April 28, 2008

The Honorable Isaac V. Figir
Speaker
15th FSM Congress
Palikir, Pohnpei, FM 96941

Re: Congressional Act No. 15-39

Dear Speaker Figir:

I have designated the following Congressional Act as Public Law No. 15-34.

Congressional Act No. 15-39, "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."

Sincerely,

Manny Mori
President

Enclosures:

XC: Chief Justice, FSM Supreme Court
   Secretary, Department of Justice
   Legislative Counsel, CFSM
   Library, CFSM
   Director, SBOC
   PIO, FSM
April 08, 2008

His Excellency Manny Mori  
President  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear Mr. President:

I have the honor to transmit herewith Congressional Act No. 15-39, "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.", which was passed by the Fifteenth Congress of the Federated States of Micronesia, Fourth Special Session, 2008, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Liwiana K. Ramon  
Chief Clerk, Congress of the  
Federated States of Micronesia

Enclosures
PRESIDENTIAL COMM. NO. 15-184
FSM CONGRESS

ACT NO. 15-39
(Congressional Bill No. 15-104)

We hereby certify that on March 31 the foregoing act passed Second and Final Reading of the Fifteenth Congress of the Federated States of Micronesia, Fourth Special Session, 2008, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

Isaac V. Figir
Speaker
Congress of the
Federated States of Micronesia

Liwiana K. Ramon
Chief Clerk
Congress of the
Federated States of Micronesia
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.

INTRODUCED BY: SENATOR DION G. NETH
DATE: FEBRUARY 13, 2008

REFERRED TO: RESOURCES AND DEVELOPMENT COMMITTEE
FIRST READING: FEBRUARY 20, 2008
SECOND READING: MARCH 31, 2008

Liwiana K. Ramon
Chief Clerk, FSM Congress
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:

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

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

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

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

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

(4) 'Commissioner' means the individual appointed as the Insurance Commissioner under this title.
(5) 'Domestic captive insurance company' means a captive insurance company organized under the laws of the Federated States of Micronesia.

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

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

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

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

(10) 'Principal Representative' means any individual or corporation registered and in good standing with the
Federated States of Micronesia, operating in or from within the Federated States of Micronesia who, not being a bona fide employee of the captive insurance company, maintains for the captive insurance company full and proper records of the business activities of the captive insurance company."

(11) 'Unaffiliated business' means any company:
   (a) That is not in the corporate system of a parent and affiliated companies;
   (b) That has an existing contractual relationship with a parent or affiliated company; and
   (c) Whose risks are managed by a captive insurance company in accordance with this chapter.

(12) 'Related Third-Party Business' means any company or other legal entity:
   (a) That is not in the corporate system of a parent and affiliated companies;
   (b) That has an existing contractual relationship with a parent or affiliated company; and
   (c) Whose risks are managed by a captive insurance company in accordance with this chapter.

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

"Section 1002. Determination of class of captive
insurance companies. Each captive insurance company
formed under this chapter shall be designated and
licensed as one of the following classes of captive
insurance companies.
(1) A class 1 company shall be a captive insurance
company that insures the risks of its parent and
affiliated companies or associations;
(2) A class 2 company shall be a captive insurance
company that insures the risks of its parent and
affiliated companies or associations and/or related
third-party businesses.
(3) Additional classes of captive insurance companies
may, from time to time, be created by amendment of this
chapter.
Section 3. Section 1003 of title 37 of the Code of the
Federated States of Micronesia, is hereby amended to read
as follows:
"Section 1003. Captive Insurance Company
Licensing.
(1) Captive insurance companies shall be
licensed in accordance with Chapter 3 of this
title.
(2) In considering whether to license a captive
insurance company under this chapter, the
Commissioner and Insurance Board shall consider the
following factors:

(a) Principal office and principal representative;

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

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

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

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

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

(i) the amount and liquidity of its assets relative to the risks to be assumed;
(ii) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

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

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

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

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

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

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

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

"Section 1007. Minimum Capital and Surplus Requirements:

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

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

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

(a) cash

(b) letter of credit,

(c) investments pursuant to section 1013 of this chapter, or
(d) any other security deemed appropriated by the Commissioner."

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

04-26, 2008

Manny Mori
President
Federated States of Micronesia