THIRD CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH REGULAR SESSION, 1984 RD C. B. No. 3-342

A BILL FOR AN ACT

To create a National Deposit Insurance Corporation of the Federated States of Micronesia, and for other purposes.

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

Section 1. Creation. There is hereby created a National Deposit Insurance Corporation, hereinafter referred to as the "Corporation," which shall insure, as hereinafter provided, the deposits of all banks which are entitled to operate within and without the Federated States of Micronesia, and which shall have the powers hereinafter granted.

Section 2. Directors; Terms of office; Chairman; Vacancies; Office or ownership of stock in banking institution forbidden. The management of the Corporation shall be vested in a Board of Directors consisting of four members, one of whom shall be the Secretary of the Department of Finance, and three of whom shall be citizens of the Federated States of Micronesia to be appointed by the President of the Federated States of Micronesia, with the advice and consent of the Congress of the Federated States of Micronesia. One of the appointive members shall be the Chairman of the Board of Directors of the Corporation hereinafter referred to as the "Board." Each appointive member shall hold office for a term of 4 years. In the event of a vacancy in the Office of the Secretary of the Department of Finance, and pending the appointment of his successor, or during the absence or disability of the Secretary, the Acting Secretary shall be a member of the Board. No member of the Board shall be eligible during the time he is in office and for 2 years thereafter to hold any office, position, or employment in any insured bank.

Section 3. Incorporation; Powers; Seal. The Corporation shall become a body corporate and as such shall have power to:

(1) Adopt and use a corporate seal;

(2) Make contracts;

(3) Sue and be sued, complain, and defend in any court of law or equity,

State or National. All suits of a civil nature to which the Corporation shall be a party shall be deemed to arise under the laws of the National Government of the Federated States of Micronesia, and the FSM Supreme Court shall have original jurisdiction thereof, without regard to the amount in controversy;

(4) Appoint by its Board of Directors such officers and employees as are deemed necessary and appropriate; define their duties, fix their compensation, and require bond of them; and dismiss at pleasure such officers or employees;

(5) Prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted and the privileges granted to it by law may be exercised and enjoyed;

(6) Exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this act, and such incidental powers as shall be necessary to carry out the powers so granted;

(7) Make examinations of, and require information and reports from banks as provided in this act;

(8) Act as receiver; and

(9) Prescribe, by its Board of Directors, such rules and regulations as it may deem necessary to carry out the provisions of this act or of any other law which it has the responsibility of administering or enforcing.

Section 4. Administration of Corporation.

(1) The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination.

(2) The Board of Directors shall appoint examiners who shall have the power, on behalf of the Corporation, to examine any bank whenever in the

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judgment of the Board of Directors an examination of said bank is necessary. In making examinations of insured banks, the examiner appointed by the Corporation to make such examination shall also examine the affairs of all affiliates of such banks as shall be necessary to disclose fully the relation between such banks and their affiliates and the effect of such relations upon such banks. A binding commitment by such banks to permit such examination to the extent determined by the Board of Directors to be necessary to carry out the purposes of this act shall be required as a condition to the insurance of any deposits. Each examiner shall have the power to make a thorough examination of all of the affairs of the bank and its affiliates, and shall make a full and detailed report of the condition of the bank to the Corporation. The Board of Directors, in like manner, shall appoint claims agents who shall have the power to investigate and examine all claims for insured deposits.

(3) In connection with examinations of insured banks, the appropriate agent of the Corporation is authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or affiliate thereof, and to exercise such other powers as are incidental to effectuate the purpose of this act.

Section 5. Amount of insured deposit. The Corporation shall insure the deposits of all insured banks, and the maximum amount of the insured deposit of any depositor shall be $100,000.

Section 6. Corporation as receiver.

(1) When an insured bank is deemed to have closed on account of inability to meet the demand of its depositors, the Corporation shall become the receiver thereof. As a receiver, it is the duty of the Corporation to cause notice to be given to all persons having claims against such closed

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insured bank; to realize upon the assets of such closed bank, having due regard to the condition of credit in the locality; to enforce the individual liability of the stockholders and directors thereof; and to wind up the affairs of such closed bank in conformity with the provisions of law relating to liquidation of insured banks.

(2) Whenever an insured bank shall have been closed on account of inability to meet the demands of its depositors, payment of the insured deposits in such bank shall be made by the Corporation as soon as possible; PROVIDED that the Corporation, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the Corporation is not satisfied as to the validity of a claim for an insured deposit, it may require the final determination of a court of competent jurisdiction before paying such claim.

(3) In the case of a closed insured bank, the Corporation, upon payment to any depositor as provided in subsection (2) of this section, shall be subrogated to all rights of the depositor against the closed bank to the extent of such payment. The Corporation shall not make any payment to any depositor until the right of the Corporation to be subrogated to the rights of such depositor is executed in writing by and between the depositor and the Corporation.

Section 7. Loan from the Government. The Corporation is authorized to borrow from the General Fund of the Federated States of Micronesia on such terms as may be fixed by Congress such sums as in the judgment of the Board of Directors of the Corporation are from time to time required for insurance purposes, not exceeding an aggregate of $5 million outstanding

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at any one time; PROVIDED that the interest to be charged in connection with any loan made pursuant to this section shall not exceed 9 percent per annum on a declining-balance basis.

Section 8. Audit report. The financial transactions of the Corporation shall be audited annually by the Public Auditor and such other auditors as the Board of Directors deems fit and appropriate. The Corporation shall provide the President of the Federated States of Micronesia and the Speaker of the Congress of the Federated States of Micronesia with a copy of the audit reports.

Section 9. Report. The Corporation shall make an annual report to the Congress of the Federated States of Micronesia regarding its activities. Such report shall be delivered to Congress during its October regular session each year.

Section 10. Effective date. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 10/26/84 Introduced by: [signature]
Elias H. Thomas