

A BILL FOR AN ACT

To further amend sections 102 and 301 title 37 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 14-66 and 14-87, and inserting a new section 601 to add and amend definitions, to exempt a Marine Insurer from the licensing requirement, and to provide for Excepted Contracts and Activities, and for other purposes.

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

2           Section 1. Section 102 of title 37 of the Code of the  
3 Federated States of Micronesia, as amended by Public Laws  
4 Nos. 14-66 and 14-87, is hereby further amended to read as  
5 follows:

6           "Section 102. Definitions. In this Act, unless  
7 the context otherwise requires:

8           (1) 'actuary' means an individual qualified as an  
9 actuary by such qualifications as the Commissioner  
10 may recognize;

11           (2) 'affiliated entity' means a subsidiary, a  
12 holding company, a trust controlled or administered  
13 by a company, or another company whose board of  
14 directors acts in accordance with the directors or  
15 instructions of the first company;

16           (3) 'agent' means a person with the authority of  
17 an insurer to solicit applications, receive  
18 proposals, receive premiums, deliver policies, and  
19 to make contracts of insurance;

1           (4) 'auditor' means an independent accountant  
2 approved by the Commissioner;

3           (5) 'broker' means a person who acts on behalf of  
4 a prospective customer and with the prospective  
5 customer's authority arranges insurance business  
6 with insurers, including making proposals and  
7 paying premiums;

8           (6) 'Commissioner' means the individual appointed  
9 as the Insurance Commissioner under this Act;

10          (7) 'company' means a body corporate formed under  
11 the laws of and having its head office in the  
12 Federated States of Micronesia;

13          (8) 'domestic insurer' means a company that is  
14 licensed under this Act to carry on an insurance  
15 business in the Federated States of Micronesia;

16          (9) 'domestic policy' means a policy issued on  
17 property, lives or other risks located in the  
18 Federated States of Micronesia;

19          (10) 'foreign insurer' means an entity constituted  
20 and licensed to conduct an insurance business by a  
21 jurisdiction other than the Federated States of  
22 Micronesia, that has been registered or licensed  
23 under this Act to carry on insurance business in  
24 the Federated States of Micronesia;

25          (11) 'insurance' means a contract whereby one

1           undertakes to indemnify another or pay a specified  
2           amount upon determinable contingencies;

3           (12) 'insurance business' means the soliciting,  
4           effecting or carrying out of contracts of  
5           insurance, including re-insurance, and the  
6           following transactions:

7                   (a) making or negotiating an insurance  
8           policy;

9                   (b) making or negotiating a guaranty or  
10          surety contract not merely incidental to another  
11          legitimate business or activity;

12                   (c) taking, forwarding or receiving an  
13          insurance application;

14                   (d) disseminating information concerning  
15          coverage and rates;

16                   (e) receiving or collecting any  
17          consideration for insurance;

18                   (f) issuing or delivering an insurance  
19          policy to a resident of, or a person authorized to  
20          do business in, the Federated States of Micronesia;

21                   (g) directly or indirectly acting as an  
22          agent, broker or solicitor, or any other form of  
23          representative of an insurer;

24                   (h) setting rates;

25                   (i) inspecting a risk;

1                   (j) investigating or adjusting a claim or  
2                   loss;

3                   (k) doing or proposing to do any activity  
4                   that is in substance equivalent to conduct  
5                   described in this provision.

6                   (13) 'insurer' means a person effecting and  
7                   carrying on insurance business in the Federated  
8                   States of Micronesia;

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

18                  (15) 'marine', aviation and transportation policy'  
19                  means an insurance policy that covers a risk  
20                  relating to (a) the possession, use or ownership of  
21                  a vessel, aircraft or other craft; or (b) the  
22                  conveyance of persons or goods by air, space, land  
23                  or water; or (c) the storage, treatment or handling  
24                  of goods so conveyed or to be so conveyed;

25                  (16) 'officer' means, in relation to a

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1 partnership, corporation, association, trust or any  
2 other business entity, a director, manager or  
3 secretary of that body, or any person having or  
4 exercising powers or duties substantially similar  
5 to any of those officers;

6 (17) 'person' means any person, natural or legal,  
7 including individuals, partnerships, corporations;

8 (18) 'policy' means any written contract of  
9 insurance whether contained in one or more  
10 documents;

11 (19) 'policy-owner' means a person who is entitled  
12 to claim any benefit provided for in a policy;

13 (20) 'premium' means the money to be paid in  
14 return for an undertaking to provide policy  
15 benefits;

16 (21) 'reinsurance' means a contract by which an  
17 insurer insures any part of the risk insured by the  
18 insurer with another insurer;

19 (22) 'related person' with respect to any natural  
20 person means his spouse, child, parents, brothers,  
21 or sisters, or any partnership, corporation, or  
22 firm in which he owns more than a ten percent  
23 interest;

24 (23) 'regulations' means regulations made by the  
25 Insurance Board under this Act.

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1           (24) 'solicitor' means an individual who solicits  
2           applications for insurance or negotiates insurance  
3           business on behalf of an insurer or an agent and  
4           earns commissions for each successful sale, but is  
5           neither an insurer, an insurance agent, nor an  
6           employee of an insurer or agent[-];

7           (25) 'Marine Insurer' means an entity in the  
8           insurance business that sells a marine, aviation or  
9           transportation policy."

10          Section 2. Section 301 of title 37 of the Code of the  
11          Federated States of Micronesia, as amended by Public Law No.  
12          14-87, is hereby further amended to read as follows:

13          "Section 301. License required.

14                 (1) No insurance business shall be carried on in  
15                 the Federated States of Micronesia except pursuant  
16                 to the provisions of this Title.

17                 (2) Any person who transacts insurance business  
18                 shall be licensed as either

19                         (a) an insurer,

20                         (b) an agent,

21                         (c) a solicitor, or

22                         (d) a broker.

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

24                 (4) Only agents transacting insurance business on  
25                 behalf of licensed or registered insurers, with the

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1           exception of a marine insurer, shall be eligible  
2           for a license.

3           (5) A foreign insurer who receives two million  
4           dollars or more in premiums collected in the  
5           Federated States of Micronesia in each fiscal year  
6           for three consecutive fiscal years shall be  
7           required to become licensed as an insurer.

8           (6) A foreign insurer who receives an amount less  
9           than two million dollars in income from premiums  
10          collected in the Federated States of Micronesia in  
11          a fiscal year shall be permitted to do business  
12          through a person licensed as an agent if the  
13          foreign insurer is registered, unless such foreign  
14          insurer chooses to be licensed as an insurer  
15          instead.

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

22          (7) A person licensed as an agent may conduct  
23          business on behalf of more than one insurer;  
24          however, the agent must apply for a separate  
25          license as an insurance agent for each insurer.

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1           (8) A Marine Insurer shall be exempted from the  
2           requirement in section 301(2) above and shall be  
3           permitted to do business in the Federated States of  
4           Micronesia, but only through a licensed agent."

5           Section 3. Title 37 of the Code of the Federated States  
6 of Micronesia, as amended, is hereby further amended by  
7 inserting a new section 601 to read as follows:

8           "Section 601. Excepted Contracts and Activities.  
9           The provisions of the foregoing sections do not  
10           apply to contracts of reinsurance or to contracts  
11           of insurance covering risks of transportation and  
12           navigation, or to an insurer not authorized in this  
13           nation or its representatives, in investigating,  
14           adjusting losses or otherwise complying in this  
15           nation with the terms of its insurance contracts  
16           made in a state wherein the insurer was authorized  
17           and in which the property or risk was located or  
18           residing at time of the execution of the contract."

19           Section 3. This act shall become law upon approval by  
20 the President of the Federated States of Micronesia or upon  
21 its becoming law without such approval.

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23 Date: 11/25/13

Introduced by: /s/ David W. Panuelo  
David W. Panuelo

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