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:

Section 1. Short title. This act shall be known as the "Insurance Act of 1992."

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

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

Section 4. Definitions.

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

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

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

(b) Of medical, hospital, surgical, and funeral benefits to persons injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of human beings;
(c) Of the obligation accepted by, imposed upon, or
assumed by employers under law for death, disablement, or injury to
employees.

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

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

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

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

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

(i) Against loss or damage to any property caused by the
breakage or leakage of sprinklers, water pipes, and containers, or by water
entering through leaks or openings in buildings;

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

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

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

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

(n) Against any other kind of loss, damage, or liability
properly the subject of insurance and not within any other class or classes of
insurance as defined in this act, if such insurance is not contrary to law or
public policy.

(3) "Insurance" is a contract whereby one undertakes to
indemnify another or pay a specified amount upon determinable contingencies.
The following contracts are not considered to be insurance for the purpose of
this act:

(a) A title insurance contract;

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

(c) a bond or contract or undertaking in the performance
of which the surety has an interest other than that of surety;
(d) A plan or agreement between an employer and any employee or his representative, individually or collectively, by the terms of which the employer or the parties to the plan or agreement agree to contribute to the cost of nonoccupational disability benefits, medical attention, treatment, or hospitalization for the employee or members of his family unless such plan is underwritten by an insurer as defined in this act; or

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

(4) "Life insurance" is insurance on human lives and insurance appertaining thereto or connected therewith. For the purposes of this act the transacting of life insurance includes the granting of annuities and endowment benefits; additional benefits in event of death or dismemberment by accident or accidental means; additional benefits in event of total and permanent disability of the insured; and optional modes of settlement of proceeds.

(5) "Marine and transportation insurance" is:

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

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

(ii) Person or to property in connection with or
appertaining to a marine, inland marine, transit, or transportation insurance,
including liability for loss of or damage to either, arising out of or in connection
with the construction, repair, operation, maintenance, or use of the subject
matter of such insurance (but not including life insurance or surety bonds nor
insurance against loss by reason of bodily injury to the person arising out of
the ownership, maintenance, or use of automobiles);

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

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

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

(6) "Ocean marine insurance" means insurance:

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

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

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

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

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

(8) "Property insurance" is insurance against loss of or damage to real or personal property of every kind and any interest therein, from any or all hazard or cause and against loss consequential upon such loss of or
damage. An inclusion within other defined classes of insurance of the right to
insure against certain designated perils to real or personal property shall not
be deemed a diminution of the definition of property insurance.

(9) "Surety insurance" includes:

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

(i) Attend in court when required, or

(ii) Will obey the orders of judgment of the court, as a
condition to the release of the person from confinement, and the execution of
bail bonds for any such purpose. The making of property or cash bail does not
constitute the transacting of bail bond insurance.

(b) Fidelity insurance, which is insurance guaranteeing the
fidelity of persons holding positions of public or private trust:

(c) Guaranteeing the performance of contracts and
guaranteeing and executing bonds, undertakings, and contracts of suretyship; and

(d) Indemnifying banks, bankers, brokers, financial or
moneyed corporations or associations against loss resulting from any cause of
bills of exchange, notes, bonds, securities, evidences of debts, deeds,
mortgages, warehouse receipts, or other valuable papers, documents, money,
precious metals, and articles made thereof, jewelry, watches, necklaces,
bracelets, gems, precious and semi-precious stones, including any loss while the
same are being transported in armored motor vehicles, or by messenger, but
not including any other risks of transportation navigation; also against loss or
damage to such insured's premises, or to his furnishings, fixtures, equipment,
safes, and vaults therein, caused by burglary, robbery, theft, vandalism, or
malicious mischief, or any attempt thereat.

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

Section 5. **Insurance Commissioner.**

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

(2) The Commission of Insurance shall:

(a) Issue regulations implementing the provisions of this
act, subject to the approval of the President of the Federated States of
Micronesia;

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

(c) Report to the Congress of the Federated States of
Micronesia and the President of the Federated States of Micronesia annually on
each anniversary of the effective date of this act on the status of the insurance
industry operating in the Federated States of Micronesia and on any actions
taken pursuant to this act. He may also include comments or proposed
changes to the insurance act as he deems fit.

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

Section 7. **Copies and certificates as evidence.**

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

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

Section 8. **Examination of insurers.**

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

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

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

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

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

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

Section 10. Access to records: Corrections.

(1) Every person being examined, its officers, employees, and representatives shall produce and make freely accessible to the Commissioner of Insurance the accounts, records, documents, and files in his possession or control relating to the subject of the examination, and shall otherwise facilitate the examination.

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

Section 11. Examination reports.

(1) The Commissioner of Insurance shall make a full written report of each examination made by him.
(2) The report shall be certified by the Commissioner or by his
examiner in charge of the examination, and shall be filed in the Department of
Resources and Development subject to subsection (3) of this section.

(3) The Commissioner shall furnish to the person examined a
copy of the examination report within 90 days after the execution of the report
by the examiner and not less than 20 days prior to the filing of the report for
public inspection in the department. If the person so requests in writing within
the 20-day period, the Commissioner shall hold a hearing to consider objections
of the person to the report as proposed, and shall not so file the report until
after the hearing and until after any modifications in the report deemed
necessary by the Commissioner have been made.

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

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

Section 13. Examination expense.

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

(2) The insurer examined and liable therefore shall pay to the
Commissioner's examiners upon presentation of itemized statement thereof,
their actual travel expenses, their reasonable living expense allowance, and their
per diem compensation at a reasonable rate approved by the Commissioner,
incurred on account of the examination. The Commissioner or his examiners
shall not receive or accept any additional emolument on account of any
examination.

Section 14. Hearings.

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

(2) The hearing shall be held at a place designated by the
Commissioner and at his discretion it may be open to the public.

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

Section 15. Stay of action.

(1) Such demand for a hearing received by the Commissioner of
Insurance prior to the effective date of action taken or proposed to be taken
by him shall stay the action pending the hearing, except as to action taken or
proposed:
(a) Under an order on hearing;
(b) Under an order pursuant to an order on hearing; or
(c) Under an order to make good an impairment of the
assets of an insurer.

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

Section 16. Procedure.

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

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

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

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

Section 17. Witnesses subpoenaed.

(1) The Commissioner of Insurance, either on his own behalf or on
behalf of any interested party, may take depositions, and subpoena witnesses
or documentary evidence. The Commissioner may administer oaths, and
1 examine under oath any individual relative to the affairs of any person being
2 examined, or relative to the subject of any hearing or investigation.
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4       (2) The subpoena shall have the same force and effect and shall
5 be served in the same manner as if issued from a court of record.
6
7       (3) Witness fees and mileage, if claimed, shall be allowed the
8 same as for testimony in a court of record. Witness fees, mileage, and the
9 actual expense necessarily incurred in securing attendance of witnesses and
10 their testimony shall be itemized, and shall be paid by the person as to whom
11 the examination is being made, or by the person if other than the
12 Commissioner, at whose request the hearing is held.
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14       Section 18. Contempt proceedings. If any individual fails to obey the
15 subpoena, or obeys the subpoena but refuses to testify when required
16 concerning any matter under examination or investigation or the subject of the
17 hearing, the Commissioner shall file his written report thereof and proof of
18 service of his subpoena, in the Supreme Court of the Federated States of
19 Micronesia. Thereupon the Court shall forthwith cause the individual to be
20 brought before it to show cause why he should not be held in contempt, and if
21 so held, may punish him as if the failure or refusal related to a subpoena from
22 or testimony in that court.
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25
26       (1) The Commissioner of Insurance shall, not less than 10 days in
27 advance, give notice to each person to be affected by the hearing of the
28 matters prescribed in section 109 of title 17 of the Code of the Federated
29 States of Micronesia.
30
31       (2) If the persons to be given notice are not specified in the
provision pursuant to which the hearing is held, the Commissioner shall give such notice to all persons directly affected by the hearing.

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

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

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

Section 23. Order on hearing.

(1) Within 30 days after the termination of a hearing the Commissioner of Insurance shall make his order thereon and shall give a copy of the order to each person to whom notice of the hearing was given or required to be given.

(2) The order shall contain:

(a) A concise statement of the action taken;

(b) The effective date of the action;

(c) A designation of the provisions of this act or regulation pursuant to which the action is taken; and

(d) Such other matters as may be required by title 17 of
the Code of the Federated States of Micronesia.

(3) An order on hearing may confirm, modify, or nullify action taken under an existing order, or may constitute the taking of any new action coming within the scope of the notice of such hearing.

Section 24. Appeal from Commissioner's order.

(1) Any person aggrieved on account of any official action or threatened action of the Commissioner of Insurance, or of is failure to act if such failure is deemed to constitute an act under this act, may demand a hearing thereon as provided in section 14 of this act. Any person aggrieved by any order of the Commissioner, including any order refusing a hearing, may appeal therefrom to the Trial Division of the Supreme Court of the Federated States of Micronesia.

(2) The appeal must be taken within 30 days after the order complained of was given by the Commissioner. If not so taken, the right to appeal from or restrain action under the order shall conclusively be deemed to have been waived.

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

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

Section 26. Stay of action on appeal.

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

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

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

4 Section 27. Hearing the appeal. The court shall give precedence to and may summarily hear and determine the appeal. The court shall hear the appeal upon the record in the manner provided in title 17 of the Code of the Federated States of Micronesia. Costs shall be awarded as in civil cases.

5 Section 28. Appeals to Appellate Division of the Supreme Court. An appeal may be taken to the Appellate Division of the Supreme Court of the Federated States of Micronesia, as in civil actions, from judgments of the Trial Division made pursuant to any provision of this act. The appeals shall be advance upon the trial calendar of the Supreme Court and be heard at the earliest convenient date.
Section 29. Effective date. 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: June 12, 1995

Introduced by [Signature]
Redley Kilon