

AN ACT

To further amend title 37 of the Code of the Federated States of Micronesia by including a definition of a new class 3 Multiple Corporate Captive Insurance Companies and providing for the issuance of captive insurance managing licenses, 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, as amended by Public Law No. 15-34, is hereby further amended
4 to read as follows:

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

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

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

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

18 (4) 'Commissioner' means the individual appointed as

1 the Insurance Commissioner under this title.

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

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

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

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

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

25 (10) 'Principal Representative' means any individual

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

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

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

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

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

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

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

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

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

23 (13) 'Multiple Corporate Captive Insurance Companies'
24 or 'MCC' means one or more corporations organized, or
25 with the intent to organize, as a group of corporate

1 captive insurance companies under the laws of the
2 Federated States of Micronesia:

3 (a) where each member captive insurance company
4 is formed and owned by a different parent company for
5 the purpose of insuring risks of its parent company or
6 related third party businesses respectively; and

7 (b) where all member captive insurance companies
8 are together deemed to constitute a group under the laws
9 of the Federated States of Micronesia subject to the
10 following condition:

11 (i) the core member captive insurance
12 company shall hold 5% or more of the shares of each of
13 the other member captive insurance companies;

14 (ii) each member captive insurance company
15 shall permit one or more directors from the core member
16 captive insurance company on its board of directors;

17 (iii) a core member captive insurance company
18 must maintain a minimum paid in capital and surplus of
19 at least \$1,000,000; and

20 (iv) each member captive insurance company
21 must maintain a minimum paid in capital and surplus of
22 at least \$100,000.

23 (c) Each member captive insurance company making
24 up an MCC is deemed an individual captive insurance
25 company for purposes of the laws of the Federated States

1 of Micronesia.

2 (d) The license issued to the core member
3 captive insurance company meeting the capital
4 requirements of subsection (13)(b)(iii) above shall
5 precede issuance of licenses to any of the member
6 captive insurance companies meeting the capital
7 requirements of subsection (13)(b)(iv) above."

8 Section 2. Section 1002 of title 37 of the Code of the
9 Federated States of Micronesia as enacted by Public Law No. 14-88
10 and amended by Public Law No. 15-34, is hereby amended to read as
11 follows:

12 "Section 1002. Determination of class of captive
13 insurance companies. Each captive insurance company
14 formed under this chapter shall be designated and
15 licensed as one of the following classes of captive
16 insurance companies.

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

20 (2) A class 2 company shall be a captive insurance
21 company that insures the risks of its parent and
22 affiliated companies or associations and/or related
23 third-party businesses;

24 (3) A class 3 company shall be a captive insurance
25 company that constitutes part of a Multiple Corporate

1 Captive Insurance Company as defined in section 1001(13)
2 of this chapter.

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

6 Section 3. Section 1003 of title 37 of the Code of the
7 Federated States of Micronesia, as enacted by Public Law No. 14-
8 88, as amended by Public Law No. 15-34, is hereby further amended
9 to read as follows:

10 "Section 1003. Captive Insurance Company Licensing and
11 Captive Insurance Manager's Licensing.

12 The Commissioner or Insurance Board may issue two types
13 of licenses with respect to the captive insurance
14 industry: one for the captive insurance companies
15 pursuant to subsections 1-5 below; the other for
16 business entities which engage in the business of
17 managing captive insurance companies pursuant to
18 subsections 6-9 below.

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

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

25 (a) Principal office and principal

1 representative;

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

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

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

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

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

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

24 (ii) the adequacy of the expertise,
25 experience, and character of the person or persons who

1 will manage it;

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

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

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

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

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

25 (5) No captive insurance company licensed under this

1 chapter shall be allowed to insure the risks of
2 individual citizens of the Federated States of
3 Micronesia.

4 (6) The Insurance Commissioner or Insurance Board is
5 authorized to issue a captive insurance manager's
6 license, which may be signed by the Insurance
7 Commissioner's or Insurance Board's authorized designee,
8 and shall issue the same to any applicant that:

9 (a) has in its bona fide employment a person who
10 is a current member in good standing of an accounting or
11 insurance related professional body or association; or,

12 (b) has in its bona fide employment a person
13 that has minimum of five years experience in the captive
14 management field.

15 (7) The applicant shall be issued a captive insurance
16 manager's license by the Insurance Commissioner or the
17 Insurance Board upon compliance with subsection (6)
18 above without regard to:

19 (a) whether the applicant has or has not applied
20 for a license with a captive insurance company; or,

21 (b) whether the applicant is or is not currently
22 managing a domestic captive insurance company.

23 (8) The captive insurance manager's license grants
24 the captive insurance manager the authority to work with
25 or manage:

1 (a) any person or entity intending to form a
2 captive insurance company in the Federated States of
3 Micronesia; or,

4 (b) any domestic captive insurance company
5 licensed by the Insurance Board.

6 (9) The captive insurance manager's license shall be
7 effective for a period of five years from the date of
8 issuance."

9 Section 4. Section 1007 of title 37 of the Code of the
10 Federated States of Micronesia, as enacted by Public Law No. 14-88
11 and amended by Public Law No. 15-34, is hereby further amended to
12 read as follows:

13 "Section 1007. Minimum Capital and Surplus
14 Requirements:

15 (1) No captive insurance company shall be registered
16 and issued a license unless it has initial paid-in
17 capital of \$1,000,000 and thereafter maintains a minimum
18 capital and surplus of \$100,000; provided however with
19 respect to multiple corporate captive insurance
20 companies the core member captive insurance company
21 shall maintain a minimum paid in capital and surplus of
22 \$1,000,000 and each member corporate captive insurance
23 company shall maintain a minimum paid in capital and
24 surplus of \$100,000.

25 (2) The Commissioner may prescribe additional capital

1 and surplus based upon the type, volume, and nature of
2 insurance business transacted.

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

5 (a) cash

6 (b) letter of credit,

7 (c) investments pursuant to section 1013 of this
8 chapter, or

9 (d) any other security deemed appropriated by
10 the Commissioner."

11 Section 5. Section 1010 of title 37 of the Code of the
12 Federated States of Micronesia, as enacted by Public Law No. 14-
13 88, is hereby further amended to read as follows:

14 "Section 1010. Reports and Statements.

15 (1) Captive insurance companies shall not be required
16 to make any annual report or filings except as provided
17 in this chapter.

18 (2) Captive insurance companies shall submit to the
19 Commissioner and Insurance Board the following within
20 six months of the companies fiscal year-end:

21 (a) A report of its financial condition verified
22 by oath of two of its executive officers;

23 (b) Audited financial statements prepared
24 according to generally accepted accounting principles or
25 international accounting standards, unless the

1 Commissioner and Insurance Board approves any
2 appropriate or necessary modifications or changes
3 thereof required or approved or accepted by the
4 Commissioner and Insurance Board for the type of
5 insurance and kinds of insurers to be reported upon, and
6 as supplemented by additional information required by
7 the Commissioner and Insurance Board. The audited
8 financial statements shall be completed by a person
9 approved by the Commissioner and Insurance Board who
10 qualifies as an accountant by examination of one of the
11 Institutes of Chartered Accountants, or Japanese
12 Institute of Certified Public Accountants, or American
13 Institute of Certified Public Accountants, or other
14 qualified accountant as recognized by the Commissioner
15 and Insurance Board;

16 (c) Opinion of loss reserve specialist,
17 regarding reserves for the insurance business
18 underwritten by the captive insurance company. The
19 opinion of loss reserves shall be completed by a person
20 approved by the Commissioner and Insurance Board who is
21 a member of the Institute of Actuaries, or the Institute
22 of Actuaries of Japan, or the American Academy of
23 Actuaries, or other qualified loss reserve specialist
24 recognized by the Commissioner and Insurance Board;

25 (d) Any additional reports as prescribed and

1 requested by the Commissioner and Insurance Board.

2 (e) Notwithstanding any other provision of this
3 section, in the case of Multiple Corporate Captive
4 Insurance Companies, the core member captive insurance
5 company shall provide the reports, financial statements
6 and opinions required by subsections (2)(a), (b), (c)
7 and (d) above with respect to itself and its members
8 shall not be required to separately report, provide
9 financial statements or opinion."

10 Section 6. This act shall become law upon approval by the
11 President of the Federated States of Micronesia or upon its
12 becoming law without such approval.

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December 11, 2009

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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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