October 22, 2013

The Honorable Dohsis Halbert
Speaker
18th FSM Congress
Palikir, Pohnpei FM 96941

Dear Speaker Halbert:

I am pleased to transmit the following Congressional Action, which I have signed to become Public Law No. 18-20:

Congressional Act No. 18-17, "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."

The Act establishes new class of captive insurance known as class 4 captive insurance. This type of captive insurance will provide coverage to the risks of parent and affiliated companies, associations, related third party business, and unaffiliated business. Since the insurance industry recommended the passage of this act, additional captive insurance companies are expected to register in FSM and pay the corporate tax. The Act will certainly add competitive advantage to the captive insurance scheme and enhance the national revenue.

I thank Congress for passing this important legislation.

With warm personal regards, I remain,

Sincerely,

Manny Mori
President

cc: Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Director, Office of SBOC
Legislative Counsel, CFSM
Library, CFSM
FSM PIO
October 07, 2013

His Excellency Manny Mori  
President  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 18-17, "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.", which was passed by the Eighteenth Congress of the Federated States of Micronesia, Second Regular Session, 2013, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Luwihana Ramon Ioanis  
Chief Clerk, Congress of the  
Federated States of Micronesia

Enclosures
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.

INTRODUCED BY SENATOR: FLORENCIO S. HARPER (BY REQUEST)

DATE: SEPTEMBER 12, 2013

REFERRED TO: COMMITTEE ON RESOURCES AND DEVELOPMENT
FIRST READING: SEPTEMBER 25, 2013
SECOND READING: SEPTEMBER 26, 2013

Liwiana Ramon Ioanis
Chief Clerk, FSM Congress
ACT NO. 18-17

(CONGRESSIONAL BILL NO. 18-63, C.D.1, C.D.2)

We hereby certify that on September 26 the foregoing act passed Second and Final Reading of the Eighteenth Congress of the Federated States of Micronesia, Second Regular Session, 2013, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

Dohsis Halbert
Speaker
Congress of the Federated States of Micronesia

Liwiana Ramon Ioanis
Chief Clerk
Congress of the Federated States of Micronesia
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:

1 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 a business relationship with a
parent or affiliated company; and

(c) Whose commercial risks are located outside
of the Federated States of Micronesia;

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

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

(d) Whose commercial 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.

(12) 'Related Third-Party Business' means any company
or other legal entity:

(a) That is not in the corporate system of a
parent and affiliated company;

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

(c) Whose risks are managed by a captive
insurance company in accordance with this chapter.

(13) 'Multiple Corporate Captive Insurance Companies'
or 'MCC' means one or more corporations organized, or
with the intent to organize, as a group of corporate
captive insurance companies under the laws of the
Federated States of Micronesia:

(a) where each member captive insurance company
is formed and owned by a different parent company for
the purpose of insuring risks of its parent company or
related third party businesses respectively; and

(b) where all member captive insurance companies
are together deemed to constitute a group under the laws
of the Federated States of Micronesia subject to the
following condition:

(i) the core member captive insurance
compact shall hold 5% or more of the shares of each of
the other member captive insurance companies;

(ii) each member captive insurance company
shall permit one or more directors from the core member
captive insurance company on its board of directors;

(iii) a core member captive insurance company
must maintain a minimum paid in capital and surplus of
at least $1,000,000; and

(iv) each member captive insurance company
must maintain a minimum paid in capital and surplus of
at least $100,000.

(c) Each member captive insurance company making
up an MCC is deemed an individual captive insurance
company for purposes of the laws of the Federated States
of Micronesia.

(d) The license issued to the core member
captive insurance company meeting the capital
requirements of subsection (13)(b)(iii) above shall
precede issuance of licenses to any of the member
captive insurance companies meeting the capital
requirements of subsection (13)(b)(iv) above."

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 and/or associations and/or related third-party business and/or unaffiliated business and/or Multiple Corporate Captive business.

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

Section 3. Section 1007 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 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 appropriate 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.

October 22, 2013

Manny Mori
President
Federated States of Micronesia