A BILL FOR AN ACT

To amend title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, by amending sections 102, 104, 208, 210, 214, 216, 301, 302, 305, 306, 307, 309, 310, 314, 316, 319, 321, 402 and 602, and adding new sections 105, 217, 322, 323, 406 and 506, in order to add and amend definitions, to extend the period for insurer compliance with the Act, to change certain requirements for insurer licensing and registration, to change certain provisions with respect to functioning of the Insurance Board, to reduce penalties, to require auditors and actuaries to make certain disclosures, to change and add provisions regarding winding up, limitation on loans, premium remittance, fraud and claim settlement, and manner of record keeping, to correct typographical errors, and for other purposes.

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

Section 1. Section 102 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

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

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

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

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

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

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

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

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

(8) 'domestic insurer' means an insurer formed under the laws of and having its head office in the Federated States of Micronesia a company that is licensed under this Act to carry on an insurance business in the Federated States of Micronesia;

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

(10) 'foreign insurer' means an insurer who is not a domestic insurer entity constituted and licensed to conduct an insurance business by a jurisdiction other than the Federated States of Micronesia, that has been
registered or licensed under this Act to carry on insurance business in the Federated States of Micronesia;

[(10) (11)] 'insurance' means a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies;

[(11) (12)] 'insurance business' means the soliciting, effecting or carrying out of contracts of insurance, including re-insurance, and the following transactions;

(i) making or negotiating an insurance policy;

(ii) making or negotiating a guaranty or surety contract not merely incidental to another legitimate business or activity;

(iii) taking, forwarding or receiving and insurance application;

(iv) disseminating information concerning coverage and rates;

(v) receiving or collecting any consideration for insurance;

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

(vii) directly or indirectly acting as an agent, broker or solicitor, or any other form of representative of an insurer;
(viii) setting rates;
(ix) inspecting a risk;
(x) investigating or adjusting a claim or loss;
(xi) doing or proposing to do any activity that is
in substance equivalent to conduct described in this
 provision.

(13) 'insurer' means a [person effecting and
carrying on insurance business in the Federated States
of Micronesia] a domestic or foreign insurer;

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

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

(16) 'officer' means, in relation to a
partnership, corporation, association, trust or any other business entity, a director, manager or secretary of that body, or any person having or exercising powers or duties substantially similar to any of those officers;

'(person' means any person, natural or legal, including individuals, partnerships, and corporations, and associations, trusts or any other business entity);

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

'policy-owner' means a person who is entitled to claim any benefit provided for in a policy;

'premium' means the money to be paid in return for an undertaking to provide policy benefits;

'reinsurance' means a contract by which an insurer insures any part of the risk insured by the insurer with another insurer;

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

'regulations' means regulations made by the Insurance Board under this Act.

'solicitor' means an individual who solicits
applications for insurance or negotiates insurance business on behalf of an insurer or an agent and earns commissions for each successful sale, but is neither an insurer, an insurance agent, or an employee of an insurer or agent.”

Section 2. Section 104 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

“Section 104. Transition.

(1) This Act applies to any person transacting insurance business on or after the effective date of this Act.

(2) All persons transacting insurance business as of the effective date of this Act will be permitted a grace period of [180] 365 days from the effective date of this Act before being penalized for violation of this Act.

(3) Any such person must, within [180] 365 days of the effective date of this Act, apply for a license or registration under this Act or cease their insurance business.

(4) Any person who timely files an application shall have their grace period extended until such time as their [registration] application is approved or denied.

(5) Any person who does not file an application within the 180 days or whose timely filed application is denied
must stop transacting insurance business, but continue to administer their policies and wind up their business in accordance with the provisions of this Act.”

Section 3. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 105 of title 37 to read as follows:

"Section 105. Manner of record keeping. All information and records required to be produced or maintained pursuant to this Act shall be stated in English and in US Dollars.

Section 4. Section 208 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

“Section 208. Conflict of interest.

(1) Neither a member of the Insurance Board, the Insurance Commissioner or any person acting on behalf or under the supervision of the Board or Commissioner shall, during the discharge of their office:

(a) be an officer, director, or employee of any person licensed or registered under this Act or an affiliated entity;

(b) own or deal directly or indirectly in the shares or obligations of any person licensed or registered under this Act or an affiliated entity;
(c) be an insurer, insurance agent, insurance broker or insurance solicitor;

(d) be interested in or receive directly or indirectly from an insurer or affiliated entity, or from any of its officers, directors, or employees, or from any insurance agent, insurance broker or insurance solicitor, any salary, gratuity, compensation, or other thing of value by way of gift, credit, compensation for services, or for any other reason; or

(e) be interested in or under obligation to negotiate any contract, obligation, or settlement for another person with such insurer or affiliated entity.

(2) Any violation of this Section by any person referred to herein shall be sufficient cause for removal from office.

(3) Notwithstanding subsection (1), it shall not be a conflict of interest to be a policy owner or beneficiary provided that full disclosure of such ownership is made to the Insurance Board and in the case of the members of the Insurance Board, disclosure shall be made to the President of the Federated States of Micronesia."

Section 5. Section 210 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

"Section 210. Appeal."
(1) Any order issued under this Act may be appealed to the Insurance Board pursuant to the provisions of title 17, chapter 1 of the Code of the Federated States of Micronesia.

(2) A decision of the Insurance Board shall be final agency action for purposes of appeal to the Supreme Court of the Federated States of Micronesia. The filing of an appeal for judicial review shall not stay enforcement of an order but the Court may order a stay upon such terms as it deems proper.

(3) An appeal must be filed with the Insurance Board within [30] 20 days of the date of issuance of the order being appealed. Unless an appeal is filed the order shall become final [30] 20 days after issuance and shall be subject to enforcement. If an appeal is filed, the order shall not become final until and unless it is affirmed by the Insurance Board."

Section 6. Section 213 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

"Section 213. Commissioner may demand information. The Commissioner may, for the purpose of carrying out the provisions of this Act, demand from a person applying for a license or registration or a person licensed or registered under this Act [an applicant for a license or
a license holder] any document or information relating
to any matter connected with his insurance business or
transactions, and any such person shall comply with any
such demand.”
Section 7. Section 214 of title 37 of the Code of the
Federated States of Micronesia, as amended by Public Law 14-66, is
hereby further amended as follows:

“Section 214. Prohibition on disclosure.
(1) No person who, in his past or current capacity as an
insurer, agent, broker or solicitor has acquired
information concerning a policy owner shall disclose
such information except:
(a) to an affiliated entity in the usual course
of business;
(b) with the written authorization of the policy
owner or his legal personal representative;
(c) for the purpose of performing his duties
under this Act;
(d) when required to do so by a court in the
Federated States of Micronesia;
(e) in order to comply with the provisions of
this Act or any other law.
(2) No member of the Insurance Board, the Insurance
Commissioner or any employee or agent of the Insurance
Board or Commissioner shall disclose to any person any
information [whatevers whatsoever] relating to any person licensed or registered under this Act or a policy-owner that he has acquired in the performance of his duties under this [title] Act except:

(a) for the purpose of the performance of his duties or the exercise of his functions;

(b) when lawfully required to do so by any court, or in proceedings for an offense against this title;

(c) with the consent of the person to whom the information relates;

(d) to the extent that the information is available under any other law or in a public documents;

(e) in aggregated or summary form, in such a manner as to prevent any information disclosed from being identified by any person has being related to a particular person, including for statistical purposes;

or

(f) in confidence to a supervisory authority in the Federated States of Micronesia or any other country [for the purposes of the exercise of functions corresponding to or similar to those conferred on the] [Insurance Board under this Act], so long as the Insurance Board is reasonably satisfied the recipient of the information will maintain confidentiality.
(g) In confidence to advisors from the private sector, international organizations or foreign governments for the purpose of improving the regulatory system and performance of the Insurance Board, so long as the Insurance Board is reasonably satisfied the recipient of the information will maintain confidentiality."

Section 8. Section 216 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

"Section 216. Examination of affairs.

(1) The Commissioner may examine the affairs of any person licensed or registered under this Act or of any person who is or has at any relevant time been an affiliated entity of any person licensed or registered under this Act.

(2) The Commissioner may enter the office of any person licensed or registered under this Act at any reasonable time, without notice, for purposes of examination.

(3) It shall be the duty of the person under examination, as well as their past and present officers, employees and any affiliated entities, to produce to the Commissioner all books, records and documents relating to the person or affiliated entity under investigation.
which are in their custody or control, and otherwise to give to the Commissioner all reasonable assistance in connection with the examination.

(4) The Commissioner may:

(a) examine on oath the officers, employees and agents of the person under examination in relation to its business and may administer an oath accordingly; and

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

(5) The Commissioner may designate persons to conduct the examination on behalf of the Commissioner.

[45] (6) The Commissioner may, if he thinks fit, charge the person whose affairs are examined all expenses properly incurred in connection with the examination or in connection with the proceedings instituted as a result of the examination, which shall be paid as a fee in accordance with the Regulations.”

Section 9. Title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended by enacting a new section 217 to read as follows:
“Section 217. Indemnity. Neither the Insurance Board nor any of its members, the Insurance Commissioner, employee or any person duly appointed to assist the Insurance Board in carrying out its powers and duties under this Act shall incur any liability as a result of anything done in good faith in the exercise of any power or the performance of any duty under this title.”

Section 10. Section 301 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

“Section 301. License required.

(1) No insurance business shall be carried on, in or from within the Federated States of Micronesia except pursuant to the provisions of this [Title] Act.

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

(a) an insurer,

(b) an agent,

(c) a solicitor, or

(d) a broker.

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

(4) Only agents transacting insurance business on behalf of licensed or registered insurers shall be eligible for a license.

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

[(5) (6) A foreign insurer who [receives an amount
less than two million dollars in income from premiums
collected in the Federated States of Micronesia in a
fiscal year] does not make the premium collections
described in (5) shall be permitted to do business
through a person licensed as an agent if the foreign
insurer is registered, unless such foreign insurer
chooses to be licensed as an insurer instead.

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

Section 11. Section 302 of title 37 of the Code of the
Federated States of Micronesia, as amended by Public Law 14-66, is
hereby further amended as follows:

“Section 302. Application for license.
(1) An applicant for a license shall submit the
following information to the Insurance Board:
(a) The name and address of the applicant;
(b) In the case of a business entity, the corporate charter and bylaws and the names and address of the officers;

(c) The address of the applicant’s office in the Federated States of Micronesia and an appointment of a representative resident in the Federated States of Micronesia for service of process and to whom notices and orders under this Act shall be sent;

(d) Evidence of the good character, financial responsibility, business experience and ability of the applicant, or in the case of a business entity, its officers;

(e) In the case of applicants for an agent, solicitor or broker’s license, information on prior insurance experience of the applicant and the names and addresses of prior insurers or agents represented by the applicant;

(f) The type of license requested;

(g) The classes of insurance proposed to be transacted and a demonstration of capacity to transact such classes of insurance;

(h) In the case of applicants for an agent’s license, the request of a licensed or registered insurer that the applicant be licensed to represent the insurer as an agent;
(i) In the case of applicants for a solicitor’s license, the request of a licensed insurer or licensed agent that the applicant be licensed to represent the insurer or agent;

(k) An audited financial statement for the most recent fiscal year, a statement of prospective income and a business plan for the forthcoming three years;

(l) In the case of applicants for an insurer’s license, the insurer must be able to meet the minimum capital requirement of $100,000 and demonstrate capacity to meet the ongoing minimum capital requirements as specified by the Insurance Board;

(m) In the case of applicants for an insurer’s license, disclosure of all contracts of reinsurance;

(n) In the case of applicants for an insurer’s license, if the applicant is a foreign insurer, a certificate issued by the insurance supervisory authority in the place in which the insurer is incorporated or constituted to the effect that [he] it is complying with all the applicable insurance supervisory requirements of that authority;

(o) Other information and fees as required by Regulations.

(2) The Insurance Board may require that an examination be made into the business and affairs of the
applicant, including, in the case of a foreign insurer, an examination by the insurance authority of the jurisdiction in which such insurer is organized. Such examination shall be at the cost of the applicant.

(3) The applicant has an ongoing duty to provide the Insurance Board with new or amended information relevant to the application while the application is pending and if a license is issued, after the issuance of a license."

Section 12. Section 305 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

"Section 305. Cancellation of license. The Insurance Board may cancel a license by issuing an order of cancellation based on any of the following grounds:

(1) the license holder or a trustee or receiver appointed by the court has requested cancellation;

(2) the license holder has ceased to carry on an insurance business in the Federated States of Micronesia;

(3) the license holder has not commenced business in the Federated States of Micronesia within one year of being issued a license;

(4) in the case of an agent, that the insurer whom they represent no longer wishes to be represented by the
agent or the insurer is no longer licensed or registered by the Insurance Board; in the case of a solicitor, that the agent or insurer whom they represent no longer wishes to be represented by the solicitor or the agent or insurer is no longer licensed or approved by the Insurance Board;

(5) false, misleading or inaccurate information was given in an application under this Act or pursuant to reporting requirements or a demand for information under this Act;

(6) any cause for which issuance of the license could have been refused if it had then existed and been known to the Commissioner at the time of issuance;

(7) in the case of an insurer, the insurer has failed to pay a final judgment for the payment of a claim owed under a policy;

(8) in the case of an insurer, the insurer has engaged in unfair trade practices;

(9) the license holder has misrepresented the terms of any actual or proposed insurance contract or application for insurance;

(10) in the case of an insurer, the unencumbered assets, or capital or solvency requirements as defined by the Commissioner, of the insurer are insufficient for the proper conduct of his insurance business;
(11) the license holder is not conducting business in accordance with sound insurance principles;
(12) the license holder has contravened any of the provisions of this Act, regulations or conditions of license."

Section 13. Section 306 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

"Section 306. [Suspension or r] Restriction of license. The Insurance Board may [suspend or] restrict a license by issuing an order of [suspension or] restriction [if the Commissioner is of the belief that the license holder is likely to qualify for cancellation but that suspension or restriction is in the best interests of the policy owners]. Restrictions on a license may include limitations on business activities, prohibitions against writing of new business or commencement of new activities or acquisitions, directions to stop practices that are unsafe or unsound, requirements to put assets of the insurer in trust or restrict disposal of assets, and prohibitions against particular individuals from the business of insurance."

Section 14. Section 307 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:
“Section 307. Registered Foreign Insurers.  [Only agents transacting insurance business on behalf of registered insurers shall be eligible for a license.]  

   (1) [All insurers licensed under this Act are registered insurers.]

   [(2)] A foreign insurer [who is licensed by another jurisdiction] may be registered by providing the following:

   (a) information from the insurers home supervisory authority that the insurer is solvent and meets all the regulatory requirements in the home jurisdiction and is otherwise in good standing; and a statement from the home supervisory authority that the foreign insurer is approved for transaction of insurance business through an agent in the Federated States of Micronesia; and

   (b) posting of a bond, or deposit to an escrow account, in the sum of $100,000, to be withdrawn by the Commissioner upon the occurrence of certain events as stated in the bond or escrow agreement; and

   (c) [pursuant to Regulations], compliance with any a requirement, if set forth in Regulations under this Act, that a certain amount of premiums collected on behalf of the insurer are maintained in the Federated States of Micronesia; and
(d) designation of an agent for service of process.

(2) A foreign insurer providing a marine, aviation and transportation policy may be registered without posting the bond required in (1)(b).

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

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

Section 15. Section 309 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

“Section 309. Reporting requirements.

(1) Licensed insurers and registered insurers shall provide the following information to the Insurance Board:
(a) Within three months of the end of each fiscal year:

(i) a certified copy of the audited balance sheet and accounts showing the financial position of all the insurance business of the license holder at the close of that year;

(ii) a certificate of an auditor stating that the auditor has satisfied himself that the accounts of the insurer have been properly prepared in accordance with the books and records of the insurer and in accordance with Generally Accepted Accounting Principles and such other particulars as may be prescribed by Regulation; and

(iii) [all insurers who operate as separate entities which can be wound up under domestic or foreign law shall render separate accounts but where they are associated together in a group the holding company shall also furnish to the Commissioner consolidated accounts of the insurance business for the group as a whole; and] such other documents and information as the Commissioner may require or as may be prescribed by Regulation.

(iv) [such other documents and information as the Commissioner may require or as may be prescribed by Regulation]. All [all] insurers who operate as separate entities which can be wound up under domestic or foreign
law shall render separate accounts but where they are
associated together in a group the holding company shall
also furnish to the Commissioner consolidated accounts
of the insurance business for the group as a whole.

(b) A copy of any report on the affairs of the
insurer submitted to the policy-owners or shareholders
of the insurer in respect of the financial year to which
the balance sheet relates.

(c) In the case of licensed insurers only, a [A]
copy of all contracts of reinsurance at the time they
are entered into and upon any amendment.

(2) Licensed agents, brokers and solicitors shall
provide the following information to the Insurance Board
on a quarterly basis and in a form determined by the
Insurance Board:

(a) an accounting of all premiums collected,
including the dates of receipt from the policy owner,
the dates of remittance to the insurer, and any
commissions received.

(b) Such other information as determined by the
Insurance Board.”

Section 16. Section 310 of title 37 of the Code of the
Federated States of Micronesia, as amended by Public Law 14-66, is
hereby further amended as follows:
"Section 310. Periodic investigations to be made into financial position of insurers.

(1) A licensed insurer shall, not less than once in every 3 years, cause an investigation into its financial position, including a valuation of its liabilities to be made by an actuary; provided that the Commissioner may require a insurer to cause such an investigation to be made at any time if he deems it to be in the [public] policy owners interest to do so.

(2) A licensed insurer shall, whenever its financial position is investigated with a view to a distribution of surplus or in compliance with subsection (1), [prepare and] furnish to the Commissioner a full report of the actuary by whom the investigation was made or an abstract thereof at the Commissioner's option, and a statement of its life insurance business at that date, as soon as such a report is furnished to the insurer by the actuary. The actuary shall also provide a statement of the assumptions and the methods used in making the valuation."

Section 17. Section 314 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

"Section 314. Limitation on Borrowing. At no time may the [undischarged] amount of moneys to be borrowed or
secured by a domestic insurer exceed \textit{ten percent} of the assets of the domestic insurer without the written consent of the Commissioner.”

Section 18. Section 316 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

"Section 316. 	extbf{Prohibited investments.} [No domestic insurer shall invest in the stock of any other corporation, acquire any real estate, except with the approval of the Insurance Commission for use as its principal office in the Federated States of Micronesia, or pledge any of its assets as security for or guaranty any obligations of others.] The Insurance Board may require that a domestic insurer not make investments of a specified class and may in that case require such insurer to liquidate investments of that class within a specified period.”

Section 19. Section 319 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

"Section 319. 	extbf{Winding up of insurance business.}"

(1) Any license holder may terminate its business in the Federated States of Micronesia with the approval and under the supervision of the Insurance Commissioner and
pursuant to Title 31 of the Code of the Federated States of Micronesia as amended by Public Law 13-73.

(2) The Commissioner may present a petition for the winding-up of an insurer in accordance with the provisions of Title 31 of the Code of the Federated States of Micronesia as amended by Public Law 13-73.

(3) Notwithstanding any other law, the business and assets of the insurer shall be liquidated in an orderly manner so as to fully protect all of the policy owners of the insurer in the Federated States of Micronesia. Policy owners shall take first priority with respect to payment of the obligations of the insurer.”

Section 20. Section 321 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is hereby further amended as follows:

“Section 321. Premiums.

(1) Any licensed agent, broker or solicitor shall, for the purpose of receiving any premium for a policy, be deemed to be the agent of the insurer and notwithstanding any conditions or stipulations to the contrary the insurer whom they represent shall be deemed to have received any premium received by such agent, broker or solicitor.

(2) A licensed agent, broker or solicitor who acts in negotiating or renewing a policy of an insurer and
receives payment of the premium for the policy from the policy owner, shall be guilty of an offense if he fails to forward the premium to the insurer within 30 days of the receipt of the premium [or such shorter or longer period as may be agreed in advance by the insurer], less his commission and any other deductions to which by written consent of the insurer he is entitled, provided that if any person charged with an offense under this section shall satisfy the court that he was prevented by illness or other cause beyond his control from due compliance with such provisions and has subsequently paid the premium to the insurer, the same shall be a good defense to the charge."

Section 21. Title 37 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 322 to read as follows:

"Section 322. Disclosure of information by auditors.

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

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

(b) a criminal offence involving fraud or dishonesty has been committed; or
(c) the business is insolvent or is likely to become insolvent; or

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

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

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

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

(3) A person reporting under this provision shall not be liable for any damage which may be a consequence of the report.”

Section 22. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 323 of title 37 to read as follows:

“Section 323. Limitations on loans-Maximum amounts.

No domestic insurer shall permit a person to become indebted or liable to it, either directly or indirectly, in an amount in excess of 20 percent of the aggregate paid-in and unimpaired capital, surplus, and undivided profits of the insurer.”

Section 23. Section 402 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66, is
hereby further amended as follows:

"Section 402. Policy contents."

(1) A policy must be written in the English language and printed or typed in clearly legible letters, in 10 point type or larger.

(2) The policy must contain:

(a) the parties between whom the contract is made;

(b) a description of the property, life or interest insured;

(c) the interest of the insured and other interested parties;

(d) the period during which such insurance is to continue;

(e) either a statement of the premium or if insurance is of a character where the exact premium is only determinable upon a termination of the contract, a statement of the basis and rates upon which the final premium is to be determined and paid, with all amounts stated in US dollars.

(3) The policy shall be signed by two of the major officers of the insurer as designated by the insurer and, in the case where the insurer is represented by an agent, by the agent.
(4) The Insurance Board [shall] may establish through regulations other requirements for policy contents and review by the Insurance Board of policy forms.”

Section 24. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 406 of title 37 to read as follows:

“Section 406. Claim settlement practices. The following acts are prohibited as unfair claim settlement practices. Knowingly engaging in any of these acts shall be found to be a violation of this Act.

(a) Misrepresenting to claimants pertinent facts or policy provisions relating to coverage at issue;

(b) Failing to promptly acknowledge pertinent communications regarding claims;

(c) Failing to adopt and implement standards for the prompt investigation of claims;

(d) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims submitted in which liability has become reasonably clear; or

(e) Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amount ultimately recovered in suits brought by them.”

Section 25. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section 506 of title 37 to read as follows:

“Section 506. Fraud. Any person licensed under this Act should have in place internal controls that prevent fraud.”

Section 26. Section 701 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66 is hereby renumbered as section 601.

Section 27. Section 602 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law 14-66 is hereby further amended as follows:

“Section 602. General penalties.

(1) For any violation of this title, including violation of the regulations, conditions of license imposed by the Commissioner, or orders issued by the Commissioner, the license holder shall be subject to an [fine] administrative penalty of not more than $5,000 and if the violation is a continuing one, to a further [fine] penalty not exceeding $1,000 for every day during which the violation continues; and, in the case of a material violation, to the cancellation of its license, in addition to any other penalty prescribed by law. The Commissioner shall impose the [fine] administrative penalty by issuing an order subject to appeal and enforcement under Chapter 2.
(2) Any person who violates any provision of this Act or of any Regulations shall be guilty of an offence and, where no specific criminal penalty is otherwise provided in this Act, shall be liable on conviction in a court of law, if the offender is an individual, to a fine of $50,000 or to imprisonment for not more than six months, or to both such fine and imprisonment, or if the offender is not an individual, to a fine of [$100,000] $50,000.

(3) Where any offense under this Act is proved to have been committed with the consent of, or to be attributable to the negligence of an officer the officer shall be deemed to be guilty of that offense and shall be subject to the same penalty."

Section 28. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 9/25/06  Introduced by: /s/ Simiram Sipenuk  Simiram Sipenuk (by request)