

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 30 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; by enacting a new section 1008A, to provide that a dividend proposal is deemed approved if the proposal is neither approved nor denied within 30 days of receipt of the proposal by the Commissioner; by amending section 1013 thereof, to provide that legal investment approvals are under the authority of the Insurance Commissioner; by enacting a new section 1013A, to provide that a loan or investment proposal is deemed approved if the proposal is neither approved nor denied within 30 days of receipt of the proposal by the Commissioner; by enacting a new section 1016A, to provide that a business plan change is deemed approved if the change is neither approved nor denied within 30 days of receipt of the proposed change by the 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
2 Federated States of Micronesia (Annotated), as amended by Public
3 Law No. 18-71, is hereby further amended to read as follows:
4 "Section 1003. Captive Insurance Company Licensing and
5 Captive Insurance Manager's Licensing. The Commissioner
6 may issue two types of licenses with respect to the
7 captive insurance companies pursuant to subsection 1-5
8 below; the other for business entities which engage in
9 the business of managing captive insurance companies
10 pursuant to subsection 6-9 below.

1 (1) Captive insurance companies shall be licensed in
2 accordance with Chapter 3 of this title; PROVIDED,
3 HOWEVER, that the Commissioner, in lieu of the Insurance
4 Board, is hereby authorized to review and approve or
5 reject a captive insurance company license application
6 pursuant to sections 302, 303, and 304, and this
7 chapter.

8 (2) In considering whether to licensed a captive
9 insurance company under this chapter, the Commissioner
10 shall consider the following factors:

11 (a) Principal office and principal
12 representatives;

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

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

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

25 (iv) the captive insurance company shall

1 maintain in its principal office accurate documents in
2 English of the insurance business and accounting for
3 examination by the Commissioner.

4 (b) Application documents: the captive
5 insurance company shall file the following documents
6 with its application for an insurance license with the
7 Commissioner:

8 (i) the amount and liquidity of its assets
9 relative to the risks to be assumed;

10 (ii) the adequacy of the expertise,
11 experience and character of the person or persons who
12 will manage it;

13 (iii) the overall soundness of its loss plan
14 of operation;

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

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

21 (3) Fee schedule.

22 (a) Each captive insurance company shall pay a
23 nonrefundable fee of \$500 for examining,
24 investigating, and processing its application for
25 licensing, and the Commissioner is authorized to

1 retain legal, financial and examination services, the
2 reasonable cost of which may be charged against the
3 applicant.

4 (b) In addition, each captive insurance company
5 receiving a license from the Commissioner shall pay a
6 license fee of \$500 for the year of registration or
7 licensure due within thirty 30 days after registration
8 or licensure, and a yearly or annual fee of \$500 due
9 on or before the registration or licensure day and
10 month every year for each year thereafter. Such fees
11 shall be deposited into a revolving fund established
12 under Section 1017.

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

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

24 (6) The Insurance Commissioner is authorized to
25 issue a captive insurance manager's license, which may

1 be signed by the Insurance Commissioner or the
2 Commissioner's authorized designee, and shall issue
3 the same to any applicant that:

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

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

11 (7) The applicant shall be issued a captive
12 insurance manager's license by the Insurance
13 Commissioner upon compliance with subsection (6) above
14 without regard to:

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

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

20 (8) The captive insurance manager's license grants
21 the captive insurance manager the authority to work
22 with or manage:

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

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

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

6 Section 2. Title 37 of the Code of the Federated States of
7 Micronesia (Annotated), as amended, is hereby further amended by
8 enacting a new section 1003A to read as follows:

9 "Section 1003A. Captive Insurance Company Applications
10 - Approval.

11 An application for a captive insurance company license
12 submitted in accordance with chapter 3 and section 1003
13 of this title shall be deemed approved if the
14 application is neither approved nor denied with 30 days
15 of receipt of the application by the Insurance
16 Commissioner."

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

20 "Section 1008. Dividends. No captive insurance
21 company may pay a dividend out of, or otherwise
22 distribution with respect to, capital or surplus
23 without the prior approval of the Commissioner. A
24 captive insurance company may submit to the
25 Commissioner for approval an ongoing plan for the

1 payment of dividends, or other distributions, which
2 will take into account the retention at the time of
3 each payment, and capital or surplus in excess of
4 amounts specified by, or determined in accordance with,
5 formulas approved by the Commissioner.”

6 Section 4. Title 37 of the Code of the Federated States of
7 Micronesia (Annotated), as amended, is hereby further amended by
8 enacting a new section 1008A to read as follows:

9 “Section 1008A. Dividends – Approval.

10 A dividend proposed in accordance with section 1008 of
11 this title shall be deemed approved if the dividend
12 proposal is neither approved nor denied within 30 days
13 of receipt of the proposal by the Commissioner.”

14 Section 5. Section 1013 of title 37 of the Code of the
15 Federated States of Micronesia (Annotated) is hereby amended to
16 read as follows:

17 “Section 1013. Legal Investments.

18 (1) Each captive insurance company shall be allowed
19 to invest any of its funds without limitation in any
20 government obligation issued by and backed by the full
21 faith and credit of the Government of the United States
22 of America or the Government of Japan.

23 (2) Each captive insurance company shall be allowed
24 to invest in any type of investment subject to a
25 limitation of ten percent of total captive insurance

1 company assets in any one issuer, if that investment is
2 rated by one of the following:

3 (a) Rating and Investment Information, Inc.
4 rating of BBB or higher;

5 (b) Moody's rating of Baa3 or higher;

6 (c) S&P rating of BBB-or higher;

7 (d) Fitch rating of BBB-or higher;

8 (3) Other investments as approved by the
9 Commissioner;

10 (4) A captive insurance company may make a loan to or
11 an investment in its parent company or affiliates,
12 subject to the approval of the Commissioner. Any such
13 loan or investment must be evidenced by documentation
14 approved by the Commissioner. Loans of minimum capital
15 and surplus funds required by section 1007 of this
16 chapter are prohibited.

17 (5) The Commissioner may prohibit or limit any
18 investment that threatens the solvency or liquidity of
19 any such captive insurance company."

20 Section 6. Title 37 of the Code of the Federated States of
21 Micronesia (Annotated), as amended, is hereby further amended by
22 enacting a new section 1013A to read as follows:

23 "Section 1013A. Loans and Investments – Approval.

24 A loan or investment proposed in accordance with section
25 1013 of this title shall be deemed approved if the loan

1 or investment is neither approved nor denied within 30
2 days of receipt of the proposal by the Commissioner.”

3 Section 7. Title 37 of the Code of the Federated States of
4 Micronesia (Annotated), as amended, is hereby further amended by
5 enacting a new section 1016A to read as follows:

6 “Section 1016A. Business Plan Changes – Approval.

7 A business plan change proposed in accordance with
8 regulations established or amended pursuant to section
9 1016 of this title shall be deemed approved if the
10 business plan change is neither approved nor denied
11 within 30 days of receipt of the proposed change by the
12 Commissioner.”

13 Section 8. This act shall become law upon approval by the
14 President of the Federated States of Micronesia or upon its
15 becoming law without such approval.

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19 _____ December 23, 2019

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23 /s/ David W. Panuelo
24 David W. Panuelo
25 President
Federated States of Micronesia