

JHGO

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:

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

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

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

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

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

23 Section 4. Chapter 1 of title 37 of the Code of the
24 Federated States of Micronesia is hereby enacted by the addition
25 of a new section 103 to read as follows:

1 "Section 103. Establishment of Corporation. The FSM
2 National Insurance Company, hereinafter referred to in
3 this chapter as the 'Corporation,' is hereby created as
4 a public corporation under the laws of the Federated
5 States of Micronesia."

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

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

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

20 "Section 105. Corporate purposes.

21 (1) Subject to any legal limitation now existing
22 or hereafter created, the Corporation is intended
23 generally to engage in all insurance functions that will
24 assist in the economic advancement of the Federated
25 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

1 retained exposure;

2 (g) to invest such reserves, domestically or
3 abroad, in a manner generally recognized within the
4 insurance industry to be prudent in terms of liquidity
5 and risk levels;

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

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

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

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

23 Section 7. Chapter 1 of title 37 of the Code of the
24 Federated States of Micronesia is hereby enacted by the addition
25 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

1 Corporation is authorized to carry on;

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

6 (9) To make and perform contracts;

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

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

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

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

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

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

25 "Section 107. Board of directors.

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

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

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

21 (4) If any vacancy on the Board continues for a
22 period of three months, it may be filled by appointment
23 of a majority of the remaining members. The member thus
24 appointed shall serve until a majority of the other
25 members so determine or a different person is appointed

1 by the appropriate appointing official, whichever is
2 sooner."

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

6 "Section 108. Board meetings.

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

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

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

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

25 (5) The secretary of the Corporation, or such other

1 officer or officers as may be specified in the bylaws,
 2 shall keep full and accurate minutes of all meetings of
 3 the Board.

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

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

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

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

22 "Section 110. Board officers. The Board shall elect
 23 from among its members a chairman and vice-chairman.
 24 The chairman shall ordinarily preside at Board meetings.
 25 The vice-chairman shall preside in the absence of the

1 chairman. The bylaws shall provide for determination of
 2 the presiding officer in the absence of these officers."

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

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

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

20 "Section 112. Records, reporting, audit. The Board
 21 shall cause to be kept accurate records of the
 22 Corporation's business. Such records shall include, but
 23 not be limited to, accounting of all income and
 24 expenditure, assets (tangible and intangible), and
 25 liabilities of the Corporation. The Corporation shall

1 make quarterly and audited annual reports, including
2 financial statements, to the President of the Federated
3 States of Micronesia, the Speaker of the Congress of the
4 Federated States of Micronesia, and the State Governors.
5 The Board shall cause the books of the Corporation to be
6 audited by the National Public Auditor at least once a
7 year."

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

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

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

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

24 Section 16. Chapter 1 of title 37 of the Code of the
25 Federated States of Micronesia is hereby enacted by the addition

1 of a new section 115 to read as follows:

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

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

14 "Section 116. Other exemptions.

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

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

23 (3) Employees of the Corporation are not part of
 24 the Public Service System and are not subject to title
 25 52 of the Code of the Federated States of Micronesia '

1 (Public Employment).

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

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

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

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

24 (1) Every vessel owned by any instrumentality of
25 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

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1 chapter.

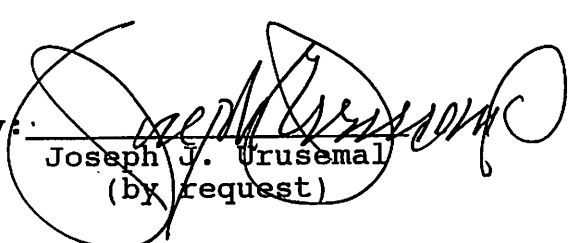
2 Section 20. All funds appropriated in section 19 of this
3 act shall be allotted, managed, administered, and accounted for
4 in accordance with applicable law, including, but not limited
5 to, the Financial Management Act of 1979. The allottee shall be
6 responsible for ensuring that these funds, or so much thereof as
7 may be necessary, are used solely for the purpose specified in
8 this act, and that no obligations are incurred in excess of the
9 sum appropriated. The authority of the allottee to obligate
10 funds appropriated by this act shall lapse as of September 30,
11 1995.

12 Section 21. This act shall become law upon approval by the
13 President of the Federated States of Micronesia or upon its
14 becoming law without such approval.

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16 Date: 11/24/93

Introduced by:


Joseph J. Trusemal
(by request)

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