

CHAPTER 11

National Fisheries Corporation

Editor's note: Section 104 of PL 12-34 renumbered chapters 6 and 7, as chapters 10 and 11 of subtitle I of this title, respectively.

Section 1 of PL 12-34 repealed chapters 1 through 5 in their entirety. Section 2 of PL 12-34 enacted a new subtitle I entitled Marine Resources Act of 2002. Section 104 of PL 12-34 renumbered chapters 6 and 7 as chapters 10 and 11, respectively. PL 12-34 enacted new chapters 1 through 9 of subtitle I. PL 12-34 became law in 2002 without the signature of President Leo A. Falcam.

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§ 1101. Short title.

This chapter may be cited as the “Federated States of Micronesia National Fisheries Corporation Act of 1983.”

Source: PL 3-14 § 1; PL 12-34 § 104 (part).

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

Editor’s note: PL 12-34 § 104 renumbered former chapter 7 as chapter 11.

§ 1102. Purpose.

The purpose of this chapter is to establish a public corporation to promote the development of pelagic fisheries and related industries within the extended fishery zone, as defined under 18 F.S.M.C. 104, for the benefit of the people of the Federated States of Micronesia.

Source: PL 3-14 § 2; PL 3-25 § 1; PL 12-34 § 104 (part).

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

§ 1103. Establishment of Corporation.

The National Fisheries Corporation of the Federated States of Micronesia, hereinafter referred to as the “Corporation,” is hereby established as a public corporation under the laws of the Federated States of Micronesia.

Source: PL 3-14 § 3; PL 12-34 § 104 (part).

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

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

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

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

§ 1104. Charter.

- (1) The charter of the Corporation shall be as prescribed in this section and sections 1105, 1106, and 1107 of this chapter.
- (2) The existence of the Corporation shall be perpetual.

Source: PL 3-14 § 4; PL 12-34 § 104 (part).

§ 1105. Principal and branch offices.

- (1) The principal office of the Corporation shall be located within the territory of the Federated States of Micronesia at a place to be designated by the Board of Directors of the Corporation.
- (2) There may be such subordinate or branch offices in such place or places as the Board of Directors of the Corporation may deem necessary.

Source: PL 3-14 § 5; PL 12-34 § 104 (part).

§ 1106. Corporation authority.

- (1) Subject to any existing limitation or limitations hereafter enacted, the Corporation, through its officers and agents, is authorized to engage in all commercial activities which will further the development of the fishing and fisheries industry in the Federated States of Micronesia.
- (2) The Corporation's authority shall include, but not be limited to, the following:
 - (a) to enter into joint venture, partnership, and other agreements related to the fishing and fisheries industry with other persons including, but not limited to, foreign persons and governments;
 - (b) to otherwise engage or participate as owner, partner, shareholder, or other interest holder in

commercial ventures related to the fishing and fisheries industry;

(c) to manage or operate commercial projects, enterprises, and ventures related to the fishing and fisheries industry;

(d) to secure both from within and from without the Federated States of Micronesia financial resources to achieve the purpose of this act and the Corporation's charter;

(e) to provide technical assistance and services for project identification, project formulation, and pre-investment studies relating to the fishing and fisheries industry;

(f) to foster economic activities and to cooperate with other institutions within and without the Federated States of Micronesia in supporting activities for fishing and fisheries development;

(g) to promote the training of Micronesian citizens in matter related to the fishing and fisheries industry; and

(h) to invest in the expansion and improvement of the fishing and fisheries industry in the Federated States of Micronesia.

Source: PL 3-14 § 6; PL 12-34 § 104 (part).

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

§ 1107. Corporate powers.

In addition to the authority granted under section 1106 of this chapter, the Corporation possess and exercise all powers normally exercised by a corporation, including, but not limited to, the following:

(1) to adopt, alter, and use a corporate seal;

(2) to adopt, amend, and repeal its bylaws governing the conduct of its business and the exercise of its authority; provided, that such bylaws shall be consistent with the laws of the Federated States of Micronesia;

(3) to sue and be sued in its corporate name;

(4) to acquire in any lawful manner real personal or mixed property, either tangible or intangible, and to hold, maintain, use, and operate such property, and to sell, lease, or otherwise dispose of such property;

(5) to acquire in any mode and take over the whole or any part of the business, property, goodwill, and liabilities of any other corporation or corporations, including debts, liabilities, and obligations incurred prior to the time of acquisition;

(6) 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;

(7) to form or assist in forming any company for the purpose of carrying on any business which the corporation is authorized to carry on, or any other business which may enhance the fishing and fisheries industry;

(8) to issue corporate bonds from time to time for sale to the general public, or to other financial institutions, or Government agencies, upon such terms and under such conditions as the Board of Directors deems necessary and appropriate;

(9) to make contracts and incur liabilities, to borrow money, and to secure any or all of its obligations by mortgage or pledge of any or all of its property, franchises, or income;

(10) to lend money for its corporate purposes, and to invest or reinvest its funds;

(11) to conduct its business, carry on its operations, have offices, and to exercise the powers granted herein in any State or territory of the Federated States of Micronesia or in any foreign country;

(12) to permit the Corporation to be registered or recognized in any country, state, or place outside of the Federated States of Micronesia, and to comply with any condition necessary or expedient in order to enable the Corporation to carry on business in any such country, state, or place, and to establish local companies or branch offices within the jurisdiction of the Federated States of Micronesia;

(13) to act as agent for or of any other person or entity;

(14) to appoint, subject to other provisions of this chapter and other applicable laws, such officers and agents as the business of the Corporation requires; and

(15) to have and to exercise all powers necessary and proper to effectuate the purposes of this chapter and the Corporation's charter.

Source: PL 3-14 § 7; PL 12-34 § 104 (part).

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

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§ 1108. Board of Directors.

The affairs of the Corporation shall be managed and its corporate powers exercised by a Board of Directors, hereinafter referred to as the "Board."

Source: PL 3-14 § 8; PL 12-34 § 104 (part).

§ 1109. Composition of the Board.

The Board shall be composed of the following:

- (1) one member appointed by the President of the Federated States of Micronesia;
- (2) one member appointed by each of the Governors of the States of the Federated States of Micronesia;
- (3) the Executive Director of the Micronesian Maritime Authority; and

(4) the Secretary of the Department of Resources and Development, who shall serve as an *ex officio* member and who shall have no power to vote except in the event of a tie.

Source: PL 3-14 § 9; PL 12-34 § 104 (part).

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

§ 1110. Organizational meeting.

The first organizational meeting of the Board shall be held not later than 45 days after all of the appointments of the members of the Board have become effective.

Source: PL 3-14 § 10; PL 12-34 § 104 (part).

§ 1111. Terms of office of Board members.

Those members of the Board appointed pursuant to subsections (3) and (4) of section 1109 of this chapter shall serve on the Board for the duration of their appointments to their respective agencies. Those members serving on the Board pursuant to subsections (1) and (2) of section 1109 of this chapter shall serve on the Board at the pleasure of the appointing officials and may change from time to time at the election of the officials. A Board member may be removed for cause by a two-thirds majority vote of the members.

Source: PL 3-14 § 11; PL 12-34 § 104 (part).

§ 1112. Corporate bylaws.

The Board may, by majority vote of its entire membership, adopt, amend, or repeal bylaws of the Corporation which shall provide for the management of the business of the Corporation, the organization, meetings, and procedures of the Board, the duties of the officers and employees of the Corporation, and the preparation and submission of required reports. Bylaws may not be adopted, amended, or repealed except after one week of written notice to each director.

Source: PL 3-14 § 12; PL 12-34 § 104 (part).

§ 1113. Officers of the Board.

The Board shall elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The

chairman shall ordinarily preside at the Board meetings. The vice chairman shall preside at the Board meetings in the absence of the chairman. The bylaws shall provide for determination of the presiding officer in the absence of these officers.

Source: PL 3-14 § 13; PL 12-34 § 104 (part).

§ 1114. Board meetings.

The regular meetings of the Board shall be held at such times and places as shall be provided in the corporate bylaws. Special meetings shall be called by the chairman on his own initiative, or by petition of one-third of the entire membership of the Board.

Source: PL 3-14 § 14; PL 12-34 § 104 (part).

§ 1115. Quorum of the Board.

A majority of the entire membership of the Board shall constitute a quorum. An affirmative vote of a majority of the members present shall be required to transact the Board's business. A majority of the entire membership of the Board shall be required to adopt, amend, or repeal the bylaws. Unless otherwise provided in the corporate bylaws or in this chapter, the Robert's Rules of Parliamentary Procedure shall be used as the rules of procedure governing the Board's proceedings.

Source: PL 3-14 § 15; PL 12-34 § 104 (part).

§ 1116. Minutes of Board meetings.

The secretary-treasurer, or his designee, as may be provided in the bylaws, shall keep full and accurate minutes of all meetings.

Source: PL 3-14 § 16; PL 12-34 § 104 (part).

§ 1117. Compensation of Board members.

Those members of the Board who are Government employees, both State and National, shall receive no compensation at all. Compensation of members of the Board who are not Government employees shall be established by the Board. All members of the Board shall be entitled to per diem at established Federated States of Micronesia rates when traveling on the Corporation's business. For the purpose of this section, "Government employees" includes, but is not limited to, employees of those Government agencies or entities created and funded by National or State laws.

Source: PL 3-14 § 17; PL 12-34 § 104 (part).

§ 1118. Employees of the Corporation.

(1) The Corporation may employ a full-time executive director, who shall be appointed by a majority vote of the entire membership of the Board. The compensation, terms, and conditions of employment shall be determined by the Board. The executive director shall be accountable and answerable to the Board for the daily operation of the Corporation.

(2) The executive director may hire, subject to the approval of the Board, such supporting staff as he deems necessary and proper to effect the purpose of this chapter. The employees of the Corporation shall be exempt from the provisions of the Federated States of Micronesia National Public Service System Act.

(3) No member of the Board may at the same time serve as an employee of the Corporation.

Source: PL 3-14 § 18; PL 12-34 § 104 (part).

Cross-reference: The statutory provisions of the National Public Service System Act are found in title 52 of this code.

§ 1119. Budget preparation.

The Board shall prepare in advance of each fiscal year an annual budget for the Corporation, taking into consideration anticipated capital, anticipated revenue, and operational expenditure. The Corporation shall use the same fiscal year as that of the National Government of the Federated States of Micronesia. 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 an increase in the rate of revenues or outside financial assistance.

Source: PL 3-14 § 19; PL 3-25 § 2; PL 12-34 § 104 (part).

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

§ 1120. Budget request.

The Corporation may seek appropriations from the Congress of the Federated States of Micronesia and from other lawful sources within or without the Federated States of Micronesia, in such amount and under such terms and conditions as it deems necessary and proper for the development of the fishing and fisheries industry.

Source: PL 3-14 § 20; PL 12-34 § 104 (part).

Cross-reference: The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 1121. Records and reporting.

The Board shall keep accurate records of the Corporation's business transactions. Such records shall include, but not limited to, accounting of all income and expenditure, and assets, both tangible and intangible, and liabilities of the Corporation. The Board shall make a monthly report of the Corporation's activities at the end of every month. That monthly report shall include, *inter alia*, a monthly financial report. The Corporation, through its Board, shall make a quarterly report to the President of the Federated States of Micronesia and to the Speaker of the Congress of the Federated States of Micronesia. The quarterly report shall include, *inter alia*, a quarterly financial statement.

Source: PL 3-14 § 21; PL 3-25 § 3; PL 12-34 § 104 (part).

Cross-reference: The statutory provisions on the FSM Congress are found in title 3 (Legislative) of this code. The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 1122. Audit.

The Board shall have the books of account audited by the National Public Auditor no less frequently than annually.

Source: PL 3-14 § 22; PL 12-34 § 104 (part).

Cross-reference: The statutory provisions on the National Public Auditor are found in chapter 5 of title 55 (Government Finance and Contracts) of this code.

§ 1123. Corporate debts and obligations.

Unless otherwise expressly provided by law, the National Government shall not be liable or responsible for any debts incurred by or obligations imposed upon the Corporation.

Source: PL 3-14 § 23; PL 12-34 § 104 (part).

§ 1124. Tax exemption.

The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments except import taxes or assessments on any of its property, operations, or activities. Nothing in this section exempts employees and independent contractors of the Corporation from tax liability for income received from the Corporation. The tax-exempt status shall not be available insofar as the Corporation associates itself in a joint venture with a foreign corporation or association.

Source: PL 3-14 § 24; PL 11-26 § 3; PL 12-34 § 104 (part).

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code.