

AN ACT

To further amend Title 53 of the Code of the Federated States of Micronesia, as amended, by amending sections 603, 804 and 809 and to enact a new section 903 thereof, to revise certain definitions, to change benefit levels, to change the time at and circumstances in which expatriate workers may access their contributions, to allow for voluntary participation in the Social Security system, and for other purposes.

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

1 Section 1. Section 603 of title 53 of the Code of the
2 Federated States of Micronesia, as amended by Public Laws Nos. 5-
3 120, 7-118, 12-76 and 14-37 is hereby further amended to read as
4 follows:

5 "Section 603. Definitions. In this chapter, unless the
6 context otherwise requires, the following definitions
7 shall be applicable:

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

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

16 (3) 'Board' means the Federated States of Micronesia
17 Social Security Board provided for by section 701 of
18 this subtitle.

19 (4) 'Child or spouse' means an applicant that the

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

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

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

26 (c) whether the adopting parent is a relative of

1 the adopted child;

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

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

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

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

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

21 (7) 'Earning test' means that an individual who
22 receives a retirement, disability, or survivor benefit
23 and who works in covered or noncovered employment shall
24 have his quarterly benefit reduced by one dollar for
25 each two dollars earned in a quarter, except there shall
26 be no reduction for the first \$300 earned in a quarter.

1 The reduction shall be applied in one of the subsequent
2 two quarters immediately after the quarter in which the
3 earnings were made, or as soon as possible thereafter.
4 All benefit recipients have an affirmative duty to
5 disclose to the FSM Social Security Administration all
6 earnings from either covered or non-covered employment
7 for any time period during which they received earnings
8 and for which they are receiving or claiming benefits.

9 (8) 'Employee' means:

10 (a) any officer of a corporation; or

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

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

17 (d) any self-employed person who had more than
18 \$10,000 of annual gross revenue in the preceding
19 calendar year.

20 (9) 'Employment, covered' or 'covered employment'
21 means any service by an employee for an employer
22 incorporated or doing business within the Federated
23 States of Micronesia employing him, irrespective of
24 where such employment is performed, except family
25 employment.

26 (10) 'Employment, noncovered' or 'noncovered

1 employment' means any employment engaged in by an
2 employee where coverage is statutorily exempt in the
3 Federated States of Micronesia, family employment, or
4 employment by an employee outside the Federated States
5 of Micronesia and which is not taxable by the FSM Social
6 Security Administration.

7 (11) 'Family employment' means employment of a worker
8 by a member of the household, a parent or a son or
9 daughter except that the worker may apply to the Board
10 for a determination that such employment is bona fide
11 covered employment subject to this subtitle.

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

13 (a) 'Currently insured individual' means any
14 individual who has had not less than twenty quarters of
15 coverage during the 25-quarter period ending with:

16 (i) the quarter in which he died; or

17 (ii) the quarter in which he became entitled
18 to old age insurance benefits; or

19 (iii) the quarter in which he became disabled,
20 whichever first occurs.

21 (b) 'Fully insured individual' means any
22 individual whose total cumulative quarters of coverage
23 are at least as great as the number of years calculated
24 from the later of the date the worker turned age twenty-
25 one (21) or June 30, 1968, to the date the worker
26 attains age sixty (60), dies or becomes disabled. For

1 this purpose, partial years shall be counted as whole
2 years (for example 37.25 years would be rounded up to 38
3 years). In no case shall an individual be a fully
4 insured individual unless he has at least 12 quarters of
5 coverage.

6 (i) For individuals who attain age sixty (60),
7 die or become disabled on or before December 31, 2006,
8 no more than thirty-eight (38) quarters of coverage are
9 required to be fully insured.

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

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

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

6 (13) 'Quarter' and 'calendar quarter' mean a period of
7 three calendar months ending on March 31st, June 30th,
8 September 30th, or December 31st. 'Quarter of coverage'
9 means a quarter in which the individual has been paid
10 \$300 or more in wages in covered employment subject to
11 this subtitle.

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

16 Remuneration accruing to a self-employed person shall be
17 deemed to be twice the amount paid to the highest paid
18 employee reported by the self-employed person in a
19 quarter, with a maximum of \$3,000 per quarter through
20 September 30, 2003 and a maximum of \$5,000 per quarter
21 beginning October 1, 2003. This maximum quarterly
22 amount shall increase to \$6,000 on January 1, 2008,
23 \$7,000 on January 1, 2013, \$8,000 on January 1, 2018,
24 \$9,000 on January 1, 2023, and \$10,000 on January 1,
25 2028. Remuneration accruing to a self-employed person
26 who has no covered employees shall, for each quarter of

1 a year, be deemed to be 5 percent of the gross revenue
2 of the business for the previous calendar year, subject
3 to a \$3,000 maximum per quarter through September 30,
4 2003 and a maximum of \$5,000 per quarter beginning
5 October 1, 2003. The maximum quarterly amount shall
6 increase to \$6,000 on January 1, 2008, \$7,000 on January
7 1, 2013, \$8,000 on January 1, 2018, \$9,000 on January 1,
8 2023, and \$10,000 on October 1, 2028. Remuneration paid
9 for any service which is more or less than a whole
10 dollar shall, as may be prescribed by regulations, be
11 computed to the nearest dollar. Wages shall not
12 include:

13 (a) that part of remuneration in excess of \$3,000
14 through September 30, 2003 and in excess of \$5,000
15 beginning October 1, 2003, in excess of \$6,000 beginning
16 January 1, 2008, in excess of \$7,000 beginning January
17 1, 2013, in excess of \$8,000 beginning January 1, 2018,
18 in excess of \$9,000 beginning on January 1, 2023, and in
19 excess of \$10,000 beginning on January 1, 2028, paid in
20 a quarterly reporting period by one employer;

21 (b) any payment on account of sickness or
22 accident disability, or medical or hospitalization
23 expenses made by an employer to or on behalf of an
24 employee;

25 (c) any payment made to or on behalf of an
26 employee or to the employee's beneficiary from a trust

1 or annuity;

2 (d) remuneration paid in any medium other than
3 cash to an employee for service not in the course of the
4 employer's trade or business or for domestic service in
5 a private home of an employer;

6 (e) remuneration paid for casual or intermittent
7 labor not performed in the course of the employer's
8 trade or business when such employment does not exceed
9 employment in more than one week in each calendar month
10 of each quarterly reporting period; and

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

13 Section 2. Section 804 of Title 53 of the Code of the
14 Federated States of Micronesia, as amended by Public Laws Nos. 5-
15 120, 7-118, 9-56 and 14-37, is hereby amended to read as follows:

16 "Section 804. Amount of retirement and disability
17 insurance benefits.

18 (1) An insured eligible individual shall be paid a
19 monthly old age benefit for life, except for any month
20 of disqualification as provided by this subtitle, in an
21 amount calculated upon an annual basis as follows: For
22 benefit payments that begin prior to January 1, 2007;
23 16.5 percent of the first \$10,000 of cumulative covered
24 earnings, plus 3 percent of cumulative covered earnings
25 in excess of \$10,000 but not in excess of the next
26 \$30,000, plus 2 percent of cumulative covered earnings

1 in excess of \$40,000. For benefit payments that begin
2 on or after January 1, 2007; 16.5 percent of the first
3 \$10,000 of cumulative covered earnings, plus 3 percent
4 of cumulative covered earnings in excess of \$10,000 but
5 not in excess of the next \$30,000, plus 2 percent of
6 cumulative covered earnings in excess of \$40,000 but not
7 in excess of the next \$262,500, plus one percent of
8 cumulative covered earnings in excess of \$302,500.

9 Earnings for covered employment after commencement of
10 payments for retirement or disability insurance benefits
11 shall be included in benefit calculations upon
12 subsequent application for benefits, but such earnings
13 shall be applicable for benefits for months after the
14 calendar year in which such earnings occurred. For the
15 purpose of this section cumulative covered earnings
16 includes earnings on which contributions have been paid
17 by the individual to the Trust Territory Social Security
18 System.

19 (2) An insured, eligible individual shall be paid a
20 minimum monthly benefit of seventy five dollars if the
21 benefit amount calculated in accordance with subsection
22 (1) of this section is less than seventy five dollars
23 monthly. Effective on January 1, 2012, the minimum
24 monthly benefit shall be \$100.

25 (3) An individual who is fully insured and who has
26 been under a disability for three full calendar months

1 shall be paid a monthly benefit for life or until
2 recovery from the disability, except for any month of
3 disqualification as provided by this subtitle in an
4 amount calculated in accordance with the preceding
5 subsections of this section. Further, the amount of the
6 benefit as so determined shall, if the individual is
7 receiving a periodic workmen's compensation benefit, be
8 reduced each month by the excess of the sum of the
9 workmen's compensation benefit for that month and the
10 benefit payable under this act over eighty percent of
11 one-twelfth of the highest annual covered wages in the
12 period consisting of the year in which the disability
13 occurred and the preceding five years. If a workmen's
14 compensation benefit was payable in periodic benefits
15 but was commuted to a lump sum, for purposes of this
16 subsection it will be considered that the periodic
17 benefit originally available was paid in each month that
18 it would have been paid if the commutation had not
19 occurred."

20 Section 3. Section 809 of title 53 of the Code of the
21 Federated States of Micronesia, as amended by Public Law No. 14-
22 37, is hereby further amended to read as follows:

23 "Section 809. Payments to foreign citizens outside
24 Federated States of Micronesia.

25 Unless modified by a totalization or other international
26 agreement, payments under this act shall be paid to a

1 beneficiary who is not a citizen or national of the
2 Federated States of Micronesia and does not reside in
3 the Federated States of Micronesia, as follows:

4 (a) Payments shall be made to citizens and
5 nationals of the Republic of Palau, the Republic of the
6 Marshall Islands and the United States as if they were
7 citizens or nationals of the Federated States of
8 Micronesia as long as the Social Security Administration
9 of those nations gives citizens and nationals of the
10 Federated States of Micronesia reciprocal treatment.

11 (b) Payments shall be made to citizens and
12 nationals of other nations in a lump sum equal to the
13 total amount contributed to the Social Security
14 Administration by the employee while employed in the
15 Federated States of Micronesia as of the date the
16 employee ceases to be a resident of the Federated States
17 of Micronesia in accordance with paragraph (c) of this
18 section. However, the lump sum shall be reduced by any
19 payments made by the Social Security Administration to
20 the employee or a surviving spouse or child before the
21 lump sum is awarded.

22 (c) For the purposes of this section, an
23 individual resides in the Federated States of Micronesia
24 if they are present in the territory of the Federated
25 States of Micronesia for 180 days out of the last 365
26 days and have ties to the Federated States of Micronesia

1 that indicate residence such as a home, vehicle, bank
2 accounts or personal property.

3 (d) In determining the benefits and
4 entitlements under this title for an individual who
5 receives a lump sum payment in accordance with paragraph
6 (b) of this section and who subsequently returns to the
7 Federated States of Micronesia to undertake further
8 covered employment, no covered quarters, employee
9 contributions or employer contributions accrued by the
10 individual prior to receiving a lump sum payment shall
11 be counted."

12 Section 4. Section 903 of Title 53 of the Code of the
13 Federated States of Micronesia, as amended by Public Laws No. 5-
14 120, is hereby renumbered section 904.

15 Section 5. Section 904 of Title 53 of the Code of the
16 Federated States of Micronesia, as amended by Public Laws No. 5-
17 120, is renumbered section 905.

18 Section 6. A new section 903 is hereby enacted to read as
19 follows:

20 "Section 903. Voluntary contributions.

21 (1) Any self employed person who has less than \$10,000
22 of annual gross revenue may make voluntary contributions
23 to the Social Security Administration in order to become
24 eligible to receive benefits under this Title. The
25 remuneration of such person shall be deemed to be \$1,250
26 per quarter or \$5,000 per year and such persons must pay

1 both the employee and employer contributions in order to
2 be so eligible.

3 (2) Any person who is a citizen of Micronesia and is
4 working as an employee outside of the Federated States
5 of Micronesia, Republic of Palau or Republic of the
6 Marshall Islands may make voluntary contributions to the
7 Social Security Administration in order to become
8 eligible to receive benefits. The remuneration of such
9 persons shall be deemed to be minimum of \$1,250 a
10 quarter or \$5,000 a_year and such persons must pay both
11 the employee and employer contribution in order to be
12 covered."

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18 Section 9. This act shall be effective immediately upon this
19 act become law. This act shall become law upon approval by the
20 President of the Federated States of Micronesia or upon its
21 becoming law without such approval.

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October 23th, 2006

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/s/ Redley Killion
Joseph J. Urusemal
President
Federated States of Micronesia