

AN ACT

To further amend sections 1001, 1002, 1003 and 1007 of title 37 of the Code of the Federated States of Micronesia by including a definition of related third party business; by further defining a Class II captive insurance company; by adding a prohibition on insuring individuals; and by further amending the minimum capital and surplus requirements, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1           Section 1.   Section 1001 of title 37 of the Code of the  
2 Federated States of Micronesia, as enacted by Public Law No. 14-  
3 88, is hereby further amended to read as follows:

4           "Section 1001.   Definitions.   As used in this chapter,  
5 unless the context otherwise requires:

6           (1) 'Affiliated Company' means any company in the same  
7 corporate system as a parent or member organization by  
8 virtue of common ownership, control, operation, or  
9 management.

10          (2) 'Association' means any legal association of  
11 individuals, corporations, partnerships, associations,  
12 or other entities that own, control, or hold with power  
13 to vote all of the outstanding voting securities of the  
14 captive insurance company.

15          (3) 'Captive Insurance Company' means an insurance  
16 company formed or licensed under this chapter.

17          (4) 'Commissioner' means the individual appointed as  
18 the Insurance Commissioner under this title.

1           (5) 'Domestic captive insurance company' means a  
2 captive insurance company organized under the laws of  
3 the Federated States of Micronesia.

4           (6) 'Foreign captive insurance company' means a  
5 captive insurance company organized under the laws of a  
6 jurisdiction other than the Federated States of  
7 Micronesia.

8           (7) 'Insurance Manager' means an individual or company  
9 which provides insurance expertise to or for captive  
10 insurance companies and which has in its bona fide  
11 employment a person who is a current member in good  
12 standing of the applicable professional body or of some  
13 other professional insurance association recognized by  
14 the Commissioner for the purpose of providing insurance  
15 expertise and has been approved by the Commissioner.

16           (8) 'Member Organization' means any individual,  
17 corporation, partnership, association, or other entity  
18 that belongs to an association.

19           (9) 'Parent' means a corporation, partnership, other  
20 entity, or individual that directly or indirectly owns,  
21 controls, or holds with power to vote more than 50% of  
22 the outstanding voting securities of a captive insurance  
23 company.

24           (10) 'Principal Representative' means any individual or  
25 corporation registered and in good standing with the

1 Federated States of Micronesia, operating in or from  
2 within the Federated States of Micronesia who, not being  
3 a bona fide employee of the captive insurance company,  
4 maintains for the captive insurance company full and  
5 proper records of the business activities of the captive  
6 insurance company.”

7 (11) 'Unaffiliated business' means any company:

8 (a) That is not in the corporate system of a  
9 parent and affiliated companies;

10 (b) That has an existing contractual relationship  
11 with a parent or affiliated company; and

12 (c) Whose risks are managed by a captive  
13 insurance company in accordance with this chapter.

14 (12) 'Related Third-Party Business' means any company  
15 or other legal entity:

16 (a) That is not in the corporate system of a  
17 parent and affiliated companies;

18 (b) That has an existing contractual relationship  
19 with a parent or affiliated company; and

20 (c) Whose risks are managed by a captive  
21 insurance company in accordance with this chapter.”

22 Section 2. Section 1002 of title 37 of the Code of the  
23 Federated States of Micronesia, is hereby amended to read as  
24 follows:

25 ”Section 1002. Determination of class of captive

1           insurance companies. Each captive insurance company  
2           formed under this chapter shall be designated and  
3           licensed as one of the following classes of captive  
4           insurance companies.

5           (1) A class 1 company shall be a captive insurance  
6           company that insures the risks of its parent and  
7           affiliated companies or associations;

8           (2) A class 2 company shall be a captive insurance  
9           company that insures the risks of its parent and  
10          affiliated companies or associations and/or related  
11          third-party businesses.

12          (3) Additional classes of captive insurance companies  
13          may, from time to time, be created by amendment of this  
14          chapter."

15          Section 3. Section 1003 of title 37 of the Code of the  
16          Federated States of Micronesia, is hereby amended to read as  
17          follows:

18                 "Section 1003. Captive Insurance Company  
19                 Licensing.

20                 (1) Captive insurance companies shall be licensed in  
21                 accordance with Chapter 3 of this title.

22                 (2) In considering whether to license a captive  
23                 insurance company under this chapter, the  
24                 Commissioner and Insurance Board shall consider the  
25                 following factors:

1 (a) Principal office and principal  
2 representative;

3 (i) the principal office shall maintain a  
4 principal place of business within the Federated States  
5 of Micronesia;

6 (ii) appoint a principal representative that  
7 shall be approved by the Commissioner;

8 (iii) hold an annual board of directors  
9 meeting in the Federated States of Micronesia. In  
10 meeting the quorum requirements for this annual board  
11 meeting, only the principal representative is required  
12 to be physically present in the Federated States of  
13 Micronesia. The remainder of the quorum may be present  
14 via telephone;

15 (iv) the captive insurance company shall  
16 maintain in its principal office accurate documents in  
17 English of the insurance business and accounting for  
18 examination by the Commissioner.

19 (b) Application documents: the captive insurance  
20 company shall file the following documents with its  
21 application for an insurance license with the  
22 Commissioner and Insurance Board:

23 (i) the amount and liquidity of its assets  
24 relative to the risks to be assumed;

25 (ii) the adequacy of the expertise,

1           experience, and character of the person or persons who  
2           will manage it;

3                       (iii) the overall soundness of its plan of  
4           operation;

5                       (iv) the adequacy of the loss prevention  
6           programs of its insured; and

7                       (v) such other factors deemed relevant by  
8           the Commissioner in ascertaining whether the proposed  
9           captive insurance company will be able to meet its  
10          policy obligations.

11           (3) Each captive insurance company shall pay to the  
12          Insurance Board a nonrefundable fee of \$500 for  
13          examining, investigating, and processing its application  
14          for licensing, and the Commissioner is authorized to  
15          retain legal, financial and examination services, the  
16          reasonable cost of which may be charged against the  
17          applicant. In addition each captive insurance company  
18          shall pay a license fee for the year or registration and  
19          a renewal fee each year thereafter of \$500.

20           (4) If the Insurance Board is satisfied that the  
21          documents filed by the captive insurance company comply  
22          with this title, the Commissioner may grant a license  
23          authorizing it to transact business in the Federated  
24          States of Micronesia until March 31, of the year of  
25          application at which time the license may be renewed.

1           (5) No captive insurance company licensed under this  
2           chapter shall be allowed to insure the risks of  
3           individual citizens of the Federated States of  
4           Micronesia."

5           Section 4. Section 1007 of title 37 of the Code of the  
6           Federated States of Micronesia, is hereby amended to read as  
7           follows:

8           "Section 1007. Minimum Capital and Surplus  
9           Requirements:

10           (1) No captive insurance company shall be registered  
11           and issued a license unless it has initial paid-in  
12           capital of \$1,000,000 and thereafter maintains a minimum  
13           capital and surplus of \$100,000;

14           (2) The Commissioner may prescribe additional capital  
15           and surplus based upon the type, volume, and nature of  
16           insurance business transacted.

17           (3) Capital and surplus may be in the form of any  
18           combination of the following:

19                   (a) cash

20                   (b) letter of credit,

21                   (c) investments pursuant to section 1013 of this  
22           chapter, or

23                   (d) any other security deemed appropriated by the  
24           Commissioner."

25           Section 5. This act shall become law upon approval by the

1 President of the Federated States of Micronesia or upon its  
2 becoming law without such approval.

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April 28, 2008

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/s/ Manny Mori

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Manny Mori

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President

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Federated States of Micronesia

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