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A BILL FOR AN ACT

To create "The Federated States of Micronesia General Banking Act of 1985," to repeal title 29 of the Code of the Federated States of Micronesia, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

CHAPTER 1

GENERAL PROVISIONS

Section 101. Short title. This act shall be known as "The Federated States of Micronesia General Banking Act of 1985."

Section 102. Definitions. As used in this act, unless it is otherwise provided or the context requires a different construction, application, or meaning:

(1) "Authority" means the Monetary Authority of the Federated States of Micronesia as established under "The Federated States of Micronesia Monetary Authority Act of 1985";

(2) "Bank" means any financial institution the operations of which include the acceptance of deposits subject to check or other means of third party transfer. "Bank" includes a savings and loan association but does not include a credit union;

(3) "Banking business" means:

(a) The business of accepting deposits of money from the public or members thereof, withdrawable or payable upon demand, or after a fixed period, or after notice, or any similar operation through the frequent sales or placement of bonds, certificates, notes, or other securities and the use of such funds either in whole or in part for loans or investments for the account and at the risk of the person doing such business; and

(b) Any other activity recognized by the Authority as customary banking practice which a financial institution engaging in the activities described in paragraph (a) may additionally be

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1 authorized to do by the Authority;

2 (4) "Board" means the Board of Directors of the
3 Authority;

4 (5) "Chairman" means the Chairman of the Board of the
5 Authority;

6 (6) "Deposits" refers to deposits of money in a bank
7 from the public or members thereof, withdrawable by means of the
8 issuance of checks (demand deposits), or withdrawable or payable
9 upon demand or after a fixed period or after notice (savings and
10 time deposits);

11 (7) "Domestic bank" means a bank organized under the
12 provisions of chapter 2 of this act;

13 (8) "Foreign bank" means a corporation or other
14 financial institution organized for the purpose of engaging in the
15 banking business under the laws of the United States or of a
16 territory or state of the United States, or of a foreign country,
17 operating a bank in its home territory, state, or country;

18 (9) "General Manager" means the General Manager of the
19 Authority;

20 (10) "Paid-in capital, surplus, and undivided profits"
21 mean, in the case of a foreign bank, the aggregate paid-in capital,
22 surplus, and undistributed profits of such bank and not merely that
23 allocated to, located in, or arising out of its operations in the
24 Federated States of Micronesia;

25 (11) "Person" includes individual, corporation,

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1 partnership, and any other business entity;

2 (12) "Public Auditor" means the Public Auditor appointed
3 by the President of the Federated States of Micronesia with the
4 advice and consent of the Congress pursuant to the Constitution;

5 (13) "Registrar of Corporations" means the Registrar of
6 Corporations of the National Government of the Federated States of
7 Micronesia; and

8 (14) "Related person" with respect to any person means
9 his spouse, child, parents, brothers, or sisters or any
10 partnership, corporation, or firm in which he owns more than a
11 10 percent interest.

12 Section 103. Application of act. This act shall apply to and
13 govern all banks, domestic or foreign, operating a branch or office
14 in the Federated States of Micronesia, and any bank now existing
15 and operating a branch or office in the Federated States of
16 Micronesia shall hereafter be operated in accordance with the
17 provisions of this act, and shall be required to obtain a license
18 pursuant to chapter 4 of this act on or before the 31st day of
19 December following the effective date of this act.

20 Section 104. Requirements for banking business.

21 (1) No person shall engage in the business of accepting
22 deposits in the Federated States of Micronesia or shall use the term
23 "bank," "banking," "savings and loan association," or any form
24 thereof in the conduct of its business unless it has been granted
25 a license pursuant to the provisions of this act and such license

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1 has not expired and has not been cancelled.

2 (2) Any person holding such a license shall engage in
3 no business in the Federated States of Micronesia other than the
4 banking business and shall engage in such business only at the
5 locations authorized by the Authority.

6 Section 105. Application to existing charters, articles of
7 incorporation, or bylaws.

8 (1) Domestic and foreign banks shall be subject to
9 the applicable provisions of their existing charters, articles of
10 incorporation, or bylaws only to the extent that such are compatible
11 and do not conflict with the provisions of this act.

12 (2) In the event of any conflict or incompatibility
13 between this act and the provisions of said charter, articles of
14 incorporation, or bylaws with respect to any domestic or foreign
15 bank, the provisions of this act shall prevail.

16 CHAPTER 2

17 DOMESTIC BANKS

18 Section 201. Organization; Permit required; Application.

19 (1) Any five or more persons of sufficient legal
20 capacity may organize a domestic bank, but for such purpose they
21 shall first apply in writing for a permit from the Authority.

22 (2) Domestic banks shall be organized in the form of
23 stock corporations. No domestic bank shall issue no-par value
24 stock. For the purpose primarily of determining the permanency
25 of equity, the types of stock a bank may issue, including the terms

1 thereof and the rights appurtenant thereto, shall be subject to such
2 rules and regulations as the Authority may prescribe, the provisions
3 of any law to the contrary notwithstanding.

4 (3) The application shall set forth and prove the need
5 of the services of a banking institution in the locality wherein the
6 bank is sought to be established, and that the services rendered by
7 other banking institutions do not answer the needs of the locality.

8 Section 202. Application for permit; Authority's
9 investigation. It shall be the duty of the General Manager,
10 immediately after the Authority receives an application for a
11 permit, to make whatever investigations and hold such hearings as
12 he deems may be necessary as to:

13 (1) The banking and commercial ability and experience of
14 the applicants;

15 (2) Whether such ability and experience are sufficient
16 to warrant the efficient functioning and operation of the bank;

17 (3) Whether local need justifies the application;

18 (4) The character and repute, as well as the banking
19 and commercial experience of the prospective directors or officers
20 who are to conduct the business of said bank;

21 (5) Whether the bank shall be of benefit to the general
22 public; and

23 (6) The capital which the bank has available for its
24 operations.

25 Section 203. Application for permit; Issuance by Authority.

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1 The Authority may issue the permit applied for if, in its judgment,
2 the results of the investigations are satisfactory. Any permit may
3 be granted subject to such conditions as the Authority, in its
4 discretion, deems necessary to protect the interests of the people
5 of the Federated States of Micronesia.

6 Section 204. Articles of incorporation; Requisites. The
7 articles of incorporation must be subscribed by each of the
8 incorporators and duly sworn to before a notary public. They
9 shall specifically state:

10 (1) The name by which such bank is to be known;

11 (2) The State where its main office is to be
12 established, which shall be its legal domicile;

13 (3) The amount of the authorized capital stock, the
14 number of shares into which the same is divided, and the par value
15 of each share;

16 (4) The term of duration of the bank;

17 (5) The transactions to which the capital of the bank
18 is to be preferably devoted;

19 (6) The time and manner of calling and holding regular
20 meetings of stockholders, and the reasons and circumstances for, and
21 manner of, calling and holding special meetings;

22 (7) The manner of constituting a quorum at the regular
23 and special meetings of the stockholders;

24 (8) The names and places of residence of the
25 incorporators and the number of shares subscribed by each;

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1 (9) The number of directors of the bank, which shall
2 not be less than five, and not less than two-thirds of the total
3 number of whom shall be citizens of the Federated States of
4 Micronesia and shall have resided in the Federated States of
5 Micronesia for at least 1 year prior to the date of the
6 application; the manner of their election, their terms of office,
7 and the number necessary to constitute a quorum; and

8 (10) Any other articles which the incorporators may deem
9 it advisable to insert for the regulation of the business and the
10 conduct of the affairs of the bank; PROVIDED that such articles
11 shall not be in conflict with this act, or with any other laws of
12 the Federated States of Micronesia.

13 Section 205. Certificate of incorporation; Beginning of
14 corporate existence.

15 (1) Upon subscribing and swearing to the articles of
16 incorporation, as provided in section 204 of this chapter, and upon
17 submitting two copies of the same to the Registrar of Corporations
18 together with the permit granted by the Authority authorizing the
19 organization of the bank, and upon payment of the proper filing
20 fee, and upon the issuance by the Registrar of Corporations, under
21 his seal, of a certificate stating that the articles containing the
22 statements required by section 204 of this chapter have been filed
23 in his office, the existence of the bank named in the articles of
24 incorporation shall begin.

25 (2) From and after the date of such filing, the bank

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1 shall constitute a body corporate under the name set forth in the
2 articles. Before such bank may commence business it shall comply
3 with the other requirements of this act and all other applicable
4 provisions of law.

5 Section 206. Issuance of certificate; Transmittal to General
6 Manager. Upon the issuance by the Registrar of Corporations of a
7 certificate of incorporation, as provided in section 205 of this
8 act, the Registrar of Corporations shall so notify the General
9 Manager of the Authority and at the same time shall transmit to the
10 General Manager a duplicate copy of the articles of incorporation.

11 Section 207. Examination for compliance.

12 (1) When the duplicate copy is received by the General
13 Manager, he shall notify the corporation, and the corporation shall
14 then file with the General Manager a statement of all the facts
15 necessary to enable him to determine whether the bank has in fact
16 complied with all the requirements of law and is lawfully entitled
17 to commence business, such statement to be sworn to by a majority
18 of the directors and by the president or the manager of the bank.

19 (2) Upon receipt of such statement by the General
20 Manager of the Authority, he shall examine the condition of the
21 corporation and ascertain specifically the amount of its capital
22 paid in, the names and places of residence of its stockholders,
23 directors, and officers; the amount of the capital stock which each
24 owns in good faith; and, generally, whether such corporation has
25 complied with all the provisions of law required to entitle it to a

1 license to engage in the business of banking.

2 Section 208. Issuance of bank license.

3 (1) If, upon careful examination of the facts so
4 reported, or of any other relevant facts which may come to his
5 knowledge, the General Manager of the Authority is satisfied that
6 such bank has complied with all the applicable provisions of this
7 act and other laws required to be complied with before a bank shall
8 be authorized to commence the business of banking, he shall issue an
9 initial license to engage in the banking business, valid until it
10 must be renewed according to section 401 of this act.

11 (2) The General Manager of the Authority may withhold
12 from a bank the license authorizing it to commence business whenever
13 he is satisfied that the shareholders have organized the bank for
14 any other than the legitimate objects determined by this act.

15 (3) The expenses incurred by the General Manager in
16 connection with such investigations shall be paid by the corporation
17 in conformity with the regulations the Authority may promulgate for
18 that purpose.

19 Section 209. Amount and ownership of capital stock. No
20 domestic bank shall be organized and established in the Federated
21 States of Micronesia with a capital stock less than the amount
22 prescribed by the Authority, which shall, in no case, be less than
23 \$500,000 and not less than 50 percent of which shall be paid in cash
24 before the bank shall be authorized to commence business. At least
25 two-thirds of the capital stock shall be owned and held by persons

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1 who are citizens of the Federated States of Micronesia and who shall
2 have resided in the Federated States of Micronesia for at least 1
3 year prior to the application.

4 Section 210. Amendment of articles of incorporation.

5 (1) Every bank organized under this chapter may amend
6 its articles of incorporation with the approval of the Authority
7 for any lawful purposes.

8 (2) No amendment may contain a provision which it would
9 not have been lawful and proper to insert in the original articles
10 of incorporation.

11 (3) No change shall be made in the articles of
12 incorporation by which the rights or security of the existing
13 depositors or creditors of the bank shall be impaired.

14 CHAPTER 3

15 FOREIGN BANKS

16 Section 301. Establishment in the Federated States of
17 Micronesia; Requirements.

18 (1) Upon completion with the provisions of this chapter,
19 any foreign bank having a paid-in capital, surplus, and undivided
20 profits of not less than \$20 million (except \$2 million for any bank
21 which is a member of the Federal Deposit Insurance Corporation of
22 the United States or the Federal Savings and Loan Insurance
23 Corporation of the United States) may establish offices or branches
24 in the Federated States of Micronesia; PROVIDED, however, that such
25 foreign bank may be required by the Authority to comply with either

1 of these two options:

2 (a) Assign capital permanently to the local branch
3 with the concurrent maintenance of a "net due to" head office
4 account which shall include all net amounts due to other branches
5 of the bank outside the Federated States of Micronesia, in an
6 amount which when added to the assigned capital shall, in no case,
7 be less than the minimum capital requirement for new domestic banks
8 under section 209 of this act; or

9 (b) Maintain a "net due to" head office account
10 which shall include all net amounts due to other branches of the
11 bank outside the Federated States of Micronesia, in an amount which
12 shall, in no case, be less than the minimum capital requirement for
13 new domestic banks under section 209 of this act. The assigned
14 capital and "net due to" head office accounts may be maintained in
15 such types of assets and under such conditions as the Authority may
16 prescribe.

17 (2) Any foreign bank with existing branches or offices
18 in the Federated States of Micronesia may likewise be required by
19 the Authority to comply with either of the two options mentioned
20 in subsection (1) of this section.

21 (3) Before beginning its operations in the Federated
22 States of Micronesia, it shall file in the Office of the Registrar
23 of Corporations a duly authenticated copy of its charter or articles
24 of incorporation, together with a resolution of its board of
25 directors approving the establishment of such office or branch in

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1 the Federated States of Micronesia, and a statement verified by
2 oath of the president, manager, agent, cashier, or other authorized
3 officer of said bank, showing:

4 (a) The name of such foreign bank;
5 (b) The location of its existing or proposed main
6 office or places of business within and without the Federated States
7 of Micronesia;
8 (c) The objects of its business;
9 (d) The amount of its authorized capital;
10 (e) The amount of its capital stock actually paid
11 in cash;
12 (f) The amount of the assets of the bank, and of
13 what they consist;
14 (g) An itemized statement of the liabilities of the
15 bank;
16 (h) The amount of investment to be devoted to its
17 business in the Federated States of Micronesia, which in no case
18 shall be less than \$100,000; and
19 (i) The names and post office addresses of the
20 chief executive officer in the home bank and all officers in the
21 Federated States of Micronesia, if any, and the time, if any, when
22 the term of office of each expires.

23 Section 302. Establishment; Application for permit required.

24 (1) No foreign bank may open any branch or office or
25 change the location of any branch or office in the Federated States

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1 of Micronesia without a permit to do so from the Authority.

2 (2) An application to the Authority for such permit
3 shall state the benefit to the public expected to result from the
4 granting of the permit applied for.

5 (3) The Authority, upon receipt of such application,
6 may require the submittal of such additional information as may be
7 necessary in order for it to make the necessary investigations.

8 Section 303. Application for permit; Authority's
9 investigation. It shall be the duty of the General Manager,
10 immediately after the Authority receives an application for a
11 permit, to make whatever investigations may be necessary as to:

12 (1) The overall financial condition of the
13 applicant;

14 (2) Whether or not granting the application would
15 reasonably be apt to result in an over-extension of applicant's
16 resources or facilities;

17 (3) The character and repute, as well as the
18 banking and commercial experience, of the applicant and the bank's
19 directors and executive officers;

20 (4) Whether the bank shall be of benefit to the
21 general public; and

22 (5) The investment which the bank has made or has
23 available for its operations in the Federated States of Micronesia.

24 Section 304. Application for permit; Issuance by Authority.

25 The Authority may issue the permit applied for if, in its judgment,

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1 the results of the investigations are satisfactory. The decision
2 of the Authority shall be final. All expenses incurred by the
3 Authority in connection with such investigations shall be paid by
4 the applicant in conformity with regulations which the Authority
5 may make.

6 Section 305. Issuance of permit; Transmittal to Registrar of
7 Corporations. Upon the issuance of a permit to an applicant, the
8 Authority shall forthwith transmit a certified copy thereof to the
9 Registrar of Corporations who shall file it along with such other
10 documents submitted to him.

11 Section 306. Examination for compliance.

12 (1) When the permit of the Authority is received by the
13 foreign bank, as provided in section 305, it shall proceed to comply
14 with all applicable provisions of law so as to place it in readiness
15 to commence operations upon issuance to it of the license provided
16 by section 401 of this act.

17 (2) When such foreign bank is in such position of readiness,
18 it shall notify the General Manager of the Authority by means of a
19 statement of all facts necessary to enable the General Manager to
20 determine whether such foreign bank has, in fact, complied with all
21 the requirements of law and is lawfully entitled to commence
22 operations, such statement to be sworn to by a majority of the
23 directors or by the president or manager of such foreign bank.

24 (3) Upon receipt of such statement, the General Manager
25 shall make such investigations as may be necessary to assure himself

1 that the foreign bank has, in fact, complied with all the provisions
2 of law to entitle it to a license to engage in the business of
3 banking.

4 Section 307. Issuance of bank license.

5 (1) If, upon a careful examination of the facts so
6 reported or any other relevant facts which may come to his
7 knowledge, he is satisfied that the foreign bank has complied with
8 all of the provisions of this act required before a foreign bank
9 shall be authorized to open or operate a branch or office in the
10 Federated States of Micronesia, the General Manager of the Authority
11 shall issue an initial license to engage in the banking business
12 valid until it must be renewed according to section 401 of this act.

13 (2) The General Manager may withhold from a foreign bank
14 the license authorizing it to commence operations whenever he is
15 satisfied that the foreign bank seeks to operate in the Federated
16 States of Micronesia for any other than the legitimate objects
17 determined by this act.

18 (3) The expenses incurred by the General Manager in
19 connection with such investigation shall be paid by the foreign
20 bank in conformity with regulations which the Authority may make
21 and issue for that purpose.

22 Section 308. Appointment of agent for service of process.

23 Before commencing business in the Federated States of Micronesia, a
24 foreign bank shall file with the Authority an appointment of the
25 General Manager as its agent upon whom all process in any action or

1 proceeding against it arising out of the operations or activities
2 of its office or offices in the Federated States of Micronesia may
3 be served, which appointment shall be by its terms perpetual and
4 irrevocable.

CHAPTER 4

LICENSING OF BANKS

7 Section 401. Annual licensing of banks.

8 (1) The Authority shall issue licenses to engage in
9 banking.

10 (2) Initial licenses shall be issued to banks authorized
11 to commence business pursuant to section 206 or section 209
12 of this act for the remainder of the calendar year.

13 (3) Every domestic or foreign bank at present operating
14 a branch or office in the Federated States of Micronesia, or that
15 may hereafter do so, shall obtain on or before the 31st day of
16 December of each calendar year a renewal license for each office or
17 branch to be operated in the Federated States of Micronesia during
18 the succeeding calendar year.

19 Section 402. License fees. Initial and renewal licenses
20 shall be issued upon payment of the corresponding fees as may be
21 prescribed by the Authority; PROVIDED, however, that the license
22 fee shall not be less than \$1,500 for each branch or office.

23 Section 403. Extension of license; Grace period. The
24 Authority shall grant a grace period not exceeding 30 days, during
25 which an existing license may be continued in effect after the 31st

1 day of December, to any domestic bank or foreign bank which shows
2 good cause thereafter to the Authority, when the Authority
3 considers such action to be in the public interest.

4 Section 404. Licenses; Review by the Authority.

5 (1) The Authority, in determining whether to issue an
6 annual license to engage in the business of banking, shall consider
7 and determine whether the bank applying for the license has, in its
8 lending and operating practices, served the needs of its community.

9 (2) In determining whether a bank has served the needs
10 of its community, the Authority shall, in addition to other factors
11 customarily examined, examine whether:

12 (a) Such bank has used its best efforts to hire,
13 train, and promote citizens and residents of the Federated States of
14 Micronesia for executive positions in the bank;

15 (b) The loans made by such bank in the Federated
16 States of Micronesia, in view of demand for loans and number of
17 prudent loan opportunities available, bear a reasonable relationship
18 to such bank's deposits in the Federated States of Micronesia; and

19 (c) Such bank has obtained from any unfair
20 discrimination among its customers and the people it serves.

21 (3) In making the foregoing determination, due
22 consideration shall be given to the herein stated objectives of
23 the Federated States of Micronesia that:

24 (a) Executive positions in all banks operating in
25 the Federated States of Micronesia shall be occupied by citizens

1 and residents of the Federated States of Micronesia;

2 (b) At least 75 percent of the total amount of
3 deposits taken by a bank in the Federated States of Micronesia shall
4 be loaned to citizens and residents of and business entities located
5 in the Federated States of Micronesia; and

6 (c) No bank shall discriminate unfairly among its
7 customers and the people it serves.

8 CHAPTER 5

9 REGULATION AND SUPERVISION OF BANKS

10 Section 501. Regulation and supervision of banks by the
11 Authority; General policies. All domestic banks and, to the extent
12 of and with respect to business done at any branches established in
13 the Federated States of Micronesia, all foreign banks doing business
14 in the Federated States of Micronesia shall be regulated and
15 supervised by the Authority in such manner as to secure the safe and
16 sound conduct of such business, to prevent unsound practices, and to
17 maintain the public confidence in such business and protect the
18 public interest and the interests of depositors, creditors, and
19 stockholders.

20 Section 502. Regulations; Issuance and promulgation.

21 (1) For the purpose of effectuating the policy declared
22 in section 501 of this chapter, the Authority may adopt regulations
23 consistent with law and sound banking practice.

24 (2) Such regulations shall be brought to the attention
25 of those affected thereby in the manner that the Authority may

1 prescribe.

2 Section 503. Examination of banks. In connection with the
3 bank examination by the Authority pursuant to section 807 of
4 "The Federated States of Micronesia Monetary Authority Act of 1985,"
5 each bank, branch, or office so examined shall reimburse the
6 Authority for the cost of the examination. For this purpose, the
7 bank or branch or office shall pay to the Authority within the first
8 15 days of January each year an annual fee in an amount equal to a
9 prescribed percentage of its average total assets during the
10 preceding calendar year, as shown by its end-of-month balance
11 sheets after deducting cash and due from banks; PROVIDED , however,
12 that the percentage may not exceed one-twentieth of 1 percent. If
13 the maximum fees authorized in this section should not be sufficient
14 to defray the entire costs of the Authority, the difference shall be
15 borne by the Authority.

16 Section 504. Alternative examination and reports. The
17 General Manager may accept, in lieu of the examination required or
18 authorized by section 807 of "The Federated States of Micronesia
19 Monetary Authority Act of 1985," the most current examination made
20 by the Federal Deposit Insurance Corporation, the Board of
21 Governors of the Federal Reserve System, or a Federal Reserve Bank,
22 or in case of a foreign bank not examined by such agencies, an
23 examination acceptable by the appropriate government agency in the
24 home jurisdiction of that bank. The General Manager may also
25 accept, in lieu of any report which may be required by section 806

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1 of "The Federated States of Micronesia Monetary Authority Act of
2 1985," reports obtained by the Federal Deposit Insurance
3 Corporation, Board of Governors of the Federal Reserve System,
4 Federal Reserve Bank, or government agency.

5 Section 505. Limitations on loans; Maximum amounts.

6 (1) Except as the Authority may otherwise prescribe, no
7 domestic bank or branch of a foreign bank operating in the Federated
8 States of Micronesia shall permit a person to become indebted or
9 liable to it, either directly or indirectly, in an amount exceeding
10 20 percent of the unimpaired paid-in capital, surplus, and undivided
11 profits of a domestic bank or of the "net due to" head office
12 account and/or assigned capital of a branch of a foreign bank.

13 (2) In computing the total liabilities, direct or
14 indirect, or any person to a bank, there shall be included all
15 liabilities to the bank of any related person and any loans made for
16 his benefit or for the benefit of any related person.

17 (3) In computing the total liabilities of any firm,
18 copartnership, or unincorporated association to the bank, there
19 shall be included all liabilities of its individual members and
20 all loans made for the benefit of the copartnership or
21 unincorporated association or any members thereof.

22 (4) In computing the total liabilities of any
23 corporation to a bank there shall be included all liabilities of
24 and all loans made for the benefit of the corporation and its
25 majority owned subsidiaries.

1 (5) Nothing in this section shall be construed as
2 restricting in any manner loans made by any branch of a foreign
3 bank in the Federated States of Micronesia for the account of and
4 with funds supplied by its head office or branches outside the
5 Federated States of Micronesia, but the Authority may require
6 that all such loans be reported to it in accordance with such rules
7 and regulations as it may issue on the subject.

8 Section 506. Limitations on loans; Related persons.

9 (1) Except as herein provided, no domestic bank or
10 branch of a foreign bank operating in the Federated States of
11 Micronesia shall make any extension of credit to any of its
12 directors, officers, stockholders, agents, or employees, or to
13 any related person, either directly or indirectly, except upon
14 the written application of such person or related person stating the
15 type and amount of credit applied for, terms, and security, if any,
16 offered therefor, to the board of directors or to the loan committee
17 of the bank or branch, and then only with the written approval of a
18 majority of the board of directors or a majority of the loan
19 committee of the bank or branch (excluding the person seeking the
20 credit) before the loan is made; PROVIDED, however, that the
21 approval of the loan as allowed by the board of directors or
22 the loan committee of the bank or branch shall be made a part of
23 the minutes of the next directors' meeting of the bank.

24 (2) In order to provide effective protection of the
25 interests of the depositors and other creditors of branches of

1 foreign banks in the Federated States of Micronesia, the head
2 office of such branches shall fully guarantee the prompt payment
3 of all liabilities of its branch or branches in the Federated States
4 of Micronesia.

5 Section 507. Limitations on loans; Use of bank's stocks as
6 security; Purchase of bank's stock. No domestic bank or branch of
7 a foreign bank operating in the Federated States of Micronesia shall
8 make a loan on the security of its own stock or for the purchase of
9 its own stock.

10 Section 508. Limitations on loans; Liability for violations.
11 Any director, officer, stockholder, agent, or employee of any bank
12 or branch of a foreign bank operating in the Federated States of
13 Micronesia who knowingly permits the funds of the bank or branch to be
14 loaned in a dishonest manner or contrary to sections 505, 506, or 507 of
15 this chapter shall be held responsible in his individual capacity for all
16 damages or losses which the bank or branch, its stockholders, depositors,
17 creditors, or any persons shall have sustained in consequence thereof.

18 Section 509. Prohibited loans and withdrawals; Penalties. Any
19 director, officer, stockholder, agent, or employee of a bank or a branch
20 of a foreign bank operating in the Federated States of Micronesia, or
21 related person, who asks for or receives any commission, money, property,
22 or thing of value for his own personal benefit for procuring or assisting
23 in procuring a loan from such bank or branch or for permitting any person
24 to overdraw any account with such bank or branch shall be fined not more
25 than \$1,000, or imprisoned not more than 1 year, or both.

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1 Section 510. Prohibited investments by a domestic bank or
 2 branch of a foreign bank. No domestic bank or branch of a foreign
 3 bank operating in the Federated States of Micronesia shall invest in
 4 the stock of any other corporation, acquire any real estate, except
 5 with the approval of the Authority for use as its principal or branch
 6 office in the Federated States of Micronesia, or pledge any of its
 7 assets as security for or guaranty any obligations of others except
 8 for the issuance of its letters of credit in connection with the
 9 shipment of goods.

10 Section 511. Declarations of dividends; Requisites. No
 11 domestic bank shall declare any dividend or make any other
 12 distribution to its stockholders except:

13 (1) Out of earnings for the current and next preceding
 14 year; or

15 (2) With the prior approval of the Authority.

16 Section 512. Bank stock; Ownership limitations.

17 (1) In order to promote diffusion of bank ownership, no
 18 person or related person, corporation, partnership, association, or
 19 firm shall acquire more than 20 percent of the stock of a domestic
 20 bank.

21 (2) The Authority may, however, exempt stockholdings of
 22 any person or related person, or corporation, partnership,
 23 association, or firm from the application of the above-prescribed
 24 ownership limitation in exceptional cases and when the circumstances
 25 warrant, such as but not limited to, purchases in the equity of

1 distressed banks for purposes of rehabilitation.

2 Section 513. Limitations on sale of assets, merger, etc. No
3 domestic bank may merge or consolidate with, or sell a substantial
4 portion of its assets to, another bank without the prior approval of
5 the Authority.

6 Section 514. Deposit and other insurance.

7 (1) At such time as it becomes available under the laws
8 of the United States, all domestic banks and foreign banks, as a
9 condition to operating an office or branch in the Federated States
10 of Micronesia, shall secure their depositors by deposit insurance of
11 the Federal Deposit Insurance Corporation or the Federal Savings and
12 Loan Insurance Corporation of the United States.

13 (2) All domestic and foreign banks operating an office
14 or branch in the Federated States of Micronesia shall provide
15 themselves with protection and indemnity against burglary,
16 embezzlement, and other similar insurable loss. If a domestic or
17 foreign bank refuses to comply with this requirement, the General
18 Manager of the Authority shall have the right to make arrangements
19 to furnish such protection and indemnity, charging the cost thereof
20 to the said bank.

21 Section 515. Prohibited interests of Government officials in
22 banks; Removal from office.

23 (1) No member of the Board of the Authority nor the
24 Public Auditor nor any representative of the Authority or the Public
25 Auditor nor any bank examiner shall, during the discharge of his

1 office:

2 (a) Be an officer, director, or employee in any
3 bank or company affiliated therewith;

4 (b) Own or deal directly or indirectly in the
5 shares or obligations of such bank or affiliated company;

6 (c) Be interested in or receive directly or
7 indirectly from such bank or affiliated company, or from any of its
8 officers, directors, or employees, any salary, gratuity,
9 compensation, or other thing of value by way of gift, credit,
10 compensation for services, or for any other reason; or

11 (d) Be interested in or under obligation to
12 negotiate any loan, obligation, or settlement for another person
13 with such bank or affiliated company.

14 (2) Any violation of this section by any official or
15 employee referred to herein shall be sufficient cause for his
16 removal from office by the President of the Federated States of
17 Micronesia.

18 Section 516. Permissible interests of Government officials.

19 Notwithstanding the provisions of section 515 of this chapter, any
20 official or employee referred to in such section may own or keep one
21 or more bank accounts, either checking, savings, or time, and may
22 rent safe deposit boxes in any bank referred to in such section and
23 doing business in the Federated States of Micronesia, and may obtain
24 a loan from any such bank, foreign bank, or affiliated company;
25 PROVIDED, however, that such official or employee makes full

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1 disclosure thereof to the Board of the Authority and, in the case of
2 each of the members of the Board of the Authority, he shall make the
3 disclosure to the President of the Federated States of Micronesia.

4 Section 517. Filing fees; Disposition of fines.

5 (1) Every domestic bank or foreign bank in the Federated
6 States of Micronesia shall, upon filing its articles of incorporation
7 in the Office of the Registrar of Corporations, pay a filing fee
8 prescribed by this Office, which shall not be less than \$50.00.

9 (2) Every domestic or foreign bank desiring to file in
10 the Office of the Registrar of Corporations articles amendatory or
11 supplementary or a certificate of increase of capital stock shall
12 pay a filing fee prescribed by this Office, which shall not be less
13 than \$25.00.

14 (3) The fee for furnishing a certified copy of any of
15 the documents referred to in subsections (1) and (2) of this section
16 shall be \$.50 per folio, but not less than \$10.00.

17 (4) All fees required under the provisions of this title
18 shall be paid to the Office of the Registrar of Corporations and
19 shall be accounted for and covered into the General Fund of the
20 Federated States of Micronesia; PROVIDED, however, that the expenses
21 incurred by the Authority in connection with the investigations
22 relative to the issuance of a bank license to a domestic or foreign
23 bank, such as those expenses under sections 208, 504, and 307, the
24 fines imposed on a domestic or foreign bank due to violations or non-
25 compliance with certain provisions of this act such as those imposed

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1 in sections 509 and 518 of this act, and the annual bank examination
2 fees under section 503 of this act, shall be paid to the Authority
3 and for its own account.

4 Section 518. General penalties.

5 (1) For any violation of this act or the regulations
6 prescribed pursuant to section 502 of this act, the delinquent
7 domestic or foreign bank shall be subject to a fine of not more than
8 \$1,000 for each day that the violation continues and, in the case of
9 a material violation, to the cancellation of its license.

10 (2) Such fine or cancellation of the license shall be
11 imposed by the Authority only after notice to the delinquent bank
12 and a hearing concerning the alleged violation.

13 (3) In any such case, the Authority shall send a written
14 notice of its action to the bank concerned as quickly as
15 circumstances will permit, and if the cancellation of the bank's
16 license has been decided upon, shall transmit a written order to that
17 effect to the Registrar of Corporations for appropriate action, and
18 shall submit forthwith a written report on the matter to the
19 President of the Federated States of Micronesia for his information.

20 CHAPTER 6

21 RECEIVERSHIP AND LIQUIDATION

22 Section 601. Appointment of conservator.

23 (1) If, in consequence of an examination or report made
24 by a bank examiner, or otherwise, the Authority should have reason
25 to believe that a domestic bank or foreign bank is not in sound

1 financial condition to continue doing business; or that its affairs
2 are being conducted in such a manner that the public or the persons
3 or entities who have securities or funds under its custody are in
4 danger of being defrauded; or if any such bank shall violate its
5 charter or any law relative thereto, or this act in any material
6 respect; or if it becomes insolvent, the Authority may appoint a
7 conservator to take charge of the assets, liabilities, and the
8 management of that bank, collect all monies and debts due said bank,
9 and exercise all powers necessary to preserve the assets of the bank,
10 reorganize the management thereof, and restore its viability. He
11 shall have the power to overrule or revoke the actions of the
12 previous management and/or the board of directors of the bank, any
13 provision of law to the contrary notwithstanding, and such other
14 powers as the Authority shall deem necessary.

15 (2) As much as practicable, the conservator should not
16 be connected with the Authority but should be competent and knowl-
17 edgeable in bank operations and management. The remuneration of the
18 conservator and other expenses attendant to the conservatorship
19 shall be borne by the bank. He shall report and be responsible to
20 the Authority until such time as the Authority is satisfied that the
21 bank can continue to operate on its own and the conservatorship is no
22 longer necessary. The conservatorship shall likewise be terminated
23 should the Authority, on the basis of the report of the conservator
24 or of its own findings, determine that the continuance in business
25 of the bank would involve probable loss to its depositors or

1 creditors, in which case the provisions of section 602 of this act
2 shall apply.

3 Section 602. Receivership; Appointment and duties of receiver.

4 (1) Whenever, upon examination or report by an examiner,
5 on the condition of any domestic bank or foreign bank, it shall be
6 disclosed that the condition of such bank is one of insolvency, or
7 that its continuance in business would involve probable loss to its
8 depositors or creditors, the Authority may, upon finding the report
9 and facts therein to be true, forbid the bank to do business in the
10 Federated States of Micronesia and shall forthwith apply to the
11 Trial Division of the Supreme Court of the Federated States of
12 Micronesia for the appointment of a receiver to immediately take
13 charge of and wind up the affairs of such bank.

14 (2) If the Supreme Court, after hearing all parties
15 concerned, determines that the facts alleged by the Authority are
16 supported by the evidence, it shall appoint a receiver who may be a
17 member of the Board of the Authority or any other person of
18 recognized competence in banking and finance.

19 (3) Upon his appointment the receiver shall, under the
20 direction of the Authority, take possession of the assets and
21 liabilities, books, records, papers, and files of every description
22 belonging to the bank; and collect all loans, fees, and claims of
23 the bank; and see to the payment of its obligations and debts, and
24 to the necessary expenses of receivership.

25 (4) The receiver shall proceed to liquidate the affairs

1 of the bank as soon as possible, and to this end may sell the
 2 personal and real property and other assets of the bank, but subject
 3 to the approval of the Authority. The receiver shall continue to
 4 perform his duties in the manner prescribed herein until the bank
 5 or foreign bank is fully liquidated.

6 Section 603. Voluntary liquidation. Any bank may terminate
 7 its business in the Federated States of Micronesia with the prior
 8 approval and under the supervision of the Authority in such event.
 9 The business and assets of the bank in the Federated States of
 10 Micronesia shall be liquidated in an orderly manner so as to fully
 11 protect all of the creditors, depositors, and stockholders of the
 12 bank in the Federated States of Micronesia.

CHAPTER 7

REPEALER AND EFFECTIVE DATE

15 Section 701. Repealer. Title 29 of the Code of the Federated
 16 States of Micronesia is hereby repealed in its entirety.

17 Section 702. Effective date. This act shall become law upon
 18 approval by the President of the Federated States of Micronesia or
 19 upon its becoming law without such approval; PROVIDED, however, that
 20 this act shall not take effect earlier than "The Federated States of
 21 Micronesia Monetary Authority Act of 1985."

23 Date: 5/18/85

Introduced by: Elias H. Thomas