such fees, if any, as the Governor may fix, shall make and keep in a permanent record a copy of all documents submitted to him for recording which relate to title to real estate and shall comply with regulations issued by the Supreme Court, and any law applicable thereto. He shall also keep an index or indexes of such records in such manner as the Supreme Court may direct.

Source: TTC §1023(a) (1966); 57 TTC §11201 (1970); 57 TTC §301 (1980)

§4-103. Effect of failure to record. — No transfer of or encumbrance upon title to real estate or any interest therein, other than a lease for a term not exceeding one year, shall be valid against any subsequent purchaser or mortgagee of the same real estate or interest, or any part thereof, in good faith for a valuable consideration without notice of such transfer or encumbrance, or against any person claiming under them, if the transfer to the subsequent purchaser or mortgagee is first duly recorded. Nor shall any transfer of or encumbrance upon title to real estate or any interest therein, other than a lease for a term not exceeding one year, be valid as against any judgment affecting the title unless such transfer or encumbrance is duly recorded prior to the record of the notice of action in which the judgment is rendered.

Source: TTC §1023(b) (1966); 57 TTC §11202 (1970); 57 TTC §302 (1980)

§4-104. Effect of German land title documents. — German land title documents shall be recognized only as evidence of ownership of lands within Pohnpei State. All other provisions of said documents, including references to use, inheritance, and transfer of land shall be void and of no further force and effect.

Source: PDC §12-200, 3/71

REAL PROPERTY

CHAPTER 5 DEVELOPMENT LEASEHOLD

SUBCHAPTER I GENERAL PROVISIONS

Section

5-101 Short title	5-104 – 5-109 [Reserved]
5-102 Definitions	
5-103 Disclaimer	

SUBCHAPTER II DEVELOPMENT LEASEHOLDS

5-110 Lease period	5-112 Conditions made part of the agreement
5-111 Statutory contents of a development lease agreement	5-113 – 5-119 [Reserved]

SUBCHAPTER III DUE DILIGENCE PROTECTIONS

5-120 Application of this subchapter is optional	5-128 Posting of announcement
5-121 Protections	5-129 Filing of notice of objection
5-122 Notice of intent to enter into or substantially modify a development lease	5-130 Time limits of validity of the notice of intent
5-123 Signatures and endorsements	5-131 Certification of compliance
5-124 Filing fees and bonds	5-132 Publication of information
5-125 Submission of notice of intent	5-133 Request for an expedited land title determination
5-126 Deposit of fees and bonds	5-134 – 5-139 [Reserved]
5-127 Certification and distribution of notice of intent	

SUBCHAPTER IV DUE PROCESS

5-140 Filings and recordings of development lease agreement	5-144 Agreements not to enforce declared null and void
5-141 Failure to make improvements	5-145 Regulations
5-142 Covenants and judgments to run with the land	5-146 – 5-149 [Reserved]
5-143 Extinguishment of responsibility and liability	

SUBCHAPTER I GENERAL PROVISIONS

§5-101. Short title. — This chapter shall be known and may be cited as the “Development Leasehold Act of 2006.”

Source: S.L. No. 6L-72-06 §1-1, 6/5/06

§5-102. Definitions. — As used in this chapter, unless the context clearly requires otherwise, the following words shall have the following meanings:

(1) “Development lease” means a lease or combination of interconnected leases of real property that may contain an expanded term not to exceed 55 years when executed pursuant to this chapter.

(2) “Development lease agreement” means a contract or agreement evidencing the existence of a development lease that has been executed in compliance with this chapter.

(3) “Director” means the Director of the Department of Land and Natural Resources or the executive head of its successor in state law.

(4) “Improvements to real property” means permanent additions to or betterments of real property, which improvements are more extensive than ordinary repairs and substantially enhance the value of the property.

(5) “Lease” means a leasehold estate in real property within Pohnpei State, and all subleases and assignments of all or any portion thereof.

(6) “Lessee” means the person, or group of persons acting in concert, who is the recipient of a leasehold estate, and his successors in interest.

(7) “Leasehold estate” means the total, cumulative, and collective interests in real property that the lessor has transferred, inclusive of any rights, privileges or options to extend or renew the lease or any portion thereof, or to enter into a subsequent lease or series of leases with respect to the real property, or any interest therein that is the subject of the leasehold estate. Leasehold estate also includes concurrent leases, reversionary leases, cascading leases, and subsequent leases or series of leases issued to a singular lessee, or group of lessees acting in concert, or for a singular purpose or related group of purposes.

(8) “Leasehold option” or “option” means the legal right of one or more parties to a leasehold agreement to extend or renew the lease for a specific number of years.

(9) “Lessor” means the person, or group of persons acting in concert, who is the grantor of a leasehold estate, and his successors in interest.

(10) “Person” means and includes individuals, corporations, partnerships, trusts, governmental entities, diplomatic missions, international entities created by one or more governments, religious institutions, charitable organizations, non-profit associations, and all other forms of legal association.

(11) “Pohnpeian language” means the mother language of Pohnpei Island, the mother language of Kapingamarangi, the mother language of Mwoakilloa, the mother language of Nukuoro, the mother language of Pingelap, or the mother language of Sapwuahfik.

(12) “Term of the lease” or “lease term” means the maximum number of years under which any rights or privileges with respect to a leasehold estate may be exercised and enforced by the lessee under a leasehold agreement, inclusive of any rights, privileges or options to extend or renew the lease or any portion thereof, or to enter into a subsequent lease or series of leases with respect to the real property, or any interest therein that is the subject of the leasehold estate, irrespective of whether or not there are provisions for mandatory negotiations, arbitrations or other decision making apparatus for the re-valuation thereof or for any other condition subsequent; PROVIDED that the parties to a development lease may at any time voluntarily enter into a new lease agreement in the manner prescribed by law, the term of which does not include previous agreements.

Source: S.L. No. 6L-72-06 §1-2, 6/5/06

§5-103. Disclaimer. — This chapter applies only to leases where the parties thereto intend to exercise the privilege provided by this chapter to create a leasehold estate, as defined by §5-102(7), for greater than the 25 year limitation prescribed by Section 1 of Article 12 of the Pohnpei Constitution. Nothing in this chapter shall affect the validity of a leasehold estate of 25 years or less, irrespective of whether the parties thereto shall label or refer to such lease as a development lease; PROVIDED that the parties may voluntarily contract to be obligated to one or more of the covenants prescribed in Subchapter II of this chapter for a lease of 25 years or less, but shall not be entitled to the due diligence protections of Subchapter III of this chapter.

Source: S.L. No. 6L-72-06 §1-3, 6/5/06

§§5-104 – 5-109. [RESERVED]

SUBCHAPTER II DEVELOPMENT LEASEHOLDS

§5-110. Lease period. — Notwithstanding the provisions of Section 1 of Article 12 of the Pohnpei Constitution, lands in the state of Pohnpei may be leased for developmental purposes for a lease term of more than 25 years, but not more than 55 years, otherwise known as a “development lease”; PROVIDED that such leases shall contain the statutory provisions set forth in §5-111; PROVIDED FURTHER that, notwithstanding any other provision of this chapter, a lease to a foreign government pursuant to this chapter for the purpose of establishing a diplomatic mission in Pohnpei may contain a right of renewal for one additional term, for a total lease term not to exceed 110 years.

Source: S.L. No. 6L-72-06 §2-1, 6/5/06

§5-111. Statutory contents of a development lease agreement. — In addition to such provisions as the parties to the lease shall agree upon, each development lease agreement executed under this chapter shall contain:

(1) The names of the lessee and lessor who are the parties to the development lease and the purpose or purposes for which the development lease is to be let or substantially modified;

(2) A description of the property for which the award is granted, and a covenant restricting the size of the property subject to the lease to an area that is substantially related to the land requirements for the purpose for which the development lease is sought;

(3) A covenant stating the total number of years for which any possession, use, privilege, option or any other right or interest in the leasehold estate may be exercised, which shall not exceed a maximum lease term of 55 years from the commencement of the term of the development lease; and

(4) A covenant stating the minimum value of improvements to the real property that is the subject of the lease that must be emplaced upon the property by the fifth anniversary of the execution of the development lease, the value of which shall not be less than the sum of \$100,000 plus \$4,000 for each year in excess of the first twenty-five years that the land is or may be subject to the leasehold estate as calculated pursuant to Subsection (3) of this section.

Source: S.L. No. 6L-72-06 §2-2, 6/5/06

§5-112. Conditions made part of the agreement. — The statutory conditions prescribed by §5-111 are hereby made a part by reference and operation of law of every development lease executed in Pohnpei State for the benefit of the lessor, notwithstanding their incorporation or non-incorporation in the written leasehold agreement. Any provision in a lease contract, agreement or subsequent agreement or contract that seeks to effectuate a waiver of the statutory provisions of §5-111 to the detriment of the rights and privileges of the lessor contained therein is null and void as against public policy. Violation of any condition or covenant prescribed by said sections of this chapter to the detriment of the rights and privileges of the lessor shall be deemed a material breach of the lease agreement, that may be redressed by resort to judicial action.

Source: S.L. No. 6L-72-06 §2-3, 6/5/06

§§5-113 – 5-119. [RESERVED]

SUBCHAPTER III DUE DILIGENCE PROTECTIONS

§5-120. Application of this subchapter is optional. — Compliance with the statutory procedures of due diligence under this subchapter by the parties to a development lease entered into under the provisions of this chapter is optional. Parties who do not exercise the option to obtain the due diligence

protections which are accorded to them through application of this subchapter may exercise such other due diligence procedures as are recognized by law and attain such legal remedies as may be otherwise accorded by the courts, but shall not be accorded the statutory protections of this subchapter unless the parties be found to be in compliance with the statutory procedures required by this subchapter.

Source: S.L. No. 6L-72-06 §3-1, 6/5/06

§5-121. Protections. — Leases complying with the provisions of this subchapter shall be secure from collateral attack from persons not a party to the lease agreement and for which an objection has not been properly filed within the time prescribed by §5-129 or having been properly filed has not been withdrawn or administratively or judicially resolved; PROVIDED that nothing in this section shall prevent a party in interest from seeking legal remedies in the form of monetary damages from a party to a lease which has been made in compliance with the provisions of this subchapter; PROVIDED FURTHER that the protections of this subchapter shall not apply to a lease wherein the lessors whose names appear on the lease agreement shall thereafter be shown to collectively possess less than a sixty percent common ownership right in the real property subject to the leasehold estate at the time of the execution of the lease; PROVIDED FURTHER that the protections of this subchapter shall not apply to a lease obtained through fraud or material misrepresentation if the lessee participated in or had knowledge of such fraud or material misrepresentation.

Source: S.L. No. 6L-72-06 §3-2, 6/5/06

§5-122. Notice of intent to enter into or substantially modify a development lease. — Any person desiring to obtain the due diligence protections of this subchapter when acquiring or substantially modifying the terms or purpose of a development lease in excess of the term limits established in Section 1 of Article 12 of the Pohnpei Constitution shall file notice of his intent to acquire or substantially modify such interest in the manner prescribed by §5-125; PROVIDED that a person may also file notice of a development lease or modification that has already been executed. The notice so filed shall contain the following information:

(1) Name, address, and description of the prospective lessor and lessee who intend to be the parties to the development lease agreement, including evidence of personal, corporate or other legally recognized forms of organization capable of leasing land and entering into valid and enforceable agreements;

(2) A copy of the proposed development lease agreement and all proposed related agreements pertaining to options to extend, modify or renew the lease agreement, and any other matter related to the terms or duration of the leasehold agreement;

(3) A copy, where available, of the most recent land title determination of rights and privileges of persons having an ownership interest in the property to be subject to the development lease issued by a qualified court of the Pohnpei Judiciary, or predecessor thereto;

(4) A description of the activities that the lessee intends to conduct upon the premises;

(5) The levels of capitalization that the applicant intends to invest in improvements to the real property to be subject to the lease and the applicant's financial abilities to carry out the responsibilities of replacing the improvement upon the property;

(6) A summary description of the proposed improvements on the property and standards for the construction and maintenance of the improvements to the real property; and
Such other information that the Director, in his discretion, deems necessary.

Source: S.L. No. 6L-72-06 §3-3, 6/5/06

§5-123. Signatures and endorsements. — Each notice submitted pursuant to §5-122 for filing shall contain the signature of each person who will be lessee to the development lease for which the notice is made. The application shall also contain the signed endorsement of each person who will be a lessor to the lease. In the case such person is a trust, corporation or other form of legal personality, the

application shall contain the signatures of each officer of that entity whose signature is required to authenticate a legally binding agreement of that entity of the type and nature of the proposed development lease. The signatures and endorsements required by this section shall be affixed to the notice solely for the purposes of this chapter, and shall not be construed as a binding obligation of the parties to enter into a lease agreement.

Source: S.L. No. 6L-72-06 §3-4, 6/5/06

§5-124. Filing fees and bonds. — Each notice submitted for filing pursuant to §5-122 shall be accompanied by a non-refundable filing fee of \$100 and a refundable bond equal to \$100 for each year of the term of the proposed lease in excess of the first twenty-five years thereof.

Source: S.L. No. 6L-72-06 §3-5, 6/5/06

§5-125. Submission of notice of intent. — The notice of intent to enter or to substantially modify a development lease required by §5-122, along with such filing fees and bonds as are prescribed by §5-124, shall be submitted by the prospective lessee to the Director of the Department of Land and Natural Resources.

Source: S.L. No. 6L-72-06 §3-6, 6/5/06

§5-126. Deposit of fees and bonds. — The filing fee so paid upon submission of a notice of intent shall be deposited in the general fund of the Pohnpei Treasury as the realization of general revenues. The refundable bond shall be deposited in a special holding fund of the Treasury, and shall be returned to the payer or his designee if the prospective development lease agreement is not executed within the time limits prescribed by §5-130, or, if so executed, on the fifth anniversary of the execution of the development lease upon a finding by the Director that the requisite capital improvements have been emplaced on the real property as prescribed by §5-111(4); PROVIDED, HOWEVER, that such bonds shall be forfeited to the state if required by §5-141(2).

Source: S.L. No. 6L-72-06 §3-7, 6/5/06

§5-127. Certification and distribution of notice of intent. — Within five working days following his receipt of a notice of intent to enter or to substantially modify a development lease, the Director of the Department of Land and Natural Resources shall certify whether the submission meets the procedural requirements of §5-122, §5-123, and §5-124 and so notify the prospective lessee. If the submission is incomplete, the Director shall return the submission to the prospective lessee stating his reasons why. Thereafter, the prospective lessee may resubmit a completed notice; PROVIDED that no additional filing fee shall be required for a subsequent submission of said notice of intent. Upon the submission of a completed notice, the Director shall certify the submission and so notify the prospective lessee thereof and, within five working days thereafter, shall cause copies of the notice and his certification thereof to be distributed to the following entities:

- (1) The Pohnpei Land Use Planning and Zoning Commission;
- (2) The Office of the Attorney General; and
- (3) The office of the chief executive of the local government of each locality wherein the lease lands are located.

Source: S.L. No. 6L-72-06 §3-8, 6/5/06

§5-128. Posting of announcement. — In addition to the filing of the notice of intent to enter into or substantially modify a development lease with the Director of the Department of Land and Natural Resources, the prospective lessee, within five working days following his receipt of the notification of affirmative certification by the Director, shall cause an announcement of the filing of a notice of intent to enter or substantially modify the development lease to be posted at the Office of the Director, the

Pohnpei Supreme Court, the offices of the local government of each locality wherein the land is situated and at least two prominent places on the land that is to be subject to the lease. Said posting:

- (1) Shall be on a form prescribed by Director of the Department of Land and Natural Resources;
- (2) Shall briefly identify the land which is to be subject of the proposed lease;
- (3) Shall specify the date of initial posting;
- (4) Shall contain information on where to locate the full, filed notice of intent; and
- (5) Shall explain when, where and how to file an objection with respect thereto.

The announcement so posted shall be both in English and the Pohnpeian language of the locality wherein the land is situated.

Source: S.L. No. 6L-72-06 §3-9, 6/5/06

§5-129. Filing of notice of objection. — Any person, having an interest in the real property to be leased, and not listed in the notice of intent as being a party to the lease, may, within 60 days following the posting of the announcement of the notice of intent as prescribed by §5-128, file a notice of objection to the execution of the development lease with the Director of the Department of Land and Natural Resources on a form prescribed by the Director. The filing of the notice of objection shall clearly indicate the persons and their legal interests in the real property adversely affected by the proposed development lease and the legal grounds for objecting to the development lease of said property. Thereafter, the protections of this subchapter shall not apply to any attempted lease of the subject real property until such time as the objection is withdrawn or is administratively or judicially resolved.

Source: S.L. No. 6L-72-06 §3-10, 6/5/06

§5-130. Time limits of validity of the notice of intent. — A notice of intent shall be valid for 180 days following the expiration of the time limits for filing a notice of objection as prescribed by §5-129 or 180 days following the date that such objection is withdrawn or is administratively or judicially resolved, whichever shall last occur. Only parties who have complied with the provisions of this subchapter and have entered into the development lease agreement pursuant thereto after the expiration of the time limits for filing a notice of objection as prescribed by §5-129 or the date that such objection is withdrawn or is administratively or judicially resolved, whichever shall last occur, and prior to the expiration of the notice of intent as prescribed by this section may be accorded the due diligence protections of this subchapter; PROVIDED that if the notice of intent has expired, a new or revised notice of intent may be filed in the same manner and subject to the same procedures and time prescription as an initial notice of intent.

Source: S.L. No. 6L-72-06 §3-11, 6/5/06

§5-131. Certification of compliance. — A lessee who has complied with all procedural requirements of this subchapter may, upon such evidentiary proof as the Director of the Department of Land and Natural Resources shall require, obtain from the Director a written certification of compliance with respect thereto. Said certification of the Director shall carry the presumption of proof of compliance with the procedural requirements of this subchapter in any filings thereof or adjudication of claims with respect to the lease for which it has been issued. A certification of compliance shall be issued or denied within 30 days of the request therefor, unless the Director shall, for good cause, notify the lessee in writing that more time is needed, which time extension and the reasons therefor shall be set forth in the notice.

Source: S.L. No. 6L-72-06 §3-12, 6/5/06

§5-132. Publication of information. — The Director of the Department of Land and Natural Resources shall publish and make available for distribution to prospective parties and to the general public information in appropriate written format that explains the requirements for a development

lease and the procedures parties must follow in order to enter into a development lease under the provisions of this chapter. The publication shall clearly identify which procedures are optional, and which procedures are mandatory. The publication shall be in English and in all Pohnpeian languages, and shall be made available to any person upon request, and no fee may be charged greater than necessary to compensate for the costs of publication.

Source: S.L. No. 6L-72-06 §3-13, 6/5/06

§5-133. Request for an expedited land title determination. — Any lessor who wishes to make his land available for development leaseholds under the terms of this chapter and under the protections of this subchapter and for whom a notice of intent to enter into or substantially modify a development lease has been filed in accordance with this chapter and for which the requisite fees and bonds have been paid may request the court of appropriate jurisdiction within the Pohnpei Judiciary for a determination of title and interest in the land that is to be the subject of the proposed lease transaction. Such request shall include a copy of the notice of intent as prescribed by §5-122 and certified as having been filed with the Department of Land and Natural Resources by the Director thereof. Upon the finding of an appropriate filing of the request herein specified, the court shall recognize that prompt rulings on the determination of title and interest to the real property that may be the subject of proposed development lease transactions under this chapter are in the interest of the economic development of this state and, therefore, shall expedite the consideration and disposition of the matter.

Source: S.L. No. 6L-72-06 §3-14, 6/5/06

§§5-134 – 5-139. [RESERVED]

SUBCHAPTER IV DUE PROCESS

§5-140. Filings and recordings of development lease agreement. — Lease agreements executed under the authority of this chapter, and every amendment, modification or extension thereof, shall be filed and recorded with the Pohnpei Government in the same manner as the transfer of title to land in this state; PROVIDED that with respect to leases executed under Subchapter III of this chapter, such filing shall include a copy of the written certification by the Director of the Department of Land and Natural Resources that the lease has been executed in compliance with the procedural requirements of Subchapter III of this chapter.

Source: S.L. No. 6L-72-06 §4-1, 6/5/06

§5-141. Failure to make improvements. —

(1) In addition to all other liabilities as may be imposed under this chapter or other law, any lessee who, within five years of the execution of the leasehold agreement, fails to improve the leasehold estate at a value equal to or in excess of the valuation prescribed in §5-111(4) shall have the term of the lease reduced to the number of years for which minimum improvements have been made at the value prescribed by §5-111(4), but not less than 25 years unless the parties shall have agreed to a reduction to a lesser term.

(2) In addition to the reduction in the term of the lease imposed by Subsection (1) of this section, the bond paid for the filing of a notice of intent to enter or substantially modify a development lease as prescribed by §5-124 shall, to the extent of the reduction in the number of years of the leasehold estate, be forfeited to the state.

(3) In addition to the liabilities imposed by Subsection (1) of this section and the forfeiture of the applicable portion of the bond as prescribed by Subsection (2) of this section, the court may order the defendants to the action to pay to the plaintiff parties who have brought or joined the action, the costs

of bringing the legal action, inclusive of court charges and attorney's fees, in accordance with the instructions of the court.

Source: S.L. No. 6L-72-06 §4-2, 6/5/06

§5-142. Covenants and judgments to run with the land. — Except as provided in §5-143, all covenants required by §5-111 and any judgment that shall be entered against a lessee of a development lease pursuant to §5-141 shall be deemed to run with the lease, and all subsequent holders of the leasehold estate shall be liable for the performance of such covenants and the satisfaction of such judgments and all interest that shall have accrued with respect to said judgments; PROVIDED that subsequent holders of the leasehold estate shall not be liable for judgments running with the land unless such judgments were duly recorded or unless the subsequent holders had actual notice of the judgments.

Source: S.L. No. 6L-72-06 §4-3, 6/5/06

§5-143. Extinguishment of responsibility and liability. — The responsibility to comply with the statutory covenants as prescribed by §5-111 and the liability for the civil sanctions prescribed under Subsection (1) and Subsection (3) of §5-141 shall be extinguished upon cancellation of the leasehold estate and the return of all leasehold interest thereunder to the lessor or upon a voluntary or statutory reduction of the lease to a term of 25 years or less from the date of its execution; PROVIDED, HOWEVER, that the lessee shall remain liable for all costs incurred by the lessor to enforce such covenants or to assess and collect such penalties; PROVIDED FURTHER that the lessee shall be liable for payments already adjudicated as due and payable to the lessor and shall not be entitled to any reimbursement of penalties already paid.

Source: S.L. No. 6L-72-06 §4-4, 6/5/06

§5-144. Agreements not to enforce declared null and void. — Any agreement, whether direct or implied, between the parties to a lease agreement not to enforce a covenant specified in §5-111 or not to seek the imposition of any civil remedy pursuant to §5-141 is hereby declared to be null and void as against public policy.

Source: S.L. No. 6L-72-06 §4-5, 6/5/06

§5-145. Regulations. — The Governor is empowered to issue rules and regulations for the proper administration of this chapter, which rules and regulations shall carry the force and effect of law.

Source: S.L. No. 6L-72-06 §4-6, 6/5/06

Note: S.L. No. 6L-72-06 §5-1 repealed S.L. No. 4L-21-96, the Development Leasehold Act of 1996, as amended by S.L. No. 5L-14-00, in its entirety.

§§5-146 – 5-149. [RESERVED]

CHAPTER 6 MORTGAGES

Section

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§6-101. Short title. — This chapter is known and may be cited as the “Pohnpei State Real Property Mortgage Act.”

Source: D.L. No. 4L-152-78 §1, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-102. Purpose. — The purpose of this chapter is to establish a system of mortgage law in Pohnpei which will induce lenders to make secured commercial and residential loans, while at the same time ensuring that borrowers who execute mortgages of property in Pohnpei have a full comprehension of the nature and consequences thereof, and that the parties to the mortgage are protected against unfair practices. This chapter shall be construed in such a manner as to best effectuate its purposes as set out herein.

Source: D.L. No. 4L-152-78 §2, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-103. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

- (1) “Clerk” means the Clerk of the Pohnpei Supreme Court.
- (2) “Court” means the Trial Division of the Pohnpei Supreme Court.
- (3) “Default” is a failure of an obligor to perform an act he is bound to perform.
- (4) “Encumbrance” is a non-fee interest in or charge upon property.
- (5) “Improvement” is any building or structure constructed, or any artificial condition maintained, upon property.
- (6) “Lien” is a charge imposed in some mode upon specific property by which it is made the security for the performance of an act.

(7) “Mortgage” is a contract in which property is made the security for the payment of a debt, without the necessity of a change in possession and without the transfer of title.

(8) “Mortgagee” is a public agency or a financial lending institution duly licensed to do business as such in the state of Pohnpei that takes or receives a mortgage. This term also, where appropriate, refers to the mortgagee’s heirs, personal representatives, successors, and assigns.

(9) “Mortgagor” is one who, having all or some part of title to property, by written instrument pledges that property as security for a debt. This term shall also, where appropriate, refer to the mortgagor’s heirs, personal representatives, successors, and assigns.

(10) “Property” means any interest in real property that is capable of being transferred. Property includes leasehold interests.

Source: D.L. No. 4L-152-78 §3, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-104. Right to possession. — The mortgagee is not entitled to possession of mortgaged property unless the mortgage expressly grants a right of possession; PROVIDED, HOWEVER, after the execution of the mortgage, the mortgagor may agree to deliver possession to the mortgagee without additional consideration; PROVIDED FURTHER that the right of possession of a mortgagee in the mortgaged property may not cumulatively exceed five years or the remaining term of the mortgage, whichever is less.

Source: D.L. No. 4L-152-78 §4, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-105. Security not to be impaired. — No mortgagor shall do any act which will impair the mortgagee’s security without the express written permission of the mortgagee.

Source: D.L. No. 4L-152-78 §5, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-106. Property mortgagable. — Any property not otherwise restricted by law may be mortgaged and shall be subject to foreclosure, including homesteaded property for which a deed of conveyance has been issued pursuant to 67 TTC (1980), and properly recorded or pursuant to any law concerning homesteaded property; PROVIDED, HOWEVER, that the value of the property so mortgaged including any improvements thereon or to be effected thereon by the debt for which such security is demanded, shall not exceed the total value of said debt, including interest and incidental charges, by three hundred percent (300%). The exemption from execution set forth in 8 TTC §61(3) (1980), or under any other law shall not be applicable to any property that is mortgaged and properly recorded.

Source: D.L. No. 4L-152-78 §6, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-107. Heirs and devisees take subject to mortgage. — Whenever property which is subject to a mortgage passes by succession or devise, the successor or devisee is not entitled to have the decedent’s personal representative satisfy the mortgage out of the decedent’s estate unless there is an express provision in the decedent’s will that his estate is to satisfy the mortgage. Unless the mortgage is so satisfied out of the decedent’s estate the heir or devisee takes the property subject to the mortgage.

Source: D.L. No. 4L-152-78 §7, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-108. Transfers made as security deemed mortgages. — Except as provided in the Deed of Trust Act, Chapter 7, every transfer of an interest in property, made only as a security for the payment of a debt, and every transfer or conveyance of any property by deed of trust or otherwise, executed and delivered to secure the payment of such a debt, shall be deemed a mortgage. No other transaction, unless excepted by this section, for which property is purportedly made the security therefor, whether in whole or in part, shall affect the property or interests therein by reason of the purported security agreement.

Source: D.L. No. 4L-152-78 §8, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80; S.L. No. 1L-157-87 §30, 8/5/87

§6-109. Necessity of writing; oral explanation. —

(1) A mortgage shall be created, amended, renewed or extended only by writing in English. All mortgage instruments shall contain a clause, conspicuously located on the first page of the instrument, notifying the mortgagor in both English and the principal language of the state:

(a) That he is entitled without cost to a translation of the mortgage instrument in the principal language of Pohnpei; PROVIDED, HOWEVER, that the English document shall be the sole operative version. An error or errors in the translated version shall not affect the legal relationship between the parties unless it is proved that the error was willfully or recklessly caused by the party to be charged; and

(b) That the mortgage is a binding legal instrument and that it is recommended that the mortgagor have the instrument reviewed by an attorney.

(2) The mortgagee shall orally, in the predominant language being used in the transaction, inform the mortgagor prior to the execution of the mortgage agreement that a copy of the mortgage instrument may be obtained without cost in the principal language of the state and that the mortgage is a binding legal instrument and that it is recommended that the mortgagor have the instrument reviewed by an attorney, and that the mortgagee shall further orally explain to the mortgagor prior to execution of the agreement the total estimated costs of the debt secured by the mortgage including repayment of the principal, interest, and all incidental charges, such total to be a reasonable estimate of the costs computed as of the time for execution of the mortgage instrument and a statement verifying compliance with this subsection shall be signed by the mortgagor and mortgagee and appended to the mortgage instrument.

Source: D.L. No. 4L-152-78 §9, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-110. Requisites for recording. —

(1) No mortgage shall be received for recordation unless it is executed in accordance with the requirements of this section and §6-109 and contains:

- (a) The mailing addresses of the mortgagor and mortgagee;
- (b) The description of the property affected;
- (c) The principal amount of the secured indebtedness;
- (d) The rate of interest thereon; and
- (e) The time, place of repayment, and maturity date.

(2) All mortgages, amendments, renewals, and extensions of mortgages shall be acknowledged or proven, as provided by this chapter, and recorded with the Clerk of the Pohnpei Supreme Court and/or with the Principal Judge of the Court of Land Tenure or Registrar, as required by 41 PC 4-102 and 67 TTC §119 (1980) or with the proper governmental agency pursuant to any applicable law concerning the recordation of real estate instruments within the state of Pohnpei. For purposes of this chapter, the proof or acknowledgment of an instrument affecting title to or any interest in property may be made before a justice of the Supreme Court, a judge of the Court of Land Tenure, the Clerk of the Pohnpei Supreme Court, the Clerk of the Court of Land Tenure, or any subordinate of the above duly authorized to act in the name of said official. Nothing in this section shall preclude acknowledgment by a notary public duly authorized to acknowledge instruments in any state or territory of the United States of America or other foreign jurisdiction; PROVIDED, HOWEVER, that said notary public complies with the laws of that jurisdiction.

Source: D.L. No. 4L-152-78 §10, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-111. Effect of failure to record. — In the event of failure to properly record a mortgage, such mortgage shall not be void but 57 TTC §302 (1980) shall apply, or any other applicable law or equity that would allow the mortgagee to recover debt owed by the mortgagor.

Source: D.L. No. 4L-152-78 §11, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-112. Instruments made with intent to defraud. — Any mortgage instrument affecting an estate in property, including every charge upon property, or upon its rents or profits, made with the intent to defraud prior or subsequent purchasers thereof, or encumbrances thereon is hereby declared to be void as against every purchaser or encumbrancer for value, of the same property or the rent or profits thereof.

Source: D.L. No. 4L-152-78 §12, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-113. Service of notice; designated personal representative. —

(1) All notices required by this chapter must be in writing and notwithstanding any provision of this section shall be sufficient if received by the mortgagor and a duplicate copy recorded with the Clerk of the Pohnpei Supreme Court within five days after commencement of service upon the party to be served. The mortgagor shall designate in the mortgage instrument, the name and mailing address of a personal representative for the service of notice in the event the mortgagor cannot, after diligent search, be found within Pohnpei State.

(2) The name and address of the designated personal representative may be changed from time to time upon request of the mortgagor, by written notice to the mortgagee and with written evidence that the mortgagee has received notice of the same.

(3) A Federated States of Micronesia Postal Service Registry Return Receipt showing that the envelope containing the notice has been received by the mortgagor or his designated personal representative shall be prima facie evidence that proper notice has been given. A return by a police officer, officer of the Supreme Court or any other person authorized by the Supreme Court to serve such notice, stating by affidavit that notice has been delivered personally to the mortgagor, or, if he cannot be located within the state of Pohnpei, to his designated personal representative, shall be prima facie evidence that notice has been delivered.

(4) When service cannot be made in accordance with Subsection (3) of this section, the notice shall be filed with the Clerk of the Supreme Court who shall cause the notice to be announced on the radio within the state of Pohnpei at least once per week for four weeks and published once a week in a newspaper of general circulation within the state of Pohnpei for at least four consecutive weeks and shall further cause said notice to be posted in a prominent public place in the local jurisdiction in which the property is located for 30 consecutive days, which shall be prima facie evidence that proper notice has been given. Once said notice has been posted in a prominent public place, the fact that the notice has been destroyed, removed or damaged by natural causes or by persons not under the direction or control of the mortgagee, shall not invalidate, terminate or void such notice. The Clerk may collect a reasonable charge for the cost of such publication. Service shall be considered effected 30 days after the first publication, broadcast or posting, whichever is last in time.

(5) In the event there is more than one mortgagor, proper notice served separately upon each mortgagor holding more than twenty four percent (24%) of the mortgaged interest in property shall constitute service upon all of the mortgagors thereto.

Source: D.L. No. 4L-152-78 §13, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-114. Assignments, subordinations, and waivers. — Nothing in this chapter shall preclude the assignment, subordination or waiver of a mortgage. The recordation of any assignment, subordination or waiver shall operate as constructive notice to all persons from the date and time of its recordation.

Source: D.L. No. 4L-152-78 §14, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-115. Record of assignment not notice to mortgagor; form of notice to mortgagor. — When a mortgage is executed as security for money due or to become due on a promissory note, bond or other instrument, the recordation of the assignment of the mortgage is not of itself sufficient notice to the mortgagor, so as to invalidate any payment made by the mortgagor, to the person holding such note, bond or other instrument. At the time of the assignment, a notice shall be mailed to the mortgagor and

shall be sufficient when there is written evidence that the mortgagor has received the same. The notice shall be in substantially the following form:

“Your promissory note and mortgage of (date) to (payee-mortgagee) has been assigned to (assignee). All payments shall hereafter be made to (assignee), at (assignee’s address).”

Source: D.L. No. 4L-152-78 §15, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-116. Assignment of debt carries security. — The assignment of a debt secured by a mortgage carries with it the mortgage unless the assignment provides to the contrary.

Source: D.L. No. 4L-152-78 §16, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-117. Certificate of discharge required. — When any mortgage has been satisfied, the mortgagee must execute, acknowledge, and deliver to the mortgagor, a release of mortgage or a certificate of discharge thereof, so as to entitle such certificate to be recorded. Any mortgagee who, after demand by the mortgagor, for a period of 30 days fails or refuses to deliver a certificate of discharge shall be liable for all damages which such mortgagor may sustain by reason of such refusal and shall also forfeit to the mortgagor the sum of \$300. Upon satisfaction of the mortgage, the mortgagee shall also deliver to the mortgagor, the mortgage and the note so paid or satisfied with, if requested, satisfaction of the mortgage and note acknowledged on the margin thereof.

Source: D.L. No. 4L-152-78 §17, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-118. Waiver by borrower of statutory rights; validity. — Any express agreement made or entered into by a borrower at the time of or in connection with the making or renewing of any loan secured by a mortgage or other instrument creating a lien on property, whereby the borrower agrees to waive the rights or privileges conferred upon him by this chapter shall be void and of no effect.

Source: D.L. No. 4L-152-78 §18, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-119. No private power of sale conferred by mortgage. — No mortgage may be foreclosed other than by the judicial remedies provided by this chapter.

Source: D.L. No. 4L-152-78 §19, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-120. Acceleration of principal. — Acceleration of the principal and obligations under the note or mortgage as a result of default shall be valid. No acceleration of unpaid principal of the underlying obligation shall be effective until 30 days after receipt of the notice of default provided for in §6-122.

Source: D.L. No. 4L-152-78 §20, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-121. Mortgagee’s remedies in the event of default. — In the event of default by the mortgagor in the performance of his obligations under the mortgage or note or any other instrument secured by the mortgage, the mortgagee may elect to do any or all of the following:

(1) Commence an action for specific performance or injunctive relief or a common count or counts for payment of money by the mortgagor, guarantor or other parties obligated thereunder. In the event that the judgment rendered in such action orders full performance of the mortgagor’s entire obligation, or payment of the entire sum for which the mortgagor is indebted, satisfaction by the mortgagor of the judgment shall act to discharge the mortgage.

(2) The mortgagee may also, if so empowered by the terms of the note or mortgage, bring an action to foreclose or satisfy the mortgage in accordance with this chapter.

Source: D.L. No. 4L-152-78 §21, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-122. Notice of default. — Not less than 30 days prior to the commencement of any action or proceeding seeking foreclosure of a mortgage, written notice of default shall be served as provided in

§6-113. The notice shall be written in the English language and in the principal language of Pohnpei and shall contain the following:

- (1) A description of the property;
- (2) The date and amount of the mortgage;
- (3) The amount due for principal and interest stated separately;
- (4) A statement that if the amount due is not paid within 30 days from the date of service, the mortgagor shall be in default and proceedings shall be commenced to foreclose the mortgage; and
- (5) If the mortgagee elects to accelerate the payment of obligations, a statement that if the amount due is not paid, then the obligations shall be accelerated, provided such is allowed under the note and/or mortgage.

Source: D.L. No. 4L-152-78 §22, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-123. Request for copies of notices of default prior to foreclosure. —

(1) Any person desiring to receive a recorded copy of a notice of default prior to foreclosure may, at any time subsequent to recordation of such mortgage and prior to service of default as provided in §6-113, cause to be filed for record with the Clerk of the Pohnpei Supreme Court a request for a copy of any such notice of default prior to foreclosure. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed. It shall also identify the mortgage by stating the names of the parties thereto, the date of recordation thereof, and such other identification as may reasonably be required by the Clerk of the Supreme Court. The request for notice shall be in substantially the following form:

“Request is hereby made that a copy of any notice of default prior to foreclosure of the mortgage recorded [Date], executed by _____ as mortgagor in which _____ is named mortgagee be mailed to [name] at [address]

Signature: _____.”

The Clerk shall collect a fee of \$3 from the requesting party which shall be placed in a special account for the processing of requests and mailing of copies of notices under this chapter.

(2) Upon the filing for record of such request, the Clerk of the Supreme Court shall index with the mortgage, the names of persons requesting copies and shall send a copy of any recorded defaults to such persons.

Source: D.L. No. 4L-152-78 §23, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-124. Cure of default; payment of arrearages; costs and fees; effect upon acceleration. —

Whenever there has been a failure by the mortgagor to pay obligations in accordance with the terms of a mortgage, including circumstances where all or a portion of the principal sum secured by the mortgage has, prior to the fixed maturity date become due or been declared due by reason of his default, the mortgagor or his successor in interest in the mortgaged property or any part thereof, or any other person having a subordinate lien or encumbrance therein may at any time prior to the foreclosure sale, pay to the mortgagee or successor in interest, the entire amount then due under the terms of the mortgage, and reasonable attorneys’ fees actually incurred plus any costs or expenses of collection incurred to the extent that such attorneys’ fees and collection costs and expenses exclusive of court charges do not cumulatively exceed \$2,000 or one-third of the principal and interest remaining due on the debt, whichever is less. Such payment shall cure the default, and all proceedings theretofore instituted shall be dismissed or discontinued. Once the mortgagee has been paid in full, then the mortgaged property shall be released by the mortgagee from the encumbrance of such mortgage.

Source: D.L. No. 4L-152-78 §24, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-125. Actions for foreclosure of mortgages. —

(1) *Action for foreclosure of mortgage: where brought.* All judicial actions for the foreclosure of a mortgage shall be brought in the Trial Division of the Pohnpei Supreme Court or its successor in state law.

(2) *Service of summons.* Service of summons in an action of foreclosure shall be made in accordance with the applicable provisions of Division VIII of this Code, the Rules of Civil Procedure adopted by the Supreme Court or pursuant to any applicable law or rule of procedure in the state of Pohnpei.

(3) *Complaint in an action for foreclosure of a mortgage.* The complaint for foreclosure shall set forth the date of execution of the mortgage; its assignments, if any; the name and residence of the mortgagor; a description of the mortgaged property; a statement of the date of the note or other obligation secured by the mortgage, and the amount claimed to be unpaid thereon; and the names and residences of all persons having or claiming an interest in the property subordinate in right to that of the holder of the mortgage, all of whom shall be made defendants in the action. No person holding a conveyance from or under the mortgagor of property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record at the time of the commencement of the action, need be made a party to such action, and the judgment therein rendered, and the proceedings therein had, shall be conclusive against the party holding such unrecorded conveyance or lien as if he had been a party to the action.

(4) *Trial and judgment in foreclosure suits.* If, upon trial in such action, the court shall find the facts set forth in the complaint to be true, it shall ascertain the amount due to the plaintiff upon the mortgage debt or obligation, including interest, costs, and attorneys' fees, and shall render judgment for the sum so found due, and order that the same be paid into the court within a period of three months from and after the date on which the order was made.

(5) *Sale of the mortgaged property.* When the mortgagor after being directed to do so, as provided in Subsection (4) of this section, fails to pay the principal and interest, and costs, and attorneys' fees incident thereto to the extent permitted under this chapter at the time directed in the order, the court shall order the property (or so much thereof as may be necessary) to be sold; but such sale shall not affect the rights of persons holding prior recorded encumbrances upon the same estate or part thereof. Any sale of property under a judgment of foreclosure shall be made by some person appointed by the court for that purpose and must be made at a public place to be designated by the court, upon the notice and in the manner provided by law governing sales under execution with such additional requirements including, but not limited to, the extension of the term of notice, and requirement of publication or announcement in local newspaper, radio or television, as may be prescribed by the court to attempt to assure a reasonable return from the sale. Nothing in this chapter shall deny to the mortgagee the right to purchase property at a foreclosure sale; PROVIDED, HOWEVER, that said mortgagee is otherwise eligible to own land within Pohnpei.

(6) *Certificate of sale; deed effect.* Whenever any property shall be sold under judgment of foreclosure pursuant to this chapter, the person making the sale must give to the purchaser a certificate of sale and properly record a duplicate thereof, and file a duplicate with the court. The certificate shall state the date of judgment under which the sale was made, the names of the parties, a particular description of the property sold, the price bid for each distinct lot or parcel, and the period during which the property is subject to redemption. At the expiration of the time for the redemption of such property, if the same is not redeemed, the person making the sale, or his successor in office, or other officer appointed by the court, must make to the purchaser, his heirs or assignees, or to any person who has acquired the title of such purchaser by redemption or otherwise, a deed or deeds to such property. Such deed shall vest in the grantee all the rights, title, and interest of the mortgagor in and to the property sold, at the time the mortgage was executed, or subsequently acquired by him and shall be a bar to all claims, rights or equity of redemption in or to the property by the parties to such action,

their heirs and personal representatives, and also against all persons claiming under them, or any of them, subsequent to the commencement of the action in which such judgment was rendered.

(7) *Application of proceeds.* The proceeds of every foreclosure sale must be applied to the costs of sale; then to the costs of collection and foreclosure proceedings, including attorneys' fees to the extent that such costs and fees, exclusive of court charges, do not cumulatively exceed \$2,000 or one-third of the principal and interest remaining due on the debt, whichever is less; then to the interest due; and then to the principal debt. If there is any surplus, it must be brought to court for the use of the defendant or the person entitled thereto, subject to order of the court.

(8) *Judgment for balance after the sale of property.* Upon the sale of any property, under a decree for a sale to satisfy a mortgage or other encumbrance thereon, if there shall be a balance due to the plaintiff after applying the proceeds of the sale, the court, upon motion, shall give a decree against the defendant for any such balance for which, by the record of the case, he may be personally liable to the plaintiff, upon which execution upon the assets of the defendant shall be issued immediately if the balance is all due at the time of the rendition of the decree.

(9) *Disposition of proceeds in case the debt is not all due.* If the debt which the mortgage secured is not all due, as soon as sufficient property has been sold to pay the amount due, with costs, the sale shall cease; and afterwards, as often as more becomes due for principal or interest, the court may, on motion, order more to be sold. But if the property cannot be sold in portions without injury to the parties, the whole shall be ordered to be sold in the first instance, and the entire debt and costs paid, there being a rebate of interest where such rebate is proper.

(10) *Vacating the sale.* Upon motion by an aggrieved party filed within one year of the date of sale, the court may vacate a foreclosure sale and order a new sale upon a finding that there has been fraud in the procurement of the foreclosure decree, where the sale has been improperly, unfairly or unlawfully conducted, or when the sale is so tainted by fraud that to allow it to stand would be inequitable.

Source: D.L. No. 4L-152-78 §25, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-126. Redemption. — All property sold upon foreclosure of a mortgage by order, judgment or decree of court may be redeemed, in the manner hereinafter provided, at any time within 12 months after the date of such sale by the judgment debtor or his successor in interest; PROVIDED, HOWEVER, that the judgment debtor or his successor in interest redeem all of the property as sold.

Source: D.L. No. 4L-152-78 §26, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-127. Redemption amount; time; payment; disagreement as to amount; proceedings for determination; notice and hearing; certificate. — The judgment debtor may redeem the property from the purchaser within 12 months of the date of the sale, upon paying the purchaser the amount of his purchase, with one percent (1%) per month thereon, up to the time of redemption. In addition, the judgment debtor shall pay the following: (1) the amount of any assessment or taxes; (2) any costs or sums paid for fire insurance, management, maintenance upkeep or repair of improvements located upon the property; and (3) any sum paid on a prior obligation secured by the property to the extent such payment was necessary for the protection of the purchaser's interest, which the purchaser may have paid thereon after purchase, and interest on such amounts in the amount computed above. Upon receipt of such payment the purchaser shall execute to the judgment debtor a proper certificate of redemption in the form prescribed below. In the event of a disagreement between the purchaser and the judgment debtor as to whether any such sum demanded by the purchaser is a proper charge to be added to the amount required for redemption, the judgment debtor shall thereupon pay to the Clerk of the Pohnpei Supreme Court out of which execution or order authorizing the sale was issued, the amount demanded by the purchaser for redemption which the purchaser believes, in good faith, are the amounts allowed by this chapter, less the amount in dispute, and shall at the same time file with the court a petition in writing setting forth specifically the item or items demanded to which he objects,

together with his reasons for such objections, and asking that such amount be determined by the court. In no event shall the amount deposited with the Clerk of the Supreme Court be less than the purchase price as paid by the purchaser at the foreclosure sale, plus interest from the date of purchase to the date of deposit with the Clerk of the Supreme Court at twelve percent (12%) per annum, plus an amount equal to ten percent (10%) of the said purchase price. The court shall thereupon fix a day, not less than 20 nor more than 60 days from the date of such filing, or if the court be not in session, not less than five nor more than ten days from the day it again sits, whichever is the greater, for the hearing of said objection. A copy of said petition, together with a notice of hearing, giving the time and place thereof, shall be served by the judgment debtor, or his attorney, seeking redemption, upon the purchaser not less than 20 days before the day of the hearing. Upon the day fixed, the court in which the order of sale or execution was originally issued shall determine, by order duly entered in the minutes of said court, the amount required for redemption, either upon affidavit or evidence which is satisfactory to the court. When the amount has been so determined and in the event the amount thereto deposited with the court is sufficient, the same shall forthwith be paid to the purchaser upon his execution of a proper certificate of redemption, said certificate stating the name of the purchaser and of the redemptioner, and further stating the claim, instrument or judgment under which the redemptioner derives the right to redeem, and further stating the date of the redemption and amount for which it was made, and particularly describing the redeemed property. In the event an additional amount to that theretofore paid to the court is required, the redemptioner shall pay such additional amount to the Clerk within ten days. He shall then pay the whole amount necessary to the purchaser upon his execution of a proper certificate of redemption. The certificate of redemption so issued may be deposited with the Clerk for delivery to the redemptioner, or given to the redemptioner at the time of payment.

Source: D.L. No. 4L-152-78 §27, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-128. Rents and profits; rights of purchaser and redemptioner; credit upon redemption; money to be paid; accounting. — The purchaser, from the time of sale until a redemption, is entitled to receive, from the tenant in possession, the rents of the property sold, or the value of the use and occupation thereof. But when any rents or profits have been received by the purchaser, or his assigns, from the property thus sold preceding such redemption, the amounts of such rents and profits, less reasonable expenses incurred in the production of such rents and profits and a management fee, shall be a credit upon the redemption money to be paid, and if the redemptioner, before the expiration of the time allowed for such redemption, demands in writing of such purchaser a written and verified statement of the amounts of such expenses, rents, and profits thus received, the period for redemption is extended for a period of 20 days after the normal expiration of the redemption period.

Source: D.L. No. 4L-152-78 §28, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-129. Injury to property restrained. —

(1) The court by injunction, for good cause shown, may restrain the party in possession from doing any injurious act to the property during the existence of the mortgage or pendency of the foreclosure action thereon and until the expiration of the time allowed for redemption.

(2) A receiver may be appointed where it appears that mortgaged property is in danger of substantial waste or that the income therefrom is in danger of being lost, or that the property is or may become insufficient to discharge the debt which it secures, and that affirmative action is needed to prevent such occurrences.

Source: D.L. No. 4L-152-78 §29, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-130. Limitation of actions. — No action to recover property or any interest therein based on any claim or color of title originating, accruing or arising under the parties to the mortgage before a foreclosure sale shall be commenced after expiration of the redemption period as provided in this chapter.

Source: D.L. No. 4L-152-78 §30, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-131. Discharge of real property mortgage not renewed or extended of record. — Every mortgage which has not been renewed or extended of record within 15 years after its due date, or when no due date is shown in the mortgage then within 20 years after the recording of such mortgage, shall be discharged of record by an order of a judge of the Trial Division of the Pohnpei Supreme Court upon application of any interested person with notice to the proper interested parties. Such application and order shall be filed in the office of the Clerk of the Supreme Court. The fee for such application and order shall be the same as that charged for filing a civil action.

Source: D.L. No. 4L-152-78 §31, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-132. Legal tender. — Unless otherwise provided by law, a mortgage may require all mortgage payments to be made in the coins and currencies of the United States of America, and all purchases of land at foreclosure sales and all redemptions as provided in this chapter shall be made in the coins and currencies of the United States.

Source: D.L. No. 4L-152-78 §32, 9/14/78

Note: §32 was inserted by S.L. No. 2L-44-80 §1, 11/13/80.

§6-133. Improvements by mortgagee prior to sale. — After the commencement of a suit to foreclose, the mortgagee may make a motion to the court to be allowed to make repairs or to maintain the property. If such motion is granted for good cause shown, the mortgagee shall be allowed to make such repairs or to maintain the property as allowed by the court up to the time of such sale. All expenditures shall be a part of the costs of the sale which are recoverable by the mortgagee.

Source: D.L. No. 4L-152-78 §33, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

§6-134. Foreign citizen as mortgagee. — A noncitizen of Pohnpei may be a mortgagee under this chapter; PROVIDED, HOWEVER, that no section of this chapter shall be construed to mean that a noncitizen mortgagee is entitled at any time to hold fee simple title to property in Pohnpei State. Under this chapter, a mortgage creates a lien on the land but does not pass title to the mortgagee.

Source: D.L. No. 4L-152-78 §32, 9/14/78; S.L. No. 2L-44-80 §1, 11/13/80

Note: S.L. No. 2L-44-80 §1, 11/13/80 renumbered §32 as §34.

§6-135. Foreclosure by foreign citizen as mortgagee. — When foreclosure is instituted, the foreign citizen mortgagee may, upon a showing of good cause, propose to the court that the fee simple title be held by a trustee or by the court as trustee for the disposition of the fee simple title at the sale or at any postponed sale. The trustee may be the court, or any citizen of Pohnpei or any other person or corporation that is authorized to hold the fee simple title to the property, subject to the transfer thereof to the purchaser at the foreclosure sale. Nothing herein shall prevent a mortgage to contain a clause providing for a leasehold mortgage or a leasehold interest to be transferred at the foreclosure sale as may be set forth in the mortgage instruments or documents. A mortgagee may be the purchaser at the foreclosure sale, subject to the law governing the ownership of land in Pohnpei State. If the foreclosure concerns the sale of a leasehold interest, then the length of the term of the lease shall be according to the laws of the state inclusive of laws concerning leases to foreign citizens; PROVIDED, HOWEVER, that in the absence of any such law enacted by the government of this state, to hold such a leasehold interest of less than ten years; PROVIDED FURTHER that this provision shall not exempt

any such purchaser from compliance with applicable business and foreign investment laws in the use of such leasehold interests.

Source: D.L. No. 4L-152-78 §35, 9/14/78

Notes: 1. §35 was inserted by S.L. No. 2L-44-80 §1, 11/13/80. 2 References to Trust Territory Code, TTPI Manual of Administration, TTPI regulatory provisions and the High Commissioner have been omitted.

§6-136. Interpretations. —

(1) In the event any portion of the mortgage documents including but not limited to the promissory note, notices and other instruments affecting the same are translated from English to Pohnpeian, and thereafter a conflict results as a result of such interpretation, then the English version shall prevail.

(2) Whenever possible, this mortgage law shall be interpreted in such a manner to give it full force and effect and to make it a binding obligation upon the mortgagor to the mortgagee.

Source: D.L. No. 4L-152-78 §36, 9/14/78

Note: §36 was inserted by S.L. No. 2L-44-80 §1, 11/13/80.

REAL PROPERTY

CHAPTER 7 DEEDS OF TRUST

Section

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§7-101. Short title. — This chapter is known and may be cited as the “Deed of Trust Act of 1987.”

Source: S.L. No. 1L-157-87 §1, 8/5/87

§7-102. Purpose. — The purpose of this chapter is to provide for a satisfactory method of securing the financing of improvements to real property by the United States of America acting through the Rural Economic and Community Development Services, the Department of Housing and Urban Development or the Veterans Administration.

Source: S.L. No. 1L-157-87 §2, 8/5/87

§7-103. Applicability. — This chapter shall be applicable only to transactions wherein the debtor (trustor) is required to make payments of the secured financing in accordance with the applicable federal regulations of the Rural Economic and Community Development Services, the Department of Housing and Urban Development or the Veterans Administration of the United States of America Government.

Source: S.L. No. 1L-157-87 §3, 8/5/87; S.L. No. 2L-37-88 §1, 8/15/88

§7-104. Deed of trust. — A deed of trust is a conveyance of the freehold or leasehold interest in trust to secure an indebtedness or charge against real property conveyed, with or without a power of sale, vested in the trustee to sell according to the terms as set forth in the instrument. A deed of trust complying with the terms and conditions of this chapter shall be deemed as a lien or encumbrance upon real property. The deed of trust shall be evidenced by an instrument in writing containing the terms thereof in both the English language and the principal language of the trustor, if that be an indigenous language of the state. In the event of conflict between the two versions of the deed of trust, or any term thereof, the version in the English language shall prevail.

Source: S.L. No. 1L-157-87 §4, 8/5/87

§7-105. Definitions. — The following words as used herein shall mean:

(1) *Beneficiary.* The United States of America acting through the Rural Economic and Community Development Services, the Department of Housing and Urban Development or the Veterans Administration, who is the creditor to whom the trustor's obligation is owed.

(2) *Recordation.* Any references to recordation or the filing of record shall mean the proper filing of such instrument with the Pohnpei Court of Land Tenure and/or the Clerk of the Pohnpei Supreme Court, whichever is applicable pursuant to the laws and statutes governing transfers of interest in land.

(3) *Trustee.* The Pohnpei Housing Authority or any legal entity of the state government, to whom the trustor has conveyed title to property to be held by the trustee according to the terms and conditions of the deed of trust instrument.

(4) *Trustor.* The debtor under a deed of trust or the owner or owners of the fee simple who conveys the title to real property to the trustee under the terms of the deed of trust instrument.

Source: S.L. No. 1L-157-87 §5, 8/5/87; S.L. No. 2L-37-88 §2, 8/15/88; S.L. No. 2L-143-90 §1, 1/5/90

Note: S.L. No. 2L-37-88 §3 repealing provision has been omitted.

§7-106. Effect of recordation. — A deed of trust and any instruments concerning the same shall not be valid against subsequent purchasers or persons taking an interest in the real estate in good faith and for valuable consideration without notice of such deed of trust or an interest in the same unless such deed of trust and any instrument relating to the same is first duly recorded.

Source: S.L. No. 1L-157-87 §6, 8/5/87

§7-107. Not exempt from execution. — Any property conveyed hereunder shall not be exempt from execution as may be provided by any statute concerning any exemptions and homesteads, but such execution shall not affect the priority of the lien evidenced by this deed of trust.

Source: S.L. No. 1L-157-87 §7, 8/5/87

§7-108. Duties of trustee. — The duties of the trustee shall be as set forth in the deed of trust instrument provided such terms and conditions are not in conflict with this chapter.

Source: S.L. No. 1L-157-87 §8, 8/5/87

§7-109. Loan Guarantee Escrow Account. —

(1) The Pohnpei Housing Authority, as trustee, shall establish and maintain a Loan Guarantee Escrow Account in an amount to be agreed to between the trustee and the USDA Rural Economic and Community Development Services, as beneficiary. Such account is to be deposited in a state financial institution that has Federal Deposit Insurance Corporation (FDIC) coverage, and any interest earned shall be redeposited into the account. The principal balance of the Loan Guarantee Escrow Account shall be paid from and maintained through loan guarantee fees assessed against borrowers under the low-income housing loan program sponsored by the beneficiary. Pohnpei Housing Authority shall adopt regulations setting a minimum required escrow amount based on the factors identified in this Chapter.

(2) The use of funds from the Loan Guarantee Escrow Account shall be for the sole purpose of servicing loans made by the beneficiary in the event of trustor's defaults on the obligations under the terms of the promissory note and the deed of trust security instrument securing such note and for which such note is guaranteed by the Loan Guarantee Escrow Account through the trustee.

(3) The Pohnpei Housing Authority, as trustee, and Rural Economic and Community Development Services, as beneficiary, shall be directed by this section of the Code and the Memorandum of Understanding as to the procedure for the use of funds from the Loan Guarantee Escrow Account. The Loan Guarantee Escrow Account shall not be terminated without the written consent of the Pohnpei Housing Authority and the Rural Economic and Community Development Services.

(4) The Pohnpei Housing Authority may, pursuant to 31 PC 1-105(25), expend assets of the Pohnpei Housing Loan Fund in the enforcement, collection and, where necessary, foreclosure actions on defaulted loans secured by the deeds of trust covered by the Loan Guarantee Escrow Account; PROVIDED that monies received from such enforcement, collection and foreclosure actions shall first be returned to the Pohnpei Housing Loan

Fund in the amounts so expended therefrom under this subsection, and thereafter any remaining balance shall be deposited in the Loan Guarantee Escrow Account for the purposes specified in this section. To the maximum extent practical, the USDA Rural Economic and Community Development Services and the Office of the Pohnpei Attorney General shall assist the Pohnpei Housing Authority in enforcement, collection and foreclosure actions under this section.

Source: S.L. No. 1L-157-87 §9, 8/5/87; S.L. No. 7L-57-10 §1, 1/12/10

Note: §9 was repealed by S.L. No. 2L-37-88 §3, 8/15/88 and S.L. No. 2L-143-90 §2, 1/5/90 inserted a new §9.

§7-110. Foreclosure by judicial or non-judicial process. — The deed of trust instrument may provide for foreclosure proceedings by judicial or non-judicial process. If foreclosure is by judicial process, then the foreclosure proceedings shall be brought in a court of competent jurisdiction. Any judicial action for the foreclosure of a deed of trust shall be similar to and based on the same proceedings as the statute governing actions for foreclosure of mortgages (the Real Property Mortgage Act, Chapter 6 as amended, or its successor in Pohnpei law), including the notice, requirements, and reinstatement rights; PROVIDED, HOWEVER, that the trustor shall not have any right of redemption under a deed of trust executed hereunder. If foreclosure is by non-judicial process then such may be by private power of sale as set forth herein and the trustor shall not have any right of redemption after such sale.

Source: S.L. No. 1L-157-87 §10, 8/5/87

§7-111. Foreclosure by private power of sale. — Non-judicial foreclosure of a deed of trust by the exercise of private power of sale shall be in accordance with this chapter.

(1) *Power of sale.* A power of sale shall mean a private power of sale conferred upon the trustee to:

- (a) Sell the property at public auction after the breach of an obligation for which the property is transferred, or,
- (b) Transfer the property by negotiated sale after the breach of an obligation for which the property is transferred.

(2) *Recordation and notice.* The power of sale shall not be exercised until:

- (a) A written notice is sent by the trustee or beneficiary to the trustor setting forth in English and in the principal language of the trustor if that be an indigenous language of the state, his default, the amounts owed and for what periods, the method and amount to cure such default, the time in which to cure such default which shall not be less than 30 days after the date of the notice sent to the trustor, and the right to sell or transfer the property by power of sale, and any other remedy which shall be taken by the trustee if such default is not cured in the method, manner, date, and time as set forth in the notice.
- (b) After the lapse of days as set forth in the written notice specified in Paragraph (a) of this subsection, if the default has not been cured, then the trustee shall give to the trustor at least 60 days notice of public sale of the property, stating in writing the date, time, and place thereof in English and the principal language of the trustor if that be an indigenous language of the state, or in the alternative, that the trustee shall entertain a negotiated sale to qualified relatives.
- (c) Within ten days after such notice has been sent to the trustor as set forth in Paragraph (b) of this subsection, the trustee or beneficiary shall file a record of default, identifying the deed of trust by stating the names of the trustor, trustee, and beneficiaries, and the description of property being affected, and setting forth the nature of the breach and the right to sell or transfer the property by power of sale and any other remedies as set forth in the notice to the trustor, and the date, time, and place of public auction, if such has been set.

Source: S.L. No. 1L-157-87 §11, 8/5/87; S.L. No. 7L-57-10 §2, 1/12/10

§7-112. Negotiated sale. —

(1) The trustee is authorized to enter into a negotiated sale with qualified relatives of the trustor as provided in this section. Qualified relatives must also be persons entitled to own real property in the state of Pohnpei.

(2) The following relatives of the trustor are eligible to purchase under this section:

- (i) Spouse;
- (ii) Children;
- (iii) Parents;
- (iv) Widows or widowers of children;
- (v) Grandchildren;
- (vi) Siblings;
- (vii) Widows or widowers of siblings; and
- (viii) Nieces and nephews.

(3) Relatives of the half-blood shall be treated the same as relatives of the whole blood, and adopted relatives shall be treated the same as natural relatives.

(4) The sale price under this section shall be the total indebtedness attributable to the trustor. Total indebtedness shall include:

- (i) Reasonable expenses of the sale and of the trust, including reasonable attorneys' fees;
- (ii) Interest owed on the debt secured by the deed of trust; and
- (iii) The unpaid principal balance owed on the debt, including any advances made by the beneficiary.

(5) The trustee may negotiate the assumption of the existing deed of trust, or the granting of a new deed of trust in payment of the existing deed of trust.

(6) Pohnpei Housing Authority shall adopt regulation to facilitate implementation of this section.

Source: S.L. No. 1L-157-87 §12, 8/5/87; S.L. No. 7L-57-10 §3, 1/12/10

Editors note: S.L. No. 1L-157-87 §12 was repealed by §3 of S.L. No. 7L-57-10

§7-113. Notice. — Any notice as required hereunder shall be deemed delivered if sent by registered or certified mail with proper postage thereon, to the trustor or his successor in interest, at the address as set forth in the deed of trust instrument, or personally delivered to the trustor or his successor in interest, or to his agent as may be designated in the deed of trust instrument.

Source: S.L. No. 1L-157-87 §13, 8/5/87

§7-114. Public auction: publication. — Prior to the first date of public auction, the trustee shall:

(1) Publish a notice of public auction by power of sale at least once a week for three weeks prior to the date of public auction, in some newspaper of general circulation in the state center and in the local jurisdiction where the property is located or situated;

(2) Broadcast the same notice in both English and the principal language of the trustor if that be an indigenous language of the state at least once a week for three weeks prior to the date of public auction, by some radio broadcast station of general AM broadcast capabilities in the state center and in the local jurisdiction where the property is located or situated;

(3) Post such notice for three weeks prior to the date of the public auction in three public places in the local jurisdiction where the property is to be auctioned; and

(4) Post a copy of said notice in some conspicuous place on the property to be auctioned, at least 20 days prior to the date of said auction.

Source: S.L. No. 1L-157-87 §14, 8/5/87; S.L. No. 7L-57-10 §4, 1/12/10

§7-115. Postponement of public auction. — The trustee, at his discretion, may postpone the public auction by making a public declaration at the time and place of such auction. If the postponement is

for more than ten days from the date of auction, then the trustee shall, within ten days after the date of auction as postponed:

(1) Publish a notice of such postponement, with a new date of auction at least once in some newspaper of general circulation in the state center and in the local jurisdiction where the property is located or situated;

(2) Broadcast the same notice in English and the principal language of the trustor if that be an indigenous language of the state, with a new date of auction, at least once by a radio broadcast station of general AM broadcast capabilities in the state center and in the local jurisdiction where the property is located or situated;

(3) Post such notice in three public places in the local jurisdiction where the property is to be auctioned;

(4) Post a copy of such notice in some conspicuous place on the property to be auctioned; and

(5) File a notice of postponement with the proper place of record.

Source: S.L. No. 1L-157-87 §15, 8/5/87; S.L. No. 7L-57-10 §5, 1/12/10

§7-116. Power of sale: conveyance by trustee. — The trustee upon such public sale shall make, without warranty, and execute after due payment is made, a deed to such purchaser or purchasers of the property conveying all the title and interest of the trustee and trustor in the property.

Source: S.L. No. 1L-157-87 §16, 8/5/87

§7-117. Power of sale: proceeds. — The proceeds of sale shall then be first applied to the expenses of sale, together with the reasonable expenses of the trust, including reasonable attorneys' fees, then to the interest owed on the debt secured by the deed of trust, then to the unpaid principal balance owed on that debt, including any advances made by the beneficiary, and then to any other lienholders of record in accordance with their lien priority. Any balance or surplus of such proceeds of sale shall then be applied to any other interest and principal indebtedness owed to the beneficiary by the trustor. Any remaining balance of such proceeds of sale shall be paid to the trustor, his heirs, executors, administrators or assigns.

Source: S.L. No. 1L-157-87 §17, 8/5/87

§7-118. Power of sale: deficiency. — If there are insufficient proceeds from the auction to satisfy all amounts due to the beneficiary under the deed of trust instruments, then the trustee shall make up such deficiency of insufficient amounts to the beneficiary from such fund as shall be established by the trustee for said purpose, and in such event the beneficiary shall assign all of its rights and interest in the deed of trust to the trustee. The trustor shall be liable for all such deficient amounts which shall include the expenses of sale, the expenses of the trust, reasonable attorneys' fees, and the interest and principal due, and the trustee may bring an action against the trustor for the recovery of such deficient amounts. Nothing herein shall prevent the trustee from purchasing the property at such foreclosure sale as provided in this chapter.

Source: S.L. No. 1L-157-87 §18, 8/5/87; S.L. No. 7L-57-10 §6, 1/12/10

§7-119. Vacating of premises. — The trustor or its agents or persons holding possession of the property by and through the trustor shall vacate the property and give up possession thereof at any time prior to the date of sale. In the event of any postponement of the date of sale, the trustor shall not be entitled to repossession of the premises, unless any such postponement be over 60 days from the date of sale.

Source: S.L. No. 1L-157-87 §19, 8/5/87; S.L. No. 7L-57-10 §7, 1/12/10

§7-120. Effect of certain recitals in deed. — A recital in a deed, executed pursuant to the power of sale regarding the filing of notice, personal advice, and mailing of copies of the notice of default shall constitute prima facie evidence of compliance with the requirements of this chapter, and shall be conclusive evidence thereof in favor of bona fide purchasers for value and without notice.

Source: S.L. No. 1L-157-87 §20, 8/5/87

§7-121. Power of sale–redemption rights. — A sale made hereunder by the exercise of the private power of sale shall divest the trustor of any equity or right of redemption in the property.

Source: S.L. No. 1L-157-87 §21, 8/5/87

§7-122. Purchase of property by trustee. — The trustee may be the purchaser at any public auction provided that there are no other purchasers at such public auction, or that the trustee shall be the highest bidding purchaser at such auction.

Source: S.L. No. 1L-157-87 §22, 8/5/87; S.L. No. 7L-57-10 §8, 1/12/10

§7-123. Duties of trustee. — The trustee shall be in all respects a fiduciary with respect to the property, for the benefit of the beneficiary, and shall be governed by the terms and conditions of the deed of trust instrument.

Source: S.L. No. 1L-157-87 §23, 8/5/87

§7-124. Discharge or release of deed of trust. — A deed of trust shall be discharged or released by recording an instrument signed by the trustee, and properly acknowledged, stating that the debt secured by the deed of trust has been fully paid and satisfied. Upon such discharge, the trustee shall execute a deed conveying full title to the trustor.

Source: S.L. No. 1L-157-87 §24, 8/5/87

§7-125. Duties of trustor. — The trustor shall not cause any waste or the diminishing of the value of the property which would substantially impair the beneficiary's security.

Source: S.L. No. 1L-157-87 §25, 8/5/87

§7-126. Appointment of receiver. — At any time after the recordation of a notice of default, the trustee or beneficiary may apply to a court of competent jurisdiction for the appointment of a receiver for the property. A receiver shall be appointed where it appears that the real property subject to the deed of trust is in danger of substantial waste, or that the income therefrom is in danger of being lost.

Source: S.L. No. 1L-157-87 §26, 8/5/87

§7-127. Assignment of beneficial interest. — The beneficiary may assign his benefits under the deed of trust without the consent or knowledge of the trustor unless the deed of trust instrument provides to the contrary. The recordation of such assignment shall be deemed notice to all persons as of the date of such recordation.

Source: S.L. No. 1L-157-87 §27, 8/5/87

§7-128. Purchaser condition precedent. — The purchaser at any foreclosure or public sale shall be only those entitled to own property in the state of Pohnpei.

Source: S.L. No. 1L-157-87 §28, 8/5/87

§7-129. Conflict with other laws. — If this chapter is in conflict or inconsistent with any other law, then this chapter shall control.

Source: S.L. No. 1L-157-87 §29, 8/5/87

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TITLE 42
PUBLIC LANDS

TITLE 42 PUBLIC LANDS

CHAPTER

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CHAPTER 1 MANAGEMENT AND ADMINISTRATION

Section

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§1-101. Short title. — This chapter is known and may be cited as the “Public Lands Act of 1987.”

Source: S.L. No. 1L-155-87 §1, 7/29/87

§1-102. Purpose. — The purpose of this chapter is to establish a division within the Department of Land and Natural Resources for the management and administration of public lands and to transfer to this division the Pohnpei Public Lands Trust.

Source: S.L. No. 1L-155-87 §2, 7/29/87

Note: Reference to repealed law, D.L. No. 4L-69-76, as amended, has been omitted.

§1-103. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

- (1) “Board” means the Public Lands Trust Board of Trustees as established by §1-105.
- (2) “Central Government” means the central government of the Trust Territory of the Pacific Islands and any successor thereof.
- (3) “Division” means the Division of Public Land as created by 3 PC 1-104(5)(a) and established by §1-104.
- (4) “Director” means the Director of the Department of Land and Natural Resources.
- (5) “Eminent domain” means the right to condemn property for public use or purposes and to appropriate ownership and possession of such property for public use upon paying the owner just compensation to be ascertained according to applicable law.
- (6) “Fiscal year” means the operation fiscal year of Pohnpei State.
- (7) “Legislature” means the Pohnpei Legislature.
- (8) “Order” means Secretarial Order No. 2969 promulgated by the Secretary of Interior of the United States of America on December 26, 1974.
- (9) “Public lands” means public lands as defined by the Order and any other lands, or any right, title or interest therein, capable of being held by the Trust in trust for the people of Pohnpei as authorized by Pohnpei law or resolution.
- (10) “Traditional Leaders” means paramount traditional leaders of the Nahnmwarki and Nahnken rank, or the equivalent thereof in local custom and tradition.
- (11) “Trust” means the Pohnpei Public Lands Trust established pursuant to D.L.No. 4L-69-76, as amended.
- (12) “Trust fund” means the Pohnpei Public Lands Trust Fund as established by §1-116.

Source: S.L. No. 1L-155-87 §3, 7/29/87; S.L. No. 5L-14-00 §3-36, 10/1/00

Note: Subsection (9) is further defined by the following provisions:

(1) Secretarial Order No. 2969 §2(c) Definitions:

“Public Lands” means:

(1) those lands defined as public lands by Sections (1) and (2), Title 67, of the Trust Territory Code, except those lands designated as military retention lands held, used, or occupied by the United States under use and occupancy agreements and not returned to the public domain, and,

(2) those lands placed under control of the “Alien Property Custodian” as defined by Section 1, Title 27, of the Trust Territory Code, except those lands designated as military retention lands held, used, or occupied by the United States under use and occupancy agreements and not returned to the public domain.

(2) TTC §925 (1966); 67 TTC §1 (1970); 67 TTC §1 (1980) “Public lands” defined:

“Public lands” are defined as being those lands situated within the Trust Territory which were owned or maintained by the Japanese government as government or public lands, and such other lands as the government of the Trust Territory has acquired or may hereafter acquire for public purposes.

(3) TTC §532 (1966); 27 TTC §1 (1970); 27 TTC §1 (1980) Defined:

Alien property, as used in this chapter, includes property situated in the Trust Territory which was formerly owned by private Japanese nationals, by private Japanese organizations, by the Japanese government, or by Japanese government organizations, agencies, quasi-corporations or government-subsidized corporations. Such property shall be deemed to include tangible and intangible assets, as well as any right, title or interest therein.

§1-104. Division of Public Land implemented. — There is hereby established within the Department of Land and Natural Resources, a Division of Public Land as created by 3 PC 1-104(5)(a). The Division shall consist of a division chief and support personnel who shall provide administrative and technical support through the Director to the Board of Trustees in the conduct of their legal and fiduciary responsibilities in respect to the Pohnpei Public Lands Trust.

Source: S.L. No. 1L-155-87 §4, 7/29/87; S.L. No. 5L-14-00 §3-36, 10/1/00

Note: The Pohnpei Public Lands Trust was created by D.L. No. 4L-69-76, 1/1/76 and transferred by S.L. No. 1L-155-87 to the Division of Management and Administration of Public Lands.

§1-105. Board of Trustees. — The Board of Trustees of the Pohnpei Public Lands Trust established pursuant to D.L. No. 4L-69-76 is hereby continued and recognized as trustees to all rights, title, and interest to public lands in Pohnpei for the benefit of the people of Pohnpei, subject to the obligations and restrictions of the Pohnpei Constitution and the laws of Pohnpei. Commencing on January 1,

2009, the Board of Trustees shall consist of seven trustees appointed by the Governor with the advice and consent of the Legislature who shall be appointed in the following manner: one Trustee shall be appointed from each of the local jurisdictions of the island of Pohnpei; and one Trustee shall be appointed from among the local jurisdictions of the Outer Islands of the state. In making his nominations to the Legislature, the Governor shall indicate in which category, described immediately above, that the nominee is selected. All Trustees shall be pwilidaks of Pohnpei, shall have been citizens of Pohnpei for at least ten years immediately preceding their appointment, shall be a registered voter of a local jurisdiction for the category for which he is appointed, and shall be at least 25 years of age.

Source: S.L. No. 1L-155-87 §5, 7/29/87; S.L. No. 7L-14-08 §1, 1/01/09

§1-106. Tenure of Trustees. —

(1) Appointments to the Board of Trustees shall be for a term of three years unless removed earlier by the Governor or the Board for cause, after written notice to the Trustee subject to removal and opportunity to be heard, or impeached in the manner prescribed for officers of the Pohnpei Government.

(2) A Trustee shall hold office until his successor has been seated unless removed by the Governor or the Board, or by impeachment.

(3) Any Trustee may be removed from the Board in the manner prescribed above for neglect, misconduct, inability to serve, absence without cause for three consecutive Board meetings or gross inefficiency in office.

Source: S.L. No. 1L-155-87 §6, 7/29/87; S.L. No. 7L-14-08 §2, 1/01/09

Note: Transition language relating to carry over of Board members under previous law has been omitted.

§1-107. Vacancies. — In the event of a vacancy on the Board by reason of death, resignation, removal or any other reason, such vacancy shall be filled for the remainder of the unexpired term of the predecessor in the same manner as the original appointment.

Source: S.L. No. 1L-155-87 §7, 7/29/87

§1-108. Officers. — The Board shall elect from among its members a Chairman, Vice-Chairman, and Secretary-Treasurer by majority vote to serve such terms as determined by the Board. The Board shall define the powers and duties of each officer.

Source: S.L. No. 1L-155-87 §8, 7/29/87

§1-109. Meetings of the Board. — The Board shall hold its first regular meeting on the second Tuesday of the first month following appointment of the full membership of the Board, and shall hold one regular meeting every other month thereafter. Special meetings may be called at any time by the Chairman or by any five members of the Board. The Chairman shall determine the time and place of each meeting and notify all members of the Board of any regular or special meeting as to the date, time, and place at least three days preceding the date of the meeting, and shall cause public notice of the date, time, and place of such meeting to be broadcast on the broadcast station projected to reach the greatest number of people in Pohnpei, at least two days preceding the date of the meeting. All meetings shall be open to the general public, except executive sessions agreed upon by unanimous vote of the members present. Two-thirds of the membership of the Board shall constitute a quorum to conduct the business of the Board; PROVIDED, HOWEVER, that a majority vote of the total membership of the Board shall be required for any question presented that affects title or leasehold rights to real property in Pohnpei. A written journal of its meetings shall be kept and maintained which shall include but not be limited to meeting attendance and all official actions of the Board, and a copy shall be submitted to the traditional leaders, the Legislature, and the chief executive of each local government by the Board within ten days after each meeting.

Source: S.L. No. 1L-155-87 §9, 7/29/87

§1-110. Compensation and expenses of the Board. —

(1) When attending Board meetings or while engaged in other services for the Board within Pohnpei as are authorized by the Board, the members of the Board shall be compensated at the rate of \$10 for each half day or portion thereof (four hours or less) that the member shall so serve, and \$20 for each day a member shall serve in excess of four hours; PROVIDED, HOWEVER, that members of the Board who are Pohnpei Government employees shall not be entitled to the said compensation provided herein by this subsection, but shall be granted administrative leave from their regular duties while in attendance of meetings and other activities of the Board.

(2) When required to travel within Pohnpei for meetings and activities of the Board, members of the Board shall be entitled to transportation expenses when such service is not available and provided by the Division.

(3) When overnight lodging within Pohnpei away from their usual abode is required, members of the Board shall be entitled to a daily per diem at Pohnpei Government rates in accordance with Pohnpei Government policies.

(4) When required to travel outside Pohnpei, members of the Board shall be entitled to travel expenses and per diem at Pohnpei Government rates in accordance with Pohnpei Government policies.

Source: S.L. No. 1L-155-87 §10, 7/29/87

§1-111. Powers, duties, legal capacities, and characteristics of the Board. — The Public Lands Trust Board of Trustees shall have the following powers, duties, legal capacities, and characteristics:

(1) To have perpetual juridical existence;

(2) To receive and hold title to public lands in trust for the people of Pohnpei;

(3) To administer, manage and regulate the use of lands held by the Trust and income arising therefrom in trust for the people of Pohnpei pursuant to this chapter;

(4) To establish a program for homesteading on public lands and administer such program pursuant to Pohnpei law;

(5) To sell, lease, exchange, use, dedicate for public purposes, or make other disposition of such public lands pursuant to Pohnpei law;

(6) To acquire lands by negotiation and purchase that are necessary or appropriate to fill the needs of the general public, as authorized by Pohnpei law or resolution;

(7) To acquire lands by eminent domain as authorized by Pohnpei law;

(8) To enter into contracts, sue and be sued in the name of the Trust, and have other powers and duties as may be necessary or appropriate to further the purposes of this chapter; and

(9) To negotiate in good faith, and execute binding formal agreements to meet the land requirements of the United States of America as may be designated under the terms of the Compact of Free Association.

Source: S.L. No. 1L-155-87 §11, 7/29/87

Note: This section replaces §10 of D.L. No. 4L-69-76 that was repealed by S.L. No. 1L-155-87. References to §10 of D.L. No. 4L-69-76 in other sections of this Title have been redirected to this section of the Code.

§1-112. Division chief: duties and responsibilities. — The Division of Public Land shall be under the administrative direction of a division chief who shall have the following powers and duties under the direction of the Director:

(1) To direct the implementation of the policies, projects, and programs of the Division as are determined by the Governor and the Board;

(2) To maintain liaison by the Division through the Governor with the Legislature, the Administration, the traditional leaders, and others concerned with the objectives and programs of the Division;

(3) To maintain close communication with the Chairman of the Board as to the current status and activities of the Division;

- (4) To report to the Board at each meeting on the status of the Division, its programs, projects, financial standing and plans, and to recommend to the Board projects and programs for the Division;
- (5) To administer the staff and operations of the Division;
- (6) To manage staff personnel pursuant to the Public Service System Act, Title 9 Chapter 2, and to carry out all other functions regarding Division personnel;
- (7) To exercise supervision over all Division property and funds subject to the Financial Organization and Management Act, Title 11 Chapter 2;
- (8) To propose legislation to the Legislature through the Governor pertaining to the programs, powers, and duties of the Division; and
- (9) To establish rules and regulations, in accordance with this chapter and applicable law, for the conduct of the business and activities of the Division.

Source: S.L. No. 1L-155-87 §12, 7/29/87; S.L. No. 5L-14-00 §3-36, 10/1/00

§1-113. [Reserved]

§1-114. Compliance with existing leases and agreements. — On receiving public lands, the Trust shall be bound by and comply with all provisions of existing leases and land use and occupancy agreements previously entered into by the central or district governments of the Trust Territory of the Pacific Islands, their agencies, instrumentalities or political subdivisions.

Source: S.L. No. 1L-155-87 §13, 7/29/87

§1-115. Continuation of occupancy by tenants. — The Trust shall permit the continued possession of public lands actually occupied and used on the effective date of the Order [*December 26, 1974*] with concurrence of the Government of the Trust Territory of the Pacific Islands, by tenants-at-will and tenants-by-sufferance for a reasonable period of additional years as has been agreed by the Pohnpei Public Lands Authority and the High Commissioner of said government.

Source: S.L. No. 1L-155-87 §14, 7/29/87

§1-116. Trust fund. — All revenues generated from the administration, management, and disposition of public lands shall be transmitted by the Board and the Division to the Director of the Department of Treasury and Administration for deposit in a Pohnpei Public Lands trust fund hereby continued in the Treasury. All monies received by the trust fund shall be appropriated by the Legislature for public purposes relative to the administration, management, development, and disposition of public lands. The Director of the Department of Treasury and Administration shall submit to the Legislature an annual statement of the income and expenditures of the trust fund for the previous fiscal year, and projected income of the trust fund for the current fiscal year.

Source: S.L. No. 1L-155-87 §15, 7/29/87; S.L. No. 5L-14-00 §3-36, 10/1/00

§1-117. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the Pohnpei Public Lands trust fund and the general fund of Pohnpei such sum or sums to be determined annually in the Pohnpei Comprehensive Budget Act for all necessary and incidental expenses of the Division and the Trust and their operations and programs as are authorized by this chapter. The sum or sums herein authorized for appropriation shall be administered and expended by the Chief of the Division of Public Land, upon concurrence of a majority of the Board, solely for the purposes specified in this section. All sums appropriated under the authorization of this section for a fiscal year remaining unexpended or unobligated on September 30 each year shall revert to the respective fund from which the appropriation was made.

Source: S.L. No. 1L-155-87 §16, 7/29/87; S.L. No. 5L-14-00 §3-36, 10/1/00

§1-118. Annual statement and audit. — The Board of Trustees shall submit to the Legislature, on or before October 15 each year, an annual statement of the activities of the Trust. Within 60 days

following the close of each fiscal year, the Board shall cause an annual audit of all funds received and disbursed during the preceding fiscal year. Upon its completion, the results of the audit shall be submitted to the Legislature each year.

Source: S.L. No. 1L-155-87 §17, 7/29/87

§1-119. Conflict of interest. —

(1) If any member of the Board of Trustees or any officer or employee of the Division shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract with the Board or the Division, or in the acquisition of any interest in real property held by the Trust, or as a contractor for the construction of any improvements on an interest in real property acquired from the Trust or predecessor in law, he shall disclose such interest to the Board and such interest shall be set forth in the minutes of the Board, and the member, officer or employee having such interest therein shall not participate on behalf of the Board or the Division in any votes or transactions of the Board or the administrative activities of the Division relative thereto.

(2) Notwithstanding Subsection (1) of this section, no member of the Board of Trustees may, during his membership therein nor for at least one year following his membership thereon, acquire directly or indirectly, in his own name, by a disclosed or undisclosed agent, or through an association or business in which he owns more than ten percent (10%) interest therein, any interest in real property held by the Trust in excess of a singular temporary use permit not to exceed 120 days which may not be renewed nor re-executed.

(3) The Governor may prescribe further rules relative to conflict of interest governing members, officers, and employees of the Board and the Division.

Source: S.L. No. 1L-155-87 §18, 7/29/87

§1-120. Transition. —

(1) All rights, title, interests, and liabilities relative to the management and disposition of properties in Pohnpei Public Lands Trust established pursuant to D.L. No. 4L-69-76 shall continue unaffected except as provided by this chapter.

(2) The Board of Trustees shall continue to exercise its legal and fiduciary responsibilities in respect to the Trust, and the use and disposition thereof, in a manner consistent with this chapter, and shall be deemed the successor to the Public Lands Authority in statutory and legal references relative to the use and disposition of Trust properties.

(3) The Governor shall provide for the transfer of former Authority employees and fiscal assets of the Authority, not a part of the Trust, to the Division established by this chapter.

(4) All rights, interests, and liabilities of the Authority, not a part of the Trust, are assumed by the executive branch of the Pohnpei Government.

(5) The Governor may, by administrative order, further define the devolution of responsibilities, assets, and liabilities of the Public Lands Authority to the Board of Trustees and the Division of Public Land.

Source: S.L. No. 1L-155-87 §19, 7/29/87; S.L. No. 5L-14-00 §3-36, 10/1/00

Notes: 1. All rights, titles, interests, and liabilities relative to the management and disposition of properties in the Pohnpei Public Lands Trust were originally created in D.L. No. 4L-69-76, 1/1/77. 2. S.L. No. 1L-155-87 §20 severability provision has been omitted.

Extended legislative history: D.L. No. 4L-69-76 established the Public Lands Authority. D.L. No. 4L-69-76 §3 was amended by D.L. No. 4L-93-77 §1, 5/13/77 and D.L. No. 4L-136-78 §12, 3/27/78; D.L. No. 4L-69-76 §5 was amended by D.L. No. 4L-93-77 §2, 5/13/77; D.L. No. 4L-69-76 §8 was amended by D.L. No. 4L-93-77 §3, 5/13/77; D.L. No. 4L-69-76 §9 was amended by D.L. No. 4L-93-77 §4, 5/13/77, S.L. No. 2L-10-80 §1, 6/28/80, and S.L. No. 1L-71-86 §4-4, 1/1/86; D.L. No. 4L-69-76 §10 was amended by S.L. No. 2L-57-81 §31(4), 5/18/81, S.L. No. 2L-173-83 §7(5), 4/22/83, and S.L. No. 2L-177-83 §11, 5/5/83; D.L. No. 4L-69-76 §11(1) was amended by D.L. No. 4L-93-77 §5, 5/13/77; D.L. No. 4L-69-76 §16 was amended by D.L. No. 4L-93-77 §6, 5/13/77, and D.L. No. 4L-136-78 §29, 3/27/78; D.L. No. 4L-69-76 §17 was amended by D.L. No. 4L-136-78 §30, 3/27/78; D.L. No. 4L-69-76 §18 was amended by S.L. No. 2L-73-81 §1, 6/30/81; D.L. No. 4L-69-76 §19 was amended by D.L.

No. 4L-93-77 §7, 5/13/77; D.L. No. 4L-69-76 §20 was amended by D.L. No. 4L-93-77 §8, 5/13/77; D.L. No. 4L-69-76 §23 was amended by S.L. No. 2L-104-81 §1, 12/2/81. S.L. No. 1L-155-87 repeals D.L. No. 4L-69-76.

PUBLIC LANDS

CHAPTER 2 LEASE AND USE AGREEMENTS

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PART A GENERAL PROVISIONS

§2-101. Leases and land use agreements on public trust lands. — The Public Lands Trust Board of Trustees, hereinafter referred to as “Board,” is empowered and authorized to execute, upon approval of the Governor following consultation with the local government of the jurisdiction wherein the land is located, and after a determination of interests in the land by the Court of Land Tenure, leases and other use agreements in regard to public lands held in trust by the Board and designated as available for lease or use by Pohnpei law to citizens of the Federated States of Micronesia and by corporations wholly owned by said citizens and to corporations and businesses holding valid foreign investment permits in accordance with and subject to the following provisions of this part:

(1) *General authority of the Board.* Except as otherwise provided by this part or unless otherwise specified in a statute prescribing a specific use of public lands, no lease or use agreement may be executed under this part for a period of more than 25 years, including any options for renewal or extension thereof.

(2) *Development leases.* Notwithstanding the term restrictions of Subsection (1) of this section, the Board is authorized to issue development leases of interests in public land designated as available for lease pursuant to this section, to qualified lessees for such extended terms as are authorized under the Development Leasehold Act, Title 41 Chapter 5, as amended or superseded by Pohnpei Law.

(3) *Foreign investment permit holders.* In addition to the restrictions and limitations on the authority of the Board stated in Subsections (1) and (2) of this section, the Board may only issue a lease or use agreement to a corporation or business holding a foreign investment permit for property directly related to the conduct of the business authorized by the permit and may not extend the lease term beyond the period for which the corporation or business is authorized to do business in Pohnpei; PROVIDED that the Board shall give priority consideration to applications rendering the greatest benefit to beneficiaries of the Public Lands Trust

(4) *Procedural requirements.* Lease and use agreements issued under this part shall be granted in accordance with policies of the Board established by regulations issued by the Board in accordance

with the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded by Pohnpei law; PROVIDED that such regulations are consistent with this part and other laws of Pohnpei; PROVIDED FURTHER that the regulations shall adequately provide for, but need not be limited to:

- (a) Limitations and restrictions on the authority of the Board to execute leases and land use agreements;
- (b) Reservation to the public trust of the rights to minerals and exhaustible resources, rights of way and public easements, and other uses in the public interest which the Board shall prescribe;
- (c) Required advertising of lands as available for leasing, unless public notice is otherwise prescribed by statute;
- (d) Forms and procedures for applying for leases and use agreements and the awarding of the same;
- (e) Submission of the decision of the Board as to proposed recipients of leases and use agreements under this part to the local government of the jurisdiction wherein the affected land is located at least 30 days prior to its submission to the Governor for action, which submission shall contain a complete record of the Board as to the selection process, setting forth the reasons given for each potential recipient so selected;
- (f) Recording of the time and manner of consultation of the Governor with the local government prior to his taking any action on the lease or use agreement so submitted;
- (g) Submission of the decision of the Board as to proposed recipients of leases and use agreements under this part to the Court of Land Tenure for adjudication of interests in the land;
- (h) Standard categories and forms of lease and use agreements;
- (i) Requirements of options for extensions;
- (j) Recording of each lease and use agreement executed under this part with the Clerk of the Pohnpei Supreme Court, attaching thereto all written records of the Board and written comments of the local governments and Governor related thereto;
- (k) Forfeiture; and
- (l) Termination of agreements.

(5) *Format of leases and use agreements.* Regulations of the Board concerning the format of lease and use agreements shall adequately provide for, but need not be limited to, the following:

- (a) Lease and use agreements shall be on sixty (60) pound white paper 14" in length and 17" in width and shall be folded to form an 8 ½" by 14" size paper with the English version on one side and the Pohnpeian version on the other side;
- (b) Lease and use agreements shall clearly identify in plain language the name of the document;
- (c) Lease and use agreements shall state the law or other source of authority designating the land as available for lease or use;
- (d) Lease and use agreements shall contain the name and signature of the person leasing or using the land and such person's residency;
- (e) Lease and use agreements shall contain a verification that the person leasing or using the land qualifies to lease or use public lands;
- (f) Lease and use agreements shall state the municipality and village where the real property is located;
- (g) Lease and use agreements shall contain a description of the real property subject to the lease or use agreement;
- (h) Lease and use agreements shall contain a reservation to the public trust of the rights to minerals and exhaustible resources, rights of way and public easements, and other uses in the public interest which the Board shall prescribe; PROVIDED that the failure of such reservations to be included in any lease or use agreement shall not be admissible in evidence

against the public trust or against the government to deny the existence or enforceability of such reservations;

(i) Lease and use agreements shall contain any reservations as may be required by law; PROVIDED that the failure of such reservations to be included in any lease or use agreement shall not be admissible in evidence against the public trust or against the government to deny the existence or enforceability of such reservations;

(j) Lease and use agreements shall contain the name and signature of the Governor;

(k) Lease and use agreements shall contain the name and signature of an authorized Member of the Board of Trustees of the Pohnpei Public Lands Trust;

(l) Lease and use agreements shall contain the name of the Principal Judge, Court of Land Tenure; and

(m) Lease and use agreements shall contain the name and signature of the Attorney General or the designee of the Attorney General along with a statement that the lease or use agreement has been reviewed for legal compliance and sufficiency of form.

Source: D.L. No. 4L-153-78 §1, 9/14/78; S.L. No. 6L-102-07 §2, 7/31/07

Note: S.L. No. 4L-21-96 §21, 10/25/96 repealed §1 of D.L. No. 4L-153-78 and inserted a new §1.

Extended legislative history: D.L. No. 4L-153-78 §1, 9/14/78; S.L. No. 2L-41-80 §1, 11/12/80; §1(3) was amended by S.L. No. 2L-51-81 §1, 3/17/81; S.L. No. 2L-135-82 §1, 10/7/82; S.L. No. 1L-32-85 §1, 7/30/85 amended §1 and inserted new subsections (7) – (9); S.L. No. 3L-97-95 §19, 7/18/95; S.L. No. 4L-21-96 §21, 10/25/96 repealed §1 and inserted a new §1.

§2-102. Advertisement; exemption. No lease or use agreement in excess of 120 days nor the renewal or re-execution of any lease or use agreement may be executed by the Board without prior advertisement in the manner prescribed by Part 9 of the Trust Territory Regulation No. 72-9, as may be revised or amended by subsequent regulation; PROVIDED, HOWEVER, that the Board may, in the interest of justice, individually waive the advertisement requirements herein stated, upon a finding that a lease or use agreement should be issued to a particular party or parties in order to remedy a past wrong or wrongs in urban residential leasing or action by the Trust Territory Government, the former Public Lands Authority or by the Board to such party or parties, or predecessors thereof in interest; PROVIDED FURTHER that the Board shall waive the requirement for advertisement in the issuance of leases under this title of the Code when authorized by state law.

Source: D.L. No. 4L-153-78 §2(5), 9/14/78; S.L. No. 2L-41-80 §2(5), 11/12/80; S.L. No. 2L-51-81 §2, 3/17/81; S.L. No. 7L-39-09 §2, 7/30/09; S.L. No. 7L-62-10 §4, 4/8/10

Note: The Public Lands Trust Board of Trustees has been added to this section insofar as the Public Lands Authority has been superseded by the Public Lands Trust Board of Trustees. See S.L. No. 1L-155-87, as amended, and codified as 42 PC Chapter 1.

§2-103. Transition. — Until such time as the Board issues regulations pursuant to §2-101, the Board shall exercise its power under this part in accordance with Public Regulation No. 72-9, of the Trust Territory Government, amended, except to the extent that said regulation is inconsistent with this part and the other laws of the state; PROVIDED that in operating under said regulation:

(1) The Public Lands Trust Board of Trustees shall be inserted in lieu of the District Administrator;

(2) The Public Lands Trust Board of Trustees shall be inserted in lieu of the Trust Territory Government;

(3) All fees and rentals collected by the Board shall be deposited in the Pohnpei Public Lands Trust Fund; and

(4) The Attorney General and the Director of the Department of Land and Natural Resources shall be inserted in lieu of the Trust Territory Attorney General and the Trust Territory Chief of Lands and Surveys, respectively.

(5) No lease or use agreement in excess of 120 days may be executed by the Board without prior

advertisement in the manner prescribed by Part (a) of the Trust Territory Regulation No. 72-9.

Source: D.L. No. 4L-153-78 §2(1) – (4), 9/14/78; S.L. No. 2L-41-80 §2(1) – (4), 11/12/80

PART B SPECIAL PROVISIONS

§2-104. Subleases of residential leases restricted. — Commencing on the effective date of this part [September 18, 2000] and except as provided in §§2-105 and 2-106, no residential lease issued by the Pohnpei Public Lands Trust Board of Trustees, or any public predecessor in interest thereto, may be subleased or assigned to any person who is not an immediate family member of the initial lessee of said property; PROVIDED that the Public Lands Trust Board of Trustees may, in the interest of equity, allow for a person who is an immediate family member of a person who was granted a sublease or assignment of the initial lease by the Public Lands Trust Board of Trustees, or public predecessor in interest thereto, to obtain a further sublease or assignment of said lease in his or her name from the sublessee or assignee. For the purpose of this section:

(1) “Immediate family member” shall mean and be limited to the spouse, to the children and their issue, to the brothers and sisters of the full and half blood, and to the parents of the person. An adopted person shall be deemed a family member of both the natural and adoptive family.

(2) “Initial lessee” shall mean the first lessee in the chain of title extending back to the most recent occasion when the property was not subject to a lease.

Source: S.L. No. 5L-17-00 §1, 9/18/00

§2-105. Effect on mortgages and deeds of trust. — §2-104 shall not restrict the issuance of a mortgage or deed of trust pursuant to state law on the leasehold property specified in §2-104 for the purpose of improving said property for the benefit of the holders of the interests in said leasehold, nor of the sale of the leasehold estate pursuant to foreclosure under said state laws to persons who are not of the immediate family.

Source: S.L. No. 5L-17-00 §2, 9/18/00

§2-106. Tenancies of five years or less. — §2-104 shall not restrict the establishment of landlord-tenant relationships with respect to the lease of the leasehold property or portion thereof of five years or less, inclusive of any options to extend or renew said tenancy, between the initial lessee, or successor in interest, and any person(s) who are not of the immediate family. For purposes of this part, an assignment or sublease of five years or less, inclusive of options to extend or renew the agreement, shall be deemed a tenancy.

Source: S.L. No. 5L-17-00 §3, 9/18/00

§2-107. Regulations. — The Pohnpei Public Lands Trust Board of Trustees may issue regulations for the proper enforcement of this part; PROVIDED, HOWEVER, that any sublease, assignment, rental agreement or other conveyance subject to this part, but not in compliance therewith, shall be null and void, and of no effect.

Source: S.L. No. 5L-17-00 §4, 9/18/00

§2-108. Format of deed of conveyance. — Deeds conveying any interest in the public lands trust shall be in such format as the Pohnpei Public Lands Trust Board of Trustees shall establish by regulations issued in accordance with the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded by Pohnpei law; PROVIDED that such regulations are consistent with the laws of Pohnpei; PROVIDED FURTHER that the regulations shall adequately provide for, but need not be limited to, the following:

- (a) Deeds of conveyance shall be on sixty (60) pound white paper 14” in length and 17” in width and shall be folded to form an 8 ½ by 14” size paper with the English version on one side and the Pohnpeian version on the other side;
- (b) Deeds of conveyance shall clearly identify in plain language the name of the document;
- (c) Deeds of conveyance shall state the law or other source of authority authorizing conveyance of the real property;
- (d) Deeds of conveyance shall contain the name and signature of the transferee; PROVIDED that if the transferee is receiving the real property as the heir, devisee, assignee, grantee, or designee of another person, the deed of conveyance shall also contain the name of such other person;
- (e) Deeds of conveyance shall contain a verification that the transferee meets the requirements of Article 3, Section 1 and Article 12, Section 2 of the Pohnpei Constitution; PROVIDED that if the transferee is receiving the real property as the heir, devisee, assignee, grantee, or designee of another person, the deed of conveyance shall also contain a verification that such other person meets the requirements of Article 3, Section 1 and Article 12, Section 2 of the Pohnpei Constitution;
- (f) Deeds of conveyance shall contain a verification that the Court of Land Tenure has adjudicated all claims of right, title, or interest in the real property;
- (g) Deeds of conveyance shall state the municipality and village where the real property is located;
- (h) Deeds of conveyance shall contain such reservations of interest and restrictions on alienation as may be required by law; PROVIDED that the failure of such reservations or restrictions to be included in any deed of conveyance shall not be admissible in evidence against the public trust or against the government to deny the existence or enforceability of such reservations or restrictions;
- (i) Deeds of conveyance shall contain a description of the real property;
- (j) Deeds of conveyance shall contain the name and signature of the Attorney General or the designee of the Attorney General along with a statement that the deed of conveyance has been reviewed for legal compliance and sufficiency of form; and
- (k) Deeds of conveyance shall contain the name and signature of an authorized Member of the Board of Trustees of the Pohnpei Public Lands Trust.

Source: S.L. No. 6L-102-07 §3, 7/31/07

PART C RESIDENTIAL SHORELINES

§2-110. Short title. — This part of Chapter 2 of this title is known and may be cited as the “Residential Shoreline Leasehold Act of 2009.”

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-111. Definitions. — As used in this part, the following words and phrases shall have the following meanings:

(1) “Natural shoreline” means a shoreline existing in nature without any extension or modification by artificial means.

(2) “Residence” means the actual physical structure or structures in which an individual or family maintains his or their own primary residence; PROVIDED that for purposes of this part, “residence” shall include land immediately adjacent to a physical structure that has been maintained and can be reasonably characterized as a residential “yard” or is related to reasonable expansions or reconstruction of the existing residential structures.

(3) “Residential property” means such real property in Pohnpei State that is used primarily as an individual or family residence; PROVIDED that for purposes of this part, “residential property” shall include lands within the Pohnpei Public Lands Trust that meet said description and that have been leased by the Public Lands Trust Board of Trustees, or a predecessor thereof, to natural persons who are citizens and pweldaks of Pohnpei and who are eligible to receive title thereto pursuant to Chapter 3, Chapter 4 or Chapter 4A of this title.

(4) “Residential shoreline” means the natural shoreline of a residential property.

(5) “Shoreline” means the land immediately above and adjacent to the natural high-water mark of the lagoons and salt water estuaries of Pohnpei State.

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-112. Designation. — Pursuant to 42 PC 2-101, submerged public trust lands to a distance of not more than 150 feet extending seaward from a residential shoreline that have been filled for the purpose of constructing all or a portion of a residence thereon prior to December 31, 2008 are hereby designated as available for residential lease.

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-113. Eligibility to receive a residential leasehold. — To be eligible to receive a residential leasehold on filled lands pursuant to this part, the applicant must:

(1) Be a citizen and pweldak of Pohnpei; and

(2) Be the title holder of the shoreline property or own the leasehold estate of public trust lands for which he is entitled to a conveyance thereto as described in 42 PC 2-111(3).

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-114. Application for a residential leasehold. — An individual seeking the issuance of a residential leasehold for filled land pursuant to this part shall submit an application therefor to the Chief of the Division of Public Land of the Department of Land and Natural Resources.

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-115. Land survey; issuance of certificate of eligibility. — Upon the receipt of an application pursuant to 42 PC 2-114, the Chief of the Division of Public Land shall cause the filled land for which the application has been submitted to be surveyed, and upon satisfaction that the applicant and the filled land meet the criteria of this part, the Chief shall issue a certificate of eligibility for a residential leasehold to the applicant. Said certificate shall specify the individual to whom the lease may be

issued and the description of the filled land that may be leased. The Chief may charge a reasonable fee to be paid by the applicant for the survey, certificate and other Division expenses. Such payments shall be deposited in the Pohnpei Public Lands Trust Fund established by 42 PC 1-116.

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-116. Notice of intent to lease. — Upon the receipt of an application for a residential lease pursuant to this part, the Chief of the Division of Public Land shall cause a public notice to be posted for a period of one month on a prominent place on the affected residential land and at the court house of the local jurisdiction where the land is located. Said notice shall indicate the name of the applicant and a description of the filled land for which a residential lease is being sought. Any person objecting to the proposed lease may submit a written objection to the Chief who shall, with due diligence, consider the merits thereof and take appropriate action.

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-117. Report to the Board of Trustees; issuance of a residential lease. — Upon completion of the required time of posting, the Chief of the Division of Public Land shall submit a report of his findings and recommendations to the Board of Trustees of the Pohnpei Public Lands Trust. The Board, upon its own determination that the application and the procedures required by this part have been successfully met, shall thereafter issue a residential lease to the applicant. A leasehold action for which public posting has been successfully completed pursuant to this section shall be exempt from the advertisement requirements of 42 PC 2-102.

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-118. Administrative appeals. — The findings and recommendations of the Chief of the Division of Public Land of the Department of Land and Natural Resources or a decision of the Board of Trustees of the Public Lands Trust may be appealed to the Pohnpei Supreme Court pursuant to Chapter 3 of Title 8 of this Code.

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-119. Eligibility to apply for title to leased lands. — A person to which a residential leasehold has been issued for filled land pursuant to this part shall be eligible to apply for a transfer of title thereto for residential purposes in the manner prescribed by Chapter 4A of this title; PROVIDED that he meets the criteria of said chapter and subject to the procedures, reservations and restrictions of said chapter.

Source: S.L. No. 7L-39-09 §1, 7/30/09

§2-120. Regulations. — The Chief of the Division of Public Land of the Department of Land and Natural Resources and the Board of Trustees of the Pohnpei Public Lands Trust may establish regulations for their respective responsibilities in the proper administration of this part. Such regulations shall be issued in compliance with Title 8 Chapter 1 of this Code, relating to administrative procedures. Such regulations shall, upon written approval of the Governor, carry the force and effect of law.

Source: S.L. No. 7L-39-09 §1, 7/30/09

PUBLIC LANDS

CHAPTER 3
JAPANESE AND TRUST TERRITORY GOVERNMENT
LEASEHOLD AND MAND HOMESTEAD CONVEYANCE

Section

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§3-101. Short title. —

(1) This chapter is known and may be cited as the “Public Trust Lands Distribution Act of 1980.”

Source: S.L. No. 2L-43-80 §1, 11/12/80

(2) The 2005 amendments revising this chapter shall be known and may be cited as the “Mand Public Trust Lands Distribution Act of 2005.”

Source: S.L. No. 6L-62-06 §1, 1/19/06

§3-102. Purpose. —

(1) The purpose of this chapter is to distribute lands held in trust for the people of Pohnpei to beneficiaries of the trust who have entered upon, developed, and possessed such lands for agricultural purposes pursuant to leasehold or other use agreements issued for that purpose by the government of Japan or the Trust Territory Government.

Source: S.L. No. 2L-43-80 §2, 11/12/80

(2) The purpose of the Mand Public Trust Lands Distribution amendments revising this chapter are to harmonize the distribution of lands that were initially made available to sixty residents from the atoll of Pingelap who resettled in the area on Pohnpei Island known as Mand under a homestead program which was commenced by the Trust Territory Government in the year 1954 in the form of a two-part package of separate agricultural and attendant village lots with the program providing for the deeding of agricultural leased lands under the Public Trust Lands Distribution Act, Title 42 Chapter 3.

Source: S.L. No. 6L-62-06 §2, 1/19/06

Cross reference: See 42 PC 3-103(6)

§3-103. Definitions. — As used in this chapter, unless the context otherwise requires, the term:

(1) “Entryman” means any person who is a qualifying beneficiary of the Pohnpei Public Lands Trust as defined by this chapter, who has received a written leasehold interest or use right in public land for a period of not less than one year or to whom a written application specifically relating to such leasing of land has been issued at any time prior to January 1, 1958, coupled with authorized permission to enter the property, for agriculture use or development granted by either the Government of Japan or the Trust Territory Government, inclusive of the United States Naval Administration, for the principal benefit of the entryman. Entryman includes any qualifying beneficiary of the Pohnpei Public Lands Trust who is the heir or devisee of such a person as determined by the law of wills, or by the laws of intestate succession of Pohnpei on the effective date of this chapter [*November 12, 1980*], regardless of the date of death of the original entryman; PROVIDED, HOWEVER, that if a successor of an original entryman inherited title to property of the original entryman to the exclusion of his

siblings then the share of that successor in title granted under this chapter shall be reduced proportionately. The rights of such successors to original entrymen are hereby recognized notwithstanding any provisions of the leaseholds or use permits providing for cancellation of the leasehold or use permit on the death of the holder thereof. "Entryman" means the qualifying Trust beneficiary assignee of an entryman who has, with the written or oral permission of said entryman prior to January 1, 1980, and notwithstanding the restrictive language of the initial government lease or use agreement entered and possessed the land in the manner prescribed by this chapter. "Entryman" does not include a sublessee of the entryman who has possessed the land for the principal benefit of the entryman or his immediate family or the issue thereof, inclusive of adopted children. The burden of proof that a person is an assignee of the entryman and not a sublessee shall be upon the person or his successors so asserting such status. Entry, possession, and development of a sublessee shall for purposes of this chapter be deemed the activity of the entryman granting such sublease to said person.

(2) "Qualifying Beneficiary" for purposes of this chapter means a legal resident of Pohnpei or his successor, who is a citizen and pweldak of Pohnpei within the meaning of Article 3 of the Pohnpei Constitution, who is at least 18 years of age, and who has actually resided or maintained legal residence in the state for a period of not less than fifteen years; and the beneficiary children thereof regardless of age.

(3) "Possession", for the purposes of this chapter, means actual entry and continuous use of the land by the entryman, or his successors from the commencement of the lease or use interest through the effective date of this chapter [*November 12, 1980*]; PROVIDED that interruptions in possession for a cumulative period of more than twenty-five percent of the possessory period shall not be excused except upon a showing of good cause.

(4) "Development", for the purposes of this chapter, means the presence on the effective date of this chapter [*November 12, 1980*] of not less than 60 utility trees not less than two years old per hectare, which includes coconut palm, breadfruit, citrus, mango, coffee, cacao or other permanent food-bearing trees, or the substantial equivalent thereof in short-term, food-bearing crops in amounts to be determined by the Board with evidence that such seasonal plantings have been maintained for at least two years immediately preceding the effective date of this chapter.

(5) "Authority" or "Board" for the purposes of this chapter, shall refer to the Public Lands Trust Board of Trustees, formerly known as the Ponape State Public Lands Authority.

(6) "Mand Public Trust Lands" means the public trust lands within Tract No. 74293, as shown on Manuscript Sheet No. 127, located in Mand, Madolenihmw Municipality, which were initially homesteaded to sixty Pingelapese resettlers through the resettlement homestead program commenced by the Trust Territory Government on or about the year 1954.

(7) "Qualifying Mand Public Trust Lands entryman" means a person whose name is listed among the sixty resettlers from Pingelap under the homestead program commenced by the Trust Territory Government on or about the year 1954 and who is a qualifying beneficiary of the Pohnpei Public Lands Trust, as defined by this chapter. Qualifying Mand Public Trust Lands entryman includes any qualifying beneficiary of Pohnpei Public Lands Trust land who is the heir or devisee of such a person as determined by the law of wills, or by the laws of intestate succession of Pohnpei on the effective date of this chapter [*November 12, 1980*], regardless of the date of death of the original qualifying Mand Public Trust Lands entryman; PROVIDED, HOWEVER, that if a successor of an original qualifying Mand Public Trust Lands entryman inherited title to property of the original qualifying Mand Public Trust Lands entryman to the exclusion of his siblings, then the share of that successor in title granted under this chapter shall be reduced proportionately. The rights of such successors to original qualifying Mand Public Trust Lands entrymen are hereby recognized notwithstanding any provisions of the leaseholds or use permits providing for cancellation of the original leasehold or use permits on the death of the holder thereof. Qualifying Mand Public Trust Lands entryman also means the qualifying Trust beneficiary assignee of a qualifying Mand Public Trust Lands entryman who has, with the written or oral permission of said entryman prior to January 1, 1980, and notwithstanding the

restrictive language of the initial government lease or use agreement entered and possessed the land in the manner prescribed by this chapter. Qualifying Mand Public Trust Lands entryman does not include a sublessee of the qualifying Mand Public Trust Lands entryman who has possessed the land for the principal benefit of the qualifying Mand Public Trust Lands entryman or his immediate family or the issue thereof, inclusive of adopted children. The burden of proof that a person is an assignee of the qualifying Mand Public Trust Lands entryman and not a sublessee shall be upon the person or his successors so asserting such status. Entry, possession, and development of a sublessee shall for purposes of this chapter be deemed the activity of the qualifying Mand Public Trust Lands entryman granting such sublease to said person.

(8) “Lease or use permit” or “leasehold interest”, solely for purposes of this chapter, means a written leasehold interest or use right in public trust land for a period of not less than one year or to whom a written application specifically relating to such leasing of land has been issued primarily for use for agricultural purposes; PROVIDED that “lease or use permit” or “leasehold” shall include homestead agreements issued for land within the area described as the Mand Public Trust Lands in Subsection (6) of this section and shall include lands that were originally homesteaded as a two-part package of separate agricultural and village lots issued under the Mand homestead program; PROVIDED FURTHER that such separate lots shall be considered as one piece of homestead land for the purpose of determining whether or not a Mand Public Trust Lands entryman or designee has complied with the requirements of this chapter.

(9) “Attendant village lot” means a lot provided for the establishment of a residence within the village of Mand in connection with a two-part lease package issued under the Mand homestead program.

(10) “Mand homestead program” means the resettlement program for the sixty resettlers from the atoll of Pingelap which was commenced by the Trust Territory Government in or about the year 1954.

Source: S.L. No. 2L-43-80 §3, 11/12/80; S.L. No. 6L-62-06 §3, 1/19/06

§3-104. Transfer of developed lands. —

(1) *Application deadlines.* Subject to the limitations provided in this chapter, any entryman in possession of lease or use property specified in this chapter, who believes that he has developed his land as defined in §3-103, may apply, on or before December 31, 2001; PROVIDED that, with respect to Mand Public Trust Lands: on or before December 31, 2007, to the Board to transfer title of the property to him or to another eligible person designated by him.

(2) *Japanese leaseholds.* An entryman holding title to no land on the effective date of this chapter [November 12, 1980] and any time thereafter prior to submission of his application shall be eligible to apply for transfer of title up to five hectares of land that the entryman or his predecessor has held under Japanese leasehold or use permit. If the entryman so holds title to land on the effective date of this chapter or acquired thereafter prior to application, but less than five hectares, he is eligible to apply for title to as much land held under Japanese leasehold or use permit or five hectares, whichever shall be less, and the amount so owned.

(3) *Navy and Trust Territory Government leaseholds.* Except as provided in Subsection (4) of this section, an entryman holding title to no land on the effective date of this chapter [November 12, 1980] or any time prior to the submission of his application shall be eligible to apply for transfer of title up to three hectares of land that the entryman or his predecessor has held under a Trust Territory Government leasehold or use permit. If the entryman so holds title to land on the effective date of this chapter or acquired thereafter prior to application, but less than three hectares, he is eligible to apply for title to as much land held under Trust Territory Government leasehold or use permit as shall be the difference between his Trust Territory Government leasehold or use permit or three hectares, whichever shall be less, and the amount so owned.

(4) *Mand Public Trust Lands homesteads.* A qualifying Mand Public Trust Lands entryman holding title to no land at any time prior to the submission of his application within the time

requirements of Subsection (1) of this Section for title to Mand Public Trust Lands shall be eligible to apply for transfer of title up to three hectares of land plus the attendant village lot that the qualifying Mand Public Trust Lands entryman or his predecessor has held under the Mand homestead program within the area identified as Mand Public Trust Lands under §3-103(6). If the qualifying Mand Public Trust Lands entryman so holds title to land on December 1, 2005 or acquired thereafter prior to application, but less than three hectares of lands plus the attendant village lot, he is eligible to apply for title to as much land held under the Mand Public Trust Lands homestead agreement as shall be the difference between his Mand homestead program properties within the Mand Public Trust Lands area or three hectares of land plus the attendant village lot, whichever shall be less, and the amount so owned; PROVIDED that notwithstanding any other provision of this subsection, a qualifying Mand Public Trust Lands entryman or designee who has already received title to a portion of the two-part package of land to which he is entitled under the provisions of this chapter or Title 42 Chapter 4, shall be eligible to apply for title to the remainder of the two-part package to the extent permitted under this subsection; PROVIDED FURTHER that no person shall be eligible to receive title to more than three hectares of land under this chapter except for the attendant village lot that was originally part of the Mand homestead program.

(5) *Designees.* Any entryman not eligible in his own name to apply for transfer of title to all or any portion of land held under Japanese, Trust Territory Government or Mand lands leasehold or use permit, or as a successor to a person who has so held public land, may designate any person who is a qualifying beneficiary, as defined in this chapter, to apply for transfer of title to such lands as he would be eligible to apply for if he were an entryman under this section; PROVIDED that no person, regardless of status, shall be eligible to receive more than five hectares of public land cumulatively determined under the provisions of this chapter.

(6) *Multiple eligible persons.* In the instance that more than one person shall be eligible to receive title to portions of land under a singular leasehold or use permit under one original entryman, title to said land shall issue to such persons as tenants in common in proportion to their entitlement thereto, which land may be partitioned in the manner prescribed by law.

(7) *Adverse claims.* In the instance in which more than one entryman shall assert adverse claims under this chapter to land or any portion thereof, title shall issue to such persons as the Court of Land Tenure shall determine in the interests of equity and justice. Receipt of title to public land under this chapter is a privilege accorded to qualifying beneficiaries of the Public Land Trust of this state. In the absence of fraud, malfeasance or abuse of discretion in the decision issued by the Court of Land Tenure pursuant to this subsection, no cause or action shall lie against the Board, the Government or any other person for the equitable distribution of such land.

Source: S.L. No. 2L-43-80 §4, 11/12/80; S.L. No. 2L-145-82 §1, 11/11/82; S.L. No. 1L-117-87 §1, 2/10/87; S.L. No. 4L-63-98 §1, 1/10/98; S.L. No. 5L-25-00 §1, 11/13/00; S.L. No. 6L-62-06 §4, 1/19/06

§3-105. Procedure for transfer of title to developed lands. —

(1) Upon an application pursuant to §3-104, the Board shall determine the eligibility of the applicant as an entryman or designee and shall inspect the land involved. Upon determination that the applicant is eligible as an entryman or designee, the Board shall issue a certificate of eligibility. Upon determination that there has been compliance with the requirement of development as defined in this chapter, the Board shall issue a certificate of compliance.

(2) Upon issuance of a certificate of compliance, the Court of Land Tenure shall, in conformity with Title 4 Chapter 6, hear and adjudicate all claims of right, title or interest in the land, and issue a determination of ownership. Upon a favorable ruling of the Court of Land Tenure, inclusive of all appeals relative thereto, the Board shall issue a quitclaim deed to the entryman or eligible designee. The quitclaim deed shall contain all reservations to the Public pursuant to §3-111.

Source: S.L. No. 2L-43-80 §5, 11/12/80

Cross reference: See 4 PC 9-104.

§3-106. Agricultural homesteading of lands in possession. —

(1) Whenever any entryman in possession of public land as defined in §3-103(3) has applied for a certificate of compliance to receive transfer of title pursuant to §3-105, and a certificate of compliance has been denied solely on the grounds of lack or insufficiency of the development of such land, said entryman or his designee shall be issued a permit to homestead such land, subject to the area limitation of Subsection (2) of this section.

(2) Any person qualifying for a permit to homestead pursuant to Subsection (1) of this section shall be issued a permit to homestead such property as he would have been eligible to receive by quitclaim deed under §3-104 if the development criteria required in issuance of the certificate of compliance under §3-105 have been met.

Source: S.L. No. 2L-43-80 §6, 11/12/80

§3-107. Agricultural homestead permit requirements. —

(1) The homesteader shall commence the improvement of the land in accordance with requirements established by the Board within 60 days after receipt of the homestead permit.

(2) The Board shall prescribe requirements of development no less stringent than those set forth in standard Form 8-6 issued by the Trust Territory Government in Pohnpei State for a permit to homestead.

(3) The homestead permit shall provide for a three-year period of entry and development prior to the issuance of a deed of conveyance.

Source: S.L. No. 2L-43-80 §7, 11/12/80

§3-108. Inspection of homestead. —

(1) The Board shall inspect each homestead site once yearly for the first three years of entry following issuance of the homestead permit. If the inspection reveals failure of substantial compliance with the requirements of the homestead permit, a notice of noncompliance shall be issued to the homesteader in accordance with Subsection (4) of this section.

(2) The Board may waive the requirement of annual inspection and any fees imposed upon the homesteader incident thereto upon a showing by the homesteader of sufficient receipts for the commercial sale of agricultural produce derived from the homestead pursuant to an incentives program that the Board may, in its discretion, establish.

(3) Notwithstanding Subsection (2) of this section, a final inspection of each homestead site shall be conducted not later than three years after the issuance of the permit to homestead, and a certificate of compliance or a notice of noncompliance shall be issued to the homesteader not later than 30 days after the inspection. In the event of the issuance of a notice of noncompliance, Subsection (4) of this section shall take effect. In the event of issuance of a certificate of compliance, the Board shall issue a quitclaim deed of conveyance to the homesteader not less than five years after issuance of the permit to homestead.

(4) When the Board has determined that a homesteader is not in substantial compliance with the requirements of this chapter or the homestead permit issued to him, the Board shall notify the homesteader of its determination of noncompliance and allow the homesteader 30 days to comply. If the Board determines that the homesteader has failed to comply, it shall hold a hearing to determine if the homesteader permit should be revoked. The Board shall give the homesteader at least 30 days prior written notice of the hearing. Upon hearing the matter, the Board shall revoke the homestead permit if it is determined that there has been no substantial compliance.

Source: S.L. No. 2L-43-80 §8, 11/12/80

§3-109. Rights in homestead sites. —

(1) A homesteader whose homestead site, or any portion thereof, shall be taken for public purposes shall be entitled to compensation for losses of or any damages to crops, buildings, and other

improvements. In the instance the taking shall be such as to extinguish the homestead, the homesteader shall be given a new homestead site in an area designated by law or resolution of the Legislature for such purpose.

(2) No homesteader shall have the right to sell or transfer his homestead at any time prior to the issuance of a certificate of compliance pursuant to §3-108(3).

(3) A homesteader may lease any portion of his homestead land to a public entity for public purposes.

(4) A homesteader may designate on his homestead permit such person or persons eligible to succeed to all his rights in the homestead in the event that he should die before the issuance of the deed of conveyance. Said designation may be amended by the homesteader at any time. If no designation made by the homesteader is effective at the time of his death, the rights under the homestead permit shall pass to his heirs in accordance with Pohnpei laws of inheritance; PROVIDED, that any heir ineligible to homestead shall not share in the rights to homestead; PROVIDED FURTHER, that an heir otherwise eligible, who is under the age of 18 shall be eligible to inherit homestead rights.

Source: S.L. No. 2L-43-80 §9, 11/12/80

§3-110. Restriction of alienation. — An entryman, homesteader, designee, heir or devisee who receives title to land pursuant to this chapter may not sell or transfer title, or contract for the sale or transfer of title, or lease or otherwise encumber said land for a period of 15 years following the issuance of the deed of conveyance except:

(1) For public or for charitable purposes approved by the Board;

(2) To members of the immediate family of the transferor meaning, for the purposes of this chapter, the spouse, children, grandchildren, parents, and siblings, whether adopted or natural;

(3) By foreclosure pursuant to applicable mortgage law or other similar law; PROVIDED that a mortgage instrument or other similar instrument which is found by a court of competent jurisdiction to have been executed in bad faith as a means to circumvent the restrictions on alienation set forth in this section is void;

(4) By devise or inheritance; or

(5) By lease or use agreement the terms of which inclusive of renewal or options do not exceed a period of 50 years, or by any lease agreement to a public entity for public purposes.

Source: S.L. No. 2L-43-80 §10, 11/12/80

§3-111. Reservations in grants. — There shall be reserved to the public in every grant of land pursuant to this chapter:

(1) All existing public uses, roads and easements;

(2) A public easement fifty (50) feet in width on either bank of any river or stream passing through or bounding upon the property which has an average width of five (5) feet or more at those points at which it bounds or passes through the property; PROVIDED that with respect to real property situated within the Mand Public Trust Lands as identified in §3-103(6), prior to the issuances of deed of conveyance to each and every entryman, the set back of 50 feet as river banks reserve must be clear of any built structure and shall be clear of all toilets, septic tanks, drain fields, piggeries, and other livestock; PROVIDED FURTHER that permanent structures other than pig pens, toilets, drain fields and septic tanks greater than 30 feet but less than 50 feet from the river banks may remain standing but no new construction within the 50 foot setback shall be permitted after issuance of title. Noncompliance by one individual may be deemed a violation by all and shall cause the delay or withholding of the Certificate of Title to all;

(3) The right to take without compensation for land, additional lands for public purposes for the principal benefit of the state or local governmental entity; PROVIDED that such additional land and the land covered by existing public uses does not exceed one-tenth of the total land area of the

property granted. This right shall extinguish unless exercised within fifteen (15) years of issuance of the deed of conveyance;

(4) A person whose property for which title was granted pursuant to this chapter, or any portion thereof, is taken for public purposes following the effective date of this chapter [*November 12, 1980*] shall, notwithstanding Subsections (2) and (3) of this section, be entitled to such remedies as are available to an owner in fee simple for loss or damages to crops, buildings and other improvements; and

(5) Every grant of Mand Public Trust Attendant Village Lot lands shall contain a restriction that such lands shall be used strictly for residential purposes and that burial sites, piggeries or the keeping of livestock other than dogs and cats shall be prohibited unless explicitly authorized by statute.

Source: S.L. No. 2L-43-80 §11, 11/12/80; S.L. No. 6L-62-06 §5, 1/19/06

Note: S.L. No. 2L-43-80 §12 has been superseded by S.L. No. 3L-99-95 §17-19, 7/20/95.

PUBLIC LANDS

CHAPTER 4 RESIDENTIAL LEASEHOLD CONVEYANCE

Section

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§4-101. Short title. — This chapter is known and may be cited as the “Public Trust Lands Residential Leasehold Conveyance Act of 1999.”

Source: S.L. No. 4L-128-99 §1, 10/15/99

§4-102. Purpose. — The Pohnpei Government recognizes that, presently, the majority of residential properties in this state are publicly owned and held. Former leasehold programs for residential purposes have provided for a distribution for the use of these lands, but uncertainties inherent in leasehold programs have discouraged lessees from the private investment necessary to develop long-term capital improvements to these properties. In recognition of the impracticable and monumental task confronting the people in this state of constructing and maintaining permanent structures on publicly owned residential properties with surety of their investment, this statute has been enacted.

Source: S.L. No. 4L-128-99 §2, 10/15/99

§4-103. Legislative intent. — It is the intent of this chapter to pass such title and interest held by the Public Lands Trust Board of Trustees to residential lessees on eligible properties in the interest of the social well-being of the people of this state.

Source: S.L. No. 4L-128-99 §3, 10/15/99

§4-104. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

- (1) “Board of Trustees” or “Board” means the Public Lands Trust Board of Trustees.
- (2) “Lease agreement” means a written document that gives rise to the relationship of landlord and tenant. For purposes of this chapter, “lease agreement” does not include lease agreements of less than three years, nor does it include agreements for the use of government-provided housing to government employees as an incident to such employment, or for the permissive use by others of such government housing.
- (3) “Lessee” means the tenant of leased properties in direct relationship with the Board. “Lessee” means the assignees of an original lessee to a lease agreement where permitted under the terms of the lease, or when determined in the discretion of the Board to be in the interests of equity.
- (4) “Residential lease agreement” means a lease agreement by which the lessee leases the subject leasehold as a place of residence.

Source: S.L. No. 4L-128-99 §4, 10/15/99

§4-105. Right to transfer of lessee in compliance. — Subject to the reservations and limitations provided in this chapter, any lessee who believes he has complied with §4-107, at any time within three years following the effective date of this chapter [*effective date is October 15, 1999*] or within three years following commencement of his lease from the Board, whichever is later, may apply to the Board to transfer to said lessee, by quit-claim title, such interest held by the Board in the leasehold

property; PROVIDED that such application must be made prior to the effective date of Chapter 4A of Title 42 of the Pohnpei Code. Any application for transfer of Public Lands Trust lands residential leasehold property made following the effective date of Chapter 4A of Title 42 shall be deemed to have been made pursuant to Chapter 4A and not Chapter 4.

Source: S.L. No. 4L-128-99 §5, 10/15/99; S.L. No. 6L-116-08 §2, 1/25/08

§4-106. Residential property eligible for transfer. — Any public land held in trust by the Board designated or acknowledged for lease for residential purposes by the Board pursuant to the authority of state law or Legislature resolution, shall be deemed an “eligible residential property” for which title may transfer hereunder.

Source: S.L. No. 4L-128-99 §6, 10/15/99

§4-107. Lessees eligible to receive title to a residential property. – Any person who is a citizen and lawful resident and pweldak of this state, as defined by state laws and the Pohnpei Constitution, and who holds a valid residential lease agreement to an eligible residential property, and who is in compliance with all provisions of the applicable residential lease agreement, except the payment of rent and other charges, shall be entitled to receive title to that leasehold; PROVIDED, HOWEVER, that such person must actually use the subject leasehold as such person’s place of residence for a period of not less than twelve (12) months prior to submitting the application referred to in §4-108(1); PROVIDED FURTHER, that any lessee is entitled to only one conveyance under this chapter; PROVIDED further that any current balance of rent and other charges due to the Public Lands Trust Board of Trustees shall be the subject of a separate agreement.

Source: S.L. No. 4L-128-99 §7, 10/15/99; S.L. No. 5L-108-03 §1, 9/5/03

§4-108. Procedural requirements. —

(1) Upon application on such forms and pursuant to such terms as the Board shall prescribe pursuant to this chapter, the Board shall determine the eligibility of the applicant as a lessee, and compliance with this chapter. Upon determination that there is eligibility and has been compliance, the Board shall issue a certificate of compliance.

(2) Upon the issuance of a certificate of compliance, the Board shall file a quit-title action in the Court of Land Tenure, which Court shall hear and adjudicate all claims of rights, title or interest in the property. Upon the Court’s determination of ownership in the Board, with no valid adverse interests, and after any appeal procedure, the Court shall issue a certificate of title under 4 PC 6-115. Immediately thereafter, the Board shall transfer its title to the eligible lessee pursuant to 4 PC 6-117, and subject to chapter.

Source: S.L. No. 4L-128-99 §8, 10/15/99

§4-109. Reservations. — There shall be reserved to the public in every transfer of title pursuant to this chapter:

- (1) All existing public roads and easements and other public uses;
- (2) A public easement of ten feet in width on either bank of a watercourse passing through or bounding upon the property, which watercourse has an average width of two feet or more at those points at which it bounds or passes through the property; and
- (3) The right to take for public purposes additional land or any interest therein, without compensation for land or interest; PROVIDED that such additional land so affected and the land covered by existing public roads and easements and other public uses does not exceed one-tenth of the total area of the land granted. The right shall be extinguished unless exercised within ten years of the issuance of the deed of conveyance hereunder.

Source: S.L. No. 4L-128-99 §9, 10/15/99

§4-110. Restriction on alienation. — In addition to all other prohibitions and restrictions prescribed by law or the Constitution, no title recipient or successor in interest of real property conveyed under the provisions of this chapter may sell or otherwise transfer for valuable consideration, for a period of five years following the issuance of the deed of conveyance, any interest in the real property so conveyed; except that:

(1) Leasehold interests in the subject property may be transferred for a term or terms that do not exceed a cumulative total of 25 years, inclusive of all options to renew or extend the term of the lease;

(2) Interests in the subject property may be returned to the public lands trust or transferred to a governmental entity for public purposes;

(3) Interests in the subject property may be transferred by gift or inheritance between members of the immediate family of the recipient of title to said property from the Board of Trustees under this chapter;

(4) Interests in the subject property may be mortgaged or transferred through deed of trust by the title holder of the interest in the property, but solely to secure the repayment of loans for improvements to the property issued by government and private lending institutions authorized to make secured loans within the state; and

(5) Interests in the subject property may be transferred, in situations not otherwise provided above, when authorized by law and consented to in writing by the Board of Trustees in its sole discretion in the interests of public welfare; PROVIDED that the authorization of the Board must be recorded with the Court of Land Tenure prior to the establishment of any legal commitment to transfer such interests under the provisions of this subsection.

Source: S.L. No. 4L-128-99 §10, 10/15/99

§4-111. Rules and regulations. – The Board shall establish rules and regulations for the proper administration of this chapter. Such rules and regulations shall be issued in compliance with the Administrative Procedures Act, Title 8 Chapter 1, relating to administrative procedures, as amended or superseded by state law; PROVIDED that public notice thereunder shall include at least seven announcements relative to the proposed rules and regulations to be made on the public broadcasting station and posting of the same at local government buildings in the municipalities of Kolonia, Kitti, Nett, Sokehs, Madolenihmw and U. The Board shall provide for publication and reasonable distribution of all rules and regulations issued hereunder. Such rules and regulations shall provide, among other things, for:

(1) Standard forms necessary for the administration of this chapter;

(2) Further definition of terms consistent herewith and required for the proper administration of this chapter;

(3) Procedural elements of application and of review and processing of applications, and issuance of certificates; and

(4) Procedures for the receipt, negotiation and settlement of adverse claims.

Source: S.L. No. 4L-128-99 §11, 10/15/99; S.L. No. 5L-108-03 §2, 9/5/03

PUBLIC LANDS

CHAPTER 4A
PUBLIC TRUST LANDS AGRICULTURAL AND RESIDENTIAL
LEASEHOLD CONVEYANCE

Section

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§4A-101. Short title. — This chapter is known and may be cited as the “Public Trust Lands Agricultural and Residential Leasehold Conveyance Act of 2007.”

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-102. Purpose. — The Pohnpei Government recognizes that presently there are many small farms and residences in this state which are on public trust lands. Current public leasehold programs for agricultural and residential purposes have provided for a distribution for the use of these lands, but uncertainties inherent in leasehold programs have discouraged long-term development of these properties. In recognition of the difficult task confronting the people in this state in developing commercially viable small farms and modern residences on publicly owned agricultural and homestead properties with the long-term security of their investment, this statute has been enacted.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-103. Legislative intent. — It is the intent of this chapter to pass such title and interest held by the Public Lands Trust Board of Trustees to qualifying agricultural or residential lessees on eligible public trust properties in the interest of the social well-being of the people of this state.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-104. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

- (1) “Board of Trustees” or “Board” means the Public Lands Trust Board of Trustees.
- (2) “Engage in agriculture activities” means the planting or cultivation of not less than 30 utility trees on one hectare of land, which includes coconut palm, breadfruit, citrus, mango, coffee, cacao or other permanent food-bearing trees, or the substantial equivalent thereof in short-term, food-bearing crops in amounts to be determined by the Board with evidence that such seasonal plantings have been maintained for at least two years immediately preceding the date of application.
- (3) “Engage in residential activities” means the establishment of a fixed, permanent, primary residence with evidence that such primary residence has been maintained for at least two years immediately preceding the date of application.
- (4) “Lease agreement” means a written document that gives rise to the relationship of landlord and tenant. “Lease agreement” includes situations where there is a legal presumption of a lease agreement, as set forth in Subsection (6) of this section, even when no written document exists.
- (5) “Lessee” means the tenant of leased properties issued in accordance with law, and in direct relationship with the Board. “Lessee” means the assignees of an original lessee to a lease agreement where permitted under the terms of the lease, or when determined in the discretion of the Board to be in the interests of equity.

(6) “Qualifying agricultural or residential lease agreement” means a lease agreement by which the lessee leases the subject leasehold for agriculture or residential purposes as a small farm or a place of residence. Notwithstanding the absence of the qualification for the establishment of a small farm or a place of residence in the text of a lease, the Board, in its discretion, shall determine which agriculture and residential leases that it has issued are for the purpose of establishing small farms or a place of residence as defined by Subsection (8) of this section. Any settler who has continuously engaged in agriculture or residential activities on a settlement since November 8, 1984, including any qualifying beneficiary of Pohnpei Public Lands Trust land who is the heir or devisee of such a settler as determined by the law of wills, or by the laws of intestate succession of Pohnpei, regardless of the date of death of the original settler, shall be presumed in law to have a valid agricultural or residential lease agreement with the Board for purposes of this chapter; PROVIDED, HOWEVER, that if a successor of an original settler inherited rights to property of the original settler to the exclusion of his siblings, then the share of that successor in title granted under this chapter shall be reduced proportionately. “Continuously engaged in agriculture or residential activities” for the purposes of this chapter, means actual entry and continuous use of the land for agriculture or residential activities by a settler or his successors from November 8, 1984 through the effective date of this chapter; PROVIDED that interruptions in possession for a cumulative period of more than twenty-five percent (25%) of the possessory period shall not be excused except upon a showing of good cause.

(7) “Qualifying beneficiary,” for purposes of this chapter, means a citizen and pweldak of Pohnpei as described by Article 3 of the Pohnpei Constitution, who is at least 18 years of age, and who has actually resided in the state for a period of not less than 15 years; and the beneficiary children thereof regardless of age who are citizens and pweldak of Pohnpei.

(8) “Settler” means a qualifying beneficiary of Pohnpei Public Lands Trust lands who, prior to November 8, 1984, occupied Public Lands Trust land for residential or agricultural purpose without a written lease agreement.

(9) “Settlement” means that area of land eligible for transfer pursuant to §106 of this chapter occupied by a settler as of November 8, 1984.

(10) “Small farm or a place of residence” means an agriculture or residential endeavor involving the use of one hectare of land or less.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-105. Right to transfer of lessee in compliance. — Subject to the reservations and limitations provided in this chapter, any lessee who believes he has complied with §107 of this chapter, may, not less than three years following the effective date of this chapter or within three years following issuance of his lease from the Board, apply to the Board to transfer to said lessee, by quit-claim title, such interest held by the Board in the leasehold property; but not in excess of a cumulative total of one hectare per leasehold; PROVIDED, HOWEVER with respect to presumed leases not in excess of one hectare per settlement; PROVIDED, FURTHER, that for lessees who already own title to land in an amount less than one hectare, transfers in the lessees’ own name shall not exceed the difference between the amount of land already owned and one hectare; PROVIDED FURTHER that lessees who already own title to land in an amount greater than one hectare shall not be eligible to receive title in his/her own name; PROVIDED FURTHER, the lessee may designate a person or persons who do not already own title to an amount of land greater than one hectare who shall receive title to property that can not be transferred to his/her own name; PROVIDED FURTHER that for designees who already own title to land in an amount less than one hectare, transfers shall not exceed the difference between the amount of land already owned and one hectare.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-106. Agricultural or residential property eligible for transfer. — Any public land held in trust by the Board and for which a lease agreement exists or is presumed to exist for purposes of this

chapter, shall be deemed “eligible agricultural or residential property” for which title may transfer hereunder; PROVIDED, HOWEVER, that public land designated by law for non-agricultural or residential purposes shall not be eligible for transfer; PROVIDED FURTHER that land upon which residential or agricultural uses is prohibited by law or valid regulation shall not be eligible for transfer.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-107. Lessees eligible to receive title to agricultural or residential property. — Any person who is a citizen and pweldak of this state, as defined by state laws and the Pohnpei Constitution, and who holds a valid agricultural or residential lease agreement to an eligible agricultural or residential property or is presumed to have such an agreement, and who is in compliance with all provisions of the applicable agricultural or residential lease agreement, but not including payment of rent and any charges, shall be eligible to receive title in accordance with the provisions of this chapter; PROVIDED, HOWEVER, that such person must actually use the subject leasehold as a small farm or as a primary residence and engage in agriculture or residential activities thereon for a period of not less than three years prior to submitting the application referred to in §108(1) of this chapter; PROVIDED FURTHER that any lessee is entitled to only one conveyance under this chapter.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-108. Procedural requirements. —

(1) Upon application on such forms and pursuant to such terms as the Board shall prescribe pursuant to this chapter, the Board shall determine the eligibility of the applicant as a lessee, and compliance with this chapter. Upon determination that there is eligibility and has been compliance, the Board shall issue a certificate of compliance. The existence of past due rental payments on the property for which the application has been filed shall in no way cause a delay in the determination of eligibility or compliance, nor shall the existence of such past due rental payments in any way cause any delay in the issuance of the certificate of compliance.

(2) Upon the issuance of a certificate of compliance, the Board shall file a quit-claim title action in the Court of Land Tenure, which Court shall hear and adjudicate all claims of rights, title or interest in the property. Upon the Court’s determination of ownership in the Board, with no valid adverse interests, and after any appeal procedure, the Court shall issue a certificate of title under 4 PC 6-115. Immediately thereafter, the Board shall transfer its title to the eligible lessee pursuant to 4 PC 6-117, and subject to the provisions of this chapter. Upon the transfer of title pursuant to this subsection, the Board of Trustees shall waive, forgive and cancel all existing, previous and outstanding rental payments due or payable by the eligible lessee to the Pohnpei Public Lands Trust Fund on the property described in the subject certificate of title.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-109. Reservations. — There shall be reserved to the public in every transfer of title pursuant to this chapter:

- (1) All existing public roads and easements and other public uses;
- (2) A public easement of ten feet in width on either bank of a watercourse passing through or bounding upon the property, which watercourse has an average width of two feet or more at those points at which it bounds or passes through the property; and
- (3) The right to take for public purposes additional land or any interest therein, without compensation for land or interest; PROVIDED that such additional land so affected and the land covered by existing public roads and easements and other public uses does not exceed one-tenth of the total area of the land granted. The right shall be extinguished unless exercised within ten years of the issuance of the deed of conveyance hereunder.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-110. Restriction on alienation. — In addition to all other prohibitions and restrictions prescribed by law or the Pohnpei Constitution, no title recipient or successor in interest of real property conveyed under the provisions of this chapter may transfer, for a period of five years following the issuance of the deed of conveyance, any interest in the real property so conveyed; except that:

(1) Leasehold interests in the subject property may be transferred for a term or terms that do not exceed a cumulative total of 25 years, inclusive of all options to renew or extend the term of the lease;

(2) Interests in the subject property may be returned to the Public Lands Trust or transferred to a governmental entity for public purposes;

(3) Interests in the subject property may be transferred by gift or inheritance between members of the immediate family of the recipient of title to said property from the Board of Trustees under this chapter;

(4) Interests in the subject property may be mortgaged or transferred through deed of trust by the title holder of the interest in the property, but solely to secure the repayment of loans for improvements to the property issued by government and private lending institutions authorized to make secured loans within the state; and

(5) Interests in the subject property may be transferred, in situations not otherwise provided above, when authorized by law and consented to in writing by the Board of Trustees in its sole discretion in the interests of public welfare; PROVIDED that the authorization of the Board must be recorded with the Court of Land Tenure prior to the establishment of any legal commitment to transfer such interests under the provisions of this subsection.

Source: S.L. No. 6L-116-08 §1, 1/25/08

§4A-111. Rules and regulations; fee. — The Board shall establish rules and regulations for the proper administration of this chapter, which rules and regulations shall provide, among other things, for:

(1) Standard forms necessary for the administration of this chapter;

(2) Further definition of terms consistent herewith and required for the proper administration of this chapter;

(3) Procedural elements of application and of review and processing of applications, and issuance of certificates; PROVIDED that the rules and regulations shall put priority on those who hold no title to land or leasehold property on the effective date of this chapter; PROVIDED FURTHER that an individual who has transferred his land or leasehold property to someone outside of his immediate family shall have the lowest priority when considered under this chapter;

(4) Procedures for the receipt, negotiation, and settlement of adverse claims; and

(5) Establishment of appropriate and reasonable fees and financing schedules for the administration of this chapter. Such fees are only included in this chapter for the purposes of defraying the expenses related to the processing of the deeds of conveyances and certificates of title. Such rules and regulations shall be issued in compliance with 8 PC 1-101, relating to administrative procedures, as amended or superseded by state law. The Board shall provide for publication and reasonable distribution of all rules and regulations issued hereunder.

Source: S.L. No. 6L-116-08 §1, 1/25/08

**CHAPTER 5
PLANNED DEVELOPMENT ZONE**

Section

- 5-101 Purpose
- 5-102 Planned Development Zone
- 5-103 Zoning map adopted
- 5-104 Authority to lease public trust lands within the Planned Development Zone
- 5-105 Publication
- 5-106 Authorization for appropriation; administration
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- 5-108 Contracts voidable
- 5-109 Voidable actions; forfeiture
- 5-110 Transition
- 5-111 Requirements of showing cause: notices: copies of notices and statements to be filed

§5-101. Purpose. — The Legislature finds that the Dekehtik Causeway is a prime area for the development of important facilities that could enhance the economic development of the state, including fisheries and tourism facilities. In this connection, the Legislature finds it appropriate to authorize the Public Lands Trust Board of Trustees to dedicate a portion of the Dekehtik Causeway and its appurtenant areas as the Dekehtik Planned Development Zone, as specified in §5-102.

Source: S.L. No. 4L-66-98 §1, 2/23/98

§5-102. Planned Development Zone. — Pursuant to Chapter 1 of this title and Chapter 1 of Title 41, the Legislature hereby authorizes and directs the Public Lands Trust Board of Trustees to dedicate the western side of the Dekehtik Causeway and its appurtenant areas extending from near the ALCO barge to the berm referred to as “Lidakihka Road” as the Dekehtik Planned Development Zone to be managed in the manner prescribed by statute; PROVIDED that the entire area bound by the following coordinates shall be part of this Zone and shall be used for fisheries support and tourism and related uses: Starting from the point at northing 81,164.39 and easting 78,840.67 to a point 862.18 meters northeast at 73°36’38”, thence to a point 628.53 meters northwest at 45°32’35”, thence to a point 683.85 meters southwest at 72°38’25”, and finally to the originating point 552.31 meters southeast at 29°45’53”, northing 81,164.39 and easting at 78, 840.67; PROVIDED FURTHER that any development within the said Zone shall be deemed to be outside of the scope of Title 32 Chapter 2 (designating Dekehtik Island as a Transportation Zone) and Pohnpei Port Authority Chapter, Title 32 Chapter 1, to the extent exempted by state law enacted following March 31, 1998, and shall be consistent with the integrated development goals of the Pohnpei Government, limited to the key areas of fisheries support and tourism.

Source: S.L. No. 4L-66-98 §2, 2/23/98

§5-103. Zoning map adopted. — The map identified as Pohnpei Drawing No. 7001/97, setting forth the Planned Development Zone as Tract No. 75516, is hereby adopted as the Zone Map for the purposes of this chapter. The said map and all its notations, references, and other information shown are fully incorporated herein by reference.

Source: S.L. No. 4L-66-98 §3, 2/23/98

§5-104. Authority to lease public trust lands within the Planned Development Zone. — Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees, upon successfully completing the requirements of said Code provisions, including the requirement of public advertisement, as well as the further requirement of publication as specified in §5-105, is hereby authorized, upon concurrence of the management of the Planned Development Zone, to enter into leases and other use agreements relating to public trust lands and areas located within the Planned

Development Zone; PROVIDED that the development within the said Zone shall be consistent with the integrated development goals of the Pohnpei Government, limited to the key areas of fisheries support and tourism.

Source: S.L. No. 4L-66-98 §4, 2/23/98

§5-105. Publication. — The Public Lands Trust Board of Trustees, upon consultation with the management of the Planned Development Zone, shall initiate its application process through public announcement and by advertisement that shall be published in such manners as the Board, in its discretion, finds will effectively reach the largest numbers of investors who may be interested in developing the Dekehtik Causeway under the terms of this chapter. In so doing, the Board may utilize notices in newspapers of general distribution within the region, in Japan, the United States of America, and other centers of investment, as well as in trade journals that reach the types of investors the Board is seeking. The Board may also make direct contact with parties who have indicated to the Board a specific interest in development within the state. The period of publication shall be set by the Board in the manner it deems will reach the most number of qualified bidders and provide them with sufficient time to develop well-reasoned applications, but not less than one month nor more than six months.

Source: S.L. No. 4L-66-98 §5, 2/23/98

§5-106. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund a sum or sums to be determined and as may be allocated annually in the Comprehensive Budget Act to be used solely and exclusively for publication purposes as specified in §5-105. All sums appropriated under the authorization of this section shall be administered and expended by the Governor. All monies appropriated under the authorization of this section in a fiscal year remaining unexpended or unobligated for expenditure at the end of such fiscal year shall revert to the general fund of Pohnpei.

Source: S.L. No. 4L-66-98 §6, 2/23/98

§5-107. Conflicts of interests. — With regard to this Planned Development Zone:

(1) No state officer or employee shall take any official action directly affecting:

- (a) A business or other undertaking in which he, or his spouse, or any one of his children, or anyone with whom he has a close business relationship, has a financial interest; or
- (b) A private undertaking in which he is engaged as legal counsel, advisor, consultant, representative or other agency capacity.

(2) No state officer or employee shall acquire, either directly or indirectly, through his business holdings, by agent disclosed or undisclosed or by any undue influence within a family relationship, any financial interests in any business or other undertaking that he has reason to believe may be directly involved in official action to be taken by him.

(3) No state officer or employee shall assist any person or business or act in a representative capacity before any state agency in any transaction involving the state.

(4) No state officer or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim or other transaction or proposal in which he has participated or will participate as a state officer or employee, nor shall he assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or proposal before the agency of which he is an officer, member, or employee.

(5) No state officer or employee shall assist any person or business or act in a representative capacity before a state agency for a fee or other consideration on any bill, contract, claim, or other transaction or proposal involving official action by the agency if he has official authority over that state agency unless he has made full disclosure to the agency and the head of the branch of

government of which the agency is a part. In the case of a head of a branch of government, disclosure shall be made to the heads of the other two branches.

Source: S.L. No. 4L-66-98 §7, 2/23/98

§5-108. Contracts voidable. — In addition to any other penalty provided by law, any contract entered into by the state in violation of this chapter is voidable on behalf of the state; PROVIDED that in any action to void a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within 60 days after the determination of a violation under this chapter. The Attorney General shall have the authority to enforce this section.

Source: S.L. No. 4L-66-98 §8, 2/23/98

§5-109. Voidable actions; forfeiture. —

(1) Any favorable state action obtained in violation of this chapter is voidable in the same manner as voidable contracts as provided for under §5-108; and the state by the Attorney General may pursue all legal and equitable remedies available to it.

(2) The state, by the Attorney General, may recover any fee, compensation, gift or profit received by any person as a result of a violation of this chapter. An action to recover under this subsection shall be brought within two years of such violation.

Source: S.L. No. 4L-66-98 §9, 2/23/98

Note: S.L. No. 2L-224-91 §1-3 relative to the Pohnpei Port Authority Act was amended by S.L. No. 4L-66-98 §10, 2/23/98, which was codified at 32 PC 1-103.

§5-110. Transition. — Within 180 days following the effective date of §5-111 and prior to the implementation of §5-104 and §5-105 including but not limited to the issuance of any leases, the Governor shall submit to the Legislature and the Legislature shall enact into law a detailed plan for the operation of the Dekehtik Planned Development Zone, which plan shall include, but need not be limited to:

(1) A description of the physical design for land use within the Planned Development Zone boundaries;

(2) A description of the proposed system of management for the Planned Development Zone, inclusive of the receipt, deposit and disposition of public revenues generated by the zone;

(3) A description of the regulatory authority for the policing and regulation of fisheries-port-related activities within the Planned Development Zone; PROVIDED, HOWEVER, that the Office of Fisheries and Aquaculture or its successor in law shall be the official interim regulatory authority for the policing and regulation of development activities within the Dekehtik Planned Development Zone until otherwise amended by statute.

(4) A description of the elements of coordination between the zone management and the Office of Fisheries and Aquaculture with respect to the servicing of fishing vessels within the Planned Development Zone; and

(5) A description of the elements of coordination between the zone management and the Pohnpei Port Authority with respect to the transit and mooring of fishing vessels within the Pohnpei Transportation Zone and other navigable waters within the lagoon of Pohnpei Island.

Source: S.L. No. 4L-66-98 §11, 2/23/98; S.L. No. 6L-81-06 §1, 11/26/06; S.L. No. 7L-20-08 §17, 11/26/08

Note:

§5-111. Requirements of showing cause: notices: copies of notices and statements to be filed. —

(1) Within 60 days after this section becomes law, the Attorney General shall investigate and file with the Governor and the Legislature a report as to whether the Public Lands Trust Board of Trustees and the Land Use Planning and Zoning Commission, individually or jointly and severally, violated §5-104 or any other Pohnpei law in the implementation of this law. The vote of each Trustee, on all

actions since the effective date of this chapter [*February 23, 1998*] involving land within the Dekehtik Planned Development Zone shall be revealed to the Attorney General.

(2) Within 60 days after the effective date of this section [*effective date is November 26, 2006*], each lessee of any interest in land within the Dekehtik Planned Development Zone, as described by this chapter, who has entered into its lease since February 23, 1998, or who has amended its lease in any way since said date, shall file with the Attorney General a statement showing cause why said lessee should not have its lease or amendment voided under §5-108.

(3) Within 30 days after the effective date of this section, the Attorney General shall give notice of the requirements of this section to each Trustee of the Public Lands Trust Board and to each lessee of lands within the Dekehtik Planned Development Zone.

(4) A copy of all statements filed under this section shall be provided to the Office of the Governor and to the Pohnpei Legislature.

Source: S.L. No. 4L-66-98 §11A, 2/23/98

Note: §11A was added by S.L. No. 6L-81-06 §2, 11/26/06.

CHAPTER 6 INDUSTRIAL DEVELOPMENT ZONE

Section

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6-106 Authorization for appropriation; administration	

§6-101. Purpose. — The Legislature finds that the Dekehtik Causeway is a prime area for the development of important industrial facilities that could enhance the economic development of the state. In this connection, the Legislature finds it appropriate to authorize the Public Lands Trust Board of Trustees to dedicate a portion of the Dekehtik Causeway and its appurtenant areas as the Dekehtik Industrial Development Zone, as specified in §6-102.

Source: S.L. No. 4L-130-99 §1, 10/21/99

§6-102. Industrial Development Zone. — Pursuant to Chapter 1 of this title and Chapter 1 of Title 41, the Legislature hereby authorizes and directs the Public Lands Trust Board of Trustees to dedicate the eastern side of the Dekehtik Causeway and its appurtenant areas extending eastward from the Dekehtik Causeway from a point at or about the bridge near Dispision to a point at or about the bridge near the ALCO barge, as it is located on the effective date of this chapter [*October 21, 1999*], known as Tract No. 75518, comprising an area of 1,045,764 square meters, more or less, which site shall henceforth be known as the Dekehtik Industrial Development Zone. Any development within the Dekehtik Industrial Development Zone herein established shall be deemed to be outside of the scope of Title 32 Chapter 2 (designating Dekehtik Island as a Transportation Zone) and the Pohnpei Port Authority Act of 1991, Title 32 Chapter 1.

Source: S.L. No. 4L-130-99 §2, 10/21/99

§6-103. Zoning map. — Within 180 days following the effective date of this chapter [*effective date is October 21, 1999*], the Director of the Department of Land and Natural Resources shall cause to be developed a zone map, which shall describe in detail the Dekehtik Industrial Development Zone prescribed by this chapter and which upon approval of the Pohnpei Land Use Planning and Zoning Commission, shall be designated as the official Industrial Development Zone map for said area.

Source: S.L. No. 4L-130-99 §3, 10/21/99; S.L. No. 5L-14-00 §3-40, 10/1/00; S.L. No. 6L-82-06 §1, 11/26/06

§6-104. Authority to lease public trust lands within the Industrial Development Zone. — Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees, upon successfully completing the requirements of said Code provisions, including the requirement of public advertisement, as well as the further requirement of publication as specified in §6-105, is hereby authorized, upon concurrence of the management of the Dekehtik Industrial Development Zone, to enter into leases and other use agreements relating to public trust lands and areas located within the Dekehtik Industrial Development Zone; PROVIDED that the development within the said Zone shall be consistent with the integrated development goals of the Pohnpei Government, limited to the development of industries.

Source: S.L. No. 4L-130-99 §4, 10/21/99

§6-105. Publication. — The Public Lands Trust Board of Trustees, upon consultation with the management of the Dekehtik Industrial Development Zone, shall initiate its application process through public announcement and by advertisement that shall be published in such manners as the Board, in its discretion, finds will effectively reach the largest numbers of investors who may be interested in developing the Dekehtik Causeway under the terms of this chapter. In so doing, the Board may utilize notices in newspapers of general distribution within the region, in Japan, the United States of America, and other centers of investment, as well as in trade journals that reach the types of investors the Board is seeking. The Board may also make direct contact with parties who have indicated to the Board a specific interest in development within the state. The period of publication shall be set by the Board in the manner it deems will reach the most number of qualified bidders and provide them with sufficient time to develop well-reasoned applications, but not less than one month nor more than six months.

Source: S.L. No. 4L-130-99 §5, 10/21/99

§6-106. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund a sum or sums to be determined and as may be allocated annually in the Comprehensive Budget Act to be used solely and exclusively for publication purposes as specified in §6-105. All sums appropriated under the authorization of this section shall be administered and expended by the Governor. All monies appropriated under the authorization of this section in a fiscal year remaining unexpended or unobligated for expenditure at the end of such fiscal year shall revert to the general fund of Pohnpei.

Source: S.L. No. 4L-130-99 §6, 10/21/99

§6-107. Conflicts of interests. — With regard to this Dekehtik Industrial Development Zone:

(1) No state officer or employee shall take any official action directly affecting:

(a) A business or other undertaking in which he, or his spouse, or any one of his children, or anyone with whom he has a close business relationship, has a financial interest; or

(b) A private undertaking in which he is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

(2) No state officer or employee shall acquire, either directly or indirectly, through his business holdings, by agent disclosed or undisclosed, or by any undue influence within a family relationship, any financial interests in any business or other undertaking that he has reason to believe may be directly involved in official action to be taken by him.

(3) No state officer or employee shall assist any person or business or act in a representative capacity before any state agency in any transaction involving the state.

(4) No state officer or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim or other transaction or proposal in which he has participated or will participate as a state officer or employee, nor shall he assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim or other transaction or proposal before the agency of which he is an officer, member or employee.

(5) No state officer or employee shall assist any person or business or act in a representative capacity before a state agency for a fee or other consideration on any bill, contract, claim or other transaction or proposal involving official action by the agency if he has official authority over that state agency unless he has made full disclosure to the agency and the head of the branch of government of which the agency is a part. In the case of a head of a branch of government, disclosure shall be made to the heads of the other two branches.

Source: S.L. No. 4L-130-99 §7, 10/21/99

§6-108. Contracts voidable. — In addition to any other penalty provided by law, any contract entered into by the state in violation of this chapter is voidable on behalf of the state; PROVIDED that in any action to void a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within 60 days after the determination of a violation under this chapter. The Attorney General shall have the authority to enforce this section.

Source: S.L. No. 4L-130-99 §8, 10/21/99

§6-109. Voidable actions; forfeiture. —

(1) Any favorable state action obtained in violation of this chapter is voidable in the same manner as voidable contracts as provided for under §6-108; and the state by the Attorney General may pursue all legal and equitable remedies available to it.

(2) The state, by the Attorney General, may recover any fee, compensation, gift or profit received by any person as a result of a violation of this chapter. An action to recover under this subsection shall be brought within two years of such violation.

Source: S.L. No. 4L-130-99 §9, 10/21/99

§6-110. Transition. — Within 180 days following the effective date of §6-111 and prior to the implementation of §6-104 and §6-105 including but not limited to the issuance of any leases, the Governor shall submit to the Legislature and the Legislature shall enact into law a detailed plan for the operation of the Dekehtik Industrial Development Zone, which plan shall include, but need not be limited to:

(1) A description of the physical design for land use within the Dekehtik Industrial Development Zone boundaries;

(2) A description of the system of management for the Dekehtik Industrial Development Zone, inclusive of the receipt, deposit and disposition of public revenues generated by the zone; and

(3) A description of the regulatory authority for the policing and regulation of industrial activities within the Dekehtik Industrial Development Zone; PROVIDED, HOWEVER, that the Office of Economic Affairs or its successor in law shall be the official interim regulatory authority for the policing and regulation of industrial activities within the Dekehtik Industrial Development Zone until otherwise amended by statute.

Source: S.L. No. 4L-130-99 §10, 10/21/99; S.L. No. 6L-82-06 §2, 11/26/06; S.L. No. 7L-20-08 §18, 11/26/08

Note:

§6-111. Requirements of showing cause: notices: copies of notices and statements to be filed. — Within 60 days after this section becomes law, the Attorney General shall investigate and file with the Governor and the Legislature a report as to whether the Public Lands Trust Board of Trustees and the Land Use Planning and Zoning Commission, individually or jointly and severally, violated §6-104, or any other Pohnpei law in the implementation of this law. The vote of each Trustee and the Land Use Planning and Zoning Commission, on all actions involving Tract No. 75518 since the effective date of this chapter [*October 21, 1999*], shall be revealed to the Attorney General.

(1) Within 60 days after the effective date of this section [*effective date is November 26, 2006*], each lessee of any interest in Tract No. 75518, as it existed on October 21, 1999, who has entered into its lease since said date, or who has amended its lease in any way since said date, shall file with the Attorney General a statement showing cause why said lessee should not have its lease or amendment voided under §6-108.

(2) Within 30 days after the effective date of this section, the Attorney General shall give notice to each Trustee of the Public Lands Board of Trustees, and to each lessee of Tract No. 75518, of the requirements of this section.

(3) A copy of all notices sent and all statements filed under this section shall be provided to the Speaker of the Legislature.

Source: S.L. No. 4L-130-99 §11A, 10/21/99

Note: §11A was added by S.L. No. 6L-82-06 §3, 11/26/06.

CHAPTER 7 PUBLIC ACCESS

Section

7-101 Public access; prerequisite; generally

7-102 Public access; lands abutting sea or tidal areas

7-103 Rules and regulations

§7-101. Public access; prerequisite; generally. — No parcel of public land shall be subdivided into smaller parcels, tracts or lots for sale, lease, homestead, exchange or allocated for any other purposes, unless the Board of Trustees shall first lay out and establish, or shall cause to be laid out and established, over and across such public lands, a reasonable number of public roads and paths from established or existing public roads to insure public access to each new parcel, tract or lot created by the subdivision.

Source: 67 TTC §151 (1970); 67 TTC §151 (1980)

§7-102. Public access; lands abutting sea or tidal areas. — Before offering for sale, lease, homestead, exchange or allocation for any other purpose any parcel of public land abutting the sea or tidal areas, the Board of Trustees shall first lay out and establish, or cause to be laid out and established, over and across such public lands, a reasonable number of public roads and paths from existing or established public roads to insure public access to the sea and tidal areas.

Source: 67 TTC §152 (1970); 67 TTC §152 (1980)

§7-103. Rules and regulations. — The Board of Trustees shall have the power to promulgate rules and regulations, subject to the approval of the Governor, to implement the provisions of this chapter. Such rules and regulations will have the force and effect of law.

Source: 67 TTC §153 (1970); 67 TTC §153 (1980)

PUBLIC LANDS

CHAPTER 8 MARINE AREAS

SUBCHAPTER 1: GENERAL PROVISIONS

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a submerged land lease

8-307. Administrative appeals

8-308. Subleases and assignments

8-309. Eligibility to apply for title to leased
submerged lands. [RESERVED].

8-310. Regulations

SUBCHAPTER 1: GENERAL PROVISIONS

§8-101. Rights in areas below high watermark. That portion of the law established during the Japanese administration of the area which was the Trust Territory, that all marine areas below the ordinary high watermark belong to the government, is hereby confirmed as part of the law of Pohnpei and such lands are now declared a part of the Pohnpei Public Lands Trust established pursuant to Chapter 1 of this title, with the following exceptions:

(1) Such rights in fish weirs or traps (including both types erected in shallow water and those sunk in deep water) and such rights to erect, maintain, and control the use of these weirs or traps as were recognized by local customary law at the time the Japanese administration abolished them, are hereby reestablished; PROVIDED that no weirs or traps or other obstruction shall be erected in such locations as to interfere with established routes of water travel, marine sanctuaries or wildlife refuges, or those routes, sanctuaries or refuges which may hereafter be established.

(2) The right of the owner of abutting land to claim ownership of all materials, coconuts or other small objects deposited on the shore or beach by action of the water or falling from trees located on the abutting land, and such fishing rights on, and in waters over reefs where the general depth of water does not exceed four feet at mean low water as were recognized by local customary law at the time the Japanese administration abolished them, are hereby reestablished where such rights are not in conflict with state law or the inherent rights of the Pohnpei Public Lands Trust as the owner of all marine areas below the ordinary high watermark; PROVIDED, HOWEVER, that this section shall not be construed to apply to any vessel wrecked or stranded on any part of the reefs or shores of Pohnpei.

(3) The owner of land abutting the ocean or lagoon shall have the right, to the extent recognized by this subsection, to develop a reasonable area of the water and submerged land extending directly

seaward from his abutting land and shall have the ownership, control and usage of such development to the extent set forth in this chapter; PROVIDED, that said development shall not interfere with navigation and is not within a marine sanctuary or wildlife refuge established under Chapter 5 of Title 26 of this Code; PROVIDED FURTHER that with respect to development which will permanently alter the topography of the marine area subject to the development or which will entail the dredging or filling of any of the submerged land affected by the development:

- (a) The specific area intended for development has been zoned by Subchapter 2 of this chapter for the specific kind of development to be emplaced thereon;
- (b) The owner has first obtained a written lease therefor from the Board of Trustees of the Pohnpei Public Lands Trust in accordance with the provisions of Subchapter 3 of this chapter before beginning such development; and
- (c) The owner has obtained all other licenses, permits and authorizations for such development as required by law.

(4) Each of the rights described in this section are hereby granted to the person or group of persons who held the right at the time it was abolished by the Japanese administration or is otherwise recognized by this section, or to his or their successor or successors in interest. The extent of each right shall be governed by provisions of this chapter and by the local customary law in effect at the time it was abolished or is otherwise recognized by this section.

(5) Nothing in this section shall withdraw or disturb the traditional and customary right of the individual land owner, clan, family or local government to control the use of, or material in, marine areas below the ordinary high watermark, subject only to, and limited by, the inherent rights of the Pohnpei Public Lands Trust as the owner of such marine areas. The foregoing subsections of this section shall create no right in the general public to misuse, abuse, destroy or carry away mangrove trees or the land abutting the ocean or lagoon, or to commit any act causing damage to such mangrove trees or abutting land.

(6) Any legal interest or title in marine areas below the ordinary high watermark specifically granted to an individual or group of individuals by the Pohnpei Government, the Trust Territory Government or any previous administering authority, or recognized as a legal right or rights, shall not be affected by this section.

Source: TTC §32 (1966); 67 TTC §2 (1970); 67 TTC §2 (1980); : S.L. No. 7L-62-10 §1, 4/8/10

§8-102. Recordation. Written notice of any legal interest or title under this subchapter must be filed with the Court of Land Tenure. The validity of the claimed legal interest or title shall be determined by the Court of Land Tenure after notice to the person making the claim or any other known parties in interest, and an opportunity for hearing, in the same manner and with the same rights of appeal as in the case of claims to land which the government or the Pohnpei Public Lands Trust had possession of under claim of ownership.

Source:S.L. No. 7L-62-10 §1, 4/8/10

SUBCHAPTER II: SUBMERGED LANDS ZONED FOR DEVELOPMENT

§8-201. Responsibilities of the Pohnpei Land Use Planning and Zoning Commission. It shall be the primary responsibility of the Pohnpei Land Use Planning and Zoning Commission, established pursuant to Chapter 1 of Title 41 of this Code, to prepare a comprehensive master plan and specific zoning legislation for presentation to the Pohnpei Legislature for enactment into law for the zoning of the submerged lands of this state, which plans and zoning recommendations shall contain detailed descriptions of areas of submerged lands suitable for specific types of development.

Source:S.L. No. 7L-62-10 §2, 4/8/10

§8-202. Zoned parcels. Until such time as the master planning and zoning is completed for the state, or major portions thereof pursuant to 42 PC 8-201 of this subchapter, the following parcels of submerged lands are hereby zoned for the specific category of development and subject to the terms and conditions set forth in the decimal numbered sections immediately following this section.

Source:S.L. No. 7L-62-10 §2, 4/8/10

§8-202.1. Marina and appurtenant infrastructure at Peinihd, Doaroapoap (Dolonier), Nett; PROVIDED that:

(1) All dredging and landfill shall be confined to an area of 15,000 square meters, extending directly outward from Parcel No. 023-A-31 of which not more than 7,000 square meters of the marine site so zoned may be dredged below the natural submerged land level existing at that point in the zoned site prior to the commencement of the development;

(2) All dredging and landfill shall be in compliance with said application and certificate and with the applicable laws and regulations of this state; and

(3) The landowner shall be responsible for the payment of severance or royalty fees required by 42 PC 9-102(5) for all submerged materials that are dredged from within the zoned site, inclusive of that dredged material that is utilized as fill on the zoned site and dredged material that is removed from the zoned site.

Source:S.L. No. 7L-62-10 §2, 4/8/10

§8-202.2. [RESERVED]

SUBCHAPTER III: LEASEHOLDS BELOW HIGH WATERMARK

§8-301. Abutting submerged lands. Subject to the provisions of Subchapter 1 of this chapter, submerged lands abutting the shorelines of Pohnpei that have been zoned for development pursuant to Subchapter 2 of this chapter are hereby declared available for submerged land leases to eligible abutting land owners thereof under 42 PC 1-801(3) pursuant to the subsequent sections of this subchapter. Such leases as may be issued by the Board of Trustees shall be without cost, except for administrative expenses. Such leases may be issued for a period of 25 years, but may be extended for an additional period of time, to the extent allowable under 41 PC 5-113, if the development qualifies for a developmental leasehold pursuant to Chapter 5 of Title 41 of this Code; PROVIDED, HOWEVER, that each lease issued pursuant to this subchapter shall contain an enforceable provision that said lease shall be cancelled or reduced in the area so leased upon a finding by the Board of Trustees that the development for which the lease has been issued has not been substantially completed within five years from the date of the initial issuance of the lease. Leases issued pursuant to this subchapter may be renewed in like manner as the issuance of the initial lease upon a finding by the Board of Trustees that the leased land is actively and continuously used in compliance with the specific zoning requirements stipulated therefor under Subchapter 2 of this chapter. All improvements to the real property during the lease period shall become part of the public land trust upon the termination or cessation of the lease, inclusive of such renewals of the lease as provided under this section; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the lessee.

Source:S.L. No. 7L-62-10 §3, 4/8/10

§8-302. Eligibility for leaseholds in areas below high watermark. To be eligible to receive a leasehold on submerged lands pursuant to this subchapter, the applicant must:

- (1) Be a citizen and pweldak of Pohnpei;
- (2) Be the title holder of the abutting shoreline property; and
- (3) Meet the criteria of 42 PC 8-101(3).

Source:S.L. No. 7L-62-10 §3, 4/8/10

§8-303. Application for a submerged land leasehold. An individual seeking the issuance of a submerged land leasehold which he intends to develop pursuant to this chapter shall, upon the payment of an application fee of \$25, submit an application therefor to the Chief of the Division of Public Land of the Department of Land and Natural Resources. Said application shall show that the submerged land has been zoned for development pursuant to Subchapter 2 of this chapter, and that the applicant is eligible therefor pursuant to 42 PC 8-302.

Source:S.L. No. 7L-62-10 §3, 4/8/10

§8-304. Land survey; issuance of certificate of eligibility. Upon the receipt of an application pursuant to 42 PC 8-303, the Chief of the Division of Public Land shall cause the submerged land for which the application has been submitted to be surveyed, and upon satisfaction that the applicant is eligible, that the submerged land has been zoned for development pursuant to Subchapter 2 of this chapter and that the intended development meets all the criteria of this chapter, the Chief shall issue a certificate of eligibility for a submerged land leasehold to the applicant. Said certificate shall specify the individual to whom the lease may be issued, the description of the submerged land that may be leased, and the development which may be emplaced thereon. The Chief may charge a reasonable fee to be paid by the applicant for the survey, certificate and other Division expenses. Such payments shall be deposited in the Pohnpei Public Lands Trust Fund established by 42 PC 1-116.

Source:S.L. No. 7L-62-10 §3, 4/8/10

§8-305. Notice of intent to lease. Upon the receipt of an application for a submerged land lease pursuant to 42 PC 8-303, the Chief of the Division of Public Land shall cause a public notice to be posted for a period of one month on a prominent place on the affected submerged land and at the court house of the local jurisdiction where the land is located. Said notice shall indicate the name of the applicant and a description of the submerged land for which a submerged land lease is being sought. Any person objecting to the proposed lease may submit a written objection to the Chief who shall, with due diligence, consider the merits thereof and take appropriate action.

Source:S.L. No. 7L-62-10 §3, 4/8/10

§8-306. Report to the Board of Trustees; issuance of a submerged land lease. Upon completion of the required time of posting, the Chief of the Division of Public Land shall submit a report of his findings and recommendations to the Board of Trustees of the Pohnpei Public Lands Trust. The Board, upon its own determination that the application and the procedures required by this chapter have been successfully met, shall thereafter issue a submerged land lease to the applicant. A leasehold action for which public posting has been successfully completed pursuant to this section shall be exempt from the advertisement requirements of 42 PC 2-102.

Source:S.L. No. 7L-62-10 §3, 4/8/10

§8-307. Administrative appeals. The findings and recommendations of the Chief of the Division of Public Land of the Department of Land and Natural Resources or a decision of the Board of Trustees of the Public Lands Trust may be appealed to the Pohnpei Supreme Court pursuant to Chapter 3 of Title 8 of this Code.

Source:S.L. No. 7L-62-10 §3, 4/8/10

§8-308. Subleases and assignments. A lease of submerged lands issued pursuant to this subchapter may be subleased or assigned in whole or in part, in like manner as the recipient of the lease from the

Board of Trustees may lease, sublease or assign the leasehold interests in the abutting shoreline property; PROVIDED that any such sublease or assignment of the submerged land leasehold shall be subject to the terms and conditions of the lease of the submerged lands issued by the Board of Trustees to the title holder of the abutting shoreline property pursuant to this subchapter.

Source:S.L. No. 7L-62-10 §3, 4/8/10

§8-309. Eligibility to apply for title to leased submerged lands. [RESERVED].

§8-310. Regulations. The Chief of the Division of Public Land of the Department of Land and Natural Resources and the Board of Trustees of the Pohnpei Public Lands Trust may establish regulations for their respective responsibilities in the proper administration of this subchapter. Such regulations shall be issued in compliance with Title 8, Chapter 1 of this Code, relating to administrative procedures. Such regulations shall, upon written approval of the Governor, carry the force and effect of law.

Source:S.L. No. 7L-62-10 §3, 4/8/10

PUBLIC LANDS

CHAPTER 9 MINING AND DREDGING

Section

- 9-101 Designation of sites and limitations of amounts
- 9-101.1 through 9-101.202 *Dredging and mining sites*
- 9-102 Conditions for mining or dredging
- 9-103 Penalties

§9-101. Designation of sites and limitations of amounts. — In addition to all other requirements provided by law and regulations, the Pohnpei Public Lands Trust Board of Trustees, hereinafter referred to as the “Board,” is authorized to regulate the removal of mined and dredged materials located on Public Trust Lands in the following areas listed in the decimal numbered sections immediately following this section. Dredging and removal of dredged material at any other site is prohibited.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.1 Nanisou, U.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.2 Seinwar/Paliapailong, Kitti.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.3 Pahnisou/Tipwen Ais in Rohi, Kitti.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.4 Roie, Sokehs.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.5 Iohl, Sokehs.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.6 Oaumoar, Sokehs.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.7 Sapwohn, Sokehs.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.8 Eir, Sokehs.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.9 Nankepikep en Parem, Nett; PROVIDED that sand mining at Nankepikep en Parem shall comply with the following conditions:

(1) The area shall be identified and delineated by the Department of Land and Natural Resources after consultation with Nett District Planning Committee or the Nett District Government and the Environmental Protection Agency. The Department of Land and Natural Resources, together with the Environmental Protection Agency, shall install landmarks, which landmarks shall identify the boundaries at the designated mining area not to exceed 300 feet by 600 feet; PROVIDED that the Environmental Protection Agency after every one year shall submit a written report to the Department of Land and Natural Resources and to the Nett District Government detailing the assessment of the identified and delineated dredging site. The Environmental Protection Agency after finding that the delineated dredging site is no longer suitable for dredging because of its depth and impact on the surrounding reefs, shall recommend to the Department of Land and Natural Resources to identify and delineate after consultation with the Nett District Planning Committee or Nett District Government and the Environmental Protection Agency a new dredging site not to exceed 300 feet by 600 feet in the same manner and subject to the same procedures as the prior designation and delineation;

(2) A dredging schedule shall be made available to the Environmental Protection Agency and the Nett District Government for monitoring purposes;

(3) Rock and coral shall remain unremoved; and

(4) Any person found not to be in compliance with the above conditions shall be subject to the penalties prescribed by §9-103.

Source: S.L. No. 6L-113-08 §1, 1/8/08; S.L. No. 7L-15-08 §1, 9/9/08

§9-101.10 Ohwa, Madolenihmw.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.11 Metipw, Madolenihmw.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.12 Temwen, Madolenihmw.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.13 Lohd Pah, Madolenihmw.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.14. Pohnpikalap, Madolenihmw; PROVIDED that sand mining at Pohnpikalap shall comply with the following conditions:

(1) The area shall not exceed 300 feet by 600 feet;

(2) Sand mining shall be done only by manpower;

(3) A record shall be kept of how much sand is removed by individuals or groups for the purpose of assessing any environmental effect; and

(4) There shall be an establishment of monitoring procedures that will empower the Environmental Protection Agency and the Division of Fish and Wildlife of the Department of Public Safety to jointly monitor and report every three months to the Department of Land and Natural Resources, which shall report to the Governor and the Legislature on the physical effect of the sand mining in the area.

Source: S.L. No. 6L-113-08 §1, 1/8/08; S.L. No. 7L-80-11 §22, 1/14/11

§9-101.15 Nan Pein Mwoakot, Nett; PROVIDED that the dredging shall be for the purpose of dredging a boat channel 1,200 feet long, 20 feet wide, and 8 feet deep; and PROVIDED FURTHER that the dredging shall only be used for the improvement of the area except that it may also be used to compensate the dredging contractor.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.16 Lohsoan, Peidie, Sokehs; PROVIDED that the dredging shall be for the purpose of dredging a boat channel for public use which shall not be more than 25 feet wide and 5 feet deep, and the length shall be determined based on the distance between the shoreline and the closest deep water within the vicinity; and PROVIDED FURTHER that the dredging shall only be used for the improvement of the area except that it may also be used to compensate the dredging contractor.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.17 Marahu, Kitti; PROVIDED that the dredging shall be for the purpose of dredging a boat channel for public use which shall not be more than 300 feet long, 25 feet wide, and 15 feet deep; and PROVIDED FURTHER that the materials from the dredging shall only be used for the improvement of the area except that it may also be used to compensate the dredging contractor.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.18 Dien, Kitti; PROVIDED that the dredging shall be for the purpose of dredging a boat channel for public use which shall not be more than 600 feet long, 25 feet wide, and 15 feet deep; and PROVIDED FURTHER that the materials from the dredging shall only be used for the improvement

of the area except that it may also be used to compensate the dredging contractor.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.19 Likie, Sokehs; PROVIDED that the dredging shall be for the purpose of repairing the Likie road; PROVIDED FURTHER the materials from the dredging shall only be used for the improvement of the area except that it may also be used to compensate the dredging contractor.

Source: S.L. No. 6L-113-08 §1, 1/8/08

§9-101.20 Yakipa, Kolonia Town; PROVIDED that the dredging shall be for the purpose of dredging a boat channel for public use which shall not be more than 300 feet long, 25 feet wide, and 15 feet deep; PROVIDED FURTHER that the materials from the dredging shall only be used for the improvement of the area except that it may also be used to compensate the dredging contractors.

Source: S.L. No. 6L-113-08 §1, 1/8/08

Note: S.L. No. 6L-113-08 §2 supersession provision has been omitted.

§9-101.21. Sekeren, Rohnkitti, Kitti; PROVIDED that the dredging shall be for the purpose of dredging a boat channel for public use which shall not be more than 750 feet long extending seaward, 25 feet wide and 15 feet deep; PROVIDED FURTHER that the materials from the dredging shall only be used for the improvement of the area except that it may also be used to compensate the dredging contractor.

Source: S.L. No. 7L-55-09 §1, 1/4/10

§9-101.22 Rohi, U; PROVIDED that:

(1) The dredging and filling shall be for the purpose of dredging to clear a boat channel for public use 225 feet long, 25 feet wide and 15 feet deep and for the construction of an appurtenant public boat dock, the filled portion of which may not exceed 2,500 square feet of submerged public land;

(2) Dredged materials may be used to compensate the dredging contractor; PROVIDED that such contractor shall be responsible for the payment of the severance or royalty fees required by 42 PC 9-102(5) for such dredged materials removed from the site and not used in the construction of the appurtenant boat dock; and

(3) The Director of the Department of Land and Natural Resources shall be responsible for the administration and supervision of the emplacement of the public boat dock and channel described in this section; PROVIDED that the Director shall not permit the commencement of any dredging or filling of submerged public land pursuant to this section until he has received a written assurance from the Pohnpei Attorney General that the general public has continuous, free, shore-side access to the public boat dock and channel.

Source: S.L. No. 7L-61-10 §1, 4/8/10

§9-101.22A. Kepinmwomwi, Kitti; PROVIDED that the dredging shall be for the purpose of dredging a boat channel for public use which shall not be more than 2,000 feet long, 20 feet wide, and 8 feet deep; PROVIDED FURTHER that the materials from the dredging shall only be used for the improvement of the area except that it may also be used to compensate the dredging contractor.

Source: S.L. No. 7L-77-10 §1, 11/04/10

§9-102. Conditions for mining or dredging. — The following conditions shall be met, in connection with any mining or dredging under this chapter:

(1) Any entity wishing to mine or dredge shall first apply for a permit, which application, among other things, shall disclose the site to be mined or dredged, the estimated cubic yards of material to be removed, and the purpose for which the removed materials are to be used.

(2) A recording system, acceptable to the Board, shall be maintained by the permittee to allow the Board to monitor the amount of removed materials to mitigate environmental damage.

(3) Any permittee shall be required to return the site to an aesthetically and environmentally acceptable condition as approved by the Board. Rocks and other materials unacceptable for removal, for instance, shall be returned to the dredging site as fill, so as not to be visible above the waterline and in an acceptable depth which shall be jointly inspected and approved by both the Board and the Office of Transportation and Infrastructure or its successor as acceptable safety standard for saltwater transportation; PROVIDED, that the permittee shall remove all the dredged materials or return the rocks and other unacceptable materials to the dredging site as fill at an acceptable depth not later than 120 days from the expiration date of the dredging permit.

(4) No mining or dredging shall occur prior to issuance of a permit by the Board, and no permit shall be issued by the Board until it is satisfied that an applicant is capable of fulfilling the conditions listed herein.

(5) A severance or royalty fee, payable to the Board, shall be imposed for each cubic yard of material removed; PROVIDED that Pohnpei Government entities shall be exempt from payment of such fee; PROVIDED FURTHER, that fifty percent (50%) of such fee collected shall be deposited into the treasury of the local jurisdiction in which the fee is collected from.

Source: Source: S.L. No. 5L-02-00 §2, 3/15/00; S.L. No. 5L-14-00 §3-61, 10/1/00; S.L. No. 7L-77-10 §2, 11/04/10

§9-103. Penalties. — In addition to such other criminal and civil penalties as may be prescribed by law, whosoever shall unlawfully acquire or remove mined or dredged materials located on Public Trust lands not designated by this chapter, or who shall acquire or remove mined or dredged materials from an area designated by this chapter without approval of the Public Lands Trust Board of Trustees or in violation of the regulations or permits issued by the Board with respect thereto, shall be guilty of unlawful acquisition or removal of mined and dredged materials from Public Trust lands, and upon conviction thereof shall be fined not more than \$500, or imprisoned not more than 30 days, or both such fine and imprisonment. Any material removed from the public domain in violation of this chapter shall be subject to confiscation by the Board. Any permit holder who does not remove all the dredged materials or return the rocks and other unacceptable materials to the dredging site as fill at an acceptable depth not later than 120 days from the expiration of the respective dredging permit shall be liable for the cost of restoration of the site and be subject to a civil fine of \$1,000, which fine shall be doubled for each subsequent offense committed by the same person or by a business controlled by such person in a ten year period, not to exceed a civil fine of \$4,000 for each subsequent offense.

Source: Source: S.L. No. 5L-02-00 §3, 3/15/00; S.L. No. 7L-77-10 §3, 11/04/10

Note: S.L. No. 5L-02-00 §4 repealing provision has been omitted.

Extended legislative history: S.L. No. 2L-197-91, 05/22/91, was original legislation; S.L. No. 2L-197-91 §1 was amended by S.L. No. 3L-113-95 §1, 12/13/95, S.L. No. 4L-22-96 §1, 11/1/96, S.L. No. 4L-49-97 §1, 8/10/97, and S.L. No. 4L-74-98 §1, 4/8/98; S.L. No. 2L-197-91 §3 was amended by S.L. No. 3L-113-95 §2, 12/13/95. S.L. No. 2L-197-91 was repealed in its entirety by S.L. No. 5L-02-00 §4, 3/15/00. S.L. No. 5L-02-00 §1 was amended by S.L. No. 5L-10-00 §1, 7/27/00, S.L. No. 5L-14-00 §3-61, 10/1/00, S.L. No. 5L-81-02 §1, 10/29/02, and S.L. No. 6L-109-07 §1, 11/21/07. S.L. No. 5L-02-00 §2 was also amended by S.L. No. 5L-14-00 §3-61, 10/1/00.

*S.L. No. 6L-109-07 §1 (codified as 42 PC 9-101) was repealed in its entirety by S.L. No. 6L-112-08 §31, 1/8/08 and a new §9-101 was inserted. S.L. No. 6L-113-08 §1, 1/8/08 repealed S.L. No. 6L-112-08 §31 (42 PC 9-101) in its entirety and inserted new sections.

**All legislation enacted after the adoption of the Official Code of the State of Pohnpei are no longer referenced using state law numbers, but are cited as codified in the Code.*

CHAPTER 10 LAND USE DESIGNATIONS

Section

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§10-101. Land in Palikir Valley, Sokehs for FSM capital. — Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered to sell, lease or dedicate for public purpose, public lands held by the Board for the following, without warranties and subject to reversion to the Board upon either cessation of active use by the central government or transfer of authority over the project from the Trust Territory Government or its successor to the government of the district or state of Pohnpei:

(1) The capital of the Federated States of Micronesia in Sokehs Municipality; PROVIDED that lands so made available shall not exceed 200 acres; PROVIDED FURTHER that:

(a) For purposes of this subsection “active use” means and is limited to use by the national government of interests in land and other real property for:

- (i) Public facilities and adjacent grounds and access ways directly related specifically to the functioning of the legislative, executive, and judicial branches of the national government;
- (ii) Official residences and adjacent grounds and access ways for the President, the Vice-President, the presiding officer of the Congress, and the Chief Justice of the Supreme Court of the national government; and
- (iii) Public utilities of water, wastewater treatment, electrical power, and telephone services, servicing the capital.

(b) The Public Lands Trust Board of Trustees shall, not later than March 31, 1982, and in close consultation with the national government, designate a specific zone not to exceed 200 acres as the Palikir Valley Urbanization Impact Zone. The national government and its contractors may enter upon unencumbered public lands in the Palikir area prior to such designation, and in the urbanization impact zone after its designation for the purposes of survey, and architectural and engineering activities for capital planning under this subsection.

(c) Following such designation and except as required by Chapter 3, the Board shall not transfer or otherwise encumber any interests in the real property within the designated zone for periods in excess of five years, inclusive of options for renewal, without consultation with the President of the Federated States of Micronesia or his authorized representative.

(d) Upon designation of the zone, the Board may receive and grant requests from the President for the sale, lease or dedication of interests in real property for such portion or portions of a contiguous area within the designated zone for which actual use by the national government as defined herein can be shown as reasonably probable within five years following receipt of the request. Such requests shall be promptly considered by the Board and a response as to proposed action transmitted to the President within 30 days following receipt of the request. The President may appeal the denial of a request hereunder to the Legislature for review and appropriate action thereon.

(e) Upon the transfer of interests in real property to the national government pursuant to this subsection, the area directly affected by the transfer from the Board shall be deemed as the area set aside for the national capital by this state for purposes of Article IX §2 of the Constitution of the Federated States of Micronesia.

(f) If, after five years following the date of a transfer, it be found that active use has not commenced, or that there has been a cessation of active use that segment of the transfer and any improvements thereon found not to be actively used shall revert to the Public Lands Trust Board of Trustees, pursuant to §§10-101 through 10-104, without cost or obligation to the Public Lands Trust Board of Trustees or the Pohnpei Government. Notwithstanding any other provision of this chapter, any party asserting lack of active use shall provide adequate notice of intended action thereon to the national government and the Board at least one year prior to the instigation of any legal proceeding relative thereto.

Source: D.L. No. 4L-161-78 §1(1), 12/7/78; S.L. No. 2L-100-81 §1, 11/24/81

§10-102. Land for College of Micronesia-FSM. — Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered to sell, lease or dedicate for public purpose public trust land held in trust by the Board for the following, without warranties: the College of Micronesia-FSM; PROVIDED that the total amount of lands made so available shall not exceed 200 acres.

Source: D.L. No. 4L-161-78 §1(2), 12/7/78; S.L. No. 2L-34-80 §1, 10/27/80

§10-103. Land in Nett for Pohnpei prison. — Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered to sell, lease or dedicate for public purpose public trust land held in trust by the Board for the following, without warranties: the Pohnpei State prison in Nett Municipality; PROVIDED that lands made so available shall not exceed five acres.

Source: D.L. No. 4L-161-78 §1(3), 12/7/78

§10-104. Land in Madolenihmw for rice mill. — Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered to sell, lease or dedicate for public purpose, public trust lands held in trust by the Board for the following, without warranties: the Pohnpei rice mill in Madolenihmw Municipality; PROVIDED that lands made so available shall not exceed two acres.

Source: D.L. No. 4L-161-78 §1(4), 12/7/78

§10-105. Land for contractors and subcontractors holding government contracts for construction of public capital improvements. —

(1) The Public Lands Trust Board of Trustees is authorized to lease or dedicate for use not more than five hectares of public trust land per local jurisdiction, in specific parcels of land, for periods not to exceed five years, for base camps, equipment depots, and other necessary operational installations, to contractors and their subcontractors holding valid government contracts for the construction of public capital improvements for the state, national or local governments.

(2) Upon certification by the Governor that said contractor or subcontractor is the recipient of a valid government contract and that the intended use of public trust lands is within the purposes and limitations of Subsection (1) of this section, the Board may negotiate directly with such person without regard to his nationality or of the requirements of Chapter 2, Part A. The Board shall prescribe, in writing, the terms and conditions and the extent of permitted lease or use of public trust lands by said person.

Source: D.L. No. 4L-196-79 §§1 & 2, 8/9/79

§10-106. Land for Head Start program. —

(1) The Public Lands Trust Board of Trustees is hereby authorized to lease public trust properties not in excess of one hectare to the Community Action Agency for the nonprofit activities of its Head

Start program in the pre-school training of youth. Any lease so executed under the authority of this section shall not extend for a period of more than five years..

(2) Upon ascertaining that the property requested is in an area designated as available for leasing and following certification by the Governor that the property is not needed by the government for governmental use, the Board may negotiate directly with the Community Action Agency without regard to the requirements of Chapter 2, Part A. The Board shall prescribe, in writing, the terms and conditions of the lease.

Source: S.L. No. 2L-35-80 §§1 & 2, 10/27/80

§10-107. Land for FSM staff housing. — Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered and authorized to commercially lease to persons, business associations or government entities, pursuant to Chapter 2, Part A not more than a total of ten acres of public land held in trust by the Board for the purpose of providing staff housing for the employees of the National Government of the Federated States of Micronesia.

Source: S.L. No. 2L-70-81 §1, 6/30/81

§10-108. Land for FSM warehouse. — Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered and authorized to lease or dedicate not more than 20,000 square feet of public land held in trust by the Board in Dekehtik or areas within the vicinity of Kolonia Town to the national government of the Federated States of Micronesia for the public purpose of constructing a warehouse.

Source: S.L. No. 2L-72-81 §1, 6/30/81

§10-109. Land for community houses. — The Public Lands Trust Board of Trustees is hereby authorized and empowered to dedicate or lease public trust land, held in trust by the Board, for the establishment of a community house for each outer island local jurisdiction of this state, respectively, for the use of its people, to be managed in accordance with policies and rules of the respective local government.

Source: S.L. No. 2L-89-81 §1, 11/9/81

Note: S.L. No. 2L-89-81 §2, 11/9/81 repealed S.L. No. 2L-75-81, 6/30/81.

§10-110. Land for permanent dynamite storage facility. —

(1) Not later than 90 days following the effective date of this section [*effective date is November 24, 1981*], the Public Lands Trust Board of Trustees shall negotiate and conclude an agreement with the Governor for the reservation of real property held in trust by the Board for the construction of a permanent storage facility for the storage of dynamite and other explosives for the state agencies and instrumentalities, surrounding grounds, and access and utilities easements thereto. Sufficient grounds shall be reserved from conflicting uses by said agreement to provide for adequate safety and isolation of the facility from access by the general public.

(2) Not later than 120 days following commencement of construction of the storage facility described in Subsection (1) of this section, the Governor shall submit to the Legislature a complete plan and necessary legislation for the administration of the completed facility and the operation thereof. Prior to the enactment of legislation related thereto, the Governor, in consultation with the Commissioner of the Pohnpei Transportation Authority and the Director of the Department of Public Safety, shall provide by executive directive for the safekeeping of explosive materials that may be deposited therein.

Source: S.L. No. 2L-101-81 §§3 & 4, 11/24/81

Note: The language of §§1 & 2 of S.L. No. 2L-101-81, the financial authorization provisions for the project have been omitted.

§10-111. Lease of public lands to nonprofit educational institutions. —

(1) Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered to lease not more than 30 acres of unencumbered public trust lands held in trust by the Board for the purpose of providing land space for private, nonprofit educational institutions primarily servicing the people of this state at the pre-school, primary or secondary educational levels.

(2) Lease agreements may be entered into under authority of this section with institutions certified by the Director of the Department of Education as authorized to provide education at one or more of the levels set forth in Subsection (1) of this section; PROVIDED that no less than eighty percent (80%) of the school curriculum may be devoted to secular educational purposes recognized for transfer or equivalency in the state public school system. The Board shall prescribe procedures for the application and award of such leases without regard to the requirement for prior advertisement as prescribed in Chapter 2, Part A. Otherwise, procedures prescribed thereunder, not inconsistent with this section, shall apply until replaced by procedures promulgated by the Board under this section.

(3) Lease agreements authorized by this section shall not exceed 50 years, but may be renewed or may be renegotiated to provide for additional lands needed for expansion and for the exchange of currently leased lands for other unencumbered public lands; PROVIDED that no preschool and primary or secondary institution may receive lease interests in a cumulative total of more than three acres of public land for campus buildings and recreational areas and an additional five acres of such land for agricultural training.

(4) Lease agreements entered into under the authority of this section shall not require the payment of any rental fees beyond those necessary to compensate for filing and administrative costs of the Board in the processing of applications and lease agreements under this section.

(5) Upon cessation of active use for education purposes as prescribed by this section, all interests in such public lands by the lessee institution shall revert to the Board as a part of the public lands trust.

(6) All improvements to the real property during the lease period shall become part of the public lands trust upon its emplacement upon the leased property; PROVIDED that the Board may, in its discretion, provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the lessee institution upon termination or cessation of the lease.

(7) Lease interests under this section may not be transferred, assigned or subleased without express written authority of the Board and then only to other educational institutions qualified to enter into lease agreements with the Board under this section, or to financial institutions licensed to do business in this state as security for the emplacement of improvements to the leased premises for educational purposes.

(8) Nothing in this section shall affect the validity or terms of lease of public lands to private, nonprofit educational institutions existing on the effective date of this section [*December 2, 1982*]; PROVIDED, HOWEVER, that such institutions qualifying under this section, may, with the concurrence of the Board, renegotiate such leases upon terms consistent with this section.

Source: S.L. No. 2L-153-82 §§1, 2, & 4 – 8, 12/2/82; S.L. No. 3L-108-95 §1, 10/27/95

§10-112. Authorization of exchange of public trust land for privately held land currently used by Pohnpei Government. —

(1) Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered and authorized to exchange public trust land held in trust by the Board for privately held land currently used by the Government of Pohnpei pursuant to indefinite use agreement.

(2) Upon certification by the Governor that the privately held land is required by Pohnpei State and the public trust land designated for exchange is of approximate equivalent value, the Board shall execute such legal document as may be necessary to effect the exchange.

Source: S.L. No. 2L-154-82 §§1 & 2, 12/2/82

§10-113. Land for FSM Telecommunications Corporation. — Pursuant to §1-111(5), the Public Lands Trust Board of Trustees is hereby empowered and authorized to dedicate or lease at a reasonable rental arrangement for a fixed period with option for renewal not more than 13,000 square meters of public trust lands held in trust by the Board in Nanpohnmal or areas within the vicinity of the local jurisdictions of Nett and Sokehs to the Federated States of Micronesia Telecommunications Corporation for the public purposes of constructing a satellite “B” earth station, a technician training center, and offices of the Corporation.

Source: S.L. No. 2L-157-82 §1, 12/2/82; S.L. No. 2L-204-83 §1, 10/17/83

§10-114. [Reserved]

Note: This section, formally titled “land for mining and processing laterite” was removed by S.L. No. 7L-20-08.

§10-115. Land in Palikir Valley, Sokehs for FSM sewage treatment facilities. — The Public Lands Trust Board of Trustees is hereby authorized to lease public trust lands held in trust by the Board, not in excess of 12 acres, to the national government of the Federated States of Micronesia for sewage treatment facilities in Palikir Valley, Sokehs Municipality. Such lease shall be for a specified period and at a nominal fee and shall be made upon condition that the facilities will be made available to service the residents of Palikir Valley and upon recognition of the national government that operation of the facilities will be subject to all existing and future sanitation, safety, and environmental protection laws and ordinances of the state of Pohnpei and the Sokehs Municipal Government.

Source: S.L. No. 3L-22-84 §1, 7/25/84

§10-116. Land for Nanpil hydropower project. — The Public Lands Trust Board of Trustees is hereby authorized and empowered to reserve or dedicate public trust lands held in trust by the Board, to the state of Pohnpei for the public purpose of constructing, maintaining, and operating the Nanpil hydropower project, a road thereto, and for other Nanpil hydropower project-related public uses.

Source: S.L. No. 3L-23-84 §1, 7/25/84

§10-117. Land for FM/AM broadcast station. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to lease not more than 16,574 square meters of trust land of the northeast corner of Tract No. 025-A-194 for the operation of an FM/AM broadcast station. Notwithstanding the advertising requirements of Chapter 2 Part A, the Board may waive such requirement if it deems that such waiver is necessary in the interest of justice and fairness.

(2) In addition to other requirements by law, the terms of the lease shall be as mutually agreed by the Public Lands Trust Board of Trustees and the lessee, and shall be subject to concurrence by the Governor of Pohnpei. Lands and facilities within the area must be principally devoted to uses relative to broadcasting.

Source: S.L. No. 2L-4-88 §§1 & 2, 4/4/88

§10-118. Land in Palikir, Sokehs for light industrial park/commercial area. —

(1) Pursuant to §1-111(5), and notwithstanding the advertising requirement of said Code provisions, the Public Lands Trust Board of Trustees is hereby empowered and directed to dedicate the following public trust lands held in trust by the Board for the Pohnpei light industrial park/commercial area:

- (a) Tract No. 73181 in Palikir, Sokehs Municipality, consisting of an area of approximately 85,165 square meters;
- (b) Tract No. 73131 in Palikir, Sokehs Municipality, consisting of an area of approximately 63,514 square meters; and

(c) Tract No. 73130 in Palikir, Sokehs Municipality, consisting of an area of approximately 60,000 square meters.

(2) Said dedication shall be in the form of a lease with the Sokehs Municipal Government for a term of 25 years or the life of the improvements made on said land by the United States Economic Development Authority funding, whichever shall expire first. Total consideration of said lease shall be \$25. Such land shall be let without warranties and shall be subject to reversion to the Board.

Source: S.L. No. 2L-84-89 §1, 2/20/89

Note: S.L. No. 2L-108-89 §1 repealed §1 of S.L. No. 2L-84-89 in its entirety and inserted a new §1.

§10-119. Land in Parem Island, Nett for Parem Elementary School. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to dedicate a certain submerged area of public trust land at Parem Island in Nett District to be filled in for use by the Parem Public Elementary School. Notwithstanding the advertising requirements of Chapter 2 Part A, the Board may waive such requirement if it deems that such waiver is necessary for the public interest.

(2) In addition to other requirements by law, lands and facilities within the area must be principally devoted to public educational purposes.

Source: S.L. No. 2L-86-89 §§1 & 2, 2/27/89

§10-120. Land for lease or exchange for residential, agricultural, and related uses in Madolenihmw. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized to lease for a fee or to exchange for privately owned land the following described public trust lands, or so much thereof as the Board deems appropriate, for residential, agricultural, and related uses:

Starting from the corner number 32 with the coordinates north 65981.816 and east 88740.913. Following the line north, 77° 05' 48" east 626.60 meters, to the corner number 31, thence south 52° 37' 24" east 275.48 meters to corner 30, thence south 75° 33' 34" east 75.91 meters to corner number 29, thence south 76° 26' 32" east 107.16 meters to corner number 28, thence south 88° 22' 00" east 186.57 meters to corner number 27, thence south 40° 43' 38" east 268.23 meters to corner number 8824.5, thence south 37° 22' 41" east 108.29 meters to corner number 8824-4, thence south 16° 48' 07" east 116.81 meters to corner number 8824-3, thence south 15° 04' 09" west 181.20 meters to corner number 8824-2, thence northwesterly along meanderline of the stream to corner number 32 north 65981.816 east 88740.913 with the area of 318,317.625 square meters or 31.8 hectares and all being a portion of Tract No. 71231.

(2) Such public trust land may be divided and leased or exchanged in separate parcels. Such land shall be let or exchanged without warranties. Land leased pursuant to this section shall be subject to reversion to the Board of Trustees upon cessation of active use for the purpose described in Subsection (1) of this section.

Source: S.L. No. 2L-93-89 §§1 & 2, 4/14/89

§10-121. Land for Pingelap dispensary. — Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to dedicate certain public trust land in Pingelap Municipality for use by the Pohnpei Government for the construction and maintenance of a public dispensary. The land herein dedicated shall be the area northeast of the Pingelap airstrip and shall be of sufficient size to accommodate the purpose for which it is herein dedicated. Notwithstanding the advertising requirements of Chapter 2 Part A, the Board may waive such requirement if it deems that such waiver is necessary in the public interest. Lands and facilities within the area must be principally devoted to uses provided herein.

Source: S.L. No. 2L-173-90 §1, 12/26/90

§10-122. Land in Pohnlangas, Madolenihmw for public uses. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, portions of the parcel of public land held by the Public Lands Trust Board of Trustees, situated in Pohnlangas, Madolenihmw, and presently occupied by the Division of Forestry [*on the effective date of this section, February 7, 1991*] are hereby designated and declared available for the following public uses:

- (a) Madolenihmw local government civic center;
- (b) Educational purposes; and
- (c) A super-dispensary for Madolenihmw Municipality.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement of the above-designated public lands is hereby waived. Prior to execution of any use agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the three areas for the uses specified in Subsection (1) of this section. The areas shall be of sufficient sizes to accommodate such uses and their future expansion.

Source: S.L. No. 2L-176-91 §§1 & 2, 2/7/91

Note: On February 7, 1991, the Division of Forestry was a division of the Department of Conservation and Resource Surveillance. See S.L. No. 1L-62-86 §3-8(3).

§10-123. Land in Pohnlangas, Madolenihmw for coconut milk project. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, and notwithstanding the advertising requirements of Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to dedicate 15 acres of public trust land held in trust by the Board in the Pohnlangas area of Madolenihmw for the development of coconut products; PROVIDED that the 15 acres shall be strictly utilized for the establishment of a coconut milk project and related activities; PROVIDED FURTHER that such land shall be let without warranties and shall be subject to reversion to the Board upon cessation of said project.

(2) Such dedication shall be in the form of a lease, which lease shall be mutually agreed upon by the Public Lands Trust Board of Trustees and the lessee in accordance with applicable Pohnpei laws.

Source: S.L. No. 2L-185-91 §§1 & 2, 2/26/91

§10-124. Land for Pohnpei Artisanal Fisheries Support Station. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate the whole of the landfill public trust land located along and adjacent to Parcel Nos. 009-A-72, 009-A-71, and 009-A-70 for use by the Pohnpei Artisanal Fisheries Support Station Project.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement of the above-designated public lands is hereby waived. Prior to the execution of any use agreement by the Public Lands Trust Board of Trustees, the Division of Public Land of the Department of Land and Natural Resources shall survey and delineate the areas for the use stated in Subsection (1) of this section. The areas shall be of sufficient size to accommodate such uses and their future expansion.

Source: S.L. No. 3L-36-93 §§1 & 2, 7/15/93

§10-125. Land in Pohnlangas, Madolenihmw for FSM Telecommunications substation. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby empowered and authorized to dedicate or lease certain public land at Pohnlangas, as shown on the Division of Public Land of the Department of Land and Natural Resources Sketch No. 401, to the

Federated States of Micronesia Telecommunications Corporation, for the sole purpose of constructing a telephone substation building.

(2) The term of the lease shall not be more than 25 years with a rental of up to \$1.50 per square meter a year.

Source: S.L. No. 3L-37-93 §§1 & 2, 7/5/93

§10-126. Land in Kahmar, Nett for Nett Elementary School. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized to designate and declare Parcel No. 027-A-25 situated in Kahmar, Nett Municipality, as shown on Plat No. 027-A-04, to be made available for the expansion and relocation of Nett Elementary School and other related projects.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement of the above-designated public land is hereby waived. Prior to the execution of any use agreement by the Public Lands Trust Board of Trustees, the Division of Public Land of the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section. The area shall be of sufficient size to accommodate such uses and their future expansions. Use of the area shall be strictly for the relocation of Nett Elementary School and other related educational projects. Any uses not conforming with these uses shall result in the reversion of Parcel No. 027-A-25 to the Public Lands Trust Board of Trustees.

Source: S.L. No. 3L-67-94 §§1 & 2, 10/17/94

§10-127. Land for Calvary Christian Academy. — The Public Lands Trust Board of Trustees is hereby authorized and directed to provide unencumbered lands within Parcels Nos. 020-A-66, 020-A-67, 020-A-68, and a portion of Parcel No. 020-A-126 on Plat No. 020-A-07 and a portion of Parcel No. 020-A-75 (right-of-way) and all of Parcel No. 020-A-69 (right-of-way) on Plat No. 020-A-03, through a renegotiation of the land needs of the Calvary Christian Academy, which lands shall be let in accordance with §10-111.

Source: S.L. No. 3L-108-95 §2, 10/27/95; S.L. No. 5L-83-02 §1, 11/28/02

§10-128. Land in Pohnlangas, Madolenihmw for Civic Action Team. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare unencumbered public lands situated in Pohnlangas, Madolenihmw, to be made available for lease to the Civic Action Team.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement is hereby waived for the above-designated public lands. Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the use specified in Subsection (1) of this section. The area shall be of sufficient size to accommodate the Civic Action Team center and provide reasonable space for its future expansion, but not in excess of three hectares.

Source: S.L. No. 4L-06-96 §§1 & 2, 7/5/96

§10-129. Land in Pohnlangas, Madolenihmw for asphalt plant. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare certain public trust lands situated in Pohnlangas, Madolenihmw Municipality, held by the Public Lands Trust Board of Trustees, as available for lease to the Pohnpei Transportation Authority for emplacement of an asphalt plant.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Division of Public Land of the Department of Land and Natural Resources shall survey and dedicate the land for the use specified in Subsection (1) of this section.

(3) The lease agreement authorized by this section may not exceed 25 years, but may be renewed.

(4) Lease agreements entered into under the authority of this section shall not require the payment of any rental fees beyond those necessary to compensate for filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of applications and lease agreements under this section.

(5) Upon cessation of active use for the asphalt plant as prescribed by this section, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees as part of the public land trust.

(6) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of the lease without regard to the requirements for prior advertisement as prescribed in Chapter 2 Part A. Otherwise, procedures prescribed thereunder not inconsistent with this section shall apply until replaced by procedures promulgated by the Public Lands Trustees Board of Trustees under the provisions of this section. Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Division of Public Land of the Department of Land and Natural Resources shall survey and dedicate the land for the use specified in Subsection (1) of this section.

Source: S.L. No. 4L-33-97 §§1 – 6, 2/25/97

Note: S.L. No. 4L-33-97 §1 incorrectly references D.L. No. 4L-158-78. The correct reference is D.L. No. 4L-153-78, codified as Chapter 2 Part A of this title.

§10-130. Land for College of Micronesia-FSM – Pohnpei State Campus. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare a portion of Parcel No. 020-A-03, as shown on Plat No. 020-A-00, to be made available for lease to the College of Micronesia-FSM for use as the Pohnpei State Campus.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement is hereby waived for the above-designated public lands. Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Division of Public Land of the Department of Land and Natural Resources shall survey and delineate the area for the use specified in Subsection (1) of this section. The area shall be of sufficient size to accommodate the Pohnpei State Campus and provide reasonable space for its future expansion.

(3) The lease agreement authorized by this section may not exceed 25 years, but may be renewed.

(4) Lease agreements entered into under the authority of this section shall not require the payment of any rental fees beyond those necessary to compensate for filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of applications and lease agreements under this section; PROVIDED, HOWEVER, that the College of Micronesia-FSM shall bear all expenses related to the surveying and mapping of the said area.

(5) Upon cessation of active use for the Pohnpei State Campus as prescribed by Subsection (1) of this section, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees as part of the public land trust.

Source: S.L. No. 4L-41-97 §§1 – 5, 7/4/97

§10-131. Land for the Division of Police and Security. —

(1) Pursuant to §1-111(5) and Chapter 2 Part A, the public trust lands designated Parcel Nos. 012-A-41 and 012-A-42 are hereby designated to be used as prescribed in Subsection (2) of this section.

(2) The parcels of public lands described in Subsection (1) of this section are designated for the purposes of constructing and operating a permanent station and related facilities for the Division of Police and Security within the Department of Public Safety. Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement is hereby waived for the public lands described in Subsection (1) of this section. Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Division of Surveying and Mapping of the

Department of Land and Natural Resources shall survey and delineate the areas for the use specified in this subsection.

Source: S.L. No. 4L-42-97 §§1 & 2, 7/25/97

§10-132. Land in Lukop, Madolenihmw for house of worship. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare Parcel No. 008 D 11, as exhibited on Map No. 008 D 00, located at Lukop, Madolenihmw Municipality, held by the Public Lands Trust Board of Trustees, as land available for lease for construction of a house of worship.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Division of Public Land of the Department of Land and Natural Resources shall survey and delineate the area for the use specified in Subsection (1) of this section.

(3) The lease agreement authorized by this section shall not exceed 50 years, but may be renewed.

(4) The lease agreement entered into under this section shall not require the payment of any rental fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and lease agreement under this section.

(5) Upon cessation of active use for the house of worship as prescribed by this section, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees.

(6) All improvements to the real property during the lease period shall become part of the public land trust upon their emplacement upon the leased property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the lessee, upon termination or cessation of the lease.

(7) The leasehold interest authorized under this section may not be transferred, assigned or subleased without express written authority of the Public Lands Trust Board of Trustees to the lessee.

(8) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of the lease without regard to the requirements for prior advertisement as prescribed in Chapter 2 Part A. Otherwise, procedures prescribed thereunder not inconsistent with this section shall apply until replaced by procedures promulgated by the Public Lands Trust Board of Trustees under the provisions of this section.

Source: S.L. No. 4L-43-97 §§1 – 8, 7/25/97

§10-133. Land in Senipen, Madolenihmw for public uses. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare certain public trust lands situated in Senipen, Madolenihmw Municipality, held by the Public Lands Trust Board of Trustees, as available for lease for public youth and civic center uses.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and dedicate the land for the use specified in Subsection (1) of this section.

(3) The lease agreement authorized by this section may not exceed 25 years, but may be renewed.

(4) Lease agreements entered into under the authority of this section shall not require the payment of any rental fees beyond those necessary to compensate for filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of applications and lease agreements under this section.

(5) Upon cessation of active use by a party or parties holding title to the lease, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees as part of the public land trust.

(6) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of the lease without regard to the requirements for prior advertisement as prescribed in Chapter 2 Part A. Otherwise, procedures prescribed thereunder not inconsistent with this section shall apply until replaced by procedures promulgated by the Public Lands Trust Board of Trustees under the provisions of this section.

Source: S.L. No. 4L-44-97 §§1 – 6, 7/30/97

§10-134. Land in Mal en Pohras, Sokehs for landslide victims. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare certain public trust lands situated in Mal en Pohras, Sokehs Municipality, held by the Public Lands Trust Board of Trustees, as available for lease for the resettlement of families whose homes were destroyed or otherwise rendered uninhabitable by the flooding and landslides that occurred on April 19, 1997, and April 20, 1997.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Division of Public Land of the Department of Land and Natural Resources shall survey and dedicate the land for the use specified in Subsection (1) of this section.

(3) In consideration of the great loss and harm sustained by families whose homes were destroyed or otherwise rendered uninhabitable by the flooding and landslides that occurred on April 19, 1997, and April 20, 1997, lease agreements entered into under this section shall not require any payment of rental fees for a period of 25 years.

(4) Upon cessation of active use of the land by the lessees for the purposes as prescribed by this section, all interest in such public lands by the lessees shall revert to the Public Lands Trust Board of Trustees as part of the public land trust.

(5) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of the lease without regard to the requirements for prior advertisement as prescribed in Chapter 2 Part A. Otherwise, procedures prescribed thereunder not inconsistent with this section shall apply until replaced by procedures promulgated by the Public Lands Trust Board of Trustees under the provisions of this section..

Source: S.L. No. 4L-45-97 §§1 – 5, 7/25/97

§10-135. Land in Ipat, Nett for church-related activities. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare certain public lands located at Ipat, Nett District, for church-related activities.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Division of Public Land of the Department of Land and Natural Resources shall survey and delineate the areas for the use specified in Subsection (1) of this section.

(3) The lease agreement authorized by this section shall not exceed 50 years, but may be renewed.

(4) The lease agreement entered into under this section shall not require the payment of any rental fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and lease agreement under this section.

(5) Upon cessation of active use for the church-related activities as prescribed by this section, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees.

(6) All improvements to the real property during the period shall become part of the public land trust upon their emplacement upon the leased property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the lessee, upon termination or cessation of the lease.

(7) The leasehold interest authorized under this section may not be transferred, assigned or subleased without express written authority of the Public Lands Trust Board of Trustees to the lessee.

(8) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of the lease without regard to the requirements for prior advertisement as prescribed in Chapter 2 Part A. Otherwise, procedures prescribed thereunder not inconsistent with this section shall apply until replaced by procedures promulgated by the Public Lands Trust Board of Trustees under the provisions of this section..

Source: S.L. No. 4L-73-98 §§1 – 8, 4/1/98

§10-136. Land for agricultural, commercial, and residential-related uses. —

(1) Pursuant to Article 14 §5 of the Pohnpei Constitution and Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare for lease certain public lands located in the state of Pohnpei for agricultural, commercial, and residential-related uses.

(2) The Board of Trustees shall determine which parcels of public lands in the following cadastral plats are unencumbered by a lease, and shall lease said parcels in an expeditious manner, with the intent that all of said cadastral plats shall be fully leased as to all public lands therein, except for such public lands necessary for general public use, such as streets, parks, public rights-of-way, etc.:

Cadastral Plat	Location
002-A-00	Kolonia Town
005-A-01	Kolonia Town
009-A-02	Kolonia Town
014-A-00	Kolonia Town
014-A-02	Kolonia Town
019-A-00	Kolonia Town
020-A-00	Kolonia Town
020-A-02	Kolonia Town
020-A-03	Kolonia Town
025-A-21	Nanpohnmal, Sokehs
025-A-25	Nanpohnmal, Nett
025-A-28	Nanpohnmal, Nett
025-A-29	Nanpohnmal, Nett
025-A-30	Nanpohnmal, Nett
025-A-35	Nanpohnmal, Nett
031-B-00	Nanmal, Sokehs
031-B-02	Nanmal, Sokehs
032-B-00	Nanmal, Sokehs
035-B-00	Nanmal, Sokehs
057-B-00	Dolen, Sokehs
020-D-02	Rohi, U
024-D-01	Rohi, U
025-D-01	Rohi, U
025-D-02	Rohi, U
058-D-00	Elielwi, Madolenihmw
058-D-01	Pohnauleng, Madolenihmw
091-D-00	Alohkapw, Madolenihmw
092-D-00	Alohkapw, Madolenihmw
75506(Sheet 103)	Pohnauleng, Madolenihmw
Track No. 75551(portion of)	Lewetik, Sokehs

PROVIDED that, before the leasing of any said public lands, the Board of Trustees and the Division of Public Land shall appropriately subdivide said lands, where necessary, and provide for appropriate public access, including to the sea and to the mountains.

Source: S.L. No. 4L-79-98 §§1 & 2, 8/13/98; S.L. No. 7L-29-09 §1, 2/17/09; S.L. No. 7L-41-09 §1, 7/30/09; S.L. No. 7L-81-11 §2, 1/21/11

§10-137. Land for marine complex. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to dedicate Parcel No. 014-A-51, shown on Plat No. 014-A-00, for the location of a marine complex.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement is hereby waived for the above-designated public lands.

Source: S.L. No. 4L-89-98 §§1 & 2, 12/21/98

§10-138. Land for a public botanical and recreational park. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to dedicate for a public botanical and recreational park the land parcels that are currently occupied by the Pohnpei Agricultural Station, identified as Parcel No. 020-A-146, and 020-A-144 on Cadastral Plat No. 020-A-12, and Parcel 20-A-121 on Cadastral Plat No. 20-A-06.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement is hereby waived for the above-designated public lands.

Source: S.L. No. 4L-90-98 §§1 & 2, 12/21/98

§10-139. Land in Kolonia Town for Community Health Center. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare Plat No. 013-A-04, Parcel No. 013-A-40, for use as the Kolonia Town Community Health Center.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement is hereby waived for the above-designated public lands.

Source: S.L. No. 4L-102-99 §§1 & 2, 4/8/99

§10-140. Land in Sokehs for houses of worship. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to grant and release Parcel Nos. 001-C-09, 055-B-11 and 031-B-05, and portions of Parcel Nos. 063-A-22, 103-A-06, and 096-A-12, and a specific dredged and filled area along the shoreline at Roie, which area shall not exceed 10,000 square meters, located in Sokehs Municipality, held by the Public Lands Trust Board of Trustees, for conveyance to the houses of worship situated thereon, such lands to be used for church-related purposes.

(2) Prior to the execution of any deed of conveyance by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section.

(3) The conveyance authorized by this section shall be by quitclaim deed.

(4) The quitclaim deed shall not require the payment of any fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and quitclaim deed.

(5) The transfer of title to the public lands in Subsection (1) of this section shall be subject to easements for public purposes and any other encumbrances already existing.

(6) All improvements to the real property with their appurtenances shall also be conveyed.

(7) The freehold interest authorized under this section may not be transferred or assigned except back to the Public Lands Trust or its successor.

(8) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of the deed without regard to the requirements for prior advertisement as prescribed in Chapter 2 Part A. Otherwise, procedures prescribed thereunder not inconsistent with this section shall apply unless replaced by procedures promulgated by the Public Lands Trust Board of Trustees under this section.

Source: S.L. No. 4L-109-99 §§1 – 8, 7/12/99; S.L. No. 5L-64-02 §1, 4/24/02

§10-141. Land in Madolenihmw for houses of worship. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to grant and release Parcel No. 010-D-14 on Plat No. 010-D-00, and a portion of Tract No. 72484 on Sheet No. 84, and a portion of Tract No. 74293 on Sheet No. 127, located in Madolenihmw Municipality, held by the Public Lands Trust Board of Trustees, for conveyance to the houses of worship situated thereon, such lands to be used for church-related purposes.

(2) Prior to the execution of any deed of conveyance by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section.

(3) The conveyance authorized by this section shall be by quitclaim deed.

(4) The quitclaim deed shall not require the payment of any fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and quitclaim deed.

(5) The transfer of title to the public lands in Subsection (1) of this section shall be subject to easements for public purposes and any other encumbrances already existing.

(6) All improvements to the real property with their appurtenances shall also be conveyed.

(7) The freehold interest authorized under this section may not be transferred or assigned except back to the Public Lands Trust or its successor.

(8) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of the deed without regard to the requirements for prior advertisement as prescribed in Chapter 2 Part A. Otherwise, procedures prescribed thereunder not inconsistent with this section shall apply unless replaced by procedures promulgated by the Public Lands Trust Board of Trustees under this section.

Source: S.L. No. 4L-110-99 §§1 – 8, 7/12/99

§10-142. Land in Madolenihmw for recreational facility. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A (except for the advertisement provisions stated therein), the Public Lands Trust Board of Trustees is hereby authorized and directed to execute a lease and use-right agreement for a portion of Tract No. 72565 held in trust by the Board of Trustees, to the Madolenihmw Municipal Government, for use as a recreational facility by the people of Madolenihmw Municipality.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the use specified in Subsection (1) of this section.

(3) The lease agreement authorized by this section may not exceed 25 years, but may be renewed.

(4) The lease agreement entered into under this section shall not require the payment of any rental fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and lease agreement under this section.

(5) Upon cessation of active use by the Madolenihmw Municipal Government as prescribed by this section, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees.

(6) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of lease without regard to the requirements for prior advertisement as established by law.

(7) All improvements to the real property during the lease period shall become part of the public land trust upon their emplacement upon the leased property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the lessee, upon termination or cessation of the lease.

Source: S.L. No. 4L-131-99 §§1 – 7, 10/21/99

§10-143. Land in Nan Rohi, Mesisou, Madolenihmw for dredging. — Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare a specific portion of submerged public trust lands held in trust by the Public Lands Trust Board of Trustees, which land is located adjacent to the shoreline of Nan Rohi, Mesisou, Madolenihmw Municipality, for the purpose of dredging a boat channel and providing for the disposition of the dredged materials in the manner prescribed by law and regulation.

Source: S.L. No. 4L-134-99 §1, 11/10/99

§10-144. Land in Kolonia Town for commercial use. — The Public Lands Trust Board of Trustees, fee owner of the premises occupied by the State Tourism Office, shall be given notice of vacating of the premises by the State Tourism Office, which date of vacating shall also be no later than 60 days after this section becomes law. Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to make that certain parcel of land situated in Kolonia Town, adjacent to the Post Office, presently occupied by the State Tourism Office, and being Parcel No. 012-A-44 available for lease to the general public at a reasonable commercial rate.

Source: S.L. No. 4L-135-99 §3, 11/10/99

Note: S.L. No. 4L-135-99 §§1 & 2 temporary provisions have been omitted.

§10-145. Land in Kolonia Town for youth civic center. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, except for the advertisement provisions stated therein, the Public Lands Trust Board of Trustees is hereby authorized and directed to execute a lease and use-right agreement for Parcel No. 016-A-57, Parcel No. 019-A-41, and Parcel No. 019-A-37 held in trust by the Board to the Kolonia Town Government for use as a youth civic center.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the use specified in Subsection (1) of this section.

(3) The lease agreement entered into under this section shall not require the payment of any rental fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and lease agreement under this section.

(4) Upon cessation of active use by the Kolonia Town Government as prescribed by this section, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees.

(5) All improvements to the real property during the lease period shall become part of the public land trust upon their emplacement upon the leased property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the lessee, upon termination or cessation of the lease.

Source: S.L. No. 5L-16-00 §§1 – 5, 9/15/00

§10-146. Land in Madolenihmw for fishery training center and ice plant facility. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to convey, in conditional fee simple, Parcel No. 010-E-03 and a portion of Tract No. 73596 held in trust by the Board of Trustees, to the Madolenihmw Municipal Government, for use as a fishery training center and an ice plant facility and other related fishery business activities by the people of Pohnpei.

(2) Prior to the conveyance by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section.

(3) The conveyance entered into under this section shall not require the payment of any fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and conveyance under this section.

(4) The deed in conditional fee simple shall contain a reversion clause that, upon cessation of active use by the Madolenihmw Municipal Government of the property for the restricted uses as prescribed by this section, all interest in such public lands by the grantee shall revert to the Public Lands Trust Board of Trustees. In addition, the grantee shall not:

(a) Permit the use of the property for personal or private purposes;

(b) Sell or contract for the sale of the property; or

(c) Mortgage the property unless specifically authorized by amendment of this statute.

(5) All improvements to the real property shall become part of the property and subject to reversion upon their emplacement upon the property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the grantee, upon reversion of the property.

Source: S.L. No. 5L-20-00 §§1 – 5, 10/10/00

§10-147. Land in Madolenihmw for community center and related activities. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A (except for the advertisement provisions stated therein), the Public Lands Trust Board of Trustees is hereby authorized and directed, upon approval by the Governor, to execute a lease and use-right agreement for Tract No. 72483 on Manuscript Sheet No. 84 held in trust by the Board of Trustees to the Madolenihmw Municipal Government for use as a community center and other community-related purposes.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the use specified in Subsection (1) of this section.

(3) The lease agreement entered into under this section shall not require the payment of any rental fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and lease agreement under this section.

(4) Upon cessation of active use by the Madolenihmw Municipal Government as prescribed by this section, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees.

(5) All improvements to the real property during the lease period shall become part of the public land trust upon their emplacement upon the leased property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the lessee, upon termination or cessation of the lease.

Source: S.L. No. 5L-22-00 §§1 – 5, 10/26/00

§10-148. Land in Ipat, Nett for parking for St. Peters church. — Pursuant to Chapters 1 and 9, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate, dedicate, and declare a specific portion of submerged public trust lands held in trust by the Public Lands Trust

Board of Trustees, which land is located adjacent to the shoreline of Ipat, Nett District, for the purpose of dredging and filling an area to provide for a parking area for St. Peters church and other church-related purposes in the manner prescribed by law and regulation.

Source: S.L. No. 5L-37-01 §1, 4/23/01

§10-149. Authorization of exchange of public trust land for land on Pingelap Municipality for Pingelap development projects. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A (except for the advertisement provisions stated therein), the Public Lands Trust Board of Trustees is hereby authorized and directed to exchange certain land in Pohnpei, upon approval by the Governor, for land in Pingelap Municipality for Pingelap development projects.

(2) Such public land shall be exchanged without warranties. Land exchanged pursuant to this section shall be subject to reversion to the Board of Trustees upon cessation of active use for the purpose described in Subsection (1) of this section.

Source: S.L. No. 5L-57-01 §§1 & 2, 12/5/01

§10-150. Land in Kolonia Town for Conservation and Management of fish stock Commission.

(1) Pursuant to Chapter 1 and Chapter 2 Part A (except for the advertisement provisions stated therein), the Public Lands Trust Board of Trustees is hereby authorized and empowered, upon approval by the Governor, to dedicate to the Commission for Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean public trust lands held in trust by the Board situated in Kolonia Town for the emplacement of the corporate office for the Commission for Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean. Parcels of public trust lands that are subject to this authorization are restricted to parcels or portions of Parcels Nos. 009-A-47 and 009-A-48, which shall be determined by the need of the Commission for Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean for Corporate Office facilities.

(2) Such public lands shall be transferred pursuant to a lease agreement between the Public Lands Trust Board of Trustees and the Commission for Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean. The lease agreement entered into under this section shall not require the payment of any rental fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the lease agreement under this section. The lease agreement shall not exceed 55 years with a right of renewal for one additional term. The lease agreement shall contain a reversion clause that upon cessation of active use by the Commission for Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean for the restricted uses as prescribed by this section, all interest in such public lands by the Commission for Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean shall revert to the Public Lands Trust Board of Trustees. In addition, the Commission for Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean shall not:

- (a) Permit the use of the property for personal or private purposes;
- (b) Sell or contract for the subleasing of the property or assignment of the lease; or
- (c) Mortgage the property unless directed and authorized by the Board and specifically authorized by amendment of this statute, and upon consultation and approval by the Governor.

(3) All improvements to the real property shall become part of the property and subject to reversion upon their emplacement upon the property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the Commission for Conservation and Management

of Highly Migratory Fish Stock in the Western and Central Pacific Ocean upon reversion of the property.

Source: S.L. No. 5L-82-02 §§1 – 3, 11/22/02; S.L. No. 6L-28-05 §1, 3/2/05

Note: S.L. No. 5L-82-02 §4 repealed S.L. No. 4L-23-96 in its entirety.

§10-151. Land in Nanpohnmal for residential and agricultural use. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and declare for lease certain public lands located in the state of Pohnpei for the following uses:

Cadastral Plat	Location	Purpose
025-A-03	Nanpohnmal	Residential
025-A-04	Nanpohnmal	Residential
025-A-05	Nanpohnmal	Agricultural/taro farming
025-A-06	Nanpohnmal	Residential
025-A-07	Nanpohnmal	Residential

(2) The Board of Trustees shall determine which parcels of public lands in the cadastral plats identified above are unencumbered by a lease, and shall lease said parcels in an expeditious manner, with the intent that all of said cadastral plats shall be fully leased as to all public lands therein, except for such public lands necessary for general public use, such as streets, parks, public rights-of-way, etc.; PROVIDED that, before the leasing of any said public lands the Board of Trustees and the Division of Public Land shall appropriately subdivide said lands, where necessary, and provide for appropriate public access, including to the sea and to the mountains; PROVIDED FURTHER that Cadastral Plat 025-A-05 shall be leased solely for the purpose of farming taro; and PROVIDED FURTHER that the Public Lands Trust Board of Trustees shall formulate rules and regulations within 120 days from the effective date of this section [*effective date is February 11, 2003*] regarding the administration and management of Cadastral Plat 025-A-05 solely for the purpose stated herein.

Source: S.L. No. 5L-91-03 §§1 & 2, 2/11/03

Note: S.L. No. 5L-91-03 §3 superseding provision has been omitted.

§10-152. Land for the construction of an airstrip for Kapingamarangi Municipality. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, as amended, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate certain public trust land situated on the island of Bumadahadi in the municipality of Kapingamarangi for the construction of an airstrip and other related facilities.

(2) Notwithstanding the requirements of the Code provisions cited in Subsection (1) of this section, public advertisement of the above-designated public trust lands is hereby waived. Prior to the execution of any use agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey, map and delineate the area for the use specified in Subsection (1) of this section. The area shall be of sufficient size to accommodate such use and its future expansions.

Source: S.L. No. 5L-107-03 §§1 & 2, 9/4/03

§10-153 Land in Dekehtik Island for fuel farm, generator plant, and sewer plant. —

(1) The Public Lands Trust Board of Trustees is hereby authorized and directed to execute a long-term lease agreement for a portion of a parcel of land held in trust by the Public Lands Trust Board of Trustees, which land is located on Dekehtik Island, Nett Municipality, to the Pohnpei Utilities Corporation (PUC), for use as a site for a new fuel farm, a new power generation plant, a new sewer plant, and for other PUC appurtenant infrastructures. The requirements of Chapter 2 Part A of this title, and of any Public Lands Trust Board of Trustees regulations established pursuant to Chapter 2

Part A, are hereby expressly waived. The requirements of 32 PC 2-115, as amended, are hereby expressly waived.

(2) Prior to the execution of the long-term lease agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section; PROVIDED that the area surveyed and delineated for the uses specified in Subsection (1) of this section shall take into account the future expansion of the Pohnpei Airport; and PROVIDED FURTHER that the area surveyed and delineated for the uses specified in Subsection (1) of this section shall be set back from the existing roadway at a distance of not less than 100 feet.

(3) Prior to execution of the long-term lease agreement specified in Subsection (1) of this section, the land surveyed and delineated for the uses specified in Subsection (1) of this section shall revert back to the Public Lands Trust.

(4) The long-term lease agreement entered into under this section shall not require the payment of any rental fees; PROVIDED that PUC shall pay only fees necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and long-term lease agreement under this section.

(5) The long-term lease agreement authorized by this section may not exceed 50 years, but may be renewed upon mutual consent of both parties. The long-term lease agreement shall contain a reversion clause that upon cessation of active use by the PUC of the property for the restricted uses as prescribed by this section, all interest in such public lands by the grantee shall revert to the Public Lands Trust Board of Trustees. The grantee shall not:

- (a) Permit the use of the property for personal or private purposes;
- (b) Sell or contract for the sale of the property; or
- (c) Mortgage the property unless specifically authorized by amendment of this statute.

(6) All improvements to the real property shall become part of the property and subject to reversion upon their emplacement upon the property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the grantee, upon reversion of the property.

Source: S.L. No. 6L-18-04 §§1 – 6, 10/12/04

§10-154. Land in Madolenihmw for solid waste dumpsite. —

(1) The Public Lands Trust Board of Trustees is hereby authorized and directed to designate a portion of land Tract No. 75552 on Plat No. 059-B-08, not to exceed 100 meters x 100 meters, held in trust by the Public Lands Trust Board of Trustees, which is located at Elielwi, Madolenihmw, for development and subsequent use as a solid waste dumpsite, and for other related services. Such public lands shall be conveyed in conditional fee simple. The deed in conditional fee simple shall contain a reversion clause that upon cessation of active use by the Pohnpei Government for the restricted uses as prescribed by this section, all interest in such public lands shall revert to the Public Lands Trust Board of Trustees.

(2) Prior to the conveyance of the conditional deed by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section.

(3) The Pohnpei Government shall not:

- (a) Permit the use of the property for personal or private purposes;
- (b) Sell or contract for the sale of the property; or
- (c) Mortgage the property unless directed and authorized by the Board and specifically authorized by amendment of this statute.

(4) All improvements to the real property shall become part of the property and subject to reversion upon their emplacement upon the property; PROVIDED that the Public Lands Trust Board

of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the grantee, upon reversion of the property.

Source: S.L. No. 6L-24-04 §§1 – 4, 12/21/04; S.L. No. 7L-40-09 §1, 7/30/09

§10-155. Land in Nett for National Olympic Committee. —

(1) The Public Lands Trust Board of Trustees is hereby authorized and empowered, upon approval by the Governor, to dedicate and lease for use of the National Olympic Committee for official National Olympic Committee purposes public trust lands held in trust by the Board situated in Nett from the former PICS retainage area. The requirements of Chapter 2 Part A of this title, and of any Public Lands Trust Board of Trustees regulations established pursuant to Chapter 2 Part A, are hereby expressly waived.

(2) Prior to the execution of the lease agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section.

(3) Prior to execution of the lease agreement specified in Subsection (1) of this section, the land surveyed and delineated for the uses specified in Subsection (1) of this section shall revert back to the Public Lands Trust.

(4) Such public lands shall be transferred pursuant to a lease agreement between the Public Lands Trust Board of Trustees and the National Olympic Committee. The lease agreement entered into under this section shall not require the payment of any rental fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the lease agreement under this section. The lease agreement shall not exceed 30 years with a right of renewal for one additional term. The lease agreement shall contain a reversion clause that upon cessation of active use by the National Olympic Committee for the purposes specified in this section, all interest in such public lands by the National Olympic Committee shall revert to the Public Lands Trust Board of Trustees. In addition, the National Olympic Committee shall not:

- (a) Permit the use of the property for personal or private purposes;
- (b) Sell or contract for the subleasing of the property or assignment of the lease; or
- (c) Mortgage the property unless directed and authorized by the Board and specifically authorized by amendment of this statute, and upon consultation and approval by the Governor.

(5) All improvements to the real property shall become part of the property and subject to reversion upon their emplacement upon the property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the National Olympic Committee upon reversion of the property.

Source: S.L. No. 7L-13-08 §1, 8/29/08

§10-155A. Land in Dekehtik Island for fisheries development. —

(1) The Public Lands Trust Board of Trustees is hereby authorized and directed to execute a long-term lease agreement for a portion of a parcel of land known as Track No. 75425 held in trust by the Public Lands Trust Board of Trustees, which land is located on Dekehtik Island, Nett Municipality, to the Office of Fisheries and Aquaculture, (OFA), for use as a site for the Pohnpei-China Fisheries Project. The requirements of Chapter 2 Part A of this title, and of any Public Lands Trust Board of Trustees regulations established pursuant to Chapter 2 Part A, are hereby expressly waived. The requirements of 32 PC 2-115, as amended, are hereby expressly waived.

(2) Prior to the execution of the long-term lease agreement by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the site within Track No. 75425 for the uses specified in Subsection (1) of this section.

(3) Prior to execution of the long-term lease agreement specified in Subsection (1) of this section, the land surveyed and delineated for the uses specified in Subsection (1) of this section shall revert back to the Public Lands Trust pursuant to 32 PC 1-125.

(4) The long-term lease agreement entered into under this section shall not require the payment of any rental fees; PROVIDED that OFA shall pay only fees necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and long-term lease agreement under this section.

(5) The long-term lease agreement authorized by this section may not exceed 30 years. The long-term lease agreement shall contain a reversion clause that upon cessation of active use by the OFA of the property for the restricted uses as prescribed by this section, all interest in such public lands by the grantee shall revert to the Public Lands Trust Board of Trustees. The grantee shall not:

(a) Permit the use of the property for personal or private purposes, except as authorized by the Pohnpei-China Fisheries Project;

(b) Sell or contract for the sale of the property; or

(c) Mortgage the property unless specifically authorized by amendment of this statute.

(6) All improvements to the real property shall become part of the property and subject to reversion upon their emplacement upon the property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the grantee, upon reversion of the property.

Source: S.L. No. 7L-25-09 §1, [effective pursuant to a state statute]

Editor's note: The suffix "A" was added to this section because a new Section 10-155 had already been added to the Code by S.L. No. 7L-13-08.

§10-156. Land in Nett District for Pohnpei Seventh Day Adventist School. — Pursuant to 42 PC 1-111(5), the Public Lands Trust Board of Trustees is hereby authorized and directed to provide unencumbered lands within Track No. 75557 comprising an area of 4,886 square meters and Track No. 75556 comprising an area of 15,751 square meters, located at Dolonier, Nett District for lease to the Pohnpei Seventh Day Adventist School, which lands shall be let in accordance with 42 PC 10-111; PROVIDED that Track No. 75558 comprising an area of 862 square meters and Track No. 75559 comprising an area of 618 square meters of lands shall be reserved for public easement; PROVIDED FURTHER that any new buildings erected or emplaced on these lands shall be restricted to buildings solely for classrooms and other educational purposes.

Source: S.L. No. 7L-12-08 §1, 8/29/08

§10-157. Land at Paliapailong for Kitti Economic Development Projects and related purposes.

(1) Pursuant to Chapter 1 and Chapter 2 Part A (except for the advertisement provisions stated therein), the Public Lands Trust Board of Trustees is hereby authorized and directed to convey, in conditional fee simple, the public land at Paliapailong, formerly held by the Pohnpei Transportation Authority (PTA), 800 feet along the shoreline and 500 feet extending seaward, to the Kitti Municipal Government to be used for economic development related purposes.

(2) The deed in conditional fee simple shall contain a reversion clause that upon cessation of active use by the Kitti Municipal Government for the restricted uses as prescribed by Subsection (1), all interest in such public lands shall revert to the Public Lands Trust Board of Trustees.

(3) All improvements to the real property during the conveyance period shall become part of the public lands trust upon their emplacement upon the deeded property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the grantee, upon termination or cessation of the deed.

Source: S.L. No. 7L-56-10 §1, 1/12/10

§10-158. Land in Kolonia Town for a house of worship. □ —

(1) Pursuant to Chapter 1 and Chapter 2 Part A, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate Parcel No. 006-A-38 located in Kolonia Town as available for lease for a Jehovah's Witnesses Kingdom Hall.

(2) Prior to the execution of any lease agreement by the Public Lands Trust Board of Trustees, the Division of Public Lands of the Department of Land and Natural Resources shall survey and delineate the areas for the use specified in Subsection (1) of this section.

(3) The lease agreement authorized by this section shall not exceed 50 years, but may be renewed.

(4) The lease agreement entered into under this section shall not require the payment of any rental fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and lease agreement under this section.

(5) Upon cessation of active use for worship-related activities as prescribed by this section, all interest in such public lands by the lessee shall revert to the Public Lands Trust Board of Trustees.

(6) All improvements to the real property during the period shall become part of the public lands trust upon their emplacement upon the leased property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the lessee, upon termination or cessation of the lease.

(7) The leasehold interest authorized under this section may not be transferred, assigned or subleased without express written authority of the Public Lands Trust Board of Trustees to the lessee.

(8) The Public Lands Trust Board of Trustees shall prescribe procedures for the application and award of the lease without regard to the requirements for prior advertisement as prescribed in Chapter 2 Part A. Otherwise, procedures prescribed thereunder not inconsistent with this section shall apply until replaced by procedures promulgated by the Public Lands Trust Board of Trustees under the provisions of this section.

Source: S.L. No. 7L-04-08 §1, 04/17/08; S.L. No. 7L-42-09 §1, 07/30/09

§10-159. Land at Nett Point Causeway and adjacent submerged lands for recreation, dredging, boat channel and other community-related purposes. —

(1) The Pohnpei Public Lands Trust Board of Trustees is hereby authorized and directed to identify and survey the area extending from Nett Point to the Nett Point dock currently held by the Pohnpei Port Authority no later than 30 days following the effective date of this section.

(2) No later than 45 days following the effective date of this section, the area identified and surveyed pursuant to Subsection (1) of this section shall revert back to the Pohnpei Public Lands Trust.

(3) Pursuant to Chapter 1 of Title 42 the Public Lands Trust Board of Trustees is hereby authorized and directed to convey in conditional fee simple the causeway land extending from Nett Point to the Nett Point dock, and the area of submerged lands extending 200 feet from the western side of the causeway and submerged lands extending 60 feet from the eastern side of the causeway, formerly held by the Pohnpei Port Authority and following its reversion to the Pohnpei Public Lands Trust, to the Nett District Government for use for recreation, dredging, boat channel and other community-related purposes; PROVIDED that the conveyance shall contain an easement on the causeway for the Pohnpei Port Authority, or its successor, for access to the Nett Point dock and an easement for the general public for a boat channel in the submerged land on the western side of the causeway.

(4) The deed in conditional fee simple shall contain a reversion clause that upon cessation of active use by the Nett District Government for the restricted uses as prescribed by this section, all interest in such public lands shall revert to the Public Lands Trust Board of Trustees.

(5) All improvements to the real property during the conveyance period shall become part of the real property upon their emplacement upon the property; PROVIDED that the Public Lands Trust

Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the property made by or on behalf of the grantee upon reversion of the property to the Pohnpei Public Lands Trust.

Source: S.L. No. 7L-48-09 §1, 11/15/09

§10-160. Shoreline at Kinakapw for recreation, dredging a boat channel and other community-related purposes. —

(1) Pursuant to Chapter 1 and Chapter 2 Part A of Title 42 (except for the advertisement provisions stated therein), the Public Lands Trust Board of Trustees is hereby authorized and directed to convey in conditional fee simple submerged public lands along shorelines at Kinakapw extending outward 500 feet from the shoreline and 300 feet along the shoreline to the Madolenihmw Municipal Government for recreational use, and dredging for land fill and for a boat channel 1,500 feet by 25 feet by 12 feet and other recreation and boat channel-related purposes.

(2) The deed in conditional fee simple shall contain a reversion clause that upon cessation of active use by the Madolenihmw Municipal Government for the restricted uses as prescribed by this section, all interest in such public lands shall revert to the Public Lands Trust Board of Trustees.

(3) All improvements to the real property during the conveyance period shall become part of the public lands trust upon their emplacement on the conveyed property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the grantee, upon termination or cessation of the deed.

Source: S.L. No. 7L-59-10 §1, 1/3/10

§10-161. Komwonlaid peninsula submerged public lands for sewer facility and other community-related purposes. —

(1) The Pohnpei Public Lands Trust Board of Trustees is hereby authorized and directed to identify and survey submerged public lands in the area surrounding Komwonlaid peninsula for long-term lease to the Kolonia Town Government.

(2) The Public Lands Trust Board of Trustees is hereby authorized and directed to provide a long-term lease to the Kolonia Town Government the area of the submerged public lands surrounding the north shore of Komwonlaid peninsula in an area of 11,221 square meter more or less to the Kolonia Town Government; the use of the land for a sewer treatment facility pursuant to the Kolonia Town sewer facility plan, and for dredging and other community-related purposes.

(3) The long-term lease shall contain a reversion clause that upon cessation of active use by the Kolonia Town Government for the restricted uses as prescribed by this section, all interest in such public lands shall revert to the Public Lands Trust Board of Trustees.

(4) All improvements to the real property during the leased period shall become part of the real property upon their emplacement upon the real property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land upon the reversion of the land.

Source: S.L. No. 7L-60-10 §1, 1/3/10

§10-162. Land for Kolonia Town Government. —

(1) Pursuant to Chapter 1 and Chapter 2, Part A of this title, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and convey in conditional fee simple certain encumbered public trust lands in Kolonia, being Parcel No. 012-A-45 of Plat No. 012-A-17, to Kolonia Town Government. Notwithstanding the advertising requirements of Chapter 2, Part A, public advertising is hereby waived for the above designated public lands. In addition to other requirements of law, the subject parcel shall be devoted to Kolonia Town Government for municipal purposes only.

(2) Prior to the conveyance by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section.

(3) The conveyance entered into under this section shall not require the payment of any fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and conveyance under this section.

(4) The deed in conditional fee simple shall contain a reversion clause, that upon cessation of active use by the Kolonia Town Government of the property for the restricted uses as prescribed by this section, all interest in such public lands by the grantee shall revert to the Public Lands Trust Board of Trustees. In addition, the grantee shall not:

(a) Permit use of the property for personal or private purposes;

(b) Sell or contract for the sale of the property; or

(c) Mortgage the property unless specifically authorized by amendment of this statute.

(5) All improvements to the real property shall become part of the property and subject to reversion upon their emplacement upon the property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the grantee, upon reversion of the property.

Source: S.L. No. 7L-78-10 §1, 11/04/10

§10-162A. Land in Palikir, Sokehs for the exclusive purpose of sanitary landfill or place for the collection of solid waste. —

(1) Legislative finding and intent. The Pohnpei Legislature is cognizant of the increasing population of Pohnpei and the growing need for solid waste management. The Legislature further recognizes the importance of effective and efficient use of public lands for such purposes. It is therefore the intent of this legislation to designate portions of public land in Palikir, Sokehs as shown on Sketch No. 460 and identified in Tract No. 75551 comprising of 93,953 square meters situated in Palikir, Sokehs for the exclusive purpose of sanitary landfill or place for the collection of solid waste, and other purposes normally associated with the functions and affairs of solid waste management for Pohnpei State.

(2) Designation of public land authorized for landfill. For the purpose specified in §10-162A(1) and pursuant to §1-111(5), Public Land in Sketch No. 460 as identified in Tract No. 75551 comprising of 93,953 square meters is hereby designated for the exclusive purpose of public sanitary landfill or place for the collection of solid waste, and other purposes normally associated with the functions and affairs of solid waste management for Pohnpei State. The Pohnpei Public Lands Trust Board of Trustees is hereby authorized and directed to dedicate that Public Land shown on Sketch No. 460 as identified in Tract No. 75551 comprising of 93,953 square meters for the exclusive purpose of public sanitary landfill or place for the collection of solid waste, and other purposes normally associated with the functions and affairs of solid waste management for Pohnpei State.

(3) Sanitary Landfill. For purposes of §10-162A(1) “Sanitary Landfill” means all things necessary for the collection and management of solid waste including but not limited to all waste that is normally collected or created by Pohnpei households, trash, garbage, yard waste, ashes, industrial waste, construction waste, and household discards such as appliances, furniture and equipment, non-hazardous garbage, refuse or sludge and other material that has served its intended use and is to be discarded. Such waste shall also include but be stored separately from other waste, vehicles and machineries such as cars, trailer, trucks, dump trucks, buses, ships, airplanes and other large masses of metal, steel, aluminum or other forms of metal unless such vehicles or masses of metal are crushed into pieces.

(4) Responsibility. Responsibility for the construction and maintenance of structures including gates, walls, and other necessary formation normally associated with the care and maintenance of a

sanitary landfill or solid waste management shall be the responsibility of the Pohnpei State Government.

Source: S.L. No. 7L-81-11 §1, 1/21/11

§10-163. Land for municipal recycling program. —

(1) Pursuant to Chapter 1 and Chapter 2, Part A of this title, the Public Lands Trust Board of Trustees is hereby authorized and directed to designate and convey in conditional fee simple certain encumbered public trust lands in Kolonia, being Parcel No. 00-A-22 of Plat No. 009-A-84, to Kolonia Town Government for a municipal recycling program. Notwithstanding the advertising requirements of Chapter 2, Part A, public advertising is hereby waived for the above designated public lands. In addition to other requirements of law, the subject parcel shall be devoted to Kolonia Town Government for purposes of the municipal recycling program only.

(2) Prior to the conveyance by the Public Lands Trust Board of Trustees, the Department of Land and Natural Resources shall survey and delineate the area for the uses specified in Subsection (1) of this section.

(3) The conveyance entered into under this section shall not require the payment of any fees beyond those necessary to compensate for the filing and administrative costs of the Public Lands Trust Board of Trustees in the processing of the application and conveyance under this section.

(4) The deed in conditional fee simple shall contain a reversion clause, that upon cessation of active use by the Kolonia Town Government of the property for the restricted uses as prescribed by this section, all interest in such public lands by the grantee shall revert to the Public Lands Trust Board of Trustees. In addition, the grantee shall not:

- (a) Permit use of the property for personal or private purposes;
- (b) Sell or contract for the sale of the property; or
- (c) Mortgage the property unless specifically authorized by amendment of this statute.

(5) All improvements to the real property shall become part of the property and subject to reversion upon their emplacement upon the property; PROVIDED that the Public Lands Trust Board of Trustees, in its discretion, may provide for reimbursement for value of all or a portion of such improvements to the land made by or on behalf of the grantee, upon reversion of the property.

Source: S.L. No. 7L-78-10 §1, 11/04/10

CHAPTER 11 GOVERNMENT CONVEYANCE ACT

Section

11-101 Short title	11-107 Conformance to uses permitted by law; application of the Pohnpei Building Code
11-102 Authority	11-108 Lease or use-right agreement
11-102.001 through 11-102.084 Individual listings	11-109 Tenancy in common or sufferance
11-103 Parcels already subject to lease	11-109.001 through 11-109.004 Individual leases
11-104 Master Plan Map	11-110 Return of public lands
11-105 Submission to the Land Use Planning and Zoning Commission	11-110.001 through 11-110.009 Return listings
11-106 Conveyance	11-111 Penalties

§11-101. Short title. — This chapter is known and may be cited and referred to as the “Pohnpei State Government Conveyance Act of 2003.”

Source: S.L. No. 5L-101-03 §1, 7/29/03

§11-102. Authority. — Pursuant to Chapter 2 Part A of this title and Chapter 1 of Title 49, as amended, and S.L. No. 3L-53-94, the Pohnpei Public Lands Trust Board of Trustees is authorized and directed, no sooner than 240 days after the effective date of this chapter [*effective date is July 29, 2003*], to dedicate the following public trust lands as identified in the decimal numbered sections immediately following this section and as described on the set of maps described in §11-104 to the Pohnpei Government; **PROVIDED** that the chief executive officer of each of the receiving entities of the Pohnpei Government, upon consultation with and approval by the Governor, or his designee, shall within 120 days from the effective date of this chapter conduct a detailed review of the lands identified in the decimal numbered sections immediately following this section and described on the maps described in §11-104 and shall confirm that such lands are appropriate and necessary to meet the present and future needs of the Pohnpei Government and shall inform the Department of Land and Natural Resources or its successor, which shall have not more than a further 120 days to survey or cause to be surveyed and delineated such lands; **PROVIDED FURTHER** that after such lands are identified and delineated as being in active use or needed for future use within five years of the effective date of this chapter by the Pohnpei Government, any remaining public trust lands as identified herein and as described on said set of maps that are not claimed by the Pohnpei Government shall be retained by or returned to the Public Lands Trust to be administered, managed, regulated and/or distributed pursuant to Chapter 1, as amended or superseded, and other state law; **PROVIDED FURTHER** that the area set aside for future use may not exceed one-third of the total land area within a parcel or tract so designated in the decimal numbered sections immediately following this section, unless a greater portion is specifically authorized for future use for that particular parcel or tract in said designation.

Source: S.L. No. 5L-101-03 §2, 7/29/03

Note: S.L. No. 2L-158-90 relating to “Elections” has been changed to “Chapter 1” of this Title due to an incorrect reference in the original legislation.

<u>Section No.</u>	<u>Parcel Lot No./Tr. No.</u>	<u>Cad. Plat No.</u>	<u>Area (sq. m.)</u>	<u>Location</u>	<u>Purpose</u>
11-102.001	015-A-29	015-A-05	23,368	Kolonia twn	Ohmine Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.002	015-A-30	015-A-05	632	Kolonia twn	Ohmine Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.003	Map No. PO 232			Sapwuahfik	Ngatik Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				

<u>Section No.</u>	<u>Parcel Lot No./Tr. No.</u>	<u>Cad. Plat No.</u>	<u>Area (sq. m.)</u>	<u>Location</u>	<u>Purpose</u>
11-102.004	031-B-0813	031-B-01	191,345	Sokehs	Palikir Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.005	129-A-04	129-A-00	10,334	U	Awak Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.006	074-D-13	074-D-00	684	U	Saladak Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.007	074-D-12	074-D-00	4,031	U	Saladak Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.008	074-D-07	074-D-00	749	U	Saladak Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.009	074-D-22	074-D-01	11,986	U	Saladak Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.010	074-D-21	074-D-01	6,282	U	Saladak Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.011	Tr. No. 71654		18,956	Madol.	Sap. Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.012	010-D-18	010-D-00	35,640	Madol.	Lukop Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.013	010-D-03	010-D-00	5,506	Madol.	Lukop Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.014	010-D-17	010-D-00	10,903	Madol.	Lukop Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.015	Tr. No. 72264		11,232	Madol.	Tem. Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.016	Tr. No. 72287		26,145	Madol.	Mand Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.017	032-E-05	032-E-00	8,030	Madol.	Wapar Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.018	010-C-02	010-C-00	8,070	Kitti	Salapwuk Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.019	062-F-07(B)	062-F-00	10,786	Kitti	Rohi Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.020	062-F-07	062-F-00	5,413	Kitti	Rohi Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.021	008-F-21	008-F-00	13,862	Kitti	Wone Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.022	103-A-04	103-A-04	1,450	Sokehs	Sokehs Pah Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.023	Tract No. 71164		7,459	Kitti	Enipein Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.024	Tract No. 75337		3,506	Madol.	ESDM Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.025	Map No. 194		4,125	Pingelap	Pingelap Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.026	025-A-133	025-A-09	166,892	Nett	High School
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.027	025-A-19	025-A-01	44,161	Nett	High School;
	PROVIDED that not more than 2,000 square meters of the area shall be returned to the Pohnpei Public Lands Trust for lease to the National Olympic Committee pursuant to 42 PC 10-155.				
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03; S.L. No. 7L-13-08 §2, 8/29/08				
11-102.028	027-A-25	027-A-04	14,925	Nett	Nett Ele. Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.029	099-A-10	099-A-01	4,887	Nett	Parem Ele. Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.030	001-C-07	001-C-00	51,729	Sokehs	Sekere Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				

<u>Section No.</u>	<u>Parcel Lot No./Tr. No.</u>	<u>Cad. Plat No.</u>	<u>Area (sq. m.)</u>	<u>Location</u>	<u>Purpose</u>
11-102.031	019-A-43	019-A-01	695	Sokehs	Lewetik Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.032	Drawing 7002/84		5,000	Sokehs	Iohl Sch.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.033	020-A-121	020-A-06	3,226	Kolonia	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.034	020-A-146	020-A-12	64,812	Kolonia Twn	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.035	020-A-144	020-A-12	19,525	Kolonia Twn	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.036	005-A-27	005-A-01	3,543	Kolonia Twn	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.037	008-A-24	008-A-01	16,672	Kolonia Twn	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.038	065-A-13	065-A-00	6,162	Nett	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.039	065-A-14	065-A-00	29,584	Nett	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.040	008-A-26	008-A-01	1,331	Kolonia Twn	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.041	020-A-31	020-A-00	15,502	Kolonia Twn	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.042	128-A-01	128-A-00	421,625	Sokehs	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.043	Drawing 188			Nett	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.044	020-A-31	020-A-00	10,602	Kolonia	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.045	012-A-23	012-A-01	1,265	Kolonia Twn	Land Tenure
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.046	012-A-24	012-A-01	2,382	Kolonia Twn	Land Office
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.047	009-A-95	009-A-08	1,816	Kolonia Twn	Housing Auth.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.048	009-A-101	009-A-09	1,045	Kolonia Twn	EPA
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.049	012-A-37	012-A-04	2,802	Kolonia Twn	State Housing
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.050	019-A-43	019-A-01	695	Kolonia Twn	State Housing
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.051	012-A-28	012-A-01	4,381	Kolonia Twn	State Park
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.052	025-A-214	025-A-25	4,526	Kolonia Twn	State Housing
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.053	025-A-193	025-A-20	17,191	Kolonia Twn	State Housing
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.054	020-A-65	020-A-03	2,205	Kolonia Twn	State Housing
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.055	020-A-133	020-A-08	3,734	Kolonia Twn	State Housing
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.056	012-A-39	012-A-05	322	Kolonia Twn	Historic Site
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.057	014-A-51	014-A-02	2,389	Kolonia Twn	Marine Res.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.058	019-A-45	019-A-01	859	Kolonia Twn	T&I
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				

<u>Section No.</u>	<u>Parcel Lot No./Tr. No.</u>	<u>Cad. Plat No.</u>	<u>Area (sq. m.)</u>	<u>Location</u>	<u>Purpose</u>
11-102.059	019-A-44	019-A-01	803	Kolonia Twn	Public Safety
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.060	012-A-40	012-A-06	3,138	Kolonia Twn	PUC
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.061	012-A-41	012-A-06	3,733	Kolonia Twn	Police Station
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.062	012-A-42	012-A-06	2,713	Kolonia Twn	A.G's. Office
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.063	020-A-126	020-A-07	8,754	Kolonia Twn	Economic Affair
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.064	025-A-202	025-A-21	26,770	Nett	Civil Defense
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.065	028-A-09	028-A-01	80,010	Nett	Hospital
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.066	031-B-04	031-B-02	20,070	Sokehs	Dispensary
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.067	027-A-24	027-A-04	10,034	Nett	State Hospital
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.068	117-A-09	117-A-02	5,806	Nett	Jail
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.069	Tr. No. 75493		3,044	Dekehtik	Supply
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.070	020-A-121	020-A-06	3,226	Kolonia Twn	Botanical Garden
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.071	020-A-146	020-A-12	64,612	Kolonia Twn	Botanical Garden
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.072	020-A-144	020-A-12	1,382	Kolonia Twn	Botanical Garden
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.073	020-A-145	020-A-12	1,693	Kolonia Twn	Botanical Garden
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.074	013-A-40	13-A-04	1,567	Kolonia Twn	Dispensary
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.075	Tr. No. 73599		2,312,753	Madol.	State Govt.
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.076	025-A-21	025-A-01	9,669	Nett	V6AH
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.077	020-A-30	020-A-00	19,381	Kolonia Twn	State Capital
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.078	020-A-01	020-A-00	4,318	Kolonia Twn	State Capital
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.079	020-A-182	020-A-04	15,003	Kolonia Twn	State Capital(Kol. Sch.)
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.080	020-A-29	020-A-00	9,524	Kolonia Twn	State Capital
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.081	028-A-02	020-A-04		Kolonia Twn	State Capital(CAA)
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.082	020-A-181	020-A-04	23,290	Kolonia Twn	State Capital(COM-FSM)
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.083	020-A-62	020-A-00	703	Kolonia Twn	State Capital(Youth Office)
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				
11-102.084	020-A-46	020-A-00	2,122	Kolonia Twn	State Capital(Bank)
	<u>Source:</u> S.L. No. 5L-101-03 §2, 7/29/03				

§11-103. Parcels already subject to lease. — As to any parcel in the decimal numbered sections immediately following §11-102 that is already subject to a valid lease or other interest(s) in one or more third parties, the Pohnpei Public Lands Trust Board of Trustees shall nevertheless convey all of its remaining interest to the Pohnpei Government, pursuant to and subject to the conditions prescribed in §11-106, subject to said valid lease or other interest(s).

Source: S.L. No. 5L-101-03 §3, 7/29/03

§11-104. Master Plan Map. — The set of maps compiled in the attachment to S.L. No. 5L-101-03 [*codified as this chapter*], hereto entitled “The State Government Land Use Plan Master Plan Map,” is hereby adopted as the zoning map for the purposes of this chapter. Such maps and all the notations, references and other information shown shall be as much a part of this chapter as if the matters and information shown set forth by said maps were all fully described herein. The Director of the Department of Land and Natural Resources or its successor shall cause all lands shown on the Government Master Plan Map to be surveyed and mapped in accordance with the Cadastral Survey Program. In cases where public access is not already provided, the Legislature shall dedicate land for public access to abutting lands below the high-water mark on any shoreline, and dedicate land for public access to abutting forest lands to make them accessible for hiking, hunting, fruit picking and other recreational purposes. The right-of-way shall be clearly designated on the final map of the subdivision to be incorporated into the Government Master Plan Map.

Source: S.L. No. 5L-101-03 §4, 7/29/03

§11-105. Submission to the Land Use Planning and Zoning Commission. — The Governor shall submit to the Land Use Planning and Zoning Commission the Government Master Plan Map and plan to be integrated into the public services element of the Land Use Zoning Master Plan of the state of Pohnpei.

Source: S.L. No. 5L-101-03 §5, 7/29/03

§11-106. Conveyance. — The deed of conveyance for public trust lands listed in the decimal numbered sections immediately following §11-102 shall be a quit claim conditional fee simple deed. The conditional fee simple deed shall contain, but not be limited to, a reversion clause of all rights, interests, and appurtenances, to the Board, upon cessation of active use by the government of the state of Pohnpei. The government of the state of Pohnpei and its successors shall not:

- (1) Permit the use of any public lands herein for personal or private purposes;
- (2) Shall not sell or contract for the sale of any public trust lands so conveyed; and
- (3) Shall not mortgage any public trust lands herein unless specifically authorized by statute for construction thereon.

Source: S.L. No. 5L-101-03 §6, 7/29/03

§11-107. Conformance to uses permitted by law; application of the Pohnpei Building Code. — No building or structure shall be erected and maintained, nor an existing building or structure be altered, enlarged or moved, and maintained, nor any building or land used for any purpose, except for the use permitted by law and in accordance with the Pohnpei Building Code, Title 31 Chapter 6, as amended or superseded.

Source: S.L. No. 5L-101-03 §7, 7/29/03

§11-108. Lease or use-right agreement. — No lease or use-right agreement pertaining to the use of land or building shall be issued by any department, bureau, agency, officer or employee of the Government of Pohnpei, vested with such duty, except by the Governor, Speaker or Chief Justice. Any lease or use-right agreement permit issued, whether it be written or verbal, in conflict with provisions

of this chapter shall be null and void.

Source: S.L. No. 5L-101-03 §8, 7/29/03

§11-109. Tenancy in common or sufferance. — Notwithstanding any provision of S.L. No.3L-53-94, the Board is further authorized to enter into lease agreements with the government of the state of Pohnpei for the following public trust lands; PROVIDED that the lease agreements shall not exceed a period of ten years including renewal; PROVIDED FURTHER that the lease agreements shall contain provisions for the privatization of the services on the public trust lands listed in the decimal numbered sections immediately following this section:

Source: S.L. No. 5L-101-03 §9, 7/29/03

<u>Section No.</u>	<u>Parcel Lot No./Tr. No.</u>	<u>Cad. Plat No.</u>	<u>Area (sq.m.)</u>	<u>Location</u>	<u>Purpose</u>
11-109.001	009-A-69	009-A-02	1,143	Kolonia Twn	Public Market
	<u>Source:</u> S.L. No. 5L-101-03 §9, 7/29/03				
11-109.002	009-A-68	009-A-02	1,197	Kolonia Twn	Public Market
	<u>Source:</u> S.L. No. 5L-101-03 §9, 7/29/03				
11-109.003	009-A-72	009-A-02	1,802	Kolonia Twn	Public Market
	<u>Source:</u> S.L. No. 5L-101-03 §9, 7/29/03				
11-109.004	009-A-71	009-A-02	418	Kolonia Twn	Public Market
	<u>Source:</u> S.L. No. 5L-101-03 §9, 7/29/03				

§11-110. Return of public lands. — The government of the state of Pohnpei, its agencies, semi-autonomous corporations and sub-political-entities shall remit, release, and convey all real and personal property including appurtenances on the following decimal numbered sections to the Pohnpei Government:

Source: S.L. No. 5L-101-03 §10, 7/29/03

<u>Section No.</u>	<u>Parcel Lot No./Tr. No.</u>	<u>Cad. Plat No.</u>	<u>Area (sq.m.)</u>	<u>Location</u>	<u>Purpose</u>
11-110.001	009-A-21	009-A-01	557	Kolonia Twn	Peace Corp. Office
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				
11-110.002	009-A-44	009-A-01	579	Kolonia Twn	Head start Office
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				
11-110.003	031-B-17	031-B-002	3,048	Sokehs	Head Start School
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				
11-110.004	012-A-44	012-A-06	1,758	Kolonia Twn	Tourism
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				
11-110.005	012-A-17	012-A-00	2,584	Kolonia Twn	PTA
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				
11-110.006	012-A-43	012-A-06	1,579	Kolonia Twn	Post Office
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				
11-110.007	009-A-78	00-A-04	6,515	Kolonia Twn	Telecom Office
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				
11-110.008	022-A-41	022-A-03	9,145	Kolonia Twn	Weather Station
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				
11-110.009	019-A-44	019-A-01	803	Kolonia Twn	Public Defender
	<u>Source:</u> S.L. No. 5L-101-03 §10, 7/29/03				

§11-111. Penalties. — Any person, group or organization who enters upon or uses the land in the decimal numbered sections immediately following §11-102 contrary to the uses specified by the Pohnpei Government shall be guilty of trespassing.

Source: S.L. No. 5L-101-03 §11, 7/29/03

(Next page is Title 43 divider)

TITLE 43

LAND ACQUISITION BY GOVERNMENT

TITLE 43

LAND ACQUISITION BY GOVERNMENT

CHAPTER

1 LAND ACQUISITION

2 EMINENT DOMAIN

3 RELOCATION ASSISTANCE

CHAPTER 1

LAND ACQUISITION

Section

1-101 Application of chapter	1-105 Expenses incidental to transfer of title
1-102 Procedures generally	1-106 Authority of Governor to promulgate regulations
1-103 Interest in improvements	
1-104 Payments for improvements by tenants	

§1-101. Application of chapter. — This chapter shall be applicable to the acquisition of real property under the laws of the state of Pohnpei for use in any project or program of the Pohnpei Government or local governments or the agencies created by the above enumerated governmental divisions hereinafter referred to as “government.”

Source: P.L. No. 6-71 §1; 67 TTC §451 (1980)

§1-102. Procedures generally. —

- (1) In acquiring real property the government will, to the greatest extent practicable:
 - (a) Make every reasonable effort to acquire real property expeditiously through negotiation;
 - (b) Before the initiation of negotiations, have the real property appraised and give the owner or his representative an opportunity to accompany the appraiser during the inspection of the property;
 - (c) Before the initiation of negotiations, establish an amount that is believed to be just compensation for the real property, and make a prompt written offer to acquire the property for that amount. In no event will the just compensation offered be less than the government’s approved appraisal of the fair market value of such property. At the time the government makes an offer to purchase real property, the owner of that property will be provided with a written statement of the basis for the amount estimated to be just compensation.
 - (i) In determining just compensation for the property any increase or decrease of the fair market value caused by the public improvement for which the property is acquired prior to the date of valuation will be disregarded (other than that caused by physical deterioration).
 - (d) Before requiring any owner to surrender possession of any real property, government will:
 - (i) Pay the agreed purchase price; or
 - (ii) Deposit with the court, for the benefit of the owner, an amount not less than the government’s approved appraisal of the fair market value of the property; or

(iii) Pay the amount of the award of compensation in condemnation proceedings for the property.

(e) If interest in the real property is to be acquired by exercise of power of eminent domain, institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of this real property; and

(f) If the acquisition of only part of the property will leave its owner with an uneconomic remnant, offer to acquire that remnant.

(2) In acquiring real property, to the greatest extent practicable the government will not:

(a) Schedule a construction or development of the public improvement that will require any person lawfully occupying real property to move from a dwelling, or move his business or farm operation, without giving that person at least 90 days written notice of the date he is required to move;

(b) If acquired property is rented to the former owner or tenant for a short term or subject to termination by the government on short notice, charge a rent that is more than the fair rental value of the property to a short term occupant;

(c) Advance the time of condemnation;

(d) Defer negotiations, condemnation or deposit of funds in court for use of the owner; or

(e) Take any course of action to compel an owner to agree to a price for his property.

(3) Should a court determine condemnation was unauthorized or should the property owner obtain a judgment in the nature of inverse condemnation, then the owner shall be reimbursed for reasonable expenses of litigation, in line with Section 304 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(4) Nothing in this section should be construed to preclude a donation by an owner after his property has been appraised and the full amount of the estimated just compensation has been tendered to him.

Source: P.L. No. 6-71 §1; 67 TTC §452 (1980)

§1-103. Interest in improvements. — In acquiring any interest in real property the government will acquire at least an equal interest in all building structures or other improvements located on that real property which will be removed or which will be adversely affected by the completed project.

Source: P.L. No. 6-71 §1; 67 TTC §453 (1980)

§1-104. Payments for improvements by tenants. —

(1) In the case of the building structure or other improvements owned by the tenant on real property acquired for a project to which this chapter applies the government will, subject to Subsection (2) of this section, pay the tenant the larger of:

(a) The fair market value of the improvement (as established by the government's appraiser), assuming its removal from the property; or

(b) The enhancement to the fair market value of the real property.

(2) Payments will also be made for improvements that are damaged as well as those that must be removed.

(3) A payment may not be made to a tenant under Subsection (1) of this section unless:

(a) The tenant, in consideration for the payment, assigns, transfers, and releases to the government all his rights, title, and interest in the improvements;

(b) The owner of the land involved disclaims any interest in the improvements; or

(c) The payment is not duplicated by any payment otherwise authorized by law or regulation.

Source: P.L. No. 6-71 §1; 67 TTC §454 (1980)

§1-105. Expenses incidental to transfer of title. — As soon as possible after real property has been acquired, the government shall reimburse the owner for:

(1) Recording fees, taxes, and similar expenses incidental to conveying the real property to the agency; and

(2) The penalty cost for prepayment of any pre-existing recorded mortgage entered into in good faith and encumbering the real property.

Source: P.L. No. 6-71 §1; 67 TTC §455 (1980)

§1-106. Authority of Governor to promulgate regulations. — The Governor shall have authority to issue regulations to implement this chapter.

Source: P.L. No. 6-71 §1; 67 TTC §456 (1980)

LAND ACQUISITION BY GOVERNMENT

CHAPTER 2 EMINENT DOMAIN

Section

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PART A GENERAL PROVISIONS

§2-101. Purpose. — It is the purpose of this chapter to set up procedures to be followed by the Pohnpei Government in the exercise of its inherent power to acquire real property by eminent domain.

Source: TTC §1301 (1966); 10 TTC §1 (1970); 10 TTC §1 (1980)

§2-102. Private corporations. — No private corporation except as may be authorized by the Pohnpei Legislature shall have the right of eminent domain in the state of Pohnpei.

Source: TTC §1303 (1966); 10 TTC §2 (1970); Department of Interior Order No. 2969 §8(a); 10 TTC §2 (1980)

§2-103 Definitions. — As used in this chapter, the following terms shall have the meanings set forth below:

(1) *Eminent Domain.* “Eminent domain” is the right of the Pohnpei Government or a state legal entity as may be provided for by state law in accordance with this chapter to condemn property for public use or purposes and to appropriate the ownership and possession of such property for such public use upon paying the owner a just compensation to be ascertained according to the law.

(2) *Public Use.* Public use shall be construed to cover any use determined by the Governor to be a public use.

Source: TTC §1302 (1966); 10 TTC §3 (1970); Department of Interior Order No. 2969 §8(b); 10 TTC §3 (1980)

PART B PROCEDURES AND PROCEEDINGS

§2-104. Complaint. — A complaint must be brought in the Trial Division of the Pohnpei Supreme Court in the name of and on behalf of the Pohnpei Government as plaintiff by the Attorney General and must contain:

(1) The names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be called defendants.

(2) A statement of the right or authority of the plaintiff.

(3) A description of each parcel of land to be acquired and a statement of what interest in the land is desired by the plaintiff.

(4) A general statement of the purpose of the taking.

Source: TTC §1304 (1966); 10 TTC §51 (1970); 10 TTC §51 (1980)

§2-105. Failure of parties to appear at proceedings. — In the event of the failure of any of the parties specified in §2-104 to appear in the proceedings, the court shall, nevertheless, proceed to fix the amount of compensation and order that the amount be paid by the government, without interest, to the rightful claimants on demand at any time within seven years from the date of the final judgment.

Source: TTC §1311 (1966); 10 TTC §52 (1970); 10 TTC §52 (1980)

§2-106. Issuance and service of summons. —

(1) The clerk of courts shall issue a summons which shall contain the names of the parties, a general description of the whole property, or a reference to the complaint for the description of the land, and a notice to the defendants to appear in the proceedings. When the defendants are known the summons shall be served by delivering to them a copy thereof along with a copy of the complaint. If the defendants, whether known or unknown, cannot be found, then a copy of the summons and complaint shall be posted as follows:

(a) On the property;

(b) On the administration building or such other place where public notices are usually posted in the local government center;

(c) At a public place in a village located near the property; and

(d) By delivering one copy of the summons and complaint to the chief executive of the local jurisdiction in which the property is situated.

(2) The service of the summons and the complaints or the posting thereof as provided herein shall be sufficient to give the Trial Division of the Pohnpei Supreme Court jurisdiction to proceed with and finally determine the case.

Source: TTC §1305 (1966); 10 TTC §53 (1970); 10 TTC §53 (1980)

§2-107. Establishment of value of land. — Upon a prima facie showing by the Attorney General that the property desired to be purchased by the government is for public use, the court must hear the parties, and establish a fair value for the land. The court may appoint three assessors to assist in the proceedings and perform such functions as the court may direct. In the event assessors are appointed by the court, they shall take and subscribe an oath before the judge that they will faithfully perform their duties as assessors.

Source: TTC §1306 (1966); 10 TTC §54 (1970); 10 TTC §54 (1980)

§2-108. Determination of ownership in event of dispute. — In the event there is a dispute over the ownership of the property that is the subject of an eminent domain proceeding, the court shall adjudicate and determine the ownership of the property as part of the proceedings.

Source: TTC §1307 (1966); 10 TTC §55 (1970); 10 TTC §55 (1980)

§2-109. Final judgment. — The record of the final judgment in the proceedings shall state the particular land or interest in land which the government has acquired and the compensation to be paid to the defendants and the clerk of courts shall issue a certificate of title in accordance with said judgment.

Source: TTC §1308 (1966); 10 TTC §56 (1970); 10 TTC §56 (1980)

§2-110. Immediate possession procedure; generally. — In the event the government desires to enter into immediate possession of the property, the government shall file a declaration of taking and

pay a sum of money which is considered to be the fair value of the property to the Clerk of the Pohnpei Supreme Court. In addition to the requirements set out in §2-106, the summons shall state the following:

- (1) That the plaintiff requires immediate possession of the property;
- (2) That a sum of money which is considered to be the fair value of the property has been paid to the Clerk of the Pohnpei Supreme Court, which sum shall draw interest at the rate of three percent (3%) per annum from the date of the summons until claimed by the defendant or ordered paid to the defendant by the court.
- (3) That the defendant may at any time claim and receive the money that has been deposited with the Clerk of Court upon the execution of a quit claim deed in favor of the plaintiff.
- (4) Payment to the Clerk of Court in accordance with this section shall entitle the government to take immediate possession of the land.

Source: TTC §1309 (1966); 10 TTC §57 (1970); 10 TTC §57 (1980)

§2-111. Immediate possession procedure; possession after proceedings commenced. — In the event the government determines that it requires immediate possession of the property after eminent domain proceedings have been commenced, but before the rights of the parties and the amount of compensation are determined, a declaration of taking shall be filed in the court and a sum of money that is considered to be fair value of the land shall be paid to the Clerk of the Pohnpei Supreme Court. A summons shall be issued and served in the same manner as the summons in §2-106, that shall refer to the original summons already served on the defendants, and shall otherwise conform to the requirements set out in §2-110.

Source: TTC §1310 (1966); 10 TTC §58 (1970); 10 TTC §58 (1980)

§2-112. Costs of proceedings. — The costs in all cases brought under this chapter shall be paid by the plaintiff.

Source: TTC §1312 (1966); 10 TTC §59 (1970); 10 TTC §59 (1980)

LAND ACQUISITION BY GOVERNMENT

CHAPTER 3 RELOCATION ASSISTANCE

Section

3-101 Declaration of policy	3-108 Authority of chief executive to promulgate regulations
3-102 Definitions	3-109 Administration
3-103 Moving and related expenses	3-110 Availability of funds
3-104 Replacement housing for homeowners	3-111 Payments not to be considered as income or resources
3-105 Replacement housing for tenants and certain others	3-112 Appeal procedure
3-106 Relocation assistance advisory programs	
3-107 Assurance of availability of standard housing	

§3-101. Declaration of policy. — The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced by the acquisition of real property by the Pohnpei Government and local land acquisition programs or by programs of rehabilitation of buildings or other improvements conducted pursuant to governmental supervision. The policy shall be uniform as to:

- (1) Relocation payments;
- (2) Advisory assistance; and
- (3) Assurance of availability of standard housing.

Source: P.L. No. 6-71 §2; 67 TTC §501 (1980)

§3-102. Definitions. — As used in this chapter:

(1) “Agency” means any department, agency or instrumentality of the state of Pohnpei, or of a political subdivision of the state of Pohnpei, or any department, agency or instrumentality of two or more political subdivisions of the state of Pohnpei

(2) “Person” means any individual, partnership, corporation or association.

(3) “Displaced person” means any person who, on or after the effective date of this chapter [*July 31, 1975*], moves from real property or moves his personal property from real property, as a result of the acquisition of such real property in whole or in part, or as the result of the written order of the acquiring agency to vacate real property for a program or project undertaken by an agency, and, solely for the purpose of §3-103(1) and (2) and §3-106, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

(4) “Business” means any lawful activity, excepting a farm operation, conducted primarily:

- (a) For the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing or marketing of products, commodities, or any other personal property;
- (b) For the sale of services to the public; or
- (c) By a nonprofit organization.

(5) “Farm operation” means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including copra, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

Source: P.L. No. 6-71 §2; 67 TTC §502 (1980)

§3-103. Moving and related expenses. —

(1) If an agency acquires real property for public use, it shall make fair and reasonable relocation payments to displaced persons and businesses as required by this chapter for:

- (a) Actual reasonable expenses in moving himself, his family, business, farm operation or other personal property;
- (b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the agency; and
- (c) Actual reasonable expenses in searching for a replacement business or farm.

(2) Any displaced person eligible for payments under Subsection (1) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by Subsection (1) of this section may receive a moving expense allowance, determined according to a schedule established by the agency, not to exceed \$300, and a dislocation allowance of \$200.

(3) Any displaced person eligible for payment under Subsection (1) of this section, who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by Subsection (1) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than \$2,500 nor more than \$10,000. In the case of a business no payment shall be made under this subsection unless the agency is satisfied that the business:

- (a) Cannot be relocated without a substantial loss of its existing patronage, and
- (b) Is not a part of a commercial enterprise having at least one other establishment not being acquired by the agency, which is engaged in the same or similar business.

For purposes of this subsection, the term “average annual net earnings” means one-half of any net earnings of the business or farm operation before income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period.

Source: P.L. No 6-71 §2; 67 TTC §503 (1980)

§3-104. Replacement housing for homeowners. —

(1) In addition to payments otherwise authorized by this chapter, the agency shall make an additional payment not in excess of \$15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

- (a) The amount, if any, that when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling that is a decent, safe and sanitary dwelling according to contemporary community standards and adequate to accommodate such displaced person, reasonably accessible to public services and places of employment, and available on the private market. All determinations required to carry out this paragraph shall be determined by regulations issued pursuant to §3-108.
- (b) The amount, if any, that will compensate the displaced person for any increased interest costs that the person is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of the dwelling. The amount shall be equal to the excess in the aggregate interest and other debt service costs of that

amount of the principal of the mortgage on the replacement dwelling that is equal to the unpaid balance of the mortgage on the acquired dwelling over the remainder term of the mortgage on the acquired dwelling reduced to discounted present value. The discount rate shall be determined by regulations issued pursuant to §3-108; and

(c) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a replacement dwelling that is decent, safe and sanitary according to contemporary community standards not later than the end of the one-year period beginning on the date on which he receives final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

Source: P.L. No. 6-71 §2; 67 TTC §504 (1980)

§3-105. Replacement housing for tenants and certain others. — In addition to amounts otherwise authorized by this chapter, an agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under §1-104, which dwelling was actually and lawfully occupied by the displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. The payment shall be either:

(1) The amount necessary to enable the displaced person to lease or rent, for a period not to exceed four years, a decent, safe and sanitary dwelling according to contemporary community standards and adequate to accommodate the person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$4,000, or

(2) The amount necessary to enable the person to make a down payment including incidental expenses described in §3-104(1)(c) on the purchase of a decent, safe and sanitary dwelling according to contemporary community standards and adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed \$4,000, except that if the amount exceeds \$2,000, the person must equally match any amount in excess of \$2,000 in making the down payment.

Source: P.L. No. 6-71 §2; 67 TTC §505 (1980)

§3-106. Relocation assistance advisory programs. —

(1) Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after the effective date of this chapter [*July 31, 1975*], the agency shall provide a relocation assistance advisory program for displaced persons that shall offer the services prescribed in Subsection (2) of this section. If the agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer the person relocation advisory services under the program.

(2) Each relocation assistance program required by Subsection (1) of this section shall include such measures, facilities or services as may be necessary or appropriate in order to:

(a) Determine the needs of displaced persons, business concerns, and nonprofit organizations for relocation assistance;

(b) Assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms;

(c) Supply information concerning programs of the state government's offering assistance to displaced persons and business concerns;

(d) Assist in minimizing hardships to displaced persons in adjusting to relocation; and

(e) Secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas that may affect the carrying out of the relocation program.

Source: P.L. No. 6-71 §2; 67 TTC §506 (1980)

§3-107. Assurance of availability of standard housing. — Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after the effective date of this chapter [*July 31, 1975*], the agency shall assure that, within a reasonable period of time prior to displacement, there will be available in areas not generally less suitable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, dwellings that are decent, safe, and sanitary according to contemporary community standards and that are equal in number to the number of and available to displaced persons who require dwellings and that are reasonably accessible to the places of employment of said persons, except that regulations issued pursuant to §3-108 may prescribe situations when these assurances may be waived.

Source: P.L. No. 6-71 §2; 67 TTC §507 (1980)

§3-108. Authority of chief executive to promulgate regulations. —

(1) The chief executive in each local jurisdiction of the state of Pohnpei shall adopt rules and regulations necessary to assure that:

(a) The payments and assistance authorized by this chapter shall be administered in a manner that is fair and reasonable, and as uniform as practicable;

(b) A displaced person who makes proper application for a payment authorized by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(c) Any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of payment, may have his application reviewed by the Governor.

(2) The Governor may prescribe other regulations and procedures, consistent with this chapter.

Source: P.L. No. 6-71 §2; 67 TTC §508 (1980)

§3-109. Administration. — In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the agency with the approval of the Governor may enter into contracts with any individual, firm, association or corporation for services in connection with those programs, or may carry out its functions under this chapter through any federal agency or any department or instrumentality of the state of Pohnpei or its political subdivisions having an established organization for conducting relocation assistance programs.

Source: P.L. No. 6-71 §2; 67 TTC §509 (1980)

§3-110. Availability of funds. — Funds appropriated or otherwise available to any agency for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out this chapter as applied to that purpose or project.

Source: P.L. No. 6-71 §2; 67 TTC §510 (1980)

§3-111. Payments not to be considered as income or resources. — No payment received by a displaced person under this chapter shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any law of the state of Pohnpei, or for the purpose of any tax law. These payments shall not be considered as income or resources of any recipient of public assistance and the payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Source: P.L. No. 6-71 §2; 67 TTC §511 (1980)

§3-112. Appeal procedure. — Any person or business concern aggrieved by a final administrative determination pursuant to §3-108(1)(c) concerning eligibility for relocation payments authorized by this chapter may appeal that determination to the Trial Division of the Pohnpei Supreme Court in the area in which the land taken for public use is located or the rehabilitation program is conducted.

Source: P.L. No. 6-71 §2; 67 TTC §512 (1980)

**TITLES 44 & 45
[RESERVED]**

LAND ACQUISITION BY GOVERNMENT

(Next page is Title 46 divider)

TITLE 46

PERSONAL PROPERTY

TITLE 46 PERSONAL PROPERTY

CHAPTER

- 1 GENERAL PROVISIONS**
- 2 NONJUDICIAL FORECLOSURE**
- 3 JUDICIAL FORECLOSURE**

CHAPTER 1 GENERAL PROVISIONS

Section

<p>1-101 Application of title</p> <p>1-102 Definitions</p> <p>1-103 Obligations of creditor and debtor in exercise of rights</p> <p>1-104 Unauthorized destruction, removal or use of property</p>	<p>1-105 Procedure if creditor fails to comply with title</p> <p>1-106 Waiver of provisions of title</p> <p>1-107 Rights of creditor subject to foreclosure only by procedures of title</p>
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§1-101. Application of title. — This title shall apply to any agreement, regardless of its form, that is intended to give rights in personal property, including houses on land not owned individually or entirely by the party or parties purporting to give an interest in the house, as security for the performance of any obligation. Such agreements include, among others, pledges, conditional sales agreements, chattel mortgages, and leases under which ownership of personal property is to pass upon completion of the terms of the lease.

Source: TTC §279(a) (1966); 57 TTC §1 (1970); 57 TTC §1 (1980)

§1-102. Definitions. —

(1) “Creditor” as used in this title shall include any creditor, seller, lessor or other person having rights in the property as security under an agreement subject to this title.

(2) “Debtor” as used in this title shall include any debtor, buyer, lessee or other person having an equity in the property under an agreement subject to this title.

Source: TTC §279(b) & (c) (1966); 57 TTC §2 (1970); 57 TTC §2 (1980)

§1-103. Obligations of creditor and debtor in exercise of rights. — Both the debtor and the creditor have an obligation to exercise their rights in the property in good faith and with regard for the rights of the other. Each must use reasonable care in the custody and preservation of the property while in his possession.

Source: TTC §279(d) (1966); 57 TTC §3 (1970); 57 TTC §3 (1980)

§1-104. Unauthorized destruction, removal or use of property. — Prior to completion of performance of all the terms of the agreement to be performed by the debtor, whoever maliciously or with intent to defraud shall injure, destroy or conceal the property, or remove it without the consent of

the creditor from the state, if any, where the agreement provides that it is to be used, or shall sell, mortgage or otherwise dispose of the property under claim of full ownership, shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than \$100, or both.

Source: TTC §279(e) (1966); 57 TTC §4 (1970); 57 TTC §4 (1980)

§1-105. Procedure if creditor fails to comply with title. — If the creditor fails to comply with this title, disposition of the property may be ordered or restrained in a civil action in court on such terms and conditions as the court deems best. If the property has been taken or disposed of by the creditor other than in accordance with this title, the debtor may recover his actual damages, if any, and in no event less than one-fourth of the sum of all payments that have been made under the agreement, with interest at six percent (6%) a year.

Source: TTC §279(f) (1966); 57 TTC §5 (1970); 57 TTC §5 (1980)

§1-106. Waiver of provisions of title. — No act or agreement of the debtor before or at the time of the making of the agreement, nor any provision or statement by the debtor in such agreement, shall constitute a valid waiver of this title; except, that the agreement may stipulate that if the debtor is in default for 20 days or more, the creditor may take the property without notice.

Source: TTC §279(g) (1966); 57 TTC §6 (1970); 57 TTC §6 (1980)

§1-107. Rights of creditor subject to foreclosure only by procedures of title. — The rights of the debtor under an agreement subject to this section may only be foreclosed after default by one of the methods set forth in this title.

Source: TTC §279(h)(1) (1966); 57 TTC §7 (1970); 57 TTC §7 (1980)

CHAPTER 2 NONJUDICIAL FORECLOSURE

Section

- 2-101 Property in possession of debtor
- 2-102 Property in possession of creditor
- 2-103 Procedures

§2-101. Property in possession of debtor. — If the property is in the possession of the debtor:

(1) If the agreement provides that the creditor may take the property if the debtor is in default for 20 days or more and the debtor is so in default, the creditor may take possession of the property without notice if this can be done without breach of the peace. If the creditor does so, he shall retain the property for 20 days, during which period the debtor may redeem the property as provided in this section; thereafter, if the property has not been so redeemed, the creditor may hold the property as his own subject to §2-103.

(2) If the agreement does not contain the provision for taking without notice referred to in the preceding subsection, the creditor shall, not more than 40 nor less than 20 days prior to the taking, cause written notice to be given to the debtor of the property on account of default of the debtor. The notice shall state the default and the period at the end of which the property will be taken. This notice may be given personally to the debtor or by leaving it at his usual place of abode or of business with some person not less than 18 years of age and of sound mind then residing or employed there, and, if the person with whom the notice is left states he is unable to read it, by also orally explaining the substance of it to him, if practical, in a language understood by him, otherwise in a language generally understood in the locality.

(3) If after such notice the debtor does not perform the obligations in which he has made default before the day set in such notice for taking, the creditor may take possession of the property if this can be done without breach of the peace.

(4) Unless the property can be taken without a breach of the peace either under Subsections (1) or (3) of this section, the foreclosure shall proceed thereafter only by a civil action in the court under the judicial foreclosure provisions of this title. Nothing herein shall be construed to authorize a violation of the criminal law.

(5) Nothing in this section shall affect the right of a creditor to proceed under 57 PC 8-105 and 8-106, simultaneously with action in accordance with this section nor shall anything herein limit the discretion of the Trial Division of the Pohnpei Supreme Court to order a sale authorized by 57 PC 8-106 on such terms or notice, if any, as it deems best.

Source: TTC §279(h)(1)(A) (1966); 57 TTC §51 (1970); 57 TTC §51 (1980)

§2-102. Property in possession of creditor. — If the property is in the possession of the creditor:

(1) Not more than 40 nor less than 20 days prior to foreclosing on the property the creditor shall cause written notice to be given to the debtor of the creditor's intention to foreclose. The notice shall state the default and the period at the end of which the property will be foreclosed. This notice may be given in the manner provided in §2-101(2).

(2) If after such notice the debtor does not perform the obligations in which he has made default before the day set in such notice for foreclosure, the creditor may hold the property as his own subject to §2-103.

Source: TTC §279(h)(1)(B) (1966); 57 TTC §52 (1970); 57 TTC §52 (1980)

§2-103. Procedures. —

(1) If the debtor, at the time of the taking or of the foreclosure under this chapter, has paid at least one-half of the principal due under the agreement, the creditor shall sell the property at public auction in the state where it was at the time of the taking or foreclosure, such sale to be held not more than 90 days after the taking or foreclosure. The creditor shall give to the debtor not less than 10 days written notice of the sale in the manner provided in §2-101(2), which notice shall not be given until the expiration of the 20 days retention period provided for in §2-101(1), if the taking was made under such subsection. The creditor shall also give notice of the sale by posting in at least three conspicuous places within the state where the property is to be sold at least 5 days before the sale and shall make an honest attempt to obtain a fair value at the sale and, provided he does this, may himself bid for the property at the sale.

(2) The proceeds of the sale shall be applied:

- (a) To the payment of the reasonable expenses thereof;
- (b) To the payment of the reasonable expenses of taking, keeping, and storing the property;
- (c) To the satisfaction of the balance due under the agreement.

Any sum remaining after the satisfaction of such claims shall be paid to the debtor. If the proceeds of the sale are not sufficient to defray the reasonable expenses thereof and also the reasonable expenses of taking, keeping, and storing the property and the balance due under the agreement, the creditor may recover the deficiency from the debtor or anyone who has succeeded to the obligations of the debtor.

(3) If the debtor, at the time of the taking or of the foreclosure mentioned above, has not paid at least half of the principal due under the agreement, the creditor shall have the option of:

- (a) Notifying the debtor in the manner provided in §2-101(2) of his election to retain the property as his own without obligation to account to the debtor and the debtor shall then be discharged of all obligations under the agreement; or
- (b) Selling the property in the manner provided in Subsection (1) of this section and applying the proceeds as provided in Subsection (2) of this section, with the same right to recover any deficiency as therein provided.

(4) During the 20 days retention period provided for in §2-101(1) and at any other time before the creditor has disposed of the property or before the debtor's obligation has been discharged under Subsection (3) of this section, the debtor may redeem the property by tendering fulfillment of all obligations due under the agreement up to the date of the tender as well as all the expenses reasonably incurred by the creditor in taking, keeping, and storing the property and in arranging for the sale, and upon so doing shall become entitled to take possession of the property and to continue in the performance of the agreement as if no default has occurred. Upon written demand given by the debtor in the manner provided for notice in §2-101(2), the creditor shall furnish to the debtor a written statement of the sum due under the agreement and the expenses of taking, keeping, and storing and in arranging for the sale. For failure to furnish such a statement within a reasonable time after demand the creditor shall forfeit to the debtor \$5 and shall also be liable to him for all damages suffered because of such failure.

Source: TTC §279(h)(1)(C) – (F) (1966); 57 TTC §53 (1970); 57 TTC §53 (1980)

CHAPTER 3 JUDICIAL FORECLOSURE

Section

3-101 Civil action for foreclosure authorized

§3-101. Civil action for foreclosure authorized. — The creditor may bring a civil action for foreclosure in such manner as the court may order. If the creditor starts foreclosure under the provisions of Chapter 2 of this title, he may abandon that at any point and proceed by a civil action. After proper service on the defendant or defendants, the court may order foreclosure in such manner as it deems will best protect the rights of the parties.

Source: TTC §279(h)(2) (1966); 57 TTC §101 (1970); 57 TTC §101 (1980)

**TITLES 47 & 48
[RESERVED]**

PERSONAL PROPERTY

(Next page is Title 49 divider)

TITLE 49

WILLS AND DECEDENTS

ESTATES

TITLE 49

WILLS AND DECEDENTS' ESTATES

CHAPTER

1 INTESTATE SUCCESSION

2 WILLS

3 PROBATE OF SMALL ESTATES

CHAPTER 1

INTESTATE SUCCESSION

Section

1-101 Short title	1-104 Rules of succession if there be no heirs
1-102 Definitions	1-105 Spouse's rights
1-103 Rules of succession	1-106 Adoption

§1-101. Short title. — This chapter is known and may be cited as the “Intestate Succession Act of 1977.”

Source: D.L. No. 4L-155-78 §1, 9/20/78

§1-102. Definitions. — As used in this chapter:

- (1) “Children” means male and female children born of a marital union.
- (2) “Descendant” means one who is descended lineally from the body of another except as provided in §1-106.
- (3) “Intestate” means a person who dies without making a valid will or without otherwise disposing of his real and personal property of which he has the right to dispose at the time of his death.
- (4) “Will” means a will made in accordance with Chapter 2.

Source: D.L. No. 4L-155-78 §2, 9/20/78

§1-103. Rules of succession. — The real and personal property of an intestate shall devolve in equal, undivided shares to all members of the first class enumerated in this section in which there is at least one living member at the time of the death of the intestate. A class shall be deemed to have living members if there is at least one living descendant to a predeceased class member; PROVIDED that in the event that any member of the class has predeceased the intestate the share of the real and personal property which would have gone to that member had he not predeceased the intestate, shall devolve upon the descendants of that member by right or representation in accordance with this section. The classes of intestate succession are as follows:

- (1) To the children of the intestate;
- (2) If there be none, to the parents of the intestate;
- (3) If there be none, to the grandparents of the intestate;
- (4) If there be none, to the great grandparents of the intestate;
- (5) And so forth, ad infinitum, in accordance with this chapter.

Source: D.L. No. 4L-155-78 §3, 9/20/78

§1-104. Rules of succession if there be no heirs. —

(1) If there be no heirs of the intestate as enumerated in §1-103, the succession to any real property of the intestate shall be determined jointly by the Nahmwarki of the local jurisdiction wherein the property is located and the Governor, or his authorized representative. In the event there is no Nahmwarki of the local jurisdiction wherein the property is located, the local chief executive shall serve in lieu of the Nahmwarki in such determination. If there be no person so determined as entitled to receive the real property of the intestate, the property shall escheat to the Pohnpei Public Lands Trust Board of Trustees to hold in trust for the people of Pohnpei.

(2) If there be no heirs of the intestate as enumerated in §1-103, the personal property of the intestate shall escheat to the office of the Director of the Department of Treasury and Administration to be sold at public auction, the proceeds of which shall be deposited in the general fund of Pohnpei as the realization of general revenues to be expended in accordance with state law for public purposes.

Source: D.L. No. 4L-155-78 §4, 9/20/78

§1-105. Spouse's rights. — Notwithstanding §§1-103 and 1-104, the living spouse of the intestate shall receive one-third of all personal property of the intestate and a life estate in all real property of the intestate; PROVIDED, HOWEVER, that such life estate may not be assigned, sold or otherwise transferred.

Source: D.L. No. 4L-155-78 §5, 9/20/78

§1-106. Adoption. — An adopted child shall, for the purposes of this chapter, be considered as the child and descendant of the adoptive parents, and not of the natural parents.

Source: D.L. No. 4L-155-78 §6, 9/20/78

Notes: 1. D.L. No. 2L-226-71 §1, 7/6/71 amended PDC §12-104. 2. D.L. No. 4L-155-78 §7, 9/20/78 repealed PDC §§12-101 – 12-105.

CHAPTER 2 WILLS

Section

2-101 Capacity; limitation	2-106 Oral will
2-102 Definitions	2-107 Wills executed outside the state or under foreign law
2-103 Witnesses	2-108 No retroactive application
2-104 Execution	
2-105 Handwritten will	

§2-101. Capacity; limitation. — Any person of sound mind who is 18 years of age or older may make a will in accordance with this chapter, but such will may only dispose of property, which at the time of his death, the testator has a right to dispose of without consent of any other person or any official.

Source: S.L. No. 1L-80-86 §1, 1/1/87

§2-102. Definitions. — As used in this chapter, the following definitions apply:

- (1) "Person" includes either man or woman, single or married.
- (2) "Will" includes codicil.

Source: S.L. No. 1L-80-86 §2, 1/1/87

§2-103. Witnesses. —

(1) Any person competent to be a witness generally in the state may act as an attesting witness to a will.

(2) No will is invalidated because attested to by an interested witness, but any interested witness shall, unless the will is also attested to by two disinterested witnesses, forfeit so much of the provisions made for him therein as in the aggregate exceeds in value, as of the date of the testator's death, what he would have received had the testator died intestate.

(3) No attesting witness is interested unless the will gives to him some personal and beneficial interest.

Source: S.L. No. 1L-80-86 §3, 1/1/87

§2-104. Execution. — The execution of a will under this chapter, other than a handwritten or oral will, must be by the signature of the testator and of at least two witnesses as follows:

(1) *Testator.* The testator shall signify to the attesting witness that the instrument is his will and either himself sign, or acknowledge his signature already made, or, at his direction and in his presence, have someone else sign his name for him. In any of the above cases the act must be done in the presence of two or more attesting witnesses.

(2) *Witnesses.* The attesting witnesses must sign in the presence of the testator, and in the presence of each other.

Source: S.L. No. 1L-80-86 §4, 1/1/87

§2-105. Handwritten will. — A handwritten will is a will in the handwriting of the testator. A handwritten will may be made under this chapter without any witness, but the signature and all its material provisions must be in the handwriting of the testator and his handwriting must be proved by two witnesses.

Source: S.L. No. 1L-80-86 §5, 1/1/87

§2-106. Oral will. —

(1) An oral will is a will presented verbally by the testator. An oral will may be made under this chapter only by a person in imminent peril of death, whether from illness or otherwise, and shall be valid only if the testator dies as a result of the impending peril. An oral will must be:

- (a) Declared to be his will by the testator before two disinterested witnesses; and
- (b) Submitted for probate within six months after the death of the testator unless the court, for good cause, permits it to be submitted later.

(2) An oral will made under this chapter may dispose of personal property only and to an aggregate value not exceeding \$5,000.

(3) An oral will made under this chapter neither revokes nor changes an existing written will.

Source: S.L. No. 1L-80-86 §6, 1/1/87

§2-107. Wills executed outside the state or under foreign law. — A will executed outside the state in a manner prescribed by this chapter or a written will executed in a manner prescribed by the law of the place of its execution, or by the law of the testator's domicile at the time of its execution, shall have the same force and effect in the state as if executed in the state in compliance with this chapter.

Source: S.L. No. 1L-80-86 §7, 1/1/87

§2-108. No retroactive application. — This chapter shall not apply to wills executed in the state before the date this chapter takes effect.

Source: S.L. No. 1L-80-86 §8, 1/1/87

Notes: 1. S.L. No. 1L-80-86 §9, 1/1/87 supersedes 13 TTC §§1 – 9 (1980) and by inference PDC §12-100, 3/71.

2. D.L. No. 4L-97-77 §1, 5/13/77 amended PDC §12-100(b). 3. D.L. No. 4L-97-77 §2, 5/13/77 added PDC §12-100(c).

CHAPTER 3 PROBATE OF SMALL ESTATES

Section

3-101 Complaints for transfer of decedent's personalty to beneficiaries and creditors; when authorized	3-103 Order of transfer; procedure if transfer withheld
3-102 Complaints for transfer of decedent's personalty to beneficiaries and creditors; contents	3-104 Procedure if debts exceed value of assets
	3-105 Responsibility of transferee

§3-101. Complaints for transfer of decedent's personalty to beneficiaries and creditors; when authorized. — When a decedent leaves personal property, including but not limited to cash, bank or other accounts, wages or salary due, shares of stock or other interest in any business enterprise, and goods and chattels of any nature, of a total value not exceeding \$1,000, and known debts, if any, of less than that amount, and the person or persons entitled to the personal property left by the decedent cannot readily obtain possession thereof, the surviving spouse, any adult child, including an adopted child, either parent, any brother or sister, the eldest brother of decedent's mother, or the head of the lineage of the decedent may file a sworn complaint in the Trial Division of the Pohnpei Supreme Court or, if the total value of the personal property does not exceed \$100, in the local court, within whose jurisdiction the decedent resided at the time of his death if he was a resident of the state of Pohnpei, or within whose jurisdiction all or part of the personal property is located if decedent was not a resident of the state of Pohnpei, asking the issuance of an order that such personal property be transferred to the complainant. If none of the persons named in this section file such complaint within 90 days of the death of the decedent, then any creditor of the decedent may file a sworn complaint as set forth herein.

Source: TTC §343(a) (1966); 13 TTC §51 (1970); 13 TTC §51 (1980)

§3-102. Complaints for transfer of decedent's personalty to beneficiaries and creditors; contents. — Such sworn complaint shall set forth the name, residence, and date of death of the decedent, and the names and addresses of the surviving spouse, children, brothers, and sisters of the decedent, and the eldest living brother of decedent's mother or, if none of the above persons survived the decedent, the name, address, and relationship of the nearest surviving relative. The complaint shall also state the total value of the personal property, and the property, if any, that passed or is to pass under such will, and to whom it went or is to go, and shall contain the promise of the complainant to pay, as far as the assets of the estate permit, the debts of the decedent or to see that the said debts are paid by someone authorized by local custom, and to distribute the balance, if any, to the person or persons entitled thereto.

Source: TTC §343(b) (1966); 13 TTC §52 (1970); 13 TTC §52 (1980)

§3-103. Order of transfer; procedure if transfer withheld. — Upon the filing of such complaint, if it appears to the court that the ends of justice will be served, the court may issue an order, either without notice or after such notice as it deems proper, directing the transfer of the personal property to the complainant, or to such other person as the court deems proper, directing that the transferee pay, as far as the assets of the estate permit, the debts of the decedent, or see that they are paid, and then distribute the balance, if any, to the person or persons entitled thereto. Whoever transfers money or other property to the complainant, or to any other person appointed by the court as set forth above, shall incur no liability thereby, nor shall such person thereafter be held to account for the same to any

person. Any person upon whom demand is made to transfer money or other property under the terms of such order who denies the right of the complainant or other transferee to receive the same shall, within ten days of the demand being made upon him to transfer such money or other property, file his answer in the same court that issued the order, setting forth the grounds that entitle him to retain possession thereof. Upon the filing of such answer, the court shall, after notice to the complainant or other transferee, set the matter down for hearing and make such finding and enter such further order as the ends of justice require.

Source: TTC §343(c) (1966); 13 TTC §53 (1970); 13 TTC §53 (1980)

§3-104. Procedure if debts exceed value of assets. — If the transferee finds, after the receipt of the personal property under such order of transfer, that the debts of decedent do in fact exceed the value of the property received, he shall make no further distribution of the same, but shall at once report the facts to the court that issued the order, setting forth the money and other personal property received, the disbursements he has already made, the names and addresses of the recipients of the property already disbursed, and the reason therefor, and shall list all known debts of decedent, including those that have recently come to the transferee's attention. The transferee shall take no further action save by order of the court.

Source: TTC §343(d) (1966); 13 TTC §54 (1970); 13 TTC §54 (1980)

§3-105. Responsibility of transferee. — The transferee shall be personally responsible for any property received by him under any order issued pursuant to this chapter, and any party claiming an interest in such property may, after demand, maintain an action against the transferee; PROVIDED, that no such action shall be brought against the transferee after two years from the date of the order under which the property was transferred to him.

Source: TTC §343(e) (1966); 13 TTC §55 (1970); 13 TTC §55 (1980)

TITLE 50 [RESERVED]

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DIVISION VII
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TITLE 51

DOMESTIC RELATIONS

TITLE 51 DOMESTIC RELATIONS

CHAPTER

- 1 GENERAL PROVISIONS**
- 2 MARRIAGE**
- 3 ANNULMENT AND DIVORCE**
- 4 RECIPROCAL ENFORCEMENT OF SUPPORT**
- 5 ADOPTION**
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CHAPTER 1 GENERAL PROVISIONS

Section

1-101 Jurisdiction [Reserved]	1-105 Confirmation in accordance with recognized custom
1-102 Petitions in annulment, divorce or adoption	1-106 Age of majority
1-103 Appeal and review	
1-104 Local custom recognized	

§1-101. Jurisdiction. — [RESERVED]

Source: TTC §711 (1966); 39 TTC §1 (1970); P.L. No. 4C-56 §1; 39 TTC §1 (1980)

Note: Language relating to jurisdiction of High Court, District Courts and Community Courts of the Trust Territory has been omitted.

§1-102. Petitions in annulment, divorce or adoption. —

(1) All proceedings for annulment, divorce or adoption shall be commenced by petition signed and sworn to by the petitioner or petitioners personally.

(2) The petition shall set forth sufficient facts as to the residence of the parties to show jurisdiction under this title.

(3) A petition for annulment or divorce shall, so far as practicable, include the date and place of marriage of the parties, the cause for the annulment or divorce, and the approximate date and place where it occurred if the cause consists of individual acts, otherwise sufficient details as to cause to identify with reasonable certainty the facts relied upon and a statement as to any prior application which is known to have been made by either party for annulment or divorce of the marriage in question or for separation under it, in this or any other jurisdiction, and the result of such application, if known.

(4) Service of petitions filed under this section shall be made upon any respondent or respondents, if any, in the manner provided by law for service of complaints. In such cases, any respondent or respondents shall be accorded such time as may be provided by law for filing an answer to complaints to file an answer to the petition.

Source: TTC §712 (1966); 37 TTC §2 (1970); P.L. No. 4C-56 §2; 39 TTC §2 (1980)

§1-103. Appeal and review. —

(1) All decrees for annulment, divorce or adoption under this title shall be subject to appeal and no such decree shall become absolute or affect the legal status of the parties until the case has been reviewed, if subject to review by the Pohnpei Supreme Court, and until the period for appeal has expired without any appeal having been filed or until any appeal taken shall have been finally dispatched.

(2) Except as otherwise expressly provided by this title, annulment, divorce, and adoption proceedings shall be governed by the provisions of law and rules of civil procedure applicable to civil actions.

Source: TTC §713 (1966); 37 TTC §3 (1970); 39 TTC §3 (1980)

Note: Language relating to jurisdiction of District Courts and Community Courts of the Trust Territory has been omitted.

§1-104. Local custom recognized. — Nothing contained in this title, except for §1-105, shall apply to any annulment, divorce or adoption effected in accordance with local custom, nor shall any restrictions or limitations be imposed upon the granting of annulments, divorces or adoptions in accordance with local custom.

Source: TTC §714 (1966); 39 TTC §4 (1970); 39 TTC §4 (1980)

§1-105. Confirmation in accordance with recognized custom. — When an annulment, divorce or adoption has been effected in the state of Pohnpei in accordance with recognized custom and the validity thereof is questioned or disputed by anyone in such a manner as to cause serious embarrassment to or affect the property rights of any of the parties or their children, any party thereto or any of his children may bring a petition in the Pohnpei Supreme Court for a decree confirming the annulment, divorce or adoption effected in accordance with recognized custom. Such a petition shall be signed and sworn to by the petitioner personally, and shall be filed in the Trial Division of the Pohnpei Supreme Court. If, after notice to all parties still living and a hearing, the court is satisfied that the annulment, divorce or adoption alleged is valid in accordance with recognized custom in the part of the state of Pohnpei where it was effected, the Pohnpei Supreme Court shall enter a decree confirming the annulment, divorce or adoption and may include in this decree the date it finds the annulment, divorce or adoption was absolute until the period for appealing has expired without any appeal having been filed or until any appeal taken shall have been filed or finally dispatched.

Source: TTC §715 (1966); 39 TTC §5 (1970); P.L. No. 4C-56 §3; 39 TTC §5 (1980)

§1-106. Age of majority. — All persons, whether male or female, residing in the state of Pohnpei, who shall have attained the age of 18 years shall be regarded as of legal age and their period of minority to have ceased.

Source: 39 TTC §6 (1970); 39 TTC §6 (1980)

CHAPTER 2 MARRIAGE

Section

2-101 Two noncitizens or noncitizen and FSM citizen: requisites of marriage contract	2-103 Two noncitizens or noncitizen and FSM citizen: ceremony
2-102 Two noncitizens or noncitizen and FSM citizen: license	2-104 Records; certificate; register
	2-105 Marriage between citizens

§2-101. Two noncitizens or noncitizen and FSM citizen: requisites of marriage contract. — In order to make valid the marriage contract between two noncitizens or between a noncitizen and a citizen of the Federated States of Micronesia, hereinafter referred to as the “FSM,” it shall be necessary that:

- (1) The male at the time of contracting the marriage be at least 18 years of age and the female at least 16 years of age, and if the female is less than 18 years of age she must have the consent of at least one of her parents or her guardian;
- (2) Neither of the respective parties has a lawful spouse living; and
- (3) A marriage ceremony be performed by a duly authorized person as provided in this chapter.

Source: TTC §690 (1966); 39 TTC §51 (1970); 39 TTC §51 (1980)

§2-102. Two noncitizens or noncitizen and FSM citizen: license. —

(1) The Governor or his designee is authorized to grant a license for marriage between two noncitizens or between a noncitizen and a citizen of the FSM. Upon the filing of an application for such a license, the Governor or his designee shall collect from the parties making the application the sum of \$2 to be remitted to the Director of the Department of Treasury and Administration.

(2) In order to obtain a license to marry, the parties shall file with the Governor or his designee an application in writing setting forth as to each party: his or her full name, age, citizenship, residence, occupation, if any, whether previously married and the manner of dissolution of such prior marriage or marriages. If the statements in the application are satisfactory and it appears that the parties are free to marry, the Governor or his designee shall issue to the parties a license to marry. Nothing in this section shall be construed to prevent the issuance of a license to marry to two citizens of the FSM.

Source: TTC §691 (1966); 39 TTC §52 (1970); 39 TTC §52 (1980)

§2-103. Two noncitizens or noncitizen and FSM citizen: ceremony. — The presence of at least two witnesses is requisite for the celebration of a marriage between two noncitizens or between a noncitizen and a citizen of the FSM. The marriage rite may be performed and solemnized by an ordained minister, a justice of the Pohnpei Supreme Court, the Governor or by any person authorized by law to perform marriages, upon presentation to him of a license to marry as prescribed in §2-102. The person solemnizing a marriage may receive a fee to be stipulated by the parties, or the gratification tendered to him.

Source: TTC §692 (1966); 39 TTC §53 (1970); 39 TTC §53 (1980)

§2-104. Records; certificate; register. — It shall be the duty of every person authorized to perform marriages to make and preserve a record of every marriage performed by him, regardless of the citizenship of the parties, showing the names of the persons married, their places of residence, and the date of marriage, and to deliver to the bride immediately after the ceremony a certificate of the record of such marriage, signed by him, two witnesses, if there were as many as two, and the persons married. He shall send a copy of the marriage certificate, not later than ten days after the granting of

the same, to the Clerk of the Pohnpei Supreme Court to be recorded in the marriage register. Forms issued by the Governor for such marriage certificates shall be used when available, but lack of such forms shall not excuse failure to provide the bride with the certificate and the Clerk with the copy required above in substantially the same form and containing the same information as in the forms issued by the Governor.

Source: TTC §693 (1966); 39 TTC §54 (1970); 39 TTC §54 (1980)

§2-105. Marriage between citizens. — Marriage contracts between parties, both of whom are citizens of the FSM, solemnized in accordance with recognized customs, shall be valid. A notice of such marriage, showing the names and addresses of the persons married, their ages, and the date of marriage, shall be sent to the clerk of courts, who shall, upon receipt thereof, record the same in the marriage register.

Source: TTC §694 (1966); 39 TTC §55 (1970); 39 TTC §55 (1980)

CHAPTER 3 ANNULMENT AND DIVORCE

Section

3-101 Competency [Reserved]	3-107 Divorce: grounds
3-102 Orders for custody, support, and alimony	3-108 Divorce: residency requirement
3-103 Effect of decree	3-109 Divorce: forgiveness as a defense
3-104 Annulment: grounds	3-110 Divorce: procurement or connivance as defense
3-105 Annulment: residency requirement	
3-106 Annulment: legitimacy of issue	

§3-101. Competency. — [RESERVED].

Source: TTC §702 (1966); 39 TTC §101 (1970); 39 TTC §101 (1980)

Note: Language relating to competency of District Courts and Community Courts of the Trust Territory has been omitted.

§3-102. Orders for custody, support, and alimony. — In granting or denying an annulment or a divorce, the court may make such orders for custody of minor children, for their support, for support of either party, and for the disposition of either or both parties' interest in any property in which both have interests, as it deems justice and the best interests of all concerned may require. While an action for annulment or divorce is pending, the court may make temporary orders covering any of these matters pending final decree. Any decree as to custody or support of minor children or of the parties shall be subject to revision by the court at any time upon motion of either party and such notice, if any, as the court deems justice requires.

Source: TTC §704 (1966); 39 TTC §103 (1970); 39 TTC §103 (1980)

§3-103. Effect of decree. — The effect of a decree of annulment or divorce when it has become absolute shall be to restore the parties to the state of unmarried persons so far as the marriage in question is concerned.

Source: TTC §705 (1966); 39 TTC §104 (1970); 39 TTC §104 (1980)

§3-104. Annulment: grounds. — A decree annulling a marriage may be rendered on any ground existing at the time of the marriage that makes the marriage illegal and void or voidable. A court may, however, refuse to annul a marriage that has been ratified and confirmed by voluntary cohabitation after the obstacle to the validity of the marriage has ceased, unless the public interest requires that the marriage be annulled.

Source: TTC §695 (1966); 39 TTC §151 (1970); 39 TTC §151 (1980)

§3-105. Annulment: residency requirement. — No annulment shall be granted unless one of the parties shall have resided in Pohnpei for the three months immediately preceding the filing of the complaint.

Source: TTC §696 (1966); 39 TTC §152 (1970); 39 TTC §152 (1980)

§3-106. Annulment: legitimacy of issue. — The issue of a marriage annulled under this chapter shall be legitimate.

Source: TTC §697 (1966); 39 TTC §153 (1970); 39 TTC §153 (1980)

§3-107. Divorce: grounds. — Divorces from marriages may be granted under this chapter for the following causes and no other:

- (1) Adultery;

(2) The guilt of either party toward the other of such cruel treatment, neglect or personal indignities, whether or not amounting to physical cruelty, as to render the life of the other burdensome and intolerable and their further living together insupportable;

(3) Willful desertion continued for a period of not less than one year;

(4) Habitual intemperance in the use of intoxicating liquor or drugs continued for a period of not less than one year;

(5) The sentencing of either party to imprisonment for life or for three years or more. After divorce for such cause, no pardon granted to the party so sentenced shall affect such divorce;

(6) The insanity of either party where the same has existed for three years or more;

(7) The contracting by either party of leprosy;

(8) The separation of the parties for two consecutive years without cohabitation, whether or not by mutual consent; and

(9) Willful neglect by the husband to provide suitable support for his wife when able to do so or when failure to do so is because of his idleness, profligacy or dissipation.

Source: TTC §698 (1966); 39 TTC §201 (1970); 39 TTC §201 (1980)

§3-108. Divorce: residency requirement. — No divorce shall be granted unless one of the parties shall have resided in Pohnpei for the two years immediately preceding the filing of the complaint.

Source: TTC §699 (1966); 39 TTC §202 (1970); 39 TTC §202 (1980)

§3-109. Divorce: forgiveness as a defense. — No divorce shall be granted where the grounds for the divorce have been forgiven by the injured party. Such forgiveness may be shown by express proof or by the voluntary cohabitation of the parties with knowledge of the fact and restoration of the forgiving party to all marital rights. Such forgiveness implies a condition that the forgiving party must be treated with conjugal kindness. The forgiveness is revoked and the original ground for divorce is revived if the party forgiven commits an act of constituting a like or other ground for divorce or is guilty of conjugal unkindness sufficiently habitual and gross to show that the conditions of forgiveness have not been accepted in good faith or have not been fulfilled.

Source: TTC §700 (1966); 39 TTC §203 (1970); 39 TTC §203 (1980)

§3-110. Divorce: procurement or connivance as defense. — No divorce for the cause of adultery shall be granted where the offense has been committed by the procurement or with the connivance of the plaintiff.

Source: TTC §701 (1966); 39 TTC §204 (1970); 39 TTC §204 (1980)

CHAPTER 4 RECIPROCAL ENFORCEMENT OF SUPPORT

Section

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PART A GENERAL PROVISIONS

§4-101. Purposes. — The purposes of this chapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

Source: P.L. No. 4C-37 §1; 39 TTC §301 (1980)

§4-102. Definitions. — For the purposes of this chapter:

(1) "Attorney General" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(2) "Court" means the Trial Division of the Pohnpei Supreme Court, and when the context requires means the court of any state as defined in a substantially similar reciprocal law.

(3) "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance or otherwise, and includes the duty to pay arrearages of support past due and unpaid.

(4) “Governor” includes the Governor of the state of Pohnpei and any person performing the functions of governor or the executive authority of any state covered by this chapter.

(5) “Initiating court” means the court in which a proceeding is commenced.

(6) “Initiating state” means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(7) “Law” includes both common and statutory law.

(8) “Obligee” means a person, including a state or political subdivision, to whom a duty of support is owed, or a person, including a state or political subdivision, that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial whether the person to whom a duty of support is owed is a recipient of public assistance.

(9) “Obligor” means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(10) “Register” means to file in the registry of foreign support orders.

(11) “Registering court” means any court of the state of Pohnpei in which a support order of a rendering state is registered.

(12) “Rendering state” means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(13) “Responding court” means the court in which the responsive proceeding is commenced.

(14) “Responding state” means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced.

(15) “State” includes a state, territory, or possession of the Federated States of Micronesia, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(16) “Support order” means any judgment, decree or order of support in favor of an obligee, whether temporary or final, or subject to modification, revocation or remission, regardless of the kind of action or proceeding in which it is entered.

Source: P.L. No. 4C-37 §1; 39 TTC §302 (1980)

§4-103. Remedies of chapter in addition to those now existing. — The remedies herein provided are in addition to and not in substitution for any other remedies.

Source: P.L. No. 4C-37 §1; 39 TTC §303 (1980)

§4-104. Duties of support regardless of presence or residency. — Duties of support arising under the law of the state of Pohnpei, when applicable under this Code, bind the obligor present in the state of Pohnpei regardless of the presence or residence of the obligee.

Source: P.L. No. 4C-37 §1; 39 TTC §304 (1980)

PART B CIVIL ENFORCEMENT

§4-105. Choice of law. — Duties of support applicable under this chapter are those imposed under the laws of any jurisdiction where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding jurisdiction during the period for which support is sought until otherwise shown.

Source: P.L. No. 4C-37 §1; 39 TTC §401 (1980)

§4-106. Rights of jurisdiction or political subdivision furnishing support. — If a state or a political subdivision thereof furnishes support to an individual obligee, it has the same right to initiate a proceeding under this chapter as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

Source: P.L. No. 4C-37 §1; 39 TTC §402 (1980)

§4-107. How duties of support enforced. — All duties of support, including the duty to pay arrearages, are enforceable by an action under this chapter, including a proceeding for contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

Source: P.L. No. 4C-37 §1; 39 TTC §403 (1980)

§4-108. Jurisdiction. — Jurisdiction of any proceeding under this chapter is vested in the Trial Division of the Pohnpei Supreme Court.

Source: P.L. No. 4C-37 §1; 39 TTC §404 (1980)

§4-109. Contents and filing of complaint for support. —

(1) The complaint shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information and such information as may be required by the state of Pohnpei rules of civil procedure. The obligee may include in or attach to the complaint any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his social security number.

(2) The complaint may be filed in the appropriate court of any jurisdiction in which the obligee resides. The court shall not decline or refuse to accept and forward the complaint on the ground that it should be filed with some other court of this or any other jurisdiction where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

Source: P.L. No. 4C-37 §1; 39 TTC §405 (1980)

Note: The language of the first sentence of Subsection (2) of this section as it appears in the Revised Uniform Reciprocal Enforcement of Support Act of 1968 reads, "The [petition] may be filed in the appropriate court of any state in which the obligee resides." *See* 51 PC 4-102(15).

§4-110. Attorney General to represent obligee. — If the state of Pohnpei is acting as an initiating state, the Attorney General or his representative, upon the request of the court, shall represent the obligee in any proceeding under this chapter.

Source: P.L. No. 4C-37 §1; 39 TTC §406 (1980)

§4-111. Complaint on behalf of minor. — A complaint on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem.

Source: P.L. No. 4C-37 §1; 39 TTC §407 (1980)

§4-112. Duty of initiating court. — If the initiating court finds that the complaint sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and cause three copies of the complaint and its certificate and one copy of this chapter to be sent to the responding court. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information

agency comparable to that established in the initiating state, it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court.

Source: P.L. No. 4C-37 §1; 39 TTC §408 (1980)

§4-113. Costs and fees. — An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in the state of Pohnpei when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the state or political subdivision thereof. These costs or fees do not have priority over amounts due to the obligee.

Source: P.L. No. 4C-37 §1; 39 TTC §409 (1980)

§4-114. Jurisdiction by arrest. — If a court of the state of Pohnpei believes that the obligor may flee, it may:

(1) As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or

(2) As a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to assure his appearance at the hearing.

Source: P.L. No. 4C-37 §1; 39 TTC §410 (1980)

§4-115. Information agency; efforts of Attorney General to locate obligors. —

(1) The Attorney General's office is designated as the information agency under this chapter. It shall:

(a) Compile a list of the courts and their addresses in the state of Pohnpei having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law;

(b) Maintain a register of such lists of courts received from other states and transmit copies thereof promptly to every court in the state of Pohnpei having jurisdiction under this chapter;

(c) Distribute copies of this chapter and any amendments thereto and a statement of their effective dates to all other state information agencies; and

(d) Forward to the court in the state of Pohnpei which has jurisdiction over the obligor or his property petitions, certificates, and copies of the act it receives from courts or information agencies of other states.

(2) If the Attorney General does not know the location of the obligor or his property in the state of Pohnpei, he shall use all means at his disposal to obtain this information, including but not limited to the examination of any official records, as he may deem appropriate.

Source: P.L. No. 4C-37 §1; 39 TTC §411 (1980)

§4-116. Duties of the court and officials of the state of Pohnpei as responding state; prosecution of case. —

(1) After the responding court receives copies of the complaint, certificate, and act from the initiating court, the clerk of courts shall docket the case and notify the Attorney General of his action.

(2) The Attorney General shall prosecute the case diligently. He shall take all action necessary in

accordance with the laws of the state of Pohnpei to enable the court to obtain jurisdiction over the obligor or his property and shall request the clerk of courts to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

Source: P.L. No. 4C-37 §1; 39 TTC §412 (1980)

§4-117. Duties of the court and officials of the state of Pohnpei as responding state; location of obligors. —

(1) The Attorney General on his own initiative shall use all means at his disposal to locate the obligor or his property, and if, because of inaccuracies in the complaint or otherwise, the court cannot obtain jurisdiction, the Attorney General shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended complaint from the initiating court.

(2) If the obligor or his property is not found in the state, and the Attorney General discovers that the obligor or his property may be found in another state, he shall so inform the court. Thereupon the clerk of courts shall forward the documents received from the court in the initiating jurisdiction to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this chapter apply to the recipient of the documents so forwarded. If the clerk of a court of the state of Pohnpei forwards documents to another court, he shall forthwith notify the initiating court.

(3) If the Attorney General has no information as to the location of the obligor or his property, he shall so inform the initiating court.

Source: P.L. No. 4C-37 §1; 39 TTC §413 (1980)

§4-118. Continuance of case. — If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court, upon request of either party, may continue the case for further hearing and the submission of evidence by both parties by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

Source: P.L. No. 4C-37 §1; 39 TTC §414 (1980)

§4-119. Waiver of privilege against self-incrimination and immunity from criminal prosecution.

— If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony.

Source: P.L. No. 4C-37 §1; 39 TTC §415 (1980)

§4-120. Testimony of husband and wife. — Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter including marriage and parentage, the provisions of 59 PC 4-101 or rules of evidence notwithstanding.

Source: P.L. No. 4C-37 §1; 39 TTC §416 (1980)

§4-121. Rules of evidence. — In any hearing for the civil enforcement of this chapter, the court is governed by the rules of evidence set forth in Title 59 of this Code and in the Pohnpei Supreme Court rules of evidence, except as otherwise provided in this chapter. If the action is based on a support order issued by another court, a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity as set forth in §4-125 or to a defendant in an action or a proceeding to enforce a foreign money judgment. The

determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

Source: P.L. No. 4C-37 §1; 39 TTC §417 (1980)

§4-122. Orders of support; authorized; enforcement. — If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this chapter shall require that payments be made to the clerk of the court of the responding state. The court and attorney general of any state of the Federated States of Micronesia in which the obligor is present or has property shall have the same powers and duties to enforce the order as have those of the state in which it was first issued. If enforcement is impossible or cannot be completed in the state in which the order was issued, the Attorney General shall send a certified copy of the order to the attorney general of any state in which it appears that proceedings to enforce the order would be effective. The attorney general to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

Source: P.L. No. 4C-37 §1; 39 TTC §418 (1980)

§4-123. Orders of support; responding court to transmit copies to initiating court. — The responding court shall cause a copy of all support orders to be sent to the initiating court.

Source: P.L. No. 4C-37 §1; 39 TTC §419 (1980)

§4-124. Orders of support; additional powers of responding court. — In addition to the foregoing powers, a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

(1) Require the obligor to furnish a cash deposit or a bond of a character and amount to be specified by the court to assure payment of any amount due;

(2) Require the obligor to report personally and to make payments at specified intervals to the clerk of courts; and

(3) Punish under the power of contempt the obligor who violates any order of the court.

Source: P.L. No. 4C-37 §1; 39 TTC §420 (1980)

§4-125. Paternity. — If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated.

Source: P.L. No. 4C-37 §1; 39 TTC §421 (1980)

§4-126. Forwarding of payments and payment records by responding court. — A responding court has the following duties which may be carried out through the clerk of courts:

(1) To transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and

(2) To furnish to the initiating court upon request a certified statement of all payments made by the obligor.

Source: P.L. No. 4C-37 §1; 39 TTC §422 (1980)

§4-127. Receipt and disbursement of payments by initiating court. — An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the responding court. This duty may be carried out through the clerk of courts.

Source: P.L. No. 4C-37 §1; 39 TTC §423 (1980)

§4-128. Proceedings not to be stayed. — A responding court shall not stay the proceeding or refuse a hearing under this chapter because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption or custody in this or any other jurisdiction. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

Source: P.L. No. 4C-37 §1; 39 TTC §424 (1980)

§4-129. Application of payments made under orders of another court. — A support order made by a court of the state of Pohnpei pursuant to this chapter does not nullify and is not nullified by a support order made by a court of another state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by a court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by a court of the state of Pohnpei.

Source: P.L. No. 4C-37 §1; 39 TTC §425 (1980)

§4-130. Jurisdictional effect of participation in proceeding. — Participation in any proceeding under this chapter does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.

Source: P.L. No. 4C-37 §1; 39 TTC §426 (1980)

§4-131. Intrastate application. — [RESERVED]

Source: P.L. No. 4C-37 §1; 39 TTC §427 (1980)

Note: This provision of the Trust Territory Code dealt with political subdivisions of the same governmental entity. The Revised Uniform Reciprocal Enforcement of Support Act of 1968 from which this section is derived reads, "This Act applies if both the obligee and the obligor are in this State but in different [counties.] If the court of the [county] in which the [petition] is filed finds that the [petition] sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another [county] in this State may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the [petition] and a certification of the findings to the court of the [county] in which the obligor or his property is found. The clerk of the court of the [county] receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the [county] to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this State as a responding state." *See* 51 PC 4-108.

§4-132. Appeals. — If the Attorney General is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may:

(1) Perfect an appeal to the proper appellate court if the support order was issued by a court of the state of Pohnpei, or

(2) If the support order was issued in another state, cause the appeal to be taken in the other state.

In either case, expenses of appeal may be paid on his order from funds appropriated for his office.

Source: P.L. No. 4C-37 §1; 39 TTC §428 (1980)

PART C CRIMINAL ENFORCEMENT

§4-133. Interstate rendition; authority of Governor. — The Governor of the state of Pohnpei may:

(1) Demand of the governor of another state the surrender of a person found in that state who is charged criminally in the state of Pohnpei with the failure to abide by an order of a court ordering him to provide for the support of any person; or

(2) Surrender on demand by the governor of another state a person found in the state of Pohnpei who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this chapter apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or that at the time of the commission of the crime said person was in the demanding state.

Source: P.L. No. 4C-37 §1; 39 TTC §351 (1980)

§4-134. Interstate rendition; investigations of circumstances. —

(1) Before making the demand upon the governor of another state for the surrender of a person charged criminally in the state of Pohnpei with the failure to abide by an order of a court ordering him to provide for the support of a person, the Governor of the state of Pohnpei may require the Attorney General of the state of Pohnpei to satisfy him that at least 60 days prior thereto the obligee initiated proceedings for support under this chapter or that any such proceeding would be of no avail.

(2) If, under a substantially similar act, the governor of another state makes a demand upon the Governor of the state of Pohnpei for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the Governor may require the Attorney General to investigate the demand and to report to him whether proceedings for support have been initiated or would be effective. If it appears to the Governor that a proceeding would be effective but has not been initiated, he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If proceedings have been initiated, and the person demanded has prevailed therein, the Governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the Governor may decline to honor the demand if the person demanded is complying with the support order.

Source: P.L. No. 4C-37 §1; 39 TTC §352 (1980)

CHAPTER 5 ADOPTION

Section

5-101 Jurisdiction	5-104 Appearance of child; best interests of child to control; citizenship considerations
5-102 Adoption by decree	
5-103 Consent or notice required	5-105 Effect of decree

§5-101. Jurisdiction. — An adoption authorized under this chapter may be granted by the Trial Division of the Pohnpei Supreme Court if the person or persons requesting the adoption resides in Pohnpei or if the child resides in Pohnpei.

Source: TTC §709 (1966); 39 TTC §251 (1970); P.L. No. 4C-56 §5; 39 TTC §251 (1980)

§5-102. Adoption by decree. —

(1) Any suitable person who is not married, or is married to the father or mother of a child, or a husband and wife jointly may by decree of court adopt a child, not theirs by birth, and the decree may provide for change of the name of the child. If the child is adopted by a person married to the father or mother of the child, the same rights and duties which previously existed between such natural parent and child shall be and remain the same, subject, however, to the rights acquired by and the duties imposed upon the adopting parent by reason of the adoption.

(2) The term “child,” as used in this chapter and §1-105, shall refer to the parent-child relationship.

Source: TTC §706 (1966); P.L. No. 4-27 §1; 39 TTC §252 (1970); 39 TTC §252 (1980)

§5-103. Consent or notice required. — No adoption shall be granted without either the written consent of, or notice to, each of the known living legal parents who has not been adjudged insane or incompetent or has not abandoned the child for a period of six months, nor shall any adoption of a child of over the age of 12 years be granted without the consent of the child.

Source: TTC §707 (1966); 39 TTC §253 (1970); P.L. No. 4C-56 §36; 39 TTC §253 (1980)

§5-104. Appearance of child; best interests of child to control; citizenship considerations. —

(1) No adoption shall be granted under this chapter without the child proposed for adoption appearing before the court, and the adoption shall be granted only if the court is satisfied that the interests of the child will be promoted thereby.

(2) Whenever an adoption petition is filed by a person who is not a citizen of the Federated States of Micronesia for the adoption of a Micronesian child who is either under the age of twelve years or not the petitioner’s step-child, the court shall:

(a) Determine, after reasonable inquiry, whether any member of the child’s immediate or extended family residing in the Federated States of Micronesia, or any other Federated States of Micronesia citizen residing within the state of Pohnpei is willing, able, and suitable to adopt the child;

(b) Give preference in the adoption of a Micronesian child to a Federated States of Micronesia citizen whenever practicable;

(c) Appoint a guardian ad litem or attorney to represent the child;

(d) Not issue a final decree until the child has lived in the proposed adoptive home for a length of time sufficient for the court to determine that the placement is satisfactory; and

(e) Not grant the adoption unless the petitioner has resided in the Federated States of Micronesia for at least three years prior to the filing of the petition.

(3) The standards to be applied in judging the interests of a Micronesian child shall be the prevailing social and cultural standards of the Micronesian community from which the child comes or in which the court is located.

(4) The term “Micronesian child,” as used in this section, shall mean a child born in the Federated States of Micronesia, one or both of whose parents is a Federated States of Micronesia citizen.

Source: TTC §708 (1966); 39 TTC §254 (1970); 39 TTC §254 (1980); P.L. No. IC-28 §1; S.L. No. 6L-79-06 §2-110, 11/1/06

§5-105. Effect of decree. — After a decree of adoption has become absolute, the child adopted and the adopting parents shall hold towards each other the legal relation of parent and child and have all the rights and be subject to all the duties of that relationship. The natural parents of the adopted child are, from the time of adoption, relieved of all parental duties toward the child and all responsibilities for the child so adopted, and have no right over it. A child adopted under this chapter shall have the same rights of inheritance as a person adopted in accordance with recognized custom at the place where the land is situated in the case of real estate, and at the place where the decedent was a resident at the time of his death in the case of personal property. Where there is no recognized custom as to rights of inheritance of adopted children, a child adopted under this chapter shall inherit from his adopting parents the same as if he were the natural child of the adopting parents, and he may also inherit from his natural parents and kindred the same as if no adoption has taken place.

Source: TTC §710 (1966); 39 TTC §255 (1970); 39 TTC §255 (1980)

Note: The phrase “parent or” appeared in the first and final sentences of this section in the 1966 edition of the Trust Territory Code, but was deleted from the 1970 and 1980 editions of the Trust Territory Code. *See* Public Law 3C-51, §1 and §3, 9/22/70.

Cross-reference: *See* 49 PC 1-106.

CHAPTER 6 CHILD ABUSE

Section

6-101. Declaration of policy
6-102. Definitions
6-103. Reporting procedure

6-104. Immunity of reporting persons from liability
6-105. Physician-patient privilege not applicable
6-106. Violations; penalties

§6-101. Declaration of policy. — It is the policy of the Pohnpei Government to provide for the protection of children who have injuries inflicted upon them and who, in the absence of appropriate reports concerning their conditions and circumstances, may be further threatened or injured by the conduct of those responsible for their care and protection.

Source: P.L. No. 7-131, §1; 39 TTC §451 (1980)

§6-102. Definitions. — When used in this chapter, unless the specific content indicates otherwise:

(1) “Child” means any person under eighteen years of age.

(2) “Abuse” means any case in which a child exhibits evidence of skin bruising, bleeding, sexual molestation, burns, fracture of any bone, subdural hematoma, soft-tissue swelling, and such condition or death is not justifiably explained, or the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence.

(3) “Person” means any physician, dentist, including interns, health assistant, medex, nurse, practical nurse, schoolteacher or other school official, day care worker, peace officer or law enforcement official.

Source: P.L. No. 7-131, §2; 39 TTC §452 (1980)

§6-103. Reporting procedure. — Every person examining, attending, teaching or treating a child and having reason to believe that such child has had serious injury or injuries, either physical or mental, inflicted upon him or her as a result of abuse, shall report the matter promptly to the Chief of the Division of Police and Security involved; PROVIDED, that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a state hospital or a government medical facility in the state capital, such staff member shall immediately notify the Director of the Department of Health Services or another person in charge who shall make the report forthwith. If the person attending a child is a schoolteacher or other school official he shall report such abuse to his supervisor or other person in charge of the school and such matter shall then be promptly reported by the latter to the Chief of the Division of Police and Security. If the report is not made in writing in the first instance, it shall be reduce to writing by the maker thereof as soon as possible after it is initially made by telephone or otherwise, and shall contain the name and address of the child and his or her parents or other persons responsible for his or her care if known, the child’s age, the nature and extent of the child’s injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor.

Source: P.L. No. 7-131, §3; 39 TTC §453 (1980)

§6-104. Immunity of reporting persons from liability. — Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Likewise, any such participant shall have full immunity

with respect to any evidence, oral or written, or any other testimony which he or she might provide in any judicial proceeding resulting from such report.

Source: P.L. No. 7-131, §4; 39 TTC §454 (1980)

§6-105. Physician-patient privilege not applicable. — In any proceeding resulting from a report made pursuant to this chapter or in any proceeding where such a report or any contents thereof are sought to be introduced in evidence, such report or contents or any other facts or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege.

Source: P.L. No. 7-131, §5; 39 TTC §455 (1980)

§6-106. Violations; penalties. — Anyone knowingly and willfully violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both such fine and imprisonment.

Source: P.L. No. 7-131, §6; 39 TTC §456 (1980)

(Next page is Title 52 divider)

TITLE 52

MINORS

**TITLE 52
MINORS**

CHAPTER

1 JUVENILE DEFINED

2 PROTECTION OF MINORS

3 TRUANCY MATTERS [RESERVED]

4 JUVENILE OFFENSES [RESERVED]

5 [RESERVED]

6 JUVENILE OFFENDER PROCEEDINGS

7 LIABILITY OF PARENTS AND GUARDIANS FOR ACTS OF DELINQUENT CHILD

**CHAPTER 1
JUVENILE DEFINED**

Section

1-101 Definition of “juvenile”

§1-101. Definition of “juvenile.” — For the purpose of this chapter, a juvenile is defined as any person who has not attained the age of 18 years.

Source: PDC §6-1, 3/71

MINORS

CHAPTER 2 PROTECTION OF MINORS

Section

2-101 Declaration of policy	2-104 Immunity of reporting persons from liability
2-102 Definitions	2-105 Physician-patient privilege not applicable
2-103 Reporting procedure	2-106 Penalties

§2-101. Declaration of policy. — It is the policy of the state of Pohnpei to provide for the protection of children who have injuries inflicted upon them and who, in the absence of appropriate reports concerning their conditions and circumstances, may be further threatened or injured by the conduct of those responsible for their care and protection.

Source: P.L. No. 7-131 §1; 39 TTC §451 (1980)

§2-102. Definitions. — Whenever used in this chapter, unless the specific content indicates otherwise:

(1) “Abuse” means any case in which a child exhibits evidence of skin bruising, bleeding, sexual molestation, burns, fracture of any bone, subdural hematoma, soft-tissue swelling, and such condition or death is not justifiably explained, or the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence.

(2) “Child” means any person under 18 years of age.

(3) “Person” means any physician, dentist, including an intern, health assistant, medex, nurse, practical nurse, schoolteacher or other school official, day care worker, peace officer or law enforcement official.

Source: P.L. No. 7-131 §2; 39 TTC §452 (1980)

§2-103. Reporting procedure. — Every person examining, attending, teaching or treating a child and having reason to believe that such child has had serious injury or injuries, either physical or mental, inflicted upon him or her as a result of abuse shall report the matter promptly to the Chief of Police of the Division of Police and Security within the Department of Public Safety; PROVIDED, that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of the state hospital or a government medical facility within the state center, such staff member shall immediately notify the Director of Health Services or another person in charge who shall make the report forthwith. If the person attending a child is a schoolteacher or other school official, he shall report such abuse to his supervisor or other person in charge of the school and such matter shall then be promptly reported by the latter to the Chief of Police of the Division of Police and Security. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as possible after it is initially made by telephone or otherwise, and shall contain the name and address of the child and his or her parents or other persons responsible for his or her care, if known, the child’s age, the nature and extent of the child’s injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor.

Source: P.L. No. 7-131 §3; 39 TTC §453 (1980)

§2-104. Immunity of reporting persons from liability. — Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Likewise, any such participant shall have full immunity

with respect to any evidence, oral or written, or any other testimony which he or she might provide in any judicial proceeding resulting from such report.

Source: P.L. No. 7-131 §4; 39 TTC §454 (1980)

§2-105. Physician-patient privilege not applicable. — In any proceeding resulting from a report made pursuant to this chapter or in any proceeding where such a report or any contents thereof are sought to be introduced in evidence, such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege.

Source: P.L. No. 7-131 §5; 39 TTC §455 (1980)

§2-106. Penalties. — Anyone knowingly and willfully violating this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500, or imprisoned for not more than six months, or both such fine and imprisonment.

Source: P.L. No. 7-131 §6; 39 TTC §456 (1980)

**CHAPTER 3
TRUANCY MATTERS
[RESERVED]**

Cross - Reference

Truancy. —

[Cross-reference – *See* Title 18, Ch. 3]

MINORS

**CHAPTER 4
JUVENILE OFFENSES
[RESERVED]**

Cross - References

Prohibition on gambling. —

[Cross-reference – *See* Title 70, Ch. 2]

Prohibition on entering premises of on-sale business. —

[Cross-reference – *See* Title 66, Ch. 2]

Prohibition on tobacco products. —

[Cross-reference – *See* Title 66, Ch. 3]

**CHAPTER 5
[RESERVED]**

MINORS

CHAPTER 6 JUVENILE OFFENDER PROCEEDINGS

Section

6-101 Adoption of flexible procedures by courts	6-105 Confinement
6-102 "Delinquent child" defined	6-106 Orders for persons encouraging, causing or contributing to delinquency
6-103 Proceedings; conduct generally; delinquency not a crime	6-107 Appeals
6-104 Proceedings; where brought	

§6-101. Adoption of flexible procedures by courts. — In cases involving offenders under the age of 18 years, courts shall adopt a flexible procedure based on the accepted practices of juvenile courts of the United States of America, including insofar as possible the following measures:

- (1) Report by a welfare or probation officer in advance of trial;
- (2) Detention, where necessary, apart from adult offenders;
- (3) Hearing informally in closed session;
- (4) Interrogation of parents or guardians and release in their custody if appropriate.

An offender 16 years of age or over may, however, be treated in all respects as an adult if in the opinion of the court his physical and mental maturity so justifies.

Source: TTC §495 (1966); 15 TTC §1 (1970); 15 TTC §1 (1980)

§6-102. "Delinquent child" defined. — As used in this chapter and Chapter 7, "delinquent child" includes any child:

- (1) Who violates any Pohnpei law, except that a child who violates any traffic law or regulation shall be designated as a "juvenile traffic offender" and shall not be designated as a delinquent unless it be so ordered by the court after hearing the evidence; or
- (2) Who does not subject himself to the reasonable control of his parents, teachers, guardian or custodian, by reason of being wayward or habitually disobedient; or
- (3) Who is a habitual truant from home or school; or
- (4) Who departs himself so as to injure or endanger the morals or health of himself or others.

Source: TTC §437 (1966); 15 TTC §2 (1970); 15 TTC §2 (1980)

Cross-reference: See 61 PC 1-107

§6-103. Proceedings; conduct generally; delinquency not a crime. — Proceedings against a person under 18 years of age as a delinquent child shall be conducted in accordance with this chapter, and an adjudication that a person is a delinquent child shall not constitute a criminal conviction.

Source: TTC §432 (1966); 15 TTC §3 (1970); 15 TTC §3 (1980)

Note: References to insanity and to age classifications of children appearing in TTC §432 (1966) were omitted in subsequent TTC editions and in this Code. See Public Law 3C-51 §§1 and §3, 9/22/70.

Cross-reference: 61 PC 1-105, 61 PC 1-107 and 62 PC 7-101.

§6-104. Proceedings; where brought. Proceedings against a person as a delinquent child may be brought in the Trial Division of the Pohnpei Supreme Court or in a state court having jurisdiction over the place where the delinquency or any part of it occurred, except that if the acts charged may legally constitute murder or rape of which the person is not conclusively presumed to be incapable by law, the proceedings shall be brought only in the Trial Division of the Pohnpei Supreme Court.

Source: TTC §432 (1966); 15 TTC §4 (1970); 15 TTC §4 (1980)

§6-105. Confinement. — A person adjudged to be a delinquent child may be confined in such place, under such conditions, and for such period as the court deems the best interests of the child require, not exceeding the period for which he might have been confined if he were not treated as a “juvenile offender” under this chapter and Chapter 7.

Source: TTC §432 (1966); 15 TTC §6 (1970); 15 TTC §6 (1980)

§6-106. Orders for persons encouraging, causing or contributing to delinquency. — In any juvenile delinquency proceeding, if it is found by the court that any person is encouraging, causing or contributing to acts or conditions which result in an adjudication of the delinquency of a child, the court may require such person to be brought before the court and, after hearing, may order such person to do any specific thing which falls within the duty owed by such person to the child, or refrain from doing any specific act inconsistent with that duty, and, upon the failure of such person to comply with the order of the court, he may be proceeded against for criminal or civil contempt of court.

Source: TTC §438(a) (1966); 15 TTC §5(1) (1970); 15 TTC §5(1) (1980)

Note: This Pohnpei Code section retains the revisions of 15 TTC §5(1) (1970) to the language of TTC §438(a) (1966). *See* Public Law 3C-51 §§1 and §3, 9/22/70.

§6-107. Appeals. — An adjudication in juvenile delinquency proceedings and all orders in connection with such adjudication shall be subject to appeal as in civil actions, except that no filing fees shall be required.

Source: TTC §438(b) (1966); 15 TTC §5(2) (1970); 15 TTC §5(2) (1980)

CHAPTER 7
LIABILITY OF PARENTS AND GUARDIANS FOR
ACTS OF DELINQUENT CHILD

Section

7-101 Liability of parents and guardians

§7-101. Liability of parents and guardians. — A parent or guardian having custody of a child is charged with the control of such child and shall have the power to exercise parental control and authority over such child. In any case where a child is found delinquent and placed on probation, if the court finds at the hearing that the parent or guardian having custody of such child has failed or neglected to subject him to reasonable parental control and authority, and that such failure or neglect is the proximate cause of the act or acts of the child upon which the finding of delinquency is based, the court may require such parent to enter into a recognizance with sufficient surety, in an amount of not more than \$100, conditioned upon the faithful discharge of the conditions of probation of such child. If the child thereafter commits a second act and is by reason thereof found delinquent, or violates the conditions of probation, and the court finds at the hearing that the failure or neglect of such parent to subject him to reasonable parental control and authority or to faithfully discharge the conditions of probation of such child on the part of such parent is the proximate cause of the act or acts of the child upon which such second finding of delinquency is based, or upon which such child is found to have violated the conditions of his probation, the court may declare that all or a part of the recognizance shall be applied in payment of any damages; otherwise, the proceeds therefrom, or any part remaining after the payment of damages as aforesaid, shall be paid into the Treasury.

Source: TTC §439 (1966); 15 TTC §51 (1970); 15 TTC §51 (1980)

Note: See 52 PC 6-102 and 6-105 for applicability to this section.

TITLES 53 – 55
[RESERVED]

MINORS

(Next page is Volume IV, Title 56, Division VIII divider)

DIVISION VIII
OF THE
CODE

JUDICIAL PROCEEDINGS AND CIVIL LAW

TITLE 56 --- TITLE 60

TITLE 56

**INTERVENTION,
CONCILIATION, AND
ARBITRATION**

TITLE 56

INTERVENTION, CONCILIATION, AND ARBITRATION

CHAPTER

1 CONCILIATION PROCEEDINGS AND INTERVENTION

CHAPTER 1

CONCILIATION PROCEEDINGS AND INTERVENTION

Section
1-101 Conciliation proceedings and customary intervention

§1-101. Conciliation proceedings and customary intervention. —

(1) The courts of this state may, at the request of all parties to any civil controversy (other than annulment, divorce, and adoption), endeavor to effect an amicable settlement of the controversy and to that end shall invite the other party or parties to the controversy to appear before the justice or judge for an informal hearing. At the request of any party to the controversy, the justice or judge shall extend an invitation to attend the informal hearing to such traditional leader or leaders as in custom and tradition would be involved in the settlement of such disputes between the particular parties to the controversy. In the event one or more traditional leaders are invited to the hearing, the justice or judge shall accord such leaders due recognition and respect in the manner of invitation and in the conduct of the hearing as is becoming their titles and offices in traditional affairs.

(2) A request for a conciliation proceeding shall be made in court within whose territorial jurisdiction the other party or the largest number of other parties live or have their usual places of business or employment, or in the instance that traditional leaders are invited, in the court whose location is most convenient to the traditional leaders.

(3) If an agreement in settlement of the controversy is reached, the justice or judge shall reduce it to writing, and his report of the settlement agreement, when signed by the parties, shall have the force and effect of a judgment even though the subject matter of the controversy may be beyond the jurisdiction of the court for purposes other than conciliation. The court shall assist the traditional leaders, where requested by the leaders, in providing traditional recognition or affirmation of the settlement.

Source: S.L. No. 3L-99-95 §13-2, 7/20/95

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TITLE 57

JUDICIAL PROCEEDINGS

**TITLE 57
JUDICIAL PROCEEDINGS**

CHAPTER

1 JUDICIAL PROCESS AND PROCEDURE

2 – 5 [RESERVED]

6 CERTIFICATIONS AND APPEALS

7 JUDGMENTS

8 ENFORCEMENT OF JUDGMENTS

9 [RESERVED]

10 FEES, EXPENSES, AND COSTS

**CHAPTER 1
JUDICIAL PROCESS AND PROCEDURE**

Section

Part A [Reserved – Parties]

1-101 – 1-110 [Reserved]

Part B [Reserved – Interpleader]

1-111 – 1-120 [Reserved]

Part C Process

1-121 “Process” defined; issuance of process

1-125 Manner of service outside the state

1-122 Service and execution of process

1-126 Effect of service on default

1-123 Return of service or execution

1-127 Effect on other methods of service

1-124 Personal service outside the state

Part D Absent Defendants

1-128 Order to appear or plead

1-131 Judgment may be set aside

1-129 Personal service of order

1-132 – 1-140 [Reserved]

1-130 Procedure if absent defendant fails to appear
or plead

Part E [Reserved – Lis Pendens]

1-141 – 1-150 [Reserved]

Part F [Reserved – Abatement and Revival]

1-151 – 1-160 [Reserved]

PART A [RESERVED – PARTIES]

§§1-101 – 1-110. [RESERVED]

PART B [RESERVED – INTERPLEADER]

§§1-111 – 1-120. [RESERVED]

PART C PROCESS

§1-121. “Process” defined; issuance of process. —

(1) *Definition.* As used in this title and Title 4 Chapters 1 through 9, the term “process” shall include all forms of writs, warrants, summonses, citations, libels, and other orders used in judicial proceedings. “Process,” as used in this title and Title 4 Chapters 1 through 9, shall mean “civil and criminal process”; PROVIDED that with respect to criminal process, the Pohnpei Crimes Act, Title 61, as amended or superseded, and such other state laws as may provide for criminal process and procedures shall take precedence over this title and Title 4 Chapters 1 through 9.

(2) *Designation of private persons.* The court issuing any process in any proceeding may specially appoint and name in the process any person it deems suitable to execute or serve the process, except that a summons may not be served by a party or by a person who is less than 18 years of age.

(3) A private person to whom a process is directed for service or execution shall, upon acceptance of said process, be responsible for the proper execution or service of such process according to law. No private person shall be compelled by any court or official to accept a process directed to him for service or execution. The special appointments authorized by this section shall be used freely when this will effect a saving of time or expense.

Source: S.L. No. 3L-99-95 §5-1, 7/20/95

Note: Subsection (1) original reference was to S.L. No. 1L-3-85, which was superseded by Title 61.

§1-122. Service and execution of process — Every official who is made responsible by law for the service or execution of process and every private person who accepts the responsibility for the service or execution shall serve or execute such process as prescribed by law within a reasonable time after receipt of such process unless prevented from doing so by conditions beyond his control.

Source: S.L. No. 3L-99-95 §5-2, 7/20/95

§1-123. Return of service or execution. — Each police officer of the Division of Police and Security shall certify, and every other person, public or private, shall report under oath or affirm by endorsement on or attached to every process delivered to him for execution or service, the manner and the time of such execution or service or the reason for failure to make such execution or service. The process so endorsed, together with a statement of all fees and expenses charged, shall be returned without delay to the court or official by whom it was issued. In no event shall the process be returned later than the date specified by the issuing court or official.

Source: S.L. No. 3L-99-95 §5-3, 7/20/95

§1-124. Personal service outside the state. — Service of process may be made upon any person subject to the jurisdiction of the courts of this state under this title and Title 4 Chapters 1 through 9 by

personally serving the summons upon the defendant outside this state. Such service has the same force and effect as though service has been personally made within this state.

Source: S.L. No. 3L-99-95 §5-4, 7/20/95

§1-125. Manner of service outside the state. — Service of summons outside the state shall be made under this title and Title 4 Chapters 1 through 9 in like manner as service within this state by any officer or person authorized to make service of summons for an action before a court of competent jurisdiction in the place where the defendant is served. An affidavit of the server shall be filed with the court issuing said summons stating the time, manner, and place of service. The court may consider the affidavit or any competent proofs in determining whether service has been properly made.

Source: S.L. No. 3L-99-95 §5-5, 7/20/95

§1-126. Effect of service on default. — No default judgment shall be entered until the expiration of at least 30 days after service. A default judgment rendered on service made under this part may be set aside only on a showing which would be timely and sufficient to set aside a default judgment entered upon personal service within the state.

Source: S.L. No. 3L-99-95 §5-6, 7/20/95

§1-127. Effect on other methods of service. — Nothing contained in §§1-124 and 1-125 limits or affects the right to serve any process in any other manner now or hereafter provided by law.

Source: S.L. No. 3L-99-95 §5-7, 7/20/95

PART D ABSENT DEFENDANTS

§1-128. Order to appear or plead. — In any action in a court of this state for an annulment, divorce or adoption; or to enforce or remove any lien upon or claim to real or personal property within this state; or to adjudicate title to any interest in such property, where any defendant cannot be served within this state or does not voluntarily appear, the court may order the absent defendant to appear or plead by a certain date.

Source: S.L. No. 3L-99-95 §6-1, 7/20/95

§1-129. Personal service of order. — An order to appear or plead may be served on the absent defendant personally, wherever found, or, in the case of property, upon the person or persons in possession or charge thereof, if any, or by mailing, postage prepaid, a copy of the order to the absent defendant at his last-known address. Where personal service is not practicable, the order shall be posted in one or more conspicuous places as the court may direct, for a period of not less than two weeks.

Source: S.L. No. 3L-99-95 §6-2, 7/20/95

§1-130. Procedure if absent defendant fails to appear or plead. — If an absent defendant does not appear or plead within the time allowed, the court may proceed as if the absent defendant had been served with process within the state, but any adjudication shall as regards the absent defendant without appearance, affect only the property or status which is the subject of the action.

Source: S.L. No. 3L-99-95 §6-3, 7/20/95

§1-131. Judgment may be set aside. — Any defendant not so personally notified to appear or plead may, at any time within one year after final judgment enter his appearance and thereupon the court shall set aside the judgment, and permit such defendant to plead, on payment of such costs as the court

deems best; PROVIDED, HOWEVER, that this right shall not extend to decrees of annulment, divorce or adoption.

Source: S.L. No. 3L-99-95 §6-4, 7/20/95

§§1-132 – 1-140. [RESERVED]

PART E [RESERVED – LIS PENDENS]

§§1-141 – 1-150. [RESERVED]

PART F [RESERVED – ABATEMENT AND REVIVAL]

§§1-151 – 1-160. [RESERVED]

**CHAPTERS 2 – 5
[RESERVED]**

CHAPTER 6 CERTIFICATIONS AND APPEALS

Section

6-101 Certification of cases and issues

6-102 Appeals

§6-101. Certification of cases and issues. —

(1) The courts of this state, other than the Pohnpei Supreme Court, may, upon their own motion, and shall, upon order of the Trial Division of the Supreme Court or the motion of any party to an action pending before it, certify to the Trial Division any issue of law or fact in any case pending before it. The Trial Division may decide the entire case or such issues as it deems appropriate, or remand the matter to the lower court for further hearing. Upon receiving an order of the Trial Division making the transfer of a case, the lower court in which the case was pending shall take no further action on the merits of the case, but may make orders of a temporary nature which justice may require and which are not inconsistent with the order of the Trial Division.

(2) Any such motion may be made for certification of issues or a case to the Supreme Court of the Federated States of Micronesia when the motion involves a substantial question requiring the interpretation of the Constitution of the Federated States of Micronesia, national law or national treaty.

Source: S.L. No. 3L-99-95 §15-1, 7/20/95

§6-102. Appeals. —

(1) *Appeals from the lower courts.* Unless otherwise prescribed by this title and Title 4 Chapters 1 through 9 or other law of Pohnpei, the Trial Division of the Pohnpei Supreme Court shall have jurisdiction over appeals in any case from the lower courts of the state; PROVIDED that such appeal is made within 30 days of the judgment or determination thereof or such longer period as is provided by law. On appeal, the Trial Division may at its discretion decide the matter solely on the record and the appeal documents, affirming, reversing or remanding the case to the lower court for further proceedings or it may grant a trial de novo within the Trial Division. Appeals to the Trial Division shall be heard by one justice. Trials de novo shall be heard by said division in the same manner as cases brought before the court under its original jurisdiction as provided in 4 PC 3-105.

(2) *Appeals from the Trial Division of the Pohnpei Supreme Court and the Court of Land Tenure.* The Appellate Division of the Pohnpei Supreme Court shall have jurisdiction over all appeals from the Trial Division of said court and Court of Land Tenure; PROVIDED that such appeal is made within 30 days of judgment or determination thereof or such longer period as is specified in 4 PC 6-104 or otherwise provided by law. Appeals to the Appellate Division shall be heard by a panel consisting of three justices of the Supreme Court not having heard the matter at the Trial Division level nor otherwise disqualified. The concurrence of two justices shall be necessary to a determination of any appeal by the Appellate Division, but a single justice may make all necessary orders concerning any appeal prior to the hearing and determination thereof, and may dismiss an appeal for want of jurisdiction, or failure to take or prosecute it in accordance with the applicable law or rules of procedure, or at the request of the appellant. The decision of the Appellate Division shall be final.

Source: S.L. No. 3L-99-95 §15-2, 7/20/95

JUDICIAL PROCEEDINGS

CHAPTER 7 JUDGMENTS

Section

Part A Declaratory Judgments

7-101 Declaratory judgments

Part B [Reserved – Judgments]

PART A DECLARATORY JUDGMENTS

§7-101. Declaratory judgments. — In a case of an actual controversy within its jurisdiction, a court of competent jurisdiction, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

Source: S.L. No. 3L-99-95 §13-1, 7/20/95

PART B [RESERVED – JUDGMENTS]

JUDICIAL PROCEEDINGS

CHAPTER 8 ENFORCEMENT OF JUDGMENTS

Section

8-101 Money judgments	8-119 Redemption before sale
8-102 Judgments affecting land	8-120 Minimum prices
8-103 Other judgments	8-121 Postponement of sale to another date or time
8-104 Other methods of enforcement	8-122 Redesignation of the place of sale
8-105 Writs of attachment	8-123 Completion of sale by officer other than one making the levy
8-106 Release and modification of orders	8-124 Priority among execution creditors
8-107 Writs of execution on personal property	8-125 Writs of execution on real property; levy and sale
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8-114 Notice of seizure	8-132 Exemptions
8-115 Release of levy	8-133 Instances when chapter superseded
8-116 Notice of sale; contents; mailings; broadcasts	
8-117 Requirement of sale	
8-118 Sale of indivisible property	

§8-101. Money judgments. — Every judgment for the payment of money shall bear interest at the rate of nine percent (9%) per annum from the date that it is entered. The process to enforce a judgment for the payment of money may be a writ of execution or an order in aid of judgment, as provided in this chapter.

Source: S.L. No. 3L-99-95 §11-1, 7/20/95

§8-102. Judgments affecting land. — A judgment adjudicating an interest in land, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been entered that an appeal shall not stay the judgment, shall operate the release or transfer the interest in land in accordance with the terms of the judgment, when a copy thereof, certified by the Clerk of the Pohnpei Supreme Court, or any judge of the Court of Land Tenure, or justice of the Supreme Court, is recorded in the Register of Titles and Interests in Land of the Court of Land Tenure.

Source: S.L. No. 3L-99-95 §11-2, 7/20/95

§8-103. Other judgments. — Judgment for any form of relief other than the payment of money, or the adjudication of an interest in land after the time for appeal therefrom has expired without notice of appeal being filed, or after any appeal duly taken has been finally determined, or after an order has been entered that the appeal shall not stay the judgment, may be enforced by contempt proceedings; PROVIDED that enforcement at such time is required to prevent irreparable injury or multiple damage to the interests of the winning party and is otherwise in the interests of justice. Upon a finding of contempt, the person against whom the judgment has been rendered may be fined or imprisoned at the discretion of the court until he or she complies with the judgment or is released by the court or has been imprisoned for six months, whichever happens first.

Source: S.L. No. 3L-99-95 §11-3, 7/20/95

§8-104. Other methods of enforcement. — Enforcement of judgments may also be effected if the Trial Division of the Pohnpei Supreme Court deems that justice requires and so orders by the appointment of a receiver or receivers, by taking possession of the property and disposing of it in accordance with the orders of the court, or by a civil action on the judgment, or in any other manner permissible under customary or common law.

Source: S.L. No. 3L-99-95 §11-4, 7/20/95

§8-105. Writs of attachment. —

(1) Writs of attachment may be issued only by the Trial Division of the Pohnpei Supreme Court for special cause shown, supported by statement under oath. Such writs when so issued shall authorize and require the police officer or any other person named therein to attach and safely keep so much of the personal property of the person or held by another for such person against whom the writ is issued as will be sufficient to satisfy the demand set forth in the action, including interests and costs. The police officer or other person named in the writ shall not attach any personal property that is exempt from attachment, nor any kinds or types of personal property that the court may specify in the writ.

(2) Debts payable to the defendant may be similarly attached by special order issued by the Trial Division, which shall exempt from the attachment so much of any salary or wages as the court deems necessary for the support of the person against whom the order is issued or his dependents.

Source: S.L. No. 3L-99-95 §11-5, 7/20/95

§8-106. Release and modification of orders. — The Trial Division of the Pohnpei Supreme Court, upon application of either party on its own motion, may make and, from time to time, modify such orders as it deems just for the release of property from attachment, or for the sale thereof if perishable, or if the owner of the property shall so request, and for the safekeeping of the proceeds of the sale.

Source: S.L. No. 3L-99-95 §11-6, 7/20/95

§8-107. Writs of execution on personal property. — Every court, at the request of the party recovering any civil judgment in that court for the payment of money, shall issue a writ of execution against the personal property of the party against whom the judgment has been rendered, except as provided in §8-132.

Source: S.L. No. 3L-99-95 §11-7, 7/20/95

§8-108. Levying execution. — Every police officer or other duly authorized person receiving a writ of execution on personal property issued by any court shall levy or cause a police officer to levy execution as specified in the following sections of this chapter.

Source: S.L. No. 3L-99-95 §11-8, 7/20/95

§8-109. Demand of payment; seizure of property. — The officer making the levy shall demand of the person against whom the execution is issued, if he is found within the local jurisdiction where the

levy is being attempted, that the person pay the execution or exhibit sufficient property subject to execution. If such person has property of a kind exempt from execution but to an amount exceeding the exemption, he shall select the portion of this property provided by law which he desires to retain under the exemption; PROVIDED that he makes this selection known promptly to the officer making the levy. Otherwise, the officer making the levy shall make the selection. If the person against whom the execution is issued does not pay the execution in full, including interest and costs and expenses thereof, the officer making the levy shall take into possession non-exempt property of the person or held for the person against whom the execution is issued that is sufficient in the officer's opinion to cover the amount of the execution. He shall take first any property under attachment in the action in which the execution was issued; next property, if any, indicated by the person against whom the execution was issued. The officer may, if he thinks best, remove the property to a safe place, or place a caretaker in charge of it. The officer shall make a list of the property levied upon it.

Source: S.L. No. 3L-99-95 §11-9, 7/20/95

§8-110. Contents of writ of execution. — A writ of execution shall:

- (1) Bear on its face a statement of the authority for its issuance and service, compel compliance with its terms, and shall be signed by the justice or judge so issuing the writ;
- (2) Identify the judgment debtor whose liability for satisfaction of judgment sought to be enforced, the amount thereof, and the date or approximate date on which the payment became due;
- (3) Order the person on whom it is served to reveal all property in his possession, custody or control that belongs to the judgment debtor and the extent of his own interest therein; and to reveal the amount and kind of property of judgment debtor that is, to the best of his knowledge, in the possession, custody or control of others;
- (4) Order the person on whom it is served to surrender the property forthwith but may allow him to agree in writing to surrender the property or the proceeds therefrom on a certain date in the future when the judgment debtor's right to it would otherwise mature; and
- (5) State on its face the penalties of the contempt of court as provided in 4 PC 2-106 for willful failure by any person upon whom it is served to comply with its terms.

Source: S.L. No. 3L-99-95 §11-10, 7/20/95

§8-111. Liability for fees and charges. — A reasonable fee for the services of the police officers directly involved with the levy and execution, plus the actual charges and expenses incurred for said levy and execution are the obligation of the judgment debtor and may be collected from him by virtue of the execution or in any other manner provided in this title and Title 4 Chapters 1 through 9 or by other lawful procedure.

Source: S.L. No. 3L-99-95 §11-11, 7/20/95

§8-112. Transfer or disposition of property or debt prohibited; bank deposits. —

- (1) After receiving the execution, the person so notified may not transfer or otherwise dispose of the money, property or debts in his possession, custody or control, unless the execution creditor consents to a transfer or other disposition.
- (2) If the execution prevents the transfer or other disposition of a deposit in bank or other credits or personal property in the possession or under the control of a bank or, the notice must be delivered or mailed to the branch office in this state. If a bank withholds any deposit or other credits or personal property required to be withheld in which the judgment debtor and another person or persons have an interest or holds in the name of a party or parties in which it is ultimately determined that the judgment debtor does not have an interest, the bank shall not be liable therefor to any of such persons unless the deposit or other credits or personal property is released or transferred to the judgment debtor.

Source: S.L. No. 3L-99-95 §11-12, 7/20/95

§8-113. Surrender of property subject to levy; penalty. —

(1) Any person in possession or control of personal property subject to levy under this chapter shall, upon receipt of the warrant relating thereto, immediately surrender the property or discharge the obligation to the judgment creditor; but not that part of the property that is already the subject of a bona fide attachment, execution, levy or other similar process. Such levy is further subject to the redemption provisions provided in §8-119.

(2) Any person who receives an execution and wrongfully fails or refuses to comply therewith shall be liable in his own person and estate to the judgment creditor in a sum equal to the value of the property not so surrendered or paid over, but not exceeding the amount for the collection of which such levy has been made, together with penalties and interest on such sum from the date of such levy plus the costs of the execution.

(3) The term “person,” as used in this section, includes the personal liability of an officer or employee of a corporation or a member or employee of a partnership, who, as such officer, employee or member, is under a duty to surrender the property or to discharge the obligation.

Source: S.L. No. 3L-99-95 §11-13, 7/20/95

§8-114. Notice of seizure. — As soon as practicable after the levy, the officer charged with the execution and sale shall notify the judgment debtor of the amount and kind of property seized and of the total amount demanded in satisfaction of judgment.

Source: S.L. No. 3L-99-95 §11-14, 7/20/95

§8-115. Release of levy. — The execution creditor may request the officer charged with the execution and sale to release the levy upon all or part of the property if the execution creditor, in his discretion, determines that such action will facilitate the collection of the liability, but the release shall not operate to prevent any subsequent levy.

Source: S.L. No. 3L-99-95 §11-15, 7/20/95

§8-116. Notice of sale; contents; mailings; broadcasts. —

(1) As soon as practicable after the levy and seizure of the property, the officer charged with the execution and sale shall decide on a date subject to the terms of §8-117, time and place for the sale of the property, shall make a diligent inquiry as to the identity and whereabouts of the owner of the property and persons having an interest therein, and shall notify the owner and such persons of the time and place for the sale.

(2) Notice of the sale must be given to the judgment debtor in writing at least ten days before the date set for the sale in the following manner:

(a) The notice must be enclosed in an envelope addressed to the judgment debtor at his last-known residence or place of business in this state. Postage must be prepaid.

(b) The time, date, and place of the sale, the property to be sold, and other terms and conditions of the sale must also be broadcast over the public radio station at least three times on separate days. The third broadcast must be at least ten days before the date set for the sale.

(3) The written notice must also contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the judgment debtor, and a statement that unless the amount due plus interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as is necessary, will be sold in accordance with law and the notice.

(4) The fact that any person entitled thereto does not receive the notice provided for in this section does not affect the validity of the sale.

Source: S.L. No. 3L-99-95 §11-16, 7/20/95

§8-117. Requirement of sale. — No sale of imperishable property shall be held until after the expiration of 30 days from the date of the levy thereon. Perishable property may be sold immediately after seizure without broadcast or notice of sale. The officer charged with the execution and sale shall make special efforts to give notice of the sale to persons with a particular interest in special property and shall, apart from the requirements stated above, advertise the sale in a manner appropriate to the kind of property to be sold.

Source: S.L. No. 3L-99-95 §11-17, 7/20/95

§8-118. Sale of indivisible property. — If any property of the judgment debtor subject to levy cannot be reasonably divided so as to enable the officer charged with the execution and sale to sell a part thereof to raise the whole amount owed plus expenses, the whole of the judgment debtor's interest in the property shall be sold. The sale is, however, subject to redemption before sale according to §8-119.

Source: S.L. No. 3L-99-95 §11-18, 7/20/95

§8-119. Redemption before sale. —

(1) The levy and sale shall not be made, or the levy and sale shall be terminated and released if the judgment debtor pays the entire amount due, furnishes security or makes other arrangements for payment that are acceptable to the execution creditor. Upon making such payment or arrangements, the officer charged with the execution and sale shall restore the property to the judgment debtor or other appropriate person, and all further proceedings in connection with the levy and sale of the property shall cease from the time of the payment or signing of an agreement with the execution creditor.

(2) Any person who has sufficient interest in the property levied to entitle him to redeem it from sale and who pays the amount due and accomplishes the redemption, shall have a lien against the property in the amount paid and may file a notice thereof with the Clerk of the Pohnpei Supreme Court and may foreclose the lien as provided by law. The nature of the interest required to exercise this right of redemption shall be established in the rules of the Supreme Court.

Source: S.L. No. 3L-99-95 §11-19, 7/20/95

§8-120. Minimum prices. — Before the sale, the execution creditor shall determine a minimum price for which the property shall be sold, and if no person offers the minimum price at the sale, the property shall not be sold but the sale shall be readvertised and held at a later time. In determining the minimum price, the execution creditor shall take into account the expenses of conducting the levy and sale.

Source: S.L. No. 3L-99-95 §11-20, 7/20/95

§8-121. Postponement of sale to another date or time. — Whenever it is impossible to perform the sale at the appointed date and time or whenever a request in writing signed by the judgment debtor and execution creditor for a postponement of the sale to an agreed date and hour is given to the officer conducting the sale under execution, such officer shall thereupon, by public declaration, postpone the sale to the day and hour so fixed in such request and at the place originally fixed by the person for the sale. In the case of postponements, notice of each thereof must be given by public declaration by the person conducting the sale at the time and place last appointed for the sale. No other notice of postponed sale need be given.

Source: S.L. No. 3L-99-95 §11-21, 7/20/95

§8-122. Redesignation of the place of sale. — Whenever it is impossible to perform the sale at the appointed place or whenever a request in writing signed by the judgment debtor and execution creditor for redesignation of the place of sale to another agreed upon place is given to the person conducting

the sale, the officer conducting the sale at the redesignated location shall give notice of the sale at the new location in the same manner as notice of sale as prescribed in §8-116.

Source: S.L. No. 3L-99-95 §11-23, 7/20/95

Note: Due to an error in S.L. No. 3L-99-95 original numbering there is no §11-22.

§8-123. Completion of sale by officer other than one making the levy. — If a police officer or other duly authorized person starts to levy execution and for any reason is prevented from or fails to complete the matter, any police officer named in the writ of execution as modified by the court may complete the levy, sale, and payment of proceeds as provided in this chapter.

Source: S.L. No. 3L-99-95 §11-24, 7/20/95

§8-124. Priority among execution creditors. — Where two or more executions or orders of attachment are issued against the same judgment debtor and delivered to the same enforcement officers, they shall be satisfied out of the personal property or debt levied upon by the officer conducting the sale in the order in which they are delivered. Where two or more executions or orders of attachment are issued against the same judgment debtor and delivered to different enforcement officers, and personal property or debt is levied upon within the jurisdiction of all the officers, the proceeds shall first be applied in satisfaction of the execution or orders of attachment delivered to the officer who levied, and thereafter shall be applied in satisfaction of the executions or orders of attachment delivered to those of other officers who, before the proceeds are distributed, make a demand upon the officer who levied, in the order of such demands. An execution or order of attachment returned by an officer before a levy or delivered to him after the proceeds of a levy have been distributed shall not be satisfied out of those proceeds.

Source: S.L. No. 3L-99-95 §11-25, 7/20/95

§8-125. Writs of execution on real property; levy and sale. — The Trial Division of the Pohnpei Supreme Court shall have exclusive jurisdiction to issue writs of execution against real property situated within this state. If a judgment of any court of this state for the payment of money has not been fully satisfied for ten years following the entry of final judgment by the court, the Trial Division, at the request of the party seeking recovery of the civil judgment, shall issue a writ of execution against such real property of the party against whom the judgment has been rendered as the court deems sufficient to cover the unpaid judgment debt along with such interest, costs, and expenses as may be due; PROVIDED that execution may not be levied upon real property exempted from execution as specified in §8-132 or as otherwise exempted by law. In the event of execution, the property shall be levied upon and sold in the manner provided by the rules of the Supreme Court consistent with the requirements for the sale of real property for the satisfaction of a debt secured by a mortgage under Title 41 Chapter 6, as amended or superseded.

Source: S.L. No. 3L-99-95 §11-26, 7/20/95

§8-126. Orders in aid of judgment; application. — At any time after a finding for the payment of money by one party to another, and before any judgment based thereon has been satisfied in full, either party may apply to the court for an order in aid of judgment. Thereupon the court, after notice to the opposite party, shall hold a hearing on the question of the judgment debtor's ability to pay and determine the fastest manner in which the debtor can reasonably pay a judgment based on the finding. In making this determination, the court shall allow the debtor to retain such property and such portion of his income as may be necessary to provide the reasonable living requirements of the debtor and his dependents, including fulfillment of any obligations he may have to any clan, lineage or other similar group, in return for which obligations he, or his dependents, receives any necessary part of the food, goods, shelter or services required for their living.

Source: S.L. No. 3L-99-95 §11-27, 7/20/95

§8-127. Hearing for orders in aid of judgment. —

(1) At the hearing provided in §8-126, the judgment debtor may be examined orally before the court, or the court may refer the examination to a single judge of the court or to a master to take evidence and report his findings. In either case, any evidence properly bearing on the question may be introduced by either party or by the court, the single justice, judge or master, in the same manner as at the trial of a civil action. Upon having heard the evidence or having received the report of the single justice, judge or master, the court shall make such order in aid of judgment as is just for the payment of any judgment on the finding.

(2) This order in aid of judgment may provide for the transfer of particular assets at a price determined by the court, or for the sale of particular assets and payment of the net proceeds to the judgment creditor, or for payments, in specified installments on particular dates or at specified intervals, or for any other method of payment which the court deems just.

Source: S.L. No. 3L-99-95 §11-28, 7/20/95

§8-128. Modification of orders in aid of judgment. — Any order in aid of judgment made under this chapter may be modified by the court as justice may require, at any time, upon application of either party and notice to the other, or on the court's own motion.

Source: S.L. No. 3L-99-95 §11-29, 7/20/95

§8-129. Punishment of violations with respect to orders in aid of judgment. — If any judgment debtor fails without good cause to comply with any order in aid of judgment made under this chapter, he may be adjudged in contempt as in a civil matter, as provided in §8-103.

Source: S.L. No. 3L-99-95 §11-30, 7/20/95

§8-130. Stays of execution with respect to orders in aid of judgment. —

(1) After an application for an order in aid of judgment has been filed in any action, no writ of execution shall be issued therein except under an order in aid of judgment as provided in this chapter or by special order of the court for cause shown.

(2) If a writ of execution is outstanding, a judgment creditor applying for an order in aid of judgment shall file the writ of execution with his application, and a judgment debtor applying for an order in aid of judgment may request a stay of execution which may be granted by the court on such terms, if any, as it deems just.

Source: S.L. No. 3L-99-95 §11-31, 7/20/95

§8-131. Application to other state courts with respect to orders in aid of judgment. — A judgment creditor who has obtained an execution may, instead of applying to the court in which the action was tried, apply for an order in aid of judgment to another court of competent jurisdiction within the Pohnpei Judiciary, in whose jurisdiction the judgment debtor lives or has his usual place of business or employment. The court to which application is made shall then proceed with notice to the opposite party, hearing, determination, and the issuance of such order in aid of judgment as it deems just, as provided in this chapter.

Source: S.L. No. 3L-99-95 §11-32, 7/20/95

§8-132. Exemptions. — The following described property shall be exempt from attachment and execution:

(1) *Personal and household goods.* All necessary household furniture, cooking and eating utensils, and all necessary wearing apparel, bedding, and provisions for household use sufficient for four months.

(2) *Necessities for trade or occupation.* All tools, implements, utensils, work animals, and vehicles that are not used for personal transportation, and equipment necessary to enable the person against whom the attachment or execution is issued to carry on his usual occupation.

(3) *Interests in land.*

(a) All interests in land within the state of Pohnpei held by natural persons, inclusive of equitable and leasehold interests; except where such interests can be shown to have been acquired to avoid attachment or execution with respect to the cause of action to which the attachment or execution is ordered or where attachment or execution against such interests in land is specifically permitted under a real property mortgage statute or real property deed of trust statute for the state of Pohnpei; and

(b) Such other interests in land held by such other entities or organizations as may be otherwise specifically exempted from attachment or execution, or both, by state statute.

Source: S.L. No. 3L-99-95 §11-33, 7/20/95

§8-133. Instances when chapter superseded. — Whenever this chapter is in conflict with a state statute specifically providing for procedures for the enforcement of a judgment with respect to a particular form or class of action, the said statute shall supersede this chapter to the extent of the conflict.

Source: S.L. No. 3L-99-95 §11-34, 7/20/95

CHAPTER 9 [RESERVED]

CHAPTER 10 FEES, EXPENSES, AND COSTS

Section

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§10-101. Schedule of service fees and expenses. — Each police officer or person authorized to execute or serve process, other than a member of the state police executing or serving a process in criminal or civil contempt proceedings, or in juvenile delinquency proceedings, shall be entitled to collect the following fees and expenses for duties performed by him:

(1) For serving any form of process, \$5 plus the actual costs of inter-island air or sea transportation and nine cents per mile for any travel actually performed on the island of service. For purposes of this subsection, the lagoon islands of Pohnpei Island shall be deemed a part thereof. Any process delivered by any police officer shall be sent by that officer to a police officer who is located where it can be served more quickly or with less travel.

(2) For levying a writ of execution and making a sale thereunder, the fees shall be as provided generally for the service of process in Subsection (1) of this section, plus \$10 for conducting the sale, and five cents for every dollar collected up to \$50, and two cents for every dollar collected over \$50.

(3) In addition to the above, the police officer shall be allowed his actual, reasonable, and necessary expenses for caring for any property seized under an attachment or levy of execution; PROVIDED, HOWEVER, that no caretaker or watchman shall be allowed in excess of \$3 for each 12 hours of service.

(4) Except as prescribed by §10-106 or when the process is issued on behalf of the Pohnpei Government or an officer or agency thereof, any police officer or other person authorized to serve or execute process, may require the person requesting him to act to prepay his fees and estimated expenses or give reasonable security therefor before serving or executing any process.

Source: S.L. No. 3L-99-95 §10-1, 7/20/95

§10-102. Witness fees and expenses for travel. —

(1) Except as otherwise provided in this chapter and unless suitable transportation is otherwise provided to him, every person attending as a witness in any judicial proceeding shall:

(a) If he resides on another island, be entitled to the cost of sea or air transportation to the island where the proceeding is to occur; and

(b) While on the island on which the proceeding is to occur, be entitled to receive nine cents per mile for going from and returning to his place of residence or usual place of business or employment on the island where the proceeding is to occur, whichever is nearer to the place where he is to appear as a witness.

(c) For purposes of this section, the lagoon islands of Pohnpei Island shall be deemed a part thereof.

(2) If transportation on the island on which the proceeding is to occur is not available to the witness and must be attained from a taxi or other commercial carrier, the witness shall be entitled to the generally accepted prevailing charge for such transportation, in place of the nine cents per mile, for

the part of his travel for which such travel is reasonably needed and this charge shall be considered as part of his mileage.

(3) If part, but not all, of his transoceanic and local transportation is provided without expense to him, the witness shall only be entitled to receive transportation costs for the part of his travel for which transportation is not provided to him without expense. Except as otherwise provided in §10-106(4), these costs shall be paid by the party on whose behalf the witness is called or summoned, for each trip the witness is reasonably required to make.

(4) If the witness is summoned, the transportation costs for one round trip, inclusive of transoceanic and local travel, shall be tendered to him at the time the witness summons is served, and the transportation costs for any further trips required shall be tendered in advance of each trip, except when the witness summons is issued on behalf of the state or an officer or agency thereof under §10-106.

Source: S.L. No. 3L-99-95 §10-2, 7/20/95

§10-103. Witness fees for subsistence. — If any case in which a witness has attended or been summoned to attend a proceeding before any court and it is necessary for him to remain in attendance for more than one day at a point so far removed from his residence or usual place of business or employment as to prohibit his return thereto from day-to-day, the court before whom he has attended or been summoned may determine the amount reasonably needed to cover the witness' subsistence per day while in attendance, and this sum shall be tendered to the witness in advance by the party on whose behalf the witness was called or summoned, except when the summons is issued under §10-106 or where suitable subsistence is provided without expense to the witness.

Source: S.L. No. 3L-99-95 §10-3, 7/20/95

§10-104. Effect of failure to tender sufficient witness fees and expenses. — The failure to tender the sums specified in §§10-102 and 10-103 for transportation costs or subsistence, or any part of either or both, however, shall not exempt the witness from complying with the summons if he has the means to comply. Any question as to the sufficiency of the amount tendered shall be brought promptly to the attention of the court or official before whom appearance is required, and the same is hereby authorized to make such order as to payment of the witness fees and expenses as is just.

Source: S.L. No. 3L-99-95 §10-4, 7/20/95

§10-105. Schedule of court fees. — Unless otherwise prescribed by statute, each court of the Pohnpei Judiciary shall charge and collect the following fees with regard to work handled by it:

(1) *Filing fees in civil actions.*

- (a) For the filing of a complaint in any court of the state, other than the Pohnpei Supreme Court – \$5;
- (b) For filing of a complaint in the Trial Division of the Supreme Court – \$10;
- (c) For trial in any court of the state other than the Supreme Court – \$10;
- (d) For trial before the Trial Division of the Supreme Court (inclusive of new trials from appeals from inferior courts of the state) – \$25;
- (e) For filing a notice of appeal for new trial from any court of the state to the Trial Division of the Supreme Court – \$10;
- (f) For filing a notice of appeal to the Appellate Division of the Supreme Court – \$25; and
- (g) For hearing before the Appellate Division of the Supreme Court – \$50.

(2) *Authority for reduced fees for small claims actions.* The Supreme Court may, in their court rules, provide for the discounting or reduced fee levels for the charges prescribed by Subsection (1) of this section for filings related to small claims actions brought before the Supreme Court or inferior courts of the state, or both.

(3) *Copy of records.* For a copy of any record, or other paper in the custody of the court, except as provided in Subsection (4) of this section, inclusive of a comparison thereof and for certifying it to be a true copy, there shall be a charge of \$2, plus 25 cents for each page in addition to the first page.

(4) *Transcripts of evidence and notes of hearings.* For a certified transcript of evidence and notes of hearings in a case on appeal to the Appellate Division of the Supreme Court in either criminal or civil cases, there shall be a charge of \$1 per page, or part thereof.

(5) *Recording of land documents.* For the recording of all land documents evidencing ownership, possessory rights or encumbrances on land, or evidencing the transfer of title or interests therein (where permissible under statute), there shall be a charge of \$5, except that there shall be no charge where the state is the grantor.

Source: S.L. No. 3L-99-95 §10-5, 7/20/95

§10-106. Proceedings when persons are unable to pay fees or expenses. —

(1) Any court may authorize the commencement, prosecution or defense of any case, action or proceeding, civil or criminal, or any appeal therein, without prepayment of fees or expenses for serving of process, witness fees or expenses or filing fees, or giving security therefor by a permanent resident of the state or anyone accused of a criminal offense who makes a statement under oath as to his inability to pay for such fees or expenses as prescribed by Subsection (2) of this section.

(2) The court before whom any civil or criminal case, action or proceeding, or appeal therefrom is pending or a judge thereof, may order at any time that service or filing be provided, and that witness summons be issued and served, without payment of fees or expenses, upon request of the party who cannot pay the fees or expenses. The request shall be supported by a statement under oath in which the party shall state that service or filing is needed to be made and, where appropriate, the name and address of each witness and the testimony which he is expected by the party to give if summoned, and shall show that the service or filing is required in the case and/or that the evidence of the witness is material to the party's case, that the party cannot go safely to trial without the required service, filing or witness and that the party is actually unable to pay the fees or expenses. If the court or judge orders the service or filing to be carried without payment of the requisite fees or expenses or the witness summons to be issued without prepayment of fees or expenses, the fees or expenses shall be paid as follows:

(a) In criminal matters, fees and expenses shall be paid in the manner in which similar fees and expenses are paid for cases, actions or proceedings and appeals therefrom brought on behalf of the government.

(b) In civil matters, fees and expenses shall be paid from a special fund established within the judiciary in the manner prescribed by Subsection (5) of this section.

(3) The officers of the court and designated police officers shall issue and serve all process, and perform all duties in such cases without prepayment of fees or expenses or the giving of security therefor. Witnesses shall attend as in other cases.

(4) The court may dismiss a civil case, action or proceeding if the statement of the plaintiff that he is unable to pay fees or expenses is untrue, and may order the payment of all fees and expenses along with interest by any person in such proceedings whose statement is found to be untrue, such actions to be in addition to all other sanctions which may be prescribed by the court.

(5) There is hereby established within the Pohnpei Judiciary a special contingency fund to be known as the "Indigent Fund" for the payment of requisite fees and expenses for which the court has excused the payment by parties in civil matters unable to pay pursuant to this section.

(a) There is hereby authorized for appropriation from the general fund of the Treasury a sum or sums to be determined annually in the Comprehensive Budget Act for the continuous funding of the Indigent Fund. The Indigent Fund shall be administered and expended by the Chief Justice of the Pohnpei Supreme Court solely for the purposes stated in this subsection. All appropriations to the fund shall remain available therein until fully expended. The Chief

Justice shall incorporate in his annual financial report to the Legislature a full accounting of the use of this fund for the previous year.

(b) In the event that assets in the Indigent Fund are insufficient to meet all demands therefor in a fiscal year, payments therefrom shall be apportioned among the recipients thereof; PROVIDED that all obligations to pay fees and expenses to non-government persons and entities shall be met before any withdrawals are made to satisfy the payment of any fees or expenses owing the Pohnpei Government or any officer thereof acting in his official capacity. A claim for the payment of fees or expenses from the Indigent Fund shall be valid for five years.

Source: S.L. No. 3L-99-95 §10-6, 7/20/95

§10-107. Additional costs may be taxed. — The court may allow and tax any additional items of cost or actual disbursement, other than fees of counsel, which it deems just and finds have been necessarily incurred for services which were actually and necessarily performed.

Source: S.L. No. 3L-99-95 §10-7, 7/20/95

§10-108. Allocation of costs. — All fees and expenses paid or incurred under this chapter for service of process, witness fees and expenses or filing fees, by any party prevailing in any matter other than a criminal proceeding, shall be taxed as part of the costs against the losing party or parties unless the court shall otherwise order; PROVIDED that:

(1) No fees or expenses paid to a witness who is a party in interest and is called and examined on his own behalf or others jointly interested with him shall be allowed or taxed as costs;

(2) No costs or expenses paid to or on behalf of a witness for transportation into the state from a destination outside of the state shall be allowed or be taxed as costs unless authority therefor is granted by the presiding justice or judge at the time the summons for said witness to appear is issued; and

(3) No fees or expenses shall be allowed or taxed as costs against the state of Pohnpei.

Source: S.L. No. 3L-99-95 §10-8, 7/20/95

§10-109. Apportionment of costs. — Where there is more than one prevailing or losing party, costs may be apportioned by the court as it deems just.

Source: S.L. No. 3L-99-95 §10-9, 7/20/95

§10-110. Receipt and disposition of fees and expenses by the state. —

(1) The Pohnpei Supreme Court shall, in its rules of procedure, provide for the procedures for making payments of fees and expenses under this chapter and shall designate officers of the judiciary branch, the Department of Public Safety, the Office of the Attorney General, and other agencies and offices of the Pohnpei Government authorized to receive payment on behalf of those entities and offices.

(2) Each officer and employee of the Pohnpei Government receiving any monies pursuant to this chapter shall provide for the prompt payment thereof to the general fund of the Treasury.

Source: S.L. No. 3L-99-95 §10-10, 7/20/95

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TITLE 58

CIVIL REMEDIES AND

DEFENSES

TITLE 58 CIVIL REMEDIES AND DEFENSES

CHAPTER

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- 2 SOVEREIGN IMMUNITY
- 3 LIMITATIONS OF ACTIONS
- 4 [RESERVED]
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CHAPTER 1 STATUTE OF FRAUDS

Section

- | | |
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| 1-101 Short title | 1-103 Certain contracts, when actionable |
| 1-102 Rationale | 1-104 Previous contracts not affected |

§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Statute of Frauds Act of 1980.”

Source: S.L. No. 2L-38-80 §1, 10/29/80

§1-102. Rationale. — In order to prevent fraudulent practices, which are commonly endeavored to be upheld by perjury and subornation of perjury, this chapter is enacted to require certain classes of contracts to be in writing.

Source: S.L. No. 2L-38-80 §2, 10/29/80

§1-103. Certain contracts, when actionable. — No action may be brought and maintained in any of the following cases:

- (1) To charge an executor or administrator upon any special promise to answer for damages out of his own estate;
- (2) To charge any person upon any special promise to answer for the debt, default or misdoing of another;
- (3) To charge any person upon an agreement made in consideration of marriage;
- (4) Upon any contract for the sale of lands, tenements or hereditaments, or of any interest in or concerning them;
- (5) Upon any agreement that is not to be performed within one year from the making thereof;
- (6) To charge any person upon any agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or commission; or

(7) To charge the estate of any deceased person upon any agreement which by its terms is not to be performed during the lifetime of the promisor, or of an agreement to devise or bequeath any property, or to make any provision for any person by will; unless the promise, contract or agreement, upon which the action is brought or some memorandum or note thereof, is in writing, and is signed by the party to be charged therewith, or by some person legally authorized to sign for that party. Such writing need not be in English.

Source: S.L. No. 2L-38-80 §3, 10/29/80

§1-104. Previous contracts not affected. — Nothing in this chapter shall affect promises, contracts or agreements made prior to the effective date hereof.

Source: S.L. No. 2L-38-80 §4, 10/29/80

CHAPTER 2 SOVEREIGN IMMUNITY

Section

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§2-101. Short title. — This chapter is known and may be cited as the “Government Liability Act of 1991.”

Source: S.L. No. 2L-192-91 §1, 4/3/91

§2-102. Declaration of sovereign immunity. — The state of Pohnpei, for the purpose of protecting the people, public monies, governmental operations, and other interests of the state, declares that the Pohnpei Government maintains the sovereign immunity of the state and for its employees against all civil suits and other forms of relief or award except as allowed under this chapter and any subsequent amendments to this chapter or as otherwise specifically provided by state law.

Source: S.L. No. 2L-192-91 §2, 4/3/91

§2-103. Definitions. — As used in this chapter, these terms shall have the following meanings:

(1) “Attorney General” means the Attorney General, or such other attorney as the Attorney General may designate either generally or with respect to a singular action or class of actions to undertake the functions of Attorney General for purposes of this chapter.

(2) “Chief Executive” includes the Public Auditor with respect to that Office.

(3) “Computer-based system” includes any computer or other information technology system, and any electronic device that controls, operates, monitors or assists in the operation or functioning of any equipment, machinery, plant or device using an embedded or installed microprocessor or chip.

(4) “Government employee” or “employee” means any officer or employee (including contract employees but excluding independent contractors) of the Pohnpei Government, whether permanent or temporary, and whether or not compensated, including any employee working for a hospital or other medical institution which is principally funded by public monies from the Pohnpei Government, and

including any officer or employee of a local government of this state who is within the scope of performing services for the state under a valid joint law enforcement agreement between the state government and that local government, but only during such time that he or she is performing such services. The term “government employee” includes any former officer or employee with respect to any act or omission thereof occurring during the term and within the scope of his or her public duties or employment.

(5) “Pohnpei Government” or “state” includes all branches of government, any corporation, and other person or entity primarily acting as instrumentalities or agencies of the government, and all boards, commissions, public corporations, authorities, departments, divisions or offices of the government.

(6) “Year 2000 error” is the failure of a computer-based system to accurately store, display, transmit, receive, process, calculate, compare or sequence date and time data from, into, or between the 20th and 21st centuries, the years 1999 and 2000 and beyond, and leap year calculations.

Source: S.L. No. 2L-192-91 §3, 4/3/91; S.L. No. 4L-112-99 §2, 7/12/99; S.L. No. 4L-119-99 §9, 7/23/99; S.L. No. 5L-14-00 §3-35, 10/1/00

Note: S.L. No. 4L-112-99 §1, 7/12/99 statement of purpose provision reads:

The purpose of this act is to amend the immunity provisions established by the Pohnpei State Liability Act (S.L. No. 2L-192-91) to afford protection to the state as to claims arising out of or relating to a year 2000 error produced, calculated or generated by a computer-based system, regardless of the cause for the year 2000 error. These amendments are intended to be applied retroactively to protect the government from serving as a deep pocket for claims based on year 2000 errors produced, calculated or generated by computer-based systems.

§2-104. Allowable actions. — Except as otherwise provided by this chapter and subsequent amendments hereto, the following actions against the state shall be allowed to the limit specified in §2-106.

(1) *Tort claims.* Claims for wrongful death, personal injury or loss of property caused by the negligent or wrongful act or omission of a government employee while acting within the scope of his or her employment, under circumstances and upon such legal evidence where the state, if a private person or corporation, would be liable to the claimant.

(2) *Tax claims.* Claims for the recovery of any tax alleged to have been erroneously or illegally assessed or collected, or any tax penalty claimed to have been collected without authority, or any sum alleged to have been excessive or improperly collected under applicable tax laws of Pohnpei.

(3) *Contract claims.* Claims based upon express or implied contract with the state.

(4) *Breach of fundamental rights.* Claims for any injuries suffered consequent to conduct of a government employee, acting under color of law, which violates fundamental rights defined in Article 4 of the Pohnpei Constitution.

(5) Claims for damages, injunctive relief or writ of mandamus arising from the alleged unconstitutionality or improper administration of the statutes of Pohnpei, or any regulations issued pursuant to such statutes.

(6) Any other civil action or claim against the state founded upon any law of this jurisdiction or any regulation issued under such law, or upon any express or implied contract with the Pohnpei Government or for liquidated or unliquidated damages in cases not sounding in tort.

(7) Actions for collection of judgments based on claims allowed in this statute.

Source: S.L. No. 2L-192-91 §4, 4/3/91

§2-105. Exceptions to liability. — Notwithstanding §2-104, the government and employees acting within the scope of their public duties or employment whose acts are not wanton or malicious are not liable for the following claims:

(1) Any claim for damages based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute or regulation, whether or not the statute or regulation is valid, or based upon the exercise or performance of or the failure to exercise or perform a discretionary

function or duty on the part of a state agency or an employee of the state, whether or not the discretion is abused;

(2) Any claim for damages caused by the fiscal operations of the Treasury, by the regulations of the monetary system or by the assessment or collection of any tax except as provided in §2-104;

(3) Any claim based on denial of, or failure to make, a medical referral to a medical facility outside the state;

(4) Any claim based on the detention of any goods or merchandise by any law enforcement, excise, revenue, health or agricultural officer;

(5) The imposition or establishment of a quarantine;

(6) Any claim arising in a foreign country;

(7) Any claim or action, including, without limitation, any action for declaratory or injunctive relief, may not be brought against the Government or a Government employee based upon the Government's failure to perform an act or activity because of a year 2000 error, regardless of the cause for the year 2000 error; and

(8) Any claim for damages arising from the transfer of an interest in public trust land.

Source: S.L. No. 2L-192-91 §5, 4/3/91; S.L. No. 4L-112-99 §3, 7/12/99; S.L. No. 4L-128-99 §12, 10/15/99

§2-106. Limitation of state's fiscal responsibility. — Punitive damages may not be awarded against the state. Maximum proven compensatory relief, including court fees, attorneys' fees when permitted by this chapter, and witness fees granted for damages incurred for such claims listed in §2-104, shall be as follows:

(1) Wrongful death and personal injury up to a maximum of \$100,000;

(2) Damage to personal property, not more than \$50,000 per individual and \$100,000 per transaction or occurrence;

(3) Damages for violation of fundamental rights, not more than \$15,000 except that, in cases requiring "just compensation" for property taken, damages shall not exceed the value of property so taken; and

(4) Damages for improper administration of Pohnpei statutes, or any regulations thereunder, not more than \$20,000.

Source: S.L. No. 2L-192-91 §6, 4/3/91

§2-107. Employees acting within the scope of public duties or employment. — Sections 2-104 through 2-106 shall apply to government employees acting within the scope of their public duties or employment, to the same extent that each section applies to the state, regardless of whether the employee is sued in his or her official capacity or as an individual.

Source: S.L. No. 2L-192-91 §7, 4/3/91

§2-108. State to be named party defendant; duty to notify employee. —

(1) No action arising out of an act or omission within the scope of his or her public duties or employment may be brought against any employee, either in his or her official capacity or as an individual, unless the state is named as party defendant under this chapter. Such employee shall be entitled to all exceptions in liability, defenses, and limitations in awards, penalties, and fees available to the state unless otherwise provided by this chapter.

(2) The complaint, summons or other legal document commencing the action against the employee shall contain a statement in a form approved by the Attorney General informing the employee of his rights and responsibilities under this chapter. A copy of such document shall be served on the Attorney General within three days following its service on the employee. Upon receipt of such service, the Attorney General shall by every means practical seek to personally contact the employee and verbally explain to the employee his or her rights and responsibilities under this chapter.

Source: S.L. No. 2L-192-91 §8, 4/3/91

§2-109. When Attorney General to provide defense. — The Attorney General shall provide for the defense, including the defense of crossclaims and counterclaims, of any employee in any civil action brought against that person based on any alleged act or omission relating to his or her public duties or employment, if:

(1) Within 15 days after service of a copy of the summons and complaint or other legal document commencing the action, he or she submits a written request to the Attorney General for his or her defense; PROVIDED that the Attorney General shall accept later requests for defense by the person upon a showing of good cause; and

(2) The Attorney General has determined that the act or omission on which the action taken is based appears to be within the scope of public duty or employment and appears to have been performed or omitted in good faith.

Source: S.L. No. 2L-192-91 §9, 4/3/91

§2-110. Determination by Attorney General whether to tender defense. —

(1) The Attorney General shall determine as promptly as possible whether or not to tender the defense of the person submitting the request. Until the decision is made, the Attorney General shall take appropriate action to defend or otherwise protect the time of the person submitting the request to file a responsive pleading.

(2) In any case in which the Attorney General determines not to defend, the Attorney General shall give written notice, with reason for the decision stated therein, to the person who requested the defense, either:

(a) Ten days before the date an answer or other responsive pleading must be filed with court; or

(b) If the defense has been commenced, 20 days before the time an application is made with the court to withdraw as the attorney of record in accordance with this chapter.

Source: S.L. No. 2L-192-91 §10, 4/3/91

§2-111. Arrangements and circumstances not admissible in evidence. — No fact pertaining to arrangements or circumstances by which the state or any attorney thereof or retained thereby defends any person or does not do so is admissible in evidence at trial or in any other proceeding in the civil action in which that person is a defendant, except in connection with an application to withdraw as attorney of record.

Source: S.L. No. 2L-192-91 §11, 4/3/91

§2-112. No waiver of attorney-client privilege. — The state may not require a waiver of attorney-client privilege may not be required as a condition of tendering the defense of any of its employees, but nothing in this section precludes an application to withdraw as the attorney of record.

Source: S.L. No. 2L-192-91 §12, 4/3/91

§2-113. Defendant may employ own counsel. — At any time after written request for defense is submitted to the Attorney General, the person requesting the defense may employ his or her own counsel to defend the action. At that time, the state is excused from any further duty to represent that person and is not liable for any expenses in defending the action, including court costs and attorneys' fees.

Source: S.L. No. 2L-192-91 §13, 4/3/91

§2-114. Withdrawal of Attorney General as attorney of record. —

(1) At any time after the Attorney General has appeared in any civil action and commenced to defend any person sued as a government employee, the Attorney General may apply to the court to withdraw as the attorney of record for that person based upon:

- (a) Discovery of any new material fact that was not known at the time the defense was tendered and which would have altered the decision to tender the defense;
- (b) Misrepresentation of any material fact by the person requesting the defense, if that fact would have altered the decision to tender the defense if the misrepresentation had not occurred;
- (c) Discovery of any fact which was material to the decision to tender the defense and which would have altered the decision, if known when the decision was made;
- (d) Discovery of any fact that indicates that the act or omission on which the civil action is based was not within the scope of public duty or employment or was wanton or malicious;
- (e) Failure of the defendant to cooperate in good faith with the defense of a case; or
- (f) If the action has been brought in a court of competent jurisdiction of this state, failure to name the state as party defendant, if there is sufficient evidence to establish that the civil action is clearly not based on any act or omission relating to the defendant's public duty or employment.

(2) If the court grants a motion to withdraw brought by the Attorney General on any of the grounds set forth in Subsection (1) of this section, the state has no duty to continue to defend any person who is the subject of the motion to withdraw.

Source: S.L. No. 2L-192-91 §14, 4/3/91

§2-115. Liability of state for failure to defend. — If the Attorney General does not provide a defense of an employee in any civil action in which the state is also a named defendant, or which was brought in a court other than a court of competent jurisdiction of this state, and if it is judicially determined that the injuries arose out of an act or omission of that person during the performance of any duty within the scope of his or her public duty or employment and that his or her act is not wanton or malicious, and that such person requested defense by the state pursuant to this chapter, the state is liable to that person for reasonable expenses in prosecuting his or her own defense, inclusive of court costs and attorneys' fees.

Source: S.L. No. 2L-192-91 §15, 4/3/91

§2-116. No judgment against the state for acts outside scope of public duties or employment. — No judgment may be entered against the state for any act or omission of an employee that was outside the scope of his or her public duties or employment.

Source: S.L. No. 2L-192-91 §16, 4/3/91

§2-117. Special verdict required. — In every action or proceeding in any court of competent jurisdiction in which both the state and the employee are named defendants, the court rendering any final judgment, verdict or other disposition shall return a special verdict in the form of written findings which determine whether:

- (1) The employee was acting within the scope of his or her public duty or employment; and
- (2) The alleged act or omission by the employee was wanton or malicious.

Source: S.L. No. 2L-192-91 §17, 4/3/91

§2-118. Indemnification; holding harmless; satisfaction of judgment against employee. —

(1) The state shall indemnify and hold harmless all employees from all claims and causes of action, regardless of whether suit is actually brought, for acts or omissions of the employee acting within the scope of his or her public duty or employment which act or omission is not wanton or malicious; PROVIDED that the employee is in substantial compliance with the requirements of this chapter.

(2) Satisfaction of a judgment on an action rendered against an employee in which the court has found the employee to be acting within the scope of his or her public duty or employment and whose

act or omission was not wanton or malicious may only be levied against and paid from the Civil Action Liability Fund established by §2-130, unless:

- (a) The person failed to submit a timely request to the Attorney General for defense, and his or her failure was a material cause in the rendering of an adverse decision; or
- (b) The person failed to cooperate in good faith in defense of the action.

Source: S.L. No. 2L-192-91 §18, 4/3/91

§2-119. Jurisdiction. — Except as otherwise provided by law or by express contract with the Pohnpei Government, original jurisdiction on a claim against the Pohnpei Government or claim against any employee thereof for acts or omissions arising from his or her public duty or employment shall reside in the Trial Division of the Pohnpei Supreme Court. Jurisdiction shall extend to any off-set, affirmative defense, counterclaim or other claim or demand pleaded by the Government of Pohnpei or other properly joined party to such action, against any plaintiff commencing action under this chapter.

Source: S.L. No. 2L-192-91 §19, 4/3/91

§2-120. Civil action by the state government not limited. — Nothing in this chapter shall be construed as a limitation upon the rights of the state to bring a civil action upon claims of any nature. In any civil action brought by the state government, the jurisdiction of the court shall extend to any off-set, affirmative defense, counterclaim or other claim or demand pleaded by the named defendant(s), or other properly joined party to such action, against the state of Pohnpei.

Source: S.L. No. 2L-192-91 §20, 4/3/91

§2-121. Attorney fees. —

(1) Unless otherwise expressly provided in a written contract between the state and the claimant, no attorney may charge, demand, receive or collect for services rendered, fees (excluding costs) in excess of \$100 per hour of research time and \$150 of court time, or twenty-five percent (25%) of any compromise or settlement, if the case is settled prior to trial; thirty-three and a third percent (33 1/3%) of any judgment, award, compromise or settlement obtained after trial; and forty percent (40%) of any judgment, award, compromise or settlement after re-trial or appeal, whichever is less; PROVIDED that the court may allow higher attorney fees in those cases where the attorney establishes to the satisfaction of the trial court judge that these limitations would be unjust.

(2) Any attorney who charges, demands, receives or collects for services rendered in connection with such claim any amount in excess of that allowed under Subsection (1) of this section shall be fined not more than \$2,000, or imprisoned not more than one year, or both such fine and imprisonment.

Source: S.L. No. 2L-192-91 §21, 4/3/91

§2-122. Interest, court fees, attorneys' fees, and witness fees. — Unless otherwise expressly provided in a written contract between the state and the claimant, the state shall not be liable for interest prior to judgment, court fees, attorneys' fees or witness fees.

Source: S.L. No. 2L-192-91 §22, 4/3/91

§2-123. Insurance coverage. —

(1) If the Pohnpei Government is insured for a greater amount than provided for in §2-104, the maximum governmental liability shall be the same as the insurance coverage.

(2) This chapter does not in any way impair, limit or modify the rights and obligations under any government insurance policy.

Source: S.L. No. 2L-192-91 §23, 4/3/91

§2-124. Disposition by the governmental agency. —

(1) An action shall not be instituted upon a claim against the state or an employee acting within the scope of his or her public duties or employment unless the claimant shall have first presented the claim to the appropriate governmental agency and the claim shall have been finally denied by the agency in writing. The administrative procedure heretofore or hereafter adopted by statute, if applicable, shall be followed. If such statutory procedure has not been established or is not applicable, then the failure of the governmental agency to make a final disposition of a claim within 50 days after it is filed shall, at the claimant's option, be deemed a final denial of the claim for purposes of this section. The statute of limitations shall not toll during the period of administrative appeal and review. This subsection shall not apply to such claims as may be asserted under the Court's Rules of Civil Procedure by third party complaint, cross-claim or counterclaim.

(2) Court actions under this section shall not be instituted for any sum in excess of the amount of the claim presented to the governmental agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the governmental agency, or upon allegation and proof of intervening facts relating to the amount of the claim; PROVIDED that in no event shall the claim exceed the limit set out in §2-106.

Source: S.L. No. 2L-192-91 §24, 4/3/91

§2-125. Settlement. — The Attorney General may, upon concurrence of the chief executive of the affected branch of government, settle any claim against the state at any time. The Attorney General shall prepare, for each fiscal year, a report of all claims settled which report shall be submitted to the Legislature no later than October 15 each year.

Source: S.L. No. 2L-192-91 §25, 4/3/91

§2-126. Judgment or settlement as bar. — The judgment in an action under this chapter or settlement relative to a claim under this chapter which relieves the state from liability shall constitute a complete bar to any action by the claimant by reason of the same subject matter, against the employee of the state whose act or omission gave rise to the claim.

Source: S.L. No. 2L-192-91 §26, 4/3/91

§2-127. Statute of limitations. — A lawsuit based on any of the claims described in §2-104, except claims for medical or dental malpractice, must be filed in a court of competent jurisdiction within two years from the date the cause of action arose, or the claim shall be forever barred. Action based on medical or dental malpractice, must be filed in a court of competent jurisdiction within one year from the date the cause of action arose or the claim shall be forever barred. For the purpose of this section, a cause of action has arisen when all of the facts comprising said cause of action exist, regardless whether said facts are known or have been discovered by the claimant. Notwithstanding the foregoing provisions of this section, a lawsuit may be filed on a claim described in §2-104 following the expiration of the statute of limitations prescribed herein; PROVIDED that the action is filed prior to the expiration of the statute of limitations provided in state law for the filing of such actions, generally; PROVIDED FURTHER that this extension shall only apply to causes of actions arising prior to the effective date of this chapter [*April 3, 1991*].

Source: S.L. No. 2L-192-91 §27, 4/3/91

§2-128. Service of process. — All lawsuits permitted by this chapter that are instituted against the state shall be served on the Attorney General or his designee. The Attorney General or his designee is hereby appointed as the duly authorized agent of the Pohnpei Government to receive the service of process that may be required by statute or the rules of the court.

Source: S.L. No. 2L-192-91 §28, 4/3/91

§2-129. Attorney General to represent state. — The state shall be represented by the Attorney General in all actions under this chapter.

Source: S.L. No. 2L-192-91 §29, 4/3/91

§2-130. Payment of judgments. — Money judgments rendered against the state of Pohnpei and its employees pursuant to this chapter shall only be paid from funds specifically appropriated for that purpose by the Legislature and deposited in the Civil Action Liability Fund established by this chapter or otherwise paid into the fund under this chapter. Funds set aside by law as security for the repayment of debts and other contractual obligations of the state government shall be deemed to be paid into the fund for the satisfaction of judgments with respect thereto.

Source: S.L. No. 2L-192-91 §30, 4/3/91

§2-131. Civil Action Liability Fund; authorization for appropriation; administration. —

(1) There is hereby established within the state Treasury a Civil Action Liability Fund for the satisfaction of judgments rendered against the state and its employees as provided in this chapter. The fund shall be administered by the Governor through the Director of the Department of Treasury and Administration solely for the purpose provided in this chapter.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei, a sum or sums to be determined annually in the Comprehensive Budget Act for deposit in the Civil Action Liability Fund. Monies may be appropriated generally to the fund or allocated to the payment of specific judgments.

(3) If there are not sufficient funds in the Civil Action Liability Fund to cover all final judgments against the state in any given fiscal year, the Director of the Department of Treasury and Administration shall make pro rata payments from the fund in relation to the ratio of a claim to the then existing composite liability of final judgments against the state under this chapter.

(4) All appropriations to the fund under the authorization of this chapter shall remain available until fully expended. In the case of a specific allocation, when the relevant judgment has been satisfied any remaining balance shall revert to the general fund.

(5) The Governor shall annually report to the Legislature within 15 days following the close of the fiscal year on all matters concerning the management of the fund and expenditures therefrom.

Source: S.L. No. 2L-192-91 §31, 4/3/91

§2-132. Interest on judgments. — On all final judgments entered against the state in actions instituted under this chapter, interest shall be computed at nine percent (9%) per year. Interest shall accrue until the judgment is paid in full.

Source: S.L. No. 2L-192-91 §32, 4/3/91

§2-133. Chapter retroactive. — This chapter shall apply to every action defined in this chapter which has not been reduced to judgment as of the effective date hereof, regardless of when the action was filed.

Source: S.L. No. 2L-192-91 §33, 4/3/91

Note: S.L. No. 2L-192-91 §34 superseding provision has been omitted.

CHAPTER 3 LIMITATIONS OF ACTIONS

Section

3-101	Limitation of time for commencing actions	3-105	Limitation of 20 years
3-102	Reckoning of period	3-106	Limitation of two years
3-103	Contrary agreements	3-107	Limitation of six years
3-104	Existing rights of action	3-108	Special condition

§3-101. Limitation of time for commencing actions. — A civil action or proceeding to enforce a cause of action mentioned in this chapter may be commenced within the period of limitation herein prescribed, and not thereafter, except as otherwise provided in this chapter.

Source: S.L. No. 3L-99-95 §7-1, 7/20/95

§3-102. Reckoning of period. — Except as otherwise provided in this chapter, periods herein prescribed shall be reckoned from the date when the cause of action accrued.

Source: S.L. No. 3L-99-95 §7-2, 7/20/95

§3-103. Contrary agreements. — No agreement made subsequent to the effective date of this chapter [July 20, 1995] for a period of limitation different from the period described in this chapter shall be valid.

Source: S.L. No. 3L-99-95 §7-3, 7/20/95

§3-104. Existing rights of action. — Enactment of this chapter and subsequent revisions hereto shall not be construed to extinguish any rights or remedies that may have accrued to any party prior to enactment or revision, unless specifically provided otherwise.

Source: S.L. No. 3L-99-95 §7-4, 7/20/95

§3-105. Limitation of 20 years. —

(1) The following actions shall be commenced only within 20 years after the cause of action accrues:

- (a) Actions upon a judgment; and
- (b) Actions for the recovery of land or any interest therein.

(2) If the cause of action first accrued to an ancestor or predecessor of the person who presents the action, or to any other person under whom he claims, the 20 years shall be computed from the time when the cause of action first accrued.

Source: S.L. No. 3L-99-95 §7-5, 7/20/95

§3-106. Limitation of two years. — The following actions shall be commenced only within two years after the cause of action accrues:

- (1) Actions for assault, battery, false imprisonment, libel or slander;
- (2) Actions against a police officer or other person duly authorized to serve process, for any act or omission in connection with the performance of his official duties;
- (3) Actions for malpractice, error or mistake against physicians, surgeons, dentists, medical or dental practitioners, and medical or dental assistants;
- (4) Actions for injuries to or for the death of one caused by the wrongful act or neglect of another, except as otherwise provided in Chapter 6 Parts A and B; and

(5) Actions of a depositor against a bank or similar institution for the payment of a forged or raised check, or a check which bears a forged or unauthorized endorsement.

Source: S.L. No. 3L-99-95 §7-6, 7/20/95

§3-107. Limitation of six years. — All actions other than those covered in §§3-101 through 3-106 shall be commenced only within six years after the cause of action accrues.

Source: S.L. No. 3L-99-95 §7-7, 7/20/95

§3-108. Special conditions. — The limitation on actions prescribed by this chapter shall be modified as prescribed below in the following circumstances:

(1) *Actions by or against the estate of a deceased person.* Any action by or against the executor, administrator or other representative of a deceased person for a cause of action in favor of or against the deceased shall be brought only within two years after the executor, administrator or other representative is appointed or first takes possession of the assets of the deceased.

(2) *Disabilities.* If the person entitled to a cause of action is a minor or is insane or is imprisoned when the cause of action first accrues, the action may be commenced within the time limits of this chapter after the disability is removed.

(3) *Mutual account.* In an action brought to recover the balance due upon a mutual and open account, or upon a cause of action upon which partial payments have been made, the cause of action shall be considered to have accrued at the time of the last item proved in the account.

(4) *Extension of time by absence from the state.* If at the time a cause of action shall accrue against any person he shall be out of the state, such action may be commenced within the times limited in this chapter after he comes into the state. If after a cause of action shall have accrued against a person he shall depart from and reside out of the state, the time of his absence shall be excluded in determining the time limited for commencement of the action.

(5) *Extension of time by fraudulent concealment.* If any person who is liable to any action shall fraudulently conceal the cause of action from the knowledge of the person entitled to bring it, the action may be commenced at any time within the times limited within this chapter after the person who is entitled to bring the same shall discover or shall have had reasonable opportunity to discover that he has such cause of action, and not afterwards.

(6) *Statutory direction.* Notwithstanding any other provision of this chapter, any cause of action created or controlled by statute which specifically prescribes the time limited for the commencement of the action may only be commenced within the time so prescribed by that statute.

Source: S.L. No. 3L-99-95 §7-8, 7/20/95

CHAPTER 4 [RESERVED]

CHAPTER 5 [RESERVED – JUDICIAL FORECLOSURES]

Note: See Title 41 Chapter 6 for judicial foreclosures of mortgages.

CHAPTER 6 TORT ACTIONS

Section

Part A Survival of actions

6-101 Survival of claims after death of liable person 6-102 – 6-110 [Reserved]

Part B Actions for wrongful death

6-111 Liability in action for wrongful death; proceedings 6-113 Damages
6-112 Action to be brought in the name of personal representative; beneficiaries of action 6-114 Limitation of actions
6-115 Settlements
6-116 – 6-120 [Reserved]

Part C [Reserved]

6-121 – 6-130 [Reserved]

Part D Contribution among joint tort-feasors

6-131 Right to contribution 6-134 Release or covenant not to sue
6-132 Pro rata shares 6-135 Retroactivity; continuation
6-133 Enforcement

PART A SURVIVAL OF ACTIONS

§6-101. Survival of claims after death of liable person. —

(1) A cause of action based on tort shall not be lost or abated because of the death of the tort-feasor or other person liable. An action thereon may be brought or continued against the personal representative of the deceased person, but punitive or exemplary damages may not be awarded nor penalties adjudged in the action.

(2) Where a cause of action arises simultaneously with or after the death of the tort-feasor or other person who would have been liable if his death had not occurred simultaneously with the act, omission, circumstance or event giving rise to the cause of action, or if his death had not intervened between the wrongful act, omission, circumstance or event and the coming into being of the cause of action, an action to enforce it may be maintained against the personal representative of the tort-feasor or other person.

Source: S.L. No. 3L-99-95 §8-1, 7/20/95

§§6-102 – 6-110. [RESERVED]

PART B ACTIONS FOR WRONGFUL DEATH

§6-111. Liability in action for wrongful death; proceedings. —

(1) When the death of a person is caused by wrongful act, neglect or default such as would have entitled the party injured to maintain an action and recover damages in respect thereof if death had not ensued, the person or corporation which would have been liable if death had not ensued, or the administrator or executor of the estate of such person, as such administrator or executor, shall be liable

to an action for damages notwithstanding the death of the person injured, and although the death was caused under circumstances which make it a violation of criminal law.

(2) When the action is against such administrator or executor, the damages recovered shall be a valid claim against the estate of such deceased person.

(3) When the death is caused by wrongful act or neglect in another state, territory or foreign country, for which a right to maintain an action and recover damages in respect thereof is given by a statute of that jurisdiction, such right of action may be enforced in the state of Pohnpei. Every such action brought under this subsection shall be commenced within the time prescribed for such actions by the statute of such other state, territory or foreign country.

Source: S.L. No. 3L-99-95 §9-1, 7/20/95

§6-112. Action to be brought in the name of personal representative; beneficiaries of action. —

Every action for wrongful death must be brought in the name of the personal representative of the deceased, but shall be for the exclusive benefit of the surviving spouse, the children, and other next of kin, if any, of the decedent, as the court may direct.

Source: S.L. No. 3L-99-95 §9-2, 7/20/95

§6-113. Damages. — The trial court may award such damages, not exceeding the sum of \$100,000, as it may think proportioned to the pecuniary injury resulting from such death, to the persons, respectively, for whose benefit the action was brought; PROVIDED, HOWEVER, that where the decedent was a child, and where the plaintiff in the suit brought under this chapter is the parent of such child, or one who stands in the place of a parent pursuant to customary law, such damages shall include his or her mental pain and suffering for the loss of such child, without regard to provable pecuniary damages.

Source: S.L. No. 3L-99-95 §9-3, 7/20/95

§6-114. Limitation of actions. — Except as otherwise provided, every action under this chapter shall be commenced within two years after the death of such person.

Source: S.L. No. 3L-99-95 §9-4, 7/20/95

§6-115. Settlements. — A personal representative appointed in the state may, with the consent of the court making such appointment, at any time before or after the commencement of the suit, settle with the defendant the amount to be paid.

Source: S.L. No. 3L-99-95 §9-5, 7/20/95

§§6-116 – 6-120. [RESERVED]

PART C [RESERVED]

§§6-121 – 6-130. [RESERVED]

PART D CONTRIBUTION AMONG JOINT TORT-FEASORS

§6-131. Right to contribution. —

(1) Except as otherwise provided in this part, where two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there

is a right of contribution among them even though judgment has not been recovered against all or any of them.

(2) The contribution exists only in favor of a tort-feasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tort-feasor is compelled to make a contribution beyond his own pro rata share of the entire liability.

(3) There is no right of contribution in favor of any tort-feasor who has intentionally, willfully or wantonly caused or contributed to the injury or wrongful death.

(4) A tort-feasor who enters into a settlement with a claimant is not entitled to recover contribution from another tort-feasor whose liability for the injury or wrongful death is not extinguished by the settlement nor is he entitled to recover in respect to any amount paid in a settlement which is in excess of what is reasonable.

(5) A liability insurer, which by payment has discharged in full or in part the liability of a tort-feasor and has thereby discharged in full its obligation as insurer, is subrogated to the tort-feasor's right of contribution to the extent of the amount it has paid in excess of the tort-feasor's pro rata share of the common liability. This provision does not impair any right of subrogation arising from any other relationship.

(6) This part does not impair any right of indemnity under existing law. Where one tort-feasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(7) This part shall not apply to breaches of trust or of other fiduciary obligation.

Source: S.L. No. 3L-99-95 §12-1, 7/20/95

§6-132. Pro rata shares. — In determining the pro rata shares of the tort-feasors in the entire liability:

- (1) Their relative degrees of fault shall not be considered;
- (2) If equity requires, the collective liability of some as a group shall constitute a single share; and
- (3) Principles of equity applicable to contribution generally shall apply.

Source: S.L. No. 3L-99-95 §12-2, 7/20/95

§6-133. Enforcement . —

(1) Whether or not judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced by separate action.

(2) Where a judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.

(3) If there is a judgment for the injury or wrongful death against the tort-feasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

(4) If there is no judgment for the injury or wrongful death against the tort-feasor seeking contribution, his right of contribution is barred unless he has either:

(a) Discharged by payment the common liability within the statute of limitations period applicable to the claimant's right of action against him and has commenced his action for contribution within one year of payment; or

(b) Agreed while the action is pending against him to discharge the common liability and has within one year after the agreement paid the liability and commenced his action for contribution.

(5) The recovery of a judgment for an injury or wrongful death against one tort-feasor does not of itself discharge the other tort-feasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

Source: S.L. No. 3L-99-95 §12-3, 7/20/95

§6-134. Release or covenant not to sue. — When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death:

(1) It does not discharge any of the other tort-feasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the other to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is greater; and

(2) It discharges the tort-feasor to whom it is given from all liability for contribution to any other tort-feasor.

Source: S.L. No. 3L-99-95 §12-4, 7/20/95

§6-135. Retroactivity; continuation. — This part shall not be deemed to create any right or remedy to any joint tort-feasor in favor of whom this part would otherwise apply, where such joint tort-feasor's cause of action accrued before the effective date of this title [*July 20, 1995*], and to this extent this part is not retroactive, but such tort-feasor's rights of contribution shall continue to be controlled by 6 TTC §§551 – 556 (1980) notwithstanding the supersession of those sections by this title.

Source: S.L. No. 3L-99-95 §12-5, 7/20/95

CHAPTER 7 [RESERVED]

CHAPTER 8 HABEAS CORPUS

Section

8-101 Power to grant writs of habeas corpus	8-104 Show-cause order
8-102 Application for writ of habeas corpus	8-105 Evidence
8-103 Preliminary examination and recommendation by lower court	8-106 Issuance or denial of writ
	8-107 Appeals

§8-101. Power to grant writs of habeas corpus. — Writs of habeas corpus may be granted by the Trial Division of the Pohnpei Supreme Court. Every person unlawfully imprisoned or restrained of his liberty under any pretense whatsoever, or any person on behalf of an unlawfully imprisoned individual, may apply for a writ of habeas corpus to inquire into the cause of such imprisonment or restraint.

Source: S.L. No. 3L-99-95 §13-3, 7/20/95

§8-102. Application for writ of habeas corpus. — Application for the writ of habeas corpus shall be made to the Trial Division of the Pohnpei Supreme Court or to a local court of the state within whose jurisdiction the person is claimed to be unlawfully detained. Application for the writ shall be made by a written statement under oath signed by the party for whose relief it is intended, or by some person on his behalf. The statement shall set forth the facts concerning the imprisonment or restraint of the person for whose relief it is intended, and, if known, the name of the person who has custody over him, and by virtue of what claim of authority the imprisonment or restraint is being practiced.

Source: S.L. No. 3L-99-95 §13-4, 7/20/95

§8-103. Preliminary examination and recommendation by lower court. — If the application for a writ of habeas corpus is received by a lower court, the judge thereof shall, without delay, make preliminary findings of facts and recommendations as to the issuance or denial of the writ, and the disposition of the person detained, and submit these by dispatch or other speedy method to the Trial Division of the Pohnpei Supreme Court.

Source: S.L. No. 3L-99-95 §13-5, 7/20/95

§8-104. Show-cause order. —

(1) Upon receipt of an application or recommendation from the lower court, the Trial Division of the Pohnpei Supreme Court shall issue an order directing the person against whom the writ is requested to show cause why the writ should not be granted, unless it appears from the application that the person detained is not entitled thereto.

(2) The order to show cause shall be directed to the person having custody of the person detained. The order shall set the time and place for hearing, which shall be as early as the court deems practicable, preferably within three days.

(3) The person to whom the order is directed shall, at or before the time set for the hearing, make a return certifying the true cause of detention and unless the application for the writ and the return present only issues of law, the person to whom the order is directed shall produce at the hearing the person detained, unless the person is so sick or so weak that this cannot be safely done.

(4) The applicant, or the person detained, may, under oath, deny any of the facts set forth in the return, or declare any other material facts. The application, the return, and any suggestions made against either of them may be amended by leave of the court.

(5) If the person to whom the order is directed does not make a return as required above, or does not appear at the time and place set for the hearing, the court may proceed without him.

Source: S.L. No. 3L-99-95 §13-6, 7/20/95

§8-105. Evidence. —

(1) On receipt by the Trial Division of the Pohnpei Supreme Court of an application for a writ of habeas corpus or the recommendation of the lower court thereon, evidence may be taken orally or by deposition, or in the discretion of the Trial Division, by written statement under oath.

(2) If written statements under oath are admitted, any party shall have the right to propound written interrogatories to the person who made such statements or to file answering written statements under oath.

(3) On application for a writ of habeas corpus, documentary evidence, transcripts of proceedings upon arraignments, plea, sentence, and a transcript of the oral testimony introduced on any previous similar application by or on behalf of the same person shall be admissible in evidence.

(4) The declarations of a return to an order to show cause in a habeas corpus proceeding, if not formally denied, shall be accepted as true, except to the extent that the court finds from the evidence that they are not true.

Source: S.L. No. 3L-99-95 §13-7, 7/20/95

§8-106. Issuance or denial of writ. —

(1) The Trial Division of the Pohnpei Supreme Court hearing the application for a writ of habeas corpus shall, without delay or formality, determine the facts and thereafter:

(a) Grant the writ unconditionally;

(b) Deny the writ;

(c) Grant the writ on terms fixed by the court and discharge the person for whose relief the application has been brought; or

(d) Make any order, to the court's disposition, as law and justice may require.

(2) When the Trial Division hearing an application has received the report and recommendation of the lower court thereon as provided under §8-103, the Trial Division may act upon the matter, by dispatch or other speedy method, on the basis of the lower court's report, or may order such further hearing or the submission of such further evidence as the court deems law and justice require. The Trial Division may direct the lower court which filed the report to take such additional action as the Trial Division deems law and justice requires.

Source: S.L. No. 3L-99-95 §13-8, 7/20/95

§8-107. Appeals. —

(1) The final order of the Trial Division of the Pohnpei Supreme Court in a habeas corpus proceeding shall be subject to appeal to the Appellate Division of the Supreme Court; PROVIDED that notice of appeal is filed within 30 days after entry of the final order.

(2) Pending the possibility of appeal, the Trial Division may in its discretion:

(a) Stay execution of the order;

(b) Admit the person imprisoned or restrained to bail pending action by the Appellate Division; or

(c) Direct that the final order take effect pending such action without waiting for the time for filing such notice of appeal to expire.

Source: S.L. No. 3L-99-95 §13-9, 7/20/95

(Next page is Title 59 divider)

TITLE 59

EVIDENCE

TITLE 59 EVIDENCE

CHAPTER

1 [RESERVED]

2 AUTHENTICATION AND CONTENT OF RECORDS

3 PRESUMPTIONS

4 PRIVILEGES

CHAPTER 1 [RESERVED]

CHAPTER 2 AUTHENTICATION AND CONTENT OF RECORDS

Section

2-101 Official records

§2-101. Official records. — Books or records of account or minutes of proceedings of any department or agency of the state of Pohnpei, or of any predecessor thereof, shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept. Copies or transcripts (authenticated by the official having custody thereof) of any books, records, papers or documents of any department or agency of the state of Pohnpei, or of any predecessor thereof, shall be admitted in evidence equally with the originals thereof.

Source: TTC §340 (1966); 7 TTC §51 (1970); 7 TTC §51 (1980)

Note: Reference to the United States of America has been omitted.

EVIDENCE

CHAPTER 3 PRESUMPTIONS

Section

3-101 Presumptions as to intoxication

§3-101. Presumptions as to intoxication. —

(1) Upon the trial of any civil or criminal action, or preliminary proceeding in a criminal action, arising out of facts alleged to have been committed by any person while driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the person's blood at the time of the test shown by chemical analysis of his blood, breath or urine shall be given rise to the following presumptions affecting the burden of proof:

(a) If there was at that time less than 0.05 percent by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of intoxicating liquor at the time of the alleged acts.

(b) If there was at that time 0.05 percent or more but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor at the time of the alleged acts.

(c) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of intoxicating liquor at the time of the alleged acts.

(2) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood.

(3) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor at the time of the alleged acts.

Source: D.L. No. 4L-158-78 §§1 – 3, 11/23/78

EVIDENCE

CHAPTER 4 PRIVILEGES

Section

4-101 Spouses

4-102 Certain conversations with anthropologists privileged

§4-101. Spouses. — Neither husband nor wife shall be compelled to testify against the other in the trial of an information, complaint, citation or other criminal proceeding.

Source: TTC §341 (1966); 7 TTC §1 (1970); 7 TTC §1 (1980)

§4-102. Certain conversations with anthropologists privileged. — Subject to the limitations provided in this section, conversations held with an anthropologist in confidence in his professional character shall be privileged. No statement made in such a conversation nor the substance thereof shall be divulged without the consent of the person making it, nor shall the identity of any person making such a statement on any particular subject be divulged without his consent, except as provided herein. This privilege, however, shall not extend to the professional opinions or conclusions of an anthropologist even though they may be based in whole or in part on such conversations, nor shall it or the prohibition against divulging such statements or the identity of persons making them apply to admissions or confessions indicating that the person making them has committed murder in the first or second degree or voluntary manslaughter or is threatening to commit a crime in the future.

Source: TTC §342 (1966); 7 TTC §2 (1970); 7 TTC §2 (1980)

TITLE 60 [RESERVED]

EVIDENCE

(Next page is Title 61, Division IX divider)

DIVISION IX
OF THE
CODE

CRIMINAL MATTERS

TITLE 61 --- TITLE 65

TITLE 61

CRIMINAL LAW

TITLE 61 CRIMINAL LAW

CHAPTER

- 1 GENERAL PROVISIONS
- 2 PRINCIPLES OF PENAL LIABILITY
- 3 [RESERVED – PRINCIPLES OF JUSTIFICATION]
- 4 INCHOATE CRIMES
- 5 OFFENSES AGAINST THE PERSON
- 6 OFFENSES AGAINST PROPERTY RIGHTS
- 7 OFFENSES AGAINST THE FAMILY
- 8 OFFENSES AGAINST PUBLIC HEALTH AND MORALS
- 9 OFFENSES AGAINST PUBLIC ORDER
- 10 OFFENSES AGAINST PUBLIC ADMINISTRATION
- 11 & 12 [RESERVED]
- 13 OBSCENE COMMUNICATIONS
- 14 [RESERVED]
- 15 FIRE CONTROL
- 16 MISUSE OF GOVERNMENT PROPERTY

CHAPTER 1 GENERAL PROVISIONS

Section

- | | |
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| 1-101 Short title | 1-108 Limitation of prosecution |
| 1-102 Definitions | 1-109 Discretion as to prosecution of crimes for which there is a satisfactory customary settlement |
| 1-103 Classification of crimes | 1-110 “Principal” defined |
| 1-104 Defenses; burden of proof | 1-111 Accessories |
| 1-105 Mental disease or defect | 1-112 Other laws not affected |
| 1-106 Intoxication | 1-113 Prior offenses |
| 1-107 Presumptions as to responsibility of children | |

§1-101. Short title. — Chapters 1 through 10 are known and may be cited as the “Pohnpei Crimes Act of 1994.”

Source: S.L. No. 3L-89-95 §1-1, 4/6/95

§1-102. Definitions. — The definitions in this section shall apply throughout Chapters 1 through 10, unless otherwise specified or a different meaning is plainly required.

(1) *Building or occupied structure.* The term “building or occupied structure” means any structure, vehicle, vessel or place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present. Property is that of another, for the purpose of

Chapters 1 through 10, if anyone other than the defendant has a possessory or property interest therein. If a building or structure is divided into separately occupied units, any unit not occupied by the defendant is an occupied structure of another.

(2) *Criminal negligence.* A person acts with criminal negligence, or is criminally negligent, with respect to attendant circumstances when his conduct creates a substantial and unjustifiable risk and causes the criminal result; or if his failure to be aware of the risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

(3) *Defendant.* The term “defendant” includes a person who is an accessory or accomplice of the defendant.

(4) *Intent.* A person acts intentionally, or with intent, with respect to his conduct or to a result thereof when it is his conscious purpose to engage in the conduct or cause the result.

(5) *Jurisdiction; state; Pohnpei.* “This jurisdiction,” “the state” or “Pohnpei” means the state of Pohnpei, including its land and water, and the airspace above said land and water, with respect to which Pohnpei has legislative jurisdiction.

(6) *Knowledge.* A person acts knowingly, or with knowledge, with respect to his conduct or to attendant circumstances when he is aware of the nature of his conduct or that those circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is practically certain to cause the result.

(7) *Person; he; accused; defendant.* The term “person,” “he,” “accused,” and “defendant” includes any natural person and, where relevant, a corporation or an unincorporated association.

(8) *Public servant or public official.* A “public servant” or “public official” means any officer or employee of, or any person acting on behalf of the state of Pohnpei, including legislators and judges, and any person acting as an advisor, consultant or otherwise, in performing a governmental function; but the term does not include witnesses.

(9) *Recklessness.* “Recklessness” means to act with willful disregard to the attendant circumstances, or if unaware of the circumstances, to act in such a manner that constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

Source: S.L. No. 3L-89-95 §1-3, 4/6/95

§1-103. Classification of crimes. — A felony is a crime or offense that may be punishable by imprisonment for a period of more than one year. Every other crime is a misdemeanor.

Source: S.L. No. 3L-89-95 §1-5, 4/6/95

§1-104. Defenses; burden of proof. —

(1) A defense is a fact or set of facts which negates penal liability.

(2) When a defense declared by statute to be an “affirmative defense” is raised at a trial, the defendant has the burden of establishing such defense by a preponderance of the evidence.

(3) When a defense, other than an affirmative defense defined by statute, is raised at a trial, the people have the burden of disproving such defense beyond a reasonable doubt.

(4) A defense is an affirmative defense if it is so designated by Chapters 1 through 10 or another statute.

Source: S.L. No. 3L-89-95 §1-7, 4/6/95

§1-105. Mental disease or defect. — In any prosecution for an offense, it is an affirmative defense that when the defendant engaged in the proscribed conduct, he lacked criminal responsibility by reason of mental disease or defect. Such lack of criminal responsibility means that at the time of such conduct, as a result of mental disease or defect, he lacked substantial capacity to know or appreciate either:

(1) The nature and consequences of such conduct; or

(2) That such conduct was wrong.

Source: S.L. No. 3L-89-95 §1-9, 4/6/95

§1-106. Intoxication. — An act committed while in a state of voluntary intoxication is no less criminal by reason thereof, and intoxication does not, in itself, constitute a physical or mental disease, disorder or defect. When recklessness establishes an element of the offense and the defendant, due to voluntary intoxication, was unaware of the risk that he would have been aware of had he been sober, such unawareness is immaterial. Intoxication means a disturbance of mental or physical capabilities resulting from the introduction of any substance into the body.

Source: S.L. No. 3L-89-95 §1-11, 4/6/95

§1-107. Presumptions as to responsibility of children. — Children under the age of ten are conclusively presumed to be incapable of committing any crime. Children between the ages of ten and fourteen are presumed to be incapable of committing any crime in which case the presumption is rebuttable. The provisions of this section, however, shall not prevent proceedings against and the disciplining of any person under 18 years of age as a delinquent child.

Source: S.L. No. 3L-89-95 §1-13, 4/6/95

§1-108. Limitation of prosecution. —

(1) A prosecution for murder may be commenced at any time.

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following time limitations:

(a) A prosecution for a crime that is punishable by imprisonment for more than ten years must be commenced within six years after it is committed.

(b) A prosecution for any other crime must be commenced within three years after it is committed.

(3) If the time limitation set forth in Subsection (2) of this section has expired, a prosecution may nevertheless be commenced for:

(a) Any crime, an element of which is either fraud or a breach of fiduciary obligation, within one year after discovery of the crime by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the crime, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(b) Any offense based on misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

(4) The time limitation does not run:

(a) During any time when the accused is continuously absent from this jurisdiction or has no reasonably determinable place of abode or work within this jurisdiction; or

(b) During any time when a prosecution against the accused for the same conduct is pending in this jurisdiction.

(5) A prosecution is commenced either when information or a complaint is filed or when an arrest warrant or other process is executed without unreasonable delay.

Source: S.L. No. 3L-89-95 §1-15, 4/6/95

§1-109. Discretion as to prosecution of crimes for which there is a satisfactory customary settlement. — Prior to any subsequent prosecution of an offender under the crimes of Pohnpei, the pertinent officers of the Attorney General's office shall first ascertain whether there has been a customary settlement with respect to the offensive action and whether the victim or victims of the

offensive action are satisfied therewith. If such findings are made, the Attorney General may, in his discretion, close the case and abstain from any further action relative thereto.

Source: S.L. No. 3L-89-95 §1-17, 4/6/95

§1-110. “Principal” defined. — Every person is punishable as a principal who commits an offense against Pohnpei or aids, abets, counsels, commands, induces or procures its commission or who causes an act to be done, which, if directly performed by him would be an offense against Pohnpei. No distinction is made between principals in the first and second degrees, and no distinction is made between a principal and what has heretofore been called an accessory before the fact.

Source: S.L. No. 3L-89-95 §1-19, 4/6/95

§1-111. Accessories. — Every person who, knowing that an offense against Pohnpei has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact. An accessory after the fact shall be imprisoned not more than half the maximum term of imprisonment or fined not more than half the maximum fine prescribed for punishment of the principal, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §1-21, 4/6/95

§1-112. Other laws not affected. — Any other law in effect in Pohnpei prescribing criminal penalties, whether established by district order, district statute, state statute, Pohnpei statute or Trust Territory statute, not specifically repealed or superseded by Chapters 1 through 10 shall remain in full force and effect. To this end, Chapters 1 through 10 shall not be interpreted as intending to be a complete compilation of all criminal offenses against Pohnpei.

Source: S.L. No. 3L-89-95 §10-5, 4/6/95

§1-113. Prior offenses. — Chapters 1 through 10 shall not apply to offenses committed before their effective date [*the Pohnpei Crimes Act of 1994, April 6, 1995*]. An offense is committed before the effective date of Chapters 1 through 10 if any of the elements of the offense occurred before that date. Prosecutions for offenses committed before the effective date are governed by the prior law, which is continued in effect for that purpose as if Chapters 1 through 10 were not in force.

Source: S.L. No. 3L-89-95 §10-7, 4/6/95

Note: S.L. No. 3L-89-95 §10-3 superseding and §10-9 severability provisions have been omitted.

Extended Legislative history: S.L. No. 1L-3-85, 3/9/85, established a Pohnpei Crimes Act and prescribed penalties therefor; S.L. No. 1L-3-85 §10-1(1), 3/9/85 repealed Chapter 4 of the Ponape District Code, 3/71; S.L. No. 1L-3-85 §10-1(2), 3/9/85 repealed D.L. No. 3L-129-75, 6/3/75 and D.L. No. 3L-16-72, 5/25/72 in their entirety; S.L. No. 1L-3-85 §10-1(3), 3/9/85 repealed D.L. No. 3L-79-74, 6/28/74 in its entirety; S.L. No. 1L-3-85 §10-1(4), 3/9/85 repealed D.L. No. 2L-233-71, 11/27/71 in its entirety; S.L. No. 1L-3-85 §10-1(5), 3/9/85 repealed PDC §3-12(11), 3/71 in its entirety; S.L. No. 1L-3-85 §10-1(6), 3/9/85 repealed D.L. No. 4L-193-79, 8/9/79 in its entirety; S.L. No. 1L-3-85 §10-1(7), 3/9/85 repealed S.L. No. 3L-21-84, 7/24/84 in its entirety; S.L. No. 1L-3-85 §10-3, 3/9/85 as amended by S.L. No. 1L-15-85 §1, 4/16/85 superseded 11 TTC (1980), except as provided by S.L. No. 1L-3-85 §10-7, 3/9/85; S.L. No. 2L-76-88 §1, 12/11/88 added §§6-13, 6-15, 6-17, and 6-19 to S.L. No. 1L-3-85; S.L. No. 2L-76-88 §2, 12/11/88 added §§7-27, 7-29, 7-31, 7-33, 7-35, 7-37, and 7-39 to S.L. No. 1L-3-85; S.L. No. 2L-76-88 §3, 12/11/88 added §§8-15 and 8-17 to S.L. No. 1L-3-85; S.L. No. 2L-76-88 §4, 12/11/88 amended S.L. No. 1L-3-85 §7-3, 3/9/85; S.L. No. 2L-76-88 §5, 12/11/88 repealed S.L. No. 1L-3-85 §7-23, 3/9/85 and inserted new §7-23; S.L. No. 2L-76-88 §6, 12/11/88 repealed S.L. No. 1L-3-85 §8-5, 3/9/85 in its entirety; S.L. No. 2L-207-91, 7/2/91 added new §1-2 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §2, 7/2/91 added new §1-4 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §3, 7/2/91 repealed S.L. No. 1L-3-85 §1-11, 3/9/85 and inserted new §1-11; S.L. No. 2L-207-91 §4, 7/2/91 added new §1-12 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §5, 7/2/91 added new §2-2 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §6, 7/2/91 added new §2-9 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §7, 7/2/91 added new §§6-21 and 6-23 to S.L. No. 1L-3-85; S.L. No. 2L-207-91 §8, 7/2/91 added new §§7-41, 7-43, 7-45, 7-47, 7-49, 7-51, 7-53, 7-55, 7-57, 7-59, 7-61, and 7-63 to S.L. No. 1L-3-85; S.L. No. 3L-9-92 §1, 7/10/92 amended S.L. No. 1L-3-85 §7-45 as established by S.L. No. 2L-207-91 §8; S.L. No. 3L-89-95, 4/6/95 established a new crimes act; S.L. No. 3L-89-95 §10-1, 4/6/95 repealed all laws and Code provisions cited in S.L. No. 1L-3-85 §10-1, 3/9/85, except as provided by S.L. No. 1L-3-85 §10-7, 3/9/85.

CHAPTER 2 PRINCIPLES OF PENAL LIABILITY

Section

2-101 Criminal liability for conduct of another

§2-101. Criminal liability for conduct of another. —

(1) A person is criminally liable for the conduct of another if:

- (a) He intentionally aids, abets, advises, solicits, counsels or conspires with or otherwise procures the other to commit a crime; or
- (b) While acting with the state of mind that is sufficient for the commission of the crime, he causes an innocent or irresponsible person to engage in such conduct; or
- (c) Having a legal duty to prevent the commission of a crime, he fails to make proper effort to do so.

(2) A person liable under Subsection (1) of this section is also liable for any other crime committed in the pursuance of the intended crime if reasonably foreseeable by him as a probable consequence of committing or attempting to commit the crime intended.

(3) A person liable under this section may be charged with and convicted of the offense although the person who directly committed it has not been prosecuted or convicted, or has been convicted of a different offense or degree of offense, or has been acquitted.

Source: S.L. No. 3L-89-95 §2-9, 4/6/95

CHAPTER 3 [RESERVED – PRINCIPLES OF JUSTIFICATION]

CRIMINAL LAW

CHAPTER 4 INCHOATE CRIMES

Section

4-101 Criminal attempt

4-103 Criminal solicitation

4-102 Criminal conspiracy

4-104 Security to keep the peace

§4-101. Criminal attempt. — Every person who unlawfully attempts to commit any of the crimes as prescribed by the laws of Pohnpei which attempt falls short of actual commission of the crime itself, shall be guilty of attempt to commit said crime, and where no separate provision is made by law for punishment upon conviction of such attempt, a person so convicted shall be punished by imprisonment for a term not exceeding half of the maximum term of imprisonment for the offense attempted, or by a fine in an amount not exceeding half of the fine which may lawfully be imposed upon conviction for commission of the offense attempted, or by both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §2-1, 4/6/95

§4-102. Criminal conspiracy. — If two or more persons conspire either to commit any crime against Pohnpei, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be guilty of conspiracy, and upon conviction thereof shall be imprisoned for a period of not more than three years, or fined not more than \$1,000, or both such fine and imprisonment. If, however, the offense, the commission of which is the object of conspiracy, carries a penalty less than that herein prescribed, the punishment for such conspiracy shall not exceed the maximum penalty provided for such offense.

Source: S.L. No. 3L-89-95 §2-5, 4/6/95

§4-103. Criminal solicitation. —

(1) Every person who, with intent to promote or facilitate the commission of a crime, commands, encourages or requests another person to engage in conduct that causes the result specified by the definition of the crime, or engages in conduct which would be sufficient to establish complicity in the specified conduct or result shall be guilty of solicitation.

(2) It is immaterial under Subsection (1) of this section that the defendant fails to communicate with the person he solicits if his conduct was designed to cause such communication.

(3) It is an affirmative defense to the prosecution for solicitation that the defendant, under circumstances showing a complete and voluntary renunciation of his criminal intent, made a reasonable effort to prevent the conduct or result solicited.

(4) A person convicted of solicitation shall be punished:

(a) By imprisonment for not more than ten years if the maximum sentence provided for any offense which was the object of the solicitation is life imprisonment; or

(b) By imprisonment for not more than one-half the maximum sentence that is provided for the most serious offense which was the object of the solicitation if the maximum sentence is less than life imprisonment.

Source: S.L. No. 3L-89-95 §2-11, 4/6/95

§4-104. Security to keep the peace. —

(1) A complaint may be made to any court that a person has threatened to commit an offense against the person or property of another. When such complaint is made, the court shall examine, under oath, the complainant and any witnesses he may produce, reduce the complaint to writing, and cause it to be signed and sworn to by the complainant. If the court is satisfied that there is danger that such offense will be committed, the court shall issue a warrant to any policeman setting out the

substance of the complaint and commending the officer to apprehend the person complained of and bring him before the court at a certain time.

(2) When the person complained of is brought before the court, the testimony produced on both sides shall be heard if the charge is denied. If it appears that there is no just reason to fear the commission of the offense, the defendant shall be discharged; and if the judge is of the opinion that the prosecution was commenced maliciously without proper cause, he may give judgment against the complainant for the costs of the prosecution. If, however, the court finds there is just reason to fear the commission of such offense, the person complained of may be required to enter into an undertaking in a sum fixed by the court, not exceeding \$500, to keep the peace toward Pohnpei and particularly toward the complainant. The defendant shall deposit the sum fixed in cash with the Clerk of the Pohnpei Supreme Court who may grant him permission to give bond in the same amount with one or more sufficient sureties. The undertaking to keep the peace shall be valid and binding for six months, and may upon the renewal of the complaint be extended for a longer period.

(3) If the court finds, after hearing, that the defendant has violated his undertaking to keep the peace, the court may direct a forfeiture of the whole or such part of the deposit or bond as it appears that justice requires, and may enforce such forfeiture in the same manner as a forfeiture of bail in a criminal case.

(4) If the defendant fulfills his undertaking to keep the peace, he may claim his deposit from the Clerk upon presentation of receipt.

Source: S.L. No. 3L-89-95 §6-21, 4/6/95

CHAPTER 5 OFFENSES AGAINST THE PERSON

Section

Part A [Reserved – General provisions]

5-101 – 5-110 [Reserved]

Part B Criminal homicide

5-111 Murder

5-113 Negligent homicide

5-112 Manslaughter

5-114 – 5-120 [Reserved]

Part C Kidnapping; criminal coercion

5-121 Kidnapping

5-126 Criminal coercion

5-122 – 5-125 [Reserved]

5-127 – 5-130 [Reserved]

Part D Criminal assaults and related offenses

5-131 Mayhem

5-134 Assault and battery

5-132 Assault or assault and battery with a
dangerous weapon

5-135 Assault

5-133 Felonious assault and battery

5-136 – 5-140 [Reserved]

Part E Sexual offenses

5-141 Sexual assault

5-143 Indecent exposure

5-142 Sexual abuse

5-144 – 5-150 [Reserved]

Part F Criminal libel

5-151 Criminal libel

5-152 – 5-160 [Reserved]

Part G Extortion

5-161 Extortion

5-162 – 5-170 [Reserved]

Part H Reckless endangerment

5-171 Reckless burning

PART A [RESERVED – GENERAL PROVISIONS]

§§5-101 – 5-110. [RESERVED]

PART B CRIMINAL HOMICIDE

§5-111. Murder. — Except as provided in §5-112(2), every person who unlawfully causes the death of another human being under the following circumstances shall be guilty of murder, and upon conviction thereof shall be imprisoned for a minimum period of ten years and a maximum period of life. A person is guilty of murder when he has acted:

- (1) Intentionally or knowingly; or
- (2) Recklessly under circumstances manifesting extreme indifference to the value of human life.

Source: S.L. No. 3L-89-95 §6-15, 4/6/95

§5-112. Manslaughter. — Every person who unlawfully causes the death of another human being under the following circumstances shall be guilty of manslaughter, and upon conviction thereof shall be imprisoned for a period of not more than ten years. A person is guilty of manslaughter when:

(1) He has acted recklessly; or

(2) A homicide that would otherwise be murder is committed under influence of extreme mental or emotional disturbance for which there is reasonable explanation or excuse. The reasonableness of such explanation or excuse shall be determined from the viewpoint of a person in the defendant's situation under the circumstances as he believes them to be.

Source: S.L. No. 3L-89-95 §6-11, 4/6/95

§5-113. Negligent homicide. —

(1) Every person who negligently causes the death of another human being shall be guilty of negligent homicide, and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined not more than \$5,000, or both such fine and imprisonment.

(2) A person acts negligently when he should be aware of a substantial and unjustifiable risk that serious bodily harm or death will result from his conduct. The risk must be of such a nature and degree that the defendant's failure to perceive it, considering the nature and the purpose of his conduct and the circumstances known to him, involves gross deviation from the standard of care that a reasonable person would observe in the defendant's situation.

Source: S.L. No. 3L-89-95 §6-17, 4/6/95

§§5-114 – 5-120. [RESERVED]

PART C KIDNAPPING; CRIMINAL COERCION

§5-121. Kidnapping. —

(1) Every person who unlawfully removes another from his place of residence or business or a substantial distance from the vicinity where he is found, or unlawfully confines another for a substantial period in a place of isolation, shall be guilty of kidnapping if such action is taken with any of the following purposes:

(a) To hold for ransom or reward, or as a shield or hostage; or

(b) To facilitate commission of any felony or flight thereafter; or

(c) To inflict bodily injury on or to terrorize the victim or another; or

(d) To interfere with the performance of any government or political function.

(2) A removal or confinement is unlawful under this section if it is accomplished by force, threat or deception or in the case of a person who is under the age of 14 or incompetent without the consent of a parent, guardian or other person responsible for general supervision of his welfare.

(3) A person convicted under this section shall be punished:

(a) By imprisonment for a maximum term of eight years unless the person committing the offense voluntarily releases the victim alive and in a safe place prior to trial; or

(b) Otherwise, by imprisonment for not more than five years.

Source: S.L. No. 3L-89-95 §6-9, 4/6/95

§§5-122 – 5-125. [RESERVED]

§5-126. Criminal coercion. —

(1) Every person who intentionally compels or induces another person to engage in conduct from which he has a legal right to abstain or to abstain from conduct in which he has a legal right to engage

shall be guilty of criminal coercion if such action instills in him a fear that, if the demand is not complied with, the defendant or a third person will:

- (a) Commit any felony offense; or
- (b) Accuse anyone of a felony offense; or
- (c) Expose any secret or publicize any asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or
- (d) Reveal any information sought to be concealed by the person; or
- (e) Testify or provide information or withhold testimony or information with respect to any person's legal claim or defense; or
- (f) Take or withhold action as a public servant or cause a public servant to take or withhold such action.

(2) A person convicted under this section shall be punished:

- (a) If a dangerous weapon is used to instill fear, by imprisonment for a period of not more than ten years or by fine of not more than \$8,000, or both such fine and imprisonment; or
- (b) Otherwise, by imprisonment for not more than five years or by fine of not more than \$5,000, or both such fine and imprisonment.

(3) It is a defense to a prosecution under Paragraphs (b), (c), (d), and (f) of Subsection (1) of this section that the defendant believed the threatened accusation or exposure to be true or the proposed action of a public servant justified, and that his sole intention was to compel or induce the victim to take reasonable action to prevent or remedy the wrong which was the subject of the threatened accusation, exposure or action of a public servant.

Source: S.L. No. 3L-89-95 §7-9, 4/6/95

§§5-127 – 5-130. [RESERVED]

PART D CRIMINAL ASSAULTS AND RELATED OFFENSES

§5-131. Mayhem. — Every person, with intent to maim or disfigure, who cuts, bites or slits the nose, ear or lip, or cuts off or disables the tongue, or puts out or destroys an eye, or cuts off or disables a limb or any member of another person, shall be guilty of mayhem and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-13, 4/6/95

§5-132. Assault or assault and battery with a dangerous weapon. — Every person who unlawfully commits any assault or assault and battery upon another by means of a dangerous weapon shall be guilty of assault or assault and battery with a dangerous weapon and upon conviction thereof shall be:

- (1) Imprisoned for a term of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment, if bodily injury occurs; or
- (2) Imprisoned for a term of not more than five years or fined not more than \$5,000, or both such fine and imprisonment, if no bodily injury occurs.

Source: S.L. No. 3L-89-95 §6-5, 4/6/95

§5-133. Felonious assault and battery. — Every person who unlawfully and intentionally strikes, beats, wounds or otherwise does serious bodily harm to another shall be guilty of felonious assault and battery, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment

Source: S.L. No. 3L-89-95 §6-3, 4/6/95

§5-134. Assault and battery. — Every person who recklessly or unlawfully and intentionally strikes, beats, wounds or otherwise does bodily harm to another shall be guilty of assault and battery, and upon conviction thereof shall be imprisoned for a period of not more than two years or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-2, 4/6/95

§5-135. Assault. — Every person who unlawfully and intentionally offers or attempts, with force or violence, to strike, beat, wound or to do bodily harm to another, shall be guilty of assault, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-1, 4/6/95

§§5-136 – 5-140. [RESERVED]

PART E SEXUAL OFFENSES

§5-141. Sexual assault. —

(1) Every person who intentionally subjects another person to sexual contact or penetration, or forces another person to make a sexual contact or penetration on himself or another, or on a beast, without the other person's consent, or under conditions in which the defendant knows or should know that the other person is mentally or physically incapable of resisting or understanding the nature of his conduct shall be guilty of sexual assault and upon conviction thereof shall be punished as follows:

(a) If serious bodily or psychological injury to the victim results or the defendant is aided or abetted by one or more accomplices, or a dangerous weapon was used by the defendant or an accomplice in such a manner as to cause the victim to submit to the sexual assault, by imprisonment for a period of not more than ten years or fine of not more than \$10,000, or both such fine and imprisonment.

(b) Otherwise, by imprisonment for a period of not more than five years or fine of not more than \$5,000, or both such fine and imprisonment.

(2) A defendant may not be convicted of a sexual assault if the defendant and complainant were cohabitating in an ongoing voluntary sexual relationship at the time of the alleged offense, or if the complainant is the defendant's spouse, unless:

(a) The defendant was an accomplice or accessory to the sexual assault by a third person; or

(b) At the time of the sexual assault the married couple were either living apart and one of them had filed an action for separate maintenance or divorce or were no longer husband and wife under custom and tradition.

(3) As used in this section:

(a) "Serious bodily injury" means bodily injury which creates a high probability of death or which causes serious permanent disfigurement or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other bodily injury of like severity.

(b) "Serious psychological injury" means psychological or emotional damage that requires protracted psychological treatment or is characterized by extreme behavioral changes or severe physical symptoms.

(4) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio or anal intercourse, or the causing of penetration to any extent and with any object of the genital or anal openings of another whether or not there is any emission.

Source: S.L. No. 3L-89-95 §8-15, 4/6/95

§5-142. Sexual abuse. —

(1) Every person who intentionally has sexual contact or sexual penetration with another person who is 15 years old or less or causes such a person to have sexual contact or sexual penetration with him shall be guilty of sexual abuse and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

(2) It is an affirmative defense that the defendant reasonably believed the child to be older than 15.

(3) “Sexual contact” means any touching of the sexual or other intimate parts of a person not married to the defendant, done with the intent of gratifying the sexual desire of either party. “Sexual penetration” means sexual intercourse, cunnilingus, fellatio or anal intercourse, or the causing of penetration to any extent and with any object of the genital or anal openings of another person not married to the defendant whether or not there is any emission.

Source: S.L. No. 3L-89-95 §8-13, 4/6/95

§5-143. Indecent exposure. —

(1) Every person who exposes all or substantially all of his or her genitals for entertainment purposes in any public place shall be guilty of indecent exposure and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

(2) For purposes of this section:

(a) The term “genitals” shall refer to the external sexual organs of any person, but shall not be construed to include the female breasts.

(b) “Public place” shall mean a place to which the general public has a right to resort.

Source: S.L. No. 3L-89-95 §8-5, 4/6/95

§§5-144 – 5-150. [RESERVED]**PART F CRIMINAL LIBEL**

§5-151. Criminal libel. — Every person who unlawfully, willfully, knowingly or with reckless disregard for the truth, and maliciously, speaks, writes, prints or in any other manner publishes material which falsely exposes another person to hatred, contempt or ridicule, shall be guilty of criminal libel, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §5-1, 4/6/95

§§5-152 – 5-160. [RESERVED]**PART G EXTORTION**

§5-161. Extortion. — Every person who obtains the property of another by threatening to inflict bodily injury on any one or commit any other criminal offense shall be guilty of theft by extortion, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-13, 4/6/95

§§5-162 – 5-170. [RESERVED]

PART H RECKLESS ENDANGERMENT

§5-171. Reckless burning. — Every person who unlawfully and intentionally starts a fire or causes an explosion under the following circumstances shall be guilty of reckless burning, and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment. A person is guilty of reckless burning when he starts a fire or causes an explosion, whether on his own property or that of another and thereby recklessly:

- (1) Places another person in danger of death or bodily injury; or
- (2) Places a building or occupied structure of another in danger of damage or destruction.

Source: S.L. No. 3L-89-95 §7-3, 4/6/95

CHAPTER 6 OFFENSES AGAINST PROPERTY RIGHTS

Section

Part A [Reserved – General provisions]

6-101 – 6-110 [Reserved]

Part B Burglary and other offenses of intrusion

6-111 Burglary

6-115 Trespass

6-112 – 6-114 [Reserved]

6-116 – 6-120 [Reserved]

Part C Criminal damage to property

6-121 Arson

6-123 Malicious mischief

6-122 Fraudulent destruction, removal or concealment of instruments

6-124 – 6-130 [Reserved]

Part D Robbery

6-131 Robbery

6-132 – 6-140 [Reserved]

Part E Theft and related offenses

6-141 Grand larceny

6-150 Petit larceny

6-142 Embezzlement

6-151 Unlawful issuance of bank checks or drafts

6-143 Theft by failure to make required disposition of funds received

6-152 Larceny from a building or occupied structure

6-144 Theft of services

6-153 & 6-154 [Reserved]

6-145 Misuse of credit or debit cards

6-155 Unauthorized use of a vehicle or vessel

6-146 Theft of property lost, mislaid or delivered by mistake

6-156 Theft of utilities services; damaging or altering a meter

6-147 Cheating

6-157 Theft

6-148 [Reserved]

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PART A [RESERVED – GENERAL PROVISIONS]

§§6-101 – 6-110. [RESERVED]

PART B BURGLARY AND OTHER OFFENSES OF INTRUSION

§6-111. Burglary. —

(1) Every person who enters the building or occupied structure of another with the intent to commit any felony, assault or larceny therein, unless the premises are at the time open to the public or the person is licensed or privileged to enter, shall be guilty of burglary, and upon conviction thereof shall be:

(a) Imprisoned for a period of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment, if the defendant or an accomplice inflicts bodily injury on anyone or is armed with a dangerous weapon at any time during the entry; or

(b) Otherwise, imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

(2) A person may be convicted both for burglary and the offense that it was his purpose to commit after the burglarious entry or for an attempt to commit that offense.

Source: S.L. No. 3L-89-95 §7-5, 4/6/95

§§6-112 – 6-114. [RESERVED]

§6-115. Trespass. — Every person who unlawfully violates or interferes with the peaceful use and possession of the dwelling house, premises or property of another, whether by force or by stealth, shall be guilty of trespass, and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-47, 4/6/95

§§6-116 – 6-120. [RESERVED]

PART C CRIMINAL DAMAGE TO PROPERTY

§6-121. Arson. — Every person who unlawfully and intentionally starts a fire or causes an explosion under the following circumstances shall be guilty of arson, and upon conviction thereof shall be imprisoned for a period of not more than eight years, or fined not more than \$8,000, or both such fine and imprisonment. A person is guilty of arson when:

(1) He destroys a building or occupied structure of another;

(2) He destroys or damages any property, whether his own or another's, to collect insurance from such loss. It shall be an affirmative defense to prosecution under this subsection that the behavior did not recklessly endanger any building or occupied structure of another, or place any person in danger of death or bodily injury.

Source: S.L. No. 3L-89-95 §7-1, 4/6/95

§6-122. Fraudulent destruction, removal or concealment of instruments. — Every person who, with purpose to deceive or injure anyone, destroys, removes or conceals any will, deed, mortgage, security instrument or other writing shall be guilty of fraudulent destruction, removal or concealment of instruments and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-17, 4/6/95

§6-123. Malicious mischief. — Every person who unlawfully destroys, damages, or otherwise injures property belonging to another, including the property of the Pohnpei Government or a local government of Pohnpei, or who unlawfully and with willful intent to deface or destroy the appearance of the property or with reckless disregard for the consequences of his action, throws, discards or scatters upon any public road, street or ground or other land owned, reserved, controlled or maintained, for any purpose other than a public dumping ground, by the Government of Pohnpei, local government or subdivision thereof, any waste material, garbage or other debris, in any form or substance shall be guilty of malicious mischief, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-23, 4/6/95

§§6-124 – 6-130. [RESERVED]

PART D ROBBERY

§6-131. Robbery. —

(1) Every person who takes away anything of value from the person of another, or from the immediate control of another, by use or threatened use of immediate force or violence shall be guilty of robbery and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined not more than \$5,000, or both such fine and imprisonment; or

(2) If the defendant or an accomplice uses a dangerous weapon to obtain the property or inflicts serious bodily injury, the defendant so convicted under this section shall be imprisoned for a period of not more than ten years or fined not more than \$10,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-19, 4/6/95

§§6-132 – 6-140. [RESERVED]

PART E THEFT AND RELATED OFFENSES

§6-141. Grand larceny. — Every person who unlawfully steals, takes, and carries away the personal property of another, of the value of \$5,000 or more, without the owner's knowledge or consent, and with the intent to permanently deprive the owner of its use, shall be guilty of grand larceny, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-19, 4/6/95

§6-142. Embezzlement. — Every person who after having lawfully obtained possession of the personal property of another, takes and carries away said property without the owner's knowledge and consent, and with the intent to permanently deprive the owner of its use, shall be guilty of embezzlement, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-11, 4/6/95

§6-143. Theft by failure to make required disposition of funds received. — Every person who purposely obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition, whether from such property or its proceeds or from his own property in

equivalent amount, shall be guilty of theft by failure to make required disposition of funds received if he deals with the property obtained as his own and fails to make the required payment or disposition and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment. The foregoing applies notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the defendant's failure to make the required payment or disposition. An officer or employee of the Pohnpei Government or of a financial institution is presumed:

- (1) To know any legal obligation relevant to his criminal liability under this section; and
- (2) To have dealt with the property as his own if he fails to pay or account upon lawful demand, or if an audit reveals a shortage or falsification of accounts.

Source: S.L. No. 3L-89-95 §7-45, 4/6/95

§6-144. Theft of services. —

(1) Every person who intentionally obtains services to his own benefit or to the benefit of another not entitled thereto which he knows are only available for compensation by deception, threat, false token or other means to avoid payment for the services, or by knowingly diverting services over which he has control for the disposition thereof to others, shall be guilty of theft of services, and upon conviction thereof shall be imprisoned for a period of not more than ten years, or fined not more than \$5,000, or both such fine and imprisonment.

(2) For purposes of this section, "services" includes labor, professional services, transportation, accommodation in hotels, restaurants or elsewhere, admission to exhibits, receipt of cable television or computer networks, and use of vehicles and other movable property.

Source: S.L. No. 3L-89-95 §7-43, 4/6/95

§6-145. Misuse of credit or debit cards. —

(1) Every person who misuses a credit or debit card to obtain property or services from one or more persons shall be guilty of the misuse of credit or debit cards and upon conviction thereof shall be punished:

(a) If the value of the property or services is \$5,000 or more, by imprisonment for a period of not more than ten years, by a fine of not more than \$10,000, or both such fine and imprisonment; or

(b) If the value of the property or services is less than \$5,000, by imprisonment for a period of not more than three years, by a fine of not more than \$3,000, or both such fine and imprisonment.

(2) A person misuses a credit or debit card if he uses a credit or debit card for the purpose of obtaining property or services with knowledge that:

(a) The card is stolen or forged; or

(b) The card has been revoked or cancelled; or

(c) For any other reason his use of the card is unauthorized by the issuer.

(3) It is an affirmative defense to prosecution under Paragraph (c) of Subsection (2) of this section if the actor proves by a preponderance of the evidence that he had the purpose and ability to meet all obligations to the issuer arising out of his use of the card.

Source: S.L. No. 3L-89-95 §7-27, 4/6/95

§6-146. Theft of property lost, mislaid or delivered by mistake. — Every person who comes into control of property of another that he knows to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient shall be guilty of theft of property lost, mislaid or delivered by mistake if, with purpose to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it, and upon conviction

thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-41, 4/6/95

§6-147. Cheating. — Every person who unlawfully obtains the property, services or money of another by false pretenses, knowing the pretenses to be false, and with the intent thereby to permanently defraud the owner thereof, shall be guilty of cheating, and upon conviction thereof shall be imprisoned for a period of not more than ten years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-7, 4/6/95

§6-148. [RESERVED]

§6-149. Mutiny on a vessel. — Every person who by force, threat of force, or deception, usurps or assists in usurping the command of a vessel in state waters shall be guilty of mutiny on a vessel and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-25, 4/6/95

§6-150. Petit larceny. — Every person who unlawfully steals, takes, and carries away the personal property of another, of the value of more than \$100 but less than \$5,000, without the owner's knowledge or consent, and with the intent to permanently deprive the owner of its use, shall be guilty of petit larceny, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$3,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-31, 4/6/95

§6-151. Unlawful issuance of bank checks or drafts. —

(1) Every person who, for the procurement of any article or thing of value, with intent to defraud, or for the payment of any past-due obligation, or for any other purpose, with intent to deceive, makes, draws, utters or delivers any check, draft or order for payment of money upon a bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft or order in full upon its presentment, shall be guilty of unlawful issuance of bank checks or drafts and upon conviction thereof:

(a) If the value of the property thus obtained be \$1,000 or more, shall be imprisoned for a period of not more than three years or fined not more than \$3,000, or both such fine and imprisonment; and

(b) If the value of the property thus obtained be less than \$1,000, shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

(2) The making, drawing, uttering or delivering by a maker or drawer of a check, draft or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control, is prima facie evidence of his intent to defraud or deceive and of his knowledge of insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five days after receiving notice, orally or in writing, that the check, draft or order was not paid on presentment.

(3) In this section, the word "credit" means an arrangement or an understanding expressed or implied, with the bank or other depository for the payment of that check, draft or order.

Source: S.L. No. 3L-89-95 §7-49, 4/6/95

§6-152. Larceny from a building or occupied structure. — Every person who unlawfully steals, takes and carries away the personal property of another, of value less than \$1,000, from another's building or occupied structure but without the owner's knowledge or consent, and with the intent to permanently deprive the owner of its use, shall be guilty of larceny from a building or occupied structure and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-21, 4/6/95

§§6-153 & 6-154. [RESERVED]

§6-155. Unauthorized use of a vehicle or vessel. —

(1) Every person who, without the permission of the owner thereof or proper authorization, takes any automobile, truck, motorcycle, motorboat, canoe or other vehicle or vessel belonging to another for the purpose of temporarily using or operating said vehicle or vessel, shall be guilty of unauthorized use of a vehicle or vessel and upon conviction thereof, shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

(2) Any person convicted of a violation of Subsection (1) of this section who has previously been convicted under charges separately brought and tried two or more times of a violation of Subsection (1) of this section, and who has been imprisoned as a result of any of those convictions, may be imprisoned for a period of not more than one year or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-51, 4/6/95

§6-156. Theft of utilities services; injuring or altering a meter. — Every person who willfully and knowingly, with intent to injure or defraud, makes or causes to be made any connection with the electric, telephone, water or sewer lines or pipes of any agency or corporation authorized to distribute or collect such services by means of lines, wires, pipes or utilities appliance of any character whatsoever, without the written authority of such agency or corporation, or who knowingly and with like intent, injures, alters or procures to be injured or altered any utilities meter, or obstructs its working, or procures the same to be tampered with or injured, shall be guilty of theft of utilities services, injuring or altering a meter, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-39, 4/6/95

§6-157. Theft. — Every person who unlawfully steals, takes, and carries away the personal property of another, of the value of \$100 or less, without the owner's knowledge or consent, and with the intent to permanently deprive the owner of its use, shall be guilty of theft, and upon conviction thereof shall be imprisoned for a period of not more than three months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-37, 4/6/95

§6-158. Theft of sakau plant. —

(1) Every person who unlawfully steals, takes, exchanges and carries away sakau plants of any size belonging to another person, without the owners knowledge or consent, with the intent to permanently deprive the owner of its use, shall be guilty of theft of sakau plant and upon conviction thereof shall be imprisoned for a period of not less than six months and not more than one year, or fined not less than \$100 dollars and not more than \$1,000, or both such fine and imprisonment; PROVIDED that any person convicted of a violation of this section who has previously been convicted under charges separately brought and tried under this section two or more times within ten years of the previous conviction shall be imprisoned for a period not less than one year and not more

than two years, or fined not less than \$200 dollars and not more than \$2,000, or both such fine and imprisonment.

(2) Each day that a defendant unlawfully takes one or more sakau plants belonging to the same person in violation of this section constitutes a separate offense.

(3) If a defendant is convicted of theft of sakau plant in violation of this section, the court may, in lieu of or in addition to other lawful punishment set forth above, order restitution or compensation to the owner or person damaged or the forfeiture of the sakau plant or product thereof to Pohnpei as prescribed in 64 PC 1-105. In the calculation of restitution or compensation, each sakau plant so unlawfully taken shall be valued by the court at no less than \$100 per plant.

Source: S.L. No. 7L-95-11 §1, 8/1/11

§6-159. [RESERVED]

§6-160. Receiving stolen goods. —

(1) Every person who unlawfully takes into his possession stolen or embezzled property knowing or having good reason to believe said property was stolen or embezzled, shall be guilty of receiving stolen goods, and upon conviction thereof shall be imprisoned for a period of not more than two years or fined not more than \$1,000, or both such fine and imprisonment.

(2) For purposes of this section, “receiving” means acquiring possession, control or title of the property.

Source: S.L. No. 3L-89-95 §7-35, 4/6/95

PART F FORGERY AND RELATED OFFENSES

§6-161. Forgery. —

(1) Every person who forges a writing which is or purports to be a will, deed, contract, release, commercial instrument or other document evidencing, creating, transferring, altering, terminating or otherwise affecting legal relations shall be guilty of forgery, and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

(2) For purposes of this section:

(a) A person forges a writing if, with purpose to defraud or injure anyone, or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone, he:

(i) Alters any writing of another without his authority; or

(ii) Makes, completes, executes, authenticates, issues or transfers any writing so that it purports to be the act of another who did not authorize that act, or to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed; or

(iii) Utters any writing that he knows to be forged in a manner specified in Subparagraphs (i) or (ii) of this paragraph.

(b) “Writing” includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege or identification.

Source: S.L. No. 3L-89-95 §7-15, 4/6/95

§6-162. Possession of forged writing or forgery device. —

(1) Every person who knowingly possesses any forged writing or knowingly brings into Pohnpei, or buys, sells, exchanges, transfers or delivers, or attempts to do so, any forged writing; or makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment or article specifically designed or adopted for use in forged writings, shall be guilty of possession of forged writing or forgery device, and upon conviction thereof shall be imprisoned for a period of not more than five years or fined not more than \$5,000, or both such fine and imprisonment.

(2) For purposes of this section, a forged writing is a document or instrument on whose face is a fraudulent making or alteration which can prejudice another man's rights or the false making or alteration which if genuine might apparently produce or create the foundation of a legal liability.

Source: S.L. No. 3L-89-95 §7-33, 4/6/95

CHAPTER 7
OFFENSES AGAINST THE FAMILY

Section

7-101 Bigamy

7-102 Incest

§7-101. Bigamy. —

(1) Every person who, being legally married, unlawfully and willfully marries another during the tenure of the marriage contract, shall be guilty of bigamy, and upon conviction thereof shall be imprisoned for a period of not more than three years; PROVIDED, HOWEVER, that no person shall be found guilty of bigamy whose wife or husband has been absent for a period of five years, without being known by such person to be alive during that time.

(2) “Legally married” means an existing relationship of husband and wife which is recognized by custom and/or law.

Source: S.L. No. 3L-89-95 §8-1, 4/6/95

§7-102. Incest. — Every person who knowingly and unlawfully engages in sexual intercourse, contact or penetration with another, as defined in §5-142(3), of a relationship of blood or adoption of a grandparent, parent, brother or sister of the full or half blood, or children and their children of said person shall be guilty of incest, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$3,000, or both such fine and imprisonment; PROVIDED, HOWEVER, that the burden of proof of such relationship or affinity shall rest with the prosecution.

Source: S.L. No. 3L-89-95 §8-3, 4/6/95

CHAPTER 8
OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Section

Part A [Reserved – General provisions]

8-101 – 8-110 [Reserved]

Part B Pandering and prostitution

8-111 Pandering

8-113 – 8-120 [Reserved]

8-112 Prostitution

Part C Offenses related to obscenity

8-121 Obscene materials

8-122 – 8-130 [Reserved]

Part D Nuisance

8-131 Nuisance

[PART A RESERVED – GENERAL PROVISIONS]

§§8-101 – 8-110. [RESERVED]

PART B PANDERING AND PROSTITUTION

§8-111. Pandering. —

(1) Every person who engages in conduct that constitutes pandering as defined by this section shall be guilty of pandering and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

(2) Pandering shall be defined as:

(a) Causing, inducing, persuading or encouraging another person by promises, threats, violence or by any device or scheme, to engage in the practice of prostitution; and

(b) Receiving or giving, or agreeing to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution.

Source: S.L. No. 3L-89-95 §8-9, 4/6/95

§8-112. Prostitution. — Every person who engages in the practice of prostitution, or who aids another in the practice of prostitution by hiring such other person for the purpose of having illicit sexual intercourse with the hirer, shall be guilty of prostitution, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment. Prostitution shall be defined as illicit sexual intercourse of a person for hire.

Source: S.L. No. 3L-89-95 §8-11, 4/6/95

§§8-113 – 8-120. [RESERVED]

PART C OFFENSES RELATED TO OBSCENITY

§8-121. Obscene materials. —

(1) *Offenses.* It shall be unlawful for any person, company, corporation, partnership or other entity to:

- (a) Intentionally or knowingly display or distribute any obscene material in a reckless manner about where a child is present who will be offended or alarmed by the display or distribution;
- (b) Intentionally or knowingly sell, commercially distribute, commercially exhibit or possess for sale, display, distribution, commercial distribution or commercial exhibition any obscene or harmful material to a child;
- (c) Intentionally or knowingly transport any obscene or harmful material for purposes of sale, display, distribution, commercial distribution or commercial exhibition to a child;
- (d) Intentionally or knowingly sell, distribute, display, exhibit, commercially distribute or commercially exhibit any harmful material to a child or possess such material for such purposes;
- (e) Hire, employ or otherwise use a child to do or accomplish or assist in doing or accomplishing any act prohibited by this subsection.

(2) *Defense.* It is an affirmative defense to prosecution under Subsection (1) of this section that the actor had or has scientific, educational, governmental or similar justification or that any sale, distribution, display or exhibition was to a child who was accompanied by a consenting parent, guardian or spouse who is an adult. It is not a defense that a child consents to any sale, distribution, display or exhibition or agrees to do or accomplish or assist in doing or accomplishing any act prohibited by Subsection (1) of this section.

(3) *Penalties.* Any person, firm, corporation, partnership or other entity found guilty of any offense as described in Subsection (1) of this section shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

(4) *Definitions.* As used in this section:

- (a) “Obscene” means taken as a whole the dominant theme of material which:
 - (i) Appeals to a prurient interest in sex;
 - (ii) Appeals to a child’s prurient interest in sex;
 - (iii) Is patently offensive because it affronts contemporary community standards relating to the description or representation of sex; and
 - (iv) Does not have any serious literary, artistic, political or scientific merit;
- (b) “Material” means a book, magazine, newspaper or other printed or written matter; a picture, drawing, photograph, motion picture or other pictorial representation; a recording, transcription or mechanical, chemical or electrical reproduction, or other article, equipment or machine;
- (c) “Prurient interest” means a shameful or morbid interest in sex that goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience, the appeal of the subject matter shall be judged with reference to such audience;
- (d) “Distribute” means to transfer possession whether with or without consideration;
- (e) “Commercially distribute” means to transfer possession for valuable consideration;
- (f) “Child” means a person younger than 15 years of age;
- (g) “Harmful material” means material whose dominant theme taken as a whole:
 - (i) Appeals to the prurient interest of a child in sex;

(ii) Is patently offensive to adult contemporary community standards with respect to what is suitable for children; and

(iii) Does not have serious literary, artistic, political or scientific merit for children; and

(h) “Reckless” means a situation wherein a person acts recklessly or is reckless with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of, but consciously disregards, a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.

Source: S. L. No. 3L-89-95 §8-7, 4/6/95

§§8-122 – 8-130. [RESERVED]

PART D NUISANCE

§8-131. Nuisance. — Every person who knowingly and unlawfully maintains or allows to be maintained a condition of things which is prejudicial to the health, comfort, safety, property, sense of decency or morals of Pohnpei shall be guilty of maintaining a nuisance, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §7-29, 4/6/95

CHAPTER 9 OFFENSES AGAINST PUBLIC ORDER

Section

Part A [Reserved – General provisions]
9-101 – 9-110 [Reserved]

Part B Disorderly conduct and related offenses
9-111 Disorderly conduct
9-112 Weapons prohibited in establishments
serving alcoholic beverages

9-113 Appearance in public under the influence of
narcotics, drugs or alcohol

PART A [RESERVED – GENERAL PROVISIONS]

§§9-101 – 9-110. [RESERVED]

PART B DISORDERLY CONDUCT AND RELATED OFFENSES

§9-111. Disorderly conduct. —

(1) A person who, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

- (a) Engages in fighting or in violent, tumultuous or threatening behavior; or
- (b) Makes unreasonable noise; or
- (c) In a public place, uses abusive or obscene language, or makes an obscene gesture; or
- (d) Without lawful authority, disturbs any lawful assembly or meeting of persons; or
- (e) Obstructs vehicular or pedestrian traffic; or
- (f) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
- (g) Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose;

(2) Shall be guilty of disorderly conduct, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-7, 4/6/95

§9-112. Weapons prohibited in establishments serving alcoholic beverages. —

(1) No person in Pohnpei shall be in any bar, pub, nightclub or other establishment that sells alcoholic beverages for consumption on the premises if such person is in immediate possession of any knife with a blade longer than three inches, any ice pick, spear, club, billy, truncheon, rock, chopper stick or any other instrument capable of causing serious injury or death.

(2) The prohibition of this section shall not apply to employees of such establishments who are on duty and whose employment requires the use of knives or ice picks and who possess none of the other objects listed in Subsection (1) of this section.

(3) Every person who violates the prohibition of this section shall be guilty of possession of a prohibited weapon in an establishment serving alcoholic beverages and upon conviction thereof shall

be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-23, 4/6/95

§9-113. Appearance in public under the influence of narcotics, drugs or alcohol. — A person is guilty of appearance in public under the influence of narcotics, drugs or alcohol when he appears in a public place under the influence of narcotics, drugs or alcohol to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §6-8, 4/6/95

CHAPTER 10 OFFENSES AGAINST PUBLIC ADMINISTRATION

Section

Part A [Reserved – General provisions]

10-101 – 10-110 [Reserved]

Part B Obstruction of public administration

10-111 Concealment, removal or alteration of record or process

10-112 Misconduct in public office

10-113 Impersonating a public servant

10-114 False arrest

10-115 – 10-120 [Reserved]

10-121 Compounding a crime

10-122 Duty to report wounds or death

10-123 – 10-130 [Reserved]

Part C Escape

10-131 Escape

10-132 Unlawful rescue

10-133 – 10-140 [Reserved]

Part D Bribery

10-141 Bribery

10-142 – 10-150 [Reserved]

Part E Interference with enforcement of law or judicial or legislative proceedings

10-151 Perjury

10-152 Obstructing justice

10-153 Interference with service of process

10-154 Criminal contempt

Part F Ethics

10-155 Outside employment or financial interest

10-156 Use of state property or information

PART A [RESERVED – GENERAL PROVISIONS]

§§10-101 – 10-110. [RESERVED]

PART B OBSTRUCTION OF PUBLIC ADMINISTRATION

§10-111. Concealment, removal or alteration of record or process. — Every person who willfully and unlawfully conceals, removes, takes away, mutilates, obliterates, alters or destroys, or attempts to do so, or willfully takes and carries away any record or process in or from the executive branch, any court, adjudicatory body, the Legislature or official authorized to issue or serve the same, shall be guilty of tampering with record or process, as the case may be, and upon conviction thereof, shall be

imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-1, 4/6/95

§10-112. Misconduct in public office. — Every public official who does any illegal act under the color of office, or willingly neglects to perform the duties of his office as provided by law, shall be guilty of misconduct in public office, and upon conviction thereof shall be imprisoned for a period of not more than two years or fined not more than \$1,000, or both such fine and imprisonment. For purposes of this section, “public official” includes public officials of the local governments of Pohnpei.

Source: S.L. No. 3L-89-95 §3-13, 4/6/95

§10-113. Impersonating a public servant. — Every person who willfully and unlawfully impersonates a public servant by falsely pretending to be a public servant with purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretence to his prejudice, shall be guilty of impersonating a public servant and upon conviction thereof shall be imprisoned for a period of not more than two years or fined not more than \$500, or both such fine and imprisonment. For purposes of this section, “public servant” includes officers and employees of the local governments of Pohnpei.

Source: S.L. No. 3L-89-95 §3-9, 4/6/95

§10-114. False arrest. — Every person who unlawfully detains another by force and against his will, then and there not being in possession of authority to do so, shall be guilty of false arrest and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-7, 4/6/95

§§10-115 – 10-120. [RESERVED]

§10-121. Compounding a crime. — Every person who, having knowledge that a crime has been, is being, or is about to be committed, unlawfully, knowingly, and willfully agrees for a reward not to report the crime to the appropriate authority shall be guilty of compounding a crime, and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment. This section shall not be construed to prevent any person from offering or accepting in good faith a customary settlement in relation to his offensive action or that of any other person.

Source: S.L. No. 3L-89-95 §2-3, 4/6/95

§10-122. Duty to report wounds or death. —

(1) Every person who gains reliable knowledge of a death or injury resulting from a knife wound, bullet wound, powder burn or sustained in a suspicious or unusual manner or under conditions suggesting poisoning or violence, shall make a report thereof immediately, and in any case within five days of obtaining such knowledge, to any law enforcement official. Said report shall state to the best of the reporter’s knowledge:

- (a) The name and location of the injured or deceased person;
- (b) The date of injury or death, or date of gaining knowledge thereof by an informant, if date of injury or death is unknown;
- (c) The cause and manner of injury or death; and
- (d) The name of the person causing the injury or death.

(2) No person making a report in compliance with this section shall be deemed to have violated the confidential relationship existing between doctor and patient.

(3) Copies of such report shall be furnished without charge to the Pohnpei Public Defender at his request.

(4) Any person violating Subsection (1) of this section shall be guilty of failure to report a wound or death and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §2-7, 4/6/95

§§10-123 – 10-130. [RESERVED]

PART C ESCAPE

§10-131. Escape. — Every person who unlawfully assists any prisoner or any person whose freedom of movement has been restricted by order of the court to depart from lawful custody or place of restriction except by due process of law; or whosoever, being a prisoner or detainee unlawfully and willfully departs from such custody or place of restriction, shall be guilty of escape, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-5, 4/6/95

§10-132. Unlawful rescue. — Every person who unlawfully, knowingly, and willfully provides any assistance to any prisoner or person whose freedom of movement has been restricted by order of the court in flight from lawful custody or place of restriction shall be guilty of unlawful rescue, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-19, 4/6/95

§§10-133 – 10-140. [RESERVED]

PART D BRIBERY

§10-141. Bribery. — Every person who unlawfully and voluntarily attempts to give or receive anything of value in wrongful and corrupt payment for an official act done or not done shall be guilty of bribery, and upon conviction thereof shall be imprisoned for a period of not more than three years, or fined not more than three times the value of the payment received, or both such fine and imprisonment; or, if the value of the payment cannot be determined in dollars, shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §4-1, 4/6/95

§§10-142 – 10-150. [RESERVED]

PART E INTERFERENCE WITH ENFORCEMENT OF LAW OR JUDICIAL OR LEGISLATIVE PROCEEDINGS

§10-151. Perjury. — Every person who takes an oath or any legal substitute therefor before a competent tribunal, or the Legislature or a duly authorized committee thereof, or before any officer, or person, in any case or hearing in which a law of Pohnpei authorizes an oath or any legal substitute therefor to be administered, that he will testify, declare, depose or certify truly, or that any written testimony, deposition or certificate by him subscribed is true, and who willfully and contrary to such oath or legal substitute therefor states or subscribes any material which he does not believe to be true, shall be guilty of perjury, and upon conviction thereof shall be imprisoned for a period of not more than three years or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-17, 4/6/95

§10-152. Obstructing justice. — Every person who unlawfully resists or interferes with any law enforcement officer in the lawful pursuit of his duties, or who unlawfully tampers with witnesses or attempts to prevent their attendance at trials, shall be guilty of obstructing justice, and upon conviction thereof shall be imprisoned for a period of not more than one year or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-15, 4/6/95

§10-153. Interference with service of process. — Every person who knowingly and willfully obstructs, resists or opposes any policeman or other person duly authorized in serving or executing or attempting to serve or execute any process issued by a court or official authorized to issue the same, shall be guilty of interference with service of process and, upon conviction thereof, shall be imprisoned for a period of not more than six months or fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-11, 4/6/95

§10-154. Criminal contempt. — Every person who unlawfully, knowingly, and willfully interferes directly with the operation and function of a court, or the Legislature or a duly authorized meeting of a committee thereof, by open defiance of an order, in or near the courtroom, or legislative chamber or meeting room; or by disturbing the peace in or near the courtroom, legislative chamber or meeting room; or, when a witness, by refusing to answer lawful questions; or resists or refuses, or fails to comply with a lawful order of the court or the Legislature or a duly authorized committee thereof, or interferes with an officer of the court, Legislature or duly authorized committee thereof in the pursuit of his official duties, shall be guilty of criminal contempt and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-3, 4/6/95

PART F ETHICS

§10-155. Outside employment or financial interest. —

(1) No public officer or employee of the Pohnpei Government, as defined by the Pohnpei Ethics Act, Title 9 Chapter 8, shall knowingly and willfully engage in any outside employment, including teaching, lecturing or writing, which may result in a conflict, or apparent conflict, between the private interests of the officer or employee and his official duties and responsibilities.

(2) An officer or employee is free to engage in the same lawful transactions as private citizens except that an officer or employee may not have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with his responsibilities and duties as an officer or employee.

(3) No officer or employee of the Pohnpei Government, as defined by the Pohnpei Ethics Act, Title 9 Chapter 8, may knowingly and willfully engage, either directly or indirectly, in a financial transaction as a result of, or primarily relying upon, information obtained through his position or employment.

(4) Any person who violates any provision of this section shall, in addition to all other civil and criminal penalties prescribed or recognized by law, be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000 or imprisoned not more than 180 days, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-20, 4/6/95

Note: §3-20 was inserted by S.L. No. 5L-11-00 §4-2, 8/1/00.

§10-156. Use of state property or information. —

(1) No public officer or employee of the Pohnpei Government, as defined by the Pohnpei Ethics Act, Title 9 Chapter 8, shall use state property of any kind for any use other than officially approved activities.

(2) No public officer or employee, so defined, shall, directly or indirectly, make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

(3) Any person who violates any provision of this section shall, in addition to all other civil and criminal penalties prescribed or recognized by law, be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000 or imprisoned not more than 180 days, or both such fine and imprisonment.

Source: S.L. No. 3L-89-95 §3-21, 4/6/95

Note: §3-21 was inserted by S.L. No. 5L-11-00 §4-3, 8/1/00. S.L. No. 5L-11-00 §4-1 amendment to Title of Chapter 3 of S.L. No. 3L-89-95, the Pohnpei Crimes Act of 1994 has been omitted.

**CHAPTERS 11 & 12
[RESERVED]**

CHAPTER 13 OBSCENE COMMUNICATIONS

Section

13-101 Prohibited behavior

13-102 Telephone surveillance

§13-101. Prohibited behavior. — Any person who intentionally harasses, annoys, threatens or alarms another person by means of obscene or offensive language or written description communicated, anonymously or otherwise, by telephone or other communication device shall be guilty of harassment via communications systems and upon conviction thereof shall be imprisoned for not more than six months, fined not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 3L-31-93 §1, 3/15/93

§13-102. Telephone surveillance. — Upon submission of a certified affidavit to the Pohnpei Supreme Court by the victim of telephone harassment, the court may order the police and the FSM Telecommunications Corporation to jointly monitor incoming telephone messages, using the best available electronic detection devices, in order to aid in the identification and apprehension of violators of this chapter.

Source: S.L. No. 3L-31-93 §2, 3/15/93

CHAPTER 14 [RESERVED]

CHAPTER 15 FIRE CONTROL

Section

15-101 Fires to clear land; permission required

15-102 Penalties

§15-101. Fires to clear land; permission required. — No fires to clear land, including the burning of stumps, logs, brush, dry grass or fallen timber, shall be started without the prior written permission of the Governor or his authorized representative. Whether authorized by permit or not, no fires shall be started during a heavy wind or without sufficient help present to control the same, and the fire shall be watched by the person setting it, or by his competent agents, until put out.

Source: TTC §765 (1966); 63 TTC §451 (1970); 63 TTC §451 (1980)

§15-102. Penalties. —

(1) A person who, without proper and valid authorization, sets any fire in violation of §15-101 shall be guilty of a misdemeanor, and liable to be fined up to \$100 or imprisoned not more than one month, or both such fine and imprisonment.

(2) A person who, without proper and valid authorization:

(a) Willfully, maliciously or negligently sets on fire or causes to be set on fire any woods, brush, prairies, grass, grain or stubble on any lands not owned, leased or controlled by him, or

(b) Willfully, maliciously or negligently allows a fire to escape from land owned, leased or controlled by him whereby any property of another is injured or destroyed; or

(c) Accidentally sets or causes to be set any fire on land not owned, leased or controlled by him or sets or causes to be set any fire on land owned, leased or controlled by him which spreads to the land of another, and allows such fire to escape from his control without using every effort to extinguish it, shall be deemed guilty of a misdemeanor and liable to be fined not more than \$100 or imprisoned for a period of not more than six months, or both such fine and imprisonment.

(3) Setting such fires or causing or permitting them to be set or allowing them to escape shall be prima facie proof of willfulness, malice or negligence under this section; PROVIDED that nothing herein contained shall apply to a person who in good faith sets a backfire to check a fire already burning; PROVIDED FURTHER, that nothing in this section shall be construed to prohibit the use of food, brush, grass or other vegetable fuels in properly set and controlled cooking, heating or industrial fires.

Source: TTC §766 (1966); 63 TTC §452 (1970); 63 TTC §452 (1980)

CHAPTER 16 MISUSE OF GOVERNMENT PROPERTY

Section

Part A Government Vehicles

16-101 Definitions

16-104 Exemption

16-102 Government vehicles

16-105 Vehicle identification

16-103 Penalties

Part B Credit and Cash Flow Cards

16-106 Prohibition

16-108 Criminal remedies

16-107 Existing cards

16-109 Civil remedies

PART A GOVERNMENT VEHICLES

§16-101. Definitions. —

(1) As used in this part, “vehicle” means any automobile, car, truck, bus, rover, station wagon, jeep, van, cycle, and any other motorized means of overland conveyance and any craft, ship, boat, vessel, and any other motorized means of oversea conveyance.

(2) As used in this part, “government vehicle” means any vehicle owned, leased, operated or otherwise entrusted to the care or custody of the state or any agency, department, bureau, commission, authority, local government or political subdivision of the state.

Source: S.L. No. 2L-90-89 §1, 2/28/89

§16-102. Government vehicles. —

(1) It shall be unlawful for any person to knowingly and willfully operate a government vehicle without having first obtained a government motor vehicle operator’s identification card.

(2) It shall be unlawful for any person to knowingly and willfully possess, operate, occupy or otherwise use government vehicles, wherever situated, without proper authority. Except for circumstances as in Subsection (4) of this section, proper authority shall not include nonofficial or personal uses under any other circumstances.

(3) No person shall knowingly and willfully operate a government vehicle except during regular working hours without a written permit therefor prominently displayed on the dashboard of the vehicle, which permit shall prescribe the times and places of authorized use, authorized operators and passengers, and duration of validity; PROVIDED that permitted vehicles shall be used for causes that are official and governmental in nature and not for any personal and private activities that may include shopping, sakau market, picnicking, parties and other uses that are personal and non-governmental. The permit shall be signed by either the Governor, the Speaker of the Legislature, the Chief Justice of the Pohnpei Supreme Court or the Public Auditor of the Pohnpei Government or in the absence of such official, the person officially acting in such capacity according to the branch of government to which the vehicle is assigned.

(4) Except in emergency cases, no operator of a government vehicle shall knowingly and willfully carry or allow any unauthorized passenger to ride in or upon that vehicle.

(5) Except for local government vehicles, every government vehicle, unless otherwise provided, shall be parked in a central location or locations designated by the Governor at all times it is not in active government use. The Governor shall provide security at said locations for the protection of

such vehicles. No government vehicle may be parked at a private residence nor used as transportation to or from private residences to places of government employment.

(6) No government officer, employee, supervisor or other government employee charged with the care or custody of a government vehicle shall knowingly and willfully or recklessly permit or allow such vehicle to be operated or used in violation of any provision of this section.

Source: S.L. No. 2L-90-89 §2, 2/28/89; S.L. No. 7L-99-11 §1, 8/12/11

§16-103. Penalties. — Any person who violates any provision of this part shall, in addition to all other civil and criminal penalties prescribed or recognized by law, be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000, or imprisoned not more than 60 days, or both such fine and imprisonment.

Source: S.L. No. 2L-90-89 §3, 2/28/89

§16-104. Exemption. — §16-102(3) shall not be applicable to official vehicles assigned for the use of the Governor, Chief Justice, Speaker, the Lieutenant Governor and Public Auditor; PROVIDED that vehicles that are assigned and used for emergency purposes such as ambulances, fire trucks and police vehicles shall also be excluded from §16-102(3).

Source: S.L. No. 2L-90-89 §4, 2/28/89; S.L. No. 7L-99-11 §2, 8/12/11

§16-105. Vehicle identification. — Every government vehicle shall display in a prominent location thereon, a seal, insignia or decal which shall indicate government ownership; PROVIDED that any government vehicle may be operated without such markings when reasonably necessary for law enforcement or police investigations.

Source: S.L. No. 2L-90-89 §5, 2/28/89

PART B CREDIT AND CASH FLOW CARDS

§16-106. Prohibition. — Notwithstanding any internal procurement code or rule which may provide otherwise, no officer or employee of the Pohnpei Government and no officer or employee of any public corporation or other public entity established by Pohnpei law may utilize a credit card or cash flow card, which bears the name of the Pohnpei Government or such public corporation or other entity or the use of which will result in any direct financial charge against the Pohnpei Government or against any public corporation or other public entity established by Pohnpei law, or against any assets thereof, or the use of which will result in any automatic financial deduction or withdrawal from any account or fund of the Pohnpei Treasury or any account or fund of a public corporation or other public entity established by Pohnpei law.

Source: S.L. No. 5L-03-00 §1, 5/31/00

§16-107. Existing cards. — Any person subject to §16-106, in possession of, or having authority over a credit or cash flow card described in §16-106 or after the effective date of this part [*May 31, 2000*], shall, within ten working days following the effective date of this part, render the card unusable and deliver the card, so nullified, to the Governor along with a written report of the steps which have been taken to notify the issuer of the card that the card has been canceled. Said report shall also include a description of all steps being taken to close any lines of credit or debit authority and any outstanding charges that remain on the account or line of credit which the card represents.

Source: S.L. No. 5L-03-00 §2, 5/31/00

§16-108. Criminal remedies. — Following the effective date of this part [*May 31, 2000*], any person who shall knowingly and willfully use or attempt to use any credit card or cash flow card in violation of §16-106 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000, or imprisoned not more than two years, or both so fined and imprisoned.

Source: S.L. No. 5L-03-00 §3, 5/31/00

§16-109. Civil remedies. — Following the effective date of this part [*May 31, 2000*], any person who shall knowingly and willfully use or attempt to use any credit card or cash flow card in violation of §16-106, in addition to such criminal penalties as prescribed by §16-108 and all other sanctions as may be prescribed by law, shall be personally liable to reimburse the Pohnpei Government or public entity upon which the credit or debit is made for all charges and debits and all interest and other fees which may attach thereto, resulting from the use of the card in violation of this part.

Source: S.L. No. 5L-03-00 §4, 5/31/00

CRIMINAL LAW

(Next page is Title 62 divider)

TITLE 62

CRIMINAL PROCEDURE

TITLE 62 CRIMINAL PROCEDURE

CHAPTER

- 1 GENERAL PROVISIONS
- 2 ARRESTS; SEARCH WARRANTS
- 3 RIGHTS OF DEFENDANTS
- 4 PRELIMINARY MATTERS
- 5 BAIL
- 6 TRIAL COURT: CRIMINAL PROCEDURE
- 7 INSANITY
- 8 DISMISSAL
- 9 [RESERVED]
- 10 CRIMINAL EXTRADITION

CHAPTER 1 GENERAL PROVISIONS

Section
1-101 Definitions

§1-101. Definitions. — As used in this title, the following terms shall have the meanings set forth below:

- (1) “Arrest” means placing any person under any form of legal detention by legal authority.
- (2) “Attorney General” means the chief legal officer of the Office of the Attorney General.
- (3) “Citation” means a written order to appear before a court at a time and place named therein to answer a criminal charge briefly described in the citation. It shall contain a warning that failure to obey it will render the accused liable to have a complaint filed against him upon which a warrant of arrest may be issued. The statement of the charge or charges in a citation or a copy thereof may be accepted by the court in place of an information in any misdemeanor tried in the first instance in another court in the state.
- (4) “Complaint” means a statement of the essential facts constituting a criminal offense by one or more persons named or described therein. It shall be made under oath before a court or an official authorized to issue a warrant. It may be either written or oral, but whenever the court or official hearing it deems practicable it shall be reduced to writing, signed by the complainant, and bear a record of the oath signed by the person who administered it. The complaint shall refer to the Code section, ordinance, district order, native custom or other provision of the law that the accused is alleged to have violated, but any error in this reference or its omission may be corrected by leave of court at any time prior to sentence and shall not be ground for reversal of a conviction if the error or omission did not mislead the accused to his prejudice. If a felony is not charged, the court may accept a complaint in lieu of an information.
- (5) “Judge” means a justice of the Pohnpei Supreme Court or a judge of a state court.

(6) "Oath" shall include a solemn affirmation.

(7) "Penal Summons" means a written order summoning a person or persons to appear before a court at a time and place named therein, instead of commanding an arrest. Otherwise it shall meet all the requirements of a warrant. It shall contain a warning that failure to obey it will render the accused liable to arrest upon a warrant.

(8) "Personal Recognizance" means a promise made before an official authorized to accept bail that in consideration of the release of the person he will appear in accordance with all orders of the court and that if he fails to do so he will pay a stated sum of money.

(9) "Policeman" means any member of the state police or any person authorized by the Governor to act as a policeman.

(10) "Search Warrant" means a written order directed to a policeman, commanding him to search for and, if found, to seize and bring before a particular court or official certain articles supposed to be in the possession of a person or at a place named or described in the search warrant. It shall be signed by the Clerk of Court or by the official issuing it, and shall state the grounds or probable cause for its issuance and the name of the person or persons whose statements, under oath, have been taken in support thereof. It shall designate the court or official to whom it shall be returned.

(11) "Warrant of Arrest" means a written order commanding that a person or persons be arrested and brought without unnecessary delay before a court named therein, or otherwise dealt with according to law. It shall be signed by the clerk of the court or by the official issuing it and shall contain the name of the accused, or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall describe the criminal offense charged and may do so by referring to either the original or a copy of the complaint or information attached to or on the same sheet as the warrant. Except where otherwise indicated, the word "Warrant" in this title refers to a "Warrant of Arrest."

Source: TTC §445 (1966); 12 TTC §1 (1970); 12 TTC §1 (1980)

Note: Original Subsection (9) has been omitted.

CHAPTER 2 ARRESTS; SEARCH WARRANTS

Section

Part A Arrests

2-101 Process obligatory upon police
 2-102 Limitation of arrests without a warrant
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 2-104 Warrant or penal summons upon complaint
 2-105 Investigation of complaint in doubtful cases
 2-106 Use of penal summons in lieu of warrant of arrest
 2-107 Execution of warrants and service of penal summons
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Part B Search Warrants

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 2-129 Filing of search warrant and accompanying papers
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 2-131 Entering building or ship to execute search warrant
 2-132 Motion for return of property and to suppress evidence
 2-133 Sale of perishable property
 2-134 Effect of irregularities in proceedings to issue search warrant

PART A ARRESTS

§2-101. Process obligatory upon police. —

(1) All process in any criminal proceeding, in all contempt proceedings, and in juvenile delinquency proceedings, issued in accordance with law and the rules of procedure prescribed in accordance with law, shall be obligatory upon all policemen having knowledge thereof, and any policeman to whom such process is given shall promptly make diligent effort to execute or serve the same either personally or through another policeman.

(2) This section shall cover orders to show cause why a person should not be adjudged in contempt, orders of attachment of a person, summons, and all other orders (including an oral order in place of any of the foregoing), issued in either civil contempt proceedings or juvenile delinquency proceedings, as well as all forms of process in criminal proceedings.

Source: TTC §489 (1966); 12 TTC §51 (1970); 12 TTC §51 (1980)

§2-102. Limitation of arrests without a warrant. — No arrest of any person shall be made without first obtaining a warrant therefor, except in the cases authorized in this chapter or as otherwise provided by law.

Source: TTC §456 (1966); 12 TTC §52 (1970); 12 TTC §52 (1980)

§2-103. Authority to issue a warrant of arrest. — The following officials are authorized to issue a warrant of arrest:

- (1) Any court;
- (2) Any judge;
- (3) The Clerk of the Pohnpei Supreme Court, subject to such limitations as the Chief Justice of the Supreme Court may impose; and
- (4) Any other person authorized in writing by the Governor, and a certified copy of whose authorization is filed with the Clerk of the Pohnpei Supreme Court.

Source: TTC §446 (1966); 12 TTC §53 (1970); 12 TTC §53 (1980)

§2-104. Warrant or penal summons upon complaint. —

(1) Any person, other than the Attorney General, desiring the issuance of a warrant of arrest for a criminal offense shall personally appear and make a complaint before an official authorized to issue a warrant.

(2) If the complaint states the essential facts constituting a criminal offense by one or more persons named or described therein, and if, in the opinion of the official, there is probable cause to believe or strongly suspect that the offense complained of has been committed by such person or persons, the official may issue his warrant for the arrest of such person or persons, or may issue a penal summons as provided in this chapter.

(3) Any official, other than a justice of the Pohnpei Supreme Court, may refuse to act if he deems that the public interest does not require action before the matter can reasonably be presented to a justice of the Supreme Court.

Source: TTC §448 (1966); 12 TTC §54 (1970); 12 TTC §54 (1980)

§2-105. Investigation of complaint in doubtful cases. —

(1) If a justice of the Pohnpei Supreme Court, before whom a complaint is made, is doubtful whether sufficient grounds in fact exist for the issuance of a warrant or penal summons, he may, if the complainant consents, refer the complaint to the state police for investigation and report, and withhold action for a reasonable time pending such report.

(2) If the complainant does not consent to such a reference, or if the report of investigation is not received within a reasonable time, the judge shall proceed to examine under oath the complainant, any witnesses offered by the complainant and such other witnesses as the judge deems best, and may, in his discretion, give the accused an opportunity to be present and to be heard.

(3) If the judge is satisfied from the investigation made by the state police, or that made by him as directed in Subsection (2) of this section, that there is probable cause to believe or strongly suspect that the offense complained of has been committed, and that the accused committed it, he shall issue a warrant or a penal summons as provided in this chapter.

Source: TTC §449 (1966); 12 TTC §55 (1970); 12 TTC §55 (1980)

§2-106. Use of penal summons in lieu of warrant of arrest. —

(1) In the case of all criminal offenses for which the lawful punishment does not exceed a fine of \$100 or six months imprisonment, or both such fine and imprisonment, a penal summons to appear before a court at a time and place fixed in the penal summons shall be issued instead of a warrant of arrest, unless it shall appear to the court or official issuing the process that the public interest requires the arrest of the accused.

(2) Upon request of the complainant, a penal summons instead of a warrant may be issued in any case.

(3) If, after a penal summons has been served upon him, the accused fails to appear in response to the penal summons without an excuse known to and deemed adequate by the court named therein, a warrant shall be issued.

Source: TTC §450 (1966); 12 TTC §56 (1970); 12 TTC §56 (1980)

§2-107. Execution of warrants and service of penal summons. — A warrant of arrest shall be executed, or the penal summons served, by a policeman or by a person specifically authorized in the warrant or summons to execute or serve it. The warrant may be executed, or the summons served, at any place within the jurisdiction of the state of Pohnpei. A penal summons shall be served upon the accused by delivering a copy to him personally and orally explaining the substance thereof to him in a language generally understood in the locality and, if practicable, in one understood by the accused, or by leaving it at his dwelling house or usual place of abode or of business with some person of suitable age and discretion then residing or employed therein and orally explaining the substance thereof.

Source: TTC §451 (1966); 12 TTC §57 (1970); 12 TTC §57 (1980)

§2-108. Return of service. —

(1) The person executing a warrant shall endorse thereon and sign a statement of the arrest showing the date and place of arrest and shall have such warrant delivered to the court or official before whom the accused is brought pursuant to §2-117, or to the court named in the warrant if the accused is released on bail or personal recognizance before being brought before a court or official.

(2) At or before the time stated in a penal summons for appearance of the accused, the person to whom a penal summons is delivered for service shall endorse and sign a report of his action thereon and have such summons delivered to the court named therein. If he has served the summons, his report shall show the date, place, and method of service.

Source: TTC §452 (1966); 12 TTC §58 (1970); 12 TTC §58 (1980)

§2-109. [RESERVED]

§2-110. Issuance of warrant or penal summons on information. — The Attorney General may file an information signed by him in any court competent to try the accused for a criminal offense or offenses charged therein. If the information states the essential facts constituting a criminal offense or offenses by one or more persons named or described therein and is supported by one or more written statements under oath showing to the satisfaction of the court that there is probable cause to believe or strongly suspect that the offense complained of has been committed by such person or persons, the court shall, upon request of the Attorney General, issue its warrant or penal summons as upon a complaint.

Source: TTC §454 (1966); 12 TTC §60 (1970); 12 TTC §60 (1980)

§2-111. Authority to arrest without warrant. — Arrest without a warrant is authorized in the following situations:

(1) Where a breach of the peace or other criminal offense has been committed, and the offender shall endeavor to escape, he may be arrested by virtue of an oral order of any official authorized to issue a warrant, or without such order if no such official be present.

(2) Anyone in the act of committing a criminal offense may be arrested by any person present, without a warrant.

(3) When a criminal offense has been committed, and a policeman has reasonable ground to believe that the person to be arrested has committed it, such policeman may arrest the person without a warrant.

(4) Policemen, even in cases where it is not certain that a criminal offense has been committed, may, without a warrant, arrest and detain for examination persons who may be found under such circumstances as justify a reasonable suspicion that they have committed or intend to commit a felony.

Source: TTC §457 (1966); 12 TTC §61 (1970); 12 TTC §61 (1980)

§2-112. Use of citations. — A policeman in any case in which he may lawfully arrest a person without a warrant, may, subject to such limitations as his superiors may impose, issue, and serve a citation upon the person instead of making an arrest, if he deems that the public interest does not require an arrest.

Source: TTC §455 (1966); 12 TTC §62 (1970); 12 TTC §62 (1980)

§2-113. Complaints in cases of arrest without warrant. — When a person arrested without a warrant is brought before a court or official authorized to issue a warrant, a complaint shall be made against him forthwith, if that has not already been done.

Source: TTC §465 (1966); 12 TTC §63 (1970); 12 TTC §63 (1980)

§2-114. Arrested person to be informed of cause and authority of arrest. —

(1) Any person making an arrest shall, at or before the time of arrest, make every reasonable effort to advise the person arrested as to the cause and authority of the arrest.

(2) A policeman making an arrest by virtue of a warrant need not have the warrant in his possession at the time of the arrest, but, after the arrest, the person arrested may request to see the warrant, and that shall be shown to him as soon as possible.

Source: TTC §458 (1966); 12 TTC §64 (1970); 12 TTC §64 (1980)

Note: The Editor's note following 12 TTC §64 (1970) states "Based upon Trust Territory Code, 1966 ed., §458. Extensive changes have been made in phraseology." See Public Law 3C-51, §1 and §3.

§2-115. Use of force in making arrest. — In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel submission.

Source: TTC §459 (1966); 12 TTC §65 (1970); 12 TTC §65 (1980)

§2-116. Disposition of persons arrested by private persons. — Any private person making an arrest shall deliver the arrested person to a policeman or an official authorized to issue a warrant without unnecessary delay and shall explain the cause of the arrest. Except where transportation difficulties are involved, or neither a policeman nor an official authorized to issue a warrant can be located promptly, such delay should not extend beyond a few hours during the daytime or early evening nor beyond ten o'clock on the following morning in the case of persons arrested during the nighttime.

Source: TTC §462 (1966); 12 TTC §66 (1970); 12 TTC §66 (1980)

§2-117. Disposition of arrested persons by policeman. — Persons arrested by a policeman, except under §2-111(4), or delivered to him after arrest by a private person, shall be brought without unnecessary delay before a court competent to try the offender for the criminal offense charged, subject to the following:

(1) If bail has been fixed, it shall be accepted and the arrested person released to appear in accordance with all orders of the court named in the warrant or any court to which the case may be transferred. Reasonable opportunity to raise bail shall be afforded by permitting the person arrested to send a message or messages through a policeman or other persons by telephone, cable, wireless, messenger or other expeditious means, to any person likely to assist in securing bail; PROVIDED, that such message can be sent without expense to the government or that the arrested person prepays any expense there may be to the government.

(2) If it appears that it will not be practicable to bring the arrested person promptly before a court competent to try him for the offense charged, and he has not been released on bail or personal recognizance, he shall be brought before an official authorized to issue a warrant without unnecessary delay. This official shall commit the arrested person, discharge him, or release him on bail or personal recognizance as provided in this title. Whenever a judge of a state court is available, the arrested person shall be brought before such a judge in preference to any other official authorized to issue a warrant.

Source: TTC §463 (1966); 12 TTC §67 (1970); 12 TTC §67 (1980)

§2-118. Rights of persons arrested. —

- (1) In any case of arrest, or arrest for examination, as provided by §2-111(4), it shall be unlawful:
- (a) To deny to the person so arrested the right to see at reasonable intervals, and for a reasonable time at the place of his detention, counsel, or members of his family, or his employer, or a representative of his employer;
 - (b) To refuse or fail to make a reasonable effort to send a message by telephone, cable, wireless, messenger or other expeditious means, to any person mentioned in Subsection (1) of this section, provided the arrested person so requests and such message can be sent without expense to the government or the arrested person prepays any expense there may be to the government;
 - (c) To fail either to release or charge such arrested person with a criminal offense within a reasonable time, which under no circumstances shall exceed twenty-four hours; and
 - (d) For those having custody of one arrested, before questioning him about his participation in any crime, to fail to inform him of his rights and their obligations under Paragraphs (a) through (c) of this subsection.
- (2) In addition, any person arrested shall be advised as follows:
- (a) That the individual has a right to remain silent;
 - (b) That the police will, if the individual so requests, endeavor to call counsel to the place of detention and allow the individual to confer with counsel there before he is questioned further, and allow him to have counsel present while he is questioned by the police if he so desires; and
 - (c) That the services of the public defender, when in the vicinity of his local representative, are available for these purposes without charge.

Source: TTC §464 (1966); 12 TTC §68 (1970); 12 TTC §68 (1980)

§2-119. Effect of irregularities in issuance of warrant of arrest. — The proceedings before a court or an official authorized to issue a warrant of arrest shall not be invalidated, nor any finding, order, or sentence set aside, for any error or omission, technical or otherwise, occurring in such proceedings, unless in the opinion of the reviewing authority, or a court hearing the case on appeal or otherwise, it shall appear that the error or omission has prejudiced the accused.

Source: TTC §497 (1966); 12 TTC §69 (1970); 12 TTC §69 (1980)

§2-120. Effect of violation of title. — No violation of this title shall in and of itself entitle an accused to an acquittal, but no evidence obtained as a result of such violation shall be admissible against the accused; PROVIDED, that any person detained in custody in violation of any provision of this title may, upon motion by any person on his behalf, and after such notice as the court may order, be released from custody by the court named in the warrant, or before which he has been held to answer. The release shall be upon such terms as the court may deem law and justice require. The relief authorized by this section shall be in addition to, and shall not bar, all forms of relief to which the arrested person may be entitled by law.

Source: TTC §§498 & 499 (1966); 12 TTC §70 (1970); 12 TTC §70 (1980)

PART B SEARCH WARRANTS

§2-121. Searches and seizures in connection with arrests. —

(1) Every person making an arrest may take from the person arrested all offensive weapons which he may have about his person and may also search the person arrested and the premises where the arrest is made, so far as the premises are controlled by the person arrested, for the instruments, fruits, and evidences of the criminal offense for which the arrest is made, and, if found, seize them.

(2) Any property taken or seized shall be promptly delivered to a policeman or an official authorized to issue a warrant, to be disposed of according to law.

(3) No search warrant shall be required for the actions authorized by this section.

Source: TTC §460 (1966); 12 TTC §101 (1970); 12 TTC §101 (1980)

§2-122. Forcing entrance to make arrest. — Whenever it is necessary to enter a building or ship to make an arrest and entrance is refused, any person making an arrest for a felony committed in his presence or a policeman making an arrest may force an entrance. Before breaking any door or other barrier, he shall first demand entrance in a loud voice and state that he desires to execute a warrant of arrest or an oral order in place of a warrant, or, if it is a case in which arrest is lawful without a warrant, he must substantially state that information in a loud voice. Whenever practicable, this demand and statement shall be made in a language generally understood in the locality.

Source: TTC §461 (1966); 12 TTC §102 (1970); 12 TTC §102 (1980)

§2-123. Authority to issue a search warrant. — The following officials are authorized to issue a search warrant:

(1) Any court;

(2) Any judge;

(3) The Clerk of the Pohnpei Supreme Court subject to such limitations as the Chief Justice of the Supreme Court may impose; and

(4) Any other person authorized in writing by the Governor, provided a certified copy of such authorization is filed with the Clerk of the Supreme Court.

Source: TTC §446 (1966); 12 TTC §103 (1970); 12 TTC §103 (1980)

§2-124. Property for which search warrant may be issued. —

(1) Except where otherwise expressly authorized by law, search warrants shall be issued only to search for and seize the following:

(a) Property the possession of which is prohibited by law; or

(b) Property stolen or taken under false pretenses or embezzled or found and fraudulently appropriated; or

(c) Forged instruments in writing, or counterfeit coin intended to be passed, or instruments or materials prepared for making them; or

(d) Arms or munitions prepared for the purpose of insurrection or riot; or

(e) Property necessary to be produced as evidence or otherwise on the trial of anyone accused of a criminal offense; or

(f) Property designed or intended for use as, or which is, or has been used as, the means of committing a criminal offense.

(2) The term “property” as used herein includes documents, books, papers, and any other tangible objects.

Source: TTC §477 (1966); 12 TTC §104 (1970); 12 TTC §104 (1980)

§2-125. Procedure for issuance of search warrants. — Anyone desiring the issuance of a search warrant shall personally appear and make application therefor under oath before an official authorized to issue a warrant. The application shall set forth the grounds for issuing the warrant and may be supported by statements of others made under oath before the official. The application and statements may be either written or oral, but, whenever the official hearing the application deems practicable, they shall be reduced to writing, signed by the person or persons making them, and bear a record of the oath signed by the person who administered it. If the official hearing the application is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a search warrant identifying the property and naming or describing the person or place to be searched, except that any official other than a justice of the Pohnpei Supreme Court may refuse to act if he deems that the public interest does not require action before the matter can reasonably be presented to a justice of the Pohnpei Supreme Court.

Source: TTC §478 (1966); 12 TTC §105 (1970); 12 TTC §105 (1980)

§2-126. Contents of search warrant. — A search warrant shall command a policeman to search forthwith the person or place named, for the property specified. The warrant shall direct that it be served in the daytime, except that, if the statements under oath in support of the application are positive that the property is on the person or in the place to be searched, the warrant may, at the discretion of the official issuing it, direct that it be served at any time. It shall designate some official authorized to issue a warrant, to whom it shall be returned, and, whenever consistent with the reasonable expeditious handling of the matter, the official so designated shall be a justice of the Pohnpei Supreme Court. It shall designate the time within which it may be executed and returned. This time shall not exceed ten days, plus whatever time the official issuing the warrant determines will be reasonably required for the policeman to travel to the point where the search is to be made and to return such warrant to the appropriate official.

Source: TTC §479 (1966); 12 TTC §106 (1970); 12 TTC §106 (1980)

§2-127. Execution of search warrant and return with inventory. — The policeman taking property under a search warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken, or shall leave the copy and receipt at the place from which the property was taken. The policeman executing a search warrant shall promptly, upon completion of his search, endorse upon the warrant and sign a brief statement of the action he has taken pursuant to the warrant, showing the date on which the search was made, the person or place searched, the person to whom he gave a copy of the warrant and a receipt for the property taken, or the place where he left the copy and receipt. He shall then deliver the warrant, accompanied by a written inventory of any property taken, and the property seized, to the official before whom the warrant is returnable. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, or in the presence of at least one credible person other than the applicant for the warrant or the person from whose possession or premises the property was taken, and shall be verified by a statement signed and sworn to by the policeman to the effect that the inventory is a true account of all property taken by him under the warrant. The official before whom a search warrant is returned shall, upon request, deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

Source: TTC §480 (1966); 12 TTC §107 (1970); 12 TTC §107 (1980)

§2-128. Hearing upon return of search warrant. — If the grounds on which the warrant was issued are controverted, the official to whom a search warrant is returned shall proceed to take testimony in relation thereto, and the testimony of each witness shall be reduced to writing and subscribed by the witness. If it appears that the property taken is not the same as that described in the warrant or that

there is no probable cause for believing the existence of the grounds on which the warrant was issued, the official must cause the property to be restored to the person from whom it was taken; but if it appears that the property taken is the same as that described in the warrant and that there is probable cause for believing the existence of the grounds on which the warrant was issued, then the official shall order the same retained in the custody of the person seizing it or otherwise disposed of according to law.

Source: TTC §481 (1966); 12 TTC §108 (1970); 12 TTC §108 (1980)

§2-129. Filing of search warrant and accompanying papers. — The official to whom a search warrant is returned shall attach to the warrant the inventory and all other papers in connection therewith, including any order made as to the disposition of the property seized, and shall file such documents with the Clerk of the Pohnpei Supreme Court.

Source: TTC §482 (1966); TTC §109 (1970); TTC §109 (1980)

§2-130. [RESERVED]

Note: TTC §483 (1966); 12 TTC §110 (1970); 12 TTC §110 (1980) refers to oral orders originating with Trust Territory Community Courts and judges.

§2-131. Entering building or ship to execute search warrant. — If a building or ship or any part thereof is designated as the place to be searched, the policeman executing the warrant or oral order in place of a warrant may enter without demanding permission if he finds the building or ship open. If the building or ship be closed, he shall first demand entrance in a loud voice and state that he desires to execute a search warrant or an oral order in place thereof as the case may be. If the doors, gates or other bars to the entrance be not immediately opened, he may force an entrance, by breaking them if necessary. Having entered, he may demand that any other part of the building or ship, or any closet, or other closed space within the place designated in the search warrant in which he has reason to believe the property is concealed, be opened for his inspection, and, if refused, he may break them. Whenever practicable these demands and statements shall be made in a language generally understood in the locality.

Source: TTC §484 (1966); 12 TTC §111 (1970); 12 TTC §111 (1980)

§2-132. Motion for return of property and to suppress evidence. — A person aggrieved by an unlawful search and seizure may move the Trial Division of the Pohnpei Supreme Court for the return of the property and to suppress for use as evidence anything so obtained. The motion to suppress evidence may also be made in the court where the trial is to be held and in which the evidence is sought to be used. The motion shall be made before trial or hearing unless opportunity therefor did not exist before trial or hearing or the accused was not aware of the ground for the motion, but the court in its discretion may entertain the motion at the trial or hearing. Upon such motion the court shall review any order previously made by the official before whom any search warrant, or oral order in place thereof, was returned, and shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored unless otherwise subject to lawful detention, and it shall not be admissible in evidence at any hearing or trial.

Source: TTC §485 (1966); 12 TTC §112 (1970); 12 TTC §112 (1980)

§2-133. Sale of perishable property. — Seized property that is perishable may be ordered sold and the proceeds brought into court.

Source: TTC §490 (1966); 12 TTC §113 (1970); 12 TTC §113 (1980)

§2-134. Effect of irregularities in proceedings to issue search warrant. — The proceedings before a court or an official authorized to issue a search warrant shall not be invalidated, nor any finding, order, or sentence set aside for any error or omission, technical or otherwise, occurring in such proceedings, unless, in the opinion of the reviewing authority or a court hearing the case on appeal or otherwise, it shall appear that the error or omission has prejudiced the accused.

Source: TTC §497 (1966); 12 TTC §114 (1970); 12 TTC §114 (1980)

CRIMINAL PROCEDURE

CHAPTER 3 RIGHTS OF DEFENDANTS

Section

3-101 Rights of defendants

§3-101. Rights of defendants. — Every defendant in a criminal case before a court of the state of Pohnpei shall be entitled:

- (1) To have in advance of trial a copy of the charge upon which he is to be tried;
- (2) To consult counsel before the trial and to have an attorney at law or other representative of his own choosing defend him at the trial;
- (3) To apply to the court for further time to prepare his defense, which the court shall grant if it is satisfied that the defendant will otherwise be substantially prejudiced in his defense;
- (4) To bring with him to the trial such material witnesses as he may desire or to have them summoned by the court at his request;
- (5) To give evidence on his own behalf at his own request at the trial, although he may not be compelled to do so;
- (6) To have proceedings interpreted for his benefit when he is unable to understand them otherwise; and
- (7) To request the appointment of an assessor in trials before the Trial Division of the Pohnpei Supreme Court in the event that one has not been appointed by the trial judge under 4 PC 1-105.

Source: TTC §187 (1966); 12 TTC §151 (1970); 12 TTC §151 (1980)

Note: Reference to 5 TTC §353 (1980) has been superseded by 4 PC 1-105 (S.L. No. 3L-99-95 §1-5, 7/20/95).

CRIMINAL PROCEDURE

CHAPTER 4 PRELIMINARY MATTERS

Section

4-101 Name in which prosecution conducted	4-105 Disposition of the record
4-102 Duties of official at preliminary hearing	4-106 Preliminary examination upon request of person released on bail or personal recognizance
4-103 Plea not to be taken	
4-104 Pre-trial procedure	

§4-101. Name in which prosecution conducted. — All criminal prosecutions shall be conducted in the name of the “state of Pohnpei.”

Source: TTC §486 (1966); 12 TTC §201 (1970); 12 TTC §201 (1980)

§4-102. Duties of official at preliminary hearing. — When an arrested person is brought before an official authorized to issue a warrant but such official is not competent to try the arrested person for the offense charged, the official shall:

- (1) Inform the arrested person of the charge or charges;
- (2) Inform the arrested person of his right to retain counsel and of his right to be released on bail as provided by law, and allow him reasonable time and opportunity to consult counsel, if desired;
- (3) Inform the arrested person of his right to have a preliminary examination, and of his right to waive the examination and the consequences of such waiver;
- (4) Inform the arrested person that he is not required to make a statement and that any statement that he does make may be used against him; and
- (5) Fix the amount of bail as provided by law if the arrested person so requests or alter the bail previously set if the official deems best.

Source: TTC §466(a) (1966); 12 TTC §202 (1970); 12 TTC §202 (1980)

§4-103. Plea not to be taken. — The arrested person shall not be called upon to plead at the preliminary hearing.

Source: TTC §466(b) (1966); 12 TTC §203 (1970); 12 TTC §203 (1980)

§4-104. Pre-trial procedure. —

- (1) If the arrested person does not waive preliminary examination, the official shall hear the evidence within a reasonable time.
- (2) A reasonable continuance shall be granted at the request of the arrested person or the prosecution to permit preparation of evidence. The arrested person has the right to be released on bail as provided by law during the period of a continuance.
- (3) The arrested person may cross-examine witnesses against him and may introduce evidence in his own behalf.
- (4) If the arrested person waives preliminary examination, or if from the evidence it appears to the official that there is probable cause to believe that a criminal offense has been committed and that the arrested person committed it, the official shall forthwith:
 - (a) Hold the arrested person to answer in a court competent to try him for the offense charged;
 - (b) Fix, continue, or alter the bail as provided by law; and
 - (c) If bail is not provided, or a personal recognizance accepted, commit him to jail to await trial.
- (5) If during the preliminary examination it appears to the official that the warrant of arrest, complaint or other statement of the charge or charges does not properly name or describe the person

arrested, or that although not guilty of the offense specified there is probable cause to believe he has committed some other offense, the official shall not discharge such person but shall forthwith hold him to answer for the offense shown by the evidence.

(6) If the arrested person does not waive preliminary examination and from the evidence it does not appear to the official that there is probable cause to believe that a criminal offense has been committed and that the arrested person committed it, the official shall discharge him.

Source: TTC §466(c) (1966); 12 TTC §204 (1970); 12 TTC §204 (1980)

Note: In Subsection (5), following the phrase "or describe the person arrested", the 1966 edition of the TT Code contains the phrase "or does not properly set forth the nature of the offense for which he was arrested". This phrase does not appear in the 1970 or 1980 edition of the TT Code. *See* Public Law 3C-51, §1 and §3.

§4-105. Disposition of the record. — After concluding the proceedings, the official shall transmit forthwith to the Clerk of the Pohnpei Supreme Court all papers in the proceedings and any bail taken by him.

Source: TTC §466(d) (1966); 12 TTC §205 (1970); 12 TTC §205 (1980)

§4-106. Preliminary examination upon request of person released on bail or personal recognizance. — If it appears it will not be practicable to bring an arrested person promptly before a court as indicated in §2-117(2), and he has been released on bail or personal recognizance, he may apply to a justice of the Pohnpei Supreme Court, if one is available, otherwise to any official authorized to issue a warrant, and request a preliminary examination. Thereupon the justice or official shall set a time and place for preliminary examination, give the complainant and accused reasonable notice thereof, and proceed as outlined in §§4-102 through 4-105.

Source: TTC §467 (1966); 12 TTC §206 (1970); 12 TTC §206 (1980)

Note: An error in section numbering in the 1970 Trust Territory Code and repeated in the 1980 Trust Territory Code has been corrected through reference to the original 1966 Trust Territory Code.

CHAPTER 5 BAIL

Section

5-101 Right to bail	5-105 Form and disposition of bail; sufficiency of sureties
5-102 Who may fix bail; allowing bail after conviction	5-106 Modification of bail
5-103 Notice by police of requests to have bail fixed	5-107 Exoneration and release of bail
5-104 Amount of bail	5-108 Personal recognizance

§5-101. Right to bail. —

(1) Any person arrested for a criminal offense, other than murder in the first degree, shall be entitled as a matter of right to be released on bail before conviction; PROVIDED, HOWEVER, that no person shall be so released while he is so under the influence of intoxicating liquor or drugs that there is a reasonable ground to believe he will be offensive to the general public.

(2) A person arrested for murder in the first degree may be released on bail by any judge who is authorized to be assigned by the Chief Justice to sit in the Appellate Division of the Pohnpei Supreme Court; PROVIDED, that the Attorney General shall be given reasonable opportunity to be heard before any application for bail is granted.

Source: TTC §468 (1966); 12 TTC §251 (1970); 12 TTC §251 (1980)

§5-102. Who may fix bail; allowing bail after conviction. — In the case of any person arrested for a criminal offense, other than murder in the first degree, any court or any official authorized to issue a warrant may fix the bail prior to conviction. This may be done at the time of issuing the warrant and endorsed on the warrant or may be done at any time prior to conviction. After conviction bail may be allowed only if a stay of execution of the sentence has been granted and only in the exercise of discretion by a court authorized to order a stay or by a judge thereof.

Source: TTC §469 (1966); 12 TTC §252 (1970); 12 TTC §252 (1980)

§5-103. Notice by police of requests to have bail fixed. — When any arrested person, for whom bail has not been fixed, or to whom bail has been once denied in the case of murder in the first degree, notifies any policeman or jail attendant that he desires to give bail, an official authorized to fix bail shall be promptly notified by the police authorities. The arrested person shall be brought before the official for this purpose if the official so requests.

Source: TTC §470 (1966); 12 TTC §253 (1970); 12 TTC §253 (1980)

§5-104. Amount of bail. — The amount of bail shall be such as, in the judgment of the court or official fixing it, will insure the presence of the accused in the future. The determination of the court or official should take into account the nature and circumstances of the offense charged, the weight of the evidence against him, the financial ability of the accused to give bail, and the character of the accused.

Source: TTC §471 (1966); 12 TTC §254 (1970); 12 TTC §254 (1980)

§5-105. Form and disposition of bail; sufficiency of sureties. — Cash or bonds or notes of the United States of America may be accepted as bail. If a bail bond is given, one or more sureties may be required. A person of good standing in the community who is in a position of moral or customary authority over the accused, such as his father, the head of his extended family group, or the chief of his lineage or clan, may be accepted as surety without the disclosure of property by way of justification, if

the official taking bail or determining the sufficiency of the surety considers that such surety will reasonably guarantee the appearance of the accused. Otherwise, no surety or sureties are to be accepted unless their combined net worth over and above all just debts and obligations is not less than the amount of the bond. Any surety may be required to furnish proof of his sufficiency, either by his own oath or otherwise. If the official to whom the bail is tendered refuses to accept the surety or sureties offered, the question of their sufficiency shall, at the request of the accused, be referred promptly to a judge for determination. The determination of the judge shall be final. Any bail accepted shall be promptly transmitted to the Clerk of the Pohnpei Supreme Court.

Source: TTC §472 (1966); 12 TTC §255 (1970); 12 TTC §255 (1980)

§5-106. Modification of bail. — The court before which a criminal case is pending may, for cause shown, either increase or decrease the bail or require an additional surety or sureties or allow substitution of sureties. If increased bail or an additional surety or sureties is required, the accused may be committed to custody unless he gives bail in the increased amount or furnishes additional surety or sureties as required.

Source: TTC §473 (1966); 12 TTC §256 (1970); 12 TTC §256 (1980)

§5-107. Exoneration and release of bail. — When the condition for which the bail was given has been satisfied, the court shall exonerate the obligors and release any bail. A surety may be exonerated by a deposit of cash in the amount of the bail bond or by a timely surrender of the accused into custody.

Source: TTC §473 (1966); 12 TTC §257 (1970); 12 TTC §257 (1980)

§5-108. Personal recognizance. — In the case of an arrest for any criminal offense, the lawful punishment for which does not exceed a fine of \$100 or six months imprisonment or both, any court or official authorized to fix bail may, in the exercise of discretion, order that the arrested person be released on his personal recognizance in such sum as the court or official may fix, without security, into the custody of a responsible member of the community, provided the arrested person has a usual place of abode or of business or employment in the state of Pohnpei.

Source: TTC §475 (1966); 12 TTC §258 (1970); 12 TTC §258 (1980)

CHAPTER 6 TRIAL COURT: CRIMINAL PROCEDURE

Section

Part A [Reserved – General provisions]

6-101 – 6-105 [Reserved]

Part B Witnesses

6-106 Witness summons

6-107 Detention and release of witness

6-108 – 6-110 [Reserved]

PART A [RESERVED – GENERAL PROVISIONS]

§§6-101 – 6-105. [RESERVED]

PART B WITNESSES

§6-106. Witness summons. — A witness summons in a proceeding before an official authorized to issue a warrant, who is not a court, may be issued by such an official. Failure by any person without adequate excuse to obey such a witness summons may be deemed a contempt of the Pohnpei Supreme Court.

Source: TTC §487 (1966); 12 TTC §301 (1970); 12 TTC §301 (1980)

§6-107. Detention and release of witness. —

(1) Whenever the court has reason to believe that a witness may be intimidated or become unavailable at the trial, he may be detained as a material witness; **PROVIDED**, that no such person shall be detained for a period of more than 21 days without a further order being made. A report of such detention shall be made forthwith in the manner provided for the transmission of the record.

(2) A person detained as a material witness shall be entitled to be released as a matter of right upon giving bail for his appearance as witness in an amount fixed by the court ordering the detention or any higher court. The court ordering the detention, or any higher court, may order the witness' release without bail if he has been detained for an unreasonable length of time and may modify at any time the requirement as to bail.

Source: TTC §488 (1966); 12 TTC §302 (1970); 12 TTC §302 (1980)

§§6-108 – 6-110. [RESERVED]

CRIMINAL PROCEDURE

CHAPTER 7 INSANITY

Section

7-101 Insanity at time of offense

7-102 Insanity at time of trial

§7-101. Insanity at time of offense. — If it is ascertained by the court upon competent medical or other evidence that the accused at the time of committing the offense with which he is charged was so insane as not to know the nature and quality of his act, the court shall record a finding of such fact and may make an order pursuant to 17 PC 7-102.

Source: TTC §493 (1966); 12 TTC §401 (1970); 12 TTC §401 (1980)

Cross-reference: See 61 PC 1-109.

§7-102. Insanity at time of trial. — If the court ascertains that the accused is insane at the time of trial, the court shall adjourn the trial and order the accused to be detained as in §7-101.

Source: TTC §494 (1966); 12 TTC §402 (1970); 12 TTC §402 (1980)

CRIMINAL PROCEDURE

CHAPTER 8 DISMISSAL

Section

8-101 Dismissal by Attorney General

8-102 Dismissal by court

§8-101. Dismissal by Attorney General. — The Attorney General may by leave of court file a dismissal of an information, or complaint, or citation and the prosecution shall thereupon terminate. Such a dismissal may not, however, be filed during the trial without the consent of the accused.

Source: TTC §491 (1966); 12 TTC §351 (1970); 12 TTC §351 (1980)

§8-102. Dismissal by court. — If there is unnecessary delay in bringing an accused to trial, the court may dismiss an information, or complaint, or citation.

Source: TTC §492 (1966); 12 TTC §352 (1970); 12 TTC §352 (1980)

CHAPTER 9 [RESERVED]

CRIMINAL PROCEDURE

CHAPTER 10 CRIMINAL EXTRADITION

Section

10-101	Definitions	10-116	Arrest prior to requisition; commitment to await requisition
10-102	Fugitives from justice; duty of the Governor	10-117	Bail; when allowed; conditions of bond
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§10-101. Definitions. — Where appearing in this chapter:

- (1) *Governor*. The term "Governor" includes any person performing the functions of the Governor by authority of the law of the state of Pohnpei;
- (2) *Executive authority*. The term "executive authority" includes the Governor, and any person performing the functions of Governor in any state of the Federated States of Micronesia; and
- (3) *State*. The term "state" refers to any state of the Federated States of Micronesia.

Source: 12 TTC §451 (1970); P.L. No 7-4 §1; 12 TTC §451 (1980)

§10-102. Fugitives from justice; duty of the Governor. — Subject to this chapter, the Governor shall have arrested and delivered up to the executive authority of any state, any person charged in that state with treason, felony or other crime, who has fled from justice and is found in the state of Pohnpei.

Source: 12 TTC §452 (1970); 12 TTC §452 (1980)

§10-103. Form of demand. —

(1) No demand for the extradition of a person charged with or convicted of crime in a state shall be recognized by the Governor unless in writing alleging, except in cases arising under §10-107, that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from such state. Such demand shall be accompanied by:

- (a) A copy of an indictment found;
- (b) A copy of an information supported by an affidavit filed in the state having jurisdiction of the crime;
- (c) A copy of an affidavit made before a magistrate in such state together with a copy of any warrant which was issued thereon; or
- (d) A copy of a judgment of conviction or of a sentence imposed in execution thereof together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole.

(2) The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state and the copy must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

Source: 12 TTC §453 (1970); 12 TTC §453 (1980)

§10-104. Official investigation of demand for extradition. — When a demand shall be made upon the Governor by the executive authority of a state for the surrender of a person charged with or convicted of a crime, the Governor may call upon the Attorney General or any prosecuting officer in the state of Pohnpei to investigate or assist in investigating the demand and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

Source: 12 TTC §454 (1970); 12 TTC §454 (1980)

§10-105. Extradition of person imprisoned or awaiting trial in a state. — When it is desired to have returned to the state of Pohnpei a person charged in the state of Pohnpei with a crime and such person is imprisoned or is held under criminal proceedings then pending against him in a state, the Governor may agree with the executive authority of such state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such state, upon condition that such person be returned to such state at the expense of the state of Pohnpei as soon as the prosecution in the state of Pohnpei is terminated.

Source: 12 TTC §455 (1970); 12 TTC §455 (1980)

§10-106. Extradition of persons who have left demanding state involuntarily. — The Governor may also surrender on demand of the executive authority of any other state, any person in the state of Pohnpei who is charged, in the manner provided in §10-124, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

Source: 12 TTC §456 (1970); 12 TTC §456 (1980)

§10-107. Extradition of persons not present in demanding state at time of commission of crime. — The Governor may also surrender, on demand of the executive authority of any other state, any person in the state of Pohnpei charged in such state, in the manner provided in §10-103, with committing an act in the state of Pohnpei, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand. This chapter, not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

Source: 12 TTC §457 (1970); 12 TTC §457 (1980)

§10-108. Governor's warrant of arrest; issuance; recitals. — If the Governor decides that a demand for extradition of a person charged with, or convicted of, a crime in a state should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state of Pohnpei seal, and be directed to the Attorney General, Director of the Department of Public Safety, Chief of the Division of Police and Security or other person whom he may think fit to be entrusted with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Source: 12 TTC §458 (1970); 12 TTC §458 (1980)

§10-109. Governor's warrant of arrest; manner and place of execution. — Such warrant shall authorize the officer or other person to whom it is directed to arrest the accused at any time and at any place where he may be found within the state of Pohnpei, and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to this chapter, to the duly authorized agent of the demanding state.

Source: 12 TTC §459 (1970); 12 TTC §459 (1980)

§10-110. Governor's warrant of arrest; assistance to arresting officer. — Every officer or other person empowered to make the arrest, as provided in §10-109, shall have the same authority in arresting the accused to command assistance therein as the Attorney General, Director of the Department of Public Safety, Chief of the Division of Police and Security, and other officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Source: 12 TTC §460 (1970); 12 TTC §460 (1980)

§10-111. Governor's warrant of arrest; rights of accused persons; application for writ of habeas corpus. — No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of the Pohnpei Supreme Court, who shall inform him of the demand made for his surrender and of the crime with which he is charged and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the court shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof and of the time and place of hearing thereon shall be given to the Attorney General of the state of Pohnpei and to the agent of the demanding state.

Source: 12 TTC §461 (1970); 12 TTC §461 (1980)

§10-112. Governor's warrant of arrest; penalty for noncompliance. — Any officer who shall deliver a person in his custody under the Governor's warrant to the agent for extradition of the demanding state in disobedience of §10-111 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000, or be imprisoned not more than six months, or both such fine and imprisonment.

Source: 12 TTC §462 (1970); 12 TTC §462 (1980)

§10-113. Governor's warrant of arrest; confinement in jail authorized when necessary. — The officer or person executing the Governor's warrant of arrest, or the agent of the demanding state to whom the prisoner is to be delivered may, when necessary, confine the prisoner in any jail of the government of the state of Pohnpei and the warden of such jail shall receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping the prisoner.

Source: 12 TTC §463 (1970); 12 TTC §463 (1980)

§10-114. Arrest prior to requisition; by warrant. — A justice or magistrate shall issue a warrant directed to the Attorney General, Director of the Department of Public Safety or Chief of the Division of Police and Security commanding him to apprehend the person named therein wherever he may be found in the state of Pohnpei and to bring him before the Pohnpei Supreme Court to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant whenever:

(1) Any person within the state of Pohnpei shall be charged on the oath of any credible person before any judge or magistrate of the state of Pohnpei with the commission of a crime in any state, and, except in cases arising under §10-107, with having fled from justice, with having been convicted of a crime in that state and with having escaped from confinement, or with having broken the terms of his bail, probation or parole; or

(2) Complaint shall have been made before the Supreme Court setting forth on the affidavit of any credible person in a state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under §10-107, has fled from justice, or that the accused has been convicted of a crime in that state and has escaped from confinement, or has broken the terms of his bail, probation or parole, and that the accused is believed to be in the state of Pohnpei.

Source: 12 TTC §464 (1970); 12 TTC §464 (1980)

§10-115. Arrest prior to requisition; without a warrant. — The arrest of a person may also be lawfully made by any policeman or private citizen without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by imprisonment for a term exceeding one year. When so arrested the accused must be taken before the Pohnpei Supreme Court with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section and thereafter his answer shall be heard as if he had been arrested on a warrant.

Source: 12 TTC §465 (1970); 12 TTC §465 (1980)

Note: Reference to the death penalty has been omitted. *See* Pohnpei Constitution, Article 4, Section 11.

§10-116. Arrest prior to requisition; commitment to await requisition. — If from the examination before the Pohnpei Supreme Court it appears that the person held pursuant to either of the two preceding sections is the person charged with having committed the crime alleged and, except in cases arising under §10-107, that he has fled from justice, the Supreme Court shall, by a warrant reciting the accusation, commit him to jail for such a time not exceeding 45 days specified in the warrant as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused shall give bail as provided in §10-117, or until he shall be legally discharged.

Source: 12 TTC §466 (1970); 12 TTC §466 (1980)

§10-117. Bail; when allowed; conditions of bond. — Unless the offense with which the prisoner is charged is shown to be an offense punishable by life imprisonment under the laws of the state in which it was committed, the Pohnpei Supreme Court may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as the court deems proper, conditioned upon his appearance before it at a time specified in such bond or undertaking, and upon his surrender for arrest upon the warrant of the Governor.

Source: 12 TTC §467 (1970); 12 TTC §467 (1980)

Note: Reference to the death penalty has been omitted. *See* Pohnpei Constitution, Article 4, Section 11.

§10-118. Bail; discharge, recommitment or renewal. — If the accused is not arrested under warrant of the Governor by the expiration time specified in the warrant, bond or undertaking, the Pohnpei

Supreme Court may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in §10-117. At the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the court may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

Source: 12 TTC §468 (1970); 12 TTC §468 (1980)

§10-119. Bail; forfeiture. — If the prisoner is admitted to bail and fails to appear and surrender himself according to the condition of his bond, the Pohnpei Supreme Court shall declare the bond forfeited and order his immediate arrest without warrant if he be within the state of Pohnpei. Recovery may be had on such bond in the name of the state of Pohnpei as in the case of other bonds or undertakings given by the accused in criminal proceedings within the state of Pohnpei.

Source: 12 TTC §469 (1970); 12 TTC §469 (1980)

§10-120. Persons under criminal prosecution in the state of Pohnpei at time of requisition. — If a criminal prosecution has been instituted under the laws of the state of Pohnpei against a person subject to extradition and is still pending, the Governor, in his discretion, either may surrender him on the demand of the executive authority of another state or may hold him until he has been tried and discharged or convicted and punished in the state of Pohnpei.

Source: 12 TTC §470 (1970); 12 TTC §470 (1980)

§10-121. Inquiry into guilt or innocence of accused. — Except as that may be involved in identifying the person held as the person charged with the crime, the Governor shall make no inquiry into the guilt or innocence of the accused as to the crime of which he is charged, nor may any such inquiry be made in any proceeding after presentation to the Governor of the demand for extradition accompanied by a charge of crime in legal form as provided in this chapter.

Source: 12 TTC §471 (1970); 12 TTC §471 (1980)

§10-122. Governor may recall warrant or issue additional warrant. — The Governor may recall his warrant of arrest or may issue another warrant whenever he deems it proper.

Source: 12 TTC §472 (1970); 12 TTC §472 (1980)

§10-123. Fugitives from the state of Pohnpei; issuance of warrant to receive and convey. — Whenever the Governor shall demand from the executive authority of any state a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in the state of Pohnpei, he shall issue a warrant under the seal of the state of Pohnpei to some agent commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the government of the state of Pohnpei.

Source: 12 TTC §473 (1970); 12 TTC §473 (1980)

§10-124. Fugitives from the state of Pohnpei; applications for requisition; return of person charged with crime. — When the return to the state of Pohnpei of a person charged with a crime in the state of Pohnpei is required, the Attorney General or his assistant shall present to the Governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that, in the opinion of the Attorney General or his assistant, the ends of justice require the arrest and return of the accused to the state of Pohnpei for trial, and that the proceeding is not instituted to enforce a private claim.

Source: 12 TTC §474 (1970); 12 TTC §474 (1980)

§10-125. Fugitives from the state of Pohnpei; applications for requisition; escaped convict. — When the return to the state of Pohnpei is required of a person who has been convicted of a crime in the state of Pohnpei and who has escaped from confinement or broken the terms of his bail, probation or parole, the Attorney General shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, and the state in which he is believed to be, including the location of the person therein at the time application is made.

Source: 12 TTC §475 (1970); 12 TTC §475 (1980)

§10-126. Fugitives from the state of Pohnpei; applications for requisition; form of applications; copies, etc. — The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the information and affidavit filed, or of the complaint made to the judge or magistrate charged, or of the judgment of conviction, or of the sentence. The Attorney General or his assistant may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, or complaint, or information and affidavits, or of the judgment of conviction, or of the sentence shall be filed in the office of the Lieutenant Governor of the state of Pohnpei to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

Source: 12 TTC §476 (1970); 12 TTC §476 (1980)

§10-127. Fugitives from the state of Pohnpei; costs and expenses. — The expenses incident to the extradition of any person under §§10-123 through 10-126 shall be paid out of the Pohnpei Treasury.

Source: 12 TTC §477 (1970); 12 TTC §477 (1980)

§10-128. Immunity from service of process in certain civil actions. — A person brought into the state of Pohnpei by or after waiver of extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

Source: 12 TTC §478 (1970); 12 TTC §478 (1980)

§10-129. Waiver of extradition proceedings. —

(1) Any person arrested in the state of Pohnpei and charged with having committed any crime in any state, or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in §§10-108 and 10-109 and all other procedure incidental to extradition proceedings by executing or subscribing in the presence of a trial justice of the Pohnpei Supreme Court within the state of Pohnpei a writing which states that he consents to return to the demanding state; PROVIDED, HOWEVER, that before such waiver shall be executed it shall forthwith be forwarded to the office of the Lieutenant Governor and filed therein.

(2) The justice shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent of the demanding state, and shall deliver or cause to be delivered to such agent a copy of such consent; PROVIDED, HOWEVER, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an executive procedure or to limit the powers, rights or duties of the officers of the demanding state or of the state of Pohnpei.

Source: 12 TTC §479 (1970); 12 TTC §479 (1980)

§10-130. Procedures of chapter not deemed waiver of state of Pohnpei's rights. — Nothing in this chapter shall be deemed to constitute a waiver by the state of Pohnpei of its right, power or privilege to try such demanded person for crime committed within the state of Pohnpei, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within the state of Pohnpei; nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by the state of Pohnpei of any of its rights, privileges or jurisdiction in any way whatsoever.

Source: 12 TTC §480 (1970); 12 TTC §480 (1980)

§10-131. Immunity from other criminal prosecutions while in the state of Pohnpei. — After a person has been brought back to the state of Pohnpei by or after waiver of extradition proceedings, he may be tried in the state of Pohnpei for other crimes which he may be charged with having committed therein as well as that crime specified in the requisition for his extradition.

Source: 12 TTC §481 (1970); 12 TTC §481 (1980)

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TITLE 63
CITATIONS

TITLE 63 CITATIONS

CHAPTER 1 ISSUANCE OF CITATIONS

CHAPTER 1 ISSUANCE OF CITATIONS

Section

1-101 Use of citation

1-103 Failure to appear; penalty

1-102 Answer before Clerk of Court

1-104 Arrest for failure to appear

§1-101. Use of citation. —

(1) For infractions or offenses punishable by less than one year imprisonment, except crimes involving a breach of the peace, the investigating police officer may, in lieu of arresting the person to be charged, issue and serve a citation upon such person.

(2) The citation shall set forth the particulars of the alleged infraction or offense and bear the signature of the issuing officer certifying under penalty of perjury the truth of the particulars noted on the citation.

(3) Unless the citation is issued pursuant to §10-107(1) when a vehicle is unoccupied, the citation shall be signed by the violator as acknowledgement that he or she will appear at the time and place specified on the citation.

(4) The issuing officer shall file the citation with the Clerk of the Pohnpei Supreme Court. The citation shall constitute a summons and complaint to which the defendant may plead guilty.

(5) The citation shall be on a form to be prescribed by the Director of the Department of Public Safety and approved by the Attorney General.

Source: S.L. No. 1L-118-87 §1, 2/10/87; S.L. No. 5L-14-00 §3-42, 9/8/00

§1-102. Answer before Clerk of Court. — A citation lawfully issued under this chapter shall be answered by appearing either in person or through counsel before the Clerk of the Pohnpei Supreme Court on or before the date specified in the citation.

Source: S.L. No. 1L-118-87 §2, 2/10/87

§1-103. Failure to appear; penalty. —

(1) Regardless of the disposition of the charge for which the citation was issued, it shall be unlawful for any person to willfully violate the written promise to appear signed by the person on the citation. It shall also be unlawful for any person for which a citation has been issued without the defendant's signature pursuant to §10-107 to willfully fail to appear before the Clerk of the Pohnpei Supreme Court as noted on the citation.

(2) Any person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than six months, a fine of not more than \$100, or both such fine and imprisonment.

Source: S.L. No. 1L-118-87 §3, 2/10/87

§1-104. Arrest for failure to appear. — Upon the failure of any person to appear as promised on the citation issued to that person pursuant to this chapter, a warrant of arrest may be issued. Such warrant shall be ordered by a justice of the Pohnpei Supreme Court and shall be supported by a sworn certification by the Clerk of Court that the person to be arrested failed to appear pursuant to the citation lawfully issued to the person.

Source: S.L. No. 1L-118-87 §4, 2/10/87

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TITLE 64

CORRECTIONS AND

REHABILITATION

TITLE 64 CORRECTIONS AND REHABILITATION

CHAPTER

1 DISPOSITION OF CONVICTED DEFENDANTS

2 WORK-RELEASE PROGRAM

CHAPTER 1 DISPOSITION OF CONVICTED DEFENDANTS

Section

1-101 Recognition of custom in sentencing and probation
 1-102 Consideration of character
 1-103 Regarding payment of fines
 1-104 Sentence restricting residence
 1-105 Restitution, compensation or forfeiture
 1-106 Closing of business

1-107 Labor without imprisonment
 1-108 Designation of place of confinement
 1-109 Suspension of sentence
 1-110 Suspension of imposition of sentence
 1-111 Reprieves, commutations, pardons, and paroles

§1-101. Recognition of custom in sentencing and probation. — In imposing or suspending the execution of sentences, or in suspending the imposition of sentence and granting probation, due recognition shall be given to the customs of the inhabitants of Pohnpei.

Source: S.L. No. 3L-89-95 §9-1, 4/6/95

§1-102. Consideration of character. — Before imposing or suspending the execution of sentence, the imposition of sentence upon a person found guilty of a criminal offense, or in suspending the imposition of sentence and granting probation, evidence of good or bad character, including any prior criminal record of the defendant, may be received and considered by the court.

Source: S.L. No. 3L-89-95 §9-3, 4/6/95

§1-103. Regarding payment of fines. — Where an offense is made punishable by fine, the court imposing the fine may make such directions as appear to be just with respect to the payment of the fine. In default of payment of the fine or any part thereof the court may order the defendant to be imprisoned for such period of time as it may direct. These directions may be given and orders for imprisonment made at any time, and may be modified if the court deems justice so requires, until the fine is paid in full or the imprisonment served which has been ordered in default of payment; PROVIDED that the accused shall be given an opportunity to be heard before any direction or order is given, made or modified, except when that is done at the time sentence is imposed; PROVIDED FURTHER that no defendant shall be imprisoned for a longer period of time than fixed by law for such offense.

Source: S.L. No. 3L-89-95 §9-5, 4/6/95

§1-104. Sentence restricting residence. — A court may, in lieu of or in addition to other lawful punishment, direct that a person found by it to be guilty of a criminal offense shall establish his place

of residence within a specified area and maintain it there under the supervision of a responsible adult for a period of time not exceeding the maximum period of imprisonment which may be imposed for the offense.

Source: S.L. No. 3L-89-95 §9-7, 4/6/95

§1-105. Restitution, compensation or forfeiture. — If a defendant is convicted of wrongful or unlawful sale, purchase, use or possession of any article, or of a willful wrong causing damage to another, a court may, in lieu of or in addition to other lawful punishment, order restitution or compensation to the owner or person damaged or the forfeiture of the article to Pohnpei.

Source: S.L. No. 3L-89-95 §9-9, 4/6/95

§1-106. Closing of business. — If a defendant is convicted of an offense involving the sale of a harmful article or the operation of an unlawful business, the court may, in lieu of or in addition to other lawful punishment, order that his place of sale or business be vacated or closed for a specific time, not exceeding the maximum period of imprisonment which may be imposed for the offense.

Source: S.L. No. 3L-89-95 §9-11, 4/6/95

§1-107. Labor without imprisonment. — In any case in which a court is authorized to impose sentence or imprisonment, the court may, if it deems best, instead of imposing imprisonment, sentence the accused to perform labor without compensation in accordance with his physical ability on any public project for a period not exceeding the maximum period which may be imposed for the offense.

Source: S.L. No. 3L-89-95 §9-13, 4/6/95

§1-108. Designation of place of confinement. — Any court upon sentencing a person to imprisonment may designate in the commitment order a place of confinement within Pohnpei. The Governor may transfer the person to or designate any place of confinement within the Federated States of Micronesia.

Source: S.L. No. 3L-89-95 §9-15, 4/6/95

§1-109. Suspension of sentence. — The court which imposes a sentence upon a person convicted of a criminal offense may direct that the execution of the whole or any part of a sentence of imprisonment imposed by it shall be suspended on such terms as good behavior and on such conditions as the court may think proper to impose. A subsequent conviction by a court for any offense shall have the effect of revoking the suspension of the execution of the previous sentence unless the court otherwise directs.

Source: S.L. No. 3L-89-95 §9-17, 4/6/95

§1-110. Suspension of imposition of sentence. —

(1) Upon entering a judgment of conviction of any offense, the court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served, may suspend the imposition of sentence and may direct that the suspension continue for a period of time, not exceeding the maximum term of sentence which may be imposed, upon the terms and conditions which the court determines, and shall place the person on probation, under the charge and supervision of a probation officer or any other person designated by the court, during the suspension.

(2) Upon violation of any of the terms and conditions of probation at any time during the probationary period, the court may issue a warrant for the arrest of the person on probation and, after giving the person an opportunity to be heard and to rebut any evidence presented against him, may revoke and terminate the probation.

(3) Upon the revocation of the probation, the court may then impose any sentence that may have initially been imposed had the court not suspended imposition of sentence in the first instance, but shall credit time spent in probation against the sentence so imposed.

(4) The court may at any time during the period of probation modify its order of suspension of imposition of sentence. The court may at any time, when the ends of justice and the best interests of the public as well as the defendant will be served, and when the good conduct and reform of the person held on probation warrant it, terminate the period of probation and discharge the person held. If the court has not revoked the order of probation and announced sentence, the defendant shall, at the end of the term of probation, be discharged by the court.

(5) Upon discharge of the defendant without imposition of sentence, the court may upon motion of the defendant, vacate the judgment of conviction and the defendant shall not be deemed to have been convicted of the crime for any purpose.

Source: S.L. No. 3L-89-95 §9-19, 4/6/95

§1-111. Reprieves, commutations, pardons, and paroles. —

(1) *Authority.* The Governor may, after conviction and upon such terms and conditions as he shall deem best, grant reprieves, commutations, pardons, and paroles for offenses under Pohnpei law other than impeachment, and for such offenses under national law or local ordinance over which he may be granted such authority by the national or local government.

(2) *Regulations for procedure.* The Governor may, by the issuance of regulations, provide for the procedure for application, review, and award of reprieves, commutations, pardons, and paroles, respectively.

Source: S.L. No. 3L-89-95 §9-21, 4/6/95

Note: Absence of source even numbers is due to an error in the original legislation's numbering.

CORRECTIONS & REHABILITATION

CHAPTER 2 WORK-RELEASE PROGRAM

Section

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2-102 Purpose and policy	2-107 Meetings of the Council
2-103 Definitions	2-108 Eligibility
2-104 Establishment of a work-release program	2-109 Work schedule: removal or revocation of work privilege
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§2-101. Short title. — This chapter is known and may be cited as the “Work-Release Program Act of 2000.”

Source: S.L. No. 5L-05-00 §1, 5/30/00

§2-102. Purpose and policy. — This chapter, desiring to provide programs of sufficiently high quality for the confinement, treatment, and rehabilitation of various types of offenders, declares it is the policy of the state to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this chapter is to provide for the development and execution of such programs of cooperation for the confinement, treatment, and rehabilitation of offenders.

Source: S.L. No. 5L-05-00 §2, 5/30/00

§2-103. Definitions. —

- (1) “Council” means the advisory council as established by §2-106.
- (2) “Director” means the Director of the Pohnpei Department of Public Safety.
- (3) “Inmate” means a male or female offender who is under sentence to or confined in a prison or other correctional institution.
- (4) “Institution” means any prison, reformatory or other correctional facility (including, but not limited to, a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined.
- (5) “State” means Pohnpei State.

Source: S.L. No. 5L-05-00 §3, 5/30/00; S.L. No. 5L-14-00 §3-60, 10/1/00

§2-104. Establishment of a work-release program. —

(1) The Governor may establish a work-release program for persons who are sentenced to the Department of Public Safety’s care and who are receiving care and treatment in an institution as defined by §2-103(3); PROVIDED that such program shall not interfere with other programs in which such person may be enrolled. The Director of the Department of Public Safety will coordinate and monitor the functions of the work-release program.

(2) In any case in which a court is authorized to impose sentence or imprisonment, the court, if it deems best, along with imposing imprisonment, may sentence the accused to a work-release program.

(3) After an inmate has served 120 days, the Governor is authorized to determine if a prisoner should be in a work-release program.

(4) Under a work-release plan, any such person may be authorized to secure a suitable employment outside of the institution and, unless otherwise authorized by the Department and the Council in special cases, return to and remain in such facility during non-working hours.

Source: S.L. No. 5L-05-00 §4, 5/30/00; S.L. No. 5L-14-00 §3-60, 10/1/00

§2-105. Prisoners' welfare fund. —

(1) There is hereby established a "prisoners' welfare fund" to be maintained by the Department of Treasury and Administration, separate and apart from all other funds of the state. Independent records and accounts shall be maintained in connection therewith. The prisoners' welfare fund shall be administered in accordance with the Financial Organization and Management Act, Title 11 Chapter 2.

(2) There shall be deposited into the prisoners' welfare fund all monies earned under the work-release program.

(3) Disbursements from the prisoners' welfare fund shall be used by the Director to reimburse the institution for any costs associated with the program, as well as costs of maintaining the institution.

(4) The Director shall file an annual accounting of the prisoners' welfare fund with the Governor and Legislature no later than 30 days after the close of each fiscal year.

Source: S.L. No. 5L-05-00 §5, 5/30/00

§2-106. Advisory council for the work-release program. — There is hereby established, under the auspices of the Governor's office, the advisory council for inmates eligible to enroll in a work-release plan.

(1) *Council: composition; compensation.*

(a) The Council shall be composed of five members appointed by the Governor, with the advice and consent of the Legislature. Three members shall constitute a quorum. Members shall have had training, experience or special knowledge concerning programs geared toward implementing §2-102.

(b) Members of the Council shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, for members of Pohnpei Government policy boards and commissions, when actually attending meetings of the Council, except that those members who are employees of the Pohnpei Government and other cooperative entities shall instead receive their regular salaries while performing functions of the Council. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

(2) *Council functions.* The Council shall recommend and advise the Governor on which inmates should be placed in a work-release program. The Council shall participate in recommending and advising the Director in coordinating and monitoring functions of the work-release program. The Council shall generally work towards the establishment and effectuation of a cohesive, comprehensive system for the development and delivery of programs and services for inmates on a statewide basis.

(3) *Council duties.* The Council shall have the following powers, duties, and responsibilities:

(a) Serve in an advisory capacity to the Governor, the Legislature, and the Director on matters relating to programs and services for the committed persons;

(b) Assist the Governor and the Director in determining program and policy needs and priorities for the state in establishing and implementing a comprehensive program for inmates in accordance with the goals and objectives expressed in this chapter;

(c) Assist the Director in formulating short-term and long-range goals for the program and services for inmates;

(d) Assist the Director in the evaluation of general and specific policies relating to the needs of inmates;

(e) Develop a Prison Impact Assessment Report to be transmitted to the Governor's office and to the Legislature, which report may include, but not be limited to, how to improve upon the existing facilities and other recommendations and comments; and

(f) Carry out other functions, duties, and responsibilities of an advisory nature reasonably related to the coordination, evaluation, and conducting of research on programs of committed persons.

Source: S.L. No. 5L-05-00 §6, 5/30/00

§2-107. Meetings of the Council. — The Council shall hold its first meeting at the call of the Governor within 30 days of the appointment of a quorum. Thereafter, meetings shall be held at least twice every calendar quarter at the call of the chairman or of a quorum. The Council shall elect from among its members a chairman, vice-chairman, and secretary-treasurer, and determine the powers and duties of each officer and the rules of procedure under which it will operate.

Source: S.L. No. 5L-05-00 §7, 5/30/00

§2-108. Eligibility. — Any inmate confined to the Pohnpei State Prison or any institution belonging to the Government of Pohnpei shall be eligible to participate in a work-release program; PROVIDED, HOWEVER, that an inmate shall not be eligible for a work-release program if any of the following are applicable:

(1) The inmate is found by the court and/or the Governor to constitute a risk to either himself or other members of the community.

(2) The inmate has a past history of violent behavior.

(3) The inmate has been determined to be a dangerous and repetitive offender.

(4) The sentencing judge states at the time of the sentence that the inmate shall not be eligible for a work-release program.

Source: S.L. No. 5L-05-00 §8, 5/30/00

§2-109. Work schedule: removal or revocation of work privilege. — The Director shall devise a work schedule suitable for employment and the institution. The Director, with notification to the employer, may remove or revoke any work privilege accorded to an inmate enrolled in a work-release program due to such inmate's lack of participation, commission of another crime or for other special circumstances that may endanger the life or safety of another person or the public.

Source: S.L. No. 5L-05-00 §9, 5/30/00

TITLE 65 [RESERVED]

(Next page is Title 66, Division X divider)

DIVISION X
OF THE
CODE

REGULATED SUBSTANCES, DEVICES, AND
ACTIVITIES

TITLE 66 --- TITLE 70

TITLE 66

REGULATED SUBSTANCES

TITLE 66 REGULATED SUBSTANCES

CHAPTER

- 1 GENERAL PROVISIONS
- 2 ALCOHOLIC BEVERAGES
- 3 TOBACCO PRODUCTS
- 3A EXPOSURE TO TOBACCO SMOKE
- 4 CONTROLLED SUBSTANCES

CHAPTER 1 GENERAL PROVISIONS

Section

1-101 Declaration of policy	1-106 Violations of §§1-103, 1-104, 1-105, and
1-102 Definitions	3-101
1-103 Advertising prohibited	1-107 Forfeiture
1-104 Prohibition on promotional activities	1-108 Enforcement
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§1-101. Declaration of policy. — The Legislature finds that the purchase, obtaining, use, and consumption of tobacco products, alcoholic beverages, and narcotic drugs are injurious to the health and welfare of the citizens of Pohnpei, are disruptive of the social fabric of our society, and are an unnecessary burden on the limited financial resources of Pohnpeian families. It is therefore the declared policy of the Legislature to discourage activities which seek to promote or encourage the purchase, obtaining, use or consumption of these commodities and to prohibit the commercial distribution of tobacco products to or on behalf of minors.

Source: S.L. No. 3L-63-94 §1, 8/15/94

§1-102. Definitions. — As used in this chapter and §3-101, unless the context clearly requires otherwise:

(1) “Advertise,” “advertising” or “advertisement” means to intentionally call the attention of the general public to a commodity by any physical, mechanical or electronic means, including, but not limited to, billboards, establishment signs, display cases, radio broadcasts, television broadcasts, telephone surveys, cable transmissions, handouts or any other devices, or by praising a commodity publicly so as to induce or encourage a person to want to purchase, obtain, consume or otherwise use it. Advertising includes any use of the name of the commodity which is the subject of the advertisement or any image, song, signal, statement or emblem which, by its use, is designed to call attention to the commodity, and also includes any gift of the commodity or any gift or promotional item which is provided along with the obtaining of the commodity, such as tee shirts, sports hats or cigarette lighters which bear the name of the commodity or any other image or symbol which calls attention to the commodity. Advertising includes all activities of the person seeking to call attention to

the product and any aspect of the commodity or paraphernalia provided in or along with the commodity which constitutes an advertisement as defined by this subsection and which is offered by or through that person, whether or not that person or the business he represents is the source of such advertisement. For purposes of this chapter and §3-101, advertisement shall not include the use of the trademark, brand name or symbol of a commodity in respect to the sponsorship of a sporting event or of a participant therein, or for a donation to, or sponsorship of a charitable activity or event; PROVIDED that there is no requirement for the purchase, obtainment, use or consumption of the commodity to obtain the sponsorship or donation or to attend or participate in the event or activity.

(2) "Alcoholic beverages" means any and all alcoholic beverages as defined by §2-101(1).

(3) "Minor" means any natural person below the age of 18 years.

(4) "Narcotic drugs" means any and all controlled substances as defined by §4-101(15).

(5) "Tobacco products" means any and all of the commodities produced from the tobacco plant, including cigarettes, cigars, pipe tobacco, chewing tobacco, and other tobacco products.

Source: S.L. No. 3L-63-94 §2, 8/15/94

§1-103. Advertising prohibited. —

(1) No person who conducts any business within this state which offers for distribution, wholesale sale, retail sale, use or consumption any tobacco product, alcoholic beverage or narcotic drug as defined by this chapter may undertake or allow to be undertaken through his offering of such commodity for transfer to another, any activity which constitutes the advertisement of such commodity; PROVIDED, HOWEVER, that persons who have signs and other physical indices of advertisement which were posted or otherwise emplaced prior to the effective date of this chapter [August 15, 1994] shall have 45 days following the effective date of this chapter to remove such signs and other indices of advertisement from public view and to cease to use them in any manner which would constitute a violation of this chapter.

(2) No person may provide services or act as the agent of another party for profit or any other valuable consideration for the purpose of advertising any tobacco product, alcoholic beverage or narcotic drug as defined by this chapter within the state of Pohnpei; PROVIDED, HOWEVER, that persons holding valid contracts or other legal obligations for service or agency on the effective date of this chapter [August 15, 1994] for the purpose of advertising any such commodity shall, within 45 days following the effective date of this chapter, cease any activity prohibited by this subsection.

(3) Notwithstanding the prohibitions of Subsection (1) of this section, nothing therein shall prohibit a commercial vendor from advertising the prices of legal products by hand-drafted or electronically or mechanically produced signs of a size substantially equivalent to those used generally for other products offered for sale or transfer by the vendor; PROVIDED, HOWEVER, that such signs are posted inside the vendor's premises and are not readily visible to the public from outside the vendor's premises.

(4) Notwithstanding the prohibitions of Subsection (1) of this section, nothing therein shall prohibit a person who conducts a business lawfully dealing in any tobacco product, alcoholic beverage or narcotic drug to indicate in the name of the business and in references to the name of the business that the business deals in such commodities; PROVIDED, HOWEVER, that such name and/or references may not contain any reference by word or symbol to any particular trademark, brand name or producer of a commodity for which advertisement is prohibited by Subsection (1) of this section.

(5) Notwithstanding the prohibitions of Subsection (2) of this section, nothing therein shall prohibit a broadcaster of audio or video signals by air or cable transmission or vendor of printed materials, audio recordings or video recordings for purchase or rent from transmitting or offering for sale or rent pre-printed or prerecorded material obtained from outside the state which contain advertisements prohibited by this chapter, but which are incidental to the main topic of the printing or prerecording; PROVIDED that the transmitter or vendor neither has requested such advertisements nor

gains any specific royalties or any other specific fees or valuable consideration for the transmission, sale or rental of such advertisements.

Source: S.L. No. 3L-63-94 §3, 8/15/94

§1-104. Prohibition on promotional activities. — No person or business entity, by itself or in conjunction with any other person or business entity, may initiate, advertise for, coordinate, facilitate, manage, broker, serve as an agent or in any other manner participate in sponsoring or operating any contest, raffle, lottery or any other promotional event that awards prizes of any kind which is based in whole or in part on the element of chance and that is premised in any way upon the obtaining or consumption of any tobacco product, alcoholic beverage or narcotic drug as defined by this chapter or the display or surrender of any indices of the obtaining or use of that commodity or of any packaging, coupon or other item which can be identified with that commodity; PROVIDED, HOWEVER, that the prohibition of this section shall not apply to the awarding of prizes with respect to a promotional event which has already been initiated prior to the effective date of this chapter [*August 15, 1994*]; PROVIDED FURTHER that the award of such prizes is made within 60 days following the effective date of this chapter. It shall be the burden of the person or business seeking the exemption provided herein to show to the satisfaction of the court that the exemption applies to the activity in question.

Source: S.L. No. 3L-63-94 §4, 8/15/94

§1-105. Posting of warnings required. — Not later than 45 days following the effective date of this chapter [*effective date is August 15, 1994*], each person who conducts any business within this state which offers for retail sale or consumption in a public place any tobacco product, alcoholic beverage or narcotic drug as defined by this chapter shall post and maintain at a conspicuous space in the immediate vicinity of the commodity offered for sale and on any menu or other offering of the commodity for consumption at a public place a warning issued and provided by the Director of the Department of Health Services as to the generally recognized health risks involved in the use of that commodity. Any warning which substantially follows the findings of the Surgeon General of the United States of America Government shall be deemed to meet the requirements of this section. The warnings issued with respect to the acquisition or consumption of tobacco products and alcoholic beverages shall further contain information on age restrictions with respect thereto as imposed by state law. The Director may charge a reasonable fee for the distribution of warning signs as required by this section, which fees may be directly applied to the costs of production and distribution of the warning signs without any further authorization or appropriation by law.

Source: S.L. No. 3L-63-94 §6, 8/15/94

§1-106. Violations of §§1-103, 1-104, 1-105, and 3-101. — Any person or business entity who shall knowingly and willfully violate any provision of §§1-103, 1-104, 1-105 or 3-101, shall be guilty of an offense against this state, and upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 30 days, or both such fine and imprisonment. Each day that such a violation occurs shall constitute a separate offense. A criminal action against a business entity which violates any such provision may be joined with a criminal action against the owners and operators thereof, as well as other violators, or may be prosecuted separately; and a conviction against one of the parties shall not bar the prosecution of other culpable persons or business entities.

Source: S.L. No. 3L-63-94 §7, 8/15/94

§1-107. Forfeiture. — Any apparatus used in an advertisement or promotional event or any prize offered or awarded thereunder in violation of this chapter shall be subject to forfeiture to the state of Pohnpei as illegal contraband, except such property as may be transferred to a third person without knowledge that it was used in or obtained through an advertisement or a promotional event undertaken in violation of this chapter.

Source: S.L. No. 3L-63-94 §8, 8/15/94

§1-108. Enforcement. —

(1) The Office of Economic Affairs, in consultation with the Attorney General, the Department of Health Services, the Department of Education, and the Department of Public Safety, shall maintain constant surveillance of all business establishments to which this chapter and §3-101 applies to ensure compliance with the terms of this chapter and §3-101 and other Pohnpei law, and shall take such action as may be necessary to ensure full compliance with this chapter and §3-101 including, to the extent practical, at least two unannounced inspections each year of each place of business within the state which offers for sale or other transfer for valuable consideration any tobacco product, alcoholic beverage or narcotic drug as defined by this chapter.

(2) The Administrator of the Office of Economic Affairs shall submit a comprehensive report to the Legislature within ten days following the commencement of the first regular session of the Legislature each year on the activities of that office and of other agencies and instrumentalities of the Pohnpei Government to ensure compliance with the terms of this chapter and §3-101 and to promote the spirit and the goals of this chapter and §3-101.

Source: S.L. No. 3L-63-94 §10, 8/15/94; S.L. No. 5L-14-00 §3-7, 10/1/00

Note: S.L. No. 3L-63-94 §9 was repealed in its entirety by S.L. No. 4L-123-99 §6-2(5), 9/1/99.

CHAPTER 2 ALCOHOLIC BEVERAGES

Section

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PART A GENERAL

§2-101. Definitions. — The following words and phrases, when used in this part, shall be defined as follows:

(1) “Alcoholic beverages” means alcohol, spirits, beer, and wines, and shall also include every liquid or solid containing alcohol, spirits, beer or wine capable of being consumed as a beverage by human beings, but shall not include Pohnpeian sakau (Piper methysticum) or its derivatives.

(2) “Beer” includes any beverage containing more than 3.2 percent (3.2%) of alcohol by weight and obtained by the alcoholic fermentation of barley, rice or other grain, malt, and similar products, including yeast. Beer may or may not contain hops or other vegetable products, and includes, among other things, beer, ale, stout, lager, porter, and other malt or brewed liquors, but does not include sake, known as Japanese rice wine.

(3) “Cabaret” means a confined place of entertainment having restricted entrances and providing dancing or live performances.

(4) “Cabaret-sale” means the sale and consumption of alcoholic beverages on and off the premises of the cabaret establishment, but shall not include the sale of alcoholic beverages for consumption off the premises of the cabaret establishment after 10:00 p.m.

(5) “Club” means any organization that operates a place for social purposes, whether or not for pecuniary gain, having a bona fide membership list and officers.

(6) “Employee” includes any agent, servant or employee of a licensee while in the performance of any act or duty in connection with the licensed business or at the licensed business or on the licensed premises.

(7) “Establishment” means any place, including, without limitation, bars, clubs, cabarets, restaurants, hotels or retail stores, but excluding religious organizations when conducting services,

which sells, gives, offers to sell or give away, or otherwise dispenses alcoholic beverages to the general public.

(8) “Licensee” means any individual, association, partnership or corporation having a duly issued license to operate an establishment or club pursuant to this part.

(9) “Local option” means the authority of a local government to enact ordinances for the control of alcoholic beverages in accordance with §2-103.

(10) “Nightclub” means a cabaret.

(11) “Off-sale” means the sale of alcoholic beverages for consumption off the premises.

(12) “On-sale” means the sale and consumption of alcoholic beverages on and off the premises of the on-sale establishment, but shall not include the sale of alcoholic beverages off the premises of the on-sale establishment after 10:00 p.m.

(13) “Original package” means any container of alcoholic beverages filled and stamped or sealed by the manufacturer.

(14) “Person” means and includes an individual, partnership, corporation, cooperative, club or association.

(15) “Personal identification” means a valid motor vehicle operator’s permit, a valid passport, a legal birth certificate or an identification card issued pursuant to Title 16 Chapter 6; PROVIDED that such operator’s permit, passport, birth certificate or identification card shall provide for a description of the person and his age or date of birth.

(16) “Premises” includes land, buildings, rooms, and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by the license.

(17) “Restaurant-sale” means the sale and consumption of alcoholic beverages on the premises solely in conjunction with the sale of food for consumption on the premises; PROVIDED that the total sales of alcoholic beverages shall not exceed the total sales of food, as specified herein, during any 30-day period.

(18) “Sale” means any transfer, exchange or barter in any manner or by any means whatsoever and includes all sales made by a person whether as principal proprietor, agent, servant or employee.

(19) “Wholesale” means any business which sells alcoholic beverages in large quantities at reduced prices to purchasers intending to resell them at retail.

(20) “Wine” means and includes any beverage containing more than point five percent (0.5%) of alcohol by weight and not more than twenty four percent (24%) of alcohol by volume, obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine.

Source: PDC §3-1, 3/71; S.L. No. 7L-47-09 §1, 8/1/09

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-1 and inserted a new §3-1.

§2-102. Manufacture, sale, and consumption of alcoholic beverages permitted. — The manufacture, sale, and consumption of alcoholic beverages are permitted within the jurisdiction of Pohnpei, subject to the provisions of this part.

Source: PDC §3-2, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-2 and inserted a new §3-2.

§2-103. Local option. — Each local government within Pohnpei shall determine by local option whether or not it shall permit the manufacture, sale, and consumption of alcoholic beverages within its jurisdiction. Local governments may exercise the right of the local option with respect to beer only or with respect to any other alcoholic beverages, and may control or limit the manufacture, sale or consumption of alcoholic beverages, or any of these.

Source: PDC §3-3, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-3 and inserted a new §3-3.

§2-104. Authority of the Governor. — The Governor is authorized and empowered to promulgate rules and regulations pertaining to the control of alcoholic beverages. Such rules and regulations shall have the force and effect of law, insofar as they are not in conflict with the laws of Pohnpei. As Chief Executive, the Governor is responsible for the administration of this part, whose responsibilities shall include, but not be limited to the following:

- (1) To review, reject or grant retail and wholesale licenses;
- (2) To cause periodic and unannounced inspection of the premises of each licensee to be conducted for compliance with the requirements of this part, and other applicable laws and regulations;
- (3) To appoint a committee or special undercover inspectors and prescribe their duties and responsibilities, to assist the Governor in the administration of this part;
- (4) To consult and coordinate with all sectors of the Pohnpeian community for their assistance and efforts in the administration of this part;
- (5) To provide means to educate the general public about this part; and
- (6) To report to the Legislature, at least once annually, about the administration of this part.

Source: PDC §3-4, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-4 and inserted a new §3-4.

§2-105. Application for license; application fee. —

(1) Each applicant intending to obtain or renew an alcoholic beverages business license shall be required to submit an application in writing to the Governor setting forth his name, sex, date of birth, or in the case of a corporation or cooperative, the name of the corporate business, and date of incorporation, residency, the type of license applied for, place of his premises, and other pertinent information which the Governor may require. The applicant shall forthwith pay a non-refundable application fee to the Director of the Department of Treasury and Administration upon submitting his application at the rate specified below:

(a) Wholesale business application fee – \$5 per application.

(b) Retail business application fee, whether off-sale, on-sale, restaurant-sale, or cabaret-sale— \$10 per application.

(2) Failure to pay the prescribed application fee shall be cause for the Governor to not consider such application. Upon receipt of an application for the alcoholic beverages license, together with the prescribed application fee, the Governor shall cause an inspection of the applicant's premises prior to granting or renewing of such business license to the applicant.

Source: PDC §3-5, 3/71; S.L. No. 7L-47-09 §2, 8/1/09

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-5 and inserted a new §3-5.

§2-106. Alcoholic beverages business license fee. — Upon satisfactory compliance with §§2-105, 2-107, and 2-114(3), and if the Governor is satisfied that such applicant is eligible and qualifies for a business license, the Governor shall grant the alcoholic beverages business license and collect the business license fee as follows:

(1) Wholesale license. Wholesalers of alcoholic beverages shall be required to acquire an alcoholic beverages wholesale license at a fee of \$250 for 12 months or any part thereof; PROVIDED that such license fees shall apply to licenses hereafter granted or renewed, and shall not affect licenses granted or renewed before the effective date of this part. Such fees shall be payable to the Director of the Department of Treasury and Administration at the time such wholesaler is granted a business license under this part.

(2) Retail license. Retailers of alcoholic beverages shall be required to acquire an alcoholic beverages retail license. Such retail license shall be of four types: “on-sale,” “off-sale,” “restaurant-sale”, and “cabaret-sale” as defined. The fees for such license per 12 months or any part thereof are as specified in this subsection; PROVIDED that such license fees shall apply to licenses hereafter granted or renewed, and shall not affect licenses granted or renewed before the effective date of this part. Upon granting a retail license as required by this section, the licensee shall pay the required business

license fee to the Director of the Department of Treasury and Administration, who shall transfer such fee to the local government in which the business establishment is located.

- (a) On-sale business license fee. A fee of \$200 for the privilege of selling any alcoholic beverages;
- (b) Off-sale business license fee. A fee of \$100 for the privilege of selling any alcoholic beverages;
- (c) Restaurant-sale business license fee. A fee of \$50 for the privilege of selling any alcoholic beverages; and
- (d) Cabaret-sale business license fee. A fee of \$500 for the privilege of selling any alcoholic beverages.

(3) Except for the fees collected under Subsection 2 of this section, all other fees collected under §§2-105 and 2-106(1), and all court fines for conviction of any provision of this part shall be deposited with the Director of the Department of Treasury and Administration for appropriation by the Legislature.

Source: PDC §3-6, 3/71; S.L. No. 7L-47-09 §3, 8/1/09

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-6 and inserted a new §3-6.

§2-107. Licensee eligibility. — Every licensee, in the case of a natural person, shall be a legal resident of Pohnpei, have attained the age of 21 years, be of good moral character, and not serving a sentence for conviction of a felony. In the case of corporations, cooperatives, clubs, and associations, licensees must otherwise be legally capable of engaging in the business of selling alcoholic beverages under the laws of the Federated States of Micronesia and the state of Pohnpei. Only licensees may operate an establishment or club.

Source: PDC §3-7, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-7 and inserted a new §3-7.

§2-108. Revocation and suspension of licenses. — A license granted under this part may be revoked or suspended by any court of competent jurisdiction on any of the following grounds:

- (1) Acquittal of any criminal charge by reason of insanity;
- (2) Adjudication of mental incompetency, drug addiction or alcoholism as certified by a recognized physician or medical officer;
- (3) Violation of, causing or permitting a violation of, or failure or refusal to comply with this part or any regulations promulgated pursuant hereto;
- (4) Conviction of any criminal offense within the preceding two years, involving actual or attempted personal injury or death;
- (5) Misrepresentation of a material fact, within the preceding two years, in obtaining or renewing a license; or
- (6) The continuation of a license would be otherwise contrary to the public interest.

Source: PDC §3-8, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-8 and inserted a new §3-8.

§2-109. Restrictions as to persons under 21 years of age and certain other persons. —

- (1) It shall be unlawful for any licensee, knowingly or otherwise, to sell, give, serve, or permit to be sold, given or served any alcoholic beverages to any person under 21 years of age, to any person in a state of intoxication or to any person who is currently serving a court sentence under which such person is restrained from consuming any alcoholic beverages as a condition of his sentence.
- (2) It shall be unlawful for any person, knowingly or otherwise, to sell or give any alcoholic beverages to any person under 21 years of age.
- (3) It shall be unlawful for any person under 21 years of age to purchase, possess or consume any alcoholic beverages.

(4) It shall be unlawful for any person under 21 years of age to misrepresent his age, his identity or his eligibility for the purpose of purchasing, possessing or consuming any alcoholic beverages

Source: PDC §3-9, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-9 and inserted a new §3-9.

§2-110. [RESERVED]

§2-111. [RESERVED]

§2-112. Personal identification. — For proof of age, the owner, proprietor, operator, cashier clerk or other attendant on duty at an establishment shall, prior to the sale of any alcoholic beverages to any person, require such person to produce his personal identification, as defined.

Source: PDC §3-10, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-10 and inserted a new §3-10.

§2-113. Conduct of off-sale business. — The following subsections of this section shall apply to all off-sale businesses:

(1) The sale of alcoholic beverages in unsealed or uncapped containers is prohibited. It shall be unlawful for any licensee to sell, for consumption off the premises, any alcoholic beverages in a container that is not sealed or capped, or in any container other than its original package.

(2) *Non-consumption stores.* The consumption of alcoholic beverages shall not be permitted on the premises of an off-sale establishment or club, whether wholesale or retail.

(3) Wholesale businesses shall be required to keep and maintain a log of all sales of alcoholic beverages made to off-sale business licensees. Such log shall be available for inspection by the Chief of the Division of Police and Security or any law enforcement officer and shall provide, among other things, the following information:

(a) Name of off-sale licensee and the license number;

(b) Date of sale, names and types of alcoholic beverages sold, types of containers, and quantity sold; and

(c) The signature of the person making the sale.

(4) *Off-sale retail establishments.* The licensee of an off-sale retail business shall also be required to maintain a log which shall be in such form as prescribed by the Governor, and which shall contain the following information:

(a) Name of licensee and license number;

(b) Name of each person purchasing any alcoholic beverages from the establishment;

(c) Name, type, and quantity of beverages sold to such person;

(d) Date of the sale;

(e) Initials of the person making the sale;

(f) Monthly tally of the amount of alcoholic beverages purchased by the business and the amount sold by the business in the same period; and

(g) Such other information as the Governor, by regulation, may require.

(5) The log required by Subsection (4) of this section shall be made available at all times for inspection by the Director of the Department of Public Safety or any law enforcement officer, and may be used as evidence in a criminal proceeding. Failure to maintain a log as herein prescribed, or to produce the same for inspection as herein provided, shall constitute a violation of this part.

Source: PDC §3-11, 3/71; S.L. No. 5L-14-00 §3-38, 10/1/00

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-11 and inserted a new §3-11.

§2-114. Conduct of on-sale, restaurant-sale and cabaret-sale businesses. — The following subsections of this section shall apply to all on-sale, restaurant-sale and cabaret-sale businesses:

(1) Conduct of on-sale, restaurant-sale and cabaret-sale businesses generally. The consumption of alcoholic beverages at licensed establishment or club shall not be encouraged directly or indirectly but

shall be confined to the supply of the demand for alcoholic beverages in a dignified and orderly manner in accordance with this part.

(2) Consumption forbidden in certain places. The consumption of alcoholic beverages by any person shall not be permitted at any place on the premises of any such establishment or club except when adequate tables, waiters or waitresses, facilities, and trash receptacles are provided.

(3) Condition of premises. The premises, including all furniture, furnishings, and equipment, of all such establishments and clubs shall, at all times, be clean, sanitary, sufficiently lighted, safe, and in good repair, and shall otherwise be in compliance with all other applicable state and local government laws and regulations pertaining to health, safety, and other conditions. Drinking glasses and other eating utensils must be washed and effectively cleaned between each use. Toilet facilities shall be provided for males and females and, at all times, maintained in a clean and sanitary condition.

(4) Unauthorized alcoholic beverages. No licensee shall keep or sell, give, offer to sell or give, or otherwise dispense from his establishment or club any alcoholic beverages that are not authorized by his license.

(5) Stacking drinks. A licensee, or his agents and employees shall not sell, give, offer to sell or give, or otherwise dispense more than one drink of any alcoholic beverage or one full container of beer or wine for consumption on the premises to one person at any one time.

(6) Full containers. A licensee or his agents or employees of an establishment or club shall not sell, give, offer to sell or give, or otherwise dispense any alcoholic beverages for consumption on the premises, from any container other than its original package, exclusive of drinks mixed on the premises upon request of the customer, from such beverages in their original packages.

(7) Refilling containers. A licensee, or his agents and employees shall not refill any alcoholic beverage container with alcoholic beverages and shall not sell, give, offer to sell or give, or otherwise dispense any alcoholic beverage from a refilled container.

(8) Noise. A licensee, or his agents and employees shall not permit noise at his establishment or club from persons, music, entertainment or any other source that unreasonably disturbs any hotel guests, restaurant patrons, store invitees or neighboring residents.

(9) Consumption while on duty. A licensee, or his agents and employees shall not consume or be permitted to consume any alcoholic beverages while on duty at his establishment or club.

(10) Employment of persons under 21 years of age. Notwithstanding any other provision of this part, a licensee, or his agents and employees shall not employ any person under 21 years of age to sell, give, offer to sell or give, or otherwise dispense any alcoholic beverages at his establishment or club.

(11) The licensee shall maintain a log as prescribed by §2-113(4) of this part for all off-sale transactions by his establishment or club.

Source: PDC §3-12, 3/71; S.L. No. 7L-47-09 §4, 8/1/09

Notes: 1. D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-12 and inserted a new §3-12.

2. PDC §3-12(11), 3/71 was repealed by S.L. No. 1L-3-85 §10-1(5), 3/9/85.

§2-114A. Additional conditions for the conduct of cabaret-sale businesses. — The conduct of a cabaret-sale business shall be subject to all requirements of §2-114. In addition:

(1) The cabaret-sale establishment shall be housed in a fully enclosed facility designed to prohibit noises generated within the cabaret to escape from the interior of the facility;

(2) The cabaret-sale establishment shall have a parking area on the grounds of the establishment and away from the public roadways sufficient to accommodate the maximum number of customers that can be serviced by the establishment; and

(3) At all times that the cabaret-sale establishment is in operation, it shall have a doorman at each public entryway into the interior of the establishment and not less than two additional employees, commonly referred to as bouncers, primarily assigned to the order and security of the establishment and parking areas.

Source: S.L. No. 7L-47-09 §5, 8/1/09

§2-115. Implied consent to search. — Any person who enters or attempts to enter any on-sale, restaurant-sale, or cabaret-sale establishment or club which sells or dispenses alcoholic beverages in open containers shall thereby consent, upon request of the owner, proprietor or operator of such establishment or club, or upon the request of a duly authorized employee thereof, duly appointed private policemen hired by such establishment or club, or any law enforcement officer, subject to exclusion therefrom for denial thereof, to:

- (1) Produce for inspection his personal identification; and
- (2) Submit to a non-strip search by a person of the same sex for any dangerous weapon, device or instrument capable of inflicting personal injury or death to any person. No person found to be in possession of any dangerous weapon, device or instrument capable of inflicting personal injury or death shall be allowed into, or to remain within, any such establishment or club; PROVIDED, HOWEVER, that such person may, at the discretion of the owner, manager, operator or private policemen on duty, allow such person to enter if such person delivers possession of any such dangerous device for safekeeping while such person remains on the premises.

Source: PDC §3-13, 3/71; S.L. No. 7L-47-09 §6, 8/1/09

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-13 and inserted a new §3-13.

§2-116. Legal sale hours. — The sale and purchase of alcoholic beverages shall be lawful only during the following hours as specified in Subsections (1) through (3) of this section, subject to the following exceptions of Subsection (4) of this section and §2-118 of this part:

- (1) Off-sale establishments: from 8:00 a.m. until 10:00 p.m. each day.
- (2) On-sale and restaurant-sale establishments:
 - (a) Sunday through Thursday, from 10:00 a.m. until 12 midnight; and
 - (b) On Friday and Saturday, from 10:00 a.m. until 1:00 a.m. the following day.
- (3) Cabaret-sale establishments: from 10:00 a.m. until 3:00 a.m. the following day.
- (4) Alcoholic beverages may be sold and purchased at on-sale and restaurant-sale establishments for consumption on the premises until 1:00 a.m. when the following day is a legal holiday; PROVIDED, HOWEVER, that notwithstanding any other provision of this part, no alcoholic beverages may be sold or purchased by any category of licensee for consumption off the premises at any time on December 24th, December 25th, December 31st and January 1st.

Source: PDC §3-14, 3/71; S.L. No. 5L-41-01 §1, 7/19/01; S.L. No. 7L-47-09 §7, 8/1/09

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-14 and inserted a new §3-14.

§2-117. Premises restrictions. —

(1) Establishments that engage in more than one business activity within the same general premises, such as hotels and motels, that conduct an on-sale or cabaret-sale business, shall physically separate the areas of alcohol purchase and consumption from the areas of general public access.

(2) It shall be unlawful for any on-sale, restaurant-sale, or cabaret-sale retail licensee owner, employee, waiter, waitress or agent to permit the consumption of alcoholic beverages or permit or allow any customer or any person other than the owner or his or her employees to remain within the premises of the establishment where alcohol is allowed to be purchased or consumed, except during legal sale hours and for 30 minutes after the end of legal sale hours.

(3) Between 30 minutes after the end of legal sale hours, and the beginning of the next legal sale hours, it shall be unlawful for anyone to be on the licensed premises where alcohol is allowed to be purchased or consumed of an on-sale, restaurant-sale or cabaret-sale retail establishment except the licensee and his immediate employees.

(4) The provisions of Subsections (2) and (3) of this section shall not prohibit the presence of bona fide contractors, servicemen, deliverymen, salesmen, and their agents solely engaged in the business of offering or providing products or services to an establishment during the restricted hours stated in said subsections.

Source: PDC §3-14A, 3/71; S.L. No. 7L-47-09 §8, 8/1/09

Note: PDC §3-14A was inserted by S.L. No. 5L-41-01 §2, 7/19/01.

§2-118. Election day prohibitions. — Notwithstanding any other provision of this part, alcoholic beverages may not be sold, purchased or otherwise provided, nor may any alcoholic beverage be consumed by any person during an election day while the polling places in that local jurisdiction or town are open; PROVIDED that this provision shall not apply when the polls in a local jurisdiction or town are open solely for the purpose of receiving absentee ballots.

Source: PDC §3-14B, 3/71

Note: PDC §3-14B was inserted by S.L. No. 5L-41-01 §3, 7/19/01.

§2-119. Prohibitions and disturbance of the peace. —

(1) *Restriction on sale or consumption.* No alcoholic beverages shall be sold or consumed within 100 feet of any hospital, dispensary, school, church, prayer house, local government office, court house, administration building or on a public playground, including children's play or picnic areas as may be designated by the Governor, or any authorized organization; PROVIDED that the Governor may grant permission to any group or association to consume alcoholic beverages at the restricted areas only during an official reception or bona fide party.

(2) *Prohibition on open containers.* It shall be unlawful for any person to carry or drink from any open can, glass, bottle or any other container containing alcoholic beverages on any public road, or in any moving vehicle, or in any business establishment not having an on-sale or restaurant-sale retail license.

(3) *Disturbance of the peace.* Every person who shall unlawfully and willfully commit any acts while in a state of intoxication which annoy or disturb other persons so that they are deprived of their right to peace and quiet, or to provoke a breach of peace, shall be guilty of an offense under this part.

Source: PDC §3-15, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-15 and inserted a new §3-15.

§2-120. Sacramental wine. — Nothing in this part shall in any way limit or restrict the sale of sacred wine to bona fide religious denominations for use in religious services.

Source: PDC §3-16, 3/71

Note: D.L. No. 4L-99-77 §1, 6/17/77 repealed §3-16 and inserted a new §3-16.

§2-121. Penalties. — Any person or licensee violating any provision of this part shall, upon conviction thereof, be fined not less than \$25 and not more than \$500, or imprisoned for a period of not more than six months, or both such fine and imprisonment; PROVIDED, that for the third and subsequent violations of this part by any licensee, he shall be sentenced according to this section and his license shall be suspended or revoked for a period of not less than 30 days. In no event shall licensees who have had their licenses suspended or revoked under this section be refunded any part of the license fee paid for the period of suspension or revocation.

Source: PDC §3-17, 3/71

Note: §3-17 was inserted by D.L. No. 4L-99-77 §1, 6/17/77.

§2-122. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the administration of this part. The sums appropriated under this authorization shall be administered and expended by the Governor solely for the purposes specified by this section. The Governor shall submit an annual financial report to the Legislature within 15 days after the closing day of the previous fiscal year. The balance of all sums appropriated for any fiscal year under this authorization not expended or obligated for expenditure on the closing day of each fiscal year shall revert to the general fund of Pohnpei.

Source: PDC §3-18, 3/71; D.L. No. 4L-136-78 §14, 3/27/78

Note: §3-18 was inserted by D.L. No. 4L-99-77 §1, 6/17/77.

Extended legislative history: PDC §§3-1 to 3-16, 3/71; PDC §3-1 was amended by D.L. No. 3L-94-74 §1, 6/29/74; PDC §3-2 was amended by D.L. No. 3L-46-73 §1, 5/25/73; PDC §3-3 was amended by D.L. No. 3L-4-72 §1, 5/23/72; PDC §3-4 was amended by D.L. No. 3L-5-72 §1, 5/23/72, and D.L. No. 3L-94-74 §2, 6/29/74; PDC §3-6

was amended by D.L. No. 3L-10-72 §1, 5/24/72, and D.L. No. 3L-125-75 §1, 6/3/75; PDC §3-9 was amended by D.L. No. 3L-94-74 §3, 6/29/74; PDC §3-10 was amended by D.L. No. 3L-94-74 §4, 6/29/74; PDC §3-11(d) was amended by D.L. No. 3L-94-74 §5, 6/29/74; PDC §3-12 was amended by D.L. No. 3L-68-73 §1, 10/30/73; PDC §3-15 was amended by D.L. No. 3L-58-73 §14, 5/29/73; PDC §§3-1 to 3-16 were repealed in their entirety by D.L. No. 4L-99-77 §1, 6/17/77; PDC §§3-1 to 3-18 were established by D.L. No. 4L-99-77 §1, 6/17/77; PDC §3-12(11) was repealed by S.L. No. 1L-3-85 §10-1(5), 3/9/85; PDC §3-18 was amended by D.L. No. 4L-136-78 §14, 3/27/78.

PART B JUVENILES

§2-123. No entering premises of on-sale or cabaret-sale business by juveniles. — It shall be unlawful for any juvenile to enter into, or loiter upon, the premises of an on-sale or cabaret-sale licensed business that dispenses alcoholic beverages; PROVIDED that a juvenile may enter into the area of the premises of any hotel, motel or restaurant where the on-sale or cabaret-sale licensed business dispenses alcoholic beverages when accompanied by his parent or legal guardian.

Source: PDC §6-3, 3/71; D.L. No. 3L-15-72 §1, 5/25/72; S.L. No. 7L-47-09 §9, 8/1/09

§2-124. Violation of §2-123. — Any person found to be encouraging, enticing or permitting a juvenile to violate §2-123 shall, upon conviction thereof, be imprisoned for not less than six months, or fined not more than \$200, or both such fine and imprisonment. Any juvenile found violating §2-123 shall be dealt with in accordance with 61 PC 1-107 and 52 PC 6-104 and 6-105.

Source: PDC §6-10, 3/71; D.L. No. 3L-11-72 §1, 5/24/72

Note: The original section included a reference to the Trust Territory Code concerning a presumption of the responsibility of children, but incorrectly referenced 11 TTC §5, which pertains to insanity as a defense. 11 TTC §6 provides for a presumption of the responsibility of children. This part of the Trust Territory Code has been superseded by §10-3 of S.L. No. 3L-89-95. There is no equivalent section on the presumption of the responsibility of children in S.L. No. 3L-89-95.

§2-125. Juvenile defined. — For the purpose of this part, a juvenile is defined by 52 PC 1-101.

Source: PDC §6-1, 3/71

Note: Definition of "Juvenile" has been codified under Title 52 Chapter 1, entitled "Juvenile Defined".

REGULATED SUBSTANCES

CHAPTER 3 TOBACCO PRODUCTS

Section

3-101 Prohibition on the sale or other transfer of tobacco products to or on behalf of minors

3-102 Smoking restrictions in state buildings

§3-101. Prohibition on the sale or other transfer of tobacco products to or on behalf of minors.

— Effective 45 days after the effective date of this section [*effective date is August 15, 1994*], no person who conducts or who is employed by any business within this state which offers for distribution, wholesale sale, retail sale or consumption any tobacco product as defined by this section and Chapter 1 of this title may offer, sell or otherwise transfer for valuable consideration by any means including any vending machine or other dispensing device, any tobacco product to a minor or to any person which the provider knows or has substantial reason to believe is obtaining such product for and on behalf of a minor. It shall not be a defense that the minor is acquiring the product on behalf of a person of the age of 18 years or over, whether or not such person is physically present at the time of acquisition. Any person who owns, operates or controls a vending machine or other dispensing device that mechanically or electronically dispenses any tobacco product for valuable consideration shall maintain continuous physical supervision and control over such device at all times it is serviceable for the distribution of any tobacco product to ensure that it is not used by or for a minor in violation of this section.

Source: S.L. No. 3L-63-94 §5, 8/15/94

§3-102. Smoking restrictions in state buildings. —

(1) Smoking is not permitted in government buildings belonging to Pohnpei State except in specifically designated areas. Those designated areas will be plainly marked by signs. In all other areas smoking is absolutely prohibited.

(2) Any person who knowingly and willfully smokes in areas other than those specifically designated shall be guilty of a misdemeanor.

(3) Any person found guilty of violating this section shall be subject to a fine of not more than \$100, or imprisonment for 30 days, or both such fine and imprisonment.

Source: S.L. No. 2L-131-89 §§2 – 4, 10/18/89

Note: S.L. No. 2L-131-89 §1 purpose and finding provision reads:

“For some years now cigarette packages have been carrying the Surgeon General’s Warning:

‘SMOKING CAUSES LUNG CANCER, HEART DISEASE, EMPHYSEMA, AND MAY COMPLICATE PREGNANCY.’

Considering the source of the warning we can no longer ignore the fact that smoking can and does cause grave injury to the body. If the injury were only to the smoker who voluntarily indulged it would be one thing, but non-smokers in rooms with smokers are involuntarily forced to breathe the smoke which may injure them. Breathing cigarette smoke is dangerous. It is therefore, the purpose of this act to establish as a matter of policy that Pohnpei recognizes the inherent health danger associated with smoking and to safeguard those who do not smoke by designating smoking and non-smoking areas in Government buildings.”

REGULATED SUBSTANCES

CHAPTER 3A EXPOSURE TO TOBACCO SMOKE

Section

3A-101 Findings and intent

3A-102 Construction of chapter

3A-103 Definitions

3A-104 Smoking prohibited in public places or places of employment

3A-105 Owners, lessees to post signs prohibiting smoking

3A-106 Application to certain places

3A-107 Minimum distance from certain areas

3A-108 Violations of chapter

3A-109 Regulations authorized

§3A-101. Findings and intent. — The people of Pohnpei recognize that exposure to secondhand smoke is known to cause cancer in humans. Children are especially vulnerable to such exposure. Secondhand smoke is also a known cause of other diseases including pneumonia, asthma, bronchitis, and heart disease. Citizens are often exposed to secondhand smoke in public places and in work places, and are likely to develop chronic, potentially fatal diseases as a result of such exposure. In order to protect the health and welfare of all citizens, it is necessary to prohibit smoking in these places.

Source: S.L. No. 7L-104-11 §1, 1/1/12

§3A-102. Construction of chapter. — The provisions of this chapter shall be in addition to such prohibitions, penalties, taxes and restrictions related to tobacco products as are otherwise imposed by law.

Source: S.L. No. 7L-104-11 §1, 1/1/12

§3A-103. Definitions. — As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise.

(1) “Designated smoking area” means a special area assigned by the management of a restaurant, of a sakau bar, or of a licensed cabaret-sale or on-sale establishment for the consumption of alcoholic beverages as defined by 66 PC 2-101:

- (a) Which special area constitutes not more than 20 percent of the total area of the establishment;
- (b) Which special area is separate and apart from the areas of the establishment that are open to the general public and is separated from such general access areas by the minimum distance as prescribed by §3A-107;
- (c) Which special area vents the tobacco smoke generated therein to the outside atmosphere and from which such tobacco smoke is not allowed to penetrate into the general access areas of the establishment; and
- (d) Which special area is clearly posted as a “designated smoking area” by the management of the establishment.

(2) “Smoke” or “smoking” means the carrying or smoking of tobacco by any kind of lighted pipe, cigar, cigarette, or any other lighted smoking device.

(3) “Public place” means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the state of Pohnpei, or other public entity, and regardless of whether a fee is charged for admission, and includes a presumptively reasonable minimum distance, as set forth in §3A-107 of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; PROVIDED that:

(a) Public places include, but are not limited to: schools, elevators, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, bars, taverns, night clubs, cabarets, reception areas, and no less than seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests.

(b) Public places also include the enclosed areas of inter-island ocean vessels, taxi cabs, buses and other public conveyances or transportation vehicles.

(c) A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises.

(d) This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

(4) “Place of employment” or “workplace” means any area under the control of a public or private employer which employees are required to pass through during the course of employment, including, but not limited to: entrances and exits to the places of employment, and including a presumptively reasonable minimum distance, as set forth in §3A-107 from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

Source: S.L. No. 7L-104-11 §1, 1/1/12

Note:

§3A-104. Smoking prohibited in public places or places of employment. — No person may smoke in a public place or in any place of employment as defined by this chapter, including the minimum distance therefrom as set forth in §3A-107, except in a designated smoking area as defined by §3A-103(1).

Source: S.L. No. 7L-104-11 §1, 1/1/12

§3A-105. Owners, lessees to post signs prohibiting smoking. — Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this chapter shall prohibit smoking in public places and places of employment and shall post signs prohibiting smoking as appropriate under this chapter. Signs shall be posted conspicuously at each building entrance. In the case of retail stores, restaurants, bars and other retail service establishments, signs shall be posted conspicuously at each entrance and in prominent locations throughout the place.

Source: S.L. No. 7L-104-11 §1, 1/1/12

§3A-106. Application to certain places. — This chapter is not intended to regulate smoking in a private workplace which is fully open to the outside atmosphere, such as a farm field or a building construction site prior to the emplacement of the roof on the building being constructed nor is this chapter intended to regulate smoking in a retail service establishment, such as a traditional sakau bar, which is open to the outside atmosphere and for which solid walls surround not more than 20% of the structure, even though such places may be visited by nonsmokers, excepting such places open to the outside atmosphere in which smoking is prohibited by regulation issued pursuant to this chapter.

Source: S.L. No. 7L-104-11 §1, 1/1/12

§3A-107. Minimum distance from certain areas. — Smoking is prohibited within a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open, and

ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by making application to the Director of the Department of Health Services. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.

Source: S.L. No. 7L-104-11 §1, 1/1/12

§3A-108. Violations of chapter. —

(1) Any person intentionally violating this chapter by smoking in a public place or place of employment, inclusive of the minimum distance therefrom as set forth in §3A-107, or any person removing, defacing, or destroying a sign required by this chapter, is subject to a civil fine of up to one hundred dollars. Any person passing by or through a public place while on a public sidewalk or public right-of-way has not intentionally violated this chapter.

(2) When violations of §3A-105 occur, a warning shall first be given to the owner or other person in charge. Any subsequent violation is subject to a civil fine of up to one hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

(3) The Department of Public Safety, with the assistance of the Department of Health Services, shall enforce §3A-105 regarding the duties of owners or persons in control of public places and places of employment by either of the following actions:

(a) Serving notice requiring the correction of any violation; or

(b) Calling upon the Office of the Attorney General to maintain an action for an injunction to enforce §3A-105, to correct a violation, and to assess and recover a civil penalty for the violation.

(4) Civil fines imposed by this section shall, upon collection, be deposited in the general fund of the Pohnpei Treasury as the realization of general revenues; PROVIDED that the Governor shall maintain a separate accounting of such deposits and endeavor to budget such monies for public information programs designed to discourage smoking habits among the citizens and residents of Pohnpei.

(5) The civil fines that may be levied pursuant to this section shall be in addition to such civil fines and criminal penalties as may be imposed pursuant to other law.

Source: S.L. No. 7L-104-11 §1, 1/1/12

§3A-109. Regulations authorized. — The Director of the Department of Health Services shall establish rules and regulations for the proper administration of this chapter which, upon the approval of the Governor, shall carry the force and effect of law. Such rules and regulations shall be issued in compliance with Title 8 Chapter 1 of this Code, relating to administrative procedures.

Source: S.L. No. 7L-104-11 §1, 1/1/12

REGULATED SUBSTANCES

CHAPTER 4 CONTROLLED SUBSTANCES

Section

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§4-101. Definitions. — As used in this chapter:

(1) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means to the body of a patient or research subject by:

- (a) A practitioner (or, in his presence, by his authorized agent); or
- (b) The patient or research subject at the direction and in the presence of the practitioner.

(2) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but does not include a common or contract carrier, public warehouseman or employee thereof.

(3) “Controlled substance” means a drug, substance or immediate precursor in Schedules I through V of §§4-105, 4-107, 4-109, 4-111, and 4-113.

(4) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person or persons who in fact manufactured, distributed or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by such other manufacturer, distributor or dispenser.

(5) “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there exists an agency relationship.

(6) “Director” means the Director of the Department of Public Safety.

(7) “Dispense” means to deliver a controlled substance to the ultimate user or research subject by or pursuant to the lawful order of a practitioner, including prescribing, administering, packaging, labeling, and compounding necessary to prepare the substance for such delivery.

(8) “Dispenser” is a practitioner who dispenses.

(9) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(10) "Distributor" means a person who distributes.

(11) "Drug" means:

(a) Substances recognized in the official United States of America pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; and

(d) Substances intended for use as a component of any article specified in Paragraphs (a), (b) or (c) of this subsection, but does not include devices or their components, parts or accessories.

(12) "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit such manufacture.

(13) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging or labeling of a controlled substance:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to research, teaching or chemical analysis and not for sale.

(14) "Marijuana" means all parts of the plant *Cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

(15) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in Paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(16) "Opiate" means any substances having addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under §4-102, the

dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(17) "Opium poppy" means the plant of the species *Palaver somniferum L.*, except the seeds thereof.

(18) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(19) "Poppy straw" means all parts, except the seeds of the opium poppy, after mowing.

(20) "Practitioner" means a physician, dentist or a veterinarian who is licensed and registered to practice in Pohnpei State.

(21) "Prescribe" means to direct, designate or order the use of a formula for the preparation of a drug and medicine for a disease or illness and the manner of using them.

(22) "Prescriber" means one who is authorized to issue a prescription.

(23) "Prescription" means an order or formula issued by a licensed practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine, for the compounding or dispensing of drugs.

(24) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(25) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

Source: S.L. No. 2L-198-91 §1, 6/27/91; S.L. No. 5L-14-00 §3-29, 10/1/00

Note: The word "distributed" in Subsection (4) has been substituted for the word "distrusted" appearing in the original statute.

§4-102. Reports and recommendations by Director of the Department of Public Safety. —

(1) The Director shall report to the Pohnpei Legislature within ten days following the commencement of the first regular session of each year, the effects of the implementation of this chapter in relation to the problems of drug abuse in Pohnpei, and shall recommend to the Legislature any additions, deletions or revisions, in the schedules of substances enumerated in §§4-105, 4-107, 4-109, 4-111, and 4-113, and any other recommendations which he deems necessary. The Director shall not recommend any additions, deletions or revisions in such schedules until after notice and an opportunity for a hearing is afforded all interested parties, except that such hearing shall not be required if official notice has been received that the substance has been added, deleted or rescheduled under United States of America federal law. In making a recommendation regarding a substance, the Director shall assess the degree of danger or probable danger of the substance by considering the following:

(a) The actual or probable abuse of the substance including:

(i) Its history and current pattern of abuse;

(ii) The scope, duration, and significance of abuse; and

(iii) A judgment of the degree of actual or probable detriment which may result from the abuse of the substance.

(b) The biomedical hazard of the substance including:

(i) Its pharmacology: the effects and modifiers of effects of the substance;

(ii) Its toxicology: the acute and chronic toxicity, interaction with other substances whether controlled or not, and liability to psychological or physiological dependence;

(iii) Risk to public health and particular susceptibility of segments of the population;

and

(iv) Existence of therapeutic alternative for substances which are or may be used for medical purposes.

(c) A judgment of the probable physical and social impact of widespread abuse of the substance.

(d) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(e) The current state of scientific knowledge regarding the substance.

(2) After considering the factors enumerated above, the Director shall make a recommendation to the Legislature, specifying to what schedule the substance shall be added, deleted or rescheduled if it finds that the substance has a degree of danger or probable danger. The Director may make such recommendation to the Legislature prior to the submission of his annual report in which case the Director shall publish and give notice to the public of such recommendation.

(3) The Legislature has the sole authority to add, delete or reschedule all substances enumerated in the schedules in §§4-105, 4-107, 4-109, 4-111, and 4-113.

(4) If the Legislature designates a substance as an immediate precursor, substances that are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

Source: S.L. No. 2L-198-91 §2, 6/27/91; S.L. No. 5L-14-00 §3-29, 10/1/00

§4-103. Nomenclature. — The following schedules include the controlled substance listed or to be listed by whatever official name, common or usual name, chemical name or trade name designated.

Source: S.L. No. 2L-198-91 §3, 6/27/91

§4-104. Schedule I – Criteria for classification. — The Director in his recommendation shall place a substance in Schedule I if he finds that:

(1) The substance has a high potential for abuse; and

(2) The substance has no accepted medical use in treatment, or lacks accepted safety for use in treatment under medical supervision.

Source: S.L. No. 2L-198-91 §4, 6/27/91

§4-105. Schedule I – Designated. — The controlled substances listed in this section are included in Schedule I:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (a) Acetylmethadol;
- (b) Alfentanil;
- (c) Allylprodine;
- (d) Alphacetylmethadol;
- (e) Alphameprodine;
- (f) Alphamethadol;
- (g) Alpha-methylfentanyl;
- (h) Benzethidine;
- (i) Betacetylmethadol;
- (j) Betameprodine;
- (k) Betamethadol;
- (l) Betaprodine;
- (m) Clonitazene;
- (n) Dextromoramide;
- (o) Diampromide;
- (p) Diethylambutene;
- (q) Difenoxyin;
- (r) Dimenoxadol;
- (s) Dimepheptanol;

- (t) Dimethylthiambutene;
 - (u) Dioxaphetyl butyrate;
 - (v) Dipipanone;
 - (w) Ethylmethylthiambutene;
 - (x) Etonitazene;
 - (y) Etoxidene;
 - (z) Furethidine;
 - (aa) Hydroxypethidine;
 - (bb) Ketobemidone;
 - (cc) Levomoramide;
 - (dd) Levophenacymorphan;
 - (ee) Morpheridine;
 - (ff) Noracymethadol;
 - (gg) Norlevorphanol;
 - (hh) Normethadone;
 - (ii) Norpipanone;
 - (jj) Parahexyl;
 - (kk) Phenadoxone;
 - (ll) Phenampromide;
 - (mm) Phenomorphan;
 - (nn) Phenoperidine;
 - (oo) Piritramide;
 - (pp) Proheptazine;
 - (qq) Properidine;
 - (rr) Propiram;
 - (ss) Racemoramide;
 - (tt) Tildine;
 - (uu) Trimerperidine;
 - (vv) N-[1-(1-methyl-2-phenyl) ethyl-4-piperidyl]-N-phenylacetamide (acetyl-alpha methylfentanyl);
 - (ww) N-[1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (alpha methylthiofentanyl);
 - (xx) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl);
 - (yy) N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (betahydroxyfentanyl);
 - (zz) N-[3-methyl-1-(2-hydroxy-2-phenyl)-ethyl-4-piperidyl]-N-phenylpropanamide (beta-hydroxy-3-methylfentanyl);
 - (aaa) N-[3-methyl-1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide methylthiofentanyl];
 - (bbb) N-[1-(2-thienyl)methyl-4 piperidyl]-N-phenylpropanamide (thenylfentanyl);
- and
- (ccc) N-[1-(2-2 thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (thiofentanyl).

(2) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Acetorphine;
- (b) Acetyldihydrocodeine;
- (c) Benzylmorphine;
- (d) Codeine methylbromide;
- (e) Codeine-N-Oxide;

- (f) Cyprenorphine;
- (g) Desomorphine;
- (h) Dihydromorphine;
- (i) Drotebanol;
- (j) Etorphine;
- (k) Heroin;
- (l) Hydromorphanol;
- (m) Methyldesorphine;
- (n) Methyldihydromorphine;
- (o) Morphine methylbromide;
- (p) Morphine methylsulfonate;
- (q) Morphine-N-Oxide;
- (r) Myorphine;
- (s) Nicocodeine;
- (t) Nicomorphine;
- (u) Normorphine;
- (v) Phoclodine; and
- (w) Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) 2, 5-dimethoxyamphetamine (2, 5-DMA);
- (b) 3, 4-methylenedioxyamphetamine;
- (c) 5-methoxy-3, 4-methylenedioxyamphetamine;
- (d) 4-bromo-2, dimethoxyamphetamine (4-bromo-2, 5-DMA);
- (e) 3, 4, 5-trimethoxyamphetamine;
- (f) Bufotenine;
- (g) 4-methoxyamphetamine (PMA);
- (h) Fenethylthine;
- (i) Diethyltryptamine;
- (j) Dimethyltryptamine;
- (k) 4-methyl-2, 5-dimethoxylamphetamine;
- (l) Ibogaine;
- (m) Lysergic acid diethylamide;
- (n) Marijuana;
- (o) Mescaline;
- (p) Peyote;
- (q) N-ethyl-3-piperidyl benzilate;
- (r) N-methyl-3-piperidyl benzilate;
- (s) Psilocyn;
- (t) Psilocybin;
- (u) Tetrahydrocannabinols;
- (v) Ethylamine analog of phencyclidine (PCE);
- (w) Pyrrolidine analog of phencyclidine (PcPy, PHP); and
- (x) Thiophene analog of phencyclidine (TPCP), (TPCP; TCP).

(4) Unless specifically excepted, the schedule shall include any material, compound, mixture or preparation that contains any quantity of the substance methaqualone.

Source: S.L. No. 2L-198-91 §5, 6/27/91

§4-106. Schedule II – Criteria for classification. — The Director in his recommendation shall place a substance in Schedule II if he finds that:

- (1) The substance has a high potential for abuse;
- (2) The substance has currently accepted medical use with severe restrictions; and
- (3) Abuse of the substance may lead to severe psychological or physical dependence.

Source: S.L. No. 2L-198-91 §6, 6/27/91

§4-107. Schedule II – Designated. — The controlled substances listed in this section are included in Schedule II:

(1) Any of the following substances except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- (a) Opium and opiate, and any salt, compound, derivative or preparation of opium or opiate;
- (b) Opium and opiate, isomers, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in Paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
- (c) Opium poppy and poppy straw;
- (d) Coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not include cocaine or ecgonine.

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (a) Alfentanil;
- (b) Alphaprodine;
- (c) Anileridine;
- (d) Bezitramide;
- (e) Bulk dextropropoxyphene (nondosage form);
- (f) Dihydrocodeine;
- (g) Diphenoxylate;
- (h) Fentanyl;
- (i) Isomethadone;
- (j) Levomethorphan;
- (k) Levorphanol;
- (l) Metazocine;
- (m) Methadone;
- (n) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (o) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (p) Pethidine;
- (q) Pethidine-Intermediate, A-4-cyano-1-methyl-4-phenylpiperidine;
- (r) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (s) Pethidine-Intermediate-C, 1-methyl-4-phenyl-4-piperidine-4-carboxylic acid;
- (t) Phenazocine;
- (u) Piminodine;
- (v) Racemethorphan;
- (w) Racemorphan; and
- (x) Sufentanil.

(3) *Depressants*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (a) Amobarbital;
- (b) Pentobarbital;
- (c) Phencyclidine;
- (d) Phencyclidine immediate precursors:
 - (i) I-phenycyclohexylamine;
 - (ii) I-piperidinocyclohexane-carbonitrile (PCC); and
- (e) Secobarbital.

(4) *Stimulants*. Any material, compound, mixture or preparation, which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (b) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;
- (c) Any material, compound, mixture or preparation, which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
 - (i) Phenmetrazine and its salts;
 - (ii) Phenylacetone (P2P); and
 - (iii) Methylphenidate.

Source: S.L. No. 2L-198-91 §7, 6/27/91

§4-108. Schedule III – Criteria for classification. — The Director in his recommendation shall place a substance in Schedule III if he finds that:

- (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
- (2) The substance has currently accepted medical use in treatment; and
- (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

Source: S.L. No. 2L-198-91 §8, 6/27/91

§4-109. Schedule III – Designated. — The controlled substances listed in this section are included in Schedule III:

(1) *Stimulants*. Unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in Schedule II, and any other drug of the quantitative composition or which is the same except that it contains a lesser quantity of controlled substances;
- (b) Benzphetamine;
- (c) Chlorphentermine;
- (d) Clortermine;
- (e) Mazindol; and
- (f) Phendimetrazine.

(2) *Depressants*. Unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (a) Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
 - (b) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the Food and Drug Administration of the United States of America Government for marketing only as a suppository;
 - (c) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;
 - (d) Chlorexadol;
 - (e) Glutethimide;
 - (f) Lysergic acid;
 - (g) Lysergic acid amide;
 - (h) Methyprylon;
 - (i) Sulfondiethylmethane;
 - (j) Sulfonethylmethane; and
 - (k) Sulfonmethane.
- (3) Nalorphine.
- (4) Any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
- (a) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
 - (b) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
 - (c) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
 - (d) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
 - (e) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
 - (f) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;
 - (g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
 - (h) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- (5) The Director may except, by rule, any compound, mixture or preparation containing any stimulant or depressant substance listed in Subsections (1) and (2) of this section from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

Source: S.L. No. 2L-198-91 §9, 6/27/91

§4-110. Schedule IV – Criteria for classification. — The Director in his recommendation shall place a substance in Schedule IV if he finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule III.

Source: S.L. No. 2L-198-91 §10, 6/27/91

§4-111. Schedule IV – Designated. — The controlled substances listed in this section are included in Schedule IV:

(1) *Depressants.* Any material, compound, mixture or preparation that contains any quantity of the following substances or salts thereof having a potential for abuse associated with a depressant effect on the central nervous system:

- (a) Alprazolam;
- (b) Barbitol;
- (c) Bromazepam;
- (d) Camazepam;
- (e) Chloral betaine;
- (f) Chloral hydrate;
- (g) Chlordiazepoxide;
- (h) Clobazam;
- (i) Clonazepam;
- (j) Clorazepate;
- (k) Clotiazepam;
- (l) Cloxazolam;
- (m) Delorazepam;
- (n) Diazepam;
- (o) Estazolam;
- (p) Ethchlorvynol;
- (q) Ethinamate;
- (r) Ethyl lofazepate;
- (s) Fludiazepam;
- (t) Flunitrazepam;
- (u) Flurazepam;
- (v) Halazepam;
- (w) Haloxazolam;
- (x) Ketazolam;
- (y) Loprazolam;
- (z) Lorazepam;
- (aa) Lormetazepam;
- (bb) Mebutamate;
- (cc) Medazepam;
- (dd) Methohexital;
- (ee) Meprobamate;
- (ff) Mephobarbital;
- (gg) Methylphenobarbital;
- (hh) Midazolam;
- (ii) Nimetazepam;
- (jj) Nitrazepam;
- (kk) Nordiazepam;

- (ll) Oxazepam;
- (mm) Oxazolam;
- (nn) Paraldehyde;
- (oo) Petrichloral;
- (pp) Phenobarbital;
- (qq) Pinazepam;
- (rr) Prazepam;
- (ss) Quazepam;
- (tt) Temazepam;
- (uu) Tetrazepam; and
- (vv) Triazolam.

(2) *Fenfluramine*. Any material, compound, mixture or preparation that contains any quantity of fenfluramine, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

- (a) Fenfluramine.

(3) *Stimulants*. Unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Diethylpropion;
- (b) Phentermine; or
- (c) Pemoline (including organometallic complexes and chelates thereof).

(4) *Other substances*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances, including its salts:

- (a) Dextropropoxyphene; or
- (b) Pentazocine.

(5) The Director may except, by rule, any compound, mixture or preparation containing any depressant substance listed in Subsection (1) of this section from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Source: S.L. No. 2L-198-91 §11, 6/27/91

§4-112. Schedule V – Criteria for classification. — The Director in his recommendation shall place a substance in Schedule V if he finds that:

- (1) The substance has a low potential for abuse relative to the controlled substances listed in Schedule IV;
- (2) The substance has currently accepted medical use in treatment; and
- (3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

Source: S.L. No. 2L-198-91 §12, 6/27/91

§4-113. Schedule V – Designated. — The controlled substances listed in this section are included in Schedule V:

- (1) Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more active, non-narcotic medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (a) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;
- (b) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;
- (c) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;
- (d) Not more than 2.5 milligrams of dephenoxylate, and not less than 25 micrograms of atropine sulfate per dosage unit; and
- (e) Not more than 100 milligrams of opium per milliliters or per 100 grams.

Source: S.L. No. 2L-198-91 §13, 6/27/91

§4-114. Annual update and republication of schedules. — The Director shall update and republish the schedules annually and make them available to any registrant, law enforcement agency or any member of the public desiring such list.

Source: S.L. No. 2L-198-91 §14, 6/27/91

§4-115. Rules and regulations; charging of fees. — The Director is authorized to promulgate rules and regulations in accordance with and charge reasonable fees relating to the registration and control of the manufacture, distribution, prescribing, and dispensing of controlled substances within the state of Pohnpei.

Source: S.L. No. 2L-198-91 §15, 6/27/91

§4-116. Registration; exceptions. —

(1) Every person who manufactures, distributes, prescribes or dispenses any controlled substance within the state of Pohnpei or who proposes to engage in the manufacture, distribution, prescription or dispensing of any controlled substance within the state of Pohnpei shall obtain annually a registration issued by the Director in accordance with the rules made by him.

(2) Any person registered by the Director under this chapter to manufacture, distribute, prescribe, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense, prescribe or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this chapter.

(3) The following persons need not register and may lawfully possess controlled substances under this chapter:

(a) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his business or employment; and

(b) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner, or such person in lawful possession of a Schedule V substance.

(4) The Director may, by rule, waive the requirement for registration of certain manufacturers, distributors or dispensers if he finds it consistent with public health and safety.

(5) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, prescribes or dispenses controlled substances.

(6) The Director or his designee may inspect the establishment of a registrant or applicant for registration in accordance with the rules promulgated by him.

Source: S.L. No. 2L-198-91 §16, 6/27/91

§4-117. Registration: criteria for granting; effect. —

(1) The Director shall register an applicant to manufacture, prescribe or distribute controlled substances included in §§4-105, 4-107, 4-109, 4-111, and 4-113 unless he determines that the issuance of that registration is inconsistent with the public interest. In determining the public interest, the Director shall consider the following factors:

- (a) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific or industrial channels;
- (b) Compliance with applicable law;
- (c) Prior conviction record of applicant under foreign or domestic laws relating to controlled substances;
- (d) Past experience in the manufacture or distribution of controlled substances, and the existence in the establishment of effective controls against diversion;
- (e) Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
- (f) Suspension or revocation of the applicant's foreign or domestic registration to manufacture, distribute, prescribe or dispense controlled substances as authorized by that other jurisdiction; and
- (g) Any other factors relevant to and consistent with the public health and safety.

(2) A registration granted under Subsection (1) of this section shall not entitle a registrant to manufacture and distribute controlled substances in Schedules I or II other than those specified in the registration.

(3) Practitioners must be registered to dispense or prescribe any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense, prescribe or conduct research under law applicable within the state of Pohnpei. The Director need not require separate registration for practitioners engaging in research with non-narcotic controlled substances in Schedules II through V where the registrant is already registered under this chapter in another capacity. Practitioners registered under applicable law to conduct research with Schedule I substances may conduct research with Schedule I substances within Pohnpei State upon furnishing evidence of that registration.

(4) The Director shall waive the requirements for registration under this section for manufacturers and distributors who can show compliance with registration requirements of foreign or domestic controlled substance statutes recognized by the state.

Source: S.L. No. 2L-198-91 §17, 6/27/91

§4-118. Registration: revocation or suspension; limitation of effect; sealing of substances. —

(1) A registration pursuant to §4-117 to manufacture, distribute, prescribe or dispense a controlled substance may be suspended or revoked by the Director upon a finding that the registrant:

- (a) Has materially falsified any application filed pursuant to this chapter or required by this chapter;
- (b) Has been convicted of any violation under this chapter or any foreign or domestic law relating to any substance defined herein as a controlled substance;
- (c) Has had his registration suspended or revoked by competent authority of any other foreign or domestic jurisdiction and is no longer authorized by the law thereof to engage in the manufacture, distribution or dispensing of controlled substances;
- (d) Has violated any regulation promulgated by the Director relating to §§4-115 through 4-122; or
- (e) Has had the registrant's license to practice the registrant's profession suspended or revoked by the applicable governing board.

(2) The Director may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exists.

(3) In the event the Director suspends or revokes a registration, controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the Director be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of

perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances shall be forfeited.

Source: S.L. No. 2L-198-91 §18, 6/27/91

§4-119. Registration: denial, revocation or suspension; notice and hearing. —

(1) Before denying, suspending or revoking registration, or refusing a renewal of registration, the Director shall serve upon the applicant or registrant a notice to show cause why registration should not be denied, revoked or suspended, or why the renewal should not be refused. The notice to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the Director at a time and place not less than 30 days after the date of service of the notice, but in the case of a denial of renewal of registration the notice to show cause shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted as administrative hearings without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(2) The Director may suspend, without a notice to show cause, any registration simultaneously with the institution of proceedings under §4-118, or where renewal of registration is refused, if he finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the Director or dissolved by a court of competent jurisdiction.

Source: S.L. No. 2L-198-91 §19, 6/27/91

§4-120. Registration: records. — Persons registered to manufacture, distribute, prescribe or dispense controlled substances under this chapter shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of applicable law and in accordance with any rules or regulations adopted by the Director pursuant to this chapter.

Source: S.L. No. 2L-198-91 §20, 6/27/91

§4-121. Order forms for Schedules I or II substances. — Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form prescribed by the rules and regulations adopted by the Director pursuant to this chapter; PROVIDED, HOWEVER, that the rules and regulations shall allow the use of order forms made in compliance with foreign and domestic controlled substance statutes recognized by the state.

Source: S.L. No. 2L-198-91 §21, 6/27/91

§4-122. Prescriptions. —

(1) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner.

(2) In emergency situations, as defined by rule of the Director, Schedule II drugs may be dispensed upon oral prescription of a practitioner reduced promptly to writing and filled by the pharmacy. Prescriptions shall be retained in conformity with the requirements of §4-120. No prescription for a Schedule II substance may be refilled.

(3) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedules III or IV, which is a prescription drug, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

(4) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

(5) No prescription for a controlled substance shall be filled or refilled with more than a 30-day supply, based upon the dosage units contained in the prescription.

Source: S.L. No. 2L-198-91 §22, 6/27/91

§4-123. Trafficking. —

(1) Except as authorized by this chapter, it shall be unlawful for any person knowingly or intentionally:

(a) To manufacture, deliver or dispense, or possess with intent to manufacture, deliver or dispense, a controlled substance; or

(b) To create, distribute or possess with intent to deliver, a counterfeit controlled substance.

(2) Any person who violates Subsection (1) of this section with respect to:

(a) A substance classified in Schedules I or II which is a narcotic drug shall be sentenced to a term of imprisonment for less than ten years, a fine of not more than \$10,000, or both such fine and imprisonment;

(b) Any other controlled substance classified in Schedules I, II or III shall be sentenced to a term of imprisonment for less than five years, a fine of not more than \$5,000, or both such fine and imprisonment;

(c) A substance classified in Schedule IV shall be sentenced to a term of imprisonment for not more than two years, a fine of not more than \$1,000, or both such fine and imprisonment; or

(d) A substance classified in Schedule V shall be sentenced to a term of imprisonment for not more than one year, a fine of not more than \$1,000, or both such fine and imprisonment.

(3) Notwithstanding Subsection (2)(b) of this section, any person who violates Subsection (1)(a) of this section by distributing not more than one ounce of marijuana for no remuneration shall be treated as provided in §4-124(3)(a).

Source: S.L. No. 2L-198-91 §23, 6/27/91

§4-124. Possession. —

(1) It is unlawful for any person knowingly or intentionally to possess a controlled substance, unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.

(2) Any person who violates Subsection (1) of this section with respect to any controlled substance except marijuana shall be sentenced to a term of imprisonment for not more than one year, a fine of not more than \$1,000, or both such fine and imprisonment.

(3) Any person who violates Subsection (1) of this section with respect to marijuana shall be penalized as follows:

(a) Any person who possesses one ounce or less shall be sentenced to a term of imprisonment of not more than one month, a fine of not more than \$100, or both such fine and imprisonment;

(b) Any person possessing more than one ounce but less than two and two-tenths pounds shall be sentenced to a term of imprisonment of not more than three months, a fine of not more than \$500, or both such fine and imprisonment; and

(c) Any person possessing two and two-tenths pounds or more of marijuana shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than \$1,000, or both such fine and imprisonment.

(4) The possession of two and two-tenths pounds or more of marijuana by any person shall constitute a rebuttable presumption of the crime of trafficking under §4-123.

Source: S.L. No. 2L-198-91 §24, 6/27/91

§4-125. Commercial offenses. —

(1) It shall be unlawful for any person who is subject to the requirements of §§4-115 through 4-122:

- (a) To distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;
- (b) To manufacture, distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;
- (c) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter;
- (d) To refuse an entry into any premises for any inspection authorized by this chapter; or
- (e) To knowingly keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft or any other structure or place whatever, which is resorted to by persons using controlled substances, or which is used for the keeping or selling of the same in violation of this chapter.

(2) Any person who violates Subsection (1) of this section is punishable by imprisonment for not more than five years, a fine of not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-198-91 §25, 6/27/91

§4-126. Fraudulent practices. —

(1) It shall be unlawful for any person knowingly or intentionally:

- (a) To distribute a controlled substance classified in Schedules I or II, in the course of his legitimate business, if that person is a registrant, except pursuant to an order form as required by §4-121;
- (b) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended or issued to another person;
- (c) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;
- (d) To furnish false or fraudulent material information in, or omit any material information from, any application, report or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; or
- (e) To make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container of labeling thereof so as to render such drug a counterfeit controlled substance.

(2) Any person who violates this section is punishable by imprisonment for not more than five years, a fine of not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-198-91 §26, 6/27/91

§4-127. Attempts, endeavors, and conspiracies. — Any person who attempts, endeavors or conspires to commit any offense defined in this chapter is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt, endeavor, or conspiracy.

Source: S.L. No. 2L-198-91 §27, 6/27/91

§4-128. Penalties for violation of chapter to be in addition to civil or administrative penalties. — Any penalty imposed for violation of this chapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

Source: S.L. No. 2L-198-91 §28, 6/27/91

§4-129. Distribution to persons under 18. — Any person who is at least 18 years of age who violates §4-123(1) by distributing a substance listed in Schedules I or II which is a narcotic drug to a person under 18 years of age who is at least three years his junior shall be punished by a term of imprisonment as authorized by §4-123(2)(a), in addition to such fine as may be imposed as authorized by §4-123(2)(a). Any person who is at least 18 years of age who violates §4-123(1) by distributing any other controlled substance listed in Schedules I, II, III, and IV to a person under 18 years of age who is at least three years his junior shall be punished by a term of imprisonment as authorized in §4-123(2)(b) or (c), in addition to such fine as may be imposed as authorized by §4-123(2)(b) or (c), or both such fine and imprisonment.

Source: S.L. No. 2L-198-91 §29, 6/27/91

§4-130. Conditional discharge for first offense of possession. —

(1) Whenever any person who has not previously been convicted of any offense under this chapter or under any statute of the Trust Territory of the Pacific Islands, of the United States of America Government, or of any jurisdiction of the Federated States of Micronesia relating to narcotic drugs, marijuana or stimulant, depressant or hallucinogenic drugs pleads guilty to or is found guilty of possession of a controlled substance under §4-124(1) the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilty and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions under §4-132. Discharge and dismissal under this section may occur only once with respect to any person.

(2) Upon the dismissal of such person and discharge of the proceedings against him under Subsection (1) of this section, such person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the court solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this section) all recordation relating to his arrest, indictment or information, trial, finding of guilt, and dismissal and discharge pursuant to this section. If the court determines after hearing that such person was dismissed and the proceedings against him discharged, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held hereafter under any provisions of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, indictment, information or trial in response to any inquiry made of him for any purpose.

Source: S.L. No. 2L-198-91 §30, 6/27/91

§4-131. Conviction by another jurisdiction not bar to prosecution. — If a violation of this chapter is a violation of the law of another jurisdiction, a conviction or acquittal under the law of that other jurisdiction for the same act is not a bar to prosecution in Pohnpei.

Source: S.L. No. 2L-198-91 §31, 6/27/91

§4-132. Second and subsequent offenses. — Any person who shall be found in violation of any provision of this chapter after one or more prior convictions of him under the same provision of this chapter have become final is punishable by a term of imprisonment of up to twice that authorized by this chapter for a violation thereof, but less than ten years, or by a fine of up to twice that authorized by this chapter for a violation thereof, or both such fine and imprisonment.

Source: S.L. No. 2L-198-91 §32, 6/27/91

§4-133. Sakau and betel nut. — Notwithstanding any other provision of this chapter, nothing in this chapter shall be deemed to control in any manner the substances of sakau and of betel nut as they appear in their natural state in the islands of Micronesia, or processed forms thereof that do not combine their ingredients with controlled substances specified in this chapter.

Source: S.L. No. 2L-198-91 §34, 6/27/91

Note: S.L. No. 2L-198-91 §33 superseding and §35 severability provisions have been omitted.

TITLE 67
[RESERVED]

(Next page is Title 68 divider)

TITLE 68

REGULATED DEVICES

TITLE 68 REGULATED DEVICES

CHAPTER 1 WEAPONS CONTROL 2 FIREWORKS

CHAPTER 1 WEAPONS CONTROL

Section

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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei State Weapons Control Act of 1982.”

Source: S.L. No. 2L-136-82 §1, 10/7/82

§1-102. Firearms and dangerous devices prohibited. — No person shall manufacture, purchase, sell, possess or carry any firearm, dangerous device or ammunition other than as hereinafter provided.

Source: S.L. No. 2L-136-82 §2, 10/7/82

§1-103. Chapter not applicable. — This chapter shall not apply to:

- (1) Law enforcement officers while engaged in official duty except to the extent that particular provisions of this chapter are expressly made applicable to them;
- (2) Firearms that are in unserviceable condition and that are incapable of being fired or discharged and that are kept as curios, ornaments or for their historical significance or value;

(3) Weapons or other dangerous devices which are not firearms and that are kept as ornaments, curios or objects of historical or archeological interest; PROVIDED that the article or articles referred to herein are kept or displayed only in private homes, museums or in connection with public exhibitions;

(4) Persons in the armed forces of the United States of America, whenever such persons are engaged in official duty except to the extent that particular provisions of this chapter are expressly made applicable to them; or

(5) Persons designated by the Attorney General as livestock slaughterers; PROVIDED, HOWEVER, that not more than one person shall be so designated at any one time; PROVIDED FURTHER that the Attorney General shall by regulation limit the size and type of weapons that may be used by such person.

Source: S.L. No. 2L-136-82 §3, 10/7/82

§1-104. Definitions. —

(1) “Automatic weapon” means a weapon of any description, irrespective of size, by whatever name designated or known, loaded or unloaded, from which may be repeatedly or automatically discharged a number of bullets contained in a magazine, ribbon or other receptacle, by one continued movement of the trigger or firing mechanism.

(2) “Carry” means having on one’s person or in a motor vehicle or other conveyance.

(3) “Chief of Police” means the Chief of the Division of Police and Security of the Pohnpei Department of Public Safety.

(4) “Dangerous device” means any explosive, incendiary or poison gas bomb, grenade, mine or similar device, switch or gravity blade knife, blackjack, sandbag, metal, wooden or shark’s tooth knuckles, dagger, any instrument designed or redesigned for use as a weapon, or any other instrument which can be used for the purpose of inflicting bodily harm and that under the circumstances of its possession serves no lawful purpose.

(5) “Firearms” means any device, by whatever name known, that is designed or may be converted to expel or hurl a projectile or projectiles by the action of an explosion, a release or an expansion of gas, including but not limited to guns, except a device designed or redesigned for use solely as a signaling, line throwing, spearfishing, or industrial device, or a device which hurls a projectile by means of the release or expansion of carbon dioxide or air.

(6) “Gun” means a handgun or long gun.

(7) “Handgun” means a pistol or revolver with an overall length of less than twenty-six inches.

(8) “Long gun” means a rifle with one or more barrels more than eighteen inches in length.

(9) “Person” means any natural person, corporation, partnership or other business entity.

(10) “Semi-automatic weapon” means a weapon of any description, irrespective of size, by whatever name designated or known, loaded or unloaded, from which may be repeatedly or automatically discharged a number of bullets contained in a magazine, ribbon or other receptacle by a like number of movements of the trigger or firing mechanism without recocking or resetting the trigger or firing mechanism.

(11) “State Attorney” means the Attorney General for Pohnpei.

(12) “Court” means the trial court of the Pohnpei Supreme Court.

(13) “Transfer” means sale, gift, purchase or any other means by which ownership or temporary rights of use and control are conveyed or shifted from one person to another.

Source: S.L. No. 2L-136-82 §4, 10/7/82; S.L. No. 5L-14-00 §3-27, 10/1/00

§1-105. Identification cards. —

(1) No person shall acquire or possess any firearm, dangerous device or ammunition unless he holds an identification card issued pursuant to this chapter. The identification card is evidence of the holder’s eligibility to possess and use or carry firearms, dangerous devices or ammunition.

(2) Identification cards shall be issued only by the Office of the Attorney General pursuant to regulations made by the Attorney General in the manner that is or may be provided by law. The identification card shall have on its face all of the following:

- (a) The name and address of the holder;
- (b) The sex, height, and weight of the holder;
- (c) The birth date of the holder;
- (d) The date of expiration for the card which shall be two years from the date of issue;
- (e) A recent photograph of the holder;
- (f) An endorsement setting forth the extent of the holder's eligibility to possess, use, and carry firearms, dangerous devices or ammunition; and
- (g) The number of the identification card.

(3) An applicant for an identification card shall make the application therefor on a form approved by the Office of the Attorney General and shall supply such information as may be necessary to afford the issuing agency reasonable opportunity to ascertain the facts required to appear on the face of the identification card, and to determine whether the applicant complies with all requirements of this chapter to possess and use or carry firearms, dangerous devices or ammunition, as the case may be.

(4) Each application shall bear the endorsement of the chief executive of the local jurisdiction of actual residence of the applicant, attesting to the moral character of the applicant; PROVIDED that no fee may be levied for such endorsement nor may the endorsement be unreasonably denied. Persons having actually resided in a local jurisdiction for less than three years may request the Attorney General for waiver of the requirement for endorsement.

(5) No identification card shall issue until 15 days after application therefor, and unless the issuing agency is satisfied that the applicant may lawfully possess and use or carry firearms, dangerous devices or ammunition of the type or types enumerated on the identification card. Unless the application for use and possession is denied, the identification card shall issue within 60 days from the date of application.

(6) No person shall be issued an identification card if he has been:

- (a) Acquitted of any criminal charge by reason of insanity;
- (b) Adjudicated mentally incompetent;
- (c) Treated in a hospital for mental illness, drug addiction or alcoholism;
- (d) Convicted of a crime of which actual or attempted personal injury or death is an element;
- (e) Convicted of a crime in connection with which firearms or dangerous devices were used or found in his possession; or
- (f) Convicted of a crime of which the use, possession or sale of narcotics or dangerous drugs is an element.

(7) No person shall be issued an identification card if he has a physical condition or impairment that makes him unable to use a firearm or dangerous device with proper control.

(8) Any person suffering from a physical or mental defect, condition, illness or impairment that would make him ineligible for an identification card pursuant to this section may submit the certificate of a physician licensed to practice in Pohnpei to the issuing agency or officer. If the certificate states that it is the subscribing physician's best opinion that the defect, condition, illness or impairment does not make the applicant incapable of possessing and using a firearm or dangerous device without danger to the public safety, the identification card may be issued. But no such card shall be valid for a period longer than six months.

(9) Any person who is ineligible for an identification card by reason of conviction of a crime may be issued such a card if his most recent discharge from probation or parole or the termination of his most recent sentence, whichever is later, is more than ten years prior to the time of application for the identification card and if the issuing agency finds that his record, taken as a whole, does not indicate that his possessing and using or carrying a firearm or dangerous device, as the case may be, are not likely to constitute a special danger to the public safety.

(10) The holder of an identification card shall have it on or about his person at all times when he is carrying or using a firearm or dangerous device and shall display the card upon the request of any law enforcement official.

(11) A duplicate identification card may be issued to the holder of a lost, destroyed or defaced identification card upon proof of such loss, destruction or defacement as the Attorney General may require, upon payment of the fee required by §1-129(5) and upon surrender of any remaining portion of the original card. Notice shall be given to the Office of the Attorney General by the holder within 48 hours of his discovery of such loss, defacement or destruction. The holder shall notify the Office of the Attorney General of any change of name or address from those appearing upon the identification card within five days of such change.

(12) A person who is neither a citizen nor resident of Pohnpei shall not be eligible for an identification card, except upon receiving special permission from the Attorney General.

Source: S.L. No. 2L-136-82 §5, 10/7/82

§1-106. Purchase, possession, and use of firearms, dangerous devices, and ammunition. —

(1) No person shall purchase, possess or use a firearm, dangerous device or ammunition unless he is the holder of an identification card issued pursuant to this chapter evidencing the eligibility of such person to purchase, possess, and use a firearm, dangerous device or ammunition. Such person shall be at least 18 years of age.

(2) Where a firearm, dangerous device or ammunition is found in a vehicle or vessel, it shall be prima facie evidence that such firearm, dangerous device or ammunition is in the possession of the occupant if there is but one. If there is more than one occupant, it shall be prima facie evidence that it is the possession of all, except under the following circumstances:

(a) Where it is found upon the person of one of the occupants;

(b) Where the vehicle or vessel is not a stolen one and the firearm, dangerous device or ammunition is out of view in a glove compartment, automobile trunk or other enclosed customary depository, in which case it is prima facie evidence that such firearm, dangerous device or ammunition is in the possession of the occupant or occupants who own or have authority to operate the vehicle or vessel; or

(c) Where, in the case of a taxicab or other public transport vehicle, the firearm, dangerous device or ammunition is found in the passengers' portion of the vehicle, it shall be prima facie evidence that it is in the possession of all the passengers, if there are any, and, if not, that it is in the possession of the driver.

Source: S.L. No. 2L-136-82 §6, 10/7/82

§1-107. Carrying firearms. — No person shall carry a firearm unless he has in his immediate possession a valid identification card and is carrying the firearm unloaded in a closed case or other securely wrapped or closed package or container, or locked in the trunk of his vehicle while enroute to or from a target range or area where he hunts or takes part in other sports involving firearms, or carries the firearms in plain sight on his person while actively engaged in hunting or sports involving the use of firearms.

Source: S.L. No. 2L-136-82 §7, 10/7/82

§1-108. New and temporary residents; visitors. — Visitors, new residents, and temporary residents in the state shall not import, transport, purchase, use or possess any firearm, dangerous device or ammunition in the state without an identification card issued pursuant to this chapter. Any person who possesses any firearms, dangerous devices or ammunition shall, before or immediately upon his entrance into the state, turn it in to the Attorney General or the Chief of the Division of Police and Security of the Department of Public Safety. Such firearm, dangerous device or

ammunition shall be returned to such person upon his being issued an identification card pursuant to this chapter or upon his departure from the state.

Source: S.L. No. 2L-136-82 §8, 10/7/82

§1-109. Law enforcement officers. —

(1) Possession, use, and carriage of firearms, ammunition, and dangerous devices by law enforcement officers derives from the laws governing the powers, functions, and organization of the police and other organized forces of peace officers. Eligibility of law enforcement officers to possess, use, and carry firearms, ammunition or dangerous devices while on duty is not subject to the holding of identification cards or any other qualifications prescribed in this chapter or in regulations pursuant thereto.

(2) Transfer of any firearm from or to a law enforcement officer or agency shall, except as provided in Subsection (1) of this section, be subject to this chapter and regulations made pursuant thereto.

(3) The head of the law enforcement agency of the nation or the state of Pohnpei or any subdivisions thereof shall furnish to the Attorney General the names, addresses, ranks, and badge numbers or similar identification of each person on his force who is authorized to possess, use, and carry firearms in the course of his official duty in this state. Upon the occurrence of any changes in personnel to whom this subsection applies, the head of the law enforcement agency shall inform the Office of the Attorney General promptly of the change.

(4) Whenever a law enforcement officer is not engaged in official duties, this chapter shall be applicable to him in the same manner and to the same extent as to any other person.

Source: S.L. No. 2L-136-82 §9, 10/7/82

§1-110. Transfer of firearms and dangerous weapons. —

(1) No dealer, manufacturer or wholesaler shall transfer firearms, dangerous devices or ammunition except pursuant to a license therefor as provided in this section.

(2) Any person, firm, corporation, association or other entity proposing to engage in the business of selling firearms, ammunition, and dangerous devices at retail shall apply for a dealer's license. The application shall be on a form approved by the Office of the Attorney General and shall contain the following information:

(a) The name and address of the applicant, including the address of each separate location within the state at which the applicant proposes to do business pursuant to the license;

(b) If the applicant is a partnership or association, the names and addresses of the partners or associates;

(c) If the applicant is a corporation, the names and addresses of the officers and directors; and

(d) Such other information bearing on the applicant's ability to operate the business in a manner consonant with the public safety as the Attorney General may require.

Source: S.L. No. 2L-136-82 §10, 10/7/82

§1-111. Issuance and renewal of dealer's license. —

(1) Upon receipt of a proper application and payment of the prescribed fee, the Office of the Attorney General shall, within 60 days, issue a dealer's license to an applicant, if he is found to be eligible therefor pursuant to this chapter and any applicable regulations of the Attorney General. Such regulations shall place a reasonable limit on the number of dealers. The license shall list the types of firearms, ammunition, and dangerous devices which the dealer has been authorized to offer for sale.

(2) A license issued pursuant to this section shall be valid for one year from the date of its issuance, unless sooner cancelled, suspended or revoked. A license shall bear the expiration date thereof on its face.

(3) A license issued pursuant to this section may be renewed annually upon application by the holder made on a form approved by the Office of the Attorney General. Eligibility for renewal shall be on the same terms and conditions as for an original license, except that renewal also may be denied on account of violation of this chapter or regulations of the Office of the Attorney General made pursuant thereto or for any conduct in the operation of the applicant's business that gives the Office of the Attorney General grounds to believe that the applicant will no longer operate in a manner consonant with the public safety.

Source: S.L. No. 2L-136-82 §11, 10/7/82

§1-112. Conduct of dealer's business. — The holder of a dealer's license shall:

(1) Display his license in a conspicuous place at all times at the establishment described in the license. If a dealer has more than one place of business at which he sells firearms, dangerous devices, and ammunition or any of them, he shall display in the same manner a certified copy of his license at each such additional place of business;

(2) Keep the records and file the reports required by this chapter and regulations made pursuant thereto;

(3) Display no firearms, dangerous devices or ammunition in any place where they can be seen from outside the premises;

(4) Keep all firearms, dangerous devices, and ammunition in a securely locked place at all times except when they are actually being shown to a customer or prospective customer or when actually being repaired or otherwise worked on; and

(5) Permit only employees who are holders of identification cards, making them eligible to purchase, possess, and use firearms, ammunition or dangerous devices, to have access to firearms, dangerous devices or ammunition.

Source: S.L. No. 2L-136-82 §12, 10/7/82

§1-113. Records. —

(1) Every licensed dealer shall maintain records containing an inventory of firearms, dangerous devices, and ammunition or any of them received together with the name and address of the person from whom received, and the manufacturer, type, and serial number of each firearm and dangerous device, the name and address of the person to whom transferred, the identification card number of such person, the manufacturer, type, and serial number of the gun or dangerous device transferred and the date of transfer. Such records shall be available for inspection at all reasonable times by the Office of the Attorney General and his duly designated representatives. Such records shall be retained at least five years.

(2) Every dealer, at the time of any transfer of any firearm or dangerous device to any person other than a licensed dealer shall, within 24 hours of the transfer, supply the following information to the Office of the Attorney General on a form approved by the Office of the Attorney General:

(a) The name, address, and license number of the dealer;

(b) The manufacturer, type, and serial number of firearm or dangerous device transferred. No firearm shall be transferred that does not have a serial number or from which the serial number has been removed, defaced or altered; and

(c) The name, address, and identification card number of the transferee.

Source: S.L. No. 2L-136-82 §13, 10/7/82

§1-114. Repair. —

(1) No person, other than a dealer or manufacturer licensed pursuant to this chapter, shall repair firearms or accept the same for repair.

(2) No person shall accept any firearms for repair unless he is shown an identification card evidencing eligibility of the holder to possess and use a firearm of the type offered for repair. Prior to

returning any such firearm, the manufacturer or dealer shall make and keep a record identical with that required for the purchase of a firearm pursuant to §1-113 and shall maintain such record for at least one year.

(3) Nothing in this section shall be construed to prohibit the repair or maintenance of a firearm by the owner thereof.

Source: S.L. No. 2L-136-82 §14, 10/7/82

§1-115. Ammunition. —

(1) No person may transfer ammunition unless he is a manufacturer, wholesaler or dealer licensed pursuant to this chapter. If the transfer is other than to another manufacturer, wholesaler or dealer, the transfer shall not be made until the transferor has ascertained that the transferee is the holder of an identification card evidencing eligibility to possess and use a firearm of the type for which the ammunition is suited. Upon transfer the transferor shall record the quantity, type, and caliber or gauge transferred, the name and address of the transferee, and the number of the transferee's identification card.

(2) No transferee of ammunition shall transfer it to any person other than a dealer licensed pursuant to this chapter. Upon receipt of ammunition, the dealer shall make and keep all records with respect to the ammunition in the manner required by this section for ammunition sold by him.

Source: S.L. No. 2L-136-82 §15, 10/7/82

§1-116. Private sale or transfer. — No person other than a manufacturer, wholesaler or dealer licensed pursuant to this chapter shall transfer a firearm or dangerous device to any person other than a manufacturer, wholesaler or dealer without first ascertaining that the transferee is the holder of an identification card issued pursuant to this chapter. Prior to any such transfer, the transferor shall furnish to the Office of the Attorney General in person or by registered or certified mail, return receipt requested, a properly completed form approved by the Office of the Attorney General providing information equivalent to that required to be furnished by a dealer upon the transfer by him of a firearm or dangerous device.

Source: S.L. No. 2L-136-82 §16, 10/7/82

§1-117. Security transactions. —

(1) No person, other than a licensed dealer, shall receive a firearm as a pledge or pawn, or in any other manner as security.

(2) A dealer receiving a firearm as a pledge, pawn or otherwise, as security, shall record promptly the date of receipt; the full description of the item or items received, including the manufacturer, type, and serial number or numbers, if any; the name and address of the person making the pledge, pawn or other deposit as security; and the number of said person's identification card. No dealer shall accept the pledge, pawn or other deposit as security unless the person making the same exhibits an identification card evidencing his entitlement to possess and use a gun of the type involved.

(3) Upon the return or other disposition of the firearm in his possession pursuant to this section, the dealer shall make a record of the return or other disposition, including the date thereof and the name and address of the person to whom the firearm was returned or disposed. No firearm shall be returned or disposed of to any person who, at the time of such return or disposition, does not exhibit a valid identification card issued in his own name and entitling him to possess and use the firearm involved.

Source: S.L. No. 2L-136-82 §17, 10/7/82

§1-118. Manufacturers and wholesalers. —

(1) No person shall manufacture or deal in firearms, dangerous devices or ammunition at wholesale unless:

- (a) He is the holder of a dealer's license issued pursuant to §1-111; or
- (b) He is the holder of a license issued pursuant to this section.

(2) Any person proposing to manufacture or deal at wholesale in firearms, dangerous devices or ammunition, and not the holder of a dealer's license, shall make application for a manufacturer's or wholesaler's license. Such application shall contain the same information required for a dealer's license, and any additional information required by the Attorney General as may be appropriate to administer this chapter. No manufacturer's license or wholesaler's license shall authorize transfer or delivery within the state except to a licensed dealer, manufacturer or wholesaler.

(3) The Office of the Attorney General shall issue, renew, cancel, deny, suspend or revoke manufacturers' and wholesalers' licenses on the same terms and subject to the same conditions as provided for dealers' licenses.

(4) Every manufacturer shall assign a unique serial number to each firearm manufactured by him and shall inscribe such number in or on the firearm in such manner as will resist removal, alteration, defacement or obliteration. The Attorney General may make regulations for the style of such serial numbers and for the manner of their inscription.

Source: S.L. No. 2L-136-82 §18, 10/7/82

§1-119. Registry of firearms and ammunition. —

(1) The Attorney General shall maintain a registry of firearms. The records in the registry shall be kept permanently unless there is a record of the destruction of the gun.

(2) Records kept in the registry shall include all records required to be filed with the Office of the Attorney General pursuant to this chapter, copies of all records filed with an agency or officer of a local government pursuant to this chapter, and any records deposited with the Office of the Attorney General pursuant to Subsection (3) of this section.

(3) Any dealer, manufacturer or wholesaler licensed pursuant to this chapter, upon his discontinuance of the licensed business or activity, shall transmit all records kept by him pursuant to this chapter to the Office of the Attorney General.

(4) Records relating to the repair of firearms shall be kept by the Office of the Attorney General for a period of at least five years after transmittal.

(5) Records in the registry shall not be public records. They shall be made available only to law enforcement officers of the state, or at the discretion of the Office of the Attorney General, to other law enforcement officers and agencies.

Source: S.L. No. 2L-136-82 §19, 10/7/82

§1-120. Cancellation, denial, suspension, and revocation of licenses. —

(1) Any license issued pursuant to this chapter shall be surrendered for cancellation immediately on the discontinuance or termination of business or upon the holder's discontinuing the manufacturing, selling, acquisition for sale or repair of firearms, and the sale of ammunition.

(2) The issuing officer or agency may deny, suspend or revoke an identification card or a license issued pursuant to this chapter for failure of the applicant or holder to meet or continue to meet any of the requirements for eligibility therefor, or for any violation of this chapter or regulations in force pursuant thereto.

(3) The Office of the Attorney General, by regulation, shall make classifications of offenses and other violations of this chapter or regulations in force thereunder. Regulations made pursuant to this subsection shall set forth those offenses and violations for which identification cards and licenses may be suspended or revoked, and those for which the penalty must be revocation. Such regulations shall be of general application.

(4) Any person who, by reason of the suspension or revocation of his identification card is no longer eligible to continue possession of a firearm, dangerous device or ammunition shall surrender any and all firearms, dangerous devices, and ammunition to the Chief of the Division of Police and

Security of the Department of Public Safety, or shall dispose of the firearms, dangerous devices, and ammunition forthwith under the direction and supervision of the Chief of the Division of Police and Security. In the case of suspension of an identification card, the owner of the firearm, dangerous device or ammunition may request that the constabulary keep the same during the period of suspension and, except as herein provided, the firearm, dangerous device or ammunition shall be restored to the owner when he again becomes eligible to possess the same and request return. Any firearm, dangerous device or ammunition in the possession of the Chief of the Division of Police and Security pursuant to this subsection may be disposed of, without compensation to the owner, upon revocation of the suspended identification card or at the end of 60 days after receipt or the date of termination of the suspension, whichever is later. However, if proceedings in connection with the suspension or revocation are not yet finally determined, disposal shall not be until such final determination has been made.

(5) Any denial, suspension or revocation of an identification card or a license shall be subject to review by the Governor upon request by an aggrieved person, and thereafter by the Pohnpei Supreme Court.

Source: S.L. No. 2L-136-82 §20, 10/7/82

§1-121. Shipment and delivery of firearms, dangerous devices, and ammunition. —

(1) No person shall ship, transport or deliver any firearms, dangerous devices or ammunition to anyone other than a licensed manufacturer, wholesaler, dealer or person who possesses a valid identification card.

(2) Any person who ships, transports or delivers firearms or dangerous devices to a manufacturer, wholesaler, dealer or person possessing an identification card in the state shall, before delivery, furnish to the Office of the Attorney General an invoice listing his name and address, the name and address of the manufacturer, wholesaler, dealer or person possessing the identification card to whom such firearms or dangerous devices are to be delivered, the place of origin of the shipment, the number of firearms and dangerous devices of each type, and the manufacturer and serial number of each firearm and dangerous device in the shipment.

(3) Any person who ships, transports or delivers ammunition to a manufacturer, wholesaler, dealer or person possessing an identification card in the state shall, before delivery, furnish to the Office of the Attorney General an invoice listing his name and address, the name and address of the manufacturer, wholesaler, dealer or person possessing an identification card to whom the ammunition is to be delivered, the place of origin of the shipment, and the quantity of ammunition of each type in the shipment.

(4) If shipment is by common carrier, a copy of the invoice required by Subsections (2) and (3) of this section shall also be delivered to the common carrier. The common carrier shall deliver the invoice and any said shipment to the Chief of the Division of Police and Security of the Department of Public Safety who will verify the accuracy of the shipment and compliance with this chapter before delivery to the manufacturer, wholesaler, dealer or person possessing an identification card. A copy of the invoice shall be left with the manufacturer, wholesaler, dealer or person possessing an identification card at the time of delivery.

(5) If shipment is by other than common carrier, a copy of the invoice shall be furnished to the manufacturer, wholesaler, dealer or person possessing an identification card at the time of delivery.

(6) No person shall ship, transport or deliver firearms, dangerous devices or ammunition via air without first complying with international regulations pertaining to air shipment of firearms, dangerous devices or ammunition.

Source: S.L. No. 2L-136-82 §21, 10/7/82

§1-122. Loss, destruction or theft of firearms or dangerous devices. — Whoever owns or possesses a firearm or dangerous device shall within 24 hours of discovery, notify the Office of the

Attorney General of the loss, theft or destruction of any such firearm or dangerous device and, after such notice, of recovery thereof.

Source: S.L. No. 2L-136-82 §22, 10/7/82

§1-123. Prohibitions. — No person shall:

(1) Knowingly remove, obliterate or alter the importer's or manufacturer's serial number of any firearm;

(2) Knowingly deface, alter or destroy an identification card;

(3) Acquire, possess or use any firearm silencer or muffler;

(4) Carry any gun or dangerous device while under the influence of alcohol or narcotic or other disabling drug;

(5) Import, sell, transfer, give away, purchase, possess or use any handgun, automatic weapon, rifle larger than .22 caliber, shotgun larger than .410 gauge or any other firearm;

(6) Board or attempt to board any commercial aircraft while carrying any firearm, dangerous device or ammunition, either on his person or in his luggage. Such firearm, dangerous device or ammunition shall be turned in prior to departure to an appropriate official or to the pilot of the airline or aircraft concerned, who shall keep a record of the name of the person turning in such firearm, dangerous device or ammunition, and the type and quantity turned in. Upon completion of such person's travel within the state, the official of the airline or pilot of the aircraft shall personally deliver the article or articles turned in to the chief police officer of the local jurisdiction in which such completion took place, or to his delegate. Such person may reobtain the article or articles turned in upon either:

(a) Presentation of a valid identification card or license for such article or articles to the police officer having custody thereof; or

(b) Departure from the state; or

(7) Use or attempt to use any firearm, dangerous device or ammunition in connection with or in aid of the commission of any crime against the laws applicable within the state, except those set forth under other provisions of this chapter.

Source: S.L. No. 2L-136-82 §23, 10/7/82

§1-124. Forfeiture. — All firearms, dangerous devices or ammunition unlawfully possessed, carried or used or shipped, transported or delivered into the state are declared to be inimical to the public safety and are forfeited to the state. When such forfeited articles are taken from any person, they shall be surrendered to the Office of the Attorney General.

Source: S.L. No. 2L-136-82 §24, 10/7/82

§1-125. Emergencies. — In case of emergency concerning the public safety declared by the Governor of Pohnpei or the President of the Federated States of Micronesia, all establishments dealing in guns, dangerous devices or ammunition may be ordered closed by such official and required to remain closed during the continuance of the emergency. During any such closure, any and all guns, dangerous devices, and ammunition belonging to or in the keeping of a closed establishment may be impounded.

Source: S.L. No. 2L-136-82 §25, 10/7/82

§1-126. Cards and licenses remain valid. — All valid identification cards and licenses issued under 63 TTC (1980) remain valid as the same under this chapter until they expire of their own terms, or are suspended or revoked under this chapter.

Source: S.L. No. 2L-136-82 §26, 10/7/82

§1-127. Other laws. — Nothing in this chapter shall be deemed to prevent any local jurisdiction from further restricting, by local ordinance, the transfer, possession, use or carriage of firearms, ammunition or dangerous devices. This chapter shall supersede Title 63 of the Trust Territory Code and all State laws and municipal ordinances in conflict with this chapter.

Source: S.L. No. 2L-136-82 §27, 10/7/82

§1-128. Regulations and permits. — The Office of the Attorney General shall have power to issue, amend, and repeal regulations implementing this chapter in the manner that is or may be provided by law as may be required by the public interest, safety, and welfare.

Source: S.L. No. 2L-136-82 §28, 10/7/82

§1-129. Fees. — The fees for issuance and renewal of licenses and identification cards as required by this chapter shall be as follows:

- (1) For an identification card – \$10 for the first issuance of a card and \$5 for each renewal thereof;
- (2) For a dealer’s license – \$150;
- (3) For a manufacturer’s license – \$500;
- (4) For a wholesaler’s license – \$500; and
- (5) For replacement of lost, destroyed or defaced identification card – \$2.

Fees collected pursuant to this chapter shall be paid to the Chief of the Division of Finance and Property Accountability of the Department of Treasury and Administration for deposit in the general fund of Pohnpei.

Source: S.L. No. 2L-136-82 §29, 10/7/82

§1-130. Penalties. — Any person who, being a holder of a valid identification card fails to comply with §1-107 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100 or imprisoned not more than three months, or both such fine and imprisonment. Any person who violates any other provision of this chapter or any regulation issued pursuant thereto shall be guilty of violating the Weapons Control Act, Title 68 Chapter 1, and upon conviction thereof may be fined not more than \$2,999 or imprisoned for a period of less than three years, or both such fine and imprisonment, and may be subject to confiscation of any firearm, dangerous device or ammunition without compensation, involved in a violation of this chapter. The holder of any dealer’s license or the manager or supervisor of employees of any establishment so licensed, or both, shall be liable for any violation of this chapter by his employee or agent committed in the course of the dealer’s business, to the same extent as such employee or agent.

Source: S.L. No. 2L-136-82 §30, 10/7/82

§1-131. Authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of Pohnpei such sum or sums as may be determined annually in the Comprehensive Budget Act for the implementation of this chapter. The sum herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose stated herein. The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized for appropriation by this chapter. Any balance of the sums appropriated under the authorization of this chapter for a fiscal year not expended or obligated for expenditure on September 30 each year shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-136-82 §31, 10/7/82

Note: S.L. No. 2L-136-82 §27, 10/7/82 superseded 63 TTC (1980) and all state laws and municipal ordinances in conflict with said law.

REGULATED DEVICES

CHAPTER 2 FIREWORKS

Section

2-101 Fireworks regulations authorized

2-102 Sale of fireworks permitted

2-103 Penalties

§2-101. Fireworks regulations authorized. — The Office of Attorney General shall, within 20 days after the effective date of this chapter, adopt and publish regulations governing the sale of fireworks in Pohnpei. Such regulations shall:

(1) Be consistent with all national and state laws concerning weapons and other dangerous devices;

(2) Ensure that fireworks are not sold to minors, which for purposes of this section shall mean any person under the age of 18;

(3) Restrict the types of fireworks that may be sold to those that do not pose an undue danger of injury to persons and property.

Source: S.L. No. 6L-110-07 §2, 12/6/07

§2-102. Sale of fireworks permitted. — Following the promulgation of the regulations authorized by 68 PC 2-101, the sale of fireworks shall be permitted; PROVIDED that no fireworks may be sold in the State of Pohnpei in the absence of such regulations, and PROVIDED FURTHER that the sale of fireworks in the State of Pohnpei shall be limited to those types of fireworks that are permitted by the regulations.

Source: S.L. No. 6L-110-07 §3, 12/6/07

§2-103. Penalties. —

(1) Any person in violation of any provision of 68 PC 2-102 or the regulations promulgated pursuant to 68 PC 2-101 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500, or imprisoned not more than six months, or both such fine and imprisonment.

(2) If an injury has been sustained as a result of the use of fireworks sold in violation of 68 PC 2-102 or the regulations promulgated pursuant to 68 PC 2-101, upon conviction thereof, the violator shall be fined not more than \$1,000, or imprisoned not more than one year, or both such fine and imprisonment.

Source: S.L. No. 6L-110-07 §4, 12/6/07

Note: S.L. No. 6L-110-07 §1, 12/6/07 repealed 68 PC 2-101 - 2-106 in their entirety.

TITLE 69 [RESERVED]

REGULATED DEVICES

(Next page is Title 70 divider)

TITLE 70

REGULATED ACTIVITIES

TITLE 70 REGULATED ACTIVITIES

CHAPTER

1 COMMERCIAL GAMBLING: BINGO

2 JUVENILE GAMBLING

3 [RESERVED]

CHAPTER 1 COMMERCIAL GAMBLING: BINGO

Section

1-101 Definitions	1-105 Keeping of commercial bingo establishment
1-102 Commercial gambling prohibited	1-106 Area and age restrictions
1-103 Keeping of commercial gambling establishment	1-107 Violations
1-104 Commercial bingo; restricted hours	1-108 Local option

§1-101. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

(1) “Bingo” means a game of chance played by drawing numbers from a container and covering with counters corresponding numbers on cards, the winner being the first to cover the numbers in a predetermined pattern.

(2) “Commercial bingo” means engaging in the business, for a sure and steady profit, of bingo activities or the providing of bingo devices for the purpose of conducting bingo activities.

(3) “Commercial bingo establishment” means any real estate, building, room, tent, vehicle, boat or other property whatsoever, one of the uses of which is commercial bingo.

(4) “Commercial gambling” means engaging in the business, for a sure and steady profit, of gambling or the providing of commercial gambling devices; PROVIDED that “commercial gambling” shall not include “bingo.”

(5) “Commercial gambling establishment” means any real estate, building, room, tent, vehicle, boat or other property whatsoever, one of the uses of which is commercial gambling; PROVIDED that “commercial gambling establishment” shall not include “commercial bingo establishment.”

(6) “Gambling” means an act or agreement that, dependent on chance, even though accompanied by some skill, one stands to win or lose something of value. Gambling does not include an offer of a prize, award or compensation to the actual contestants in a bona fide contest for the determination of skill, speed, strength or endurance, or to the owners of animals, vehicles or watercraft entered in the contest.

(7) “Gambling device” means any mechanical, electronic or manually operated device, or machine, or activity designed, altered or operated so that for a consideration a player is afforded an opportunity to obtain anything of value, the award of which is determined by chance, even though accompanied by some skill, whether or not the prize is automatically paid by a machine or device; PROVIDED that devices used solely for the game of bingo or devices of which no part of the value attained or lost by the person engaged in the gambling inures to the benefit of the operator or owner of

the device or establishment wherein the device is located shall not be considered gambling devices for purposes of this chapter. Any mechanical, electronic or manually operated device, machine or activity designed, altered or operated so that the thing of value received for consideration is music, recreation or the immediate right of replay not exchangeable for value is not a gambling device.

(8) "Thing of value" means any benefit, whether monetary or not, which may be exchanged for an item having a value in money.

Source: D.L. No. 3L-130-75 §1, 6/3/75

§1-102. Commercial gambling prohibited. — No person shall engage in the business of commercial gambling in Pohnpei State, nor shall any person intentionally or knowingly import, use, possess, sell or control any gambling device in Pohnpei State with the intent to use such device in the business of commercial gambling in Pohnpei State.

Source: D.L. No. 3L-130-75 §2, 6/3/75

§1-103. Keeping of commercial gambling establishment. — No person shall knowingly use or permit another to use any real estate, building, room, tent, vehicle, boat or other property whatsoever owned by him or under his control as a commercial gambling place, or rent or let any such property with a view that it will be so used.

Source: D.L. No. 3L-130-75 §3, 6/3/75

§1-104. Commercial bingo; restricted hours. — No person shall operate a commercial bingo establishment nor shall any person engage in bingo activities in a commercial bingo establishment except between the hours of 3 p.m. and 12 midnight; PROVIDED, HOWEVER, that on Saturdays, Sundays, and legal holidays said hours shall be between 10 a.m. and 12 midnight.

Source: D.L. No. 3L-130-75 §4, 6/3/75; D.L. No. 4L-12-76 §1, 4/22/76; D.L. No. 4L-35-76 §1, 5/14/76

§1-105. Keeping of commercial bingo establishment. — No person shall knowingly use or permit another to use any real estate, building, room, tent, vehicle, boat or other property whatsoever owned by him or under his control as a commercial bingo establishment, or rent, or let any such property with a view that it will be so used except between the hours specified by §1-104.

Source: D.L. No. 3L-130-75 §5, 6/3/75; D.L. No. 4L-12-76 §2, 4/22/76; D.L. No. 4L-35-76 §2, 5/14/76

§1-106. Area and age restrictions. — The owner or operator of any commercial bingo establishment in Pohnpei State shall physically separate, by ropes, wall, fence or other physical barrier sufficient to prevent bodily contact between the players and nonparticipants in the bingo activities, the area in which bingo activities are conducted from access by the general public. No person shall enter the restricted area who is under the age of 18 years whether or not he is accompanied by a parent or guardian of 18 years of age or older. No person shall participate in the bingo establishment who is not within the restricted area so specified.

Source: D.L. No. 3L-130-75 §6, 6/3/75

§1-107. Violations. — Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: D.L. No. 3L-130-75 §7, 6/3/75

§1-108. Local option. — Nothing in this chapter shall be interpreted to prevent any local government by duly enacted ordinance from further restricting gambling or bingo within that local jurisdiction, or for the requiring of the payment of licenses for the privilege of engaging in these activities.

Source: D.L. No. 3L-130-75 §8, 6/3/75

CHAPTER 2 JUVENILE GAMBLING

Section

2-101 Prohibition on gambling by juveniles

2-102 Violation

§2-101. Prohibition on gambling by juveniles. — It shall be unlawful for any juvenile to participate in any form of gambling, of which dice, playing cards, and billiards are examples, in which the stakes are money or property, real or personal.

Source: PDC §6-2, 3/71

§2-102. Violation. — Any person found to be encouraging, enticing or permitting a juvenile to violate §2-101 shall, upon conviction thereof, be imprisoned for not less than six months, or fined not more than \$200, or both such fine and imprisonment. Any juvenile found violating §2-101 shall be dealt with in accordance with 61 PC 1-107 and 52 PC 6-104 and 6-105.

Source: PDC §6-10, 3/71; D.L. No. 3L-11-72 §1, 5/24/72

Note: The original section included a reference to the Trust Territory Code concerning a presumption of the responsibility of children, but incorrectly referenced 11 TTC §5, which pertains to insanity as a defense. 11 TTC §6 provides for a presumption of the responsibility of children. This part of the Trust Territory Code has been superseded by §10-3 of S.L. No. 3L-89-95. There is no equivalent section on the presumption of the responsibility of children in S.L. No. 3L-89-95.

CHAPTER 3 [RESERVED]

REGULATED ACTIVITIES

(Next page is Title 71, Division XI divider)

DIVISION XI
OF THE
CODE

MOTOR VEHICLES

TITLE 71

TITLE 71

**TRAFFIC AND MOTOR
VEHICLE LAW**

TITLE 71 TRAFFIC AND MOTOR VEHICLES LAW

CHAPTER

- 1 GENERAL PROVISIONS**
- 2 MOTOR VEHICLE REGISTRATION AND LICENSES**
- 3 MOTOR VEHICLE EQUIPMENT**
- 4 INSPECTION OF VEHICLES**
- 5 EMERGENCY VEHICLES**
- 6 COMMERCIAL CARRIERS AND VEHICLES**
- 7 OPERATOR'S LICENSES**
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- 9 ACCIDENT REPORTS**
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- 11 [RESERVED]**
- 12 SERIOUS TRAFFIC OFFENSES**

CHAPTER 1 GENERAL PROVISIONS

Section

- | | |
|------------------------------------------------------------------------------------------------|----------------------------------------------------|
| <p>1-101 Definitions for title</p> <p>1-102 General misdemeanor provisions;
punishment</p> | <p>1-103 General felony provisions; punishment</p> |
|------------------------------------------------------------------------------------------------|----------------------------------------------------|

§1-101. Definitions for title. — The following words and phrases shall, for the purposes of this title, have the following meanings, unless the context otherwise requires:

(1) “Alley” means a street or road intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

(2) “Bicycle” means a device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 14 inches in diameter.

(3) “Chief” means the Chief of the Division of Police and Security.

(4) “Commercial carrier” means any person operating any commercial vehicle upon any highway in the state of Pohnpei.

(5) “Commercial vehicle” means any automobile, truck, motor bus or other self-propelled vehicle, including any trailer, semi-trailer or other device used in connection therewith, not operated upon fixed rails or tracks and used for the transportation of freight or the transportation of passengers for compensation.

(6) “Court” means the highest trial court of the Pohnpei Supreme Court.

(7) “Crosswalk” means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the

absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection distinctly indicated for pedestrian crossing by lines or other surface marking.

(8) “Dealer” means every person engaged in the business of buying, selling or exchanging vehicles, who has an established place of business for such purpose in this state.

(9) “Director” means the Director of the Department of Public Safety.

(10) “Driver” means every person who drives or is in actual physical control of a vehicle.

(11) “Finance officer” means the Chief of the Division of Finance and Property Accountability.

(12) “Governor” means the Governor of Pohnpei.

(13) “Highway” as used in this title is synonymous with “road.”

(14) “Intersection” means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(15) “License plate” means that visible material required by the Director to be affixed to a motor vehicle for purposes of evidencing that such vehicle is validly licensed in accordance with the laws of the state of Pohnpei.

(16) “Motor vehicle” means every vehicle that is self-propelled, including motorcycles, except where specific exception is made.

(17) “Motorcycle” means every motor vehicle having one or more seats for the use of one or more riders and designed to travel on not more than three wheels in contact with the ground. No distinction shall be made between motorcycles and motor-driven cycles or motorbikes.

(18) “Moving traffic offense” means any manner of operating a moving motor vehicle which is prohibited by this title, excluding serious traffic offenses.

(19) “Official traffic-control devices” means all signs, signals, markings, and devices not inconsistent with this title, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic; PROVIDED that “speed bumps” and “speed depressions” shall not be considered as official traffic-control devices within the meaning of this subsection.

(20) “Owner” means a person, other than a lienholder, having the property in or title to a vehicle. This term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes the lessee under a lease not intended as security.

(21) “Park or parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of and while actually engaged in, loading or unloading merchandise or passengers.

(22) “Pedestrian” means any natural person on foot.

(23) “Person” means every natural person, firm, co-partnership, association or corporation.

(24) “Police officer” means every officer authorized to direct or regulate traffic or to make an arrest for violation of traffic regulations.

(25) “Registration” means the registration certificates issued under the laws of this state and pertaining to the registration of vehicles.

(26) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(27) “Road” means any portion of a publicly maintained way which is open to the public for the purpose of vehicular travel regardless of length and size.

(28) “Roadway” means the entire width between the boundary lines of every publicly maintained way.

(29) “School bus” means every motor vehicle which complies with this title and is used to transport children to or from school or in connection with school activities.

(30) “Serious traffic offense” means any offense enumerated in Chapter 12.

(31) “Sidewalk” means that portion of a highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

(32) “Stand or standing” means the halting of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of and while actually engaged in receiving or discharging passengers.

(33) “State” means the state of Pohnpei.

(34) “Stop or stopping,” when prohibited, means any halting, even momentarily, of a motor vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic-control sign or signal.

(35) “Stop,” when required, means complete cessation of movement.

(36) “Vehicle,” where not referring to motor vehicle, shall mean any conveyance or device in, upon or by which any person or property is or may be transported upon a highway.

Source: S.L. No. 2L-132-82 §101, 7/9/82; S.L. No. 5L-14-00 §3-22, 10/1/00

§1-102. General misdemeanor provisions; punishment. —

(1) It shall be a misdemeanor for any person to violate any provision of this title, unless such violation is by this title or other law of this state declared to be a felony.

(2) Unless another penalty is provided by this title or other law of this state, every person convicted of a misdemeanor for the violation of any provision of this title shall be punished by a fine of not more than \$500, or imprisonment for not more than six months, or both such fine and imprisonment.

Source: S.L. No. 2L-132-82 §102, 7/9/82

§1-103. General felony provisions; punishment. — If any person is convicted of a violation of any provision of this title, and this title or other law of this state declares such violation to constitute a felony, such person shall, unless another penalty is provided by this title or other law of this state, be punished by imprisonment of not less than one year, but less than three years, or by a fine of not less than \$500, but less than \$3,000, or by both such fine and imprisonment.

Source: S.L. No. 2L-132-82 §103, 7/9/82

TRAFFIC & MOTOR VEHICLES LAW

CHAPTER 2

MOTOR VEHICLE REGISTRATION AND LICENSES

Section

2-101 Application for registration	2-106 Expiration and renewal of registration
2-102 Register of applicants	2-107 Display of vehicle number plate
2-103 Transfer of registration	2-108 Issuance of registration card and vehicle number plate
2-104 Registration fees	2-109 License and registration violations
2-105 Registration cards	

§2-101. Application for registration. — Every owner of a motor vehicle intended to be operated on any road of the state shall, before the same is so operated, apply to the Director for and obtain registration thereof. Application for registration of a vehicle shall be made on a form to be prescribed by the Director and shall be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, name of the importer, the engine and serial number, whether new or used. The owner of any vehicle purchased outside the state shall exhibit such evidence as will satisfy the Director that the applicant is the lawful owner of the vehicle.

Source: S.L. No. 2L-132-82 §201, 7/9/82

§2-102. Register of applicants. —

(1) The Director shall file each application received, and shall register the vehicle therein described and the owner thereof on index cards as follows:

- (a) Numerically, under a distinctive registration number assigned to the vehicle and the owner thereof; and
- (b) Alphabetically, under the name of the owner.

(2) All registration and license records in the office of the Director shall be public records and shall be open for inspection by the public during business hours.

Source: S.L. No. 2L-132-82 §202, 7/9/82

§2-103. Transfer of registration. — An owner upon transferring a registered vehicle shall endorse the name and address of the transferee and the date of transfer upon the reverse side of the registration card issued for such vehicle and shall immediately forward such card to the Director. The transferee, before operating or permitting the operation of such vehicle upon a road, shall apply and obtain the registration thereof as upon an original registration. In the event of the transfer by inheritance, devise, or bequest, execution, sale or repossession upon default of performance of an agreement of sale of a registered vehicle, the registration thereof shall expire and said vehicle shall not be operated upon the roads until and unless the person entitled thereto shall apply for and obtain the registration thereof.

Source: S.L. No. 2L-132-82 §203, 7/9/82

§2-104. Registration fees. —

(1) There shall be paid to the Director for the registration of motor vehicles the following fees:

- (a) Motorcycle – \$6.50;
- (b) Jeep, sedan, and other vehicles not specified in Paragraph (c) of this subsection – \$8.50; and
- (c) Pickups, trucks, buses, and other vehicles not specified in the foregoing paragraphs, weight in pounds at the time of original sale in the state of Pohnpei:
 - (i) Under 2,000 pounds or fraction thereof – \$11.50;

- (ii) 2,000 – 2,999 pounds or fraction thereof – \$13.50;
- (iii) 3,000 – 5,999 pounds or fraction thereof – \$16.50;
- (iv) 6,000 – 7,499 or fraction thereof – \$21.50; and
- (v) 7,500 pounds and over – \$26.50.

(2) All such fees shall be collected by the Director or his duly authorized representative. One dollar and fifty cents of each such fee collected shall be deposited in the general fund and the remainder of such fees shall be deposited in the treasury of the local government within which the respective vehicles as registered are regularly parked or stored.

Source: S.L. No. 2L-132-82 §204, 7/9/82; S.L. No. 2L-146-82 §1, 11/16/82

§2-105. Registration cards. — The Director shall issue to the owner a registration card which shall contain upon the face thereof the date issued, the registration number, the name and address of the owner, and a description of the registered vehicle, including the engine number. The registration card shall at all times, while the vehicle is being operated upon a road, be carried in the vehicle.

Source: S.L. No. 2L-132-82 §205, 7/9/82

§2-106. Expiration and renewal of registration. — Every vehicle registration under this chapter shall expire each year, and shall be renewed annually upon application by the owner and by payment of the fees required by §2-104, in accordance with a monthly schedule established by the Director of the Department of Public Safety as set forth in rules and regulations promulgated by the Director. Such rules and regulations shall provide for an alphabetical identification numbering system which shall be applied on the basis of the first letter of the last name of the owner of the motor vehicle if he be a natural person or the first letter of the first noun of the name of a business or other organization if the motor vehicle be registered in the name of a business or organization.

Source: S.L. No. 2L-132-82 §206, 7/9/82; S.L. No. 6L-22-04 §1, 1/1/05

§2-107. Display of vehicle number plate. — Every owner whose vehicle shall be registered shall display a number plate issued by the Director showing the registration number, year, and the words “state of Pohnpei.” Such plate shall be attached to the rear of said vehicle at all times, which shall at all times be kept clean and plainly visible for a distance of 50 feet.

Source: S.L. No. 2L-132-82 §207, 7/9/82

§2-108. Issuance of registration card and vehicle number plate. — No registration card and number plate shall be issued for any vehicle until the owner of such vehicle has presented to the Director a valid inspection certificate issued pursuant to Chapter 4 and has paid the required fee thereof.

Source: S.L. No. 2L-132-82 §208, 7/19/82; S.L. No. 2L-146-82 §2, 11/16/82

§2-109. License and registration violations. — It shall be unlawful and constitute a misdemeanor for any person to:

- (1) Operate upon a road any motor vehicle which is not registered or which does not have attached thereto the number plate;
- (2) Display or to have in possession any registration card or number plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered;
- (3) Transfer to one not entitled thereto any registration card or number plate; or
- (4) Use a false or fictitious name or address or other required information in any application for any vehicle or otherwise commit a fraud in any such application.

Source: S.L. No. 2L-132-82 §209, 7/9/82

CHAPTER 3 MOTOR VEHICLE EQUIPMENT

Section

3-101 Head lamps and tail lamps	3-109 Standards for brakes
3-102 Stop lamps	3-110 Horns
3-103 Lamp or flag on projecting load or part of a vehicle	3-111 Muffler and exhaust systems
3-104 Dimming of head lamps on parked vehicles	3-112 Mirrors
3-105 Lamps on vehicles not specifically covered by this chapter	3-113 Windshields, windows, and wipers
3-106 Backup lamps	3-114 Tire alignment
3-107 School bus lamps, signals, and signs	3-115 Mandatory spare parts list
3-108 Brakes	3-116 Exceptions to operation of this chapter
	3-117 General misdemeanor provision

§3-101. Head lamps and tail lamps. — Every vehicle driven upon a road at any time from a half hour after sunset to a half hour before sunrise, during heavy rainstorms, or at any other times when there is not sufficient light to render clearly discernible any person or vehicle on the roadway at a distance of 200 feet, shall be equipped with lighted lamps and lighting devices as follows:

(1) Each side of the front of every motor vehicle, except motorcycles, shall be equipped with at least one, but not more than two, head lamps. All head lamps shall be located at a height of not more than 54 inches nor less than 24 inches, measured above the level surface upon which the vehicle stands;

(2) Every motorcycle or bicycle shall be equipped with a lamp on the front exhibiting a white light visible at least 500 feet to the front;

(3) All vehicles utilizing single beam head lamps shall have lights positioned to illuminate persons and vehicles at a distance of not more than 200 feet and not less than 150 feet;

(4) All vehicles utilizing multiple beam head lamps shall use the lower beam when an oncoming vehicle approaches within 500 feet from the front and whenever the driver of the vehicle approaches another vehicle within 300 feet from the rear;

(5) Every motor vehicle or vehicle being drawn at the end of a motor vehicle shall be equipped with one or more lighted rear lamps exhibiting red light plainly visible from a distance of 500 feet to the rear. One of such rear lamps or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear license tag and render it clearly legible from a distance of 50 feet to the rear; and

(6) Every bicycle shall be equipped with a red reflector on the rear visible from a distance of 300 feet to the rear.

Source: S.L. No. 2L-132-82 §501, 7/9/82

§3-102. Stop lamps. — Every motor vehicle shall be equipped with at least one or more stop lamps on the rear of the vehicle, which shall display a red or amber light, or any color between red and amber, visible from a distance of not less than 200 feet to the rear in normal sunlight and which shall be actuated upon application of the service (foot) brake and which may, but need not, be incorporated with one or more other rear lamps.

Source: S.L. No. 2L-132-82 §502, 7/9/82

§3-103. Lamp or flag on projecting load or part of a vehicle. —

(1) Whenever the load upon any vehicle extends, or any integral part of any vehicle projects, to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme

end of the load or projecting part of the vehicle, at the times specified in §3-101, in addition to the required rear light, a light plainly visible under normal atmospheric conditions from a distance of at least 500 feet to the sides and rear. At any other time, there shall be displayed at the extreme end of such load or projecting part of the vehicle a red flag or red cloth not less than 16 inches square.

(2) Whenever the load upon any vehicle extends from the left side of such vehicle one foot or more to the left of the front hubcap on the left side, there shall be displayed at the extreme left side of such load at the times specified in §3-101, a lighted lantern or other light plainly visible under normal atmospheric conditions from a distance of at least 300 feet to the left and to the front and rear of such vehicle.

Source: S.L. No. 2L-132-82 §503, 7/9/82

§3-104. Dimming of head lamps on parked vehicles. — Any lighted head lamps on a parked vehicle shall be depressed or dimmed.

Source: S.L. No. 2L-132-82 §504, 7/9/82

§3-105. Lamps on vehicles not specifically covered by this chapter. — Every motor or other vehicle, including bicycles and all other conveyances used on a roadway, not specifically required by this chapter to be equipped with lamps or other lighting devices, shall at all times specified in §3-101 be equipped with a lamp emitting a light visible under normal atmospheric conditions from a distance of 300 feet in front of such vehicle and with a red reflector on the rear so designed as to be visible at least 300 feet directly in front of a motor vehicle displaying lawful dimmed head lamps or with a rear lamp exhibiting a red light visible from a distance of 300 feet to the rear.

Source: S.L. No. 2L-132-82 §505, 7/9/82

§3-106. Backup lamps. — Any motor vehicle, except motorbikes, scooters or motor vehicles which have no mechanical backup gear, shall be equipped with one or more backup lamps either separately or in combination with other lamps, but any such backup lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

Source: S.L. No. 2L-132-82 §506, 7/9/82

§3-107. School bus lamps, signals, and signs. — Every school bus, in addition to any other equipment and distinctive markings required by this chapter, shall:

(1) Be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front, two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, which shall have sufficient intensity to be visible at 500 feet in normal sunlight, which shall be actuated by the driver of said school bus whenever, but only whenever, such vehicle is stopped on the roadway for the purpose of receiving or discharging schoolchildren; and

(2) Bear upon the front and rear thereof plainly visible signs containing the words “SCHOOL BUS” in letters not less than eight inches in height and of proportionate width. No vehicle, other than a school bus, shall display such signs.

Source: S.L. No. 2L-132-82 §507, 7/9/82

§3-108. Brakes. —

(1) Every motor vehicle other than a motorcycle, when operated upon a highway, shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(2) Any combination of motor vehicle, trailer, semitrailer or other vehicle shall be equipped with brakes upon one or more of such vehicles.

(3) Every motorcycle and bicycle with motor attached, when operated upon a highway, shall be equipped with at least one brake, which may be operated by hand or foot.

(4) All brakes shall be maintained in good working order and shall conform to §3-109.

Source: S.L. No. 2L-132-82 §508, 7/9/82

§3-109. Standards for brakes. —

(1) The brakes of a motor vehicle or combination of vehicles shall be deemed adequate if, on a dry, hard, approximately level stretch of highway free from loose material, such brakes are capable of stopping the motor vehicle or combination of vehicles, when operating at speeds set forth in the following table, within the distance set opposite such speeds:

Miles per hour	Stopping distance
10	9.3 feet
15	20.8 feet
20	37.0 feet
25	58.0 feet
30	83.3 feet

(2) The test to be used in determining whether vehicles meet the performance requirements set forth in Subsection (1) of this section shall be conducted as prescribed by the Director. The test may be conducted by the use of instruments suitable for the purpose approved by the United States of America Bureau of Standards. No vehicle may be tested for brake efficiency at a speed higher than that permitted by law for such vehicle.

Source: S.L. No. 2L-132-82 §509, 7/9/82

§3-110. Horns. —

(1) Every motor vehicle, when operated upon a roadway, shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions for a distance of not less than 200 feet, but no horn shall emit an unreasonably loud or harsh sound.

(2) The driver of a motor vehicle, when reasonably necessary to insure its safe operation, shall give audible warning with his horn. Such horn shall not otherwise be used.

Source: S.L. No. 2L-132-82 §510, 7/9/82

§3-111. Muffler and exhaust systems. —

(1) Any motor vehicle on a roadway shall at all times be equipped with a muffler to prevent any excessive or unusual noise.

(2) No muffler or exhaust system shall be equipped with a cutout bypass or similar device, and no person shall modify the exhaust system of a motor vehicle in a manner which will substantially amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle.

(3) All exhaust pipes shall be parallel to the ground and the vehicle, or vertical, and the exhaust from such pipes shall not be directed to the side of the vehicle.

Source: S.L. No. 2L-132-82 §511, 7/9/82

§3-112. Mirrors. — Every motor vehicle shall be equipped with a mirror located so as to reflect to the driver a view of the roadway for a distance of at least 200 feet to the rear.

Source: S.L. No. 2L-132-82 §512, 7/9/82

§3-113. Windshields, windows, and wipers. —

(1) No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows which materially obstructs, obscures or impairs the driver's clear view of the roadway or any intersecting roadway.

(2) The windshield on every motor vehicle shall be equipped with a device for clearing rain or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(3) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

Source: S.L. No. 2L-132-82 §513, 7/9/82

§3-114. Tire alignment. — Every motor vehicle shall be equipped with tires in proper alignment so as to allow for safe steering and handling of the vehicle on the roadway.

Source: S.L. No. 2L-132-82 §514, 7/9/82

§3-115. Mandatory spare parts list. —

(1) The Governor or his designated representative shall promulgate a list and the quantity of spare parts, inclusive of all components of the exhaust system, per motor vehicle which are necessary to keep the motor vehicle in safe repair and proper working condition in the state of Pohnpei. This list shall be known as the "Mandatory spare parts list" and shall be made available to the importers of motor vehicles for resale and to the general public.

(2) Any person who imports motor vehicles into the state of Pohnpei for the purpose of resale shall stock and make available to customers all spare parts listed on the "Mandatory spare parts list" for each make and model of motor vehicle so imported. Each motor vehicle imported into the state of Pohnpei for which spare parts are not kept in stock in violation of this subsection shall constitute a separate offense.

Source: S.L. No. 2L-132-82 §515, 7/9/82

§3-116. Exceptions to operation of this chapter. — This chapter relating to equipment required on vehicles shall not apply to implements of husbandry, road machinery, road rollers, and farm tractors, except as made applicable by this chapter.

Source: S.L. No. 2L-132-82 §516, 7/9/82

§3-117. General misdemeanor provision. — It is a misdemeanor for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway, any vehicle or combination of vehicles in such unsafe condition as to endanger any person, or which does not contain those parts, or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as is required by this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

Source: S.L. No. 2L-132-82 §517, 7/9/82

CHAPTER 4 INSPECTION OF VEHICLES

Section

4-101 Duty to keep vehicles in safe and properly equipped condition	4-105 Confiscation of registration cards and plates
4-102 Initial and annual inspections; inspection upon request of Chief	4-106 Re-inspection of vehicles converted to commercial use
4-103 Inspection upon request of police officer	4-107 Inspection certificate
4-104 Deficiencies; notice to driver; repairs; operation with minor deficiency	4-108 Inspection fees

§4-101. Duty to keep vehicles in safe and properly equipped condition. — No person shall drive or move on any roadway any motor vehicle, trailer, semi-trailer, pole trailer or any combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required by this title and unless the vehicle is in such safe mechanical condition as not to endanger the driver or other occupants or any person or property.

Source: S.L. No. 2L-132-82 §601, 7/9/82

§4-102. Initial and annual inspections; inspection upon request of Chief. —

(1) All motor vehicles shall be inspected by the Chief or a privately-owned facility as authorized by the Chief, and an official certificate of safety inspection and approval obtained for each vehicle as follows:

- (a) Upon an original application for registration and annually thereafter upon renewal of said registration;
- (b) In the interest of public safety, upon request of the Chief.

(2) Such inspections shall determine whether the vehicle inspected meets all requirements as to equipment under this title and is in such safe mechanical condition as not to endanger the driver or any other person or property when driven or moved on any roadway.

Source: S.L. No. 2L-132-82 §602, 7/9/82; S.L. No. 6L-47-05 §1, 8/8/05

§4-103. Inspection upon request of police officer. — Notwithstanding §4-102, uniformed police officers may at any time, upon reasonable cause to believe that a vehicle is unsafe, is not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of such vehicle to stop and submit such vehicle to an inspection and such tests with reference thereto as may be appropriate.

Source: S.L. No. 2L-132-82 §603, 7/9/82

§4-104. Deficiencies; notice to driver; repairs; operation with minor deficiency. —

(1) In the event any vehicle is found on any inspection not to meet all requirements as to equipment under this title, or to be in an unsafe condition, a notice of such deficiencies shall be given to the driver, and no person shall thereafter operate such vehicle, except as may be necessary to return such vehicle to the residence or place of business of the owner or driver or to a garage, until such deficiencies have been remedied; PROVIDED, HOWEVER, that the driver may be required to make temporary repairs before being permitted to proceed with such vehicle.

(2) Every owner or driver, upon receiving a notice of deficiencies, shall remedy such deficiencies and within 20 days shall submit the vehicle for further inspection by the Division or a privately-owned facility authorized by the Director to make inspections.

(3) If the deficiency cited is minor, that is, the vehicle can be operated on the highways of the state without substantially endangering public safety and repair of the deficiency is unobtainable in the state, then the registered owner of the deficient vehicle may apply to the Director for a temporary permit to operate the vehicle with such deficiency.

(4) The Director is hereby directed to determine which deficiencies shall be considered minor within the meaning of this section; PROVIDED that permission to operate a vehicle shall not be granted by virtue of this section if the Director determines that the operation of such vehicle will substantially endanger public safety.

Source: S.L. No. 2L-132-82 §604, 7/9/82

§4-105. Confiscation of registration cards and plates. —

(1) The Director shall confiscate the registration card and number plate of any motor vehicle:

- (a) Which does not have a current certificate of safety inspection and approval;
- (b) Which is not submitted for further inspection within 20 days after a notice of deficiencies is given pursuant to an inspection; or
- (c) For which a temporary deficiency permit has been issued, such permit having expired and the deficiency not having been corrected.

(2) The Director shall not release the confiscated registration card and plate until the owner of the vehicle procures a valid inspection certificate showing that the deficiencies for which the registration was confiscated have been remedied.

Source: S.L. No. 2L-132-82 §605, 7/9/82

§4-106. Re-inspection of vehicles converted to commercial use. — Before any private vehicle may be used for commercial transportation it must be inspected as provided in §4-102 and the inspection fee must be paid.

Source: S.L. No. 2L-132-82 §606, 7/9/82

§4-107. Inspection certificate. — An inspection certificate shall be issued for each vehicle found to be in compliance with this title. Such certificate shall be displayed at all times during the period of its validity, on the front window of each vehicle, situated so as not to materially obstruct the view of the driver.

Source: S.L. No. 2L-132-82 §607, 7/9/82

§4-108. Inspection fees. — Fees for the inspection of motor vehicles by the Director or by a privately-owned facility shall be set by the Director of the Department of Treasury and Administration, but shall not exceed \$2.

Source: S.L. No. 2L-132-82 §608, 7/9/82

CHAPTER 5 EMERGENCY VEHICLES

Section

5-101 Definition of “emergency vehicle”	5-104 Duties owed emergency vehicles
5-102 Exemption from traffic laws; maximum speed; driver’s duty	5-105 Prohibition of emergency warning equipment on unauthorized vehicles
5-103 Use of emergency warning devices	

§5-101. Definition of “emergency vehicle.” — An authorized emergency vehicle is a police, fire or ambulance vehicle, an emergency repair vehicle of the Office of Transportation and Infrastructure, or any other vehicle specified by the Director equipped with emergency flashing lights and other equipment required by the Director.

Source: S.L. No. 2L-132-82 §701, 7/9/82

§5-102. Exemption from traffic laws; maximum speed; driver’s duty. —

(1) The driver of an authorized emergency vehicle shall be exempt from the requirements of Chapter 8 whenever such vehicle is driven in response to an emergency call, used in immediate pursuit of a suspected violator of the law or is on other errands of great urgency; PROVIDED, HOWEVER, that the driver of such vehicle shall not exceed the maximum speed limit in the area in which he is traveling by more than ten miles per hour; PROVIDED FURTHER that there shall be no maximum speed limit for police officers in the immediate pursuit of suspected violators of the law.

(2) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the roadway.

Source: S.L. No. 2L-132-82 §702, 7/9/82

§5-103. Use of emergency warning devices. — Authorized emergency vehicles shall not utilize any emergency warning equipment except when responding to an emergency. The pursuit of actual or suspected violators of the law by police shall be considered an emergency. When responding to an emergency, the driver of an emergency vehicle shall utilize emergency warning devices when necessary to warn pedestrians and other drivers of his approach.

Source: S.L. No. 2L-132-82 §703, 7/9/82

§5-104. Duties owed emergency vehicles. —

(1) When an emergency vehicle using warning equipment is proceeding on an emergency call, all traffic shall immediately pull to the right side of the road if possible, clear intersections, and stop until all emergency vehicles have passed.

(2) No motor vehicle, except an authorized emergency vehicle or a vehicle of duly authorized members of the police or fire department, shall follow within 300 feet of any emergency vehicle that is responding to an emergency call.

Source: S.L. No. 2L-132-82 §704, 7/9/82

§5-105. Prohibition of emergency warning equipment on unauthorized vehicles. — Only authorized emergency vehicles may be equipped with the following:

- (1) Sirens or siren-like devices other than horns;
- (2) Any red or blue light visible from the front center portion of any vehicle;
- (3) Flashing lights other than turn signals or headlights and taillights used to warn others of a particular hazard; and

(4) Any other special warning device which the Director has designated for use on emergency vehicles.

Source: S.L. No. 2L-132-82 §705, 7/9/82

CHAPTER 6 COMMERCIAL CARRIERS AND VEHICLES

Section

6-101 Regulations of and inspections by the Department of Public Safety	6-106 Distinctive markings and tags on commercial vehicles
6-102 Rate requirements	6-107 Taxi signs
6-103 Condition of commercial vehicles	6-108 Passengers on vehicles
6-104 Commercial vehicle; driver's license	6-109 Safety rules and regulations by the Director
6-105 Commercial vehicle display requirements; license number	6-110 Insurance
	6-111 Misdemeanors

§6-101. Regulations of and inspections by the Department of Public Safety. — The Department of Public Safety may prescribe and enforce safety regulations for the operation of commercial vehicles and require a periodic inspection of the equipment of every commercial vehicle from the standpoint of enforcement of safety regulations. Such equipment shall be at all times subject to inspection by properly authorized representatives of the Department of Public Safety.

Source: S.L. No. 2L-132-82 §901, 7/9/82

§6-102. Rate requirements. — All charges made by any commercial carrier for any service rendered or to be rendered in the public transportation of passengers or property, or in connection therewith, shall be just, reasonable, and nondiscriminatory, and every unjust, unreasonable or discriminatory charge for such service, or any part thereof, is prohibited and unlawful.

Source: S.L. No. 2L-132-82 §902, 7/9/82

§6-103. Condition of commercial vehicles. — Every commercial vehicle shall be maintained in a safe and sanitary condition at all times and shall be at all times subject to inspection.

Source: S.L. No. 2L-132-82 §903, 7/9/82

§6-104. Commercial vehicle; driver's license. —

(1) No person shall operate a commercial vehicle upon a roadway for rent or hire without having in his immediate possession a valid commercial vehicle driver's license.

(2) In addition to the necessary qualifications set forth in §7-103, an applicant for a commercial vehicle driver's license must be a physical resident of the state of Pohnpei. No person under the age of 21 shall operate any commercial vehicle on the public roads of the state of Pohnpei. No person shall be licensed as a commercial vehicle driver who shall have ever been convicted of murder, manslaughter, mayhem, kidnapping, robbery, burglary, rape, grand theft or assault. For the purposes of this section, a plea of guilty shall be deemed a conviction.

(3) All applications for a commercial vehicle driver's license shall be filed with the Director who, under such reasonable and uniform regulations as he may prescribe, may require fingerprinting and such oral or written examinations and driving tests as may be proper to determine the fitness of each applicant. Thereafter, the Director shall approve or disapprove each such application in accordance with this title.

(4) Upon the approval of an application for a commercial vehicle driver's license, the applicant shall be required to pay the license fee of \$8.50 to the Director or his duly authorized representative prior to receiving the license. One dollar and fifty cents of each such fee collected shall be deposited in the general fund and the remainder of such fee shall be deposited in the treasury of the local government within which the commercial establishment that employs the licensee is located.

(5) A commercial vehicle driver's license entitles the licensee to all rights and privileges of a chauffeur, in addition to all the rights and privileges of a commercial vehicle driver and shall be valid for one year from the date of issuance.

(6) In addition to any other provisions for suspension or revocation of drivers' licenses contained in this title, the Director shall revoke permanently the license of any commercial vehicle driver upon his conviction of any of the offenses heretofore specified in this section.

Source: S.L. No. 2L-132-82 §904, 7/9/82; S.L. No. 2L-146-82 §5, 11/16/82

§6-105. Commercial vehicle display requirements; license number. —

(1) Every person operating a vehicle registered as a commercial vehicle shall permanently display in the interior of such vehicle so as to be plainly visible from wherever a passenger rides therein the following information:

- (a) A photograph of the operator;
- (b) The full name of the operator;
- (c) The commercial vehicle driver's license number; and
- (d) A schedule of legal commercial vehicle rates.

(2) The Director shall, before the granting of a commercial vehicle driver's license, assign a license number to each applicant granted a license, starting with the figure one (1) by order of their being granted a license. Such commercial vehicle driver's license shall remain in full force and effect as the identification number for the commercial vehicle driver throughout the license year. The numbering shall begin anew at the beginning of each and every license year following.

Source: S.L. No. 2L-132-82 §905, 7/9/82

§6-106. Distinctive markings and tags on commercial vehicles. — There shall be attached to each commercial vehicle such distinctive markings or tags as shall be prescribed by the Director.

Source: S.L. No. 2L-132-82 §906, 7/9/82

§6-107. Taxi signs. — Every individual, partnership, company or other business association in whose name a taxicab is registered shall prominently display on both sides of the exterior of such taxicab the word "taxi" and the name under which it is registered. In the event that more than one taxicab is registered in the name of any one individual, partnership, corporation, company or other business association, such taxicabs shall be serially numbered and the applicable serial number similarly displayed on both sides of the exterior of each such taxicab in such size and manner as the Director by uniform regulations shall prescribe.

Source: S.L. No. 2L-132-82 §907, 7/9/82

§6-108. Passengers on vehicles. — Passengers shall not be permitted to ride on the running boards, bumpers, fenders, tailgates, sides or on any other outside part of passenger-carrying vehicles; PROVIDED that the bed of any truck or pickup shall not be considered an outside part. The Director shall promulgate necessary rules and regulations to govern the maximum number of passengers allowable on each type of passenger-carrying commercial vehicle. The said rules and regulations shall be promulgated and take effect not later than 60 days following the effective date of this title [*effective date of title is July 9, 1982*].

Source: S.L. No. 2L-132-82 §908, 7/9/82; S.L. No. 3L-5-92 §3, 4/28/93

§6-109. Safety rules and regulations by the Director. — The Director shall promulgate such other safety rules and regulations as he may deem necessary to govern and control the operation of commercial vehicles upon the roadways and the maintenance and inspection thereof.

Source: S.L. No. 2L-132-82 §909, 7/9/82

§6-110. Insurance. — All owners of commercial vehicles shall obtain public liability insurance on their vehicles.

Source: S.L. No. 2L-132-82 §910, 7/9/82

§6-111. Misdemeanors. — Any owner, officer, agent or employee of any commercial carrier, and every other person who does any of the following shall be guilty of a misdemeanor and punished as provided in §1-102:

(1) Violates or fails to comply with, or who procures, aids or abets in the violation of any provision of this chapter;

(2) Fails to obey, observe or comply with any order, decision or provision thereof of the Director;
or

(3) Procures, aids or abets any corporation or person in his failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation promulgated pursuant to any part or provision of this chapter.

Source: S.L. No. 2L-132-82 §911, 7/9/82

CHAPTER 7 OPERATOR'S LICENSES

Section

<p>7-101 Driver's license required; exceptions</p> <p>7-102 Classes of licenses</p> <p>7-103 Establishment of license qualifications</p> <p>7-104 Qualifications for school bus driver's permit</p> <p>7-105 Qualifications for learner's permit; operation of motor vehicles; consent and responsibility of parents</p> <p>7-106 Private driver's license application; issuance and contents of license</p> <p>7-107 Qualifications for private driver's license</p> <p>7-108 Persons unqualified for license</p> <p>7-109 Expiration and renewal of driver's license</p> <p>7-110 Possession and display of license or permit</p> <p>7-111 Suspension or revocation for driving under the influence</p>	<p>7-112 Suspension or revocation for careless driving, or fleeing from or attempting to elude a police officer</p> <p>7-113 Suspension or revocation for reckless driving or homicide by vehicle</p> <p>7-114 Suspension or revocation for offenses not specifically provided for</p> <p>7-115 Suspension or revocation by discretion of court</p> <p>7-116 Meaning of "conviction" for purposes of §§7-111 through 7-115</p> <p>7-117 Surrender of suspended or revoked license; notation on reissued or new license</p> <p>7-118 Driving while license is suspended</p> <p>7-119 Cancellation of license</p> <p>7-120 Reexamination of licensee</p> <p>7-121 Misdemeanors</p>
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§7-101. Driver's license required; exceptions. —

(1) No person shall operate any motor vehicle in the state without a valid driver's license issued by the Director, except as otherwise provided in this chapter. A fee of \$6.50 shall be paid for each such license issued. Such fee shall be collected by the Director or his duly authorized representative. One dollar and fifty cents of each such fee collected shall be deposited in the general fund and the remainder of such fee shall be deposited in the treasury of the local government within which the operator actually resides, or if he is not a resident of the state, then where he is staying within the state.

(2) The following persons, if over the age of 18 years, are exempt from the licensing requirements of this section:

(a) A nonresident who has in his possession a valid driver's license issued to him by another jurisdiction may operate a vehicle in the state for a period not to exceed 30 days.

Source: S.L. No. 2L-132-82 §301, 7/9/82; S.L. No. 2L-146-82 §3, 11/16/82

§7-102. Classes of licenses. The following classes of driver's licenses are established:

(1) All motorcycles, motor scooters or motorbikes;

(2) All vehicles not specified elsewhere in this subsection having a gross weight of three thousand pound or less; **PROVIDED** that this class of licensing shall be categorized as Class B1 and B2 to distinguish drivers who can operate manual or automatic power transmission automobiles; Class B1 for manual operators and Class B2 for automatic operators; **PROVIDED FURTHER** that a holder of Class B1 license shall also be qualified to operate Class B2; **PROVIDED FURTHER** that this requirement shall not affect the exception provided in §7-101 (2) (a) of this Chapter. The current holders of Class B licensing prior to the date of this act (*the effective date is July 24, 2010*) shall not be affected by the new statutory requirement;

(3) All vehicles not specified elsewhere in this subsection having a gross weight of more than three thousand pounds;

(4) All vehicles of a nature intended primarily for off-road agricultural, industrial or construction use; and

(5) All vehicles of a capacity of ten or more passengers while in use in conveying school children to and from school.

Source: S.L. No. 2L-132-82 §302, 7/9/82; S.L. No. 7L-73-10 §1, 7/24/10

§7-103. Establishment of license qualifications. — The Director shall establish such qualifications as he believes reasonably necessary for the safe operation of the various types, sizes, and combinations of vehicles and shall appropriately examine each applicant to determine his qualifications according to the type or class of license applied for.

Source: S.L. No. 2L-132-82 §303, 7/9/82

§7-104. Qualifications for school bus driver's permit. —

(1) No person under the age of 21 years shall drive any school bus transporting school children.

(2) The Director shall not issue a permit for the driving of a school bus carrying children unless the applicant has had at least two years of driving experience prior thereto and the Director is fully satisfied as to the applicant's good character, competency, and fitness to be so employed.

Source: S.L. No. 2L-132-82 §304, 7/9/82

§7-105. Qualifications for learner's permit; operation of motor vehicles; consent and responsibility of parents. —

(1) No person shall learn to operate a motor vehicle upon a public road before reaching the age of 16 years, nor without first obtaining a learner's permit from the Director, upon the payment of a fee of \$1 for a two-month period. Such a learner's permit may be renewed with the payment of the required fee for an additional two-month period upon expiration thereof and prior to acquisition of a private driver's license.

(2) While learning to operate a motor vehicle, the learner shall be in possession of his valid learner's permit and shall be accompanied by a licensed driver.

(3) The parents or guardian of all learners under the age of 18 shall submit written consent to the Director before issuance of a learner's permit.

Source: S.L. No. 2L-132-82 §305, 7/9/82; S.L. No. 2L-146-82 §4, 11/16/82; S.L. No. 2L-205-83 §1, 10/17/83

§7-106. Private driver's license application; issuance and contents of license. —

(1) Application for a private driver's license shall be made to the Director on such forms as are prescribed by the Director.

(2) The Director shall issue to every applicant qualifying therefor, a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall bear thereon a distinguishing number assigned to the licensee, date of expiration, the full name, date of birth, residence address and a brief description and a photograph of the licensee, and either a facsimile of the signature with pen and ink immediately upon receipt of the license, and such other information as is determined necessary by the Director.

(3) No license shall be valid until it has been signed by the licensee.

(4) A license shall be issued to a person only under the name of that person as shown on his social security card, birth certificate, passport or court decree for change of name.

Source: S.L. No. 2L-132-82 §306, 7/9/82

§7-107. Qualifications for private driver's license. — Any person shall be eligible for a private driver's license if he:

(1) Has successfully completed his learner's permit period as prescribed in §7-105 and physical examinations or road tests as required by the Director; or

(2) Offers proof to the Director that he has a currently valid driver's license from another jurisdiction. Proof may be made by producing such license for inspection by the Director or, if such

license is not available, then a letter from the department of motor vehicles in such jurisdiction stating that his driver's license has not been canceled and is not currently suspended shall suffice. For purposes of this subsection, "jurisdiction" shall mean any place other than the state of Pohnpei.

Source: S.L. No. 2L-132-82 §307, 7/9/82

§7-108. Persons unqualified for license. — A driver's license shall not be issued to any person:

- (1) Under the age of 16 years and 2 months;
- (2) Determined to be an habitual drunkard or addicted to the use of narcotic drugs;
- (3) Previously adjudged insane or an idiot, imbecile, epileptic or feebleminded; or
- (4) Afflicted with or suffering from such physical or mental disability or disease as to prevent such person from exercising ordinary control over a motor vehicle while operating the same.

Source: S.L. No. 2L-132-82 §308, 7/9/82; S.L. No. 2L-205-83 §2, 10/17/83

§7-109. Expiration and renewal of driver's license. — All private driver's licenses shall expire three years from the date of issue. They shall be renewable on or before their expiration upon application, payment of the required fee, and satisfactory completion of such examinations as may be required by the Director.

Source: S.L. No. 2L-132-82 §309, 7/9/82

§7-110. Possession and display of license or permit. — Every person shall have a driver's license or learner's permit in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand of a police officer.

Source: S.L. No. 2L-132-82 §310, 7/9/82

§7-111. Suspension or revocation for driving under the influence. —

(1) A court may, upon conviction of driving under the influence under §12-105, suspend or revoke a license as follows:

- (a) Upon first conviction, for a period of six months;
- (b) Upon second conviction, for a period of two years; and
- (c) Upon third conviction, permanently.
- (d) Notwithstanding Paragraphs (a) and (b) of this subsection, if the court finds after hearing that a person has demonstrated a drinking pattern that indicates he cannot safely drive a motor vehicle, the court may permanently revoke his license.

(2) If bodily injury or death of a person is caused by reason of such intoxication, the period of suspension may be doubled by the court.

Source: S.L. No. 2L-132-82 §311, 7/9/82

§7-112. Suspension or revocation for careless driving, or fleeing from or attempting to elude a police officer. — The court may, upon conviction of careless driving, or fleeing from or attempting to elude a police officer under §§12-101 and 12-103, suspend or revoke a license as follows:

- (1) Upon first conviction, for a period of 60 days;
- (2) Upon second conviction, for a period of 180 days;
- (3) Upon third and subsequent convictions, for a period of one year; and
- (4) Notwithstanding Subsection (3) of this section, if the person has four or more convictions of serious traffic offenses under this section within a ten-year period, his license may be revoked for ten years.

Source: S.L. No. 2L-132-82 §312, 7/9/82

§7-113. Suspension or revocation for reckless driving or homicide by vehicle. —

(1) The court may, upon conviction of reckless driving or homicide by vehicle under §§12-102 and 12-104, suspend or revoke a license as follows:

- (a) Upon first conviction, for a period of 180 days;
- (b) Upon second and subsequent convictions, for a period of two years.
- (c) Notwithstanding Paragraph (b) of this subsection, if the person has three convictions of serious traffic offenses under this section within a ten-year period, his license may be revoked for ten years.

(2) For conviction of homicide by vehicle, periods of suspension may be double those set out in Subsection (1) of this section.

Source: S.L. No. 2L-132-82 §313, 7/9/82

Note: Reference in §313(2) of S.L. No. 2L-132-82, to "Subsection (a)" has been corrected to read "Subsection (1)".

§7-114. Suspension or revocation for offenses not specifically provided for. — For all offenses contained in this title for which a suspension or revocation period is not otherwise specified, the court, upon conviction and in addition to other specified penalties, may suspend or revoke a license as follows:

- (1) Upon the first conviction, for a period not to exceed 14 days;
- (2) Upon the second conviction, for a period not to exceed 90 days; and
- (3) Upon a third or subsequent conviction, for a period not to exceed 180 days.

(4) Notwithstanding Subsection (3) of this section, if the person has four or more convictions within a period of two years for offenses under this title, his license may be suspended for a period of one year.

Source: S.L. No. 2L-132-82 §314, 7/9/82

§7-115. Suspension or revocation by discretion of court. — Notwithstanding §§7-111 through 7-114, a court may, in its discretion, suspend or revoke the license of any driver who has been convicted of any offense under this title and who is shown to the court's satisfaction to be incapable of safely driving a motor vehicle because of physical or psychological infirmity or impairment, ignorance of safe motor vehicle operation or traffic laws, or gross disregard for the safety of himself and others.

Source: S.L. No. 2L-132-82 §315, 7/9/82

§7-116. Meaning of "conviction" for purposes of §§7-111 through 7-115. — As used in §§7-111 through 7-115, "conviction" shall include those offenses to which a person pleads guilty by utilizing the procedures set forth in this title for payment of fines in lieu of court appearances.

Source: S.L. No. 2L-132-82 §316, 7/9/82

§7-117. Surrender of suspended or revoked license; notation on reissued or new license. — A license suspended or revoked pursuant to §§7-111 through 7-115 shall be surrendered to the Director for the period of the suspension and may not be reissued, nor may any new license be issued without recording thereon the offense for which the license was suspended or revoked.

Source: S.L. No. 2L-132-82 §317, 7/9/82

§7-118. Driving while license is suspended. — The Clerk of the Court having suspended a license, upon receiving a record of the conviction of any person upon a charge of driving a vehicle while his private license is suspended, shall extend the period of such suspension for an additional like period, unless otherwise directed by the court.

Source: S.L. No. 2L-132-82 §318, 7/9/82

§7-119. Cancellation of license. — The Director may cancel any private driver's license upon determining that the licensee was not entitled to the issuance thereof or that said licensee failed to give the required or correct information in his application.

Source: S.L. No. 2L-132-82 §319, 7/9/82

§7-120. Reexamination of licensee. — The Director, having good cause to believe that a licensed driver is incompetent or is otherwise not qualified to be licensed, may, upon written notice of at least five days to the licensee, require him to submit to an examination. Upon the conclusion of such examination, the Director shall take such action as may be appropriate and may suspend or revoke the license of such person, permit him to retain such license, or issue a license subject to physical operational restrictions or restrictions as to the type or class of vehicles that may be driven. Refusal or neglect of the licensee to submit to such examination shall be grounds for suspension or revocation of his license.

Source: S.L. No. 2L-132-82 §320, 7/9/82

§7-121. Misdemeanors. — It is a misdemeanor for any person:

(1) To display, or cause or permit to be displayed, or have in his possession, any canceled, revoked, suspended, fictitious or fraudulently altered driver's license;

(2) To lend his driver's license to any other person for use or knowingly permit the use thereof by another;

(3) To display or represent as one's own any driver's license not issued to him;

(4) To fail or refuse to surrender to the Director upon lawful demand, any driver's license that has been suspended, revoked or canceled;

(5) To use a false or fictitious name in any application for a driver's license or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(6) To permit any unlawful use of a driver's license issued to him;

(7) To cause or knowingly permit his child or ward under the age of 18 years to drive a motor vehicle upon any road when such minor is not authorized to drive under this chapter or is in violation of this chapter;

(8) To authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any road by any person who is not licensed for the type or class of vehicle to be driven, or in violation of this chapter; or

(9) To do any act forbidden, or fail to perform any act required by this chapter.

Source: S.L. No. 2L-132-82 §321, 7/9/82

CHAPTER 8 RULES OF THE ROAD

Section

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§8-101. Refusal to obey law officer. — It is unlawful to willfully fail or refuse to comply with any lawful order, signal or direction of any member of the Department of Public Safety when such member is engaged in enforcing this title or directing traffic.

Source: S.L. No. 2L-132-82 §401, 7/9/82

§8-102. Traffic-control devices. —

(1) The Director shall place and maintain, or cause to be placed and maintained, such appropriate official traffic-control devices as may be necessary to carry out this title or direct or warn traffic upon the roads. In addition to all other traffic-control devices, the Director shall place and maintain, or cause to be placed and maintained, clear markings of the center and the right and left sides of the roadway reserved exclusively for moving traffic.

(2) The driver of any vehicle shall obey the instructions of any applicable official traffic-control device placed in accordance with this title, unless otherwise directed by a police officer, subject to the exceptions granted under this title to the driver of an authorized emergency vehicle.

(3) No provision of this title relating to official traffic-control devices shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official device was not in reasonably proper position and sufficiently legible to be seen by an ordinarily observant person.

Source: S.L. No. 2L-132-82 §402, 7/9/82; S.L. No. 3L-5-92 §1, 4/28/93

§8-103. Unauthorized signs, signals, and markings. —

(1) No person shall place, maintain or display upon or in view of any roadway, any unauthorized sign, signal, marking or device which purports to be, is an imitation of or resembles an official traffic-control device, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device.

(2) No person shall place or maintain, nor shall any public authority permit upon any roadway, any traffic sign or signal bearing thereon any commercial advertising.

(3) This section shall not be deemed to prohibit the erection, upon private property adjacent to a roadway, of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(4) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the roadway is hereby empowered to remove the same or cause it to be removed without notice.

Source: S.L. No. 2L-132-82 §403, 7/9/82

§8-104. Defacement or destruction of road signs. — No person shall deface, obliterate, bend, break or otherwise injure or destroy any road sign or marker, lettering thereon, or the post or other framework supporting said sign or marker.

Source: S.L. No. 2L-132-82 §404, 7/9/82

§8-105. Driving on right-hand side of highway. — Upon all roads of sufficient width, a vehicle shall be driven upon the right half of the road, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; PROVIDED that any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard; or

(3) Upon a road restricted to one-way traffic.

Source: S.L. No. 2L-132-82 §405, 7/9/82

§8-106. Passing approaching vehicle. — Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

Source: S.L. No. 2L-132-82 §406, 7/9/82

§8-107. Passing vehicle proceeding in same direction. —

(1) The following rules shall govern when a vehicle overtakes and passes, on the left, a vehicle proceeding in the same direction:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall not pass the overtaken vehicle on the right;

(b) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the road until safely clear of the overtaken vehicle;

(c) The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle;

(d) No vehicle shall be driven to the left side of the center line of a road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and

passing to be completely made without interfering with the normal operation of any vehicle approaching from the opposite direction, or any vehicle overtaken. In any event, the overtaking vehicle must return to the right-hand side of the road before coming within 100 feet of any vehicle approaching from the opposite direction; and

(e) No vehicle shall at any time be driven to the left side of the road under the following conditions:

(i) When approaching the crest of a grade or upon a curve in the roadway, where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(ii) When the view is obstructed upon approaching any bridge, building, tree or natural obstruction;

(iii) When within 100 feet of or traversing any intersection; or

(iv) When prohibited by any official traffic-control device.

(2) The driver of a vehicle may overtake and pass on the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or is about to make a left turn;

(b) Upon a road with unobstructed pavement not occupied by parked vehicles;

(c) Upon a one-way road, or upon any roadway on which traffic is one way, where the road is free from obstructions and of sufficient width for two or more lines of moving vehicles; and

(d) When conditions permit such movement with safety;

(e) In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

(3) The Director is hereby directed to determine those portions of the road where overtaking and passing on, or driving to the left would be especially hazardous and to prohibit the same through the use of official traffic-control devices.

Source: S.L. No. 2L-132-82 §407, 7/9/82

§8-108. Following; prima facie evidence of violation. —

(1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and condition of the roadway.

(2) The fact that a vehicle driven by a person has struck the rear portion of a vehicle preceding it on the roadway shall constitute prima facie evidence that such person has violated this section.

Source: S.L. No. 2L-132-82 §408, 7/9/82

§8-109. Right-of-way – approaching or entering unregulated intersection. —

(1) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle that has entered the intersection from a different roadway.

(2) When two vehicles enter an intersection from different roadways at the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This section shall not apply to vehicles approaching each other from opposite directions, when the driver of one of such vehicles is intending to or is making a left turn. Such movements shall be governed by §8-111.

Source: S.L. No. 2L-132-82 §409, 7/9/82

§8-110. Approaching or entering regulated intersection. —

(1) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs.

(2) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the

point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another roadway or which is approaching so closely on said roadway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

Source: S.L. No. 2L-132-82 §410, 7/9/82

§8-111. Left-hand turns. — A driver intending to turn left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction and within the intersection or so close thereto as to constitute an immediate hazard.

Source: S.L. No. 2L-132-82 §411, 7/9/82

§8-112. Entering a through roadway. — The driver of any vehicle shall slow down at the entrance to a through roadway and shall yield the right-of-way to other vehicles which have entered the intersection from the through roadway or which are approaching so closely on the through roadway as to constitute an immediate hazard. A driver having so yielded may proceed, and the drivers of all other vehicles approaching the intersection on the through roadway shall yield the right-of-way to the vehicle about to enter or cross the through roadway.

Source: S.L. No. 2L-132-82 §412, 7/9/82

§8-113. Pedestrians: crossing roadway. —

(1) The driver of a vehicle shall yield the right-of-way, slowing down or stopping if necessary in order to so yield to a pedestrian crossing the roadway within any marked crosswalk or unmarked crosswalk at an intersection when the pedestrian is on the half of the roadway upon which the vehicle is traveling, or is approaching so closely from the opposite half of the roadway as to be in danger.

(2) Whenever any vehicle has stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(3) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(4) Every pedestrian crossing a roadway at any point other than within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles.

Source: S.L. No. 2L-132-82 §413, 7/9/82

§8-114. Roller skates and skateboards prohibited. — Use of skateboards or roller skates is prohibited on any paved public highway, roadway or street in the state.

Source: S.L. No. 2L-132-82 §414, 7/9/82

§8-115. Pedestrian under the influence. — It shall be unlawful for any pedestrian who is intoxicated to such an extent as to create a hazard to himself or others to walk on or be on any public roadway.

Source: S.L. No. 2L-132-82 §415, 7/9/82

§8-116. Walking on roadway. —

(1) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along or upon an adjacent roadway.

(2) Where sidewalks are not provided, any pedestrian walking along or upon a roadway shall, when practicable, walk only on the left side of the roadway or its shoulder, facing traffic that may approach from the opposite direction.

Source: S.L. No. 2L-132-82 §416, 7/9/82

§8-117. Right-of-way on sidewalks. — The driver of a vehicle emerging from or entering an alley, building, private road or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk extending across such alley, building entrance, roadway or driveway.

Source: S.L. No. 2L-132-82 §417, 7/9/82

§8-118. Soliciting rides. — No person shall stand in or on the traveled portion of a roadway for the purpose of soliciting a ride from the driver of any vehicle.

Source: S.L. No. 2L-132-82 §418, 7/9/82

§8-119. General duty of drivers. — Notwithstanding other provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.

Source: S.L. No. 2L-132-82 §419, 7/9/82

§8-120. Turns. — The driver of a vehicle intending to turn at an intersection shall proceed as follows:

(1) Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway; and

(2) A driver turning left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered.

Source: S.L. No. 2L-132-82 §420, 7/9/82

§8-121. Signaling turns and stops. —

(1) No person shall turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in this section in the event any other vehicle may be affected by such movement.

(2) Any signal of intention to turn right or left shall be given continuously during the last 100 feet traveled by a vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle on a road without first giving an appropriate signal in the manner provided in this section to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(4) Signals shall be given either by means of the hand and arm or by signal lamp or mechanical signal device, except that when the body of a vehicle, or a load on any vehicle projects 32 inches or more to the left of the center of the steering wheel, or under any other condition when a hand and arm signal would not be visible both to the front and rear of such vehicle, then such vehicle must be equipped with a signal lamp or device and signals must be given by such lamp or device.

(5) All signals herein required to be given by hand and arm shall be given from the left side of a vehicle in the following manner:

(a) For a left turn, hand and arm extended horizontally beyond the side of the vehicle;

(b) For a right turn, hand and arm extended upward beyond the side of the vehicle; and

(c) For a stop or sudden decrease of speed, hand and arm extended downward beyond the side of the vehicle.

Source: S.L. No. 2L-132-82 §421, 7/9/82

§8-122. Moving a stopped, standing or parked vehicle. — No person shall move a vehicle that is stopped, standing or parked unless and until such movement can be made with reasonable safety.

Source: S.L. No. 2L-132-82 §422, 7/9/82

§8-123. Emerging from alley, building, private roadway or driveway. — The driver of a vehicle emerging from an alley, building, private roadway or driveway within a business or residential district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, roadway or driveway, or, in the event there is no sidewalk area, shall stop at the point nearest the roadway to be entered, where he has a view of approaching traffic thereon.

Source: S.L. No. 2L-132-82 §423, 7/9/82

§8-124. Meeting or overtaking school bus. — The driver of a vehicle, upon meeting or overtaking from either direction, any school bus that has stopped on the roadway for the purpose of receiving or discharging schoolchildren, shall stop the vehicle before reaching such school bus when there is in operation on said school bus a visual signal as specified in §3-107, and said driver shall not proceed until such school bus resumes motion or he is signaled by the school bus driver to proceed or the visual signals are no longer actuated.

Source: S.L. No. 2L-132-82 §424, 7/9/82

§8-125. Obstructing traffic. — No motor vehicle shall be stopped in the area of the roadway marked for exclusive use for moving traffic as prescribed in §8-102 nor may it be stopped at any place where it is likely to obstruct traffic or create or constitute a dangerous condition to traffic on the road. Parking, standing or loading or discharging of passengers or freight between such markings, or in such areas, or in “No Parking” zones, is expressly prohibited except where the vehicle is driven completely off the roadway. In addition, no taxi or other commercial vehicle may discharge passengers or freight if such discharge results or is likely to result in persons or objects entering a zone reserved for moving vehicles or will otherwise obstruct traffic. For purposes of this section:

- (1) The word “stop” means prohibited “stop” or “stopping” as defined by §1-101(34); and
- (2) A violation of this section occurs when any portion of the vehicle is in violation hereof.

Source: S.L. No. 2L-132-82 §425, 7/9/82; S.L. No. 3L-5-92 §2, 4/28/93

§8-126. Obstruction of roadways. — It shall be unlawful for any person to leave an obstacle on a roadway in such a manner as to prevent free and easy passage thereon, unless otherwise authorized by statute.

Source: S.L. No. 2L-132-82 §426, 7/9/82

Note: S.L. No. 5L-07-00 §9, 7/14/00 repealed §426 and inserted a new §426.

§8-127. Stopping or parking near fire station or hydrant. — No person shall stop or park any vehicle, or leave it standing, in front of a fire station or within 15 feet of a fire hydrant except when such vehicle is attended by a licensed driver or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of necessity.

Source: S.L. No. 2L-132-82 §427, 7/9/82

§8-128. Removal of vehicles. —

(1) Whenever any police officer finds a vehicle standing upon a roadway in violation of any provision of this chapter, such officer may move such vehicle, or require the driver or other person in charge of the vehicle to move it, to a position off the paved or main-traveled part of such roadway.

(2) Any police officer may remove or cause to be removed to a place of safety, any unattended vehicle illegally left standing upon any roadway or bridge in such position or under such circumstances as to obstruct the normal movement of traffic.

(3) Any police officer may remove or cause to be removed to the nearest garage or other place of safety, any vehicle found upon a roadway when:

- (a) A report has been made that such vehicle has been stolen or taken without the consent of its owner; or
- (b) The person or persons in charge of such vehicle are unable to provide for its custody or removal.

Source: S.L. No. 2L-132-82 §428, 7/9/82

§8-129. Speed limits. —

(1) No person shall operate a motor vehicle on any roadway in the state at a rate of speed in excess of 25 miles an hour except as otherwise provided in this title.

(2) The Director shall determine, upon the basis of an engineering and traffic investigation, such other maximum speeds as shall be reasonable and safe under the conditions found to exist at any intersection or any other place on the roadways of the state. Such maximum speeds shall be effective when appropriate signs or markings giving notice thereof are erected, and may be declared to be effective at all times or at such times as are indicated upon the said signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when notice thereof is given by official traffic-control devices.

Source: S.L. No. 2L-132-82 §429, 7/9/82

§8-130. Backing. — The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

Source: S.L. No. 2L-132-82 §430, 7/9/82

§8-131. Driving on sidewalks. — No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

Source: S.L. No. 2L-132-82 §431, 7/9/82

§8-132. Obstruction of driver's view or operation of vehicle. —

(1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or with his control over the driving mechanism of the vehicle.

Source: S.L. No. 2L-132-82 §432, 7/9/82

§8-133. Opening and closing vehicle doors. — No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

Source: S.L. No. 2L-132-82 §433, 7/9/82

§8-134. Coasting. —

(1) The driver of any motor vehicle, when traveling on a downgrade, shall not coast with the gears or transmission of such vehicle in neutral.

(2) The driver of a truck or bus, when traveling on a downgrade, shall not coast with the clutch disengaged.

Source: S.L. No. 2L-132-82 §434, 7/9/82

§8-135. Crossing fire hose. — No vehicle shall be driven over an unprotected fire hose laid down on any street, private roadway or driveway to be used at any fire or alarm of fire, without the consent of the fire official in command.

Source: S.L. No. 2L-132-82 §435, 7/9/82

§8-136. Putting glass and other sharp objects on roadway. —

(1) No person shall throw or deposit upon any roadway any glass bottle, glass, nails, tacks, wire, cans or any other object likely to injure any person, animal or vehicle upon such roadway.

(2) Any person who drops or permits to be dropped or thrown upon any roadway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a roadway shall remove any glass or other injurious substance dropped upon the roadway from such vehicle.

Source: S.L. No. 2L-132-82 §436, 7/9/82

§8-137. Metal tires or treads. — No motor vehicle with metal tires or treads shall be driven on a paved roadway without the permission of the Director.

Source: S.L. No. 2L-132-82 §437, 7/9/82

§8-138. Vehicle loads. — No vehicle shall be driven or moved on any roadway:

(1) Unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom;

(2) When any load thereon is not entirely within the body of the vehicle; PROVIDED, HOWEVER, that this prohibition shall not apply if the load is securely fastened by means of clamps, ropes, straps, cargo nets or other suitable mechanical devices to prevent such load from dropping onto the roadway or from shifting in any manner;

(3) With any load consisting partially or entirely of loose paper, empty cartons, crates, trash or any other material susceptible to being blown or carried by the wind, unless such load is entirely covered by a tarpaulin, net canopy or other suitable material, effectively preventing any part of such load from being blown or carried by the wind; PROVIDED, HOWEVER, that this subsection shall not apply to any vehicle carrying a load consisting entirely of soil, sand, coral or gravel if such load is wetted down to prevent particles thereof from being blown or carried by the wind; or

(4) While any occupant thereof is riding on a load which exceeds the height of the body of the vehicle.

Source: S.L. No. 2L-132-82 §438, 7/9/82; S.L. No. 6L-22-04 §2, 1/1/05

§8-139. Bicyclists subject to rules of the road. — Every person riding a bicycle upon a roadway shall be subject to all of the duties applicable to the driver of a vehicle under this title except those provisions that by their very nature are inapplicable.

Source: S.L. No. 2L-132-82 §439, 7/9/82

§8-140. Safety helmets required. —

(1) Every operator and passenger of a motorcycle shall wear on his head a safety helmet with straps fastened under his chin while the vehicle is being operated on any public road of Pohnpei. Commencing September 1, 1982, "safety helmet," as used in this subsection, shall mean a safety helmet that is certified by the Department of Public Safety as provided in Subsection (2) of this section. Any person who violates this subsection shall, upon conviction thereof, be imprisoned not longer than six months, or fined not more than \$100, or both such fine and imprisonment. Any violation of this subsection by a passenger shall be considered a violation by the operator also.

(2) The Department of Public Safety shall establish and make public minimum safety standards requiring that safety helmets with straps protect the entire head from injury during a reasonably

foreseeable traffic collision. Thereafter, the Director or his authorized representative shall certify only those safety helmets examined by him which meet the prescribed standards, and shall indicate such certification by a sticker to be clearly displayed on the exterior of the safety helmet while in use. The Director or his authorized representative is hereby authorized to collect a fee that shall not exceed fifty cents for each safety helmet with straps presented to him for certification. The fee shall be deposited in a separate account by the Director and shall be expended by the Director solely for purposes related to the certification of safety helmets. Any funds remaining in the account unexpended or unobligated for expenditure on September 30 each year shall be transferred to the general fund of Pohnpei. Every safety helmet certification issued under this section shall expire on March 31 each year and shall be renewed annually upon application by the owner and payment of the fee required.

Source: S.L. No. 2L-132-82 §440, 7/9/82

§8-141. General misdemeanor provision. — It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, a misdemeanor for any person to do any act forbidden by, or fail to perform any act required by this chapter.

Source: S.L. No. 2L-132-82 §441, 7/9/82

CHAPTER 9 ACCIDENT REPORTS

Section

9-101 Duties of driver in accidents involving injury, death or damage	9-103 Reports by garages
9-102 Written accident report	9-104 Report forms

§9-101. Duties of driver in accidents involving injury, death or damage. — The driver of any vehicle involved in an accident resulting in injury or death to any person or damage to property shall immediately stop such vehicle and shall give his name, address, and registration number of his vehicle and exhibit his operator's license to the person struck or the driver or occupants of any vehicle collided with, or the owner of any property damaged, and shall render to any person injured in such accident reasonable assistance.

Source: S.L. No. 2L-132-82 §1001, 7/9/82

§9-102. Written accident report. — The driver of any vehicle involved in an accident resulting in injury or death to any person or property damage to an apparent extent of \$50 or more, shall, within 24 hours (or as soon thereafter as normal means of transportation and communications will permit) forward a written report of such accident to the Director of the Department of Public Safety. All accident reports shall be without prejudice and shall not be open to public inspection.

Source: S.L. No. 2L-132-82 §1002, 7/9/82

§9-103. Reports by garages. — The person in charge of any garage or repair shop to which is brought any motor vehicle that shows evidence of having been involved in a serious accident or struck by any bullet shall report to the nearest police station within 24 hours after such motor vehicle is received, giving the engine number, registration number, and the name and address of the person who brought in the vehicle.

Source: S.L. No. 2L-132-82 §1003, 7/9/82

§9-104. Report forms. — The Department of Public Safety shall supply the forms for accident reports calling for sufficiently detailed information to disclose, with reference to a highway accident, the cause, the conditions then existing, and the persons and vehicles involved.

Source: S.L. No. 2L-132-82 §1004, 7/9/82

CHAPTER 10 TRAFFIC OFFENSES PROCEDURE

Section

10-101 Procedure in lieu of other procedures	10-110 Arrests
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10-108 Answer before Clerk of Court	10-117 Procedure after three convictions
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§10-101. Procedure in lieu of other procedures. — The procedure set forth in this chapter may be employed in lieu of all others for violations of this title not amounting to felonies.

Source: S.L. No. 2L-132-82 §1101, 7/9/82

§10-102. Authority of police to issue citation at scene of accident. — Except for felonies, a police officer at the scene of a traffic accident may issue a written traffic citation to any driver of a vehicle involved in the accident when, based upon his personal investigation, the officer has reasonable and probable grounds to believe that the person has committed an offense under a provision of this title in connection with the accident.

Source: S.L. No. 2L-132-82 §1102, 7/9/82

§10-103. When person must be taken before court. — Whenever any person is halted by a police officer for any violation of this title not amounting to a felony, he shall be taken without unnecessary delay before the next sitting of the court of appropriate jurisdiction in the state in either of the following cases:

- (1) When the person demands an immediate appearance before the court; or
- (2) In any other event when the person is issued a traffic citation by an authorized person and refuses to give his written promise to appear in court as hereinafter provided.

Source: S.L. No. 2L-132-82 §1103, 7/9/82

§10-104. When person may be taken before court. — Whenever any person is halted by a police officer for any violation of this title and is not required to be taken before the court, the person shall, in the discretion of the officer, either be given a traffic citation or be taken without unnecessary delay before the next sitting of the court of appropriate jurisdiction in any of the following cases:

- (1) When the person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court; or
- (2) When a driver of a vehicle refuses to allow inspection of the vehicle by a police officer as provided for in §4-103.

Source: S.L. No. 2L-132-82 §1104, 7/9/82

§10-105. Violation of written promise to appear. —

(1) It shall be unlawful for any person to violate his written promise to appear given to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which such citation was originally issued.

(2) A written promise to appear in court may be complied with by an appearance by counsel.

Source: S.L. No. 2L-132-82 §1105, 7/9/82

§10-106. Uniform traffic ticket citation. —

(1) In the event of any violation of a provision of this title resulting in a misdemeanor, proceedings may be instituted by the serving of a citation upon the violator.

(2) The citation shall be signed by a police officer of the state and shall be substantially in the form known as the “Uniform Traffic Ticket Citation.”

(3) No code section need be specified in the citation in any case in which the charged violation is specifically designated through the use of indicated boxes provided on the uniform ticket.

(4) The citation may contain other information pertinent to the charged offense and such forms for appearance, plea, and waiver as are necessary under this chapter.

Source: S.L. No. 2L-132-82 §1106, 7/9/82; S.L. No. 1L-118-87 §5, 2/10/87

§10-107. Service. —

(1) The citation may be served by the delivery of a copy thereof to the defendant, or by affixing a copy thereof to the steering wheel or windshield of the vehicle, if unoccupied.

(2) The citation may be served by any member of the Division of Police and Security, a police officer or any deputy.

Source: S.L. No. 2L-132-82 §1107, 7/9/82; S.L. No. 1L-118-87 §5, 2/10/87; S.L. No. 5L-14-00 §3-22, 10/1/00

§10-108. Answer before Clerk of Court. — A citation lawfully issued under this chapter may be answered in the manner provided for in the state general law providing for issuance and answering of citations.

Source: S.L. No. 2L-132-82 §1108, 7/9/82; S.L. No. 1L-118-87 §5, 2/10/87

§10-109. Failure to appear; penalty. — The penalty for failure to answer to a citation issued pursuant to this chapter shall be instituted in the same manner provided for in the state general law providing for issuance and answering of citations.

Source: S.L. No. 2L-132-82 §1109, 7/9/82; S.L. No. 1L-118-87 §5, 2/10/87

§10-110. Arrests. — Upon the failure of any person to answer a citation issued pursuant to this chapter, a warrant for his arrest may issue and shall be made pursuant to the state general law providing for failure to answer a citation.

Source: S.L. No. 2L-132-82 §1110, 7/9/82; S.L. No. 1L-118-87 §5, 2/10/87

§10-111. Failure to answer a misdemeanor. — Any person who willfully fails to answer a lawful citation issued pursuant to this chapter shall be guilty of a misdemeanor as prescribed by state general law providing for issuance and answering of citations, regardless of the disposition of the charge upon which the citation was originally issued, and upon conviction thereof shall be subject to the penalties prescribed in the state general law providing for issuance and answering of citations.

Source: S.L. No. 2L-132-82 §1111, 7/9/82; S.L. No. 1L-118-87 §5, 2/10/87

§10-112. Hearing. — Hearings on traffic matters shall be conducted in accordance with rules promulgated by the court.

Source: S.L. No. 2L-132-82 §1112, 7/9/82

§10-113. Evidence. — Evidence from radar or other electronic equipment used to check and record the speed of vehicles may be admitted as evidence in the prosecution of alleged motor vehicle violations.

Source: S.L. No. 2L-132-82 §1113, 7/9/82

§10-114. Costs. —

(1) The court may assess reasonable costs against any defendant who fails to appear and answer a lawful summons as provided in this chapter.

(2) Such costs, when assessed, shall be segregated into a fund that shall be administered by the court.

(3) Such fund shall be used to defray the expenses of the administration of this chapter and is hereby continuously authorized and appropriated therefor.

Source: S.L. No. 2L-132-82 §1114, 7/9/82

§10-115. Offenses within Clerk's authority; fines. —

(1) The court shall, by order, which may from time to time be amended, supplemented or repealed, designate the misdemeanor traffic offenses within the authority of the Clerk; PROVIDED that such offenses shall in no event include felonies, accidents resulting in property damage or personal injury, operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit-producing drug, or permitting another person who is under such influence to operate a motor vehicle owned by the defendant or in his custody or control, reckless driving or leaving the scene of an accident.

(2) The court, by published order to be prominently posted in the place where the fines are to be paid, shall specify by suitable schedules the amount of fines to be imposed for first, second, and subsequent offenses, designating each offense specifically in the schedules, provided such fines are within the limits declared by statute or ordinance. Fines and costs shall be paid to, received by, and accounted for by the Clerk in accordance with these rules.

Source: S.L. No. 2L-132-82 §1115, 7/9/82

§10-116. Plea of guilty, waiver of trial, and payment of fine; advice. —

(1) Any person charged with any misdemeanor traffic offense within the authority of the Clerk may appear in person before the Clerk and, upon signing a plea of guilty and waiver of trial, pay the fine established for the offense charged, and costs.

(2) He shall, prior to such plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Director.

Source: S.L. No. 2L-132-82 §1116, 7/9/82

§10-117. Procedure after three convictions. — No person who has been found guilty of or who has signed a plea of guilty to three previous traffic offenses in the current calendar year shall be permitted to appear before the Clerk unless the court shall by general order applying to certain specified offenses permit such appearance, conditioned upon the payment of a substantially increased fine, which increase shall be specified in such general order.

Source: S.L. No. 2L-132-82 §1117, 7/9/82

§10-118. Transition. — Rules and regulations pertaining to vehicles and traffic existing on the effective date of this title [*July 9, 1982*] shall remain in effect unless superseded by rules and regulations promulgated pursuant to this title. Provisions of such rules and regulations existing on the effective date of this title which are in contravention with this title shall be held invalid to the extent of such contravention.

Source: S.L. No. 2L-132-82 §1201, 7/9/82

Note: Transition language relative to validity of existing registrations and licenses has been omitted.

Extended legislative history: D.L. No. 3L-37-72 §1, 11/29/72 added PDC §5-6, 3/71; D.L. No. 3L-38-72 §1, 1/1/73 added PDC §5-5, 3/71; D.L. No. 3L-51-73 §1, 5/29/73 amended PDC §5-1(a), 3/71; D.L. No. 3L-90-74 §1, 6/29/74 and S.L. No. 2L-79-81 §1, 7/15/81 amended PDC §5-5, 3/71, as established by D.L. No. 3L-90-74; D.L. No. 3L-67-73, 10/30/73 provided for mandatory spare parts list; D.L. No. 4L-117-77 §2, 11/16/77 amended D.L. No. 3L-67-73 §§1, 2, and 3; D.L. No. 4L-117-77 §1, 11/16/77 amended PDC §5-2, 3/71; D.L. No. 4L-118-77 §4, 11/16/77 repealed PDC §5-4, 3/71; S.L. No. 2L-132-82 §1202, 7/9/82 repealed PDC §§5-1 – 5-6, 3/71; S.L. No. 2L-146-82 §1, 11/16/82 amended S.L. No. 2L-132-82 §204; S.L. No. 2L-146-82 §2, 11/16/82 amended S.L. No. 2L-132-82 §208; S.L. No. 2L-146-82 §3, 11/16/82 amended S.L. No. 2L-132-82 §301(1); S.L. No. 2L-146-82 §4, 11/16/82 amended S.L. No. 2L-132-82 §305(3); S.L. No. 2L-205-83 §1, 10/17/83 amended S.L. No. 2L-132-82 §305(3); S.L. No. 2L-205-83 §1, 10/17/83 amended S.L. No. 2L-136-82 §305; S.L. No. 2L-205-83 §2, 10/17/83 amended S.L. No. 2L-136-82 §308; S.L. No. 3L-5-92 §1, 4/28/93 amended S.L. No. 2L-132-82 §402; S.L. No. 3L-5-92 §2, 4/28/93 amended S.L. No. 2L-132-82 §425; S.L. No. 2L-146-82 §5, 11/16/82 amended S.L. No. 2L-132-82 §904(4); S.L. No. 3L-5-92 §3, 4/28/93 amended S.L. No. 2L-132-82 §908; S.L. No. 1L-118-87 §5, 2/10/87 amended S.L. No. 2L-132-82 §§1106 through 1111.

CHAPTER 11 [RESERVED]

CHAPTER 12 SERIOUS TRAFFIC OFFENSES

Section

12-101 Careless driving	12-105 Driving while under the influence of alcohol or other drugs
12-102 Reckless driving	12-106 Causing death or bodily injury while driving under the influence
12-103 Fleeing from or attempting to elude a police officer	12-107 Jurisdiction over serious offenses
12-104 Homicide by vehicle	

§12-101. Careless driving. — Any person who drives any vehicle upon a roadway or place accessible to the public in a careless and imprudent manner without due regard for the width, grade, curves, corners, traffic or other attending circumstances is guilty of careless driving and shall be punished by a fine of not more than \$50, or imprisonment for not more than 30 days, or both such fine and imprisonment. Whenever such careless driving of a vehicle proximately causes bodily injury to any person, the person so driving such vehicle shall be fined not more than \$250, or imprisoned for not more than six months, or both such fine and imprisonment.

Source: S.L. No. 2L-132-82 §801, 7/9/82

§12-102. Reckless driving. — Any person who drives any vehicle upon a roadway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and shall be punished by a fine of not more than \$100, or imprisonment for not more than six months, or both such fine and imprisonment. Whenever such reckless driving of a vehicle proximately causes bodily injury to any person, the person so driving such vehicle shall be fined not more than \$500, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: S.L. No. 2L-132-82 §802, 7/9/82

§12-103. Fleeing from or attempting to elude a police officer. —

(1) Any driver of a motor vehicle who willfully fails or refuses to bring his vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle, when given visual or audible signal by a police officer to bring the vehicle to a stop, shall be guilty of a misdemeanor.

(2) The signal given by the police officer may be by hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently displaying his badge of office.

(3) Every person convicted of fleeing or attempting to elude a police officer shall be punished by imprisonment for not less than 30 days nor more than six months, or by a fine of not less than \$100 nor more than \$500, or by both such fine and imprisonment.

Source: S.L. No. 2L-132-82 §803, 7/9/82

§12-104. Homicide by vehicle. — Whoever shall unlawfully and unintentionally cause the death of another person while engaged in a violation of any law applying to the operation or use of a vehicle or to the regulation of traffic shall be guilty of homicide when such violation is the proximate cause of said death. Any person convicted of homicide by vehicle shall be fined less than \$3,000, or imprisoned less than three years, or both such fine and imprisonment.

Source: S.L. No. 2L-132-82 §804, 7/9/82

§12-105. Driving while under the influence of alcohol or other drugs. — Any person who, while under the influence of intoxicating liquor, any narcotic drug or any other drug, to a degree which renders him incapable of safely driving, drives any motor vehicle upon any roadway within the state

shall be punished by imprisonment for not more than one year, or a fine of not more than \$500, or both such fine and imprisonment.

Source: S.L. No. 2L-132-82 §805, 7/9/82

§12-106. Causing death or bodily injury while driving under the influence. — Any person operating or driving a motor vehicle of any kind while under the influence of intoxicating liquor, and who, by reason of such condition, does any act or neglects any duty imposed by law, which act or neglect of duty causes the death of or bodily injury to any person, shall be punished by imprisonment for less than three years, or a fine of less than \$3,000, or both such fine and imprisonment.

Source: S.L. No. 2L-132-82 §806, 7/9/82

§12-107. Jurisdiction over serious offenses. — The Pohnpei Supreme Court shall have original jurisdiction in all cases arising under this chapter.

Source: S.L. No. 2L-132-82 §807, 7/9/82

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TABLES
FOR THE
CODE

TABLE I:
Disposition of Laws within the Code

TABLE II:
Public Laws Omitted

Tables Cover Page

TABLE I

DISPOSITION OF LAWS WITHIN THE CODE

This table provides the location in this Code of the Ponape District Code of 1971, the Trust Territory Code of 1980, public laws enacted by the Ponape District Legislature and legislatures of the state of Pohnpei. Only those laws or parts of laws contained in this Code are listed.

* Indicates source has been subsequently repealed and a new provision inserted or it has been amended.

Ponape District Code March 1971

Source	Pohnpei Code	Source	Pohnpei Code
§1-1*	2 PC 1-101	§6-10*	66 PC 2-124 & 70 PC 2-102
§1-2*	2 PC 1-102	§7-1	6 PC 4-101
§1-3*	2 PC 1-103	§7-2*	17 PC 10-101
§1-7*	2 PC 1-111	§7-200*	17 PC 10-102
§1-8*	2 PC 9-101 – 9-106	§§8-4 & 8-5*	18 PC 10-101 & 10-102
§1-9*	2 PC 1-106	§10-1	33 PC 2-101
§1-10*	2 PC 9-107	§§10-2 – 10-6*	33 PC 2-102 – 2-106
§1-202 (a – f)*	16 PC 6-101 – 6-106	§10-200	33 PC 6-101
§2-1	6 PC 3-105 – 3-107	§10-400*	6 PC 10-101 – 10-103
§§3-1 – 3-10*	66 PC 2-101 – 2-109 & 2-112	§11-1(a – c)*	28 PC 6-101 – 6-103
§3-11*	66 PC 2-113	§11-2	28 PC 2-111
§§3-12 & 3-13	66 PC 2-114 & 2-115	§11-3*	28 PC 2-101
§3-14*	66 PC 2-116	§§11-100 – 11-102*	28 PC 10-103 – 10-105
§§3-14A & 3-14B	66 PC 2-117 & 2-118	§§11-200 & 11-201	26 PC 8-121 & 8-111
§§3-15 – 3-17	66 PC 2-119 – 2-121	§11-202	26 PC 4-120 – 4-123
§3-18*	66 PC 2-122	§12-1*	41 PC 2-101
§§5-100 & 5-101	32 PC 6-101 – 6-106	§12-3	41 PC 2-102 – 2-106
§§5-102 & 5-103	32 PC 7-102 – 7-106	§12-4(a – c)*	41 PC 2-107 – 2-109
§6-1	52 PC 1-101 & 66 PC 2-125	§12-200	41 PC 4-104
§6-2	70 PC 2-101	§§13-1 – 13-5	22 PC 3-101 – 3-105
§6-3*	66 PC 2-123	§13-6*	22 PC 3-106

POHNPEI CODE: Table I – Disposition of laws within the Code

Ponape District Laws	Pohnpei Code	Source	Pohnpei Code
2L-222-71		3L-72-73	
§1.....	32 PC 7-101	§§2 – 5.....	39 PC 3-101 – 3-104
2L-223-71		§§6 & 7*.....	39 PC 3-105 & 3-106
§1*.....	26 PC 6-211	§§8 – 10.....	39 PC 3-107 – 3-109
§2.....	26 PC 6-212	§11*.....	39 PC 3-110
2L-235-71		3L-75-73	
§1*.....	33 PC 2-103	§1*.....	28 PC 6-101
2L-239-71		3L-82-74	
§§1 – 5*.....	29 PC 2-101 & 2-102	§§1 & 2*.....	6 PC 10-104
3L-11-72		3L-100-74	
§1.....	66 PC 2-124 & 70 PC 2-102	§§1 & 2*.....	18 PC 10-103
3L-15-72		3L-101-74	
§1.....	66 PC 2-123	§§1 – 3.....	29 PC 2-101 & 2-102
3L-19-72		3L-109-75	
§1.....	28 PC 10-101	§1*.....	28 PC 6-101
§§2 – 4*.....	28 PC 10-102	3L-110-75	
3L-33-72		§1*.....	17 PC 10-102
§1.....	26 PC 6-223	3L-130-75	
§§2 & 3*.....	26 PC 6-224 & 6-225	§1.....	70 PC 1-101
3L-39-72		§§2 & 3.....	70 PC 1-102 & 1-103
§1*.....	2 PC 9-107	§§4 & 5*.....	70 PC 1-104 & 1-105
3L-40-72		§§6 – 8.....	70 PC 1-106 – 1-108
§§1 & 2.....	26 PC 6-181 & 6-182	4L-12-76	
3L-44-72		§§1 & 2*.....	70 PC 1-104 & 1-105
§1*.....	33 PC 2-102	4L-18-76	
3L-49-73		§1*.....	6 PC 10-104
§1*.....	41 PC 2-107	4L-35-76	
3L-58-73		§§1 & 2.....	70 PC 1-104 & 1-105
§4*.....	2 PC 1-111	4L-37-76	
§8.....	2 PC 9-107	§§1 & 2*.....	2 PC 9-109
§15.....	17 PC 10-101	4L-39-76	
§18*.....	17 PC 10-102	§2.....	2 PC 1-107 – 1-110 & 9-110
§§22 & 23.....	18 PC 10-101 & 10-102	4L-45-76	
§25*.....	33 PC 2-106	§7*.....	2 PC 9-111
§§30 – 32.....	28 PC 10-103 – 10-105	4L-53-76	
§33.....	41 PC 2-107 – 2-109	§1*.....	33 PC 2-106
§34.....	22 PC 3-106	4L-72-77	
§36*.....	28 PC 10-102	§§1 – 3.....	17 PC 10-103
3L-64-73		4L-76-77	
§1.....	2 PC 1-111	§1.....	26 PC 6-211
3L-66-73		4L-79-77	
§§1 & 2.....	2 PC 9-108	§§1 & 2*.....	2 PC 9-112

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
4L-82-77		§§35 & 36.....	41 PC 6-135 & 6-136
§§1 – 3*	16 PC 10-101	4L-153-78	
4L-88-77		§1.....	42 PC 2-101
§1.....	32 PC 10-101	§2*.....	42 PC 2-102 & 2-103
§2*.....	32 PC 10-102	4L-154-78	
4L-92-77		§1*.....	39 PC 3-105
§1(a).....	6 PC 10-104(1)	4L-155-78	
§1(b)*.....	6 PC 10-104(2)	§§1 – 6.....	49 PC 1-101 – 1-106
4L-96-77		4L-157-78	
§1*.....	28 PC 10-102	§1*.....	33 PC 2-104
4L-98-77		4L-158-78	
§1.....	33 PC 2-102	§§1 – 3.....	59 PC 3-101
§2*.....	33 PC 2-103	4L-159-78	
§3*.....	33 PC 2-105	§§1 & 2.....	36 PC 1-101 & 1-102
§4.....	33 PC 2-105	§§3 – 7*.....	36 PC 1-103 – 1-107
4L-99-77		§§8 – 16.....	36 PC 1-108 – 1-116
§1.....	66 PC 2-101 – 2-109, 2-112, 2-114, 2-115 & 2-119 – 2-121	§17*.....	36 PC 1-117
§1*.....	66 PC 2-113, 2-116 & 2-122	§§20 & 21.....	36 PC 1-118 & 1-119
4L-115-77		4L-160-78	
§2.....	41 PC 2-101	§1.....	10 PC 3-103
4L-118-77		4L-161-78	
§§1 & 2.....	32 PC 8-101	§1(1) & (2) *.....	42 PC 10-101 & 10-102
4L-119-77		§1(3) & (4).....	42 PC 10-103 & 10-104
§§1 – 4.....	17 PC 9-101 – 9-104	4L-191-79	
4L-133-78		§1.....	34 PC 2-101
§§1 & 2.....	18 PC 10-104	§2*.....	34 PC 2-102
4L-136-78		§§3 – 5.....	34 PC 2-103 – 2-105
§2.....	2 PC 9-112	§6*.....	34 PC 2-106
§5*.....	16 PC 10-101	§§7 – 12 & 15 – 17.....	34 PC 2-107 – 2-115
§9*.....	32 PC 10-102	4L-192-79	
§14.....	66 PC 2-122	§§1 – 3*.....	33 PC 10-101
§27.....	6 PC 10-104(2)	4L-194-79	
§32*.....	2 PC 9-109	§1.....	2 PC 1-102
§33*.....	2 PC 9-111	4L-196-79	
§34.....	18 PC 10-103	§§1 & 2.....	42 PC 10-105
§35.....	6 PC 10-104(3)	4L-198-79	
§36.....	2 PC 1-105	§§1 – 4.....	33 PC 10-102
4L-152-78		4L-200-79	
§§1 – 31*.....	41 PC 6-101 – 6-131	§1*.....	1 PC 6-101
§32.....	41 PC 6-132	4L-201-79	
§§33 & 34*.....	41 PC 6-133 & 6-134	§1*.....	36 PC 1-107
		4L-203-79	
		§§1 & 2.....	26 PC 4-110 & 4-111
		§3*.....	26 PC 4-112

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§4.....	26 PC 4-113	4L-204-79	
§5*.....	26 PC 4-114	§1*.....	36 PC 1-103
§§6 – 9 & 11.....	26 PC 4-115 – 4-119	§§2 & 3*.....	36 PC 1-105 & 1-106
		§4.....	36 PC 1-117
Trust Territory Code 1980			
Source	Pohnpei Code	Source	Pohnpei Code
1 TTC		33 TTC	
§102 & 103.....	1 PC 1-122 & 1-123	§§251 – 253.....	39 PC 4-101 – 4-103
§104.....	1 PC 1-116	§§301 – 306.....	39 PC 1-101 – 1-106
§105.....	1 PC 1-124	§§351 – 364.....	39 PC 2-101 – 2-114
7 TTC		39 TTC	
§§1 & 2.....	59 PC 4-101 & 4-102	§§1 – 6.....	51 PC 1-101 – 1-106
§51.....	59 PC 2-101	§§51 – 55.....	51 PC 2-101 – 2-105
10 TTC		§§101, 103, 104, 151 – 153 & 201 – 204	51 PC 3-101 – 3-110
§§1 – 3 & 51 – 59.....	43 PC 2-101 – 2-112	§§251 – 253.....	51 PC 5-101 – 5-103
12 TTC		§254*.....	51 PC 5-104
§1.....	62 PC 1-101	§255.....	51 PC 5-105
§§51 – 58.....	62 PC 2-101 – 2-108	§§301 – 304.....	51 PC 4-101 – 4-104
§§60 – 70.....	62 PC 2-110 – 2-120	§§351 & 352.....	51 PC 4-133 & 4-134
§§101 – 114.....	62 PC 2-121 – 2-134	§§401 – 428.....	51 PC 4-105 – 4-132
§151.....	62 PC 3-101	45 TTC	
§§201 – 206.....	62 PC 4-101 – 4-106	§1.....	26 PC 6-221
§§251 – 258.....	62 PC 5-101 – 5-108	§2.....	26 PC 6-201
§§301 & 302.....	62 PC 6-106 & 6-107	§3.....	26 PC 6-191
§§351 & 352.....	62 PC 8-101 & 8-102	§4*.....	26 PC 6-171
§§401 & 402.....	62 PC 7-101 & 7-102	§5.....	26 PC 6-172, 6-192, 6-202 & 6-222
§§451 – 481.....	62 PC 10-101 – 10-131	§§101 – 103.....	26 PC 2-101 – 2-103
13 TTC		§§104 & 105*.....	26 PC 2-104 & 2-105
§§51 – 55.....	49 PC 3-101 – 3-105	§106.....	26 PC 2-106
15 TTC		§§107 & 108*.....	26 PC 2-107 & 2-108
§§1 – 4.....	52 PC 6-101 – 6-104	§§109 – 112.....	26 PC 2-109 – 2-112
§5.....	52 PC 6-106 & 6-107	57 TTC	
§6.....	52 PC 6-105	§§1 – 7.....	46 PC 1-101 – 1-107
§51.....	52 PC 7-101	§§51 – 53.....	46 PC 2-101 – 2-103
25 TTC		§101.....	46 PC 3-101
§1.....	28 PC 1-101	§201.....	41 PC 4-101
§§2 – 4*.....	28 PC 1-102 – 1-104	§251.....	41 PC 3-101
§§5 – 10.....	28 PC 1-105 – 1-110	§252*.....	41 PC 3-102
31 TTC		§253.....	41 PC 3-103
§§201 – 207.....	38 PC 5-101 – 5-107		
§§251 – 256.....	38 PC 5-108 – 5-113		

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code
§§301 & 302	41 PC 4-102 & 4-103
63 TTC	
§§2 & 3	17 PC 1-101 – 1-103
§§51 & 52	17 PC 1-104 & 1-105
§§151 – 156.....	17 PC 1-106 – 1-111

Source	Pohnpei Code
§§401 – 406.....	17 PC 7-101 – 7-106
§§451 & 452.....	61 PC 15-101 & 15-102
67 TTC	
§§151 - 153.....	42 PC 7-101
§§451 – 456.....	43 PC 1-101 – 1-106
§§501 – 512.....	43 PC 3-101 – 3-112

Congress of the Trust Territory of the Pacific Islands:

See Trust Territory Code references.

Interim Congress of the Federated States of Micronesia

IC-19

§1 26 PC 6-171

IC-28

§1 51 PC 5-104

Pohnpei State Laws

Source	Pohnpei Code
1L-10-79	
§§1 & 2	5 PC 1-101 & 1-102
§§3 – 5*	5 PC 1-103 – 1-105
§6	5 PC 1-106
§7*	5 PC 1-107
§7D	5 PC 1-108
§§8 – 10	5 PC 1-109 – 1-111
§11	5 PC 2-101
1L-13-79	
§1*	33 PC 2-104
2L-12-80	
§1	8 PC 1-101
2L-14-80	
§1*	1 PC 7-101
§§2 & 3	1 PC 7-102 & 7-103
2L-18-80	
§§1 & 2	3 PC 10-101
2L-27-80	
§1*	6 PC 10-101 – 10-103
2L-34-80	
§1	42 PC 10-102
2L-35-80	
§§1 & 2	42 PC 10-106

Source	Pohnpei Code
2L-37-80	
§2.....	16 PC 10-101
2L-38-80	
§§1 – 4.....	58 PC 1-101 – 1-104
2L-41-80	
§2(5)*	42 PC 2-102
§2(1) – (4).....	42 PC 2-103
2L-43-80	
§§1 & 2*	42 PC 3-101 & 3-102
§§3 & 4*.....	42 PC 3-103 & 3-104
§§5 – 10.....	42 PC 3-105 – 3-110
§11*.....	42 PC 3-111
2L-44-80	
§1	41 PC 6-101 – 6-107 & 6-109 – 6-136
§1*.....	41 PC 6-108
2L-51-81	
§2.....	42 PC 2-102
2L-57-81	
§§1 & 2.....	9 PC 2-101 & 2-102
§3*.....	9 PC 2-103
§§4 & 5.....	9 PC 2-104 & 2-105
§§6 – 9*.....	9 PC 2-106 – 2-109

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§§10 – 17.....	9 PC 2-110 – 2-117	§§2-4 – 2-9.....	26 PC 6-164 – 6-169
§§18 & 19*.....	9 PC 2-118 – 2-130	§§3-1 – 3-3.....	26 PC 6-111 – 6-113
§§20 – 29.....	9 PC 2-131 – 2-142	§3-4*.....	26 PC 6-114
§31(2)*.....	33 PC 2-103	§3-5.....	26 PC 6-115
§31(3)*.....	33 PC 2-105	§3-6*.....	26 PC 6-116
§31(5).....	36 PC 1-104	§§3-7 – 3-11.....	26 PC 6-117 – 6-121
2L-60-81		§§4-1 – 4-4.....	26 PC 6-131 – 6-134
§§1 & 2.....	5 PC 2-102	§§5-1 – 5-4.....	26 PC 6-151 – 6-154
2L-70-81		§§6-1 – 6-4.....	26 PC 6-141 – 6-144
§1.....	42 PC 10-107	§7-1.....	26 PC 6-103
2L-71-81		§7-2*.....	26 PC 6-104
§1.....	22 PC 10-101(1)	§7-3.....	26 PC 6-105
§2*.....	22 PC 10-101(2) – (5)	2L-117-82	
§3.....	22 PC 10-101(6)	§§1 & 2.....	11 PC 10-102
2L-72-81		2L-130-82	
§1.....	42 PC 10-108	§§1 – 3.....	38 PC 6-101 – 6-103
2L-81-81		§§4 & 5*.....	38 PC 6-104 & 6-105
§§1 & 2*.....	9 PC 5-101 & 5-102	§§6 & 7.....	38 PC 6-106 & 6-107
2L-87-81		§8*.....	38 PC 6-108
§1.....	11 PC 1-101	§11.....	38 PC 6-109 & 6-110
§2*.....	11 PC 1-102	2L-132-82	
§§3 – 7.....	11 PC 1-103 – 1-107	§101*.....	71 PC 1-101
§8*.....	11 PC 1-108	§§102 & 103.....	71 PC 1-102 & 1-103
§8A.....	11 PC 1-109	§§201 – 203.....	71 PC 2-101 – 2-103
§9*.....	11 PC 1-110	§204*.....	71 PC 2-104
§10.....	11 PC 1-111	§205.....	71 PC 2-105
2L-89-81		§206*.....	71 PC 2-106
§1.....	42 PC 10-109	§207.....	71 PC 2-107
2L-90-81		§208*.....	71 PC 2-108
§1.....	1 PC 6-107	§209.....	71 PC 2-109
§§2 & 3.....	26 PC 8-101	§301*.....	71 PC 7-101
2L-96-81		§§302 – 304.....	71 PC 7-102 – 7-104
§§1 – 3.....	18 PC 10-105	§305*.....	71 PC 7-105
2L-98-81		§§306 & 307.....	71 PC 7-106 & 7-107
§1.....	2 PC 9-109	§308*.....	71 PC 7-108
2L-100-81		§§309 – 321.....	71 PC 7-109 – 7-121
§1.....	42 PC 10-101	§401.....	71 PC 8-101
2L-101-81		§402*.....	71 PC 8-102
§§3 & 4.....	42 PC 10-110	§§403 – 424.....	71 PC 8-103 – 8-124
2L-106-81		§§425 & 426*.....	71 PC 8-125 & 8-126
§1-1.....	26 PC 6-101	§§427 – 437.....	71 PC 8-127 – 8-137
§1-2*.....	26 PC 6-102	§438*.....	71 PC 8-138
§§2-1 & 2-2.....	26 PC 6-161 & 6-162	§§439 – 441.....	71 PC 8-139 – 8-141
§2-3*.....	26 PC 6-163	§§501 – 517.....	71 PC 3-101 – 3-117

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§601	71 PC 4-101	§1-2*.....	26 PC 1-102
§602*	71 PC 4-102	§§2-1 – 2-4*.....	26 PC 1-103 – 1-106
§§603 – 608.....	71 PC 4-103 – 4-108	§§2-5 & 2-6	26 PC 1-107 & 1-108
§§701 – 705.....	71 PC 5-101 – 5-105	§§3-1 & 3-2*	26 PC 1-109 & 1-110
§§801 – 807.....	71 PC 12-101 – 12-107	2L-168-83	
§§901 – 903.....	71 PC 6-101 – 6-103	§1	34 PC 3-101
§904*	71 PC 6-104	§2*	34 PC 3-102
§§905 – 907.....	71 PC 6-105 – 6-107	§§3 – 5	34 PC 3-103 – 3-105
§908*	71 PC 6-108	2L-173-83	
§§909 – 911.....	71 PC 6-109 – 6-111	§7(3)*	33 PC 2-103
§§1001 – 1004.....	71 PC 9-101 – 9-104	§7(6)*	36 PC 1-107
§§1101 – 1105.....	71 PC 10-101 – 10-105	2L-174-83	
§§1106 – 1111*	71 PC 10-106 – 10-111	§1*	34 PC 3-102
§§1112 – 1117.....	71 PC 10-112 – 10-117	2L-177-83	
§1201	71 PC 10-118	§1	9 PC 1-101
2L-136-82		§§2 – 5*	9 PC 1-102 – 1-105
§§1 – 3	68 PC 1-101 – 1-103	§6.....	9 PC 1-106
§4*	68 PC 1-104	§9*	33 PC 2-103
§§5 – 31	68 PC 1-105 – 1-131	§12*.....	36 PC 1-107
2L-138-82		2L-184-83	
§§1 - 3	17 PC 6-101 - 6-103	§1	42 PC 10-114
§3A	17 PC 6-104	2L-203-83	
§§4 & 5	17 PC 6-105 & 6-106	§1	39 PC 3-110
2L-140-82		2L-204-83	
§§1 & 2	38 PC 6-105 & 6-108	§1	42 PC 10-113
2L-145-82		2L-205-83	
§1*	42 PC 3-104	§§1 & 2.....	71 PC 7-105 & 7-108
2L-146-82		2L-207-83	
§§1 & 2	71 PC 2-104 & 2-108	§1*	36 PC 1-105
§3	71 PC 7-101	2L-208-83	
§4*	71 PC 7-105	§1*	1 PC 6-102
§5	71 PC 6-104	§§2 & 3.....	1 PC 6-103 & 6-104
2L-149-82		2L-210-83	
§§1 – 6	36 PC 4-101 – 4-106	§1*	1 PC 7-101
2L-150-82		3L-9-84	
§§1 & 2*	18 PC 10-106	§1	3 PC 6-101
2L-153-82		3L-22-84	
§§1, 2 & 4 – 8*	42 PC 10-111	§1	42 PC 10-115
2L-154-82		3L-23-84	
§§1 & 2	42 PC 10-112	§1	42 PC 10-116
2L-157-82		3L-30-84	
§1*	42 PC 10-113	§1	9 PC 4-101
2L-158-82		§2*	9 PC 4-102
§1-1	26 PC 1-101	§5.....	9 PC 4-103

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code
§6(2)*	36 PC 1-107
3L-33-84	
§3	1 PC 1-121

Source	Pohnpei Code
3L-45-84	
§§1 – 4*	18 PC 10-107

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Source	Pohnpei Code
1L-13-85	
§1	6 PC 10-101 – 10-103
1L-16-85	
§§1 – 10	6 PC 2-101 – 2-110
1L-19-85	
§3	11 PC 10-101
1L-33-85	
§§1 – 10	1 PC 8-101 – 8-110
1L-34-85	
§1*	5 PC 1-107
1L-37-85	
§1*	1 PC 7-101
1L-45-85	
§§1 – 7	17 PC 3-101 – 3-107
§8*	17 PC 3-108
1L-62-86	
§§6-4 & 6-5*	9 PC 1-102 & 1-105
1L-70-86	
§§1 & 2	2 PC 9-113
1L-71-86	
§§1-1 – 1-3	9 PC 4-104 – 4-106
§2-1*	9 PC 4-107
§§2-2 & 2-3	9 PC 4-108 & 4-109
§3-1*	9 PC 4-102
§4-1*	2 PC 9-101 – 9-106
§4-2*	36 PC 1-107
§4-3	34 PC 2-106
§4-6	36 PC 1-106
§4-8*	39 PC 3-105
§4-11	33 PC 2-106
§4-12*	5 PC 1-103
§4-13	38 PC 6-109 & 6-110
§4-15	17 PC 3-108
1L-80-86	
§§1 – 8	49 PC 2-101 – 2-108

Source	Pohnpei Code
1L-81-86	
§§1 – 8	11 PC 3-101 – 3-108
1L-82-86	
§§1 – 4*	17 PC 10-104
1L-85-86	
§1	37 PC 7-101
§2*	37 PC 7-102
§§3 & 4	37 PC 7-103 & 7-104
§§5 & 6*	37 PC 7-105 & 7-106
§6A*	37 PC 7-107
§6A1	37 PC 7-107A
§6B	37 PC 7-108
§6C*	37 PC 7-109
§6D	37 PC 7-110
§§6E & 7*	37 PC 7-111 & 7-112
§§8 – 10	37 PC 7-113 – 7-115
§11*	37 PC 7-116
§§12 – 14	37 PC 7-117 – 7-119
§15*	37 PC 7-120
§§16 – 19	37 PC 7-121 – 7-124
§§23 – 25	37 PC 7-125
1L-101-86	
§§1 & 2*	18 PC 10-108
1L-107-86	
§§1 & 2*	26 PC 10-101
1L-109-86	
§§1 & 2*	19 PC 10-101
1L-114-86	
§1(1) – (5) & (7)*	9 PC 2-118 – 2-128 & 2-129
1L-117-87	
§1*	42 PC 3-104
1L-118-87	
§1*	63 PC 1-101
§§2 – 4	63 PC 1-102 – 1-104

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§5	71 PC 10-106 & 10-108 – 10-111	1L-157-87	§§1 & 2.....41 PC 7-101 & 7-102
§5*	71 PC 10-107	§3*	41 PC 7-103
1L-122-87		§4.....	41 PC 7-104
§§1 – 5	1 PC 2-101 – 2-105	§5*	41 PC 7-105
1L-128-87		§§6 – 29	41 PC 7-106 – 7-129
§§1 – 3	26 PC 4-101 – 4-103	§30.....	41 PC 6-108
§§4 – 7*	26 PC 4-104 – 4-107	1L-187-87	
§8	26 PC 4-109	§§1 – 4.....	6 PC 2-111 – 2-114
§9*	26 PC 4-108	1L-194-87	
1L-136-87		§1	26 PC 10-101
§1	32 PC 10-102	1L-195-87	
1L-139-87		§§1 – 6.....	18 PC 10-121 – 10-126
§§1 & 2	18 PC 10-108	§7*	18 PC 10-127
1L-142-87		§§8 – 12.....	18 PC 10-128 – 10-132
§§1 & 2	19 PC 10-101	1L-198-87	
1L-143-87		§§1 & 2.....	32 PC 2-101 & 2-102
§§1 & 2*	26 PC 10-101	§3*	32 PC 2-103
1L-146-87		§§4 – 8.....	32 PC 2-104 – 2-108
§§1 – 3 & 5*	31 PC 10-101	§9*	32 PC 2-109
1L-148-87		§§10 – 12	32 PC 2-110 – 2-112
§§1 & 2	36 PC 5-101 & 5-102	§§13 – 16*	32 PC 2-113 – 2-116
§§3 – 5*	36 PC 5-103 – 5-105	§18.....	32 PC 2-117
1L-153-87		1L-199-87	
§1	33 PC 10-101	§1	11 PC 6-101
1L-155-87		§§2 & 3*.....	11 PC 6-102 & 6-103
§§1 & 2	42 PC 1-101 & 1-102	§4.....	11 PC 6-104
§§3 & 4*	42 PC 1-103 & 1-104	§5*	11 PC 6-105
§§5 – 11	42 PC 1-105 – 1-111	§6.....	11 PC 6-106
§12*	42 PC 1-112	§§7 & 8*.....	11 PC 6-107 & 6-108
§§13 & 14	42 PC 1-114 & 1-115	§§9 – 13.....	11 PC 6-109 – 6-113
§§15 & 16*	42 PC 1-116 & 1-117	§14*.....	11 PC 6-114
§§17 & 18	42 PC 1-118 & 1-119	1L-203-87	
§19*	42 PC 1-120	§§1 – 3.....	11 PC 2-101 – 2-103
1L-156-87		§§5 & 6*.....	11 PC 2-104 – 2-109
§§1 – 13	18 PC 10-141 – 10-153	§§7 – 11	11 PC 2-110 – 2-114

POHNPEI CODE: Table I – Disposition of laws within the Code

Pohnpei State Laws Second Legislature

Source	Pohnpei Code	Source	Pohnpei Code
2L-2-88		2L-90-89	
§1.....	1 PC 7-101	§§1 – 5	61 PC 16-101 – 16-105
2L-4-88		2L-91-89	
§§1 & 2.....	42 PC 10-117	§§1 – 8	31 PC 6-101 – 6-108
2L-8-88		2L-93-89	
§§1 & 2.....	3 PC 10-102	§§1 & 2	42 PC 10-120
2L-11-88		2L-108-89	
§§1 – 3.....	2 PC 4-101 – 4-103	§1	42 PC 10-118
§4*.....	2 PC 4-104	2L-109-89	
§§5 – 8.....	2 PC 4-105 – 4-107	§§1-1 – 1-3.....	36 PC 7-101 – 7-103
2L-20-88		§§2-1 & 2-2.....	36 PC 7-104 & 7-105
§§1 & 2*.....	18 PC 10-107	§3-1*.....	36 PC 7-106
2L-21-88		§§4-1 & 4-2.....	36 PC 7-107 & 7-108
§§1 & 2.....	18 PC 10-106	§5-1	36 PC 7-109
2L-24-88		§6-1	36 PC 7-110
§1*.....	4 PC 10-101(1)	§§7-1 & 7-2.....	36 PC 7-111 & 7-112
§2.....	4 PC 10-101(2)	2L-131-89	
2L-37-88		§§2 – 4	66 PC 3-102
§1.....	41 PC 7-103	2L-132-89	
§2*.....	41 PC 7-105	§1	26 PC 6-163
2L-38-88		2L-133-89	
§§1 & 2.....	9 PC 5-101 & 5-103	§§1 – 4	11 PC 4-101 – 4-104
2L-41-88		§5*	11 PC 4-105
§1.....	36 PC 5-105	§§6 – 13	11 PC 4-106 – 4-113
2L-64-88		2L-137-89	
§§1 & 2.....	17 PC 10-105	§§1 – 5	6 PC 3-101 – 3-104
2L-72-88		2L-142-89	
§1.....	31 PC 10-101	§1	11 PC 4-105
2L-74-88		2L-143-90	
§1*.....	36 PC 1-103	§1	41 PC 7-105
2L-77-88		§2	41 PC 7-109
§1.....	2 PC 9-101 – 9-106	2L-147-90	
§2.....	2 PC 1-106	§§1 & 2	2 PC 1-104
2L-78-88		2L-152-90	
§1.....	32 PC 2-109	§§1 – 3, 6 & 7	36 PC 8-101 – 8-105
2L-80-88		2L-157-90	
§1.....	11 PC 2-105 – 2-109	§§1 – 12	2 PC 2-101 – 2-112
2L-81-88		§13*	2 PC 2-113
§§1 – 11.....	31 PC 1-101 – 1-111	§§14 – 18	2 PC 2-114 – 2-118
2L-84-89		2L-158-90	
§1*.....	42 PC 10-118	§§1 & 2	10 PC 1-101 & 1-102
2L-86-89		§3*	10 PC 1-103
§§1 & 2.....	42 PC 10-119	§§4, 5, 7 & 8	10 PC 1-104 – 1-107

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§§10 – 14*	10 PC 2-101 – 2-105	2L-185-91	
§§15 – 17	10 PC 2-106 – 2-108	§§1 & 2	42 PC 10-123
§18*	10 PC 3-101	2L-192-91	
§§19 – 35	10 PC 3-102, 3-104, 4-101 – 4-114 & 5-101	§§1 & 2	58 PC 2-101 & 2-102
§§36 & 37*	10 PC 5-102 & 5-103	§3*	58 PC 2-103
§38	10 PC 5-104	§4	58 PC 2-104
§39*	10 PC 5-105	§5*	58 PC 2-105
§§40 – 48	10 PC 5-106 – 5-114	§§6 – 33	58 PC 2-106 – 2-133
§49*	10 PC 5-115	2L-195-91	
§§50 & 51	10 PC 5-116 & 6-101	§§1 & 2	19 PC 3-101 & 3-102
§§52 & 53*	10 PC 6-102 & 6-103	§3*	19 PC 3-103
§§54 – 60	10 PC 6-104 – 6-110	§§4 – 7	19 PC 3-104 – 3-107
§61*	10 PC 6-111	§8*	19 PC 3-108
§§62 – 72	10 PC 6-112 – 6-122	§§9 – 11	19 PC 3-109 – 3-111
§73*	10 PC 6-123	2L-198-91	
§§74 – 93	10 PC 6-124 – 6-136 & 7-101 – 7-107	§§1 & 2*	66 PC 4-101 & 4-102
2L-166-90		§§3 – 32 & 34	66 PC 4-103 – 4-133
§1	4 PC 10-101(1)	2L-204-91	
2L-172-90		§§1 – 3	19 PC 2-101 – 2-103
§§1 & 2	1 PC 6-105 & 6-106	§4*	19 PC 2-104
2L-173-90		§§5 – 11	19 PC 2-105 – 2-111
§1	42 PC 10-121	§11A*	19 PC 2-112
2L-175-91		§§12 – 22	19 PC 2-113 – 2-123
§§1 & 2	19 PC 6-101 & 6-102	2L-211-91	
§3*	19 PC 6-103	§1*	10 PC 1-103
§§4 – 9	19 PC 6-104 – 6-109	§2	10 PC 2-105
§10*	19 PC 6-110	§3	10 PC 3-101
2L-176-91		§4	10 PC 5-102
§§1 & 2	42 PC 10-122	§5*	10 PC 5-103
2L-179-91		§§6 – 8	10 PC 5-105, 5-106 & 5-115
§1	34 PC 1-101	§9*	10 PC 6-103
§§2 & 3*	34 PC 1-102 & 1-103	§10	10 PC 6-111
§§4 & 5	34 PC 1-104 & 1-105	2L-219-91	
§6*	34 PC 1-106	§1	10 PC 6-123
§§7 – 11	34 PC 1-107 – 1-111	§2	10 PC 6-102 & 6-103
§§12 & 13*	34 PC 1-112 & 1-113	2L-224-91	
§14	34 PC 1-114	§§1-1 & 1-2	32 PC 1-101 & 1-102
§15*	34 PC 1-115	§1-3*	32 PC 1-103
§16	34 PC 1-116	§2-1	32 PC 1-104
§§17 & 18*	34 PC 1-117 & 1-118	§2-2*	32 PC 1-105
§19	34 PC 1-119	§§2-3 – 2-7	32 PC 1-106 – 1-110
		§2-8*	32 PC 1-111

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§§2-9 – 2-19	32 PC 1-112 – 1-122	§2-22*	32 PC 1-125
§2-20*	32 PC 1-123	§3-11	32 PC 2-103 & 2-113 – 2-117
§2-21	32 PC 1-124		
Pohnpei State Laws Third Legislature			
Source	Pohnpei Code	Source	Pohnpei Code
3L-1-92			
§16*	9 PC 1-105	3L-35-93	
3L-3-92		§1	32 PC 1-105
§1*	34 PC 1-115	3L-36-93	
3L-5-92		§§1 & 2	42 PC 10-124
§1	71 PC 8-102	3L-37-93	
§2	71 PC 8-125	§§1 & 2	42 PC 10-125
§3	71 PC 6-108	3L-39-93	
3L-11-92		§§1-1 – 1-4	17 PC 4-101 – 4-104
§1*	9 PC 4-102	§§2-1 – 2-10	17 PC 4-105 – 4-114
3L-16-92		§2-11*	17 PC 4-115
§1*	9 PC 4-107	§§2-12 – 2-17	17 PC 4-116 – 4-121
3L-17-92		§§3-1 & 3-2	17 PC 4-122 & 4-123
§1*	9 PC 4-102	§§4-1 – 4-10	17 PC 4-124 – 4-133
3L-25-92		§§5-1 – 5-8	17 PC 4-134 – 4-141
§1	36 PC 9-101	§§6-1 – 6-3	17 PC 4-142 – 4-144
3L-26-92		§§7-1 – 7-9	17 PC 4-145 – 4-153
§§1 – 8	27 PC 1-101 – 1-108	§§8-1 – 8-6	17 PC 4-154 – 4-159
§9*	27 PC 1-109	§§9-1 – 9-3	17 PC 4-160 – 4-162
§§10 – 17	27 PC 1-110 – 1-117	§10-1	17 PC 4-163
3L-27-92		3L-40-93	
§1	26 PC 3-101	§1	8 PC 2-101
§§2 – 5*	26 PC 3-102 – 3-105	§§2 – 5*	8 PC 2-102 – 2-105
§§6 – 9	26 PC 3-106 – 3-109	§7*	8 PC 2-106
§§10 – 12*	26 PC 3-110 – 3-112	§7A	8 PC 2-107
3L-28-92		§§8 – 14*	8 PC 2-108 – 2-114
§§1 – 4	36 PC 2-101 – 2-104	§15	8 PC 2-115
§5*	36 PC 2-105	§15A	8 PC 2-116
§6	36 PC 2-106	§§16 & 17*	8 PC 2-117 & 2-118
§8*	36 PC 2-107	§18	8 PC 2-119
§§9 – 21	36 PC 2-108 – 2-120	3L-41-93	
3L-29-92		§§1 – 8	34 PC 1-102, 1-103, 1-106, 1-112, 1-113, 1-115, 1-117 & 1-118
§1	36 PC 1-103	3L-42-93	
3L-31-93		§1	20 PC 1-101
§§1 & 2	61 PC 13-101 & 13-102		

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§2*	20 PC 1-102	3L-67-94	
§§3 – 7	20 PC 1-103 – 1-107	§§1 & 2	42 PC 10-126
§8*	20 PC 1-108	3L-75-94	
§§9 – 19	20 PC 1-109 – 1-119	§1*	9 PC 4-110
§§20 & 21*	20 PC 1-120 & 1-121	§§2 & 3	9 PC 4-111 & 4-112
3L-43-93		3L-83-94	
§§1 – 3	9 PC 1-103 – 1-105	§§1 – 17	2 PC 3-101 – 3-117
3L-45-93		3L-86-95	
§1*	27 PC 1-109	§§1 – 3	36 PC 6-101 – 6-103
3L-51-93		§4*	36 PC 6-104
§§1-1 – 1-5	9 PC 6-101 – 6-105	§§5 – 7*	36 PC 6-105 – 6-107
§§2-1 – 2-3	9 PC 6-106 – 6-108	§8	36 PC 6-108
§2-4*	9 PC 6-109	§9*	36 PC 6-109
§§2-5 – 2-14	9 PC 6-110 – 6-119	§§10 – 12	36 PC 6-110 – 6-112
§§3-1 – 3-7	9 PC 6-120 – 6-126	§13*	36 PC 6-113
§4-1*	9 PC 6-127	§14	36 PC 6-114
§4-2*	9 PC 6-128	§15*	36 PC 6-115
§§4-3 & 4-4	9 PC 6-129 & 6-130	§16	36 PC 6-116
§4-5*	9 PC 6-131	§§18 – 20*	36 PC 6-117 – 6-119
§§4-6 – 4-8	9 PC 6-132 – 6-134	§21	36 PC 6-120
§5-1	9 PC 6-135	§22*	36 PC 6-121
§5-2*	9 PC 6-136	§§23 & 24	36 PC 6-122 & 6-123
§§5-3 – 5-9	9 PC 6-137 – 6-143	§25*	36 PC 6-124
§§6-1 – 6-4	9 PC 6-144 – 6-147	§§26 – 42	36 PC 6-125 – 6-141
§§7-1 – 7-8	9 PC 6-148 – 6-155	§43*	36 PC 6-142
§§8-1 – 8-3	9 PC 6-156 – 6-158	3L-89-95#	
§§9-1 – 9-3	9 PC 6-159 – 6-161	§§1-1 & 1-3	61 PC 1-101 & 1-102
§9-5	9 PC 2-107	§1-5	61 PC 1-103
§10-1*	9 PC 6-162	§§1-7 – 1-11	61 PC 1-104 – 1-106
3L-54-94		§1-13	61 PC 1-107
§§1 – 3	41 PC 1-101 – 1-103	§1-15	61 PC 1-108
§4*	41 PC 1-104	§1-17	61 PC 1-109
§5	41 PC 1-105	§§1-19 & 1-21	61 PC 1-110 & 1-111
§6*	41 PC 1-106	§2-1	61 PC 4-101
§§7 – 22	41 PC 1-107 – 1-122	§2-3	61 PC 10-121
3L-56-94		§2-5	61 PC 4-102
§2	2 PC 9-111	§2-7	61 PC 10-122
3L-60-94		§2-9	61 PC 2-101
§1	10 PC 5-103	§2-11	61 PC 4-103
3L-63-94		§3-1	61 PC 10-111
§§1 – 4 & 6 – 8	66 PC 1-101 – 1-107	§3-3	61 PC 10-154
§10*	66 PC 1-108	§3-5	61 PC 10-131
§5	66 PC 3-101	§3-7	61 PC 10-114

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§3-9	61 PC 10-113	§7-41	61 PC 6-146
§3-11	61 PC 10-153	§7-43	61 PC 6-144
§3-13	61 PC 10-112	§7-45	61 PC 6-143
§3-15	61 PC 10-152	§7-47	61 PC 6-115
§3-17	61 PC 10-151	§7-49	61 PC 6-151
§3-19	61 PC 10-132	§7-51	61 PC 6-155
§§3-20 & 3-21	61 PC 10-155 & 10-156	§§8-1 & 8-3.....	61 PC 7-101 & 7-102
§4-1	61 PC 10-141	§8-5.....	61 PC 5-143
§5-1	61 PC 5-151	§8-7.....	61 PC 8-121
§6-1	61 PC 5-135	§§8-9 & 8-11.....	61 PC 8-111 & 8-112
§6-2	61 PC 5-134	§8-13.....	61 PC 5-142
§6-3	61 PC 5-133	§8-15.....	61 PC 5-141
§6-5	61 PC 5-132	§§9-1 – 9-21.....	64 PC 1-101 – 1-111
§§6-7 & 6-8.....	61 PC 9-111 & 9-113	§§10-5 & 10-7.....	61 PC 1-112 & 1-113
§6-9	61 PC 5-121	3L-92-95	
§6-11	61 PC 5-112	§§1 – 147	37 PC 1-101 – 1-247
§6-13	61 PC 5-131	3L-99-95	
§§6-15 & 6-17.....	61 PC 5-111 & 5-113	§§1-1 – 1-3.....	4 PC 1-101 – 1-103
§6-19	61 PC 6-131	§1-4*.....	4 PC 1-104
§6-21	61 PC 4-104	§§1-5 – 1-10.....	4 PC 1-105 – 1-110
§6-23	61 PC 9-112	§§2-1 – 2-4.....	4 PC 7-101 – 7-104
§6-24	18 PC 3-101	§§3-1 – 3-6.....	4 PC 2-101 – 2-106
§6-25	18 PC 3-102	§3-7*.....	4 PC 2-107
§7-1	61 PC 6-121	§§4-1 – 4-4.....	4 PC 2-108 – 2-111
§7-3	61 PC 5-171	§§5-1 – 5-7.....	57 PC 1-121 – 1-127
§7-5	61 PC 6-111	§§6-1 – 6-4.....	57 PC 1-128 – 1-131
§7-7	61 PC 6-147	§§7-1 – 7-8.....	58 PC 3-101 – 3-108
§7-9	61 PC 5-126	§8-1.....	58 PC 6-101
§7-11	61 PC 6-142	§§9-1 – 9-5.....	58 PC 6-111 – 6-115
§7-13	61 PC 5-161	§§10-1 – 10-10.....	57 PC 10-101 – 10-110
§7-15	61 PC 6-161	§§11-1 – 11-34.....	57 PC 8-101 – 8-133
§7-17	61 PC 6-122	§§12-1 – 12-5.....	58 PC 6-131 – 6-135
§7-19	61 PC 6-141	§13-1.....	57 PC 7-101
§7-21	61 PC 6-152	§13-2.....	56 PC 1-101
§7-23	61 PC 6-123	§§13-3 – 13-9.....	58 PC 8-101 – 8-107
§7-25	61 PC 6-149	§§14-1 – 14-4.....	8 PC 3-101 – 3-104
§7-27	61 PC 6-145	§§15-1 & 15-2.....	57 PC 6-101 & 6-102
§7-29	61 PC 8-131	§16-1.....	4 PC 3-101
§7-31	61 PC 6-150	§§16-2 & 16-3*.....	4 PC 3-102 & 3-103
§7-33	61 PC 6-162	§§16-4 – 16-7.....	4 PC 3-104 – 3-107
§7-35	61 PC 6-160	§§17-1 – 17-19.....	4 PC 6-101 – 6-119
§7-37	61 PC 6-157	§§18-1 – 18-8.....	4 PC 5-101 – 5-108
§7-39	61 PC 6-156	§19-3*.....	9 PC 4-102

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code
§§20-1 – 20-4	4 PC 9-101 – 9-104
3L-100-95	
§§1 & 2	17 PC 10-106
3L-108-95	
§1	42 PC 10-111
§2*	42 PC 10-127
3L-109-95	
§1	32 PC 1-111
3L-111-95	
§§1-1 – 1-5	37 PC 2-101 – 2-105
§§2-1 – 2-3	37 PC 2-106 – 2-108
§§3-1 – 3-9	37 PC 2-109 – 2-117
§§4-1 – 4-6	37 PC 2-118 – 2-123
§§5-1 – 5-5	37 PC 2-124 – 2-128

Source	Pohnpei Code
§§6-1 – 6-15	37 PC 2-129 – 2-143
3L-114-95	
§§1 & 2	29 PC 1-101 & 1-102
§4*	29 PC 1-103
§§5 – 11	29 PC 1-104 – 1-110
§12*	29 PC 1-111
§§13 – 18	29 PC 1-112 – 1-117
§19*	29 PC 1-118
§§20 – 38	29 PC 1-119 – 1-137
§§39 & 40*	29 PC 1-138 & 1-139

Absence of source even numbers is due to an error in the original legislation's numbering.

Pohnpei State Laws Fourth Legislature

Source	Pohnpei Code
4L-02-96	
§1*	9 PC 4-102
§2*	9 PC 2-109
§3*	9 PC 1-102
4L-05-96	
§1	3 PC 5-101
§2*	3 PC 5-102
§§3 – 5	3 PC 5-103 – 5-105
4L-06-96	
§§1 & 2	42 PC 10-128
4L-12-96	
§§1 & 2	11 PC 10-103
4L-13-96	
§§1 & 2	11 PC 10-104
4L-14-96	
§§1 & 2	11 PC 10-105
4L-20-96	
§1	11 PC 10-106(1)
§2*	11 PC 10-106(2)
4L-25-96	
§1	9 PC 3-101
§2*	9 PC 3-102
§3	9 PC 4-102
§4	9 PC 4-107

Source	Pohnpei Code
§5*	9 PC 4-110
§6	9 PC 2-118 – 2-130
§7	9 PC 3-103
§8	5 PC 1-103
§9	9 PC 6-109
§10	20 PC 1-108
§11	17 PC 4-115
§12	36 PC 2-107
§13	18 PC 10-127
§14*	9 PC 3-104
§§15A – 15C	9 PC 3-105 – 3-107
4L-28-97	
§§1 – 4	3 PC 6-102 – 6-105
4L-29-97	
§2	9 PC 3-102
§§5 & 6	9 PC 3-104 & 3-105
4L-33-97	
§§1 – 6	42 PC 10-129
4L-35-97	
§§1-1 – 1-6	12 PC 1-101 – 1-106
§§2-1 – 2-5	12 PC 1-107 – 1-111
§§3-1 & 3-2	12 PC 1-112 & 1-113
§§4-1 – 4-8	12 PC 1-114 – 1-121
§§5-1 – 5-6	12 PC 1-122 – 1-127

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§§6-1 – 6-18	12 PC 1-128 – 1-145	§10	32 PC 1-103
§7-1	12 PC 1-146	§11*	42 PC 5-110
§§8-1 – 8-6	12 PC 1-147 – 1-152	§11A	42 PC 5-111
§§9-1 – 9-7	12 PC 1-153 – 1-159	4L-71-98	
§§10-1 – 10-3	12 PC 1-160 – 1-162	§1	36 PC 7-106
§§11-1 & 11-2*	12 PC 2-101 & 2-102	4L-72-98	
§11-2A*	12 PC 2-103	§§1 & 2	1 PC 6-108 & 6-109
§§11-3 & 11-4	12 PC 2-104 & 2-105	4L-73-98	
§§15-1 & 15-2	12 PC 4-101 & 4-102	§§1 – 8	42 PC 10-135
§§15-4 – 15-6	12 PC 4-104 – 4-106	4L-75-98	
§§16-1 & 16-2	12 PC 1-163 & 1-164	§1	8 PC 2-104
§16-3*	12 PC 1-165	§§2 & 3*	8 PC 2-109 & 2-110
§§16-4 – 16-9	12 PC 1-166 – 1-171	§4	8 PC 2-117
§16-10	11 PC 2-104	4L-79-98	
§16-10A	12 PC 1-172	§§1 & 2	42 PC 10-136
4L-36-97		4L-84-98	
§§1 & 2	4 PC 3-102 & 3-103	§§1 & 2	5 PC 2-103
4L-38-97		4L-86-98	
§14	9 PC 2-106	§1	21 PC 1-101
4L-41-97		§§2 & 3*	21 PC 1-102 & 1-103
§§1 – 5	42 PC 10-130	§§4 – 6	21 PC 1-104 – 1-106
4L-42-97		§7*	21 PC 1-107
§§1 & 2	42 PC 10-131	§8*	21 PC 1-108
4L-43-97		4L-87-98	
§§1 – 8	42 PC 10-132	§§1 – 7	18 PC 2-101 – 2-107
4L-44-97		4L-89-98	
§§1 – 6	42 PC 10-133	§§1 & 2	42 PC 10-137
4L-45-97		4L-90-98	
§§1 – 5	42 PC 10-134	§§1 & 2	42 PC 10-138
4L-46-97		4L-91-98	
§§1 – 3	18 PC 10-107	§§1 – 6	36 PC 6-104, 6-117 – 6-119, 6-121 & 6-124
4L-48-97		4L-92-99	
§1	10 PC 1-103	§1*	12 PC 2-102
§2	10 PC 2-101 – 2-104	§2	12 PC 2-103
4L-57-97		§4	12 PC 1-165
§§1 – 8	34 PC 10-101 – 10-108	§5	12 PC 1-172
4L-62-98		4L-93-99	
§§1 – 6	36 PC 3-101 – 3-106	§§1-1 & 1-2	33 PC 1-101 & 1-102
4L-63-98		§§2-1 – 2-18	33 PC 1-103 – 1-120
§1	42 PC 3-104	§2-19*	33 PC 1-121
4L-65-98		§§2-20 – 2-22	33 PC 1-122 – 1-124
§§1 – 21	17 PC 2-101 – 2-121	§§3-1 – 3-8	33 PC 1-125 – 1-132
4L-66-98		§3-9	33 PC 1-134
§§1 – 9	42 PC 5-101 – 5-109		

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§3-10	33 PC 1-133	§§4 – 6*	16 PC 2-104 – 2-106
4L-98-99		§§7 & 8	16 PC 2-107 & 2-108
§2*	37 PC 7-102	§9*	58 PC 2-103
§3*	37 PC 7-105	4L-123-99	
§§4 & 5	37 PC 7-106 & 7-107	§§1-1 – 1-3	18 PC 1-101 – 1-103
§§6 – 8	37 PC 7-108 – 7-110	§§2-1 – 2-6	18 PC 1-104 – 1-109
§§9 & 10*	37 PC 7-111 & 7-112	§2-7*	18 PC 1-110
§11	37 PC 7-125	§§3-1 – 3-9	18 PC 1-111 – 1-120
§13	19 PC 2-112	§4-1	18 PC 1-121
4L-100-99		§4-2*	18 PC 1-122
§1*	41 PC 1-104	§§4-3 – 4-8	18 PC 1-123 – 1-128
4L-101-99		§4-9*	18 PC 1-129
§1	9 PC 3-106 & 3-107	§§4-10 – 4-23	18 PC 1-130 – 1-143
4L-102-99		§§5-1 – 5-4	18 PC 1-144 – 1-147
§§1 & 2	42 PC 10-139	§6-5	17 PC 6-104
4L-104-99		§6-6	18 PC 3-101 & 3-102
§1	17 PC 10-104	§§7-2 & 7-3	18 PC 1-148 & 1-149
4L-105-99		4L-128-99	
§§1 & 2	17 PC 5-101 & 5-102	§§1 – 6	42 PC 4-101 – 4-106
4L-106-99		§7*	42 PC 4-107
§1	4 PC 7-104	§§8 – 10	42 PC 4-108 – 4-110
4L-109-99		§11*	42 PC 4-111
§1*	42 PC 10-140(1)	§12	58 PC 2-105
§§2 – 8	42 PC 10-140(2) – (8)	4L-130-99	
4L-110-99		§§1 & 2	42 PC 6-101 & 6-102
§§1 – 8	42 PC 10-141	§3*	42 PC 6-103
4L-111-99		§§4 – 9	42 PC 6-104 – 6-109
§1	32 PC 3-101	§10*	42 PC 6-110
4L-112-99		§11A	42 PC 6-111
§§2 & 3	58 PC 2-103 & 2-105	4L-131-99	
4L-113-99		§§1 – 7	42 PC 10-142
§§1 & 2	12 PC 2-101 & 2-102	4L-133-99	
4L-114-99		§§1 – 10	11 PC 5-101 – 5-110
§1	4 PC 3-107	4L-134-99	
4L-115-99		§1	42 PC 10-143
§§1 – 3	26 PC 5-101 – 5-103	4L-135-99	
§§4 & 5*	26 PC 5-104 & 5-105	§3	42 PC 10-144
§§6 – 28	26 PC 5-106 – 5-128	4L-139-99	
4L-118-99		§1	16 PC 1-101
§1	41 PC 1-104	§§2 & 3*	16 PC 1-102 & 1-103
4L-119-99		§§4 – 13, 15 – 21 & 23	16 PC 1-104 – 1-121
§§1 – 3	16 PC 2-101 – 2-103	§23A*	16 PC 1-122
		§23B	16 PC 10-102

POHNPEI CODE: Table I – Disposition of laws within the Code

Pohnpei State Laws Fifth Legislature

Source	Pohnpei Code	Source	Pohnpei Code
5L-02-00		§3-7.....	66 PC 1-108
§§1 & 2*.....	42 PC 9-101 & 9-102	§3-8.....	19 PC 6-103 & 6-110
§3.....	42 PC 9-103	§3-9.....	19 PC 2-104 & 2-112
5L-03-00		§3-10.....	17 PC 10-102
§§1 – 4.....	61 PC 16-106 – 16-109	§3-11.....	26 PC 3-102 – 3-105 & 3-110 – 3-112
5L-05-00		§3-12.....	37 PC 7-102, 7-105, 7-111, 7-112 & 7-116
§§1 & 2.....	64 PC 2-101 & 2-102	§3-13.....	26 PC 4-112 & 4-114
§§3 & 4*.....	64 PC 2-103 & 2-104	§3-14.....	26 PC 6-224 & 6-225
§§5 – 9.....	64 PC 2-105 – 2-109	§3-15.....	39 PC 3-105 & 3-106
5L-07-00		§3-16.....	29 PC 1-103, 1-111 & 1-118
§1.....	33 PC 7-101	§3-17.....	26 PC 5-104 & 5-105
§§2 – 4*.....	33 PC 7-102 – 7-104	§3-18.....	16 PC 2-104 – 2-106
§§5 & 6.....	33 PC 7-105 & 7-106	§3-19.....	3 PC 5-102
§§7 & 8*.....	33 PC 7-107 & 7-108	§3-20.....	41 PC 5-102, 5-106, 5-108 – 5-112 & 5-115
§9.....	71 PC 8-126	§3-21.....	19 PC 3-103 & 3-108
5L-08-00		§3-22.....	71 PC 1-101 & 10-107
§§1 – 4.....	5 PC 1-104, 1-105, 1-107 & 1-108	§3-23.....	28 PC 10-102
5L-10-00		§3-24.....	2 PC 2-113
§1.....	42 PC 9-101	§3-25.....	22 PC 10-101
5L-11-00		§3-26.....	26 PC 1-102, 1-103 – 1-106, 1-109 & 1-110
§§1-1 – 1-4.....	9 PC 8-101 – 8-104	§3-27.....	68 PC 1-104
§§2-1 – 2-12.....	9 PC 8-105 – 8-116	§3-28.....	34 PC 3-102
§3-1.....	9 PC 8-117	§3-29.....	66 PC 4-101 & 4-102
§§4-2 & 4-3.....	61 PC 10-155 & 10-156	§3-30.....	36 PC 5-103 & 5-104
§§5-1 – 5-13.....	9 PC 8-118 – 8-130	§3-31.....	26 PC 6-102, 6-104, 6-114, 6-116 & 6-163
§§6-1 & 6-2.....	9 PC 8-131 & 8-132	§3-32.....	4 PC 1-104 & 2-107
5L-14-00		§3-33.....	33 PC 1-121
§0-1.....	3 PC 1-101	§3-34.....	18 PC 1-129
§§1-1 & 1-2.....	3 PC 1-102 & 1-103	§3-35.....	58 PC 2-103
§1-2A.....	3 PC 2-101	§3-36.....	42 PC 1-103, 1-104, 1-112, 1-116, 1-117 & 1-120
§§1-3 & 1-4.....	3 PC 1-104	§3-37*.....	36 PC 6-105 – 6-107, 6-113, 6-115 & 6-142
§1-5*.....	3 PC 1-104	§3-38.....	66 PC 2-113
§§1-6 – 1-8.....	3 PC 1-104	§3-39.....	32 PC 1-123
§§1-9 – 1-13.....	3 PC 1-105	§3-40.....	42 PC 6-103
§1-14.....	3 PC 1-106		
§§2-1 – 2-3.....	3 PC 1-107 – 1-109		
§3-2.....	9 PC 1-102		
§3-3.....	9 PC 4-102		
§3-4.....	16 PC 1-102 & 1-103		
§3-5.....	20 PC 1-102, 1-120 & 1-121		
§3-6.....	27 PC 1-109		

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
§3-42	63 PC 1-101	5L-35-01	
§3-43*	21 PC 1-102, 1-103 & 1-107	§1	26 PC 5-125
§3-44	11 PC 6-102, 6-103, 6-105, 6-108 & 6-114	5L-37-01	
§3-45	26 PC 4-104 – 4-108	§1	42 PC 10-148
§3-46	9 PC 4-110	5L-41-01	
§3-47	41 PC 1-106	§§1 – 3	66 PC 2-116 – 2-118
§3-48	38 PC 6-104	5L-48-01	
§3-49	9 PC 2-103, 2-108 & 2-109	§6	2 PC 9-109(2)
§3-50*	34 PC 2-102	5L-52-01	
§3-51	16 PC 6-101 – 6-106	§§1 & 2	26 PC 5-126 & 5-127
§3-52	28 PC 6-101 – 6-103	5L-57-01	
§3-53	28 PC 2-101	§§1 & 2	42 PC 10-149
§3-54	28 PC 1-102 – 1-104	5L-58-01	
§3-55	26 PC 2-104, 2-105, 2-107 & 2-108	§§1 – 4	8 PC 2-102 – 2-105
§3-56	41 PC 3-102	§§6 – 14	8 PC 2-106 – 2-114
§3-57	11 PC 1-102	§15	8 PC 2-116
§3-58	9 PC 5-102	§§16 & 17	8 PC 2-118 & 2-119
§3-59	33 PC 7-102 – 7-104, 7-107 & 7-108	5L-59-01	
§3-60	64 PC 2-103 & 2-104	§1	33 PC 6-102
§3-61	42 PC 9-102	5L-60-02	
§3-61*	42 PC 9-101	§1	26 PC 5-128
§§4-1 – 4-3	3 PC 1-110 – 1-112	5L-64-02	
5L-16-00		§1	42 PC 10-140
§§1 – 5	42 PC 10-145	5L-81-02	
5L-17-00		§1	42 PC 9-101
§§1 – 4	42 PC 2-104 – 2-107	5L-82-02	
5L-18-00		§1	42 PC 10-150(1)
§1	16 PC 1-122	§2*	42 PC 10-150(2)
§2	16 PC 10-102	§3	42 PC 10-150(3)
5L-20-00		5L-83-02	
§§1 – 5	42 PC 10-146	§1	42 PC 10-127
5L-21-00		5L-88-02	
§6	11 PC 10-106(2)	§§1 – 19	22 PC 1-101 – 1-119
5L-22-00		5L-90-03	
§§1 – 5	42 PC 10-147	§§1 – 3	11 PC 1-108 – 1-110
5L-25-00		5L-91-03	
§1	42 PC 3-104	§§1 & 2	42 PC 10-151
5L-30-01		5L-92-03	
§§1 – 5	17 PC 8-101 – 8-105	§1	36 PC 2-105
		5L-93-03	
		§5	16 PC 1-122
		5L-101-03	
		§§1 – 11	42 PC 11-101 – 11-111

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
5L-107-03		§2	42 PC 4-111
§§1 & 2.....	42 PC 10-152	5L-109-03	
5L-108-03		§1	41 PC 1-104
§1.....	42 PC 4-107	5L-120-03	
		§1	34 PC 1-102
Pohnpei State Laws Sixth Legislature			
Source	Pohnpei Code	Source	Pohnpei Code
6L-06-04		§3.....	29 PC 1-139
§§1 – 6.....	36 PC 10-101 – 10-106	Source	Pohnpei Code
6L-14-04		6L-57-05	
§1	18 PC 1-110	§4	11 PC 6-107
§2.....	18 PC 1-122	6L-58-05	
6L-18-04		§1	11 PC 1-108
§§1 – 6.....	42 PC 10-153	6L-62-06	
§7.....	32 PC 1-125	§1	42 PC 3-101(2)
6L-20-04		§2.....	42 PC 3-102(2)
§1	3 PC 1-104	§§3 & 4.....	42 PC 3-103 & 3-104
6L-22-04		§5	42 PC 3-111
§1.....	71 PC 2-106	6L-66-06	
§2.....	71 PC 8-138	§§1 – 20.....	27 PC 2-101 – 2-120
6L-23-04		6L-69-06	
§1.....	11 PC 1-108	§1	3 PC 2-101
6L-24-04		6L-72-06	
§§1 – 4.....	42 PC 10-154	§§1-1 – 1-3.....	41 PC 5-101 – 5-103
6L-28-05		§§2-1 – 2-3.....	41 PC 5-110 – 5-112
§1	42 PC 10-150	§§3-1 – 3-14.....	41 PC 5-120 – 5-133
6L-30-05		§§4-1 – 4-6.....	41 PC 5-140 – 5-145
§1.....	12 PC 2-103	6L-79-06#	
6L-41-05		§§1-101 – 1-115.....	1 PC 1-101 – 1-115
§1	9 PC 6-162	§§1-117 – 1-120.....	1 PC 1-117 – 1-120
§2.....	9 PC 6-127	§§1-125 – 1-128.....	1 PC 1-125 – 1-128
§3.....	9 PC 6-128	§2-101.....	1 PC 6-102
§4.....	9 PC 6-131	§2-102.....	2 PC 1-101
§5.....	9 PC 6-136	§2-103.....	37 PC 7-120
6L-47-05		§2-104.....	37 PC 7-109
§1.....	71 PC 4-102	§2-105.....	2 PC 1-103
6L-51-05		§2-110.....	51 PC 5-104
§§1 & 2.....	18 PC 1-117	§2-111.....	33 PC 2-103
6L-53-05		§2-112.....	33 PC 2-104
§1.....	36 PC 1-117	§2-113.....	36 PC 1-105
§2*.....	29 PC 1-138	§2-114.....	36 PC 1-107
		§2-115.....	34 PC 2-102

POHNPEI CODE: Table I – Disposition of laws within the Code

§2-116..... 36 PC 6-107

Source Pohnpei Code
 §2-117 36 PC 6-109
 §3-102 2 PC 4-104

This legislation enacted the Official Code of the State of Pohnpei and was codified after the 1/1/06 cutoff date pursuant to said law.

6L-80-06
 §§1 – 17..... 39 PC 5-101 – 5-117

6L-81-06
 §§1 & 2..... 42 PC 5-110 & 5-111

6L-82-06
 §1..... 42 PC 6-103
 §2..... 42 PC 6-110
 §3..... 42 PC 6-111

6L-83-06
 §§1 – 5..... 22 PC 4-101 – 4-105

6L-86-06
 §1..... 37 PC 7-102
 §§2 – 5..... 37 PC 7-105 – 7-107A
 §6..... 37 PC 7-112
 §7..... 36 PC 11-101
 §8..... 36 PC 11-102

6L-88-07
 §1..... 32 PC 1-126

6L-89-07
 §1..... 11 PC 1-108

6L-90-07
 §1..... 2 PC 4-106

6L-93-07
 §1* 29 PC 1-138

6L-100-07
 §4..... 29 PC 1-138

6L-102-07
 §1..... 4 PC 6-120
 §2..... 42 PC 2-101
 §3..... 42 PC 2-108

6L-103-07
 §§1 – 4..... 12 PC 7-101 – 7-104

6L-110-07
 §§2 – 4..... 68 PC 2-101 – 2-103

6L-112-08
 §§1 – 4..... 42 PC 3-101 – 3-104
 §5..... 42 PC 3-111

Source Pohnpei Code
 §6..... 27 PC 2-101 – 2-120
 §7..... 3 PC 2-101
 §8..... 41 PC 5-101 – 5-103,
 5-110 – 5-112, 5-120 –
 5-133, & 5-140 – 5-145
 §9..... 39 PC 5-101 – 5-117

§10..... 42 PC 5-110
 §11..... 42 PC 5-111
 §12..... 42 PC 6-103
 §13..... 42 PC 6-110
 §14..... 42 PC 6-111
 §15..... 22 PC 4-101 – 4-105
 §16..... 37 PC 7-102
 §17..... 37 PC 7-105
 §18..... 37 PC 7-106
 §19..... 37 PC 7-107
 §20..... 37 PC 7-107A
 §21..... 37 PC 7-112
 §22..... 36 PC 11-101 & 11-102
 §23..... 32 PC 1-126
 §24..... 11 PC 1-108
 §25..... 2 PC 4-106
 §26..... 29 PC 1-138
 §27..... 4 PC 6-120
 §28..... 42 PC 2-101
 §29..... 42 PC 2-108
 §30..... 12 PC 7-101 – 7-104
 §31* 42 PC 9-101 &
 9-101.1 – 9-101.20

6L-113-08
 §1..... 42 PC 9-101 &
 9-101.1 – 9-101.20

6L-114-08
 §1..... 17 PC 6A-101 – 6A-103,
 6A-110 – 6A-117, 6A-120 - 6A-121, 6A-130 – 6A-136,
 6A-140 – 6A-142, 6A-150 – 6A-152, 6A-160 – 6A-164,
 6A-170 – 6A-177, 6A-180 – 6A-184 & 6A-190

6L-116-08
 §1..... 42 PC 4A-101 – 4A-111
 §2..... 42 PC 4-105

6L-117-08
 §1..... 21 PC 1-105A

POHNPEI CODE: Table I – Disposition of laws within the Code

§2.....21 PC 1-107

§3 21 PC 1-108

Pohnpei State Laws Seventh Legislature

Source	Pohnpei Code
7L-01-08	
§3.....	34 PC 1-112
7L-04-08	
§1.....	42 PC 10-155[10-158]
7L-08-08	
§1.....	11 PC 2-111
7L-12-08	
§1.....	42 PC 10-156
7L-13-08	
§1.....	42 PC 10-155
§2.....	42 PC 11-102.027
7L-14-08	
§1.....	42 PC 1-105
§2.....	42 PC 1-106
7L-15-08	
§1.....	42 PC 9-101.9
7L-20-08	
§1.....	3 PC 1-105
§2.....	11 PC 7-101–7-105
§3.....	29 PC 1-139
§4.....	29 PC 3-101–3-106
§5 repeals 36 PC 1	
§6 repeals 36 PC 2	
§7 repeals 36 PC 8	
§8 repeals 36 PC 9	
§9 repeals 42 PC 10-114	
§12.....	20 PC 1-102
§13.....	27 PC 1-109
§14.....	29 PC 2-102
§15.....	34 PC 3-102
§16.....	36 PC 6-105
§17.....	42 PC 5-110
§18.....	42 PC 6-110
7L-21-09	
§1.....	34 PC 1-106
7L-22-09	

Source	Pohnpei Code
§1.....	26 PC 6-141
§2.....	26 PC 6-142
§3.....	26 PC 6-144
§4.....	26 PC 6-211
7L-25-09	
§1.....	42 PC 10-155A
§2.....	37 PC 7-125
7L-28-09	
§1.....	26 PC 5-120
7L-29-09	
§1.....	42 PC 10-136
7L-39-09	
§1.....	42 PC 2-110—2-120
§2.....	42 PC 2-102
7L-40-09	
§1.....	42 PC 10-154
7L-41-09	
§1.....	42 PC 10-136
7L-42-09	
§1.....	42 PC 10-158
7L-47-09	
§1.....	66 PC 2-101
§2.....	66 PC 2-105
§3.....	66 PC 2-106
§4.....	66 PC 2-114
§5.....	66 PC 2-114A
§6.....	66 PC 2-115
§7.....	66 PC 2-116
§8.....	66 PC 2-117
§9.....	66 PC 2-123
7L-48-09	
§1.....	42 PC 10-159
7L-49-09	
§1.....	18 PC 10-129
7L-53-09	
§1.....	4 PC 1-110

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code	Source	Pohnpei Code
7L-54-09		7L-79-11	
§1.....	3 PC 1-105	§1	26 PC 5-129
§2.....	21 PC 1-103	§2	26 PC 5-104
§3.....	21 PC 1-104	§3	26 PC 5-121
§4.....	21 PC 1-105	§4	26 PC 5-130
7L-55-09		§5	26 PC 5-131
§1.....	42 PC 9-101.21	7L-80-11	
7L-56-10		§1	3 PC 1-104
§1.....	42 PC 10-157	§2	16 PC 3-101—3-103
7L-57-10		§3	repealed 26 PC 1 and recodified as 16 PC 4
§1.....	41 PC 7-109	§4	26 PC 4-108
§2.....	41 PC 7-111	§5	26 PC 4-119
§3.....	41 PC 7-112	§10	26 PC 2-104
§4.....	41 PC 7-114	§11	26 PC 4-104
§5.....	41 PC 7-115	§12	26 PC 4-105
§6.....	41 PC 7-118	§13	26 PC 4-106
§7.....	41 PC 7-119	§14	26 PC 4-107
§8.....	41 PC 7-122	§15	26 PC 4-112
7L-58-10		§16	26 PC 4-113
§1.....	32 PC 1-126	§17	26 PC 4-114
7L-59-10		§18	26 PC 4-116
§1.....	42 PC 10-160	§19	26 PC 4-117
7L-60-10		§20	26 PC 6-102
§1.....	42 PC 10-161	§21	29 PC 1-111
7L-61-10		§22	42 PC 9-101.14
§1.....	42 PC 9-101.22	7L-81-11	
7L-62-10		§1	42 PC 10-162A
§1.....	42 PC 8-101—8-102	§2	42 PC 10-136
§2.....	42 PC 8-201—8-202.2	7L-83-11	
§3.....	42 PC 8-301—8-310	§2	37 PC 7-101—7-124
§4.....	42 PC 2-102	7L-91-11	
§5.....	41 PC 1-113	§1	37 PC 7-122
7L-69-10		7L-95-11	
§1.....	20 PC 1-116	§1	61 PC 6-158
7L-73-10		7L-96-11	
§1.....	71 PC 7-102	§1	27 PC 3-101—3-119
7L-77-10		7L-99-11	
§1.....	42 PC 9-101.22A	§1	61 PC 16-102
§2.....	42 PC 9-102	§2	61 PC 16-104
§3.....	42 PC 9-103	7L-101-11	
7L-78-10		§1	19 PC 3-104
§1.....	42 PC 10-162—10-163	§2	19 PC 3-108A

POHNPEI CODE: Table I – Disposition of laws within the Code

Source	Pohnpei Code
7L-103-11	
§1	27 PC 4-101—4-105
7L-104-11	
§1	66 PC 3A-101—3A-109

Table II

PUBLIC LAWS OMITTED

This table provides information on the public laws enacted but omitted from the Pohnpei Code. If a law has been superseded, the superseding law is given; if a law has been repealed, the repealing law is given. The sources are the Ponape District Code of 1971, public laws enacted by the Ponape District Legislature and legislatures of the state of Pohnpei.

R = repealed **S** = superseded **APP** = appropriation **NA** = not applicable **Temp** = temporary provision

Ponape District Code March 1971

§§1-4 & 1-5.....	R 4L-39-76
§1-6.....	R 4L-2-76
§1-11.....	R 4L-39-76
§§1-100 – 1-111.....	R 6L-79-06
§§1-200 & 1-201.....	R 2L-86-81
§1-300.....	R 6L-79-06
§1-301.....	S 2L-132-82
§1-400.....	R 2L-11-88
§1-401.....	R 3L-71-73
§§2-100 – 2-106.....	R 4L-35-97
§§2-125 – 2-134.....	R 4L-35-97
§§2-200 – 2-206.....	R 4L-35-97
§§2-300 – 2-307.....	R 4L-35-97
§§2-400 – 2-407.....	R 4L-35-97
§§4-1 & 4-2.....	R 1L-3-85
§§4-100 – 4-107.....	R 1L-3-85
§§5-1 – 5-4.....	R 2L-132-82
§§7-100 – 7-101.....	R 2L-215-83
§§8-1 & 8-2.....	R 4L-123-99
§8-3.....	R 1L-195-87
§§9-1 & 9-2.....	R 6L-79-06
§9-3.....	R 6L-79-06
§§10-1 – 10-6.....	R 4L-93-99
§§10-100 – 10-107.....	S 2L-81-88
§10-300.....	R 3L-45-93
§10-301.....	R 2L-154-90
§12-2.....	NA
§12-100.....	R 6L-79-06
§§12-101 – 12-105.....	R 4L-155-78

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2L-190-70.....	R 3L-114-95
2L-208-70.....	APP
2L-209-70.....	APP
2L-210-70.....	R 3L-91-74
2L-211-70.....	APP
2L-212-70.....	R 3L-65-73/3L-76-73
2L-213-70.....	APP
2L-214-70.....	R 1L-3-85
2L-215-70.....	R 2L-81-88
2L-216-70.....	NA
2L-217-71.....	APP
2L-218-71.....	APP
2L-219-71.....	R 4L-01-96
2L-220-71.....	Temp
2L-221-71.....	R 4L-2-76
2L-224-71.....	R 4L-35-97
2L-225-71.....	APP
2L-226-71.....	R 4L-155-78
2L-227-71.....	APP
2L-228-71.....	NA
2L-229-71.....	NA
2L-230-71.....	NA
2L-231-71.....	APP
2L-232-71.....	APP
2L-233-71.....	R 1L-3-85
2L-234-71.....	R 4L-206-79
2L-235-71.....	R 4L-93-99
2L-236-71.....	R 3L-72-73
2L-237-71.....	R 3L-23-72

continued **Ponape District Laws**

2L-238-71.....APP	3L-51-73 R 2L-132-82
3L-1-72.....APP	3L-52-73 APP
3L-2-72.....APP	3L-53-73 APP
3L-3-72.....APP	3L-54-73 APP
3L-4-72..... R 4L-99-77	3L-55-73 APP
3L-5-72..... R 4L-99-77	3L-56-73 APP
3L-6-72..... R 4L-35-97	3L-57-73 APP
3L-7-72..... R 4L-35-97	3L-59-73 R 3L-76-73
3L-8-72..... R 4L-35-97	3L-60-73 NA
3L-9-72..... R 4L-123-99	3L-61-73 NA
3L-10-72..... R 4L-99-77	3L-62-73 APP
3L-12-72..... R 4L-61-76	3L-63-73 APP
3L-13-72..... R 2L-27-80	3L-65-73 R 3L-104-75
3L-14-72..... R 4L-35-97	3L-67-73 R 2L-132-82
3L-16-72..... R 1L-3-85	3L-68-73 R 4L-99-77
3L-17-72..... R 3L-72-73	3L-69-73 R 4L-123-99
3L-18-72..... R 3L-91-74	3L-70-73 APP
3L-20-72..... R 1L-3-85	3L-71-73 R 4L-77-77
3L-21-72..... APP	3L-73-73 APP
3L-22-72..... APP	3L-74-73 NA
3L-23-72..... R 2L-237-71	3L-76-73 R 3L-104-75
3L-24-72..... APP	3L-77-74 APP
3L-25-72..... APP	3L-78-74 R 4L-01-96
3L-26-72..... R 4L-123-99	3L-79-74 R 1L-3-85
3L-27-72..... APP	3L-80-74 APP
3L-28-72..... R 3L-91-74	3L-81-74 APP
3L-29-72..... APP	3L-83-74 APP
3L-30-72..... R 2L-81-88	3L-84-74 R 4L-39-76
3L-31-72..... R 3L-65-73	3L-85-74 R 1L-146-87
3L-32-72..... R 4L-01-96	3L-86-74 R 3L-104-75
3L-34-72..... R 4L-123-99	3L-87-74 APP
3L-35-72..... NA	3L-88-74 S 4L-159-78
3L-36-72..... APP	3L-89-74 APP
3L-37-72..... R 2L-132-82	3L-90-74 R 2L-132-82
3L-38-72..... R 2L-132-82	3L-91-74 R 2L-86-81
3L-41-72..... NA	3L-92-74 R 3L-54-94
3L-42-72..... APP	3L-93-74 NA
3L-43-72..... R 4L-01-96	3L-94-74 R 4L-99-77
3L-44-72..... R 4L-93-99	3L-95-74 APP
3L-45-72..... APP	3L-96-74 Temp
3L-46-73..... R 4L-99-77	3L-97-74 NA
3L-47-73..... R 2L-42-80	3L-98-74 APP
3L-48-73..... APP	3L-99-74 APP
3L-50-73..... NA	3L-102-74 NA

continued **Ponape District Laws**

3L-103-75	APP	4L-14-76	APP
3L-104-75	R 1L-71-86	4L-15-76	R 3L-54-94
3L-105-75	APP	4L-16-76	APP
3L-106-75	APP	4L-17-76	APP
3L-107-75	APP	4L-19-76	APP
3L-108-75	APP	4L-20-76	S Constitution
3L-111-75	APP	4L-21-76	APP
3L-112-75	APP	4L-22-76	APP
3L-113-75	R 1L-12-79	4L-23-76	APP
3L-114-75	APP	4L-24-76	APP
3L-115-75	APP	4L-25-76	R 1L-71-86
3L-116-75	APP	4L-26-76	APP
3L-117-75	APP	4L-27-76	APP
3L-118-75	APP	4L-28-76	APP
3L-119-75	APP	4L-29-76	APP
3L-120-75	APP	4L-30-76	APP
3L-121-75	APP	4L-31-76	APP
3L-122-75	APP	4L-32-76	APP
3L-123-75	APP	4L-33-76	APP
3L-124-75	APP	4L-34-76	R 2L-42-80
3L-125-75	R 4L-99-77	4L-36-76	NA
3L-126-75	Temp	4L-38-76	APP
3L-127-75	R 4L-35-97	4L-40-76	APP
3L-128-75	S 4L-159-78	4L-41-76	APP
3L-129-75	R 1L-3-85	4L-42-76	R 1L-195-87
3L-131-75	APP	4L-43-76	APP
3L-132-75	NA	4L-44-76	APP
3L-133-75	APP	4L-46-76	APP
3L-134-75	APP	4L-47-76	NA
3L-135-75	APP	4L-48-76	APP
3L-136-75	APP	4L-49-76	APP
3L-137-75	NA	4L-50-76	APP
4L-1-76	APP	4L-51-76	APP
4L-2-76	NA	4L-52-76	APP
4L-3-76	APP	4L-53-76	R 4L-93-99
4L-4-76	APP	4L-54-76	APP
4L-5-76	APP	4L-55-76	APP
4L-6-76	APP	4L-56-76	APP
4L-7-76	APP	4L-57-76	R 4L-35-97
4L-8-76	APP	4L-58-76	APP
4L-9-76	APP	4L-59-76	APP
4L-10-76	NA	4L-60-76	R 4L-01-96
4L-11-76	NA	4L-61-76	R 4L-35-97
4L-13-76	R 3L-54-94	4L-62-76	R 4L-159-78

POHNPEI CODE: Table II – Public laws omitted

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2L-63-76.....S Constitution	4L-116-77 R 2L-27-80
4L-64-76.....APP	4L-117-77 R 2L-132-82
4L-65-76.....APP	4L-120-78 APP
4L-66-76.....R 1L-71-86	4L-121-78 APP
4L-67-76.....APP	4L-122-78 APP
4L-68-76.....NA	4L-123-78 APP
4L-69-76.....R 1L-155-87	4L-124-78 APP
4L-70-76.....NA	4L-125-78 APP
4L-71-76.....NA	4L-126-78 APP
4L-73-77.....APP	4L-127-78 APP
4L-74-77.....APP	4L-128-78 APP
4L-75-77.....APP	4L-129-78 APP
4L-77-77.....R 3L-71-73	4L-130-78 R 1L-71-86
4L-78-77.....R 4L-35-97	4L-131-78 APP
4L-80-77.....APP	4L-132-78 APP
4L-81-77.....APP	4L-134-78 APP
4L-83-77.....APP	4L-135-78 APP
4L-84-77.....APP	4L-137-78 APP
4L-85-77.....NA	4L-138-78 APP
4L-86-77.....APP	4L-139-78 APP
4L-87-77.....APP	4L-140-78 APP
4L-89-77.....R 2L-27-80	4L-141-78 APP
4L-90-77.....APP	4L-142-78 APP
4L-91-77.....APP	4L-143-78 APP
4L-93-77.....R 1L-155-87	4L-144-78 APP
4L-94-77.....R 3L-114-95	4L-145-78 APP
4L-95-77.....APP	4L-146-78 APP
4L-97-77.....S 1L-80-86	4L-147-78 APP
4L-98-77.....R 4L-93-99	4L-148-78 S 1L-10-79
4L-100-77.....APP	4L-149-78 APP
4L-101-77.....APP	4L-150-78 APP
4L-102-77.....NA	4L-151-78 APP
4L-103-77.....R 1L-71-86	4L-156-78 APP
4L-104-77.....APP	4L-157-78 R 4L-93-99
4L-105-77.....APP	4L-162-78 R 1L-146-87
4L-106-77.....APP	4L-163-79 Temp
4L-107-77.....APP	4L-164-79 APP
4L-108-77.....APP	4L-165-79 APP
4L-109-77.....APP	4L-166-79 APP
4L-110-77.....APP	4L-167-79 APP
4L-111-77.....APP	4L-168-79 APP
4L-112-77.....APP	4L-169-79 APP
4L-113-77.....APP	4L-170-79 APP
4L-114-77.....APP	4L-171-79 APP

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4L-172-79	R 3L-114-95
4L-173-79	APP
4L-174-79	APP
4L-175-79	APP
4L-176-79	APP
4L-177-79	APP
4L-178-79	APP
4L-179-79	APP
4L-180-79	APP
4L-181-79	APP
4L-182-79	APP
4L-183-79	APP
4L-184-79	APP
4L-185-79	S Constitution
4L-186-79	R 4L-206-79
4L-187-79	R 4L-35-97
4L-188-79	APP
4L-189-79	APP
4L-190-79	R 3L-114-95
4L-193-79	R 1L-3-85
4L-195-79	APP
4L-197-79	R 3L-114-95
4L-199-79	R 4L-01-96
4L-202-79	Temp
4L-205-79	R 1L-85-86
4L-206-79	R 2L-158-90

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1L-1-79	R 1L-71-86
1L-2-79	APP
1L-3-79	APP
1L-4-79	APP
1L-5-79	R 2L-18-80
1L-6-79	R 1L-62-86
1L-7-79	R 2L-27-80
1L-8-79	APP
1L-9-79	R 2L-158-90
1L-11-79	APP
1L-12-79	R 1L-195-87
1L-13-79	R 4L-93-99
1L-14-79	APP
2L-1-80	R 1L-71-86
2L-2-80	APP

2L-3-80	APP
2L-4-80	APP
2L-5-80	APP
2L-6-80	APP
2L-7-80	Temp
2L-8-80	R 2L-42-80
2L-9-80	R 1L-19-85
2L-10-80	R 1L-155-87
2L-11-80	R 4L-01-96
2L-13-80	R 1L-19-85
2L-15-80	APP
2L-16-80	APP
2L-17-80	APP
2L-19-80	APP
2L-20-80	APP
2L-21-80	APP
2L-22-80	APP
2L-23-80	APP
2L-24-80	APP
2L-25-80	R 4L-01-96
2L-26-80	APP
2L-28-80	APP
2L-29-80	APP
2L-30-80	R 2L-158-90
2L-31-80	APP
2L-32-80	R 2L-86-81
2L-33-80	APP
2L-36-80	APP
2L-39-80	R 1L-19-85
2L-40-80	R 4L-35-97
2L-42-80	R 2L-11-88
2L-45-81	APP
2L-46-81	APP
2L-47-81	APP
2L-48-81	APP
2L-49-81	APP
2L-50-81	APP
2L-52-81	APP
2L-53-81	APP
2L-54-81	APP
2L-55-81	APP
2L-56-81	APP
2L-58-81	APP
2L-59-81	APP
2L-61-81	APP

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2L-63-81.....APP	2L-120-82 APP
2L-64-81.....APP	2L-121-82 APP
2L-65-81.....APP	2L-122-82 APP
2L-66-81.....APP	2L-123-82 APP
2L-67-81.....APP	2L-124-82 APP
2L-68-81.....APP	2L-125-82 R 1L-19-85
2L-69-81.....APP	2L-126-82 NA
2L-73-81.....R 1L-155-87	2L-127-82 APP
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2L-75-81.....R 2L-89-81	2L-129-82 APP
2L-76-81.....APP	2L-131-82 Temp
2L-77-81.....APP	2L-133-82 APP
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2L-79-81.....R 2L-132-82	2L-135-82 R 4L-21-96
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2L-82-81.....R 1L-199-87	2L-139-82 APP
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2L-84-81.....R 1L-71-86	2L-142-82 APP
2L-85-81.....Temp	2L-143-82 R 1L-71-86
2L-86-81.....R 1L-203-87	2L-144-82 APP
2L-88-81.....APP	2L-147-82 APP
2L-91-81.....APP	2L-148-82 APP
2L-92-81.....APP	2L-151-82 APP
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2L-94-81.....APP	2L-155-82 APP
2L-95-81.....APP	2L-156-82 R 1L-71-86
2L-97-81.....R 1L-71-86	2L-159-82 Temp
2L-99-81.....R 1L-62-86	2L-160-82 R 3L-99-95
2L-102-81.....APP	2L-161-83 APP
2L-103-81.....APP	2L-162-83 R 1L-122-87
2L-104-81.....R 1L-155-87	2L-163-83 APP
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2L-107-82.....R 1L-62-86	2L-165-83 R 2L-158-90
2L-108-82.....APP	2L-166-83 APP
2L-109-82.....R 1L-71-86	2L-167-83 APP
2L-110-82.....R 1L-19-85	2L-169-83 APP
2L-111-82.....APP	2L-170-83 APP
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2L-115-82.....APP	2L-175-83 APP
2L-116-82.....APP	2L-176-83 APP
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2L-182-83	APP	2L-233-83	APP
2L-183-83	APP	2L-234-83	APP
2L-185-83	APP	2L-235-83	APP
2L-186-83	APP	2L-236-83	APP
2L-187-83	APP	2L-237-83	APP
2L-188-83	APP	2L-238-83	R 3L-99-95
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2L-190-83	APP	3L-1-84	APP
2L-191-83	APP	3L-2-84	APP
2L-192-83	APP	3L-3-84	APP
2L-193-83	APP	3L-4-84	APP
2L-194-83	APP	3L-5-84	APP
2L-195-83	Temp	3L-6-84	R 3L-99-95
2L-196-83	APP	3L-7-84	APP
2L-197-83	APP	3L-8-84	APP
2L-198-83	APP	3L-10-84	R 1L-71-86
2L-199-83	APP	3L-11-84	APP
2L-200-83	APP	3L-12-84	APP
2L-201-83	APP	3L-13-84	APP
2L-202-83	APP	3L-14-84	APP
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2L-211-83	APP	3L-17-84	Temp
2L-212-83	R 1L-71-86	3L-18-84	Temp
2L-213-83	Temp	3L-19-84	APP
2L-214-83	APP	3L-20-84	R 2L-158-90
2L-215-83	R 4L-01-96	3L-21-84	R 1L-3-85
2L-216-83	APP	3L-24-84	APP
2L-217-83	APP	3L-25-84	APP
2L-218-83	APP	3L-26-84	APP
2L-219-83	APP	3L-27-84	APP
2L-220-83	APP	3L-28-84	APP
2L-221-83	APP	3L-29-84	APP
2L-222-83	APP	3L-31-84	APP
2L-223-83	APP	3L-32-84	Temp
2L-224-83	APP	3L-33-84	S 5L- -03
2L-225-83	APP	3L-34-84	APP
2L-226-83	APP	3L-35-84	APP
2L-227-83	APP	3L-36-84	APP
2L-228-83	APP	3L-37-84	APP
2L-229-83	APP	3L-38-84	R 1L-70-86
2L-230-83	APP	3L-39-84	APP
		3L-40-84	APP

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3L-42-84.....	APP	1L-39-85	APP
3L-43-84.....	APP	1L-40-85	APP
3L-44-84.....	APP	1L-41-85	APP
3L-46-84.....	R 2L-158-90	1L-42-85	APP
3L-47-84.....	APP	1L-43-85	APP
3L-48-84.....	R 1L-71-86	1L-44-85	APP
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1L-14-85.....	APP	1L-64-86	APP
1L-15-85.....	R 3L-89-95	1L-65-86	APP
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1L-21-85.....	APP	1L-69-86	APP
1L-22-85.....	APP	1L-72-86	R 6L-66-06
1L-23-85.....	APP	1L-73-86	APP
1L-24-85.....	APP	1L-74-86	APP
1L-25-85.....	APP	1L-75-86	APP
1L-26-85.....	APP	1L-76-86	APP
1L-27-85.....	APP	1L-77-86	APP
1L-28-85.....	APP	1L-78-86	APP
1L-29-85.....	APP	1L-79-86	APP
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1L-94-86	APP	1L-152-87	APP
1L-95-86	APP	1L-154-87	APP
1L-96-86	APP	1L-158-87	APP
1L-97-86	APP	1L-159-87	APP
1L-98-86	APP	1L-160-87	APP
1L-99-86	APP	1L-161-87	APP
1L-100-86	APP	1L-162-87	APP
1L-102-86	APP	1L-163-87	APP
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1L-104-86	APP	1L-165-87	APP
1L-105-86	APP	1L-166-87	APP
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1L-108-86	APP	1L-168-87	APP
1L-110-86	APP	1L-169-87	APP
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1L-112-86	APP	1L-171-87	APP
1L-113-86	APP	1L-172-87	APP
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1L-127-87	APP	1L-182-87	APP
1L-129-87	APP	1L-183-87	APP
1L-130-87	APP	1L-184-87	APP
1L-131-87	APP	1L-185-87	APP
1L-132-87	APP	1L-186-87	APP
1L-133-87	APP	1L-188-87	APP
1L-134-87	APP	1L-189-87	APP
1L-135-87	APP	1L-190-87	APP
1L-137-87	APP	1L-191-87	APP
1L-138-87	APP	1L-192-87	APP
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1L-141-87	APP	1L-196-87	APP
1L-144-87	R 1L-195-87	1L-197-87	APP
1L-145-87	APP	1L-200-87	APP
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		1L-202-87	APP

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2L-5-88.....APP	2L-57-88 APP
2L-6-88.....APP	2L-58-88 APP
2L-7-88.....APP	2L-59-88 APP
2L-9-88.....APP	2L-60-88 R 2L-81-88
2L-10-88.....APP	2L-61-88 APP
2L-12-88.....APP	2L-62-88 APP
2L-13-88.....APP	2L-63-88 R 4L-123-99
2L-14-88.....APP	2L-65-88 APP
2L-15-88.....APP	2L-66-88 APP
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2L-17-88.....APP	2L-68-88 APP
2L-18-88.....APP	2L-69-88 APP
2L-19-88.....APP	2L-70-88 APP
2L-22-88.....APP	2L-71-88 APP
2L-23-88.....APP	2L-73-88 R 4L-111-99
2L-25-88.....APP	2L-75-88 APP
2L-26-88.....APP	2L-76-88 R 3L-89-95
2L-27-88.....APP	2L-79-88 APP
2L-28-88.....APP	2L-82-88 APP
2L-29-88.....APP	2L-83-89 APP
2L-30-88.....APP	2L-85-89 APP
2L-31-88.....APP	2L-87-89 R 6L-110-07
2L-32-88.....APP	2L-88-89 APP
2L-33-88.....APP	2L-89-89 APP
2L-34-88.....APP	2L-92-89 R 4L-123-99
2L-35-88.....APP	2L-94-89 APP
2L-36-88.....APP	2L-95-89 APP
2L-39-88.....APP	2L-96-89 APP
2L-40-88.....APP	2L-97-89 APP
2L-42-88.....APP	2L-98-89 APP
2L-43-88.....APP	2L-99-89 APP
2L-44-88.....APP	2L-100-89 APP
2L-45-88.....APP	2L-101-89 APP
2L-46-88.....APP	2L-102-89 APP
2L-47-88.....APP	2L-103-89 APP
2L-48-88.....APP	2L-104-89 APP
2L-49-88.....APP	2L-105-89 APP
2L-50-88.....APP	2L-106-89 APP
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2L-115-89	APP	2L-170-90	APP
2L-116-89	APP	2L-171-90	R 3L-42-93
2L-117-89	APP	2L-174-90	APP
2L-118-89	APP	2L-177-91	APP
2L-119-89	APP	2L-178-91	APP
2L-120-89	APP	2L-180-91	APP
2L-121-89	APP	2L-181-91	APP
2L-122-89	APP	2L-182-91	APP
2L-123-89	APP	2L-183-91	APP
2L-124-89	APP	2L-184-91	APP
2L-125-89	APP	2L-186-91	APP
2L-126-89	APP	2L-187-91	APP
2L-127-89	APP	2L-188-91	APP
2L-128-89	APP	2L-189-91	APP
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2L-135-89	APP	2L-194-91	R 4L-111-99
2L-136-89	APP	2L-196-91	APP
2L-138-89	APP	2L-197-91	R 5L-02-00
2L-139-89	APP	2L-199-91	APP
2L-140-89	APP	2L-200-91	APP
2L-141-89	APP	2L-201-91	NA
2L-144-90	APP	2L-202-91	APP
2L-145-90	APP	2L-203-91	APP
2L-146-90	NA	2L-205-91	APP
2L-148-90	APP	2L-206-91	APP
2L-149-90	APP	2L-207-91	R 3L-89-95
2L-150-90	APP	2L-208-91	APP
2L-151-90	APP	2L-209-91	APP
2L-153-90	APP	2L-210-91	APP
2L-154-90	R 3L-42-93	2L-212-91	APP
2L-155-90	APP	2L-213-91	APP
2L-156-90	APP	2L-214-91	APP
2L-159-90	APP	2L-215-91	APP
2L-160-90	APP	2L-216-91	APP
2L-161-90	APP	2L-217-91	APP
2L-162-90	APP	2L-218-91	APP
2L-163-90	APP	2L-220-91	APP
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2L-165-90	APP	2L-222-91	APP
2L-167-90	APP	2L-223-91	APP
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3L-6-92.....	R 4L-01-96
3L-7-92.....	R 4L-01-96
3L-8-92.....	APP
3L-9-92.....	R 3L-89-95
3L-10-92.....	APP
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3L-13-92.....	APP
3L-14-92.....	APP
3L-15-92.....	APP
3L-18-92.....	APP
3L-19-92.....	R 3L-45-93
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3L-22-92.....	APP
3L-23-92.....	APP
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3L-34-93.....	APP
3L-38-93.....	APP
3L-44-93.....	APP
3L-46-93.....	APP
3L-47-93.....	APP
3L-48-93.....	APP
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3L-70-94.....	APP
3L-71-94.....	APP

3L-72-94	APP
3L-73-94	APP
3L-74-94	APP
3L-76-94	NA
3L-77-94	APP
3L-78-94	APP
3L-79-94	APP
3L-80-94	APP
3L-81-94	APP
3L-82-94	Temp
3L-84-94	APP
3L-85-95	APP
3L-87-95	APP
3L-88-95	APP
3L-90-95	APP
3L-91-95	APP
3L-93-95	APP
3L-94-95	APP
3L-95-95	APP
3L-96-95	APP
3L-97-95	Temp
3L-98-95	APP
3L-101-95	APP
3L-102-95	APP
3L-103-95	APP
3L-104-95	APP
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3L-106-95	APP
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3L-110-95	APP
3L-112-95	APP
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4L-07-96	APP
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4L-18-96	APP	4L-95-99	NA
4L-19-96	APP	4L-96-99	APP
4L-21-96	R 6L-72-06	4L-97-99	APP
4L-22-96	R 5L-02-00	4L-99-99	APP
4L-23-96	R 5L-82-02	4L-103-99	NA
4L-24-96	APP	4L-107-99	APP
4L-26-96	APP	4L-108-99	APP
4L-27-97	NA	4L-116-99	NA
4L-30-97	NA	4L-117-99	APP
4L-31-97	APP	4L-120-99	APP
4L-32-97	NA	4L-121-99	APP
4L-34-97	APP	4L-122-99	APP
4L-37-97	APP	4L-124-99	APP
4L-39-97	APP	4L-125-99	APP
4L-40-97	APP	4L-126-99	APP
4L-47-97	APP	4L-127-99	APP
4L-49-97	R 5L-02-00	4L-129-99	APP
4L-50-97	APP	4L-132-99	APP
4L-51-97	APP	4L-137-99	APP
4L-52-97	APP	4L-138-99	APP
4L-53-97	APP	4L-140-99	APP
4L-54-97	APP	4L-141-99	APP
4L-55-97	APP	4L-142-99	APP
4L-56-97	APP	4L-143-99	APP
4L-58-97	NA		
4L-59-97	APP		
4L-60-98	APP		
4L-61-98	APP		
4L-64-98	APP		
4L-67-98	NA		
4L-68-98	APP		
4L-69-98	APP		
4L-70-98	APP		
4L-74-98	R 5L-02-00		
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4L-77-98	APP		
4L-78-98	APP		
4L-80-98	APP		
4L-81-98	APP		
4L-82-98	APP		
4L-83-98	NA		
4L-85-98	NA		

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5L-04-00	APP
5L-06-00	APP
5L-09-00	APP
5L-12-00	APP
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5L-19-00	APP
5L-23-00	APP
5L-24-00	APP
5L-26-00	APP
5L-27-00	APP
5L-28-00	APP
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5L-38-01	APP
5L-39-01	APP
5L-40-01	APP
5L-42-01	APP
5L-43-01	APP
5L-44-01	Temp
5L-45-01	APP
5L-46-01	APP
5L-47-01	APP
5L-49-01	APP
5L-50-01	APP
5L-51-01	APP
5L-53-01	APP
5L-54-01	APP
5L-55-01	Temp
5L-56-01	APP
5L-61-02	APP
5L-62-02	APP
5L-63-02	APP
5L-65-02	APP
5L-66-02	APP
5L-67-02	APP
5L-68-02	APP
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5L-70-02	APP
5L-71-02	APP
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5L-73-02	APP
5L-74-02	APP
5L-75-02	APP
5L-76-02	APP
5L-77-02	APP
5L-78-02	APP
5L-79-02	APP
5L-80-02	APP
5L-84-02	Temp
5L-85-02	APP
5L-86-02	APP
5L-87-02	APP
5L-89-03	APP
5L-94-03	APP

5L-95-03	APP
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