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 1003 of title 37 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 18-71, is hereby further amended to read as follows:

"Section 1003. Captive Insurance Company Licensing and Captive Insurance Manager’s Licensing. The Commissioner 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; PROVIDED, HOWEVER, that the Commissioner, in lieu of the Insurance Board, is hereby authorized to review and approve or reject a captive insurance company license application pursuant to sections 302, 303, and 304, and this chapter.

(2) In considering whether to licensed a captive insurance company under this chapter, the Commissioner 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:

(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) Fee schedule.

(a) Each captive insurance company shall pay 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 shall be deposited into a revolving fund established under Section 1017.

(4) Licensing. If the Commissioner 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 is authorized to issue a captive insurance manager’s license, which may
be signed by the Insurance Commissioner or the
Commissioner’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 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. Title 37 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by enacting a new section 1003A to read as follows:

"Section 1003A. Captive Insurance Company Applications — Approval.

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

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

"Section 1008. Dividends. No captive insurance company may pay a dividend out of, or otherwise distribution with respect to, capital or surplus without the prior approval of the Commissioner. A captive insurance company may submit to the Commissioner for approval an ongoing plan for the
payment of dividends, or other distributions, which
will take into account the retention at the time of
each payment, and capital or surplus in excess of
amounts specified by, or determined in accordance with,
formulas approved by the Commissioner.”

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

“Section 1008A. Dividends – Approval.
A dividend proposed in accordance with section 1008 of
this title shall be deemed approved if the dividend
proposal is neither approved nor denied within 30 days
of receipt of the proposal by the Commissioner.”

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

“Section 1013. Legal Investments.
(1) Each captive insurance company shall be allowed
to invest any of its funds without limitation in any
government obligation issued by and backed by the full
faith and credit of the Government of the United States
of America or the Government of Japan.
(2) Each captive insurance company shall be allowed
to invest in any type of investment subject to a
limitation of ten percent of total captive insurance
company assets in any one issuer, if that investment is rated by one of the following:

(a) Rating and Investment Information, Inc. rating of BBB or higher;
(b) Moody’s rating of Baa3 or higher;
(c) S&P rating of BBB- or higher;
(d) Fitch rating of BBB- or higher;

(3) Other investments as approved by the Commissioner;

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

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

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

“Section 1013A. Loans and Investments — Approval.
A loan or investment proposed in accordance with section 1013 of this title shall be deemed approved if the loan

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

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

“Section 1016A. Business Plan Changes – Approval.
A business plan change proposed in accordance with
regulations established or amended pursuant to section
1016 of this title shall be deemed approved if the
business plan change is neither approved nor denied
within 30 days of receipt of the proposed change by the
Commissioner.”

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

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December 23, 2019

/s/ David W. Panuelo
David W. Panuelo
President
Federated States of Micronesia