

A BILL FOR AN ACT

To further amend sections 603 and 804 of title 53 of the Code of the Federated States of Micronesia, (Annotated), to apply the earnings test for retirement benefits received by an individual from age 60 to 64, and for other purposes.

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

1 Section 1. Section 603 of title 53 of the Code of the
2 Federated States of Micronesia (Annotated), is hereby amended to
3 read as follows:

4 "Section 603. Definitions.

5 (1) 'Application' means the prescribed form or forms
6 provided to individuals by the Social Security
7 Administrator as the exclusive means by which an
8 individual may apply for the payment of any benefit
9 provided for in section 801, 802, 803 or 803A of this
10 Act.

11 (2) 'Became disabled' means the first month in which
12 an individual is under a disability.

13 (3) 'Board' means the Federated States of Micronesia
14 Social Security Board provided for by section 701 of
15 this subtitle.

16 (4) 'Child or spouse' means an applicant that the
17 court of the State in which an individual was domiciled
18 at the time of his death has or would find to be the

1 individual's child or spouse in determining the
2 devolution of intestate personal property. 'Child'
3 shall include only the deceased individual's biological
4 children and such adopted children whose confirmed
5 petition for adoption by the wage earner has been
6 presented to the Social Security Administration and who
7 were adopted by the wage earner on or prior to the wage-
8 earner's 55th birthday of the adopting parent, shall be
9 a 'child' for the purposes of this title unless, the
10 Social Security Administrator makes a determination
11 that, due to exceptional circumstances, the person shall
12 be so entitled. In reaching a determination that
13 exceptional circumstances apply, the Social Security
14 Administrator shall satisfy himself or herself that
15 future eligibility for social security benefits was not
16 a significant factor in the decision to adopt and may
17 consider any available, relevant information including,
18 but not limited to:

19 (a) whether the adopted child's biological
20 mother, and/or biological father were alive at the time
21 the adoption took place;

22 (b) if one or both biological parents were alive
23 at the time of adoption, whether one or both parents
24 were acting or were capable of acting as a primary
25 caregiver at that time;

1 (c) whether the adopting parent is a relative of
2 the adopted child;

3 (d) whether, at the time the adoption took
4 place, there were relatives, not including the adopting
5 parents, who would have been appropriate guardians for
6 the adopted child;

7 (e) whether the adopting parent was a primary
8 caregiver for the adopted child at the time of adoption
9 and continued in that role after the adoption took
10 place;

11 (f) any other factor the Social Security
12 Administrator considers relevant.

13 (5) 'Contributions' means the tax imposed upon income
14 of covered employees and the tax imposed upon employers
15 on account of wages paid to a covered employee.

16 (6) 'Disability' means inability to engage in any
17 substantial gainful employment by reason of any
18 medically determinable physical or mental impairment
19 which can be expected to result in death or which has
20 lasted or can be expected to last for a continuous
21 period of not less than 12 months.

22 (7) 'Earning test' means that an individual who
23 receives a retirement, disability, or survivor benefit
24 and who works in covered or non-covered employment shall
25 have his quarterly benefit reduced by one dollar for

1 each two dollars earned in a quarter, except there shall
2 be no reduction for the first \$300 earned in a quarter.
3 The reduction shall be applied in one of the subsequent
4 two quarters immediately after the quarter in which the
5 earnings were made, or as soon as possible thereafter.
6 All benefit recipients have an affirmative duty to
7 disclose to the FSM Social Security Administration all
8 earnings from either covered or non-covered employment
9 for which time they are receiving or claiming benefits.
10 ~~[Under certain circumstances as defined in section 804,~~
11 ~~the earnings test may not apply to old age benefits~~
12 ~~received by an individual between the ages of 60 and 64~~
13 ~~who turns 60, after January 1, 2011.]~~

14 (8) 'Employee' means:

15 (a) any officer of a corporation; or

16 (b) any individual who, under the usual common
17 law rules applicable in determining the employer-
18 employee relationship, has the status of an employee; or

19 (c) any self-employed person who has at least
20 one employee for whom he is required to report in a
21 given quarter; or

22 (d) any self-employed person who had more than
23 \$10,000 of annual gross revenue in the preceding
24 calendar year.

25 (9) 'Employer' means:

1 (a) For purposes of this Act, employer means the
2 person, business organization or other organization, or
3 national or state or municipal government or agency,
4 that pursuant to common law rules of employment is the
5 actual person or organization responsible for the
6 formation and continuation of the working relationship
7 with employee.

8 (b) The Social Security Administration has the
9 right to determine the actual employer of employees for
10 purposes of implementing this Act, and need not rely on
11 the characterization provided.

12 (c) Employer may be an individual, partnership,
13 corporation or other type of business venture or non-
14 business organization, national or municipal or state
15 organization or agencies thereof, and which in certain
16 circumstances may be more than one, that is responsible
17 for the payment of all Social Security taxes. For
18 partnerships, the liability shall be joint and several
19 among all partners. For other types of business or non-
20 business organizations that are not corporations, the
21 liability shall be joint and several as if the
22 organization was a common law partnership. For
23 corporations, if the corporation fails to meet its tax
24 obligations when due, the liability shall be joint and
25 several between the president of the corporation, and

1 all shareholders with greater than a 30% interest in the
2 corporation.

3 Under this definition all such persons are jointly
4 defined as the employer, for all purposes including the
5 implementation of criminal penalties.

6 (10) 'Employment, covered' or 'covered employment'
7 means any service by an employee for an employer
8 incorporated or doing business within the Federated
9 States of Micronesia employing him, irrespective of
10 where such employment is performed, except family
11 employment.

12 (11) 'Employment, non-covered' or 'non-covered
13 employment' means any employment engaged in by an
14 employee where coverage is statutorily exempt in the
15 Federated States of Micronesia, family employment, or
16 employment by an employee outside of the Federated
17 States of Micronesia and which is not taxable by the FSM
18 Social Security Administration.

19 (12) 'Family employment' means employment of a worker
20 by a member of the household, a parent or a son or
21 daughter except that the worker may apply to the Board
22 for a determination that such employment is bona fide
23 covered employment subject to this subtitle.

24 (13) 'Insured status' can mean any of the following:

25 (a) 'Currently insured individual' means any

1 individual who has had not less than 20 quarters of
2 coverage during the 25 quarter period ending with:

3 (i) the quarter in which he died; or
4 (ii) the quarter in which he became entitled
5 to old age insurance benefits at age 60; or
6 (iii) the quarter in which he became
7 disabled, whichever first occurs.

8 (b) For individuals who qualified as a currently
9 insured person prior to December 31, 2006, the number of
10 quarters to qualify as a currently insured person was
11 not less than eight quarters of coverage during the 13
12 quarter period ending with:

13 (i) the quarter in which he died; or
14 (ii) the quarter in which he became entitled
15 to old age insurance benefits at age 60;
16 (iii) the quarter in which he became
17 disabled, whichever occurs first.

18 (c) 'Fully insured individual' means any
19 individual whose total cumulative quarters of coverage
20 are at least as great as the number of years calculated
21 from the later of the date the worker turned age 21, or
22 June 30, 1968, to the date the worker attains age 60,
23 dies or becomes disabled. For this purpose, partial
24 years shall be counted as whole years (for example 37.25
25 years would be rounded up to 38 years). In no case

1 shall an individual be a fully insured individual unless
2 he has at least 12 quarters of coverage:

3 (i) For individuals who attain age 60, die
4 or become disabled on or before December 31, 2006, no
5 more than 38 quarters of coverage are required to be
6 fully insured and there is no minimum amount required
7 for employee contributions to the Social Security
8 System.

9 (ii) For individuals who turn 60 or die
10 after December 31, 2006, no more than 50 quarters of
11 coverage and employee contributions to the Social
12 Security System of at least \$2,500 are required to be
13 fully insured. Should an individual's employee
14 contributions total less than \$2,500 as of the date of
15 termination of employment or death, the individual or
16 their surviving spouse may pay the difference to the FSM
17 Social Security Administration in a single sum payment
18 in order to become fully insured. The surviving
19 children will be eligible for benefits so long as the
20 individual was currently insured at the time of the
21 individual's death.

22 (iii) For individuals who become disabled
23 after December 31, 2006, no more than 45 quarters of
24 coverage and employee contributions to the Social
25 Security System of at least \$1,500 are required to be

1 fully insured. Should an individual's employee
2 contribution total less than \$1,500 as of the date of
3 termination from employment, the individual may pay the
4 difference to the FSM Social Security Administration in
5 a single sum payment in order to become fully insured.

6 (d) 'Fully insured status' means:

7 (i) For individuals who turn 60 or die
8 after January 01, 2010, shall have total cumulative
9 quarters of coverage equaling 50 quarters of coverage or
10 greater, and employee contributions to the Social
11 Security System of at least \$2,500 are required to be
12 fully insured. Employee contributions are the
13 contributions defined in section 901 only. Should an
14 individual's employee contributions total less than
15 \$2,500 as of the date of qualification as a fully
16 insured individual, the individual or their surviving
17 spouse may pay the difference to the FSM Social Security
18 Administration in a single sum payment in order to be
19 fully insured. If the individual or the surviving
20 spouse is unable to pay the difference on the minimum
21 contribution, the individual or surviving spouse can opt
22 for lump sum payment equal to the total employee
23 contribution.

24 (ii) 'Fully insured' means for individuals
25 who become disabled on or after January 1, 2010, at

1 least 45 quarters of coverage are needed to be defined
2 as fully insured, and they must also meet the definition
3 of currently insured at the time of the onset of their
4 disability. Additionally, employee's contributions to
5 the Social Security System of at least \$1,500 are
6 required to be fully insured. Should an individual's
7 employee contribution total less than \$1,500 as of the
8 date of disability, the individual may pay the
9 difference to the FSM Social Security Administration in
10 a single lump sum payment in order to be fully insured.

11 (14) 'Quarter' and 'calendar quarter' mean a period of
12 three calendar months ending on March 31st, June 30th,
13 September 30th, or December 31st. 'Quarter of coverage'
14 means a quarter in which the individual has been paid
15 \$300 or more in wages in covered employment subject to
16 this subtitle.

17 (15) 'Wages' means remuneration paid subject to the
18 provisions of this subtitle, including the cash value of
19 all remuneration paid in any medium other than cash and
20 remuneration accruing to a self-employed person.

21 Remuneration accruing to a self-employed person shall be
22 deemed to be twice the amount paid to the highest paid
23 employee reported by the self-employed person in a
24 quarter, with a maximum of \$3,000 per quarter through
25 September 30, 2003 and a maximum of \$5,000 per quarter

1 beginning October 1, 2003. This maximum quarterly
2 amount shall increase to \$6,000 on January 1, 2008,
3 \$7,000 on January 1, 2013, \$8,000 on January 1, 2018,
4 \$9,000 on January 1, 2023, and \$10,000 on January 1,
5 2028. Remuneration accruing to a self-employed person
6 who has no covered employees shall, for each quarter of
7 a year, be deemed to be five percent of the gross
8 revenue of the business for the previous calendar year,
9 subject to a \$3,000 maximum per quarter through
10 September 30, 2003 and a maximum of \$5,000 per quarter
11 beginning October 1, 2003. The maximum quarterly amount
12 shall increase to \$6,000 on January 1, 2008, \$7,000 on
13 January 1, 2013, \$8,000 on January 1, 2018, \$9,000 on
14 January 1, 2023, and \$10,000 on October 1, 2028.
15 Remuneration paid for any service, which is more or less
16 than a whole dollar shall, as may be prescribed by
17 regulations, be computed to the nearest dollar. Wages
18 shall not include:

19 (a) that part of remuneration in excess of
20 \$3,000 through September 30, 2003 and in excess of
21 \$5,000 beginning October 1, 2003, in excess of \$6,000
22 beginning January 1, 2008, in excess of \$7,000 beginning
23 January 1, 2013, in excess of \$8,000 beginning January
24 1, 2018, in excess of \$9,000 beginning on January 1,
25 2023, and in excess of \$10,000 beginning on January 1,

1 2028, paid in a quarterly reporting period by one
2 employer;

3 (b) any payment on account of sickness or
4 accident disability, or medical or hospitalization
5 expenses made by an employer to or on behalf of an
6 employee;

7 (c) any payment made to or on behalf of an
8 employee or to the employee's beneficiary from a trust
9 or annuity;

10 (d) remuneration paid in any medium other than
11 cash to an employee for service not in the course of the
12 employer's trade or business or for domestic service in
13 a private home of an employer;

14 (e) remuneration paid for casual or intermittent
15 labor not performed in the course of the employer's
16 trade or business when such employment does not exceed
17 employment in more than one week in each calendar month
18 of each quarterly reporting period; and

19 (f) remuneration from family employment subject
20 to the provisions of this subtitle."

21 Section 2. Section 804 of title 53 of the Code of the
22 Federated States of Micronesia, as amended by Public Law Nos. 14-
23 37, 14-86, 15-73 and 16-10, is further hereby amended to read as
24 follows:

25 "Section 804. Amount of retirement and disability

1 insurance benefits.

2 (1) An insured eligible individual shall be paid a
3 monthly old age benefit for life, except for any month
4 of disqualification as provided by this subtitle, in an
5 amount calculated upon an annual basis as follows:

6 (a) For benefit payments that begin prior to
7 January 1, 2007; 16.5 percent of the first \$10,000 of
8 cumulative covered earnings, plus three percent of
9 cumulative covered earnings in excess of \$10,000 but not
10 in excess of the next \$30,000, plus two percent of
11 cumulative covered earnings in excess of \$40,000.

12 (b) For benefit payments that begin on or after
13 January 1, 2007 but before January 1, 2011; 16.5 percent
14 of the first \$10,000 of cumulative covered earnings,
15 plus three percent of cumulative covered earnings in
16 excess of \$10,000 but not in excess of the next \$30,000,
17 plus two percent of cumulative covered earnings in
18 excess of \$40,000 but not in excess of the next
19 \$262,500, plus one percent of cumulative covered
20 earnings in excess of \$302,500.

21 (c) For benefit payments that begin on or after
22 January 1, 2011:

23 (i) For individuals who are 65 and over;
24 16.5% of the first \$10,000 of cumulative covered
25 earnings, plus three percent of cumulative covered

1 earnings in excess of \$10,000 but not in excess of the
2 next \$30,000, plus two percent of the cumulative covered
3 earnings in excess of \$40,000 but not in excess of the
4 next \$262,500, plus one percent of cumulative covered
5 earnings in excess of \$302,500.

6 (ii) For individuals who turn 60 after
7 January 1, 2011, such individual from ages 60 to 64 will
8 receive 50% of the total of all the described benefits
9 in this subsection, 16.5% of the first \$10,000 of
10 cumulative covered earnings, plus three percent of
11 cumulative covered earnings in excess of \$10,000 but not
12 in excess of the next \$30,000, plus two percent of the
13 cumulative covered earnings in excess of \$40,000 but not
14 in excess of the next \$262,500, plus one percent of
15 cumulative covered earnings in excess of \$302,500.

16 ~~[These payments in this subsection only, shall be made~~
17 ~~without reduction pursuant to the earnings test in~~
18 ~~section 603(7) of this subtitle.]~~

19 (iii) For individuals under age 60, benefit
20 payments would be calculated the same as subsection (i)
21 of this subsection.

22 (d) Earnings for covered employment after
23 commencement of payments for retirement or disability
24 insurance benefits shall be included in benefit
25 calculations upon subsequent application for benefits,

1 but such earnings shall be applicable for benefits for
2 months after the calendar year in which such earnings
3 occurred. For the purpose of this section cumulative
4 covered earnings includes earnings on which
5 contributions have been paid by the individual to the
6 Trust Territory Social Security System.

7 (e) In the event, benefits have been received
8 under section 804(1)(c)(ii), such benefits shall be
9 automatically adjusted when the individual reaches age
10 65.

11 (f) For purposes of interpreting this section
12 'benefit payments begin on' is defined to mean the date,
13 whether retroactive or current when a benefit payment is
14 paid for a specific month. A benefit payment may begin
15 prior to the application date, subject to retroactive
16 payment limitations defined in this Act.

17 (2) An insured, eligible individual shall be paid a
18 minimum monthly benefit of \$75 if the benefit amount
19 calculated in accordance with subsection (1) of this
20 section is less than \$75 monthly. Effective on January
21 1, 2011, the minimum monthly benefit shall be \$100. The
22 minimum monthly benefit is calculated per insured
23 worker, not per recipient.

24 (3) An individual who is currently and fully insured
25 and who has been under a disability for three full

1 calendar months and the onset of disability occurred on
2 or after January 01, 2011, or an individual who was
3 fully insured and the onset of disability occurred prior
4 to this bill becoming law shall be paid a monthly
5 benefit for life or until recovery from the disability,
6 except for any month of disqualification as provided by
7 this subtitle in an amount calculated in accordance with
8 the preceding subsections of this section, and for an
9 individual with an onset of disability on or after
10 January 1, 2011, he or she will receive benefits as if
11 he or she retired at age 65, but with existing quarters
12 of coverage. Further, the amount of the benefit as so
13 determined shall, if the individual is receiving a
14 periodic workmen's compensation benefit, be reduced each
15 month by the excess of the sum of the workmen's
16 compensation benefit for that month, and the benefit
17 payable under this Act over 80 percent of one-twelfth of
18 the highest annual covered wages in the period
19 consisting of the year in which the disability occurred
20 and the preceding five years. If a workmen's
21 compensation benefit was payable in periodic benefits
22 but was commuted to a lump sum, for purposes of this
23 subsection it will be considered that the periodic
24 benefit originally available was paid in each month that
25 it would have been paid if the commutation had not

1 occurred."

2 Section 3. This act shall become law upon approval by the
3 President of the Federated States of Micronesia or upon its
4 becoming law without such approval.

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6 Date: 10/31/16

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)

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