A BILL FOR AN ACT

To further amend sections 102 and 301 title 37 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 14-66 and 14-87, and inserting a new section 601 to add and amend definitions, to exempt a Marine Insurer from the licensing requirement, and to provide for Excepted Contracts and Activities, and for other purposes.

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

Section 1. Section 102 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 14-66 and 14-87, is hereby further amended 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) 'company' means a body corporate formed under the laws of and having its head office in the Federated States of Micronesia;

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

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

(10) 'foreign insurer' means an entity constituted and licensed to conduct an insurance business by a jurisdiction other than the Federated States of Micronesia, that has been registered or licensed under this Act to carry on insurance business in the Federated States of Micronesia;

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

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

(a) making or negotiating an insurance policy;

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

(c) taking, forwarding or receiving an insurance application;

(d) disseminating information concerning coverage and rates;

(e) receiving or collecting any consideration for insurance;

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

(g) directly or indirectly acting as an agent, broker or solicitor, or any other form of representative of an insurer;

(h) setting rates;

(i) inspecting a risk;
(j) investigating or adjusting a claim or loss;

(k) doing or proposing to do any activity that is in substance equivalent to conduct described in this provision.

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

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

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

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

(17) 'person' means any person, natural or legal, including individuals, partnerships, corporations;

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

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

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

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

(22) '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;

(23) 'regulations' means regulations made by the Insurance Board under this Act.
(24) '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.

(25) ‘Marine Insurer’ means an entity in the insurance business that sells a marine, aviation or transportation policy.”

Section 2. Section 301 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Law No. 14-87, is hereby further amended 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) Only agents transacting insurance business on behalf of licensed or registered insurers, with the
exception of a marine insurer, shall be eligible
for a license.

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

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

(7) A person licensed as an agent may conduct
business on behalf of more than one insurer;
however, the agent must apply for a separate
license as an insurance agent for each insurer.
(8) A Marine Insurer shall be exempted from the requirement in section 301(2) above and shall be permitted to do business in the Federated States of Micronesia, but only through a licensed agent.”

Section 3. Title 37 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by inserting a new section 601 to read as follows:

“Section 601. Excepted Contracts and Activities. The provisions of the foregoing sections do not apply to contracts of reinsurance or to contracts of insurance covering risks of transportation and navigation, or to an insurer not authorized in this nation or its representatives, in investigating, adjusting losses or otherwise complying in this nation with the terms of its insurance contracts made in a state wherein the insurer was authorized and in which the property or risk was located or residing at time of the execution of the contract.”

Section 3. 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: 11/25/13

Introduced by: /s/ David W. Panuelo

David W. Panuelo