A BILL FOR AN ACT

To further amend sections 1003 and 1015 of title 37 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 14-88 and amended by Public Laws Nos. 15-34 and 16-17 and creating new sections 1017, 1018, 1019 and 1020 to clarify and establish a revolving fund for the fees and premium tax revenues collected thereunder for such purposes and functions stated therein; and for other purposes.

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

1. Section 1. Section 1003 of title 37 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 15-34 and 16-17, is hereby further amended to read as follows:

"Section 1003. Captive Insurance Company Licensing and Captive Insurance Manager’s Licensing. The Commissioner or Insurance Board may issue two types of licenses with respect to the captive insurance industry: One for the captive insurance companies pursuant to subsection 1-5 below; the other for business entities which engage in the business of managing captive insurance companies pursuant to subsection 6-9 below.

(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 changed against the applicant. In addition, each captive insurance company shall pay a license fee for the year of registration and a renewal fee each year thereafter of $500. Such fees received by the Insurance Board shall be deposited into the revolving fund established under section 1017.

(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 insurance 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.

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

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

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

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

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

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

(8) The captive insurance manager’s license grants the captive insurance manager the authority to work with or manage:

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

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

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

Section 2. Section 1015 of title 37 of the Code of the Federated of Micronesia, as enacted by Public Law No. 14-88, is hereby amended to read as follows:

"Section 1015. Tax on Premium Collected.

(1) Each captive insurance company shall pay into the General Fund of the Federated States of Micronesia on or before June 1 each year, a tax on
gross premiums as follows:

(a) .05 percent of gross premiums for insurance written on all risks or property resident, situated or located within the Federated States of Micronesia, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding March 31, less return premiums and less any reinsurance accepted;

(b) The annual maximum aggregate tax on premiums to be paid by a captive insurance company calculated under subsection (a) of this section shall be $20,000.00

(2) Two or more captive insurance companies under common ownership and control shall be taxed, as though they were a single captive insurance company.

(a) For the purposes of this section common ownership and control shall mean:

(i) in the case of stock corporations, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(ii) in the case of mutual corporations, the direct or indirect ownership of 80 percent or more
of the surplus and the voting power of two or more
corporations by the same member or members.

(3) Annually, ten percent of the premium tax
revenues collected pursuant to this section or
$150,000, whichever is greater shall be transferred to
the Insurance Board for the regulation of captive
insurance companies under this chapter. Any fund
derived hereunder shall be deposited in the revolving
fund established under section 1017.

(4) The tax provided for in this section shall be
calculated on an annual basis, notwithstanding
policies or contracts of insurance or contracts of
reinsurance issued on a multiyear basis. In the case
of multiyear policies or contracts, the premium shall
be prorated for purposes of determining the tax under
this section.”

Section 3. Title 37 of the Code of the Federated States
of Micronesia, as amended, is hereby further amended by
creating a new section 1017 to read as follows:

“Section 1017. There shall be established a revolving
fund called the ‘Insurance Board Revolving Fund.’ The
deposits in the revolving fund do not lapse, provided
however, that every year on September 30, any amount
remaining in the revolving fund in excess of $150,000
shall automatically be deposited in the General Fund
Section 4. Title 37 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by creating a new section 1018 to read as follows:

“The revolving fund shall be used for the purpose of the regulation of captive insurance companies, as specified in section 1015(3).”

Section 5. Title 37 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by creating a new section 1019 to read as follows:

“Section 1019. The revolving fund shall hold all fees collected under section 1003(3) and funds derived under section 1015(3).”

Section 6. Title 37 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by creating a new section 1020 to read as follows:

“A complete and comprehensive annual report on the revolving fund shall be prepared and transmitted as a component of the report submitted pursuant to section 205.”
Section 7. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 1/28/14

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)