

AN ACT

To further amend sections 1001, 1002 and 1007 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 15-34 and 16-17, by including a definition for Class IV captive insurance companies, 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 amended by Public Laws Nos.  
3 15-34 and 16-17, 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.

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

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

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; and

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

11                  (c) Whose commercial risks are located outside of  
12          the Federated States of Micronesia;

13                  (1) Do not include homeowners insurance, or personal  
14          automobile insurance; or

15                  (2) Personal lines insurance of citizens of the  
16          Federated States of Micronesia; and

17                  (d) Whose commercial risk is only reinsured by a  
18          class 4 captive insurance company in accordance with  
19          this chapter and derives a maximum of 30% of its net  
20          written premium after deducting ceded premium for this  
21          source.

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

24                  (a) That is not in the corporate system of a  
25          parent and affiliated company;

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

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

5                   (13) 'Multiple Corporate Captive Insurance Companies'  
6                   or 'MCC' means one or more corporations organized, or  
7                   with the intent to organize, as a group of corporate  
8                   captive insurance companies under the laws of the  
9                   Federated States of Micronesia:

10                   (a) where each member captive insurance company  
11                   is formed and owned by a different parent company for  
12                   the purpose of insuring risks of its parent company or  
13                   related third party businesses respectively; and

14                   (b) where all member captive insurance companies  
15                   are together deemed to constitute a group under the laws  
16                   of the Federated States of Micronesia subject to the  
17                   following condition:

18                   (i) the core member captive insurance  
19                   company shall hold 5% or more of the shares of each of  
20                   the other member captive insurance companies;

21                   (ii) each member captive insurance company  
22                   shall permit one or more directors from the core member  
23                   captive insurance company on its board of directors;

24                   (iii) a core member captive insurance company  
25                   must maintain a minimum paid in capital and surplus of

1 at least \$1,000,000; and

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

5 (c) Each member captive insurance company making  
6 up an MCC is deemed an individual captive insurance  
7 company for purposes of the laws of the Federated States  
8 of Micronesia.

9 (d) The license issued to the core member captive  
10 insurance company meeting the capital requirements of  
11 subsection (13)(b)(iii) above shall precede issuance of  
12 licenses to any of the member captive insurance  
13 companies meeting the capital requirements of subsection  
14 (13)(b)(iv) above."

15 Section 2. Section 1002 of title 37 of the Code of the  
16 Federated States of Micronesia, as amended by Public Laws Nos.  
17 15-34 and 16-17, is hereby further amended to read as follows:

18 "Section 1002. Determination of class of captive  
19 insurance companies. Each captive insurance company  
20 formed under this chapter shall be designated and  
21 licensed as one of the following classes of captive  
22 insurance companies.

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

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

5           (3) A class 3 company shall be a captive insurance  
6           company that constitutes part of a Multiple Corporate  
7           Captive Insurance Company as defined in section 1001(13)  
8           of this chapter;

9           (4) A class 4 company shall be captive insurance  
10          company that insures the risks of its parent and  
11          affiliated companies and/or associations and/or related  
12          third-party business and/or unaffiliated business and/or  
13          Multiple Corporate Captive business.

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

17          Section 3. Section 1007 of title 37 of the Code of the  
18          Federated States of Micronesia, as amended by Public Laws Nos.  
19          15-34 and 16-17, is hereby further amended to read as follows:

20                 "Section 1007. Minimum Capital and Surplus  
21                 Requirements:

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

1           (2) Provided however with respect to multiple  
2           corporate captive insurance companies the core member  
3           captive insurance company shall maintain a minimum paid  
4           in capital and surplus of \$1,000,000 and each member  
5           corporate captive insurance company shall maintain paid  
6           in capital and surplus of \$100,000.

7           (3) With respect to Class 4 captive insurance company,  
8           minimum capital and surplus will be determined based on  
9           the type, volume and nature of insurance business being  
10          transacted, but shall at a minimum maintain \$5,000,000.

11          (4) The Commissioner may prescribe additional capital  
12          and surplus based upon the type, volume, and nature of  
13          insurance business transacted.

14          (5) Capital and surplus may be in the form of any  
15          combination of the following:

16                 (a) cash

17                 (b) letter of credit,

18                 (c) investments pursuant to section 1013 of this  
19          chapter, or

20                 (d) any other security deemed appropriate by the  
21          Commissioner."

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25          Section 4. 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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October 22 \_\_\_\_\_, 2013

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/s/ Manny Mori \_\_\_\_\_

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Manny Mori  
President  
Federated States of Micronesia

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