

## AN ACT

To amend certain sections of Public Law No. 1-94 to make the language of the entire law consistent with the provisions of section 201 of that law, as amended by Public Law No. 1-154, and for other purposes.

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

1 Section 1. Section 102 of Public Law No. 1-94, as amended by Public  
2 Law No. 1-154, is hereby amended to read as follows:

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

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

15 (2) "Banking Board" means the board established pursuant  
16 to Section 201 of this act.

17 (3) "Branch" means an office of a bank at which deposits  
18 are received or checks paid or money lent.

19 (4) "Demand Deposit" means any deposit which is repayable  
20 by its terms not more than 3 days after the time it is made.

21 (5) "Deposits" means money or other property transferred  
22 or assigned to any person pursuant to an agreement, expressed or

1 implied, that the person shall repay such moneys upon demand  
2 (whether in person or by written order) or after a fixed or  
3 determinable period of time; PROVIDED, HOWEVER, that money  
4 loaned to a bank which is to be repaid not sooner than five  
5 years from the date of the loan, and pursuant to a loan agree-  
6 ment under which the obligation to repay is subordinate to the  
7 rights of depositors, shall not be deemed to be a deposit; and  
8 PROVIDED FURTHER, that money transferred to a credit union as a  
9 purchase of its shares shall not be deemed to be a deposit.

10 (6) "Domestic bank" means a bank organized under the  
11 provisions of Chapter 3 of this act.

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

18 (8) "Legal reserve" means the sum which every domestic  
19 bank and foreign bank shall at all times have available for  
20 the payment of their deposit liabilities pursuant to the  
21 provisions of this act.

22 (9) "Paid in capital, surplus, and undistributed profits"  
23 means, in the case of a foreign bank, the aggregate paid in  
24 capital, surplus, and undistributed profits of such bank and  
25 not merely that allocated to, located in, or arising out of



1 its operations in the Federated States of Micronesia.

2 (10) "Person" includes individuals, corporations,  
3 partnerships and any other business entity.

4 (11) "Public Auditor" means the Public Auditor appointed  
5 by the President of the Federated States of Micronesia with  
6 the advice and consent of the Congress pursuant to the  
7 Constitution.

8 (12) "Registrar of Corporations" means the Registrar of  
9 Corporations of the National Government of the Federated States  
10 of Micronesia.

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

15 Section 2. Section 202 of Public Law No. 1-94 is hereby amended to  
16 read as follows:

17 "Section 202. Powers. The Banking Board and the Chairman shall  
18 have the powers conferred upon them by this act."

19 Section 3. Section 204 of Public Law No. 1-94 is hereby amended to  
20 read as follows:

21 "Section 204. Services of Public Auditor and Others. The  
22 Banking Board and the Chairman shall be entitled to utilize the  
23 services of the Public Auditor and such independent accountants,  
24 lawyers and other experts as they may select in carrying out  
25 their powers and duties under this act. The President of the

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1           Federated States of Micronesia shall provide such administra-  
2           tive support and staff as may be needed to conduct the business  
3           of the Banking Board."

4           Section 4. Section 301 of Public Law No. 1-94 is hereby amended to  
5 read as follows:

6           "Section 301. Incorporation.

7                   (1) Any five or more persons of sufficient legal capacity  
8           may organize a domestic bank, but for said purpose they shall  
9           first apply in writing for a permit from the Banking Board.  
10          Said application shall set forth and prove the need of the  
11          services of a banking institution in the locality wherein the  
12          bank is sought to be established, and that the services rendered  
13          by other banking institutions do not answer the needs of said  
14          locality.

15                   (2) It shall be the duty of the Chairman, immediately  
16          after the Banking Board receives an application for a permit,  
17          to make whatever investigations and hold such hearings as he  
18          deems may be necessary as to:

19                           (a) the banking and commercial ability and  
20          experience of the applicants;

21                           (b) whether such ability and experience are  
22          sufficient to warrant the efficient functioning and operation  
23          of the bank;

24                           (c) whether local need justifies the application;

25                           (d) the character and repute, as well as the banking



1 and commercial experience of the prospective directors or  
2 officers who are to conduct the business of said bank;

3 (e) whether the bank shall be of benefit to the  
4 general public; and

5 (f) the capital which the bank has available for its  
6 operations.

7 (3) The Banking Board may issue the permit applied for  
8 if, in its judgment, the results of the investigations are  
9 satisfactory. Any permit may be granted subject to such  
10 conditions as the Banking Board, in its discretion, deems  
11 necessary to protect the interests of the people of the  
12 Federated States of Micronesia.

13 (4) The articles of incorporation must be subscribed by  
14 each of the incorporators and duly sworn to before a notary  
15 public. They shall specifically state:

16 (a) the name by which such bank is to be known;

17 (b) the state where its main office is to be  
18 established, which shall be its legal domicile;

19 (c) the amount of the authorized capital stock, the  
20 number of shares into which the same is divided, and if they  
21 have a par value, the par value of each share;

22 (d) the term of duration of the bank;

23 (e) the transactions to which the capital of the bank  
24 is to be preferably devoted;

25 (f) the time and manner of calling and holding

1 regular meetings of stockholders, and the reasons and circum-  
2 stances for, and manner of, calling and holding special  
3 meetings;

4 (g) the manner of constituting a quorum at the  
5 regular and special meetings of the stockholders;

6 (h) the names and places of residence of the  
7 incorporators and the number of shares subscribed by each;

8 (i) the number of directors of the bank, which shall  
9 not be less than five, and not less than two-thirds of the  
10 total number of whom shall be citizens of the Federated States  
11 of Micronesia and shall have resided in the Federated States of  
12 Micronesia for at least one year prior to the date of the  
13 application; the manner of their election, their terms of  
14 office, and the number necessary to constitute a quorum; and

15 (j) any other articles which the incorporators may  
16 deem it advisable to insert for the regulation of the business  
17 and the conduct of the affairs of the bank; PROVIDED, that such  
18 articles shall not be in conflict with this act, or with any  
19 other laws of the Federated States of Micronesia."

20 Section 5. Section 303 of Public Law No. 1-94 is hereby amended to  
21 read as follows:

22 "Section 303. Commencement of business.

23 (1) Upon the issuance by the Registrar of Corporations of  
24 a certificate of incorporation, as provided in Section 302 of  
25 this Chapter, the Registrar of Corporations shall so notify



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1 the Chairman and at the same time shall transmit to the  
2 Chairman a duplicate copy of the articles of incorporation.

3 (2) When the duplicate copy is received by the Chairman,  
4 he shall notify the corporation, and the corporation shall then  
5 file with the Chairman a statement of all the facts necessary  
6 to enable him to determine whether the bank has in fact  
7 complied with all the requirements of law and is lawfully  
8 entitled to commence business, such statement to be sworn to  
9 by a majority of the directors and by the president or the  
10 manager of the bank. Upon receipt of such statement by the  
11 Chairman, he shall examine the condition of the corporation and  
12 ascertain specifically the amount of its capital paid in, the  
13 names and places of residence of its stockholders, directors,  
14 and officers, the amount of the capital stock which each owns  
15 in good faith, and, generally, whether such corporation has  
16 complied with all the provisions of law required to entitle it  
17 to a license to engage in the business of banking.

18 (3) If, upon careful examination of the facts so reported,  
19 or of any other relevant facts which may come to his knowledge,  
20 the Chairman is satisfied that such bank has complied with all  
21 the applicable provisions of this act and other laws required  
22 to be complied with before a bank shall be authorized to  
23 commence the business of banking, he shall issue an initial  
24 license to engage in the banking business, valid until it must  
25 be renewed according to Section 501 of this act. The Chairman

1           may withhold from a bank the license authorizing it to commence  
2           business whenever he is satisfied that the shareholders have  
3           organized said bank for any other than the legitimate objects  
4           determined by this act. The expenses incurred by the Chairman  
5           in connection with such investigations shall be paid by the  
6           corporation in conformity with the regulations the Banking  
7           Board may promulgate for that purpose."

8           Section 6. Section 402 of Public Law No. 1-94 is hereby amended to  
9   read as follows:

10           "Section 402. Investigation by Chairman; permit required.

11           (1) No foreign bank may open any branch or office or  
12           change the location of any branch or office in the Federated  
13           States of Micronesia without a permit to do so from the Banking  
14           Board. An application to the Banking Board for such permit  
15           shall state the benefit to the public expected to result from  
16           the granting of the permit applied for. The Banking Board, upon  
17           receipt of such application, may require the submittal of such  
18           additional information as may be necessary in order for it to  
19           make the necessary investigations.

20           (2) It shall be the duty of the Chairman, immediately  
21           after the Banking Board receives an application for a permit,  
22           to make whatever investigations may be necessary as to:

23           (a) the overall financial condition of the applica-  
24           tion;

25           (b) whether or not granting the application would



1 reasonably be apt to result in an over-extension of applicant's  
2 resources or facilities;

3 (c) the character and repute, as well as the banking  
4 and commercial experience, of applicant and the bank's  
5 directors and executive officers;

6 (d) whether the bank shall be of benefit to the  
7 general public; and

8 (e) the investment which the bank has made or has  
9 available for its operations in the Federated States of  
10 Micronesia.

11 (3) The Banking Board may issue the permit applied for  
12 if, in its judgment, the results of the investigations are  
13 satisfactory; PROVIDED, that the decision of the Banking Board  
14 shall be final; and provided further, that all expenses incurred  
15 by the Banking Board in connection with such investigations  
16 shall be paid by the applicant in conformity with regulations  
17 which the Banking Board may make.

18 (4) Upon the issuance of a permit to an applicant, the  
19 Banking Board shall forthwith transmit a certified copy thereof  
20 to the Registrar of Corporations who shall file it along with  
21 such other documents submitted to him."

22 Section 7. Section 403 of Public Law No. 1-94 is hereby amended to  
23 read as follows:

24 "Section 403. Commencement of business.

25 (1) When the permit of the Banking Board is received by

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1           the foreign bank, as provided in Section 402, it shall proceed  
2           to comply with all applicable provisions of law so as to place  
3           it in readiness to commence operations upon issuance to it of  
4           the license provided by Section 501 of this act. When such  
5           foreign bank is in such position of readiness, it shall notify  
6           the Chairman by means of a statement of all facts necessary to  
7           enable the Chairman to determine whether such foreign bank has,  
8           in fact, complied with all the requirements of law and is law-  
9           fully entitled to commence operations, such statement to be  
10          sworn to by a majority of the directors or by the president or  
11          manager of such foreign bank.

12                 (2) Upon receipt of such statement, the Chairman shall  
13           make such investigations as may be necessary to assure himself  
14           that the foreign bank has, in fact, complied with all the  
15           provisions of law to entitle it to a license to engage in the  
16           business of banking.

17                 (3) 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 complied  
20           with all of the provisions of this act required before a  
21           foreign bank shall be authorized to open or operate a branch  
22           or office in the Federated States of Micronesia, the Chairman  
23           shall issue an initial license to engage in the banking  
24           business valid until it must be renewed according to Section  
25           501 of this act. The Chairman may withhold from a foreign bank



1 the license authorizing it to commence operations whenever he  
2 is satisfied that the foreign bank seeks to operate in the  
3 Federated States of Micronesia for any other than the  
4 legitimate objects determined by this act. The expense  
5 incurred by the Chairman in connection with such investigation  
6 shall be paid by the foreign bank in conformity with regula-  
7 tions which the Banking Board may make and issue for that  
8 purpose.

9 (4) Before commencing business in the Federated States of  
10 Micronesia, a foreign bank shall file with the Banking Board an  
11 appointment of the Chairman as its agent upon whom all process  
12 in any action or proceeding against it arising out of the  
13 operations or activities of its office or offices in the  
14 Federated States of Micronesia may be served, which appointment  
15 shall be by its terms perpetual and irrevocable."

16 Section 8. Section 602 of Public Law No. 1-94 is hereby amended to  
17 read as follows:

18 "Section 602. Examination of banks.

19 (1) The Chairman may examine, or cause to be examined,  
20 every domestic or foreign bank for the purpose of ascertaining  
21 whether it has complied with this act and other applicable laws  
22 and for such other purposes and such other matters as the  
23 Banking Board may prescribe. The Chairman and every examiner  
24 appointed by him may administer an oath to any person whose  
25 testimony may be required on the examination of any bank and

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1           summon and compel the appearance and attendance of any person  
2           for the purpose of the examination.

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

7           Section 9. Section 603 of Public Law No. 1-94 is hereby amended to  
8   read as follows:

9                   "Section 603. Reports of banks, penalties.

10                   (1) Every domestic or foreign bank shall make at least  
11           one report of its condition each year to the Chairman within  
12           90 days after the close of the bank's fiscal year, and  
13           according to forms to be prescribed by him, verified by the oath  
14           of the chief executive officer or chief financial officer and  
15           attesting officer, certifying and subscribing under oath that  
16           each of them has personal knowledge of the facts stated therein  
17           and that the same are true. Such reports shall exhibit in  
18           detail and under appropriate heads the total resources and  
19           liabilities of the bank, and, in the case of a foreign bank,  
20           shall show separately the resources, liabilities and operations  
21           in the Federated States of Micronesia. The Chairman shall  
22           have the right to require that any such reports be audited at  
23           the bank's expense by independent accountants approved by the  
24           Chairman.

25                   (2) The Chairman may also call for special reports from



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1 any domestic or foreign bank whenever in his judgment the same  
2 are necessary in order to obtain full knowledge of its  
3 condition. During the first five years of operations in the  
4 Federated States of Micronesia by any domestic bank, the  
5 Chairman shall call for special reports of its condition not  
6 less frequently than each calendar quarter.

7 (3) Whoever willfully makes any false entry in any book,  
8 report or statement of a bank or certifies and subscribes to  
9 any report required by this section which is false in any  
10 material respect shall be fined not more than \$1,000 or  
11 imprisoned for not more than one year, or both.

12 (4) Any bank which fails to make, transmit, and publish  
13 any report required under this section shall be subject to a  
14 fine of \$100 per day for each day's delay after the period  
15 specified in this section."

16 Section 10. Section 604 of Public Law No. 1-94 is hereby amended to  
17 read as follows:

18 "Section 604. Alternative Examination and Reports. The  
19 Chairman may accept, in lieu of the examination required or  
20 authorized by Section 602 of this act, the most current  
21 examination made by the Federal Deposit Insurance Corporation,  
22 the Board of Governors of the Federal Reserve System, or a  
23 Federal Reserve Bank or in case of a foreign bank not examined  
24 by such agencies, an examination acceptable by the appropriate  
25 government agency in the home jurisdiction of that bank. The

1 Chairman may accept, in lieu of any report of condition which  
2 may be required by Section 603, a report of condition obtained  
3 by said Corporation, Board of Governors, Federal Reserve Bank,  
4 or government agency."

5 Section 11. Section 605 of Public Law No. 1-94 is hereby amended to  
6 read as follows:

7 "Section 605. Legal reserve.

8 (1) (a) Subject to such additional requirements as the  
9 Banking Board may impose, every domestic bank shall maintain  
10 a legal reserve which shall not be less than 20 percent of its  
11 demand deposits and not less than 5 percent of its other  
12 deposits. Said reserve shall consist of United States currency  
13 or demand deposits in the name of such bank deposited in another  
14 bank approved for such purpose by the Banking Board.

15 (b) The Banking Board may increase or decrease the  
16 minimum legal reserve for demand deposits established in this  
17 section up to not more than 30 percent or down to not less than  
18 15 percent of the total demand deposits of a domestic bank, when  
19 in its judgment the circumstances so require it; but the order  
20 increasing or decreasing the minimum legal reserve shall not be  
21 effective until 30 days after it is entered; PROVIDED, that this  
22 time might be extended by the Banking Board.

23 (2) Every foreign bank shall maintain, with respect to its  
24 deposits in the Federated States of Micronesia, a legal reserve  
25 which shall not be less than, and which shall be subject to the



1 same condition as, the legal reserve requirement imposed in the  
2 jurisdiction of its place of incorporation on deposits of the  
3 foreign bank in that jurisdiction.

4 (3) The Chairman shall notify any domestic or foreign  
5 bank whose legal reserve is less than that required by this act  
6 of its obligations to make up the full amount. If such bank  
7 fails to do so within a period of 30 days, it may be declared  
8 in liquidation by the Banking Board. In such event, the  
9 Chairman shall apply to the Trial Division of the Supreme Court  
10 of the Federated States of Micronesia for the appointment of a  
11 receiver to take charge of and wind up the affairs of such bank  
12 and thereafter the matter shall be governed by the provisions  
13 of Section 801 (2)."

14 Section 12. Section 608 of Public Law No. 1-94 is hereby amended to  
15 read as follows:

16 "Section 608. Insurance.

17 (1) At such time as it becomes available under the laws  
18 of the United States, all domestic banks and foreign banks,  
19 as a condition to operating an office or branch in the  
20 Federated States of Micronesia, shall secure their depositors  
21 by deposit insurance of the Federal Deposit Insurance  
22 Corporation or the Federal Savings and Loan Insurance  
23 Corporation of the United States.

24 (2) All domestic and foreign banks operating an office  
25 or branch in the Federated States of Micronesia shall provide

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1           themselves with protection and indemnity against burglary,  
2           embezzlement and other similar insurable loss; and if a  
3           domestic or foreign bank refuses to comply with this require-  
4           ment, the Chairman shall have the right to make arrangements  
5           to furnish such protection and indemnity, charging the cost  
6           thereof to said bank."

7           Section 13. Section 610 of Public Law No. 1-94 is hereby amended to  
8 read as follows:

9           "Section 610. Filing fees for banks.

10           (1) Every domestic bank or foreign bank in the Federated  
11 States of Micronesia shall, upon filing its articles of  
12 incorporation in the Office of the Registrar of Corporations,  
13 pay a filing fee of \$50.

14           (2) Every domestic or foreign bank desiring to file in the  
15 Office of the Registrar of Corporations articles amendatory or  
16 supplementary or a certificate of increase or decrease of  
17 capital stock shall pay a fee of \$25.

18           (3) The fee for furnishing a certified copy of any of  
19 the documents referred to in the preceding subsections of this  
20 section shall be fifty cents per folio, but not less than \$5.

21           (4) All fees required under the provisions of this act  
22 shall be paid to the Office of the Registrar of Corporations  
23 and shall be accounted for and covered into the General Fund  
24 of the Federated States of Micronesia.

25           (5) All fines under this act shall be paid to the



1 Chairman and shall be accounted for and covered into the  
2 General Fund of the Federated States of Micronesia."

3 Section 14. Chapter 7 of Public Law No. 1-94 is hereby amended to  
4 read as follows:

5 "CHAPTER 7. PENALTIES.

6 Section 701. Penalties. For any violation of this act or  
7 the regulations prescribed pursuant to Subsection (2) of  
8 Section 601, the delinquent domestic or foreign bank shall  
9 be subject to a fine of not more than \$1,000 for each day  
10 that the violation continues and, in the case of a material  
11 violation, to the cancellation of its license. Such fine  
12 or cancellation shall be imposed by the Banking Board only with  
13 the approval of the President of the Federated States of  
14 Micronesia and after notice to the delinquent bank and a  
15 hearing concerning the alleged violation. In any such case,  
16 the Chairman shall send written notice of his action to the  
17 bank affected as quickly as circumstances will allow, and if  
18 the cancellation of the bank's license has been decided upon,  
19 shall transmit a written order to that effect to the Registrar  
20 of Corporations for appropriate action."

21 Section 15. Section 801 of Public Law No. 1-94 is hereby amended to  
22 read as follows:

23 "Section 801. Receivership of bank or foreign bank.

24 (1) If, in consequence of an examination or report made  
25 by an examiner, or otherwise, the Banking Board should have

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1           reason to believe that a bank or foreign bank is not in sound  
2           financial condition to continue doing business, or that its  
3           affairs are being conducted in such a manner that the public  
4           or the persons or entities having securities or funds under its  
5           custody are in danger of being defrauded, or if any such bank  
6           shall violate its charter or any law relative thereto, or this  
7           act in any material respect, or if it becomes insolvent, the  
8           Chairman shall apply to the Trial Division of the Supreme  
9           Court of the Federated States of Micronesia, or to the Trial  
10          Division of the High Court of the Trust Territory of the  
11          Pacific Islands if the Supreme Court has not commenced its  
12          functions for the appointment of a receiver to take charge of  
13          and wind up the affairs of such bank.

14                 (2) If the Court, after hearing all parties concerned,  
15                 determines that the facts alleged by the Chairman are  
16                 supported by the evidence, it shall appoint a receiver. Upon  
17                 his appointment the receiver shall, under the direction of  
18                 the Chairman, take possession of the assets and liabilities,  
19                 books, records, papers, and files of every description  
20                 belonging to the bank, and collect all loans, fees, and claims  
21                 of the bank, and see to the payment of its obligations and  
22                 debts, and to the necessary expenses of receivership. He shall  
23                 proceed to liquidate the affairs of the bank as soon as  
24                 possible, and to this end may sell the personal and real  
25                 property and other assets of the bank, but subject to the

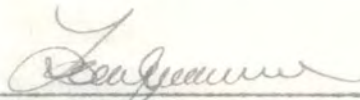


1 approval of the Chairman. The receiver shall continue to  
2 perform his duties in the manner prescribed herein until the  
3 bank or foreign bank is fully liquidated."

4 Section 16. This act shall become law upon approval by the  
5 President of the Federated States of Micronesia or upon its becoming  
6 law without such approval.

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August 31, 1981

  
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Tosiwo Nakayama  
President  
Federated States of Micronesia