

THE THIRTY-FIFTH LEGISLATURE OF AMERICAN SAMOA

Second Special Session

Begun and held at Fagatogo, Tutuila, American Samoa  
on Monday, the twenty-seventh day of November  
two thousand and seventeen

AN ACT REVISING THE TERRITORIAL BANK OF AMERICAN SAMOA STATUTORY AUTHORITY TO REMOVE PROVISIONS REGARDING THE TERRITORIAL BANCORP HOLDING COMPANY, AND AMENDING CERTAIN PROVISIONS REGARDING AUTHORITY OF THE BOARD; AMENDING SECTIONS 28.0201, 28.0202, 28.0203, 28.0204, 28.0205 AND 28.0215 A.S.C.A.; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

Preamble:

WHEREAS, on March 2, 2015, the Fono enacted and the Governor signed into law legislation creating the Territorial Bank of American Samoa ("TBAS") to operate as a banking institution wholly owned by the American Samoa Government, with the Territorial Bancorp Holding Company to manage the operations of TBAS; amending section 28.1002 A.S.C.A., and creating a new Chapter 02 of Title 28 A.S.C.A.; and

WHEREAS, TBAS has yet to secure transit and routing numbers allowing it to provide on-line or electronic banking services, in part due to objections by the U.S. Federal Reserve Board of Governors; and

WHEREAS, based on information from the U.S. Federal Reserve Board of Governors, the amendments to the TBAS statute resulting in the dissolution of the Territorial Bancorp Holding Company are required to facilitate approval of a master account for TBAS with the Federal Reserve Bank; and

WHEREAS, because of the shortfall in banking services available in the territory it is imperative that TBAS procure a master account with the Federal Reserve Bank as soon as reasonably practical; and, as a consequence, this bill shall become effective immediately upon passage by the Legislature and approval by the Governor.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

**Section 1. Chapter 02 of Title 28 A.S.C.A. is amended to read:**

**“Chapter 02  
TERRITORIAL BANK OF AMERICAN SAMOA**

**Sections:**

- 28.0201** Definitions.
- 28.0202** Purpose of Bank.
- 28.0203** ~~Territorial Bancorp~~ Reserved.
- 28.0204** Board of directors.
- 28.0205** Authority of the board of directors.
- 28.0206** Charter of the Bank—Powers.
- 28.0207** Chief Executive Officer.
- 28.0208** Audit.
- 28.0209** Reporting requirements.
- 28.0210** Lending limits—Capital adequacy ratios—Loans to insiders.
- 28.0211** Name in which business is conducted and titles taken—Execution of instruments.
- 28.0212** Civil Actions—Venue.
- 28.0213** Confidentiality of Bank records.
- 28.0214** American Samoa Government Funds and Income of the Bank.
- 28.0215** Tax exempt status.
- 28.0216** Capital of the Bank.
- 28.0217** Malfeasance of director.
- 28.0218** Larceny and fraud.

**28.0201** Definitions.

The following definitions apply in this chapter:

~~(a) “Territorial Bancorp” or Bancorp” means the holding company established by this chapter to own, control, and operate the Territorial Bank of American Samoa.~~

~~(b)(a) “Territorial Bank of American Samoa” or “Bank” means the financial entity created by this chapter as a wholly owned subsidiary of the Territorial Bancorp.~~

~~(e)(b) “Board” refers to the Board of directors of the Territorial Bancorp. The Board may also constitute the board of directors of the Bank.~~

~~(d)(c) “CEO” refers to the Chief Executive Officer of the Bank.~~

~~(e) “Holding Company” means a holding company is a parent corporation set up for the sole purpose of controlling another company’s policies and management, rather than producing its own goods and services.~~

~~(f)(d) “Tier 1 Capital” is the core measure of a bank’s financial strength from a regulator’s point of view. It is composed of core capital, which consists primarily of common stock and disclosed reserves (or retained earnings), but may also include non-redeemable non-cumulative preferred stock.~~

**28.0202 Purpose of Bank.**

In order to provide the residents of American Samoa with deposit, lending and investment opportunities, and to assist in the promotion of commerce and industry, the American Samoa Government shall engage in the business of banking under the name of the Territorial Bank of American Samoa ~~to be owned, controlled, and operated by it through a holding company to be known as the Territorial Bancorp.~~

**28.0203 Territorial Bancorp Reserved.**

~~Territorial Bancorp is hereby established as the Holding Company for the Bank. Territorial Bancorp will operate, manage, and control the Bank, locate and maintain its places of business, the principal place of which must be within the territory of American Samoa, and to make and enforce bylaws, policies and procedures for the transaction of its business. The Bank is a wholly owned subsidiary of the Territorial Bancorp.~~

~~The business and financial services offered by the Bank, in addition to other matters specified in this chapter, may include activities that may traditional bank or bank holding company might lawfully engage in, except as restricted by the provisions of this chapter. This section may not in any way limit or qualify either the powers of Bancorp granted or the functions of the Bank as defined in this chapter. The powers of Bancorp and the functions of the Bank shall be implemented through actions taken and policies and procedures adopted by the Territorial~~

~~Bancorp Board of Directors and shall be subject to all applicable local and federal laws and regulations.~~

**28.0204 Board of Directors.**

The ~~Territorial Bancorp~~ Bank Board of Directors shall consist of 7 voting members and the Bank CEO, who shall serve in an ex-officio capacity, and shall not have voting rights. The seven voting members shall be nominated by the Governor and confirmed by the Legislature.

The at-large members shall each serve for a four year term, and should possess knowledge of the financial services and banking industries. The initial at-large members shall be nominated for staggered terms.

~~The directors of the Territorial Bancorp may serve as the directors of the Bank, and shall be compensated at the rate of \$5,000 per annum, except for the Chairman who shall be compensated at the rate of \$6,000 per annum, and the CEO of the Bank, who shall receive no additional compensation beyond his salary as CEO.~~

The Chairman and other officers of the Board of Directors as may be called for in the by-laws of the Bank shall be selected from among the board members by a majority vote of the Board.

**Duties of the Chairman:**

**(1) The Chairman shall determine the times and places for the holding of Board meetings.**

**(2) The Chairman shall preside at all meetings at which he or she is present.**

**(3) In the event of a tie vote the Chairman or other presiding board member shall be entitled to cast the tie-breaking vote.**

**Recess appointments may be made to fill vacancies caused by death, resignation, or removal for cause of an at-large director if the vacancy occurs while the Legislature is not in session. Recess appointments expire at the conclusion of the next following regular or special session of the Legislature if they are not confirmed during that session. Incumbents may continue to serve after the expiration of a term until a successor is appointed and confirmed. The at-large members may be re-appointed to the Board and may be removed by the Governor provided the majority of the Board concurs.**

**All Board business shall be conducted at meetings duly called by the Chairman. At any meeting a quorum shall be four board members. No business may be conducted unless a quorum is present.**

**28.0205 Authority of the Board of Directors.**

**The Board of Directors shall have the authority:**

**(a) To meet regularly with the management of the Bank to review the Bank's operations generally and to determine whether changes should be made to improve overall bank performance, management performance, customer service, and internal policies and procedures of the Bank.**

**(b) To review and implement as necessary recommendations relating to the establishment of additional objectives for the operation of the Bank.**

**(c) To appoint the CEO of the Bank as provided in Section 28.0207.**

**(d) To act and provide direction and guidance to the Bank management with respect to the powers and functions of the Bank. The CEO and the management team are responsible for the management of the Bank.**

**(e) To determine policy and objectives for the Bank.**

**(f) To form committees consisting of any three or more directors or officers of the bank, or both, to carry out any directives given to the committees by the Board. At the minimum there shall be an Audit Committee, a Loan Committee, and an Asset and Liability Management Committee.**

**(g) To determine, after the close of each fiscal year, the allocation of any net earnings between retained earnings and the payment of a dividend to the American Samoa Government. The payment of any dividend to the government shall be subject to appropriation by the Legislature in the same manner as any other public funds.**

**Before taking office, and annually at the end of each fiscal year, each Board member shall certify to and file a personal financial statement with the Bank. This statement shall include disclosure of any personal financial interests that the Board**


member, or his or her immediate family (spouses and children), has in any business entity that is a customer of the bank.


**28.0215 Tax exempt status.**

The Bank exists and operateds solely for the benefit of the American Samoa Government and its people, and is therefore, exempt from taxes or assessments on any of its property, operations, or activities.”

Sec 2. Effective date.

This Act shall become effective immediately upon passage by the Legislature and approval by the Governor.

  
SAVALI TALAVOU ALE  
Speaker, House of Representatives

  
GAOTEOTE PALAIE TOFAU  
President of the Senate

Hereby Approved this 5<sup>th</sup> day of DEC 2017  
Lola M. Molyneux  
Governor Of American Samoa

NOFOAIGA TOLUSEFULU-LIMA FONOFAITULAFONO AMERIKA SAMOA

Fono Faapitoa Lona Lua

Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa  
Aso Gafua, aso luasefulufitu o Novema  
Lua afe sefulufitu

O SE TULAFONO E TOE ILOILO AI LE PULE FAALETULAFONO A LE FALETUPE FAALETERITORI A AMERIKA SAMOA E AVEESE AI AIAIGA E FAATATAU I LE KAMUPANI FALETUPE FAATERITORI, MA SUIA AI NISI O AIAIGA FAATATAU I LE PULE A LE KOMITI FAAFOE; SUIA AI MAGA 28.0201, 28.0202, 28.0203, 28.0204, 28.0205 MA LE 28.0215 T.T.A.S.; MA SAUNIA AI SE ASO E TAUALOA VAVE AI.

Faatomuaga:

- TALUAI, o Mati 2, 2015, na faatulafonoina ai e le Fono ma sainia e le Kovana se tulafono e faavae ai le Faletupe Faateritori o Amerika Samoa (TBAS) e faagaoioia se faletupe e pulea atoa iava e le Malo o Amerika Samoa, ae pulea le faagaoioia e le Kamupani Taofi o Faletupe Faateritori; suia ai le maga 28.1002 TTAS ma faavae ai se Mataupu 02 fou o le Ulutala 28 TTAS; ma
- TALUAI, e lei mautu lava ona maua o numera e faailoa ai ma mafai ai ona faagaoioia le TBAS i se tulaga e mafai ai ona faia o ana auunaga e fa'aaoga ai masini, ona o loo i ai lava ni itu o loo tetee ai le Komiti Faafae o Kovana a le Malo Tele o le Iunite Setete (US Federal Reserve Board of Governors); ma
- TALUAI, e faavae i luga o faamatalaga mai le Komiti Faafae o Kovana a le Malo Tele, e manaomia ni suiga e faia i le tulafono a le TBAS e mafai ai ona soloia ese le Kamupani Taofi o Faletupe Faateritori ina ia faagaoioi vave ai le faamaonia o se teugatupe mo le TBAS itotonu o le Faletupe Faaleoleo a le Feterale; ma
- TALUAI, le lē lava o auunaga tau tupe i le teritori, e taua tele ona faia e le TBAS se teugatupe tele (master account) i totonu o le Faletupe Faaleoleo a le Feterale i se taimi vave e mafai ai; ma, e tatau ai foi la ona taualoa vave lenei pili i le taimi lava e pasia ai e le Fono ma faamaonia e le Kovana.

IA FAATULAFONOINA E LE FONOFAITULAFONO A AMERIKA SAMOA:

**Maga 1. Mataupu 02 o le Uluala 28 TTAS ua suia nei e faitauina faapea:**

**“MATAUPU 02  
FALETUPE FAATERITORI O AMERIKA SAMOA**

**Maga:**

- 28.0201 Uiga.**
- 28.0202 Mafuaaga o le Faletupe.**
- 28.0203 Kamupani Faletupe Faateritori Faaleoleo.**
- 28.0204 Komiti Faafoe.**
- 28.0205 Puie/Malosi a le Komiti Faafoe.**
- 28.0206 Faavae o le Faletupe—Malosiaga.**
- 28.0207 Ofisa Sili (CEO).**
- 28.0208 Suegatusi.**
- 28.0209 Manaoga mo le faia o lipoti.**
- 28.0210 Tapuiaa o tupe faaune atu—Fua fetuutuunai o Tupe—Nogatupe mo tagata e aafia i le faletupe.**
- 28.0211 Igoa e faia ai pisinisi ma igoa o loo faaaoga—Faagaoioia o vaega.**
- 28.0212 Gaoioiga savili—Nofoga e faia ai.**
- 28.0213 Malupuipuia o faamaumauga a le Faletupe.**
- 28.0214 Tupe a le Malo o Amerika Samoa ma le Tupemaua a le Faletupe.**
- 28.0215 Tulaga faagafua o le lafoga.**
- 28.0216 Tupe a le Faletupe.**
- 28.0217 Uiga le talafeagai a se faatonu.**
- 28.0218 Avea o Meatotino a isi ma uiga taufaasese.**

**28.0201 Uiga.**

**O uiga nei o upu e faaaoga i lenei mataupu:**

~~(a) “Kamupani tau faletupe faateeritori” e lona uiga o se kamupani taofi e faavaeina e le mataupu e ana iu, pulca, ma faagaoioia le Faletupe o Amerika Samoa.~~

~~(e)(a) “Faletupe Faateritori o Amerika Samoa” poo le “Faletupe” o lona uiga o le faletupe e faavae i lenei mataupu o se lala atoa lava o le Kamupani faletupe faateeritori.~~

~~(i)(e) “Komiti Faafoe” e faasino i le Komiti o faatonu o le Kamupani lea faafaletupe a le teritori. E mafai foi e le Komiti Faafoe lea ona avea ma komiti faatonu a le Faletupe.~~

~~(o)(i) “CEO” e faatatau i le Ofisa Sili o le Faletupe~~

~~(u) “Kamupani Taofi” o lona uiga o se kamupani e faamatua i ai e faavae mo le faamoemoe tasi o le pulca o faigatausisia ma le pulega o se tasi kamupani, nai lo le faia o ana lava oloa ma ana lava foi auunaga.~~

~~(f)(o) “Tupe Fogafale 1” o le fua ogatotonu lea o le malosi tau tupe o le faletupe mai le vaaiga a le tagata e faatulafonoina mea tau faletupe. O tupe~~

faamoemoeina ia e i ai i totonu siea taatele ma tupe faaleoleo poo tupe ia o loo taofia, ae mafai foi ona aofia ai ma siea e le toe maua mai ma ni siea e le faaputuina.

#### 28.0202 Mafuaaga o le Faletupe.

Ina ia tuuina atu i tagatanuu o Amerika Samoa le avanoa e teu ai tupe, tupe aitalafu, investisi ma fesoasoani ai foi e siitia le tulaga o fefaatauaiga ma galuega, o le a aafia ai le Malo o Amerika Samoa i le pisinisi tau faletupe i lalo o le igoa o le Faletupe Faateritori o Amerika Samoa e ~~pulea ma faagaioia e le malo e ala atu i se kamupani taofi e faaigoaina o le Kamupani Faletupe Faateritori (Bancorp).~~

#### 28.0203 Kamupani Faletupe Faateritori (Territorial Bancorp) Faaleoleo.

~~Ua faavaeina nei se Kamupani Faletupe Faateritori (TB) e fai ma Kamupani Taofi mo le Faletupe. O le Kamupani lea e faagaioia, pulea ma vaavaia le Faletupe, faatulaga ma tausia nofoaga e faia ai ana pisinisi, o le nofoaga autu e tatau lava ona i totonu o le teritori o Amerika Samoa, faia ma faamalosi ana tulafono, faigatausisia ma faagasologa o le faia o pisinisi. O le Faletupe o se lala atoatoa lava o le Kamupani Faletupe Faateritori (Bancorp).~~

~~O le pisinisi ma auaunaga e ofoina mai e le Faletupe, e ese mai ai isi mataupu e ta'ua patino mai le faavae, e mafai ona aofia ai gaioiga e faataga ona faia e soo se faletupe poo se kamupani taofi, sei vagana ai ua faatapulaa i aiaiga o lenei mataupu. O le mafai e lenei maga ona faatapulaa ina i soo se auala pe faagavaa foi malosi o le Bancorp e tuuina mai galuega a le Faletupe e pei ona faauigaina i lenei mataupu.~~

~~O malosi o le Bancorp ma galuega a le Faletupe e faatinoaina i gaioiga e faia ma faigatausisia ma faagasologa ua pasia e le Komiti Faatonu a le Bancorp ma e noatia i tulafono talafeagai uma lava ma aiaiga foi o tulafono faalelotoifale ma le feterale.~~

#### 28.0204 Komiti Faafae.

O le Komiti Faafae a le Faletupe Faateritori e to'a 7 ona totino palota, ma le Ofisa Sili (CEO) e i ai ona o lana galuega ae le palota. O totino palota e to'a 7 e tofia e le Kovana ma faamaonia e le Fonofaitulafono.

O sui o le lautele e ta'ifa tausaga, ma e tatau ona i ai le tomai o galuega ma auaunaga tau faletupe ma mea tautupe. O uluai sui e to'afa mai le lautele, o le a fetuutuunai le umi o latou nofoa.

~~O faatonu o le Bancorp e mafai foi ona fai ma faatonu o le Faletupe, ma e ta'i \$5,000 e maua e latou i le tausaga, vagana ai le Taitaifono e \$6,000 i le tausaga, ae o le Pule (CEO) e gata lava lana tupe e maua i lona totogi.~~

O le Taitaifono ma isi ofisa o le Komiti Faafae e mafai ona filifilia mai totino o le Komiti e tusa ai ma tulafono, i se palota a le toatele.

Tiute o le Taitaifono:

- (1) O ia e faatulagaina taimi ma nofoaga e faia ai fonotaga a le Komiti.
- (2) O le Taitaifono e taitaia fonotaga uma e auai ai.
- (3) A tutusa se palota, e mafai ona palota le Taitaifono e sua ai.



E mafai ona faia ni tofiga i le taimi o malologa e faatumu ai ni avanoa e mafua ona o le maliu, faamavae, poo le aveesea foi i se mafuaaga tatau o se faatonu e suia mai le lautele pe afai e le o tauaofia le Fonofaitulafono. O tofiga ia e muta le aoga i le faaiuga o le fonotele e sosoo ai poo se fono faapitoa foi a le Fonofaitulafono pe afai e le faamaonia i lena fonotaga. E mafai lava ona faaauau pea ona galulue sui o loo i ai pea pe a mae'a lo latou taimi sei vagana ua tofia ma faamaonia nisi e suitulaga. E mafai ona toe tofia sui o le lautele i le Komiti Faafoe ma e mafai foi ona aveesea e le Kovana pe afai e malilie i ai le toatele o le Komiti.

O pisinisi uma a le Komiti e faia uma i fonotaga e taloina e le Taitaifono. I soo se fono, e to'afa sui e maua ai le kalama. E leai se fono e faia pe a le atoa le kalama.

#### **28.0205 Pule/Malosia o le Komiti Faafoe.**

O le Komiti Faafoe e i ai le pule:

(a) E fono ai pea ma le pulega o le Faletupe e iloilo ana gaoioiga ma iloa ai pe mata e tatau ona faia ni suiga e faaleleia atili ai galuega a le faletupe, o le pulega, tautuaina o le atunuu, ma ana faiga tausisia ma faagasologa o le Faletupe.

(e) E iloilo ma faagaoioia pe a talafeagai ai, fautuaga e faatatau i le faia o nisi mea faaopoopo mo le faagaoioia o le Faletupe.

(i) Tofia se Pule (CEO) o le Faletupe e pei ona aiata i le Maga 28.0207

(o) E galue ma avatu ta'iala i le pulega o le Faletupe e faatatau i ona malosiaga ma galuega. O le Ofisa Sili ma le vaega e pulea o latou na e gafa ma le pulega o le Faletupe.

(u) Faia faigatausisia ma faatulaga faamoemoega o le Faletupe

(f) Faia komiti e i ai ni faatonu se toatolu pe sili atu poo ni ofisa foi o le faletupe, poo mea uma e lua, e faataunuuina ni faatonuga e tuu atu e le Komiti Faafoe. A itiiti mai lava, ia i ai se Komiti o Suegatusi, Komiti o Nogatupe, ma se Komiti o le Pulega o Aseta ma Aitalafu.

(g) E faia faaiuga pe a mae'a tausaga faaletupe uma poo fea e faasoa i ai ni tupe mama e maua mai i le va o tupe maua ma le totogiina atu o se vaega i le Malo o Amerika Samoa. O le totogia o se vaegatupe i le malo e faalagolago foi i le tupe faasoasoa atu e le Fonofaitulafono i le faiga lava e faia ai soo se ituaiga o tupe a le malo.


A o lei tauavea le galuega, ma i le faaiuga o tausaga tupe taitasi, e tatau i totino uma o le Komiti ona faamaonia ma faila lana lipoti faaletupe i le Faletupe. O lenei lipoti e aofia ai le faaaliga o soo se aafiaga tau tupe o le totino ma lona aiga (toalua & fanau) i totonu o soo se pisinisi e fefaatauai ma le faletupe.

#### **28.0215 Tulaga faagafua o le lafoga.**

O le Faletupe e faagaoioia tasi lava mo le manuia o le Malo o Amerika Samoa ma ona tagata, ma o le mea lea, e faagafua ai mai lafoga ma isi mea faapena e aafia ai ana meatotino, galuega poo gaoioiga."

Maga 2. Aso e taualoa ai.

O lenei tulafono o le a taualoa lava i le taimi e pasia ai e le Fonofaitulafono ma faamaonia e le Kovana.

  
SAVALI TALAVOU ALE  
Fofoga Fetalai, Maota o Sui

  
GAOTEOTE PALAIE TOFAU  
Peresetene, Maota Maualuga

Hereby Approved

DEC. 05 2017

  
Lolo M. Moli  
Governor of American Samoa