
A BILL FOR AN ACT

To amend title 29 of the Code of the Federated States of Micronesia by modifying sections 402, 404 and 405, to set a separate treatment over application of foreign banks seeking to establish a new branch in the FSM as opposed to first-time applications for issuance of a license; modifying section 612 to alter loan exposure ceiling imposed on bank; and to change section 613 in order to increase the limit that a bank may loan to its officer, director, agent, employee and/or related person; and for other purposes.

1 Section 1. Section 402 of title 29 of the Code of the
2 Federated States of Micronesia, as amended by Public Law No. 12-
3 57, to hereby further amended to read as follows:

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

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

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

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

18 (4) An application by a foreign bank to open a new

1 branch in the FSM must be accompanied by written
2 confirmation from the supervisory authority in the
3 applicants' country of incorporation, that the
4 supervisory authority has no objection to the proposal
5 to establish the branch in the FSM, and that the foreign
6 bank is subject to consolidated supervision and
7 regulation in its country of incorporation.

8 (5) A foreign bank already licensed under this chapter
9 seeking to establish a new branch in the Federated
10 States of Micronesia needs only to comply with the
11 provision of subsection 4 of this section. The Banking
12 Board may require the foreign bank to submit such
13 additional information as may be deemed necessary."

14 Section 2. Section 404 of title 29 of the Code of the
15 Federated States of Micronesia, as amended by Public Laws Nos. 9-
16 130 and 12-57, is hereby further amended to read as follows:

17 "Section 404. Applicant for permit - Issuance by Board.

18 The Banking Board may issue the permit applied for if,
19 in its judgment, the results of the investigations are
20 satisfactory; PROVIDED that, in no event shall the
21 Banking Board issue a permit until the applicant
22 provides incontrovertible evidence that the applicant
23 has and will maintain continuing insurance or other
24 deposit protection at least equivalent to that offered
25 by a bank which is a member of the Federal Deposit

1 Insurance Corporation of the United States. Any permit
2 may be granted subject to such conditions as the Banking
3 Board, in its discretion, deems necessary to protect the
4 interests of the people of the Federated States of
5 Micronesia. The decision of the Banking Board shall be
6 final. All expenses incurred by the Banking Board in
7 connection with such investigations shall be paid by the
8 applicant in conformity with regulations which the
9 Banking Board may make."

10 (2) An application by a licensed foreign bank to
11 open another branch in a state in the Federated
12 States of Micronesia shall be governed, not by this
13 section, but by subsection 5 of section 402 of
14 title."

15 Section 3. Section 405 of title 29 of the Code of the
16 Federated States of Micronesia is hereby amended to read as
17 follows:

18 "Section 405. Issuance of permit - Transmittal to
19 Registrar of Corporation.

20 Upon the issuance of a permit to an applicant under this
21 chapter, the Banking Board shall forthwith transmit a
22 certified copy thereof to the Registrar of Corporations
23 who shall file it along with such other documents
24 submitted to him.

25 Section 4. Section 612 of title 29 of the Code of the

1 Federated States of Micronesia, as amended by Public Law No. 12-
2 57, is hereby further amended to read as follows:

3 "Section 612. Limitation on loans - Maximum
4 amounts.

5 (1) No domestic bank shall permit a person to become
6 indebted or liable to it, either directly or indirectly,
7 in an amount in excess of twenty percent of the
8 aggregate paid-in and unimpaired capital, surplus, and
9 undivided profits of the bank; provided, however, that
10 this subsection shall not apply to:

11 (a) transactions entered into with another bank
12 which is a member of the Federal Deposit Insurance
13 Corporation of the United States, and for which
14 quarterly reports of condition are monitored; or

15 (b) holdings of securities issued by, or loans
16 and securities explicitly guaranteed by, the government
17 of the United States of America; or

18 (c) indebtedness or liabilities to the extent
19 that they are secured by a deposit held with the bank
20 which cannot be withdrawn without the approval of the
21 bank.

22 (2) Notwithstanding subsection 1 hereof, the Banking
23 Board may, in writing, set specific limits on the
24 indebtedness or liabilities to a bank of particular
25 counterparties or groups of counterparties on a case-by-

1 case basis.

2 (~~2~~3) In computing the total liabilities, direct or
3 indirect, of any person to a bank, there shall be
4 included all liabilities to the bank of any related
5 person and any loans made for his benefit or for the
6 benefit of any related person.

7 (~~3~~4) In computing the total liabilities of any firm,
8 copartnership, or unincorporated association to the
9 bank, there shall be included all liabilities of its
10 individual members and all loans made for the benefit of
11 the co-partnership or unincorporated association or any
12 members thereof.

13 (~~4~~5) In computing the total liabilities of any
14 corporation to a bank there shall be included all
15 liabilities of and all loans made for the benefit of the
16 corporation and its majority owned subsidiaries.

17 Section 5. Section 613 of title 29 of the Code of the
18 Federated States of Micronesia, as amended by Public Laws
19 Nos. 12-57 and 13-56, is hereby further amended to read as
20 follows:

21 "Section 613. Limitations on loans – Related persons.

22 (1) Except as herein provided, no domestic bank shall
23 make any extension of credit to any of its officers,
24 directors, agents, employees, or holders of more than
25 ten percent (10%) of the outstanding stock of the bank,

1 or to any related person, either directly or indirectly,
2 except upon the written application of such person or
3 related person stating the line of credit applied for,
4 terms and security, if any, offered therefore to the
5 board of directors or to the loan or executive committee
6 of the board, and then only with the written approval of
7 a majority of the board or a majority of the loan or
8 executive committee of the board (excluding the person
9 seeking the credit) before the loan is made; and the
10 approval of the loan as allowed by the board or the loan
11 or executive committee of the board shall be made a part
12 of the minutes of the next directors' meeting of the
13 bank.

14 (2) Loans may be made to any officer, director, agent,
15 employee, or shareholder of any domestic bank or any
16 related person, without such application and approval,
17 in amounts not in excess of \$~~5,000~~ 25,000 in aggregate
18 principal owing by any such individual and related
19 person at any one time.

20 (3) Extensions of credit may only be made pursuant to
21 subsections (1) and (2) of this section if they are made
22 on substantially the same terms, including interest
23 rates and collateral, as those prevailing at the time
24 for comparable transactions by the bank with members of
25 the general public; PROVIDED however, that a bank may

1 offer preferential terms to employees under an
2 internally established employee benefit program."

3 Section 6. 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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7 Date: 1/27/09

Introduced by: /s/ Resio S. Moses

Joe N. Suka
(by request)

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