A BILL FOR AN ACT

To enact a new title 37 of the Code of the Federated States of Micronesia 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:

Section 1. Purpose. The purpose of the proposed bill is to create a scheme for the regulation of the insurance industry in the FSM. Regulation of the insurance industry is desirable to protect the public against mismanaged or unscrupulous insurance businesses that receive premiums but do not pay the claims. Since the amount of premiums collected is directly linked to the amounts claimed, it is also important to regulate the affairs of insurers and insureds to ensure that both parties are acting honestly and fairly.

Section 2. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new title 37 entitled "The Insurance Act of 2005".

Section 3. Title 37 of the Code of the Federated States of Micronesia is hereby enacted by adding a new chapter 1 entitled "Interpretation".

Section 4. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 101 of title 37 to read as follows:

"Section 101. Definitions. In this Act, unless the context otherwise requires: \n
..."
(1) 'actuary' means an individual qualified as an actuary by such qualifications as the Commissioner may recognize;

(2) 'auditor' means a person who is qualified for appointment as auditor of a company under the provisions of section 105 of title 36, chapter 1 of the Code of the Federated States of Micronesia or under any other law which may be enacted from time to time regulating auditors carrying on business in the Federated States of Micronesia;

(3) 'Commissioner' means the individual appointed as Commissioner of Insurance and includes any individual appointed to be the Deputy Commissioner or an Assistant Commissioner when exercising any powers under this Act in accordance with the directions of the Commissioner;

(4) 'director' means any individual occupying the position of director of a corporation, association, trust or any other entity directed by a board by whatever name called;

(5) 'domestic insurer' means an insurer having its head office in the Federated States of Micronesia;

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

(7) 'financial year', in relation to an insurer,
means each period not exceeding 53 weeks at the end of which the balance of the accounts of the insurer is struck;

(8) 'foreign insurer' means an insurer who is not a domestic insurer;

(9) 'Inspector' means a person appointed as such under the provisions of section 209 of chapter 2 of this title;

(10) 'insurance 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;

(11) 'insurance broker' means a person who, for compensation and on behalf of another, transacts insurance business other than as an insurer, insurance agent or insurance solicitor;

(12) 'insurance business' means the soliciting, effecting or carrying out of contracts of insurance as an insurer and includes re-insurance business;

(13) 'insurance solicitor' means an individual employed by an insurer or agent to solicit applications for insurance or negotiate insurance business on behalf of an insurer or an agent, but shall not include a bona fide salaried employee of a registered insurer, insurance agent or broker who is employed at its
principal office or branch thereof;

(14) 'insurer' means a person effecting and carrying on insurance business to any person who is a resident of the Federated States of Micronesia, except where otherwise stated;

(15) 'life insurance business' 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 policy;

(16) 'life insurance policy' means an ordinary life insurance policy, an industrial life insurance policy or a sinking fund or bond investment policy;

(17) 'life insurer' means an insurer carrying on life insurance business;

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

(19) 'owner', in relation to a policy, means a person who is entitled to claim any benefit provided
for in the policy;

(20) 'person' means any person, natural or legal, including individuals, partnerships, corporations, associations and trusts.

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

(22) 'registered insurance agent' means a person registered as such under chapter 4 of this title and thereby qualified to act as an agent for a registered insurer;

(23) 'registered insurance broker' means a person registered as such under chapter 4 of this title;

(24) 'registered insurer' means an insurer registered under chapter 3 of this title;

(25) 'Regulations' means regulations made by the Secretary under this Act;

(26) 'Secretary' means the Secretary of the Department of Economic Affairs; and

(27) 'sinking fund' means the type of policy whereby one party to the contract assumes the obligation to pay, after the expiration of a certain period or during a specified period, a certain sum or certain sums of money to a particular person in return for the payment from time to time of certain sums of money by the other party to the contract."
Section 5. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 102 of title 37 to read as follows:

"Section 102. Public interest. The business of insurance is a matter affecting all peoples of the Federated States of Micronesia. The Secretary and Commissioner shall consider the public interest before making any decision or taking action under the provisions of this Act. It is also the duty of the insurer, its representatives and the insured to act in good faith, abstain from deception, and practice honesty and equity in all insurance matters."

Section 6. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 103 of title 37 to read as follows:

"Section 103. Exemption of Social Security Program and Health Plan. Nothing in this Act shall apply to the Social Security Program, Board or Administration, the National Government Employees’ Health Plan or any social security program or health plan regulated by a National or State Government."

Section 7. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new chapter to title 37 entitled "Administration".

Section 8. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section 201 of title 37 to read as follows:

"Section 201. Regulations.

(1) The Secretary may make Regulations prescribing anything which under this Act may be prescribed and generally for carrying into effect the objects of this Act, and without prejudice to the generality of the foregoing such Regulations may provide for:

(a) the financial requirements for a registered insurer;

(b) the payment of fees for the administration of this Act;

(c) the criteria for the acceptance or refusal of a registration of an insurer, insurance agent, insurance broker or insurance solicitor;

(d) the exemption of classes of persons from parts of this title, whose insurance business is incidental to other business; and

(e) the number of copies and manner of certification of any documents required under the provisions of this Act to be furnished by an insurer.

(2) Such Regulations shall be made in accordance with title 17, chapter 1 of the Code of the Federated States of Micronesia"
as amended, is hereby further amended by enacting a new section 202 of title 37 to read as follows:

"Section 202. Appointment of the Commissioner of Insurance. The President of the Federated States of Micronesia shall appoint, subject to the advice and consent of the Congress of the Federated States of Micronesia, a Commissioner of Insurance to serve at the pleasure of the President. The Commissioner of Insurance shall be experienced in matters of insurance and will be vested with the powers, duties and functions of this Act."

Section 10. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 203 of title 37 to read as follows:

"Section 203. Immunity of officials exercising powers. No action shall lie against the Secretary, Commissioner, any Assistant Commissioner or any Inspector in respect of any decision or act done in good faith in exercise or purported exercise of any powers conferred by this Act."

Section 11. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 204 of title 37 to read as follows:

"Section 204. Appeals of acts of the Commissioner. Any decision in the exercise or purported exercise of any
power or authority granted by this act by the
Secretary, Commissioner or an Investigator may be
appealed pursuant to the provisions of title 17,
chapter 1 of the Code of the Federated States of
Micronesia only on the grounds that the decision was:
(a) arbitrary, capricious, an abuse of discretion,
or otherwise not in accordance with law;
(b) contrary to constitutional right, power,
privilege, or immunity;
(c) in excess of statutory jurisdiction,
authority, or limitations, or a denial of legal rights;
or
(d) without substantial compliance with the
procedures required by law."

Section 12. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
205 of title 37 to read as follows:
"Section 205. Commissioner may extend periods
specified for performance of acts. The Commissioner
may, if he thinks fit, extend the periods prescribed
under this Act for the performance of any act."

Section 13. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
206 of title 37 to read as follows:
"Section 206. Commissioner may demand information. The
Commissioner may, for the purpose of carrying out the provisions of this Act, demand from a registered insurer, registered insurance agent, registered insurance broker or registered insurance solicitor, or an applicant for registration as an insurer, insurance agent, insurance broker or insurance solicitor, 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 14. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 207 of title 37 to read as follows:

"Section 207. Registration and cancellation of registration to be published. The Commissioner shall publish a notice of registration, cancellation of registration or restriction under section 210 of this chapter of an insurer, insurance agent or insurance broker."

Section 15. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 208 of title 37 to read as follows:

"Section 208. Commissioner may accept compliance certificates from foreign insurers. The Commissioner may waive or modify such of the requirements of chapter 3 or chapter 4 of this title or of any of the
Regulations as he thinks fit in the case of an foreign insurer:

(a) who is incorporated or constituted in a jurisdiction with a greater or equal supervisory requirements than provided for in this title and Regulations;

(b) who furnishes annually a certificate issued by the insurance supervisory authority in the place in which the insurer is incorporated or constituted to the effect that he is complying with all the applicable insurance supervisory requirements of that authority; and

(c) who gives such further information regarding his business as the Commissioner may think relevant to the purposes of this Act."

Section 16. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 209 of title 37 to read as follows:

"Section 209. Investigation of the affairs of an insurer.

(1) The Commissioner may appoint any public officer as an Inspector to investigate the affairs or any part of the affairs of a registered insurer if he is satisfied that such investigation would be in the best interest of the policy-holders or of persons who may
become policy-holders.

(2) An Inspector appointed under subsection (1) may investigate the affairs of any other partnership, corporation, association, trust or business entity which is or has at any relevant time been the registered insurer's subsidiary or holding company, a subsidiary of its holding company or a holding company of its subsidiary.

(3) It shall be the duty of the registered insurer under investigation and of all past and present officers of the registered insurer and of the related bodies corporate specified in subsection (2) to produce to the Inspector all books, records and documents relating to the registered insurer or partnership, corporation, association, trust or any other business entity under investigation which are in their custody or control, and otherwise to give to the Inspector all assistance in connection with the investigation which they are reasonably able to give.

(4) An Inspector may:

(a) examine on oath the officers and agents of the registered insurer or other partnership, corporation, association, trust or business entity under investigation in relation to its business and may administer an oath accordingly; and
(b) if he thinks it necessary for the purpose of his investigation 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 investigation;

(5) The Commissioner may, if he thinks fit, charge the registered insurer or person whose affairs are investigated under the provisions of this section all expenses properly incurred in connection with the investigation or in connection with the proceedings instituted as a result of the investigation, which shall be paid as a fee in accordance with the Regulations."

Section 17. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 210 of title 37 to read as follows:

"Section 210. Provisions for restricting registered insurers from writing new business and for securing proper conduct of business.

(1) The Commissioner may prohibit a registered insurer from writing new policies in any class of insurance business or may restrict or limit the new policies which a registered insurer may write if he is satisfied that it is in the interest of the policy-
holders or prospective policy-holders to do so.

(2) The Commissioner may require that a registered domestic insurer shall 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.

(3) The Commissioner shall notify the registered insurer in writing of any decision made under the provisions of subsection (1) or (2) and shall state the reasons for the decision.

(4) A registered insurer shall comply with the terms of any prohibition or requirement notified to him in accordance with the provisions of this section."

Section 18. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 211 of title 37 to read as follows:

"Section 211. Power of Commissioner to petition for winding up. The Commissioner may present a petition for the winding-up of a registered domestic insurer or the business of registered insurer within The Federated States of Micronesia on any ground provided by and in accordance with the provisions of the title 36, chapter 1 of the Code of the Federated States of Micronesia."

Section 19. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new chapter 3
Section 301. Insurers to be registered.

(1) Notwithstanding the provisions of any other law, no insurance business shall, save as hereinafter provided, be carried on in or from within the Federated States of Micronesia except by a registered insurer or an insurer deemed to be registered under this chapter.

(2) The Commissioner may, in his discretion, exempt any person from any provision or provisions of this title, provided that the insurance business of that such person is engaged in is in a class subject to exemption by Regulation.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to the penalty prescribed in section 512 of chapter 5 to this title.

(4) For the purposes of this chapter, any insurer which maintains a business office in the Federated States of Micronesia shall be deemed to issue from within the Federated States of Micronesia any policy of insurance issued in its name or on property, lives or other risks located in the Federated States of
Micronesia whether or not such policy of insurance is or has been issued in Federated States of Micronesia."

Section 21. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 302 of title 37 to read as follows:

"Section 302. Application for registration as insurer.
Any company desirous of being registered as an insurer in accordance with this chapter shall apply in writing in a form acceptable to the Commissioner and such application shall be accompanied by such documents and particulars as the Commissioner may require."

Section 22. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 303 of title 37 to read as follows:

"Section 303. Commissioner may register or refuse application.
(1) The Commissioner may, if satisfied that the carrying on of insurance business by the applicant will not be against the public interest, register such applicant as an insurer, subject to such terms and conditions as he may think fit to impose.
(2) The Commissioner may refuse the registration of any insurer for any one of the reasons provided in this subsection:
(a) the insurer’s refusal or failure to comply with, or the violation of, any of the provisions of this Act or regulations applicable to such insurer or any lawful order of the Commissioner; or

(b) the insurer is delinquent in the payment of any fees, licenses, taxes, fines or penalties owed to the national government or the government of any State, or is otherwise in default for failure to comply with any laws of the Federated States of Micronesia; or

(c) the insurer is insolvent or in an unsafe financial condition which would render any insurance of such insurer unsafe or unsatisfactory; or

(d) any officer or director of the insurer has been convicted of a felony having one its necessary elements a fraudulent act or an act of dishonesty in the solicitation of, acceptance, custody, or payment of money or property."

Section 23. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 304 of title 37 to read as follows:

"Section 304. Notification of decision on application. The Commissioner shall notify the applicant for
registration as an insurer in writing whether it is proposed to register the applicant, or whether the application is refused and when an application is refused he shall state the reasons for the refusal."

Section 24. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 305 of title 37 to read as follows:

"Section 305. Cancellation of registration.

(1) The Commissioner may cancel the registration of an insurer:

(a) if the insurer has ceased to carry on an insurance business in the Federated States of Micronesia; or

(b) if the insurer has not commenced business in the Federated States of Micronesia within 2 years of registration; or

(c) at the request of the registered insurer or his trustee or receiver appointed by the court; or

(d) if false, misleading or inaccurate information is given in an application or under the provisions of section 206 of chapter 2 of this title or section 308 or section 312 of this chapter; or

(e) if he is not satisfied that the unencumbered assets of the insurer are insufficient for the proper conduct of his insurance business; or
(f) if he is not satisfied that the insurance business of the insurer is not being conducted in accordance with sound insurance principles; or

(g) if the insurer has contravened any of the provisions of this Act.

(2) The cancellation shall be effective 15 days after the Commissioner has given written notice to the insurer of the intention to cancel the registration."

Section 25. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 306 of title 37 to read as follows:

"Section 306. Policies issued before refusal of application or cancellation of registration. An insurer whose application for registration has been refused or whose registration has been cancelled in accordance with the provisions of this chapter shall continue to carry on business relating to policies issued by it prior to the date on which it was notified of such refusal or cancellation until the Commissioner is satisfied that it has made suitable arrangements for its obligations under these policies to be met, but any such insurer shall forthwith prepare and furnish the information and other documents required under section 312 of this title."

Section 26. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section 307 of title 37 to read as follows:

"Section 307. Registered insurers to maintain an office and appoint a general agent.

(1) A registered insurer shall maintain an office in The Federated States of Micronesia and shall appoint a general agent and an alternate representative in The Federated States of Micronesia each being resident in The Federated States of Micronesia.

(2) A registered insurer shall notify the Commissioner in writing of the address of its office and the name of its general agent and alternate representative.

(3) If a registered insurer changes the address of its principal office or appoints a new general agent or alternate representative, it shall, forthwith, and in any case within 21 days of the change, give notice thereof to the Commissioner in writing."

Section 27. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 308 of title 37 to read as follows:

"Section 308. Control of advertisements. No advertisement shall be used by a registered insurer or insurance agent which, directly or by implication, has the capacity and tendency to mislead or deceive..."
prospective policy-holders with respect to an insurer's assets, corporate structure, financial standing, age or relative position in the insurance business, the terms of a policy or in any other material respect."

Section 28. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 309 of title 37 to read as follows:

"Section 309. Separate accounts for business other than insurance business of insurers. A registered insurer which carries on, besides insurance, any other business shall keep separate accounts in respect of its insurance business, and shall segregate the assets and liabilities of its insurance business from those of its other business."

Section 29. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 310 of title 37 to read as follows:

"Section 310. Life insurance carrying on other business.

(1) A registered insurer, which carries on both life insurance business and other insurance business, shall keep separate accounts in respect of its life insurance business.

(2) All receipts of a life insurer in respect of its life insurance business shall be carried to and form
part of its life insurance fund.

(3) Payments from the life insurance fund of a registered insurer shall not be made directly or indirectly for any purpose other than those of its life insurance business, except insofar as such payments can be made out of any surplus disclosed on an actuarial valuation and certified by the actuary to be distributable otherwise than to policy-holders.

(4) Nothing in this section shall be deemed to require the investments of any life insurance fund to be kept separate from the investments of any other fund."

Section 30. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 311 of title 37 to read as follows:


(1) The assets of the life insurance fund of a registered insurer:

(a) shall be the security of the life policyholders as though the insurer carried on no business other than life insurance business;

(b) shall not be subject to any liabilities arising from contracts of the registered life insurer carrying on other business or insurance business to which it would not have been subject had the business
of the insurer been only that of life insurance; and

(c) shall not be applied, directly or indirectly,
for any purposes other than those to which the fund is
applicable.

(2) In the winding-up of a life insurer the value of
the liabilities and assets of its life insurance fund
shall be ascertained separately from the value of any
other liabilities or assets and no assets of the life
insurance fund shall be applied to the discharge of any
liabilities other than those towards life policy-holders except insofar as those assets exceed those
liabilities."

Section 31. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 312 of title 37 to read as follows:

"Section 312. Accounts and balance sheets of
registered insurers to be submitted.

(1) A registered insurer shall prepare and, within
six months of the end of each financial year, furnish
to the Commissioner:

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

(b) 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
(c) such other documents and information as the
Commissioner may require or as may be prescribed by
Regulation.

(2) The auditor shall not be an employee or an
officer of the insurer, nor financially interested in
the insurer.

(3) A registered insurer shall furnish to the
Commissioner 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."

Section 32. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
313 of title 37 to read as follows:

"Section 313. Separate or group accounts. All
registered 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."

Section 33. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 314 of title 37 to read as follows:

"Section 314. Keeping of records by insurers. A registered insurer constituted outside The Federated States of Micronesia shall keep within The Federated States of Micronesia and shall make available to the Commissioner on request a record of all domestic policies in force or upon which liabilities are outstanding which have been issued by it showing its rights and obligations thereunder and recording the premiums received."

Section 34. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 315 of title 37 to read as follows:

"Section 315. Periodic investigations to be made into financial position of life insurers.

(1) A registered life 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 life insurer to cause such
an investigation to be made at any time if he deems it to be in the public interest to do so.

(2) A life 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 within 6 months of the date of the investigation, 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. The actuary shall also provide a statement of the assumptions and the methods used in making the valuation."

Section 35. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 316 of title 37 to read as follows:

"Section 316. Amalgamations and transfers of insurance business. No domestic insurer shall:

(a) amalgamate with any one or more insurers; or

(b) transfer its insurance business or a part thereof to, or take transfer of the insurance business or a part thereof from, another insurer, unless the amalgamation, or, as the case may be, the transfer is approved by the Secretary."

Section 36. Title 37 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new chapter 4 entitled "Registration of Insurance Agents, Insurance Brokers and Insurance Solicitors".

Section 37. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 401 of title 37 to read as follows:

"Section 401. Insurance agents, insurance brokers and insurance solicitors to be registered.

(1) No person shall act as an insurance agent, insurance broker or insurance solicitor unless he is registered under this chapter.

(2) Every applicant for registration as an insurance agent, insurance broker or insurance solicitor shall satisfy the Commissioner:

(a) that he has knowledge of the insurance business adequate to give proper service to the public; and

(b) that he is of good character."

Section 38. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 402 of title 37 to read as follows:

"Section 402. Application for registration.

(1) An application to be registered as an insurance agent, insurance broker or an insurance solicitor shall be made in writing to the Commissioner and shall be
accompanied by such documents as may be required.

(2) The Commissioner may register an insurance agent, an insurance broker or an insurance solicitor who has applied under subsection (1) and is qualified under subsection 401(2) of this chapter and may refuse such registration for any of the following reasons:

(a) The person has wilfully violated any provision of this Act;

(b) The person intentionally made a material misstatement in his application;

(c) The person has been guilty of fraudulent of dishonest practices;

(d) The person has misappropriated or converted to his own use or illegally withheld monies in a fiduciary capacity;

(e) The person has misrepresented the terms and conditions of policies;

(f) The person has been guilty of rebating;

(g) The person has conducted his business in such a manner as to cause injury to the public or to those with whom he is dealing; or

(h) The person does not meet the necessary qualifications to act in such capacity.

(3) The Commissioner shall notify the applicant in writing whether the application is accepted or
rejected, and shall state the reasons for a refusal."

Section 39. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 403 of title 37 to read as follows:

"Section 403. Cancellation of registration.

(1) Subject to the provisions of subsection (2), the Commissioner may cancel the registration of an insurance agent, insurance broker or insurance solicitor for any of the reasons found in subsection 403(2). The provisions of paragraphs (a), (b), (e) and (d) of subsection 305(1) of chapter 3 of this title shall also apply equally to insurance agents, insurance brokers and insurance solicitors.

(2) The Commissioner shall notify the insurance agent, insurance broker or insurance solicitor, as the case may be, that it is proposed to cancel the registration under subsection (1) and shall state the reasons therefor."

Section 40. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 404 of title 37 to read as follows:

"Section 404. Lists of registered insurance agents, brokers and solicitors to be maintained.

(1) Each registered insurer shall maintain in its
office an accurate list of all persons representing him
as agents in The Federated States of Micronesia and
shall provide the Commissioner on demand with a copy
thereof.

(2) Each registered insurance agent and broker who
employs an insurance solicitor shall provide the
Commissioner on demand with full details of the
employment of such solicitor including a copy of any
employment contract."

Section 41. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
405 of title 37 to read as follows:

"Section 405. Insurance agent and broker to keep
record of business. A registered insurance agent or
insurance broker shall keep and make available to the
Commissioner on demand a record of all insurance
business placed through him on property, lives and
other risks in The Federated States of Micronesia,
including a record of all premiums and commissions paid
in respect thereof; provided that any such agent or
broker shall not be required to produce to the
Commissioner any record:

(a) made more than 3 years preceding the date of
any demand therefore; and

(b) relating to any policy which is not in force."
or upon which any liability is not outstanding, at that date."

Section 42. 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. Agents of insurer. Any registered insurance agent, insurance broker or insurance solicitor shall for the purpose of receiving any premium for a contract of insurance, be deemed to be the agent of the insurer and notwithstanding any conditions or stipulations to the contrary the registered insurer shall be deemed to have received any premium received by such agent, broker or solicitor."

Section 43. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 407 of title 37 to read as follows:

"Section 407. Paying over of premiums to insurer. A registered insurance agent, insurance broker or insurance solicitor who acts in negotiating or renewing a contract of insurance with an insurer and receives payment of the premium for such a contract from the insured, shall be guilty of an offence if he fails to pay the premium over to the insurer within 30 days of the receipt by him 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, and shall be liable on conviction to the
penalties specified in section 512 of chapter 5 of this
title; provided that if any person charged with an
offence under the foregoing provisions of 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 44. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new chapter 5
to title 37 entitled "Miscellaneous Provisions".

Section 45. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
501 of title 37 to read as follows:

"Section 501. Restriction on use of word "Insurance".
No person other than a registered insurer or a
registered insurance agent or a registered insurance
broker shall have or use the word "insurance" or any
derivative thereof, in the name under which such person
is carrying on business."

Section 46. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
502 of title 37 to read as follows:

"Section 502. Registered names.

(1) Notwithstanding the provisions of section 303 of chapter 3 of this title, the Commissioner shall not register an applicant as an insurer if the name under which the applicant desires to be registered is identical to or so nearly resembles the name of a registered insurer as to be likely to be mistaken for it unless that registered insurer is being wound up or being dissolved, or has ceased to carry on insurance business in or from within The Federated States of Micronesia and consents to the registration of the applicant under the name in question.

(2) The Commissioner shall not register an applicant as a domestic insurer if the name under which the applicant desires to be registered suggests falsely that such domestic insurer has a special status in relation to or derived from the government of The Federated States of Micronesia or has the official backing of or acts on behalf of the said government or any department or official thereof or is recognized in The Federated States of Micronesia as a national or central insurer.

(3) The Commissioner shall not register an applicant as an insurance broker if the name under which the
applicant desires to be registered is likely to suggest that the applicant is an insurer.

(4) The Commissioner shall not register an insurance agent if the name under which he desires to be registered is likely to suggest that he is an insurer or an insurance broker.

(5) The Commissioner may refuse to register an applicant under a name that is likely to mislead policyholders or which, in the opinion of the Commissioner, is for any reason undesirable.

(6) A registered insurer, insurance broker or insurance agent shall not change the name under which he is registered without the prior permission of the Secretary."

Section 47. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 503 of title 37 to read as follows:

"Section 503. Policies to be printed or typed in clearly legible letters.

(1) A registered insurer liable under a life insurance policy shall, at the request of the owner, furnish him free of charge with a copy of the relevant revenue account, profit and loss account and balance sheet prepared by the insurer in terms of subsection 312(1) of chapter 3 of this title in respect of its
last preceding financial year, and shall make available
at the request of the policy-owner, for inspection at
the insurer's principal office, a copy of the last
actuarial report.

(2) No registered insurer shall issue a policy the
provisions of which, whatever their nature, are not
printed or typed in clearly legible letters."

Section 48. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
504 of title 37 to read as follows:

"Section 504. Policy not invalid owing to failure to
comply with law. A policy issued by any person, whether
before, on, or after the coming into force of this Act
shall not be invalid by reason only that such person
contravened or failed to comply with the provisions of
any enactment in force applying to that policy."

Section 49. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
505 of title 37 to read as follows:

"Section 505. Cancellation of policies.

(1) No domestic policy shall be liable to
cancellation except in accordance with the provisions
of this section.

(2) A policy other than a life insurance policy may
be cancelled at any time by the insured named therein
after giving to the insurer not less than 30 days' notice in writing of the proposed cancellation by service in accordance with the provisions of section 509 of this chapter or by registered post, and the insurer shall, upon the surrendering of the policy, refund the excess of any premiums paid over and above the customary short-rate premium for the period when the policy has been in force.

(3) A policy other than a life insurance policy may be cancelled at any time by an insurer after giving to the insured named therein not less than 90 days' notice in writing of the proposed cancellation by personal service or by registered post and upon refunding to the insured the excess of paid premium over and above the pro-rata premium for the time the policy has been in force, which refund shall accompany the notice.

(4) Notwithstanding the provisions of subsections (2) and (3), the insured and the insurer may agree at the time any policy of insurance referred to therein is issued that the same shall be incapable of cancellation, provided that a clause to such effect is included in the policy.

(5) A life insurance policy may be cancelled by the insurer in the event of non-payment of any renewal premiums due but only after notice in writing
specifying the default and the intention of the insurer to cancel the policy has been given to the insured by personal service or by registered post; provided that the insurer may not cancel the life insurance policy if full payment is made within 10 days of receipt of the notice; provided further that a life insurance policy shall not be cancelled by reason only of the non-payment of a premium unless at least 28 days have elapsed since the premium became due;

(6) Any policy of insurance may be cancelled by the prior mutual consent in writing of the insurer and the insured."

Section 50. 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. Jurisdiction of domestic courts. Any provision contained in a domestic policy whereby the jurisdiction of the courts in The Federated States of Micronesia is in any way circumscribed or avoided shall, to that extent be absolutely void and of no effect."

Section 51. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 507 of title 37 to read as follows:

"Section 507. Borrowing powers of directors. The
directors of a domestic insurer being a partnership, corporation, association, trust or any other business entity may exercise all the borrowing powers of the partnership, corporation, association, trust or any other business entity; provided that at no time may the undischarged amount of moneys to be borrowed or secured by the directors exceed 5 per cent of the assets of the partnership, corporation, association, trust or any other business entity without the written consent of the Commissioner."

Section 52. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 508 of title 37 to read as follows:

"Section 508. Prohibition of loans to directors etc. A domestic insurer shall not, directly or indirectly, without the approval of the Commissioner: (a) lend any of its funds to any of its directors or officers or to the wife or child of any such director or officer; or (b) enter into any guarantee or provide any security in connection with a loan to an individual mentioned in paragraph (a) by any other individual; provided that loans may be so made within the surrender value of a life policy issued by the insurer to such individual."
Section 53. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 509 of title 37 to read as follows:

"Section 509. Service of process upon registered insurers.

(1) Any notice issued under any provisions of this Act and any process in legal proceedings may be served upon a person carrying on insurance business by leaving the same at the principal office of the insurer.

(2) If the principal office of a person carrying on insurance business cannot reasonably be found, any notice served under this Act or process in any legal proceedings may be served by leaving the same at the office of the Commissioner.

(3) Service of process upon the Commissioner, in accordance with the provisions of subsection (2) shall be deemed to be service upon the insurer."

Section 54. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 510 of title 37 to read as follows:

"Section 510. Individuals acting on behalf of unregistered insurers.

(1) Anyone who causes or solicits a person to enter into or to make application to enter into a contract of insurance with a person who is not a registered insurer
shall be guilty of an offence and shall be liable on conviction to a fine of $100,000 or to imprisonment for 1 year or to both such fine and imprisonment.

(2) Anyone who as agent or broker places insurance on property, lives or other risks within The Federated States of Micronesia with a person carrying on insurance business within The Federated States of Micronesia who is not a registered insurer shall incur personal liability on the policy as if he were the insurer.

(3) For the purposes of this section, any registered agent who places insurance with a member of a registered association of underwriters shall be deemed to place such insurance with a registered insurer."

Section 55. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 511 of title 37 to read as follows:

"Section 511. False statements etc. If a person issues a document for any of the purposes of this title which is false or misleading in any material respect, that person and every person who signed it, unless it is proved that the accused, had taken every reasonable precaution to ensure its accuracy, shall be guilty of an offence and shall be liable on conviction to a fine of $100,000 or to imprisonment for 1 year or to both
Section 56. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 512 of title 37 to read as follows:

"Section 512. General provisions relating To Offences.

(1) Any person who contravenes or fails or neglects to comply with any provision of this Act or of any Regulations shall be guilty of an offence and shall be liable on conviction in a case for which no specific penalty is otherwise provided in this Act, if the offender is an individual, to a fine of $50,000 or to imprisonment for 6 months, or to both such fine and imprisonment, or if the offender is not an individual, to a fine of $100,000.

(2) Where any offence under this Act committed by a partnership, corporation, association, trust or any other business entity is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer or servant of the partnership, corporation, association, trust or any other business entity, he, as well as the partnership, corporation, association, trust or any other business entity, shall be deemed to be guilty of that offence and shall be liable to be
proceeded against and punished accordingly."

Section 57. 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: 12/25/05 Introduced by: /s/ Dion G. Neth

Dion G. Neth