A BILL FOR AN ACT

To amend title 37 of the Code of the Federated States of Micronesia, by adding sections 101-117 of a new chapter 1, to establish a National Insurance Company to provide marine and potentially other forms of insurance on a wholly or partially self-insured basis; to appropriate the sum of $2,500,000 from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1994, for the purpose of paying the start-up costs of the Federated States of Micronesia National Insurance Company; and for other purposes.

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

Section 1. Title 37 of the Code of the Federated States of Micronesia is hereby amended by the addition of a new chapter 1 entitled "FSM National Insurance Company."

Section 2. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 101 to read as follows:

"Section 101. Short title. This chapter is known and may be cited as the 'FSM National Insurance Company Act.'"

Section 3. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 102 to read as follows:

"Section 102. Purpose. The purpose of this chapter is to establish a public corporation to provide insurance to the various governments of the Federated States of Micronesia and related entities. Initially the Corporation shall focus on providing marine insurance, including but not necessarily limited to Hull and Machinery, Protection and Indemnity, Port Risk, and Cargo coverages. In the future, the Corporation may provide such other forms of insurance as Congress may direct through further legislation."

Section 4. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 103 to read as follows:
"Section 103. Establishment of Corporation. The FSM National Insurance Company, hereinafter referred to in this chapter as the 'Corporation,' is hereby created as a public corporation under the laws of the Federated States of Micronesia."

Section 5. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 104 to read as follows:

"Section 104. Principal and branch offices. The principal office of the Corporation shall be located within the territory of the Federated States of Micronesia at a place to be designated by the Board of Directors of the Corporation. There may be such subordinate or branch offices within the Federated States of Micronesia or abroad, as said Board of Directors may deem necessary."

Section 6. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 105 to read as follows:

"Section 105. Corporate purposes.

(1) Subject to any legal limitation now existing or hereafter created, the Corporation is intended generally to engage in all insurance functions that will assist in the economic advancement of the Federated States of Micronesia; provided that the Corporation
shall not be involved in regulating other insurance
companies, nor shall it be permitted to insure purely
private interests except to the extent that doing so
yields demonstrable public benefit.

(2) More specifically, the Corporation's purposes
include, but are not limited to, the following:

(a) to create and implement plans for full or
partial government self-insurance of government assets
and programs so as to provide adequate coverage at the
most affordable prices;

(b) to develop language, terms, and
actuarially sound rates for policies of insurance and
endorsements thereto;

(c) to issue insurance policies to any
National, State, or local governmental instrumentality
within the FSM, to any commercial venture in which such
a governmental instrumentality has a substantial
interest, and to any tax-exempt organization with
respect to its charitable assets or activities within
the FSM;

(d) to collect premiums and pay valid claims
with respect to such insurance policies;

(e) to purchase reinsurance for some but not
all of the exposure assumed by the Corporation;

(f) to maintain reserves adequate to cover the
(g) to invest such reserves, domestically or abroad, in a manner generally recognized within the insurance industry to be prudent in terms of liquidity and risk levels;

(h) to the extent deemed appropriate by the Corporation or directed by the Congress, to study and make recommendations with respect to additional types of insurance to be undertaken or other ways in which this chapter should be expanded or amended;

(i) to develop and promulgate safety and maintenance plans for the reduction of losses;

(j) to accept, separately account for, prudently manage, and properly apply funds which any insured party may choose to deposit with the Corporation for the purpose of facilitating prompt payment of deductibles and other uncovered losses; and

(k) to set premium levels and otherwise manage its affairs so as to achieve promptly and thereafter continuously maintain economic self-sufficiency, pay back any start-up funds provided by the National Government, and not require any future public subsidy."

Section 7. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 106 to read as follows:
"Section 106. Corporate powers. In furtherance of the Corporation's purposes, and except as may otherwise be limited by law, the Corporation shall have and exercise all powers normally exercised by a public corporation in the Federated States of Micronesia, including but not limited to the following:

(1) To adopt, alter, and use a corporate seal;

(2) To adopt, amend, and repeal bylaws governing the conduct of its business and the exercise of its powers;

(3) To sue and be sued in its corporate name;

(4) To acquire, in any lawful manner, real, personal, or mixed property, either tangible or intangible; and to hold, maintain, use, and operate such property; and to sell, lease, or otherwise dispose of such property;

(5) To acquire in any mode and take over the whole or any part of the business, property, goodwill, and liabilities of any other company or companies;

(6) To take and otherwise acquire and hold shares, stocks, mortgages, bonds, obligations, securities, and investments of all kind, foreign and domestic, and to sell or otherwise alienate the same;

(7) To form or assist in forming any company for the purpose of carrying on any business which the
Corporation is authorized to carry on:

(8) To borrow or guaranty the borrowing of any sum of money, on any terms, with or without security, but only as may be expressly authorized by further legislation;

(9) To make and perform contracts;

(10) To lend money and otherwise to invest or reinvest its funds;

(11) To act as agent for or of any other person or entity;

(12) To appoint officers and agents of the Corporation;

(13) To provide for operation of the Corporation through one or more employees, outside independent contractors, or a combination thereof; and

(14) To permit the Corporation to be registered or recognized in any country, state, or place outside of the Federated States of Micronesia, and to comply with any condition necessary or expedient in order to enable the Corporation to carry on business in any such country, state, or place."

Section 8. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 107 to read as follows:

"Section 107. Board of directors."
(1) The affairs of the Corporation shall be managed and its corporate powers exercised by a Board of directors, hereinafter referred to as the 'Board.'

(2) The Board shall consist of five members, one appointed by the President of the Federated States of Micronesia and one appointed by each of the Governors of the four States of the Federated States of Micronesia. The Board itself may add one or more ex-officio members and establish the terms of service thereof, but no ex-officio member shall have the power to vote. Except as may be otherwise expressly provided or required by the context, references to 'members' of the Board shall mean voting members only and references to 'directors' shall mean both voting and ex-officio members.

(3) Each member of the Board shall serve at the pleasure of the official who appointed that member and may be changed from time to time at the election of such appointing official. A member may also be removed from the Board for cause upon a vote of all the other members.

(4) If any vacancy on the Board continues for a period of three months, it may be filled by appointment of a majority of the remaining members. The member thus appointed shall serve until a majority of the other members so determine or a different person is appointed.
by the appropriate appointing official, whichever is sooner."

Section 9. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 108 to read as follows:

"Section 108. Board meetings.

(1) The first organizational meeting of the Board shall be held not more than 45 days after all of the initial members have been appointed.

(2) Regular meetings of the Board shall be held at least once every three months during the 12 months following the organizational meeting and at least once every year thereafter, at such times and places as may be determined in advance by the Board and made known to all directors.

(3) Special meetings of the Board may be called at the initiative of the chairman of the Board and shall be called upon the request of any two members.

(4) A majority of the entire membership of the Board shall constitute a quorum. Except where otherwise expressly provided, an affirmative vote of a majority of members present in person or by proxy shall constitute an action of the Board. Proxy voting shall be permitted to the extent and in the manner provided in the bylaws.

(5) The secretary of the Corporation, or such other
officer or officers as may be specified in the bylaws,
shall keep full and accurate minutes of all meetings of
the Board.

(6) The bylaws may provide for telephonic meetings
of the Board and for action without a meeting, provided
that any action without a meeting shall require the
written consent of all members."

Section 10. Chapter 1 of title 37 of the Code of the
Federated States of Micronesia is hereby enacted by the addition
of a new section 109 to read as follows:

"Section 109. Compensation of directors. Directors who
are employees of any State or National Government
instrumentality shall receive no compensation at all.
The compensation, if any, of other directors shall be as
established by the Board. All directors shall be
entitled to per diem at established Federated States of
Micronesia Government rates when traveling on the
Corporation’s business."

Section 11. Chapter 1 of title 37 of the Code of the
Federated States of Micronesia is hereby enacted by the addition
of a new section 110 to read as follows:

"Section 110. Board officers. The Board shall elect
from among its members a chairman and vice-chairman.
The chairman shall ordinarily preside at Board meetings.
The vice-chairman shall preside in the absence of the
chairman. The bylaws shall provide for determination of
the presiding officer in the absence of these officers."

Section 12. Chapter 1 of title 37 of the Code of the
Federated States of Micronesia is hereby enacted by the addition
of a new section 111 to read as follows:

"Section 111. Bylaws. The Board shall adopt, and
thereafter may amend, or repeal and readopt, corporate
bylaws by a vote of a majority of all its members.
Consistent with this chapter, the bylaws shall provide
for the management of the Corporation; the organization,
meetings, and procedures of the Board; the rights and
duties of officers and employees of the Corporation; the
preparation and submission of required reports; and such
other matters as the Board may deem appropriate. Bylaws
may not be adopted or amended except after one week of
written notice to each director."

Section 13. Chapter 1 of title 37 of the Code of the
Federated States of Micronesia is hereby enacted by the addition
of a new section 112 to read as follows:

"Section 112. Records, reporting, audit. The Board
shall cause to be kept accurate records of the
Corporation's business. Such records shall include, but
not be limited to, accounting of all income and
expenditure, assets (tangible and intangible), and
liabilities of the Corporation. The Corporation shall
make quarterly and audited annual reports, including
financial statements, to the President of the Federated
States of Micronesia, the Speaker of the Congress of the
Federated States of Micronesia, and the State Governors.
The Board shall cause the books of the Corporation to be
audited by the National Public Auditor at least once a
year."

Section 14. Chapter 1 of title 37 of the Code of the
Federated States of Micronesia is hereby enacted by the addition
of a new section 113 to read as follows:

"Section 113. Corporate debts and obligations. Unless
otherwise expressly provided by law, the National
Government shall not be liable or responsible for any
debts incurred by or obligations imposed on the
Corporation."

Section 15. Chapter 1 of title 37 of the Code of the
Federated States of Micronesia is hereby enacted by the addition
of a new section 114 to read as follows:

"Section 114. Insolvency. If the total amount of money
available to the Corporation at any time is insufficient
to make all necessary payments, the money available
shall be prorated and the unpaid portion shall be paid
as soon thereafter as money becomes available."

Section 16. Chapter 1 of title 37 of the Code of the
Federated States of Micronesia is hereby enacted by the addition
of a new section 115 to read as follows:

"Section 115. Tax exemption. The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations, and activities. Nothing in this section exempts employees and independent contractors of the Corporation, nor is the Corporation exempt from any requirements of law with respect to tax withholding or social security contributions by employers."

Section 17. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 116 to read as follows:

"Section 116. Other exemptions.

(1) The Corporation is exempt from the requirements of chapter 1 of title 32 of the Code of the Federated States of Micronesia (business licensing).

(2) Except as otherwise provided in a specific appropriation, the Corporation is exempt from the requirements of chapter 2 of title 55 of the Code of the Federated States of Micronesia (Financial Management Act).

(3) Employees of the Corporation are not part of the Public Service System and are not subject to title 52 of the Code of the Federated States of Micronesia."
(Public Employment).

(4) If the Corporation elects to purchase reinsurance, the provider thereof shall not, solely by reason of its activities incident to the provision of reinsurance to the Corporation, be subject to the requirements of either chapter 1 (business licensing) or chapter 2 (Foreign Investment Act) of title 32 of the Code of the Federated States of Micronesia.

(5) If the Corporation elects to contract with an independent firm for management or insurance brokerage services, said firm shall not, solely by reason of its activities incident to the provision of such services to the Corporation, be subject to the requirements of either chapter 1 (business licensing) or chapter 2 (Foreign Investment Act) of title 32 of the Code of the Federated States of Micronesia."

Section 18. Chapter 1 of title 37 of the Code of the Federated States of Micronesia is hereby enacted by the addition of a new section 117 to read as follows:

"Section 117. Marine insurance required. Once the Corporation is prepared to offer marine insurance, and to the extent that funds are appropriated or otherwise available for payment of premiums therefor:

(1) Every vessel owned by any instrumentality of the National Government shall be insured by the
Corporation with such coverages as that instrumentality,
in consultation with the Corporation, deems appropriate,
and no coverage which is available in whole or
substantial part from the Corporation may be bought
elsewhere.

(2) Every vessel owned by any commercial venture in
which an instrumentality of the National Government has
a substantial interest shall be subject to subsection
(1) of this section to the extent consistent with
applicable law, documentation of the venture, and the
rights of other parties to the venture.

(3) The owner of every other vessel eligible for
such insurance is encouraged to purchase it from the
Corporation."

Section 19. The sum of $2,500,000, or so much thereof as
may be necessary, is hereby appropriated from the General Fund
of the Federated States of Micronesia for the fiscal year ending
September 30, 1994, for the purpose of paying the start-up costs
of the Federated States of Micronesia National Insurance
Company, including, but not limited to, Board expenses,
employees' wages and salaries, travel, management and brokerage
fees, reinsurance premiums, and the purchase of consumables and
capital assets. Any such funds expended by the Corporation
shall be repaid to the General Fund, without interest, when and
as possible, in accordance with section 105(2)(k) of this
Section 20. All funds appropriated in section 19 of this act shall be allotted, managed, administered, and accounted for in accordance with applicable law, including, but not limited to, the Financial Management Act of 1979. The allottee shall be responsible for ensuring that these funds, or so much thereof as may be necessary, are used solely for the purpose specified in this act, and that no obligations are incurred in excess of the sum appropriated. The authority of the allottee to obligate funds appropriated by this act shall lapse as of September 30, 1995.

Section 21. 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: 11/09/93

Introduced by: [Signature]

Joseph J. Ursemal
(by request)