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A BILL FOR AN ACT

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:

1           Section 1. Short title. This act shall be known as the  
2 "Insurance Act of 1993."

3           Section 2. Declaration of Policy - Public interest. The  
4 business of insurance is one affected by the public interest,  
5 requiring that all persons be actuated in good faith, abstain from  
6 deception and practice honesty and equity in all insurance matters.  
7 The duty of preserving the integrity of insurance rests with the  
8 insurer, its representatives and the insured.

9           Section 3. Compliance required. No person shall transact a  
10 business of insurance in the Federated States of Micronesia without  
11 complying with the applicable provisions of this act and the  
12 rules and regulations promulgated thereunder.

13           Section 4. Definitions.

14           (1) "Disability insurance," also referred to as  
15 accident and sickness insurance, is insurance against bodily injury,  
16 disablement, or death by accident, or accidental means, or the  
17 expense thereof; against disablement or expense resulting from  
18 sickness; and every insurance appertaining thereto.

19           (2) "General casualty insurance" includes vehicle  
20 insurance as defined in section 4(10), disability insurance defined  
21 in section 4(1) and in addition is insurance:

22           (a) Against legal liability for the death,  
23 injury, or disability of any human being, or from damage to property;

24           (b) Of medical, hospital, surgical, and funeral  
25 benefits to persons injured, irrespective of legal liability of the

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1 insured, when issued with or supplemental to insurance against legal  
2 liability for the death, injury, or disability of human beings;

3 (c) Of the obligation accepted by, imposed upon,  
4 or assumed by employers under law for death, disablement, or injury  
5 to employees;

6 (d) Against loss or damage by burglary, theft,  
7 larceny, robbery, forgery, fraud, vandalism, malicious mischief,  
8 confiscation, or wrongful conversion, disposal or concealment, or  
9 from any attempt of any of the foregoing; also insurance against loss  
10 or damage to moneys, coins, bullion, securities, notes, drafts,  
11 acceptances, or any other valuable papers or documents, resulting  
12 from any cause, except while in the mail;

13 (e) Upon personal effects of individuals, by an  
14 all-risk type of policy commonly known as the personal property  
15 floater;

16 (f) Against loss or damage to glass and its  
17 appurtenances resulting from any cause;

18 (g) Against any liability and loss or damage to  
19 property resulting from accidents to or explosions of boilers, pipes,  
20 pressure containers, machinery, or apparatus;

21 (h) Against loss of or damage to any property of  
22 the insured resulting from the ownership, maintenance, or use of  
23 elevators, except loss or damage by fire;

24 (i) Against loss or damage to any property caused  
25 by the breakage or leakage of sprinklers, water pipes, and

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1 containers, or by water entering through leaks or openings in  
2 buildings;

3 (j) Against loss or damage resulting from  
4 failure of debtors to pay their obligations to the insured (credit  
5 insurance);

6 (k) Against loss of or damage to any  
7 domesticated or wild animal resulting from any cause (livestock  
8 insurance);

9 (l) Against loss of or damage to any property of  
10 the insured resulting from collision of any other object with such  
11 property, but not including collision to or by vessels, craft, piers,  
12 or other instrumentalities of ocean or inland navigation (collision  
13 insurance);

14 (m) Against legal liability of the insured, and  
15 against loss, damage, or expense incident to a claim of such  
16 liability, and including any obligation of the insured to pay  
17 medical, hospital, surgical, and funeral benefits to injured persons,  
18 irrespective of legal liability of the insured, arising out of the  
19 death or injury of any person, or arising out of injury to the  
20 economic interest of any person as the result of negligence in  
21 rendering expert, fiduciary, or professional service (malpractice  
22 insurance);

23 (n) Against any other kind of loss, damage, or  
24 liability properly the subject of insurance and not within any other  
25 class or classes of insurance as defined in this act, if such

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1 insurance is not contrary to law or public policy.

2 (3) "Insurance" is a contract whereby one undertakes  
3 to indemnify another or pay a specified amount upon determinable  
4 contingencies.

5 The following contracts are not considered to be insurance  
6 for the purposes of this act:

7 (a) A title insurance contract;

8 (b) A bond with respect to which no premium is  
9 charged or paid;

10 (c) A bond or contract or undertaking in the  
11 performance of which the surety has an interest other than that of  
12 surety;

13 (d) A plan or agreement between an employer and  
14 any employee or the employee's representative, individually or  
15 collectively, by the terms of which the employer or the parties to  
16 the plan or agreement agree to contribute to the cost of nonoccupational  
17 disability benefits, medical attention, treatment, or  
18 hospitalization for the employee or members of the employee's unless  
19 such plan is underwritten by an insurer as defined in this act;

20 (e) A prepaid legal service plan other than  
21 plans in which either the group offering the plan or the  
22 person administering the plan is otherwise subject to this act.

23 (4) "Life insurance" is insurance on human lives and  
24 insurance appertaining thereto or connected therewith. For the  
25 purposes of this act the transacting of life insurance includes

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1 the granting of annuities and endowment benefits; additional benefits  
2 in event of death or dismemberment by accident or accidental means;  
3 additional benefits in event of total and permanent disability of the  
4 insured; and optional modes of settlement of proceeds.

5 (5) "Marine and transportation insurance" is:

6 (a) Insurance against any and all kinds of loss  
7 of or damage to:

8 (i) Vessels, craft, aircraft, cars,  
9 automobiles, and vehicles of every kind, as well as all goods,  
10 freights, cargoes, merchandise, effects, disbursement, profits,  
11 moneys, bullion, precious stones, securities, choses in action,  
12 evidences of debt, valuable papers, bottomry and respondentia  
13 interests, and all other kinds of property and interests therein, in  
14 respect to, appertaining to, or in connection with any and all risks  
15 or perils of navigation, transit, or transportation, including war  
16 risks, on or under any seas or other waters, on land or in the air,  
17 or while being assembled, packed, crated, baled, compressed, or  
18 similarly prepared for shipment or while awaiting the same or during  
19 any delays, storage, transshipment, or reshipment incident thereto,  
20 including marine builder's risks and all personal property floater  
21 risks;

22 (ii) Person or to property in connection  
23 with or appertaining to a marine, inland marine, transit, or  
24 transportation insurance, including liability for loss of or damage  
25 to either, arising out of or in connection with the construction,

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1 repair, operation, maintenance, or use of the subject matter of such  
2 insurance (but not including life insurance or surety bonds nor  
3 insurance against loss by reason of bodily injury to the person  
4 arising out of the ownership, maintenance, or use of automobiles);

5 (iii) Precious stones, jewels, jewelry, gold,  
6 silver, and other precious metals, whether used in business or trade  
7 or otherwise and whether the same be in course of transportation or  
8 otherwise; and

9 (iv) Bridges, tunnels, and other  
10 instrumentalities of transportation and communication (excluding  
11 buildings, their furniture and furnishings, fixed contents and  
12 supplies held in storage) unless fire, tornado, sprinkler leakage,  
13 hail, explosion, earthquake, riot, and civil commotion are the only  
14 hazards to be covered; piers, wharves, docks, and slips, excluding  
15 the risks of fire, tornado, sprinkler leakage, hail, explosion,  
16 earthquake, riot, and civil commotion; other aids to navigation and  
17 transportation, including dry docks and marine railways, against all  
18 risks.

19 (b) Marine protection and indemnity insurance,  
20 meaning insurance against, or against legal liability of the insured  
21 for, loss, damage, or expense arising out of, or incident to, the  
22 ownership, operation, chartering, maintenance, use, repair or  
23 construction of any vessel, craft, or instrumentality in use in  
24 ocean or inland waterways, including liability of the insured for  
25 personal injury, illness, or death or for loss of or damage to the

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1 property of another person.

2 (6) "Ocean marine insurance" means insurance:

3 (a) Upon vessels, crafts, hulls, and of interests  
4 therein, or with relation thereto;

5 (b) Of marine builders' risks, marine war risks,  
6 and contracts of marine protection and indemnity insurance;

7 (c) Of freights and disbursements pertaining to  
8 a subject of insurance coming within this definition;

9 (d) Of personal property and interests therein,  
10 in course of movement into or out of this Nation or among the islands  
11 of this Nation, or in course of exportation from or importation into  
12 any country, or in course of transportation coastwise, including  
13 transportation by land, water, or air from point of origin to final  
14 destination, in respect to, appertaining to, or in connection with,  
15 any risk or peril of navigation, transit, or transportation, and  
16 while being prepared for and while awaiting shipment, and during any  
17 delays, storage, transshipment, or reshipment incidental thereto.

18 (7) "Person" means any individual, company, insurer,  
19 association, organization, group, reciprocal or interinsurance  
20 exchanges, partnership, business, trust, or corporation.

21 (8) "Property insurance" is insurance against loss of  
22 or damage to real or personal property of every kind and any interest  
23 therein, from any or all hazard or cause and against loss  
24 consequential upon such loss of or damage. An inclusion within other  
25 defined classes of insurance of the right to insure against certain

1 designated perils to real or personal property shall not be deemed a  
2 diminution of the definition of property insurance.

3 (9) "Surety insurance" includes:

4 (a) Bail bond insurance, which is a guarantee  
5 that any person, in or in connection with any proceedings in any  
6 court, will:

7 (i) Attend in court when required, or

8 (ii) Will obey the orders of judgment of  
9 the court, as a condition to the release of the person from  
10 confinement, and the execution of bail bonds for any such purpose.

11 The making of property or cash bail does not constitute the  
12 transacting of bail bond insurance.

13 (b) Fidelity insurance, which is insurance  
14 guaranteeing the fidelity of persons holding positions of public or  
15 private trust.

16 (c) Guaranteeing the performance of contracts  
17 and guaranteeing and executing bonds, undertakings, and contracts of  
18 suretyship.

19 (d) Indemnifying banks, bankers, brokers,  
20 financial or moneyed corporations or associations against loss  
21 resulting from any cause of bills of exchange, notes, bonds,  
22 securities, evidences of debts, deeds, mortgages, warehouse receipts,  
23 or other valuable papers, documents, money, precious metals, and  
24 articles made therefrom, jewelry, watches, necklaces, bracelets,  
25 gems, precious and semi-precious stones, including any loss while the



1 same are being transported in armored motor vehicles, or by  
2 messenger, but not including any other risks of transportation or  
3 navigation; also against loss or damage to such insured's premises,  
4 or to the insured's furnishings, fixtures, equipment, safes, and  
5 vaults therein, caused by burglary, robbery, theft, vandalism, or  
6 malicious mischief, or any attempt thereat.

7 (10) "Vehicle insurance" is insurance against loss of  
8 or damage to any land vehicle or aircraft or any draft or riding  
9 animal or to property while contained therein or thereon or being  
10 loaded or unloaded therein or therefrom, and against any loss,  
11 expense or liability for loss or damage to persons or property  
12 resulting from or incident to ownership, maintenance, or use of any  
13 such vehicle or aircraft or animal. Insurance against accidental  
14 death or accidental injury to individuals including the named insured  
15 while in, entering, alighting from, adjusting, repairing, cranking, or  
16 caused by being struck by a vehicle, aircraft, or draft or riding  
17 animal, if such insurance is issued as part of insurance on the  
18 vehicle, aircraft, or draft or riding animal, shall be deemed to be  
19 vehicle insurance.

20 Section 5. Insurance Commissioner.

21 (1) The Secretary of the Department of Resources and  
22 Development shall be the Commissioner of Insurance.

23 (2) The Commissioner of Insurance shall:

24 (a) Issue regulations implementing the provisions  
25 of this act, subject to the approval of the President of the

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1 Federated States of Micronesia;

2 (b) Conduct examination and hearings authorized  
3 by this act;

4 (c) Report to the Congress of the Federated  
5 States of Micronesia and the President of the Federated States of  
6 Micronesia annually on each anniversary of the effective date of  
7 this act on the status of the insurance industry operating in the  
8 Federated States of Micronesia and on any actions taken pursuant to  
9 this act. The Commissioner of Insurance may also include comments or  
10 proposed changes to the insurance act as he or she deems fit.

11 Section 6. Commissioner may delegate. Any power, duty, or  
12 function vested in the Commissioner of Insurance by this act may be  
13 exercised, discharged, or performed by any employee of the Department  
14 of Resources and Development acting in the name and by the delegated  
15 authority of the Commissioner.

16 Section 7. Copies and certificates as evidence.

17 (1) Copies of records or documents in the Commissioner's  
18 office certified to by the Commissioner of Insurance shall be  
19 received as evidence in all courts in the same manner and to the same  
20 effect as if they were the originals.

21 (2) When required for evidence in court, the  
22 Commissioner shall furnish a certificate as to the authority of an  
23 insurer or other licensee in the Federated States of Micronesia on  
24 any particular date, and the court shall receive the certificate in  
25 lieu of the Commissioner's testimony.

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1           Section 8. Examination of insurers.

2                   (1) The Commissioner of Insurance may examine the  
3 affairs, transactions, accounts, records, documents, and assets of  
4 each authorized insurer as often as he or she deems prudent. The  
5 Commissioner shall so examine each domestic insurer at least once in  
6 every three years.

7                   (2) The Commissioner shall examine fully each  
8 insurer applying for authority to do business in the Federated  
9 States of Micronesia.

10                  (3) In lieu of making an examination, the  
11 Commissioner may accept a full report of the last recent examination  
12 of a foreign or alien insurer certified to by the insurance  
13 supervisory official of the state, province, or country of domicile.

14           Section 9. Examination of agents, managers, promoters. For the  
15 purpose of ascertaining its condition, or compliance with this  
16 act, the Commissioner may as often as he or she deems advisable  
17 examine the insurance accounts, records, documents, and transactions  
18 of:

19                   (1) Any insurance general agent, subagent, solicitor,  
20 or adjuster.

21                   (2) Any person engaged in or proposing to be engaged  
22 in or assisting in the promotion or formation of a domestic insurer,  
23 or a stock corporation to finance a domestic mutual insurer or the  
24 production of its business, or a corporation to be attorney-in-fact  
25 for a domestic reciprocal insurer.

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1           Section 10. Access to records; Corrections.

2                   (1) Every person being examined, its officers,  
3 employees, and representatives shall produce and make freely  
4 accessible to the Commissioner of Insurance the accounts, records,  
5 documents, and files in that person's possession or control relating  
6 to the subject of the examination, and shall otherwise facilitate the  
7 examination.

8                   (2) If the Commissioner finds the accounts to be  
9 inadequate or improperly kept or posted, the Commissioner may employ  
10 experts to rewrite, post, or balance them at the expense of the  
11 person being examined, if the person has failed to correct the  
12 accounting records after the Commissioner has given that person  
13 written notice and a reasonable opportunity to do so.

14           Section 11. Examination reports.

15                   (1) The Commissioner of Insurance shall make a full  
16 written report of each examination made by him or her.

17                   (2) The report shall be certified by the  
18 Commissioner or by the Commissioner's examiner in charge of the  
19 examination, and shall be filed in the Department of Resources and  
20 Development subject to subsection (3) of this section.

21                   (3) The Commissioner shall furnish to the person  
22 examined a copy of the examination report within 90 days after  
23 the execution of the report by the examiner and not less than 20  
24 days prior to the filing of the report for public inspection in the  
25 department. If the person so requests in writing within the

1 20-day period, the Commissioner shall hold a hearing to consider  
2 objections of the person to the report as proposed, and shall not  
3 file the report until after the hearing and until after any  
4 modifications in the report deemed necessary by the Commissioner have  
5 been made.

6 (4) The report, when filed for public inspection, shall  
7 be admissible in evidence in any action or proceeding brought by the  
8 Commissioner against the person examined, or its officers or agents;  
9 except, that the Commissioner or the Commissioner's examiners may at  
10 any time testify and offer other proper evidence as to information  
11 secured during the course of an examination, whether or not a written  
12 report of the examination has at that time been either made, served,  
13 or filed in the department.

14 Section 12. Reports withheld. The Commissioner of Insurance  
15 may withhold from public inspection any examination or investigation  
16 report for so long as the Commissioner deems prudent.

17 Section 13. Examination expense.

18 (1) Examinations of any insurer coming under this act  
19 made by the Commissioner or the Commissioner's examiners and  
20 employees shall, including fees, mileage, and expense incurred as to  
21 witnesses, be at the expense of the insurer examined.

22 (2) The insurer examined and liable therefore  
23 shall pay to the Commissioner's examiners upon presentation of  
24 itemized statement thereof, their actual travel expenses, their  
25 reasonable living expense allowance, and their per diem compensation

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1 at a reasonable rate approved by the Commissioner, incurred on  
2 account of the examination. The Commissioner or the Commissioner's  
3 examiners shall not receive or accept any additional emolument on  
4 account of any examination.

5 Section 14. Hearings.

6 (1) The Commissioner of Insurance shall hold a  
7 hearing if required by this act. The Commissioner may hold other  
8 hearings as he or she deems necessary for such purposes as are within  
9 the scope of this act.

10 (2) The hearing shall be held at a place designated  
11 by the Commissioner and at the Commissioner's discretion it may be  
12 open to the public.

13 (3) Application for a hearing made to the Commissioner  
14 pursuant to this act shall be in writing, shall specify in what  
15 respects the person so applying was aggrieved and the grounds to be  
16 relied upon as a basis for the relief to be demanded at the hearing.  
17 The Commissioner shall hold the hearing applied for within 30 days  
18 after receipt of the application unless postponed by mutual  
19 consent.

20 Section 15. Stay of action.

21 (1) Such demand for a hearing received by the  
22 Commissioner of Insurance prior to the effective date of action taken  
23 or proposed to be taken by the Commissioner shall stay the action  
24 pending the hearing, except as to action taken or proposed:

25 (a) Under an order on hearing; or

1 (b) Under an order pursuant to an order on  
2 hearing; or

3 (c) Under an order to make good an impairment of  
4 the assets of an insurer.

5 (2) In any case where an automatic stay is not  
6 provided for, and if the Commissioner after written request therefore  
7 fails to grant a stay, the person aggrieved thereby may apply to the  
8 Trial Division of the Supreme Court of the Federated States of  
9 Micronesia for a stay of the Commissioner's action.

10 Section 16. Procedure.

11 (1) The Commissioner of Insurance shall preside at  
12 the hearing which shall be held in the manner provided in title 17 of  
13 the Code of the Federated States of Micronesia.

14 (2) A copy of the record of the proceedings shall  
15 be furnished any person affected by the hearing or any other person  
16 upon written request and at the expense of such person.

17 (3) Upon good cause shown, the Commissioner may  
18 permit any person who has a valid interest in the proceeding to  
19 intervene, appear, and be heard at the hearing.

20 (4) Any person heard shall make full disclosure  
21 of facts pertinent to the subject of inquiry as requested by the  
22 Commissioner or by any person affected by the hearing.

23 Section 17. Witnesses subpoenaed.

24 (1) The Commissioner of Insurance, either on the  
25 Commissioner's own behalf or on behalf of any interested party, may

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1 take depositions, and subpoena witnesses or documentary evidence.  
2 The Commissioner may administer oaths, and examine under oath any  
3 individual relative to the affairs of any person being examined, or  
4 relative to the subject of any hearing or investigation.

5 (2) The subpoena shall have the same force and  
6 effect and shall be served in the same manner as if issued from a  
7 court of record.

8 (3) Witness fees and mileage, if claimed, shall  
9 be allowed the same as for testimony in a court of record. Witness  
10 fees, mileage, and the actual expense necessarily incurred in  
11 securing attendance of witnesses and their testimony shall be  
12 itemized, and shall be paid by the person as to whom the examination  
13 is being made, or by the person if other than the Commissioner, at  
14 whose request the hearing is held.

15 Section 18. Contempt proceedings. If any individual fails to  
16 obey the subpoena, or obeys the subpoena but refuses to testify when  
17 required concerning any matter under examination or investigation or  
18 the subject of the hearing, the Commissioner shall file a written  
19 report thereof and proof of service of the subpoena, in the Supreme  
20 Court of the Federated States of Micronesia. Thereupon the Court  
21 shall forthwith cause the individual to be brought before it to show  
22 cause why the individual should not be held in contempt, and if so  
23 held, may punish the individual as if the failure or refusal related  
24 to a subpoena from or testimony in that court.

25 Section 19. Notice of hearing.



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1           (1) The Commissioner of Insurance shall, not less  
2 than 10 days in advance, give notice to each person to be affected  
3 by the hearing of the matters prescribed in section 109 of title 17 of  
4 the Code of the Federated States of Micronesia.

5           (2) If the persons to be given notice are not  
6 specified in the provision pursuant to which the hearing is held, the  
7 Commissioner shall give such notice to all persons directly affected  
8 by the hearing.

9           Section 20. Show cause notice. If any person is entitled to a  
10 hearing by this act before any proposed action is taken, the notice  
11 of the proposed action may be in the form of a notice to show cause  
12 stating that the proposed action may be taken unless such person  
13 shows cause, at a hearing to be held as specified in the notice, why  
14 the proposed action should not be taken, and stating the basis of the  
15 proposed action.

16          Section 21. Adjourned hearing. The Commissioner of Insurance  
17 may adjourn any hearing from time to time and from place to place  
18 without other notice of the adjourned hearing than announcement  
19 thereof at the hearing.

20          Section 22. Nonattendance. The validity of any hearing held in  
21 accordance with the notice thereof shall not be affected by failure  
22 of any person to attend or to remain in attendance.

23          Section 23. Order on hearing.

24           (1) Within 30 days after the termination of a hearing  
25 the Commissioner of Insurance shall make an order thereon

1 and shall give a copy of the order to each person to whom notice of  
2 the hearing was given or required to be given.

3 (2) The order shall contain:

4 (a) A concise statement of the action taken;

5 (b) The effective date of the action;

6 (c) A designation of the provisions of this act

7 or regulation pursuant to which the action is taken;

8 (d) Such other matters as may be required by

9 title 17 of the Code of the Federated States of Micronesia.

10 (3) An order on hearing may confirm, modify, or

11 nullify action taken under an existing order, or may constitute the

12 taking of any new action coming within the scope of the notice of

13 such hearing.

14 Section 24. Appeal from Commissioner's order.

15 (1) Any person aggrieved on account of any official action

16 or threatened action of the Commissioner of Insurance, or of the

17 Commissioner's failure to act if such failure is deemed to constitute

18 an act under this act, may demand a hearing thereon as provided in

19 section 14 of this act. Any person aggrieved by any order of the

20 Commissioner, including any order refusing a hearing, may appeal

21 therefrom to the Trial Division of the Supreme Court of the Federated

22 States of Micronesia.

23 (2) The appeal must be taken within 30 days after the

24 order complained of was given by the Commissioner. If not so taken,

25 the right to appeal from or restrain action under the order shall

1 conclusively be deemed to have been waived.

2 (3) For the purpose of this section, person  
3 aggrieved shall include any person directly or indirectly injured or  
4 threatened with injury on account of any such order or action whether  
5 or not the person was a party to the proceedings, if any, out of  
6 which the order or action arises.

7 Section 25. Cost of record on appeal. The cost of preparing  
8 the record on appeal may be included in costs allowed by the court.

9 Section 26. Stay of action on appeal.

10 (1) The taking of an appeal shall not stay any  
11 action taken or proposed to be taken by the Commissioner of Insurance  
12 under the order appealed from unless a stay is granted by the  
13 Commissioner or the reviewing court.

14 (2) In granting a stay of action, the Commissioner or  
15 the court shall consider whether the stay would tend to injure the  
16 public interest, and may require of the person taking the appeal such  
17 security or other conditions as may be deemed proper.

18 (3) If the order appealed from is one suspending,  
19 revoking, or refusing to renew an agent's, broker's, solicitor's, or  
20 adjuster's license, the appellant by filing a bond with the clerk of  
21 the court, subject to approval of the court, in the sum of \$1,000,  
22 conditioned to pay all costs that may be awarded against the  
23 appellant, may, if filed prior to the effective date of the order,  
24 supersede the order appealed from until the final determination of  
25 the appeal.

