

A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended, by amending sections 603 and 802 thereof to eliminate the earnings test for the surviving spouse benefit, 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 Law No. 12-
3 76, is hereby further amended to read as follows:

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

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

13 (2) 'Became disabled' means the first month in which
14 an
15 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
20 court of the State in which an individual was domiciled

1 at the time of his death has or would find to be the
2 individual's child or spouse in determining the
3 devolution of intestate personal property. 'Child'
4 shall include only the deceased individual's biological
5 children and such adopted children whose confirmed
6 petition for adoption by the wage earner has been
7 presented to the Social Security Administration.

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

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

17 (7) 'Earning test' means that an individual who
18 receives a retirement[~~r~~] or disability[~~r~~ ~~or survivor~~]
19 benefit and who works in covered or noncovered
20 employment shall have his quarterly benefit reduced by
21 one dollar for each two dollars earned in a quarter,
22 except there shall be no reduction for the first \$300
23 earned in a quarter. The reduction shall be applied in
24 one of the subsequent two quarters immediately after the
25 quarter in which the earnings were made, or as soon as

1 possible thereafter.

2 (8) 'Employee' means:

3 (a) any officer of a corporation; or

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

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

10 (d) any self-employed person who had more than
11 \$10,000 of annual gross revenue in the preceding
12 calendar year.

13 (9) 'Employment' means any service by an employee for
14 an employer incorporated or doing business within the
15 Federated States of Micronesia employing him,
16 irrespective of where such employment is performed,
17 except family employment.

18 (10) 'Family employment' means employment of a worker
19 by
20 a member of the household, a parent or a son or daughter
21 except that the worker may apply to the Board for a
22 determination that such employment is bona fide covered
23 employment subject to this subtitle.

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

25 (a) 'Currently insured individual' means any

1 individual who has had not less than eight quarters of
2 coverage during the 13-quarter period ending with:

3 (i) the quarter in which he died; or
4 (ii) the quarter in which he became entitled
5 to old age insurance benefits; or
6 (iii) the quarter in which he became disabled,
7 whichever first occurs.

8 (b) 'Fully insured individual' means any
9 individual who has not less than one quarter of coverage
10 for each year beginning after June 30, 1968, or for each
11 year after attaining the age of 21, whichever is later,
12 and up to but excluding the year in which he attained
13 retirement age, became disabled, or died, whichever
14 first occurred, except that in no case shall an
15 individual be a fully insured individual unless he has
16 at least 12 quarters of coverage.

17 (12) 'Quarter' and 'calendar quarter' mean a period of
18 three calendar months ending on March 31st, June 30th,
19 September 30th, or December 31st. 'Quarter of coverage'
20 means a quarter in which the individual has been paid
21 \$50 or more in wages in employment subject to this
22 subtitle.

23 (13) 'Wages' means remuneration paid subject to the
24 provisions of this subtitle, including the cash value of
25 all remuneration paid in any medium other than cash and

1 remuneration accruing to a self-employed person.

2 Remuneration accruing to a self-employed person shall be
3 deemed to be twice the amount paid to the highest paid
4 employee reported by the self-employed person in a
5 quarter, with a maximum of \$3,000 per quarter through
6 September 30, 2003 and a maximum of \$5,000 per quarter
7 thereafter. Remuneration accruing to a self-employed
8 person who has no covered employees shall, for each
9 quarter of a year, be deemed to be 2.5 percent of the
10 gross revenue of the business for the previous calendar
11 year, subject to a \$3,000 maximum per quarter through
12 September 30, 2003 and a maximum of \$5,000 per quarter
13 thereafter. Remuneration paid for any service which is
14 more or less than a whole dollar shall, as may be
15 prescribed by regulations, be computed to the nearest
16 dollar. Wages shall not include:

17 (a) that part of remuneration in excess of \$3,000
18 through September 30, 2003 and in excess of \$5,000
19 thereafter paid in a quarterly reporting period by one
20 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

1 employee or to the employee's beneficiary from a trust
2 or annuity;

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

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

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

14 Section 2. Section 802 of title 53 of the Code of the
15 Federated States of Micronesia, as amended by Public Law No. 12-
16 76, is hereby further amended to read as follows:

17 "Section 802. Surviving spouse benefits.

18 (1) Every surviving spouse who:

19 (a) was married to an individual who died fully
20 insured; and

21 (b) files an application;

22 shall be entitled to a surviving spouse insurance
23 benefit [~~subject to the earnings test~~] as defined in
24 this subtitle. Receipt of a surviving spouse benefit
25 shall not be subject to the earnings test.

1 (2) Surviving spouse benefit payments shall be paid
2 for each month commencing with the month of death of the
3 fully insured spouse and ending with the month preceding
4 the month in which the surviving spouse dies or
5 remarries.

6 (3) Notwithstanding the provisions of subsections (1)
7 and (2) above, retroactive payments shall be limited to
8 the twelve (12) months immediately preceding the month
9 in which the surviving spouse has submitted an
10 application."

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

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15 Date: 9/9/05

Introduced by: /s/ Dion G. Neth

Dion G. Neth

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