

FIFTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA
CONGRESSIONAL BILL NO. 5-278, C.D.1,C.D.2, C.D.3, C.D.4

PUBLIC LAW 5-120

AN ACT

To amend the Federated States of Micronesia Social Security Act, Public Law No. 2-74, codified as subtitle II of title 53 of the Code of the Federated States of Micronesia, 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 Federated
2 States of Micronesia is hereby amended to read as follows:

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

6 (1) 'Became disabled' means the first month in which
7 an individual is under a disability and is both fully and
8 currently insured.

9 (2) 'Board' means the Federated States of Micronesia
10 Social Security Board provided for by section 701 of this
11 subtitle.

12 (3) 'Child or spouse' means that an applicant is the
13 child or spouse of an individual if the court of the State
14 in which the individual was domiciled at the time of his
15 death has or would find the applicant to be the
16 individual's child or spouse in determining the devolution
17 of interstate personal property.

18 (4) 'Contributions' means the tax imposed upon income
19 of covered employees and the tax imposed upon employers on
20 account of wages paid to a covered employee.

21 (5) 'Disability' means inability to engage in any
22 substantial gainful employment by reason of any medically

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1 determinable physical or mental impairment which can be
2 expected to result in death or which has lasted or can be
3 expected to last for a continuous period of not less than
4 twelve months.

5 (6) 'Earning test' means that an individual who
6 receives a retirement, disability, or survivor benefit and
7 who works in covered or noncovered employment shall have
8 his quarterly benefit reduced by one dollar for each two
9 dollars earned in a quarter, except there shall be no
10 reduction for the first \$300 earned in a quarter. The
11 reduction shall be applied in one of the subsequent two
12 quarters immediately after the quarter in which the
13 earnings were made, or as soon as possible thereafter.

14 (7) 'Employee' means:

15 (a) any officer of a corporation; or

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

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

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

25 (8) 'Employment' means any service by an employee for

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1 an employer incorporated or doing business within the
2 Federated States of Micronesia employing him, irrespective
3 of where such employment is performed, except family
4 employment.

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

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

11 (a) 'Currently insured individual' means any
12 individual who has had not less than eight quarters of
13 coverage during the thirteen quarter period ending with:

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

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

17 (iii) the quarter in which he became
18 disabled, whichever first occurs.

19 (b) 'Fully insured individual' means any
20 individual who has not less than one quarter of coverage
21 for each year beginning after June 30, 1968, or for each
22 year after attaining the age of twenty-one, whichever is
23 later, and up to but excluding the year in which he
24 attained retirement age, became disabled, or died,
25 whichever first occurred, except that in no case shall an

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1 individual be a fully insured individual unless he has at
2 least twelve quarters of coverage.

3 (11) 'Quarter' and 'calendar quarter' mean a period of
4 three calendar months ending on March 31st, June 30th,
5 September 30th, or December 31st. 'Quarter of coverage'
6 means a quarter in which the individual has been paid fifty
7 dollars or more in wages in employment subject to this
8 subtitle.

9 (12) 'Wages' means remuneration paid subject to the
10 provisions of this subtitle, including the cash value of
11 all remuneration paid in any medium other than cash and
12 remuneration accruing to a self-employed person.
13 Remuneration accruing to a self-employed person shall be
14 deemed to be twice the amount paid to the highest paid
15 employee reported by the self-employed person in a quarter,
16 \$2,000 maximum per quarter. Remuneration accruing to
17 a self-employed person who has no covered employees shall,
18 for each quarter of a year, be deemed to be 2.5 percent of
19 the gross revenue of the business for the previous calendar
20 year, subject to \$2,000 maximum. Remuneration paid
21 for any service which is more or less than a whole dollar
22 shall, as may be prescribed by regulations, be computed to
23 the nearest dollar. Wages shall not include:

24 (a) that part of remuneration in excess of \$2,000
25 paid in a quarterly reporting period by one employer;

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

4 (c) any payment made to or on behalf of an
5 employee or to his beneficiary from a trust or annuity;

6 (d) remuneration paid in any medium other than
7 cash to an employee for service not in the course of the
8 employer's trade or business or for domestic service in a
9 private home of an employer;

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

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

17 Section 2. Section 605 of title 53 of the Code of the
18 Federated States of Micronesia is hereby amended to read as follows:

19 "Section 605. Violations - Penalties and interest -
20 Attorney's fees and costs.

21 (1) Any person who knowingly makes any false
22 statement or who falsifies any report to or record of the
23 Federated States of Micronesia Social Security System in an
24 attempt to defraud the system is guilty of a misdemeanor
25 and upon conviction thereof shall be imprisoned for a

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1 period of not more than one year, or fined not more than
2 \$2,000 or both.

3 (2) Any person who willfully fails to report wages
4 paid or pay contributions required thereon is guilty
5 of a misdemeanor and, in addition to any other penalty
6 prescribed by law, such a person shall also pay penalties
7 not in excess of one hundred percent of the tax due plus
8 interest to the Board as it by regulation shall require.

9 (3) Any covered employer who fails to submit the
10 quarterly report and pay the social security tax within ten
11 days after the end of the quarter shall be considered
12 delinquent. The Board or its authorized representatives
13 shall be vested with the authority to levy a penalty of
14 not more than \$1,000 on delinquent employers.

15 (4) If any tax or penalty imposed by this subtitle is
16 not paid on or before the date prescribed for such payment,
17 there shall be collected, in addition to such tax and
18 penalty, interest on the unpaid balance of the tax principal
19 at the rate of twelve percent per annum from its due date
20 until the date it is paid. In the event that any tax,
21 interest, or penalty due under this subtitle is referred to
22 an attorney or trail counselor for collection, whether or
23 not suit is brought for the collection thereof, the tax-
24 payer shall additionally be liable for reasonable attorney's
25 or trial counselor's fees and costs of collection,

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1 including court costs."

2 Section 3. Section 606 of title 53 of the Code of the
3 Federated States of Micronesia is hereby amended to read as follows:

4 "Section 606. Accounts, budget, and costs of
5 administration.

6 (1) At such time as the Social Security Board
7 may prescribe, the Social Security Administrator shall
8 submit to the Board on forms and in the manner prescribed
9 by the Board a detailed estimate of the budget for the next
10 ensuing fiscal year for the proper conduct of the Social
11 Security System. The Social Security Administrator shall
12 submit to the Board:

13 (a) the audited accounts of the income and
14 expenditure and the balance in the Social Security
15 Retirement Fund for the last completed fiscal year;

16 (b) a statement showing the estimated
17 income and expenditure for the fiscal year in progress,
18 together with such summaries, schedules, and supporting
19 data as may be deemed necessary;

20 (c) a statement showing the estimated
21 balance of the Social Security Retirement Fund at the close
22 of the fiscal year in progress; and

23 (d) a budget showing the estimated income
24 and expenditure for the next ensuing fiscal year.

25 (2) For the next ensuing fiscal year, the

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1 estimated costs of administration including salaries and
2 wages, purchase of office supplies, operational expenses,
3 and the maintenance of branch offices shall not exceed
4 an expenditure maximum equal to eleven percent of
5 the estimated income for that year from contributions and
6 interest and dividend income on investments less investment
7 expenses. The audited accounts and the budget for the
8 ensuing fiscal year shall be approved by the Board and
9 submitted to the President and the Congress of the
10 Federated States of Micronesia. Should the estimated costs
11 of administration exceed the expenditure maximum,
12 legislative approval of the budgeted administration
13 expenses is required."

14 Section 4. Chapter 6 of title 53 of the Code of the Federated
15 States of Micronesia is hereby amended by adding a new section 607 to
16 read as follows:

17 "Section 607. Lien for taxes. All taxes, including
18 penalties and interest accrued thereon, imposed or
19 authorized under this subtitle shall be a lien upon any
20 property of the employer, having priority over all other
21 claims and liens including liens for other taxes, and may
22 be collected by levy upon such property in the same manner
23 as the levy of an execution."

24 Section 5. Section 701 of title 53 of the Code of the
25 Federated States of Micronesia is hereby amended to read as

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1 follows:

2 "Section 701. Board - Established - Composition -
3 Compensation. There is created a Federated States of
4 Micronesia Social Security Board of five members nominated
5 by the President and confirmed by the Congress of the
6 Federated States of Micronesia to operate the Social
7 Security Program authorized by this subtitle. Nominations
8 to the Board shall take into account the need to have
9 adequate geographical representation and to have
10 representatives from public and private sector employers
11 and employees. Members of the Board shall serve three-year
12 terms, and the Board shall provide for its own organization
13 and procedure. Any vacancies on the Board shall be filled
14 for the unexpired term only. Where a vacancy is for one
15 year or less, it shall be filled by appointment by the
16 President, otherwise vacancies shall be filled by
17 nomination by the President and confirmation by the
18 Congress. The Social Security Administrator shall be an ex
19 officio member of the Board. Members of the Board who are
20 not State or National Government employees shall be paid at
21 the rate of \$30 per day and necessary travel expenses
22 when actually attending meetings of the Board."

23 Section 6. Section 801 of title 53 of the Code of the
24 Federated States of Micronesia is hereby amended to read as follows:

25 "Section 801. Scope of coverage; Verification of

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1 employment.

2 (1) All employees, wherever employed by an employer
3 incorporated or doing business in the Federated States of
4 Micronesia, shall be covered unless both the employer and
5 the employee are currently subject to any other recognized
6 Social Security System. The highest administrator of the
7 Social Security System, or his designees, shall cause at
8 least two unannounced employment site checks to be
9 conducted upon every non-government employee who first
10 begins to contribute to the Social Security System after
11 age forty-five years to ensure that such non-government
12 employee is actually engaged in an employer-employee
13 relationship that will allow him to be covered and eligible
14 for benefits under this subtitle. The two employment site
15 checks shall not be conducted within 1 month from each
16 other and both shall be conducted within the first 6 months
17 of the employee's first contribution payment to the Social
18 Security System. For the purposes of this subtitle, any
19 elected official in any Government unit or body in the
20 Federated States of Micronesia is deemed to be an employee
21 employed by a Federated States of Micronesia employer. The
22 governmental unit or body to which such person is elected
23 is subject to the provisions in this subtitle relating to
24 the duty and obligations of a Federated States of
25 Micronesia employer.

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1 (2) Every person who:

2 (a) is a fully insured individual, as defined in this
3 subtitle;

4 (b) has attained age sixty years; and

5 (c) has filed application for old age insurance shall
6 be entitled to an old age insurance benefit for each month,
7 beginning with the month for which both paragraphs
8 (a) and (b) of this subsection are satisfied and ending
9 with the month preceding the month in which he dies,
10 subject to the earnings test as defined in this subtitle."

11 Section 7. Section 804 of title 53 of the Code of the
12 Federated States of Micronesia is hereby amended to read as follows:

13 "Section 804. Amount of retirement and disability
14 insurance benefits.

15 (1) An insured eligible individual shall be paid a monthly
16 old age benefit for life, except for any month of
17 disqualification as provided by this subtitle, in an amount
18 calculated upon an annual basis of 16.5 percent of
19 the first \$10,000 of cumulative covered earnings, plus
20 2.7 percent of cumulative covered earnings in excess of
21 \$10,000 but not in excess of the next \$30,000, plus
22 1.35 percent of cumulative covered earnings in excess of
23 \$40,000 but not in excess of the next \$30,000, plus .675
24 percent of cumulative covered earnings in excess of \$70,000.
25 Earnings for employment after commencement of payments for

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1 old age or disability insurance benefits shall be included
2 in benefit calculations upon subsequent application for
3 benefits, but such earnings shall be applicable for
4 benefits for months after the calendar year in which such
5 earnings occurred. For the purpose of this section
6 cumulative covered earnings includes earnings on which
7 contributions have been paid by the individual to the Trust
8 Territory Social Security System.

9 (2) An insured, eligible individual shall be paid a
10 minimum monthly benefit of forty-three dollars twenty cents
11 if the benefit amount calculated in accordance with
12 subsection (1) of this section is less than forty-three
13 dollars twenty cents monthly.

14 (3) An individual who is both fully and currently
15 insured and who has been under a disability for three full
16 calendar months shall be paid a monthly benefit for life or
17 until recovery from the disability, except for any month of
18 disqualification as provided by this subtitle in an amount
19 calculated in accordance with the preceding subsections of
20 this section. Further, the amount of the benefit as so
21 determined shall, if the individual is receiving a periodic
22 workmen's compensation benefit, be reduced each month by
23 the excess of the sum of the workmen's compensation benefit
24 for that month and the benefit payable under this act over
25 eighty percent of one-twelfth of the highest annual covered

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1 wages in the period consisting of the year in which the
2 disability occurred and the preceding five years. If a
3 workmen's compensation benefit was payable in periodic
4 benefits but was commuted to a lump sum, for the purposes of
5 this subsection it will be considered that the periodic
6 benefit originally available was paid in each month that it
7 would have been paid if the commutation had not occurred."

8 Section 8. Section 806 of title 53 of the Code of the
9 Federated States of Micronesia is hereby amended to read as follows:

10 "Section 806. Amount of survivor insurance benefits.

11 (1) The surviving spouse of a fully insured worker
12 eligible in accordance with section 802 shall be paid a
13 monthly benefit or disability in an amount equal to sixty
14 percent of the retirement or disability insurance benefit
15 calculated for the deceased spouse at the date of death.

16 (2) Each eligible child of an insured worker shall be
17 entitled to a monthly benefit of fifteen percent of the
18 retirement insurance benefit calculated for the deceased
19 parent at the date of death.

20 (3) If the spouse of the deceased insured worker is
21 eligible for retirement benefit based on his or her own
22 employment coverage, the survivor insurance benefit shall
23 be reduced by the amount of such retirement benefit.

24 (4) In no event shall the total survivor benefit paid
25 to the spouse and children exceed the retirement benefit

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1 calculated for the decedent as of the date of death, nor
2 shall it be less than forty-three dollars twenty cents a
3 month computed prior to the application of subsection (3)
4 of this section."

5 Section 9. Section 903 of title 53 of the Code of the
6 Federated States of Micronesia is hereby amended to read as follows:

7 "Section 903. Employee refunds. When a covered employee
8 is reported with earnings in excess of the quarterly
9 maximum and taxes on the excess are withheld and paid into
10 the Federated States of Micronesia Social Security
11 Retirement Fund, the excess employee tax during the four
12 quarters ending December 31st of each year shall be
13 refunded to the employee within ninety days of that
14 date; provided, that the excess employee taxes are one
15 dollar or more. No refund, however, shall be granted to
16 the employer or employers of such employee of taxes paid by
17 such employers on account of wages paid by them to the
18 employee."

19 Section 10. Section 904 of title 53 of the Code of the
20 Federated States of Micronesia is hereby amended to read as follows:

21 "Section 904. Reporting - Social security card and
22 number. The Administration shall furnish each employer
23 forms for recordkeeping and reporting of contributions
24 which shall show in addition to other information specified
25 by the Board the employer account number and the employee

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1 social security number. Numbers shall be issued by the
2 Administration from a permanent register maintained by it.
3 Each employer shall report quarterly, on the prescribed
4 forms, and pay taxes due thereon to the Administration in
5 accordance with the Board's regulation and subject to
6 interest and penalty for failure so to do. Each employee
7 shall be assigned a social security number and a card
8 bearing this number."

9 Section 11. Section 1004 of title 53 of the Code of the
10 Federated States of Micronesia is hereby amended to read as follows:

11 "Section 1004. Investment of funds - Authorized
12 investments enumerated. The Board may invest and reinvest
13 its moneys:

14 (1) in bonds or other evidences of indebtedness of
15 the Federated States of Micronesia or the United States;

16 (2) in bonds or other evidences of indebtedness of
17 any State of the Federated States of Micronesia or of the
18 United States; provided, that such bonds or other evidences
19 of indebtedness are guaranteed as to principal and interest
20 or; provided, that such bonds or evidences of indebtedness
21 are payable from revenues or earnings specifically pledged
22 for the payment of principal and interest on such
23 obligations, and for the payment of which a lawful sinking
24 fund or reserve fund has been established and is being
25 maintained, but only if no default in payment of principal

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1 or interest on the obligations to be purchased has occurred
2 within five years of the date of investment therein, or, if
3 such obligations were issued less than five years prior to
4 the date of investment, no default in payment of principal
5 or interest has occurred on the obligations to be purchased
6 nor on any other obligations of the issuer within five
7 years of such investments; provided always, that at the
8 time of purchase the total cost price of all bonds or
9 evidences of indebtedness in any one State does not exceed
10 twenty-five percent of the value of the invested assets of
11 the fund at that time;

12 (3) in bonds, debentures, notes, and other evidences
13 of indebtedness issued or assumed by Federated States of
14 Micronesia institutions, created or existing under the laws
15 of the Federated States of Micronesia, including housing
16 authorities, when such obligations are guaranteed as to
17 principal and interest by the Government of the Federated
18 States of Micronesia; provided always, that at the time of
19 purchase the total cost price of all investments in any
20 single institution does not exceed twenty-five percent of
21 the value of the invested assets of the fund at that time;

22 (4) in bonds, debentures, notes, and other evidences
23 of indebtedness issued, assumed, or guaranteed by any
24 solvent institution created or existing under the law of
25 the United States or of any state or territory thereof, or

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1 of the Federated States of Micronesia, which are not in
2 default as to principal or interest and which are secured
3 by collateral worth at least fifty percent more than the
4 par value of the entire issue of such obligations, but only
5 if not more than one-third of the total value of such
6 required collateral consists of common stock; provided
7 always, that at the time of purchase the total cost price
8 of all investments in any single institution does not
9 exceed twenty-five percent of the value of the invested
10 assets of the fund at that time;

11 (5) in common stock; provided, that:

12 (a) the stock is listed on a recognized United
13 States stock exchange,

14 (b) no dividends on the stock have been omitted
15 or deferred during the five years prior to the date of
16 purchase, and

17 (c) purchase of a stock would not result in the
18 fund holding stock in one corporation in excess of ten
19 percent or in one industry group in excess of twenty-
20 five percent of the value of the invested assets of the
21 fund at that time."

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1 Section 12. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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Signed by President John R. Haglelgam

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on December 29, 1988

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