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
4 Section 2. Declaration of Policy — Public interest. The
5 business of insurance is one affected by the public interest,
6 requiring that all persons be actuated in good faith, abstain from
7 deception and practice honesty and equity in all insurance matters.
8 The duty of preserving the integrity of insurance rests with the
9 insurer, its representatives and the insured.
10
11 Section 3. Compliance required. No person shall transact a
12 business of insurance in the Federated States of Micronesia without
13 complying with the applicable provisions of this act and the
14 rules and regulations promulgated thereunder.
15
16 Section 4. Definitions.
17
18 (1) "Disability insurance," also referred to as
19 accident and sickness insurance, is insurance against bodily injury,
20 disablement, or death by accident, or accidental means, or the
21 expense thereof; against disablement or expense resulting from
22 sickness; and every insurance appertaining thereto.
23
24 (2) "General casualty insurance" includes vehicle
25 insurance as defined in section 4(10), disability insurance defined
26 in section 4(1) and in addition is insurance:
27
28 (a) Against legal liability for the death,
29 injury, or disability of any human being, or from damage to property;
30
31 (b) Of medical, hospital, surgical, and funeral
32 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);

(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 purposes 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 the employee's 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 the employee's unless such plan is underwritten by an insurer as defined in this act;
(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,
moneys, bullion, precious stones, securities, choses in action,
evidences of debt, valuable papers, bottomry and respondentia
interests, 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, on 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;

(11) 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,
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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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;

(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 risk or peril of navigation, transit, or transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, transshipment, or reshipment incidental 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.

(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 therefrom, 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 or
navigation; also against loss or damage to such insured's premises,
or to the insured's 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 Commissioner of Insurance shall:

(a) Issue regulations implementing the provisions
of this act, subject to the approval of the President of the
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.
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 or she deems prudent. The Commissioner 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 an 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 or she 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 that person's 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, the Commissioner 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 that person 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 or her.

(2) The report shall be certified by the Commissioner or by the commissioner's 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
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 the Commissioner's 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 the Commissioner deems prudent.

Section 13. Examination expense.

(1) Examinations of any insurer coming under this act
made by the Commissioner or the Commissioner's 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 the Commissioner’s
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. The Commissioner may hold other
hearings as he or she 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 the Commissioner’s 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 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 the Commissioner shall stay the action
pending the hearing, except as to action taken or proposed:

(a) Under an order on hearing; or
(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 the
Commissioner’s own behalf or on behalf of any interested party, may
take depositions, and subpoena witnesses or documentary evidence.

The Commissioner may administer oaths, and examine under oath any
individual relative to the affairs of any person being examined, or
relative to the subject of any hearing or investigation.

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

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

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

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

(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 an 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;
(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 the
Commissioner's 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
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.

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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.

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 advanced 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: Oct 18, 1993

Introduced by: [Signature]

Nisima T. Heizah