

A BILL FOR AN ACT

To enact a new title 37 of the Code of the Federated States of Micronesia 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. The Code of the Federated States of Micronesia,  
2 as amended, is hereby further amended by enacting a new title 37  
3 entitled "The Insurance Act of 2004".

4           Section 2. Title 37 of the Code of the Federated States of  
5 Micronesia is hereby enacted by adding a new chapter 1 entitled  
6 "Interpretation".

7           Section 3. The Code of the Federated States of Micronesia,  
8 as amended, is hereby further amended by enacting a new section  
9 101 of title 37 to read as follows:

10           "Section 101. Definitions. In this Act, unless the  
11           context otherwise requires:

12           (1) 'actuary' means an individual qualified as an  
13           actuary by such qualifications as the Commissioner may  
14           recognize;

15           (2) 'auditor' means a person who is qualified for  
16           appointment as auditor of a company under the  
17           provisions of section 105 of title 36, chapter 1 of the  
18           Code of the Federated States of Micronesia or under any  
19           other law which may be enacted from time to time  
20           regulating auditors carrying on business in the

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1           Federated States of Micronesia;

2           (3) 'Commissioner' means the individual appointed as  
3           Commissioner of Insurance and includes any individual  
4           appointed to be the Deputy Commissioner or an Assistant  
5           Commissioner when exercising any powers under this Act  
6           in accordance with the directions of the Commissioner;

7           (4) 'director' means any individual occupying the  
8           position of director of a corporation, association,  
9           trust or any other entity directed by a board by  
10          whatever name called;

11          (5) 'external insurer' means an insurer who is not a  
12          local insurer or an exempted insurer;

13          (6) 'financial year', in relation to an insurer,  
14          means each period not exceeding 53 weeks at the end of  
15          which the balance of the accounts of the insurer is  
16          struck;

17          (7) 'Inspector' means a person appointed as such  
18          under the provisions of section 209 of chapter 2 of  
19          this title;

20          (8) 'insurance agent' means a person who with the  
21          authority of an insurer acts on his behalf in the  
22          initiation of insurance business, the receipt of  
23          proposals, the issue of policies or the collection of  
24          premiums;

25          (9) 'insurance broker' means a person who arranges

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1           insurance business with insurers on behalf of  
2           prospective policyholders or as a policyholder's  
3           representative;

4           (10) 'insurance business' means the soliciting,  
5           effecting or carrying out of contracts of insurance as  
6           an insurer and includes re-insurance business;

7           (11) 'insurance salesman' means an individual  
8           employed by an insurer or agent to solicit applications  
9           for insurance or negotiate insurance business on behalf  
10           of an insurer or an agent, but shall not include a bona  
11           fide salaried employee of a registered insurer,  
12           insurance agent or broker who is employed at its  
13           principal office or branch thereof;

14           (12) 'insurer' means a person effecting and carrying  
15           on insurance business and, except where otherwise  
16           stated;

17           (13) 'life assurance business' means insurance of  
18           human lives and insurance appertaining thereto or  
19           connected therewith and includes the granting of  
20           annuities, endorsement benefits, sinking fund benefits  
21           and benefits in the event of death or disability by  
22           accident or sickness: Provided that such insurance  
23           against disability by accident or sickness is included  
24           as an additional benefit in a life policy;

25           (14) 'life assurance policy' means an ordinary life

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1           assurance policy, an industrial life assurance policy  
2           or a sinking fund or bond investment policy;

3           (15) 'life assurer' means an insurer carrying on  
4           life assurance business;

5           (16) 'local insurer' means an insurer having its  
6           head office in the Federated States of Micronesia;

7           (17) 'local policy' means a policy issued by a  
8           registered insurer on property, lives or other risks  
9           located in the Federated States of Micronesia;

10          (18) 'officer', in relation to a partnership,  
11          corporation, association, trust or any other business  
12          entity, includes a director, manager or secretary of  
13          that body, or any person having or exercising powers or  
14          duties substantially similar to any of those officers;

15          (19) 'owner', in relation to a policy, means a  
16          person who is entitled to claim any benefit provided  
17          for in the policy;

18          (20) 'person' means any person, natural or legal,  
19          including individuals, partnerships, corporations,  
20          associations and trusts.

21          (21) 'policy' means any written contract of  
22          insurance whether contained in one or more documents;

23          (22) 'registered insurance agent' means a person  
24          registered as such under chapter 4 of this title and  
25          thereby qualified to act as an agent for a registered

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1           insurer;

2           (23) 'registered insurance broker' means a person  
3           registered as such under chapter 4 of this title;

4           (24) 'registered insurer' means an insurer  
5           registered under chapter 3 of this title;

6           (25) 'Regulations' means regulations made by the  
7           Secretary under this Act;

8           (26) 'Secretary' means the Secretary of the  
9           Department of Economic Affairs; and

10          (27) 'sinking fund policy' means a policy whereby  
11          one party to the contract assumes the obligation to  
12          pay, after the expiration of a certain period or during  
13          a specified period, a certain sum or certain sums of  
14          money to a particular person in return for the payment  
15          from time to time of certain sums of money by the other  
16          party to the contract."

17          Section 4. The Code of the Federated States of Micronesia,  
18          as amended, is hereby further amended by enacting a new section  
19          102 of title 37 to read as follows:

20                 "Section 102. Public interest. The business of  
21                 insurance is a matter affecting all peoples of the  
22                 Federated States of Micronesia. The Secretary and  
23                 Commissioner shall consider the public interest before  
24                 any making decision or taking act under the provisions  
25                 of this Act. It is also the duty of the insurer, its

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1           representatives and the insured to act in good faith,  
2           abstain from deception, and practice honesty and equity  
3           in all insurance matters."

4           Section 5. Title 37 of the Code of the Federated States of  
5           Micronesia is hereby enacted by adding a new chapter 2 entitled  
6           "Administration".

7           Section 6. The Code of the Federated States of Micronesia,  
8           as amended, is hereby further amended by enacting a new section  
9           201 of title 37 to read as follows:

10           "Section 201. Regulations.

11           (1) The Secretary may make Regulations prescribing  
12           anything which under this Act may be prescribed and  
13           generally for carrying into effect the objects of this  
14           Act, and without prejudice to the generality of the  
15           foregoing such Regulations may provide for:

16           (a) the financial requirements for a registered  
17           insurer;

18           (b) the payment of fees for the administration of  
19           this Act

20           (c) the criteria for the acceptance or refusal of a  
21           registration of an insurer, insurance agent, insurance  
22           broker or insurance salesman;

23           (d) the exemption of classes of persons from parts  
24           of this title, whose insurance business is incidental  
25           to other business; and

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1                   (e) the number of copies and manner of  
2                   certification of any documents required under the  
3                   provisions of this Act to be furnished by an insurer.

4                   (2) Such Regulations shall be made in accordance  
5                   with title 17, chapter 1 of the Code of the Federated  
6                   States of Micronesia"

7                   Section 7. The Code of the Federated States of Micronesia,  
8                   as amended, is hereby further amended by enacting a new section  
9                   202 of title 37 to read as follows:

10                   "Section 202. Appointment of the Commissioner of  
11                   Insurance. The Secretary shall appoint, subject to the  
12                   approval of the President of the Federated States of  
13                   Micronesia, a Commissioner of Insurance to serve at the  
14                   pleasure of the Secretary. The Commissioner of  
15                   Insurance shall be experienced in matters of insurance  
16                   and will be vested with the powers, duties and  
17                   functions of this Act."

18                   Section 8. The Code of the Federated States of Micronesia,  
19                   as amended, is hereby further amended by enacting a new section  
20                   203 of title 37 to read as follows:

21                   "Section 203. Immunity of officials exercising powers.  
22                   No action shall lie against the Secretary,  
23                   Commissioner, any Assistant Commissioner or any  
24                   Inspector in respect of any decision or act done in  
25                   good faith in exercise or purported exercise of any

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1           powers conferred by this Act."

2           Section 9. The Code of the Federated States of Micronesia,  
3 as amended, is hereby further amended by enacting a new section  
4 204 of title 37 to read as follows:

5           "Section 204. Appeals of acts of the Commissioner. Any  
6 decision in the exercise or purported exercise of any  
7 power or authority granted by this act by the  
8 Secretary, Commissioner or an Investigator may be  
9 appealed pursuant to the provisions of title 17,  
10 chapter 1 of the Code of the Federated States of  
11 Micronesia only on the grounds that the decision was:

12           (a) arbitrary, capricious, an abuse of discretion,  
13 or otherwise not in accordance with law;

14           (b) contrary to constitutional right, power,  
15 privilege, or immunity;

16           (c) in excess of statutory jurisdiction,  
17 authority, or limitations, or a denial of legal rights;  
18 or

19           (d) without substantial compliance with the  
20 procedures required by law."

21           Section 10. The Code of the Federated States of Micronesia,  
22 as amended, is hereby further amended by enacting a new section  
23 205 of title 37 to read as follows:

24           "Section 205. Commissioner may extend periods  
25 specified for performance of acts. The Commissioner



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1           may, if he thinks fit, extend the periods prescribed  
2           under this Act for the performance of any act."

3           Section 11. The Code of the Federated States of Micronesia,  
4 as amended, is hereby further amended by enacting a new section  
5 206 of title 37 to read as follows:

6           "Section 206. Commissioner may demand information. The  
7           Commissioner may, for the purpose of carrying out the  
8           provisions of this Act, demand from a registered  
9           insurer, registered insurance agent, registered  
10           insurance broker or registered insurance salesman, or  
11           an applicant for registration as an insurer, insurance  
12           agent, insurance broker or insurance salesman, any  
13           document or information relating to any matter  
14           connected with his insurance business or transactions,  
15           and any such person shall comply with any such demand."

16           Section 12. The Code of the Federated States of Micronesia,  
17 as amended, is hereby further amended by enacting a new section  
18 207 of title 37 to read as follows:

19           "Section 207. Registration and cancellation of  
20           registration to be published. The Commissioner shall  
21           cause notice of registration or cancellation of  
22           registration or restriction under section 210 of this  
23           chapter of an insurer or of an insurance agent or of an  
24           insurance broker to be published in the Journal."

25           Section 13. The Code of the Federated States of Micronesia,

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1 as amended, is hereby further amended by enacting a new section  
2 208 of title 37 to read as follows:

3 "Section 208. Commissioner may accept compliance  
4 certificates from external insurers. The Commissioner  
5 may waive or modify such of the requirements of chapter  
6 3 or chapter 4 of this title or of any of the  
7 Regulations as he thinks fit in the case of an external  
8 insurer:

9 (a) who is incorporated or constituted in a  
10 jurisdiction with a greater or equal supervisory  
11 requirements than provided for in this title and  
12 Regulations;

13 (b) who furnishes annually a certificate issued by  
14 the insurance supervisory authority in the place in  
15 which the insurer is incorporated or constituted to the  
16 effect that he is complying with all the applicable  
17 insurance supervisory requirements of that authority;  
18 and

19 (c) who gives such further information regarding  
20 his business as the Commissioner may think relevant to  
21 the purposes of this Act."

22 Section 14. The Code of the Federated States of Micronesia,  
23 as amended, is hereby further amended by enacting a new section  
24 209 of title 37 to read as follows:

25 "Section 209. Investigation of the affairs of an

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1           insurer.

2           (1) The Commissioner may appoint any public officer  
3           as an Inspector to investigate the affairs or any part  
4           of the affairs of a registered insurer if he is  
5           satisfied that such investigation would be in the best  
6           interest of the policy-holders or of persons who may  
7           become policy-holders.

8           (2) An Inspector appointed under subsection (1) may  
9           investigate the affairs of any other partnership,  
10          corporation, association, trust or business entity  
11          which is or has at any relevant time been the  
12          registered insurer's subsidiary or holding company or a  
13          subsidiary of its holding company or a holding company  
14          of its subsidiary.

15          (3) It shall be the duty of the registered insurer  
16          under investigation and of all past and present  
17          officers of the registered insurer and of the related  
18          bodies corporate specified in subsection (2) to produce  
19          to the Inspector all books, records and documents  
20          relating to the registered insurer or partnership,  
21          corporation, association, trust or any other business  
22          entity under investigation which are in their custody  
23          or control, and otherwise to give to the Inspector all  
24          assistance in connection with the investigation which  
25          they are reasonably able to give.

1           (4) An Inspector may:

2           (a) examine on oath the officers and agents of the  
3           registered insurer or other partnership, corporation,  
4           association, trust or business entity under  
5           investigation in relation to its business and may  
6           administer an oath accordingly; and

7           (b) if he thinks it necessary for the purpose of  
8           his investigation that a person whom he has no power to  
9           examine on oath should be so examined apply to the  
10          court, and the court may, if it sees fit, order that  
11          person to attend and be examined on oath before it on  
12          any matter relevant to the investigation;

13          (5) The Commissioner may, if he thinks fit, charge  
14          the registered insurer or person whose affairs are  
15          investigated under the provisions of this section all  
16          expenses properly incurred in connection with the  
17          investigation or in connection with the proceedings  
18          instituted as a result of the investigation, which  
19          shall be paid as a fee in accordance with the  
20          Regulations."

21          Section 15. The Code of the Federated States of Micronesia,  
22          as amended, is hereby further amended by enacting a new section  
23          210 of title 37 to read as follows:

24                 "Section 210. Provisions for restricting registered  
25                 insurers from writing new business and for securing

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1           proper conduct of business.

2           (1) The Commissioner may prohibit a registered  
3           insurer from writing new policies in any class of  
4           insurance business or may restrict or limit the new  
5           policies which a registered insurer may write if he is  
6           satisfied that it is in the interest of the policy-  
7           holders or prospective policy-holders to do so.

8           (2) The Commissioner may require that a registered  
9           local insurer shall not make investments of a specified  
10          class and may in that case require such insurer to  
11          liquidate investments of that class within a specified  
12          period.

13          (3) The Commissioner shall notify the registered  
14          insurer in writing of any decision made under the  
15          provisions of subsection (1) or (2) and shall state the  
16          reasons for the decision.

17          (4) A registered insurer shall comply with the terms  
18          of any prohibition or requirement notified to him in  
19          accordance with the provisions of this section."

20          Section 16. The Code of the Federated States of Micronesia,  
21          as amended, is hereby further amended by enacting a new section  
22          211 of title 37 to read as follows:

23                 "Section 211. Power of Commissioner to petition for  
24                 winding up. The Commissioner may present a petition for  
25                 the winding-up of a registered local insurer or the

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1           business of registered insurer within The Federated  
2           States of Micronesia on any ground provided by and in  
3           accordance with the provisions of the title 36, chapter  
4           1 of the Code of the Federated States of Micronesia."

5           Section 17. Title 37 of the Code of the Federated States of  
6           Micronesia is hereby enacted by adding a new chapter 3 entitled  
7           "Registration of Insurers".

8           Section 18. The Code of the Federated States of Micronesia,  
9           as amended, is hereby further amended by enacting a new section  
10          301 of title 37 to read as follows:

11           "Section 301. Insurers to be registered.

12           (1) Notwithstanding the provisions of any other law,  
13           no insurance business shall, save as hereinafter  
14           provided, be carried on in or from within the Federated  
15           States of Micronesia except by a registered insurer or  
16           an insurer deemed to be registered under this chapter.

17           (2) The Commissioner may, in his discretion, exempt  
18           any person from any provision or provisions of this  
19           title, provided that the insurance business of that  
20           person is engaged has is in a class subject to  
21           exemption by Regulation.

22           (3) Any person who contravenes the provisions of  
23           subsection (1) shall be guilty of an offence and shall  
24           be liable on conviction to the penalty prescribed in  
25           section 512 of chapter 5 to this title.

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1           (4) For the purposes of this chapter, any insurer  
2           which maintains a business office in the Federated  
3           States of Micronesia shall be deemed to issue from  
4           within the Federated States of Micronesia any policy of  
5           insurance issued in its name, on property, lives or  
6           other risks located in the Federated States of  
7           Micronesia whether or not such policy of insurance is  
8           or has been issued in Federated States of Micronesia."

9           Section 19. The Code of the Federated States of Micronesia,  
10          as amended, is hereby further amended by enacting a new section  
11          302 of title 37 to read as follows:

12           "Section 302. Application for registration as insurer.  
13           Any company desirous of being registered as an insurer  
14           in accordance with this chapter shall apply in writing  
15           in a form acceptable to the Commissioner and shall be  
16           accompanied by such documents and particulars as the  
17           Commissioner may require."

18          Section 20. The Code of the Federated States of Micronesia,  
19          as amended, is hereby further amended by enacting a new section  
20          303 of title 37 to read as follows:

21           "Section 303. Commissioner may register or refuse  
22           application.

23           (1) The Commissioner may, if satisfied that the  
24           carrying on of insurance business by the applicant will  
25           not be against the public interest, register such

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1           applicant as an insurer, subject to such terms and  
2           conditions as he may think fit to impose.

3           (2) Whenever the Commissioner considers it to be in  
4           the public interest, he may refuse the registration of  
5           any insurer.

6           (3) The Commissioner may refuse the registration of  
7           a local insurer if, in his opinion, any officer of the  
8           insurer is not a fit and proper person to be associated  
9           with insurance companies."

10          Section 21. The Code of the Federated States of Micronesia,  
11 as amended, is hereby further amended by enacting a new section  
12 304 of title 37 to read as follows:

13           "Section 304. Notification of decision on application.  
14           The Commissioner shall notify the applicant for  
15           registration as an insurer in writing whether it is  
16           proposed to register the applicant, or whether the  
17           application is refused and when an application is  
18           refused he shall state the reasons for the refusal."

19          Section 22. The Code of the Federated States of Micronesia,  
20 as amended, is hereby further amended by enacting a new section  
21 305 of title 37 to read as follows:

22           "Section 305. Cancellation of registration.

23           (1) The Commissioner may cancel the registration of  
24           an insurer:

25           (a) if the insurer has ceased to carry on an



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1           insurance business in the Federated States of  
2           Micronesia; or

3           (b) if the insurer has not commenced business in  
4           the Federated States of Micronesia within 2 years of  
5           registration; or

6           (c) at the request of the registered insurer or  
7           his trustee or receiver appointed by the court; or

8           (d) if false, misleading or inaccurate information  
9           is given in an application or under the provisions of  
10           section 206 of chapter 2 of this title or section 308  
11           or section 312 of this chapter; or

12           (e) if he is not satisfied that the unencumbered  
13           assets of the insurer are sufficient for the proper  
14           conduct of his insurance business; or

15           (f) if he is not satisfied that the insurance  
16           business of the insurer is being conducted in  
17           accordance with sound insurance principles; or

18           (g) if the insurer has contravened any of the  
19           provisions of this Act.

20           (2) The cancellation shall be effective 15 days  
21           after the Commissioner has given written notice to the  
22           insurer of the intention to cancel the registration."

23           Section 23. The Code of the Federated States of Micronesia,  
24           as amended, is hereby further amended by enacting a new section  
25           306 of title 37 to read as follows:

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1           "Section 306. Policies issued before refusal of  
2           application or cancellation of registration. An insurer  
3           whose application for registration has been refused or  
4           whose registration has been cancelled in accordance  
5           with the provisions of this chapter shall continue to  
6           carry on business relating to policies issued by it  
7           prior to the date on which it was notified of such  
8           refusal or cancellation until the Commissioner is  
9           satisfied that it has made suitable arrangements for  
10          its obligations under these policies to be met, but any  
11          such insurer shall forthwith prepare and furnish the  
12          information and other documents required under section  
13          312 of this title."

14           Section 24. The Code of the Federated States of Micronesia,  
15 as amended, is hereby further amended by enacting a new section  
16 307 of title 37 to read as follows:

17           "Section 307. Registered insurers to maintain an  
18           office and appoint principal representative.

19           (1) A registered insurer shall maintain an office in  
20           The Federated States of Micronesia and shall appoint a  
21           principal representative and an alternate  
22           representative in The Federated States of Micronesia  
23           each being resident in The Federated States of  
24           Micronesia.

25           (2) A registered insurer shall notify the

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1           Commissioner in writing of the address of its office  
2           and the name of its principal and alternate  
3           representatives.

4           (3) If a registered insurer changes the address of  
5           its principal office or appoints a new principal or  
6           alternate representative, it shall, forthwith, and in  
7           any case within 21 days of the change, give notice  
8           thereof to the Commissioner in writing."

9           Section 25. The Code of the Federated States of Micronesia,  
10          as amended, is hereby further amended by enacting a new section  
11          308 of title 37 to read as follows:

12                 "Section 308. Control of advertisements. No  
13                 advertisement shall be used by a registered insurer or  
14                 insurance agent which, directly or by implication, has  
15                 the capacity and tendency to mislead or deceive  
16                 prospective policy-holders with respect to an insurer's  
17                 assets, corporate structure, financial standing, age or  
18                 relative position in the insurance business, the terms  
19                 of a policy or in any other material respect."

20          Section 26. The Code of the Federated States of Micronesia,  
21          as amended, is hereby further amended by enacting a new section  
22          309 of title 37 to read as follows:

23                 "Section 309. Separate accounts for business other  
24                 than insurance business of insurers. A registered  
25                 insurer which carries on, besides insurance, any other

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1           business shall keep separate accounts in respect of its  
2           insurance business, and shall segregate the assets and  
3           liabilities of its insurance business from those of its  
4           other business."

5           Section 27. The Code of the Federated States of Micronesia,  
6 as amended, is hereby further amended by enacting a new section  
7 310 of title 37 to read as follows:

8           "Section 310. Life assurance carrying on other  
9           business.

10           (1) A registered insurer, which carries on both life  
11           assurance business and other insurance business, shall  
12           keep separate accounts in respect of its life assurance  
13           business.

14           (2) All receipts of a life assurer in respect of its  
15           life assurance business shall be carried to and form  
16           part of its life assurance fund.

17           (3) Payments from the life assurance fund of a  
18           registered insurer shall not be made directly or  
19           indirectly for any purpose other than those of its life  
20           assurance business, except insofar as such payments can  
21           be made out of any surplus disclosed on an actuarial  
22           valuation and certified by the actuary to be  
23           distributable otherwise than to policy-holders.

24           (4) Nothing in this section shall be deemed to  
25           require the investments of any life assurance fund to

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1           be kept separate from the investments of any other  
2           fund."

3           Section 28. The Code of the Federated States of Micronesia,  
4 as amended, is hereby further amended by enacting a new section  
5 311 of title 37 to read as follows:

6           "Section 311. Security of life policy-holders.

7           (1) The assets of the life assurance fund of a  
8           registered insurer:

9           (a) shall be the security of the life  
10           policyholders as though the insurer carried on no  
11           business other than life assurance business;

12           (b) shall not be subject to any liabilities  
13           arising from contracts of the registered life insurer  
14           carrying on other business or insurance business to  
15           which it would not have been subject had the business  
16           of the insurer been only that of life insurance; and

17           (c) shall not be applied, directly or indirectly,  
18           for any purposes other than those to which the fund is  
19           applicable.

20           (2) In the winding-up of a life insurer the value of  
21           the liabilities and assets of its life assurance fund  
22           shall be ascertained separately from the value of any  
23           other liabilities or assets and no assets of the life  
24           assurance fund shall be applied to the discharge of any  
25           liabilities other than those towards life policy-

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1           holders except insofar as those assets exceed those  
2           liabilities."

3           Section 29. The Code of the Federated States of Micronesia,  
4 as amended, is hereby further amended by enacting a new section  
5 312 of title 37 to read as follows:

6           "Section 312. Accounts and balance sheets of  
7           registered insurers to be submitted.

8           (1) A registered insurer shall prepare and, within  
9           six months of the end of each financial year, furnish  
10          to the Commissioner:

11           (a) a certified copy of the audited balance sheet  
12          and accounts showing the financial position of all the  
13          insurance business of the insurer at the close of that  
14          year;

15           (b) a certificate of an auditor stating that the  
16          auditor has satisfied himself that the accounts of the  
17          insurer have been properly prepared in accordance with  
18          the books and records of the insurer and in accordance  
19          with Generally Accepted Accounting Principles and such  
20          other particulars as may be prescribed by Regulation;  
21          and

22           (c) such other documents and information as the  
23          Commissioner may require or as may be prescribed by  
24          Regulation.

25           (2) The auditor shall not be an employee or an

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1           officer of the insurer, nor financially interested in  
2           the insurer.

3           (3) A registered insurer shall furnish to the  
4           Commissioner a copy of any report on the affairs of the  
5           insurer submitted to the policy-owners or shareholders  
6           of the insurer in respect of the financial year to  
7           which the balance sheet relates."

8           Section 30. The Code of the Federated States of Micronesia,  
9           as amended, is hereby further amended by enacting a new section  
10          313 of title 37 to read as follows:

11           "Section 313. Separate or group accounts. All  
12           registered insurers who operate as separate entities  
13           which can be wound up under local or foreign law shall  
14           render separate accounts but where they are associated  
15           together in a group the holding company shall also  
16           furnish to the Commissioner consolidated accounts of  
17           the insurance business for the group as a whole."

18          Section 31. The Code of the Federated States of Micronesia,  
19          as amended, is hereby further amended by enacting a new section  
20          314 of title 37 to read as follows:

21           "Section 314. Keeping of records by insurers. A  
22           registered insurer constituted outside The Federated  
23           States of Micronesia shall keep within The Federated  
24           States of Micronesia and shall make available to the  
25           Commissioner on request a record of all local policies

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1           in force or upon which liabilities are outstanding  
2           which have been issued by it showing its rights and  
3           obligations thereunder and recording the premiums  
4           received."

5           Section 32. The Code of the Federated States of Micronesia,  
6 as amended, is hereby further amended by enacting a new section  
7 315 of title 37 to read as follows:

8           "Section 315. Periodic investigations to be made into  
9           financial position of life assurers.

10           (1) A registered life assurer shall, not less than  
11           once in every 3 years, cause an investigation into its  
12           financial position, including a valuation of its  
13           liabilities to be made by an actuary; provided that the  
14           Commissioner may require a life assurer to cause such  
15           an investigation to be made at any time if he deems it  
16           to be in the public interest to do so.

17           (2) A life assurer shall, whenever its financial  
18           position is investigated with a view to a distribution  
19           of surplus or in compliance with subsection (1),  
20           prepare and furnish to the Commissioner within 6 months  
21           of the date of the investigation, a full report of the  
22           actuary by whom the investigation was made or an  
23           abstract thereof at the Commissioner's option, and a  
24           statement of its life assurance business at that date.  
25           The actuary shall also provide a statement of the



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1           assumptions and the methods used in making the  
2           valuation."

3           Section 33. The Code of the Federated States of Micronesia,  
4 as amended, is hereby further amended by enacting a new section  
5 316 of title 37 to read as follows:

6           "Section 316. Amalgamations and transfers of insurance  
7           business. No local insurer shall:

8                   (a) amalgamate with any one or more insurers; or

9                   (b) transfer its insurance business or a part  
10           thereof to, or take transfer of the insurance business  
11           or a part thereof from, another insurer, unless the  
12           amalgamation, or, as the case may be, the transfer is  
13           approved by the Secretary."

14           Section 34. Title 37 of the Code of the Federated States of  
15 Micronesia is hereby enacted by adding a new chapter 4 entitled  
16 "Registration of Insurance Agents, Insurance Brokers and  
17 Insurance Salesmen".

18           Section 35. The Code of the Federated States of Micronesia,  
19 as amended, is hereby further amended by enacting a new section  
20 401 of title 37 to read as follows:

21           "Section 401. Insurance agents, insurance brokers and  
22           insurance salesmen to be registered.

23                   (1) No person shall act as an insurance agent,  
24           insurance broker or insurance salesman unless he is  
25           registered under this chapter.

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1           (2) Every applicant for registration as an insurance  
2           agent, insurance broker or insurance salesman shall  
3           satisfy the Commissioner:

4           (a) that he has knowledge of the insurance  
5           business adequate to give proper service to the public;  
6           and

7           (b) that he is of good character."

8           Section 36. The Code of the Federated States of Micronesia,  
9           as amended, is hereby further amended by enacting a new section  
10          402 of title 37 to read as follows:

11          "Section 402. Application for registration.

12          (1) An application to be registered as an insurance  
13          agent, insurance broker or an insurance salesman shall  
14          be made in writing to the Commissioner and shall be  
15          accompanied by such documents as may be required.

16          (2) The Commissioner may register an insurance  
17          agent, an insurance broker or an insurance salesman who  
18          has applied under subsection (1) and is qualified under  
19          subsection 401(2) of this chapter and may refuse such  
20          registration when he considers that it would not be in  
21          the public interest.

22          (3) The Commissioner shall notify the applicant in  
23          writing whether the application is accepted or  
24          rejected, and shall state the reasons for a refusal."

25          Section 37. The Code of the Federated States of Micronesia,

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1 as amended, is hereby further amended by enacting a new section  
2 403 of title 37 to read as follows:

3 "Section 403. Cancellation of registration.

4 (1) Subject to the provisions of subsection (2), the  
5 Commissioner may cancel the registration of an  
6 insurance agent, insurance broker or insurance salesman  
7 if he considers it in the public interest to do so and  
8 any such decision shall be final. The provisions of  
9 paragraphs (a), (b), (e) and (d) of subsection 305(1)  
10 of chapter 3 of this title shall also apply equally to  
11 insurance agents, insurance brokers and insurance  
12 salesmen.

13 (2) The Commissioner shall notify the insurance  
14 agent, insurance broker or insurance salesman, as the  
15 case may be, that it is proposed to cancel the  
16 registration under subsection (1) and shall state the  
17 reasons therefor."

18 Section 38. The Code of the Federated States of Micronesia,  
19 as amended, is hereby further amended by enacting a new section  
20 404 of title 37 to read as follows:

21 "Section 404. Lists of registered insurance agents,  
22 brokers and salesmen to be maintained.

23 (1) Each registered insurer shall maintain in its  
24 office an accurate list of all persons representing him  
25 as agents in The Federated States of Micronesia and

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1           shall provide the Commissioner on demand with a copy  
2           thereof.

3           (2) Each registered insurance agent and broker who  
4           employs an insurance salesman shall provide the  
5           Commissioner on demand with full details of the  
6           employment of such salesman including a copy of any  
7           employment contract."

8           Section 39. The Code of the Federated States of Micronesia,  
9           as amended, is hereby further amended by enacting a new section  
10          405 of title 37 to read as follows:

11           "Section 405. Insurance agent and broker to keep  
12           record of business. A registered insurance agent or  
13           insurance broker shall keep and make available to the  
14           Commissioner on demand a record of all insurance  
15           business placed through him on property, lives and  
16           other risks in The Federated States of Micronesia,  
17           including a record of all premiums and commissions paid  
18           in respect thereof; provided that any such agent or  
19           broker shall not be required to produce to the  
20           Commissioner any record:

21           (a) made more than 3 years preceding the date of  
22           any demand therefore; and

23           (b) relating to any policy which is not in force,  
24           or upon which any liability is not outstanding, at that  
25           date."

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1           Section 40. The Code of the Federated States of Micronesia,  
2 as amended, is hereby further amended by enacting a new section  
3 406 of title 37 to read as follows:

4           "Section 406. Agents of insurer. Any registered  
5           insurance agent, insurance broker or insurance salesman  
6           shall for the purpose of receiving any premium for a  
7           contract of insurance, be deemed to be the agent of the  
8           insurer and notwithstanding any conditions or  
9           stipulations to the contrary the registered insurer  
10           shall be deemed to have received any premium received  
11           by such agent, broker or salesman."

12           Section 41. The Code of the Federated States of Micronesia,  
13 as amended, is hereby further amended by enacting a new section  
14 407 of title 37 to read as follows:

15           "Section 407. Paying over of premiums to insurer. A  
16           registered insurance agent, insurance broker or  
17           insurance salesman who acts in negotiating or renewing  
18           a contract of insurance with an insurer and receives  
19           payment of the premium for such a contract from the  
20           insured, shall be guilty of an offence if he fails to  
21           pay the premium over to the insurer within 30 days of  
22           the receipt by him of the premium or such shorter or  
23           longer period as may be agreed in advance by the  
24           insurer, less his commission and any other deductions  
25           to which by written consent of the insurer he is

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1           entitled, and shall be liable on conviction to the  
2           penalties specified in section 512 of chapter 5 of this  
3           title; provided that if any person charged with an  
4           offence under the foregoing provisions of this section  
5           shall satisfy the court that he was prevented by  
6           illness or other cause beyond his control from due  
7           compliance with such provisions and has subsequently  
8           paid the premium to the insurer, the same shall be a  
9           good defense to the charge."

10           Section 42. Title 37 of the Code of the Federated States of  
11           Micronesia is hereby enacted by adding a new chapter 5 entitled  
12           "Miscellaneous Provisions".

13           Section 43. The Code of the Federated States of Micronesia,  
14           as amended, is hereby further amended by enacting a new section  
15           501 of title 37 to read as follows:

16           "Section 501. Restriction on use of word "Insurance".  
17           No person other than a registered insurer or a  
18           registered insurance agent or a registered insurance  
19           broker shall have or use the word "insurance" or any  
20           derivative thereof, in the name under which such person  
21           is carrying on business."

22           Section 44. The Code of the Federated States of Micronesia,  
23           as amended, is hereby further amended by enacting a new section  
24           502 of title 37 to read as follows:

25           "Section 502. Registered names.

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1           (1) Notwithstanding the provisions of section 303 of  
2           chapter 3 of this title, the Commissioner shall not  
3           register an applicant as an insurer if the name under  
4           which the applicant desires to be registered is  
5           identical to or so nearly resembles the name of a  
6           registered insurer as to be likely to be mistaken for  
7           it unless that registered insurer is being wound up or  
8           being dissolved, or has ceased to carry on insurance  
9           business in or from within The Federated States of  
10          Micronesia and consents to the registration of the  
11          applicant under the name in question.

12           (2) The Commissioner shall not register an applicant  
13          as a local insurer if the name under which the  
14          applicant desires to be registered suggests falsely  
15          that such local insurer has a special status in  
16          relation to or derived from the government of The  
17          Federated States of Micronesia or has the official  
18          backing of or acts on behalf of the said government or  
19          any department or official thereof or is recognized in  
20          The Federated States of Micronesia as a national or  
21          central insurer.

22           (3) The Commissioner shall not register an applicant  
23          as an insurance broker if the name under which the  
24          applicant desires to be registered is likely to suggest  
25          that the applicant is an insurer.

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1           (4) The Commissioner shall not register an insurance  
2           agent if the name under which he desires to be  
3           registered is likely to suggest that he is an insurer  
4           or an insurance broker.

5           (5) The Commissioner may refuse to register an  
6           applicant under a name that is likely to mislead  
7           policyholders or which, in the opinion of the  
8           Commissioner, is for any reason undesirable.

9           (6) A registered insurer, insurance broker or  
10          insurance agent shall not change the name under which  
11          he is registered without the prior permission of the  
12          Secretary."

13          Section 45. The Code of the Federated States of Micronesia,  
14          as amended, is hereby further amended by enacting a new section  
15          503 of title 37 to read as follows:

16                 "Section 503. Policies to be printed or typed in  
17                 clearly legible letters.

18                 (1) A registered insurer liable under a life  
19                 assurance policy shall, at the request of the owner,  
20                 furnish him free of charge with a copy of the relevant  
21                 revenue account, profit and loss account and balance  
22                 sheet prepared by the insurer in terms of subsection  
23                 312(1) of chapter 3 of this title in respect of its  
24                 last preceding financial year, and shall make available  
25                 at the request of the policy-owner, for inspection at



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1           the insurer's principal office a copy of the last  
2           actuarial report.

3           (2) No registered insurer shall issue a policy the  
4           provisions of which, whatever their nature, are not  
5           printed or typed in clearly legible letters."

6           Section 46. The Code of the Federated States of Micronesia,  
7 as amended, is hereby further amended by enacting a new section  
8 504 of title 37 to read as follows:

9           "Section 504. Policy not invalid owing to failure to  
10          comply with law. A policy issued by any person, whether  
11          before, on, or after the coming into force of this Act  
12          shall not be invalid by reason only that such person  
13          contravened or failed to comply with the provisions of  
14          any enactment in force applying to that policy."

15          Section 47. The Code of the Federated States of Micronesia,  
16 as amended, is hereby further amended by enacting a new section  
17 505 of title 37 to read as follows:

18          "Section 505. Cancellation of policies.

19          (1) No local policy shall be liable to cancellation  
20          except in accordance with the provisions of this  
21          section.

22          (2) A policy other than a life assurance may be  
23          cancelled at any time by the insured named therein  
24          after giving to the insurer not less than 30 days'  
25          notice in writing of the proposed cancellation by

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1           service in accordance with the provisions of section  
2           509 of this chapter or by registered post, and the  
3           insurer shall, upon the surrendering of the policy,  
4           refund the excess of any premiums paid over and above  
5           the customary short-rate premium for the period when  
6           the policy has been in force.

7           (3) A policy other than a life assurance policy may  
8           be cancelled at any time by an insurer after giving to  
9           the insured named therein not less than 90 days' notice  
10           in writing of the proposed cancellation by personal  
11           service or by registered post and upon refunding to the  
12           insured the excess of paid premium over and above the  
13           pro-rata premium for the time the policy has been in  
14           force, which refund shall accompany the notice.

15           (4) Notwithstanding the provisions of subsections  
16           (2) and (3), the insured and the insurer may agree at  
17           the time any policy of insurance referred to therein is  
18           issued that the same shall be incapable of  
19           cancellation, provided that a clause to such effect is  
20           included in the policy.

21           (5) A life assurance policy may be cancelled by the  
22           insurer in the event of non-payment of any renewal  
23           premiums due but only after notice in writing  
24           specifying the default and the intention of the insurer  
25           to cancel the policy has been given to the insured by

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1           personal service or by registered post; provided that a  
2           life assurance policy shall not be cancelled by reason  
3           only of the non-payment of a premium unless at least 28  
4           days have elapsed since the premium became due.

5           (6) Any policy of insurance may be cancelled by the  
6           prior mutual consent in writing of the insurer and the  
7           insured."

8           Section 48. The Code of the Federated States of Micronesia,  
9           as amended, is hereby further amended by enacting a new section  
10          506 of title 37 to read as follows:

11           "Section 506. Jurisdiction of local courts. Any  
12           provision contained in a local policy whereby the  
13           jurisdiction of the courts in The Federated States of  
14           Micronesia is in any way circumscribed or avoided  
15           shall, to that extent be absolutely void and of no  
16           effect."

17          Section 49. The Code of the Federated States of Micronesia,  
18          as amended, is hereby further amended by enacting a new section  
19          507 of title 37 to read as follows:

20           "Section 507. Borrowing powers of directors. The  
21           directors of a local insurer being a partnership,  
22           corporation, association, trust or any other business  
23           entity may exercise all the borrowing powers of the  
24           partnership, corporation, association, trust or any  
25           other business entity; provided that at no time may the

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1           undischarged amount of moneys to be borrowed or secured  
2           by the directors exceed 5 per cent of the assets of the  
3           partnership, corporation, association, trust or any  
4           other business entity without the written consent of  
5           the Commissioner."

6           Section 50. The Code of the Federated States of Micronesia,  
7 as amended, is hereby further amended by enacting a new section  
8 508 of title 37 to read as follows:

9           "Section 508. Prohibition of loans to directors etc. A  
10          local insurer shall not, directly or indirectly,  
11          without the approval of the Commissioner:

12                 (a) lend any of its fund to any of its directors  
13                 or officers or to the wife or child of any such  
14                 director or officer; or

15                 (b) enter into any guarantee or provide any  
16                 security in connection with a loan to an individual  
17                 mentioned in paragraph (a) by any other individual;  
18                 provided that loans may be so made within the surrender  
19                 value of a life policy issued by the insurer to such  
20                 individual."

21          Section 51. The Code of the Federated States of Micronesia,  
22 as amended, is hereby further amended by enacting a new section  
23 509 of title 37 to read as follows:

24          "Section 509. Service of process upon registered  
25          insurers.

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1           (1) Any notice issued under any provisions of this  
2           Act and any process in legal proceedings may be served  
3           upon a person carrying on insurance business by leaving  
4           the same at the principal office of the insurer.

5           (2) If the principal office of a person carrying on  
6           insurance business cannot reasonably be found, any  
7           notice served under this Act or process in any legal  
8           proceedings may be served by leaving the same at the  
9           office of the Commissioner.

10          (3) Service of process upon the Commissioner, in  
11          accordance with the provisions of subsection (2) shall  
12          be deemed to be service upon the insurer."

13          Section 52. The Code of the Federated States of Micronesia,  
14          as amended, is hereby further amended by enacting a new section  
15          510 of title 37 to read as follows:

16                 "Section 510. Individuals acting on behalf of  
17                 unregistered insurers.

18                 (1) Anyone who causes or solicits a person to enter  
19                 into or to make application to enter into a contract of  
20                 insurance with a person who is not a registered insurer  
21                 shall be guilty of an offence and shall be liable on  
22                 conviction to a fine of \$100,000 or to imprisonment for  
23                 1 year or to both such fine and imprisonment.

24                 (2) Anyone who as agent or broker places insurance  
25                 on property, lives or other risks within The Federated

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1           States of Micronesia with a person carrying on  
2           insurance business within The Federated States of  
3           Micronesia who is not a registered insurer shall incur  
4           personal liability on the policy as if he were the  
5           insurer.

6           (3) For the purposes of this section, any registered  
7           agent who places insurance with a member of a  
8           registered association of underwriters shall be deemed  
9           to place such insurance with a registered insurer."

10          Section 53. The Code of the Federated States of Micronesia,  
11 as amended, is hereby further amended by enacting a new section  
12 511 of title 37 to read as follows:

13           "Section 511. False statements etc. If a person issues  
14           a document for any of the purposes of this title which  
15           is false or misleading in any material respect, that  
16           person and every person who signed it, unless it is  
17           proved that the accused, had taken every reasonable  
18           precaution to ensure its accuracy, shall be guilty of  
19           an offence and shall be liable on conviction to a fine  
20           of \$100,000 or to imprisonment for 1 year or to both  
21           such fine and imprisonment."

22          Section 54. The Code of the Federated States of Micronesia,  
23 as amended, is hereby further amended by enacting a new section  
24 512 of title 37 to read as follows:

25           "Section 512. General provisions relating To Offences.

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1           (1) Any person who contravenes or fails or neglects  
2           to comply with any provision of this Act or of any  
3           Regulations shall be guilty of an offence and shall be  
4           liable on conviction in a case for which no specific  
5           penalty is otherwise provided in this Act, if the  
6           offender is an individual, to a fine of \$50,000 or to  
7           imprisonment for 6 months, or to both such fine and  
8           imprisonment, or if the offender is not an individual,  
9           to a fine of \$100,000.

10           (2) Where any offence under this Act committed by a  
11           partnership, corporation, association, trust or any  
12           other business entity is proved to have been committed  
13           with the consent or connivance of, or to be  
14           attributable to any neglect on the part of any  
15           director, manager, secretary or other similar officer  
16           or servant of the partnership, corporation,  
17           association, trust or any other business entity, he, as  
18           well as the partnership, corporation, association,  
19           trust or any other business entity, shall be deemed to  
20           be guilty of that offence and shall be liable to be  
21           proceeded against and punished accordingly."

22           Section 55. This act shall become law upon approval by the  
23           President of the Federated States of Micronesia or upon its  
24           becoming law without such approval.

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1 Date: 11/10/04

Introduced by: /s/ Dion G. Neth

Dion G. Neth

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