

HESA

NINTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 1995

C. B. NO. 9-53

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A BILL FOR AN ACT

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. Short title. This act shall be known as the "Insurance Act of  
2   1992."

3       Section 2. Declaration of Policy - Public interest. The business of  
4   insurance is one affected by the public interest, requiring that all persons be  
5   actuated in good faith, abstain from deception and practice honesty and equity  
6   in all insurance matters. The duty of preserving the integrity of insurance rests  
7   with the insurer, its representatives and the insured.

8       Section 3. Compliance required. No person shall transact a business of  
9   insurance in the Federated States of Micronesia without complying with the  
10   applicable provisions of this act and the rules and regulations promulgated  
11   thereunder.

12       Section 4. Definitions.

13               (1) "Disability insurance," also referred to as accident and  
14   sickness insurance, is insurance against bodily injury, disablement, or death by  
15   accident, or accidental means, or the expense thereof; against disablement or  
16   expense resulting from sickness; and every insurance appertaining thereto.

17               (2) "General casualty insurance" includes vehicle insurance as  
18   defined in section 4(10), disability insurance defined in section 4(1) and in  
19   addition is insurance;

20                       (a) Against legal liability for the death, injury, or disability  
21   of any human being, or from damage to property;

22                       (b) Of medical, hospital, surgical, and funeral benefits to  
23   persons injured, irrespective of legal liability of the insured, when issued with or  
24   supplemental to insurance against legal liability for the death, injury, or disability  
25   of human beings;

1 (c) Of the obligation accepted by, imposed upon, or  
2 assumed by employers under law for death, disablement, or injury to  
3 employees.

4 (d) Against loss or damage by burglary, theft, larceny,  
5 robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful  
6 conversion, disposal or concealment, or from any attempt of any of the  
7 foregoing; also insurance against loss or damage to moneys, coins, bullion,  
8 securities, notes, drafts, acceptances, or any other valuable papers or  
9 documents, resulting from any cause, except while in the mail;

10 (e) Upon personal effects of individuals, by an all-risk type  
11 of policy commonly known as the personal property floater;

12 (f) Against loss or damage to glass and its  
13 appurtenances resulting from any cause;

14 (g) Against any liability and loss or damage to property  
15 resulting from accidents to or explosions of boilers, pipes, pressure containers,  
16 machinery, or apparatus;

17 (h) Against loss of or damage to any property of the  
18 insured resulting from the ownership, maintenance, or use of elevators, except  
19 loss or damage by fire;

20 (i) Against loss or damage to any property caused by the  
21 breakage or leakage of sprinklers, water pipes, and containers, or by water  
22 entering through leaks or openings in buildings;

23 (j) Against loss or damage resulting from failure of  
24 debtors to pay their obligations to the insured (credit insurance);

25 (k) Against loss of or damage to any domesticated or

1 wild animal resulting from any cause (livestock insurance);

2 (l) Against loss of or damage to any property of the  
3 insured resulting from collision of any other object with such property, but not  
4 including collision to or by vessels, craft, piers, or other instrumentalities of  
5 ocean or inland navigation (collision insurance);

6 (m) Against legal liability of the insured, and against loss,  
7 damage, or expense incident to a claim of such liability, and including any  
8 obligation of the insured to pay medical, hospital, surgical, and funeral benefits  
9 to injured persons, irrespective of legal liability of the insured, arising out of the  
10 death or injury of any person, or arising out of injury to the economic interest  
11 of any person as the result of negligence in rendering expert, fiduciary, or  
12 professional service (malpractice insurance); or

13 (n) Against any other kind of loss, damage, or liability  
14 properly the subject of insurance and not within any other class or classes of  
15 insurance as defined in this act, if such insurance is not contrary to law or  
16 public policy.

17 (3) "Insurance" is a contract whereby one undertakes to  
18 indemnify another or pay a specified amount upon determinable contingencies.  
19 The following contracts are not considered to be insurance for the purpose of  
20 this act:

21 (a) A title insurance contract;

22 (b) A bond with respect to which no premium is charged  
23 or paid;

24 (c) a bond or contract or undertaking in the performance  
25 of which the surety has an interest other than that of surety;

1 (d) A plan or agreement between an employer and any  
2 employee or his representative, individually or collectively, by the terms of which  
3 the employer or the parties to the plan or agreement agree to contribute to  
4 the cost of nonoccupational disability benefits, medical attention, treatment, or  
5 hospitalization for the employee or members of his family unless such plan is  
6 underwritten by an insurer as defined in this act; or

7 (e) a prepaid legal service plan other than plans in which  
8 either the group offering the plan or the person administering the plan is  
9 otherwise subject to this act.

10 (4) "Life insurance" is insurance on human lives and insurance  
11 appertaining thereto or connected therewith. For the purposes of this act the  
12 transacting of life insurance includes the granting of annuities and endowment  
13 benefits; additional benefits in event of death or dismemberment by accident or  
14 accidental means; additional benefits in event of total and permanent disability  
15 of the insured; and optional modes of settlement of proceeds.

16 (5) "Marine and transportation insurance" is:

17 (a) Insurance against any and all kinds of loss of or  
18 damage to:

19 (i) Vessels, craft, aircraft, cars, automobiles, and  
20 vehicles of every kind, as well as all goods, freights, cargoes, merchandise,  
21 effects, disbursement, profits, money, bullion, precious stones, securities,  
22 choses in action, evidences of debt, valuable papers, bottomry and  
23 respondentia, and all other kinds of property and interests therein, in respect  
24 to, appertaining to, or in connection with any and all risks or perils of  
25 navigation, transmit, or transportation including war risks, or under any seas

1 or other waters, on land or in the air, or while being assembled, packed,  
2 crated, baled, compressed, or similarly prepared for shipment or while awaiting  
3 the same or during any delays, storage, transshipment, or reshipment incident  
4 thereto, including marine builder's risks and all personal property floater risks;

5 (ii) Person or to property in connection with or  
6 appertaining to a marine, inland marine, transit, or transportation insurance,  
7 including liability for loss of or damage to either, arising out of or in connection  
8 with the construction, repair, operation, maintenance, or use of the subject  
9 matter of such insurance (but not including life insurance or surety bonds nor  
10 insurance against loss by reason of bodily injury to the person arising out of  
11 the ownership, maintenance, or use of automobiles);

12 (iii) Precious stones, jewels, jewelry, gold, silver, and  
13 other precious metals, whether used in business or trade or otherwise and  
14 whether the same be in course of transportation or otherwise; and

15 (iv) Bridges, tunnels, and other instrumentalities of  
16 transportation and communication (excluding buildings, their furniture and  
17 furnishings, fixed contents and supplies held in storage) unless fire, tornado,  
18 sprinkler leakage, hail, explosion, earthquake, riot, and civil commotion are the  
19 only hazards to be covered; piers, wharves, docks, and slips, excluding the  
20 risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot, and civil  
21 commotion; other aids to navigation and transportation, including dry-docks  
22 and marine railways, against all risks.

23 (b) Marine protection and indemnity insurance, meaning  
24 insurance against, or against legal liability of the insured for, loss, damage, or  
25 expense arising out of, or incident to, the ownership, operation, chartering,

1 maintenance, use, repair or construction of any vessel, craft, or instrumentality  
2 in use in ocean or inland waterways, including liability of the insured for personal  
3 injury, illness, or death or for loss of or damage to the property of another  
4 person.

5 (6) "Ocean marine insurance" means insurance:

6 (a) Upon vessels, crafts, hulls, and of interests therein, or  
7 with relation thereto;

8 (b) Of marine builders' risks, marine war risks, and  
9 contracts of marine protection and indemnity insurance;

10 (c) Of freights and disbursements pertaining to a subject  
11 of insurance coming within this definition; or

12 (d) Of personal property and interests therein, in course of  
13 movement into or out of this Nation or among the islands of this Nation, or in  
14 course of exportation from or importation into any country, or in course of  
15 transportation coastwise, including transportation by land, water, or air from  
16 point of origin to final destination, in respect to, appertaining to, or in  
17 connection with, any risks or peril of navigation, transit, or transportation, and  
18 while being prepared for and while awaiting shipment, and during any delays,  
19 storage, transshipment, or reshipment incident thereto.

20 (7) "Person" means any individual, company, insurer, association,  
21 organization, group, reciprocal or interinsurance exchanges, partnership,  
22 business, trust, or corporation.

23 (8) "Property insurance" is insurance against loss of or damage  
24 to real or personal property of every kind and any interest therein, from any or  
25 all hazard or cause and against loss consequential upon such loss of or

1 damage. An inclusion within other defined classes of insurance of the right to  
2 insure against certain designated perils to real or personal property shall not  
3 be deemed a diminution of the definition of property insurance.

4 (9) "Surety insurance" includes:

5 (a) Bail bond insurance, which is a guarantee that any  
6 person, in or in connection with any proceedings in any court, will:

7 (i) Attend in court when required, or

8 (ii) Will obey the orders of judgment of the court, as a  
9 condition to the release of the person from confinement, and the execution of  
10 bail bonds for any such purpose. The making of property or cash bail does not  
11 constitute the transacting of bail bond insurance.

12 (b) Fidelity insurance, which is insurance guaranteeing the  
13 fidelity of persons holding positions of public or private trust:

14 (c) Guaranteeing the performance of contracts and  
15 guaranteeing and executing bonds, undertakings, and contracts of suretyship; and

16 (d) Indemnifying banks, bankers, brokers, financial or  
17 moneyed corporations or associations against loss resulting from any cause of  
18 bills of exchange, notes, bonds, securities, evidences of debts, deeds,  
19 mortgages, warehouse receipts, or other valuable papers, documents, money,  
20 precious metals, and articles made therefrom, jewelry, watches, necklaces,  
21 bracelets, gems, precious and semi-precious stones, including any loss while the  
22 same are being transported in armored motor vehicles, or by messenger, but  
23 not including any other risks of transportation navigation; also against loss or  
24 damage to such insured's premises, or to his furnishings, fixtures, equipment,  
25 safes, and vaults therein, caused by burglary, robbery, theft, vandalism, or

1 malicious mischief, or any attempt thereat.

2 (10) "Vehicle insurance" is insurance against loss of or damage  
3 to any land vehicle or aircraft or any draft or riding animal or to property while  
4 contained therein or thereon or being loaded or unloaded therein or therefrom,  
5 and against any loss, expense or liability for loss or damage to persons or  
6 property resulting from or incident to ownership, maintenance, or use of any  
7 such vehicle or aircraft or animal. Insurance against accidental death or  
8 accidental injury to individuals including the named insured while in, entering,  
9 alighting from, adjusting, repairing, cranking, or caused by being struck by a  
10 vehicle, aircraft, or draft or riding animal, if such insurance is issued as part of  
11 insurance on the vehicle, aircraft, or draft or riding animal, shall be deemed to  
12 be vehicle insurance.

13 Section 5. Insurance Commissioner.

14 (1) The Secretary of the Department of Resources and  
15 Development shall be the Commissioner of Insurance.

16 (2) The Commission of Insurance shall:

17 (a) Issue regulations implementing the provisions of this  
18 act, subject to the approval of the President of the Federated States of  
19 Micronesia;

20 (b) Conduct examination and hearings authorized by this  
21 act; and

22 (c) Report to the Congress of the Federated States of  
23 Micronesia and the President of the Federated States of Micronesia annually on  
24 each anniversary of the effective date of this act on the status of the insurance  
25 industry operating in the Federated States of Micronesia and on any actions



1 taken pursuant to this act. He may also include comments or proposed  
2 changes to the insurance act as he deems fit.

3 Section 6. Commissioner may delegate. Any power, duty or function  
4 vested in the Commissioner of Insurance by this act may be exercised,  
5 discharged, or performed by any employee of the Department of Resources  
6 and Development acting in the name and by the delegated authority of the  
7 Commissioner.

8 Section 7. Copies and certificates as evidence.

9 (1) Copies of records or documents in his office certified to by  
10 the Commissioner of Insurance shall be received as evidence in all courts in the  
11 same manner and to the same effect as if they were the originals.

12 (2) When required for evidence in court, the Commissioner shall  
13 furnish his certificate as to the authority of an insurer or other licensee in the  
14 Federated States of Micronesia on any particular date, and the court shall  
15 receive the certificate in lieu of the Commissioner's testimony.

16 Section 8. Examination of insurers.

17 (1) The Commissioner of Insurance may examine the affairs,  
18 transactions, accounts, records, documents, and assets of each authorized  
19 insurer as often s he deems prudent. He shall so examine each domestic  
20 insurer at least once in every three years.

21 (2) The Commissioner shall examine fully each insurer applying for  
22 authority to do business in the Federated States of Micronesia.

23 (3) In lieu of making his own examination, the Commissioner may  
24 accept a full report of the last recent examination of a foreign or alien insurer  
25 certified to by the insurance supervisory official of the state, province, or

1 country of domicile.

2 Section 9. Examination of agents, managers, promoters. For the  
3 purpose of ascertaining its condition, or compliance with this act, the  
4 Commissioner may as often as he deems advisable examine the insurance  
5 accounts, records, documents, and transactions of:

6 (1) Any insurance general agent, subagent, solicitor, or adjuster.

7 (2) Any person engaged in or proposing to be engaged in or  
8 assisting in the promotion or formation of a domestic insurer, or a stock  
9 corporation to finance a domestic mutual insurer or the production of its  
10 business, or a corporation to be attorney-in-fact for a domestic reciprocal  
11 insurer.

12 Section 10. Access to records; Corrections.

13 (1) Every person being examined, its officers, employees, and  
14 representatives shall produce and make freely accessible to the Commissioner  
15 of Insurance the accounts, records, documents, and files in his possession or  
16 control relating to the subject of the examination, and shall otherwise facilitate  
17 the examination.

18 (2) If the Commissioner finds the accounts to be inadequate or  
19 improperly kept or posted, he may employ experts to rewrite, post, or balance  
20 them at the expense of the person being examined, if the person has failed to  
21 correct the accounting records after the Commissioner has given him written  
22 notice and a reasonable opportunity to do so.

23 Section 11. Examination reports.

24 (1) The Commissioner of Insurance shall make a full written  
25 report of each examination made by him.

1                   (2) The report shall be certified by the Commissioner or by his  
2 examiner in charge of the examination, and shall be filed in the Department of  
3 Resources and Development subject to subsection (3) of this section.

4                   (3) The Commissioner shall furnish to the person examined a  
5 copy of the examination report within 90 days after the execution of the report  
6 by the examiner and not less than 20 days prior to the filing of the report for  
7 public inspection in the department. If the person so requests in writing within  
8 the 20-day period, the Commissioner shall hold a hearing to consider objections  
9 of the person to the report as proposed, and shall not so file the report until  
10 after the hearing and until after any modifications in the report deemed  
11 necessary by the Commissioner have been made.

12                  (4) The report, when filed for public inspection, shall be admissible  
13 in evidence in any action or proceeding brought by the Commissioner against  
14 the person examined, or its officers or agents; except, that the commissioner  
15 or his examiners may at any time testify and offer other proper evidence as to  
16 information secured during the course of an examination, whether or not a  
17 written report of the examination has at that time been either made, served,  
18 or filed in the department.

19                  Section 12. Reports withheld. The Commissioner of Insurance may  
20 withhold from public inspection any examination or investigation report for so  
21 long as he deems prudent.

22                  Section 13. Examination expense.

23                  (1) Examinations of any insurer coming under this act made by  
24 the Commissioner or his examiners and employees shall, including fees, mileage,  
25 and expense incurred as to witnesses, be at the expense of the insurer

1 examined.

2 (2) The insurer examined and liable therefore shall pay to the  
3 Commissioner's examiners upon presentation of itemized statement thereof,  
4 their actual travel expenses, their reasonable living expense allowance, and their  
5 per diem compensation at a reasonable rate approved by the Commissioner,  
6 incurred on account of the examination. The Commissioner or his examiners  
7 shall not receive or accept any additional emolument on account of any  
8 examination.

9 Section 14. Hearings.

10 (1) The Commissioner of Insurance shall hold a hearing if required  
11 by this act. He may hold other hearings as he deems necessary for such  
12 purposes as are within the scope of this act.

13 (2) The hearing shall be held at a place designated by the  
14 Commissioner and at his discretion it may be open to the public.

15 (3) Application for a hearing made to the Commissioner pursuant  
16 to this act shall be in writing, shall specify in what respects the person so  
17 applying was aggrieved and the grounds to be relied upon as a basis for the  
18 relief to be demanded at the hearing. The Commissioner shall hold the hearing  
19 applied for within 30 days after his receipt of the application unless postponed  
20 by mutual consent.

21 Section 15. Stay of action.

22 (1) Such demand for a hearing received by the Commissioner of  
23 Insurance prior to the effective date of action taken or proposed to be taken  
24 by him shall stay the action pending the hearing, except as to action taken or  
25 proposed:

- 1 (a) Under an order on hearing;
- 2 (b) Under an order pursuant to an order on hearing; or
- 3 (c) Under an order to make good an impairment of the
- 4 assets of an insurer.

5 (2) In any case where an automatic stay is not provided for, and  
6 if the Commissioner after written request therefore fails to grant a stay, the  
7 person aggrieved thereby may apply to the Trial Division of the Supreme Court  
8 of the Federated States of Micronesia for a stay of the Commissioner's action.

9 Section 16. Procedure.

10 (1) The Commissioner of Insurance shall preside at the hearing  
11 which shall be held in the manner provided in title 17 of the Code of the  
12 Federated States of Micronesia.

13 (2) A copy of the record of the proceedings shall be furnished  
14 any person affected by the hearing or any other person upon written request  
15 and at the expense of such person.

16 (3) Upon good cause shown, the Commissioner may permit any  
17 person who has a valid interest in the proceeding to intervene, appear, and be  
18 heard at the hearing.

19 (4) Any person heard shall make full disclosure of facts pertinent  
20 to the subject of inquiry as requested by the Commissioner or by any person  
21 affected by the hearing.

22 Section 17. Witnesses subpoenaed.

23 (1) The Commissioner of Insurance, either on his own behalf or on  
24 behalf of any interested party, may take depositions, and subpoena witnesses  
25 or documentary evidence. The Commissioner may administer oaths, and

1 examine under oath any individual relative to the affairs of any person being  
2 examined, or relative to the subject of any hearing or investigation.

3 (2) The subpoena shall have the same force and effect and shall  
4 be served in the same manner as if issued from a court of record.

5 (3) Witness fees and mileage, if claimed, shall be allowed the  
6 same as for testimony in a court of record. Witness fees, mileage, and the  
7 actual expense necessarily incurred in securing attendance of witnesses and  
8 their testimony shall be itemized, and shall be paid by the person as to whom  
9 the examination is being made, or by the person if other than the  
10 Commissioner, at whose request the hearing is held.

11 Section 18. Contempt proceedings. If any individual fails to obey the  
12 subpoena, or obeys the subpoena but refuses to testify when required  
13 concerning any matter under examination or investigation or the subject of the  
14 hearing, the Commissioner shall file his written report thereof and proof of  
15 service of his subpoena, in the Supreme Court of the Federated States of  
16 Micronesia. Thereupon the Court shall forthwith cause the individual to be  
17 brought before it to show cause why he should not be held in contempt, and if  
18 so held, may punish him as if the failure or refusal related to a subpoena from  
19 or testimony in that court.

20 Section 19. Notice of hearing.

21 (1) The Commissioner of Insurance shall, not less than 10 days in  
22 advance, give notice to each person to be affected by the hearing of the  
23 matters prescribed in section 109 of title 17 of the Code of the Federated  
24 States of Micronesia.

25 (2) If the persons to be given notice are not specified in the

1 provision pursuant to which the hearing is held, the Commissioner shall give such  
2 notice to all persons directly affected by the hearing.

3 Section 20. Show cause notice. If any person is entitled to a hearing by  
4 this act before any proposed action is taken, the notice of the proposed action  
5 may be in the form of a notice to show cause stating that the proposed action  
6 may be taken unless such person shows cause, at a hearing to be held as  
7 specified in the notice, why the proposed action should not be taken, and  
8 stating the basis of the proposed action.

9 Section 21. Adjourned hearing. The Commissioner of Insurance may  
10 adjourn any hearing from time to time and from place to place without other  
11 notice of the adjourned hearing than announcement thereof at the hearing.

12 Section 22. Nonattendance. The validity of any hearing held in  
13 accordance with the notice thereof shall not be affected by failure of any  
14 person to attend or to remain in attendance.

15 Section 23. Order on hearing.

16 (1) Within 30 days after the termination of a hearing the  
17 Commissioner of Insurance shall make his order thereon and shall give a copy  
18 of the order to each person to whom notice of the hearing was given or  
19 required to be given.

20 (2) The order shall contain:

- 21 (a) A concise statement of the action taken;  
22 (b) The effective date of the action;  
23 (c) A designation of the provisions of this act or regulation  
24 pursuant to which the action is taken; and  
25 (d) Such other matters as may be required by title 17 of

1 the Code of the Federated States of Micronesia.

2 (3) An order on hearing may confirm, modify, or nullify action  
3 taken under an existing order, or may constitute the taking of any new action  
4 coming within the scope of the notice of such hearing.

5 Section 24. Appeal from Commissioner's order.

6 (1) Any person aggrieved on account of any official action or  
7 threatened action of the Commissioner of Insurance, or of its failure to act if  
8 such failure is deemed to constitute an act under this act, may demand a  
9 hearing thereon as provided in section 14 of this act. Any person aggrieved by  
10 any order of the Commissioner, including any order refusing a hearing, may  
11 appeal therefrom to the Trial Division of the Supreme Court of the Federated  
12 States of Micronesia.

13 (2) The appeal must be taken within 30 days after the order  
14 complained of was given by the Commissioner. If not so taken, the right to  
15 appeal from or restrain action under the order shall conclusively be deemed to  
16 have been waived.

17 (3) For the purpose of this section, person aggrieved shall include  
18 any person directly or indirectly injured or threatened with injury on account of  
19 any such order or action whether or not the person was a party to the  
20 proceedings, if any, out of which the order or action arises.

21 Section 25. Cost of record on appeal. The cost of preparing the record  
22 on appeal may be included in costs allowed by the court.

23 Section 26. Stay of action on appeal.

24 (1) The taking of an appeal shall not stay any action taken or  
25 proposed to be taken by the Commissioner of Insurance under the order



1 appealed from unless a stay is granted by the Commissioner or the reviewing  
2 court.

3 (2) In granting a stay of action, the Commissioner or the court  
4 shall consider whether the stay would tend to injure the public interest, and  
5 may require of the person taking the appeal such security or other conditions  
6 as may be deemed proper.

7 (3) If the order appealed from is one suspending, revoking, or  
8 refusing to renew an agent's, broker's, solicitor's, or adjuster's license, the  
9 appellant by filing a bond with the clerk of the court, subject to approval of the  
10 court, in the sum of \$1,000, conditioned to pay all costs that may be awarded  
11 against him, may, if filed prior to the effective date of the order, supersede the  
12 order appealed from until the final determination of the appeal.

13 Section 27. Hearing the appeal. The court shall give precedence to and  
14 may summarily hear and determine the appeal. The court shall hear the appeal  
15 upon the record in the manner provided in title 17 of the Code of the Federated  
16 States of Micronesia. Costs shall be awarded as in civil cases.

17 Section 28. Appeals to Appellate Division of the Supreme Court. An  
18 appeal may be taken to the Appellate Division of the Supreme Court of the  
19 Federated States of Micronesia, as in civil actions, from judgments of the Trial  
20 Division made pursuant to any provision of this act. The appeals shall be  
21 advance upon the trial calendar of the Supreme Court and be heard at the  
22 earliest convenient date.

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9-53

C. B. NO. 9-53

1 Section 29. Effective date. This act shall become law upon approval by  
2 the President of the Federated States of Micronesia or upon its becoming law  
3 without such approval.

4  
5 Date: June 12, 1995

Introduced by: Redley Hill  
Redley Hill

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