AMERICAN SAMOA GOVERNMENT
PAGO PAGO, AMERICAN SAMOA 96799
LEGISLATURE OF AMERICAN SAMOA

In reply refer to:

CERTIFICATION

House Chamber
April 7, 1987

I certify that House Bill No. 85 passed third reading on this date in the House of Representatives during its First Special Session of the Twentieth Legislature of American Samoa.

WALLY F. UTU
Chief Clerk
House of Representatives

Senate Chamber
April 10, 1987

I certify that House Bill No. 85 passed third reading on this date in the Senate during its First Special Session of the Twentieth Legislature of American Samoa.

(MRS) FIALUPE F. AUMOEUALOGO
Assistant Secretary of the Senate

H.B. NO. 85 PUBLIC LAW NO. 20-21

THE TWENTIETH LEGISLATURE OF AMERICAN SAMOA

First Special Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the sixth day of April
one thousand nine hundred and eighty seven

AN ACT CLARIFYING THE LOAN GUARANTEE AUTHORITY OF THE DEVELOPMENT BANK OF AMERICAN SAMOA; AMENDING SECTION 28.0105 ASCA.

PREAMBLE:

Due to the wording of Section 28.0105 ASCA, there has existed confusion and uncertainty regarding the power and authorization of the Development Bank of American Samoa, its officers, and Board of Directors, to perform certain acts.

It is the desire of the Board of Directors of the Development Bank of American Samoa to clarify the power and authority of the Development Bank to perform certain acts in order to enable it to better meet the needs of the people of American Samoa.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 28.0105 is amended to read:

"28.0105 Capital investment--Loan guarantees.

(a) The capital of the bank, together with all funds and credits that it may obtain from any loans, credits, grants, or other advances from the United States government, or any related instrumentality empowered to make funds available to the bank or any international finance institution or from private financial institutions that may provide loans or credits to the bank, shall be available for investment by the bank whether in the form of loans or stock in enterprises controlled by private individuals, partnerships, or corporations engaged in business or industry of whatever nature, that are deemed to conform to the objectives of furthering the economy of American Samoa except as may be limited by subsection (b). The loans or stock investments and all temporary short term investments must be made on the terms and conditions that the management of the bank may determine and shall be approved by the board of directors and must be based on prudent and sound business judgment, as to the capacity of the prospective borrowers to repay, and all stock investments made where, in the judgment of the board, the prospects of successful operation of the business or industry seem warranted. The loans or credits authorized by this

section may be only to qualified borrowers who are American Samoans or permanent residents of American Samoa.

(b) The bank may guarantee loans or equipment leases by qualified lenders or equipment leasing firms, and it may guarantee construction performance bonds by bonding companies to entities fully or majority owned or controlled by American Samoans who although having reasonable assurance of repayment, do not qualify for loans, leases, or performance bonds under the requirements imposed by the original lender, lessor or bonding agency. The guarantees by the bank may not exceed in the aggregate at any one time a total of 4 times the capital and surplus (excluding undivided profits) of the bank; nor may the ~~bank-guarantee-for-any-person~~ aggregate of bank loans to and guarantees for any person or entity, or group of persons or entities with a common ownership, business, or financial interest, exceed 10% of ~~its~~ the bank's capital and surplus unless the loan or the performance of a contract is secured directly or under right of assumption of collateral property, tangible or intangible, carrying a written and expert appraisal of at least 35 percent in excess of the amount guaranteed. ~~Guarantees-under-this-subsection-shall-not-exceed-90-percent-of-the-total-encumbrance-granted-and-shall~~ All guarantees shall be approved by the bank board of directors. In making guarantees and thus assuming contingent liability, the bank shall, consistent with conservative banking principles, keep at all times a portion of its capital funds invested in securities of the Treasury or other agencies of the United States.

(c) Commercial, or non-residential, guarantees under this section shall not exceed 90 percent of the loan amount or the total encumbrance granted to secure such loan and guarantee, whichever is less.

(d) Guarantees of home loans under this section may, in the discretion of the bank board of directors, exceed 90% of the loan amount, provided that such loan and guarantee is fully secured and collateralized by the home to be constructed or improved."

Letuli Toloa
LETULI TOLOA
President of the Senate

Iosefo K. Iuli
IOSEFO K. IULI
Vice Speaker of the House

Hereby Approved this 4th day of May, 1987

A U Lutali
Governor of American Samoa

NOFOAIGA LUASEFULU FONOFAITULAFONO O AMERIKA SAMOA

Fono Fa'apitoa Muamua

Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso ono o Aperila
tasi le afe iva selau valusefulu fitu

O SE TULAFONO E FA'AMANINO AI LE AITALAFU TUPE FA'AMAUINA MA LE MAUTINOA MALOSI O LE FALE TUPE ATI'INA'E O AMERIKA SAMOA; SUIA MAGA 28.0105 TFAS.

FA'ATOMUAGA:

Ona o le fa'aupuina o le maga 28.0105 TFAS, ua tula'i mai ai le fenumia'iga ma le le mautinoa lelei ai e tusa o le malosi ma le tulaga tau pule o le Faletupe Ati'ina'e o Amerika Samoa, o ona tagata faigaluega, ma le Komiti Fa'atonu, i le tau aveina o isi tulafono.

Ua i ai le mana'oga o le Komiti Fa'atonu o le Faletupe Ati'ina'e o Amerika Samoa ia fa'amanino le malosi ma le pule o le Faletupe Ati'ina'e i le tau aveina o isi tulafono ina ia mafai ai ona maua lelei o mana'oga o tagata o Amerika Samoa.

IA FAATULAFONOINA E LE FONOFAITULAFONO O AMERIKA SAMOA:

Maga 1. 28.0105 ua suia e faitauina:

"28.0105 Tupe autu fa'afaigaluega--Aitalafu tupe <u>fa'amauina mautinoa</u>.

(a) O le tupe autu o le faletupe, fa'atasi ai ma teugatupe uma ma tupe fa'a-aitalafu ua maua mai i so'o se aitalafu tupe, tupe mama, tupe foa'i, po'o isi tupe totogi mai le malo o le Iunaite Setete a'o le'i o'o i le taimi e tatau ai, pe so o se vaega ua feso'ota'i fa'ale-malo i le faia o teugatupe avanoa i le fale-tupe pe so o se fa'apotopotoga tau tupe i le va o malo o le lalolagi pe mai fa'apotopotoga tua tulaga tau tupe ina ia mafai ona saunia ai aitalafu tupe po'o totogiina i le fale-tupe, ina ia avanoa mo tupe fa'a-faigaluega e le fale-tupe i le tulaga o aitalafu tupe po'o oloa tau tupe i pisinisi ua puleaina e tagata tua ta'ito'atasi, pisinisi i le va o le to'alua pe sili atu, po'o fa'alapotopotoga ua i ai i le pisinisi po'o galuega tau le gaosiga o so'o se iuga tumau, ona ua manatu i ai ia gaoioi fa'atatau i fa'amoemoe autu fa'a-lautelеina o le tamaoaiga o Amerika Samoa vagana ona ua fa'atapula'aina e le soamaga (e). O aitalafu tupe po'o oloa tau tupe fa'a-faigaluega ma tupe galue uma vaitaimi pupu'u le tumau tatau ona faia i taimi fa'atulagaina ma tu'utu'uga ona o le puleaina o le fale-tupe ia iloilo ma ia fa'amaonia e le komiti fa'atonu ma ia fa'avae i luga o le fa'autauta ma le fa'autaga tau pisinisi lelei, e tusa i le aia fa'ale-tulafono o tagata aitalafu

fuafua i luma ia toe totogi, ma o fea le nofoaga o fa'a-faigaluega uma ai oloa tau tupe, i le fa'autaga o le Komiti, o tulaga mo'omia o fa'agaoioiga manuia o le pisinisi po'o galeuga e peisea'i ua fa'atagaina. O aitalafu tupe po'o tupe e totogi mai ua fa'atagaina e lenei maga tau lava na'o tagata aitalafu agava'a o tagata Amerika Samoa po'o tagata nonofo tumau o Amerika Samoa.

(e) O le fale-tupe e mafai ona fai aitalafu tupe fa'amaonia mautinoa po'o mea faigaluega e lisi e le tagata agava'a ua na tu'uina atu po'o kamupani lisiina mea faigaluega, ma ia mautinoa le fa'auigaina tau aveina o pone e kamupani fa'a-poneina i mea moni atoatoa po'o le fulisia e ana moni pe puleaina e Amerika Samoa ina ua i ai se mafua'aga mautinoa e toe totogiina, aua ne'i agava'a mo aitalafu tupe, lisi, po'o pone tau aveina i lalo o aiaiga ua fa'ae'e e le ulua'i tagata ua na tuuina atu ai, tagata ua faia le lisi po'o se ofisa tau pone. O le fa'amaonia mautinoa e le faletupe e le silia i le tu'u aofaiga atoa i so'o se taimi e tasi o se aofa'iga atoa o le 4 taimi o tupe autu ma tupe totoe (e le a'afia ai fa'asiliga ua le'i vaevaeina) o le faletupe; pe mafai ona o le ~~fale-tupe-fa'amauina-mautinoa-mo-so-o-se-tagata~~ aofaiga atoa o aitalafu tupe i le le fa'amauina mautinoa mo so o se tagata po'o le tula'i mai fa'aeseese, po'o le vaega o tagata po'o mea tula'i mai fa'aeseese, fa'atasi ai ma se meatotino ta'atele pisinisi, po'o tupe tului tulaga tau tupe, ia 10% o ~~ana~~ tupe autu ma tupe totoe a le faletupe se'i vagana le aitalafu tupe po'o le falagaoioiga o se feagaiga ua fa'aalu sa'o lelei po'o lalo o aia fa'aauauaina o se meatotino fa'amauina ai aitalafu tupe, mea vaaia po'o mea le vaaia, tau aveina o se tusitusiga ma le tulaga tau fuafuaga poto e le itiiti mai le 35 pasene i le sili o le aofa'iga fa'amauina mautinoa. ~~Fa'amauina-mautinoa-i-lalo-o-lenei-soamaga-ia-le-silia-i-le-90-pasene-o-le-aofaiga-tupe-totogi-ua-taliaina-ia~~ aitalafu tupe uma fa'amauina mautinoa ia fa'amaonia e le komiti fa'atonu o le faletupe. I le fa'amauina mautinoa lelei ma fa'apea o se vaega fatuaiga fa'aletulafono tau inisiua, o le faletupe ia, talafeagai ai ma fa'avae tausisia tau faletupe, teu pe taofi i taimi uma se vaega o ana teugatupe tupe fa'avae galue i meatotino fa'amauina o le tu'ugaoa po'o le Matagaluega tau tupe po'o isi vaega o le Iunaite Setete.

(i) Tulaga tau pisinisi, po'o nofoaga e le o nofoia, faia ma le mautinoa i lalo o lenei maga ia le silia i le 90 pasene o le aofa'i o le aitalafu tupe po'o le aofaiga atoa ua taliaina ia fa'amau ai lea aitalafu tupe ma faia ma le mautinoa, so o se numera ua itiiti.

(o) Fa'amauina ma le mautinoa o aitalafu tupe o fale i lalo o lenei maga e mafai ona, i le ta'ita'iga lautele tau le malosi o le faletupe komiti fa'atonu, e o'o atu i le 90% o le aofa'i o aitalafu tupe, ua saunia ai ona o lea aitalafu tupe ma fa'amaonia ua fa'amauina atoatoa ma fa'amauina e le fale o le a fausiaina fa'aleleiina.

Hereby Approved this 4th day of May, 1987

Governor of American Samoa

LETULI TOLOA
Peresetene, Maota Maualuga

IOSEFO K. IULI
Sui Fofoga Fetalai,
Maota o Sui