

RD

4-7

A BILL FOR AN ACT

To create a National Deposit Insurance Corporation of the Federated States of Micronesia, and for other purposes.

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

1 Section 1. Creation. There is hereby created a National Deposit
2 Insurance Corporation of the Federated States of Micronesia, hereinafter
3 referred to as the "Corporation," which shall insure, as hereinafter
4 provided, the deposits of all banks which are entitled to the benefits of
5 deposit insurance under this act, and which shall have the powers herein-
6 after granted.

7 Section 2. Definitions. In this act, unless the context otherwise
8 requires, the following definitions shall be applicable:

9 (1) "Bank" and "Banking institution" shall be synonymous and
10 interchangeable, and shall include all banks, domestic and foreign, engaged
11 in banking business in the Federated States of Micronesia;

12 (2) "Board of Directors" means the Board of Directors of the
13 Corporation, hereinafter referred to as the "Board";

14 (3) "Deposit" means the unpaid balance of money or its equivalent
15 received by a bank in the ordinary course of its business and for which
16 it has given or is obliged to give credit to a commercial, checking,
17 savings, time, or thrift account or which is evidenced by a certificate
18 of deposit, and trust funds held by such bank whether retained or deposited
19 in any department of such bank or deposited in another bank, together with
20 such other obligations of a bank as the Board shall find and shall
21 prescribe by regulations to be deposit liabilities of the bank; PROVIDED
22 that any obligation of a bank which is payable at the office of the bank
23 located outside of the Federated States of Micronesia shall not be a
24 deposit for any of the purposes of this act or included as part of the
25 total deposits or of the insured deposit; PROVIDED FURTHER that any insured

RD

C.B. No. 4-7

1 bank which is incorporated under the laws of the Federated States of
2 Micronesia which maintains a branch outside the Federated States of Micro-
3 nesia may elect to include for insurance its deposit obligations which
4 are payable only at such branch;

5 (4) "Insured bank" means any bank the deposits of which are insured in
6 accordance with the provisions of this act;

7 (5) "Insured deposit" means the amount due to any depositor
8 for deposits in an insured bank, less any part thereof which is in excess
9 of \$15,000. In determining the amount due to any depositor, there shall
10 be added together all deposits in the bank maintained in the same capacity
11 and the same right for his benefit either in his own name or in the name
12 of others;

13 (6) "Net assessment income" means the total assessments which
14 become due during the calendar year less:

15 (a) The operating costs and expenses of the Corporation
16 for the calendar year;

17 (b) Additions to reserve to provide for insurance losses
18 during the calendar year, except that any adjustments to reserve which
19 result in a reduction of such reserve shall be added; and

20 (c) The insurance losses sustained in said calendar year
21 plus losses from any preceding years in excess of such reserves.

22 If these deductions exceed in amount the total assessment which
23 become due during the calendar year, the amount of such excess shall be
24 restored by deduction from total assessments becoming due in subsequent
25 years;

LD

C.B. No. 4-7

1 (7) "Noninsured bank" means any bank the deposits of which are
2 not insured;

3 (8) "Receiver" includes a receiver, liquidating agent, con-
4 servator, commission, person, or other agency charged by law with the duty
5 of winding up the affairs of a bank;

6 (9) "Transfer deposit" means a deposit in an insured bank made
7 available to a depositor by the Corporation as payment of an insured
8 deposit of such depositor in a closed bank and assumed by another insured
9 bank; and

10 (10) "Trust funds" means funds held by an insured bank in a
11 fiduciary capacity, including, but not limited to, funds held by the bank
12 as trustee, executor, administrator, guardian, or agent.

13 Section 3. Incorporation; Powers; Seal. The Corporation as a
14 corporate body shall have the power to:

15 (1) Adopt and use a corporate seal;

16 (2) Make contracts;

17 (3) Have succession until dissolved by an act of the Congress
18 of the Federated States of Micronesia;

19 (4) Sue and be sued, complain, and defend in any court of law
20 in the Federated States of Micronesia. All suits of a civil nature to which
21 the Corporation shall be a party shall be deemed to arise under the laws of
22 the Federated States of Micronesia. No attachment or execution shall be
23 issued against the Corporation or its property before final judgment in
24 any suit, action and proceeding in any court;

25 (5) Appoint by its Board such officers and employees as are not

RD

1 otherwise provided for in this act; define their duties, fix their com-
2 pensation, require bonds of them; and fix penalty thereof and dismiss
3 such officers and employees for cause;

4 (6) Prescribe by its Board bylaws not inconsistent with law,
5 regulating the manner in which its general business may be conducted,
6 and the privileges granted to it by law may be exercised and enjoyed;

7 (7) Exercise by its Board or duly authorized officers or
8 agents, all powers specifically granted by this act, and such incidental
9 powers as shall be necessary to carry out the powers so granted;

10 (8) Make examinations of, and require information and reports
11 from banks, as provided in this act;

12 (9) Act as receiver; and

13 (10) Prescribe by its Board such rules and regulations as it
14 may deem necessary to carry out the provisions of this act or of any other
15 law which it has the responsibility of administering or enforcing.

16 Section 4. Insurance Fund.

17 (1) A permanent insurance fund in the initial amount of
18 \$1 million to be appropriated from the General Fund of the Federated States
19 of Micronesia is hereby created to be used by the Corporation in carrying
20 out the purposes of this act.

21 (2) The permanent insurance fund may, upon the recommendation
22 of the Board and upon approval by the President of the Federated States of
23 Micronesia, be increased by such an amount or amounts as the Board may
24 deem necessary; PROVIDED that the maximum amount of the insured deposit of
25 any depositor may also be increased subject to prior approval by the

1 President of the Federated States of Micronesia.

2 Section 5. Directors; Term of office; Chairman; Vacancies; Office
3 or ownership of stock in insured banks forbidden.

4 (1) The powers and functions of the Corporation shall be
5 exercised by a Board consisting of five members, one of whom shall be the
6 Secretary of Finance, and four of whom shall be citizens of the Federated
7 States of Micronesia to be appointed by the President of the Federated
8 States of Micronesia, with the advice and consent of the Congress of the
9 Federated States of Micronesia. One of the appointive members shall be
10 elected as Chairman of the Board. All appointive members shall hold
11 office for a term of 4 years.

12 (2) The presence of 3 members shall constitute a quorum, and
13 all decisions shall require the concurrence of at least 2 members.

14 (3) In the event of a vacancy in the Office of the Secretary
15 of Finance, and pending the appointment of his successor, or during the
16 absence or disability of the Secretary, the Acting Secretary shall be a
17 member of the Board.

18 (4) No member of the Board shall during the time he is in office
19 and for 2 years thereafter, become a stockholder nor be eligible to hold
20 any office, position, or employment in any insured bank.

21 Section 6. Administration of the Corporation.

22 (1) The Board shall administer the affairs of the Corporation
23 fairly and impartially and without discrimination.

24 (2) The Board shall appoint examiners who shall have the power,
25 on behalf of the Corporation, to examine any insured bank whenever in the

RD

C.B. No. 4-7

1 judgment of the Board an examination of the bank is necessary. In making
2 examinations of insured banks, the examiners shall also examine the affairs
3 of all affiliates of such insured banks as shall be necessary to disclose
4 fully the relation between such banks and their affiliates and the effect
5 of such relations upon such banks. A binding commitment by such banks to
6 permit such examinations to the extent determined by the Board to be
7 necessary to carry out the purposes of this act shall be required as a
8 condition precedent to the insurance of any deposits. Each examiner shall
9 have the power to make a thorough examination of all of the affairs of the
10 bank and its affiliates, and shall make a full and detailed report of the
11 condition of the bank to the Corporation.

12 (3) The Board, in like manner, shall appoint claims agents who
13 shall have the power to investigate and examine all claims for insured
14 deposits and transfer deposits. Each claims agent shall have the power to
15 administer oaths and to examine under oath and take and preserve the
16 testimony of any person relating to such claims.

17 (4) In connection with examinations of insured banks, the
18 examiner on behalf of the Corporation is authorized to administer oaths
19 and affirmations, and to examine and to take and preserve testimony under
20 oath as to any matter in respect to the affairs or ownership of any such
21 bank or affiliate thereof, and to exercise such other powers as are
22 incidental to effectuate the purposes of this act.

23 (5) Each insured bank shall make to the Corporation reports of
24 condition in such form and at such times as the Board may require. Such
25 reports shall be published in such manner, not inconsistent with any

RD

C.B. No. 4-7

1 applicable law, as the Board may direct. Every such bank which fails to
2 make or publish any such report within such time as the Board may require,
3 shall be subject to a penalty of not more than \$100 for each day of such
4 failure recoverable by the Corporation for its use.

5 (6) The Corporation shall have access to reports of examination
6 made by, and reports of condition made to the Banking Board, and the
7 Banking Board shall also have access to reports of examination made on
8 behalf of, and reports of condition made to, the Corporation.

9 (7) The members of the Board and the officers and employees
10 of the Corporation are prohibited from revealing any information relating
11 to the condition or business of any insured bank or its affiliates, and
12 any member of the Board or officer or employee of the Corporation violating
13 this provision shall be personally liable for any loss or injury suffered
14 by the Corporation.

15 Section 7. Amount of insured deposit; Assessment fees.

16 (1) The deposit liabilities of any bank or banking institution
17 engaged in banking business in the Federated States of Micronesia on the
18 effective date of this act, or which thereafter may engage in banking
19 business, shall be insured with the Corporation. The maximum amount of
20 the insured deposit for any depositor shall be \$15,000.

21 (2) The assessment rate shall be determined by the Board;
22 PROVIDED that the assessment rate shall not exceed one-fourth of 1 percent
23 per annum. The semiannual assessment for each insured bank shall be in
24 the amount of the product of one-half the assessment rate multiplied by the
25 assessment base.

RD

1 (3) The assessment base shall be the amount of the liability of
2 the bank for deposits, according to the definition of "deposit" in and
3 pursuant to subsection (3) of section 2 without any deduction for
4 indebtedness of depositors.

5 (4) The semiannual assessment base for one semiannual period
6 shall be the average of the assessment base of the bank as of the close
7 of business on March 31 and June 30, and the semiannual assessment base
8 for the other semiannual period shall be the average of the assessment base
9 of the bank as of the close of business on September 30 and December 31;
10 PROVIDED that when any of said days is a nonbusiness day or a legal
11 holiday, either National or State, the preceding business day shall be
12 used.

13 (5) On or before July 31 of each year, each insured bank shall
14 file with the Corporation a certified statement showing for the 6 months
15 ending on the preceding June 30 the amount of the assessment base and the
16 amount of the semiannual assessment due to the Corporation for the period,
17 determined in accordance with subsections (2) through (4) of this section,
18 which statement shall contain or be verified by a written declaration that
19 it is made under the penalties of perjury. The certified statement shall
20 be in such form and set forth such supporting information as the Board
21 shall prescribe. Each insured bank shall pay to the Corporation the amount
22 of the semiannual assessment it is required to certify. On or before
23 January 31 of each year, each insured bank shall file with the Corporation
24 a similar certified statement for the 6 months ending on the preceding
25 December 31 and shall pay to the Corporation the amount of the semiannual

1 assessment for the period. The assessment payments required under this
2 subsection shall be made in such manner and at such time or times as the
3 Board shall prescribe; PROVIDED that the time or times so prescribed
4 shall not be later than 60 days after filing the certified statement setting
5 forth the amount of the assessment.
6 (6) Each bank which becomes an insured bank shall not be
7 required to file any certified statement or pay any assessment for the
8 semiannual period in which it becomes an insured bank. On the expiration
9 of such period, each such bank shall comply with the provisions of sub-
10 section (5) of this section except that the semiannual assessment base for
11 its first certified statement shall be the assessment base of the bank as
12 of the close of business on the preceding June 30 or December 31, whichever
13 is applicable. The assessment base shall be determined in accordance
14 with subsection (3) of this section. If such bank has assumed the
15 liabilities for deposits of another bank or banks, it shall include such
16 liabilities in its assessment base. The first certified statement shall
17 show as the amount of the first semiannual assessment due to the
18 Corporation, an amount equal to the product of one-half of the annual
19 assessment rate multiplied by such assessment base.
20 (7) As of December 31 of each calendar year, the Corporation
21 shall transfer 50 percent of its net assessment income, as defined in
22 section 2(6) of this act, to its permanent insurance fund and the balance
23 of the net assessment income shall be credited pro rata to the insured
24 banks based upon the assessment of each bank becoming due during said
25 calendar year. Each year such credit shall be applied by the Corporation

125

RD

1 toward the payment of the total assessments becoming due for the next
2 semiannual assessment period, and any excess credit shall be applied upon
3 the assessment next becoming due.

4 (8) The Corporation at its discretion:

5 (a) May refund to an insured bank any payment of assessment
6 in excess of the amount due to the Corporation; or

7 (b) May credit such excess toward the payment of the
8 assessment next becoming due from such bank and upon succeeding assessments
9 until the credit is exhausted.

10 (9) Any insured bank which fails to file any certified statement
11 required to be filed by it in connection with determining the amount of any
12 assessment payable by the bank to the Corporation may be compelled to file
13 such statement by mandatory injunction or other appropriate remedy in a
14 suit brought for such purpose by the Corporation against the bank and any
15 officer or officers thereof in the Trial Division of the Supreme Court
16 of the Federated States of Micronesia.

17 (10) The Corporation shall be entitled to recover from any
18 insured bank the amount of any unpaid assessment lawfully payable by such
19 insured bank to the Corporation, whether or not such bank shall have filed
20 a certified statement in accordance with subsection (5) or (6) of this
21 section, and whether or not suit shall have been brought to compel the
22 bank to file any such statement. No action or proceeding shall be brought
23 for recovery of any assessment due to the Corporation or for the recovery
24 of any amount paid to the Corporation in excess of the amount due to it,
25 unless such action or proceeding shall have been brought within 5 years

RD

1 after the right accrued for which the claim is made, except where the
2 insured bank has made or filed with the Corporation a false or fraudulent
3 certified statement with the intent to evade, in whole or in part, the
4 payment of any assessment, in which case the claim shall not have been
5 deemed to have accrued until the discovery by the Corporation that the
6 certified statement is false or fraudulent.

7 (11) Should any insured bank fail or refuse to pay any assess-
8 ment required to be paid by such bank under any provision of this act,
9 and should the bank not correct such failure or refusal within 30 days
10 after written notice has been given by the Corporation to an officer of
11 the bank, citing this subsection and stating that the bank has failed or
12 refused to pay as required by law, the insured status of such bank shall
13 be terminated by the Board. The remedies provided in this act shall not
14 be construed as limiting any other remedies against an insured bank but
15 shall be in addition thereto.

16 (12) Trust funds held by an insured bank in a fiduciary capacity,
17 whether held in trust or deposited in any other department or in another
18 bank, shall be insured like other forms of deposits, in an amount not to
19 exceed \$7,500 for each trust estate, and when deposited by the fiduciary
20 bank in another insured bank such trust funds shall be similarly insured to
21 the fiduciary bank according to the trust estates represented. Notwith-
22 standing any other provision of this act, such insurance shall be separate
23 from and in addition to that covering other deposits of the owners of such
24 trust funds or the beneficiaries of such trust estates; PROVIDED that where
25 the fiduciary bank deposits any of such trust funds in other insured banks,

RD

1 the amount so held by other insured banks on deposit shall not for the
2 purpose of any certified statement required under subsections (5) and (6)
3 of this section be considered to be a deposit liability of the bank in
4 which such funds are so deposited by such fiduciary bank. The Board
5 shall have the power by regulation to prescribe the manner of reporting
6 and of depositing such trust funds.

7 Section 8. Termination of status as insured bank.

8 (1) Whenever the Board shall find that an insured bank or its
9 directors or trustees have engaged or are engaging in unsafe or unsound
10 practices in conducting the business of such bank, or such bank is in an
11 unsafe or unsound condition to continue operations as an insured bank, or
12 such bank or its directors or trustees have violated an applicable law,
13 rule, regulation, or order, or any condition imposed in writing by the
14 Corporation in connection with the granting of any application or other
15 request by the bank, or any written agreement entered into with the
16 Corporation, the Board shall demand the correction thereof by the bank.
17 Unless such correction shall be made within 120 days or such shorter period
18 of time as the Board determines, the Board, if it shall determine to proceed
19 further, shall give to the bank not less than 30 days written notice of its
20 intention to terminate the status of the bank as an insured bank, and shall
21 fix a time and place for a hearing before the Board or before a person
22 designated by it to conduct such hearing, at which evidence may be produced,
23 and upon such evidence the Board shall make written findings which shall be
24 conclusive. Unless the bank shall appear at the hearing by a duly
25 authorized representative, it shall be deemed to have consented to the

RD

C.B. No. 4-9

1 termination of its status as an insured bank. If the Board shall find
2 that any imprudent or unsound practice or violation specified in such
3 notice has been established and has not been corrected within the time
4 period prescribed above in which to make such correction, the Board may
5 order that the insured status of the bank be terminated on a date
6 subsequent to such finding and subsequent to the expiration of the time
7 specified in such notice of intention. The Corporation shall publish
8 notice of such termination to each of the depositors at his last address
9 of record on the books of the bank, in such a manner and at
10 such time as the Board may find to be necessary and may order to protect
11 the depositors. After the termination of the insured status of the bank
12 under the provisions of this subsection, the insured deposits of each
13 depositor in the bank on the date of such termination, less all sub-
14 sequent withdrawals from any deposits of such depositor, shall continue
15 for a period of 2 years to be insured, and the bank shall continue to pay
16 to the Corporation assessments as though it were an insured bank during
17 such period. No additions to any such deposits and no new deposits in
18 such bank made after the date of such termination shall be insured by
19 the Corporation, and the bank shall not advertise or hold itself out as
20 having insured deposits unless, in the same connection, it also states
21 with equal prominence that such additions to deposits and new deposits
22 made after such date are not insured. Such bank shall, in all other
23 respects, be subject to the duties and obligations of an insured bank for
24 the period of 2 years from the date of such termination, and in the event
25 that such bank shall be closed on account of insolvency within such

1 period of 2 years, the Corporation shall have the same powers and rights
2 with respect to such bank as though it were an insured bank.

3 (2) Notwithstanding any other provision of law, whenever the
4 Board shall determine that an insured bank is not engaged in the business
5 of receiving deposits, the Corporation shall notify the bank that its
6 insured status will terminate at the expiration of the first full semi-
7 annual assessment period following such notice. A finding by the Board
8 that a bank is not engaged in the business of receiving deposits shall be
9 conclusive. The Board shall prescribe the form of notice to be given to
10 the bank of such termination and the Corporation may publish notice thereof.
11 Upon the termination of the insured status of any such bank, its deposits
12 shall thereupon cease to be insured and the bank shall thereafter be
13 relieved of all future obligations to the Corporation, including the
14 obligation to pay future assessments.

15 (3) Whenever the liabilities of an insured bank for deposits
16 shall have been assumed by another insured bank or banks, the insured
17 status of the bank whose liabilities are so assumed shall terminate on the
18 date of receipt by the Corporation of satisfactory evidence of such
19 assumption with like effect as if its insured status had been terminated
20 on said date by the Board after proceedings under subsection (1) of this
21 section; PROVIDED that if the bank whose liabilities are so assumed gives
22 to its depositors notice of such assumption within 30 days after such
23 assumption takes effect, by publication or by any reasonable means, in
24 accordance with regulations to be prescribed by the Board, the insurance
25 of its deposits shall terminate at the end of 6 months from the date such

RD

1 assumption takes effect, and such bank shall be subject to the duties and
2 obligations of an insured bank for the period its deposits are insured;
3 PROVIDED FURTHER that if the deposits are assumed by a newly insured
4 bank, the bank whose deposits are assumed shall not be required to pay
5 any assessment upon the deposits which have been assumed after the semi-
6 annual period in which the assumption takes effect.

7 Section 9. Closure of insured bank; Corporation as receiver.

8 (1) For the purposes of this act, an insured bank shall be
9 deemed to have been closed on account of insolvency if it has been closed
10 for the purpose of liquidation without adequate provision being made for
11 payment to its depositors.

12 (2) When an insured bank is deemed to have been closed on
13 account of insolvency, the Corporation shall become the receiver
14 thereof. As a receiver, it is the duty of the Corporation to cause notice
15 to be given to all persons having claims against such closed insured bank;
16 to realize upon the assets of such closed bank, having due regard to the
17 condition of credit in the locality; to enforce the individual liability
18 of the stockholders and directors thereof; and to wind up the affairs of
19 such closed bank in conformity with the provisions of law relating to
20 liquidation of insured banks.

21 (3) Whenever an insured bank shall have been closed on account
22 of insolvency, payment of the insured deposits in such bank shall be made
23 by the Corporation as soon as possible; PROVIDED that the Corporation, in
24 its discretion, may require proof of claims to be filed before paying the
25 insured deposits. In any case where the Corporation is not satisfied as

1 to the validity of a claim for an insured deposit, it may require a final
2 determination by the Trial Division of the Supreme Court of the Federated
3 States of Micronesia before paying such claim.

4 (4) The Corporation, upon the payment to any depositor as
5 provided for in subsection (3) of this section, shall be subrogated to all
6 rights of the depositor against the closed bank to the extent of such
7 payment. Such subrogation shall include the right on the part of the
8 Corporation to receive the same dividends from the proceeds of the assets
9 of such closed bank and recoveries on account of stockholders' liability
10 as would have been payable to the depositor on a claim for the insured
11 deposit, but such depositor shall retain his claim for any uninsured
12 portion of his deposit. The Corporation shall not make any payment to
13 any depositor until the right of the Corporation to be subrogated to the
14 rights of such depositor is executed in writing by and between the
15 depositor and the Corporation.

16 Section 10. Rights of the Corporation.

17 (1) Payment of an insured deposit to any person by the Corporation
18 shall discharge the obligations of the Corporation, and payment of a
19 transfer deposit to any person by the new bank or by an insured bank in
20 which a transfer deposit has been made available shall discharge the
21 Corporation and such new bank or other insured bank to the same extent that
22 payment to such person by the closed bank would have discharged it from
23 liability for the insured deposit.

24 (2) Except as otherwise prescribed by the Board, neither the
25 Corporation nor such other insured bank shall be required to recognize as the

owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed bank as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such closed bank.

(3) The Corporation may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the closed bank, or of any liability of such depositor to the closed bank or its receiver, which is not offset against a claim due from such bank, pending the determination and payment of such liability by such depositor or any other person liable therefor.

(4) If, after the Corporation shall have given at least 3 months written notice to a depositor by mailing a copy of such notice to his last-known address appearing on the records of the closed bank, any depositor in the closed bank shall fail to claim the insured deposit from the Corporation within 12 months after the Board or the Trial Division of the Supreme Court of the Federated States of Micronesia shall have ordered the conversion of the assets of such closed bank into money, all causes of action of the depositor against the Corporation with respect to the insured deposit shall be barred, and all rights of the depositor against the closed bank and its shareholders or the receivership estate to which the Corporation may have become subrogated, shall thereupon revert to the depositor.

Section 11. Borrowings.

(1) The Corporation is authorized to borrow from the General Fund

1 of the Federated States of Micronesia on such terms as may be fixed by
2 Congress such sums as in the judgment of the Board are, from time to time,
3 required for insurance purposes, not exceeding an aggregate of \$5 million
4 outstanding at any one time; PROVIDED that the interest to be charged in
5 connection with any loan made pursuant to this section shall not exceed
6 9 percent per annum on a declining-balance basis. Any such loan to the
7 Corporation shall be used solely for the purpose of carrying out its
8 functions with respect to such insurance.

9 (2) With the approval of the President of the Federated States
10 of Micronesia, the Corporation may issue bonds, debentures, and other
11 obligations whenever its capital or funds are insufficient to meet its
12 obligations to depositors whose deposits are insured; PROVIDED that the
13 Board shall determine the interest rates, maturity and other requirements of
14 said obligations; PROVIDED FURTHER that the Corporation shall provide for
15 appropriate reserves for the redemption or retirement of said obligations.
16 All notes, debentures, bonds or such obligations issued by the Corporation
17 shall be exempt from taxation.

18 Section 12. Loans to insured banks. When the Corporation has
19 determined that an insured bank is in danger of closing, in order to prevent
20 such closing, the Corporation, in the discretion of its Board, is authorized
21 to make loans to, or purchase the assets of, or make deposits in, such insured
22 bank, upon such terms and conditions as the Board may prescribe, when in the
23 opinion of the Board the continued operation of such bank is essential to
24 provide adequate banking service in the community; PROVIDED, however, that
25 funds available for this purpose shall be limited only to the permanent

RD

1 insurance fund referred to in section 4 of this act, additional appropri-
2 ations thereto, and money borrowed from the General Fund of the Federated
3 States of Micronesia in accordance with the provisions of section 11 of this
4 act; PROVIDED FURTHER that funds of the Corporation accumulated from
5 assessments paid by insured banks shall not be available for this purpose nor
6 for the repayment of loans obtained from the General Fund of the Federated
7 States of Micronesia for the funding assistance to insured banks as provided
8 in this section. Such loans and deposits may be in subordination to the
9 rights of depositors and other creditors.

10 Section 13. Display of sign or signs by insured banks. Every insured
11 bank shall display at each place of business a sign or signs which shall
12 include a statement to the effect that the deposits are insured by the
13 Corporation. The same statement shall appear in all of the bank's advertise-
14 ments; PROVIDED that the Board may exempt from this requirement advertisements
15 which do not relate to deposits or advertisements in which it is impractical
16 to include such statement. The Board shall prescribe by regulation the form
17 or forms of such signs and the manner of display and the substance of such
18 statements and the manner of use. For each day an insured bank continues to
19 violate any provision of this section or regulations promulgated pursuant
20 thereto, it shall be subject to a maximum penalty of \$100, which the
21 Corporation may recover for its use; PROVIDED, however, that a penalty of
22 imprisonment for not more than 1 year, or a maximum fine of \$2,000, or both
23 shall be imposed upon:

24 (1) The directors and officers of any bank operating in the
25 Federated States of Micronesia not insured under the provisions of this act

RD

C.B. No. 4-7

1 which shall in any manner advertise or hold itself out as being insured by
2 the Corporation for the purpose of making it appear that its deposits are
3 insured with the Corporation; or

4 (2) The directors and officers of a bank which has ceased to be
5 insured by the Corporation if such bank shall continue to advertise in any
6 manner or hold itself out as having its deposits insured by the Corporation,
7 unless it also states with equal prominence that additional or new deposits
8 made after the effective date of termination of its insured status are no
9 longer insured; or

10 (3) Any person who, knowing the purpose for which the official
11 sign, advertising statement, or emblem, as duly prescribed by the Corpora-
12 tion, is to be used, reproduces or supplies such official sign, advertising
13 statement, or emblem or a colorable imitation thereof, for the use of a
14 bank not insured under the provisions of this act to enable such bank to
15 fraudulently use the same in connection with the advertising of its services.

16 Section 14. Payment of dividends or interest in case of default. No
17 insured bank shall pay any dividends on its capital stock or interest on
18 its capital notes or debentures if such interest is required to be paid only
19 out of net profits, or distribute any of its capital assets while it remains
20 in default in the payment of any assessment due to the Corporation, and any
21 director or officer of any insured bank who participates in the declaration
22 or payment of any such dividend or interest or in any such distribution shall,
23 upon conviction, be fined not more than \$1,000, or imprisoned not more than
24 1 year, or both; PROVIDED that if such default is due to a dispute between
25 the insured bank and the Corporation over the amount of such assessment,

RD

1 this section shall not apply if such bank deposits with the clerk of the
2 Trial Division of the Supreme Court of the Federated States of Micronesia
3 security satisfactory to the Corporation for payment upon final resolution
4 of the dispute.

5 Section 15. Relationships between insured and uninsured banks.

6 Without prior written consent of the Corporation, no insured bank shall:

7 (1) Merge or consolidate with any noninsured bank or financial
8 institution or convert into a noninsured bank or financial institution; or

9 (2) Assume liability to pay any deposits made in, or similar
10 liabilities of any noninsured bank or institution; or

11 (3) Transfer assets to any noninsured bank or institution in
12 consideration of the assumption of liabilities for any portion of the deposits
13 made in such insured bank.

14 Section 16. Insurance and indemnification. The Corporation may require
15 an insured bank to provide protection and indemnity against burglary,
16 defalcation, and other insurable losses. Whenever any insured bank refuses
17 to comply with any such requirement, the Corporation may contract for such
18 protection and indemnity and add the cost thereof to the assessment otherwise
19 payable by such bank.

20 Section 17. Penalty for failure to file certified statement or pay
21 assessment. Any insured bank which willfully fails or refuses to file any
22 certified statement or pay any assessment required under this act shall be
23 subject to a penalty of not more than \$100 for each day that such violations
24 continue, which penalty the Corporation may recover for its use; PROVIDED
25 that this section shall not be applicable under the circumstances stated

RD

C.B. No. 4-7

1 in the provisions of section 14 of this act.

2 Section 18. Audit report. The financial transactions of the Corpora-
3 tion shall be audited annually by the Public Auditor or such other auditors
4 as the Board deems fit and appropriate. The Corporation shall provide the
5 President of the Federated States of Micronesia and the Speaker of the
6 Congress of the Federated States of Micronesia with a copy of the audit
7 reports.

8 Section 19. Fiscal year. The fiscal year of the Corporation shall
9 coincide with the fiscal year of the Government of the Federated States of
10 Micronesia.

11 Section 20. Accounts and annual report.

12 (1) The Board shall cause to be kept proper books of account
13 and other books and records in relation thereto in which shall be recorded
14 all the financial transactions of the Corporation.

15 (2) The Corporation shall, within 3 months after the end of each
16 fiscal year, submit to the President of the Federated States of Micronesia
17 and the Speaker of the Congress of the Federated States of Micronesia a copy
18 of its annual report.

19 Section 21. Effective date. This act shall become law upon approval
20 by the President of the Federated States of Micronesia or upon its becoming
21 law without such approval.

22
23 Date: May 14, 1985

Introduced by: Elias H. Thomas
Isaac Figie