A BILL FOR AN ACT

To further amend title 37 of the Code of the Federated States of Micronesia (Annotated), as amended, by amending section 1003 thereof, as amended by Public Law No. 18-71, to provide that captive insurance licensing is under the authority of the Insurance Commissioner; by enacting a new section 1003A to provide that an application for captive insurance is deemed approved if the application is neither approved nor denied within 14 days of its receipt by the Commissioner; by amending section 1008 thereof, to provide that the payment of captive insurance company dividends is under the authority of the Insurance Commissioner; 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 (Annotated), as amended by Public Law No. 18-71, 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 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; PROVIDED, HOWEVER, that the Commissioner, in lieu of the Insurance Board, is hereby authorized to review and approve or reject a captive insurance company license application pursuant to sections 302, 303, and 304, and this
(2) In considering whether to licensed a captive insurance company under this chapter, the Commissioner [and Insurance Board] shall consider the following factors:

(a) Principal office and principal representatives;

   (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:

(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 loss 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) [Feed] Fee schedule.

(a) 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.

(b) In addition, each captive insurance company receiving a license from the Commissioner shall pay a
license fee of $500 for the year of registration or licensure due within thirty 30 days after registration or licensure, and a yearly or annual fee of $500 due on or before the registration or licensure day and month every year for each year thereafter. Such fees received by the Insurance Board shall be deposited into a revolving fund established under Section 1017.

(4) Licensing. If the [Insurance Board] Commissioner is satisfied that the documents filed by the captive insurance company comply with this title, the Commissioner shall grant a license authorizing it to transact insurance business in the Federated States of Micronesia. The license shall be valid until terminated by surrender, suspension, revocation, or failure to comply with law.

(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 or [Insurance Board’s] the Commissioner’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 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 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
Section 2. Title 37 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1003A to read as follows:

"Section 1003A. Captive Insurance Company Applications – Approval.

An application for a captive insurance company license submitted in accordance with chapter 3 and section 1003 of this title shall be deemed approved if the application is neither approved nor denied with 14 days of receipt of the application by the Insurance Commissioner."

Section 3. Section 1008 of title 37 of the Code of the Federated States of Micronesia (Annotated), is hereby amended to read as follows:

"Section 1008. Dividends. No captive insurance company may pay a dividend out of, or otherwise distribution with respect to, capital or surplus without the prior approval of the Commissioner [and Insurance Board]. A captive insurance company may submit to the Commissioner [and Insurance Board] for approval[.] an ongoing plan for the payment of dividends[,] or other distributions[,] which will take into account the retention at the time of each payment, and
capital or surplus in excess of amounts specified by, or determined in accordance with, formulas approved by the Commissioner and Insurance Board."

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: 11/26/19

Introduced by: /s/ Isaac V. Figir

Isaac V. Figir