
A BILL FOR AN ACT

To amend sections 301, 307, 313 and 322 of title 37 of the Code of the Federated States of Micronesia in order to expand and clarify the authority and powers of the Insurance Board in regulating the insurance industry, including the authority to approve certain transfers relating to insurance business before any transfer takes effect, both for domestic and foreign entities engaged in insurance business; to modify the requirements for broker's license application, to expand the present exemption from posting of bond applicable to certain foreign insurers; to introduce technical amendment to the provision on reporting and disclosure of information by auditors and actuaries; and for other purposes.

1 Section 1. Section 301 of title 37 of the Code of the
2 Federated States of Micronesia, as amended by Public Law No. 14-
3 87, is hereby further amended to read as follows:

4 "Section 301. License required.

5 (1) Every person that engages in insurance business in
6 the Federated States of Micronesia must first obtain a
7 license from the Insurance Board; Provided, however,
8 that foreign insurer is subject to the application of
9 section 307 of the Code. Any person who transacts
10 insurance business shall be licensed as either

- 11 (a) an insurer,
- 12 (b) an agent,
- 13 (c) a solicitor, or
- 14 (d) a broker.

15 (2) The Insurance Board may attach certain conditions
16 and restrictions to the issuance of a license. Once a
17 license is issued, the Insurance Board retains authority

1 of oversight to ensure that the terms and conditions of
2 the license are fulfilled. The Insurance Board may from
3 time to time, by notice in writing to a person holding a
4 license issued, or deemed to have been issued, under
5 this section, impose new or additional conditions of the
6 license or vary or remove any conditions already
7 imposed.

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

9 (4) Only agents transacting insurance business on
10 behalf of licensed or registered insurers shall be
11 eligible for a license as an insurer.

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

17 (6) A foreign insurer who does not make the premium
18 collections described in (5) shall be permitted to do
19 business through a person licensed as an agent if the
20 foreign insurer is registered, unless such foreign
21 insurer chooses to be licensed as an agent if the
22 foreign insurer is registered, unless such foreign
23 insurer chooses to be licensed as an insurer instead.

24 (7) A person licensed as an agent may conduct business
25 on behalf of more than one insurer; however, the agent

1 must apply for a separate license as an insurance agent
2 for each insurer.

3 (8) A person applying for a broker's license shall
4 carry and maintain professional indemnity insurance
5 against fraud, burglary, embezzlement, and other similar
6 insurable loss in an amount to be determined by the
7 Insurance Board."

8 Section 2. Section 307 of title 37 of the Code of the
9 Federated States of Micronesia, as amended by Public Law No. 14-
10 87, is hereby further amended to read as follows:

11 "Section 307. Registered Foreign Insurers.

12 (1) A foreign insurer may be registered by providing
13 the following:

14 (a) information from the insurer's home
15 supervisory authority that the insurer is solvent and
16 meets all the regulatory requirements in the home
17 jurisdiction and is otherwise in good standing; and a
18 statement from the home supervisory authority that the
19 foreign insurer is approved for transaction of insurance
20 business through an agent in the Federated States of
21 Micronesia; and

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

1 (c) compliance with any requirement, if set
2 forth in Regulations under this Act, that a certain
3 amount of premiums collected on behalf of the insurer
4 are maintained in the Federated States of Micronesia;
5 and

6 (d) designation of an agent for service of
7 process.

8 (2) A foreign insurer providing a marine, aviation and
9 transportation policy may be registered without posting
10 the bond required in (1)(b). Other types of policy may
11 be exempted by the Insurance Board from posting bond
12 required under subsection (1)(b) hereof when the
13 Insurance Board is satisfied that the insurance is not
14 available in the LFSM market from licensed or registered
15 insurers or the insurance is available but under terms
16 that would significantly disadvantage the insured. A
17 request for exemption may be made by unregistered
18 foreign insurers or licensed brokers or a prospective
19 policyholder.

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

25 (4) Any person registered as an insurer under this Act

1 shall be deemed and held to be doing business in the
2 Federated States of Micronesia and may be sued upon any
3 cause of action arising under any policy of insurance
4 issued by it and any cause of action under the laws of
5 the Federated States of Micronesia in the courts of the
6 Federated States of Micronesia."

7 Section 3. Section 313 title 37 of the Code of the Federated
8 States of Micronesia is hereby amended to read as follows:

9 Section 313. Mergers and transfers of insurance
10 business.

11 (1) Without approval by the Insurance Board, [N]no
12 domestic insurer licensed or registered under this title
13 shall;

14 ([±]a) [M]merge or reorganize, whether by
15 agreement, order or takeover, with any one or more
16 insurers; or

17 ([±]b) [F]transfer its insurance business or a
18 part thereof to, or take transfer of the insurance
19 business or a part thereof from, another insurer[~~7~~
20 ~~unless the merger, reorganization or transfer is~~
21 ~~approved by the Commissioner].~~

22 ([±]3) No merger nor transfer that lessens the policy
23 benefits of the insured shall be approved."

24 Section 4. Section 322 of title 37 of the Code of the
25 Federated States of Micronesia, as amended by Public Law No. 14-

1 87, is hereby further amended to read as follows:

2 "Section 322. Disclosure of information by auditors
3 and actuaries.

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

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

10 (b) a criminal offence involving fraud or
11 dishonesty has been committed; or

12 (c) the business is insolvent or is likely to
13 become insolvent; or

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

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

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

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

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

1 Section 5. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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5 Date: 1/27/09

Introduced by: /s/ Resio S. Moses

Joe N. Suka
(by request)

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