

AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended, by amending sections 603, 605, 801, 804, 806, 807, 809, 901 and 902 regarding the operation of the Social Security Administration, and for other purposes.

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

1 Section 1. Section 603 of title 53 of the Code of the
2 Federated States of Micronesia, as amended by Public Law No. 12-
3 76, is hereby further amended as follows:

4 "Section 603. Definitions. In this chapter, unless the
5 context otherwise requires, the following definitions
6 shall be applicable:

7 (1) 'Application' means the prescribed form or forms
8 provided to individuals by the Social Security
9 Administrator as the exclusive means by which an
10 individual may apply for the payment of any benefit
11 provided for in section 801, 802, 803 or 803A of this
12 act.

13 (2) 'Became disabled' means the first month in which
14 an
15 individual is under a disability.

16 (3) 'Board' means the Federated States of Micronesia
17 Social Security Board provided for by section 701 of
18 this subtitle.

19 (4) 'Child or spouse' means an applicant that the

1 court of the State in which an individual was domiciled
2 at the time of his death has or would find to be the
3 individual's child or spouse in determining the
4 devolution of intestate personal property. 'Child'
5 shall include only the deceased individual's biological
6 children and such adopted children whose confirmed
7 petition for adoption by the wage earner has been
8 presented to the Social Security Administration.

9 (5) 'Contributions' means the tax imposed upon income
10 of covered employees and the tax imposed upon employers
11 on account of wages paid to a covered employee.

12 (6) 'Disability' means inability to engage in any
13 substantial gainful employment by reason of any
14 medically determinable physical or mental impairment
15 which can be expected to result in death or which has
16 lasted or can be expected to last for a continuous
17 period of not less than 12 months.

18 (7) 'Earning test' means that an individual who
19 receives a retirement, disability, or survivor benefit
20 and who works in covered or noncovered employment shall
21 have his quarterly benefit reduced by one dollar for
22 each two dollars earned in a quarter, except there shall
23 be no reduction for the first \$300 earned in a quarter.
24 The reduction shall be applied in one of the subsequent
25 two quarters immediately after the quarter in which the
26 earnings were made, or as soon as possible thereafter.

1 All benefit recipients have an affirmative duty to
2 disclose to the FSM Social Security Administration all
3 earnings from either covered or non-covered employment
4 for any time period during which they received earnings
5 and for which they are receiving or claiming benefits.

6 (8) 'Employee' means:

7 (a) any officer of a corporation; or

8 (b) any individual who, under the usual common
9 law rules applicable in determining the employer-
10 employee relationship, has the status of an employee; or

11 (c) any self-employed person who has at least one
12 employee for whom he is required to report in a given
13 quarter; or

14 (d) any self-employed person who had more than
15 \$10,000 of annual gross revenue in the preceding
16 calendar year.

17 (9) 'Employment, covered' or 'covered employment'
18 means any service by an employee for an employer
19 incorporated or doing business within the Federated
20 States of Micronesia employing him, irrespective of
21 where such employment is performed, except family
22 employment.

23 (10) 'Employment, noncovered' or 'noncovered
24 employment' means any employment engaged in by an
25 employee where coverage is statutorily exempt in the
26 Federated States of Micronesia, family employment, or

1 employment by an_employee outside of the Federated
2 States of Micronesia and which is not taxable by the FSM
3 Social Security Administration.

4 (11) 'Family employment' means employment of a worker
5 by a member of the household, a parent or a son or
6 daughter except that the worker may apply to the Board
7 for a determination that such employment is bona fide
8 covered employment subject to this subtitle.

9 (12) 'Insured status' can mean any of the following:

10 (a) 'Currently insured individual' means any
11 individual who has had not less than eight quarters of
12 coverage during the 13-quarter period ending with:

13 (i) the quarter in which he died; or

14 (ii) the quarter in which he became entitled
15 to old age insurance benefits; or

16 (iii) the quarter in which he became disabled,
17 whichever first occurs.

18 (b) 'Fully insured individual' means any
19 individual whose total cumulative quarters of coverage
20 are at least as great as the number of years calculated
21 from the later of the date the worker turned age twenty-
22 one (21) or June 30, 1968, to the date the worker
23 attains age sixty (60), dies or becomes disabled. For
24 this purpose, partial years shall be counted as whole
25 years (for example 37.25 years would be rounded up to 38
26 years). Notwithstanding anything in this subsection, no

1 more than thirty-eight (38) quarters of coverage are
2 required to be fully insured, and in no case shall an
3 individual be a fully insured individual unless he has
4 at least 12 quarters of coverage.

5 (13) 'Quarter' and 'calendar quarter' mean a period of
6 three calendar months ending on March 31st, June 30th,
7 September 30th, or December 31st. 'Quarter of coverage'
8 means a quarter in which the individual has been paid
9 \$50 or more in wages in covered employment subject to
10 this subtitle.

11 (14) 'Wages' means remuneration paid subject to the
12 provisions of this subtitle, including the cash value of
13 all remuneration paid in any medium other than cash and
14 remuneration accruing to a self-employed person.

15 Remuneration accruing to a self-employed person shall be
16 deemed to be twice the amount paid to the highest paid
17 employee reported by the self-employed person in a
18 quarter, with a maximum of \$3,000 per quarter through
19 September 30, 2003 and a maximum of \$5,000 per quarter
20 thereafter. Remuneration accruing to a self-employed
21 person who has no covered employees shall, for each
22 quarter of a year, be deemed to be 2.5 percent of the
23 gross revenue of the business or gross revenue of all
24 businesses for the previous calendar year, subject to a
25 \$3,000 maximum per quarter through September 30, 2003
26 and a maximum of \$5,000 per quarter thereafter.

1 Remuneration paid for any service which is more or less
2 than a whole dollar shall, as may be prescribed by
3 regulations, be computed to the nearest dollar. Wages
4 shall not include:

5 (a) that part of remuneration in excess of \$3,000
6 through September 30, 2003 and in excess of \$5,000
7 thereafter paid in a quarterly reporting period by one
8 employer;

9 (b) any payment on account of sickness or
10 accident disability, or medical or hospitalization
11 expenses made by an employer to or on behalf of an
12 employee;

13 (c) any payment made to or on behalf of an
14 employee or to the employee's beneficiary from a trust
15 or annuity;

16 (d) remuneration paid in any medium other than
17 cash to an employee for service not in the course of the
18 employer's trade or business or for domestic service in
19 a private home of an employer;

20 (e) remuneration paid for casual or intermittent
21 labor not performed in the course of the employer's
22 trade or business when such employment does not exceed
23 employment in more than one week in each calendar month
24 of each quarterly reporting period; and

25 (f) remuneration from family employment subject
26 to the provisions of this subtitle."

1 Section 2. Section 605 of title 53 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 605. Violations - Penalties and interest
5 - Attorney's fees and costs.

6 (1) Any person who knowingly makes any false statement
7 or who falsifies any report to or record of the
8 Federated States of Micronesia Social Security System in
9 an attempt to defraud the system is guilty of a
10 misdemeanor and upon conviction thereof shall be
11 imprisoned for a period of not more than one year, or
12 fined not more than \$2,000 or both.

13 (2) Any person who willfully fails to report wages
14 paid or pay contributions required thereon is guilty of
15 a misdemeanor and, in addition to any other penalty
16 prescribed by law, such a person shall also pay
17 penalties not in excess of 100 percent of the tax due
18 plus interest to the Board as it by regulation shall
19 require.

20 (3) Any person who receives benefits to which he or
21 she is not entitled shall be liable to repay the Social
22 Security Administration those benefits, and in addition
23 to the remedies under section 808 of this subtitle, may
24 be subject to civil action for recovery of those
25 benefits.

26 (4) Any covered employer who fails to submit the

1 quarterly report and pay the social security tax within
2 ten days after the end of the quarter shall be
3 considered delinquent. The Board or its authorized
4 representatives shall be vested with the authority to
5 levy a penalty of not more than \$1,000 on delinquent
6 employers.

7 (5) If any tax or penalty imposed by this subtitle is
8 not paid on or before the date prescribed for such
9 payment, the Board or its authorized representatives
10 shall be vested with the authority to collect, in
11 addition to such tax and penalty, interest on the unpaid
12 balance of the tax principal at the rate of 12 percent
13 per annum from its due date until the date it is paid.

14 (6) In the event that any claim for monies due to the
15 Social Security Administration under this subtitle is
16 referred to an attorney or trial counselor for
17 collection, whether or not suit is brought for the
18 collection thereof, the individual or entity shall
19 additionally be liable for reasonable attorney or trial
20 counselor fees and costs of collection, including court
21 costs incurred by the Social Security Administration.
22 The Social Security Administration in its discretion may
23 waive part or all of any attorney fee and costs
24 awardable under this section."

25 Section 3. Section 801 of title 53 of the Code of the
26 Federated States of Micronesia, as amended by Public Law No. 12-

1 76, is hereby further amended to read as follows:

2 "Section 801. Scope of coverage; Verification of
3 employment; Old age benefits.

4 (1) All employees, wherever employed by an employer
5 incorporated or doing business in the Federated States
6 of Micronesia, shall be covered unless both the employer
7 and the employee are currently subject to any other
8 recognized Social Security System. The highest
9 administrator of the Social Security System, or his
10 designees, shall cause at least two unannounced
11 employment site checks to be conducted upon every non-
12 government employee who first begins to contribute to
13 the Social Security System after age 45 to ensure that
14 such non-government employee is actually engaged in an
15 employer-employee relationship that will allow him to be
16 covered and eligible for benefits under this subtitle.
17 The two employment site checks shall not be conducted
18 within one month of each other and both shall be
19 conducted within the first six months of the employee's
20 first contribution payment to the Social Security
21 System. For the purposes of this subtitle, any elected
22 official in any Government unit or body in the Federated
23 States of Micronesia is deemed to be an employee
24 employed by a Federated States of Micronesia employer.
25 The governmental unit or body to which such person is
26 elected is subject to the provisions in this subtitle

1 relating to the duty and obligations of a Federated
2 States of Micronesia employer.

3 (2) Every person who:

4 (a) is fully insured;

5 (b) has attained age 60; and

6 (c) has filed a complete application with the
7 Social Security Administrator for old age insurance
8 shall be entitled to an old age insurance benefit
9 subject to the earnings test as defined in this
10 subtitle.

11 (3) Old age insurance benefit payments shall be paid
12 for each month commencing with the month in which both
13 paragraphs (2) (a) and (2) (b) of this section are
14 satisfied and shall end with the month preceding the
15 month in which the applicant dies.

16 (4) Notwithstanding the provisions of subsections (2)
17 and (3) above, retroactive payments shall be limited to
18 the twelve (12) months immediately preceding the month
19 in which the individual entitled to benefits has
20 submitted an application.

21 (5) In an application for benefits under this section,
22 whether individually or as a dependent, the applicant
23 has the burden to come forward with evidence and to take
24 all steps necessary to file a completed application.
25 The Social Security Administration has the right to deny
26 an application for benefits solely on the basis of non-

1 compliance with the application process, or the failure
2 of the applicant to produce reasonably available
3 documents or information."

4 Section 4. Section 804 of title 53 of the Code of the
5 Federated States of Micronesia is hereby amended to read as
6 follows:

7 "Section 804. Amount of retirement and disability
8 insurance benefits.

9 (1) An insured eligible individual shall be paid a
10 monthly old age benefit for life, except for any month
11 of disqualification as provided by this subtitle, in an
12 amount calculated upon an annual basis of 16.5 percent
13 of the first \$10,000 of cumulative covered earnings,
14 plus 3 percent of cumulative covered earnings in excess
15 of \$10,000 but not in excess of the next \$30,000, plus 2
16 percent of cumulative covered earnings in excess of
17 \$40,000. Earnings for covered employment after
18 commencement of payments for retirement or disability
19 insurance benefits shall be included in benefit
20 calculations upon subsequent application for benefits,
21 but such earnings shall be applicable for benefits for
22 months after the calendar year in which such earnings
23 occurred. For the purpose of this section cumulative
24 covered earnings includes earnings on which
25 contributions have been paid by the individual to the
26 Trust Territory Social Security System.

1 (2) An insured, eligible individual shall be paid a
2 minimum monthly benefit of fifty dollars if the benefit
3 amount calculated in accordance with subsection (1) of
4 this section is less than fifty dollars monthly.

5 (3) An individual who is fully insured and who has
6 been under a disability for three full calendar months
7 shall be paid a monthly benefit for life or until
8 recovery from the disability, except for any month of
9 disqualification as provided by this subtitle in an
10 amount calculated in accordance with the preceding
11 subsections of this section. Further, the amount of the
12 benefit as so determined shall, if the individual is
13 receiving a periodic workmen's compensation benefit, be
14 reduced each month by the excess of the sum of the
15 workmen's compensation benefit for that month and the
16 benefit payable under this act over eighty percent of
17 one-twelfth of the highest annual covered wages in the
18 period consisting of the year in which the disability
19 occurred and the preceding five years. If a workmen's
20 compensation benefit was payable in periodic benefits
21 but was commuted to a lump sum, for purposes of this
22 subsection it will be considered that the periodic
23 benefit originally available was paid in each month that
24 it would have been paid if the commutation had not
25 occurred."

26 Section 5. Section 806 of title 53 of the Code of the

1 Federated States of Micronesia is hereby amended to read as
2 follows:

3 "Section 806. Amount of survivor insurance benefits.

4 (1) The surviving spouse of a fully insured worker
5 eligible in accordance with section 802 of this chapter
6 shall be paid a monthly benefit or disability in an
7 amount equal to 60 percent of the retirement or
8 disability insurance benefit calculated for the deceased
9 spouse at the date of death.

10 (2) Each eligible child of an insured worker shall be
11 entitled to a monthly benefit of 15 percent of the
12 retirement insurance benefit calculated for the deceased
13 parent at the date of death.

14 (3) If the spouse of the deceased insured worker is
15 eligible for retirement or disability benefits based on
16 his or her own employment coverage, and is also eligible
17 for survivors' benefits, the spouse shall receive
18 whatever benefit pays the higher monthly payment. In
19 addition, the surviving spouse shall be entitled to
20 receive a lump sum equal to four percent of the
21 cumulative covered earnings upon which the lower benefit
22 is based, less the sum of all benefits already received
23 on the basis of those cumulative covered earnings.

24 (4) The monthly benefit paid to the surviving
25 child(ren) shall be based on the higher of the two
26 benefits that have been earned by the deceased parents

1 if fully insured or currently insured. In addition, the
2 surviving child(ren) shall be entitled to receive a lump
3 sum equal to two percent of the other deceased parent's
4 cumulative covered earnings, less the sum of all
5 benefits, if any, received by the deceased parent.

6 (5) The total survivors' benefit paid to the spouse
7 and children may not exceed the retirement benefit
8 calculated for the decedent as of the date of death,
9 except that if the surviving spouse receives benefits
10 based on his or her own employment coverage, that amount
11 plus the survivors' benefits for the children may exceed
12 the amount of the deceased's retirement benefit. In no
13 event shall the amount paid be less than the minimum
14 established by the Social Security Administration, as
15 set out in section 804 of title 53 of the Code of the
16 Federated States of Micronesia."

17 Section 6. Section 807 of title 53 of the Code of the
18 Federated States of Micronesia is hereby amended to read as
19 follows:

20 Section 807. Lump sum benefits.

21 (1) When a worker dies and the benefits paid,
22 including survivor benefit, have been less than four
23 percent of his cumulative covered earnings, the
24 survivors, heirs, or the estate of such individual shall
25 be paid a lump sum benefit, after all rights to survivor
26 benefits have terminated, in an amount equal to four

1 percent of the decedent's cumulative covered earnings,
2 reduced by the amount of any benefits paid to the
3 insured worker and his eligible dependents. For the
4 purpose of this section, cumulative covered earnings
5 includes earnings on which contributions have been paid
6 by the individual to the Trust Territory Social Security
7 System.

8 (2) In the absence of a will, survivors shall be paid
9 in the following order:

10 (a) spouse, if living, otherwise children in
11 equal shares or guardian, if such children are minors;

12 (b) parents in equal shares; or

13 (c) duly appointed legal representatives of the
14 deceased or, if none, person or persons determined to be
15 entitled thereto under the laws and customs of the last
16 domicile of the deceased person.

17 (3) Only citizens of the Federated States of
18 Micronesia, Republic of Palau and Republic of the
19 Marshall Islands shall be eligible for benefits under
20 this section."

21 Section 7. Section 809 of title 53 of the Code of the
22 Federated States of Micronesia is hereby amended to read as
23 follows:

24 "Section 809. Payment of benefits to foreign citizens
25 outside Federated States of Micronesia.

26 Unless modified by a totalization or other international

1 agreement, benefit payments under this act shall be paid
2 to a beneficiary who is not a citizen or national of the
3 Federated States of Micronesia and does not reside in
4 the Federated States of Micronesia, as follows:

5 (a) Payments shall be made to citizens and
6 nationals of the Republic of Palau, the Republic of the
7 Marshall Islands and the United States as if they were
8 citizens or nationals of the Federated States of
9 Micronesia as long as the Social Security Administration
10 of those nations gives citizens and nationals of the
11 Federated States of Micronesia reciprocal treatment.

12 (b) Payments shall be made to citizens and
13 nationals of other nations in a lump sum equal to the
14 total amount contributed to the Social Security
15 Administration by the employee while employed in the
16 Federated States of Micronesia as of the date the
17 individual turned age sixty (60), became disabled or
18 died. However, the lump sum shall be reduced by any
19 payments made by the Social Security Administration to
20 the employee or a surviving spouse or child before the
21 lump sum is awarded.

22 (c) For purpose of this section, an individual
23 resides in the Federated States of Micronesia if they
24 are present in the territory of the Federated States of
25 Micronesia for 180 days out of the last 365 days and
26 have ties to the Federated States of Micronesia that

1 indicate residence such as a home, vehicle, bank
2 accounts or personal property."

3 Section 8. Section 901 of title 53 of the Code of the
4 Federated States of Micronesia is hereby further amended as
5 follows:

6 "Section 901. Employee contributions.

7 (1) There is hereby imposed on every employee a tax
8 equal to the following percentages of wages received by
9 him with respect to covered employment subject to this
10 subtitle:

11 (a) with respect to wages paid from the effective
12 date of this act through June 30, 1985, the rate shall
13 be two percent;

14 (b) with respect to wages paid from July 1, 1985,
15 through June 30, 1990, the rate shall be three percent;

16 (c) with respect to wages paid from July 1, 1990,
17 through June 30, 1995, the rate shall be four percent;

18 (d) with respect to wages paid from July 1, 1995,
19 through June 30, 2000, the rate shall be five percent;

20 (e) with respect to wages paid after June 30,
21 2000, the rate shall be six percent.

22 (2) The tax imposed shall be collected by the employer
23 of the employee by deducting the amount of the tax from
24 the wages as and when paid. Every employer required to
25 so deduct the tax shall be liable for the payment of
26 such tax to the Board and shall be indemnified against

1 the claims and demands of any person for the amount of
2 any such payment made by such employer."

3 Section 9. Section 902 of Title 53 of the Code of the
4 Federated States of Micronesia is hereby amended as follows:

5 "Section 902. Employer contributions.

6 There is hereby imposed on every employer an excise tax,
7 with respect to having an individual in his employ,
8 equal to the following percentages of wages, paid by him
9 with respect to covered employment subject to this
10 subtitle:

11 (1) with respect to wages paid from the effective date
12 of this act through June 30, 1985, the rate shall be two
13 percent;

14 (2) with respect to wages paid from July 1, 1985,
15 through June 30, 1990, the rate shall be three percent;

16 (3) with respect to wages paid from July 1, 1990,
17 through June 30, 1995, the rate shall be four percent;

18 (4) with respect to wages paid from July 1, 1995,
19 through June 30, 2000, the rate shall be five
20 percent;

21 (5) with respect to wages paid after June 30, 2000,
22 the rate shall be six percent."

23 Section 10. Notwithstanding the provisions hereof, nothing
24 contained in this act shall operate to reduce or otherwise impair
25 the benefits being paid to beneficiaries who are already receiving
26 benefits prior to the effective date hereof.

1 Section 11. This act shall become effective immediately upon
2 this act becoming law. This act shall become law upon approval by
3 the President of the Federated States of Micronesia or upon its
4 becoming law without such approval.

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8 November 8, 2005

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13 /s/Joseph J. Urusemal
14 Joseph J. Urusemal
15 President
16 Federated States of Micronesia

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