

DIVISION 3 — OTHER BUSINESS ASSOCIATIONS

Division Notes

Sources

Each subchapter designation in Division 3 has been redesignated by the Code Commission with Roman numerals to conform with the Style of the Code.

Chapter 19 — Corporations Sole for Ecclesiastical Purposes

§ 1901. Formation of corporation sole for ecclesiastical purposes.

A nonprofit corporation sole may be formed hereunder by the bishop, chief priest, presiding elder, or other presiding officer of any church, for the purposes of administering and managing the affairs, property, and temporalities of the church, in the district within which the bishop, chief priest, presiding elder, or other presiding officer has ecclesiastical jurisdiction.

Section Notes

Sources

RPPL 11-40 § 3[§ 1901], modified.

Notes

The term “district” likely refers to the District of Palau under the Trust Territory, which is now the Republic of Palau.

§ 1902. Application for charter: petition; contents.

- (a) Application to the Registrar for a charter of incorporation under this chapter shall be made by a written petition, verified by the bishop, chief priest, presiding elder, or other presiding officer forming the corporation sole. The petition shall set forth:
- (1) the name of the corporation;
 - (2) the name, citizenship and address of the officer forming the corporation, the office which he holds in the church, and that he is duly authorized by the rules, regulations, or discipline of the church to take the action;
 - (3) the boundaries of the district subject to the ecclesiastical jurisdiction of the officer forming the corporation sole, in accordance with the rules, regulations, or discipline of the church;
 - (4) the place of the principal office of the corporation sole, which shall be in the Republic;
 - (5) the term for which the corporation sole is organized, which may be perpetual;
 - (6) the manner in which any vacancy occurring in the office of the bishop, chief priest, presiding elder, or other presiding officer forming the corporation sole is required to be filled by the rules, regulations, or discipline of the church;
 - (7) additional powers to be set forth in its charter and in accordance with law;
 - (8) any lawful provision for the regulation of the affairs of the corporation sole, including restrictions upon the power to amend all or any part of the charter;

- (9) that the corporation is not organized for profit.
- (b) If any petition for a charter of incorporation presented to the Registrar under this chapter is not in conformity with the requirements of this subchapter the Registrar shall, within thirty days, return the same to the petitioner specifying wherein the same fails to conform with this section and the petitioner may amend the petition and present it so amended. A proposed form of the charter of incorporation shall accompany the petition. The Registrar may require additional proofs from the petitioner. If the petition or amended petition and the proposed charter are in conformity with law, the Registrar shall present the petition or amended petition, proposed charter, and accompanying proofs to the President for approval.

Section Notes

Sources

RPPL 11-40 § 3[§ 1902], modified.

Notes

The first and last paragraphs of RPPL 11-40 § 3[§ 1902] did not have a designation. The Code Commission has designated them subsections (a) and (b) to conform to the Style of the Code.

The term “district” in paragraph (3) likely refers to the District of Palau under the Trust Territory, which is now the Republic of Palau.

§ 1903. Powers of corporation sole.

Every corporation sole formed under this chapter shall have the powers set forth in any law or regulation related to preemptive rights of corporations and be subject to any law or regulation related to the power of a corporation to acquire, hold, and dispose of their own shares. Every such corporation shall have continuity of existence notwithstanding vacancies in the incumbency thereof, and during the period of any vacancy, shall have the same capacity and right to receive and take any gift, bequest, devise, or conveyance of property, either as grantee for its own use, or as a trustee (where the trusteeship is within its corporate purposes and subject to removal from such trusteeship as provided by law), and to be or be made the beneficiary of a trust, as though there were no vacancies. No agency created by a corporation sole by a written instrument which, in express terms, provides that the agency thereby created shall not be terminated by a vacancy in the incumbency of the corporation, shall be terminated or affected by the death of the incumbent of the corporation or by a vacancy in the incumbency thereof, however caused.

Section Notes

Sources

RPPL 11-40 § 3[§ 1903], modified.

§ 1904. Amendment to charter.

Subject to the proviso set forth in this section, and subject to any lawful restrictions upon the power to amend the charter of a corporation sole, set forth in its petition filed under Section 1902, the incumbent of the corporation may at any time amend the charter of the corporation by changing its name, the term of its existence, the boundaries of the district subject to its jurisdiction, the place of its principal office, the manner of filling any vacancy in the incumbency thereof, its powers, or any provision of the charter for the regulation of the affairs of the corporation (except restrictions upon the power to amend the charter), and may, by amendment of the charter, make provision for

any act or thing for which provisions is authorized in original charters of corporations sole formed under this chapter. The incumbent of the corporation sole shall subscribe and verify a certificate which shall set forth the amendment either by stating that the charter has been amended to read as set forth in the certificate in full or by stating that any provision or provisions of the charter, which shall be identified by the numerical or other designation or designations thereof in the charter or by stating the wording thereof, has or have been amended to read as set forth in the certificate. The certificate shall further state that the amendment has been duly authorized by the rules, regulations, or discipline of the church of which the incumbent is an officer; provided, that no amendment shall confer any other or greater powers or privileges than could lawfully be conferred or obtained in an original charter; provided, further, that no amendment shall become effective unless the same is allowed by the Registrar by and with the consent of the President.

Section Notes

Sources

RPPL 11-40 § 3[§ 1904], modified.

Notes

The term “district” likely refers to the District of Palau under the Trust Territory, which is now the Republic of Palau.

§ 1905. Name of incumbent; change in incumbency.

There shall be filed, with a petition for a charter, a certificate duly signed and acknowledged, which shall state the name, citizenship, and address of the person who is to be its incumbent, to which shall be appended a duly attested copy of the certificate of appointment or other document through which he became entitled to be the incumbent of the corporation sole. Whenever a change in the incumbency of the corporation occurs, the new incumbent, within thirty days after he has become the incumbent, shall file with the Registrar a like certificate with like proof of his title to the office.

Section Notes

Sources

RPPL 11-40 § 3[§ 1905], modified.

§ 1906. Distribution of assets: inspection of books.

Except upon liquidation of the property of the corporation in case of dissolution, no part of the assets, income, or earnings of the corporation shall be withdrawn from or sent out of the Republic, unless the remaining assets of the corporation shall then equal in value twice the amount of the indebtedness of the corporation. The Registrar shall at all times have access to the books of the corporation.

Section Notes

Sources

RPPL 11-40 § 3[§ 1906], modified.

§ 1907. Extensions and renewals.

The duration of the corporation, if not perpetual, may be extended by amendment of its charter, and at any time not more than two years after the expiration of a charter it may be renewed upon

application to the Registrar for that purpose; provided that no renewal shall become effective until it is allowed by the Registrar by and with the consent of the President.

Section Notes

Sources

RPPL 11-40 § 3[§ 1907], modified.

§ 1908. Dissolution.

A corporation formed under this chapter may be dissolved, voluntarily or involuntarily, in the manner provided in law or regulation related to the dissolution and revocation of corporate charters, save that:

- (1) In lieu of the certificate and vote therein required for a voluntary dissolution, the incumbent of the corporation sole shall execute, subscribe and verify a declaration of dissolution which shall set forth the name of the corporation, the reason for its dissolution or winding up, and that the dissolution has been duly authorized by the church, to administer the affairs, property, and temporalities of which the corporation was organized, and the Registrar shall be satisfied that the dissolution has been duly authorized.
- (2) In lieu of the certificate of an officer, director, or manager of the corporation, therein required for the involuntary dissolution of a corporation which has ceased to have any assets and has failed to function, the certificate may be made by any authorized officer of the church, to administer the affairs, property, and temporalities of which the corporation was organized. In lieu of the directors or managers of the corporation the incumbent shall be a trustee to wind up the corporation unless some other person or persons are appointed as therein provided. The church, to administer the affairs, property and temporalities of which the corporation was organized, shall stand in the place and stead of the stockholders, and may be represented in court by any authorized officer thereof or trustee acting in its behalf; the remaining assets shall be distributed to such church or to a trustee or trustees in its behalf, or in such other manner as may be decreed by a judge of the Trial Division of the Palau Supreme [Court]; and the trustee or trustees in dissolution, the Registrar, the Attorney General, or any person connected with the church, may file a petition for the assets, or for the appointment of a trustee or trustees to act in behalf of the church.
- (3) In lieu of the officers of the corporation the incumbent shall represent the corporation with respect to the required tax clearance.

Section Notes

Sources

RPPL 11-40 § 3[§ 1908], modified.

Notes

The Code Commission has inserted “Court” in paragraph (2) as the proper name for the Palau Supreme Court.

§ 1909. Corporations sole heretofore formed; general laws.

Any corporation sole heretofore formed and existing under the laws of the Republic for ecclesiastical purposes may elect to continue its existence under this chapter by filing an application for amendment of its charter in the manner and form provided for an application for an original charter, together with the required certificates as to the incumbency of the corporation. If such amendment is allowed by the Registrar by and with the consent of the President, this chapter thereupon shall apply to such corporations sole the same as to corporations formed under this chapter. Any charter or amended charter granted or corporation created or existing under the authority of this chapter shall be subject to all general laws enacted in regard to corporations.

Section Notes**Sources**

RPPL 11-40 § 3[§ 1909], modified.

Chapter 20 — Partnerships

Subchapter 1 — Partnerships in General

§ 2001. Registration and annual statements.

- (a) Whenever any general or limited partnership is formed under the laws of the Republic to do business in the Republic, or any partnership formed under the laws of any other jurisdiction shall do business in the Republic, the partnership shall file in the office of the Registrar the registration and annual statements hereinafter provided. Every partnership now existing under the laws of the Republic shall also file the annual statements hereinafter provided. A registration statement shall be filed by a partnership formed under the laws of the Republic within thirty days after the commencement of business in the Republic. An annual statement shall be filed on or before June 30 of each year, as of December 31 of the preceding year. Every registration statement shall contain the following information:
- (1) the name of the partnership;
 - (2) the nature of the partnership (whether general, limited, special or other);
 - (3) the name, citizenship, and residence of each partner, and whether he is a general, limited, special, or other kind of partner;
 - (4) the nature of the partnership business;
 - (5) the location (include mailing address and telephone number) of the principal place of business of the partnership in the Republic and, if the partnership is one formed under the laws of any other jurisdiction, the name of the jurisdiction and the location of the principal place of business of the partnership;
 - (6) the date the partnership was formed and, if the partnership is one formed under the laws of any other jurisdiction, the date the partnership commenced business in the Republic;
 - (7) the fact that none of the partners is either a minor or an incompetent person.
- (b) Every annual statement shall contain the information specified in the above subdivisions as well as any other information sought by the Registrar. The registration statement shall be acknowledged by each partner. Each annual statement shall be certified as correct by any general partner.

Section Notes

Sources

RPPL 11-40 § 3[§ 2001], modified.

Notes

The first and last paragraphs of RPPL 11-40 § 3[§ 2001] did not have a designation. The Code Commission has designated them subsections (a) and (b) to conform to the Style of the Code.

§ 2002. Forms to be furnished by registrar; acknowledgments.

The registration, annual, and other statements required by this subchapter shall be filed on forms to be furnished by the Registrar. Statements required to be acknowledged shall be acknowledged

under penalty of perjury before a notary public or other officers in the manner provided by law for acknowledgments of deeds.

Section Notes

Sources

RPPL 11-40 § 3[§ 2002], modified.

§ 2003. Forms to be furnished by registrar; acknowledgments; partnership name.

No partnership shall take or use a name which is identical with any name registered in the office of the Registrar under any statute, or which is so nearly similar to any such name as to lead to confusion or uncertainty. No statement or certificate of any partnership showing a name in violation of the provisions hereof shall be recorded by the Registrar.

Section Notes

Sources

RPPL 11-40 § 3[§ 2003], modified.

§ 2004. Partnership name; change of.

(a) Whenever any partnership changes its partnership name, it shall within thirty days thereafter file in the office of the Registrar a statement showing:

- (1) the registered name of the partnership, and
- (2) the new name of the partnership;

provided, that the statement need not be filed by a limited partnership which has filed a writing to amend its certificate pursuant to Section 2045.

(b) The statement shall be signed and certified as correct by any general partner.

Section Notes

Sources

RPPL 11-40 § 3[§ 2004], modified.

Notes

The Code Commission designated the last sentence of RPPL 11-40 §3 [§ 2004] as subsection (b).

§ 2005. Foreign partnerships, power and liabilities.

A partnership formed under the laws of any other jurisdiction, shall, on filing a registration statement as required by Section 2001 and subject to continuing compliance with the other provisions of this part, have the same powers and privileges, and be subject to the same disabilities as are by law conferred upon partnerships formed under the laws of the Republic, provided always that the purposes for which the partnership is formed are not repugnant to or in conflict with any law of the Republic; Provided, further, that the partnership obtains approval from the Foreign Investment Board prior to conducting business in the Republic.

Section Notes

Sources

RPPL 11-40 § 3[§ 2005], modified.

§ 2006. Admission, withdrawal or death of a partner.

Whenever a new partner is admitted to any partnership, or a partner withdraws from any partnership, or whenever any partner dies, a statement of the admission, withdrawal, or death shall be filed in the office of the Registrar, within thirty days after the addition, withdrawal, or death; provided that the statement need not be filed by a limited partnership which has filed a writing to amend its certificate pursuant to Section 2045. The statement shall be acknowledged by each partner added or withdrawn, except as herein provided, and by all other remaining partners. If a partner withdraws and cannot be located, the statement shall set forth those facts and need not be signed or acknowledged by the partner.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2006], modified.

§ 2007. Statement of dissolution.

Whenever any partnership is dissolved, a statement thereof showing the cause of dissolution shall be filed in the office of the Registrar within thirty days after dissolution; provided, that the statement need not be filed by a limited partnership which has filed a writing to cancel its certificate pursuant to Section 2045. The statement shall be acknowledged by all partners except in such cases as the circumstances make it obviously impossible to secure the signature of one or more partners, which circumstances shall be set forth in the statement.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2007], modified.

§ 2008. Taxes, etc., a prior lien on partnership property on dissolution.

Upon dissolution of a partnership, any lawful taxes, license fees, or assessments for which the partnership, or any partner in respect thereof, is liable shall constitute a prior lien upon the assets of the partnership but not as against the interest of those creditors who have prior recorded liens.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2008], modified.

§ 2009. Record of statements.

The Registrar shall cause books or files to be kept in his office, in which shall be recorded the several particulars required by this subchapter to be filed in his office.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2009], modified.

§ 2010. Cancellation of registration.

If any partnership, whether general, limited, special, or other, fails or neglects for a period of two years to file any annual statement as required by this part, the Registrar may cancel the registration or the certificate, as the case may be, of the partnership. The cancellation of the registration or the certificate shall not relieve the partners of liability for the penalties for the failure to file any statement or certificate required by this part.

Section Notes

Sources

RPPL 11-40 § 3[§ 2010], modified.

§ 2011. Partnerships between husband and wife; prima facie proof.

If any business tax return is filed by, or license to do business is issued in the names of, both husband and wife, the tax return or license shall constitute prima facie proof, insofar as the Republic or any of its agencies is concerned, that a partnership in the business exists between husband and wife in respect of the business. If the business tax return is filed by, or license is issued in the name of, one of them only, it shall constitute like proof that the husband and wife are not partners in respect of the business.

Section Notes

Sources

RPPL 11-40 § 3[§ 2011], modified.

§ 2012. Minors and incompetent persons.

A minor or incompetent person may not be a partner, but may have a beneficial interest in a partnership through a trustee or duly appointed guardian. The trustee or guardian may be a limited partner.

Section Notes

Sources

RPPL 11-40 § 3[§ 2012], modified.

§ 2013. Not applicable to corporations.

Nothing in this subchapter shall apply to corporations or incorporated companies.

Section Notes

Sources

RPPL 11-40 § 3[§ 2013], modified.

§ 2014. Partnerships heretofore formed.

Any partnership heretofore formed and existing under the laws of the Republic may elect to continue its existence under this chapter by complying with the provisions set forth in this chapter, whereupon this chapter shall apply to such partnerships the same as to partnerships formed under this chapter.

Section Notes

Sources

RPPL 11-40 § 3[§ 2014], modified.

Subchapter 2 — Limited Partnership

§ 2021. Limited partnership defined.

A limited partnership is a partnership formed by two or more persons under Section 2022, having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by the obligations of the partnership.

Section Notes

Sources

RPPL 11-40 § 3[§ 2021], modified.

§ 2022. Formation.

Two or more persons, each of whom may be an individual or a corporation and any of whom may be acting in a fiduciary capacity, desirous of forming a limited partnership, shall sign, acknowledge, and file a certificate, as follows:

- (1) The certificate shall state:
 - (A) the name of the partnership;
 - (B) the character of the partnership;
 - (C) the location (include mailing address and telephone number) of the principal place of business;
 - (D) the name, citizenship, and place of residence of each member; general and limited partners being respectively designated;
 - (E) the term for which the partnership is to exist;
 - (F) the amount of cash and a description of and the agreed value of the other property contributed by each limited partner;
 - (G) the additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they are to be made;
 - (H) the time, if agreed upon, when the contribution of each limited partner is to be returned;
 - (I) the share of the profits or the other compensation by way of income which each limited partner is to receive by reason of his contributions;
 - (J) the right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution;
 - (K) the right, if given, of the partners to admit additional limited partners;
 - (L) the right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income and the nature of the priority;
 - (M) the right, if given, of the remaining general partner or partners to continue the business on the death, retirement, or insanity of a general partner; and
 - (N) the right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.

- (2) The certificate shall be acknowledged by each of the persons before some officers authorized to take acknowledgments of deeds, and shall be filed in the office of the Registrar. The Registrar shall preserve the certificate and keep a record of the same, which shall be duly indexed.

Section Notes

Sources

RPPL 11-40 § 3[§ 2022].

§ 2023. Business which may be carried on.

A limited partnership may carry on any lawful business.

Section Notes

Sources

RPPL 11-40 § 3[§ 2023], modified.

§ 2024. Character of limited partner's contribution.

The contributions of a limited partner may be cash or other property, but not services.

Section Notes

Sources

RPPL 11-40 § 3[§ 2024], modified.

§ 2025. Partnership name.

- (a) The surname of a limited partner shall not appear in the partnership name, unless:
 - (1) it is also the surname of a general partner; or
 - (2) prior to the time when the limited partner became such the business had been carried on under a name in which his surname appeared.
- (b) A limited partner whose name appears in a partnership name contrary to the foregoing provisions is liable as a general partner to partnership creditors who extend credit to the partnership without actual knowledge that he is not a general partner.

Section Notes

Sources

RPPL 11-40 § 3[§ 2025], modified.

§ 2026. Liability for false statements in certificate.

If the certificate contains a false statement, one who suffers loss by reliance on the statement may hold liable any party to the certificate who knew the statement to be false:

- (1) at the time he signed the certificate; or
- (2) subsequently, but within a sufficient time before the statement was relied upon to enable him to cancel or amend the certificate, or to file a petition for its cancellation or amendment as provided in Section 2045.

Section Notes

Sources

RPPL 11-40 § 3[§ 2026], modified.

§ 2027. Limited partner not liable to creditors.

A limited partner shall not become liable as a general partner unless, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business.

Section Notes

Sources

RPPL 11-40 § 3[§ 2027], modified.

§ 2028. Admission of additional limited partners.

After the formation of a limited partnership, additional limited partners may be admitted upon filing an amendment to the original certificate in accordance with the requirements of Section 2045.

Section Notes

Sources

RPPL 11-40 § 3[§ 2028], modified.

§ 2029. Rights, powers, and liabilities of a general partner.

A general partner shall have all the rights and powers and be subject to all the restrictions and liabilities of a partner in a partnership without limited partners, except that without the written consent or ratification of the specific act by all the limited partners, a general partner or all of the general partners have no authority to:

- (1) do any act in contravention of the certificates;
- (2) do any act which would make it impossible to carry on the ordinary business of the partnership;
- (3) confess a judgment against the partnership;
- (4) possess partnership property, or assign their rights in specific partnership property, for other than a partnership purpose;
- (5) admit a person as a general partner;
- (6) admit a person as a limited partner, unless the right to do so is given in the certificate;
- (7) continue the business with partnership property on the death, retirement, or insanity of a general partner, unless the right to do so is given in the certificate.

Section Notes

Sources

RPPL 11-40 § 3[§ 2029], modified.

§ 2030. Rights of a limited partner.

- (a) A limited partner shall have the same right as a general partner to:

- (1) have the partnership books kept at the principal place of business of the partnership, and at all times to inspect and copy any of them;
 - (2) have on demand true and full information of all things affecting the partnership, and a formal account of partnership affairs whenever circumstances render it just and reasonable; and
 - (3) have dissolution and winding up by decree of court.
- (b) A limited partner shall have the right to receive a share of the profits or other compensation by way of income, and to the return of his contribution as provided in Section 2035 and Section 2036.

Section Notes

Sources

RPPL 11-40 § 3[§ 2030], modified.

Notes

The first and last paragraphs of RPPL 11-40 §3 (§ 2030) did not have a designation. The Code Commission has designated them subsections (a) and (b) to conform to the Style of the Code.

§ 2031. Status of person erroneously believing himself a limited partner.

A person who has contributed to the capital of a business conducted by a person or partnership, erroneously believing that he has become a limited partner in a limited partnership, is not, by reason of his exercise of the rights of a limited partner, a general partner with the person or in the partnership carrying on the business, or bound by the obligations of that person or partnership; provided that on ascertaining the mistake he promptly renounces his interest in the profits of the business, or other compensation by way of income.

Section Notes

Sources

RPPL 11-40 § 3[§ 2031], modified.

§ 2032. One person both general and limited partner.

A person may be a general partner and a limited partner in the same partnership at the same time. A person who is a general, and also at the same time a limited partner shall have all the rights and powers and be subject to all the restrictions of a general partner; except that, in respect to his contributions, he shall have the rights against the other members which he would have had if he were not also a general partner.

Section Notes

Sources

RPPL 11-40 § 3[§ 2032], modified.

§ 2033. Loans and other business transactions with limited partner.

- (a) A limited partner also may loan money to and transact other business with the partnership, and, unless he is also a general partner, receive on account of resulting claims against the partnership, with general creditors, a pro rata share of the assets. No limited partner shall in respect to any such claim:

- (1) receive or hold as collateral security any partnership property; or
 - (2) receive from a general partner or the partnership any payment, conveyance, or release from liability, if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons not claiming as general or limited partners.
- (b) The receiving of collateral security, or a payment, conveyance, or release in violation of this section is a fraud on the creditors of the partnership.

Section Notes

Sources

RPPL 11-40 § 3[§ 2033], modified.

Notes

The Code Commission has designated the first sentence of RPPL 11-40 § 3 [§ 2033], as subsection (a) and the last sentence as subsection (b).

§ 2034. Relation of limited partners' inter se.

Where there are several limited partners the members may agree that one or more of the limited partners shall have a priority over other limited partners as to the return of their contributions, as to their compensation by way of income, or as to any other matter. If such an agreement is made it shall be stated in the certificate, and in the absence of the statement all the limited partners shall stand upon equal footing.

Section Notes

Sources

RPPL 11-40 § 3[§ 2034], modified.

§ 2035. Compensation of limited partner.

A limited partner may receive from the partnership the share of the profits or the compensation by way of income stipulated for in the certificate; provided that, after the payment is made, whether from the property of the partnership or that of a general partner, the partnership assets are in excess of all liabilities of the partnership except liabilities to limited partners on account of their contributions and to general partners.

Section Notes

Sources

RPPL 11-40 § 3[§ 2035], modified.

§ 2036. Withdrawal or reduction of limited partner's contribution.

- (a) A limited partner shall not receive from a general partner or out of partnership property any part of his contribution until:
- (1) all liabilities of the partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains property of the partnership sufficient to pay them;
 - (2) the consent of all members is had, unless the return of the contribution may be rightfully demanded under subsection (b); and
 - (3) the certificate is cancelled or so amended as to set forth the withdrawal or reduction.

- (b) Subject to subsection (a) a limited partner may rightfully demand the return of his contribution:
 - (1) on the dissolution of a partnership; or
 - (2) when the date specified in the certificate for its return has arrived; or
 - (3) after he has given six months' notice in writing to all other members if no time is specified in the certificate either for the return of the contribution or for the dissolution of the partnership.
- (c) In the absence of any statement in the certificate to the contrary or the consent of all members, a limited partner, irrespective of the nature of his contribution, has only the right to demand and receive cash in return for his contribution.
- (d) A limited partner may have the partnership dissolved and its affairs wound up when:
 - (1) he rightfully but unsuccessfully demands the return of his contribution; or
 - (2) the other liabilities of the partnership have not been paid or the partnership property is insufficient for their payment as required by subsection (a) and the limited partner would otherwise be entitled to the return of his contribution.

Section Notes

Sources

RPPL 11-40 § 3[§ 2036], modified.

§ 2037. Liability of limited partner to partnership.

- (a) A limited partner is liable to the partnership:
 - (1) for the difference between his contribution as actually made and that stated in the certificate as having been made; and
 - (2) for any unpaid contribution which he agreed in the certificate to make in the future at the time and on the condition stated in the certificate.
- (b) A limited partner holds as trustee for the partnership:
 - (1) specific property stated in the certificate as contributed by him, but which was not contributed or which has been wrongfully returned; and
 - (2) money or other property wrongfully paid or conveyed to him on account of his contribution.
- (c) The liabilities of a limited partner as set forth in this section can be waived or compromised only by the consent of all members; but a waiver of compromise shall not affect the right of a creditor of a partnership, who extended credit or whose claim arose after the filing and before a cancellation or amendment of the certificate, to enforce such liabilities.
- (d) When a contributor has rightfully received the return in whole or in part of the capital of his contribution, he is nevertheless liable to the partnership for any sum, not in excess of the return with interest, necessary to discharge its liabilities to all creditors who extended credit or whose claims arose before the return.

Section Notes

Sources

RPPL 11-40 § 3[§ 2037], modified.

§ 2038. Nature of limited partner's interest in partnership.

A limited partner's interest in the partnership is personal property and is assignable.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2038], modified.

§ 2039. Assignment of.

A substituted limited partner is a person admitted to all the rights of a limited partner who has died or has assigned his interest in a partnership. An assignee, who does not become a substituted limited partner, has no right to require any information or account of the partnership transactions or to inspect the partnership books; he is only entitled to receive the share of the profits or other compensation by way of income, or the return of his contribution, to which his assignor would otherwise be entitled. An assignee may become a substituted limited partner if all the members (except the assignor) consent thereto or if the assignor, being thereunto empowered by the certificate, gives the assignee that right. An assignee becomes a substituted limited partner when the certificate is appropriately amended in accordance with Section 2045. The substituted limited partner has all the rights and powers, and is subject to all the restrictions and liabilities of his assignor, except those liabilities of which he was ignorant at the time he became a limited partner and which could not be ascertained from the certificate. The substitution of the assignee as a limited partner does not release the assignor from liability to the partnership under Section 2026 and Section 2037.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2039].

§ 2040. Effect of retirement, death, or insanity of a general partner.

The retirement, death, or insanity of a general partner dissolves the partnership, unless the business is continued by the remaining general partners under a right to do so stated in the certificate, or with the consent of all members.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2040], modified.

§ 2041. Death of a limited partner.

On the death of a limited partner his executor or administrator shall have all the rights of a limited partner for the purpose of settling his estate, and such power as the deceased had to constitute his assignee a substituted limited partner. The estate of a deceased limited partner shall be liable for all his liabilities as a limited partner.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2041], modified.

§ 2042. Rights of creditors of limited partner.

- (a) On due application to a court of competent jurisdiction by any creditors of a limited partner, the court may charge the interest of the indebted limited partner with payment of the unsatisfied amount of such claim; and may appoint a receiver, and make all other orders, directions, and inquiries which the circumstances of the case may require.
- (b) The interest may be redeemed with the separate property of any general partner, but may not be redeemed with partnership property.
- (c) The remedies conferred by subsection (a) shall not be deemed exclusive of others which may exist.
- (d) Nothing in this subchapter shall be held to deprive a limited partner of his statutory exemption.

Section Notes

Sources

RPPL 11-40 § 3[§ 2042], modified.

§ 2043. Distribution of assets.

- (a) In settling accounts after dissolution the liabilities of the partnership shall be entitled to payment in the following order:
 - (1) those to creditors, in the order of priority as provided by law, except those to limited partners on account of their contributions, and to general partners;
 - (2) those to limited partners in respect to their share of the profits and other compensation by way of income on their contributions;
 - (3) those to limited partners in respect to the capital of their contributions;
 - (4) those to general partners other than for capital and profits;
 - (5) those to general partners in respect to profits;
 - (6) those to general partners in respect to capital.
- (b) Subject to any statement in the certificate or to subsequent agreement, limited partners share in the partnership assets in respect to their claims for capital and in respect to their claims for profits or for compensation by way of income on their contributions respectively in proportion to the respective amounts of their claims.

Section Notes

Sources

RPPL 11-40 § 3[§ 2043], modified.

§ 2044. When certificate shall be cancelled or amended.

The certificate shall be cancelled when the partnership is dissolved or all limited partners cease to be such. A certificate shall be amended when:

- (1) there is a change in the name of partnership or in the amount or character of the contribution of any limited partner;
- (2) a person is substituting as a limited partner;
- (3) an additional limited partner is admitted;

- (4) a person is admitted as a general partner;
- (5) a general partner retires, dies, or becomes insane, and the business is continued under Section 2040;
- (6) there is a change in the character of the business of the partnership;
- (7) there is a false or erroneous statement in the certificate;
- (8) there is a change in the time as stated in the certificate, for the dissolution of the partnership or for the return of a contribution;
- (9) a time is fixed for the dissolution of the partnership, or the return of a contribution, no time having been specified in the certificate; or
- (10) the members desire to make a change in any other statement in the certificate to represent accurately the agreement between them.

Section Notes

Sources

RPPL 11-40 § 3[§ 2044], modified.

§ 2045. Requirements for amendment and for cancellation of certificate.

- (a) The writing to amend a certificate shall:
 - (1) conform to the requirements of Section 2022 as far as necessary to set forth clearly the change in the certificate which it is desired to make; and
 - (2) be signed and acknowledged by all members.
- (b) An amendment substituting a limited partner, or adding a limited or general partner, shall be signed and acknowledged also by the member to be substituted or added, and when a limited partner is to be substituted, the amendment shall also be signed and acknowledged by the assigning limited partner.
- (c) The writing to cancel a certificate shall be signed and acknowledged by all members.
- (d) A person desiring the cancellation or amendment of a certificate, if any person designated above as a person who must execute the writing refuses to do so, may bring a suit in equity in the Trial Division of the Palau Supreme Court for an order directing the cancellation or amendment thereof.
- (e) If the court finds that the petitioner has a right to have the writing executed by a person who refuses to do so it shall order the Registrar to record the cancellation or amendment of the certificate; and where the certificate is to be amended, the court shall also cause to be filed in the office of the Registrar a certified copy of its decree setting forth the amendment.
- (f) A certificate is amended or cancelled when there is filed in the office of the Registrar:
 - (1) a writing in accordance with subsection (a) or (b); or
 - (2) a certified copy of the order of court in accordance with subsection (e).
- (g) After the certificate is duly amended in accordance with this section, the amended certificate shall thereafter be for all purposes the certificate provided for by this part.

Section Notes

Sources

RPPL 11-40 § 3[§ 2045], modified.

Notes

The Code Commission has designated the undesignated text following subsection (a)(3) as subsection (b) and redesignated the remaining subsections accordingly.

§ 2046. Parties to actions.

A contributor, unless he is a general partner, is not a proper party to proceedings by or against a partnership, except where the object is to enforce a limited partner's right against or liability to the partnership.

Section Notes

Sources

RPPL 11-40 § 3[§ 2046], modified.

§ 2047. Rules of construction.

The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this part.

Section Notes

Sources

RPPL 11-40 § 3[§ 2047], modified.

§ 2048. Rules for cases not provided for.

In any case not provided for in this subchapter the rules of law and equity, including the law merchant, shall govern.

Section Notes

Sources

RPPL 11-40 § 3[§ 2048], modified.

Chapter 21 — Credit Unions

Subchapter 1 — General Provisions

§ 2101. Definitions.

As used in this chapter, unless the context otherwise requires, the term:

- (1) “Registrar” means the Registrar of Corporations.
- (2) “charter” means an order of the President granting a corporation [the] right to conduct business as a credit union in the Republic of Palau, together with articles and bylaws which comply with the requirements of law.
- (3) “President” means the President of the Republic of Palau.
- (4) “credit union” means a cooperative, nonprofit association, incorporated in accordance with the provisions of Title 12 of the Palau National Code for the purpose of encouraging thrift among its members and of creating a source of credit at a fair and reasonable rate of interest. A credit union is authorized to issue share[s] of stock to its members and perform certain other services for them, in accordance with its charter and the laws of the Republic.
- (5) “insolvent” means inability of a credit union to pay its debts as they become due in the usual course of its business.
- (6) “surplus” as of a given date shall mean the balance of the undivided earnings account on such a date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom, as the case may be. Reserves shall not be considered as a part of surplus. The purpose of this definition is solely for determining the maximum amount a credit union may lend to another credit union or cooperative, to any member, or borrow from any source.
- (7) “paid in and unimpaired income” as of a given date shall mean the balance of the shares account as of such date, less any losses that may have incurred for which there is no reserve or which have not been charged against undivided earnings.
- (8) “net earnings” for a given period shall mean the balance remaining after deducting from the gross income of a credit union actually received during such period all expenses paid or payable during such period, and any losses sustained therein (as determined by the board of directors) for which specific reserve has been set. Amounts set aside during such period as a reserve shall not be deemed items of expense.

Section Notes

Sources

RPPL 11-40 § 3[§ 2101], modified.

Notes

The Code Commission has inserted “the” in paragraph (2) for grammar.

Subchapter 2 — Formation Of Credit Unions

§ 2121. Incorporation; shares subordinate to other obligations.

Twenty-five or more citizens of the Republic may, pursuant to these provisions, establish a corporation for the purpose of accumulating and investing the savings of its members, making loans to members for provident purposes and conducting a credit union as herein provided. Every corporation organized under this subchapter shall include in the corporate name the words “credit union” as well as some other distinguishing word or words. Credit unions hereafter incorporated pursuant to this chapter, and credit unions heretofore incorporated shall hereafter be subject to the provisions of this chapter except as otherwise herein provided. The shares of members shall be debt obligations of a credit union subordinate to all other obligations of the credit union.

Section Notes

Sources

RPPL 11-40 § 3[§ 2121], modified.

§ 2122. Approval of articles of incorporation and bylaws and other prerequisites to commencing business.

The incorporators shall adopt a set of articles of incorporation and bylaws in conformance with this chapter, and shall file a copy of the same with the Registrar. When the articles and bylaws are approved by the President, and all requirements of law as to organization are complied with, the President may thereupon issue a charter authorizing the credit union to commence business; provided, however, that the President shall not issue a charter to do business to a credit union when he has reason to believe that the corporation is formed for any other than legitimate credit union business, or that the moral fitness, financial responsibility, or business qualifications of the persons named as officers and directors are not such as to command the confidence of the community in which the credit union proposes to operate.

Section Notes

Sources

RPPL 11-40 § 3[§ 2122], modified.

§ 2123. Contents of articles.

An association of persons seeking a charter as a credit union shall submit for the approval of the President articles of incorporation which shall provide at least the following information:

- (1) proposed name of the credit union;
- (2) location of office or place of business;
- (3) proposed duration;
- (4) purposes;
- (5) powers;
- (6) names of Incorporators;
- (7) number of directors which shall be not less than five (5), and proposed officers;
- (8) names of directors and officers to serve until first election;

- (9) provisions for voting by members;
- (10) provisions for shareholding;
- (11) disposition of financial surpluses;
- (12) provisions for dissolution;
- (13) provisions for amendment of articles or incorporation;
- (14) provisions for blanket surety bond to cover officers, committee members, and employees.

Section Notes

Sources

RPPL 11-40 § 3[§ 2123], modified.

§ 2124. Contents of bylaws.

The bylaws of every credit union shall specify:

- (1) the date of the annual meeting which shall be in January, February, or March of each calendar year, and the requirements as to notice of all meetings of members.
- (2) the number of directors which shall be odd in number and not be less than five nor more than fifteen, the powers and duties of the directors, duties of all officers and maximum compensation of the treasurer;
- (3) the conditions and qualifications for membership, which shall limit the membership to persons having specified common bond of interest, members of their families, associations of such persons, other credit unions and employees of the credit union;
- (4) the member or members of the credit committee and of the audit committee, with their respective powers and duties;
- (5) the conditions upon which shares may be issued, transferred to another member, or withdrawn;
- (6) the charges, if any, to be made for failure to meet obligations punctually;
- (7) the limit to which the credit union may borrow;
- (8) the conditions upon which loans may be made and repaid;
- (9) the method of receipting for money paid in on account of shares or loans;
- (10) the manner of effecting the forfeiture of a member's shares when a balance of less than five dollars has been maintained therein for a period of two years.

Section Notes

Sources

RPPL 11-40 § 3[§ 2124], modified.

§ 2125. Payment for shares; transfer; lien.

Shares shall be paid for in U.S. currency. Shares shall not be transferable except to the account of another member. The credit union shall have a lien on the shares of a member and upon any dividends payable thereon up to the amount of all debts and obligations owed by him to it.

Section Notes

Sources

RPPL 11-40 § 3[§ 2125], modified.

§ 2126. General powers of credit unions.

- (a) to make contracts;
- (b) to sue and be used;
- (c) to adopt and use a common seal and alter the same at pleasure;
- (d) to purchase, hold and dispose of property necessary or incidental to its operations;
- (e) go make loans with maturities not exceeding 3 years to its members for provident productive purposes upon such terms and conditions as the credit committee or a loan officer may approve. No loans shall be made to a director or member of the credit or audit committee except as provided herein below:
 - (1) the loan must comply with all lawful requirements with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;
 - (2) the loan is approved by the credit committee and by the board of directors; and
 - (3) the borrower takes no part in consideration of his application and does not attend any committee or board meeting while his application is under consideration.
- (f) to receive from its members payments on shares and deposits;
- (g) to invest its funds, as provided in Section 2136;
- (h) to make deposits in banks;
- (i) to borrow, from any source, in an aggregate amount not exceeding 50 percent of its paid in and unimpaired capital and surplus;
- (j) to levy fines in accordance with the bylaws, for failure of members to meet promptly their obligations to the credit union;
- (k) to levy against the shares and dividends, or deposits, of any member to the extent of any loans made to him or any other obligations to the credit union;
- (l) to annually, and after the provisions for required reserves, declare a dividend to be paid from the remaining net earnings;
- (m) to fix the interest rate to be paid on members deposits;
- (n) to pay an interest refund to members of record at the close of business December 31 in proportion to the interest paid by them during that year;
- (o) to make loans exclusively to members in an amount not exceeding \$200 or 10% of the credit **union's** paid in and unimpaired capital and surplus, whichever is greater. All loans in excess of \$100 shall be adequately secured. The assignment of a member's shares and deposits, or the endorsement of his note, shall be deemed security.
- (p) to expel any member by a two-thirds vote of the members of the credit union present at a General Meeting called for the purpose but only after an opportunity has been given him to be

heard. Withdrawal or, expulsion of a member shall not operate to relieve him from liability to the credit union;

- (q) to issue shares in the name of a minor subject to such conditions as may be prescribed by the bylaws;
- (r) to join in other organizations composed of credit unions;
- (s) to undertake such other activities relating to the purposes of the credit union as its charter or bylaws may authorized, not inconsistent with the provisions of this chapter.

Section Notes

Sources

RPPL 11-40 § 3[§ 2126], modified.

§ 2127. Credit union members; shares.

Credit union membership shall consist of the incorporators and such other persons and unincorporated organizations to the extent permitted by this chapter and rules and regulations approved by the President, as may be elected to membership and such shall each subscribe to at least one share of its stock and pay the initial installment thereon and the entrance fee. Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is [a] qualified member. Every officer, director, and committee member must be a member of the credit union.

Section Notes

Sources

RPPL 11-40 § 3[§ 2127], modified.

Notes

The Code Commission added the bracketed “[a]” for clarity.

§ 2128. Supervision by Registrar of Corporations.

The credit union shall be under the supervision of the Registrar of Corporations, and shall make financial reports to him as and when he may require, but at least annually. All books and records shall be kept, and reports shall be made as required on forms acceptable to the Registrar.

Section Notes

Sources

RPPL 11-40 § 3[§ 2128].

§ 2129. Reserve funds.

All entrance fees and fines provided by the bylaws and 20 percent of the net earnings each year, before the declaration of any dividends, shall be set aside as a regular reserve against losses on bad loans and any other losses until it equals 10% of member’s shareholdings. In addition to such regular reserve, special reserves to protect the interest of members shall be established when required:

- (1) by regulation; or

- (2) by the Attorney General; or
- (3) when authorized by the board of directors.

Section Notes

Sources

RPPL 11-40 § 3[§ 2129], modified.

Subchapter 3 — Substantive Provisions

§ 2131. Suspension or revocation of charter.

The terms of the credit union's existence shall be perpetual; provided, however, that for cause or upon the finding by the President that a credit union is insolvent, or has violated any provisions of law, rules and regulations applicable to credit unions in the Republic, its articles, or its bylaws including any amendments thereto, the President may suspend the operations of the credit union until the insolvency or violations have been corrected, or if not corrected, the articles of incorporation and charter of the credit union may be revoked pursuant to the dissolution provisions for corporations under this Title or regulations promulgated thereunder, thereby terminating the operations of the credit union.

Section Notes

Sources

RPPL 11-40 § 3[§ 2131], modified.

§ 2132. Board of directors; committees.

The business affairs of each credit union shall be managed by a board of directors of not less than 5 directors; and a credit committee of not less than 3 members; and by an audit committee of 3 members, to be appointed by the board, one of whom may be a director other than the treasurer. Any vacancy in the audit committee shall be filled in the same manner as original appointments to such committee. All members of the board and of the committee shall hold office for such terms, respectively, as the bylaws may provide. A record of the names and addresses of the members of the board and such committees and of the officers of the credit union shall be filed with the Registrar within 10 days after their election or appointment. No member of the board or of either committee shall as such, be compensated, except that the Treasurer may be compensated to the extent authorized by the board of directors.

Section Notes

Sources

RPPL 11-40 § 3[§ 2132], modified.

§ 2133. Meeting regular, special and voting.

The general membership meeting shall be held during the months of January, February, or March following the closing of the fiscal year at a place designated by the board of directors. Special meetings may be held in a manner indicated in the bylaws and also may be called at any time by the president and must be called by him when so directed by a resolution of the board of directors or by a written request signed by 15 members or 25% of the total numbers of members of the associations, provided that the resolution or request specifies the purpose of the special meeting, in which case it shall be the duty of the secretary to call such meeting to take place within thirty days after such demand. Special general meetings may also be called by the Registrar, the President, or a person authorized by either the Registrar or the President, in such manner and at such time and place as he may direct. He may also direct what matters shall be discussed at the meeting. A meeting called by the Registrar or the President shall have all the powers of a general meeting called according to the articles and bylaws. No member shall be entitled to vote by proxy,

but a member other than a natural person may vote through an agent designated for the purpose. Irrespective of the number of shares held by him, no member shall have more than one vote.

Section Notes

Sources

RPPL 11-40 § 3[§ 2133], modified.

§ 2134. Election of officers; powers and duties of directors.

- (a) At their first meeting following the annual meeting, the board of directors shall elect from their number a president, vice president, secretary, and a treasurer. The offices of secretary and treasurer may, if the bylaws so provided, be held by one person. No one person may hold the offices of president and secretary at the same time. The board of directors shall have the general management of the affairs, funds and records of the credit union, shall meet as often as may be necessary, and it shall be the duty of the directors:
- (1) to act upon application for membership and upon the expulsion of a member;
 - (2) to fix the amount of the blanket surety bond which shall be required of each official, committee member or employee of the credit union, and the amount thereof to be approved by the Attorney General.
 - (3) to determine, from time to time, the rate of interest, which shall be charged on loans, not to exceed 1% per month on unpaid balances, and to prescribe the conditions under which interest payments on members' deposits may be made;
 - (4) to fix the maximum amount of shares which may be held by, and maximum amount which may be held lent to, any one member;
 - (5) to declare dividends;
 - (6) to determine the rate of dividends to be paid on shares;
 - (7) to fill vacancies on the board of directors or on the credit committee until the election and qualifications of successors;
 - (8) to have charge of the investment of the funds of the corporation;
 - (9) to perform such other duties as the members may from time to time authorize.
- (b) The board of directors and management shall not, in any fiscal year, incur any expenditures in excess of that provided for in the budget, or estimates of expenditures for that year approved by the credit union in a general meeting, unless such additional expenditure is specially approved by the credit union membership in a general or special meeting.

Section Notes

Sources

RPPL 11-40 § 3[§ 2134], modified.

Notes

Division 3 largely consists of text copied from the 1996 Corporation Regulations into statute. In RPPL 11-40 § 3[§ 2134], paragraph (4) is followed by “[sic], indicating a typo. The Code Commission has removed both the typo and the [sic] referencing the typo.

§ 2135. Method of calculation of payment of dividends.

- (a) Month end balances, that is, the balance in the share account at the end of each month, shall be totaled from December 1 through November 30. This total will be multiplied by the factor of the rate of dividend to be paid. The figure thus arrived at will be the total cash amount of the dividend of the year. All dividends shall be credited to the share account. Should the member wish to withdraw his dividend a regular share withdrawal will be made.

Rate of Dividend	Factor
2%	.00166
2.4%	.002
3%	.0025
3.6%	.003
4%	.0033
4.8%	.004
5%	.00417
5.4%	.0045
6%	.005

- (b) Factors may be calculated by dividing the rate of dividend by 12.

Section Notes

Sources

RPPL 11-40 § 3[§ 2135], modified.

Notes

The Code Commission has designated the first part of RPPL 11-40 § 3 [§ 2135] as subsection (a) and the last sentence as subsection (b).

§ 2136. Investment of funds.

The funds of a credit union may be invested in the following way only:

- (1) lent to members of the credit union;
- (2) lent to other credit unions and cooperatives doing business in the Republic in the total amount not exceeding 25 percent of its paid in and unpaired capital and surplus;
- (3) deposited in banks doing business in the Republic;
- (4) invested in the obligations of the Republic or securities fully guaranteed as to principal and interest;
- (5) any other manner authorized by the Attorney General.

Section Notes

Sources

RPPL 11-40 § 3[§ 2136], modified.

§ 2137. Loans generally.

Loans to individuals in excess of one hundred dollars must be secured by assignment of shares or other collateral. If the borrowers or endorser is a member of the credit committee the loan must be approved by the board of creditors instead of by the credit committee. A borrower may repay the whole or any part, of his loan at any time without fine or penalty. No loan shall be made to an individual who is not a member of the credit union. If the credit committee should knowingly approve such a loan its members shall be jointly and severally liable to the credit union for the immediate repayment thereof.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2137], modified.

§ 2138. Reserve fund.

At the close of each dividend period, there shall be transferred to the reserve fund 20 percent of the net earnings received by the credit union during the period until the reserve fund is equal to ten percent of the members shareholdings of the credit union. Upon recommendation of the board of directors, the members, at an annual meeting, may increase the proportion of net earnings to be transferred to the reserve fund. Losses may be charged to the reserve fund. Any sums recovered on items previously charged to it shall be credited to the reserve fund. No dividends shall be paid out of the reserve fund unless the fund, after such payment, exceeds ten percent of the total members' shareholdings of the credit union.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2138], modified.

§ 2139. Special reserve for delinquent loans.

- (a) The reserve fund shall be supplemented by a special reserve to be known as the Special Reserve for Delinquent Loans, which shall be equal to the excess of the sum of ten percent of the unpaid balances of loans delinquent more than two months and less than six months, plus twenty five percent of the unpaid balances of loans delinquent from six months to less than twelve months, and plus eighty percent of the unpaid balances of loans delinquent twelve months or more over the balance in the reserve fund. In the event it is necessary to supplement the Regular Reserve by a Special Reserve for Delinquent Loans, the transfer to the Special Reserve for Delinquent Loans shall be made as of December 31 of each year, and as of June 30 of each year if dividends are to be paid semiannually, from undivided earnings before any distribution of dividends. The maintenance of a Special Reserve for Delinquent Loans shall not eliminate the necessity for transferring net earnings as of the end of each dividend period to the Regular Reserve as required by Section 2138. In the event the required transfer exceeds the balance of undivided earnings, only the balance of undivided earnings shall be transferred to the Special Reserve for Delinquent Loans.
- (b) When as of the end of any dividend period, the amount in the Special Reserve for Delinquent Loans exceeds the amount required by this section, the board of directors of the credit union may authorize the transfer of the excess to undivided earnings.

- (c) Upon written application by the board of directors of a credit union, the Attorney General may waive in whole or in part, the requirement for the maintenance of the Special Reserve for Delinquent Loans contained in subsection (a) of this section. Such applications shall be addressed to the Attorney General.

Section Notes

Sources

RPPL 11-40 § 3[§ 2138], modified.

Notes

RPPL 11-40 § 3 designated two sections as § 2138. The Code Commission has redesignated the second § 2138 as § 2139.

§ 2140. Dividends: ascertaining value of assets.

During the months of December or January, after provisions for the required reserves the board of directors may declare a dividend on shares not in excess of 6% of average low monthly balance of shares. No dividend shall be paid, if, after the payment thereof, the liabilities of the credit union would exceed its assets. In ascertaining the value of the assets of the credit unions, a loan delinquent for more than two but less than six months shall be valued at ninety percent of the unpaid balances; a loan delinquent for more than six but less than twelve months shall be valued at seventy five percent of the unpaid balance; and a loan delinquent for twelve months or more shall be treated as of no value.

Section Notes

Sources

RPPL 11-40 § 3[§ 2139], modified.

Notes

RPPL 11-40 § 3 designated two sections as § 2138, which was remedied by the Code Commission. The Code Commission has therefore redesignated § 2139 as § 2140 accordingly.

Subchapter 4 — Dissolution

§ 2141. Voluntary dissolution by consent of members.

A credit union may be voluntarily dissolved by the written consent of all its members. Upon the execution of such written consent, a statement of intent to dissolve shall be executed by its board of directors, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) the name of the credit union;
- (2) the names and addresses of its board of directors;
- (3) a statement that such written consent has been signed by all members of the credit union.

Section Notes

Sources

RPPL 11-40 § 3[§ 2141], modified.

§ 2142. Voluntary dissolution by act of the credit union.

A credit union may be dissolved by the act of the credit union when authorized in the following manner:

- (1) The board of directors shall adopt a resolution amending that the credit union be dissolved and directing the question of such dissolution be submitted to a vote at a meeting of the members.
- (2) Written notice shall be given to each member of record at least 14 days before such meeting and shall state that the purpose or one of the purposes of such meeting is to consider the advisability of dissolving the credit union.
- (3) At such meeting, a vote of the members shall be taken on a resolution to dissolve the credit union. Each member shall have one vote, regardless of the number of shares he may have. Such resolution shall be adopted upon receiving the affirmative vote of a majority of the members of the credit union.
- (4) Upon the adoption of such resolution, a statement of intent to dissolve shall be executed by its board of directors, and verified by the oath of one of the officers signing such statement, which statement shall set forth:
 - (A) The name of the credit union.
 - (B) The names and addresses of its board of directors.
 - (C) The names and addresses of its officers.
 - (D) A copy of the resolution adopted by the members authorizing the dissolution of the credit union.
 - (E) The number of members.
 - (F) The number of share outstanding.
 - (G) The number of members voting for and against the resolution respectively.

- (5) The statement of intent to dissolve, whether by consent of members or by act of the credit union, shall be delivered to the Registrar. If the Registrar finds such statement complies with the requirements of law, he shall file the statement in his office. Upon the filing by the Registrar of a statement of intent to dissolve, whether by consent of the member or by act of the credit union, the credit union shall cease to carry on its business, except insofar as may be necessary for the winding up thereof, but such filing shall not of itself operate as a dissolution and its credit union existence shall continue until a Decree of Dissolution has been issued by the Registrar and a Revocation of Charter has been issued by the President.
- (6) After the issuance of the Decree of Dissolution and Revocation of Charter:
 - (A) The credit union shall immediately cause notice thereof to be mailed to each known creditor of the credit union.
 - (B) The credit union shall proceed to collect its assets, sell, convey and dispose of such of its properties as are not to be distributed in kind to its members, 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 members according to their respective rights and interests.

Section Notes

Sources

RPPL 11-40 § 3[§ 2142], modified.

§ 2143. Revocation of voluntary dissolution.

A credit union may, at any time prior to the issuance of a Decree of Dissolution and Revocation of Charter, revoke voluntary dissolution proceedings theretofore taken in the same manner it used to start the proceedings and so notify the Registrar by delivering to him a statement of revocation of voluntary dissolution. The President may issue a Certificate of Reinstatement and the dissolution proceedings shall be revoked and the credit union may again carry on its business.

Section Notes

Sources

RPPL 11-40 § 3[§ 2143], modified.

§ 2144. Articles of dissolution.

- (a) If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the credit union have been paid and discharged, or adequate provisions has been made therefor, and all the remaining property and assets of the credit union have been distributed to its members, articles of dissolution shall be executed by the credit union's board of directors, and verified by the oath of one of the officers signing such statement. The statement shall set forth:
 - (1) The name of the credit union.
 - (2) That the Registrar has heretofore filed a statement of intent to dissolve the credit union, and the date on which the statement was filed.

- (3) That all debts, taxes, obligations and liabilities of the credit union have been paid and discharged or that adequate provisions have been made thereafter.
 - (4) That all the remaining property and assets of the credit union have been distributed among its members in accordance with their respective rights and interests.
 - (5) That there are no suits pending against the credit union in any court, or that adequate provision has been made for the satisfaction of any judgement, order or decree which may be entered against it in any pending suit.
- (b) Upon the President's determination that all the requirements of law have been complied with, the President shall issue a Decree of Dissolution and Revocation of Charter and the corporation shall cease to exist.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2144], modified.

§ 2145. Involuntary dissolution.

A credit union may be dissolved involuntarily by order of the President when he finds that the corporation has continued to exceed or abuse the authority conferred upon it by law. Any such action taken by the President shall comply with the dissolution provisions as set forth in any law or regulation related to the dissolution and revocation of corporate charters.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2145], modified.

§ 2146. Automatic dissolution.

If any credit union shall fail on two successive annual dates to file the annual report required by this chapter, the Registrar shall mail notice to it of impending dissolution as provided in any law or regulation related to the dissolution and revocation of corporate charters. Whether or not such notice be mailed, if the credit union fails within ninety days after the second such annual date to file the annual report such credit union shall be thereupon automatically dissolved and its properties and affairs shall pass automatically to its directors as trustees in dissolution.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2146], modified.

§ 2147. Reinstatement.

A credit union that has been dissolved pursuant to Section 2146 may apply to the Registrar for reinstatement within five years thereafter and the Registrar shall enter an order reinstating the corporate existence upon receiving an annual report. Upon the entry by the Registrar of an order of reinstatement, the credit union existence shall be deemed to have continued from the date of dissolution.

Section Notes

Sources

RPPL 11-40 § 3[§ 2147], modified.

Notes

The Code commission has corrected the cross-reference from “paragraph 4.6” to “Section 2146”.

§ 2148. During dissolution.

- (a) During dissolution the board of directors shall be responsible for conserving the assets, for expediting the dissolution and for equitable [distribution of] the assets to members. The board may appoint a liquidating agent and delegate part of all these responsibilities to him and may authorize reasonable compensation for his services. The board shall also appoint a custodian for the association’s records that are to be retained for five years after the President has revoked the credit union’s articles of incorporation.
- (b) After the credit union has gone into dissolution, its resources shall be used to make payments in the following order:
 - (1) expenses incurred during dissolution;
 - (2) payment of creditors;
 - (3) refund of members’ deposits and interest due thereon, if any;
 - (4) thereafter, when all assets of the credit union have been converted to cash or found to be worthless and all loans and debts owing to it have been collected or found to be uncollectible, and all obligations of the credit union have been paid with the exception of [the] amount due its members on shares the books shall be closed and a pro rata distribution made to the members; provided, however, that upon application to the Attorney General, and approval by him, a partial distribution can be made to a shareowner prior to completion of the dissolution if the credit union’s financial condition permits and the rights of the creditors are not impaired thereby.
- (c) Any plan for dissolution, and the appointment of a liquidating agent must have the prior approval of the President. When deemed advisable or necessary, the President shall appoint the liquidating agent.
- (d) The liability of each member for the debts and obligations of the credit union shall be limited to the extent of his shares in the credit union.

Section Notes

Sources

RPPL 11-40 § 3[§ 2148], modified.

Notes

In subsection (a), the Code Commission has fixed the typo “disturbing” to be “distribution of”. In subsection (b)(4), the Code Commission has added the bracketed “[the]” for clarity.

Subchapter 5 — Amendments

§ 2151. Right to amend articles of incorporation or bylaws.

A credit union may amend its articles of incorporation or bylaws from time to time in any and as many respects as may be desired provided that the amendment may contain only such provisions as might be lawfully contained in the original articles of incorporation or bylaws at the time of making such amendment.

Section Notes

Sources

RPPL 11-40 § 3[§ 2151], modified.

§ 2152. Procedure to amend articles of incorporation or bylaws.

Amendments to the articles of incorporation or bylaws shall be made in the following manner.

- (1) The board of directors shall adopt a resolution setting forth the proposed amendment finding that it is in the best interest of the credit union and directing that it be submitted to the vote at a meeting of the members, which may be either an annual or a special meeting.
- (2) Written notice accompanied by a copy of the proposed amendments shall be given to each member of record at least seven (7) days before the meeting is held.
- (3) At such meeting a vote of the members shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the members of record. The articles of incorporation may require a greater vote than herein prescribed, either for all amendments or for particular amendments, and any such requirement can itself be changed only by the vote so prescribed. Any number of amendments may be submitted to the members, and voted upon by them at one meeting.

Section Notes

Sources

RPPL 11-40 § 3[§ 2152], modified.

Notes

In RPPL 11-40 § 3[§ 2152], this section has two headings, one of which is identical to the heading for RPPL 11-40 § 3[§ 2151]. The Code Commission has determined this to be a likely error and corrected the heading accordingly.

§ 2153. Articles of amendment.

The articles of amendment shall be executed by the credit union by its president and vice president and by its secretary or assistant secretary verified by the oath of one of the officers signing such articles and shall set forth:

- (1) The name of the credit union.
- (2) The amendment so adopted.
- (3) The date of the meeting of the board of directors at which the amendment was found in the best interest of the credit union and directed to be submitted to a vote at a meeting

of the members; the date when notice was given to each member; the fact that such notice was given in the manner provided in this chapter and was accompanied by a copy of the proposed amendment; and the date of the adoption of the amendment by the members.

- (4) The number of shares outstanding, and the number of members.
- (5) The number of members voting for and against such amendment.

Section Notes

Sources

RPPL 11-40 § 3[§ 2153], modified.

§ 2154. Approval of amendment.

The article of amendment shall be delivered to the President. If the President finds that the articles comply with the requirements of law, he shall approve the amendment in writing.

Section Notes

Sources

RPPL 11-40 § 3[§ 2154], modified.

§ 2155. Effect of approval of amendment.

Upon approval of the amendment by the President, the amendment shall become effective and the articles of incorporation or bylaws shall be deemed accordingly. No amendment shall effect any existing cause of action in favor of or against such credit union, or any pending suit to which such credit union shall be a party, or the existing rights of persons other than the members.

Section Notes

Sources

RPPL 11-40 § 3[§ 2155], modified.

Subchapter 6 — Miscellaneous

§ 2161. Books and records auditing.

Each credit union shall keep correct and complete books and records of accounts and shall keep minutes of the proceedings of its members and board of directors; and shall keep at its registered office its books and records of account, or a duplicate copy thereof and a record of its members giving the names and addresses of all members and the number of shares held by each. These books and records shall be audited at the end of each fiscal year by a qualified accountant or bookkeeper, who shall not be an officer or director or employee. Where the total loan balance amounts to less than \$10,000, at the end of the fiscal year the audit may be performed by an auditing committee of three, who shall not be directors, officers, or employees. A written report of the audit, including a statement of the amount of business transacted with members, the balance sheet, and the income and expenses, shall be submitted to the annual meeting of the credit union with a copy to the Registrar. The fiscal year of every credit union shall end at the close of business on the thirty-first day of December; an exception to this provision will be granted only on a year-to-year basis provided such request is made of the Attorney General in writing at least 90 days prior to the intended close of any fiscal year.

Section Notes

Sources

RPPL 11-40 § 3[§ 2161], modified.

§ 2162. Bonding of officers and employees.

Every individual acting as officers or employee or a credit union, and handling funds or securities amounting to \$1,000 or more, in any one year, shall be covered by an adequate bond as determined by the board of directors, and at the expense of the association.

Section Notes

Sources

RPPL 11-40 § 3[§ 2162], modified.

§ 2163. Annual report.

Each credit union shall file with the Registrar of Corporations and the President within the time prescribed by this chapter, an annual report setting forth:

- (1) name of the credit union;
- (2) names and post office address of the directors and principal officers of the credit union;
- (3) a statement of the aggregate number of issued shares;
- (4) a profit and loss statement, and a balance sheet;
- (5) such other information as the President deems necessary.

Section Notes

Sources

RPPL 11-40 § 3[§ 2163], modified.

§ 2164. Inconsistent articles of incorporation or bylaws.

Any articles of incorporation or bylaws that are inconsistent with this chapter are hereby superseded.

Section Notes

Sources

RPPL 11-40 § 3[§ 2164], modified.

§ 2165. Violations enjoined.

Pursuant to the provisions of [Chapter 1 of Title 12] of the Palau National Code, all violations of this chapter are hereby declared to be enjoined.

Section Notes

Sources

RPPL 11-40 § 3[§ 2165], modified.

Notes

RPPL 11-40 § 3 cross-references “Title 12 Section 1 of the Palau National Code”, which does not exist. The Code Commission reasonably infers, based on the underlying regulations that were codified into Chapter 12, that this reference is to “Chapter 1 of Title 12 of the Palau National Code”.

Chapter 22 — Cooperatives

Subchapter 1 — General Provisions

§ 2201. Definitions.

In this chapter unless the subject matter requires otherwise:

- (1) “Registrar” means the Registrar of Corporations.
- (2) “association” means a group enterprise legally incorporated under this chapter, and shall be deemed to be a nonprofit corporation.
- (3) “member” means not only a member in a nonshare association, but also a member in a share association.
- (4) “net earnings” means the total income of an association minus the costs of operation.
- (5) “earnings returns” means the amount returned to the patrons; in proportion of their patronage or otherwise in accordance with the provisions of Section 2271.
- (6) “cooperative basis” means:
 - (A) that each member has one vote and only one vote, except as may be allowed by the articles or bylaws to provide for voting by member associations or other entities;
 - (B) that the maximum rate at which any return is paid on share capital is limited to not more than six percent per annum;
 - (C) that net earnings after payment, if any, of said limited return on share capital and after making provisions for such separate funds as may be required or specifically permitted by statute, articles, or bylaws, be allowed or distributed, where an association has as its principal function trading or dealing in goods or produce of any kind, to members, or patrons eligible for and desiring membership, in proportion to their patronage during the fiscal period in question; or where an association has as its principal function the, production of goods or produce, be distributed to members in proportion to their wages or to the value of the products of each member; or may retained by the enterprise for the actual or potential expansion or improvement of its services, or the reduction of charges to its members, or for any other purpose not inconsistent with its nonprofit cooperative character;
 - (D) cooperatives other than credit unions for the purposes of this chapter only, as credit unions are dealt with elsewhere in statute.
- (7) “President” means the President of the Republic of Palau.

Section Notes

Sources

RPPL 11-40 § 3[§ 2201], modified.

Notes

The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Subchapter 2 — Formation of Cooperative Associations

§ 2221. Who may incorporate.

Any ten or more natural persons or entities in the Republic of Palau may incorporate under this chapter. An association may be incorporated under this chapter which has as its object the promotion of the economic interests of its members on a cooperative basis.

Section Notes

Sources

RPPL 11-40 § 3[§ 2221], modified.

§ 2222. Powers of association.

An association shall have the capacity to act possessed by natural persons and the authority to do anything required or permitted by this chapter and also:

- (1) to continue as a corporation for the time specified in its articles;
- (2) to have a corporate seal and to alter the same at pleasure;
- (3) to sue and be sued in its corporate name;
- (4) to make bylaws for the government and regulation of its affairs;
- (5) to acquire, own, hold, sell, lease, pledge, mortgage, or otherwise dispose of any property incident to its purposes and activities;
- (6) to own and hold membership in and share capital of any other association or any other corporation or any other entity with the approval in writing of the Registrar, or to hold any types of bonds or other obligations approved by the Registrar; and while the owner thereof to exercise all the rights of ownership;
- (7) to borrow money, contract debts, and make contracts, including agreements of mutual aid or federation with other associations; all such transactions involving the borrowing of money or the contraction of debts to be subject to the approval in writing of the President;
- (8) to exercise in addition any power granted to ordinary business corporations, save those powers inconsistent with this chapter;
- (9) to exercise all powers not inconsistent with this chapter, which may be necessary, convenient, or expedient for the accomplishment of its nonprofit purposes on a cooperative basis, and to that end, the foregoing enumeration of powers shall not be deemed exclusive.

Section Notes

Sources

RPPL 11-40 § 3[§ 2222], modified.

Notes

The Code Commission has redesignated the text designated as (i) to paragraph (9).

§ 2223. Articles of incorporation contents.

- (a) Articles of incorporation shall be signed by each of the incorporators and acknowledged by at least three of them if natural persons, and by the presidents and secretaries if associations, before an officer authorized to take acknowledgments. Within limitations of this chapter, the articles shall contain:
- (1) a statement as to the purposes for which the association is formed;
 - (2) the name of the association which shall include the word “cooperative”;
 - (3) the term of existence of the association which may be perpetual;
 - (4) the location and address of the principal office of the association;
 - (5) the names and addresses of the incorporators of the association;
 - (6) the names and addresses of the directors who shall manage the affairs of the association for the first year, unless sooner changed by the members;
 - (7) a statement of whether the association is organized with or without shares, and the numbers of shares or memberships subscribed for;
 - (8) if organized with shares, a statement of the amount of authorized capital, the number and types of shares and the par value thereof which may be placed at any figure, and the rights, preferences, and restrictions or each type of share;
 - (9) the minimum or value of shares which must be owned in order to qualify for membership; if organized without shares, a statement of whether the property rights of members shall be equal or unequal, and if unequal the rule by which their rights shall be determined;
 - (10) the maximum amount or percentage of capital which may be owned or controlled by any member; including a statement of whether or not each member shall be limited to a single share, and whether such single shares shall be of various par values;
 - (11) the method by which any surplus, upon dissolution of association, shall be distributed in conformity with the requirements of Subchapter 6 for division of such surplus.
- (b) The articles may also contain any other provisions not inconsistent with law or with this chapter, for the control of the association’s affairs.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2223], modified.

§ 2224. Contents of bylaws.

The bylaws may, within the limitations of this chapter provide for:

- (1) the method and terms of admission to membership and the disposal of members’ interests on cessation of membership for any reason;
- (2) the time, place, and manner of calling and conducting meetings;
- (3) the number or percentage of the members constituting a quorum;
- (4) the number, qualifications, powers, duties, term of office, and manner, time and vote for election of directors and officers; and the division or classification, if any, of directors to provide for rotating or overlapping terms;

- (5) compensation, if any, of the directors and the number of directors necessary to constitute a quorum;
- (6) the method of distributing the net earnings;
- (7) the various discretionary provisions of this chapter as well as other provisions incident to the purposes and activities of the association.

Section Notes

Sources

RPPL 11-40 § 3[§ 2224], modified.

§ 2225. Filing of articles and bylaws effect of charter.

The articles and bylaws shall be delivered to the Registrar. If he finds that the articles and bylaws conform to law, and if he is satisfied that proposed new association will not operate in such a way as to endanger the viability of any existing association, that it has a reasonable chance of achieving its objectives, and that a meeting or meetings have been held, and that members and intending members understand and agree to the proposed articles and bylaws, he shall file the same. After such filing, the President shall issue a charter of incorporation, whereupon the corporate existence shall begin. Such charter shall be conclusive evidence of the fact that the corporation has been duly incorporated. An appeal shall lie to the President against the refusal of the Registrar to file articles and bylaws of an association, within one month from the date of such refusal.

Section Notes

Sources

RPPL 11-40 § 3[§ 2225], modified.

Subchapter 3 — Amendments

§ 2231. Amendments of articles.

Amendments to the articles may be proposed by a two-thirds vote of the board of directors, or by petition of 10 percent of the association's members. Notice of the meeting to consider such amendment shall be sent by the secretary at least thirty days in advance thereof to each member at his last known address, accompanied by the full text of the proposal and by that part of articles to be amended. Two thirds of the members voting may adopt said amendment and when verified by the president and secretary, it shall be filed and recorded with the Registrar within thirty days of its adoption if approved by the President. If any amendment is to alter the preferences of outstanding shares of any type, or to authorize the issuance of shares having preferences superior to outstanding shares of any type the voting of two thirds of the members owning such outstanding shares affected by the change shall also be required for the adoption of the amendment; if the amendment is to alter the rule of which members' property rights in a nonshare association are determined, a vote of two thirds of the entire membership shall be required. The amount of capital and the number and par value of shares may be diminished or increased by amendment of the articles but the capital shall not be diminished below the amount of paid up capital existing at the time of amendment.

Section Notes

Sources

RPPL 11-40 § 3[§ 2231], modified.

§ 2232. Bylaws adoption, amendment or repeal.

Subject to approval of the President, bylaws shall be adopted, amended or repealed by at least a majority vote of the members voting.

Section Notes

Sources

RPPL 11-40 § 3[§ 2232], modified.

Subchapter 4 — Substantive Provisions

§ 2241. Meetings regular and special.

Regular meetings of members shall be held as prescribed in the bylaws, but shall be held at least once a year. Special meetings may be called at any time by the president, and must be called by him when so directed by a resolution of the board of directors or by a written request signed by 15 members or 20% of the total number of members of the association, whichever is less, provided that the resolution or request specifies the purpose of the special meeting, in which case it shall be the duty of the secretary to call such meeting to take place within thirty days after such demand. Special general meetings may also be called by the Registrar or the President or a person authorized by him, in such manner and at such time and place as he directs. He may also direct what matters shall be discussed at the meeting. A meeting called by the Registrar or the President shall have all the powers of a general meeting called according to the articles and bylaws.

Section Notes

Sources

RPPL 11-40 § 3[§ 2241], modified.

§ 2242. Notice of meetings.

The secretary shall give notice of the time and place of meetings by sending a notice thereof to each member at his last known address not less than the number of days in advance of the meeting specified in the bylaws or by posting the notice thereof at least 30 days prior to such meeting, in a conspicuous place in the office or the principal place of business of this association, where it may be read by members. In case of a special meeting, the notice shall specify the purpose for which such meeting is called.

Section Notes

Sources

RPPL 11-40 § 3[§ 2242], modified.

§ 2243. Meeting by units of the membership.

The articles or bylaws may provide for the holding of meetings by units of the memberships and may provide for a method of transmitting the votes there cast to the central meeting, or for a method of representation by the election of delegates to the central meeting or for a combination of both such methods.

Section Notes

Sources

RPPL 11-40 § 3[§ 2243], modified.

§ 2244. Voting one member, one vote.

Each member of an association shall have one and only one vote, except that where an association includes among its members any number of other associations or groups organized on a cooperative basis, the voting rights of such member associations or groups may be as prescribed in the articles or bylaws. No voting agreement or other device to evade the one member one vote

rule shall be enforceable at law or in equity. A motion on which the voting for and against is equal shall be deemed to be lost.

Section Notes

Sources

RPPL 11-40 § 3[§ 2244], modified.

§ 2245. Proxy voting prohibited.

No member shall be permitted [to] vote by proxy.

Section Notes

Sources

RPPL 11-40 § 3[§ 2245], modified.

Notes

The Code Commission has amended “by” to read “to”.

§ 2246. Voting by mail.

The articles or bylaws may provide for either or both of the following types of voting by mail:

- (1) That the secretary shall send to the member a copy of any proposal scheduled to be offered at a meeting together with the notice of said meeting, and that the mail votes cast by the members shall be counted together with those cast at the meeting if such mail votes are returned to the association within a specified number of days.
- (2) That the secretary shall send to all members absent from a meeting an exact copy of the proposal acted upon at the meeting, and then the mail vote of the member upon such proposal, if returned within a specified number of days, shall be counted together with votes cast at said meeting.
- (3) The articles or bylaws may also determine whether and to what extent mail votes shall be counted in computing a quorum.

Section Notes

Sources

RPPL 11-40 § 3[§ 2246], modified.

§ 2247. Application of voting provisions by mail.

If an association has provided for voting by mail, any provision of this chapter referring to votes cast by the members shall be construed to include the votes cast by mail.

Section Notes

Sources

RPPL 11-40 § 3[§ 2247], modified.

§ 2248. Application of voting provisions by delegates.

If an association has provided for voting by delegates any provision of this chapter referring to votes cast by the members shall apply to votes cast by delegates; but this shall not permit delegates to vote by mail.

Section Notes

Sources

RPPL 11-40 § 3[§ 2248], modified.

§ 2249. Directors.

An association shall be managed by a board of not less than five directors, who shall be elected for a term fixed in the bylaws not to exceed two years, by and from the members of the association and shall hold office until their successors are elected, or until removed. Vacancies in the board of directors, otherwise than by removal or expiration of term shall be filled in such manner as the bylaws may provide.

Section Notes

Sources

RPPL 11-40 § 3[§ 2249].

§ 2250. Officers.

The officers of an association shall include a president, one or more vice presidents, a secretary and a treasurer, or a secretary treasurer. The officers shall be elected annually by the directors unless the bylaws otherwise provide. The president and at least one vice president must be directors, but no other officer need be a director. Any two or more offices, except those of president and secretary, may be held by the same person.

Section Notes

Sources

RPPL 11-40 § 3[§ 2250].

§ 2251. Removal of directors and officers.

A director may be removed with or without cause by a vote of two-thirds of the members voting at a regular or special general meeting. The director involved shall have an opportunity to be heard at said meeting. A vacancy caused by any such removal shall be filled at the same meeting by the vote provided in the bylaws for election of directors. An officer may be removed from office by the majority vote of the directors at a regular or special meeting of the board.

Section Notes

Sources

RPPL 11-40 § 3[§ 2251], modified.

§ 2252. Powers of directors.

The board of directors and management shall not, in any fiscal year, incur any expenditure in excess of that provided for in the budget or estimates of expenditure for that year approved by the association in general meeting, unless such additional expenditure is specially approved by the association in general or special meeting.

Section Notes

Sources

RPPL 11-40 § 3[§ 2252], modified.

§ 2253. Eligibility for election to the board of directors.

A member shall not be eligible for election to the board of directors if he, or any entity of which he is a partner or member, is engaged in any trade or business:

- (1) where the member in question is on a board of any association which has among its principal functions the making or guaranteeing of advances to its members, or is a money lender.
- (2) where the member in question is on the board of any association which has among its principle functions trading or dealing in goods of any kind, trades or deals (whether as principal or agent) in such goods. Directors and officers will only present their cooperative association as authorized by the board of directors.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2253], modified.

§ 2254. Referendum of acts of directors.

The articles or bylaws may provide that within a specified period of time any action taken by the directors must be referred to the members for approval or disapproval if demanded by petition of at least 10 percent of all the members or by vote of at least a majority of the directors, provided, however, that the rights of third parties which have vested between the time of such action, and such referendum shall not me impaired thereby.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2254], modified.

§ 2255. Limitations upon return on capital.

The return upon capital shall not exceed 6 percent per annum upon the paid up capital and shall be noncumulative. Total return upon capital distributed for any single period shall not exceed 50 percent of the net earnings for that period.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2255], modified.

Subchapter 5 — Membership

§ 2261. Eligibility and admission to membership.

The election and admission of members to a chartered association shall be in such manner and upon such conditions as the bylaws shall provide.

Section Notes

Sources

RPPL 11-40 § 3[§ 2261], modified.

§ 2262. Subscribers.

Any natural person or group eligible for membership and legally obligated to purchase a share or shares of, or membership in, an association shall be deemed a subscriber. The articles or bylaws may determine whether, and the conditions under which, any voting rights or other rights of membership shall be granted to subscribers.

Section Notes

Sources

RPPL 11-40 § 3[§ 2262].

§ 2263. Share and membership certificates issuance and content.

No certificate for share of membership capital shall be issued until the par value thereof has been paid for in full. There shall be printed upon each certificate issued by an association a full or condensed statement of the requirements of Section 2244, Section 2245, and Section 2264.

Section Notes

Sources

RPPL 11-40 § 3[§ 2263], modified.

§ 2264. Transfer of shares and membership withdrawal.

If a member desires to withdraw from the association or disposes of any or all of his holdings therein, the directors shall have the power to purchase such holding by paying him the par value of any or all of the holdings offered. The directors shall then reissue or cancel the same. A vote of the majority of the members voting at a regular or special meeting may order the directors to exercise this power to purchase. If the association fails, within sixty days of the original offer, to purchase all or any part of the holdings offered, the member may dispose of the unpurchased interest elsewhere, subject to the approval of the transferee by a majority vote of the directors. Any would be transferee not approved by the directors may appeal to the members at their first regular or special meeting thereafter, and the action of the meeting shall final. If such transferee is not approved, the directors shall exercise their power to purchase, if and when such purchase can be made without jeopardizing the solvency of the association.

Section Notes

Sources

RPPL 11-40 § 3[§ 2264], modified.

§ 2265. Share and membership certificates recall.

The bylaws may give the directors the power to use the reserve funds to recall, at par value, the holdings of any member in excess of the amount requisite for membership; and may also provide that if any member has failed to patronize the association during a period of time specified in the bylaws, the directors may use the reserve funds to recall all his holdings and he shall thereupon cease to be a member of the association. When so recalled, such certificates of share or membership capital shall be either reissued or cancelled.

Section Notes**Sources****RPPL 11-40 § 3[§ 2265], modified. § 2266. Share and membership certificates attachments.**

The holding of any member of an association, to the extent of the minimum amount necessary for membership, but not to exceed \$50, shall be exempt from attachment, execution, or garnishment for the debts of the owner. If any holdings in excess of this amount are subject to such liability, the directors of the association may either admit the purchaser thereof to membership, if eligible, or may purchase from him such holdings at par value.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2266], modified.

§ 2267. Liability of members.

Members shall not be jointly or severally liable for any debts of the association, nor shall a subscriber be so liable except to the extent of the unpaid amount on the shares or membership certificate subscribed by him. No subscribers shall be released from such liability by reason of any assignment of his interest in the shares of membership certificate, but shall remain jointly and severally liable with the assignee until the shares or certificates are fully paid up.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2267], modified.

§ 2268. Expulsion of members procedure purchase of holdings.

A member may be expelled by the two thirds vote of the members voting at a regular or special meeting. The members against whom the charges are to be preferred shall be informed thereof in writing at least two days in advance of the meeting, and shall have an opportunity to be heard in person or by counsel at said meeting. On decision of the association to expel a member, the board of directors shall purchase the members' holdings at par value, if and when there are sufficient reserve funds.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2268], modified.

Subchapter 6 — Miscellaneous

§ 2271. Allocation and distribution of net earnings.

Upon the auditing of the accounts of an association, as required under Section 2273, the net earnings of the association for the fiscal period under review shall be apportioned by the board of directors as follows, subject to the approval of the annual general meeting of members:

- (1) Not less than 20 percent shall be placed in a Mandatory Reserve until such time as the reserve shall equal at least one half of the total liabilities of the association; and such Reserve may be used in the general conduct of the business.
- (2) In addition to such Mandatory Reserve, special reserves necessary further to protect the interests of members and for the proper conduct of the association shall be established as required:
 - (A) by the President; or
 - (B) when recommended by the board of directors and approved by the general meeting.
- (3) A return upon share capital, within the limits of Subchapter 4 may be paid, or if the bylaws so provided, upon the membership capital certificates of a nonshare association.
- (4) The remainder shall be allocated, where such association has among its principal functions trading or dealing in goods of any kind, among the members thereof, or all patrons eligible for and desiring membership, as a bonus or refund in proportion to the value of business each member or patron has transacted with the association during the fiscal period in question at the same uniform rate for each type of transaction; or where such an association is not an association as aforesaid, be distributed as a bonus or refund on the wages or the value of the products of each member, provided, that:
 - (A) in case of a member patron, his proportionate amount of savings return shall be distributed to him unless he agrees that the association should credit the amount to his account toward the purchase of an additional share or shares or additional membership capital;
 - (B) in the case of a subscriber patron, his proportionate amount of savings returns may, as the articles or bylaws provide, be distributed to him, or credited to his account until the amount of capital subscribed for has been fully paid.
 - (C) in the case of a nonmember patron, his proportionate amount of savings returns shall be set aside in a general fund for such patronage and shall be allocated to individual nonmember patrons only upon request and presentation of evidence of the amount of their patronage. Any savings returns so allocated shall be credited to such patron toward payment of the minimum amount of share or membership capital necessary for membership. When a sum equal to this amount is accumulated at any time within a period of time specified in the bylaws, such patron shall be deemed and become a member of the association if he so agrees or requests, and complies with any provisions in the bylaws for admission to membership. The certificates of shares or membership to which he is entitled shall then be issued to him;

- (D) if within any period of time specified in the articles or bylaws, (i) any subscriber has not accumulated and paid in the amount of capital subscribed for; or (ii) any nonmember patron has not accumulated in his individual account the sum necessary for membership; or (iii) any nonmember patron has accumulated the sum necessary for membership but neither requests nor agrees to become a member, or fails to comply with the provisions of the bylaws, if any, for admission to membership, then the amounts so accumulated or paid in and any part of the general funds for nonmember patrons which has not been allocated to individual nonmember patrons shall have any rights in said paid in capital or accumulated savings returns as such; Provided, further, that nothing in this section shall prevent an association under this chapter which is engaged in rendering services from disposing of the net savings from the rendering of such services in such manner as to lower the fees charged for services or otherwise to further the common benefit of the members; And, provided, further, that nothing in this section shall prevent an association from adopting a system whereby the payment of savings returns which would otherwise be distributed shall be deferred for a fixed period of months or years; nor from adopting a system, whereby the savings returns distributed shall be partly in cash, partly in shares, such shares to be retired at a fixed future date, in the order of the serial number or date of issue.
- (E) the payment of a return upon share capital, or of patronage refund or refund upon the wages or products of each member, out of net earnings accumulated from previous fiscal periods, or from reserves, will only take place with the express approval of the Registrar in writing. The Registrar may prohibit any association from distributing any part of its current net earnings if he considers such prohibition necessary in the interest of its members.

Section Notes

Sources

RPPL 11-40 § 3[§ 2271], modified.

§ 2272. Bonding of officers and employees.

Every individual acting as officer or employee of an association and handling funds or securities amounting to \$1,000 or more, in any one year, shall be covered by an adequate bond as determined by the board of directors, and at the expense of the association; and the bylaws may also provide for the bonding of other employees or officers.

Section Notes

Sources

RPPL 11-40 § 3[§ 2272], modified.

§ 2273. Books, auditing.

To record its business operation, every association shall keep a set of books, which shall be audited at the end of each fiscal year by a qualified bookkeeper or accountant, who shall not be an officer, director or employee. Where the gross sales amount to less than \$10,000 per fiscal year, the audit

may be performed by an auditing committee of three, who shall not be directors, officers, or employees. A written report of the audit, including a statement of the amount of business transacted with members, and the amount transacted with nonmembers, the balance sheet, and the income and expenses, shall be submitted to the annual meeting of the association, with a copy to the President and the Registrar.

Section Notes

Sources

RPPL 11-40 § 3[§ 2273], modified.

§ 2274. Annual report of association.

- (a) Every association shall annually, within sixty days of the close of its operations for that year, make report of its conditions, sworn to by the president and secretary, which report shall be filed with the Registrar and the President. The report shall state:
- (1) The name and principal address of the association.
 - (2) The names, addresses, occupations, and date of expiration of the terms, of the officers and directors, and their compensation, if any.
 - (3) The amount and nature of its authorized, subscribed, and paid in capital, the number of its shareholders and the number admitted and withdrawn during the year, the par value of its shares and the rate at which any return upon capital has been paid. For nonshare associations the annual report shall state the total number of members, the number admitted or withdrawn during the year, and the amount of membership fees received.
 - (4) The receipts, expenditures, assets, and liabilities of the association.
 - (5) Such other information as the Attorney General through the President deem necessary.
- (b) A copy of his report shall be kept on file at the principal office of this association.
- (c) This association shall be under the supervision of the Attorney General through the President, and shall make financial reports to as and when he may require. This association shall be subject to examination by the Attorney General through the President and for this purpose shall make its books accessible to him at his request.

Section Notes

Sources

RPPL 11-40 § 3[§ 2274], modified.

§ 2275. Suspension or revocation of charter.

The term of the cooperative's existence shall be perpetual; provided, however, that for cause or upon the finding by the Registrar or President that a cooperative is insolvent, or has violated any provisions of law, rules and regulations applicable to cooperatives in the Republic, its articles of incorporation, or its bylaws including any amendments thereto, the President may either temporarily suspend the operations of the cooperative until the insolvency or violations have been corrected, or if not corrected, he may revoke its articles of incorporation and corporate charter, thereby terminating the operations of the cooperative.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2275], modified.

§ 2276. Involuntary dissolution.

Any action taken by the Registrar or the President to involuntarily dissolve a cooperative shall comply with the dissolution provisions as set forth in any law or regulation related to the dissolution and revocation of corporate charters.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2276], modified.

§ 2277. Automatic dissolution.

If any cooperative shall fail on two successive annual dates to file the annual report required by this chapter, the Registrar shall mail notice to it of impending dissolution as provided in any law or regulation related to the dissolution and revocation of corporate charters. Whether or not such notice be mailed, if the cooperative fails within ninety days after the second such annual date to file the annual report such cooperative shall be thereupon automatically dissolved and its properties and affairs shall pass automatically to its directors as trustees in dissolution.

Section Notes**Sources**

RPPL 11-40 § 3[§ 2277], modified.

§ 2278. Dissolution, methods, procedure.

If the Registrar, after holding an inquiry, or on receipt of a copy of a resolution approved by a majority vote of the entire membership, be of the opinion that an association ought to be dissolved, he may issue a Decree of Dissolution and request the President to issue a Revocation of Charter of the association, and may appoint one or more persons to be, subject to his direction and control, the liquidator or liquidators of the association, who shall within a time fixed in their designation or within any extension thereof, liquidate its assets, and shall distribute them in the manner set forth in this section. In case of any dissolution of an association, such dissolution shall be approved by the President and its assets shall be distributed in the following manner and order:

- (1) by paying its debts and expenses;
- (2) by returning to the members the par value of their shares or of their membership certificates, returning to the subscribers the amount paid on their subscriptions, and returning to the patrons the amount of savings returns credited to their accounts toward the purchase of shares or membership certificates; and
- (3) by distributing any surplus in either or both of the following ways as the articles may provide:
 - (A) among those patrons who have been or subscribers at any time during the past six years, on the basis of their patronage during the period;

- (B) as a gift to any consumers' cooperative association or other nonprofit enterprise which may be designated in the articles.

Section Notes

Sources

RPPL 11-40 § 3[§ 2278], modified.

§ 2279. Amalgamation or transfer of associations.

Any two or more chartered associations may by a resolution passed by a three-fourths majority of the members at a special general meeting of such association held for that purpose, amalgamate as a single association; provided, that no such resolution may be put to the meeting without the prior approval of the Registrar in writing, and that each member shall be given fifteen days written notice of the resolution and the date of the meeting. Such amalgamation may be effected with or without any associations or either of them, and the resolution of associations concerned shall, on such amalgamation, be a sufficient conveyance or assignment to vest the assets and liabilities of the amalgamating associations in the amalgamated association. Any association may by resolution passed in accordance with the procedure laid down in the forgoing part of this chapter transfer its assets and liabilities to any other association which is prepared to accept them, and such resolution shall be sufficient conveyance or assignment to vest the assets and liabilities by an association to any other association, it will not be made without giving three months' notice to the creditors of both or all such associations; Provided, further, that if any creditor of any of the associations concerned objects to such amalgamation or transfer of assets and liabilities and gives written notice to that effect to the association or associations concerned one month before the date fixed for such amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor have been satisfied.

Section Notes

Sources

RPPL 11-40 § 3[§ 2279], modified.

§ 2280. Division of association.

- (a) Any chartered association may, in writing by a resolution passed by a three-fourths majority of the members present at a special general meeting of the association held for that purpose, resolve to divide itself into two or more associations, provided, that each member has had fifteen days written notice of the resolution and the date of the meeting. The resolution (hereinafter referred to as a preliminary resolution) shall contain proposals for the division of assets and liabilities of the association among the new associations which it proposes to divide it to and may prescribe the area operations of, and specify the members who will constitute, each of the new associations.
- (b) A copy of the preliminary resolution shall be sent to all members and creditors of the association. A notice of the resolution shall also be given to all other persons whose interests will be affected by the division of the association.
- (c) Any creditor of the association may, notwithstanding any agreement to the contrary, by written notice given to the association within the said period, state his intention to demand the return of the amount due to him.

- (d) Any other person whose interest is affected by the division may by giving written notice to the association object to the division unless his claim is satisfied.
- (e) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the association and of the notice to other persons as required by the foregoing, another special general meeting of the association, for which at least fifteen days written notice shall be given to its members, shall be convened in order to consider the preliminary resolution. If at such meeting the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes, or with such changes as in the opinion of the Registrar are not material, the Registrar may, subject to the following provisions, file the articles and bylaws of the new associations, after which the President may issue [articles] of incorporation. On such incorporation, the incorporation of the old association shall be deemed to have been cancelled, and the association shall be deemed to be dissolved from the date of such cancellation.
- (f) The opinion of the Registrar as to whether any changes made in the preliminary resolution are or are not material shall be final.
- (g) At the special general meeting referred to in the foregoing part, provision shall be made by another resolution for:
 - (1) satisfaction of the claims of all creditors who have given the requisite notice; and
 - (2) satisfaction of the claims of the other persons who have given notice in accordance with the foregoing provisions of securing their claims in such manner as the Registrar may approve.
- (h) Provided, that no credit or other person shall [be] entitled to such repayment or satisfaction until the preliminary resolution has been confirmed as provided for in the foregoing.
- (i) The incorporation of the new associations shall be a sufficient conveyance or assignment to vest the assets and liabilities of the original association in the new associations in the manner specified in the preliminary resolution as approved by the Registrar and the President.

Section Notes

Sources

RPPL 11-40 § 3[§ 2280], modified.

Notes

Subsection (e) of RPPL 11-40 § 3[§ 2280] does not specific the type of incorporation. The Code Commission has inserted “articles” as the likely intent of the legislation. The Code Commission has inserted “be” in subsection (h) for grammar.

§ 2281. Promotion expenses limitation.

An association shall not directly or indirectly, use any of its funds, nor issue shares nor incur any indebtedness, for the payment of any compensation for the organization of the association except necessary legal fees; nor for the payment of any promotion expenses in excess of 5 percent of the amount paid in for the shares or membership certificates involved in the promotion transaction.

Section Notes

Sources

RPPL 11-40 § 3[§ 2281], modified.

§ 2282. Additional information.

The Attorney General, through the President, may require any additional information that he deems desirable and may designate the forms in which such information is to be contained.

Section Notes

Sources

RPPL 11-40 § 3[§ 2282], modified.

§ 2283. Inconsistent articles of incorporation or bylaws.

Any articles of incorporation or bylaws that are inconsistent with this chapter are hereby superseded.

Section Notes

Sources

RPPL 11-40 § 3[§ 2283], modified.

§ 2284. Violation enjoined.

Pursuant to the provisions of [Chapter 1 of Title 12] of the Palau National Code, all violations of this chapter are hereby declared to be enjoined.

Section Notes

Sources

RPPL 11-40 § 3[§ 2284], modified.

Notes

RPPL 11-40 § 3 cross-references “Title 12 Section 1 of the Palau National Code”, which does not exist. The Code Commission reasonably infers, based on the underlying regulations that were codified into Chapter 12, that this reference is to “Chapter 1 of Title 12 of the Palau National Code”.