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. 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 2006".

Section 2. Title 37 of the Code of the Federated States of Micronesia is hereby enacted by adding a new chapter 1 entitled "Interpretation".

Section 3. 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. Short Title. This Act shall be known as the 'Insurance Act of 2006.'"

Section 4. 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. 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) 'domestic insurer' means an insurer formed under the laws of and having its head office in the Federated States of Micronesia;

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

(9) 'foreign insurer' means an insurer who is not a domestic insurer;
(10) ‘insurance’ means a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies;

(11) '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 an 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.

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

(13) '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;

(14) '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;

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

(16) 'policy' means any written contract of insurance whether contained in one or more documents;
(17) ‘policy-owner’ means a person who is entitled to claim any benefit provided for in a policy;
(18) ‘premium’ means the money to be paid in return for an undertaking to provide policy benefits;
(19) ‘reinsurance’ means a contract by which an insurer insures any part of the risk insured by the insurer with another insurer;
(20) ‘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;
(21) ‘regulations’ means regulations made by the Insurance Board under this Act.
(22) '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, nor an employee of an insurer or agent.”

Section 5. 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 6. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 104 of title 37 to read 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 days from the effective date of this Act before being penalized for violation of this Act.

(3) Any such person must, within 180 days of the effective date of this Act, apply for a license 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 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 7. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new chapter 2 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. Establishment of the Insurance Board. The Banking Board established in Section 201 of title 29 of the Code of the Federated States of Micronesia shall also serve as the Insurance Board and the Board shall meet as set forth in Section 204 of title 29 of the Code of the Federated States of Micronesia."

Section 9. 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. Powers. The Insurance Board shall be responsible for its policy and affairs and shall have the powers conferred upon it by 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. Insurance Commissioner. (1) The President shall appoint a person to be the Insurance Commissioner who shall be responsible to the Insurance Board for the execution of its policy and the
performance of duties and exercise of powers conferred
by this title.

(2) The Insurance Commissioner shall be a person of
recognized experience in insurance and financial matters
and shall be eligible for reappointment. The Insurance
Commissioner shall not hold or occupy any other office
unless approved in writing by the President; except that
the person appointed to be the Insurance Commissioner
may also be appointed to be the Banking Commissioner.

(3) The remuneration and other terms and conditions of
employment of the Insurance Commissioner shall be
determined from time to time by the Insurance Board.

(4) The Insurance Commissioner shall, except as may
otherwise be provided in this title or the resolutions
of the Insurance Board, have the power to act and sign
instruments and documents on behalf of the Insurance
Board.

(5) The Insurance Commissioner shall serve, ex
officio, as a non-voting member of the Insurance Board.

(6) During any period when there is no duly appointed
person serving as Insurance Commissioner, the Chairman
of the Insurance Board shall perform the duties and
exercise the rights of the Insurance Commissioner.”

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. Principal purposes. The principal purposes of the Insurance Board shall be:

(1) To regulate insurance business;

(2) To undertake the licensing and supervision of insurers, insurance agents, insurance solicitors and insurance brokers;

(3) To protect the interests of policy owners; and

(4) To promote the soundness, stability, and development of the insurance system in the Federated States of Micronesia."

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. Reports. The Insurance Board shall transmit to the President and the Speaker of the Congress by May 1 of each year a report containing a tabulated statement and synopsis of the reports which have been filed with the Board showing the conditions of every person licensed under this Act, the general condition of the insurance business in the Federated States of Micronesia, and other matters covering insurance and including the activities of the Insurance Board, for the last fiscal year. This report shall also be made available to the general public."
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. Services of Public Auditor and others. The Insurance Board shall be entitled to utilize the services of the Public Auditor, the Department of Justice and such independent accountants, lawyers, and other experts as they may select in carrying out their powers and duties under this title. The President of the Federated States of Micronesia shall provide such administrative support and staff as may be needed to conduct the business of the Insurance Board.”

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. Regulations. The Insurance Board may make Regulations prescribing anything which under this Act may be prescribed and generally for carrying into effect the objects of this Act. Such Regulations shall be made in accordance with title 17, chapter 1 of the Code of the Federated States of Micronesia.”

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. 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 under this Act or an affiliated entity;

(b) own or deal directly or indirectly in the shares or obligations of any person licensed 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 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 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. Orders. The Insurance Board may issue
such orders as may be necessary to carry out their
powers and duties, including orders granting, revoking,
suspending or restricting licensing and orders imposing
penalties for violation of this Act. Every order and
notice issued by the Insurance Board shall:

(1) be in writing and signed by the Commissioner or
under the authority of the Commissioner;

(2) contain a concise statement of the grounds upon
which it is based;

(3) designate the provisions of law or regulation
pursuant to which action is taken or proposed to be
taken;

(4) state the effective date of the order or notice;

(5) state the procedure by which appeal of the order
may be taken; and

(6) contain such other matters as may be appropriate."
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. Appeal.

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

(2) A decision of the 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 Board within 30 days of the date of issuance of the order being appealed. Unless an appeal is filed the order shall become final 30 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 Board."

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. Enforcement."
(1) The Insurance Board may bring an action in the Supreme Court of the Federated States of Micronesia to enforce any order issued under this Act.

(2) If the Insurance Board has cause to believe that any person has violated any provision of this Act that is subject to criminal penalty, the Insurance Board shall certify the facts of the violation to the Department of Justice for investigation and prosecution by the Department of Justice.

(3) If the Insurance Board has cause to believe that any person is violating, or is about to violate any provision of this Act or an order made by the Insurance Board pursuant to this Act, the Insurance Board may bring an action in the FSM Supreme Court to enjoin the person from continuing the violation or doing any act in furtherance thereof."

Section 19. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 212 of title 37 to read as follows:

"Section 212. Commissioner may extend periods specified for performance of acts. The Commissioner may extend the periods prescribed under this Act for the performance of any act."

Section 20. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section
213 of title 37 to read as follows:

"Section 213. Commissioner may demand information. The Commissioner may, for the purpose of carrying out the provisions of this Act, demand from 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 21. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 214 of title 37 to read 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 whatsoever relating to any person registered under this Act or a policy-owner that he has acquired in the performance of his duties under this title 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 document;

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

(f) in confidence to a supervisory authority in 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
Section 22. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 215 of title 37 to read as follows:

"Section 215. Publication of licenses and registrations. The Insurance Board shall publish a list, amended from time to time, of:

(1) all applications filed for a license under this Act and all applications for registration as a foreign insurer proposing to transact business through an agent;
(2) all approved licenses;
(3) all foreign insurers registered to transact business through an agent;
(4) all denials of licenses and registrations;
(5) all cancellations and suspensions of licenses and registrations;
(6) information relevant to the winding up of any insurance business; and
(7) any other information that is in the public interest and not in violation of laws or regulations on confidentiality or privacy."

Section 23. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 216 of title 37 to read as follows:
“Section 216. Examination of affairs.

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

(2) The Commissioner may enter the office of any person licensed 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, 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 24. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new chapter 3 to title 37 entitled "Licensing".

Section 25. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 301 of title 37 to read as follows:

“Section 301. License required.

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

(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) A foreign insurer who receives two million dollars or more in income from premiums collected in the Federated States of Micronesia in a fiscal year shall be required to become licensed as an insurer.

(5) 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 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) 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 26. 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 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 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;

(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 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 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. Decision on application. The Insurance Board shall review a completed application and conduct any further investigations as deemed necessary, including public hearings, and approve or reject the application at the discretion of the Insurance Board including consideration of the following factors:

(1) whether the applicant has provided complete information and whether the applicant has made any material misstatements or omissions in the application;

(2) the overall financial condition of the applicant and whether or not granting the application is likely to result in an over-extension of the applicant’s resources or facilities;

(3) the expertise and character of the applicant or the officers of the applicant, including whether the applicant or any officer has been convicted of a felony having as one of its necessary elements a fraudulent act.
or an act of dishonesty in the solicitation of, acceptance, custody, or payment of money or property;

(4) whether the applicant has refused or failed to comply with, or is in violation of, any of the provisions of this Act or regulations or any order of the Insurance Board or Commissioner;

(5) in the case of a foreign insurer, the insurer's record of compliance with laws and overall performance in other jurisdictions;

(6) in the case of an applicant operating in the Federated States of Micronesia prior to application for a license, the applicant's record of compliance with the law and regulations of and past performance in the Federated States of Micronesia; and

(7) whether the applicant 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."

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.

(1) If the application is approved, the Commissioner shall provide the applicant with a license which shall
remain valid unless suspended or cancelled in accordance with the provisions of this Act. The license shall be displayed conspicuously in a public part of all places of business of the license holder in the Federated States of Micronesia.

(2) The Insurance Board may approve an application subject to conditions deemed necessary to protect policy-owners. Any such conditions shall be noted on the license and may be varied or revoked during the term of the license.

(3) If the application is denied, an order denying a license shall be issued.”

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 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 represented by that agent no longer wishes to be represented by the agent or the insurer is no longer licensed or registered by the Board; in the case of a solicitor, that the agent or insurer represented by that solicitor no longer wishes to be represented by the solicitor or the agent or insurer is no longer licensed or approved by the 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 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; or
(12) the license holder has contravened any of the provisions of this Act, regulations or conditions of license.”

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. Suspension or 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.”

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. 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 insurer's 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;

(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, a requirement that a certain amount of premiums collected on behalf of the insurer are maintained in the Federated States of Micronesia.

(3) The Commissioner may grant or deny 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.

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. Policies issued before refusal of
application or cancellation of license. An insurer,
agent, broker or solicitor whose application for a
license has been denied or cancelled shall continue to
carry on business relating to policies issued by the
insurer, or the insurer represented by the agent, broker
or solicitor, prior to the date on which it was notified
of such denial or cancellation until the Insurance Board
is satisfied that the insurer, agent, broker or
solicitor has made suitable arrangements for the
obligations under the policies to be met."

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. 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 is satisfied 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 any such other particulars as may be prescribed by Regulation.

(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

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

(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; and

(c) A copy of all contracts of reinsurance at the
time they were entered into and upon any amendment.

(2) Licensed agents, brokers and solicitors shall
provide the following information to 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.”

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. 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 he deems it to be in the public
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 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:

“Section 311. Separate accounts for business other than
insurance business. A licensed insurer or insurance
agent who transacts, besides insurance, any other
business shall conduct the insurance business in a
separate company and shall thereby segregate the assets
and liabilities of its insurance business from those of
its other business.”

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. Life insurance carrying on other
business.
(1) A licensed insurer who carries on both life insurance business and other insurance business shall conduct the life insurance business in a separate company, and shall thereby segregate the assets and liabilities of its life insurance business from those of its other 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 licensed 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-owners."

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. Mergers and transfers of insurance business. No domestic insurer shall:

(1) Merge or reorganize, whether by agreement, order or takeover, with any one or more insurers; or

(2) 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 merger, reorganization or transfer is approved by the Commissioner.

(3) No merger or transfer shall be approved that lessens the policy benefits of policy owners.”

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. Limitation on Borrowing. At no time may the undischarged amount of moneys to be borrowed or secured by a domestic insurer exceed five per cent of the assets of the domestic insurer without the written consent of the Commissioner.”

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. Prohibition of loans to directors. A domestic insurer shall not, directly or indirectly, without the approval of the Commissioner, lend any of its funds to any of its officers or related persons; or enter into any guarantee or provide any security in connection with a loan to an officer or related person 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 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. Prohibited investments. No domestic insurer shall invest in the stock of any other corporation, acquire any real estate, except with the approval of the Commissioner 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 36. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 317 of title 37 to read as follows:

"Section 317. Ownership limitations. No person or group of related persons or affiliated entities may acquire ten percent or more of the stock of a domestic insurer without the prior approval of the Insurance Board."

Section 37. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 318 of title 37 to read as follows:
"Section 318. Keeping of records.

(1) A license holder 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 the insurer or by the agent, broker or solicitor on behalf of an insurer, showing the insurer’s rights and obligations thereunder and recording the premiums received and, in the case of an agent, broker or solicitor, the premiums collected and paid to the insurer and the commissions received.

(2) A license holder shall keep, for a period of at least 5 years, the original or an accurate copy of policies, premium payments, claims made and paid, and other items comprising records of transactions processed by it.

(3) Notwithstanding the provisions of any other law, a copy of an item made pursuant to this section shall be admissible as evidence in any legal proceeding to the same extent as the item of which it is a copy would have been admissible."

Section 38. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 319 of title 37 to read as follows:

"Section 319. 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."

Section 39. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 320 of title 37 to read as follows:

"Section 320. Lists of representatives to be maintained. Every license holder shall maintain and post in its office an accurate list of all persons associated with it as an insurer, agent, solicitor or broker in the Federated States of Micronesia, and shall provide the list to the Insurance Board along with the full details of the association with such agent, solicitor or broker including a copy of any employment
Section 40. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 321 of title 37 to read 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 41. Title 37 of the Code of the Federated States of Micronesia is hereby enacted by adding a new chapter 4 entitled "Policies".

Section 42. 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. Disclosures to policy-owners.

(1) A policy-owner must be provided with a copy of the policy within 30 days of it coming into effect.

(2) An insurer shall, at the request of the policy-owner, furnish the policy owner free of charge with a copy of the relevant financial statements prepared by the insurer to meet the reporting requirements of this Act, and shall make available for inspection, at the request of the policy-owner, a copy of the last actuarial report."

Section 43. 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. 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;

(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 establish through regulations other requirements for policy contents and review by the Insurance Board of policy forms.”
as amended, is hereby further amended by enacting a new section 403 of title 37 to read as follows:

"Section 403. 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 law or regulation applying to that policy."

Section 45. 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. Cancellation of policies.

(1) No 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 policy-owner 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 this Act, and the insurer shall, upon the surrendering of the policy, refund the excess of any premiums paid over and above the pro-rata 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 policy-owner named therein not less than 90 days' notice
in writing of the proposed cancellation by personal
service or by certified mail 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 policy-owner 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 certified mail; 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 policy-owner."

Section 46. 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. 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 of no effect; however, this section does not limit the inclusion of provisions in domestic policies requiring alternative dispute resolution prior to court action."

Section 47. Title 37 of the Code of the Federated States of Micronesia is hereby enacted by adding a new chapter 5 entitled "General Provisions".

Section 48. 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 the word 'insurance'. Only persons licensed under this Act shall have or use the word 'insurance' or any derivative thereof in the conduct of their business."

Section 49. 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) The Insurance Board shall not issue a license if the name under which the applicant desires to be licensed is identical to or so nearly resembles the name of a person already licensed under this Act as to be likely to be mistaken for it unless that person is in fact affiliated with the applicant and consents to the licensing of the applicant under the name in question, or the licensed person is being wound up or has ceased to transact insurance business in or from within the Federated States of Micronesia and consents to the licensing of the applicant under the name in question.

(2) The Commissioner shall not license an applicant as an insurer, agent, broker or solicitor if the name under which the applicant desires to be registered suggests falsely that the applicant has a special status in relation to or derived from the municipal, State or National government of the Federated States of Micronesia or has the official backing of or acts on behalf of said government or official thereof or is recognized in the Federated States of Micronesia as a national or central insurer, insurance agent, insurance broker or insurance solicitor.
(3) The Commissioner shall not license an applicant as broker or solicitor if the name under which the applicant desires to be registered is likely to suggest that the applicant is an insurer or agent.

(4) The Commissioner shall not license an applicant as an agent if the name under which the applicant desires to be registered is likely to suggest that the applicant is an insurer or a broker.

(5) The Commissioner may refuse to license an applicant under a name that is likely to mislead policy-owners or which is contrary to the public interest.

(6) A licensed insurer, agent, broker, or solicitor shall not change the name under which it is licensed without the prior permission of the Commissioner.

Section 50. 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. Service of process upon persons licensed under this Act.

(1) Any notice issued under any provisions of this Act and any process in legal proceedings may be served upon a person licensed under this Act by leaving the same at the principal office or designated agent of the person.

(2) If the principal office or designated agent of a person registered under this Act 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 and it shall be deemed to be service upon the person registered under this Act."

Section 51. 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. Control of advertisements. No advertisement shall be used by any person licensed under this Act which, directly or by implication, has the capacity and tendency to mislead or deceive prospective policy-owners 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 52. 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. Practices injurious to free competition. Unless otherwise permitted by law, no person shall, directly or indirectly, enter into any agreement for the purpose of controlling the rates to be charged, or the commissions or other compensations to be paid, for insuring any risk or class of risks or commit any act of
boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of or a monopoly in the business of insurance.”

Section 53. Title 37 of the Code of the Federated States of Micronesia is hereby enacted by adding a new chapter 6 entitled "Violations and Penalties".

Section 54. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 601 of title 37 to read as follows:

“Section 701. Investigation of illegal insurance business; penalties.

(1) Where the Insurance Board has reason to believe that a person is engaging in insurance business without a license in violation of this title, it may cause an examination of the books, accounts and records of such a person to determine if this is the case. The Insurance Board may apply to the Supreme Court for a warrant to enter any premises belonging to or in the control of such a person and remove any document, material or other thing therein for the purposes in the warrant.

(2) A person doing insurance business without a license in violation of this title shall be subject to a fine of not more than $50,000 and shall be required to repay any funds obtained as a result of such insurance business. A failure to cease doing insurance business
as directed by the Commissioner shall be considered a
new violation and subject to an additional fine.”

Section 55. The Code of the Federated States of Micronesia,
as amended, is hereby further amended by enacting a new section
602 of title 37 to read 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 a
fine of not more than $5,000 and if the violation is a
continuing one, to a further fine 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 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.

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

June 20, 2006

/s/ Joseph J. Urusemal
Joseph J. Urusemal
President
Federated States of Micronesia