A BILL FOR AN ACT

To establish the Federated States of Micronesia Monetary Authority, to authorize for appropriation the sum of $350,000 from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1986, therefor, 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 is known and may be cited as "The Federated States of Micronesia Monetary Authority Act of 1985."

Section 102. Definitions. In this act, unless the context otherwise requires, the following definitions shall be applicable:

1. "Authority" means the Monetary Authority of the Federated States of Micronesia as established by this act;

2. "Bank" means any financial institution whose operations include the acceptance of deposits subject to check or other means of third party transfer;

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 operations through the frequent sale 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 authorized to do by the Authority;

4. "Board" means the Board of Directors of the Authority;

5. "Credit institution" means any financial institution
1 other than a bank;

2 (6) "Currency" means currency notes, bank notes, or coins;

3 (7) "Demand liabilities of the Authority" means currency in

4 circulation issued or deemed by the Authority to have been issued by it,

5 together with demand deposits held by the Authority;

6 (8) "Dollar(s)" means the currency of the United States of

7 America;

8 (9) "Financial institution" means any person doing banking

9 business; PROVIDED that for the purpose of this act, unless the context

10 otherwise requires, all offices and branches of a financial institution in

11 the Federated States of Micronesia shall be deemed to be one financial

12 institution;

13 (10) "Governments" means the National and State Governments of

14 the Federated States of Micronesia;

15 (11) "Managing director" means the managing director of the

16 Authority;

17 (12) "National Government" means the National Government of

18 the Federated States of Micronesia;

19 (13) "Person(s)" means any individual, corporation,

20 partnership, and any other business entity other than a financial

21 institution; and

22 (14) "President" means the President of the Federated States

23 of Micronesia.

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CHAPTER 2

CONSTITUTION OF THE AUTHORITY

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Section 201. Establishment of Authority. There is hereby established an authority to be known as the Monetary Authority of the Federated States of Micronesia to do business in accordance with the provisions of this act.

Section 202. Status. The Authority shall be a body corporate with perpetual succession and a common seal.

Section 203. Powers. The Authority shall have the power to:

1. Enter into contracts and issue obligations;
2. Sue and be sued in its own name;
3. Acquire, hold, and dispose of property, whether movable or immovable, and to pledge and mortgage the same; and
4. Exercise all powers specifically granted by the provisions of this act to the Authority, and such incidental powers as shall be necessary to carry out the powers so granted.

Section 204. Purposes. The purposes of the Authority are:

1. To secure and regulate the availability of money and its international exchange;
2. To promote monetary stability;
3. To supervise and regulate banking business; and
4. To promote credit and exchange conditions and a sound financial structure conducive to the balanced growth of the economy.

Section 205. Offices, branches, agents, correspondents. The Authority shall have its head office in Kolonia, State of Pohnpei, and may:

1. Establish branches within the Federated States of Micronesia;
2 Appoint agents and correspondents within the Federated States of Micronesia and abroad; and
3 (3) Upon the unanimous vote of all the members of the Board, establish offices abroad.

5 Section 206. Service of documents. The service of any document upon the Authority shall be deemed to be effected by delivering the same or by sending it by registered post to the managing director.

CHAPTER 3

CAPITAL, PROFITS, AND RESERVES

Section 301. Capital.

(1) The authorized capital of the Authority shall be $1 million and may be increased by such amounts as may be proposed by the Board and approved by the President. There shall be paid-up by the National Government $250,000, upon the establishment of the Authority, and such further amounts as may be proposed by the Board and approved by the President. All the paid-up capital shall be subscribed and held exclusively by the Governments in such proportions as may be agreed upon by them, and shall not be transferable or subject to encumbrance. No reduction of capital shall be effected except by an amendment to this act.

(2) The President, notwithstanding any other provision of this act, shall cause to be transferred to the ownership of the Authority nonnegotiable, noninterest bearing securities issued by the National Government, from time to time for such an amount as, in the judgment of the Board, is necessary for the purpose of preserving the paid-up capital from any impairment.
Section 302. Profits. The net profits of the Authority for each fiscal year shall be determined after allowing for the expenses of operation for that year and after providing:

(1) For bad and doubtful debts, depreciation in assets; and

(2) With the approval of the President, for such other purposes as the Board may deem necessary.

Section 303. General reserve.

(1) The Authority shall establish a general reserve to which shall be allocated at the end of each fiscal year of the Authority an amount equal to 50 percent of the net profits until the general reserve amounts to two times the paid-up capital of the Authority. With the approval of the President, the amount to be transferred to the general reserve may be increased to exceed that annual proportion, or the total amount of the general reserve may be increased beyond two times the paid-up capital of the Authority.

(2) After transfers to the general reserve have been made under subsection (1) 50 percent of the remainder of the net profits for the fiscal year shall be applied to the redemption of any securities of the National Government held by the Authority which have been issued under section 301(2).

(3) The balance of the net profits for the fiscal year remaining after all deductions under subsections (1) and (2) have been made shall be paid to the Governments in the same proportions as agreed upon by them pursuant to section 301(1) as soon as practicable after the end of the fiscal year.
(4) No deduction authorized under subsections (1) and (2) shall be required to be made if, in the judgment of the Board, the assets of the Authority are, or after the deduction or payment will be, less than the sum of its liabilities and paid-up capital. Section 304. Revaluation reserve account.

(1) The gains or losses arising from any change in the valuation of the Authority's assets or liabilities in, or denominated in, gold, foreign currencies, or other units of account, as a result of alterations of the value of the currency of the Federated States of Micronesia or of any change in the values or exchange rates of such assets with respect to the currency of the Federated States of Micronesia, shall be credited or debited to a revaluation reserve account and neither the profits nor the losses arising from any such changes shall be included in the computation of the annual profits and losses of the Authority.

(2) The losses arising from any such change shall be set off against any credit balance in the revaluation reserve account and, notwithstanding any other provisions of this act, if such balance is nonexistent or insufficient to cover such losses, the President shall issue to the Authority nonnegotiable, noninterest bearing securities to the extent of the deficiency.

(3) Any credit balance in the revaluation reserve account at the end of each fiscal year of the Authority shall be applied first, on behalf of the National Government, to the redemption of any securities issued under subsection (2) and outstanding; and if thereafter the remaining balance exceeds 5 percent of the Authority's liabilities on
account of currency issued, or deemed to have been issued, by it and
remaining outstanding the greater of:

(a) One-fifth of that remaining balance; or
(b) Five percent of the said liabilities, as at the end
of the past preceding fiscal year of the Authority shall be paid to the
Governments in the same proportions as agreed upon by them pursuant to
section 301(1); PROVIDED that when the remaining balance does not exceed 5
percent of the aforesaid liabilities the entire amount of the balance
shall be paid to the Governments in the same proportions as agreed upon by
them pursuant to section 301(1).

(4) No credits or debits shall be made to the revaluation
reserve account except in accordance with the provisions of this section.

CHAPTER 4

ADMINISTRATION

Section 401. Board of Directors.

(1) The powers of the Authority shall be vested in a Board of
Directors which shall be responsible for the policy and general
administration of the Authority.

(2) The Board shall have the power to make, alter, or repeal
bylaws, regulations, and orders for the purpose of giving effect to the
provisions of this act.

(3) The Board shall consist of seven members, namely; the
Secretary of Finance, who shall serve by virtue of his office; the
managing director; and five other appointed directors.

(4) The managing director shall be appointed by the President,
1 upon the recommendation of the Board and with the advice and consent of
2 the Congress of the Federated States of Micronesia, from among persons of
3 experience or standing in financial matters, for a term of 3 years, and
4 shall be eligible for reappointment. He shall be appointed on such terms
5 and conditions as may be set out in his letter of appointment. Such terms
6 and conditions may not be altered to his disadvantage during his tenure.
7 (5) Four other directors, one from each of the four States,
8 shall be appointed by the President after consultation with the Governors
9 of the respective States and with the advice and consent of the Congress
10 of the Federated States of Micronesia, from among persons of experience
11 or standing in financial matters, for a term of 3 years each, and shall be
12 eligible for reappointment.
13 (6) Another director shall be appointed by the Speaker of the
14 Congress of the Federated States of Micronesia for a term of 3 years and
15 shall be eligible for reappointment.
16 (7) The Chairman of the Board shall be elected by the members
17 of the Board.
18 Section 402. Managing director and the other appointed directors.
19 (1) The managing director shall serve as chief executive
20 officer of the Authority, to be in charge of and responsible to the Board
21 for the implementation of the policy and the day-to-day management of the
22 Authority.
23 (2) The managing director shall have the power to act,
24 contract, and sign instruments and documents, on behalf of the Authority.
25 He may, pursuant to resolution of and to the extent deemed appropriate by
the Board, delegate such power to other officers.

(3) The managing director, while holding office, shall not, without the prior approval of the President, engage in any business, profession, or employment, whether remunerated or not; PROVIDED, that he may:

(a) Act as a member of any board or commission appointed by the Government;

(b) Become governor, alternate governor, director, or member of any organization, by whatever name called, of any international monetary authority established under any agreement or convention to which the Governments shall have adhered or given support or approval;

(c) Become a member of the board of any corporation organized by the Governments for the purpose of insuring deposits in financial institutions.

(4) The managing director shall not receive any salary, or contribution to or supplementation thereof, from any source other than the Authority or, without the written authority of the Secretary of Finance, from some other recognized source, for holding this office.

(5) Fees and allowances to be received by the other members of the Board shall be determined by the Board.

(6) The managing director or any one of the other appointed directors may resign his office upon giving notice in writing to the President. Such resignation will be effective upon its acceptance by the Government.

(7) The managing director or any one of the other appointed
directors shall be removed from his office by the authority by whom he was
appointed only upon a finding by a majority of the members of the Board of:

(a) Incapacity;

(b) Serious misconduct in office substantially
prejudicing the interest of the Authority; or

(c) Justifiable cause or causes.

(8) If the managing director or any one of the other
appointed directors dies, or resigns, or otherwise vacates his office
before the expiration of the term for which he has been appointed, as soon
as may be practicable, another shall be appointed in his place for the
unexpired period.

(9) The Board shall make provision in the bylaws for the
cases of temporary absence or disability of the managing director or any
one of the other appointed directors.

Section 403. Meetings of the Board.

(1) The Board shall meet as often as the Chairman may
consider that the business of the Authority may require, but not less
frequently than once every 2 months. Pursuant to its bylaws, the Board
may provide for regular meetings for which no notice shall be necessary
and for special meetings to be convened at the written request of three
directors for which adequate notice shall be required.

(2) Four members of the Board shall form a quorum at any
meeting and, unless otherwise provided in this act, decisions shall be
adopted by a simple majority of the votes of the members present, and in
the event of a tie vote the Chairman shall cast a vote.
Section 404. Power to appoint officers and employees.

(1) The Board may appoint and employ, at such remuneration and on such terms and conditions as it may prescribe, such officers and employees, agents, and correspondents as the Board may consider necessary for the efficient functioning of the Authority.

(2) Officers and employees of the Authority shall be exempt from the National Public Service System Act.

(3) No salary, fee, wage, or other remuneration or allowance paid by the Authority shall be computed by reference to the net or other profits of the Authority.

Section 405. Conflict of interest.

(1) No appointed member of the Board shall act as a delegate of any commercial, financial, agricultural, industrial, or other business interest, or receive or accept directions therefrom in respect to duties to be performed under this act.

(2) The members of the Board shall fully disclose to the Board any commercial, financial, agricultural, industrial, or other business interests in which they or members of their families may at any time directly or indirectly be interested, and shall refrain from voting on any matter related thereto which becomes the subject of Board action; PROVIDED that such an interest, if so disclosed, shall not disqualify the interested party for the purpose of constituting a quorum.

(3) The disclosure referred to in the preceding subsection shall be made at the commencement of Board discussion of matters concerning which a member is an interested party.
(4) Neither the members of the Board nor any officers or employees of the Authority shall receive any gift or advantage for themselves or for persons with whom they have family, business, or financial connections if the acceptance thereof would result, or give the appearance of resulting, in the diminishing of their impartial devotion to their duties under this act.

(5) Any person who contravenes the provisions of this section shall be guilty, upon conviction thereof in a court of law, of an offense and liable to a fine of not more than $2,000, or to imprisonment for not more than 3 months, or to both such fine and imprisonment.

Section 406. Secrecy.

(1) Except for the purpose of the performance of his duties, or the exercise of his functions, or when required to do so by any court, or under the provision of any law, no member of the Board, officer, or employee of the Authority shall disclose to any person any material information relating to the affairs of the Authority or of any financial institution, or other person, firm, company, or organization which he has acquired in the performance of his duties or the exercise of his functions.

(2) Any person contravening the provisions of subsection (1) of this section shall be guilty, upon conviction thereof in a court of law, of an offense and liable to a fine of not more than $2,000, or to imprisonment for not more than 3 months, or to both such fine and imprisonment.
1 CURRENCY

2 Section 501. Monetary unit. The monetary unit of the Federated
3 States of Micronesia shall be the dollar, or such other unit as is
4 prescribed by law.

5 Section 502. Issue of currency. The Authority shall have the
6 sole right to effect the issue of currency notes and coins in the
7 Federated States of Micronesia; PROVIDED that the Authority shall not
8 effect an original issue of currency notes and coins except with the
9 prior enactment of an enabling law to that effect.

10 CHAPTER 6

11 EXTERNAL RESERVE

12 Section 601. External reserve.

13 (1) The Authority shall maintain an external reserve
14 consisting of all or any of the following on such terms and conditions
15 as the Board may prescribe:
16    (a) Gold;
17    (b) Foreign exchange in the form of currency or bank
18 balances held abroad;
19    (c) Any internationally recognized reserve assets,
20 including:
21        (i) Any reserve tranche position of the Federated
22 States of Micronesia in the International Monetary Fund; and
23        (ii) Any holdings of any special drawing rights
24 by the Federated States of Micronesia in the Special Drawing Rights
25 Department of the International Monetary Fund;
(d) Bills of exchange and promissory notes denominated
in foreign currency and payable at any place outside the Federated States
of Micronesia;

(e) Treasury bills issued by foreign governments
specified, from time to time, by the Board; and

(f) Securities issued or guaranteed by foreign
governments or international financial institutions specified, from time to
time, by the Board.

(2) The Authority shall use its best endeavors to maintain
the external reserve at a level adequate for the international transactions
of the Federated States of Micronesia.

(3) If the external reserve has declined, or, in the judgment
of the Board, appears likely to decline in such a way as to jeopardize the
adequacy of such reserve in light of subsection (2), the Authority shall
submit to the President a report on the reserve position and the causes
which have led or may lead to such a decline, together with recommendations
concerning the measures that may be deemed necessary to forestall or
otherwise remedy the situation. The Authority shall make further reports
and recommendations at intervals not to exceed 6 months until such time as,
in its judgment, the situation is rectified.

CHAPTER 7

FOREIGN EXCHANGE OPERATIONS

Section 701. Depository of official external assets. The Authority
shall be the depository of the official external assets of the Federated
States of Micronesia; PROVIDED that the Authority may designate such agents
1 as it may select in which these assets may be held.

2 Section 702. Operation in gold and foreign exchange. The Authority
3 may:

4 (1) Buy, sell, or deal in gold coins or bullion or other
5 precious metals;

6 (2) Buy, sell, or deal in foreign exchange, using for these
7 purposes any of the instruments commonly used by bankers;

8 (3) Purchase and sell treasury bills and other securities
9 issued or guaranteed by foreign governments or international institutions;

10 (4) Open and maintain accounts abroad; and

11 (5) Open and maintain accounts and act as agent or
12 correspondent for foreign central banks, foreign financial institutions,
13 foreign governments, foreign government agencies and institutions, and
14 international institutions.

15 Section 703. Limitations on operations in foreign exchange. The
16 Authority shall deal in connection with the operations enumerated in
17 section 702 only with financial institutions operating in the Federated
18 States of Micronesia, the Governments, their boards and agencies, local
19 government bodies, foreign central banks, foreign financial institutions,
20 foreign governments, foreign government agencies and institutions, and
21 international institutions.

22 Section 704. Determination of buying and selling rates of gold and
23 foreign exchange. The Authority shall, from time to time, determine the
24 rates at which it will buy, sell, or deal in gold and foreign currencies.
25 The Authority may also determine the rates at which financial institutions
1 will buy, sell, or deal in gold and foreign currencies, PROVIDED that in
2 making such determinations, the Authority shall have due regard for the
3 obligations which the Federated States of Micronesia has assumed in
4 accordance with the provisions of any international monetary agreements
5 to which it is a party or to which it has adhered.
6
7 CHAPTER 8
8
9 RELATIONS WITH FINANCIAL INSTITUTIONS
10
11 Section 801. Opening accounts for and/or with financial
12 institutions.
13
14 (1) The Authority may open accounts for and accept deposits
15 from financial institutions doing banking business in the Federated States
16 of Micronesia under such terms and conditions, including the payment of
17 interest and the establishment of charges thereon, as the Board may, from
18 time to time, determine.
19
20 (2) The Authority may, subject to the prior approval of the
21 Board, open and maintain deposit accounts with financial institutions doing
22 banking business in the Federated States of Micronesia.
23
24 Section 802. Operations with account holders. The Authority may:
25
26 (1) Purchase from, sell to, discount, and rediscount for
27 financial institutions bills of exchange and promissory notes drawn or
28 made for bona fide commercial, industrial, or agricultural purposes,
29 bearing two or more good signatures, at least one of which shall be
30 that of a financial institution, and maturing within 90 days from the
31 date of their acquisition by the Authority; PROVIDED that bills of
32 exchange and promissory notes drawn or made for the purpose of financing
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34
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seasonal agricultural operations or marketing of crops may mature within
180 days from the date of their acquisition;
(2) Purchase from, sell to, discount, and rediscount for
financial institutions any treasury bills of the Governments forming
part of a public issue and maturing within 90 days from the date of
their acquisition by the Authority;
(3) Grant to financial institutions advances, whether by
loans or overdrafts, for periods not exceeding 90 days:
(s) Secured by:
(i) Instruments specified in subsections (1)
and (2);
(ii) Warehouse warrants and documents of title
issued with respect to staple commodities or other goods duly insured;
Provided that the Authority shall determine, from time to time, the maximum
percentage of advances in relation to the current value of such commodities
or goods; or
(iii) Holdings of any such assets as the Authority
is permitted to buy, sell, or deal in under subsections (1), (2), and (3)
of section 702;
(b) Unsecured by such assets, on terms and conditions
which the Board may prescribe; PROVIDED that no advance shall be made
available under this paragraph for an amount in excess of 20 percent of
the deposit liabilities of the borrower.
Section 803. Determination of Authority rates. The Authority
shall fix and publicly announce, from time to time, its rates for
1 discounts, rediscOUNTs, advances, loans, or overdrafts. It may establish
2 differential rates and ceilings for various classes of transactions or
3 maturities.
4
5 Section 804. Required reserves.
6
7 (1) The Authority may, from time to time, prescribe by any
8 means of notification it deems appropriate and by written notice to the
9 main office in the Federated States of Micronesia of each financial
10 institution the maintenance of required reserves, including marginal
11 required reserves, against deposits and other similar liabilities which
12 may be specified for this purpose. Such reserves shall be maintained
13 by way of cash holdings with the financial institution or by way of
14 deposits in current accounts with the Authority or both in proportion
15 as the Authority may prescribe; PROVIDED that the Board may, whenever
16 circumstances warrant, permit the maintenance of part of the required
17 reserves in the form of assets other than cash holdings with the
18 financial institution or deposits in current accounts with the Authority.
19
20 (2) The Authority may prescribe different reserve ratios for
21 different classes of deposits and other similar liabilities and may
22 prescribe the method of their computation; PROVIDED that:
23
24 (a) The total amount of reserves which the financial
25 institutions are required to hold shall not exceed 40 percent of the
26 total deposits and other similar liabilities to which reserve ratios
27 have been made applicable;
28
29 (b) The reserve ratios shall be uniform for all similar
30 types of banks and for all similar types of credit institutions, although
the ratios may differ between banks and credit institutions; and

(c) Any such prescription of, or increase in, the
required reserve ratios shall be effective only after reasonable notice
thereof has been communicated to the financial institutions.

(3) Required reserves held with the Authority may, under such
regulations and subject to such charges as may be prescribed by the
Authority, be withdrawn by the financial institutions for the purpose of
meeting their existing liabilities and may further serve as a basis for the
clearance of checks and the settlement of balances among financial
institutions.

(4) The Authority may impose on any financial institution
which fails to maintain required reserves in the appropriate ratio
prescribed under this section a penalty charge at an annual rate not in
excess of one-tenth of 1 percent per day on the amount of the deficiency.
Such penalty charge shall be payable to the Authority on such date as may
be prescribed by the Authority and may be recovered by deduction from any
balance of that financial institution's account(s) with the Authority.

Section 805. Computation of, and minimum and maximum interest rates.

(1) The Authority may, from time to time, prescribe by any
means of notification it deems appropriate and by written notice to the
main office in the Federated States of Micronesia of each financial
institution:

(a) The method of computation and minimum and maximum
rates of interest payable with respect to deposits and other similar
liabilities;
(b) The permissible purposes, aggregate ceilings, maximum amounts beyond which the Authority's approval is necessary, maximum maturities, and maximum interest chargeable subject to usury limits as established by law, and minimum cash margin, or security required, with respect to:

(i) The making of advances, whether by loans or overdrafts, and investments;

(ii) The discounting of bills and notes;

(iii) The issuing of letters of credit; and

(iv) The granting of acceptances and other credit.

(2) The provisions of subsection (1) may be made applicable by the Authority, through publication by any means it deems appropriate and by written notice to every person, having as a principal object the extension of credit to the public generally or to particular members thereof, that, in the ordinary course of business, during any calendar year extends an amount to be determined, from time to time, by the Board. The Authority shall have the power to examine the accounts, books, and papers of any person that it has reason to suspect is extending or has extended credit in violation of this subsection.

(3) In order to avoid possible evasion of maximum interest rates set by the Authority, the Board may also fix the maximum rates that banks may pay to or collect from their customers in the form of commissions, discounts, charges, fees, or payments of any sort.

(4) Notices issued under this section shall apply uniformly
in the Federated States of Micronesia and shall come into effect on
such date specified not earlier than 30 days after the issue date;
PROVIDED that the Authority in its notices may differentiate, according
to the nature of their business, between banks, credit institutions,
and other creditors or classes thereof with respect to the items set
out in subsection (1).

(5) Any financial institution in violation of subsection (1)
may be required to pay to the Authority for each such violation a penalty
charge not to exceed $500 for every day during which such violation
continues.

(6) Any person to whom the provisions of subsection (1)
have been made applicable pursuant to subsection (2) shall be guilty
of an offense if:

(a) It is in violation of this section; or

(b) It supplies false information or fails to furnish
within a reasonable time, and before the expiration of a request so to
furnish, any information required by the Authority to satisfy the
Authority that it is complying with this section.

(7) Any person who commits an offense under subsection (5)
shall be liable upon conviction thereof in a court of law to a fine of not
more than $100 for every day during which the contravention continues.
Section 806. Provision of information.

(1) Every financial institution shall furnish to the
Authority, at such times and in such manner as the Authority may prescribe,
such information and data as the Authority may require for the proper
discharge of its functions and responsibilities; PROVIDED that in order

2 to verify compliance with directions issued under sections 803 and 804, the

3 Authority may require any person who is or has been made subject thereto

4 to open his books for inspection.

5 (2) The Authority may publish, in whole or in part, in

6 aggregate form for classes of financial institutions determined in

7 accordance with the nature of their business, at such times as it may

8 decide, the information or data furnished under subsection (1);

9 PROVIDED that no information shall be published which would disclose

10 the affairs of any person who is a customer of a financial institution

11 unless the consent of such interested party has been previously obtained

12 in writing.

13 (3) Any director, officer, or employee of a financial

14 institution or any person who may be subject to the provisions of this

15 act under section 805(2) who:

16 (a) Fails, refuses, or neglects to supply information

17 or data under subsection (1); or

18 (b) In complying with such requirements furnishes any

19 information or data which he knows to be false in any material respect,

20 shall be guilty upon conviction thereof in a court of law of an offense

21 and liable to a fine of not more than $2,000, or to imprisonment for 6

22 months, or to both such fine and imprisonment.

23 Section 807. Examination of financial institutions, and fee.

24 (1) The Authority may periodically, or at its discretion, 

25 cause an examination to be made by any of its officers, or by any other
1 qualified person appointed to that effect by the Authority, of any
2 financial institution and of its books, records, documents, and accounts
3 for the purpose of ascertaining the nature of its business and the
4 condition of its affairs and of ascertaining whether such financial
5 institution is complying with the provisions of this act.
6
7 (2) The financial institutions which are subject to
8 supervision and examination by the Authority shall be responsible to the
9 Authority for the cost of maintaining the corresponding supervision and
10 examination department or unit of the Authority and, for this purpose,
11 shall pay to the Authority within the first 15 days of January each year,
12 an annual examination fee in an amount to be determined by the Board in
13 the manner provided in this subsection. The examination fee to be paid
14 by each financial institution shall be an amount equal to a prescribed
15 percentage of its average total assets during the preceding calendar year
16 as shown on its end-of-month balance sheets; PROVIDED that such percentage
17 shall not exceed one-twentieth of 1 percent.
18
19 (3) Any person authorized under this section to examine
20 a financial institution shall be subject to the provisions of section 406
21 and may:
22
23 (a) Require any such director, officer, or employee
24 of any financial institution to furnish such information as he may consider
25 necessary for the purpose of the examination; or
26
27 (b) Require any such director, officer, or employee to
28 produce for examination any books, records, or other documents in his
29 possession containing or likely to contain any such information.
(4) Any person who:

(a) Fails, refuses, or neglects to comply with any requirement of an authorized person made under subsection (1) or (3); or

(b) In complying with any such requirement, furnishes any information or produces any book, record, or other document which he knows to be false in any material respect, shall be guilty upon conviction thereof in a court of law of an offense and liable to a fine of not more than $2,000, or to imprisonment for 6 months, or to both such fine and imprisonment.

Section 808. Foreign working balances. The Authority may prescribe the maximum amount of the working balances which financial institutions may hold in foreign currencies generally or in any specified currency or currencies.

Section 809. Establishment of clearing house. The Authority may at a suitable time in conjunction with the banks organize a clearing house in Kolonia in premises provided by the Authority and in such other places as may be desirable.

CHAPTER 9

RELATIONS WITH THE GOVERNMENT

Section 901. Authority to be banker, advisor, fiscal agent, and depository to the Governments.

(1) The Authority shall be the banker, fiscal agent, and advisor to the National Government on monetary and financial matters and shall be the depository of National Government funds. The Authority may, at the option of each State, be the banker, fiscal agent, and advisor...
1 to the State governments on monetary and financial matters and may be
2 the depository of the State governments; PROVIDED that in such cases, for
3 such periods of time, and on such other terms and conditions as may be
4 agreed upon between the Governments and the Authority:
5 (a) The Authority may act in such capacities to
6 government institutions, agencies, and local government bodies; and
7 (b) The Governments may maintain working balances with
8 and generally use the services of other financial institutions.
9 (2) The Governments may request the Authority to render advice
10 and to furnish reports on matters relating to the purposes of the Authority.
11 (3) It shall be the duty of the Authority to inform and
12 advise the President concerning any matter which, in the opinion of the
13 Authority, is likely to affect the achievement of its purposes.
14 Section 902. Depository and fiscal agent of international
15 institutions. The Authority shall, upon designation by the President,
16 serve as the depository and fiscal agent of, and the institution
17 through which dealings shall be conducted with, international financial
18 institutions of which the Federated States of Micronesia is a member.
19 Section 903. Credit to the Governments, their institutions, and
20 agencies. Except in accordance with sections 802(2), 802(3)(a), 904, and
21 905, the Authority shall not, directly or indirectly, make advances to,
22 or acquire the notes, bills, securities, or other evidences of debt from,
23 or guaranteed by, the Governments, their institutions, agencies, and local
24 government bodies; PROVIDED that this section shall not operate to prevent
25 the acquisition by the Authority of securities transferred to it by the
National Government in accordance with section 301 or 304.

Section 904. Advances to the Governments.

(1) The Authority may make temporary advances, subject to repayment within 3 months following the end of the fiscal year in which they were granted, at such amounts and rates of interest as may be agreed upon between the parties:

(a) To the Governments; and

(b) With the approval of the President, to National Government institutions, agencies, and local government bodies.

(2) Without limiting the generality of the provisions of subsection (1), the Authority is expressly authorized to make advances to the Governments, under such terms and conditions as may be agreed upon, in respect to subscriptions and other payments resulting from, or incidental to, the membership of the Federated States of Micronesia in any international bank or international monetary authority established under governmental auspices, the participation of the Federated States of Micronesia in any account thereof, and any transactions and operations undertaken in connection therewith.

Section 905. Acquisition of evidence of indebtedness issued by the Governments. The Authority may purchase, hold, and sell notes, bills, securities, or other evidences of indebtedness issued or guaranteed by the State and National Government bodies, which were publicly offered for sale or form part of an issue which is being made to the public at the time of acquisition by the Authority.

Section 906. Consultation on budget and credit operations.
1 (1) The Authority shall be consulted by:
2 (a) The National Government, on the occasion of the
3 preparation of its budget for the purpose of reaching an understanding
4 as to the total amount of credit that may be expected to be extended by
5 the Authority to the National Government during the following fiscal year
6 through the acquisition of evidences of indebtedness under sections 802(2),
7 and 905, the acceptance of securities as collateral under section
8 802(3)(a), and the making of advances under section 904; and
9 (b) The National Government and its institutions and
10 agencies at any time that either domestic or foreign credit operations
11 are contemplated. In the event that, in the opinion of the Board, such
12 operations individually or collectively appear to be of a magnitude
13 inappropriate under prevailing economic conditions, the Authority shall
14 report to the President, drawing attention to the situation and
15 recommending measures to remedy the situation.
16 (2) The Authority may be consulted by:
17 (a) The State governments, on the occasion of the
18 preparation of their budgets for the purpose of reaching an understanding
19 as to the total amount of credit that may be expected to be extended by
20 the Authority to the State governments during the following fiscal year
21 through the acquisition of evidences of indebtedness under sections
22 802(2) and 905, the acceptance of securities as collateral under section
23 802(3)(a), and the making of advances under section 904; and
24 (b) The State governments and State and local government
25 bodies at any time that either domestic or foreign credit operations

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are contemplated. In the event that, in the opinion of the Board, such
operations individually or collectively appear to be of a magnitude
inappropriate under prevailing economic conditions, the Authority shall
report to the President, drawing attention to the situation and
recommending measures to remedy the situation.

Section 907. Report to the President. Whenever, in the opinion
of the Board, the volume of credit being extended by the Authority to the
Governments, their institutions, agencies, and local government bodies
by advances under section 904, the acquisition of evidences of indebtedness
under section 802(2) and 905, and the acceptance of securities as
collateral under section 802(3)(a) threatens to endanger the ability of
the Authority to achieve its purposes as provided for in this act, the
Authority shall submit a report to the President, drawing attention to
the situation, analyzing the causes which have led thereto, and, at its
discretion, recommending measures which it deems necessary to forestall
or otherwise remedy the situation.

CHAPTER 10

ACCOUNTS

Section 1001. Fiscal year. The fiscal year of the Authority shall
coincide with the fiscal year of the National Government.

Section 1002. Accounts and annual statement.

(1) The Board shall cause to be kept proper books of accounts
and other books and records in relation thereto in which shall be recorded
all the financial transactions of the Authority.

(2) The Authority shall, as soon as may be practicable after
the end of every month, make up a statement of the condition of the
Authority at the close of business on the last business day of each month
and publish the same by any means it deems appropriate.

(3) The Authority shall, within 3 months after the end of
each calendar year, submit to the President a copy of its annual accounts
certified by the auditor, together with a report on its operations during
the year, and shall publish said accounts and report once they have been
approved by the President.

Section 1003. Audit. The accounts of the Authority shall be
audited at least once every fiscal year by a suitably qualified auditor
appointed by the Board.

CHAPTER 11

MISCELLANEOUS PROVISIONS

Section 1101. Prohibited transactions. The Authority shall not:

(1) Engage in trade or participate directly or indirectly
in the ownership of any financial, agricultural, commercial, industrial,
or other enterprise, except to the extent provided in subsection (4);

(2) Purchase or retain ownership of real estate except
insofar as is necessary for the conduct of its business;

(3) Make unsecured advances, whether by loans or overdrafts,
except as provided in section 802(3)(b) and section 904;

(4) Make advances, whether by loans or overdrafts, secured
otherwise than as laid down in this act; PROVIDED that should any debts
due to the Authority be in jeopardy, the Authority may secure such debts
in real or other property, and, if the security is enforced, acquire and
1 hold such property, but with a view to the sale thereof as soon as is
2 practicable;
3         (5) Accept shares as collateral security, except as provided
4 in subsection (4); and
5         (6) Open accounts for or accept deposits from any person
6 except as provided in sections 701, 801, 901, and 902.
7 Section 1102. Exemption from taxes. The Authority shall be exempt
8 from all National and State Governments and local taxes, stamp duties,
9 fees, excise, and all other taxes on its profits, operations, capital,
10 property, and documents.
11
12 CHAPTER 12
13
14 TRANSITIONAL ARRANGEMENTS
15
16 Section 1201. Transitional arrangements.
17
18 (1) Upon this act taking effect, the Banking Board created
19 under title 29 (Commercial Banking) of the Code of the Federated States
20 of Micronesia is hereby dissolved and:
21         (a) All assets and liabilities of the Banking Board
22 shall by virtue of this section be transferred to and vest in the
23 Authority, and the Authority shall have all necessary powers to take
24 possession of, recover, and deal with such assets and discharge such
25 liabilities;
26         (b) Any agreement, whether in writing or not, and any
27 deed, bond, or other instrument to which the Banking Board was a party or
28 which affected the Banking Board, whether or not rights, liabilities, or
29 obligations thereunder are stated to be capable of assignment, shall have
1 effect as if the Authority were a party to the agreement, deed, bond, or
2 other instrument instead of the Banking Board, and any reference whether
3 explicit or implicit in the agreement, deed, bond, or other instrument
4 to the Banking Board shall be construed as and have effect as if it were
5 a reference to the Authority; and
6
7 (c) Any proceedings pending upon that date to which
8 the Banking Board is a party shall be continued as if the Authority
9 were a party to the proceedings instead of the Banking Board.
10
11 (2) Upon this act taking effect, any reference in any
12 written law to the Banking Board or to the Chairman of the Banking Board
13 shall be construed as and given effect as if it were a reference to the
14 Authority; and
15
16 (3) For purposes of this section, notwithstanding the repeal
17 of chapter 2 of title 29 of the Code of the Federated States of Micronesia
18 and the dissolution of the Banking Board thereby, any person who is a
19 member of the Banking Board at the effectivity of this act shall continue
20 in office for such temporary period as may be authorized by the President
21 for the purposes of winding up the affairs of the Banking Board and
22 administering the initial operations of the Authority.
23
24 Section 1202. Authorization of funds. The sum of $350,000 is
25 hereby authorized to be appropriated from the General Fund of the Federated
26 States of Micronesia for the fiscal year ending September 30, 1986, of
27 which $250,000 shall represent the payment of the initial paid-up capital
28 pursuant to section 301(1) of this act, and the $100,000 shall cover
29 the initial operating costs or expenses of the Authority, and generally
for the purpose of carrying out the provisions of this act. The Board
shall be the allottee of these funds.

CHAPTER 13

REPEALER

Section 1301. Repealer. Chapter 2 of title 29 of the Code of the
Federated States of Micronesia is hereby repealed.

CHAPTER 14

EFFECTIVE DATE

Section 1401. Effective date. This act shall become law upon
approval by the President of the Federated States of Micronesia or upon
its becoming law without such approval.

Date: 5/15/85

Introduced by:

Elia H. Thomas