

AN ACT

To further amend title 29 of the Code of the Federated States of Micronesia, as amended, by amending sections 102, 201, 601, 603, 605, 613, 617, 619, 621, 701, 702, 801, and 802 thereof and by enacting a new section 106 and a new Chapter 9 to incorporate the requirements imposed on FDIC-insured banks by the amendments to the Compact of Free Association, to enact laws governing treatment of dormant bank accounts, to make certain other necessary changes, and for other purposes.

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

1 Section 1. Section 102 of title 29 of the Code of the
2 Federated States of Micronesia, as amended by Public Laws Nos.
3 9-130 and 12-57, is hereby further amended to read as follows:

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

7 (1) 'Agency' means a place of business where
8 transactions are effected with customers on behalf of a
9 branch or main office of a bank, but the accounting
10 records for such transactions are maintained at the
11 branch or main office; includes a remote service
12 facility.

13 (2) 'Article XI' means Article XI of the Programs and
14 Services Agreement of the Compact of Free Association,
15 as amended, entitled 'Federal Deposit Insurance
16 Corporation Programs and Services Agreements'.

17 (3) 'Bank' means any person or body of persons or a

1 corporation authorized by law to engage in the banking
2 business, and to accept from the public deposits which
3 are withdrawable and transferable by check or other
4 means of payment transfer. 'Bank' includes a savings and
5 loan association but does not include a credit union.

6 (4) 'Banking business' means the business of accepting
7 deposits of money from the public, withdrawable or
8 payable on demand or after a fixed period or after
9 notice, or any similar operation through the frequent
10 sale or placement of notes or other securities, and the
11 use of such funds either in whole or part for loans,
12 investments or any other operation either authorized by
13 law or considered a generally accepted banking practice,
14 for the account and at the risk of the person doing such
15 business.

16 (5) 'Banking Board' means the Board established
17 pursuant to section 201 of this title.

18 (6) 'Banking Commissioner' means the Banking
19 Commissioner appointed pursuant to section 206 of
20 this title.

21 (7) 'Branch' means an office of a bank where
22 banking business is transacted and at which
23 accounting records are maintained.

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

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

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

16 (11) 'FDB' means a Domestic bank that is insured by the
17 Federal Deposit Insurance Corporation.

18 (12) 'FDI Act' means the United States' Federal Deposit
19 Insurance Act codified at 12 U.S.C. 1811-1831.

20 (13) 'Foreign bank' means a corporation or other
21 financial institution organized for the purpose of
22 engaging in the banking business under the laws of a
23 foreign country, operating a bank in its home territory,
24 State, or country.

25 (14) 'IAP' or 'institution-affiliated party' means:

26 (a) any director, officer, employee, or

1 controlling stockholder of, or agent for, an FDB;

2 (b) any other person who has filed or is required
3 to file a change-in-control notice with the appropriate
4 U.S. Federal banking agency under section 7(j) of the
5 FDI Act;

6 (c) any shareholder (other than a bank holding
7 company), consultant, joint venture partner, and any
8 other person as determined by the appropriate U.S.
9 Federal banking agency (by regulation or case-by-case)
10 who participates in the conduct of the affairs of an
11 FDB;

12 (d) any independent contractor (including any
13 attorney, appraiser, or accountant) who knowingly or
14 recklessly participates in (i) any violation of any law
15 or regulation; (ii) any breach of fiduciary duty; or
16 (iii) any unsafe or unsound practice, which caused or is
17 likely to cause more than a minimal financial loss to,
18 or a significant adverse affect on, the FDB.

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

23 (16) 'Paid-in capital, surplus, and undistributed
24 profits' means, in the case of a foreign bank, the
25 aggregate paid-in capital, surplus, and undistributed
26 profits of such bank and not merely that allocated to,

1 located in, or arising out of its operations in the
2 Federated States of Micronesia.

3 (17) 'Person' includes individuals, corporations,
4 partnerships, and any other business entity.

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

9 (19) 'Registrar of Corporations' means the Registrar of
10 Corporations of the National Government of the Federated
11 States of Micronesia.

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

16 (21) 'Secretary of Finance' means the Secretary of the
17 Department of Finance and Administration of the
18 Federated States of Micronesia."

19 Section 2. Title 29 of the Code of the Federated States of
20 Micronesia is hereby further amended by enacting a new section 106
21 to read as follows:

22 "Section 106. Banking Practices - Dormant and Inactive
23 Accounts.

24 (1) In the event there has been no activity of
25 deposits or withdrawals in a savings account and no
26 contact has been made with the account holder of such

1 savings account for at least ten (10) years, the account
2 shall be deemed a 'dormant account' and the bank in
3 which such account is kept shall act to close the
4 dormant account in accordance with the procedures set
5 forth below in this section.

6 (2) In the event there has been no activity of
7 deposits or withdrawals in a checking account and no
8 contact has been made with the account holder of such
9 checking account for at least two (2) years, the account
10 shall be deemed a 'dormant account' and the bank in
11 which such account is kept shall act to close the
12 dormant account in accordance with the procedures set
13 forth below in this section.

14 (3) Bank actions in crediting interest payments to an
15 account or assessing service charges against an account
16 shall not count as activity for the purposes of
17 determining dormancy.

18 (4) Dormant accounts shall be identified annually by
19 each bank during the month of June. Any dormant account
20 with a balance of \$25.00 or less is not subject to the
21 procedures required by this section.

22 (5) Upon identification of a dormant account, the bank
23 shall send written notice to the depositor at the
24 depositor's last known address, informing the depositor
25 that the depositor's account will be closed and the
26 funds therein transferred to the Secretary of Finance if

1 the depositor does not claim the funds in the dormant
2 account by December 31 of that calendar year. The
3 notice shall be sent no later than October 1 of that
4 calendar year.

5 (6) Between November 1 and November 15 and between
6 December 1 and December 15 of each year, each bank shall
7 publish a "Notice of Inactive Bank Accounts", which
8 shall contain:

9 (a) the names, in alphabetical order, and last
10 known addresses of depositors of dormant accounts; and

11 (b) a statement that, if not claimed, such funds
12 shall be transferred to the Secretary of Finance during
13 the month of January of the following year. The Notice
14 of Inactive Bank Accounts shall be published in a
15 newspaper of general circulation or by other means as
16 determined by the Banking Board.

17 (7) During the month of January of the calendar year
18 immediately following the notification and publication
19 required by subsections (4) and (5) above, each bank
20 shall transfer to the Secretary of Finance, for the
21 account of the depositor, the full balance of each
22 dormant account, provided however, that the bank may
23 deduct costs of notice and publication in a manner to be
24 determined by the Banking Board in regulations.

25 (8) Except as provided for in this section, no bank
26 shall assess any fee against any bank account for

1 reasons of inactivity.

2 (9) In the event that a bank holds, for three (3)
3 years or more, any funds for which the owner or payor
4 cannot be determined by the bank or for which the owner
5 or payor cannot be located by the bank, the bank shall
6 transfer such funds to the Secretary of Finance for the
7 account of the owner or payor, in the event such owner
8 or payor is determined or located at a later date.

9 (10) Upon receiving sums of money pursuant to this
10 section, the Secretary of Finance shall furnish the
11 transferring bank with a receipt for such transferred
12 funds and shall deposit such sums into a custodial
13 interest bearing account separate and apart from the
14 General Fund of the FSM National Government. Interest
15 earned on funds deposited with the Secretary of Finance
16 pursuant to this section shall be deemed the property of
17 the FSM National Government and shall not be paid to the
18 owner of the funds.

19 (11) The Secretary of Finance shall be responsible for
20 maintaining accurate records of funds received pursuant
21 to this section in accordance with any regulations
22 adopted by the Banking Board.

23 (12) At any time within twenty (20) years of the date
24 of transfer of funds to the Secretary of Finance
25 pursuant to this section, such funds may be claimed by
26 their rightful owner or owners by furnishing proof of

1 his, her or their right to such funds, which proof is
2 deemed satisfactory to the Secretary of Finance.

3 (13) All funds transferred to the Secretary of Finance
4 pursuant to this section shall escheat to the National
5 Government of the Federated States of Micronesia twenty
6 (20) years following the date of such transfer.

7 (14) Each bank shall hold the FSM National Government
8 harmless for any liability incurred due to the handling
9 of an account by the bank. The FSM National Government
10 shall not be liable for any transaction on an account
11 made by any bank, including the transfer of the balance
12 of the account to the Secretary of Finance pursuant to
13 this section. The FSM National Government shall not be
14 liable for damages or penalties for any payment to a
15 claimant of funds deposited pursuant to this section.

16 (15) The bank shall not be liable for any mishandling
17 of an account by the Secretary of Finance.

18 (16) The Banking Board may adopt such rules and
19 regulations as may be necessary to implement the
20 provisions of this section."

21 Section 3. Section 201 of title 29 of the Code of the
22 Federated States of Micronesia, as amended by Public Law No.
23 9-130, is hereby further amended to read as follows:

24 "Section 201. Creation.

25 (1) There is hereby established a Banking Board which
26 shall be composed of three members appointed by the

1 President and with the advice and consent of the
2 Congress of the Federated States of Micronesia.

3 (2) All appointments shall be for a term of four
4 years, provided however, that, unless otherwise provided
5 by the President, all rights and powers of a Banking
6 Board member shall be maintained by each member until
7 the appointment of such member's successor. Banking
8 Board members shall be eligible for reappointment.

9 (3) The Chairman of the Banking Board shall be
10 appointed by the President from among the members
11 appointed pursuant to subsection (1) of this section."

12 Section 4. Section 601 of title 29 of the Code of the
13 Federated States of Micronesia, as amended by Public Laws Nos.
14 9-130 and 12-57, is hereby further amended to read as follows:

15 "Section 601. Regulation and supervision of banks -
16 General policies.

17 (1) All domestic banks and, to the extent of and with
18 respect to business done at any branches established in
19 the Federated States of Micronesia, all foreign banks
20 doing business in the Federated States of Micronesia
21 shall be regulated and supervised by the Banking Board
22 in such manner as to secure the safe and sound conduct
23 of such business, to prevent unsound practices, and to
24 maintain the public confidence in such business and
25 protect the public interest and the interests of
26 depositors.

1 (2) In determining if a Bank is carrying on its
2 business in a prudent manner, the Banking Board will
3 have regard to the following:

4 (a) capital adequacy in relation to the size and
5 nature of the business;

6 (b) asset concentration and risk exposure;

7 (c) separation of Banking Business from other
8 business and from other interests of any person owning
9 or controlling the Bank;

10 (d) adequacy of liquidity in relation to
11 liabilities;

12 (e) asset quality and adequacy of provisions for
13 losses;

14 (f) internal controls, risk management and
15 accounting systems;

16 (g) adequacy of governance arrangements
17 (including Directors and senior management) in relation
18 to the nature and scale of the business; and

19 (h) such other matters as the Banking Board
20 considers relevant.

21 (3) Every foreign bank licensed pursuant to section
22 501 of this title shall, with the concurrence of the
23 Banking Commissioner, designate the branch in the
24 Federated States of Micronesia which may be used as the
25 channel of communication between the Banking Board and
26 the Bank with respect to the application of this title

1 to its business throughout the Federated States of
2 Micronesia. Such branch shall be responsible for the
3 timely provision of reports and information by other
4 branches requested under this title. The head office of
5 a domestic bank shall be the channel of communication
6 between the Banking Board and its branches, and shall be
7 responsible for the timely provision of reports and
8 information by other branches requested under this
9 title.

10 (4) All FDBs shall comply with all existing and future
11 banking and banking-related laws, rules and regulations
12 of the United States relating to supervision,
13 regulatory, and resolution and receivership matters,
14 except any portions of such laws, rules and regulations
15 that conflict with sections 4 or 5 of Article XIII of
16 the FSM Constitution."

17 Section 5. Section 603 of title 29 of the Code of the
18 Federated States of Micronesia, as amended by Public Law No.
19 9-130, is hereby amended to read as follows:

20 "Section 603. Examination of banks - Authority;
21 Testimony; Document Production; Fees.

22 (1) The Banking Commissioner may examine, or cause to
23 be examined, every domestic or foreign bank for the
24 purpose of ascertaining whether it has complied with
25 this title and other applicable laws and for such other
26 purposes and such other matters as the Banking Board may

1 prescribe.

2 (2) The Banking Commissioner and every examiner
3 appointed by him may administer an oath to any person
4 whose testimony may be required on the examination of
5 any bank and summon and compel the appearance and
6 attendance of any person for the purpose of the
7 examination.

8 (3) As part of any examination, the Banking
9 Commissioner may also require the production of books,
10 records or other documents in whatever form.

11 (4) As an examination fee, each bank so examined shall
12 pay the total cost of such examination, and the sum so
13 paid shall be deposited into the General Fund of the
14 Federated States of Micronesia."

15 Section 6. Section 605 of title 29 of the Code of the
16 Federated States of Micronesia, as amended by Public Laws Nos.
17 9-130 and 12-57, is hereby further amended to read as follows:

18 "Section 605. Special reports.

19 (1) The Banking Commissioner may request from the
20 banks special reports.

21 (2) The Banking Commissioner may, from time to time,
22 by notice in writing, require any domestic or foreign
23 bank to submit such reports and returns as he may
24 require for the purposes of the administration and
25 enforcement of the provisions of this title and any
26 regulations made thereunder.

1 (3) Any bank notified in writing under subsection (2)
2 of this section shall comply with accurate and timely
3 submissions or be subject to a penalty imposed by the
4 Banking Board in an amount not to exceed \$100 per day
5 until the correct information has been provided to the
6 satisfaction of the Banking Commissioner.

7 (4) During the first five years of operations in the
8 Federated States of Micronesia by any domestic bank, the
9 Banking Commissioner shall call for special reports of
10 its condition not less frequently than each calendar
11 quarter."

12 Section 7. Section 613 of title 29 of the Code of the
13 Federated States of Micronesia, as amended by Public Law No.
14 12-57, is hereby further amended to read as follows:

15 "Section 613. Limitations on loans - Related persons.

16 (1) Except as herein provided, no domestic bank shall
17 make any extension of credit to any of its officers,
18 directors, agents, employees, or holders of more than
19 ten percent (10%) of the outstanding stock of the bank,
20 or to any related person, either directly or
21 indirectly, except upon the written application of such
22 person or related person stating the line of credit
23 applied for, terms and security, if any, offered
24 therefor to the board of directors or to the loan or
25 executive committee of the board, and then only with
26 the written approval of a majority of the board or a

1 majority of the loan or executive committee of the
2 board (excluding the person seeking the credit) before
3 the loan is made; and the approval of the loan as
4 allowed by the board or the loan or executive committee
5 of the board shall be made a part of the minutes of the
6 next directors' meeting of the bank.

7 (2) Loans may be made to any officer, director, agent,
8 employee, or shareholder of any domestic bank or any
9 related person, without such application and approval,
10 in amounts not in excess of \$5,000 in aggregate
11 principal owing by any such individual and related
12 person at any one time.

13 (3) Extensions of credit may only be made pursuant to
14 subsections (1) and (2) of this section if they are made
15 on substantially the same terms, including interest
16 rates and collateral, as those prevailing at the time
17 for comparable transactions by the bank with members of
18 the general public; PROVIDED however, that a bank may
19 offer preferential terms to employees under an
20 internally established employee benefit program."

21 Section 8. Section 617 of title 29 of the Code of the
22 Federated States of Micronesia is hereby amended to read as
23 follows:

24 "Section 617. Applications for credit - denials and
25 records. Each bank must provide an applicant with a
26 written explanation of the basis on which a decision is

1 made to deny a written application for a loan, a credit
2 card, or other request for extension of credit within
3 thirty (30) days from the date of receipt of such
4 application by the bank. Each bank shall keep records
5 of all applications for credit received and denials and
6 written explanations given in the manner determined by
7 the Banking Commissioner."

8 Section 9. Section 619 of title 29 of the Code of the
9 Federated States of Micronesia is hereby amended to read as
10 follows:

11 "Section 619. Acceptance of deposits - Minimum capital
12 requirements. No domestic bank may accept deposits at
13 any time that its paid-in capital, surplus, and
14 undivided profits are less than \$1,000,000 in the
15 aggregate."

16 Section 10. Section 621 of title 29 of the Code of the
17 Federated States of Micronesia is hereby amended to read as
18 follows:

19 "Section 621. Bank stock - Ownership limitations. No
20 person or group of related persons (including entities
21 that are affiliated as parent or subsidiary companies or
22 are otherwise under common control) may acquire ten
23 percent or more of the stock of a domestic bank without
24 the prior approval of the Banking Board."

25 Section 11. Section 701 of title 29 of the Code of the
26 Federated States of Micronesia, as enacted by Public Law No.

1 12-57, is hereby amended to read as follows:

2 "Section 701. Unsafe or unsound practices.

3 (1) This section shall apply when the Banking Board
4 has determined that a Bank licensed under this title:

5 (a) is following unsafe or unsound practices in
6 the conduct of its business that if continued may
7 jeopardize its obligations to its depositors, or
8 adversely affect the operation or stability of the
9 banking system of the FSM; or

10 (b) has contravened or failed to comply with the
11 terms and conditions of its license or the provisions of
12 this title.

13 (2) When a bank is engaged in practices described in
14 subsection (1) of this section, the Banking Board:

15 (a) shall issue a directive to such Bank to cease
16 and desist from such practice, contravention or non-
17 compliance or to take such other action as the Banking
18 Board determines is necessary;

19 (b) shall issue a directive to such Bank to take
20 such action (including action to replace or strengthen
21 officers or directors) as may be specified in such
22 directive in order to correct the conditions resulting
23 from such practices, contravention or non-compliance;
24 and

25 (c) may appoint a qualified person to advise the
26 bank on the proper conduct of its business and measures

1 to be taken to rectify its situation; the remuneration
2 to be paid to such advisor shall be fixed by the Banking
3 Board and paid by the Bank."

4 Section 12. Section 702 of title 29 of the Code of the
5 Federated States of Micronesia, as enacted by Public Law No.
6 12-57, is hereby amended to read as follows:

7 "Section 702. Enforcement of directives.

8 (1) The Banking Commissioner shall promptly and fully
9 enforce all FDIC directives and orders against or
10 involving any FDB or any IAP, except to the extent that
11 such directives or orders conflict with the Constitution
12 of the FSM.

13 (2) If a Bank to which section 701 of this title has
14 been applied fails to comply promptly with any
15 directive or order of the FDIC or Banking Commissioner,
16 such failure shall constitute grounds for an application
17 under section 801 of this title."

18 Section 13. Section 801 of title 29 of the Code of the
19 Federated States of Micronesia, as amended by Public Law No.
20 9-130, is hereby further amended to read as follows:

21 "Section 801. Receivership - Application by Banking
22 Commissioner. If, in consequence of an examination or
23 report made by an examiner, or otherwise, the Banking
24 Board should have reason to believe that a domestic bank
25 or foreign bank is in an unsafe or unsound condition or
26 is engaging in unsafe or unsound practices; or that its

1 affairs are being conducted in such a manner that the
2 public or the persons or entities having securities or
3 funds under its custody are in danger of being
4 defrauded; or if any such bank shall violate its charter
5 or any law relative thereto, or this title in any
6 material respect; or if it becomes insolvent, then,
7 subject to Chapter 9 of this title, the Banking
8 Commissioner may apply to the Trial Division of the
9 Supreme Court of the Federated States of Micronesia for
10 the appointment of a receiver to take charge of and wind
11 up the affairs of such bank."

12 Section 14. Section 802 of title 29 of the Code of the
13 Federated States of Micronesia, as amended by Public Law No.
14 9-130, is hereby further amended to read as follows:

15 "Section 802. Receivership - Appointment and duties of
16 receiver.

17 (1) If the Court, after hearing all parties concerned,
18 determines that the facts alleged by the Banking
19 Commissioner are supported by the evidence, except in
20 the event that the FDIC has appointed itself receiver
21 pursuant to Chapter 9, the Court shall appoint a
22 receiver.

23 (2) Upon his appointment the receiver shall, under the
24 direction of the Banking Commissioner, take possession
25 of the assets and liabilities, books, records, papers,
26 and files of every description belonging to the bank;

1 and collect all loans, fees, and claims of the bank; and
2 see to the payment of its obligations and debts, and to
3 the necessary expenses of receivership.

4 (3) The receiver shall proceed to liquidate the
5 affairs of the bank as soon as possible, and to this end
6 may sell the personal and real property and other assets
7 of the bank, but subject to the approval of the Banking
8 Commissioner. The receiver shall continue to perform
9 his duties in the manner prescribed herein until the
10 bank or foreign bank is fully liquidated."

11 Section 15. Title 29 of the Code of the Federated States of
12 Micronesia is hereby amended by enacting a new Chapter 9 entitled
13 "FDIC Proceedings and FDBs".

14 Section 16. Title 29 of the Code of the Federated States of
15 Micronesia is hereby amended by enacting a new section 901 of
16 chapter 9 to read as follows:

17 "Section 901. Authority, Scope. This Chapter is
18 enacted in accordance with Article XI in order to set
19 forth the rights and obligations between FDBs, the FDIC
20 and the government and courts of the FSM."

21 Section 17. Title 29 of the Code of the Federated States of
22 Micronesia is hereby amended by enacting a new section 902 of
23 chapter 9 to read as follows:

24 "Section 902. Administrative Enforcement Actions.
25 Any proceeding involving administrative enforcement
26 actions against the FDB or any IAP of the FDB shall be

1 in accordance with the FDI Act and FDIC Regulations.
2 Any proceeding against the FDB or an IAP shall be held
3 in the State of Pohnpei, unless the parties agree to
4 hold a hearing in another location, or unless an
5 Administrative Law Judge finds good cause to hold a
6 hearing in a different location.

7 (1) The FDB or an affected IAP may appeal
8 administrative orders pursuant to Article XI.

9 (2) The FDIC may sue to enforce administrative orders
10 or directives pursuant to Article XI.

11 (3) The government and courts of the FSM shall
12 recognize orders and directives of the FDIC and other
13 orders pursuant to Article XI."

14 Section 18. Title 29 of the Code of the Federated States of
15 Micronesia is hereby amended by enacting a new section 903 to read
16 as follows:

17 "Section 903. Receivership. If the FDB becomes
18 'critically undercapitalized' as that term is used in
19 Article XI, the Banking Commissioner shall act to close
20 the FDB.

21 (1) The FDIC has the authority to appoint itself
22 receiver of the FDB under the circumstances provided in
23 Article XI and to exercise all powers conferred by the
24 FDIC Act.

25 (2) Upon closure of a FDB for any reason, the FDIC
26 shall become the receiver of the FDB on the date of the

1 closing unless the FDIC notifies the Banking
2 Commissioner in writing that it will not serve as
3 receiver.

4 (3) A closed FDB shall pay the receiver's
5 administrative expenses prior to the payment of any
6 other claims of unsecured creditors. The subrogated
7 claim of the FDIC as insurer of deposits shall have
8 priority over the payment of any claims of general
9 unsecured creditors of the FDB, other than the
10 receiver's administrative expenses.

11 (4) No person alleging a claim against a FDB in
12 receivership shall be permitted to bring an action in a
13 court of law or other body (including any action that
14 existed against the FDB prior to its failure) until such
15 person has permitted the receiver a reasonable period to
16 review such claim.

17 (5) No claim against a receiver arising prior to the
18 failure of the FDB shall be valid unless it appears in
19 the FDB's records.

20 (6) No claim against the receiver for its actions in
21 liquidating the FDB shall prevail unless the plaintiff
22 proves by clear and convincing evidence that the
23 receiver acted in willful disregard of the law.

24 (7) No court or administrative agency shall enjoin the
25 operations of the receivership.

26 (8) Officers, directors and other professionals shall

1 be liable to the receiver for any damages caused to the
2 failed FDB.

3 (9) The receiver shall not be required to perform any
4 executory contract that had been entered into by the FDB
5 prior to its failure.

6 (10) Litigation between the receiver and the creditors
7 or debtors of the FDB shall not be commenced until after
8 the receiver has conducted a complete administrative
9 review of the claim.

10 (11) All suits of a civil nature to which the FDIC as
11 receiver is a party must be brought pursuant to the
12 provisions of Article XI."

13 Section 19. Title 29 of the Code of the Federated States of
14 Micronesia is hereby amended by enacting a new section 904 to read
15 as follows:

16 "Section 904. Prohibited participation. Participation
17 in the conduct of the affairs of a FDB is prohibited by
18 any IAP, person or party who:

19 (1) is subject to a final or temporary order of
20 suspension, removal, or prohibition issued by the FDIC,
21 other United States banking or regulatory agency, or
22 United States court; and/or

23 (2) has been convicted of, or has agreed to enter a
24 pre-trial diversion or similar program, in connection
25 with the prosecution for an offense of the type covered
26 by section 19 of the FDI Act, including any conviction

1 and/or diversion that takes place in the FSM or in any
2 other nation or jurisdiction."

3 Section 20. This act shall become law upon approval by the
4 President of the Federated States of Micronesia or upon its
5 becoming law without such approval.

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December 8, 2004

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/s/ Joseph J. Urusemal

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Joseph J. Urusemal

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President

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Federated States of Micronesia

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