REPUBLIC OF THE MARSHALL ISLANDS

**CONFIDENTIAL**

**C.M. 182 (2009)**

**FOR ACTION**
Minister of R&D

**FOR INFORMATION**
All Cabinet Ministers

SUBJECT: Approval of Regulations for Secured Transactions

At its meeting on November 26, 2009, the Cabinet:

1)**approved** the attached regulations, pursuant to Title 24 MIRC Chapter 5, Section 529; and

2)further **approved** the attached Memorandum of Understanding (MOU) between the Ministry of Resources and Development and Land Registration Authority as the registrar for secured transactions.

Y. Lodge
Clerk of the Cabinet

Jurelang Zedkaia
President

[Reference – C.P. 6242 (2009)]
Signed by the President on November 30th, 2009.

**ATTACHMENT A**

# MINISTRY OF RESOURCES AND DEVELOPMENT

## REGULATIONS ON SECURED TRANSACTION FILING FEES

1. Authority. This regulation is adopted pursuant to Section 529 of Title 24 MIRC.

2. Fees. The only fees that may be charged by the Secured Transactions Filing Office (filing office) are as follow:

   a. The fee for filing a notice of security interest, amended notice of security interest (including assignment of security interest), continuation statement, or notice of objection in the filing office during the first sixty (60) day period after the effective date of the Secured Transactions Act of 2007 (the "Transition Period") shall be Ten Dollars ($10.00).

   b. The fee for filing a notice of security interest, amended notice of security interest (including assignment of security interest), continuation statement, or notice of objection in the filing office after the initial sixty (60) day period after the effective date of the Secured Transactions Act of 2007 (the "Transition Period") shall be Twenty Dollars ($20.00).

   c. The fee for requesting a certified report of a search of the records of the filing office shall be Fifty Dollars ($50.00).

3. Government agencies. The agencies of the government and the courts of the Republic of the Marshall Islands shall not be charged fees for filing a notice of lien or requesting certified report of a search of the records of the filing office.

   a. Any ministry or government agency that is entitled to take a lien in personal property to secure an obligation of a person to the government may request that the filing office establish an account to be used by the agency for access to the filing office to file notices of lien and related notices.

   b. The clerk of a national or local court may request that the filing office establish an account to be used by the court for access to the filing office to file notices of lien and related notices in cases where the court has issued an order that provides for seizure of personal property.

4. Client accounts. Entities that frequently file notices of security interest or request certified reports of searches of the records of the filing office may establish accounts for payment of fees to the filing office, to be known as client accounts.

   a. Accounts may be opened by completing an application on the filing office website.

   b. The filing office will generate a statement each month for each client account. The statement will be available in the client account record on the filing office website. It will be accessible only to the client for which it is generated. The filing office will notify each client of the posting of the statement in its client account record by an e-mail message.

   c. Payments on client accounts may be made by cash or a check drawn on a business account, delivered to a payment intake point. The payment intake points will be the branches of the Bank of the Marshall Islands. Payment intake points will enter payments into client accounts upon receipt.

   d. If a client fails to pay an amount owing on a statement by the 30th day after the statement date, the client account will be suspended. Fees may not be charged to a suspended account. When the past-due amount is paid, the client account will be restored to active status, and fees may be charged to it. A client whose client account is suspended may not open another client account.

   e. If a client fails to pay an amount owing on a statement by the 60th day after the statement date, the client account will be closed. The record of the closed account will be retained in the filing office, showing the amount owing. A client whose client account has been closed for non-payment may not open another client account until it has paid the amount owing on the closed account.

   f. The filing office will close a client account for inactivity if it has not been used for a period of 180 days. A client whose account has been closed for inactivity may open a new account if one is later needed.

5. Payments by infrequent users. Any person who does not regularly file notices or request certified reports of search may pay fees in advance of filing by cash or a check drawn on a business account, delivered to a payment intake point. The payment intake points will be the branches of the Bank of the Marshall Islands. Payment intake points will enter payments into the filing office's account at the Bank of the Marshall Islands for the benefit of the user.

   a. The user may determine the fees for filing a notice or requesting a certified report of search by consulting the schedule of fees on the filing office website.

b. The payment intake point will give the user a numbered receipt that the user may use when logging in to the filing office website to file a notice or request a certified report of search.

c. The user may make a single payment for multiple services, and the payment may be used in more than one logged-in session on the filing office website.

d. If the user overpays or does not use the full amount it has paid, the user may request a refund from the filing office operator.

e. If a payment is not used or refunded within 90 days after it is made, it will be deemed to be abandoned and considered to be earned revenue.

**ATTACHMENT B**

# MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into between the Ministry of Resources and Development (MRD) and the Land Registration Authority (LRA) of the Government of the Republic of the Marshall Islands (GoRMI).

**Whereas** the Secured Transactions Act of 2007 (STA) has been adopted by the Nitijela, to become effective upon certification by the Minister of Resources and Development that the Secured Transactions Filing Office (STFO) is prepared to commence operations; and

**Whereas** the filing office requires oversight by GoRMI and certain administrative functions to be provided by GoRMI; and

**Whereas** MRD, the responsible ministry for the STA does not have available capacity and expertise for such functions; and

**Whereas** LRA does have available capacity and expertise;

It is hereby agreed by the parties that:

1. Authority for the oversight and administrative functions of the STFO is delegated from MRD to LRA, to be exercised by or under the direction of the Executive Director.

2. The specific responsibilities delegated to LRA include:

   a. Serve as liaison between MR&D, other GoRMI agencies and STFO users on the one hand, and the filing office operator that provides day-to-day operation and support of the STFO.
   b. Monitor and report on performance of the STFO by using reports and queries available in the STFO technology system.
   c. Prepare a certificate of authenticity for a certified search report upon request when a person who has generated a certified search report needs an original signed and

sealed certificate to have the certified search report admitted into evidence in litigation.

3. MRD delegates authority to LRA to authenticate certified search reports by signing and applying a seal to them.

In witness whereof, the parties have signed this Memorandum of Understanding this _____ day of November, 2009.

For Ministry of Resources & Development

By: _____
Hon. Mattlan Zackhras
Minister of Resources & Development

For the Land Registration Authority

By: _____
Hon. Ruben R. Zackhras
Minister-in-Assistance