
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

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

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

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

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

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

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

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.

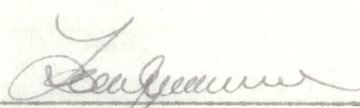
14 (2) If the Court, after hearing all parties concerned,
15 determines that the facts alleged by the Chairman are
16 supported by the evidence, it shall appoint a receiver. Upon
17 his appointment the receiver shall, under the direction of
18 the Chairman, take possession of the assets and liabilities,
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



Tosiwo Nakayama
President
Federated States of Micronesia