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A BILL FOR AN ACT

To further amend title 29 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 6-41 and 6-73, by repealing chapter 2 in its entirety and by amending sections 102, 104, 301, 302, 303, 305, 306, 307, 308, 310, 402, 403, 404, 405, 406, 407, 408, 501, 503, 504, 601, 602, 603, 604, 605, 608, 609, 611, 618, 620, 622, 623, 624, 625, 627, 801, 802 and 803 for the purpose of abolishing the Banking Board and transferring its functions to the Federated States of Micronesia Department of Finance, and for other purposes.

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

1 Section 1. Chapter 2 of title 29 of the Code of the Federated
2 States of Micronesia is hereby repealed in its entirety.

3 Section 2. Section 102 of title 29 of the Code of the Federated
4 States of Micronesia is hereby amended to read as follows:

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

8 (1) 'Bank' means a stock or mutual corporation or
9 unincorporated association with sufficient capital,
10 authorized by law to receive deposits of money or
11 securities, to open credits, checking accounts, and savings
12 accounts, to make loans, and in general to engage in all
13 kinds of banking transactions, but does not mean a National
14 banking association established by the Federated States of
15 Micronesia. 'Bank' includes a savings and loan association
16 but does not include a credit union.

17 (2) ~~'Banking Board' means the board established~~
18 ~~pursuant to section 201 of this title~~ 'Secretary of
19 Finance' or 'Secretary' means the administrative head of the
20 Federated States of Micronesia Department of Finance.

21 (3) 'Branch' means an office of a bank at which
22 deposits are received or checks paid or money lent.

23 (4) 'Demand deposit' means any deposit which is
24 repayable by its terms not more than three days after the
25 time it is made.

1 (5) 'Deposits' means money or other property
2 transferred or assigned to any person pursuant to an
3 agreement, expressed or implied, that the person
4 shall repay such moneys upon demand (whether in person or
5 by written order) or after a fixed or determinable period
6 of time. Money loaned to a bank which is to be repaid not
7 sooner than five years from the date of the loan, and
8 pursuant to a loan agreement under which the obligation to
9 repay is subordinate to the rights of depositors, shall not
10 be deemed to be a deposit. Money transferred to a credit
11 union as a purchase of its shares shall not be deemed to be
12 a deposit.

13 (6) 'Domestic bank' means a bank organized under the
14 provisions of chapter 3 of this title.

15 (7) 'Foreign bank' means a corporation or other
16 financial institution organized for the purpose of engaging
17 in the banking business under the laws of the United States
18 or of a territory or State of the United States, or of a
19 foreign country, operating a bank in its home territory,
20 State, or country.

21 (8) 'Legal reserve' means the sum which every
22 domestic bank and foreign bank shall at all times have
23 available for the payment of their deposit liabilities
24 pursuant to the provisions of this title.

25 (9) 'Paid-in capital, surplus, and undistributed

profits' means, in the case of a foreign bank, the aggregate paid-in capital, surplus, and undistributed profits of such bank and not merely that allocated to, located in, or arising out of its operations in the Federated States of Micronesia.

(10) 'Person' includes individuals, corporations, partnerships, and any other business entity.

(11) 'Public Auditor' means the Public Auditor appointed by the President of the Federated States of Micronesia with the advice and consent of the Congress pursuant to the Constitution.

(12) 'Registrar of Corporations' means the Registrar of Corporations of the National Government of the Federated States of Micronesia.

(13) 'Related person' with respect to any person means his spouse, child, parents, brothers, or sisters, or any partnership, corporation, or firm in which he owns more than a ten percent interest."

Section 3. Section 104 of title 29 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 104. Requirements for banking business.

(1) No person shall engage in the business of accepting deposits in the Federated States of Micronesia or shall use the term 'bank' or 'savings and loan association' or any form thereof in the conduct of its business unless

1 it has been granted a license pursuant to the provision of
2 this title and such license has not expired and has not
3 been cancelled.

4 (2) Any person holding such a license shall engage in
5 no business in the Federated States of Micronesia other
6 than the banking business and shall engage in such
7 business only at the locations authorized by the ~~Banking~~
8 ~~Board~~ Secretary of Finance."

9 Section 4. Section 301 of title 29 of the Code of the Federated
10 States of Micronesia is hereby amended to read as follows:

11 "Section 301. Organization - Permit required; Application.

12 (1) Any five or more persons of sufficient legal
13 capacity may organize a domestic bank, but for such purpose
14 they shall first apply in writing for a permit from the
15 ~~Banking Board~~ Department of Finance.

16 (2) The application shall set forth and prove the
17 need of the services of a banking institution in the
18 locality wherein the bank is sought to be established, and
19 that the services rendered by other banking institutions do
20 not answer the needs of the locality."

21 Section 5. Section 302 of title 29 of the Code of the Federated
22 States of Micronesia is hereby amended to read as follows:

23 "Section 302. Application for permit - ~~Chairman's~~
24 Secretary's investigation. It shall be the duty of the
25 ~~Chairman~~ Secretary, immediately after the ~~Banking Board~~

1 Department of Finance receives an application for a permit,
2 to make whatever investigations and hold such hearings as
3 he deems may be necessary as to:

4 (1) the banking and commercial ability and experience
5 of the applicants;

6 (2) whether such ability and experience are
7 sufficient to warrant the efficient functioning and
8 operation of the bank;

9 (3) whether local need justifies the application;

10 (4) the character and repute, as well as the banking
11 and commercial experience of the prospective directors or
12 officers who are to conduct the business of said bank;

13 (5) whether the bank shall be of benefit to the
14 general public; and

15 (6) the capital which the bank has available for its
16 operations."

17 Section 6. Section 303 of title 29 of the Code of the Federated
18 States of Micronesia is hereby amended to read as follows:

19 "Section 303. Application for permit - Issuance by ~~Board~~
20 Secretary of Finance. The ~~Banking Board~~ Secretary of Finance
21 may issue the permit applied for if, in ~~its~~ his judgment, the
22 results of the investigations are satisfactory. Any permit
23 may be granted subject to such conditions as the ~~Banking~~
24 ~~Board~~ Secretary, in ~~its~~ his discretion, deems necessary to
25 protect the interests of the people of the Federated States

1 of Micronesia."

2 Section 7. Section 305 of title 29 of the Code of the Federated
3 States of Micronesia is hereby amended to read as follows:

4 "Section 305. Certificate of incorporation; Beginning of
5 corporate existence.

6 (1) Upon subscribing and swearing to the articles of
7 incorporation, as provided in section 304 of this chapter,
8 and upon submitting two copies of the same to the Registrar
9 of Corporations together with the permit granted by the
10 ~~Banking Board~~ Secretary of Finance authorizing the
11 organization of the bank, and upon payment of the proper
12 filing fee, and upon the issuance by the Registrar of
13 Corporations, under his seal, of a certificate stating that
14 the articles containing the statements required by section
15 304 of this chapter have been filed in his office, the
16 existence of the bank named in the articles of
17 incorporation shall begin.

18 (2) From and after the date of such filing, the bank
19 shall constitute a body corporate under the name set forth
20 in the articles. Before such bank may commence business it
21 shall comply with the other requirements of this title and
22 all other applicable provisions of law."

23 Section 8. Section 306 of title 29 of the Code of the Federated
24 States of Micronesia is hereby amended to read as follows:

25 "Section 306. Issuance of certificate; Transmittal to

1 ~~chairman~~ Secretary. Upon the issuance by the Registrar of
2 Corporations of a certificate of incorporation, as provided
3 in section 305 of this title, the Registrar of Corporations
4 shall so notify the ~~Chairman~~ Secretary of Finance and at
5 the same time shall transmit to the ~~Chairman~~ Secretary a
6 duplicate copy of the articles of incorporation."

7 Section 9. Section 307 of title 29 of the Code of the Federated
8 States of Micronesia is hereby amended to read follows:

9 "Section 307. Examination for compliance.

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

19 (2) Upon receipt of such statement by the ~~Chairman~~
20 Secretary, he shall examine the condition of the
21 corporation and ascertain specifically the amount of its
22 capital paid in; the names and places of residence of its
23 stockholders, directors, and officers; the amount of the
24 capital stock which each owns in good faith; and,
25 generally, whether such corporation has complied with all

1 the provisions of law required to entitle it to a license
2 to engage in the business of banking."

3 Section 10. Section 308 of title 29 of the Code of the
4 Federated States of Micronesia is hereby amended to read as follows:

5 "Section 308. Issuance of bank license.

6 (1) If, upon careful examination of the facts so
7 reported, or of any other relevant facts which may come to
8 his knowledge, the ~~Chairman~~ Secretary is satisfied that
9 such bank has complied with all the applicable provisions
10 of this title and other laws required to be complied with
11 before a bank shall be authorized to commence the business
12 of banking, he shall issue an initial license to engage in
13 the banking business, valid until it must be renewed
14 according to section 501 of this title.

15 (2) The ~~Chairman~~ Secretary may withhold from a bank
16 the license authorizing it to commence business whenever he
17 is satisfied that the shareholders have organized the bank
18 for any other than the legitimate objects determined by
19 this title.

20 (3) The expenses incurred by the ~~Chairman~~ Secretary
21 in connection with such investigations shall be paid by the
22 corporation in conformity with the regulations the ~~BANKING~~
23 ~~Board~~ Secretary of Finance may promulgate for that purpose."

24 Section 11. Section 310 of title 29 of the Code of the
25 Federated States of Micronesia is hereby amended to read as follows:

1 "Section 310. Amendment of articles of incorporation.

2 (1) Every bank organized under this title may amend
3 its articles of incorporation with the approval of the
4 ~~Banking Board~~ Secretary of Finance for any lawful purposes.

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

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

12 Section 12. Section 402 of title 29 of the Code of the
13 Federated States of Micronesia is hereby amended to read as follows:

14 "Section 402. Establishment - Application for permit
15 required.

16 (1) No foreign bank may open any branch or office or
17 change the location of any branch or office in the
18 Federated States of Micronesia without a permit to do so
19 from the ~~Banking Board~~ Secretary of Finance.

20 (2) An application to the ~~Banking Board~~ Secretary of
21 Finance for such permit shall state the benefit to the
22 public expected to result from the granting of the permit
23 applied for.

24 (3) The ~~Banking Board~~ Secretary of Finance, upon
25 receipt of such application, may require the submittal of

1 such additional information as may be necessary in order
2 for it to make the necessary investigations."

3 Section 13. Section 403 of title 29 of the Code of the
4 Federated States of Micronesia is hereby amended to read as follows:

5 "Section 403. Application for permit - ~~Chairman's~~
6 Secretary's investigation. It shall be the duty of the
7 ~~Chairman~~ Secretary, immediately after the ~~Banking Board~~
8 Department of Finance receives an application for a permit,
9 to make whatever investigations may be necessary as to:

10 (1) the overall financial condition of the
11 application;

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

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

18 (4) whether the bank shall be of benefit to the
19 general public; and

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

23 Section 14. Section 404 of title 29 of the Code of the
24 Federated States of Micronesia is hereby amended to read as follows:

25 "Section 404. Application for permit - Issuance by Board

1 Secretary. The ~~Banking Board~~ Secretary may issue the permit
2 applied for if, in ~~its~~ his judgment, the results of the
3 investigations are satisfactory. The decision of the
4 ~~Banking Board~~ Secretary shall be final. All expenses
5 incurred by the ~~Banking Board~~ Department of Finance in
6 connection with such investigations shall be paid by the
7 applicant in conformity with regulations which the ~~Banking~~
8 ~~Board~~ Secretary of Finance may make."

9 Section 15. Section 405 of title 29 of the Code of the
10 Federated States of Micronesia is hereby amended to read as follows:

11 "Section 405. Issuance of permit - Transmittal to
12 Registrar of Corporations. Upon the issuance of a permit
13 to an applicant, the ~~Banking Board~~ Secretary shall
14 forthwith transmit a certified copy thereof to the
15 Registrar of Corporations who shall file it along with such
16 other documents submitted to him."

17 Section 16. Section 406 of title 29 of the Code of the
18 Federated States of Micronesia is hereby amended to read as follows:

19 "Section 406. Examination for compliance.

20 (1) When the permit of the ~~Banking Board~~ Secretary of
21 Finance is received by the foreign bank, as provided in
22 section 405, it shall proceed to comply with all applicable
23 provisions of law so as to place it in readiness to
24 commence operations upon issuance to it of the license
25 provided by section 501 of this title.

1 (2) When such foreign bank is in such position of
2 readiness, it shall notify the ~~Chairman~~ Secretary by means
3 of a statement of all facts necessary to enable the
4 ~~Chairman~~ Secretary to determine whether such foreign bank
5 has, in fact, complied with all the requirements of law and
6 is lawfully entitled to commence operations, such statement
7 to be sworn to by a majority of the directors or by the
8 president or manager of such foreign bank.

9 (3) Upon receipt of such statement, the ~~Chairman~~
10 Secretary shall make such investigations as may be
11 necessary to assure himself that the foreign bank has, in
12 fact, complied with all the provisions of law to entitle it
13 to a license to engage in the business of banking."

14 Section 17. Section 407 of title 29 of the Code of the
15 Federated States of Micronesia is hereby amended to read as follows:

16 "Section 407. Issuance of bank license.

17 (1) If, upon a careful examination of the facts so
18 reported or any other relevant facts which may come to his
19 knowledge, he is satisfied that the foreign bank has
20 complied with all of the provisions of this title required
21 before a foreign bank shall be authorized to open or
22 operate a branch or office in the Federated States of
23 Micronesia, the ~~Chairman~~ Secretary shall issue an initial
24 license to engage in the banking business valid until it
25 must be renewed according to section 501 of this title.

1 (2) The ~~Chairman~~ Secretary may withhold from a
2 foreign bank the license authorizing it to commence
3 operations whenever he is satisfied that the foreign bank
4 seeks to operate in the Federated States of Micronesia for
5 any other than the legitimate objects determined by this
6 title.

7 (3) The expenses incurred by the ~~Chairman~~ Secretary
8 in connection with such investigation shall be paid by the
9 foreign bank in conformity with regulations which the
10 ~~Banking Board~~ Secretary may make and issue for that purpose."

11 Section 18. Section 408 of title 29 of the Code of the
12 Federated States of Micronesia is hereby amended to read as follows:

13 "Section 408. Appointment of agent for service of process.
14 Before commencing business in the Federated States of
15 Micronesia, a foreign bank shall file with the ~~Banking~~
16 ~~Board~~ Department of Finance an appointment of the ~~Chairman~~
17 Secretary as its agent upon whom all process in any action
18 or proceeding against it arising out of the operations or
19 activities of its office or offices in the Federated States
20 of Micronesia may be served, which appointment shall be by
21 its terms perpetual and irrevocable."

22 Section 19. Section 501 of title 29 of the Code of the
23 Federated States of Micronesia, as amended by Public Law No. 6-41, is
24 hereby further amended to read as follows:

25 "Section 501. Annual licensing of Banks.

1 (1) The ~~Banking Board~~ Secretary of Finance shall
2 issue annual licenses to engage in the business of banking,
3 which licenses shall be effective for the calendar year for
4 which they are granted, or a shorter period as provided for
5 in this chapter.

6 (2) Initial licenses shall be issued to banks
7 authorized to commence business pursuant to section 306 or
8 section 309 of this title for the remainder of the calendar
9 year.

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

17 Section 20. Section 503 of title 29 of the Code of the
18 Federated States of Micronesia is hereby amended to read as follows:

19 "Section 503. Extension of license - Grace period. The
20 ~~Banking Board~~ Secretary of Finance shall grant a grace
21 period not exceeding thirty days, during which an existing
22 license may be continued in effect after the 31st day of
23 December, to any domestic bank or foreign bank which shows
24 good cause thereafter to the ~~Banking Board~~ Secretary, when
25 the ~~Banking Board~~ Secretary considers such action to be in

1 the public interest."

2 Section 21. Section 504 of title 29 of the Code of the Federated
3 States of Micronesia, as amended by Public Law No. 6-41, is hereby
4 further amended to read as follows:

5 "Section 504. Licenses - Board Standard of review.

6 (1) The ~~Banking Board~~ Secretary of Finance, in
7 determining whether to issue an annual license to engage in
8 the business of banking, shall consider and determine
9 whether the bank applying for the license has, in its
10 lending and operating practices, served the needs of the
11 communities in which it maintains branches or offices.

12 (2) In determining that a bank has served the needs of
13 the communities in which it maintains branches or offices,
14 the ~~Banking Board~~ Secretary shall consider other factors
15 customarily examined, and in addition must find that:

16 (a) such bank has used its best efforts to hire,
17 train, and promote citizens and residents of the Federated
18 States of Micronesia for executive positions in the bank,
19 and to maximize the number of such positions filled by
20 citizens and residents of the Federated States of
21 Micronesia;

22 (b) the percentage of loans made by such bank to
23 citizens and residents of, and business entities located in
24 the Federated States of Micronesia relative to such bank's
25 deposits accepted in the Federated States of Micronesia

1 exceeds fifty percent; and

2 (c) such bank has abstained from any unfair
3 discrimination among its customers and the people it serves.

4 (3) In making the foregoing determination, due
5 consideration shall be given to the herein stated goals of
6 the Federated States of Micronesia that:

7 (a) executive positions in all banks operating
8 in the Federated States of Micronesia shall be occupied by
9 citizens and residents of the Federated States of
10 Micronesia;

11 (b) at least seventy-five percent of the total
12 amount of deposits taken by a bank in the Federated States
13 of Micronesia should be loaned to citizens and residents
14 of, and business entities located in, the Federated States
15 of Micronesia; and

16 (c) no bank should discriminate unfairly among
17 its customers and the people it serves.

18 (4) Should the ~~Banking Board~~ Secretary of Finance
19 find that an applicant bank has failed to satisfy any of
20 the three conditions set forth in subsection (2) of this
21 section, the bank shall submit to the ~~Banking Board~~
22 Secretary a written explanation setting forth causes,
23 factors, or other reasons which prevented the bank's full
24 compliance. The ~~Banking Board~~ Secretary shall consider
25 such statement and such other information as it may deem

1 appropriate, and, upon finding that the reasons presented
2 describe exceptional circumstances beyond the control of
3 the applicant bank, the ~~Banking Board~~ Secretary may still
4 determine that the bank has served the needs of the
5 communities in which it maintains branches or offices."

6 Section 22. Section 601 of title 29 of the Code of the
7 Federated States of Micronesia is hereby amended to read as follows:

8 "Section 601. Regulation and supervision of banks by
9 ~~Banking Board~~ Secretary of Finance - General policies.

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

20 Section 23. Section 602 of title 29 of the Code of the
21 Federated States of Micronesia is hereby amended to read as follows:

22 "Section 602. Regulations - Issuance and promulgation.

23 (1) For the purpose of effectuating the policy
24 declared in section 601 of this chapter, the ~~Banking Board~~
25 Secretary of Finance, with the approval of the President of

1 the Federated States of Micronesia, may adopt regulations
2 consistent with law and sound banking practice.

3 (2) Such regulations shall be brought to the
4 attention of those affected thereby in the manner that the
5 ~~BANKING BOARD~~ Secretary may prescribe."

6 Section 24. Section 603 of title 29 of the Code of the
7 Federated States of Micronesia is hereby amended to read as follows:

8 "Section 603. Examination of banks - Authority; Testimony;
9 Fees.

10 (1) The ~~Chairman~~ Secretary of Finance may examine,
11 or cause to be examined, every domestic or foreign bank for
12 the purpose of ascertaining whether it has complied with
13 this title and other applicable laws and for such other
14 purposes and such other matters as the ~~BANKING BOARD~~
15 Secretary of Finance may prescribe.

16 (2) The ~~Chairman~~ Secretary and every examiner
17 appointed by him may administer an oath to any person whose
18 testimony may be required on the examination of any bank
19 and summon and compel the appearance and attendance of any
20 person for the purpose of the examination.

21 (3) As an examination fee, each bank so examined
22 shall pay the total cost of such examination, and the sum
23 so paid shall be covered into the General Fund of the
24 Federated States of Micronesia."

25 Section 25. Section 604 of title 29 of the Code of the

1 Federated States of Micronesia is hereby amended to read as follows:

2 "Section 604. Reports of banks.

3 (1) Every domestic or foreign bank shall make at
4 least one report of its condition each year to the ~~Chairman~~
5 Secretary within ninety days after the close of the bank's
6 fiscal year, and according to forms to be prescribed by
7 him, verified by the oath of the chief executive officer or
8 chief financial officer and attesting officer, certifying
9 and subscribing under oath that each of them has personal
10 knowledge of the facts stated therein and that the same are
11 true.

12 (2) Such reports shall exhibit in detail and under
13 appropriate heads the total resources and liabilities of
14 the bank, and, in the case of a foreign bank, shall show
15 separately the resources, liabilities, and operations in
16 the Federated States of Micronesia.

17 (3) The ~~Chairman~~ Secretary shall have the right to
18 require that any such reports be audited at the bank's
19 expense by independent accountants approved by the ~~Chairman~~
20 Secretary."

21 Section 26. Section 605 of title 29 of the Code of the

22 Federated States of Micronesia is hereby amended to read as follows:

23 "Section 605. Special reports.

24 (1) The ~~Chairman~~ Secretary may also call for special
25 reports from any domestic or foreign bank whenever in his

1 judgment the same are necessary in order to obtain full
2 knowledge of its condition.

3 (2) During the first five years of operations in the
4 Federated States of Micronesia by any domestic bank, the
5 ~~Chairman~~ Secretary shall call for special reports of its
6 condition not less frequently than each calendar quarter."

7 Section 27. Section 608 of title 29 of the Code of the
8 Federated States of Micronesia is hereby amended to read as follows:

9 "Section 608. Alternative examination and reports.

10 (1) The ~~Chairman~~ Secretary may accept, in lieu of the
11 examination required or authorized by section 603 of this
12 title, the most current examination made by the Federal
13 Deposit Insurance Corporation, the Board of Governors of
14 the Federal Reserve System, or a Federal Reserve Bank, or in
15 case of a foreign bank not examined by such agencies, an
16 examination acceptable by the appropriate government agency
17 in the home jurisdiction of that bank.

18 (2) The ~~Chairman~~ Secretary may accept, in lieu of any
19 report of condition which may be required by sections 604
20 or 605 of this chapter, a report of condition obtained by
21 said Corporation, Board of Governors, Federal Reserve Bank,
22 or government agency."

23 Section 28. Section 609 of title 29 of the Code of the
24 Federated States of Micronesia is hereby amended to read as follows:

25 "Section 609. Legal reserve - Domestic banks.

(1) Subject to such additional requirements as the ~~BANKING BOARD~~ Secretary of Finance may impose, every domestic bank shall maintain a legal reserve which shall not be less than twenty percent of its demand deposits and not less than five percent of its other deposits. Said reserve shall consist of United States currency or demand deposits in the name of such bank deposited in another bank approved for such purpose by the ~~BANKING BOARD~~ Secretary.

(2) The ~~BANKING BOARD~~ Secretary may increase or decrease the minimum legal reserve for demand deposits established in this section up to not more than thirty percent or down to not less than fifteen percent of the total demand deposits of a domestic bank, when in ~~its~~ his judgment the circumstances so require it; but the order increasing or decreasing the minimum legal reserve shall not be effective until thirty days after it is entered. This time might be extended by the ~~BANKING BOARD~~ Secretary."

Section 29. Section 611 of title 29 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 611. Legal reserve - Notification. The ~~Banking Board~~ Secretary shall notify any domestic or foreign bank whose legal reserve is less than that required by this title of its obligations to make up the full amount. If such bank fails to do so within a period of thirty days, it may be declared in liquidation by the ~~BANKING BOARD~~ Secretary. In

1 such event, the ~~Chairman~~ Secretary shall apply to the Trial
2 Division of the Supreme Court of the Federated States of
3 Micronesia for the appointment of a receiver to take charge
4 of and wind up the affairs of such bank and thereafter the
5 matter shall be governed by the provisions of section 802
6 of this title."

7 Section 30. Section 618 of title 29 of the Code of the
8 Federated States of Micronesia, as amended by Public Law No. 6-41, is
9 hereby further amended to read as follows:

10 "Section 618. Prohibited investments by domestic banks.
11 No domestic bank shall invest in the stock of any other
12 corporation, acquire any real estate, except with the
13 approval of the ~~BANKING BOARD~~ Secretary of Finance for use
14 as its principal office in the Federated States of
15 Micronesia, or pledge any of its assets as security for or
16 guaranty any obligations of others except for the issuance
17 of its letters of credit in connection with the shipment of
18 goods."

19 Section 31. Section 620 of title 29 of the Code of the
20 Federated States of Micronesia, as amended by Public Law No. 6-41, is
21 hereby further amended to read as follows:

22 "Section 620. Declarations of dividends - Requirements. No
23 domestic bank shall declare any dividend or make any other
24 distribution to its stockholders except:

25 (1) out of earnings for the current and next

1 preceding year; or

2 (2) with the approval of the ~~Banking Board~~
3 Secretary of Finance."

4 Section 32. Section 621 of title 29 of the Code of the
5 Federated States of Micronesia, as amended by Public Law No. 6-41, is
6 hereby further amended to read as follows:

7 "Section 621. Bank stock - Ownership limitations. No
8 person may acquire twenty-five percent or more of the stock
9 of a domestic bank without the approval of the ~~Banking~~
10 ~~Board~~ Secretary of Finance."

11 Section 33. Section 622 of title 29 of the Code of the
12 Federated States of Micronesia, as amended by Public Law No. 6-41, is
13 hereby further amended to read as follows:

14 "Section 622. Limitations on sale of assets, merger, etc.
15 No domestic bank may merge or consolidate with, or sell a
16 substantial portion of its assets to, another bank without
17 the approval of the ~~Banking Board~~ Secretary of Finance."

18 Section 34. Section 623 of title 29 of the Code of the
19 Federated States of Micronesia, as amended by Public Law No. 6-41, is
20 hereby further amended to read as follows:

21 "Section 623. Deposit and other insurance.

22 (1) At such time as it becomes available under the
23 laws of the United States, all domestic banks and foreign
24 banks, as a condition to operating an office or branch in
25 the Federated States of Micronesia, shall secure their

1 depositors by deposit insurance of the Federal Deposit
2 Insurance Corporation of the United States.

3 (2) All domestic and foreign banks operating an
4 office or branch in the Federated States of Micronesia
5 shall provide themselves with protection and indemnity
6 against burglary, embezzlement, and other similar insurable
7 loss. If a domestic or foreign bank refuses to comply with
8 this requirement, the ~~Chairman~~ Secretary shall have the
9 right to make arrangements to furnish such protection and
10 indemnity, charging the cost thereof to said bank."

11 Section 35. Section 624 of title 29 of the Code of the
12 Federated States of Micronesia, as amended by Public Law No. 6-41, is
13 hereby further amended to read as follows:

14 "Section 624. Prohibited interests of Government officials
15 in banks; Removal from office.

16 (1) No ~~member~~ employee or official of the ~~Banking~~
17 ~~Board~~ Department of Finance nor the Public Auditor nor any
18 representative of the ~~Banking Board~~ Department of Finance
19 or the Public Auditor nor any bank examiner shall, during
20 the discharge of his office:

21 (a) be an officer, director, or employee in any
22 bank or company affiliated therewith;

23 (b) own or deal directly or indirectly in the
24 shares or obligations of such bank or affiliated company;

25 (c) be interested in or receive directly or

1 indirectly from such bank or affiliated company, or from
2 any of its officers, directors, or employees, any salary,
3 gratuity, compensation, or other thing of value by way of
4 gift, credit, compensation for services, or for any other
5 reason; or

6 (d) be interested in or under obligation to
7 negotiate any loan, obligation, or settlement for another
8 person with such bank or affiliated company.

9 (2) Any violation of this section by any official or
10 employee referred to herein shall be sufficient cause for
11 his removal from office by the President."

12 Section 36. Section 625 of title 29 of the Code of the
13 Federated States of Micronesia, as amended by Public Law No. 6-41, is
14 hereby further amended to read as follows:

15 "Section 625. Permissible interests of Government
16 officials. Notwithstanding the provisions of section ~~623~~
17 624 of this chapter, any official or employee referred to
18 in such section may own or keep one or more bank accounts,
19 either commercial or savings, and may rent safe deposit
20 boxes in any bank referred to in such section and doing
21 business in the Federated States of Micronesia, and may
22 obtain a loan from any such bank, foreign bank, or
23 affiliated company; provided, that such official or
24 employee makes full disclosure thereof to the ~~Banking Board~~
25 Secretary of Finance and, in the case of ~~each of the~~

1 ~~members of the Banking Board~~ the Secretary of Finance, he
2 shall make the disclosure to the President of the Federated
3 States of Micronesia."

4 Section 37. Section 627 of title 29 of the Code of the
5 Federated States of Micronesia, as amended by Public Law No. 6-41, is
6 hereby further amended to read as follows:

7 "Section 627. General penalties.

8 (1) For any violation of this title or the
9 regulations prescribed pursuant to section 602 of this
10 title, the delinquent domestic or foreign bank shall be
11 subject to a fine of not more than \$1,000 for each day that
12 the violation continues and, in the case of a material
13 violation, to the cancellation of its license.

14 (2) Such fine or cancellation shall be imposed by the
15 ~~Banking Board~~ Secretary of Finance only with the approval
16 of the President of the Federated States of Micronesia and
17 after notice to the delinquent bank and a hearing concerning
18 the alleged violation.

19 (3) In any such case, the ~~Chairman~~ Secretary shall
20 send written notice of his action to the bank affected as
21 quickly as circumstances will allow, and if the
22 cancellation of the bank's license has been decided upon,
23 shall transmit a written order to that effect to the
24 Registrar of Corporations for appropriate action."

25 Section 38. Section 801 of title 29 of the Code of the

1 Federated States of Micronesia, as amended by Public Law No. 6-73, is
2 hereby further amended to read as follows:

3 "Section 801. Receivership - Application by ~~Chairman~~
4 Secretary of Finance. If, in consequence of an examination
5 or report made by an examiner, or otherwise, the ~~Banking~~
6 ~~Board~~ Secretary of Finance should have reason to believe
7 that a bank or foreign bank is not in sound financial
8 condition to continue doing business; or that its affairs
9 are being conducted in such a manner that the public or the
10 persons or entities having securities or funds under its
11 custody are in danger of being defrauded; or if any such
12 bank shall violate its charter or any law relative thereto,
13 or this title in any material respect; or if it becomes
14 insolvent, the ~~Chairman~~ Secretary shall apply to the Trial
15 Division of the Supreme Court of the Federated States of
16 Micronesia, for the appointment of a receiver to take charge
17 of and wind up the affairs of such bank."

18 Section 39. Section 802 of title 29 of the Code of the
19 Federated States of Micronesia is hereby amended to read as follows:

20 "Section 802. Receivership - Appointment and duties of
21 receiver.

22 (1) If the Court, after hearing all parties concerned,
23 determines that the facts alleged by the ~~Chairman~~ Secretary
24 of Finance are supported by the evidence, it shall appoint
25 a receiver.

1 (2) Upon his appointment the receiver shall, under
2 the direction of the ~~Chairman~~ Secretary, take possession of
3 the assets and liabilities, books, records, papers, and
4 files of every description belonging to the bank; and
5 collect all loans, fees, and claims of the bank; and see to
6 the payment of its obligations and debts, and to the
7 necessary expenses of receivership.

8 (3) The receiver shall proceed to liquidate the
9 affairs of the bank as soon as possible, and to this end
10 may sell the personal and real property and other assets of
11 the bank, but subject to the approval of the ~~Chairman~~
12 Secretary. The receiver shall continue to perform his
13 duties in the manner prescribed herein until the bank or
14 foreign bank is fully liquidated."

15 Section 40. Section 803 of title 29 of the Code of the
16 Federated States of Micronesia is hereby amended to read as follows:

17 "Section 803. Voluntary liquidation. Any bank may
18 terminate its business in the Federated States of
19 Micronesia with the approval and under the supervision of
20 the ~~Banking Board~~ Secretary of Finance in such event. The
21 business and assets of the bank in the Federated States of
22 Micronesia shall be liquidated in an orderly manner so as
23 to fully protect all of the creditors, depositors, and
24 stockholders of the bank in the Federated States of
25 Micronesia."

R+D/W+M

C.B. No. 6-315

1 Section 41. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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5 Date: October 30, 1990

Introduced by: 
Redley Killion

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