

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
2007 (FIRST) Regular Session

Bill No. 88 (LS)
Introduced by:

A. B. PALACIOS, SR. 

AN ACT RELATIVE TO UPDATING THE BANKING LAWS OF GUAM, PROVIDING FOR ADJUSTMENTS IN LICENSE FEES THAT WOULD BETTER REFLECT COST-RECOVERY FOR THE RECEIPT OF GOVERNMENT SERVICES, AND FOR ADDITIONAL REVENUES TO BE DIRECTED TO THE DEPARTMENT OF REVENUE AND TAXATION FOR COMPLIANCE AND REGULATORY ACTIVITIES; THROUGH THE AMENDMENT OF SPECIFIC SECTIONS OF TITLE 11, GUAM CODE ANNOTATED, ALL PERTAINING TO THE GUAM BANKING AND FINANCIAL LENDING LAWS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.**

2 *I Liheslaturan Guåhan* finds that the Department of Revenue and
3 Taxation many years ago had conducted an analysis of the provisional fees
4 and charges being assessed on businesses in the community conducting
5 financial transactions as banks or other financial lending institutions. The
6 department recognized that it had been more than a decade since the business
7 banking and license fees had been reviewed to more accurately reflect the
8 costs the government of Guam incurs in providing such services to the island
9 community.

10 Therefore, it is the intent of *I Liheslaturan Guahan* to re-evaluate the
11 business banking laws and fees, and make necessary adjustments that would

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1 more accurately reflect the costs associated with providing these services.
2 This provision would make appropriate changes to the banking fees, and
3 ensure that the additional revenues are directed back to the Department of
4 Revenue and Taxation for increased compliance and regulatory review of the
5 banking industry, should it be necessary.

6 **Section 2. Proposed Changes to Bank License Fees and Business**
7 **Lending Charges, in provisions contained in Chapter 72 and 106, Title 11,**
8 **Guam Code Annotated.**

9 A.) Section §72102, relative to banking, of Article 1, Chapter 72
10 of Title 11, Guam Code Annotated, is hereby amended to read as follows:

11 **“§72102. Banking.**

12 Every person engaging in or carrying on business in Guam of banking
13 or receiving the money of others on deposit shall be required annually to
14 obtain a commercial license; provided, however, that in addition to the
15 requirements of this Subchapter, a license shall not be issued to a foreign
16 banking corporation unless its application has first been approved by the
17 Banking Board pursuant to 22 GCA §106725 [GC §30924] and the license is in
18 the form prescribed by that Section. The annual fee for such license is ~~Five~~
19 ~~Hundred Dollars (\$500.00)~~ **shall be Five Thousand Dollars (\$5,000.00).**

20 Institutions which are members of the Federal Reserve System of the United
21 States shall be licensed upon meeting the general requirements of this Title.

22 Any other persons engaged in the business of banking or receiving the money
23 of others on deposit, by whatever name said deposit is designated, may accept

1 agreements for future deposit but shall not accept the deposit until the
2 accounts of depositors have been insured in accordance with the rules and
3 regulations of an appropriate agency of the United States Government;
4 provided, however, that nothing herein contained shall prohibit persons from
5 engaging in the business of lending money with or without security when
6 such money is the property of said persons.

7 **B.)** Section §72102, relative to other lending institutions, of Chapter 72,
8 Article 1, Title 11, Guam Code Annotated, is hereby amended to read as
9 follows:

10 **“§72103. Other Lending Institutions.**

11 Every person engaging in or carrying on the business in Guam of
12 lending money with or without security (except banks and others who receive
13 the money of others on deposit) shall be required annually to obtain a
14 commercial license. The annual fee for such license is ~~\$250.00~~ **One Thousand**
15 **Dollars (\$1,000.00).**

16 **C.)** Section §106601, relative to bank branches, of Chapter 106, Article
17 6, Title 11, Guam Code Annotated, Is hereby amended to read as follows:

18 **“§106601. Branch Banks.**

19 (a) As used in this Article, unless a different meaning is required by the
20 context, the following words and phrases shall have the following meanings:

21 ‘*Branch*’ means a place of business of a bank, other than the bank’s main office,
22 at which deposits are received, loan payments are received, cash is dispensed

1 or money is lent. A customer-bank communication terminal, also commonly
2 known as an 'automated teller machine,' or 'ATM,' is not a branch.

3 *'Out-of-state bank'* has the meaning set forth in §106351 of this Chapter.

4 *'Interstate merger transaction'* has the meaning set forth in §106351 of this
5 Chapter."

6 (b) A bank engaging in the banking business in Guam pursuant to the
7 provisions of this Title may operate one (1) or more branches within Guam,
8 and, subject to the approval of the Banking Board, may establish or acquire
9 additional branches upon showing that (1) there is sufficient need for such
10 branch, (2) the proposed branch has reasonable opportunity to be
11 economically self-sustaining, and (3) the applicant demonstrates by clear and
12 convincing evidence that the establishment and operation of such branch will
13 promote community reinvestment and fair lending. The application to
14 establish any branch bank shall be considered by the Board after a public
15 hearing at which all interested parties may present their comment.

16 (c) No out-of-state bank having a branch office in Guam as of the
17 effective date of this Act may establish any additional branches except and
18 until it engages in an interstate merger transaction with a territorial bank.

19 (d) Installing additional customer-bank communication terminals at a
20 bank's main office or existing branches shall not be considered as the
21 establishment of an additional branch.

22 **(e) Every application for branch bank or relocation of a branch is**
23 **subject to an annual licensing fee of Five Hundred Dollars (\$500.00).**

1 (f) Every Customer-Bank Communication Terminal (CBCT) or an
2 automated teller machine (ATM) or cash dispensing machine or any device
3 that performs the same or similar functions, which is located away from a
4 bank's main or branch facility that is established or operated by a bank or
5 credit union, or a non-bank entity is subject to an annual licensing fee of
6 Five Hundred Dollars (\$500.00).

7 D.) Subsection "(d)" of Section §106605, relative to Off-Shore
8 Financing Corporation, of Chapter 106, Article 6, Title 11, Guam Code
9 Annotated, is hereby amended to read as follows:

10 "(d) The license issued pursuant to this Subsection shall be for a term of
11 five (5) years and renewable for another term of five (5) years. The license fee
12 for each five (5) year license period shall be ~~One Thousand Dollars (\$1,000.00)~~
13 Five Thousand Dollars (\$5,000.00) payable at the time an application for
14 licensure is filed with the Commissioner. If the license is not issued, the ~~One~~
15 ~~Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars (\$5,000.00) fee shall be
16 refunded to the applicant.

17 **Section 3. Application of Additional Revenues Generated Through the**
18 **Proposed Changes in the Bank License and Financial Lending Fees.**

19 The additional revenues generated in the administration of the bank
20 license and financial lending fees program as provided herein through the
21 Department of Revenue and Taxation shall be appropriated by I Liheslaturan
22 Guahan annually and redirected to the department for its compliance and
23 regulatory activities, and for further enforcement of the Guam banking laws.

1 **Section 4. Severability.**

2 If any of the provisions of this Act or the application thereof to any
3 person or circumstance is held invalid, such invalidity shall not affect any
4 other provision or application of this Act which can be given effect without
5 the invalid provision or application, and to this end the provisions of this Act
6 are severable.