

STANDING COMMITTEE REPORT NO. 15-87

RE: C.B. NO. 15-104/R&D

SUBJECT: CAPTIVE INSURANCE.

FEBRUARY 19, 2008

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Third Regular Session, 2008

Dear Mr. Speaker:

Your committee on Resources and Development (R&D), to which was referred C.B. No. 15-104, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND SECTIONS 1001, 1002, 1003 AND 1007 OF TITLE 37 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA BY INCLUDING A DEFINITION OF RELATED THIRD PARTY BUSINESS; BY FURTHER DEFINING A CLASS II CAPTIVE INSURANCE COMPANY, BY ADDING A PROHIBITION ON INSURING INDIVIDUALS; AND BY FURTHER AMENDING THE MINIMUM CAPITAL AND SURPLUS REQUIREMENTS, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are as expressed in its title.

DISCUSSION:

A meeting with Mr. Steven K. Baker, President and CEO of Micronesia Registration Advisors, Inc., was held at 8:30 a.m. on Friday, February 15, 2008.

Mr. Baker provided a background for and explanation of the requested amendments. He acknowledged that the Bill was prepared at his request by the private attorney for MRA and was initially submitted several months ago to the President's office. He stated the President was in agreement with the intent and purpose of the Bill but that with the transitional challenges faced since then by the office of the Secretary of Justice, it apparently got misplaced. He brought the Bill directly to Chairman Neth because of some urgency in getting it enacted as soon as possible to facilitate negotiations with a major prospect.

Mr. Baker started his comments by explaining that MRA has a contract with the FSM to establish and promote the FSM corporate registration of "major corporations" and more recently the FSM captive insurance scheme. He stated that his company has been working with a number of "customers" regarding the corporate registry since the law was adopted. Very recently two of them have begun paying FSM taxes under the Corporation Income Tax Act of 2004 as established by PL 13-71. He

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stated that the biggest share of the interest in registering corporations in the FSM has been with the Japanese who would expect tax breaks under Japan law.

Simply put, a "Captive Insurance Company" is a company that insures the company that owns it. It is generally has no employees of its own but does pay taxes in the country of registration. Once again Japan is the major source of interest since it does not have a captive insurance law of its own. Major corporations in Japan have for some time been establishing their captive insurance companies in other nations that have captive insurance laws. Through the adoption of the FSM Captive Insurance Law, P.L. 14-88 MRA has been able to promote the FSM as an alternative jurisdiction for companies seeking to establish new captive insurance companies or that have become dissatisfied with their current arrangement.

Mr. Baker and MRA have been negotiating with a number of Japanese corporations, many of which already have captive insurance companies registered in other countries. For some time several of them have indicated a strong interest in Micronesia but have been unwilling to be the first to register here. Only recently one major Japanese automotive corporation indicated a willingness to incorporate its captive insurance company in the FSM and is currently seeking various approvals necessary move forward. Mr. Baker stated that a second company, a major airline corporation, is poised to follow suit if the first registration becomes a reality.

The captive insurance law already exists but provides for only one class of company in a regime where there may as many as eight. Currently the law allows only a "class 1" company limited to insuring only the parent and its affiliated companies and associates. The current law provides that additional classes may from time to time be created by amendment but goes no further than class 1. The creation of a class 2 is the primary purpose of CB 15-104. A class 2 company adds "related third-party businesses" to the permissible range of insureds. This addition is a requirement of the automotive company currently considering establish an FSM captive insurance company due to the nature of its business and the extensive contractual relationships it has with suppliers and other businesses.

A second part of the amendment simply clarifies and makes certain that a "captive insurance company" does not have authority to engage in a commercial insurance business by marketing and selling insurance to individual citizens of the FSM. Finally, the amendment increases the requirement for "initial paid in capital" from one hundred thousand to one million dollars for all captive insurance companies regardless of class.

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Your Committee is satisfied the modifications to the existing FSM Captive Insurance Law proposed by C.B. No. 15-104 are technical in nature and serve to make the Micronesia captive insurance regime more attractive to major foreign corporations.

RECOMMENDATION:

Your Committee on Resources and Development is in accord with the intent and purpose of C.B. No. 15-104 and recommends its passage on First Reading, and that it be placed on the calendar for Second and Final Reading in the form attached hereto as C.B. No. 15-104.

Respectfully submitted,

/s/ Dion G. Neth
Dion G. Neth, chairman

/s/ Setiro Paul
Setiro Paul, vice chairman

Resio S. Moses, member

/s/ Peter Sitan
Peter Sitan, member

/s/ Joe N. Suka
Joe N. Suka, member

Joseph J. Urusemal, member

/s/ Paliknoa K. Welly
Paliknoa K. Welly, member