

**TITLE 37
INSURANCE**

**SUBTITLE I
Insurance Act of 2006**

CHAPTERS

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Editor's note: Title 37 had been reserved with the title of "Insurance" in the original Code of the Federated States of Micronesia.

PL 14-66 enacted a new title 37 entitled The Insurance Act of 2006. This Act was signed into law by President Joseph J. Urusemal on June 20, 2006.

To retain the integrity of The Insurance Act of 2006 and allow for further laws on insurance not a part of The Insurance Act of 2006, this Act has been codified in its own subtitle I entitled Insurance Act of 2006.

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**SUBTITLE I
INSURANCE ACT OF 2006**

**CHAPTER 1
Interpretation**

SECTIONS

- § 101. Short title.**
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Editor's note: Section 2 of PL 14-66 enacted new chapter 1 of this title entitled Interpretation.

§ 101. Short title.

This subtitle shall be known as the "Insurance Act of 2006."

Source: PL 14-66 § 3.

§ 102. Definitions.

In this subtitle, unless the context otherwise requires:

- (1) "actuary" means an individual qualified as an actuary by such qualifications as the Commissioner may recognize;
- (2) "affiliated entity" means a subsidiary, a holding company, a trust controlled or administered by a company, or another company whose board of directors acts in accordance with the directors or instructions of the first company;
- (3) "agent" means a person with the authority of an insurer to solicit applications, receive proposals, receive premiums, deliver policies, and to make contracts of insurance;
- (4) "auditor" means an independent accountant approved by the Commissioner;
- (5) "broker" means a person who acts on behalf of a prospective customer and with the prospective customer's authority arranges insurance business with insurers, including making proposals and paying premiums;
- (6) "Commissioner" means the individual appointed as the Insurance Commissioner under this subtitle;
- (7) "company" means a body corporate formed under the laws of and having its head office in the Federated States of Micronesia;
- (8) "domestic insurer" means a company that is licensed under this subtitle to carry on an insurance business in the Federated States of Micronesia;
- (9) "domestic policy" means a policy issued on property, lives or other risks located in the Federated States of Micronesia;
- (10) "foreign insurer" means an entity constituted and licensed to conduct an insurance business by a jurisdiction other than the Federated States of Micronesia, that

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has been registered or licensed under this subtitle to carry on insurance business in the Federated States of Micronesia;

(11) “insurance” means a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies;

(12) “insurance business” means the soliciting, effecting or carrying out of contracts of insurance, including re-insurance, and the following transactions:

- (a) making or negotiating an insurance policy;
- (b) making or negotiating a guaranty or surety contract not merely incidental to another legitimate business or activity;
- (c) taking, forwarding or receiving an insurance application;
- (d) disseminating information concerning coverage and rates;
- (e) receiving or collecting any consideration for insurance;
- (f) issuing or delivering an insurance policy to a resident of, or a person authorized to do business in, the Federated States of Micronesia;
- (g) directly or indirectly acting as an agent, broker or solicitor, or any other form of representative of an insurer;
- (h) setting rates;
- (i) inspecting a risk;
- (j) investigating or adjusting a claim or loss;
- (k) doing or proposing to do any activity that is in substance equivalent to conduct described in this provision.

(13) “insurer” means a domestic or foreign insurer;

(14) “life insurance” means insurance of human lives and insurance appertaining thereto or connected therewith and includes the granting of annuities, endorsement benefits, sinking fund benefits and benefits in the event of death or disability by accident or sickness, provided that such insurance against disability by accident or sickness is included as an additional benefit in a life insurance policy;

(15) “marine, aviation and transportation policy” means an insurance policy that covers a risk relating to

- (a) the possession, use or ownership of a vessel, aircraft or other craft;
- or
- (b) the conveyance of persons or goods by air, space, land or water; or
 - (c) the storage, treatment or handling of goods so conveyed or to be so conveyed.

(16) “officer” means, in relation to a partnership, corporation, association, trust or any other business entity, a director, manager or secretary of that body, or any person having or exercising powers or duties substantially similar to any of those officers;

(17) “person” means any person, natural or legal, including individuals, partnerships, and corporations;

(18) “policy” means any written contract of insurance whether contained in one or more documents;

(19) “policy-owner” means a person who is entitled to claim any benefit provided for in a policy;

(20) “premium” means the money to be paid in return for an undertaking to provide policy benefits;

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(21) “reinsurance” means a contract by which an insurer insures any part of the risk insured by the insurer with another insurer;

(22) “related person” with respect to any natural person means his spouse, child, parents, brothers, or sisters, or any partnership, corporation, or firm in which he owns more than a ten percent interest;

(21) “regulations” means regulations made by the Insurance Board under this subtitle.

(22) “solicitor” means an individual who solicits applications for insurance or negotiates insurance business on behalf of an insurer or an agent and earns commissions for each successful sale, but is neither an insurer, an insurance agent, nor an employee of an insurer or agent.

Source: PL 14-66 § 4; PL 14-87 § 1.

§ 103. Exemption of Social Security Program and Health Plan.

Nothing in this subtitle shall apply to the Social Security Program, Board or Administration, the National Government Employees’ Health Plan or any social security program or health plan regulated by a National or State Government.

Source: PL 14-66 § 5.

Cross-reference: The statutory provisions on the National Government Employees’ Health Plan are found in chapter 4 of title 52 (Public Employment) of this code. The statutory provisions on Social Security and Prior Service Benefits are found in title 53 of this code.

§ 104. Transition.

(1) This subtitle applies to any person transacting insurance business on or after the effective date of this Act.

(2) All persons transacting insurance business as of the effective date of this Act will be permitted a grace period of 270 days from the effective date of this Act before being penalized for violation of this subtitle.

(3) Any such person must, within 270 days of the effective date of this Act, apply for a license or registration under this subtitle or cease their insurance business.

(4) Any person who timely files an application shall have their grace period extended until such time as their registration is approved or denied.

(5) Any person who does not file an application within the 270 days or whose timely filed application is denied must stop transacting insurance business, but continue to administer their policies and wind up their business in accordance with the provisions of this subtitle.

Source: PL 14-66 § 6; PL 14-87 § 2.

§ 105. Manner of record keeping.

All information and records required to be produced or maintained pursuant to this subtitle shall be stated in the English language and in US Dollars.

Source: PL 14-87 § 3.

**CHAPTER 2
Administration**

SECTIONS

- § 201. Establishment of the Insurance Board.**
- § 202. Powers.**
- § 203. Insurance Commissioner.**
- § 204. Principal Purposes.**
- § 205. Reports.**
- § 206. Services of Public Auditor and others.**
- § 207. Regulations.**
- § 208. Conflict of interest.**
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- § 210. Appeal.**
- § 211. Enforcement.**
- § 212. Commissioner may extend periods specified for performance of acts.**
- § 213. Commissioner may demand information.**
- § 214. Prohibition on disclosure.**
- § 215. Publication of licenses and registrations.**
- § 216. Examination of affairs.**
- § 217. Indemnity.**

Editor's note: Section 7 of PL 14-66 enacted new chapter 2 of this title entitled Administration.

§ 201. Establishment of the Insurance Board.

(1) There is hereby established an Insurance Board which shall be composed of three members appointed by the President and with the advice and consent of the Congress of the Federated States of Micronesia.

(2) All appointments shall be for a term of four years; PROVIDED, HOWEVER, that, unless otherwise provided by the President, all rights and powers of an Insurance Board member shall be maintained by each member until the appointment of such member's successor. Insurance Board members shall be eligible for reappointment.

(3) The Chairman of the Insurance Board shall be elected by the members at the first organizational meeting of the Board.

(4) Prior to the appointment of members of the Insurance Board constituting a quorum, the Banking Board shall serve as the Insurance Board. Furthermore, until separate logistical and administrative support are available to the Insurance Commissioner, the Insurance Commissioner shall utilize on a temporary basis the logistical and administrative support available to the Banking Commissioner. Nothing herein derogates the authority and prerogative of the President to provide administrative support to the Insurance Board and the Insurance Commissioner pursuant to the provision of section 206 of this chapter.

Source: PL 14-66 § 8; PL 16-38 § 1.

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Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code. The statutory provisions on Commercial Banking are found in title 29 of this code.

§ 202. Powers.

The Insurance Board shall be responsible for its policy and affairs and shall have the powers conferred upon it by this subtitle.

Source: PL 14-66 § 9.

§ 203. Insurance Commissioner.

(1) The President shall appoint a person to be the Insurance Commissioner who shall be responsible to the Insurance Board for the execution of its policy and the performance of duties and exercise of powers conferred by this subtitle.

(2) The Insurance Commissioner shall be a person of recognized experience in insurance and financial matters and shall be eligible for reappointment. The Insurance Commissioner shall not hold or occupy any other office unless approved in writing by the President.

(3) The remuneration and other terms and conditions of employment of the Insurance Commissioner shall be determined from time to time by the Insurance Board.

(4) The Insurance Commissioner shall, except as may otherwise be provided in this subtitle or the resolutions of the Insurance Board, have the power to act and sign instruments and documents on behalf of the Insurance Board.

(5) The Insurance Commissioner shall serve, *ex officio*, as a non-voting member of the Insurance Board.

(6) During any period when there is no duly appointed person serving as Insurance Commissioner, the Chairman of the Insurance Board shall perform the duties and exercise the rights of the Insurance Commissioner.

Source: PL 14-66 § 10; PL 16-38 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 204. Principal purposes.

The principal purposes of the Insurance Board shall be:

- (1) To regulate insurance business;
- (2) To undertake the licensing and supervision of insurers, insurance agents, insurance solicitors and insurance brokers;
- (3) To protect the interests of policy owners; and
- (4) To promote the soundness, stability, and development of the insurance system in the Federated States of Micronesia.

Source: PL 14-66 § 11.

§ 205. Reports.

The Insurance Board shall transmit to the President and the Speaker of the Congress by May 1 of each year a report containing a tabulated statement and synopsis of

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the reports which have been filed with the Board showing the conditions of every person licensed under this subtitle, the general condition of the insurance business in the Federated States of Micronesia, and other matters covering insurance and including the activities of the Insurance Board, for the last fiscal year. This report shall also be made available to the general public.

Source: PL 14-66 § 12.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 206. Services of Public Auditor and others.

The Insurance Board shall be entitled to utilize the services of the Public Auditor, the Department of Justice and such independent accountants, lawyers, and other experts as they may select in carrying out their powers and duties under this subtitle. The President of the Federated States of Micronesia shall provide such administrative support and staff as may be needed to conduct the business of the Insurance Board.

Source: PL 14-66 § 13.

Cross-reference: The statutory provisions on the Public Auditor are found in chapter 5 of title 55 (Government Finance and Contracts) of this code. The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 207. Regulations.

The Insurance Board may make regulations prescribing anything which under this subtitle may be prescribed and generally for carrying into effect the objects of this subtitle. Such regulations shall be made in accordance with title 17, chapter 1 of this code.

Source: PL 14-66 § 14.

Editor's note: Title 17 of this code is on Administrative Procedure.

§ 208. Conflict of interest.

(1) Neither a member of the Insurance Board, the Insurance Commissioner or any person acting on behalf or under the supervision of the Board or Commissioner shall, during the discharge of their office:

(a) be an officer, director, or employee of any person licensed under this subtitle or an affiliated entity;

(b) own or deal directly or indirectly in the shares or obligations of any person licensed under this subtitle or an affiliated entity;

(c) be an insurer, insurance agent, insurance broker or insurance solicitor;

(d) be interested in or receive directly or indirectly from an insurer or affiliated entity, or from any of its officers, directors, or employees, or from any insurance agent, insurance broker or insurance solicitor, any salary, gratuity,

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compensation, or other thing of value by way of gift, credit, compensation for services, or for any other reason; or

(e) be interested in or under obligation to negotiate any contract, obligation, or settlement for another person with such insurer or affiliated entity.

(2) Any violation of this section by any person referred to herein shall be sufficient cause for removal from office.

(3) Notwithstanding subsection (1) of this section, it shall not be a conflict of interest to be a policy owner or beneficiary provided that full disclosure of such ownership is made to the Insurance Board and in the case of the members of the Insurance Board, disclosure shall be made to the President of the Federated States of Micronesia.

Source: PL 14-66 § 15; PL 14-87 § 4.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 209. Orders.

The Insurance Board may issue such orders as may be necessary to carry out their powers and duties, including orders granting, revoking, suspending or restricting licensing and orders imposing penalties for violation of this subtitle. Every order and notice issued by the Insurance Board shall:

(1) be in writing and signed by the Commissioner or under the authority of the Commissioner;

(2) contain a concise statement of the grounds upon which it is based;

(3) designate the provisions of law or regulation pursuant to which action is taken or proposed to be taken;

(4) state the effective date of the order or notice;

(5) state the procedure by which appeal of the order may be taken; and

(6) contain such other matters as may be appropriate.

Source: PL 14-66 § 16.

§ 210. Appeal.

(1) Any order issued under this subtitle may be appealed to the Insurance Board pursuant to the provisions of title 17, chapter 1 of this code.

(2) A decision of the Board shall be final agency action for purposes of appeal to the Supreme Court of the Federated States of Micronesia. The filing of an appeal for judicial review shall not stay enforcement of an order but the Court may order a stay upon such terms as it deems proper.

(3) An appeal must be filed with the Board within 20 days of the date of issuance of the order being appealed. Unless an appeal is filed the order shall become final 20 days after issuance and shall be subject to enforcement. If an appeal is filed, the order shall not become final until and unless it is affirmed by the Insurance Board.

Source: PL 14-66 § 17; PL 14-87 § 5.

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Cross-reference: Title 17 of this code is on Administrative Procedure. The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

§ 211. Enforcement.

(1) The Insurance Board may bring an action in the Supreme Court of the Federated States of Micronesia to enforce any order issued under this subtitle.

(2) If the Insurance Board has cause to believe that any person has violated any provision of this subtitle that is subject to criminal penalty, the Insurance Board shall certify the facts of the violation to the Department of Justice for investigation and prosecution by the Department of Justice.

(3) If the Insurance Board has cause to believe that any person is violating, or is about to violate any provision of this subtitle or an order made by the Insurance Board pursuant to this subtitle, the Insurance Board may bring an action in the FSM Supreme Court to enjoin the person from continuing the violation or doing any act in furtherance thereof.

Source: PL 14-66 § 18.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

§ 212. Commissioner may extend periods specified for performance of acts.

The Commissioner may extend the periods prescribed under this subtitle for the performance of any act.

Source: PL 14-66 § 19.

§ 213. Commissioner may demand information.

The Commissioner may, for the purpose of carrying out the provisions of this subtitle, demand from a person applying for a license or registration or a person licensed or registered under this subtitle any document or information relating to any matter connected with his insurance business or transactions, and any such person shall comply with any such demand.

Source: PL 14-66 § 20; PL 14-87 § 6.

§214. Prohibition on disclosure.

(1) No person who, in his past or current capacity as an insurer, agent, broker or solicitor, has acquired information concerning a policy owner shall disclose such information except:

- (a) to an affiliated entity in the usual course of business;
- (b) with the written authorization of the policy owner or his legal personal representative;
- (c) for the purpose of performing his duties under this subtitle;
- (d) when required to do so by a court in the Federated States of Micronesia;

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(e) in order to comply with the provisions of this subtitle or any other law.

(2) No member of the Insurance Board, the Insurance Commissioner or any employee or agent of the Insurance Board or Commissioner shall disclose to any person any information relating to any person licensed or registered under this subtitle or a policy owner that he has acquired in the performance of his duties under this subtitle except:

(a) for the purpose of the performance of his duties or the exercise of his functions;

(b) when lawfully required to do so by any court, or in proceedings for an offense against this subtitle;

(c) with the consent of the person to whom the information relates;

(d) to the extent that the information is available under any other law or in a public document;

(e) in aggregated or summary form, in such a manner as to prevent any information disclosed from being identified by any person as being related to a particular person, including for statistical purposes;

(f) in confidence to a supervisory authority in the Federated States of Micronesia or any other country, so long as the Insurance Board is reasonably satisfied the recipient of the information will maintain confidentiality; or

(g) in confidence to advisors from the private sector, international organizations or foreign governments for the purpose of improving the regulatory system and performance of the Insurance Board, so long as the Insurance Board is reasonably satisfied the recipient of the information will maintain confidentiality.

Source: PL 14-66 § 21; PL 14-87 § 7.

Cross-reference: The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

§ 215. Publication of licenses and registrations.

The Insurance Board shall publish a list, amended from time to time, of:

(1) all applications filed for a license under this subtitle and all applications for registration as a foreign insurer proposing to transact business through an agent;

(2) all approved licenses;

(3) all foreign insurers registered to transact business through an agent;

(4) all denials of licenses and registrations;

(5) all cancellations and suspensions of licenses and registrations;

(6) information relevant to the winding up of any insurance business; and

(7) any other information that is in the public interest and not in violation of laws or regulations on confidentiality or privacy.

Source: PL 14-66 § 22.

§ 216. Examination of affairs.

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(1) The Commissioner may examine the affairs of any person registered under this subtitle or of any person who is or has at any relevant time been an affiliated entity of any person licensed or registered under this subtitle.

(2) The Commissioner may enter the office of any person licensed or registered under this subtitle at any reasonable time, without notice, for purposes of examination.

(3) It shall be the duty of the person under examination, as well as their past and present officers, employees and any affiliated entities, to produce to the Commissioner all books, records and documents relating to the person or affiliated entity under investigation which are in their custody or control, and otherwise to give to the Commissioner all reasonable assistance in connection with the examination.

(4) The Commissioner may:

(a) examine on oath the officers, employees and agents of the person under examination in relation to its business and may administer an oath accordingly; and

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

(5) The Commissioner may designate persons to conduct the examination on behalf of the Commissioner.

(6) The Commissioner may, if he thinks fit, charge the person whose affairs are examined all expenses properly incurred in connection with the examination or in connection with the proceedings instituted as a result of the examination, which shall be paid as a fee in accordance with the regulations.

Source: PL 14-66 § 23; PL 14-87 § 8.

§ 217. Indemnity.

Neither the Insurance Board nor any of its members, the Insurance Commissioner, employee or any person duly appointed to assist the Insurance Board in carrying out its powers and duties under this subtitle shall incur any liability as a result of anything done in good faith in the exercise of any power or the performance of any duty under this subtitle.

Source: PL 14-87 § 9.

CHAPTER 3
Licensing

SECTIONS

- § 301. License required.
- § 302. Application for license.
- § 303. Decision on application.
- § 304. Notification of decision on application.
- § 305. Cancellation of license.
- § 306. Restriction of license.
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- § 308. Policies issued before refusal of application or cancellation of license.
- § 309. Reporting requirements.
- § 310. Periodic investigations to be made into financial position of insurers.
- § 311. Separate accounts for business other than insurance business.
- § 312. Life insurance carrying on other business.
- § 313. Mergers and transfers of insurance business.
- § 314. Limitation on Borrowing.
- § 315. Prohibition of loans to directors.
- § 316. Prohibited investments.
- § 317. Ownership limitations.
- § 318. Keeping of records.
- § 319. Winding up of insurance business.
- § 320. Lists of representatives to be maintained.
- § 321. Premiums.
- § 322. Disclosure of information by auditors.
- § 323. Limitations on loans—Maximum amounts.

Editor's note: Section 24 of PL 14-66 enacted new chapter 3 of this title entitled Licensing.

§ 301. License required.

- (1) No insurance business shall be carried on, in or from within the Federated States of Micronesia except pursuant to the provisions of this subtitle.
- (2) Any person who transacts insurance business shall be licensed as either
 - (a) an insurer,
 - (b) an agent,
 - (c) a solicitor, or
 - (d) a broker.
- (3) Only a company may be licensed as an insurer.
- (4) Only agents transacting insurance business on behalf of licensed or registered insurers shall be eligible for a license.
- (5) A foreign insurer who receives two million dollars or more in premiums collected in the Federated States of Micronesia in each fiscal year shall be required to become licensed as an insurer.
- (6) A foreign insurer who does not make the premium collections described in subsection (5) of this section shall be permitted to do business through a person licensed

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as an agent if the foreign insurer is registered, unless such foreign insurer chooses to be licensed as an insurer instead.

(7) A person licensed as an agent may conduct business on behalf of more than one insurer; however, the agent must apply for a separate license as an insurance agent for each insurer.

Source: PL 14-66 § 25; PL 14-87 § 10.

§ 302. Application for license.

(1) An applicant for a license shall submit the following information to the Insurance Board:

- (a) The name and address of the applicant;
- (b) In the case of a business entity, the corporate charter and bylaws and the names and address of the officers;
- (c) The address of the applicant's office in the Federated States of Micronesia and an appointment of a representative resident in the Federated States of Micronesia for service of process and to whom notices and orders under this subtitle shall be sent;
- (d) Evidence of the good character, financial responsibility, business experience and ability of the applicant, or in the case of a business entity, its officers;
- (e) In the case of applicants for an agent, solicitor or broker's license, information on prior insurance experience of the applicant and the names and addresses of prior insurers or agents represented by the applicant;
- (f) The type of license requested;
- (g) The classes of insurance proposed to be transacted and a demonstration of capacity to transact such classes of insurance;
- (h) In the case of applicants for an agent's license, the request of a registered insurer that the applicant be licensed to represent the insurer as an agent;
- (i) In the case of applicants for a solicitor's license, the request of a licensed insurer or licensed agent that the applicant be licensed to represent the insurer or agent;
- (j) An audited financial statement for the most recent fiscal year, a statement of prospective income and a business plan for the forthcoming three years;
- (k) In the case of applicants for an insurer's license, the insurer must be able to meet the minimum capital requirement of \$100,000 and demonstrate capacity to meet the ongoing minimum capital requirements as specified by the Insurance Board;
- (l) In the case of applicants for an insurer's license, disclosure of all contracts of reinsurance;
- (m) In the case of applicants for an insurer's license, if the applicant is a foreign insurer, a certificate issued by the insurance supervisory authority in the place in which the insurer is incorporated or constituted to the effect that it is

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complying with all the applicable insurance supervisory requirements of that authority;

(n) Other information and fees as required by regulations.

(2) The Insurance Board may require that an examination be made into the business and affairs of the applicant, including, in the case of a foreign insurer, an examination by the insurance authority of the jurisdiction in which such insurer is organized. Such examination shall be at the cost of the applicant.

(3) The applicant has an ongoing duty to provide the Insurance Board with new or amended information relevant to the application while the application is pending and if a license is issued, after the issuance of a license.

Source: PL 14-66 § 26; PL 14-87 § 11.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 303. Decision on application.

The Insurance Board shall review a completed application and conduct any further investigations as deemed necessary, including public hearings, and approve or reject the application at the discretion of the Insurance Board including consideration of the following factors:

(1) whether the applicant has provided complete information and whether the applicant has made any material misstatements or omissions in the application;

(2) the overall financial condition of the applicant and whether or not granting the application is likely to result in an over-extension of the applicant's resources or facilities;

(3) the expertise and character of the applicant or the officers of the applicant, including whether the applicant or any officer has been convicted of a felony having as one of its necessary elements a fraudulent act or an act of dishonesty in the solicitation of, acceptance, custody, or payment of money or property;

(4) whether the applicant has refused or failed to comply with, or is in violation of, any of the provisions of this subtitle or regulations or any order of the Insurance Board or Commissioner;

(5) in the case of a foreign insurer, the insurer's record of compliance with laws and overall performance in other jurisdictions;

(6) in the case of an applicant operating in the Federated States of Micronesia prior to application for a license, the applicant's record of compliance with the law and regulations of and past performance in the Federated States of Micronesia; and

(7) whether the applicant is delinquent in the payment of any fees, licenses, taxes, fines or penalties owed to the national government or the government of any State, or is otherwise in default for failure to comply with any laws of the Federated States of Micronesia.

Source: PL 14-66 § 27/22.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

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Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 304. Notification of decision on application.

(1) If the application is approved, the Commissioner shall provide the applicant with a license which shall remain valid unless suspended or cancelled in accordance with the provisions of this subtitle. The license shall be displayed conspicuously in a public part of all places of business of the license holder in the Federated States of Micronesia.

(2) The Insurance Board may approve an application subject to conditions deemed necessary to protect policy-owners. Any such conditions shall be noted on the license and may be varied or revoked during the term of the license.

(3) If the application is denied, an order denying a license shall be issued.

Source: PL 14-66 § 28/23.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 305. Cancellation of license.

The Insurance Board may cancel a license by issuing an order of cancellation based on any of the following grounds:

(1) the license holder or a trustee or receiver appointed by the court has requested cancellation;

(2) the license holder has ceased to carry on an insurance business in the Federated States of Micronesia;

(3) the license holder has not commenced business in the Federated States of Micronesia within one year of being issued a license;

(4) in the case of an agent, that the insurer whom they represent no longer wishes to be represented by the agent or the insurer is no longer licensed or registered by the Insurance Board; in the case of a solicitor, that the agent or insurer whom they represent no longer wishes to be represented by the solicitor or the agent or insurer is no longer licensed or approved by the Insurance Board;

(5) false, misleading or inaccurate information was given in an application under this subtitle or pursuant to reporting requirements or a demand for information under this subtitle;

(6) any cause for which issuance of the license could have been refused if it had then existed and been known to the Commissioner at the time of issuance;

(7) in the case of an insurer, the insurer has failed to pay a final judgment for the payment of a claim owed under a policy;

(8) in the case of an insurer, the insurer has engaged in unfair trade practices;

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(9) the license holder has misrepresented the terms of any actual or proposed insurance contract or application for insurance;

(10) in the case of an insurer, the unencumbered assets, or capital solvency requirements as defined by the Commissioner, of the insurer are insufficient for the proper conduct of his insurance business;

(11) the license holder is not conducting business in accordance with sound insurance principles;

(12) the license holder has contravened any of the provisions of this subtitle, regulations or conditions of license.

Source: PL 14-66 § 29/24; PL 14-87 § 12.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 306. Restriction of license.

The Insurance Board may restrict a license by issuing an order of restriction. Restrictions on a license may include limitations on business activities, prohibitions against writing of new business or commencement of new activities or acquisitions, directions to stop practices that are unsafe or unsound, requirements to put assets of the insurer in trust or restrict disposal of assets, and prohibitions against particular individuals from the business of insurance.

Source: PL 14-66 § 30/25; PL 14-87 § 13.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 307. Registered Foreign Insurers.

(1) A foreign insurer may be registered by providing the following:

(a) information from the insurer's home supervisory authority that the insurer is solvent and meets all the regulatory requirements in the home jurisdiction and is otherwise in good standing; and a statement from the home supervisory authority that the foreign insurer is approved for transaction of insurance business through an agent in the Federated States of Micronesia; and

(b) posting of a bond, or deposit to an escrow account, in the sum of \$100,000, to be withdrawn by the Commissioner upon the occurrence of certain events as stated in the bond or escrow agreement; and

(c) compliance with any requirement, if set forth in regulations under this subtitle, that a certain amount of premiums collected on behalf of the insurer are maintained in the Federated States of Micronesia; and

(d) designation of an agent for service of process.

(2) A foreign insurer providing a marine, aviation and transportation policy may be registered without posting the bond required in subsection (1)(b) of this section.

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(3) The Commissioner may grant or deny or cancel registration of a foreign insurer based on these requirements and a review of the foreign insurer in the same manner as a review of an application for a license under this subtitle.

(4) Any person registered as an insurer under this subtitle shall be deemed and held to be doing business in the Federated States of Micronesia and may be sued upon any cause of action arising under any policy of insurance issued by it and any cause of action under the laws of the Federated States of Micronesia in the courts of the Federated States of Micronesia.

Source: PL 14-66 § 31/26; PL 14-87 § 14.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 308. Policies issued before refusal of application or cancellation of license.

An insurer, agent, broker or solicitor whose application for a license has been denied or cancelled shall continue to carry on business relating to policies issued by the insurer, or the insurer represented by the agent, broker or solicitor, prior to the date on which it was notified of such denial or cancellation until the Insurance Board is satisfied that the insurer, agent, broker or solicitor has made suitable arrangements for the obligations under the policies to be met.

Source: PL 14-66 § 32/27.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 309. Reporting requirements.

(1) Licensed insurers and registered insurers shall provide the following information to the Insurance Board:

- (a) Within three months of the end of each fiscal year:
 - (i) a certified copy of the audited balance sheet and accounts showing the financial position of all the insurance business of the license holder at the close of that year;
 - (ii) a certificate of an auditor stating that the auditor has satisfied himself that the accounts of the insurer have been properly prepared in accordance with the books and records of the insurer and in accordance with Generally Accepted Accounting Principles and any such other particulars as may be prescribed by regulation; and
 - (iii) such other documents and information as the Commissioner may require or as may be prescribed by regulation.

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(iv) all insurers who operate as separate entities which can be wound up under domestic or foreign law shall render separate accounts but where they are associated together in a group the holding company shall also furnish to the Commissioner consolidated accounts of the insurance business for the group as a whole.

(b) A copy of any report on the affairs of the insurer submitted to the policy-owners or shareholders of the insurer in respect of the financial year to which the balance sheet relates.

(c) In the case of licensed insurers only, a copy of all contracts of reinsurance at the time they were entered into and upon any amendment.

(2) Licensed agents, brokers and solicitors shall provide the following information to the Insurance Board on a quarterly basis and in a form determined by the Insurance Board:

(a) an accounting of all premiums collected, including the dates of receipt from the policy-owner, the dates of remittance to the insurer, and any commissions received.

(b) such other information as determined by the Insurance Board.

Source: PL 14-66 § 33/28; PL 14-87 § 15.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 310. Periodic investigations to be made into financial position of insurers.

(1) A licensed insurer shall, not less than once in every three years, cause an investigation into its financial position, including a valuation of its liabilities to be made by an actuary; provided that the Commissioner may require an insurer to cause such an investigation to be made at any time he deems it to be in the policy owner's interest to do so.

(2) A licensed insurer shall, whenever its financial position is investigated with a view to a distribution of surplus or in compliance with subsection (1) of this section, furnish to the Commissioner a full report of the actuary by whom the investigation was made or an abstract thereof at the Commissioner's option, and a statement of its life insurance business at that date, as soon as such a report is furnished to the insurer by the actuary. The actuary shall also provide a statement of the assumptions and the methods used in making the valuation.

Source: PL 14-66 § 34/29; PL 14-87 § 16.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 311. Separate accounts for business other than insurance business.

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A licensed insurer or insurance agent who transacts, besides insurance, any other business shall conduct the insurance business in a separate company and shall thereby segregate the assets and liabilities of its insurance business from those of its other business.

Source: PL 14-66 § 35/30.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 312. Life insurance carrying on other business.

(1) A licensed insurer who carries on both life insurance business and other insurance business shall conduct the life insurance business in a separate company, and shall thereby segregate the assets and liabilities of its life insurance business from those of its other insurance business.

(2) All receipts of a life insurer in respect of its life insurance business shall be carried to and form part of its life insurance fund.

(3) Payments from the life insurance fund of a licensed insurer shall not be made directly or indirectly for any purpose other than those of its life insurance business, except insofar as such payments can be made out of any surplus disclosed on an actuarial valuation and certified by the actuary to be distributable otherwise than to policy-owners.

Source: PL 14-66 § 36/31.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 313. Mergers and transfers of insurance business.

No domestic insurer shall:

(1) Merge or reorganize, whether by agreement, order or takeover, with any one or more insurers; or

(2) Transfer its insurance business or a part thereof to, or take transfer of the insurance business or a part thereof from, another insurer, unless the merger, reorganization or transfer is approved by the Commissioner.

(3) No merger or transfer shall be approved that lessens the policy benefits of policy owners.

Source: PL 14-66 § 37/32.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 314. Limitation on Borrowing.

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At no time may the amount of moneys to be borrowed or secured by a domestic insurer exceed ten percent of the assets of the domestic insurer without the written consent of the Commissioner.

Source: PL 14-66 § 38/33; PL 14-87 § 17.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 315. Prohibition of loans to directors.

A domestic insurer shall not, directly or indirectly, without the approval of the Commissioner, lend any of its funds to any of its officers or related persons; or enter into any guarantee or provide any security in connection with a loan to an officer or related person by any other individual; provided that loans may be so made within the surrender value of a life policy issued by the insurer to such individual.

Source: PL 14-66 § 39/34.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 316. Prohibited investments.

The Insurance Board may require that a domestic insurer not make investments of a specified class and may in that case require such insurer to liquidate investments of that class within a specified period.

Source: PL 14-66 § 40/35; PL 14-87 § 18.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 317. Ownership limitations.

No person or group of related persons or affiliated entities may acquire ten percent or more of the stock of a domestic insurer without the prior approval of the Insurance Board.

Source: PL 14-66 § 41/36.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 318. Keeping of records.

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(1) A license holder shall keep within the Federated States of Micronesia and shall make available to the Commissioner on request a record of all domestic policies in force or upon which liabilities are outstanding which have been issued by the insurer or by the agent, broker or solicitor on behalf of an insurer, showing the insurer's rights and obligations thereunder and recording the premiums received and, in the case of an agent, broker or solicitor, the premiums collected and paid to the insurer and the commissions received.

(2) A license holder shall keep, for a period of at least five years, the original or an accurate copy of policies, premium payments, claims made and paid, and other items comprising records of transactions processed by it.

(3) Notwithstanding the provisions of any other law, a copy of an item made pursuant to this section shall be admissible as evidence in any legal proceeding to the same extent as the item of which it is a copy would have been admissible.

Source: PL 14-66 § 42/37.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 319. Winding up of insurance business.

(1) Any license holder may terminate its business in the Federated States of Micronesia with the approval and under the supervision of the Insurance Commissioner and pursuant to title 31 of this code as amended by Public Law 13-73.

(2) The Commissioner may present a petition for the winding-up of an insurer in accordance with the provisions of title 31 of this code as amended by Public Law 13-73.

(3) Notwithstanding any other law, the business and assets of the insurer shall be liquidated in an orderly manner so as to fully protect all of the policy-owners of the insurer in the Federated States of Micronesia. Policy-owners shall take first priority with respect to payment of the obligations of the insurer.

Source: PL 14-66 § 43/38; PL 14-87 § 19.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

Erratum: The word "Notwithstanding" in subsection (3) has been corrected to "Notwithstanding".

Cross-reference: Title 31 of this code is on Bankruptcy and Insolvency.

§ 320. Lists of representatives to be maintained.

Every license holder shall maintain and post in its office an accurate list of all persons associated with it as an insurer, agent, solicitor or broker in the Federated States of Micronesia, and shall provide the list to the Insurance Board along with the full details

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of the association with such agent, solicitor or broker including a copy of any employment contract, every time it is amended or on demand of the Commissioner.

Source: PL 14-66 § 44/39.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 321. Premiums.

(1) Any licensed agent, broker or solicitor shall, for the purpose of receiving any premium for a policy, be deemed to be the agent of the insurer and notwithstanding any conditions or stipulations to the contrary the insurer whom they represent shall be deemed to have received any premium received by such agent, broker or solicitor.

(2) A licensed agent, broker or solicitor who acts in negotiating or renewing a policy of an insurer and receives payment of the premium for the policy from the policy owner, shall be guilty of an offense if he fails to forward the premium to the insurer within 30 days of the receipt of the premium, less his commission and any other deductions to which by written consent of the insurer he is entitled, provided that if any person charged with an offense under this section shall satisfy the court that he was prevented by illness or other cause beyond his control from due compliance with such provisions and has subsequently paid the premium to the insurer, the same shall be a good defense to the charge.

Source: PL 14-66 § 45/40; PL 14-87 § 20.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 322. Disclosure of information by auditors.

(1) If an auditor or actuary, in the course of reviewing the business of a person licensed under this subtitle, is satisfied that:

- (a) there has been a violation of a provision of this subtitle, or regulations or Orders under this subtitle; or
- (b) a criminal offence involving fraud or dishonesty has been committed; or
- (c) the business is insolvent or is likely to become insolvent; or
- (d) there are irregularities which materially prejudice the interests of policy owners; or
- (e) the business is unable, or is likely to become unable, to meet its liabilities;

the auditor or actuary must immediately report the matter to the directors of the business and to the Insurance Board.

(2) Failure to report shall constitute a violation of this subtitle.

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(3) A person reporting under this provision shall not be liable for any damage which may be a consequence of the report.

Source: PL 14-87 § 21.

§ 323. Limitations on loans—Maximum amount.

No domestic insurer shall permit a person to become indebted or liable to it, either directly or indirectly, in an amount in excess of 20 percent of the aggregate paid-in and unimpaired capital, surplus, and undivided profits of the insurer.

Source: PL 14-87 § 22.

CHAPTER 4
Policies

SECTIONS

- § 401. Disclosures to policy-owners.**
- § 402. Policy contents.**
- § 403. Policy not invalid owing to failure to comply with law.**
- § 404. Cancellation of policies.**
- § 405. Jurisdiction of domestic courts.**
- § 406. Claim settlement practices.**

Editor's note: Section 41 of PL 14-66 enacted new chapter 4 of this title entitled Policies.

§ 401. Disclosures to policy-owners.

(1) A policy-owner must be provided with a copy of the policy within 30 days of it coming into effect.

(2) An insurer shall, at the request of the policy-owner, furnish the policy owner free of charge with a copy of the relevant financial statements prepared by the insurer to meet the reporting requirements of this subtitle, and shall make available for inspection, at the request of the policy-owner, a copy of the last actuarial report.

Source: PL 14-66 § 47/42.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 402. Policy contents.

(1) A policy must be written in the English language and printed or typed in clearly legible letters, in ten point type or larger.

(2) The policy must contain:

- (a) the parties between whom the contract is made;
- (b) a description of the property, life or interest insured;
- (c) the interest of the insured and other interested parties;
- (d) the period during with such insurance is to continue;
- (e) either a statement of the premium or if insurance is of a character where the exact premium is only determinable upon a termination of the contract, a statement of the basis and rates upon which the final premium is to be determined and paid, with all amounts stated in US dollars.

(3) The policy shall be signed by two of the major officers of the insurer as designated by the insurer and, in the case where the insurer is represented by an agent, by the agent.

(4) The Insurance Board shall establish through regulations other requirements for policy contents and review by the Insurance Board of policy forms.

Source: PL 14-66 § 48/43; PL 14-87 § 23.

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Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 403. Policy not invalid owing to failure to comply with law.

A policy issued by any person, whether before, on, or after the coming into force of this subtitle shall not be invalid by reason only that such person contravened or failed to comply with the provisions of any law or regulation applying to that policy.

Source: PL 14-66 § 49/44.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 404. Cancellation of policies.

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

(2) A policy other than a life insurance policy may be cancelled at any time by the policy-owner after giving to the insurer not less than 30 days' notice in writing of the proposed cancellation by service in accordance with the provisions of this subtitle, and the insurer shall, upon the surrendering of the policy, refund the excess of any premiums paid over and above the *pro-rata* premium for the period when the policy has been in force.

(3) A policy other than a life insurance policy may be cancelled at any time by an insurer after giving to the policy-owner named therein not less than 90 days' notice in writing of the proposed cancellation by personal service or by certified mail and upon refunding to the insured the excess of paid premium over and above the *pro-rata* premium for the time the policy has been in force, which refund shall accompany the notice.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, the policy-owner and the insurer may agree at the time any policy of insurance referred to therein is issued that the same shall be incapable of cancellation, provided that a clause to such effect is included in the policy.

(5) A life insurance policy may be cancelled by the insurer in the event of non-payment of any renewal premiums due but only after notice in writing specifying the default and the intention of the insurer to cancel the policy has been given to the insured by personal service or by certified mail; provided that the insurer may not cancel the life insurance policy if full payment is made within ten days of receipt of the notice; provided further that a life insurance policy shall not be cancelled by reason only of the non-payment of a premium unless at least 28 days have elapsed since the premium became due.

(6) Any policy of insurance may be cancelled by the prior mutual consent in writing of the insurer and the policy-owner.

Source: PL 14-66 § 50/45.

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Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 405. Jurisdiction of domestic courts.

Any provision contained in a domestic policy whereby the jurisdiction of the courts in the Federated States of Micronesia is in any way circumscribed or avoided shall to that extent be of no effect; however, this section does not limit the inclusion of provisions in domestic policies requiring alternative dispute resolution prior to court action.

Source: PL 14-66 § 51/46.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 406. Claim settlement practices.

The following acts are prohibited as unfair claim settlement practices. Knowingly engaging in any of these acts shall be found to be a violation of this subtitle.

- (1) Misrepresenting to claimants pertinent facts or policy provisions relating to coverage at issue;
- (2) Failing to promptly acknowledge pertinent communications regarding claims;
- (3) Failing to adopt and implement standards for the prompt investigation of claims;
- (4) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims submitted in which liability has become reasonably clear; or
- (5) Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amount ultimately recovered in suits brought by them.

Source: PL 14-87 § 24.

CHAPTER 5
General Provisions

SECTIONS

- § 501. Restriction on use of the word “insurance”.**
§ 502. Registered names.
§ 503. Service of process upon persons licensed under this subtitle.
§ 504. Control of advertisements.
§ 505. Practices injurious to free competition.
§ 506. Fraud.

Editor’s note: Section 47 of PL 14-66 enacted new chapter 5 of this title entitled General Provisions.

§ 501. Restriction on use of the word “insurance”.

Only persons licensed under this subtitle shall have or use the word “insurance” or any derivative thereof in the conduct of their business.

Source: PL 14-66 § 53/48.

Editor’s note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 502. Registered names.

(1) The Insurance Board shall not issue a license if the name under which the applicant desires to be licensed is identical to or so nearly resembles the name of a person already licensed under this subtitle as to be likely to be mistaken for it unless that person is in fact affiliated with the applicant and consents to the licensing of the applicant under the name in question, or the licensed person is being wound up or has ceased to transact insurance business in or from within the Federated States of Micronesia and consents to the licensing of the applicant under the name in question.

(2) The Commissioner shall not license an applicant as an insurer, agent, broker or solicitor if the name under which the applicant desires to be registered suggests falsely that the applicant has a special status in relation to or derived from the municipal, State or National government of the Federated States of Micronesia or has the official backing of or acts on behalf of said government or official thereof or is recognized in the Federated States of Micronesia as a national or central insurer, insurance agent, insurance broker or insurance solicitor.

(3) The Commissioner shall not license an applicant as broker or solicitor if the name under which the applicant desires to be registered is likely to suggest that the applicant is an insurer or agent.

(4) The Commissioner shall not license an applicant as an agent if the name under which the applicant desires to be registered is likely to suggest that the applicant is an insurer or a broker.

(5) The Commissioner may refuse to license an applicant under a name that is likely to mislead policy-owners or which is contrary to the public interest.

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(6) A licensed insurer, agent, broker, or solicitor shall not change the name under which it is licensed without the prior permission of the Commissioner.

Source: PL 14-66 § 54/49.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 503. Service of process upon persons licensed under this subtitle.

(1) Any notice issued under any provisions of this subtitle and any process in legal proceedings may be served upon a person licensed under this subtitle by leaving the same at the principal office or designated agent of the person.

(2) If the principal office or designated agent of a person registered under this subtitle cannot reasonably be found, any notice served under this subtitle or process in any legal proceedings may be served by leaving the same at the office of the Commissioner and it shall be deemed to be service upon the person registered under this subtitle.

Source: PL 14-66 § 55/50.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 504. Control of advertisements.

No advertisement shall be used by any person licensed under this subtitle which, directly or by implication, has the capacity and tendency to mislead or deceive prospective policy-owners with respect to an insurer's assets, corporate structure, financial standing, age or relative position in the insurance business, the terms of a policy or in any other material respect.

Source: PL 14-66 § 56/51.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 505. Practices injurious to free competition.

Unless otherwise permitted by law, no person shall, directly or indirectly, enter into any agreement for the purpose of controlling the rates to be charged, or the commissions or other compensations to be paid, for insuring any risk or class of risks or commit any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of or a monopoly in the business of insurance.

Source: PL 14-66 § 57/52.

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Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

§ 506. Fraud.

Any person licensed under this subtitle should have in place internal controls that prevent fraud.

Source: PL 14-87 § 25.

CHAPTER 6
Violations and Penalties

SECTIONS

§ 601. Investigation of illegal insurance business; Penalties.

§ 602. General penalties.

Editor's note: Section 53 of PL 14-66 enacted new chapter 6 of this title entitled Violations and Penalties.

§ 601. Investigation of illegal insurance business; Penalties.

(1) Where the Insurance Board has reason to believe that a person is engaging in insurance business without a license in violation of this subtitle, it may cause an examination of the books, accounts and records of such a person to determine if this is the case. The Insurance Board may apply to the Supreme Court for a warrant to enter any premises belonging to or in the control of such a person and remove any document, material or other thing therein for the purposes in the warrant.

(2) A person doing insurance business without a license in violation of this subtitle shall be subject to a fine of not more than \$50,000 and shall be required to repay any funds obtained as a result of such insurance business. A failure to cease doing insurance business as directed by the Commissioner shall be considered a new violation and subject to an additional fine.

Source: PL 14-66 § 59/54; PL 14-87 § 26 (renumbered section 701 as 601).

Cross-reference: The statutory provisions on the FSM Supreme Court are found in title 4 of this code. The statutory provisions on Judicial Procedures are found in title 6 of this code.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

PL 14-66 § 59/54 originally numbered this section as 701; this was corrected by PL 14-87 § 26.

§ 602. General penalties.

(1) For any violation of this subtitle, including violation of the regulations, conditions of license imposed by the Commissioner, or orders issued by the Commissioner, the license holder shall be subject to an administrative penalty of not more than \$5,000 and if the violation is a continuing one, to a further penalty not exceeding \$1,000 for every day during which the violation continues; and, in the case of a material violation, to the cancellation of its license, in addition to any other penalty prescribed by law. The Commissioner shall impose the administrative penalty by issuing an order subject to appeal and enforcement under chapter 2 of this subtitle.

(2) Any person who violates any provision of this subtitle or of any regulations shall be guilty of an offence and, where no specific criminal penalty is otherwise provided in this subtitle, shall be liable on conviction in a court of law, if the offender is an individual, to a fine of \$25,000 or to imprisonment for not more than six

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months, or to both such fine and imprisonment, or if the offender is not an individual, to a fine of \$50,000.

(3) Where any offense under this subtitle is proved to have been committed with the consent of, or to be attributable to the negligence of, an officer, the officer shall be deemed to be guilty of that offense and shall be subject to the same penalty.

Source: PL 14-66 § 61/56; PL 14-87 § 27.

Editor's note: PL 14-66 contained overlapping section numbers by repeating section numbers 22-26. The first section number in the source of this section represents what the correct section number should have been and the second section number represents the actual section number in PL 14-66.

**CHAPTERS 7 TO 9
[RESERVED]**

**CHAPTER 10
Captive Insurance Act of 2006**

SECTIONS

- § 1001. Definitions.**
- § 1002. Determination of class of captive insurance companies.**
- § 1003. Captive Insurance Company Licensing and Captive Insurance Manager's Licensing.**
- § 1004. Confidential treatment.**
- § 1005. Names of Companies.**
- § 1006. Redomestication; Approval as domestic captive insurance company.**
- § 1007. Minimum Capital and Surplus Requirements.**
- § 1008. Dividends.**
- § 1009. Formation of Captive Insurance Companies.**
- § 1010. Reports and Statements.**
- § 1011. Examinations and Investigations.**
- § 1012. Grounds and procedures for suspension or revocation of license.**
- § 1013. Legal Investments.**
- § 1014. Reinsurance.**
- § 1015. Tax on Premium Collected.**
- § 1016. Regulations.**

Editor's note: Section 2 of PL 14-88 enacted new chapter 10 of this title entitled The Captive Insurance Act of 2006. PL 14-88 was signed into law by President Joseph J. Urusemal on November 2, 2006. The word "The" in the title of this chapter has been omitted to comport with standard code formatting.

PL 14-88 stated its purpose as follows:

Section 1. Purpose. The purpose of the proposed bill is to create a scheme for the introduction and regulation of a captive insurance industry in the Federated States of Micronesia. The captive insurance industry will complement current and future regulations in the Federated States of Micronesia, such as insurance and income tax for corporations. The captive insurance industry in the Federated States of Micronesia will be regulated by the Insurance Commissioner pursuant to policies established by the Insurance Board.

§ 1001. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Affiliated Company" means any company in the same corporate system as a parent or member organization by virtue of common ownership, control, operation, or management.
- (2) "Association" means any legal association of individuals, corporations, partnerships, associations, or other entities that own, control, or hold with power to vote all of the outstanding voting securities of the captive insurance company.
- (3) "Captive Insurance Company" means an insurance company formed or licensed under this chapter.

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(4) “Commissioner” means the individual appointed as the Insurance Commissioner under this subtitle.

(5) “Domestic captive insurance company” means a captive insurance company organized under the laws of the Federated States of Micronesia.

(6) “Foreign captive insurance company” means a captive insurance company organized under the laws of a jurisdiction other than the Federated States of Micronesia.

(7) “Insurance Manager” means an individual or company which provides insurance expertise to or for captive insurance companies and which has in its bona fide employment a person who is a current member in good standing of the applicable professional body or of some other professional insurance association recognized by the Commissioner for the purpose of providing insurance expertise and has been approved by the Commissioner.

(8) “Member Organization” means any individual, corporation, partnership, association, or other entity that belongs to an association.

(9) “Parent” means a corporation, partnership, other entity, or individual that directly or indirectly owns, controls, or holds with power to vote more than 50 percent of the outstanding voting securities of a captive insurance company.

(10) “Principal Representative” means any individual or corporation registered and in good standing with the Federated States of Micronesia, operating in or from within the Federated States of Micronesia who, not being a *bona fide* employee of the captive insurance company, maintains for the captive insurance company full and proper records of the business activities of the captive insurance company.

(11) “Unaffiliated business” means any company:

(a) that is not in the corporate system of a parent and affiliated companies;

(b) that has an existing contractual relationship with a parent or affiliated company; and

(c) whose risks are managed by a captive insurance company in accordance with this chapter.

(12) “Related Third-Party Business” means any company or other legal entity:

(a) that is not in the corporate system of a parent and affiliated companies;

(b) that has an existing contractual relationship with a parent or affiliated company; and

(c) whose risks are managed by a captive insurance company in accordance with this chapter.

(13) “Multiple Corporate Captive Insurance Companies” or “MCC” means one or more corporations organized, or with the intent to organize, as a group of corporate captive insurance companies under the laws of the Federated States of Micronesia:

(a) where each member captive insurance company is formed and owned by a different parent company for the purpose of insuring risks of its parent company or related third party businesses respectively; and

(b) where all member captive insurance companies are together deemed to constitute a group under the laws of the Federated States of Micronesia subject to the following condition:

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- (i) the core member captive insurance company shall hold five percent (5%) or more of the shares of each of the other member captive insurance companies;
 - (ii) each member captive insurance company shall permit one or more directors from the core member captive insurance company on its board of directors;
 - (iii) a core member captive insurance company must maintain a minimum paid in capital and surplus of at least \$1,000,000; and
 - (iv) each member captive insurance company must maintain a minimum paid in capital and surplus of at least \$100,000.
- (c) Each member captive insurance company making up an MCC is deemed an individual captive insurance company for purposes of the laws of the Federated States of Micronesia.
- (d) The license issued to the core member captive insurance company meeting the capital requirements of subsection (13)(b)(iii) of this section shall precede issuance of licenses to any of the member captive insurance companies meeting the capital requirements of subsection (13)(b)(iv) of this section.

Source: PL 14-88 § 3; PL 15-34 § 1; PL 16-17 § 1.

§ 1002. Determination of class of captive insurance companies.

Each captive insurance company formed under this chapter shall be designated and licensed as one of the following classes of captive insurance companies:

- (1) A class 1 company shall be a captive insurance company that insures the risks of its parent and affiliated companies or associations;
- (2) A class 2 company shall be a captive insurance company that insures the risks of its parent and affiliated companies or associations and/or related third-party businesses.
- (3) A class 3 company shall be a captive insurance company that constitutes part of a Multiple Corporate Captive Insurance Company as defined in section 1001(13) of this chapter.
- (4) Additional classes of captive insurance companies may, from time to time, be created by amendment of this chapter.

Source: PL 14-88 § 4; PL 15-34 § 2; PL 16-17 § 2.

§ 1003. Captive Insurance Company Licensing and Captive Insurance Manager's Licensing.

The Commissioner or Insurance Board may issue two types of licenses with respect to the captive insurance industry: one for the captive insurance companies pursuant to subsections (1)-(5) of this section; the other for business entities which engage in the business of managing captive insurance companies pursuant to subsections (6)-(9) of this section.

- (1) Captive insurance companies shall be licensed in accordance with chapter 3 of this subtitle.
- (2) In considering whether to license a captive insurance company under this chapter, the Commissioner and Insurance Board shall consider the following factors:

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- (a) Principal office and principal representative;
- (i) the principal office shall maintain a principal place of business within the Federated States of Micronesia;
 - (ii) appoint a principal representative that shall be approved by the Commissioner;
 - (iii) hold an annual board of directors meeting in the Federated States of Micronesia. In meeting the quorum requirements for this annual board meeting, only the principal representative is required to be physically present in the Federated States of Micronesia. The remainder of the quorum may be present via telephone;
 - (iv) the captive insurance company shall maintain in its principal office accurate documents in English of the insurance business and accounting for examination by the Commissioner.

(b) Application documents: the captive insurance company shall file the following documents with its application for an insurance license with the Commissioner and Insurance Board:

- (i) the amount and liquidity of its assets relative to the risks to be assumed;
 - (ii) the adequacy of the expertise, experience, and character of the person or persons who will manage it;
 - (iii) the overall soundness of its plan of operation;
 - (iv) the adequacy of the loss prevention programs of its insured;
- and
- (v) such other factors deemed relevant by the Commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Each captive insurance company shall pay to the Insurance Board a nonrefundable fee of \$500 for examining, investigating, and processing its application for licensing, and the Commissioner is authorized to retain legal, financial and examination services, the reasonable cost of which may be charged against the applicant. In addition each captive insurance company shall pay a license fee for the year of registration and a renewal fee each year thereafter of \$500.

(4) If the Insurance Board is satisfied that the documents filed by the captive insurance company comply with this subtitle, the Commissioner may grant a license authorizing it to transact insurance business in the Federated States of Micronesia until March 31, of the year of application at which time the license may be renewed.

(5) No captive insurance company licensed under this chapter shall be allowed to insure the risks of individual citizens of the Federated States of Micronesia.

(6) The Insurance Commissioner or Insurance Board is authorized to issue a captive insurance manager's license, which may be signed by the Insurance Commissioner's or Insurance Board's authorized designee, and shall issue the same to any applicant that:

- (a) has in its *bona fide* employment a person who is a current member in good standing of an accounting or insurance related professional body or association; or,

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(b) has in its *bona fide* employment a person that has minimum of five years' experience in the captive management field.

(7) The applicant shall be issued a captive insurance manager's license by the Insurance Commissioner or the Insurance Board upon compliance with subsection (6) of this section without regard to:

(a) whether the applicant has or has not applied for a license with a captive insurance company; or,

(b) whether the applicant is or is not currently managing a domestic captive insurance company.

(8) The captive insurance manager's license grants the captive insurance manager the authority to work with or manage:

(a) any person or entity intending to form a captive insurance company in the Federated States of Micronesia; or,

(b) any domestic captive insurance company licensed by the Insurance Board.

(9) The captive insurance manager's license shall be effective for a period of five years from the date of issuance.

Source: PL 14-88 § 5; PL 15-34 § 3; PL 16-17 § 3.

§ 1004. Confidential treatment.

(1) No captive insurance company, or person who, in his past or current position with a captive insurance company has acquired information concerning an insured entity shall disclose such information except:

(a) to an affiliated entity in the usual course of business;

(b) with the written authorization of the policy owner or his legal personal representative;

(c) for the purpose of performing his duties under this chapter;

(d) when required to do so by a court in the Federated States of Micronesia;

(e) in order to comply with the provisions of this chapter or any other law.

(2) No member of the Insurance Board, the Insurance Commissioner or any employee or agent of the Insurance Board or Commissioner shall disclose to any person any information relating to any captive insurance company that he has acquired in the performance of his duties under this chapter except:

(a) for the purpose of the performance of his duties or the exercise of his functions;

(b) when lawfully required to do so by any court, or in proceedings for an offense against this subtitle;

(c) with the consent of the person to whom the information relates;

(d) to the extent that the information is available under any other law or in public documents;

(e) in aggregated or summary form, in such a manner as to prevent any information disclosed from being identified by any person as being related to a particular person, including for statistical purposes;

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(f) in confidence to a supervisory authority in the Federated States of Micronesia or any other country so long as the Insurance Board is reasonably satisfied the recipient of the information will maintain confidentiality;

(g) in confidence to advisors from the private sector, international organizations or foreign governments for the purpose of improving the regulatory system and performance of the Insurance Board, so long as the Insurance Board is reasonably satisfied the recipient of the information will maintain confidentiality.

Source: PL 14-88 § 6.

Cross-reference: The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

§ 1005. Names of Companies.

In addition to the requirements of chapter 5 of this subtitle, no captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in the Federated States of Micronesia.

Source: PL 14-88 § 7.

§ 1006. Redomestication; Approval as domestic captive insurance company.

Any foreign captive insurance company may become a domestic captive insurance company by meeting the following requirements:

(1) Compliance with all of the requirements relating to the registration and licensing of a captive insurance company as stated in this subtitle, and any additional requirements that the Commissioner or Insurance Board may require;

(2) The articles of incorporation or other organizational document shall be amended in compliance with the laws of the Federated States of Micronesia and restated in its entirety before submission to the Commissioner and Insurance Board. Before the amended and restated articles of incorporation and other organizational documents are transmitted to the National Registrar of Corporations, the redomesticating captive insurance company shall petition the Commissioner and Insurance Board to issue a certificate setting forth the Insurance Board's finding that the redomestication and maintenance of the captive insurance company shall promote the general good of the Federated States of Micronesia. In arriving at the finding, the Commissioner and Insurance Board shall consider:

(a) The character, reputation, financial standing, and purposes of the foreign captive insurance company;

(b) The character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors; and

(c) Any other aspects as the Commissioner and Insurance Board deem advisable;

(3) The following shall be transmitted to the Registrar of Corporations for filing:

(a) Articles of redomestication;

(b) Certificate issued by the Commissioner;

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(c) Certificate of good standing duly authenticated by the proper officer of the country under the laws of which the foreign captive insurance company is incorporated; provided that the certificate shall be dated not earlier than 45 days prior to the filing of the articles of redomestication; and provided further that if the certificate of good standing is in a foreign language, a translation under oath of the translator shall accompany the certificate;

(d) Amendments to the articles of incorporation or other organizational document in compliance with the laws of the Federated States of Micronesia; and

(e) Restatement of the articles of incorporation or other organizational document in its entirety;

(4) The articles of redomestication shall set forth the following:

(a) Name of the corporation;

(b) Date of incorporation and country of incorporation;

(c) Street address of the principal office in the Federated States of Micronesia;

(d) Name of the proposed principal representative;

(e) Names and titles of the officers and directors of the corporation;

(f) A statement that the corporation is moving its domicile from its present country to the Federated States of Micronesia;

(g) A statement that redomestication will occur upon filing the articles of redomestication and that the corporation shall be subject to the laws of the Federated States of Micronesia;

(h) A statement that copies of the articles of incorporation or other organizational documents and any amendments certified by the proper officer of the country under the laws of which the corporation is incorporated are attached; provided that if any of these documents are in a foreign language, a translation under oath of the translator shall accompany these documents; and

(i) Such other documents as may be required by this subtitle or title 36 of this code and regulations in force pursuant to those titles.

(5) The domestic captive insurance company shall be entitled to the necessary or appropriate certificates and licenses to do business in the Federated States of Micronesia and shall be subject to the authority and jurisdiction of the Federated States of Micronesia. No captive insurance company redomesticating into the Federated States of Micronesia need merge, consolidate, transfer assets, or otherwise engage in any other reorganization, other than as specified in this section.

(6) Upon redomestication in accordance with this section, the foreign captive insurance company shall become a domestic captive insurance company organized under the laws of the Federated States of Micronesia and shall have all the rights, privileges, immunities, and powers and be subject to all applicable laws, duties, and liabilities of a domestic captive insurance company of the same type. The domestic captive insurance company shall possess all rights that it had prior to the redomestication to the extent permitted by the laws of the Federated States of Micronesia and shall be responsible and liable for all the liabilities and obligations that it was subject to prior to the redomestication. All outstanding policies of the captive insurance company shall remain in full force and effect.

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Source: PL 14-88 § 8.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. Title 36 of this code is on Corporations and Business Associations.

§ 1007. Minimum Capital and Surplus Requirements.

(1) No captive insurance company shall be registered and issued a license unless it has initial paid-in capital of \$1,000,000 and thereafter maintains a minimum capital and surplus of \$100,000; provided however with respect to multiple corporate captive insurance companies the core member captive insurance company shall maintain a minimum paid in capital and surplus of \$1,000,000 and each member corporate captive insurance company shall maintain a minimum paid in capital and surplus of \$100,000.

(2) The Commissioner may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

(3) Capital and surplus may be in the form of any combination of the following:

- (a) cash,
- (b) letter of credit,
- (c) investments pursuant to section 1013 of this chapter, or
- (d) any other security deemed appropriated by the Commissioner.

Source: PL 14-88 § 9; PL 15-34 § 4; PL 16-17 § 4.

§ 1008. Dividends.

No captive insurance company may pay a dividend out of, or other distribution with respect to, capital or surplus without the prior approval of the Commissioner and Insurance Board. A captive insurance company may submit to the Commissioner and Insurance Board for approval, an ongoing plan for the payment of dividends or other distributions which will take into account the retention at the time of each payment, and capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by the Commissioner and Insurance Board.

Source: PL 14-88 § 10.

§ 1009. Formation of Captive Insurance Companies.

Captive insurance companies shall be formed pursuant to the requirements of title 36 of this code and National Corporation's regulations in force in the Federated States of Micronesia.

Source: PL 14-88 § 11.

Cross-reference: Title 36 of this code is on Corporations and Business Associations.

§ 1010. Reports and Statements.

(1) Captive insurance companies shall not be required to make any annual report or filings except as provided in this chapter.

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(2) Captive insurance companies shall submit to the Commissioner and Insurance Board the following within six months of the companies fiscal year-end:

(a) A report of its financial condition verified by oath of two of its executive officers;

(b) Audited financial statements prepared according to generally accepted accounting principles or international accounting standards, unless the Commissioner and Insurance Board approves any appropriate or necessary modifications or changes thereof required or approved or accepted by the Commissioner and Insurance Board for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner and Insurance Board. The audited financial statements shall be completed by a person approved by the Commissioner and Insurance Board who qualifies as an accountant by examination of one of the Institutes of Chartered Accountants, or Japanese Institute of Certified Public Accountants, or American Institute of Certified Public Accountants, or other qualified accountant as recognized by the Commissioner and Insurance Board;

(c) Opinion of loss reserve specialist, regarding reserves for the insurance business underwritten by the captive insurance company. The opinion of loss reserves shall be completed by a person approved by the Commissioner and Insurance Board who is a member of the Institute of Actuaries, or the Institute of Actuaries of Japan, or the American Academy of Actuaries, or other qualified loss reserve specialist recognized by the Commissioner and Insurance Board;

(d) Any additional reports as prescribed and requested by the Commissioner and Insurance Board.

(e) Notwithstanding any other provision of this section, in the case of Multiple Corporate Captive Insurance Companies, the core member captive insurance company shall provide the reports, financial statements and opinions required by subsections (2)(a), (b), (c) and (d) of this section with respect to itself and its members shall not be required to separately report, provide financial statements or opinion.

Source: PL 14-88 § 12; PL 16-17 § 5.

§ 1011. Examinations and Investigations.

(1) At least once in three years, and whenever the Commissioner and Insurance Board determines it to be prudent, the Commissioner shall personally, or by some competent person appointed by the Commissioner and Insurance Board, visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations and whether it has complied with the provisions of this chapter. The Commissioner and Insurance Board may enlarge the aforesaid three-year period to five years, upon petition by the captive insurance company. The expenses and charges of the examination shall be paid to the Insurance Board by the captive insurance company examined within 30 days of receipt of the Insurance Board's warrants for the proper charges incurred for the examination.

(2) It shall be the duty of the captive insurance company under examination or investigation and any past or present officer, employee or insurance manager of the

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captive insurance company to produce to the Insurance Board or Insurance Board's representative upon request, all books, records and documents relating to the captive insurance company under examination or investigation which are in its custody or control and otherwise to give to the Insurance Board or Insurance Board's representative all assistance in connection with the investigation which it is reasonably able to give.

(3) All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the Insurance Board or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the Commissioner or Insurance Board or an employee or agent of the Commissioner or Insurance Board without the written consent of the company, except to the extent provided in this subsection. Nothing in this subsection shall prevent the Commissioner or Insurance Board from using such information in furtherance of the Commissioner's and Insurance Board's regulatory authority under this subtitle. The Commissioner and Insurance Board may, at their discretion, grant access to such information to public officers having jurisdiction over the regulation of insurance in any other nation, or to law enforcement officers of the Federated States of Micronesia or any other nation so long as such officers receiving the information agree in writing to hold it in a manner consistent with this section.

Source: PL 14-88 § 13.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. Title 36 of this code is on Corporations and Business Associations.

§ 1012. Grounds and procedures for suspension or revocation of license.

(1) The license of a captive insurance company may be suspended or revoked by the Commissioner for any of the following reasons:

- (a) Insolvency or impairment of capital or surplus;
- (b) Failure to meet the requirements of section 1007 of this chapter;
- (c) Refusal or failure to submit an annual report, as required by this chapter, or any other report or statement required by law or by lawful order of the Commissioner;
- (d) Failure to comply with the provisions of its own charter, bylaws or other organizational document;
- (e) Failure to submit to or pay the cost of examination or any legal obligation relative thereto, as required by this chapter;
- (f) Use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders; or
- (g) Failure otherwise to comply with the laws of the Federated States of Micronesia.

(2) If the Insurance Board finds, upon examination, hearing, or other evidence, that any captive insurance company has violated any provision of subsection (1) of this section, the Insurance Board may suspend or revoke such company's license if the Insurance Board deems it in the best interest of the public and the policyholders of such captive insurance company, notwithstanding any other provision of this subtitle.

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- (3) Appeals from agency action may be made pursuant to title 17 of this code.

Source: PL 14-88 § 14.

Cross-reference: Title 36 of this code is on Corporations and Business Associations. Title 17 of this code is on Administrative Procedure.

§ 1013. Legal Investments.

(1) Each captive insurance company shall be allowed to invest any of its funds without limitation in any government obligation issued by and backed by the full faith and credit of the Government of the United States of America or the Government of Japan.

(2) Each captive insurance company shall be allowed to invest in any type of investment subject to a limitation of ten percent of total captive insurance company assets in any one issuer, if that investment is rated by one of the following:

- (a) Rating and Investment Information, Inc. rating of BBB or higher;
- (b) Moody's rating of Baa3 or higher;
- (c) S&P rating of BBB- or higher;
- (d) Fitch rating of BBB- or higher;

(3) Other investments as approved by the Insurance Board;

(4) A captive insurance company may make a loan to or an investment in its parent company or affiliates, subject to the approval of the Insurance Board. Any such loan or investment must be evidenced by documentation approved by the Insurance Board. Loans of minimum capital and surplus funds required by section 1007 of this chapter are prohibited.

(5) The Commissioner and Insurance Board may prohibit or limit any investment that threatens the solvency or liquidity of any such captive insurance company.

Source: PL 14-88 § 15; PL 16-73 § 1.

§ 1014. Reinsurance.

(1) Any captive insurance company may provide reinsurance on risks ceded by any other insurer only upon approval by the Insurance Board.

(2) Any captive insurance company may take credit for reserves on risks ceded to a reinsurer; provided that no captive insurance company shall cede risks without the approval of the Insurance Board.

(3) Any captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to a pool, exchange or association acting as a reinsurer which has been authorized by the Insurance Board. The Insurance Board may require any other documents, financial information or other evidence that such a pool, exchange or association will be able to provide adequate security for its financial obligations. The Insurance Board may deny authorization or impose any limitations on the activities of a reinsurance pool, exchange or association that, in the Insurance Board's judgment, are necessary and proper to provide adequate security for the ceding captive insurance company and for the protection and consequent benefit of the public at large.

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Source: PL 14-88 § 16.

§ 1015. Tax on Premium Collected.

(1) Each captive insurance company shall pay into the General Fund of the Federated States of Micronesia on or before June 1 of each year, a tax on gross premiums as follows:

(a) .05 percent of gross premiums for insurance written on all risks or property resident, situated or located within the Federated States of Micronesia, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding March 31, less return premiums and less any reinsurance accepted;

(b) The annual maximum aggregate tax on premiums to be paid by a captive insurance company calculated under subsection (a) of this section shall be \$20,000.00.

(2) Two or more captive insurance companies under common ownership and control shall be taxed, as though they were a single captive insurance company.

(a) For the purposes of this section common ownership and control shall mean:

(i) in the case of stock corporations, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(ii) in the case of mutual corporations, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

(3) Annually, ten percent of the premium tax revenues collected pursuant to this section or \$150,000, whichever is greater shall be transferred to the Insurance Board for the regulation of captive insurance companies under this chapter.

(4) The tax provided for in this section shall be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium shall be prorated for purposes of determining the tax under this section.

Source: PL 14-88 § 17.

§ 1016. Regulations.

The Insurance Board may establish and from time to time amend such regulations relating to captive insurance companies as are necessary to enable the Insurance Board to carry out the provisions of this chapter. Such regulations shall be made in accordance with title 17, chapter 1 of this code.

Source: PL 14-88 § 18.

Cross-reference: Title 17 of this code is on Administrative Procedure.