

A BILL FOR AN ACT

To enact a new title 37 of the Code of the Federated States of Micronesia to establish an Insurance Law for the Federated States of Micronesia, and for other purposes.

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

1 Section 1. Purpose. The purpose of the proposed bill is to
2 create a scheme for the regulation of the insurance industry in
3 the FSM. Regulation of the insurance industry is desirable to
4 protect the public against mismanaged or unscrupulous insurance
5 businesses that receive premiums but do not pay the claims. Since
6 the amount of premiums collected is directly linked to the
7 amounts claimed, it is also important to regulate the affairs of
8 insurers and insureds to ensure that both parties are acting
9 honestly and fairly.

10 Section 2. The Code of the Federated States of Micronesia,
11 as amended, is hereby further amended by enacting a new title 37
12 entitled "The Insurance Act of 2005".

13 Section 3. Title 37 of the Code of the Federated States of
14 Micronesia is hereby enacted by adding a new chapter 1 entitled
15 "Interpretation".

16 Section 4. The Code of the Federated States of Micronesia,
17 as amended, is hereby further amended by enacting a new section
18 101 of title 37 to read as follows:

19 "Section 101. Definitions. In this Act, unless the
20 context otherwise requires:

1 (1) 'actuary' means an individual qualified as an
2 actuary by such qualifications as the Commissioner may
3 recognize;

4 (2) 'auditor' means a person who is qualified for
5 appointment as auditor of a company under the
6 provisions of section 105 of title 36, chapter 1 of the
7 Code of the Federated States of Micronesia or under any
8 other law which may be enacted from time to time
9 regulating auditors carrying on business in the
10 Federated States of Micronesia;

11 (3) 'Commissioner' means the individual appointed as
12 Commissioner of Insurance and includes any individual
13 appointed to be the Deputy Commissioner or an Assistant
14 Commissioner when exercising any powers under this Act
15 in accordance with the directions of the Commissioner;

16 (4) 'director' means any individual occupying the
17 position of director of a corporation, association,
18 trust or any other entity directed by a board by
19 whatever name called;

20 (5) 'domestic insurer' means an insurer having its
21 head office in the Federated States of Micronesia;

22 (6) 'domestic policy' means a policy issued by a
23 registered insurer on property, lives or other risks
24 located in the Federated States of Micronesia;

25 (7) 'financial year', in relation to an insurer,

1 means each period not exceeding 53 weeks at the end of
2 which the balance of the accounts of the insurer is
3 struck;

4 (8) 'foreign insurer' means an insurer who is not a
5 domestic insurer;

6 (9) 'Inspector' means a person appointed as such
7 under the provisions of section 209 of chapter 2 of
8 this title;

9 (10) 'insurance agent' means a person with the
10 authority of an insurer to solicit applications,
11 receive proposals, receive premiums, deliver policies,
12 and to make contracts of insurance;

13 (11) 'insurance broker' means a person who, for
14 compensation and on behalf of another, transacts
15 insurance business other than as an insurer, insurance
16 agent or insurance solicitor;

17 (12) 'insurance business' means the soliciting,
18 effecting or carrying out of contracts of insurance as
19 an insurer and includes re-insurance business;

20 (13) 'insurance solicitor' means an individual
21 employed by an insurer or agent to solicit applications
22 for insurance or negotiate insurance business on behalf
23 of an insurer or an agent, but shall not include a bona
24 fide salaried employee of a registered insurer,
25 insurance agent or broker who is employed at its

1 principal office or branch thereof;

2 (14) 'insurer' means a person effecting and carrying
3 on insurance business to any person who is a resident
4 of the Federated States of Micronesia, except where
5 otherwise stated;

6 (15) 'life insurance business' means insurance of
7 human lives and insurance appertaining thereto or
8 connected therewith and includes the granting of
9 annuities, endorsement benefits, sinking fund benefits
10 and benefits in the event of death or disability by
11 accident or sickness; provided that such insurance
12 against disability by accident or sickness is included
13 as an additional benefit in a life policy;

14 (16) 'life insurance policy' means an ordinary life
15 insurance policy, an industrial life insurance policy
16 or a sinking fund or bond investment policy;

17 (17) 'life insurer' means an insurer carrying on
18 life insurance business;

19 (18) 'officer', in relation to a partnership,
20 corporation, association, trust or any other business
21 entity, includes a director, manager or secretary of
22 that body, or any person having or exercising powers or
23 duties substantially similar to any of those officers;

24 (19) 'owner', in relation to a policy, means a
25 person who is entitled to claim any benefit provided

1 for in the policy;

2 (20) 'person' means any person, natural or legal,
3 including individuals, partnerships, corporations,
4 associations and trusts.

5 (21) 'policy' means any written contract of
6 insurance whether contained in one or more documents;

7 (22) 'registered insurance agent' means a person
8 registered as such under chapter 4 of this title and
9 thereby qualified to act as an agent for a registered
10 insurer;

11 (23) 'registered insurance broker' means a person
12 registered as such under chapter 4 of this title;

13 (24) 'registered insurer' means an insurer
14 registered under chapter 3 of this title;

15 (25) 'Regulations' means regulations made by the
16 Secretary under this Act;

17 (26) 'Secretary' means the Secretary of the
18 Department of Economic Affairs; and

19 (27) 'sinking fund' means the type of policy whereby
20 one party to the contract assumes the obligation to
21 pay, after the expiration of a certain period or during
22 a specified period, a certain sum or certain sums of
23 money to a particular person in return for the payment
24 from time to time of certain sums of money by the other
25 party to the contract."

1 Section 5. The Code of the Federated States of Micronesia,
2 as amended, is hereby further amended by enacting a new section
3 102 of title 37 to read as follows:

4 "Section 102. Public interest. The business of
5 insurance is a matter affecting all peoples of the
6 Federated States of Micronesia. The Secretary and
7 Commissioner shall consider the public interest before
8 making any decision or taking action under the
9 provisions of this Act. It is also the duty of the
10 insurer, its representatives and the insured to act in
11 good faith, abstain from deception, and practice
12 honesty and equity in all insurance matters."

13 Section 6. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 103 of title 37 to read as follows:

16 "Section 103. Exemption of Social Security Program and
17 Health Plan. Nothing in this Act shall apply to the
18 Social Security Program, Board or Administration, the
19 National Government Employees' Health Plan or any
20 social security program or health plan regulated by a
21 National or State Government."

22 Section 7. The Code of the Federated States of Micronesia,
23 as amended, is hereby further amended by enacting a new chapter 2
24 to title 37 entitled "Administration".

25 Section 8. The Code of the Federated States of Micronesia,

1 as amended, is hereby further amended by enacting a new section
2 201 of title 37 to read as follows:

3 "Section 201. Regulations.

4 (1) The Secretary may make Regulations prescribing
5 anything which under this Act may be prescribed and
6 generally for carrying into effect the objects of this
7 Act, and without prejudice to the generality of the
8 foregoing such Regulations may provide for:

9 (a) the financial requirements for a registered
10 insurer;

11 (b) the payment of fees for the administration of
12 this Act;

13 (c) the criteria for the acceptance or refusal of a
14 registration of an insurer, insurance agent, insurance
15 broker or insurance solicitor;

16 (d) the exemption of classes of persons from parts
17 of this title, whose insurance business is incidental
18 to other business; and

19 (e) the number of copies and manner of
20 certification of any documents required under the
21 provisions of this Act to be furnished by an insurer.

22 (2) Such Regulations shall be made in accordance
23 with title 17, chapter 1 of the Code of the Federated
24 States of Micronesia"

25 Section 9. The Code of the Federated States of Micronesia,

1 as amended, is hereby further amended by enacting a new section
2 202 of title 37 to read as follows:

3 "Section 202. Appointment of the Commissioner of
4 Insurance. The President of the Federated States of
5 Micronesia shall appoint, subject to the advice and
6 consent of the Congress of the Federated States of
7 Micronesia, a Commissioner of Insurance to serve at the
8 pleasure of the President. The Commissioner of
9 Insurance shall be experienced in matters of insurance
10 and will be vested with the powers, duties and
11 functions of this Act."

12 Section 10. The Code of the Federated States of Micronesia,
13 as amended, is hereby further amended by enacting a new section
14 203 of title 37 to read as follows:

15 "Section 203. Immunity of officials exercising powers.
16 No action shall lie against the Secretary,
17 Commissioner, any Assistant Commissioner or any
18 Inspector in respect of any decision or act done in
19 good faith in exercise or purported exercise of any
20 powers conferred by this Act."

21 Section 11. The Code of the Federated States of Micronesia,
22 as amended, is hereby further amended by enacting a new section
23 204 of title 37 to read as follows:

24 "Section 204. Appeals of acts of the Commissioner. Any
25 decision in the exercise or purported exercise of any

1 power or authority granted by this act by the
2 Secretary, Commissioner or an Investigator may be
3 appealed pursuant to the provisions of title 17,
4 chapter 1 of the Code of the Federated States of
5 Micronesia only on the grounds that the decision was:

6 (a) arbitrary, capricious, an abuse of discretion,
7 or otherwise not in accordance with law;

8 (b) contrary to constitutional right, power,
9 privilege, or immunity;

10 (c) in excess of statutory jurisdiction,
11 authority, or limitations, or a denial of legal rights;
12 or

13 (d) without substantial compliance with the
14 procedures required by law."

15 Section 12. The Code of the Federated States of Micronesia,
16 as amended, is hereby further amended by enacting a new section
17 205 of title 37 to read as follows:

18 "Section 205. Commissioner may extend periods
19 specified for performance of acts. The Commissioner
20 may, if he thinks fit, extend the periods prescribed
21 under this Act for the performance of any act."

22 Section 13. The Code of the Federated States of Micronesia,
23 as amended, is hereby further amended by enacting a new section
24 206 of title 37 to read as follows:

25 "Section 206. Commissioner may demand information. The

1 Commissioner may, for the purpose of carrying out the
2 provisions of this Act, demand from a registered
3 insurer, registered insurance agent, registered
4 insurance broker or registered insurance solicitor, or
5 an applicant for registration as an insurer, insurance
6 agent, insurance broker or insurance solicitor, any
7 document or information relating to any matter
8 connected with his insurance business or transactions,
9 and any such person shall comply with any such demand."

10 Section 14. The Code of the Federated States of Micronesia,
11 as amended, is hereby further amended by enacting a new section
12 207 of title 37 to read as follows:

13 "Section 207. Registration and cancellation of
14 registration to be published. The Commissioner shall
15 publish a notice of registration, cancellation of
16 registration or restriction under section 210 of this
17 chapter of an insurer, insurance agent or insurance
18 broker."

19 Section 15. The Code of the Federated States of Micronesia,
20 as amended, is hereby further amended by enacting a new section
21 208 of title 37 to read as follows:

22 "Section 208. Commissioner may accept compliance
23 certificates from foreign insurers. The Commissioner
24 may waive or modify such of the requirements of chapter
25 3 or chapter 4 of this title or of any of the

1 Regulations as he thinks fit in the case of an foreign
2 insurer:

3 (a) who is incorporated or constituted in a
4 jurisdiction with a greater or equal supervisory
5 requirements than provided for in this title and
6 Regulations;

7 (b) who furnishes annually a certificate issued by
8 the insurance supervisory authority in the place in
9 which the insurer is incorporated or constituted to the
10 effect that he is complying with all the applicable
11 insurance supervisory requirements of that authority;
12 and

13 (c) who gives such further information regarding
14 his business as the Commissioner may think relevant to
15 the purposes of this Act."

16 Section 16. The Code of the Federated States of Micronesia,
17 as amended, is hereby further amended by enacting a new section
18 209 of title 37 to read as follows:

19 "Section 209. Investigation of the affairs of an
20 insurer.

21 (1) The Commissioner may appoint any public officer
22 as an Inspector to investigate the affairs or any part
23 of the affairs of a registered insurer if he is
24 satisfied that such investigation would be in the best
25 interest of the policy-holders or of persons who may

1 become policy-holders.

2 (2) An Inspector appointed under subsection (1) may
3 investigate the affairs of any other partnership,
4 corporation, association, trust or business entity
5 which is or has at any relevant time been the
6 registered insurer's subsidiary or holding company, a
7 subsidiary of its holding company or a holding company
8 of its subsidiary.

9 (3) It shall be the duty of the registered insurer
10 under investigation and of all past and present
11 officers of the registered insurer and of the related
12 bodies corporate specified in subsection (2) to produce
13 to the Inspector all books, records and documents
14 relating to the registered insurer or partnership,
15 corporation, association, trust or any other business
16 entity under investigation which are in their custody
17 or control, and otherwise to give to the Inspector all
18 assistance in connection with the investigation which
19 they are reasonably able to give.

20 (4) An Inspector may:

21 (a) examine on oath the officers and agents of the
22 registered insurer or other partnership, corporation,
23 association, trust or business entity under
24 investigation in relation to its business and may
25 administer an oath accordingly; and

1 (b) if he thinks it necessary for the purpose of
2 his investigation that a person whom he has no power to
3 examine on oath should be so examined apply to the
4 court, and the court may, if it sees fit, order that
5 person to attend and be examined on oath before it on
6 any matter relevant to the investigation;

7 (5) The Commissioner may, if he thinks fit, charge
8 the registered insurer or person whose affairs are
9 investigated under the provisions of this section all
10 expenses properly incurred in connection with the
11 investigation or in connection with the proceedings
12 instituted as a result of the investigation, which
13 shall be paid as a fee in accordance with the
14 Regulations."

15 Section 17. The Code of the Federated States of Micronesia,
16 as amended, is hereby further amended by enacting a new section
17 210 of title 37 to read as follows:

18 "Section 210. Provisions for restricting registered
19 insurers from writing new business and for securing
20 proper conduct of business.

21 (1) The Commissioner may prohibit a registered
22 insurer from writing new policies in any class of
23 insurance business or may restrict or limit the new
24 policies which a registered insurer may write if he is
25 satisfied that it is in the interest of the policy-

1 holders or prospective policy-holders to do so.

2 (2) The Commissioner may require that a registered
3 domestic insurer shall not make investments of a
4 specified class and may in that case require such
5 insurer to liquidate investments of that class within a
6 specified period.

7 (3) The Commissioner shall notify the registered
8 insurer in writing of any decision made under the
9 provisions of subsection (1) or (2) and shall state the
10 reasons for the decision.

11 (4) A registered insurer shall comply with the terms
12 of any prohibition or requirement notified to him in
13 accordance with the provisions of this section."

14 Section 18. The Code of the Federated States of Micronesia,
15 as amended, is hereby further amended by enacting a new section
16 211 of title 37 to read as follows:

17 "Section 211. Power of Commissioner to petition for
18 winding up. The Commissioner may present a petition for
19 the winding-up of a registered domestic insurer or the
20 business of registered insurer within The Federated
21 States of Micronesia on any ground provided by and in
22 accordance with the provisions of the title 36, chapter
23 1 of the Code of the Federated States of Micronesia."

24 Section 19. The Code of the Federated States of Micronesia,
25 as amended, is hereby further amended by enacting a new chapter 3

1 to title 37 entitled "Registration of Insurers".

2 Section 20. The Code of the Federated States of Micronesia,
3 as amended, is hereby further amended by enacting a new section
4 301 of title 37 to read as follows:

5 "Section 301. Insurers to be registered.

6 (1) Notwithstanding the provisions of any other law,
7 no insurance business shall, save as hereinafter
8 provided, be carried on in or from within the Federated
9 States of Micronesia except by a registered insurer or
10 an insurer deemed to be registered under this chapter.

11 (2) The Commissioner may, in his discretion, exempt
12 any person from any provision or provisions of this
13 title, provided that the insurance business of that
14 such person is engaged in is in a class subject to
15 exemption by Regulation.

16 (3) Any person who contravenes the provisions of
17 subsection (1) shall be guilty of an offence and shall
18 be liable on conviction to the penalty prescribed in
19 section 512 of chapter 5 to this title.

20 (4) For the purposes of this chapter, any insurer
21 which maintains a business office in the Federated
22 States of Micronesia shall be deemed to issue from
23 within the Federated States of Micronesia any policy of
24 insurance issued in its name or on property, lives or
25 other risks located in the Federated States of

1 Micronesia whether or not such policy of insurance is
2 or has been issued in Federated States of Micronesia."

3 Section 21. The Code of the Federated States of Micronesia,
4 as amended, is hereby further amended by enacting a new section
5 302 of title 37 to read as follows:

6 "Section 302. Application for registration as insurer.
7 Any company desirous of being registered as an insurer
8 in accordance with this chapter shall apply in writing
9 in a form acceptable to the Commissioner and such
10 application shall be accompanied by such documents and
11 particulars as the Commissioner may require."

12 Section 22. The Code of the Federated States of Micronesia,
13 as amended, is hereby further amended by enacting a new section
14 303 of title 37 to read as follows:

15 "Section 303. Commissioner may register or refuse
16 application.

17 (1) The Commissioner may, if satisfied that the
18 carrying on of insurance business by the applicant will
19 not be against the public interest, register such
20 applicant as an insurer, subject to such terms and
21 conditions as he may think fit to impose.

22 (2) The Commissioner may refuse the registration of
23 any insurer for any one of the reasons provided in this
24 subsection:

1 (a) the insurer's refusal or failure to
2 comply with, or the violation of, any of the
3 provisions of this Act or regulations applicable
4 to such insurer or any lawful order of the
5 Commissioner; or

6 (b) the insurer is delinquent in the
7 payment of any fees, licenses, taxes, fines or
8 penalties owed to the national government or the
9 government of any State, or is otherwise in
10 default for failure to comply with any laws of the
11 Federated States of Micronesia; or

12 (c) the insurer is insolvent or in an unsafe
13 financial condition which would render any
14 insurance of such insurer unsafe or
15 unsatisfactory; or

16 (d) any officer or director of the insurer
17 has been convicted of a felony having one its
18 necessary elements a fraudulent act or an act of
19 dishonesty in the solicitation of, acceptance,
20 custody, or payment of money or property."

21 Section 23. The Code of the Federated States of Micronesia,
22 as amended, is hereby further amended by enacting a new section
23 304 of title 37 to read as follows:

24 "Section 304. Notification of decision on application.
25 The Commissioner shall notify the applicant for

1 registration as an insurer in writing whether it is
2 proposed to register the applicant, or whether the
3 application is refused and when an application is
4 refused he shall state the reasons for the refusal."

5 Section 24. The Code of the Federated States of Micronesia,
6 as amended, is hereby further amended by enacting a new section
7 305 of title 37 to read as follows:

8 "Section 305. Cancellation of registration.

9 (1) The Commissioner may cancel the registration of
10 an insurer:

11 (a) if the insurer has ceased to carry on an
12 insurance business in the Federated States of
13 Micronesia; or

14 (b) if the insurer has not commenced business in
15 the Federated States of Micronesia within 2 years of
16 registration; or

17 (c) at the request of the registered insurer or
18 his trustee or receiver appointed by the court; or

19 (d) if false, misleading or inaccurate information
20 is given in an application or under the provisions of
21 section 206 of chapter 2 of this title or section 308
22 or section 312 of this chapter; or

23 (e) if he is not satisfied that the unencumbered
24 assets of the insurer are insufficient for the proper
25 conduct of his insurance business; or

1 (f) if he is not satisfied that the insurance
2 business of the insurer is not being conducted in
3 accordance with sound insurance principles; or

4 (g) if the insurer has contravened any of the
5 provisions of this Act.

6 (2) The cancellation shall be effective 15 days
7 after the Commissioner has given written notice to the
8 insurer of the intention to cancel the registration."

9 Section 25. The Code of the Federated States of Micronesia,
10 as amended, is hereby further amended by enacting a new section
11 306 of title 37 to read as follows:

12 "Section 306. Policies issued before refusal of
13 application or cancellation of registration. An insurer
14 whose application for registration has been refused or
15 whose registration has been cancelled in accordance
16 with the provisions of this chapter shall continue to
17 carry on business relating to policies issued by it
18 prior to the date on which it was notified of such
19 refusal or cancellation until the Commissioner is
20 satisfied that it has made suitable arrangements for
21 its obligations under these policies to be met, but any
22 such insurer shall forthwith prepare and furnish the
23 information and other documents required under section
24 312 of this title."

25 Section 26. The Code of the Federated States of Micronesia,

1 as amended, is hereby further amended by enacting a new section
2 307 of title 37 to read as follows:

3 "Section 307. Registered insurers to maintain an
4 office and appoint a general agent.

5 (1) A registered insurer shall maintain an office in
6 The Federated States of Micronesia and shall appoint a
7 general agent and an alternate representative in The
8 Federated States of Micronesia each being resident in
9 The Federated States of Micronesia.

10 (2) A registered insurer shall notify the
11 Commissioner in writing of the address of its office
12 and the name of its general agent and alternate
13 representative.

14 (3) If a registered insurer changes the address of
15 its principal office or appoints a new general agent or
16 alternate representative, it shall, forthwith, and in
17 any case within 21 days of the change, give notice
18 thereof to the Commissioner in writing."

19 Section 27. The Code of the Federated States of Micronesia,
20 as amended, is hereby further amended by enacting a new section
21 308 of title 37 to read as follows:

22 "Section 308. Control of advertisements. No
23 advertisement shall be used by a registered insurer or
24 insurance agent which, directly or by implication, has
25 the capacity and tendency to mislead or deceive

1 prospective policy-holders with respect to an insurer's
2 assets, corporate structure, financial standing, age or
3 relative position in the insurance business, the terms
4 of a policy or in any other material respect."

5 Section 28. The Code of the Federated States of Micronesia,
6 as amended, is hereby further amended by enacting a new section
7 309 of title 37 to read as follows:

8 "Section 309. Separate accounts for business other
9 than insurance business of insurers. A registered
10 insurer which carries on, besides insurance, any other
11 business shall keep separate accounts in respect of its
12 insurance business, and shall segregate the assets and
13 liabilities of its insurance business from those of its
14 other business."

15 Section 29. The Code of the Federated States of Micronesia,
16 as amended, is hereby further amended by enacting a new section
17 310 of title 37 to read as follows:

18 "Section 310. Life insurance carrying on other
19 business.

20 (1) A registered insurer, which carries on both life
21 insurance business and other insurance business, shall
22 keep separate accounts in respect of its life insurance
23 business.

24 (2) All receipts of a life insurer in respect of its
25 life insurance business shall be carried to and form

1 part of its life insurance fund.

2 (3) Payments from the life insurance fund of a
3 registered insurer shall not be made directly or
4 indirectly for any purpose other than those of its life
5 insurance business, except insofar as such payments can
6 be made out of any surplus disclosed on an actuarial
7 valuation and certified by the actuary to be
8 distributable otherwise than to policy-holders.

9 (4) Nothing in this section shall be deemed to
10 require the investments of any life insurance fund to
11 be kept separate from the investments of any other
12 fund."

13 Section 30. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 311 of title 37 to read as follows:

16 "Section 311. Security of life policy-holders.

17 (1) The assets of the life insurance fund of a
18 registered insurer:

19 (a) shall be the security of the life
20 policyholders as though the insurer carried on no
21 business other than life insurance business;

22 (b) shall not be subject to any liabilities
23 arising from contracts of the registered life insurer
24 carrying on other business or insurance business to
25 which it would not have been subject had the business

1 of the insurer been only that of life insurance; and

2 (c) shall not be applied, directly or indirectly,
3 for any purposes other than those to which the fund is
4 applicable.

5 (2) In the winding-up of a life insurer the value of
6 the liabilities and assets of its life insurance fund
7 shall be ascertained separately from the value of any
8 other liabilities or assets and no assets of the life
9 insurance fund shall be applied to the discharge of any
10 liabilities other than those towards life policy-
11 holders except insofar as those assets exceed those
12 liabilities."

13 Section 31. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 312 of title 37 to read as follows:

16 "Section 312. Accounts and balance sheets of
17 registered insurers to be submitted.

18 (1) A registered insurer shall prepare and, within
19 six months of the end of each financial year, furnish
20 to the Commissioner:

21 (a) a certified copy of the audited balance sheet
22 and accounts showing the financial position of all the
23 insurance business of the insurer at the close of that
24 year;

25 (b) a certificate of an auditor stating that the

1 auditor has satisfied himself that the accounts of the
2 insurer have been properly prepared in accordance with
3 the books and records of the insurer and in accordance
4 with Generally Accepted Accounting Principles and such
5 other particulars as may be prescribed by Regulation;
6 and

7 (c) such other documents and information as the
8 Commissioner may require or as may be prescribed by
9 Regulation.

10 (2) The auditor shall not be an employee or an
11 officer of the insurer, nor financially interested in
12 the insurer.

13 (3) A registered insurer shall furnish to the
14 Commissioner a copy of any report on the affairs of the
15 insurer submitted to the policy-owners or shareholders
16 of the insurer in respect of the financial year to
17 which the balance sheet relates."

18 Section 32. The Code of the Federated States of Micronesia,
19 as amended, is hereby further amended by enacting a new section
20 313 of title 37 to read as follows:

21 "Section 313. Separate or group accounts. All
22 registered insurers who operate as separate entities
23 which can be wound up under domestic or foreign law
24 shall render separate accounts but where they are
25 associated together in a group the holding company

1 shall also furnish to the Commissioner consolidated
2 accounts of the insurance business for the group as a
3 whole."

4 Section 33. The Code of the Federated States of Micronesia,
5 as amended, is hereby further amended by enacting a new section
6 314 of title 37 to read as follows:

7 "Section 314. Keeping of records by insurers. A
8 registered insurer constituted outside The Federated
9 States of Micronesia shall keep within The Federated
10 States of Micronesia and shall make available to the
11 Commissioner on request a record of all domestic
12 policies in force or upon which liabilities are
13 outstanding which have been issued by it showing its
14 rights and obligations thereunder and recording the
15 premiums received."

16 Section 34. The Code of the Federated States of Micronesia,
17 as amended, is hereby further amended by enacting a new section
18 315 of title 37 to read as follows:

19 "Section 315. Periodic investigations to be made into
20 financial position of life insurers.

21 (1) A registered life insurer shall, not less than
22 once in every 3 years, cause an investigation into its
23 financial position, including a valuation of its
24 liabilities to be made by an actuary; provided that the
25 Commissioner may require a life insurer to cause such

1 an investigation to be made at any time if he deems it
2 to be in the public interest to do so.

3 (2) A life insurer shall, whenever its financial
4 position is investigated with a view to a distribution
5 of surplus or in compliance with subsection (1),
6 prepare and furnish to the Commissioner within 6 months
7 of the date of the investigation, a full report of the
8 actuary by whom the investigation was made or an
9 abstract thereof at the Commissioner's option, and a
10 statement of its life insurance business at that date.
11 The actuary shall also provide a statement of the
12 assumptions and the methods used in making the
13 valuation."

14 Section 35. The Code of the Federated States of Micronesia,
15 as amended, is hereby further amended by enacting a new section
16 316 of title 37 to read as follows:

17 "Section 316. Amalgamations and transfers of insurance
18 business. No domestic insurer shall:

- 19 (a) amalgamate with any one or more insurers; or
20 (b) transfer its insurance business or a part
21 thereof to, or take transfer of the insurance business
22 or a part thereof from, another insurer, unless the
23 amalgamation, or, as the case may be, the transfer is
24 approved by the Secretary."

25 Section 36. Title 37 of the Code of the Federated States of

1 Micronesia is hereby enacted by adding a new chapter 4 entitled
2 "Registration of Insurance Agents, Insurance Brokers and
3 Insurance Solicitors".

4 Section 37. The Code of the Federated States of Micronesia,
5 as amended, is hereby further amended by enacting a new section
6 401 of title 37 to read as follows:

7 "Section 401. Insurance agents, insurance brokers and
8 insurance solicitors to be registered.

9 (1) No person shall act as an insurance agent,
10 insurance broker or insurance solicitor unless he is
11 registered under this chapter.

12 (2) Every applicant for registration as an insurance
13 agent, insurance broker or insurance solicitor shall
14 satisfy the Commissioner:

15 (a) that he has knowledge of the insurance
16 business adequate to give proper service to the public;
17 and

18 (b) that he is of good character."

19 Section 38. The Code of the Federated States of Micronesia,
20 as amended, is hereby further amended by enacting a new section
21 402 of title 37 to read as follows:

22 "Section 402. Application for registration.

23 (1) An application to be registered as an insurance
24 agent, insurance broker or an insurance solicitor shall
25 be made in writing to the Commissioner and shall be

1 accompanied by such documents as may be required.

2 (2) The Commissioner may register an insurance
3 agent, an insurance broker or an insurance solicitor
4 who has applied under subsection (1) and is qualified
5 under subsection 401(2) of this chapter and may refuse
6 such registration for any of the following reasons:

7 (a) The person has wilfully violated any
8 provision of this Act;

9 (b) The person intentionally made a material
10 misstatement in his application;

11 (c) The person has been guilty of fraudulent
12 of dishonest practices;

13 (d) The person has misappropriated or
14 converted to his own use or illegally withheld
15 monies in a fiduciary capacity;

16 (e) The person has misrepresented the terms
17 and conditions of policies;

18 (f) The person has been guilty of rebating;

19 (g) The person has conducted his business in
20 such a manner as to cause injury to the public or
21 to those with whom he is dealing; or

22 (h) The person does not meet the necessary
23 qualifications to act in such capacity.

24 (3) The Commissioner shall notify the applicant
25 in writing whether the application is accepted or

1 rejected, and shall state the reasons for a
2 refusal."

3 Section 39. The Code of the Federated States of Micronesia,
4 as amended, is hereby further amended by enacting a new section
5 403 of title 37 to read as follows:

6 "Section 403. Cancellation of registration.

7 (1) Subject to the provisions of subsection (2), the
8 Commissioner may cancel the registration of an
9 insurance agent, insurance broker or insurance
10 solicitor for ny of the reasons found in subsection
11 403(2). The provisions of paragraphs (a), (b), (e) and
12 (d) of subsection 305(1) of chapter 3 of this title
13 shall also apply equally to insurance agents, insurance
14 brokers and insurance solicitors.

15 (2) The Commissioner shall notify the insurance
16 agent, insurance broker or insurance solicitor, as the
17 case may be, that it is proposed to cancel the
18 registration under subsection (1) and shall state the
19 reasons therefor."

20 Section 40. The Code of the Federated States of Micronesia,
21 as amended, is hereby further amended by enacting a new section
22 404 of title 37 to read as follows:

23 "Section 404. Lists of registered insurance agents,
24 brokers and solicitors to be maintained.

25 (1) Each registered insurer shall maintain in its

1 office an accurate list of all persons representing him
2 as agents in The Federated States of Micronesia and
3 shall provide the Commissioner on demand with a copy
4 thereof.

5 (2) Each registered insurance agent and broker who
6 employs an insurance solicitor shall provide the
7 Commissioner on demand with full details of the
8 employment of such solicitor including a copy of any
9 employment contract."

10 Section 41. The Code of the Federated States of Micronesia,
11 as amended, is hereby further amended by enacting a new section
12 405 of title 37 to read as follows:

13 "Section 405. Insurance agent and broker to keep
14 record of business. A registered insurance agent or
15 insurance broker shall keep and make available to the
16 Commissioner on demand a record of all insurance
17 business placed through him on property, lives and
18 other risks in The Federated States of Micronesia,
19 including a record of all premiums and commissions paid
20 in respect thereof; provided that any such agent or
21 broker shall not be required to produce to the
22 Commissioner any record:

23 (a) made more than 3 years preceding the date of
24 any demand therefore; and

25 (b) relating to any policy which is not in force,

1 or upon which any liability is not outstanding, at that
2 date."

3 Section 42. The Code of the Federated States of Micronesia,
4 as amended, is hereby further amended by enacting a new section
5 406 of title 37 to read as follows:

6 "Section 406. Agents of insurer. Any registered
7 insurance agent, insurance broker or insurance
8 solicitor shall for the purpose of receiving any
9 premium for a contract of insurance, be deemed to be
10 the agent of the insurer and notwithstanding any
11 conditions or stipulations to the contrary the
12 registered insurer shall be deemed to have received any
13 premium received by such agent, broker or solicitor."

14 Section 43. The Code of the Federated States of Micronesia,
15 as amended, is hereby further amended by enacting a new section
16 407 of title 37 to read as follows:

17 "Section 407. Paying over of premiums to insurer. A
18 registered insurance agent, insurance broker or
19 insurance solicitor who acts in negotiating or renewing
20 a contract of insurance with an insurer and receives
21 payment of the premium for such a contract from the
22 insured, shall be guilty of an offence if he fails to
23 pay the premium over to the insurer within 30 days of
24 the receipt by him of the premium or such shorter or
25 longer period as may be agreed in advance by the

1 insurer, less his commission and any other deductions
2 to which by written consent of the insurer he is
3 entitled, and shall be liable on conviction to the
4 penalties specified in section 512 of chapter 5 of this
5 title; provided that if any person charged with an
6 offence under the foregoing provisions of this section
7 shall satisfy the court that he was prevented by
8 illness or other cause beyond his control from due
9 compliance with such provisions and has subsequently
10 paid the premium to the insurer, the same shall be a
11 good defense to the charge."

12 Section 44. The Code of the Federated States of Micronesia,
13 as amended, is hereby further amended by enacting a new chapter 5
14 to title 37 entitled "Miscellaneous Provisions".

15 Section 45. The Code of the Federated States of Micronesia,
16 as amended, is hereby further amended by enacting a new section
17 501 of title 37 to read as follows:

18 "Section 501. Restriction on use of word "Insurance".
19 No person other than a registered insurer or a
20 registered insurance agent or a registered insurance
21 broker shall have or use the word "insurance" or any
22 derivative thereof, in the name under which such person
23 is carrying on business."

24 Section 46. The Code of the Federated States of Micronesia,
25 as amended, is hereby further amended by enacting a new section

1 502 of title 37 to read as follows:

2 "Section 502. Registered names.

3 (1) Notwithstanding the provisions of section 303 of
4 chapter 3 of this title, the Commissioner shall not
5 register an applicant as an insurer if the name under
6 which the applicant desires to be registered is
7 identical to or so nearly resembles the name of a
8 registered insurer as to be likely to be mistaken for
9 it unless that registered insurer is being wound up or
10 being dissolved, or has ceased to carry on insurance
11 business in or from within The Federated States of
12 Micronesia and consents to the registration of the
13 applicant under the name in question.

14 (2) The Commissioner shall not register an applicant
15 as a domestic insurer if the name under which the
16 applicant desires to be registered suggests falsely
17 that such domestic insurer has a special status in
18 relation to or derived from the government of The
19 Federated States of Micronesia or has the official
20 backing of or acts on behalf of the said government or
21 any department or official thereof or is recognized in
22 The Federated States of Micronesia as a national or
23 central insurer.

24 (3) The Commissioner shall not register an applicant
25 as an insurance broker if the name under which the

1 applicant desires to be registered is likely to suggest
2 that the applicant is an insurer.

3 (4) The Commissioner shall not register an insurance
4 agent if the name under which he desires to be
5 registered is likely to suggest that he is an insurer
6 or an insurance broker.

7 (5) The Commissioner may refuse to register an
8 applicant under a name that is likely to mislead
9 policyholders or which, in the opinion of the
10 Commissioner, is for any reason undesirable.

11 (6) A registered insurer, insurance broker or
12 insurance agent shall not change the name under which
13 he is registered without the prior permission of the
14 Secretary."

15 Section 47. The Code of the Federated States of Micronesia,
16 as amended, is hereby further amended by enacting a new section
17 503 of title 37 to read as follows:

18 "Section 503. Policies to be printed or typed in
19 clearly legible letters.

20 (1) A registered insurer liable under a life
21 insurance policy shall, at the request of the owner,
22 furnish him free of charge with a copy of the relevant
23 revenue account, profit and loss account and balance
24 sheet prepared by the insurer in terms of subsection
25 312(1) of chapter 3 of this title in respect of its

1 last preceding financial year, and shall make available
2 at the request of the policy-owner, for inspection at
3 the insurer's principal office, a copy of the last
4 actuarial report.

5 (2) No registered insurer shall issue a policy the
6 provisions of which, whatever their nature, are not
7 printed or typed in clearly legible letters."

8 Section 48. The Code of the Federated States of Micronesia,
9 as amended, is hereby further amended by enacting a new section
10 504 of title 37 to read as follows:

11 "Section 504. Policy not invalid owing to failure to
12 comply with law. A policy issued by any person, whether
13 before, on, or after the coming into force of this Act
14 shall not be invalid by reason only that such person
15 contravened or failed to comply with the provisions of
16 any enactment in force applying to that policy."

17 Section 49. The Code of the Federated States of Micronesia,
18 as amended, is hereby further amended by enacting a new section
19 505 of title 37 to read as follows:

20 "Section 505. Cancellation of policies.

21 (1) No domestic policy shall be liable to
22 cancellation except in accordance with the provisions
23 of this section.

24 (2) A policy other than a life insurance policy may
25 be cancelled at any time by the insured named therein

1 after giving to the insurer not less than 30 days'
2 notice in writing of the proposed cancellation by
3 service in accordance with the provisions of section
4 509 of this chapter or by registered post, and the
5 insurer shall, upon the surrendering of the policy,
6 refund the excess of any premiums paid over and above
7 the customary short-rate premium for the period when
8 the policy has been in force.

9 (3) A policy other than a life insurance policy may
10 be cancelled at any time by an insurer after giving to
11 the insured named therein not less than 90 days' notice
12 in writing of the proposed cancellation by personal
13 service or by registered post and upon refunding to the
14 insured the excess of paid premium over and above the
15 pro-rata premium for the time the policy has been in
16 force, which refund shall accompany the notice.

17 (4) Notwithstanding the provisions of subsections
18 (2) and (3), the insured and the insurer may agree at
19 the time any policy of insurance referred to therein is
20 issued that the same shall be incapable of
21 cancellation, provided that a clause to such effect is
22 included in the policy.

23 (5) A life insurance policy may be cancelled by the
24 insurer in the event of non-payment of any renewal
25 premiums due but only after notice in writing

1 specifying the default and the intention of the insurer
2 to cancel the policy has been given to the insured by
3 personal service or by registered post; provided that
4 the insurer may not cancel the life insurance policy if
5 full payment is made within 10 days of receipt of the
6 notice; provided further that a life insurance policy
7 shall not be cancelled by reason only of the non-
8 payment of a premium unless at least 28 days have
9 elapsed since the premium became due;.

10 (6) Any policy of insurance may be cancelled by the
11 prior mutual consent in writing of the insurer and the
12 insured."

13 Section 50. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 506 of title 37 to read as follows:

16 "Section 506. Jurisdiction of domestic courts. Any
17 provision contained in a domestic policy whereby the
18 jurisdiction of the courts in The Federated States of
19 Micronesia is in any way circumscribed or avoided
20 shall, to that extent be absolutely void and of no
21 effect."

22 Section 51. The Code of the Federated States of Micronesia,
23 as amended, is hereby further amended by enacting a new section
24 507 of title 37 to read as follows:

25 "Section 507. Borrowing powers of directors. The

1 directors of a domestic insurer being a partnership,
2 corporation, association, trust or any other business
3 entity may exercise all the borrowing powers of the
4 partnership, corporation, association, trust or any
5 other business entity; provided that at no time may the
6 undischarged amount of moneys to be borrowed or secured
7 by the directors exceed 5 per cent of the assets of the
8 partnership, corporation, association, trust or any
9 other business entity without the written consent of
10 the Commissioner."

11 Section 52. The Code of the Federated States of Micronesia,
12 as amended, is hereby further amended by enacting a new section
13 508 of title 37 to read as follows:

14 "Section 508. Prohibition of loans to directors etc. A
15 domestic insurer shall not, directly or indirectly,
16 without the approval of the Commissioner:

17 (a) lend any of its funds to any of its directors
18 or officers or to the wife or child of any such
19 director or officer; or

20 (b) enter into any guarantee or provide any
21 security in connection with a loan to an individual
22 mentioned in paragraph (a) by any other individual;
23 provided that loans may be so made within the surrender
24 value of a life policy issued by the insurer to such
25 individual."

1 Section 53. The Code of the Federated States of Micronesia,
2 as amended, is hereby further amended by enacting a new section
3 509 of title 37 to read as follows:

4 "Section 509. Service of process upon registered
5 insurers.

6 (1) Any notice issued under any provisions of this
7 Act and any process in legal proceedings may be served
8 upon a person carrying on insurance business by leaving
9 the same at the principal office of the insurer.

10 (2) If the principal office of a person carrying on
11 insurance business cannot reasonably be found, any
12 notice served under this Act or process in any legal
13 proceedings may be served by leaving the same at the
14 office of the Commissioner.

15 (3) Service of process upon the Commissioner, in
16 accordance with the provisions of subsection (2) shall
17 be deemed to be service upon the insurer."

18 Section 54. The Code of the Federated States of Micronesia,
19 as amended, is hereby further amended by enacting a new section
20 510 of title 37 to read as follows:

21 "Section 510. Individuals acting on behalf of
22 unregistered insurers.

23 (1) Anyone who causes or solicits a person to enter
24 into or to make application to enter into a contract of
25 insurance with a person who is not a registered insurer

1 shall be guilty of an offence and shall be liable on
2 conviction to a fine of \$100,000 or to imprisonment for
3 1 year or to both such fine and imprisonment.

4 (2) Anyone who as agent or broker places insurance
5 on property, lives or other risks within The Federated
6 States of Micronesia with a person carrying on
7 insurance business within The Federated States of
8 Micronesia who is not a registered insurer shall incur
9 personal liability on the policy as if he were the
10 insurer.

11 (3) For the purposes of this section, any registered
12 agent who places insurance with a member of a
13 registered association of underwriters shall be deemed
14 to place such insurance with a registered insurer."

15 Section 55. The Code of the Federated States of Micronesia,
16 as amended, is hereby further amended by enacting a new section
17 511 of title 37 to read as follows:

18 "Section 511. False statements etc. If a person issues
19 a document for any of the purposes of this title which
20 is false or misleading in any material respect, that
21 person and every person who signed it, unless it is
22 proved that the accused, had taken every reasonable
23 precaution to ensure its accuracy, shall be guilty of
24 an offence and shall be liable on conviction to a fine
25 of \$100,000 or to imprisonment for 1 year or to both

1 such fine and imprisonment."

2 Section 56. The Code of the Federated States of Micronesia,
3 as amended, is hereby further amended by enacting a new section
4 512 of title 37 to read as follows:

5 "Section 512. General provisions relating To Offences.

6 (1) Any person who contravenes or fails or neglects
7 to comply with any provision of this Act or of any
8 Regulations shall be guilty of an offence and shall be
9 liable on conviction in a case for which no specific
10 penalty is otherwise provided in this Act, if the
11 offender is an individual, to a fine of \$50,000 or to
12 imprisonment for 6 months, or to both such fine and
13 imprisonment, or if the offender is not an individual,
14 to a fine of \$100,000.

15 (2) Where any offence under this Act committed by a
16 partnership, corporation, association, trust or any
17 other business entity is proved to have been committed
18 with the consent or connivance of, or to be
19 attributable to any neglect on the part of any
20 director, manager, secretary or other similar officer
21 or servant of the partnership, corporation,
22 association, trust or any other business entity, he, as
23 well as the partnership, corporation, association,
24 trust or any other business entity, shall be deemed to
25 be guilty of that offence and shall be liable to be

1 proceeded against and punished accordingly."

2 Section 57. This act shall become law upon approval by the
3 President of the Federated States of Micronesia or upon its
4 becoming law without such approval.

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6 Date: 12/25/05

Introduced by: /s/ Dion G. Neth

Dion G. Neth

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