
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
2 Federated States of Micronesia, as amended by Public Laws Nos.
3 15-34 and 16-17, is hereby further amended to read as follows:

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

13 (1) Captive insurance companies shall be licensed
14 in accordance with chapter 3 of this title.

15 (2) In considering whether to license a captive
16 insurance company under this chapter, the Commissioner
17 and Insurance Board shall consider the following

1 factors:

2 (a) Principal office and principal
3 representative;

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

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

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

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

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

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

1 (ii) the adequacy of the expertise,
2 experience and character of the person or persons who
3 will manage it;

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

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

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

12 (3) Each captive insurance company shall pay to
13 the Insurance Board a nonrefundable fee of \$500 for
14 examining, investigating, and processing its
15 application for licensing, and the Commissioner is
16 authorized to retain legal, financial and examination
17 services, the reasonable cost of which may be changed
18 against the applicant. In addition, each captive
19 insurance company shall pay a license fee for the year
20 of registration and a renewal fee each year thereafter
21 of \$500. Such fees received by the Insurance Board
22 shall be deposited into the revolving fund established
23 under section 1017.

24 (4) If the Insurance Board is satisfied that the
25 documents filed by the captive insurance company

1 comply with this title, the Commissioner may grant a
2 license authorizing it to transact insurance business
3 in the Federated States of Micronesia until March 31,
4 of the year of application at which time the license
5 may be renewed.

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

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

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

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

23 (7) The applicant shall be issued a captive
24 insurance manager's license by the Insurance
25 Commissioner or the Insurance Board upon compliance

1 with subsection (6) above without regard to:

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

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

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

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

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

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

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

22 "Section 1015. Tax on Premium Collected.

23 (1) Each captive insurance company shall pay
24 into the General Fund of the Federated States of
25 Micronesia on or before June 1 each year, a tax on

1 gross premiums as follows:

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

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

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

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

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

24 (ii) in the case of mutual corporations,
25 the direct or indirect ownership of 80 percent or more

1 of the surplus and the voting power of two or more
2 corporations by the same member or members.

3 (3) Annually, ten percent of the premium tax
4 revenues collected pursuant to this section or
5 \$150,000, whichever is greater shall be transferred to
6 the Insurance Board for the regulation of captive
7 insurance companies under this chapter. Any fund
8 derived hereunder shall be deposited in the revolving
9 fund established under section 1017.

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

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

20 "Section 1017. There shall be established a revolving
21 fund called the 'Insurance Board Revolving Fund.' The
22 deposits in the revolving fund do not lapse, provided
23 however, that every year on September 30, any amount
24 remaining in the revolving fund in excess of \$150,000
25 shall automatically be deposited in the General Fund

1 of the Federated States of Micronesia."

2 Section 4. Title 37 of the Code of the Federated States
3 of Micronesia, as amended, is hereby further amended by
4 creating a new section 1018 to read as follows:

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

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

11 "Section 1019. The revolving fund shall hold all fees
12 collected under section 1003(3) and funds derived
13 under section 1015(3)."

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

17 "A complete and comprehensive annual report on the
18 revolving fund shall be prepared and transmitted as a
19 component of the report submitted pursuant to section
20 205."

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1 Section 7. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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5 Date: 1/28/14

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

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