

A BILL FOR 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 Compact' 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.

19          (5) 'Domestic captive insurance company' means a

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1 captive insurance company organized under the laws of  
2 the Federated States of Micronesia.

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

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

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

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

23 (10) 'Principal Representative' means any individual or  
24 corporation registered and in good standing with the  
25 Federated States of Micronesia, operating in or from

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

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

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

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

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

13          (12) 'Related Third-Party Business' means any company  
14          or individual:

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

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

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

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

24                  "Section 1002. Determination of class of captive  
25          insurance companies. Each captive insurance company

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

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

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

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

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

17          "Section 1003. Captive Insurance Company  
18          Licensing.

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

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

25                 (a) Principal office and principal

1 representative;

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

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

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

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

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

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

25 (ii) the adequacy of the expertise,

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

3                   (iii) the overall soundness 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  
8           by the Commissioner in ascertaining whether the  
9           proposed captive insurance company will be able to  
10          meet its policy obligations.

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

21                   (4) If the Insurance Board is satisfied that  
22          the documents filed by the captive insurance  
23          company comply with this title, the Commissioner  
24          may grant a license authorizing it to transact  
25          business in the Federated States of Micronesia

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1           until March 31, of the year of application at which  
2           time the license may be renewed.

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

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

10           "Section 1007. Minimum Capital and Surplus  
11           Requirements:

12                       (1) No captive insurance company shall be  
13                       registered and issued a license unless it ~~shall~~  
14                       ~~possess and thereafter maintain unimpaired paid in~~  
15                       ~~capital and surplus of:~~

16                               ~~(a) In the case of a class 1 captive~~  
17                               ~~insurance company, not less than US \$100,000;~~

18                               ~~(b) In the case of a class 2 captive~~  
19                               ~~insurance company, not less than US \$100,000.~~

20                       has initial paid-in capital of \$1,000,000 and  
21                       thereafter maintains a minimum capital and surplus of  
22                       \$100,000;

23                       (2) The ~~Insurance Board~~ Commissioner may  
24                       prescribe additional capital and surplus based upon  
25                       the type, volume, and nature of insurance business

1 transacted.

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

4 (a) Cash

5 (b) letter of credit,

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

8 (d) any other security deemed appropriated  
9 by the ~~Insurance Board~~ Commissioner."

10 Section 5. This act shall become law upon approval by  
11 the President of the Federated States of Micronesia or upon  
12 its becoming law without such approval.

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14 Date: 2/13/08

Introduced by: /s/ Dion G. Neth  
Dion G. Neth

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