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A BILL FOR AN ACT

To amend sections 301, 307, 313 and 322 of title 37 of the Code of the Federated States of Micronesia in order to expand and clarify the authority and powers of the Insurance Board in regulating the insurance industry, including the authority to approve certain transfers relating to insurance business before any transfer takes effect, both for domestic and foreign entities engaged in insurance business; to modify the requirements for broker's license application, to expand the present exemption from posting of bond applicable to certain foreign insurers; to introduce a technical amendment to the provision on reporting and disclosure of information by auditors and actuaries; and for other purposes.

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

1           Section 1. Section 301 of title 37 of the Code of the  
2 Federated States of Micronesia, as amended by Public Law No. 14-  
3 87, is hereby further amended to read as follows:

4                   "Section 301. License required.

5                   (1) Every person that engages in insurance business in  
6 the Federated States of Micronesia must first obtain a  
7 license from the Insurance Board; provided, however,  
8 that foreign insurer is subject to the application of  
9 section 307 of the Code. Any person who transacts  
10 insurance business shall be licensed as either

- 11                           (a) an insurer,  
12                           (b) an agent,  
13                           (c) a solicitor, or  
14                           (d) a broker.

15                   (2) The Insurance Board may attach certain conditions  
16 and restrictions to the issuance of a license. Once a

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1           license is issued, the Insurance Board retains authority  
2           of oversight to ensure that the terms and conditions of  
3           the license are fulfilled. The Insurance Board may from  
4           time to time, by notice in writing to a person holding a  
5           license issued, or deemed to have been issued, under  
6           this section, impose new or additional conditions of the  
7           license or vary or remove any conditions already  
8           imposed.

9           (3) Only a company may be licensed as an insurer.

10          (4) Only agents transacting insurance business on  
11          behalf of licensed or registered insurers shall be  
12          eligible for a license as an insurer.

13          (5) A foreign insurer who receives two million dollars  
14          or more in income from premiums collected in the  
15          Federated States of Micronesia in each fiscal year for  
16          three consecutive fiscal years shall be required to  
17          become licensed as an insurer.

18          (6) A foreign insurer who does not make the premium  
19          collections described in (5) shall be permitted to do  
20          business through a person licensed as an agent if the  
21          foreign insurer is registered, unless such foreign  
22          insurer chooses to be licensed as an agent if the  
23          foreign insurer is registered, unless such foreign  
24          insurer chooses to be licensed as an insurer instead.

25          (7) A person licensed as an agent may conduct business

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1 on behalf of more than one insurer; however, the agent  
2 must apply for a separate license as an insurance agent  
3 for each insurer.

4 (8) A person applying for a broker's license shall  
5 carry and maintain professional indemnity insurance  
6 against fraud, burglary, embezzlement, and other similar  
7 insurable loss in an amount to be determined by the  
8 Insurance Board."

9 Section 2. Section 307 of title 37 of the Code of the  
10 Federated States of Micronesia, as amended by Public Law No. 14-  
11 87, is hereby further amended to read as follows:

12 "Section 307. Registered Foreign Insurers.

13 (1) A foreign insurer may be registered by providing  
14 the following:

15 (a) information from the insurer's home  
16 supervisory authority that the insurer is solvent and  
17 meets all the regulatory requirements in the home  
18 jurisdiction and is otherwise in good standing; and a  
19 statement from the home supervisory authority that the  
20 foreign insurer is approved for transaction of insurance  
21 business through an agent in the Federated States of  
22 Micronesia; and

23 (b) posting of a bond, or deposit to an escrow  
24 account, in the sum of \$100,000, to be withdrawn by the  
25 Commissioner upon the occurrence of certain events as

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1           stated in the bond or escrow agreement; and

2                       (c) compliance with any requirement, if set  
3           forth in Regulations under this Act, that a certain  
4           amount of premiums collected on behalf of the insurer  
5           are maintained in the Federated States of Micronesia;  
6           and

7                       (d) designation of an agent for service of  
8           process.

9           (2) A foreign insurer providing a marine, aviation and  
10          transportation policy may be registered without posting  
11          the bond required in (1) (b). Other types of policies  
12          may be exempted by the Insurance Board from posting bond  
13          required under subsection (1) (b) hereof when the  
14          Insurance Board is satisfied that the insurance is not  
15          available in the FSM market from licensed or registered  
16          insurers or the insurance is available but under terms  
17          that would significantly disadvantage the insured. A  
18          request for exemption may be made by unregistered  
19          foreign insurers or licensed brokers or a prospective  
20          policyholder.

21          (3) The Commissioner may grant or deny or cancel  
22          registration of a foreign insurer based on these  
23          requirements and a review of the foreign insurer in the  
24          same manner as a review of an application for a license  
25          under this Act.

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1           (4) Any person registered as an insurer under this Act  
2           shall be deemed and held to be doing business in the  
3           Federated States of Micronesia and may be sued upon any  
4           cause of action arising under any policy of insurance  
5           issued by it and any cause of action under the laws of  
6           the Federated States of Micronesia in the courts of the  
7           Federated States of Micronesia."

8           Section 3. Section 313 of title 37 of the Code of the  
9           Federated States of Micronesia is hereby amended to read as  
10          follows:

11          "Section 313. Mergers and transfers of insurance  
12          business.

13               (1) Without approval by the Insurance Board, [N]no  
14               domestic insurer licensed or registered under this title  
15               shall:

16                        ([1]a) [M]merge or reorganize, whether by  
17                        agreement, order or takeover, with any one or more  
18                        insurers; or

19                        ([2]b) [T]transfer its insurance business or a  
20                        part thereof to, or take transfer of the insurance  
21                        business or a part thereof from, another insurer[~~7~~  
22                        ~~unless the merger, reorganization or transfer is~~  
23                        ~~approved by the Commissioner]~~.

24                        ([2]3) No merger nor transfer that lessens the policy  
25                        benefits of the insured shall be approved."

1 Section 4. Section 322 of title 37 of the Code of the  
2 Federated States of Micronesia, as amended by Public Law No. 14-  
3 87, is hereby further amended to read as follows:

4 "Section 322. Disclosure of information by auditors  
5 and actuaries.

6 (1) If an auditor or actuary, in the course of  
7 reviewing the business of a person licensed under this  
8 Act, is satisfied that:

9 (a) there has been a violation of a provision  
10 of this Act, or Regulations or Orders under this Act;  
11 or

12 (b) a criminal offence involving fraud or  
13 dishonesty has been committed; or

14 (c) the business is insolvent or is likely to  
15 become insolvent; or

16 (d) there are irregularities which materially  
17 prejudice the interests of policy owners; or

18 (e) the business is unable, or is likely to  
19 become unable, to meet its liabilities;

20 the auditor or actuary must immediately report the  
21 matter to the directors of the business and to the  
22 Insurance Board.

23 (2) Failure to report shall constitute a violation  
24 of this Act.

25 (3) A person reporting under this provision shall not

1           be liable for any damage which may be a consequence of  
2           the report."

3           Section 5. 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: 5/12/09

Introduced by: /s/ Joe N. Suka  
Joe N. Suka  
(by request)

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