June 25, 2014

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

Dear Speaker Halbert:

I am pleased to transmit the following Congressional Act, which I signed to become Public Law No. 18-71:

Congressional Act No. 18-77, entitled: "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 AS AMENDED BY PUBLIC LAWS NOS. 15-34 AND 16-17, AND INSERTING 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."

The intention of the Act is to bring stability to the captive insurance by making its license valid until terminated by surrender, suspension, revocation, and failure to comply with law. The Act also establishes a revolving fund that will help in the regulation of captive insurance and the review of license application.

There are errors in the Act consisting of typo on page 3, line 11 (the correct word is “fee” not “feed”) and ambiguity in section 1017. Section 1017 does not give indication on how the cap of $50,000 will operate as a threshold. Additionally, the timing of enforcing the cap is ambiguous, since section 1017 does not indicate whether the cap applies at the beginning or closing of fiscal year. Section 1017 also does not state what will happen to the funds in excess of $50,000. I urge respectfully Congress to review these errors at the earliest opportunity and take the necessary actions to rectify them.

I thank Congress for passing this important legislation.

Sincerely,

Manny Mori
President

Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Director, Office of SBOC
Legislative Counsel, CFSM
Library, CFSM
PIO, FSM
June 04, 2014

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. 18-77, "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 AS AMENDED BY PUBLIC LAWS NOS. 15-34 AND 16-17, AND INSERTING 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.", which was passed by the Eighteenth Congress of the Federated States of Micronesia, Fourth Regular Session, 2014, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

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

Enclosures
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 AS AMENDED BY PUBLIC LAWS NOS. 15-34 AND 16-17, AND INSERTING 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.

INTRODUCED BY SENATOR: FLORENCIO S. HARPER (BY REQUEST)
DATE: MAY 26, 2014

REFERRED TO: COMMITTEE ON RESOURCES AND DEVELOPMENT
S.C.R. NO. 18-164
MAY 30, 2014
FIRST READING: MAY 30, 2014
SECOND READING: MAY 31, 2014

Liwiana Ramon Ioanis
Chief Clerk, FSM Congress
We hereby certify that on May 31 the foregoing act passed Second and Final Reading of the Eighteenth Congress of the Federated States of Micronesia, Fourth Regular Session, 2014, 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 1003 and 1015 of title 37 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 14-88 and as amended by Public Laws Nos. 15-34 and 16-17, and inserting 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 and title 37 of 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 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.

(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 and Insurance Board:

(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 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 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 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 effective for a period of five years from the date of issuance.”

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

"Section 1015. Tax on Premium Collected.

(1) Each captive insurance company shall pay into
the General Fund of the Federated States of Micronesia
on or before June 1 each year, a tax on gross premiums
as follows:

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

(b) the annual maximum aggregate tax on
premiums to be paid by a captive insurance company
calculated under subsection (a) of this section shall
be $20,000.00.

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

(a) For the purpose of this section common
ownership and control shall mean:

(i) in the case of stock corporation, the
direct or indirect ownership of 80 percent or more of
the outstanding voting stock of two or more
corporation by the same shareholder or shareholders;
and

(ii) in the case of mutual corporation, the
direct or indirect ownership of 80 percent or more of
the surplus and the voting power of two or more
corporations by the same member or members.

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

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

Section 3. Title 37 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by inserting a
new section 1017 under chapter 10 to read as follows:

"Section 1017. There shall be established a revolving
fund called the 'Insurance Board Revolving Fund.' The
threshold amount of the Revolving Fund is capped at
$50,000. The deposits in the revolving fund do not
lapse."

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Section 4. Title 37 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by inserting a new section 1018 under chapter 10 to read as follows:

"Section 1018. The revolving fund shall be used for the purpose of the regulation of captive insurance companies, as a specified in section 1015(3)."

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

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

Section 6. Title 37 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by inserting a new section 1020 under chapter 10 thereof to read as follows:

"Section 1020. A complete and comprehensive annual report on the revolving fund shall be prepared and transmitted as a component of the report submitted pursuant to section 205."
Section 7. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

June 25, 2014

Manny Mori
President
Federated States of Micronesia