
A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-120, 7-118, 9-056, 12-76, 14-34, 14-37, 14-86 and 15-73, by amending the following provisions of title 53, sections 603, 804 and 806, to delay the implementation of the Social old age benefits received by an individual between the ages of 60 and 64 for three years, 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.
3 5-120, 7-118, 12-76, 14-37, 14-86 and 15-73, is hereby further
4 amended to read as follows:

5 "Section 603 Definitions of title 53 of the Code of the
6 Federated States of Micronesia, as amended, is hereby
7 further amended to read as follows:

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.

1 (4) 'Child or spouse' means an applicant that the
2 court of the State in which an individual was domiciled
3 at the time of his death has or would find to be the
4 individual's child or spouse in determining the
5 devolution of intestate personal property. 'Child'
6 shall include only the deceased individual's biological
7 children and such adopted children whose confirmed
8 petition for adoption by the wage earner has been
9 presented to the Social Security Administration and who
10 were adopted by the wage earner on or prior to the wage
11 earner's 55th birthday of the adopting parent, shall be a
12 'child' for the purposes of this title unless, the
13 Social Security Administrator makes a determination
14 that, due to exceptional circumstances, the person shall
15 be so entitled. In reaching a determination that
16 exceptional circumstances apply, the Social Security
17 Administrator shall satisfy himself or herself that
18 future eligibility for social security benefits was not
19 a significant factor in the decision to adopt and may
20 consider any available, relevant information including,
21 but not limited to:

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

25 (b) if one or both biological parents were alive

1 at the time of adoption, whether one or both parents
2 were acting or were capable of acting as a primary
3 caregiver at that time;

4 (c) whether the adopting parent is a relative of
5 the adopted child;

6 (d) whether, at the time the adoption took
7 place, there were relatives, not including the adopting
8 parents, who would have been appropriate guardians for
9 the adopted child;

10 (e) whether the adopting parent was a primary
11 caregiver for the adopted child at the time of adoption
12 and continued in that role after the adoption took
13 place;

14 (f) any other factor the Social Security
15 Administrator considers relevant.

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

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

25 (7) 'Earning test' means that an individual who

1 receives a retirement, disability, or survivor benefit
2 and who works in covered or non-covered employment shall
3 have his quarterly benefit reduced by one dollar for
4 each two dollars earned in a quarter, except there shall
5 be no reduction for the first \$300 earned in a quarter.
6 The reduction shall be applied in one of the subsequent
7 two quarters immediately after the quarter in which the
8 earnings were made, or as soon as possible thereafter.
9 All benefit recipients have an affirmative duty to
10 disclose to the FSM Social Security Administration all
11 earnings from either covered or non-covered employment
12 for which time they are receiving or claiming benefits.
13 Under certain circumstances as defined in section 804,
14 the earnings test may not apply to old age benefits
15 received by an individual between the ages of 60 and 64
16 who turns 60, after January 1, [~~2010~~] 2013.

17 (8) 'Employee' means:

18 (a) any officer of a corporation; or

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

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

25 (d) any self-employed person who had more than

1 \$10,000 of annual gross revenue in the preceding
2 calendar year.

3 (9) 'Employer means:

4 (a) For purposes of this act, employer means the
5 person, business organization or other organization, or
6 national or state or municipal government or agency,
7 that pursuant to common law rules of employment is the
8 actual person or organization responsible for the
9 formation and continuation of the working relationship
10 with employee.

11 (b) The Social Security Administration has the
12 right to determine the actual employer of employees for
13 purposes of implementing this act, and need not rely on
14 the characterization provided.

15 (c) Employer may be an individual, partnership,
16 corporation or other type of business venture or non-
17 business organization, national or municipal or state
18 organization or agencies thereof, and which in certain
19 circumstances may be more than one, that is responsible
20 for the payment of all Social Security taxes. For
21 partnerships, the liability shall be joint and several
22 among all partners. For other types of business or non-
23 business organizations that are not corporations, the
24 liability shall be joint and several as if the
25 organization was a common law partnership. For

1 corporations, if the corporation fails to meet its tax
2 obligations when due, the liability shall be joint and
3 several between the president of the corporation, and
4 all shareholders with greater than a 30% interest in the
5 corporation.

6 Under this definition all such persons are jointly
7 defined as the employer, for all purposes including the
8 implementation of criminal penalties.

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

15 (11) 'Employment, non-covered' or 'non-covered
16 employment' means any employment engaged in by an
17 employee where coverage is statutorily exempt in the
18 Federated States of Micronesia, family employment, or
19 employment by an employee outside of the Federated
20 States of Micronesia and which is not taxable by the FSM
21 Social Security Administration.

22 (12) 'Family employment' means employment of a
23 worker by a member of the household, a parent or a son
24 or daughter except that the worker may apply to the
25 Board for a determination that such employment is bona

1 fide covered employment subject to this subtitle.

2 (13) 'Insured status' can mean any of the
3 following:

4 (a) 'Currently insured individual' means any
5 individual who has had not less than 20 quarters of
6 coverage during the 25 quarter period ending with:

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

8 (ii) the quarter in which he became entitled
9 to old age insurance benefits at age sixty (60);

10 (iii) the quarter in which he became disabled,
11 whichever occurs first.

12 (b) For individuals who qualified as a currently
13 insured person prior to December 31, 2006, the number of
14 quarters to qualify as a currently insured person was
15 not less than eight quarters of coverage during the
16 thirteen quarter period ending with:

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

18 (ii) the quarter in which he became entitled
19 to old age insurance benefits at age sixty (60);

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

22 (c) 'Fully insured individual' means any
23 individual whose total cumulative quarters of coverage
24 are at least as great as the number of years calculated
25 from the later of the date the worker turned age twenty-

1 one (21), or June 30, 1968, to the date the worker
2 attains age sixty (60), dies or becomes disabled. For
3 this purpose, partial years shall be counted as whole
4 years (for example 37.25 years would be rounded up to 38
5 years). In no case shall an individual be a fully
6 insured individual unless he has at least 12 quarters of
7 coverage:

8 (i) For individuals who attain age sixty
9 (60), die or become disabled on or before December 31,
10 2006, no more than thirty-eight (38) quarters of
11 coverage are required to be fully insured and there is
12 no minimum amount required for employee contributions to
13 the Social Security System.

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

1 individual's death.

2 (iii) For individuals who become disabled
3 after December 31, 2006, no more than 45 quarters of
4 coverage and employee contributions to the Social
5 Security System of at least \$1,500 are required to be
6 fully insured. Should an individual's employee
7 contributions total less than \$1,500 as of the date of
8 termination from employment, the individual may pay the
9 difference to the FSM Social Security Administration in
10 a single sum payment in order to become fully insured:

11 (d) 'Fully insured status' means:

12 (i) For individuals who turn sixty (60) or
13 die after January 01, 2010, shall have total cumulative
14 quarters of coverage equaling fifty (50) quarters of
15 coverage or greater, and employee contributions to the
16 Social Security System of at least \$2,500 are required
17 to be fully insured. Employee contributions are the
18 contributions defined in section 901 only. Should an
19 individual's employee contributions total less than
20 \$2,500 as of the date of qualification as a fully
21 insured individual, the individual or their surviving
22 spouse may pay the difference to the FSM Social Security
23 Administration in a single sum payment in order to be
24 fully insured. If the individual or the surviving
25 spouse is unable to pay the difference on the minimum

1 contribution, the individual or surviving spouse can opt
2 for lump sum payment equal to the total employee
3 contribution.

4 (ii) 'Fully insured' means for individuals
5 who become disabled on or after January 1, 2010, at
6 least forty-five (45) quarters of coverage are needed to
7 be defined as fully insured, and they must also meet the
8 definition of currently insured at the time of the onset
9 of their disability. Additionally, employee's
10 contributions to the Social Security System of at least
11 \$1,500 are required to be fully insured. Should an
12 individual's employee contribution total less than
13 \$1,500 as of the date of disability, the individual may
14 pay the difference to the FSM Social Security
15 Administration in a single lump sum payment in order to
16 be fully insured.

17 (14) '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 \$300 or more in wages in covered employment subject to
22 this subtitle.

23 (15) '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 beginning October 1, 2003. This maximum quarterly
8 amount shall increase to \$6,000 on January 1, 2008,
9 \$7,000 on January 1, 2013, \$8,000 on January 1, 2018,
10 \$9,000 on January 1, 2023, and \$10,000 on January 1,
11 2028. Remuneration accruing to a self-employed person
12 who has no covered employees shall, for each quarter of
13 a year, be deemed to be five (5) percent of the gross
14 revenue of the business or gross revenue of all
15 businesses for the previous calendar year, subject to a
16 \$3,000 maximum per quarter through September 30, 2003
17 and a maximum of \$5,000 per quarter beginning October 1,
18 2003. This maximum quarterly amount shall increase to
19 \$6,000 on January 1, 2008, \$7,000 on January 1, 2013,
20 \$8,000 on January 1, 2018, \$9,000 on January 1, 2023,
21 and \$10,000 on October 1, 2028. Remuneration paid for
22 any service, which is more or less than a whole dollar
23 shall, as may be prescribed by regulations, be computed
24 to the nearest dollar. Wages shall not include:

25 (a) that part of remuneration in excess of \$3,000

1 through September 30, 2003 and in excess of \$5,000
2 beginning October 1, 2003, in excess of \$6,000
3 beginning January 1, 2008, in excess of \$7,000 beginning
4 January 1, 2013, in excess of \$8,000 beginning January
5 1, 2018, in excess of \$9,000 beginning on January 1,
6 2023, and in excess of \$10,000 beginning on January 1,
7 2028, paid in a quarterly reporting period by one
8 employer;

9 (b) any payment on account of sickness or
10 accident disability, or medical or hospitalization
11 expenses made by an employer to or on behalf of an
12 employee;

13 (c) any payment made to or on behalf of an
14 employee or to the employee's beneficiary from a trust
15 or annuity;

16 (d) remuneration paid in any medium other than
17 cash to an employee for service not in the course of the
18 employer's trade or business or for domestic service in
19 a private home of an employer;

20 (e) remuneration paid for casual or intermittent
21 labor not performed in the course of the employer's
22 trade or business when such employment does not exceed
23 employment in more than one week in each calendar month
24 of each quarterly reporting period; and

25 (f) remuneration from family employment subject

1 to the provisions of this subtitle.”

2 Section 2. Section 804 of title 53 of the Code of the
3 Federated States of Micronesia, as amended by Public Law Nos. 5-
4 120, 7-118, 9-56, 14-37, 14-86 and 15-73, is hereby amended to
5 read as follows:

6 "Section 804. Amount of retirement and disability
7 insurance benefits.

8 (1) An insured eligible individual shall be paid a
9 monthly old age benefit for life, except for any month
10 of disqualification as provided by this subtitle, in an
11 amount calculated upon an annual basis as follows:

12 (a) For benefit payments that begin prior to
13 January 1, 2007; 16.5 percent of the first \$10,000 of
14 cumulative covered earnings, plus three percent of
15 cumulative covered earnings in excess of \$10,000 but not
16 in excess of the next \$30,000, plus two percent of
17 cumulative covered earnings in excess of \$40,000.

18 (b) For benefit payments that begin on or after
19 January 1, 2007 but before January 01, [~~2010~~] 2013; 16.5
20 percent of the first \$10,000 of cumulative covered
21 earnings, plus three percent of cumulative covered
22 earnings in excess of \$10,000 but not in excess of the
23 next \$30,000, plus two percent of cumulative covered
24 earnings in excess of \$40,000 but not in excess of the
25 next \$262,500, plus one percent of cumulative covered

1 earnings in excess of \$302,500.

2 (c) For benefit payments that begin on or after
3 January 1, [~~2010~~] 2013:

4 (i) For individuals who are 65 and over;
5 16.5% of the first \$10,000 of cumulative covered
6 earnings, plus 3 percent of cumulative covered earnings
7 in excess of \$10,000 but not in excess of the next
8 \$30,000.00, plus 2% of the cumulative covered earnings
9 in excess of \$40,000 but not in excess of the next
10 \$262,500, plus one percent of cumulative covered
11 earnings in excess of \$302,500.

12 (ii) For individuals who turn 60 after
13 January 1, [~~2010~~] 2013, such individual from ages 60 to
14 64 will receive fifty percent (50%) of the total of all
15 the described benefits in this subsection, 16.5% of the
16 first \$10,000 of cumulative covered earnings, plus 3
17 percent of cumulative covered earnings in excess of
18 \$10,000 but not in excess of the next \$30,000, plus 2%
19 of the cumulative covered earnings in excess of \$40,000
20 but not in excess of the next \$262,500, plus one percent
21 of cumulative covered earnings in excess of \$302,500.
22 These payments in this subsection only, shall be made
23 without reduction pursuant to the earnings test in
24 section 603(7).

25 (iii) For individuals under age 60, benefit

1 payments would be calculated the same as subsection (i).

2 (d) Earnings for covered employment after
3 commencement of payments for retirement or disability
4 insurance benefits shall be included in benefit
5 calculations upon subsequent application for benefits,
6 but such earnings shall be applicable for benefits for
7 months after the calendar year in which such earnings
8 occurred. For the purpose of this section cumulative
9 covered earnings includes earnings on which
10 contributions have been paid by the individual to the
11 Trust Territory Social Security System.

12 (e) In the event, benefits have been received
13 under section 804(1)(c)(ii), such benefits shall be
14 automatically adjusted when the individual reaches age
15 65.

16 (f) For purposes of interpreting this section
17 "benefit payments begin on" is defined to mean the date,
18 whether retroactive or current when a benefit payment is
19 paid for a specific month. A benefit payment may begin
20 prior to the application date, subject to retroactive
21 payment limitations defined in this act.

22 (2) An insured, eligible individual shall be paid a
23 minimum monthly benefit of seventy five dollars if the
24 benefit amount calculated in accordance with subsection
25 (1) of this section is less than seventy five dollars

1 monthly. Effective on January 1, [~~2012~~] 2013, the
2 minimum monthly benefit shall be \$100. The minimum
3 monthly benefit is calculated per insured worker, not
4 per recipient.

5 (3) An individual who is currently and fully insured
6 and who has been under a disability for three full
7 calendar months and the onset of disability occurred on
8 or after January 01, [~~2010~~] 2013, or an individual who
9 was fully insured and the onset of disability occurred
10 prior to this bill becoming law shall be paid a monthly
11 benefit for life or until recovery from the disability,
12 except for any month of disqualification as provided by
13 this subtitle in an amount calculated in accordance with
14 the preceding subsections of this section, and for an
15 individual with an onset of disability on or after
16 January 1, [~~2010~~] 2013, he or she will receive benefits
17 as if he or she retired at age 65, but with existing
18 quarters of coverage. Further, the amount of the
19 benefit as so determined shall, if the individual is
20 receiving a periodic workmen's compensation benefit, be
21 reduced each month by the excess of the sum of the
22 workmen's compensation benefit for that month, and the
23 benefit payable under this act over eighty percent of
24 one-twelfth of the highest annual covered wages in the
25 period consisting of the year in which the disability

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

8 Section 3. Section 806 of title 53 of the Code of the
9 Federated States of Micronesia, as amended by Public Laws Nos. 5-
10 112, 7-119, 14-37 and 15-73, is hereby further amended to read as
11 follows:

12 "Section 806. Amount of survivor insurance benefits.

13 (1) The surviving spouse of a fully insured worker
14 eligible in accordance with section 802 of this chapter
15 shall be paid a monthly benefit or disability in an
16 amount equal to 60 percent of the retirement or
17 disability insurance benefit calculated for the deceased
18 spouse at the date of death. For a fully insured worker
19 who dies after January 1, [~~2010~~] 2013, the benefit will
20 be calculated as if he or she retired at age 65, but
21 with existing quarters of coverage.

22 (2) Each eligible child of an insured worker shall be
23 entitled to a monthly benefit of 15 percent of the
24 retirement insurance benefit calculated for the deceased
25 parent at the date of death. For a fully insured worker

1 who dies after January 1, 2010, the benefit will be
2 calculated as if he or she retired at age 65, but with
3 existing quarters of coverage.

4 (3) If the spouse of the deceased insured worker is
5 eligible for retirement or disability benefits based on
6 his or her own employment coverage, and is also eligible
7 for survivors' benefits, the spouse shall receive
8 whatever benefit pays the highest monthly benefit. In
9 addition, the surviving spouse shall be entitled to
10 receive a lump sum equal to four percent of the
11 cumulative covered earnings upon which the lower benefit
12 is based, less the sum of all benefits already received
13 on the basis of those cumulative covered earnings. If
14 the spouse elects to accept the lump sum payment, he or
15 she shall lose credit for all quarters of coverage
16 earned up to the date of application. If that individual
17 returns to work, he or she shall start over again to
18 earn quarters of coverage leading to being currently or
19 fully insured.

20 (4) The monthly benefit paid to the surviving
21 child(ren) shall be based on the higher of the two
22 benefits that have been earned by the deceased parents
23 if fully or currently insured. In addition the
24 surviving child(ren) shall be entitled to receive a lump
25 sum equal to two percent of the other deceased's

1 parent's cumulative covered earnings, less the sum of
2 all benefits, if any, received by the deceased parent.

3 (5) The total survivors' benefit paid to the spouse
4 and children may not exceed the retirement benefit
5 calculated for the decedent as of the date of death
6 except that if the surviving spouse receives benefits
7 based on his or her own employment coverage, that amount
8 plus the survivors' benefits for the children may exceed
9 the amount of the deceased's retirement benefit. In no
10 event shall the amount paid be less than the minimum
11 established by the Social Security Administration, as
12 set out in section 804 of title 53 of the Code of the
13 Federated States of Micronesia."

14 Section 4. This act shall become law upon approval by the
15 President of the Federated States of Micronesia or upon its
16 becoming law without such approval.

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18 Date: 8/31/09

Introduced by: /s/ Isaac V. Figir
Isaac V. Figir