

A BILL FOR AN ACT

To further amend title 29 of the Code of the Federated States of Micronesia, as amended, by amending sections 102, 104, 205, 301, 309, 402, 601, 604, 605, 606, 612, 613, 622 and 627, and by enacting a new section 209 and a new chapter 7, to incorporate the Basle Principles and other international standards of banking supervision into the banking laws of the Federated States of Micronesia, 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 Federated
2 States of Micronesia is hereby amended to read as follows:

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

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

11 ~~([1]2) 'Bank' means [a stock or mutual corporation or~~
12 ~~unincorporated association with sufficient capital,~~
13 ~~authorized by law to receive deposits of money or securities,~~
14 ~~to open credits, checking accounts, and savings accounts, to~~
15 ~~make loans, and in general to engage in all kinds of banking~~
16 ~~transactions, but does not mean a National banking~~
17 ~~association established by the Federated States of~~

1 ~~Micronesia.]~~ any person or body of persons or a corporation
2 authorized by law to engage in the banking business, and to
3 accept from the public deposits which are withdrawable and
4 transferable by check or other means of payment transfer.

5 'Bank' includes a savings and loan association but does not
6 include a credit union.

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

16 ([2]4) 'Banking Board' means the Board established pursuant to
17 section 201 of this title.

18 ([3]5) 'Banking Commissioner' means the Banking Commissioner
19 appointed pursuant to section 206 of this title.

20 ([4]6) 'Branch' means an office of a bank [~~at which deposits~~
21 ~~are received and either or checks are paid or money is lent.]
22 where banking business is transacted and at which accounting
23 records are maintained.~~

24 ([5]7) 'Demand deposit' means any deposit which is repayable
25 by its terms not more than three days after the time it is

1 made.

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

13 (~~[7]~~9) 'Domestic bank' means a bank organized under the
14 provisions of chapter 3 of this title.

15 (~~[8]~~10) 'Foreign bank' means a corporation or other financial
16 institution organized for the purpose of engaging in the
17 banking business under the laws of the United States or of a
18 territory or State of the United States, or of a foreign
19 country, operating a bank in its home territory, State, or
20 country.

21 (~~[9]~~11) 'Legal reserve' means the sum which every domestic
22 bank and foreign bank shall at all times have available for
23 the payment of their deposit liabilities pursuant to the
24 provisions of this title.

25 (~~[10]~~12) 'Paid-in capital, surplus, and undistributed profits'

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

5 (~~11~~13)'Person' includes individuals, corporations,
6 partnerships, and any other business entity.

7 (~~12~~14)'Public Auditor' means the Public Auditor appointed
8 by the President of the Federated States of Micronesia with
9 the advice and consent of the Congress pursuant to the
10 Constitution.

11 (~~13~~15)'Registrar of Corporations' means the Registrar of
12 Corporations of the National Government of the Federated
13 States of Micronesia.

14 (~~14~~16)'Related person' with respect to any person means his
15 spouse, child, parents, brothers, ~~or~~ sisters, or any
16 partnership, corporation, or firm in which he owns more than
17 a ten percent interest."

18 Section 2. Section 104 of title 29 of the Code of the Federated
19 States of Micronesia is hereby amended to read as follows:

20 "Section 104. Requirements for banking business.

21 (1) No person shall engage in the business of accepting
22 deposits in the Federated States of Micronesia or shall use
23 the term 'bank' or 'savings and loan association' or any form
24 thereof in the conduct of its business unless it has been
25 granted a license pursuant to the provisions of this title

1 and such license has not expired and has not been canceled.

2 (2) Any person holding such a license shall engage in no
3 business in the Federated States of Micronesia other than the
4 banking business and shall engage in such business only at
5 the locations authorized by the Banking Board. Any such
6 person shall give prior notice in writing to the Banking
7 Board of any intention to cease operations at such authorized
8 location. Such notice should be given not later than 30 days
9 prior to the proposed cessation date, and shall include
10 details of alternative arrangements proposed for customers
11 using such location."

12 Section 3. Section 205 of title 29 of the Code of the Federated
13 States of Micronesia is hereby amended to read as follows:

14 "Section 205. Reports.

15 (1) The Banking Board shall prepare a report each year on
16 the condition of the banking system of the Federated States
17 of Micronesia and on the operations of the Board during the
18 year. Copies of the report shall be submitted to the
19 President and the Speaker of the Congress within three months
20 of the end of each year. The report shall also be published.

21 (2) The Banking Board shall also make up and publish a
22 consolidated statement of assets and liabilities of the
23 Federated States of Micronesia banking system not less
24 frequently than quarterly, and send copies of the statement
25 to the President and the Speaker of the Congress. The

1 Banking Board may also publish from time to time a
2 consolidated statement of assets and liabilities of the
3 Federated States of Micronesia banking system showing figures
4 separately by state."

5 Section 4. Title 29 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by enacting a new
7 section 209 to read as follows:

8 "Section 209. Indemnity.
9 Neither the Banking Board nor any of its members, the Banking
10 Commissioner, employee or any person duly appointed to assist
11 the Banking Board in carrying out its powers and duties under
12 this title shall incur any liability as a result of anything
13 done in good faith in the exercise of any power or the
14 performance of any duty under this title."

15 Section 5. Section 301 of title 29 of the Code of the Federated
16 States of Micronesia is hereby amended to read as follows:

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

18 (1) Any five or more persons of sufficient legal capacity
19 may organize a domestic bank, but for such purpose they shall
20 first apply in writing for a permit from the Banking Board.

21 (2) The application shall set forth and prove the need of
22 the services of a banking institution in the locality wherein
23 the bank is sought to be established, and that the services
24 rendered by other banking institutions do not answer the
25 needs of the locality.

1 (3) The application shall also set forth the following:

2 (a) A business plan showing the intended strategy for
3 the first three years of operation, including the
4 administrative and organizational structure of the bank,
5 internal controls, and projected balance sheet, profit and
6 loss and cash flow statements for each of the three years,
7 together with the assumptions on which they are based;

8 (b) The structure and adequacy of the proposed
9 capital in relation to the projected volume of risk assets
10 detailed in the business plan;

11 (c) The financial capacity, history, qualifications
12 and experience of the applicants and the proposed
13 management."

14 Section 6. Section 309 of title 29 of the Code of the Federated
15 States of Micronesia is hereby amended to read as follows:

16 "Section 309. Amount and ownership of capital stock.
17 No domestic bank shall be organized and established in the
18 Federated States of Micronesia with a capital stock less than
19 [~~\$500,000~~] \$1,000,000, [~~not less than 50 percent of~~] which
20 shall be paid in cash before the bank shall be authorized to
21 commence business, and at least two-thirds of which shall be
22 owned by persons who are citizens of the Federated States of
23 Micronesia and who shall have resided in the Federated States
24 of Micronesia for at least one year prior to the
25 application."

1 Section 7. Section 402 of title 29 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 402. Establishment - Application for permit
4 required.

5 (1) No foreign bank may open any branch or office or change
6 the location of any branch or office in the Federated States
7 of Micronesia without a permit to do so from the Banking
8 Board.

9 (2) An application to the Banking Board for such permit
10 shall state the benefit to the public expected to result from
11 the granting of the permit applied for.

12 (3) The Banking Board, upon receipt of such application,
13 may require the submittal of such additional information as
14 may be necessary in order for it to make the necessary
15 investigations.

16 (4) An application by a foreign bank to open a new branch
17 in the FSM must be accompanied by written confirmation from
18 the supervisory authority in the applicants' country of
19 incorporation that the supervisory authority has no objection
20 to the proposal to establish the branch in the FSM; and that
21 the foreign bank is subject to consolidated supervision and
22 regulation in its country of incorporation."

23 Section 8. Section 601 of title 29 of the Code of the Federated
24 States of Micronesia is hereby amended to read as follows:

25 "Section 601. Regulation and supervision of banks by Banking

1 Board - General policies.

2 (1) All domestic banks and, to the extent of and with
3 respect to business done at any branches established in the
4 Federated States of Micronesia, all foreign banks doing
5 business in the Federated States of Micronesia shall be
6 regulated and supervised by the Banking Board in such manner
7 as to secure the safe and sound conduct of such business, to
8 prevent unsound practices, and to maintain the public
9 confidence in such business and protect the public interest
10 and the interests of depositors, creditors, and stockholders.

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

14 (a) capital adequacy in relation to the size and
15 nature of the business;

16 (b) asset concentration and risk exposure;

17 (c) separation of Banking Business from other business
18 and from other interests of any person owning or controlling
19 the Bank;

20 (d) adequacy of liquidity in relation to liabilities;

21 (e) asset quality and adequacy of provisions for
22 losses;

23 (f) internal controls, risk management and accounting
24 systems;

25 (g) adequacy of governance arrangements (including

1 Directors and senior management) in relation to the nature
2 and scale of the business; and

3 (h) such other matters as the Banking Board considers
4 relevant.

5 ([2]3) Every foreign bank licensed pursuant to section 501
6 of this title shall, with the concurrence of the Banking
7 Commissioner, designate the branch in the Federated States of
8 Micronesia which may be used as the channel of communication
9 between the Banking Board and the [b]Bank with respect to the
10 application of this title to its business throughout the
11 Federated States of Micronesia. Such branch shall be
12 responsible for the timely provision of reports and
13 information by other branches requested under this title.
14 The head office of a domestic bank shall be the channel of
15 communication between the Banking Board and its branches, and
16 shall be responsible for the timely provision of reports and
17 information by other branches requested under this title."

18 Section 9. Section 604 of title 29 of the Code of the Federated
19 States of Micronesia is hereby amended to read as follows:

20 "Section 604. Report of Banks.

21 (1) Every domestic or foreign bank shall make at least one
22 report of its condition each year to the Banking Commissioner
23 within [~~ninety~~] 90 days after the close of the bank's fiscal
24 year, and according to forms to be prescribed by him,
25 verified by the oath of the chief executive officer or chief

1 financial officer and attesting officer, certifying and
2 subscribing under oath that each of them has personal
3 knowledge of the facts stated therein and that the same are
4 true.

5 (2) Such reports shall exhibit in detail and under
6 appropriate heads the total resources and liabilities of the
7 bank, and, in the case of a foreign bank, shall show
8 separately the resources, liabilities, and operations in the
9 Federated States of Micronesia.

10 (3) The Banking Commissioner shall have the right to
11 require that any such reports be audited at the bank's
12 expense by independent accountants approved by the Banking
13 Commissioner.

14 (4) Every domestic and foreign bank holding a license under
15 this title shall forward to the Banking Commissioner no later
16 than the 31st day of December each year a report outlining
17 the bank's policy regarding employment of citizens of the
18 Federated States of Micronesia in executive positions in the
19 bank, and the steps being taken to maximize such employment.

20 (5) Every domestic and foreign bank shall publish in such
21 manner as the Banking Commissioner shall direct, within 4
22 months after the close of its fiscal year, an audited report
23 of its condition as described in subsections (1) and (2) of
24 this section.

25 (6) Each Bank shall deliver to the Banking Board within

1 such period as may be specified and in such form as the Board
2 may from time to time approve, a periodic statement of its:

3 (a) assets and liabilities;

4 (b) earnings and expenses;

5 (c) loans and advances; and

6 (d) such other data as the Board may deem necessary to
7 carry out the purpose of this act."

8 Section 10. Section 605 of title 29 of the Code of the Federated
9 States of Micronesia is hereby amended to read as follows:

10 "Section 605. Special reports.

11 (1) [~~The Banking Commissioner may also call for special~~
12 ~~reports from any domestic or foreign bank whenever in his~~
13 ~~judgement the same are necessary in order to obtain full~~
14 ~~knowledge of its condition.] The Banking Commissioner may
15 request from the banks special reports.~~

16 (2) The Banking Commissioner may, from time to time, by
17 notice in writing, require any domestic or foreign bank to
18 submit such reports and returns as he may require for the
19 purposes of the administration and enforcement of the
20 provisions of this title and any regulations made thereunder.

21 (3) Any bank notified in writing under subsection (2) of
22 this section shall comply with accurate and timely
23 submissions or be subject to a penalty imposed by the Banking
24 Board in an amount not to exceed \$50 per day until the
25 correct information has been provided to the satisfaction of

1 the Banking Commissioner.

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

6 Section 11. Section 606 of title 29 of the Code of the Federated
7 States of Micronesia is hereby amended to read as follows:

8 "Section 606. [~~Penalty for false reporting~~] Misleading or
9 obstructive conduct an offense.

10 (1) [~~Whoever willfully makes any false entry in any book,~~
11 ~~report, or statement of a bank or certifies and subscribes to~~
12 ~~any report required by sections 604 or 605 of this chapter~~
13 ~~which is false in any material respect shall be fined not~~
14 ~~more than \$1,000, or imprisoned for not more than one year,~~
15 ~~or both~~] Whoever, with intent to deceive:

16 (a) makes a false or misleading entry in any bank book
17 or record;

18 (b) makes, provides or certifies any report required
19 by section 604 or 605 of this title, or provides any
20 information required under this title, which is false in any
21 material particular;

22 (c) omits an entry or alters or conceals any entry in
23 any bank book or record; or

24 (d) conceals or destroys any information, book,
25 voucher, record, report, return, minutes or document relating

1 to the accounts, transactions, affairs or business of a bank;
2 shall be fined not more than \$1,000, or imprisoned for not
3 more than 1 year, or both.

4 (2) Whoever obstructs, or endeavors to obstruct:

5 (a) the proper performance by an Auditor of a Bank of
6 his duties related to that Bank;

7 (b) an examination of a Bank conducted pursuant to
8 section 603 of this title; or

9 (c) the proper performance of his duties by an advisor
10 appointed under section 701 of this title;
11 shall be fined not more than \$1,000, or imprisoned for not
12 more than 1 year, or both."

13 Section 12. Section 612 of title 29 of the Code of the Federated
14 States of Micronesia is hereby amended to read as follows:

15 "Section 612. Limitations on loans - Maximum amount.

16 (1) No domestic bank shall permit a person to become
17 indebted or liable to it, either directly or indirectly, in
18 an amount in excess of [~~twenty~~] 20 percent of the aggregate
19 paid-in and unimpaired capital, surplus, and undivided
20 profits of the bank; provided however, that this subsection
21 shall not apply to transactions entered into with another
22 bank which is a member of the Federal Deposit Insurance
23 Corporation of the United States, and for which quarterly
24 reports of condition are monitored.

25 (2) In computing the total liabilities, direct or indirect,

1 of any person to a bank, there shall be included all
2 liabilities to the bank of any related person and any loans
3 made for his benefit or for the benefit of any related
4 person.

5 (3) In computing the total liabilities of any firm,
6 copartnership, or unincorporated association to the bank,
7 there shall be included all liabilities of its individual
8 members and all loans made for the benefit of the
9 copartnership or unincorporated association or any members
10 thereof.

11 (4) In computing the total liabilities of any corporation
12 to a bank there shall be included all liabilities of and all
13 loans made for the benefit of the corporation and its
14 majority owned subsidiaries."

15 Section 13. Section 613 of title 29 of the Code of the Federated
16 States of Micronesia is hereby amended to read as follows:

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

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

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

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

11 (3) Extensions of credit may only be made pursuant to
12 subsections (1) and (2) of this section if they are made on
13 substantially the same terms, including interest rates and
14 collateral, as those prevailing at the time for comparable
15 transactions by the bank with members of the general public,
16 except for internally established employee benefit programs."

17 Section 14. Section 622 of title 29 of the Code of the Federated
18 States of Micronesia is hereby amended to read as follows:

19 "Section 622. Limitations on sale of assets, merger, etc.
20 No domestic bank may merge or consolidate with, or sell a
21 substantial portion of its assets to, another bank without
22 the approval of the Banking Board. No foreign bank may make
23 any arrangement or enter into any agreement for the sale or
24 disposal of its business, or part thereof, in the Federated
25 States of Micronesia to any other person without the prior

1 approval in writing of the Banking Board."

2 Section 15. Section 627 of title 29 of the Code of the Federated
3 States of Micronesia is hereby amended to read as follows:

4 "Section 627. General penalties.

5 (1) For any violation of this title, license conditions
6 imposed by the Banking Board pursuant to section 501 of this
7 title, directives issued by the Banking Board pursuant to
8 section 701 of this title, or the regulations prescribed
9 pursuant to section 602 of this [title] chapter, the
10 delinquent domestic or foreign bank shall be subject to a
11 fine of not more than \$5,000 and if the violation is a
12 continuing one, to a further fine not exceeding \$1,000 for
13 [each] every day [that] during which the violation continues;
14 and, in the case of a material violation, to the cancellation
15 of its license.

16 (2) [~~Such fine or cancellation shall be imposed by the~~
17 ~~Banking Board only with the approval of the President of the~~
18 ~~Federated States of Micronesia and after notice to the~~
19 ~~delinquent bank and a hearing concerning the alleged~~
20 ~~violation.] The Banking Board must give notice to the Bank
21 concerned of the intention to impose a penalty pursuant to
22 subsection (1) of this section, and allow it a hearing in
23 respect to the alleged violation. The Banking Board must
24 take into account the outcome of the hearing in its final
25 decision. The approval of the President of the Federated~~

1 States of Micronesia must be given for a cancellation of
2 license or the imposition of a fine exceeding \$1,000.

3 ~~(3) [In any such case, the Banking Commissioner shall send~~
4 ~~written notice of his action to the bank affected as quickly~~
5 ~~as circumstances will allow, and if the cancellation of the~~
6 ~~bank's license has been decided upon, shall transmit a~~
7 ~~written order to that effect to the Registrar of Corporations~~
8 ~~for appropriate action.] The Banking Commissioner shall~~
9 immediately notify the Bank concerned in writing of any
10 penalty imposed pursuant to subsections (1) and (2) of this
11 section. If the penalty involves cancellation of license,
12 the Bank must immediately cease to carry on banking business,
13 the Banking Commissioner must notify the Registrar of
14 Corporations of the cancellation, and the provisions of
15 section 801 of this title shall apply."

16 Section 16. Title 29 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by enacting a new
18 chapter 7 entitled "Control over Banks".

19 Section 17. Title 29 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by enacting a new
21 section 701 of chapter 7 to read as follows:

22 "Section 701. Unsafe or unsound practices.

23 (1) This section shall apply when the Banking Board is of
24 the opinion, either as a result of an examination carried out
25 under this title, or otherwise, that a Bank licensed under

1 this title:

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

6 (b) has contravened or failed to comply with the terms
7 and conditions of its license or the provisions of this
8 title.

9 (2) When a Bank is engaged in practices described in
10 subsection (1) of this section, the Banking Board may:

11 (a) issue a directive to such Bank to cease and desist
12 from such practice, contravention or non-compliance;

13 (b) issue a directive to such Bank to take such action
14 (including action to replace or strengthen management) as may
15 be specified in such directive in order to correct the
16 conditions resulting from such practice, contravention or
17 non-compliance; and

18 (c) appoint a qualified person to advise the bank on
19 the proper conduct of its business and measures to be taken
20 to rectify its situation; the remuneration to be paid to such
21 advisor shall be fixed by the Banking Board and paid by the
22 Bank."

23 Section 18. Title 29 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by enacting a new
25 section 702 of chapter 7 to read as follows:

1 "Section 702. Penalty for failure to comply with section 701
2 of this title. If a Bank to which section 701 of this title
3 has been applied fails to comply within a reasonable time
4 with a directive, such failure may constitute grounds for an
5 application under section 801 of this title."

6 Section 19. Title 29 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by enacting a new
8 section 703 of chapter 7 to read as follows:

9 "Section 703. Prevention against money laundering.

10 (1) Any director, manager or other officer concerned in the
11 management of a Bank in the Federated States of Micronesia
12 who makes or authorizes, or permits to be made or authorized
13 by any officer of the Bank any transaction:

14 (a) without taking or causing to be taken all
15 reasonable steps to establish the true identity of the
16 persons concerned in the transaction; or

17 (b) when he or the officer concerned doubts or has
18 reason to doubt the authenticity of documents and the truth
19 of written or oral statements material to the transaction; or

20 (c) when he or the officer concerned knows or has
21 reason to suspect that any of the funds involved in the
22 transaction have been obtained by any party as the direct or
23 indirect result of activity that is illegal inside or outside
24 the Federated States of Micronesia;
25 is guilty of an offense and is liable on conviction to a fine

1 of \$10,000 or imprisonment for one year or both.

2 (2) No director, manager or other officer concerned in the
3 management of a financial institution who discloses in good
4 faith to the Banking Commissioner information regarding any
5 customer or transaction which he believes to be connected to
6 illegal activity, shall incur any liability as a result of
7 such disclosure."

8 Section 20. Title 29 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by enacting a new
10 section 704 of chapter 7 to read as follows:

11 "Section 704. Prohibition on disclosure.

12 (1) No person who has acquired knowledge in his capacity as
13 director, manager, officer, employee or agent of any licensed
14 bank shall disclose to any person any information concerning
15 a customer of that licensed bank except:

16 (a) with the written authorization of the customer or
17 his legal personal representative;

18 (b) for the purpose of performing his duties under
19 this title;

20 (c) when required to do so by a court in the Federated
21 States of Micronesia;

22 (d) in order to comply with the provisions of this
23 title or any other written law; or

24 (e) to provide to a person, upon a legitimate business
25 request, a general credit rating, a copy of which shall be

1 provided to the subject of the credit rating upon his
2 request.

3 (2) No member of the Banking Board, Banking Commissioner,
4 employee or agent of the Banking Board shall disclose to any
5 person any information, returns or data whatsoever relating
6 to any licensed Bank or to its customers that he has acquired
7 in the performance of his duties under this title except:

8 (a) for the purpose of the performance of his duties
9 or the exercise of his functions;

10 (b) when lawfully required to do so by any court, or
11 in proceedings for an offense against this title;

12 (c) with the consent of the person to whom the
13 information relates;

14 (d) to the extent that the information is available
15 under any other law or in a public document;

16 (e) in aggregated or summary form, in such a manner as
17 to prevent any information disclosed from being identified by
18 any person as being related to a particular person; or

19 (f) in confidence to a supervisory authority in any
20 other country for the purposes of the exercise of functions
21 corresponding to or similar to those conferred on the Banking
22 Board under this title, so long as the Banking Board is
23 reasonably satisfied the recipient of the information will
24 maintain confidentiality."

25 Section 21. Title 29 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by enacting a new
2 section 705 of chapter 7 to read as follows:

3 "Section 705. Retention of records.

4 (1) A licensed bank must retain, for a period of at least 5
5 years, checks and other negotiable instruments drawn on it
6 and paid by it, and other items comprising records of
7 transactions processed by it.

8 (2) It shall be sufficient compliance with the duty imposed
9 by subsection (1) of this section if a copy of the item has
10 been made by the licensed Bank on microfilm, microfiche,
11 tape, disk, or electronic or photographic storage media, and
12 is retained by the licensed Bank for the same period as the
13 item is required to be retained pursuant to subsection (1) of
14 this section.

15 (3) Notwithstanding the provisions of any other law, a copy
16 of an item made pursuant to this section shall be admissible
17 as evidence in any legal proceeding to the same extent as the
18 item of which it is a copy would have been admissible."

19 Section 22. This act shall become law upon approval by the
20 President of the Federated States of Micronesia or upon its becoming
21 law without such approval.

22

23 Date: _____

Introduced by: _____

Joseph J. Urusemal
(by request)

24