

CHAPTER 2**Administration****SECTIONS**

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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.

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 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, 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.

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;
- (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.

- (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.

