

TITLE 53
SOCIAL SECURITY AND
PRIOR-SERVICE BENEFITS

SUBTITLE I
TT SOCIAL SECURITY

CHAPTERS

- 1 General Provisions (§§ 101-106)**
- 2 Social Security Board (§§ 201-208)**
- 3 Coverage and Benefits (§§ 301-313)**
- 4 Contributions (§§ 401-405)**
- 5 Retirement Fund (§§ 501-505)**

Editor's note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this TT Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

SUBTITLE II
FSM SOCIAL SECURITY

CHAPTERS

- 6 General Provisions (§§ 601-07)**
- 7 Social Security Board and Administration (§§ 701-08)**
- 8 Coverage and Benefits (§§ 801-11)**
- 9 Contributions (§§ 901-04)**
- 10 Retirement Fund (§§ 1001-06)**
- 11 Transitional Provisions (§§ 1101-10)**

Editor's note: The designation “subtitle I” has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, “Federated States of Micronesia Social Security Act,” as subtitle II. Accordingly, “this title,” as it appears in chapters 1 through 5, should be read “this subtitle.”

SUBTITLE I

TRUST TERRITORY SOCIAL SECURITY

CHAPTER 1

General Provisions

SECTIONS

- § 101. Short title.**
- § 102. Declaration of policy.**
- § 103. Definitions.**
- § 104. Susceptibility of benefits, contributions, and funds to legal process or assignment.**
- § 105. Violations—Penalties.**
- § 106. Budget for and appropriation of costs and administration.**

Editor's note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this Trust Territory Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

The designation “subtitle I” has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, “Federated States of Micronesia Social Security Act,” as subtitle II. Accordingly, “this title,” as it appears in chapters 1 through 5, should be read “this subtitle.”

§ 101. Short title.

This subtitle is known and may be cited as the “Trust Territory Social Security Act.”

Source: COM PL 3-40 § 1; TT Code 1970, 73 TTC 1; TT Code 1980, 73 TTC 1.

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title. See also Secretarial Order No. 3039 § 6, as amended.

§ 102. Declaration of policy.

(1) The purpose of this subtitle is to effect economy and efficiency in the fields of Government and business by providing a means whereby employees may be ensured a measure of security in their old age and given an opportunity for leisure without hardship and complete loss of income.

(2) Further, to provide survivors' insurance for wage earners and their dependents and to provide supplemental pension benefits for Government employees who have spent many years in Government service without an opportunity to obtain benefits under a pension system.

Source: COM PL 3-40 § 2; TT Code 1970, 73 TTC 2; TT Code 1980, 73 TTC 2.

§ 103. Definitions.

In this subtitle, unless the context otherwise requires, the following definitions apply:

(1) "Agricultural labor" includes all service performed on a farm in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, or improvement of such farm and its tools and equipment, or in the production or harvesting of any commodity and its preparation for market. "Farm" includes stock, dairy, poultry, fruit orchards, and truck garden farms, plantations, ranches, nurseries, greenhouses, or similar structures used for raising agricultural or horticultural commodities.

(2) "Became disabled" means the first month in which an individual is under a disability and is both fully and currently insured.

(3) "Board" means the Trust Territory Social Security Board provided for by chapter 2 of this subtitle.

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

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

(6) "Earnings test" means that an individual who receives a retirement or survivor's pension and who works in covered or noncovered employment shall have his quarterly benefit reduced by one dollar for each two dollars earned in a quarter, except there shall be no reduction for the first \$300 earned in a quarter. The reduction shall be applied in the subsequent two quarters immediately after the quarter in which the earnings were made.

(7) "Employee" means:

(a) any officer of a corporation; or

(b) any individual who, under the usual common law rules applicable in determining the employer-

employee relationship, has the status of an employee; or

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

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

(8) “Employment” means any service by an employee for the Trust Territory employer employing him, irrespective of where such employment shall be performed, except family employment.

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

(10) “Insured status”:

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

(b) “Currently insured individual” means any individual who has had not less than eight quarters of coverage during the 13 quarter period ending with:

(i) the quarter in which he died; or

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

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

(11) “Quarter” and “calendar quarter” mean a period of three calendar months ending on March 31, June 30, September 30, or December 31. “Quarter of coverage” means a quarter in which the individual has been paid \$50 or more in wages in employment subject to this subtitle.

(12) “Wages” means remuneration paid subject to the provisions of this subtitle, including the cash value of all remuneration paid in any medium other than cash and remuneration accruing to a self-employed person. Remuneration accruing to a self-employed person shall be deemed to be twice the amount paid to the highest paid employee reported by the self-employed person in a quarter, subject to \$2,000 maximum per quarter. Remuneration accruing to a self-employed person who has no covered employees shall be deemed to be 25 percent per quarter of ten percent of the gross revenue of his business for the previous calendar year, subject to \$2,000 maximum. Remuneration paid for any service which is more or less than a whole dollar shall, as may be prescribed by regulations, be computed to the nearest dollar. Wages shall not include:

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

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

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

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

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

Source: COM PL 3-40 § 3; COM PL 3C-48 §§ 1-4; TT Code 1970, 73 TTC 3; COM PL 4C-19 § 1; COM PL 5-7 §§ 1-4; COM PL 5-15 §§ 4, 5; COM PL 6-89 § 1; COM PL 6-91 §§ 1, 2; COM PL 6-137 § 1; TT Code 1980, 73 TTC 3; PL 3-11 § 1; PL 3-37 § 1.

Editor's note: Subsections rearranged in alphabetical order in the 1982 edition of this code.

§ 104. Susceptibility of benefits, contributions, and funds to legal process or assignment.

The benefits, the employee and employer contributions, and the securities in the several funds from all taxes presently or hereafter levied shall not be subject to execution, attachment, or garnishment and shall be nonassignable except as specifically provided in this title.

Source: COM PL 3-40 § 19; TT Code 1970, 73 TTC 4; TT Code 1980, 73 TTC 4.

Case annotation: The statute 54 F.S.M.C. 153 does not require the government to give notice of its lien claims to any other creditors or even to the taxpayer. This statute, then, authorizes a lien which may be kept secret from interested parties. The effect of such a lien would be determined against the background of the strong general policy against secret liens. *Bank of Guam v. Island Hardware, Inc. (II)*, 3 FSM R. 105, 108 (Pon. 1987).

53 F.S.M.C. 104 does not establish lien rights in the Trust Territory Social Security Board, and gives the board no lien or priority claim of any kind. *In re Mid-Pacific Constr. Co.*, 3 FSM R. 292, 299 (Pon. 1988).

§ 105. Violations—Penalties.

(1) Any person who knowingly makes any false statement or who falsifies any report to or record of the Trust Territory Social Security System in an attempt to defraud the system is guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than \$2,000, or both.

(2) Any person who willfully fails to report wages paid or pay contributions required thereon is guilty of a misdemeanor and, in addition to any other penalty prescribed by law, such a person shall also pay penalties not in excess of 100 percent of the tax due plus interest to the Board as it by regulation shall require.

(3) Any covered employer who fails to submit the quarterly report and pay the Social Security tax within 10 days after the end of the quarter shall be considered delinquent. The Board or its authorized representatives shall be vested with the authority to levy a penalty of not more than \$250 on delinquent employers.

Source: COM PL 3-40 § 20; COM PL 4-10 § 1; COM PL 3C-54 § 1; TT Code 1970, 73 TTC 5; TT Code 1980, 73 TTC 5; PL 3-11 § 2.

Editor's note: This section is published as it appears in the 1970 and 1980 editions of the Trust Territory Code. Subsection (1) is shown in its form as amended by COM PL 4-10, effective August 23, 1968. However, the 1970 edition failed to reflect the amendment of this subsection by COM PL 3C-54, effective September 22, 1970, although the 1970 edition contains subsection (3), which had been added by COM PL 3C-54.

The title of COM PL 3C-54 is: "To amend section 20 of Public Law 3-40 by making an additional paragraph thereto to be designated 'c' and for other purposes." See Secretarial Order No. 2918, § 16(c).

Subsection (1), as amended by COM PL 3C-54, states:

"(1) Any person who knowingly makes any false statement who falsifies or permits to be falsified any report to or record of the Trust Territory Social Security System in an attempt to defraud the system shall be guilty of a misdemeanor and fined or imprisoned or both in accordance with law."

No substantive subsequent amendment of subsection (1) has been made to date.

§ 106. Budget for and appropriation of costs of administration.

(1) At such time as the Social Security Board may prescribe, but not later than January 3 preceding each regular session of the Congress of Micronesia, the Social Security administrator shall submit to the Congress on forms and in the manner prescribed by the Board, a detailed estimate of the amount of money required to be appropriated for the next ensuing fiscal period, from April 1 through March 31 of the following year, for the proper conduct of the Social Security System, and the number of employees for which provision is made. The budget shall be so presented as to show in addition to the amount which is estimated to be required:

- (a) the actual expenditures for the last completed fiscal period;
- (b) the estimated expenditures for the fiscal period in progress, together with such summaries, schedules, and supporting data as may be deemed necessary;
- (c) a statement showing the estimated condition of the Trust Territory Social Security Retirement Fund at the close of the fiscal year in progress; and
- (d) a balanced summary of actual receipts and expenditures under the fund for the last completed fiscal year, and estimated receipts for the fiscal year in progress, and for the ensuing year.

(2) The Congress of Micronesia shall appropriate such amount of moneys as shall be deemed necessary for the administrative cost and operations of the Social Security System from the Trust Territory Social Security Retirement Fund. The Trust Territory administration shall budget for and allocate from United States grant funds the amount of funds necessary to cover its contribution as an employer under the provisions of this chapter.

Source: COM PL 3-40 § 21; TT Code 1970, 73 TTC 6; COM PL 6-49 § 5; TT Code 1980, 73 TTC 6.

-

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title. See also Secretarial Order 3039 § 6, as amended.