A BILL FOR 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:

Section 1. Section 1001 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 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; and

(b) That has [an existing contractual] a business relationship with a parent or affiliated company; and

(c) Whose commercial risks are [managed by a captive insurance company in accordance with this chapter.] located outside of the Federated States of Micronesia;

(1) Does not include homeowners insurance, or personal automobile insurance; or

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

(a) The risk is only reinsured by a class 4 captive insurance company in accordance with this chapter and derives a maximum of 30% of its net written premium after deducting ceded premium for this source.”

Section 2. Section 1002 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 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) A class 3 company shall be a captive insurance company that constitutes part of a Multiple Corporate Captive Insurance Company as defined in section 1001(13) of this chapter;

(4) A class 4 company shall be captive insurance company that insures the risks of its parent and affiliated companies or associations or related third-party business or unaffiliated business.

Additional classes of captive insurance companies may, from time to time, be created by amendment of this chapter."

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

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

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

(5) 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 4. 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: 9/12/13

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